

**ZONING
ORDINANCE
NO. 169**

FOR THE

**CITY OF
ARLINGTON**

Last updated August 19, 2010

**THE COUNCIL OF THE CITY OF ARLINGTON, SIBLEY COUNTY, MINNESOTA, DOES
ORDAIN AS FOLLOWS:**

SECTION 1: PURPOSES, SCOPE, INTERPRETATION, SHORT TITLE

SUBDIVISION 1. PURPOSE.

This Ordinance is enacted for the following purposes: to promote the health, safety, comfort, convenience, and general welfare of the inhabitants of the City of Arlington by lessening congestion in the streets, securing safety from fire, panic and other dangers; providing adequate light and air; preventing the overcrowding of land; avoiding undue concentration of population, facilitating the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; conserving the value of properties; and encouraging the more appropriate use of land.

SUBDIVISION 2. SCOPE.

From and after the effective date of this Ordinance, the use of all land and every building or portion of a building erected, altered with respect to height and area, added to or relocated and every use within a building or use accessory thereto, in the City of Arlington, shall be in conformity with the provisions of this Ordinance. An existing building or structure and any existing use of properties not in conformity with the regulations herein prescribed shall be regarded as non-conforming, but may be continued, extended, or changed subject to the special regulations herein provided with respect to non-conforming properties or uses.

SUBDIVISION 3. INTERPRETATION.

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of this Ordinance impose greater restrictions than those of any statute, other ordinance, or regulation, the provision of this Ordinance shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this Ordinance, the provisions of such statute, other ordinance or regulation shall be controlling.

SUBDIVISION 4. SHORT TITLE.

This Ordinance shall be known and may be cited as the "City of Arlington Zoning Ordinance".

SECTION 2: RULES AND REGULATIONS.

SUBDIVISION 1. RULES.

For the purpose of this Ordinance, words used in the present tense shall include the future; words in the singular shall include the plural, and the plural the singular; the word "building" shall include the word "structure"; the word "lot" shall include the word "plot" and the word "shall" is mandatory and not discretionary.

SUBDIVISION 2. DEFINITIONS.

For the purpose of this Ordinance, certain terms and words are defined as follows:

Accessory Building: A subordinate building or portion of the main building which is located on the same lot as the main building and the use of which is clearly incidental to the use of the main building.

Agriculture: The growing of soil crops in the customary manner on open tracts of land, the raising of animals or poultry, including incidental retail selling by the producer of the product raised on the premises, providing customer parking space is furnished off the public right-of-way.

Alley: A public thoroughfare less than thirty (30) feet in width which provides secondary access to the abutting property.

Apartment: A part of the building consisting of a room or suite of rooms which is designed for, intended for or used as a residence for one family or an individual and is equipped with cooking facilities.

Apartment Building: Three (3) or more apartments grouped in one building.

Automobile Wrecking: See Junk Yards.

Boarding House: Any dwelling other than a hotel or motel where lodgings and meals for compensation are provided for five (5) or more persons, for a long term basis, meaning other than a day to day rental agreement.

Building: Any structure for the shelter, support or enclosure of persons, animals, or property of any kind. When separated by party walls without openings, each portion of such building so separated shall be deemed a separate building.

Building Height: The vertical distance from the average of the highest and lowest point of that portion of a lot covered by a building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

Building Line: An imaginary line on a development site corresponding with the series of points where an exterior building wall meets the grade of the Earth.

City Council: Refers to the City Council of Arlington.

Conditional Use: A use of land not normally allowed in a particular zoning district but which may be allowed under certain conditions.

Dwelling: Any building or part thereof which is designed or used exclusively for residential purposes by one or more human beings, either permanently, or transiently; a mobile home, house trailer or tent shall not be considered a dwelling for purposes of this Ordinance.

Family: One or more persons related by blood, marriage or adoption, or state licensed family, or not more than five (5) person, including owner-occupant, not so related occupying a dwelling and living as a single housekeeping unit, as distinguished from occupying a boarding house private club or hotel.

Flood Plain: The areas adjoining a watercourse or lake which have been or hereafter may be covered by a regional flood. Flood plain areas within the City of Arlington shall encompass all areas designated as Zone A on the Flood Insurance Rate Map.

Floodway: The channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regional flood.

Garage, Private: A garage with a capacity of not more than four (4) power driven vehicles for storage only and which is erected as an accessory building. No commercial activity is to be conducted in any private garage.

Garage, Public: Any premises except those described as a private or community garage used for the storage or care of power driven vehicles, or where any such vehicles are equipped for operation, repair, or kept for remuneration, hire or sale.

Home Occupation: Any occupation of a service character which is clearly secondary to the main use of the premises as a dwelling and does not change the character thereof or have any exterior evidence of such secondary use. The occupation shall be conducted only by members of a family residing in the dwelling and in connection with which there is kept no stock in trade or commodity for sale on the premises.

Hotel: Any building or portion thereof where lodging is offered to transient guest for compensation and in which there are more than five (5) sleeping rooms in individual rooms or apartments.

Junk Yard: Land or buildings where waste, discarded or salvaged materials are bought, sold, exchanged, stored, cleaned, packed, disassembled, or handled, including but not limited to, scrap metal, rags, paper, rubber products, glass products, lumber products and products from wrecking of vehicles.

Lodging house: A building or premises where lodging is provided for compensation of five (5) or more persons, but not exceeding twenty-five (25) persons.

Lot: One unit of a recorded plat or subdivision occupied or to be occupied by a building and its accessory buildings and including as a minimum such open spaces as are required under this Ordinance and having frontage on a public street.

Lot Area: The Lot area within the lot lines.

Lot Area Per Family: The lot area per family is the lot area required by this Ordinance to be provided for each family in a dwelling.

Lot, Double Frontage: An interior lot having frontage on two (2) streets.

Lot, Interior: A lot other than a corner lot.

Lot Lines: The lines bounding a lot as defined herein. When a lot line abuts on a street, avenue, park, or other public property except an alley, such line shall be known as a street line, and when a lot line abuts on an alley, it shall be known as an alley line.

Lot , Corner: A lot situated at the intersection of two or more streets.

Lot, Depth: The average distance between the front and rear lot line (the greater frontage of a corner lot shall be deemed its depth and the lesser frontage its width.)

Lot, Width: The horizontal straight line distance between the side lot lines at the setback line.

Mobile (Manufactured) Home: A factory-built structure or structures equipped with the necessary service connections and made so as to be readily movable as a unit or units on its or their own running gear and designed to be relocated as a structure or structures used for occupancy without a permanent foundation. The phrase "without a permanent foundation" indicates that the support system is constructed with the intent that the mobile home placed thereon will be moved from time to time at the convenience of the owner.

Modular Home: A non-mobile housing unit that is fabricated at a factory and transported to a building site where final installations are made, permanently affixing the module to the site. A modular home shall be congruous to a one family dwelling.

Motel: Any building or portion thereof that is offered to transient guests for compensation and in which there are more than five (5) sleeping rooms in individual rooms or units.

Non-Conforming use: A use lawfully in existence on the effective date of this Ordinance and not conforming to the regulations for the district in which it is situated, except that such a use is not non-conforming if it would be authorized under a special use permit where located.

Persons: Any individual, firm, partnership, limited liability company, corporation, company, association, joint stock association or body politic; includes any trustee, receiver, assignee or similar representative thereof.

Premises: A lot or plot with the required front, side and rear yards for a dwelling or other use allowed under this Ordinance.

Sanitary landfill: A sanitary landfill according to the American Society of Civil Engineers is a "method of disposing of solid wastes on land without creating nuisances or hazards to public health and safety, by utilizing the principles of engineering to confine the solid waste to the smallest practical area, to reduce it to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of earth at the conclusion of each day's operations, or at such more frequent intervals as may be necessary".

Setback: The shortest distance between the front lot line and the foundation wall of a building or the allowable building line as defined by the front yard regulations of this Ordinance.

~~**Sign:** A name, identification, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure, or land in view of the general public and which directs attention to a product, place, activity, purpose, institution or business.~~

~~**Sign, Advertising:** A sign which directs attention to a business, commodity, service, activity or entertainment not necessarily conducted, sold or offered upon the premises where such sign is located.~~

~~**Sign, Business:** A sign which directs attention to a business or profession or a commodity, service or entertainment sold or offered upon the premises where such sign is located.~~

~~**Sign, Flashing:** Any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use.~~

~~**Sign, Illuminated:** Any sign which has characters, letters, figures, designs, or outlines illuminated by electric lights or luminous tubes as part of the design.~~

~~**Sign, Nameplate:** Any sign which states the name or address or both of the business or occupant of the lot where the sign is placed.~~

~~**Sign, Rotating:** A sign which revolves or rotates on its axis by mechanical means.~~

~~**Sign, Surface Area of:** The entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface, not including any structural elements outside the limits of such sign and not forming an integral part of the display, (only one side of a double-face or V-type structure shall be used in computing total surface area.)~~

Story: That portion of the building included between the surface of any floor and the surface of the next floor above it, or, if there is not floor above it, the space between the floor and the ceiling next above it.

Story-half: A story with at least two opposite exterior sides meeting a sloping roof not more than two feet above the floor of such story.

Structure: Anything constructed or erected, the use of which requires location on the ground or attachment to something having a location on the ground.

Structural Alteration: Any change or addition to the supporting members of a building such as bearing walls, columns, beams or girders.

Swimming Pool: *A permanent or portable structure which is not completely enclosed within a building, whether below ground level, above ground level or partially above and partially below ground level, intended for non-commercial use as a swimming pool and which exceeds both 24 inches in depth and 5,000 gallons in capacity. ~~and has a surface area exceeding 100 square feet.~~*

*Amended by Ordinance Number 247
Effective Date: October 29, 2009*

Use: The purpose for which land or premises of the building thereon is designated, arranged, or intended, or for which it may be occupied or maintained.

Use, Accessory: A use incidental or accessory to the principal use of a lot or building located on the same lot as the accessory use.

Yard: An open space between a building and any lot line which is open to the sky obstructed by any permanent or temporary uses or structures.

Yard, Front: A yard extending across the full width of the lot and lying between the front lot line and the front building line.

Yard, Rear: A yard extending across the width of the lot and lying between the rear lot line and the nearest line of the principal building.

Yard, Side: A yard extending from the front lot line to the rear lot line and lying between the side lot line and nearest line of a building.

Zoning Administrator: The City Official appointed by the City Council from time to time to administer the Zoning Ordinance, to include monitoring compliance with the Ordinance, maintaining the City of Arlington Zoning Map, and administering the application process for building permits, conditional use permits and variance requests and all other administrative matters pertaining to the Zoning Ordinance.

SECTION 3: ZONING DISTRICTS

SUBDIVISION 1. ESTABLISHMENT OF DISTRICTS.

For the purpose of this Ordinance, the City is divided into the following districts.

RESIDENTIAL DISTRICTS:

R-1 One and Two Family Residence District

R-2 Multiple Family Residence District

BUSINESS DISTRICTS:

B-1 Service Business District

B-2 General Business District

INDUSTRIAL DISTRICTS:

I-1 Limited Industrial District

I-2 General Industrial District

MOBILE HOME PARK DISTRICT:

M-1 Mobile Home Park District

SECTION 4: ZONING INSTRUMENTS

SUBDIVISION 1. ZONING MAP.

The location and boundaries of the districts established by this Ordinance are hereby set forth on the Zoning Map and said map is hereby made a part of this Ordinance, which map shall be known as the "City of Arlington Zoning Map". Said map and all notations, references, and data shown thereon are hereby incorporated by reference into this Ordinance and shall be as much a part of it as if all were fully described herein. It shall be the responsibility of the Zoning Administrator to maintain said map, and amendments thereto shall be recorded on said Zoning map within thirty (30) days after official publication of amendments. The official Zoning Map shall be kept on file in the City Hall.

SUBDIVISION 2. DISTRICT BOUNDARIES.

The boundaries between districts are, unless otherwise indicated, either the center lines of streets, alleys, or railroad rights of way, or such lines extended or lines parallel or perpendicular thereto. Where figures are shown on the Zoning Map between a street and a district boundary line, they indicate that the district boundary line runs parallel to the street line at a distance therefrom equivalent to the number of feet so indicated unless otherwise indicated.

SECTION 4.5: R1/AG-R2/AG RESIDENCE & AGRICULTURAL DISTRICT:

SUBDIVISION 1. PURPOSE.

The R1/AG-R2/AG Residence & Agricultural District is established for the purpose of accommodating large lot residential and agricultural development in recently annexed areas which are transitioning from rural to urban densities. This District allows space for both very low-density urban (with municipal utilities) residential uses and agricultural/farming/hobby farm operations in areas that have not yet developed to urban densities but are expected to do so in the future.

SUBDIVISION 2. PERMITTED USES.

- A. Farming, dairying, pasturage, agriculture, horticulture and animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agriculture activities.
- B. Single family detached residences connected to municipal sewer and water.
- C. Hobby Farms and agricultural dwellings with individual private wells and individual septic facilities.
- D. State Licensed Residential Facility serving six (6) or fewer persons in a single family detached dwelling which is connected to municipal sewer and water.
- E. Day care facilities serving twelve (12) or fewer persons in a single family detached dwelling which is connected to municipal sewer and water.

SUBDIVISION 3. CONDITIONAL USES.

The following uses require a Conditional Use Permit as regulated in this Ordinance.

- A. Governmental and public utility buildings and structures.
- B. Retail or wholesale trade related to agricultural operations and services.

SUBDIVISION 4. PERMITTED ACCESSORY USES.

- A. Operation and storage of vehicles, machinery and equipment which is incidental to permitted or conditional uses allowed in this district.
- B. Home occupations as regulated by this Ordinance.
- C. Detached garages and accessory structures less than 1,000 SF on lots less than 10,001 SF in area. Detached garages and accessory structures over 1,000 SF are allowed under a conditional use permit.

- D. *Detached garages and accessory structures on lots greater than 10,000 SF provided the aggregate ground floor square footage of all detached garage/accessory structures do not occupy greater than 15% of the lot area. The aggregate ground floor square footage of all detached garage/accessory structures may exceed 15% of the lot area provided a conditional use permit is issue.*
- E. *Vehicle Parking. No vehicles may be parked or stored on the premises which are inoperable or unlicensed, unless such vehicles are kept in a fully enclosed structure or fully enclosed licensed trailer, so that no part of the vehicle can be viewed by the public. No vehicles may be parked or stored on the premises which are advertised for sale or rent, except that one vehicle may be advertised for sale or rent as an isolated personal transaction, and not in the ordinary course of business of sale or rent of vehicles, and such vehicle advertised for sale or rent must be operable and licensed.*
- F. *Signs, per Section 13.5 of this Ordinance.*
 - ~~1) A nameplate sign identifying the owner or occupant of a building or dwelling unit, provided such sign does not exceed two (2) square feet in surface area.~~
 - ~~2) One additional sign not to exceed thirty two (32) square feet in area.~~

SUBDIVISION 5. LOT/DIMENSIONAL REQUIREMENTS.

- A. *Minimum lot area:*
 - 1. *Existing single family detached base lots of record within corporate limits (with urban services): 10,000 square feet.*
 - 2. *New single family detached lots (with urban services): 1 acre – 43,560 square feet.*
 - 3. *New hobby farms, residences, agricultural dwelling sites, agricultural operations (individual, private well & septic): 10 acres.*
- B. *Minimum lot width 125 feet, except that if a lot or tract has less area or width than herein provided and was legally platted and was of record at the time of the passage of this Ordinance, that lot may be used for any of the use allowed by and as provided for within this section.*
- C. *Setback Requirements.*
 - 1. *Front yard setbacks of not less than 30 feet from all other public right-of-ways, unless subject site is a lot of record as of the date of adoption of this ordinance and said lot abuts a lot with buildings that have observed a smaller front yard in which instance the minimum front yard setback shall be the distance the existing structures are setback. A viewing triangle measuring 25 feet from the intersection of the front/side property line at street intersections shall be maintained free of structures.*
 - 2. *Side yard setback shall be ten (10) feet, except existing lots of record less than 100 feet in width shall have minimum side yard setbacks of four (4) feet.*
 - 3. *Minimum rear yard setback shall be ten (10) feet.*

D. Maximum Building Height: Two stories or thirty (30) feet. Heights in excess of thirty (30) feet may be allowed provided a conditional use permit is issued.

E. Site Coverage. No structure or combination of structures shall occupy more than fifty (50) percent of the lot area.

Amended by Ordinance 211
Effective October 4, 2007

SECTION 5: R-1 ONE AND TWO FAMILY RESIDENCE DISTRICT

SUBDIVISION 1. PURPOSE.

The R-1 Residence District is intended to provide low density residential areas and restrict incompatible commercial and industrial uses.

SUBDIVISION 2. PERMITTED USES.

1. The following uses shall be permitted in the R-1 Residence District:
2. One and two family dwellings.
3. Parks and recreational areas owned or operated by governmental agencies.
4. Public schools or private schools, provided that no building shall be located within fifty (50) feet of any lot line of an abutting lot in any Residence District.
5. Churches, provided that no building shall be located within fifty (50) feet of any lot line of an abutting lot in any Residence District.
6. Accessory buildings and uses:
 - A. Private garages, carports and other accessory buildings used for the purpose of storing private vehicles and equipment but not including the storage of vehicles and equipment used for commercial purposes. Prohibited commercial vehicles shall automatically be considered to include, but are not limited to, any trucks rated as two ton or heavier, and any tractor-trailer units. One commercial motor vehicle of not over 32 foot length used by the resident occupant may be parked on the premises or the public street bordering the premises. Detached garages and accessory buildings shall not exceed 1,000 square feet. Any proposed accessory structure which exceeds this square footage shall be permitted only by a Conditional Use Permit.
 - B. Swimming pools per Section 13, Subdivision 5
 - C. Maintenance of dogs or cats or other household pets not to exceed two (2) full grown animals of each type. A full grown animal is defined as an animal of breeding age.
 - D. Vehicle Parking. No vehicles may be parked or stored on the premises which are inoperable or unlicensed, unless such vehicles are kept in a fully enclosed structure or fully enclosed licensed trailer, so that no part of the vehicle can be viewed by the public. No vehicles may be parked or stored on the premises which are advertised for sale or rent, except that one vehicle may be advertised for sale or rent as an isolated personal transaction, and not in the ordinary course of business of sale or rent of vehicles, and such vehicle advertised for sale or rent must be operable and licensed.
 - E. Signs, per Section 13.5 of this Ordinance.
 - 1) ~~A nameplate sign identifying the owner or occupant of a building or dwelling unit, provided such sign does not exceed two (2) square feet in surface area. Such~~

~~signs may be illuminated.~~

- ~~2) A sign pertaining to the lease or sale of the building or property, provided such sign does not exceed four (4) square feet in surface area. Such signs shall not be illuminated.~~
 - ~~3) Temporary signs identifying an engineer, architect, contractor, product engaged in or used in the construction of a building, provided such signs do not exceed four (4) square feet in surface area and are removed prior to the occupancy of the building. Such signs shall not be illuminated.~~
 - ~~4) One identification sign not to exceed 24 square feet in surface area displaying directional information for churches, schools, hospitals, sanitariums, clubs, libraries or similar uses provided that each use shall be limited to one (1) such sign per thoroughfare approach or similar use. Such signs may be illuminated.~~
 - ~~5) Directional, unilluminated signs not exceeding two (2) square feet in surface area displaying directional information for churches, schools, hospitals, sanitariums, clubs, libraries or similar uses provided that each use shall be limited to one (1) such sign per thoroughfare approach.~~
 - ~~6) Public street identification signs, traffic signs, and directional signs in any parking area where such signs are necessary for the orderly movement of traffic.~~
 - ~~7) All signs exceeding sixty four (64) square feet shall require a sign permit.~~
7. *Funeral homes, provided side and/or rear yard screening is provided where the funeral home abuts a lot containing a residential dwelling unit.*

Amended by Ordinance 228
Effective September 11, 2008

SUBDIVISION 3. USES BY CONDITIONAL USE PERMIT WITHIN AN R-1 DISTRICT.

1. Buildings or land may be used for the following if granted a Conditional Use Permit:
2. Municipal administration buildings, police and fire stations, museums, art galleries, post offices, and other municipal service buildings except those customarily considered industrial in use, providing that no building shall be located within fifty (50) feet of any lot in a residential district.
3. Water supply buildings, reservoirs, wells, elevated tanks and similar essential public utility and service structures.
4. Golf course, golf clubhouse, miniature golf course, driving tee, country club, public swimming pool, private swimming pool serving more than one family, provided that no principal structure shall be located within fifty (50) feet of any lot in a residential district.
5. Offices of business persons as a home occupation.
6. Apartment buildings housing no more than three or four families.

7. Boarding or rental of rooms to one or more persons on the premises.
8. *Any use determined by the Planning Commission to be of the same general character as the Permitted or Conditional Uses and found not to be detrimental to the general health, safety and welfare of the City.*

Amended by Ordinance 193
Effective April 6, 2006

9. Parking of a commercial motor vehicle of over 32 foot length used by the resident occupant.

SUBDIVISION 4. HEIGHT, YARD AND LOT REGULATIONS.

1. Height Regulations: No structure shall exceed two and one-half (2 1/2) stories or thirty-five (35) feet in height, except that church spires, belfries, domes which do not contain usable space, and chimneys may be of any height which does not conflict with airport requirements.
2. Front Yard Regulations:
 - A. There shall be a front yard having a depth of not less than twenty-five (25) feet, except that in a block where two or more residences have been erected facing the same street, the setback for remaining lots in that block fronting on the same street shall be as far back as the longest setback.
 - B. There shall be a front yard on the street side of each corner lot except that for corner lots of record at the date of this Ordinance, the front yard on the side street side may be reduced to a depth of not less than twenty-five (25) feet.
3. Side Yard Regulations:
 - A. Each lot of less than one hundred (100) feet shall have two (2) side yards, each such yard having a width of not less than four (4) feet.
 - B. Lots one hundred (100) feet and over shall have two (2) side yards, each such yard having a width of not less than eight (8) feet.
4. Rear Yard Regulations:

~~Each lot shall have an unoccupied rear yard having a depth of not less than twenty-five (25) percent of the lot depth, except that accessory buildings and uses as stipulated in this Section 5, Subdivision 2, (5) shall be allowed.~~

 - A. *At a minimum, principal structures shall be set back from the rear property line a distance equivalent to twenty-five (25) percent of the lot depth. Accessory structures*

and detached garages shall be set back at least five (5) feet from the rear property line, except that rear loading garages or accessory structures shall be set back at least ten (10) feet from the rear property line.

Amended by Ordinance 209
Effective September 15, 2007

5. General Yard Regulations:

- A. Cornices, canopies and eaves may extend into a required yard at a distance not exceeding two (2) feet, six (6) inches.
- B. Fire escapes may extend into a required front or rear yard at a distance not exceeding two (2) feet, six (6) inches.
- C. A landing place or uncovered porch or deck or handicap access ramp may extend into a required front yard a distance not exceeding six (6) feet if the landing place or porch or deck or handicap access ramp has its floor no higher than the entrance floor of the building. An open railing no higher than three (3) feet, six (6) inches may be placed around such structure.
- D. A wall, fence or hedge may occupy part of a required yard except that on corner lots there shall be a triangular area formed by the property lines of intersecting streets, intersecting streets and alleys, and a line joining points on said lines twenty (20) feet distant from said intersection. In this area there shall be no wall, fence or hedge. Trees shall be trimmed from the ground to a height above curb level sufficient for proper safety and traffic clearance, so as not to restrict the view of vehicle or pedestrian traffic of oncoming traffic from the intersecting streets.
- E. *For lots less than 10,000 square feet in size, a maximum of 40% of a lot may be occupied by buildings. For lots of 10,000 sf or more, a maximum of 35% of the lot may be occupied by buildings.*

*Amended by Ordinance 222
Effective Date March 7, 2008*

6. Lot Size Regulations:

- A. Every lot on which a one or two family dwelling is erected shall contain an area of not less than 12,000 square feet. For lots on which three or four family dwellings are erected, 2,000 additional square feet shall be provided for each dwelling unit in excess of two.
- B. Every lot on which a one or two family dwelling is erected shall not be less than one hundred (100) feet in width. Lots fronting on curvilinear streets and cul-de-sacs shall have a minimum frontage of seventy-five (75) feet and a one hundred (100) foot width at the building line.
- C. The lot area, width and depth regulations of this SECTION shall not apply to lots recorded prior to the adoption of this Ordinance. However, such lots shall not be altered in any way which would further reduce their dimensions and no lot in conformance with the provisions of this SECTION shall be reduced or resubdivided to produce a lot not in full conformance with this SECTION.

SUBDIVISION 5. PARKING REGULATIONS.

1. One (1) off-street parking space shall be provided for each dwelling unit on the premises, exclusive of required yards.
2. Off-street parking shall be provided on the premises, exclusive of required yards, for uses as follows:
 - A. Churches - One (1) parking space for each seating space for four persons, based on the design capacity of the main seating area.
 - B. Elementary school or junior high school - Two (2) parking spaces for each classroom.
 - C. Senior high school - One (1) parking space for each classroom plus one (1) parking space for each ten (10) students, based on design capacity.
 - D. Offices of professional persons - Two (2) parking spaces for each professional person.
 - E. Hospitals - One (1) parking space for each three (3) beds.
 - F. Convalescent or Nursing Home - one (1) parking space for each four (4) beds.

SECTION 6: R-2 MULTIPLE FAMILY RESIDENCE DISTRICT

SUBDIVISION 1. PURPOSE.

To establish residential districts which will allow multiple dwellings (apartments, town houses, etc.) in those areas where such development is compatible with the Land Use Plan and which will maintain optimum space, height and lot requirements approximating the standards of single family residential development.

SUBDIVISION 2. PERMITTED USES.

Within an R-2 District, unless otherwise provided by this Ordinance, no building or land shall be used except for the following:

1. One and two family dwellings.
2. Parks and recreational areas owned or operated by governmental agencies.
3. Public schools or private schools, provided that no building shall be located within fifty (50) feet of any lot line of an abutting lot in any Residence District.
4. Churches, provided that no building shall be located within fifty (50) feet of any lot line of an abutting lot in any Residence District.
5. Accessory buildings and uses:
 - A. Private garages, carports and other accessory buildings used for the purpose of storing private vehicles and equipment but not including the storage of vehicles and equipment used for commercial purposes. Prohibited commercial vehicles shall automatically be considered to include, but are not limited to, any trucks rated as two ton or heavier, and any tractor-trailer units. One commercial motor vehicle of not over 32 foot length used by the resident occupant may be parked on the premises or the public street bordering the premises. Detached garages and accessory buildings shall not exceed 1,000 square feet. Any proposed accessory structure which exceeds this square footage shall be permitted only by a Conditional Use Permit.
 - B. Swimming pools per Section 13, Subdivision 5.
 - C. Maintenance of dogs or cats or other household pets not to exceed two (2) full grown animals of each type. A full grown animal is defined as an animal of breeding age.
 - D. Vehicle Parking. No vehicles may be parked or stored on the premises which are inoperable or unlicensed, unless such vehicles are kept in a fully enclosed structure or fully enclosed licensed trailer, so that no part of the vehicle can be viewed by the public. No vehicles may be parked or stored on the premises which are advertised for sale or rent, except that one vehicle may be advertised for sale or rent as an isolated personal transaction, and not in the ordinary course of business of sale or rent of vehicles, and such vehicle advertised for sale or rent must be operable and licensed.

E. Signs, per Section 13.5 of this Ordinance.

- ~~1) A nameplate sign identifying the owner or occupant of a building or dwelling unit, provided such sign does not exceed two (2) square feet in surface area. Such signs may be illuminated.~~
 - ~~2) A sign pertaining to the lease or sale of the building or property, provided such sign does not exceed four (4) square feet in surface area. Such signs shall not be illuminated.~~
 - ~~3) Temporary signs identifying an engineer, architect, contractor, product engaged in or used in the construction of a building, provided such signs do not exceed four (4) square feet in surface area and are removed prior to the occupancy of the building. Such signs shall not be illuminated.~~
 - ~~4) One identification sign not to exceed 24 square feet in surface area displaying directional information for churches, schools, hospitals, sanitariums, clubs, libraries or similar uses provided that each use shall be limited to one (1) such sign per thoroughfare approach or similar use. Such signs may be illuminated.~~
 - ~~5) Directional, unilluminated signs not exceeding two (2) square feet in surface area displaying directional information for churches, schools, hospitals, sanitariums, clubs, libraries or similar uses provided that each use shall be limited to one (1) such sign per thoroughfare approach.~~
 - ~~6) Public street identification signs, traffic signs, and directional signs in any parking area where such signs are necessary for the orderly movement of traffic.~~
 - ~~7) All signs exceeding sixty four (64) square feet shall require a sign permit.~~
6. Multiple dwellings, apartment buildings, townhouses.
 7. Boarding or lodging houses.
 8. Hospitals, convalescent and nursing homes.
 9. Private clubs or lodges, except those whose chief activity is service customarily carried on as a business.

SUBDIVISION 3. USES BY CONDITIONAL USE PERMIT.

Within an R-2 District, buildings or land may be used for one or more of the following uses if granted a Conditional Use Permit:

1. Municipal administration buildings, police and fire stations, museums, art galleries, post offices, and other municipal service buildings except those customarily considered industrial in use, providing that no building shall be located within fifty (50) feet of any lot in a residential district.
2. Water supply buildings, reservoirs, wells, elevated tanks and similar essential public utility and service structures.

3. Golf course, golf clubhouse, miniature golf course, driving tee, country club, public swimming pool, private swimming pool serving more than one family, provided that no principal structure shall be located within fifty (50) feet of any lot in a residential district.
4. Offices of business persons as a home occupation.
5. Boarding or rental of rooms to one or more persons on the premises.
6. Parking of a commercial motor vehicle of over 32 foot length used by the resident occupant.
7. *Any use determined by the Planning Commission to be of the same general character as the Permitted or Conditional Uses and found not to be detrimental to the general health, safety and welfare of the City.*

Amended by Ordinance 193
Effective April 6, 2006

SUBDIVISION 4. HEIGHT, YARD and AREA REGULATIONS.

1. Height Regulations:

Structure shall not exceed 2 1/2 stories or thirty-five (35) feet in height, whichever is lower, except that church spires, belfries, domes which do not contain usable space, water towers, chimneys or smoke stacks and cooling towers, may be erected with no height limitations except airport requirements.

2. Front Yard Regulations:

- A. There shall be a front yard having a depth of not less than twenty-five (25) feet.
- B. There shall be a front yard on each street side of a corner lot.

3. Side Yard Regulations:

- A. For one and two family dwellings, and their accessory buildings there shall be a side yard as required in SECTION 5, Subdivision 4.(3).
- B. For multiple family dwellings greater than two family, there shall be two side yards, each such yard having a width of not less than fifteen (15) feet.

4. Rear Yard Regulations:

- A. There shall be a rear yard as required in SECTION 5, Subdivision 4 (4).

5. General Yard Regulations:

- A. The general yard regulations of the R-2 District shall be those of SECTION 5, Subdivision 4, (5).

6. Lot Size Regulations:

- A. The minimum lot area for a one or two family unit shall not be less than 12,000 square feet.
- B. Every lot on which a one or two family dwelling is erected shall not be less than one hundred (100) feet in width. Lots fronting on curvilinear streets and cul-de-sacs shall have a minimum frontage of seventy-five (75) feet and a one hundred (100) foot width at the building line.
- C. The minimum lot area for a multiple dwelling containing three or more dwelling units shall not be less than 12,000 square feet, plus 2,000 square feet for each dwelling unit in excess of two.
- D. Not more than thirty-five (35) percent of a lot or plot shall be occupied by buildings.

SUBDIVISION 5. PARKING REGULATIONS.

- 1. Off-street parking shall be provided on the premises, exclusive of required yards, for uses as follows:
 - A. Multiple dwellings, two (2) parking spaces for each apartment, except housing for the elderly projects, which shall provide one (1) parking space for each dwelling unit.
 - B. For all other uses: as required in SECTION 5, Subdivision 5, (2).

SECTION 7: B-1 SERVICE BUSINESS DISTRICT

SUBDIVISION 1. PURPOSE.

The B-1 District is intended for commercial activities which might be incompatible with uses in the Central Business District by reason of traffic considerations, marketing characteristics, area requirements, and other characteristics inherent in these uses.

SUBDIVISION 2. PERMITTED USES.

Within the B-1 District, unless otherwise provided by this Ordinance, no building or land shall be used except for the following:

1. Armories, convention halls, or exhibition halls.
2. Bowling alleys, billiards or pool halls.
3. Bakeries employing not more than four (4) persons in the baking process.
4. Bus Station.
5. Cabinet, carpenter, upholstering, or furniture repair shops employing not more than four (4) persons in the construction or repair process.
6. Dry cleaning establishments, laundries, Laundromats, self-servicing or employing not more than four (4) persons in the laundering, cleaning, and pressing process.
7. Frozen food lockers for individuals or family.
8. Grocery, fruit, vegetable and meat stores.
9. Greenhouses, nurseries and garden stores.
10. Laboratories, medical and dental.
11. Lumber yards.
12. Marine and boat sales and servicing establishments.
13. Miniature golf courses, par three golf courses or archery or golf driving ranges operated for commercial purposes.
14. Monument sales, not including processing.
15. Mortuaries or funeral homes.
16. Motels, hotels or apartment hotels.
17. Newspaper distribution agencies.

18. Orthopedic and medical appliance stores, but not including the assembly or manufacturing of such articles.
19. Pet and animal hospitals.
20. Plumbing, heating and air conditioning shops and showrooms.
21. Printing and publishing shops.
22. Public utility structures.
23. Municipal and government buildings.
24. Radio and television service and repair shops.
25. Recording studios.
26. Restaurants.
27. Skating rinks.
28. Taverns.
29. Telephone booths (outside).
30. Theaters.
31. Vending machines for ice, soft drinks and milk sales.
32. Accessory uses, other than signs, customarily incident to the uses permitted in SECTION 6, Subdivision 2, and SECTION 6, Subdivision 3.
33. Signs, per Section 13.5 of this Ordinance.
 - A. ~~The total surface area of all business signs on a lot shall not exceed two (2) square feet per lineal foot of lot frontage or ten (10) percent of the building frontage area, or seventy-five (75) square feet in area, whichever is greater; for corner lots, the "frontage" used to determine allowable sign area shall be the least dimension along a street, but an equivalent sign area shall be allowed facing the intersecting street. Such signs may be illuminated.~~
 - B. ~~Advertising sign structures shall be limited to one (1) for a lot of one hundred (100) foot frontage or less and to only one (1) for each additional one hundred (100) feet of additional lot frontage; such structure may not contain more than two (2) signs per facing, nor exceed fifty-five (55) feet in total length. No advertising sign may be erected within one hundred (100) feet of an adjoining Residential District. Such signs may be illuminated.~~
 - C. ~~No sign shall project higher than six (6) feet above the height of the building, or thirty-two (32) feet above average grade at the building line, whichever is greater.~~
 - D. ~~Rotating signs or flashing signs shall not be permitted.~~

- ~~E. Signs painted on a building shall be governed by the square footage limitations specified above. Such signs shall be maintained in good condition and shall be repainted, removed, or painted out when, in the opinion of the City Council, they are not so maintained.~~
- ~~F. No sign shall be placed that resembles any official marker erected by a governmental agency or displaying such words as "stop" or "danger".~~
- ~~G. No sign shall be permitted to obstruct any window, door, fire escape, stairway, or opening intended to provide light, air, or access to any building.~~
- ~~H. Political signs may be permitted for a period of not more than thirty (30) days before and ten (10) days after an election.~~
- ~~I. Upon notification by the City Council that a sign is rotted, unsafe, or unsightly, the owner of said sign or owner of property thereunder shall remove or repair same.~~
- ~~J. Where a sign is illuminated, the source of light shall not be visible from any public right of way and such light shall be directed away from any Residential District.~~
- ~~K. Signs that exceed sixty four (64) square feet shall require a sign permit.~~

SUBDIVISION 3. USES BY CONDITIONAL USE PERMIT.

Within a B-1 District buildings or land may be used for one or more of the following uses if granted a Conditional Use Permit:

1. New or used automobile sales or storage lots, new or used implement sales or storage lots, automobile laundries or car washes, automobile service stations or repair shops provided:
 - A. The parking lot shall be surfaced with a dust-free material, and plans for the arrangement of entrances, exists, screening of exterior storage lots, and parking stalls shall accompany the request for a conditional use permit.
 - B. Artificial lighting shall be directed away from any public right of way and any Residential District.
 - C. A screen of acceptable design shall be constructed along the property line when said use is abutting any Residential District.
2. Drive-in restaurants, drive-in theaters, or similar uses that provide goods and services to patrons in automobiles, provided:
 - A. A screen of acceptable design shall be constructed along the property line when said use is abutting any Residential District.

- B. The parking area shall be surfaced with a dust-free material, and plans for the arrangements of entrances, exits, and parking stalls shall accompany the request for a conditional use permit.
 - C. Lighting shall be directed away from any public right of way and any Residential District.
- 3. Parking lots in setback zone.
 - 4. Other business activities of the same general character as listed in SECTION 7, Subdivision 2.

SUBDIVISION 4. HEIGHT, YARD AND AREA REGULATIONS.

*Amended by Ordinance Number 251
Effective Date: August 5, 2010*

- 1. *Height Regulations:*
 - A. *The height regulations of the B-1 District shall be those of SECTION 6, Subdivision 4, (1).*
 - B. *On any lot abutting an R-1 District, the height regulation of the R-1 District SECTION 5, Subdivision 4, (1) shall be observed.*
- 2. *Front Yard Regulations. There shall be a front yard having a depth of thirty (30) feet.*
- 3. *Side Yard Regulations:*
 - A. *There shall be a side yard having a depth of ten (10) feet, except that*
 - B. *A buffer yard shall be required for the portion of a lot having a common lot line with a lot located in any residential district, each such buffer yard shall be approved by the Planning Commission and have a width of at least fifteen (15) feet and featuring screening such as a privacy fence or vegetative cover sufficient to lessen the view of the business from the adjoining lot.*
- 4. *Rear Yard Regulations:*
 - A. *There shall be a rear yard having depth of not less than twenty (20) feet, except that*
 - B. *A buffer yard shall be required for the portion of a lot having a common lot line with a lot located in any residential district, each such buffer yard shall be approved by the Planning Commission and have a width of at least fifteen (15) feet and featuring screening such as a privacy fence or vegetative cover sufficient to lessen the view of the business from the adjoining lot.*
- 5. *Lot Coverage Regulations. Not more than fifty (50) percent of a lot shall be occupied by buildings.*

SUBDIVISION 5. PARKING REGULATIONS.

1. The required parking and loading spaces shall be provided on the premises of each use.
2. No parking shall be allowed in any required yard except as provided in SECTION 7, Subdivision 3, (3).
3. Each parking space shall contain a minimum area of not less than three hundred (300) square feet including access drives, and a width of not less than nine (9) feet, and a depth of not less than twenty (20) feet.
4. The minimum number of required off-street parking spaces for various uses shall be a minimum of one (1) parking space for each employee, based on the number of employees present at the same time on a typical work shift, plus sufficient off street parking to accommodate visitors and customers during normal business traffic hours, as determined by the City Council on a case by case basis.

SECTION 8: B-2 CENTRAL BUSINESS DISTRICT

SUBDIVISION 1. PURPOSE.

The B-2 District is intended for retail stores and offices which are mutually compatible and can benefit from and contribute to a compact shopping area serving the City or region.

SUBDIVISION 2. PERMITTED USES.

Within a B-2 District, unless otherwise provided by this Ordinance, no building or land shall be used except for the following:

1. Animal or pet shops.
2. Antique, gifts, or jewelry stores.
3. Apparel, dry goods, or department stores.
4. Appliance, sewing machine sales and service, hardware, paint and wallpaper stores; bicycle sales and repair.
5. Art and school supply, book and stationery stores.
6. Art, photographic, music and dance studios.
7. Bakeries employing not more than four (4) persons in the baking process.
8. Banks, savings and loan associations, loan and finance companies.
9. Barber and beauty shops.
10. Business, commercial, or trade schools.
11. Camera, or photographic supply stores, hobby, toy, or record stores, sporting goods stores; musical instrument stores.
12. Clinic, for people only.
13. Radio or television broadcasting or transmitting stations or studios; radio and television repair, when operated as an accessory to a retail sales establishment.
14. Drugs, variety and five-and-ten cent stores.
15. Dry cleaning and laundry collection stations.
16. Professional and other business offices; employment agencies.
17. Furniture store, carpet and rug stores.

18. Grocery, fruit, vegetable, floral or meat stores; candy, ice cream, soft drink or confectionary stores, excluding drive-in type service.
19. Leather goods, and luggage; shoe stores and shoe repair service.
20. Liquor stores and taverns.
21. Medical supply stores.
22. Newsstands.
23. Laboratories
24. Physical culture and health clubs, gyms.
25. Pipe and tobacco shops.
26. Post offices.
27. Restaurants, tearooms, delicatessens, cafes, excluding drive-in type service.
28. Tailor shops.
29. Telephone booths (outside).
30. Theaters.
31. Accessory uses as follows:
 - A. Any accessory use, except signs, customarily incident to the above permitted uses.
 - B. Signs, as per Section 13.5 of this Ordinance.

SUBDIVISION 3. USES BY CONDITIONAL USE PERMIT.

Buildings or land may be used for the following, if granted a Conditional Use Permit:

1. Any business activity of the same general character as those listed in SECTION 8, Subdivision 2.
2. Any of the uses listed in SECTION 7, Subdivision 2, except that such uses must conform to the rules set out in SECTION 8, Subdivisions 4 and 5.

SUBDIVISION 4. HEIGHT, YARD AND AREA REGULATIONS.

1. Height Regulations. The height regulations of the B-2 District shall be those of SECTION 6, Subdivision 4, (1).

2. Yard Regulations and Lot Coverage Regulations. None required except to provide off-street parking and loading if required.

SUBDIVISION 5. GENERAL REGULATIONS.

1. Lighting shall be directed away from public right of way and Residential Districts.
2. An awning, canopy, or marquee suspended from a building may extend over the public right of way ten (10) feet and not closer than two (2) feet of the curb line extended. Such structures shall be not less than eight (8) feet from the sidewalk or ground grade line, and the owner of such structure shall be responsible for its structural safety.

SECTION 9: I-1 LIMITED INDUSTRIAL DISTRICT

SUBDIVISION 1. PURPOSE.

The I-1 District is intended for administrative, wholesaling, manufacturing and related uses which can maintain high standards of appearance, including open spaces and landscaping, and limit external effects such as noise, odors, smoke and vibration.

SUBDIVISION 2. PERMITTED USES.

Within an I-1 District, unless otherwise provided by this Ordinance, no building or land shall be used except for the following uses, and such uses must comply with the performance standards of this SECTION.

1. All uses permitted in the B-1 Service Business District.
2. Cartage and express facilities, and railroad rights of way.
3. Storage and warehousing facilities; wholesale business and office establishments.
4. Bottling establishments.
5. Building materials sales and storage establishments.
6. Radio and television towers and stations; electric light or power generating stations.
7. Engraving, printing, publishing, cartographic, and bookbinding establishments.
8. Dry cleaning, dyeing and laundering establishments.
9. Electrical and electronic manufacturing establishments; electrical service shops.
10. Medical, dental, and optical laboratories.
11. Public utility structures and governmental buildings.
12. Jewelry, camera, and photographic manufacturing establishments.
13. Accessory uses as follows:
 - A. All uses, except signs, customarily incident to the above permitted uses.
 - B. Signs, as per Section 13.5 of this Ordinance:
 - 1) ~~The total area of all business signs on a lot shall not exceed three (3) square feet of each lineal foot of lot frontage or twenty (20) percent of the building frontage or three hundred (300) square feet in area, whichever is greater. Such signs may be illuminated.~~
 - 2) ~~Advertising signs structures shall be limited to one (1) for a lot of one hundred (100) foot frontage or less and to only one (1) for each additional one hundred~~

~~(100) feet of additional lot frontage. Such structures shall not exceed fifty-five (55) feet in length. No advertising sign may be erected within one hundred (100) feet of a Residential District. Such signs may be illuminated.~~

- ~~3) Sign lighting shall not be directed toward a public right of way or any Residential District.~~
- 4) Any sign exceeding sixty-four (64) square feet shall require a sign permit.

SUBDIVISION 3. USES BY CONDITIONAL USE PERMIT.

Within an I-1 District, buildings or land may be used for the following, if granted a Conditional Use Permit:

1. Any manufacturing, production, processing, cleaning, storage, servicing, repair and testing of materials, good, or products similar to those listed in SECTION 9, Subdivision 2, which comply with the performance standards of this District.
2. Retail and service establishments consistent with a Planned Unit Development Overlay and providing goods and services which are primarily for the use of persons employed in this District.

SUBDIVISION 4. HEIGHT, YARD AND AREA REGULATIONS.

1. Height Regulations. No structure shall exceed 2 1/2 stories or thirty-five (35) feet in height, whichever is lower, except that cooling towers, elevator penthouses, domes which do not contain usable space, water towers, and smokestacks may be of any height which does not conflict with airport requirements.
2. Front Yard Regulations:
 - A. There shall be a front yard having a depth of not less than thirty (30) feet, except where the lot fronts on a major thoroughfare the front yard shall have a depth of fifty (50) feet.
 - B. Where the district is adjacent to or across the street from a Residential District, there shall be a front yard having a depth of not less than fifty (50) feet.
3. Side Yard Regulations:
 - A. There shall be a side yard on each side of a building, each yard having a width of not less than fifteen (15) feet, except
 - B. Where the district abuts a Residential District, the side yard shall have a width of not less than fifty (50) feet, and shall contain a solid fence or a vegetative screening.
4. Rear Yard Regulations:
 - A. There shall be a rear yard having a depth of not less than thirty (30) feet, except

- B. Where the district abuts a Residential District, there shall be a rear yard having a depth of not less than fifty (50) feet, and shall contain a solid fence or vegetative screening.
- 5. Lot Area Regulations. Every individual lot, site, or tract shall have an area of not less than twenty thousand (20,000) square feet.
- 6. Minimum District Area Regulations. No I-1 District shall be established on any tract containing less than (10) acres in single ownership or other unified control. This requirement shall not apply where the tract abuts an existing industrial district.
- 7. Lot Coverage Regulations. Not more than fifty (50) percent of the total area of a lot shall be covered by buildings.

SUBDIVISION 5. PERFORMANCE STANDARDS.

- 1. Noise, Smoke, Dust, Fumes or Gases, Sewer and Water Discharge:
 - A. The City hereby adopts by reference all State of Minnesota standards in regard to pollution control, to include noise abatement standards, dust, fumes or gases sources, and sewer and water discharge standards.
 - B. In order to insure compliance with said performance standards, the City Council may require the owner or operator of any permitted use to have made such investigations or tests as may be required to show adherence to the performance standards. Such investigation or tests as are required shall be carried out by an independent testing organization selected by the owner or operator and approved by the City. Such investigations or testing shall be ordered by the owner or operator. The cost of same shall be paid by the owner or operator.
- 2. Odors. No odors shall be detectable beyond the limits of the property.
- 3. Exterior Lighting. Any lights used for exterior illumination shall direct light away from adjoining property. Glare, whether direct or reflected, such as from floodlights, spotlights, or high-temperature processing, and as differentiated from general illumination, shall not be visible beyond the limits of the property.
- 4. Vibration. No vibration shall be discernible at any property line to the human sense of feeling for an accumulated total of three (3) or more minutes during any hour.

SUBDIVISION 6. PARKING.

- 1. Off-street parking shall be provided on the premises, exclusive of required yards, for uses as follows:

- A. Wholesale business establishments and storage or warehouse establishments: One (1) Off-street parking space for each employee on the major shift plus one (1) Off-street parking space for each company motor vehicle when customarily kept on the premises, plus sufficient off-street parking space for delivery and pickup vehicles servicing the facility.
- B. Manufacturing or processing plant: One (1) off-street parking space for each employee on the major shift plus one (1) off-street parking space for each company motor vehicle when customarily kept on the premises plus sufficient off-street parking space for delivery and pickup vehicles servicing the facility.

SECTION 10: I-2 GENERAL INDUSTRIAL DISTRICT

SUBDIVISION 1. PURPOSE.

The I-2 District is intended for general industrial uses which, due to their size and nature, would not be appropriate in the I-1 District.

SUBDIVISION 2. PERMITTED USES.

Within an I-2 District, unless otherwise provided by this Ordinance, no building or land shall be used except for the following:

1. Cartage and express facilities, and railroad rights of way.
2. Storage and warehousing facilities; wholesale business and office establishments.
3. Bottling establishments.
4. Building materials sales and storage establishments.
5. Radio and television towers and stations; electric light or power generating stations.
6. Engraving, printing, publishing, cartographic, and bookbinding establishments.
7. Dry cleaning, dyeing and laundering establishments.
8. Electrical and electronic manufacturing establishments; electrical service shops.
9. Medical, dental, and optical laboratories.
10. Public utility structures and governmental buildings.
11. Jewelry, camera, and photographic manufacturing establishments.
12. Blacksmith Shops.
13. Creameries.
14. Contractor's offices, shops, yards and storage facilities for plumbing, heating, glazing, painting, paperhanging, roofing, ventilating, air conditioning, lumber, masonry, electrical and refrigeration industries.
15. Freight and transportation terminals, including airports.
16. Fuel and ice sales and storage facilities.
17. Garages for storage, repair, and servicing of motor vehicles and farm implements.
18. Gasoline and oil bulk stations and distributing plants.

19. Highway maintenance shops and yards.
20. Monument works.
21. Public service structures, including power substations, gas regulator stations, sewage disposal plants, telephone exchanges, police or fire stations, elevated tanks, and waterworks.
22. Manufacturing, processing, storage, servicing and testing establishments.
23. Accessory uses as follows:
 - A. Accessory uses, except signs, customarily incidental to the above permitted uses.
 - B. Signs, as per Section 13.5 of this Ordinance.

SUBDIVISION 3. USES BY CONDITIONAL USE PERMIT.

Within an I-2 District, buildings or land may be used for one or more of the following uses if granted a Conditional Use Permit:

1. Any manufacturing, production, processing, cleaning, storage, servicing, repair, and testing of materials, goods, or products similar to those listed in SECTION 10, Subdivision 2, which comply with the performance standards of this District.
2. Extraction, processing, or storage of sand and gravel, stone, or other raw materials.
3. Retail and service establishments consistent with the operation of a General Industrial District.
4. Junk yards as regulated in SECTION 13, Subdivision 5.
5. Sanitary landfills.

SUBDIVISION 4. HEIGHT, YARD AND AREA REGULATIONS.

1. Height Regulations. No structure shall exceed 2 1/2 stories or thirty-five (35) feet in height.
2. Yard Regulations:
 - A. No building shall be located within twenty-five (25) feet of any Residential District.
 - B. Except for railroad loading areas, no parking or loading space shall be located within twenty-five (25) feet of any Residential District.
 - C. Any open storage or materials or pen loading areas shall be located or screened so as not to be visible from any Residential District.

SUBDIVISION 5. PERFORMANCE STANDARDS.

*Amended by Ordinance 249
Effective March 4, 2010*

1. *Noise, Smoke, Dust, Fumes or Gases, Sewer and Water Discharge:*

 - A. *The City hereby adopts by reference all State of Minnesota standards in regard to pollution control, to include noise standards, dust, fumes or gases sources, and sewer and water discharge standards instituted to protect the health and welfare of the general public.*
 - B. *In order to insure compliance with said performance standards, the City Council may require the owner or operator of any permitted use to have made such investigations or tests as may be required to show adherence to the performance standards. Such investigation or tests as are required shall be carried out by an independent testing organization selected by the owner or operator and approved by the City. Such investigations or testing shall be ordered by the owner or operator. The cost of same shall be paid by the owner or operator.*

2. *Exterior Lighting. Any lights used for exterior illumination shall direct light away from adjoining property. Glare, whether direct or reflected, such as from floodlights, spotlights, or high-temperature processing, and as differentiated from general illumination, shall not be visible beyond the limits of the property.*
3. *Vibration. No vibration shall be discernible at any property line to the human sense of feeling for an accumulated total of three (3) or more minutes during any hour. This standard shall not apply to vibration created during the process of construction.*

~~The performance standards of the I-2 District shall be those of SECTION 9, Subdivision 5, except the measurement or determination of noise, odor, and vibration shall be made at the boundary of the I-2 District.~~

SECTION 10.5: P-I PUBLIC AND INSTITUTIONAL DISTRICT

Established by Ordinance 234
Effective December 4, 2008

SUBDIVISION 1. PURPOSE.

The purpose of the P-I Public Institutional District is to provide for uses of a public or institutional nature. The primary purpose of public/institutional district uses is delivery of public services that are typically, but not always, on a not-for-profit basis as opposed to the sale of goods or services. Such uses include local, state, and federal government facilities, places of worship, and public educational facilities. Lands devoted to public/institutional use are usually owned by public entities but may be privately owned.

SUBDIVISION 2. PERMITTED USES.

The following are permitted uses within the P-I Public and Institutional District.

- 1. City, state, and federal governmental facilities such as administrative offices, service buildings, and postal offices.*
- 2. Libraries, community centers, museums, and public art galleries.*
- 3. Fire stations, police stations, and public works facilities.*
- 4. Public parks and recreational areas.*
- 5. Religious institutions or places of worship limited to worship and related social events or educational facilities.*
- 6. Hospitals, nursing homes, and medical clinics.*
- 7. Public educational facilities.*
- 8. Cemeteries.*
- 9. Public utilities and services.*
- 10. Publicly owned parking lots as a principal use.*

SUBDIVISION 3. CONDITIONAL USES.

The following are conditional uses within the P-I Public and Institutional District.

- 1. Uses deemed by the City Council to be similar to permitted uses listed under Subdivision 2 of this Section provided the City Council considers possible adverse effects of the proposed events or activity. The City Council's decision shall be based upon (but not limited to) the following factors:*

- A. *Consistency with the Comprehensive Plan.*
- B. *Compliance with applicable facility plans.*
- C. *That the establishment, maintenance or operation of the proposed use, event or activity will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety or welfare.*
- D. *The proposed use, event or activity will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.*
- E. *The proposed use, event or activity shall conform to the applicable regulations of the district in which it is located and all other applicable provisions of the City Code*

SUBDIVISION 4. INTERIM USES.

The following are interim uses within the P-I Public and Institutional District.

- 1. *Outdoor storage*
- 2. *Temporary buildings for construction purposes for a period not to exceed a period of twelve (12) months*

SUBDIVISION 5. ACCESSORY USES.

The following are accessory uses within the P-I Public and Institutional District.

- 1. *Accessory uses incidental and customary to uses allowed as permitted, conditional, interim and administrative permits in this section*
- 2. *Off-street parking and loading.*
- 3. *Signs as regulated by Section 13.5 of this Ordinance.*

SUBDIVISION 6. PERFORMANCE STANDARDS.

- 1. *Lot requirements.*
 - A. *Minimum Lot Size. None.*
 - B. *Lot width requirement. None.*
 - C. *Minimum frontage on a public street. At least twenty-five (25) feet of a lot must front on a public street.*
- 2. *Front, Side and Rear Yard Requirements.*

- A. *Front yard setback shall be thirty (30) feet or the average setback of structures on abutting lots.*
 - B. *Side yard setback shall be fifteen (15) feet or the average setback of structures on abutting lots, plus one-half (1/2) foot for every one (1) foot of structure height in excess of three (3) stories or thirty-five (35) feet whichever is less.*
 - C. *The rear yard setback shall be twenty (20) feet, except that existing lots of record not abutting residential uses may be reduced to five (5) feet and existing lots of record abutting a residential use may be reduced to ten (10) feet provided screening is incorporated into the site design.*
 - D. *Required Side/Rear Yard Screening. Where a P-I use abuts property guided for single or two family residential use as illustrated on the Future Land Use map contained in the Comprehensive Plan or is separated by an alley from a single or two family residential use as illustrated on the Future Land Use Map contained in the Comprehensive Plan, a landscaped buffer shall be provided. It is the objective of the landscaped buffer to lessen, rather than completely eliminate land use conflicts between such uses. It is not expected that landscaped buffers will totally screen such uses. It is expected that the landscaped buffer design elements identified below will provide immediate lessening of land use conflicts and such buffering will be enhanced over time as landscaping matures. Landscaped buffers may include a combination of elements including setback distances as separation, tree and shrubs, solid fencing, and/or berming. It is encouraged that existing topography and vegetation be included in the design of the landscaped buffer as approved by the City. Retention of existing mature trees is strongly encouraged in meeting the requirements of this Section. Rear and side yard landscaped buffers shall have a minimum depth of ten feet (10'). Required screening shall not interfere with snow storage or sight lines at intersections but may encroach into required setbacks.*
- 3. *Maximum Building Height. Maximum building height is 40 feet or the average height of the principal structures on adjacent lots on the same side of the street, whichever is less.*
 - 4. *Lot Coverage. Not more than seventy-five (75) percent of a lot shall be occupied by structures.*
 - 5. *Other Building/Development Requirements.*
 - A. *Development/site plan review is required.*
 - B. *Any lights used for exterior illuminations shall be directed away from adjacent properties.*
 - C. *Parking lots abutting residential uses shall be screened so as to reasonably dilute headlights from trespassing onto said residential property.*

SECTION 11: PLANNED UNIT DEVELOPMENT DISTRICT

Previous Text Repealed and Replaced with the following by Ordinance 227
Effective September 11, 2008

SUBDIVISION 1. PURPOSE AND INTENT.

The purpose of this chapter is to provide for flexibility in site design requirements when exceptional quality community designs result in planned developments that: preserve environmentally significant and/or environmentally sensitive areas; provide exceptional or unique open space amenities; incorporate creative design in the layout of buildings, open space and circulation; assure compatibility with surrounding land uses and neighborhood character; conforms to the goals and policies of the Comprehensive Plan; and, provide greater efficiency in the layout and provision of roads, utilities, and other infrastructure. Throughout this title, "PUD" shall mean the same as "planned unit development."

SUBDIVISION 2. DEFINITIONS.

- A. **Development, Greenfield** shall mean development proposed for sites not previously serviced by centralized water, sanitary sewer, or storm sewer service.
- B. **Planned unit development (PUD)** shall refer to one or more lots, tracts, or parcels of land to be developed as a single entity, the plan for which may propose density or intensity transfers, density or intensity increases, mixing of land uses, or any combination thereof, and which may not correspond in lot size, bulk, or type of dwelling or building, density, intensity, lot coverage, parking, required common open space, or other standards to zoning use district requirements that are otherwise applicable to the area in which it is located. Density herein refers to the number of dwelling units (residential) or building square footage (non-residential) as a portion of the entire developable site area; intensity refers to the intensity of building coverage as a percentage of the lot size.
- C. **PUD, Residential Cluster** shall mean a residential plan/plat proposing a transfer of allowable net density from one portion of the PUD to another as a means of preserving environmentally significant or sensitive areas under Subd. 3(A) of this Section, preserving architectural or historically important existing structures under Subd. 3(D) of this Section, or the elimination of blighted areas, deteriorated structures or incompatible uses within a previously built-up urban area through redevelopment or rehabilitation under Subd. 3(E) of this Section.
- D. **PUD, Residential Open Space** shall mean a residential plan/plat proposing a transfer of allowable net density from one portion of the PUD to another as a means of preserving in perpetuity or establishing and preserving in perpetuity open space amenities under Section 3(B) of this Section.
- E. **PUD, Residential Amenity** shall mean a primarily residential plan/plat proposing a transfer of allowable net density from one portion of the PUD to another as a means of providing for a unique scenic or recreational amenity or facility under Subd. 3(G) of this Section.

- F. **PUD, Residential Mixed Use** shall mean a primarily residential plan/plat proposing a transfer of allowable net density from one portion of the PUD to another as a means of providing for mixed housing types and values combined with site amenities under Subd. 3(C) of this Section.
- G. **PUD, Commercial Mixed Use** shall mean a transfer of allowable net density from one portion of the PUD to another as a means of combining commercial storefronts and residential dwelling units within a single structure under Subd. 3(F) of this Section, or the combination of commercial and residential uses on separate parcels within a master planned area which eliminates blighted areas, deteriorated structures or incompatible uses within a previously built-up urban area through redevelopment or rehabilitation under Subd. 3(E) of this Section.
- H. **Project Area, Gross** shall mean the total area proposed to be developed as a PUD.
- I. **Project Area, Net** shall mean the remaining project area after subtracting from the gross project area all areas proposed to be used for public streets, all stream areas, public waters, wetlands (National Wetland Inventory), preserved floodplains, steep slopes, all floodways, and other natural resource areas in which development is prohibited under the City's Zoning Ordinance or Subdivision Ordinance.

SUBDIVISION 3. DEMONSTRATED BENEFIT TO THE PUBLIC REQUIRED.

Planned unit developments shall demonstrate at least one of the following benefits to the public. The applicant shall submit factual evidence to support an intended public benefit(s) will result from the planned development. The Applicant bears the burden of proving a public benefit(s) exist:

- A. *The preservation in perpetuity of environmentally significant and/or environmentally sensitive areas including flood plains, ravines, shorelands, public water basins, wetlands (National Wetland Inventory), High Island Creek bank, prime agricultural soils, hydric soil, pre-settlement vegetation, and resources identified within the Sibley County Biological Survey. Preservation of such areas will require the establishment and implementation of best management practices to protect and enhance said environmentally significant and/or sensitive areas. Preservation in perpetuity may be achieved through a permanent conservation easement and/or dedication to the public.*
- B. *The preservation in perpetuity or establishment and preservation in perpetuity of exceptional quality open space amenities such as those which provide: for the establishment or protection of scenic views/visual amenities; for the establishment or linkage of habitat areas, wildlife corridors, or greenway corridors especially adjacent to High Island Creek; for linkage to existing or planned park or linear pathway facilities; and/or for preservation, protection and enhancement of significant mature stands of vegetation. An open space preservation plan and a maintenance plan shall be established and implemented. Preservation in perpetuity may be achieved through a permanent conservation easement and/or dedication to the public.*
- C. *The creation of a master planned community within one development featuring a variety of housing types (i.e. single family, attached; single family, detached; and/or apartments) and/or values (i.e. affordable, market rate, luxury rate) combined with: above average*

open space and/or construction of a unique or scenic recreational facility (e.g. golf course, equestrian facility, artificially constructed lake [but not a required stormwater facility] and similar facilities) and/or commercial uses in transitional zoning areas.

- D. The preservation of buildings that are architecturally or historically significant or significantly contribute to the character of the City. Such determination as 'significant' or 'contributing to the character of the City' shall be defined by a professional historian, a representative from the State Historic Preservation Office, a representative from MnDOT Cultural Resources Department, or by listing on the National Register of Historic Places.*
- E. The elimination of blighted areas, deteriorated structures or incompatible uses within a previously built-up urban area through redevelopment or rehabilitation. A finding of 'blighted area' shall be made by the City Council with Federal Small Cities Development Program guidelines used as a reference. A finding of 'deteriorated structure' shall be made by the City Building Official. A finding of an incompatible use shall be made by the City Zoning Official.*
- F. The creation of mixed uses within a single structure which combine compatible commercial storefronts with residential units (above or behind) within the Central Business District. "Compatibility" of proposed commercial and residential uses shall consider hours of operation, separation of space, building construction, noise/odor/vibration levels, and electromagnetic interference.*
- G. The creation of a master planned community in conjunction with enhanced amenities such as the construction of a unique or scenic recreational facility or amenity such as a golf course, an equestrian facility, an artificially constructed lake (but not a required stormwater facility) and similar facilities. Such amenities shall be held in perpetuity. Preservation in perpetuity may be achieved through a permanent conservation easement and/or dedication to the public.*

SUBDIVISION 4. PLANNED UNIT DEVELOPMENT AS AN OVERLAY DISTRICT.

- A. Planned unit developments shall be superimposed over existing zoning classifications.*
- B. Allowable uses within the PUD shall be those uses allowed in the underlying zoning classification.*
- C. Maximum density standards of the underlying zoning district(s) apply, except that:*
 - 1. Allowable net densities may be transferred from one area of the subdivision and clustered in another area of the same subdivision meaning that lots within the PUD may vary in size but the total of lots may not exceed those allowed as calculated under this Section using the underlying zoning classification as a base.*
 - 2. A density increase may be allowed when a public benefit under Subd. 3 (A) or Subd. 3 (B) or Subd. 3 (C) or Subd. 3 (G) is combined with a public benefit under Subd. 3(D), Subd. 3(E), or Subd. 3(F) of this Section. Such density increases shall not be greater 133% of that allowed by the underlying zoning district(s).*

3. *The Zoning Official shall calculate the number of units allowed within a PUD. To make this calculation the Zoning Official shall exclude from the project area acreage required to be used for street right-of-way, utility easements, stormwater ponding, and other required improvements for subdivisions. The acreage available after making the aforementioned exclusions shall be the 'net project area.' The Zoning Official shall calculate the number of units available by dividing the net project area by the lot size required by the underlying zoning that that applies to the project.*

SUBDIVISION 5. TYPES OF PLANNED UNIT DEVELOPMENTS ALLOWED – WHERE PERMITTED.

- A. *PUD, Residential Cluster shall be allowed within all residential zoning classifications. As a result of density transfers/increases the requirements of the underlying zoning district related to: lot area, lot size, lot coverage, lot width, and lot depth may be decreased provided setbacks for individual lots required by the underlying zoning district are maintained.*
- B. *PUD, Residential Open Space shall be allowed within all residential zoning classifications providing the entire project area is at least twenty (20) acres in size. The size limitation is intended to retain adequate useful open space and development opportunities. As a result of density transfers/increases the requirements of the underlying zoning district related to: lot size, lot area, lot coverage, lot width, and lot depth may be decreased provided setbacks for individual lots required by the underlying zoning district are maintained.*
- C. *PUD, Residential Amenity shall be allowed within all residential zoning classifications providing the entire project area is at least twenty (20) acres in size. The size limitation is intended to retain adequate useful space for special amenities and development. As a result of density transfers/increases the requirements of the underlying zoning district related to: lot size, lot area, lot coverage, lot width, and lot depth may be decreased provided setbacks for individual lots required by the underlying zoning district are maintained.*
- D. *PUD, Residential Mixed Use shall be allowed within all residential zoning classifications providing the entire project area is at least twelve (12) acres in size. The size limitation is intended to retain adequate space creating superior amenities and a mix of residential development. As a result of density transfers/increases the requirements of the underlying zoning district related to: lot size, lot area, lot coverage, lot width, and lot depth may be decreased provided setbacks for individual lots required by the underlying zoning district are maintained.*
- E. *PUD, Commercial Mixed Use combining commercial storefronts and residential dwelling units within a single structure under Subd. 3(F) of this Section shall be allowed within the Central Business District. Commercial mixed use PUD's proposing the combination of commercial and residential uses on separate parcels within a master planned area which eliminates blighted areas, deteriorated structures or incompatible uses within a previously built-up urban area through redevelopment or rehabilitation under Subd. 3(E) of this Section shall be allowed within the Central Business District, the R-2 District, or any combination of the two. As a result of density transfers/increases the requirements of the underlying zoning district related to: lot size, lot area, lot coverage, lot width, and*

lot depth may be decreased provided setbacks for individual lots required by the underlying zoning district are maintained.

- F. A PUD may be comprised of one or more of the above types, subject to compliance with allowable uses within the underlying zone(s) in which the PUD is proposed to be located, the standards of A – E above, and the all other requirements of this Section.*
- G. Prohibited Planned Unit Developments. The following types of planned unit developments and any type not identified as reasonably similar to those expressly allowed are prohibited from qualifying for PUD overlay status and must conform to the standards of the City of Arlington Zoning and Subdivision Ordinances.*
 - 1. Commercial or industrial PUD proposing subdivision of property.*
 - 2. Non-residential and residential uses combined and proposing an increase in density. This standard shall not prohibit density transfers within proposed non-residential/residential mixed use PUD and/or mixed residential/non-residential PUD within transitional areas (i.e. areas guided to non-residential use transitioning to areas guided for higher density residential use transitioning to areas guided toward lower density residential use) as illustrated within the Comprehensive Plan Future Land Use Map.*
 - 3. Commercial mixed use PUD in greenfield areas; such PUD's are reserved for redevelopment projects within the Central Business District and/or the R-2 District.*

SUBDIVISION 6. GENERAL REQUIREMENTS FOR ALL PUDS.

- A. The design of a PUD shall take into account the relationship of the site to the surrounding areas. The perimeter of the PUD shall be so designed as to minimize undesirable impact of the PUD on adjacent properties and, conversely, to minimize undesirable impact of adjacent land use and development characteristics on the PUD.*
- B. Common areas, open space, amenities, and/or preservation areas shall be held in perpetuity through: legal common ownership by all owners in the PUD, placement in a conservation or similar easement, or dedicated to the public use with approval of the City Council.*
- C. Whenever possible, common open space shall be linked to the open space areas of adjoining developments. Common open space shall be of such size, shape, character, and locations as to be useable for its proposed purpose.*
- D. To prevent the appearance of excessive structural bulk, a single structure shall not have a single exterior wall longer than forty (40) feet without an offset in the exterior wall height or depth. The employment of windows and doors may be substituted for offsets in wall height or depth if approved by the Zoning Administrator and provided such windows/doors are designed in a manner which is substantially consistent with the windows/door styles employed in the building front (entry).*
- E. Building Height. Building height shall be governed by the requirements of the underlying zone district classification.*

- F. *All permitted, permitted accessory and or conditional uses contained in the underlying zoning district shall be treated as permitted, permitted accessory and conditional uses in PUD overlay district. Uses not listed as permitted or conditional in a specific district shall not be allowed in a PUD unless it is found that the use is complimentary to the functionality of the development and the other uses found therein.*
- G. *Off-street parking and loading space shall be provided in each PUD in the same ratios for types of buildings and uses as required in the underlying zoning district. However, the City may reduce the number of parking spaces required provided PUD applicants submit information demonstrating a reduced need for parking facilities (e.g. senior housing complex, PUD's featuring joint parking facilities, parking study, proximity to and availability of bus service coupled with transit-friendly design, etc.).*
- H. *The streets connecting with any planned unit development must be of sufficient size and character to accommodate the traffic to be produced by the project. The streets connecting with any PUD shall not significantly alter the character of existing residential neighborhoods. Evaluation of the proposal pursuant to this section shall include consideration of the following criteria:*
 - 1. *The increase in traffic which will be generated by the development;*
 - 2. *The present width and condition of streets to be affected;*
 - 3. *Presence or absence of improved sidewalks;*
 - 4. *Potential impacts upon the value of surrounding properties;*
 - 5. *Anticipated effect upon availability of parking;*
 - 6. *Existence of a particular conflict between vehicular and pedestrian traffic;*
 - 7. *The street type designated in the comprehensive plan.*
- I. *The required right-of-way width for streets with a functional classification of 'local' may be reduced up to 30% provided the proposed width is adequate to accommodate pavement width and other improvements required within the right-of-way. The minimum paved width available for vehicular travel shall not be less than 24 feet so as to provide adequate clearance for emergency vehicles. Parking may be restricted on one or both sides streets with reduced right-of-way widths.*
- J. *Private Streets. Private streets may be allowed within PUDs provided:*
 - 1. *An easement for the full right of way width required by the Subdivision Ordinance is provided,*
 - 2. *The City Engineer and City's emergency service providers (Fire, Ambulance and Police) review the PUD determine adequacy of proposed pavement width. The City may require on-street parking be prohibited to allow for adequate width and access by emergency service providers,*

3. *A legal common ownership document providing for establishment and maintenance of an escrow account as approved by the City for all road construction and maintenance is in effect and recorded; and,*
4. *All potential property owners are made aware in writing of the fact that the streets must be maintained privately by all persons party to the legal common ownership document and that the City is not responsible for street maintenance, snow plowing and the like.*

SUBDIVISION 7. SUBDIVISION REQUIREMENTS.

The approval of a subdivision shall be required of all projects which involve or contemplate the platting or replatting of land. Property currently described by metes and bounds shall be platted if contemplated for development as a PUD. The procedures set forth in the subdivision ordinance shall be followed concurrently with the PUD standards. The approved final development plan shall be a binding site plan. A lease of land not involving a residential structure shall be exempt from the subdivision ordinance if the lease conforms to the final development plan.

SUBDIVISION 8. PRE-APPLICATION/INFORMATIONAL MEETING AND CONCEPT PLAN REQUIRED.

- A. *Informational Meeting. Prior to filing an application for preliminary PUD plan approval, the applicant of the proposed PUD shall arrange for and attend an informational meeting with City staff. At such conference, the applicant shall be prepared to generally describe their proposal for a PUD. The primary purpose of the meeting shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of the conformity to the provisions of this code before incurring substantial expense in the preparation of detailed plans, surveys, and other data.*
- B. *Following a pre-application/informational meeting but prior to submitting an application for preliminary plan/plat approval, the applicant for a proposed PUD shall submit to the City a general concept plan.*
 1. *Purpose. The general concept plan provides an opportunity for the applicant to submit a plan to the City showing their basic intent and the general nature of the entire development without incurring substantial cost. This concept plan serves as the basis for the informational meeting so that the proposal may be considered at an early stage. The following elements of the proposed general concept plan represent the immediate significant elements which the City shall review and for which a decision shall be rendered:*
 - a. *Type of PUD contemplated.*
 - b. *Overall maximum PUD density range.*
 - c. *General location of major streets and pedestrian walkways.*
 - d. *General location and extent of public and/or common open space.*

- e. *Preservation areas.*
- f. *General location of residential and non-residential land uses with approximate intensities of development.*
- g. *Staging and timetable of development.*
- h. *Other special criteria for development.*

SUBDIVISION 9. THIS SUBDIVISION RESERVED FOR FUTURE USE.

SUBDIVISION 10. PRELIMINARY PUD AND FINAL PUD PLAN APPROVAL REQUIRED.

- A. *Each PUD shall require preliminary and final plan approval.*
- B. *If land subdivision is requested in conjunction with the PUD plan, both preliminary and final PUD approvals shall be processed in concurrently with the platting procedures set forth in the City's Subdivision Ordinance. Required data, parkland/fee in-lieu of parkland dedication, design standards and required improvements shall be the same as per a conventional subdivision and as set forth within the City's Subdivision Ordinance. In addition to the data requirements itemized within the Subdivision Ordinance the application shall also include information necessary to process the PUD preliminary and final plan(s) as contained within this chapter. The Zoning Official may waive requirements determined to be redundant.*
- C. *The preliminary development plan and the final development plan may be combined and together processed through review as a final development plan. In addition the applicant may file a concurrent rezone application in accordance with the procedures set forth in the zoning ordinance.*
- D. *Preliminary Plan, Process.*
- E. *Final Plan, Process.*

SUBDIVISION 11. PHASED DEVELOPMENT.

Development of the project may be phased, in which case each complete phase may be processed separately through both preliminary development plan review and final development plan review. A map showing all property owned or controlled by the developer which is contiguous to the development site or which is within the area determined by the City to be relevant for comprehensive planning and environmental assessment purposes, together with a conceptual plan of said properties' eventual development through all potential phases shall be submitted with the application for the first phase. The developer is not responsible for providing a conceptual plan for contiguous or nearby property which is not owned or controlled by the developer. The conceptual plan shall conform to the purposes of this chapter and shall be used by the city to review all phases of the development. All phases of the development shall conform to the conceptual plan, all conditions of approval, and applicable regulations.

SUBDIVISION 12. PRELIMINARY PUDS – CONTENTS OF COMPLETE APPLICATION.

- A. The applicant shall file with the City a preliminary development plan (ten large scale copies and one 11 X 17 reproducible copy).
- B. The data submittal requirements of the following Table entitled “Table of Data Submittal Requirements” for preliminary PUD Plans shall apply.
- C. Text describing conditions or features which cannot be adequately displayed on maps or drawings;
- D. A narrative stating how the proposed development complies with the goals and policies of the Comprehensive Plan;
- E. A narrative stating how the proposed plan impacts adjacent property owners;
- F. A narrative describing in factual terms the public benefit of the proposed PUD;
- G. A narrative describing proposed operation/maintenance of the development including open areas, preservation areas, stormwater features and recreational facilities resulting from the subdivision;
- H. Information normally required within the underlying zoning classification relating to site plan review.
- I. Other information required by the City.
- J. Table of Data Submittal Requirements.

TABLE OF DATA SUBMITTAL REQUIREMENTS

X = required at indicated review stage
 G = less detail required (conceptual or general)

Item Description	Concept Plan	Preliminary PUD Plan	Preliminary Plat	Final PUD Plan	Final Plat
General Information					
Name, address of owner and applicant	X	X	X	X	X
Name, license number, address, and signature of persons involved in preparation of the plan/plat (i.e. architect, surveyor, engineer)	X	X	X	X	X
Title block	X	X	X	X	X

TABLE OF DATA SUBMITTAL REQUIREMENTS

X = required at indicated review stage

G = less detail required (conceptual or general)

Item Description	Concept Plan	Preliminary PUD Plan	Preliminary Plat	Final PUD Plan	Final Plat
<i>Key map showing location of tract with reference to surrounding area</i>	X	X	X	X	X
<i>A listing of required and proposed performance standards including lot area, width, depth, setbacks, lot coverage, and required parking.</i>	G	X	X	X	X
<i>North arrow and scale</i>	X	X	X	X	X
<i>Proof taxes are current</i>		X	X	X	X
<i>Appropriate certification blocks</i>			X		X
<i>Existing and proposed legal descriptions</i>			X		X
<i>Acreage of tract</i>	G	X	X	X	X
<i>Location and dimensions of existing and proposed streets</i>	G	X	X	X	X
<i>Proposed lot lines and area of lots in square feet</i>		X	X	X	X
<i>Existing or proposed deed restrictions or covenants</i>	X, existing only	X	X	X	X
<i>Existing or proposed easements or land reserved for or dedicated to public use</i>	X	X	X	X	X
<i>Proposed development staging or timeline for development</i>	G	X	X	X	X
<i>List of required regulatory approvals or permits</i>		X	X	X	X
<i>Requested or obtained variances</i>	G	X	X	X	X
<i>Requested or obtained rezoning</i>	G	X	X	X	X
<i>Payment of application fee</i>		X	X	X	X
Setting & Environmental Information					
<i>Property boundaries of all parcels within 200' of the subject parcel</i>		X	X	X	X

TABLE OF DATA SUBMITTAL REQUIREMENTS

X = required at indicated review stage

G = less detail required (conceptual or general)

Item Description	Concept Plan	Preliminary PUD Plan	Preliminary Plat	Final PUD Plan	Final Plat
<i>Existing streets, water courses, flood plains, wetlands, or other environmentally sensitive areas on and within 200 feet of the subject site</i>	G	X	X	X	X
<i>Existing rights-of-way and/or easements on and within 200' of the subject site</i>	G	X	X	X	X
<i>Topographical features of the subject property</i>	G	X	X	X	X
<i>Existing and proposed contour intervals for subject property and within 200' of the subject site</i>		X	X	X	X
<i>Boundary, limits, nature, and extent of wooded areas, specimen trees, and other significant physical features</i>	G	X	X	X	X
<i>Existing system of drainage of subject site</i>		X	X	X	X
<i>Drainage area map</i>		X	X	X	X
<i>Drainage calculations</i>		X	X	X	X
<i>Perc tests</i>		X	X	X	X
Improvements & Construction Information					
<i>Proposed utility infrastructure plans, including sanitary sewer, water, and storm water management</i>		X	X	X	X
<i>Soil erosion and sediment control plans</i>		X	X	X	X
<i>Spot and finished elevations at all property corners, corners of all structures or dwellings, existing or proposed first floor elevations</i>		X	X	X	X
<i>Construction details</i>		X	X	X	X
<i>Road and paving cross sections and profiles</i>		X	X	X	X
<i>Proposed street names</i>		X	X	X	X
<i>New block and lot numbers</i>		X	X	X	X
<i>Lighting plan and details</i>		X	X	X	X

TABLE OF DATA SUBMITTAL REQUIREMENTS

X = required at indicated review stage

G = less detail required (conceptual or general)

Item Description	Concept Plan	Preliminary PUD Plan	Preliminary Plat	Final PUD Plan	Final Plat
<i>Landscape plan and details</i>		X	X	X	X
<i>Site identification signs, traffic control signs, and directional signs</i>		X	X	X	X
<i>Vehicular and pedestrian circulation patters</i>	G	X	X	X	X
<i>Parking plan showing spaces, size and type, aisle width, curb cuts, drives, driveways, and all ingress and egress areas and dimensions</i>		X	X	X	X
<i>Preliminary architectural plan and elevations</i>				X	X

SUBDIVISION 13. PRELIMINARY PUDS – PROCESS.

- A. *Following the pre-application meeting and following review of the concept plan, the applicant shall prepare a request for approval of the preliminary plan for the planned unit development, as provided within this Section. The request shall be filed with the City on an official application form. A fee as provided for by City Council Ordinance shall accompany such application.*
- B. *The applicant shall also submit any necessary applications for variances from the provisions of this or any City land use or subdivision ordinance.*
- C. *The Zoning Administrator shall review the application to determine whether or not the application and required material submissions are complete. The preliminary plan shall be considered as being officially submitted only when all of the information requirements are complied with and the appropriate fees paid. If the Zoning Administrator determines the application is incomplete, the applicant shall be notified of all deficiencies in the application, in writing within fifteen (15) calendar days of receipt of the application. The Council shall approve or disapprove the preliminary plan within one hundred twenty (120) days following the receipt of a completed application in compliance with this Ordinance unless an extension of the review period has been approved.*
- D. *Upon receipt of the completed application as outlined in A – C above, the Zoning Administrator shall set a public hearing for public review of the preliminary plan by the Planning Commission. Notice of the hearing may be a legal or display advertisement and shall consist of a legal property description, description of the request, and shall be published in the official newspaper at least ten (10) days prior to the hearing. Written notification of the hearing shall be mailed at least ten (10) days prior to the hearing.*

Requests affecting and located within non-planted areas of the City shall be noticed to all property owners within three hundred fifty (350) feet of the property in question. A copy of the notice and a list of the property owners and addresses to which the notice was sent shall be attested and made a part of the records of the proceeding.

- E. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Section provided a bona fide attempt has been made to comply with the notice requirements of this Section.*
- F. The Zoning Administrator shall prepare technical reports or cause such technical reports to be created. The Zoning Administrator shall provide general assistance in preparing a recommendation on the action to the Planning Commission. Technical reports may include those from the City Engineer, Building Official, City Attorney, and public or private utility departments, and others.*
- G. The Zoning Administrator or the Administrator's designee shall also refer copies of the plan map to the following individuals or bodies:
 - 1. City Engineer;*
 - 2. City Attorney;*
 - 3. School District;*
 - 4. Commissioner of Transportation if the proposed planned unit development includes land abutting an established or proposed trunk highway;*
 - 5. County Engineer if the proposed planned unit development includes land abutting a County or County State-Aid Highway;*
 - 6. State Commissioner of Natural Resources if the proposed planned unit development adjoins a public body of water;*
 - 7. The Watershed District Board, if applicable;*
 - 8. Other City department heads as appropriate;*
 - 9. Park Board;*
 - 10. Planning Commission.**
- H. The Park Board, Planning Commission, City Council, and City staff shall have the authority to request additional information from the applicant concerning the proposed planned unit development and its operational factors or impact, or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors or impacts, when said information is to be declared necessary to establish performance conditions in relation to all pertinent sections of this Ordinance. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.*

- I. *The Planning Commission shall conduct a public hearing. The applicant or a designated representative thereof may appear before the Council at the public hearing in order to answer questions concerning the proposed request. Following the closing of the public hearing, the Planning Commission shall take one of the courses of action:*
 1. *Approval of the preliminary plan: as presented – with findings of fact.*
 2. *Conditional approval of the preliminary plan: conditions for approval and findings of fact itemized.*
 3. *Denial of the preliminary plan, with findings of fact.*
 4. *The Planning Commission may, at its discretion and with the approval of the applicant, table the matter pending further information from the applicant that will help it render a recommendation to the City Council. An extension of the preliminary plan review period (i.e. total of 120 days) may be necessary.*
- J. *The Zoning Administrator shall notify the applicant of the Planning Commission's recommended action together with the findings of fact for such recommended action and what requirements, if any, will be necessary for the Planning Commission to recommend approval of the Plan. The recommended approval of the Preliminary Plan does not constitute an acceptance of the planned unit development.*
- K. *Following review by the Planning Commission, the request shall be scheduled for review by the City Council.*
- L. *City Council Action:*
 1. *The reports and recommendations of City staff, Park Board and the Planning Commission shall be entered in and made part of the permanent written record of the City Council meeting.*
 2. *The Council shall approve or disapprove the preliminary plan within one hundred twenty (120) days following delivery of an application completed in compliance with this Ordinance unless an extension of the review period has been agreed upon by the applicant and the City.*
 3. *When the preliminary plan is approved, conditionally approved or denied by the City Council, the findings of fact for such action shall be recorded in the proceedings of the Council and shall be transmitted in writing to the applicant. If the preliminary plan is approved or conditionally approved, such approval shall not constitute acceptance of the final design and layout. Subsequent approval will be required of the engineering proposals and other features and requirements as specified by this Ordinance to be indicated on the final plan. The City Council may impose such conditions and restrictions as it deems appropriate or require such revisions or modifications in the preliminary plan or final plan as it deems necessary to protect the health, safety, comfort, general welfare and convenience of the City.*

SUBDIVISION 14. PRELIMINARY PUDS – CRITERIA FOR APPROVAL.

- A. *Preliminary PUD approval shall be granted by the city only if the applicant demonstrates that*
 - 1. *The proposed project shall not be detrimental to present and potential surrounding land use.*
 - 2. *There is a factual and defined public benefit.*
 - 3. *Land surrounding the proposed development can be planned in coordination with the proposed development and can be developed so as to be mutually compatible.*
 - 4. *Streets and sidewalks, existing and proposed, are suitable and adequate to carry anticipated traffic within the proposed project and in the vicinity of the proposed project, in light of the criteria set forth in the Subdivision Ordinance and the comprehensive plan.*
 - 5. *Services including potable water, sanitary sewer and storm drainage are available or can be provided by the development prior to occupancy.*
 - 6. *Each phase of the proposed development, as it is planned to be completed, contains the required parking spaces, recreation spaces, landscape and utility areas necessary for creating and sustaining a desirable and stable environment.*
 - 7. *The project conforms with the purpose of this Section and the standards prescribed herein.*
 - 8. *The project conforms to the Comprehensive Plan.*

- B. *Conformance with the design standards and required improvements as set forth within the Subdivision Ordinance.*

SUBDIVISION 15. PRELIMINARY PUDS – MINOR AND MAJOR CHANGES TO AN APPROVED PRELIMINARY PUD PRIOR TO FINAL PLAN APPROVAL.

- A. *A proposed minor change to an approved PUD require a public hearing and shall be incorporated into the application for final PUD approval, and any notification regarding such final PUD approval shall describe the proposed minor change(s). A “minor change” means any departure from the conditions of preliminary approval which is not a “major change” and includes but is not limited to the following:*
 - 1. *Revisions to number of dwelling units in a structure;*
 - 2. *Revisions to number of nonresidential structures;*
 - 3. *Revisions to heights of structures;*
 - 4. *Revisions to location of internal roads;*

5. *Revisions similar in nature to those above as determined by the city.*
- B. *A proposed major change to an approved preliminary PUD shall require reapplication for preliminary PUD approval and any notification regarding such preliminary PUD approval shall describe the proposed major change or changes. A major change is any departure from the conditions of preliminary PUD approval which would result in any of the following:*
 1. *Revisions to the approved design concept;*
 2. *Revisions to the approved use(s);*
 3. *An increase in the number of residential dwelling units;*
 4. *An increase in square footage of nonresidential structures;*
 5. *A decrease in the amount of landscaping, site perimeter buffering, and open space; and*
 6. *An increase in traffic volumes or change in circulation patterns which impacts surrounding development.*

SUBDIVISION 16. FINAL PUDS – CONTENTS OF COMPLETE APPLICATION.

- A. *Within 12 months following the approval of the preliminary PUD, the applicant shall file with the City a final PUD conforming to the approved preliminary PUD.*
- B. *The final PUD shall meet the data submittal requirements illustrated in the “Table of Data Submittal Requirements” contained in Subd. 12(J) of this Section apply.*
- C. *The applicant shall submit with the final plan a current Abstract of Title or Registered Property Certificate, along with any unrecorded documents, and a Certificate of Title.*
- D. *When the City has agreed to install improvements in a development, the developer may be required to furnish a financial statement satisfactory to the City indicating the developer’s ability to develop the plan.*
- E. *In the event that development standards were submitted and approved as part of the preliminary development plan, development standards shall be made binding upon all future developers of the property in a manner acceptable to the city and may be submitted in lieu of elevation and perspective drawings of project improvements.*

SUBDIVISION 17. FINAL PUDS – PROCESS.

- A. *Once a preliminary plan has been approved by the City Council, the developer may submit a request for final plan approval. In certain cases the City may allow a final plan to be submitted concurrent with a request for preliminary plan approval.*

- B. *The applicant shall prepare a request for approval of the final plan for the planned unit development filed with the City on an official application form. A fee as provided for by City Council Ordinance shall accompany such application. The application shall be accompanied by five (5) large-scale copies and ten (10) reduced scale (not less than 11"x17") copies of the final plan and supportive information in conformity with the requirements of this Ordinance. The final plan shall incorporate all changes, modifications and revisions required by the City, otherwise, it shall strictly conform to the approved preliminary plan.*
- C. *The Zoning Administrator shall review the application to determine whether or not the application and required material submissions are complete. The final plan shall be considered as being officially submitted only when all of the information requirements are complied with and the appropriate fees paid. If the Zoning Administrator determines the application is incomplete, the applicant shall be notified of all deficiencies in the application, in writing within fifteen (15) calendar days of receipt of the application. The Council shall approve or disapprove the final plan within sixty (60) days following the receipt of a completed application in compliance with this Ordinance unless an extension of the review period has been approved.*
- D. *Upon receipt of a final plan, copies shall be referred to the Planning Commission, appropriate City staff and to all applicable utility companies, County and State agencies.*
- E. *Prior to approval of a final plan, the applicant shall have executed a Development Agreement with the City, which controls the installation of all required improvements and assures compliance with all conditions of approval unless determined unnecessary by the City Attorney. Said agreement will require all improvements and approval conditions to comply with approved engineering standards and applicable regulations.*
- F. *The City Council shall take action on a final plan not more than sixty (60) days after the final plan is filed with the City. If the final plan is not approved, the findings of fact for such action shall be recorded in the official proceedings of the City and shall be transmitted to the applicant.*
- G. *Required findings for final plan. The City Council shall make each of the following findings before granting final plan approval:*
1. *The final plan conforms to the approved preliminary plan and any/all conditions for approval of the preliminary plan.*
 2. *All submission requirements have been satisfied.*
 3. *The plan conforms to all applicable requirements of this Title, subject only to approved rule exceptions.*
- H. *The applicant shall be notified by the City of the City Council's action together with the findings of fact for such action.*

SUBDIVISION 18. FINAL PUDS – CRITERIA FOR APPROVAL.

Final PUD approval shall be granted by the City only if the applicant demonstrates that the final PUD substantially conforms to the approved preliminary PUD. For the purposes of this section, “substantially conforms” means that, as compared to the preliminary PUD, the final PUD contains no revisions in density, uses, design or development standards or in the site plan, other than the minor changes pursuant to Subd.11 of this Section.

SUBDIVISION 19. FINAL PUDS – EXTENSION OF TIME FOR FILING.

For good cause shown, the City, at its discretion, may grant an extension of time of one year for filing the final PUD and required accompanying papers, and may grant additional one-year extensions; provided, however, the City shall have the right to re-examine and update any conditions made to mitigate development impact.

SUBDIVISION 20. FINAL PUDS – FAILURE TO FILE – TERMINATION.

- A. In the event the final PUD or any required attendant papers are not filed within 12 months following approval of a preliminary PUD, except as provided elsewhere in this Chapter or as noted in subsection B (immediately following this subsection), the approval of the preliminary PUD shall lapse and the approval shall be deemed null and void and without force or effect.*
- B. When it is determined as part of the preliminary PUD approval that the final PUD is to be phased, the final PUD for the first phase shall be submitted within 12 months of preliminary approval. The final development plan for each subsequent phase shall be submitted within the schedule established at the time of preliminary PUD approval. In the case of a PUD which includes a subdivision, the final PUD shall be submitted within five years of receiving preliminary approval.*
- C. The time period for filing of final PUDs shall not include periods of time during which progress on the final PUD was reasonably halted or delayed due to the filing and pendency of legal actions challenging an approval granted by the city pursuant to this chapter; provided, that in all cases when more than two years have elapsed subsequent to the date of approval of a preliminary PUD the permittee shall be required to comply with all current building, construction, subdivision and other applicable standards of the city prior to being granted approval of the final PUD; provided, that a change in zoning district classification enacted subsequent to approval of the final development plan shall not affect the project.*

SUBDIVISION 21. FINAL PUDS – ADJUSTMENTS TO APPROVED FINAL PUD.

- A. The Zoning Official is authorized to allow adjustments in accordance with subsection B (which immediately follows this section) of this chapter. The Zoning Official shall allow only such adjustments as are consistent with guidelines established in subsection B of this section, and in no case shall an adjustment be allowed if it will increase the total amount of floor space authorized in the approved final PUD, or the number of dwelling*

units or density, or decrease the amount of parking or loading facilities or permit buildings to locate substantially closer to any boundary line or change substantially any point of ingress or egress to the site.

B. For the purposes of this section, "adjustments" means any departure from the conditions of final PUD approval which complies with the following criteria:

- 1. The adjustment maintains the design intent and quality of the original approval;*
- 2. The amount of landscaping, buffering and open space shall not be reduced;*
- 3. The number of dwelling units in residential developments and the square footage of structures shall not increase;*
- 4. The adjustment shall not relocate a building, street or other use more than 20 feet in any direction and shall not reduce any required yard and/or setback;*
- 5. The height of buildings and other structures shall not increase;*
- 6. Views from both structures on-site and off-site shall not be substantially reduced;*
- 7. Traffic volumes shall not increase and circulation patterns shall not change;*
- 8. Changes in colors, plant material and parking lot configurations are minor;*
- 9. The adjustment does not add significant new environmental impacts or significantly increase environmental impacts disclosed in the original documents;*
- 10. The Zoning Official determines that the change will not increase any adverse impacts or undesirable effects of the project, or that the change in no way significantly alters the project.*

SUBDIVISION 22. BOND REQUIRED FOR FINAL PUD.

No final PUD shall be implemented until the applicant files with the city a bond approved by the city, executed by a surety company authorized to do business in the state, or other equivalent security approved by the city attorney, in an amount equal to 110% of the estimated of the cost of all public improvements, utilities and landscaping, conditioned upon the permittee's completion of such portions of the project according to the submitted final PUD and the provisions of this chapter, and, in addition, providing that no change, extension of time, alteration or addition to the project will in any way affect the obligation on the bond. Said bond, or an additional bond or other equivalent security, shall also be conditioned upon full restoration of the site in the event that grading, clearing or any other site preparation or work is begun and abandoned, and in the determination of the city, it will better serve the public health, welfare and safety to restore the site rather than to require completion of public improvements, utilities and landscaping. If the PUD is also being subdivided, the bonds required to be posted by the subdivision of property as per the Subdivision Ordinance, to the extent that they satisfy the requirements of this section, shall be accepted as full or partial fulfillment of the requirements hereof.

**SUBDIVISION 23. OPERATING AND MAINTENANCE REQUIREMENTS FOR PUD
COMMON OPEN SPACE AND SERVICE FACILITIES.**

- A. *Whenever common open space or service facilities are provided within the PUD, the PUD plan shall contain provisions to assure the continued operation and maintenance of such open space and service facilities to a predetermined reasonable standard.*
- B. *Common open space and service facilities within a PUD shall be placed under the ownership of one or more of the following*
1. *Landlord control where only use by tenants is anticipated.*
 2. *Property owners association, provided all of the following conditions are met:*
 - a. *Prior to the use, occupancy, sale or the execution of contracts for sale of an individual building unit, parcel, tract, townhouse, apartment, or common area, a declaration of covenants, conditions and restrictions or an equivalent document as specified in Minnesota Statutes shall be filed with the Zoning Official prior to the filings of the declaration of documents or floor plans with the County Recorder's Office.*
 - b. *The declaration of covenants, conditions and restrictions or equivalent document shall specify that deeds, leases or documents of conveyance affecting buildings, units, parcels, tracts, townhouses or apartments shall subject the properties to the terms of the declaration.*
 - c. *The declaration of covenants, conditions and restrictions shall provide that an owner's association or corporation may be formed and if such an association or corporation is formed property owners must be members of the association or corporation which shall maintain all properties and common areas in good repair and which shall assess individual property owners proportionate shares of joint or common costs. This declaration shall be subject to the review and approval of the City Attorney. The intent of this requirement is to protect the property values of the individual owner through establishing effective private control.*
 - d. *The declaration shall additionally provide that in the event the association or corporation fails to maintain properties in accordance with the applicable rules and regulations of the City, or fails to pay taxes or assessments on properties as they become due, and in the event the City incurs any expenses not immediately reimbursed by the association or corporation, then the City shall have the right to assess each property its pro rata share of the expenses. Such assessments, together with interest thereon and costs of collection, shall be a lien on each property against which such assessment is made.*
 - e. *Membership in the association must be mandatory for each owner and any successive buyer and the association must be responsible for liability insurance, taxes, and the maintenance of the open space facilities to be deeded to it.*
 - f. *The open space restrictions must be permanent and not for a given period of years.*

- g. Property owners must pay their pro rata share of the cost of the association by means of an assessment to be levied by the association which meets the requirements for becoming a lien on the property in accordance with state law and the association must be able to adjust the assessment to meet changing needs.*
 - h. The by-laws and rules of the association and all covenants and restrictions to be recorded must be approved by the City Council prior to the approval of the final PUD plan.*
- C. Staging of common open space. The construction and provision of all of the common open space and public improvements and recreational facilities that are shown on the final development plan for a PUD must proceed at the same rate as the construction of dwelling units or other private facilities.*

SUBDIVISION 24. BUILDING PERMITS – CERTIFICATES OF OCCUPANCY.

The city shall issue building permits for buildings and structures which conform with the approved final PUD and with all other applicable city ordinances and regulations. The city shall issue a certificate of occupancy for completed buildings or structures which conform to the requirements of the approved final PUD and all other applicable city ordinances and regulations. The construction and development of all the open spaces and public and recreational facilities of each project phase must be completed or bonded before any certificate of occupancy will be issued.

SUBDIVISION 25. EXTENSION OF TIME FOR CONSTRUCTION.

For good cause shown, the city, at its discretion, may grant one extension of time for commencement or continuation of construction subsequent to approval of the final PUD.

SUBDIVISION 26. TERMINATION OF PLANNED UNIT DEVELOPMENT – FAILURE TO COMMENCE OR CONTINUE CONSTRUCTION.

If the construction has not been started within five years from the date of approval of a final PUD with an associated subdivision, or two years from the date of approval of any other final PUD, or if construction has been commenced but the work has been abandoned for a period of one year or more, and if no extension of time has been granted as provided in herein, the authorization granted for the planned unit development project shall terminate and all permits and approvals issued pursuant to such authorization shall expire and be null and void.

The time period of commencing or continuing construction shall not include periods of time during which commencement of construction or continuation of construction was reasonably halted or reasonably delayed due to the filing of a pendency of legal action challenging an approval granted by the city pursuant to this chapter; however, in all cases, when more than five years have elapsed subsequent to the date of approval of a final PUD with associated subdivision, or more than two years have elapsed subsequent to the date of approval of any other final PUD the permittee shall be required to comply with all current building, construction,

subdivision and other applicable standards of the city; provided, that a change in zoning district classification enacted subsequent to approval of the final development plan shall not affect the project.

SUBDIVISION 27. SALE OF LOTS.

Lots in a platted planned unit development may be sold to separate owners according to the separate lots as shown in the plat filed and approved in connection therewith. No sale shall be permitted which subdivides a lot in such a manner as to create a new lot line except as provided in the subdivision ordinance, minor subdivision standard.

SUBDIVISION 28. LOTS SUBJECT TO FINAL PUD.

All lots or other divisions of a subdivided planned unit development shall remain subject to compliance with the final development plan regardless of the fact of subdivision in compliance with the subdivision ordinance or lot(s)/division(s) of a subdivided PUD were subsequently conveyed.

SECTION 12: M-1 MOBILE HOME PARK DISTRICT

SUBDIVISION 1. PURPOSE.

The Mobile Home Park District is intended for the location and use of mobile homes on a contiguous parcel of land developed specifically for mobile home units.

SUBDIVISION 2. MOBILE HOME PARK REGULATIONS.

1. Minimum Density and Area Requirements: Lot areas and density as hereby established shall be considered the minimum requirements within a mobile home park.
 - A. The establishment of a mobile home park from the date of this Ordinance shall be allowed only by Conditional Use Permit.
 - B. Minimum area requirements for a mobile home park shall be five (5) acres and shall not be less than one hundred fifty (150) feet in width.
 - C. A minimum of five hundred (500) square feet per mobile home shall be provided for definable play areas and open space within the mobile home park. Such areas of open space and/or play area shall not be areas included within any setback nor shall they include any areas of less than twenty (20) feet in length or width.
 - D. Minimum lot area per unit shall be 50 foot frontage by 100 foot depth, excluding private drives, parking spaces and street rights-of-way.
2. Lot Coverage and Setback Requirements:
 - A. Maximum lot coverage for mobile home parks shall be twenty-five (25) percent.
 - B. Minimum distance between units shall be not less than twenty (20) feet, or the sum of the heights of the two units, whichever is greater; the point of measurement being a straight line between the closest points of the units being measured.
 - C. When a mobile home park abuts a single family residential use area, there shall be a minimum setback on that side of fifty (50) feet between the street right-of-way line and any mobile home park use; which setback area shall act as a buffer zone and shall be landscaped according to a landscape plan, to be submitted at time of application. Such plan shall show the type of planting material, size and planting schedule.
3. General Internal Park Development Requirements
 - A. There shall be a minimum front yard setback from the mobile home unit to the street line of fifteen (15) feet.
 - B. The mobile home stand shall be at such elevation, distance and angle relative to the street and driveway that placement and removal of the mobile home with a car, tow truck, or other customary moving equipment is practical. The mobile home stand shall have a longitudinal grade of less than four (4) percent and transverse crown or

grade to provide adequate surface drainage. The stand shall be compacted and surfaced with a material which will prevent the growth of vegetation while supporting the maximum anticipated loads during all seasons.

- C. The entire mobile home park shall be landscaped (excluding hard surfaced area) and there shall be planted, or otherwise located, one shade tree with a minimum diameter of two (2) inches placed and maintained near each unit pad.
- D. All utilities supplied by the mobile home park shall be underground. This shall include sanitary sewer, municipal water and electricity. When piped fuel and/or gas is provided by the mobile home park to each mobile home stand, such service shall also be located underground.

4. Parking and Street Requirements:

A. Parking:

- 1. Off-street parking areas shall be surfaced in accordance with the street surface standards below.
- 2. All required off-street parking space shall be located not further than one hundred (100) feet from the unit or units for which they are designated.
- 3. A minimum of two spaces of parking must be provided for each mobile home unit space provided within the park. The one unit space for occupant use must be within the distance from the unit established above. The remaining spaces must be in group compounds at an appropriate location within the park.

B. Streets:

- 1. Public or private streets shall be of sufficient width so as to permit ease of access to the mobile home parking stands and the placement and removal of mobile homes without causing damage to or otherwise jeopardizing the safety of any occupants or mobile homes in the park.
- 2. Streets shall have a minimum width so as to permit two (2) moving lanes of traffic. Minimum lane width shall be ten (10) feet.
- 3. Public access to a mobile home park shall be so designated as to permit a minimum number of ingress and egress points to control traffic movement, and to keep undesirable traffic out of the park.
- 4. Streets shall be graded to their full width to provide proper grades for pavement and sidewalks to have adequate surface drainage to the storm sewer system. The improvements shall extend continuously from existing improved streets to provide access to each lot and to provide connections to existing or future streets at the boundaries of the mobile home park.
- 5. Streets and parking areas shall be surfaced for all weather travel with not less than four (4) inches of crushed stone, gravel, or other suitable base material topped with not less than one and one-half (1 1/2) inches of bituminous concrete,

or four (4) inches Portland cement concrete. The surface shall be limited at the edge by a Portland cement curb not less than four (4) inches high.

5. Storage: Enclosed storage lockers when provided, shall be located either adjacent to the mobile home in a mobile home park or at such other place in the park as to be convenient to the unit for which it is provided. Storage of large items such as boats, boat trailers, etc., shall not be accomplished at the site of the mobile home unit, but rather shall be provided in a separate screened area of the park.
6. Registration:
 - A. It shall be the duty of the operator of the mobile home park to keep a register containing a record of all mobile home owners and occupants located within the park. The register shall contain the following information:
 - 1) The name and address of each mobile home occupant.
 - 2) The name and address of the owner of each mobile home.
 - 3) The make, model, year and license and number of each mobile home.
 - 4) The state, territory or county issuing such license.
 - 5) The date of arrival and departure of each mobile home.
 - 6) The number and type of motor vehicle of residents in the park.
 - B. The park shall keep the register available for inspection at all times by County law enforcement officers, public health officials and other public offices whose duty necessitates acquisition of the information contained in the register. The register record for each occupant and/or mobile home registered shall not be destroyed until after a period of three (3) years following the date of departure of the registrant from the park.
7. Maintenance: The operator of any mobile home park, or a duly authorized attendant or caretaker, shall be in charge at all times to keep the mobile home park, its facilities and equipment, in a clean, orderly and sanitary condition. The attendant or caretaker shall be answerable, with said operator, for the violation of any provisions of these regulations to which said operator is subject.
8. Safety: A mobile home park shall comply with all safety codes and regulations as specified under state law, including the anchoring of the mobile homes to prevent windstorm damage, and the compliance with all other state safety and manufacturing code standards.
9. Design Standards: All mobile (manufactured) homes as defined by Minnesota Statute 327.31 to 327.35 shall be anchored in accordance with the Minnesota Code of Agency Rules, Building Code Division, Section 2; MCAR 1.904.50, "Stabilizing System for Mobile Homes." Manufactured homes must provide the manufacturers approve foundation drawings. Homes manufactured after November 29, 1989, are not permitted to remove the frames unless approved by the State of Minnesota Manufactured Housing Division.

All manufactured shall be constructed after June 15, 1976, and bear the Housing and Urban Development (H.U.D.) certification seal.

10. Mobile Homes Requiring a Conditional Use Permit: Any newly installed manufactured home older than 15 years from time of the Building Permit shall require a Conditional Use Permit. Approval may be granted, provided the following seven (7) criteria are met:
 - A. Interlocked smoke detectors are required in each bedroom and in the corridor.
 - B. The windows must be double glazed.
 - C. One egress window is required from each bedroom.
 - D. Gas piping installation must be retested, reinspected and approved by the City of Arlington's Building Official.
 - E. The electrical service must be a minimum of 100 amp circuit breaker type with ground fault interruption.
 - F. A Building Permit is required if approval of the Conditional Use Permit is granted.
 - G. Compliance with Minnesota Statutes 327.32 and 327.34 and other applicable building codes and standards and regulations.

SECTION 13: GENERAL REGULATIONS

SUBDIVISION 1. ADDITIONAL HEIGHT REGULATIONS AND MODIFICATIONS.

1. Public, semi-public or public service buildings, hospitals, institutions, schools or churches may be erected to a height not exceeding 2 1/2 stories or thirty-five (35) feet in the districts in which they are permitted if the building is set back from each yard line at least one (1) foot for each foot of additional building height above the height limit otherwise provided for the district in which the building is located.
2. Height limitations as set forth elsewhere in this Ordinance, may be increased by one hundred (100) percent when applied to the following:
 - A. Monuments.
 - B. Flag poles.
 - C. Cooling towers.
3. Height regulations as set forth elsewhere in this Ordinance may be increased with no limitation when applied to the following, provided a Conditional Use Permit is issued to increase height.
 - A. Church domes, spires, belfries and roof ridges.
 - B. Chimneys or smokestacks.
 - C. Television and radio broadcasting antennae.
 - D. Fire towers.
 - E. Water towers.
 - F. Ornamental towers and spires.

SUBDIVISION 2. FLOOD PLAIN AND FLOODWAY AREAS.

Flood plain and floodway areas shall be regulated in accordance with the City's Flood Plain Management Ordinance (Ordinance No. 117).

SUBDIVISION 3. MODULAR HOMES.

1. Modular homes shall comply with all city regulations that pertain to Residential Districts. Modular homes shall also comply with all zoning regulations for the zone in which they are located. A building permit and any other required permits for structure construction or modification shall be obtained for modular homes in the same manner as for other construction or improvement projects, before said modular home is placed on site.

2. No modular home shall have ground floor space of less than 800 square feet, or a width of less than 24 feet at its narrowest point.
3. The longest dimension of the modular home structure shall be placed parallel to the longest dimension of other existing homes in the same block. Normally, this will mean that the longest dimension of the structure will be parallel to the frontage street serving the block.
4. Modular homes shall be placed on permanent foundations, solid for the complete circumference of the house. The structure shall have exterior siding of wood, vinyl or steel with the appearance of conventional exterior family dwelling type material. The structure shall have a pitched roof covered with shingles or tile and with eaves not less than 6 inches. The modular home must be manufactured in compliance with applicable state law.

SUBDIVISION 4. FOUNDATIONS.

1. All single and multiple family residences shall be placed on a permanent foundation of concrete block or other material complying with the State Building Code, with the foundation extending below the frost line.
2. *Private and public garages and other storage and/or utility structures (larger than 10x12) shall be placed on a permanent foundation, which is defined as a floating concrete slab, with a concrete rodent barrier at the edges of said slab extending to a minimum 1 foot depth below the ground surface. Any storage or utility structure 10x12 or smaller shall be placed on a minimum leveled 4-inch gravel or rock base with rodent barrier.*

Amended by Ordinance 188
Effective April 7, 2005

3. Buildings of pole shed construction shall be anchored with .60 pounds per cubic foot pressure treated poles set on concrete cookies, said concrete cookies to be set at least 4 feet below the surface of the ground.

SUBDIVISION 5. SWIMMING POOLS

*Amended by Ordinance Number 247
Effective Date: October 29, 2009*

Swimming pools shall be allowed in any residential district provided the following standards are achieved and maintained:

1. *A pool or spa shall not be constructed beneath overhead utility lines of any type or above underground utility lines of any type.*
2. *Permanent and seasonal swimming pools and associated pump/filter installations shall not be located closer than four (4) feet to any lot line. ~~No swimming pool or spa may be built within ten (10) feet any side or rear lot line or within six (6) feet of any principal structure or within any require front yard.~~*

3. For permanent in-ground or surface swimming pools, the pool or the property upon which said pool is located shall be enclosed by a fence of a type which effectively controls the entrance by children to the pool area. The fence must be at least five feet in height with vertical openings not exceeding four inches per opening. Mechanically controlled covers can be used in lieu of fencing requirements.

~~Construction of a swimming pool or spa may not be started without having the same fully enclosed with a fence, which may be temporary and portable, not less than four (4) feet in height.~~

~~No swimming pool may be finished without completely enclosing it with a permanent wall or fence of the non-climbing type so as to be impenetrable by young children, affording not external hand holds or foot holds, and a minimum of four (4) feet in height. No integral part of any swimming pool shall constitute compliance with this fence requirement. All such enclosures shall be equipped with a self-locking and self-closing gate. The locking device shall be located within 12 inches of the top of the fence and opened by key only. The opening between the bottom of the fence or gate and the ground or other surface shall not be more than three (3) inches.~~

4. Gates installed for access to the property or pool area shall be equipped with an automatic closing and latching device to protect against uncontrolled access to the property.

~~No swimming pool or spa shall be constructed or maintained which is not enclosed within a fence or wall as described above or a cover which is capable of being latched. Such cover shall be constructed of a material which cannot be penetrated by toddlers.~~

5. All non-permanent above ground swimming pools shall be equipped with an automatically retractable type ladder, a retractable ladder, a removable ladder or shall be fenced in accordance with Section (3 above). If a ladder is used, it shall be removed or retracted when the pool is not being attended.
6. If access to the pool is via a deck or porch, then no access from the ground is permitted to the deck area unless the property or the ground access to the deck is fenced in accordance with Section (three above).

~~Construction of swimming pools shall require a building permit, except for prefabricated swimming pools installed entirely above ground accessory to dwelling units constructed to the provisions of the International Residential Code or R-3 occupancies constructed to the provisions of the International Building Code which do not exceed both 5,000 gallons in capacity and a 24-inch depth. No swimming pool or spa may be constructed without a Building Permit.~~

7. It shall be the responsibility of the property owner where said pool is located to install said pool per manufacturer's specifications, to maintain per manufacturer's specifications, and to maintain all pools, pool covers, fences, gates, and closure devices in good and safe operating condition; to employ pool covers; to have gates closed; to remove or retract ladder access to the pool; and to maintain pool in a manner free from overhead or underground utility lines.

~~No outdoor pool lighting shall be permitted to spill or shine upon properties adjacent thereto which are not under the same ownership.~~

SUBDIVISION 6. ACCESSORY STRUCTURES.

Amended by Ordinance 222
Effective Date March 7, 2008

1. *Agricultural buildings on agricultural properties are exempt from the requirements of this Section.*
2. *In cases where an accessory building is attached to the principal structure it shall be made structurally part of the principal structure and shall comply in all respects with the requirements of this Ordinance applicable to the principal structure. An accessory building unless attached to and made a part of the principal structure shall not be closer than ten (10) feet to the principal structure.*
3. *Accessory buildings or structures shall not be constructed on any lot prior to the construction of a principal building.*
4. *Accessory buildings shall not be constructed in the front yard. Accessory buildings may be constructed in an interior side yard provided a conditional use permit meeting the standards of Section 13, Subd. 6(L) and Section 15 of the Arlington Zoning Ordinance is issued. An interior side yard is a side yard not abutting a street. Accessory structures are allowed in rear yards providing setbacks are achieved.*
5. *Private and public garages and accessory structures larger than one-hundred twenty (120) square feet shall be placed on a permanent foundation which shall be defined as a floating slab with a rodent inhibiting barrier extending to a depth of at least one (1) foot below the average grade. A storage or utility structure of one-hundred twenty (120) square feet or less shall be placed on a leveled four (4) inch gravel or rock base with a rodent inhibiting barrier provided between the base and the structure.*
6. *Architectural Detail Requirements. Accessory structures shall have architectural details which are the same or reasonably similar to the principal structure based on, but not limited to, the following:*
 - a. *Roof orientation and pitch, excluding flat roofs;*
 - b. *Roof type (e.g. gabled or hipped);*
 - c. *Eave, overhang depth, and fascia/soffit type and appearance;*
 - d. *As an exterior material, steel siding is allowed provided it is architectural grade with concealed fasteners; and,*
 - e. *Exterior color.*
7. *Size Limit. Accessory structures shall be clearly and reasonably subordinate to the principal structure in terms of both scale and bulk. Total accessory structure square footage, excluding attached garages, shall not exceed ten (10) percent of the lot area*

within the R-1, R-2, Manufactured Home or any commercial district unless a conditional use permit is issued. Total accessory structure square footage within the Agricultural Residence District or any industrial district shall not exceed fifteen (15) percent of the lot area unless a conditional use permit is issued. At no time shall a conditional use permit be issued that results in the total combined (i.e. aggregate) ground level square footage of all buildings per lot exceeding the maximum structural coverage allowed within the applicable zoning classification.

8. *Number of Accessory Structures Limited.* For all districts except the Agricultural Residence District, a maximum of two (2) detached accessory buildings less than or equal to one-hundred twenty (120) square feet are allowed per lot. In addition, one (1) detached accessory structure greater than one-hundred twenty (120) square feet is allowed per lot, unless a conditional use permit meeting the standards of Section 13, Subd. 6(L) and Section 15 of the Arlington Zoning Ordinance is issued. Within the Agricultural Residence District on lots greater than two (2) acres in size, up to two (2) structures equal to or less than one-hundred twenty (120) square feet and two (2) structures greater than one-hundred twenty (120) square feet but not exceeding three total structures are allowed.

9. *Accessory Structure Setback Requirements.*

<i>District</i>	<i>Side, Interior</i>	<i>Side, Corner</i>	<i>Rear</i>
<i>Residence & Ag District</i>	<i>Underlying zoning standard.</i>	<i>Underlying zoning standard for front yard</i>	<i>Five feet unless rear loading, then 10 ft.</i>
<i>R-1</i>	<i>Underlying zoning standard.</i>	<i>Underlying zoning standard for front yard</i>	<i>Five feet unless rear loading, then 10 ft.</i>
<i>R-2</i>	<i>Underlying zoning standard.</i>	<i>Underlying zoning standard for front yard</i>	<i>Five feet unless rear loading, then 10 ft.</i>
<i>Manufactured Home</i>	<i>Underlying zoning standard.</i>	<i>Underlying zoning standard for front yard</i>	<i>Five feet unless rear loading, then 10 ft.</i>
<i>Commercial</i>	<i>Underlying zoning standard.</i>	<i>Underlying zoning standard for front yard</i>	<i>Underlying zoning standard.</i>
<i>Industrial</i>	<i>Underlying zoning standard.</i>	<i>Underlying zoning standard for front yard</i>	<i>Underlying zoning standard.</i>

10. *Accessory Structure Height Limited.* The height of an accessory structure shall not exceed maximums listed in the following table as measured from the average grade to the highest part of the structure.

<i>Parcel Size</i>	<i>Maximum Height</i>	<i>Roof Pitch Minimum</i>
<i>< 20,000 sf</i>	<i>18</i>	<i>4:12</i>
<i>20,001 sf to one (1) acre</i>	<i>20</i>	<i>4:12</i>
<i>Greater than one (1) but equal to or less than two (2) acres</i>	<i>22</i>	<i>4:12</i>
<i>Two to five acres</i>	<i>30</i>	<i>No limit</i>
<i>> than five (5) acres</i>	<i>No limit</i>	<i>No limit</i>

11. *Accessory structures shall not encroach upon easements.*

12. *CUP Requirements.*

- A. *The purpose of this Subsection is to provide the Planning Commission and City Council with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare and public safety.*
- B. *In making the determination whether or not a conditional use permit is to be allowed, the City shall consider the requirements of Section 15 of the Zoning Ordinance and may consider the nature of the adjoining land or buildings, the effect upon traffic into and from the premises, or on any adjoining streets, and all other or further factors as the City shall deem a prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety.*
- C. *In recommending or approving a conditional use permit when required for an accessory structure, the Planning Commission and the Council may impose conditions which are considered necessary to meet the standards of the Zoning Ordinance as set forth in Section 15 of the Zoning Ordinance. In addition, the City may impose additional conditions to protect the best interests of the surrounding area or the City as a whole. Violation of any such condition is a violation of this Section and Ordinance. Additional conditions imposed may include but are not limited to the following:*
 - 1. *Require the use of trim, wainscoting and lighting or other additional architectural detail to soften the impact of the bulk and height of the proposed structure(s).*
 - 2. *Require the structure be designed and placed on a lot so as to reasonably maintain a scale/size difference between the principal and accessory structure with the accessory structure being clearly subordinate to the principal structure.*
 - 3. *Require the visibility of the accessory structure be minimized as viewed from adjacent lots and rights of way through the use of topography, increased setbacks, increased lot size, fencing, existing or proposed vegetative landscaping and the like.*
 - 4. *Require garage door openings are placed so as to reduce their visibility from adjacent lots and rights-of-way.*
 - 5. *Require the accessory structure be reasonably compatible with the architectural detail of the principal structure. The applicant holds the burden of proving the proposed structure is reasonably compatible with the architectural detail of the principal structure.*
 - 6. *Require the use of the same or similar window and exterior door proportion and type to soften the impact of the bulk and height of the proposed structure(s).*
 - 7. *Require general compatibility with adjacent and other property in the district.*
 - 8. *Prior to approving the CUP the City shall consider the action in relation to the specific policies and provisions of Section 15 of the Zoning Ordinance.*

SUBDIVISION 7. WIND ENERGY CONVERSION SYSTEMS (WECS).

*Established by Ordinance 212
Effective Date January 29, 2009*

1. *The purpose of this Section is to establish standards and procedures by which the installation and operation of commercial and non-commercial wind energy conversion systems (WECS) shall be governed within the City.*
2. *Ornamental wind devices that are not a WECS shall be exempt from the provisions of this Section.*
3. *Definitions:*
 - A. **Commercial Wind Energy Conversion System (WECS):** *A WECS of equal to or greater than 40kW in total nameplate generating capacity.*
 - B. **Feeder Line:** *A power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electrical power grid, in the case of interconnection with the high voltage transmission systems the point of interconnection shall be the substation servicing the WECS.*
 - C. **Meteorological Tower:** *Towers erected to measure wind speed and direction plus other data relevant to siting WECS. Meteorological towers shall be regulated as commercial towers under Ordinance 196 relating to Telecommunication Towers, Antennas and Related Facilities, as may be amended.*
 - D. **Non-commercial WECS:** *A WECS of less than 40kW in total name plate generating capacity.*
 - E. **Rotor Diameter:** *The diameter of the circle described by the moving rotor blades.*
 - F. **WECS Tower:** *A vertical structure that supports an electrical generator, rotor blades, and/or meteorological equipment used in the operation of a WECS.*
 - G. **WECS Total Height:** *The highest point above ground reached by a rotor tip or any other part of the WECS.*
 - H. **WECS Tower Height:** *The total height of the WECS exclusive of the rotor blades.*
 - I. **Wind Energy Conversion System (WECS):** *An electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations, and metrological towers, that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed to the electrical grid.*
 - J. **Wind Turbine:** *Any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.*

4. *Conditional Use Permit Required.*
 - A. *The erection of a wind energy conversion system shall require a conditional use permit, as prescribed by Section 15 of the Arlington Zoning Ordinance.*
 - B. *Commercial wind energy conversion systems shall only be allowed as conditional uses within Industrial Districts or on property owned by the City of Arlington or the Arlington EDA.*
 - C. *Non-commercial wind energy conversion systems shall be allowed as conditional uses within the R1/AG-R2/AG Residence & Agricultural District on lots at least ten (10) acres in area. The acreage restriction is required to protect WECS from encroachment by other uses or structures and to accommodate required setback between the WECS and property lines.*
 - D. *All applications for a WECS conditional use permit shall be accompanied by a site plan drawn to scale and dimensioned displaying following:*
 1. *The names of project applicants and property owners.*
 2. *Project address and legal description.*
 3. *A description of the project including: nameplate generating capacity, proposed tower height, and proposed rotor diameter.*
 4. *Proposed site layout.*
 5. *Engineer's certification of structure design, electrical design, and fall zone.*
 6. *Location and height of all existing and proposed buildings, structures, above ground utilities, and trees on the lot, including both existing and proposed structures and guy wire anchors.*
 7. *Location and height of all adjacent buildings, structures, aboveground utilities and trees located within three hundred fifty (350) feet of the exterior boundaries of the property in question.*
 8. *An elevation drawing of the premises accurately depicting the proposed WECS and its relationship to structures on the subject site and adjacent lots.*
 9. *A written statement or map describing how the proposed structure relates to existing arrival/departure corridors utilized by air ambulances.*
 10. *In addition, applications for commercial WECS shall include:*
 - a. *An FAA permit application, if required.*
 - b. *A decommissioning plan.*
5. *Performance Standards:*

- A. *A WECS shall not interfere with hospital heliport approach/departure corridors as defined by the Minnesota Department of Transportation.*
- B. *Setbacks.*
 - 1. *No part of a WECS (including guy wire anchors) shall be located within or above any required front, side, or rear yard setback.*
 - 2. *WECS towers shall be setback from all property lines a total of 110% of the WECS total height.*
- C. *Blade arcs created by the WECS shall have a minimum of thirty (30) feet of clearance over any structure or tree.*
- D. *Each WECS shall be equipped with both a manual and automatic braking device capable of stopping the WECS operation in high winds (40 miles per hour or greater).*
- E. *Each WECS shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code as adopted by the City. To prevent unauthorized climbing, WECS towers must comply with one of the following provisions:*
 - 1. *Tower climbing apparatus shall not be located within twelve (12) feet of the ground.*
 - 2. *A locked anti-climb device shall be installed on the tower.*
 - 3. *Towers capable of being climbed shall be enclosed by a locked, protective fence at least six (6) feet high.*
- H. *WECS shall have a sign posted at the base of the tower containing the following information: A high voltage warning, the manufacturer's name, an emergency phone number, and emergency shutdown procedures.*
- I. *WECS shall not have affixed or attached any lights, reflectors, flashers, or any other illumination, except for illumination devices required by FAA regulations or as required by the City if within heliport arrival or departure corridors as defined by the Minnesota Department of Transportation.*
- J. *WECS shall be designed and constructed so as not to cause radio and television interference.*
- K. *Noises emanating from the operation of WECS maintain compliance with Minnesota Pollution Control Standards.*
- L. *No WECS shall be interconnected with a local electrical utility company until the utility company has reviewed and commented on it.*
- M. *Standard drawings of the structural components of the wind energy conversion system and support structures, including base and footings shall be provided along*

with engineering data and calculations to demonstrate compliance with the structural design provisions of the Building Code. Drawings and engineering calculations shall be certified by a Minnesota licensed engineer.

N. WECS electrical equipment and connections shall be designed and installed in adherence to the Electrical Code.

- 6. If a WECS is not maintained in operational condition and poses a potential safety hazard, the owner shall take expeditious action to correct the situation.*
- 7. Any WECS or tower which is not used for twelve (12) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner.*

SUBDIVISION 8. GENERAL BUILDING AND YARD STANDARDS.

*Amended by Ordinance Number 250
Effective Date: June 24, 2010*

- 1. The purpose of this Subdivision is to protect and preserve property values and the City's tax base, to provide for the general welfare of the City, and to establish reasonable standards for functional and aesthetic aspects of buildings and structures.*
- 2. All single family attached and detached residential dwelling units constructed or moved into the City shall meet the following design standards.*
 - A. Dwelling units shall be compatible with other dwelling units in the existing locale in terms of structure size, structure massing, structure bulk, and quality of architectural materials.*
 - B. The exterior walls of shall be similar in appearance to normal wood, vinyl or metal lap siding, cement board, or masonry residential construction. Exterior surfaces made of sheet or corrugated aluminum or unfinished metal such as tin are prohibited.*
 - C. Each dwelling unit shall have at least a 4:12 roof pitch and shall be covered with shingles, tiles, or a concealed-fastener metal roof, unless a Conditional Use Permit as provided in Section 13, Subd. 8, (B)(5) and Section 15, as may be amended, of this Ordinance is issued.*
 - D. The total square footage of an attached garage(s) shall not exceed sixty percent (60%) of the foundation size (alternately, main floor area) of the dwelling unit to which it is attached, unless a Conditional Use Permit as provided in Section 13, Subd. 8 (B)(5) and Section 15, as may be amended, of this Ordinance is issued.*
 - E. CUP Requirements.*
 - 1. The purpose of this Subsection is to provide the Planning Commission and City Council with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare and public safety.*

2. *In making the determination whether or not a conditional use permit is to be allowed, the City shall consider the requirements of Section 15 of the Zoning Ordinance and may consider the nature of the adjoining land or buildings, the effect upon traffic into and from the premises, or on any adjoining streets, and all other or further factors as the City shall deem a prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety.*
3. *In recommending or approving a conditional use permit when required for an accessory structure, the Planning Commission and the Council may impose conditions which are considered necessary to meet the standards of the Zoning Ordinance as set forth in Section 15 of the Zoning Ordinance. In addition, the City may impose additional conditions to protect the best interests of the surrounding area or the City as a whole. Violation of any such condition is a violation of this Section and Ordinance. Additional conditions imposed may include but are not limited to the following:*
 - a. *Require the use of trim, wainscoting and lighting or other additional architectural detail to soften the impact of the bulk and height of the proposed structure(s).*
 - b. *Require the structure be designed and placed on a lot so as to reasonably maintain structural orientation and structural setting so as to blend in with the surrounding locale.*
 - c. *Require the visibility of the accessory structure be minimized as viewed from adjacent lots and rights of way through the use of topography, increased setbacks, increased lot size, fencing, existing or proposed vegetative landscaping and the like.*
 - d. *Require garage door openings are placed so as to reduce their visibility from adjacent lots and rights-of-way*
 - e. *Require general compatibility with adjacent and other property in the district.*
4. *Prior to approving the CUP the City shall consider the action in relation to the specific policies and provisions of Section 15 of the Zoning Ordinance.*

SECTION 13.5: SIGNS

Ordinance 241
Effective April 23, 2009

SUBDIVISION 1. FINDINGS.

The City Council hereby finds:

- A. Exterior signs have a substantial impact on the character and quality of the environment.*
- B. Signs provide an important medium through which individuals may convey a variety of messages.*
- C. Signs can create traffic hazards, aesthetic concerns, and detriments to property values, thereby threatening the public health, safety, and welfare.*
- D. The City has previously regulated signs in an effort to provide adequate means of expression and to promote the economic viability of the business community while protecting the city and citizens from a proliferation of signs of a type, size, location, and character that would adversely impact the public health, safety, and welfare.*

SUBDIVISION 2. PURPOSE AND INTENT.

The purpose and intent of this Section is 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.*
- B. Maintain, enhance, and improve the aesthetic environment of the city by preventing visual clutter that is harmful to the appearance of the community.*
- C. Provide an effective means of communication, consistent with constitutional guarantees and the city's goals of public safety and aesthetics.*
- D. Provide for fair and consistent enforcement of sign regulations under the zoning authority of the city.*
- E. It is not the purpose or intent of this sign ordinance to regulate the message displayed on any sign, to regulate any building design or display not defined as a sign, or any sign which cannot be viewed from outside of a building.*

SUBDIVISION 3. EFFECT.

The effect of this Section is to:

- A. Allow a wide variety of sign types in commercial zones and a more limited variety of signs in other zones subject to the standards herein.*

- B. *Allow certain small, unobtrusive signs incidental to the principal use of a site in all zones when in compliance with the requirements of this Section.*
- C. *Prohibit signs whose location, size, type, illumination, or other physical characteristics negatively affect the environment and where the communication can be accomplished by means having lesser impact on the environment and the public health, safety, and welfare.*
- D. *Provide for enforcement of this Section through the enforcement provisions contained in the Zoning Ordinance.*
- E. *A sign may be erected, displayed, or maintained in the city if it is in conformance with the provisions of these regulations.*

SUBDIVISION 4. DEFINITIONS.

Commercial Speech: *Speech advertising a business, profession, commodity, service, or entertainment.*

Multiple Tenant Site: *A site which has more than one tenant and each tenant has a separate ground level exterior public entrance.*

Non-Commercial Speech: *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.*

Sign: *Any letter, word, symbol, poster, picture, statuary, reading matter, or representation in the nature of advertisement, announcement, message, or visual communication whether painted, posted, printed, affixed, or constructed, including all associated brackets, braces, supports, wires, and structures, which is displayed for informational or communicative purposes.*

Sign, Abandoned: *A sign shall be defined as abandoned when one of the following occurs:*

- A. *A sign and/or supporting structure remains without a message or whose display surface remains blank for a period of one or more years.*
- B. *A sign pertains to a time, event, or purpose which no longer applies.*
- C. *A sign remains after demolition of a principal structure and a building permit has not been issued for construction of a replacement principal structure.*

Sign, Awning: *A building sign or graphic printed on or in some fashion attached directly to the material of an awning which projects over a window, walk, or the like. Any part of an awning which also extends over a door shall be considered an awning.*

Sign, Business: *A sign attached to or supported by any structure used or intended for supporting or sheltering any use or occupancy.*

Sign, Canopy: *A sign that is part of or attached to a canopy or structural protective cover over a door or entrance.*

Sign, Face: *The surface of the sign upon, against, or through which the message of the sign is exhibited.*

Sign, Flashing: *Any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use.*

Sign, Freestanding: *A sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.*

Sign, Ground: *A freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a total height not exceeding eight feet.*

Sign, Height: *The vertical distance measured from the base of the sign at average grade to the top of the highest attached component of the sign.*

Sign, Illuminated: *Any sign which has characters, letters, figures, designs, or outlines illuminated by internal or external electric lights or luminous tubes as part of the design.*

Sign, Monument: *A freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a total height not exceeding eight feet.*

Sign, Nameplate: *Any sign which states the name or address or both of the business or occupant of the lot where the sign is placed.*

Sign, Non-Conforming: *A sign and its support structure lawfully erected prior to the effective date of this ordinance which fails to conform to the requirements of this ordinance.*

Sign, Off-premise: *A commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same premises where such business sign is located. Easements shall be considered to be outside such platted parcels of land and any sign located or proposed to be located in an easement or shall be considered an off-premise sign.*

Sign, On-premise: *A sign which identifies or advertises an establishment, person, activity, goods, products, or services located on the premises where the sign is installed.*

Sign, Portable: *A sign purposefully designed to be transported, including by trailer or on its own wheels.*

Sign, Projecting: *Any sign which is affixed to a building or wall in such a manner that its leading edge extends more than two feet beyond the surface or such building or wall face.*

Sign, Pylon (pole sign): *A freestanding sign which has its supportive structure(s) anchored in the ground and which has a sign face elevated above ground level by pole(s) or beam(s) and with the area below the sign face open.*

Sign, Roof: *A sign erected and constructed wholly on and above the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.*

Sign, Rotating: *A sign which revolves or rotates on its axis by mechanical means.*

Sign, Structure: Any structure including the supports, uprights, bracing, and framework which supports or is capable of supporting any sign.

Sign, Stringer: A line of string, rope, cording, or an equivalent to which is attached a number of pennants.

Sign, Surface Area of: The entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface, not including any structural elements outside the limits of such sign and not forming an integral part of the display, (only one side of a double-face or V-type structure shall be used in computing total surface area.)

Sign, Suspended: A building sign that is suspended from the underside of a horizontal plane surface and is connected to this surface.

Sign, Wall: A building sign attached parallel to but within two feet of a wall, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign face.

Sign, Window: A building sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes/glass and is visible from the exterior of the window.

Total Site Signage: The maximum permitted combined area of all freestanding and wall identification signs allowed on a specific property.

SUBDIVISION 5. PERMIT/FEE REQUIRED.

- A. No sign shall be erected, altered, reconstructed, maintained, or moved in the city without first securing a permit from the city. The content of the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit. Application for a permit shall be in writing and shall contain the following information:
1. Name(s) and address(es) of the owners of the display structure and property;
 2. The address at which sign is/are to be erected;
 3. The legal description of the subject property;
 4. The type of sign;
 5. The cost of the sign;
 6. The proposed sign dimensions and placement on the subject property;
 7. If adjacent to a state trunk highway proof the applicant has obtained a permit from the state for the sign.

- B. The permit application shall be accompanied by the required fee as specified by the fee schedule.*
- C. The city shall approve or deny the permit within the time period under MN. Stat. 15.99. If the requirements of this Section and other applicable standards contained within the Zoning Ordinance are met the permit shall be approved.*

SUBDIVISION 6. EXCEPTIONS.

- A. The following signs shall not require a permit. Although exempt from permitting requirements, this Subdivision shall not relieve the owner of the sign from the responsibility of its erection and maintenance, and compliance with the provisions of this ordinance or any other law or ordinance regulating the same.*
 - 1. The changing of the display surface on a painted or printed sign, except a sign painted directly on a building.*
 - 2. Signs eighteen (18) square feet or less in size.*

SUBDIVISION 7. GENERAL PROVISIONS.

- A. A sign shall not be greater than 250 square feet in area.*
- B. A sign shall project no more than two feet over a sidewalk or public right-of-way.*
- C. Any sign located in the city which becomes out of order, rotten, or unsafe shall be removed or otherwise properly secured by the owners of the sign or the owner(s) of the property on which the sign is located.*
- D. Electrical signs must be installed in accordance with the current electrical code.*
- E. The following are unauthorized signs:*
 - 1. Any sign, signal, marking, or device which is similar to or imitates an official traffic control device, railroad sign or signal, and/or emergency vehicle signal.*
 - 2. Signs painted, attached, or in any way affixed to trees, public utility poles, bridges, towers, or similar structures.*
 - 3. Signs obstructing any window, door, fire escape, stairway, or opening intended to provide light, air, or access to any building.*
- F. Setbacks.*
 - 1. Signs shall be setback a minimum of five feet from a property line, except within the Central Business.*

2. *Signs shall not be placed in municipal easements unless an interim use permit is approved.*
3. *Signs shall not obstruct a clear sight triangle at each corner of any intersection of two public streets and/or the intersection of a public street and a railway. Said clear sight triangle shall be defined as beginning at the intersection of the projected curb lines of two intersection streets or a street and a railway, then proceeding twenty-five feet along one curb line, then proceeding diagonally to a point of twenty-five feet from the point of beginning on the other curb line and then proceeding to the point of beginning.*

G. Calculation of Sign Area.

1. *The area within the sign frame shall be used to calculate the square footage.*
2. *Square footage of signs mounted directly on a wall, window, or other structural surface without a sign frame shall be determined by drawing a box around the outermost periphery of letters or graphics. The square footage shall be that of the box surrounding the said letters or graphics.*
3. *Each surface used to display a message or to attract attention shall be measured as a separate sign and shall be calculated in the overall square footage.*

H. *External illumination for signs shall be constructed and maintained so that the source of light (e.g. bulb or illumination tube) is not visible from the public right-of-way or residential property.*

I. *Notwithstanding any other provision of this Section, all signs of any size containing non-commercial speech as defined in Subdivision 4 of this Section, may be posted from August 1 in any general election year until ten days following the general election and thirteen weeks prior to any special election until ten days following the special election.*

SUBDIVISION 8. PERMITTED SIGNS BY ZONING DISTRICT.

A. *R1/R2 Agriculture/Residence District; R-1 Single and Two Family Residential District; R-2 Multiple Family Residential District*

1. *The following types of signs are not permitted:*
 - a. *Awning signs;*
 - b. *Balloon signs;*
 - c. *Canopy signs;*
 - d. *Flashing or rotating signs; and,*
 - e. *Pylon (or pole) signs.*

2. *Maximum sign area:*

- a. *Lots 10,000 square feet or less: eight square feet per surface with total area of all signs not to exceed sixteen square feet.*
- b. *Lots greater than 10,000 square feet but less than one acre: ten square feet per surface with total area of all signs not to exceed twenty square feet.*
- c. *Lots greater than one acre but less than ten acres: twelve square feet per surface with total area of all signs not to exceed twenty-four square feet.*
- d. *Lots greater than ten acres: sixteen square feet per surface with total area of all signs not to exceed thirty-two square feet.*

B. *B-1 Service Business District*

1. *The following types of signs are not permitted:*

- a. *Flashing or rotating signs.*

2. *Maximum sign area:*

- a. *The total area of all signs shall not exceed two (2) square feet per lineal foot of lot frontage, ten (10) percent of the building's front façade, or seventy-five (75) square feet, whichever is greater. For corner lots, the "lot frontage" used to determine allowable sign area shall be the least dimension along a street, but an equivalent sign area shall be allowed facing the intersecting street.*
- b. *The number of off-premise signs shall be limited to one (1) per one-hundred (100) feet of lot frontage. Such off-premise signs may contain up to two (2) signs per facing; however, each sign face shall not exceed fifty-five (55) feet in total length. No off-premise sign may be erected within one hundred (100) feet of an adjoining Residential District.*
- c. *No sign shall project higher than six (6) feet above the height of the building, or thirty-two (32) feet above average grade at the building line, whichever is greater.*

C. *B-2 Central Business District*

1. *The following types of signs are not permitted:*

- a. *Flashing or rotating signs.*
- b. *Off-premise signs.*

2. *The total area of all signs shall not exceed two (2) square feet per lineal foot of lot frontage, ten (10) percent of the building's front façade, or seventy-five (75) square feet, whichever is greater. For corner lots, the "lot frontage" used to determine allowable sign area shall be the least dimension along a street, but an equivalent sign area shall be allowed facing the intersecting street.*

3. *No sign shall project higher than six (6) feet above the height of the building, or thirty-two (32) feet above average grade at the building line, whichever is greater.*

D. I-1 Light Industrial District

1. *The following types of signs are not permitted:*
 - a. *Flashing or rotating signs.*
2. *The total area of all business signs on a lot shall not exceed three (3) square feet of each lineal foot of lot frontage or twenty (20) percent of the building frontage or three hundred (300) square feet in area, whichever is greater. Such signs may be illuminated.*
3. *Advertising signs structures shall be limited to one (1) for a lot of one hundred (100) foot frontage or less and to only one (1) for each additional one hundred (100) feet of additional lot frontage. Such structures shall not exceed fifty-five (55) feet in length. No advertising sign may be erected within one hundred (100) feet of a Residential District. Such signs may be illuminated.*
4. *Sign lighting shall not be directed toward a public right of way or any Residential District.*

E. I-2 Heavy Industrial District

1. *The following types of signs are not permitted:*
 - a. *Flashing or rotating signs.*
2. *Signs as regulated in Subdivision 8, (D), 2 (Light Industrial District) of this Section.*

SUBDIVISION 9. NON-CONFORMING SIGNS.

- A. *Signs pertaining to or advertising products sold on the premises of a non-conforming building or use may be continued only when the non-conforming use is permitted to continue and such signs shall not be expanded in number, area, height, or illumination. New signs shall not exceed the maximum allowed under the City's sign ordinance, and may be erected only after all other signs existing at the time of the adoption of this Ordinance have been removed. The accumulated square footage of new signs installed shall not exceed the square footage of signs previously on site, or the amount allowed in the City's sign ordinance, whichever is less. New signs may not be illuminated unless the previous sign was illuminated, but flashing intermittent or moving illumination shall not be permitted.*
- B. *The standards of Section 14 of the Zoning Ordinance (Non-Conformance) shall apply to signs.*

SUBDIVISION 10. VIOLATION/PENALTY.

Violation of this Section shall be subject to violation and penalty as prescribed in Section 19 of the Zoning Ordinance (Violations and Penalty).

SUBDIVISION 11. SEVERABILITY.

If any Subdivision, subsection, sentence, clause, or phase of this Section is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Section.

SUBDIVISION 12. SUBSTITUTION.

The owner of any sign which is otherwise allowed by this sign ordinance may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. This substitution of copy may be made without any additional approval or permitting.

SUBDIVISION 13. REPEALER.

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 14: NON-CONFORMING USES

Ordinance 220
Effective February 7, 2008

SUBDIVISION 1. PURPOSE AND INTENT.

1. *It is the purpose of this section to provide for the regulation of non-conforming uses of land, non-conforming structures and non-conforming lots of record and to specify requirements, circumstances and conditions under which non-conforming uses of land, non-conforming structures and non-conforming lots of record may be operated and maintained.*
2. *This Section is intended to accomplish the following:*
 - A. *Recognize the existence of non-conforming uses of land and non-conforming structures which were lawful when established but which no longer meet all ordinance requirements;*
 - B. *Discourage the enlargement, expansion, intensification or extension of any non-conforming use of land or non-conforming structure or any increase in the impact of a non-conforming use of land or a non-conforming structure on adjacent properties;*
 - C. *Regulate the repair, replacement, restoration, and improvement of non-conforming uses and structures to prevent and abate nuisances and to protect the public health, safety, or welfare;*
 - D. *Encourage the elimination of non-conforming uses of land and/or non-conforming structures or reduce their impact on adjacent properties;*
 - E. *Eventually bring all non-conforming uses of land and non-conforming structures and uses into conformity.*

SUBDIVISION 2. DEFINITIONS.

For the purposes of this section, the following terms and phrases have the meanings given to them.

1. **"Legal non-conformity" or "non-conforming use"** *means any land use, structure, physical form of land development, lot of record or sign legally established before the effective date of this ordinance or subsequent amendment to it that would not be permitted by, or is not in full compliance with, the regulations of this ordinance. A non-conformity or non-conforming use is one of three types: non-conforming land use, non-conforming structure or non-conforming lot of record.*
2. **"Non-conforming land use"** *means an activity using land, buildings, and/or structures for a purpose that was legally allowed when established but that is not currently allowed as a use in the zoning district in which it is located.*

3. **"Non-conforming structure"** means a legal non-conformity other than a non-conforming land use that complied with ordinance standards at the time it was established but that does not currently conform to an ordinance standard such as height, setback, or size.
4. **"Non-conforming lot of record"** means an existing base lot of record at the time of approval of this Ordinance that is non-conforming in terms of lot area or lot width or depth and that has not at any time been the site of a principal use/structure.
5. **"Expansion," "enlargement," or "intensification"** means any increase in a dimension, size, area, volume, or height, any increase in the area of use, any placement of a structure or part thereof where none existed before, any improvement that would allow the land to be more intensely developed, any move of operations to a new location on the property, or any increase in intensity of use based on a review of the original nature, function or purpose of the non-conforming use, the hours of operation, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odors, area of operation, number of employees, and other factors deemed relevant by the city. The addition of a site feature such as a deck, patio or fence may be allowed provided a conditional use permit is issued.
6. **"Improvement"** means making the non-conforming use better, more efficient, or more aesthetically pleasing, including any change that does not replicate what pre-existed, but does not include an expansion, enlargement, or intensification.
7. **"Replacement," "reconstruction," or "restoration"** means construction that exactly matches pre-existing conditions.

SUBDIVISION 3. STANDARDS.

1. **Non-Conforming Uses of Land.**
 - A. A nonconforming use of land and conforming structures used for a non-conforming use of land may be used and continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion.
 - B. There may be no expansion, enlargement, or intensification of any non-conforming use of land.
 - C. **Change of Non-Conforming Use of Land.** A non-conforming use cannot be changed to another non-conforming use. Whenever a non-conforming use has been changed to a conforming use it shall not thereafter be changed to a non-conforming use of a less restricted district.
 - D. **Discontinuance of Non-Conforming Use of Land.** If a non-conforming use of land is discontinued or ceased for a period of one (1) year or more, or if a nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value and no building permit has been applied for within 180 days of when the property is damaged; then, the subsequent use of such building or land shall conform thereafter to the uses allowed in the district in which it is located.

- E. *If a non-conforming use is superseded or replaced by a permitted use, the non-conforming status of the premises and any rights which arise under the provisions of this section terminate.*
- F. *If replacement, reconstruction, or restoration of a legal non-conforming land use is allowed, it may occur without any land use approval from the city if the resulting use does not create any new adverse impacts on adjacent property and matches exactly the conditions that existed before the work was undertaken or before the use was damaged or destroyed. Work that would not meet this requirement and any work that would be an improvement to a non-conforming land use may not be undertaken unless a conditional use permit has been issued for the property. The city may impose conditions in a conditional use permit to protect the public health, safety, or welfare, and to mitigate any newly created impacts on adjacent property*
- G. *Notwithstanding the prohibitions contained in the foregoing paragraphs of this subdivision, if approved by the City Council a non-conforming use may be changed to another non-conforming land use of less intensity if it is in the public interest and a conditional use permit is issued. In all instances the applicant has the burden of proving that the proposed land use is less intense than the exiting nonconforming land use.*

2. *Non-Conforming Use of Structures.*

- A. *A nonconforming structure may be used and continued, including through repair, replacement, restoration, maintenance, or improvement.*
- B. *Expansion, Enlargement, or Intensification of a Non-conforming Structure. A non-conforming use of a building may not be expanded, enlarged or intensified by adding onto the building. Except that expansion, enlargement or intensification of conforming aspects of a non-conforming structure are exempt from this requirement. For example, if a structure has a non-conforming front setback, it may be expanded on the sides that do meet setback requirements as long as the expansion itself meets ordinance requirements.*
- C. *Non-Conforming Structure, Structural Change. An existing non-conforming structure devoted to a non-conforming use may not be enlarged, extended, reconstructed, moved, or structurally altered except in changing the use of the structure to a conforming use.*
- D. *Maintenance of Non-Conforming Structure. Maintenance of a building or other structure will be permitted when it includes necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming building or use.*
- E. *Residential Alterations. Alterations may be made to a residential building containing non-conforming residential units when they will improve the livability and safety of such units provided, however, that they do not increase the number of dwelling units in the building. The construction and alteration of garages and accessory buildings is also permitted, as long as the improvements conform with the zoning requirements for both the zoned use of the property, and the non-conforming use.*

- F. *Continuation of Non-Conforming Use of Structure.* The lawful use of a non-conforming structure existing at the time of the adoption of this Ordinance may be continued although such use does not conform with the district provisions herein, unless the use ceases for a period of one (1) year or the non-conforming structure is destroyed by fire or other peril to the extent of greater than 50 percent of its market value and no building permit has been applied for within 180 days of when the property was damaged.
- G. *Restoration of Non-Conforming Structure After Destruction.* Any non-conforming building or structure damaged greater than fifty (50) percent of its market value by fire, collapse, explosion or acts of God, or public enemy, shall not be restored or reconstructed and used as before such destruction if no building permit is issued within 180 days after the damage occurred; but, if fifty (50) percent or less of its market value is damaged it may be restored, reconstructed or used as before provided that it is done within twelve (12) months of the happening.
- H. *If replacement, reconstruction, or restoration of a legal non-conforming structure is allowed, it may occur without any land use approval from the city if the resulting use does not create any new adverse impacts on adjacent property and matches exactly the conditions that existed before the work was undertaken or before the use was damaged or destroyed, except for internal improvements and improved materials used to replace roof surfaces, siding, windows, doors, and similar components. Work that would not meet this requirement or any other improvement to a non-conforming development may not be undertaken unless a conditional use permit is issued. The city may impose conditions in its approval to protect the public health, safety, or welfare, and to mitigate any newly created impacts on adjacent property.*
- I. ~~*Signs.* As per Section 13.5 of this Ordinance. Signs pertaining to or advertising products sold on the premises of a non-conforming building or use may be continued only when the non-conforming use is permitted to continue and such signs shall not be expanded in number, area, height, or illumination. New signs shall not exceed the maximum allowed under the City's sign ordinance, and may be erected only after all other signs existing at the time of the adoption of this Ordinance have been removed. The accumulated square footage of new signs installed shall not exceed the square footage of signs previously on site, or the amount allowed in the City's sign ordinance, whichever is less. New signs may not be illuminated unless the previous sign was illuminated, but flashing intermittent or moving illumination shall not be permitted.~~
- J. *Buildings Under Construction and Building Permits Granted Prior to Adoption of Ordinance.* Any proposed structure which will, under this Ordinance, become non-conforming but for which a building permit has been lawfully granted prior to the effective date of this Ordinance, may be completed in accordance with the approved plans; provided construction is started within sixty (60) days of the effective date of this Ordinance, is not abandoned for a period of more than one hundred twenty (120) days, and continues to completion within two (2) years. Such structure and use shall thereafter be a legally non-conforming structure and/or use.

3. *Non-Conforming Lots of Record.*

An existing lot of record that is non-conforming and that is not improved with a principal use is entitled to be developed with a principal use providing setbacks can be achieved; unless the subject parcel has been in common ownership with an abutting lot or parcel of land, or if it has been part of a larger parcel of land, at any time after adoption of the standard that causes the lot or land to be non-conforming in which case the non-conforming lot of record is not entitled to be developed with a principal use. This provision shall apply even though a lot entitled to a principal use fails to meet the zoning requirements for area or width, or both, that are generally applicable in the district. If, two (2) or more contiguous lots in any district are under the same ownership, and any individual lot does not meet the area and width requirements of this Ordinance, the lot must not be considered as a separate parcel or land for the purpose of sale or development. The lot must be combined with the one (1) or more contiguous lots so they equal one (1) or more parcels of land, each meeting the area and width requirements of this Ordinance.

SUBDIVISION 4. BURDEN OF PROOF.

A person who wishes to take advantage of the rights granted to a legal non-conformity has the burden of proving the status as a legal non-conformity by clear and convincing evidence.

SECTION 15: CONDITIONAL USE PERMITS

*Amended by Ordinance 222
Effective Date March 7, 2008*

SUBDIVISION 1. PURPOSE.

The purpose of this Section of the Zoning Ordinance is to provide the Planning Commission and City Council with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare and public safety.

SUBDIVISION 2. SCOPE.

A Conditional Use Permit is required when the use is classified as a conditional use within a zoning district or acknowledged as requiring a conditional use permit within a zoning district or zoning standard.

SUBDIVISION 3. APPLICATION.

Conditional use permits may be issued for any of the following:

- 1. Any of the uses or purposes for which such permits are required by the provisions of this Ordinance.*
- 2. Public utility or public service uses or public building in any district when found to be necessary for the public health, safety, convenience or welfare.*
- 3. Commercial excavating and storage of natural material used for building or construction purposes, in any district.*
- 4. To classify as a conforming use any non-conforming institutional use existing in any district at the time of the establishment of such district.*

SUBDIVISION 4. PROCEDURE.

- 1. Application of the issuance of a Conditional Use Permit shall be made to the City Planning Commission, except that any proceedings to classify certain uses as conforming uses as provided in this Section may be initiated either by such application or by the City Council or by the City Planning Commission.*
- 2. The City Planning Commission may hold such hearings on the proposal to issue a Conditional Use Permit as it may consider necessary, but at least one (1) public hearing shall be held on any application for a Conditional Use Permit.*
- 3. Following the hearing, the City Planning Commission shall make a report on the proposal to the Council and shall recommend to the Council whatever action it deems advisable, but the City Planning Commission shall not recommend the granting of a permit unless it finds that the establishment, maintenance, or conducting of the use for which a permit is sought will not under the circumstances of the particular case be*

detrimental to the health, safety, morals, comfort, convenience or welfare of the persons residing or working in the neighborhood of such use, or to the public welfare, or injurious to property or improvements in the neighborhood.

4. *The City Planning Commission may designate conditions and require guarantees in the granting of use permits in the same manner provided in Section 16 of the Zoning Ordinance, Board of Zoning Adjustment, for the granting of adjustments.*
5. *Upon receipt of the report of the City Planning Commission, the City Council may hold whatever public hearings it deems advisable and shall made a decision upon the proposal to grant a conditional use permit.*

SUBDIVISION 5. CRITERIA FOR REVIEW.

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

- A. *The use and the site in question shall be served by a street of sufficient capacity to accommodate the type and volume of traffic which would be generated. Adequate right-of-way shall be provided.*
- B. *The site design for access and parking shall minimize internal as well as external traffic conflicts and shall be in compliance with the off street parking requirements.*
- C. *If applicable, a pedestrian circulation system shall be clearly defined and appropriate provisions made to protect such areas from encroachment by parked or moving vehicles.*
- D. *Adequate off street parking and off-street loading shall be provided in compliance with the off street parking requirements of the zoning ordinance.*
- E. *Loading docks and drive-up facilities shall be positioned so as to: minimize internal site access problems and maneuvering conflicts; to avoid visual or noise impacts on any adjacent residential use or district; and be in compliance with the off street parking requirements of this Ordinance.*
- F. *Whenever a non-residential use abuts or is across the street from a lot or area guided to future residential development within the Comprehensive Plan, the non-residential use shall employ landscaping and/or landscape treatments that soften the visual impact of the structure containing the non-residential use pursuant to a plan approved by the City.*
- G. *All exterior lighting shall be directed so as not to cast glare toward or onto the public right-of-way or neighboring residential uses or districts.*
- H. *Potential exterior noise generated by the use shall be identified and mitigation measures as may be necessary shall be employed.*
- I. *The site drainage system shall be subject to the review and approval of the City Engineer.*

- J. *The architectural appearance and functional design of the building and site shall not be so dissimilar to the existing or potential buildings and area so as to cause impairment of property values or a blighting influence. All sides of the principal and accessory structures are to have essentially the same or coordinated, harmonious exterior finish materials and treatment.*
- K. *Provisions shall be made for an interior location for recycling and trash handling and storage or if exterior to a structure said recycling and trash shall be placed in an outdoor, enclosed receptacle. Fencing and/or landscaping are required around the enclosed receptacle.*
- L. *All signs shall be in compliance Section 13.5 of this Ordinance.*
- M. *The use and site shall be in compliance with any federal or state laws or regulations which are applicable. As such, any related permits are obtained and documented to the City.*
- N. *Any/all outdoor storage proposed shall be in compliance with the Section of this Ordinance pertaining to outdoor storage.*
- O. *The hours of operation may be restricted when there is potential negative impact upon a residential use or district.*

SUBDIVISION 6. CONDITIONAL APPROVAL.

All conditions pertaining to a specific site are subject to change when the Council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served as well or better by modifying or expanding the conditions set forth herein. The Council may impose conditions which are considered reasonably necessary to meet the standards of this Ordinance and to protect the best interests of the surrounding area or the City as a whole. Violation of any such condition is a violation of this Ordinance.

SECTION 15.5: INTERIM USE PERMITS

*Ordinance Number 245
Effective June 4, 2009*

SUBDIVISION 1. PURPOSE/INTENT.

The purpose and intent of allowing interim uses is:

- A. To allow a use for a limited period of time that reasonably utilizes the property in the manner not permitted in the applicable zoning district.*
- B. To allow a use that is presently acceptable but that, with anticipated development, may not be acceptable in the future.*

SUBDIVISION 2. APPLICATION, HEARING, PROCEDURE.

The application, public notice and procedure requirements for interim use permits shall be the same as those for Conditional Use Permits as provided in Section 15 of the Zoning Ordinance.

SUBDIVISION 3. CRITERIA FOR REVIEW.

Criteria for review of interim use permits shall be the same as those for Conditional Use Permits as provided in Section 15 of the Zoning Ordinance.

SUBDIVISION 4. CONDITIONAL APPROVAL.

- A. Criteria for approval of interim use permits shall be the same as those for Conditional Use Permits as provided in Section 15 of the Zoning Ordinance.*
- B. The Planning Commission shall recommend an interim use permit and the Council shall issue such interim use permits only if it finds that such use at the proposed location:
 - 1. Meets the standards of a conditional use permit set forth in Section 15 of this Ordinance.*
 - 2. Conforms to the zoning regulations, performance standards and other requirements of this Ordinance.*
 - 3. Is allowed as an interim use in the applicable zoning district.*
 - 4. Will terminate upon a tangible date or event specified in the resolution approving said interim use permit.**

SUBDIVISION 5. TERMINATION.

An interim use permit shall terminate upon the occurrence of any of the following events; whichever first occurs:

- A. The date specified in the permit;*
- B. A violation of the conditions under which the permit was issued; or*
- C. A change in the City's zoning regulations which render the use nonconforming.*

SECTION 16: BOARD OF ZONING ADJUSTMENT

*Previous Text Repealed and Replaced as follows by Ordinance 229
Effective Date October 23, 2008*

SUBDIVISION 1. CREATION AND MEMBERSHIP.

A Board of Zoning Appeals and Adjustment is hereby established and vested with such administrative authority as is hereinafter provided. The Planning Commission shall serve as the Board of Zoning Appeals and Adjustment. The Board shall serve without compensation.

SUBDIVISION 2. POWERS.

- A. Board of Zoning Appeals and Adjustment decisions shall be advisory to the council who will make the final determination.*
- B. The Board of Zoning Appeals and Adjustment shall hear requests for variances from the literal provisions of the zoning ordinance in instances where their strict enforcement would cause undue hardship. The Board shall make a recommendation to the Council to either grant or deny the variance. Such recommendation shall include findings of fact as required under Subdivision 3 of this Section.*
- C. The Board of Appeals and Adjustment shall also hear requests for reconsideration of zoning applications where it is alleged there has been an error in the administration of the zoning ordinance.*
- D. The Board of Adjustment and Appeals may recommend the imposition of conditions to ensure compliance and to protect adjacent properties.*
- E. The Board of Adjustment and Appeals shall not recommend and the City Council shall not permit as a variance any use of land that is not allowed under this Ordinance for the property in the zone where the affected person's land is located.*
- F. The Board of Adjustment and Appeals shall have such other additional powers as are given to Boards of Adjustment and Appeals by Minnesota law.*

SUBDIVISION 3. FINDINGS OF FACT.

A variance shall not be recommended for approval by the Board or granted by the Council unless the Board first considers the following standards.

- A. An 'undue hardship' exists. "Undue hardship" as used in connection with the granting of a variance shall mean all three of the following conditions exist: the property in question cannot be put to a reasonable use if used under conditions allowed by this Ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. The Board/Council shall make a written finding of fact that supports each of the aforementioned conditions exist.*

- B. *Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the Ordinance.*
- C. *Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.*
- D. *Variances shall be granted for earth sheltered construction as defined in MN. Stat. 216C.06, Subd. 14 as may be amended, when in harmony with the zoning ordinance.*

SUBDIVISION 4. PROCEDURE.

- A. *Application for any adjustment permissible under the provisions of this Section shall be made to the Zoning Administrator, in the form of a written application for a building permit or for a permit to use the property or premises as set forth in the application. An application for an adjustment shall be accompanied by payment of a fee set by resolution of the City Council from time to time, in addition to the regular building permit fee.*
- B. *The Zoning Administrator shall review the application for completeness. If the application is found not to be complete, the Zoning Administrator shall specify in writing, within fifteen (15) days of the filing of the application, what items are needed to make the application complete.*
- C. *Upon receipt of a complete application, such officer shall set a time and place for a public hearing before the Board of Zoning Adjustment on such application. At least ten (10) days before the date of the hearing, a notice of the hearing shall be published once in the official newspaper.*
- D. *In recommending any adjustment or variance under the provisions of this Section, the Board of Zoning Adjustment shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of the regulation to which the adjustment or variance is granted, as to light, air, and the public health, safety, comfort, convenience and general welfare.*
- E. *No permit shall be issued under the provisions of this Section unless and until a recommendation of the Board of Zoning Adjustment, as aforesaid, is approved and confirmed by the City Council. In reporting its recommendation to the City Council, the Board of Zoning Adjustment shall report its findings with respect thereto and all facts in connection therewith, and shall specifically and fully set forth any adjustment or variance granted and the conditions designated. Upon receipt of such report, the City Council either shall by resolution approve and confirm the decision, with or without changes, whereupon the permit as applied for may be issued; or shall refuse to approve and confirm the decision. In all cases in which adjustments or variances are granted under the provisions of this Section, the Board of Zoning Adjustment and the City Council shall require such evidence and guarantees as it may deem necessary to insure compliance with the conditions designated in connection therewith.*

- F. If an adjustment or variance is granted under this Section, the applicant shall have six (6) months from the date the application is approved in which to comply with all conditions as set out in said adjustment or variance approval. If the conditions are not complied with within said six (6) month term, then the approval shall be considered void and the application process would have to be initiated again. The City will not be considered to be under any obligation to approve any such new application, simply on the basis that a prior application had been approved.*

SECTION 17: ENFORCEMENT

SUBDIVISION 1. ZONING ADMINISTRATOR.

The office of the Zoning Administrator is hereby established, for which the City Council may appoint such employee or employees of the City as it may deem proper. It shall be the duty of the Zoning Administrator to enforce this Ordinance through the proper legal channels.

SUBDIVISION 2. BUILDING PERMITS.

The City of Arlington hereby adopts the Uniform Building Code by reference.

SUBDIVISION 3. APPLICATION.

Application for a building permit shall be made to the Zoning Administrator on forms to be furnished by the City. Each application for a permit to construct or alter a building shall be accompanied by a plan drawn to scale showing the dimension of the lot to be built upon and the size and location of the building and accessory buildings to be erected. Applications for any kind of building permit shall contain such other information as may be deemed necessary for the proper enforcement of this Ordinance or any other. The fee for a building permit shall be determined by the City Council from time to time by resolution.

SECTION 18: AMENDMENT

This Ordinance may be amended whenever the public necessity and convenience and the general welfare require such amendment by the procedure specified as follows:

1. An amendment may be initiated by the City Council or the City Planning Commission, or by the verified petition of not less than fifty (50) percent of the property owners affected by the proposed amendment and fifty (50) percent of those property owners within three hundred (300) feet of the boundaries of the proposed change.
2. Before any amendment is adopted, the City Planning Commission shall hold at least one (1) public hearing thereupon after a notice of the hearing has been published in the official newspaper at least ten (10) days before the hearing. Following the hearing, the City Planning Commission shall make a report of its findings and recommendations on the proposed amendment and shall file a copy with the City Clerk within thirty (30) days after the hearing. Failure of the City Planning Commission to so report shall be deemed

to be an approval by the Commission of the proposed amendment.

3. Upon the filing of such report or upon the expiration of such thirty (30) days as aforesaid, the City Council may hold such public hearings upon the amendment as it deems advisable. After the conclusion of the hearings, if any, the City Council may adopt the amendment or any part thereof in such forms as it deems advisable. The amendment shall be effective only if four-fifths (4/5) of all the members of the Council concur in its passage.

SECTION 19: VIOLATIONS AND PENALTIES

SUBDIVISION 1. VIOLATIONS AND PENALTIES.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists enforcement of any of the provisions of this Ordinance shall, upon conviction, be fined the dollar amount and/or be imprisoned for the jail term set out from time to time under State Law for misdemeanors, said penalty to be imposed for each offense. Each day that a violation is permitted to exist shall constitute a separate offense. Any party who begins a construction project without a land use permit, in a case where a building permit is required under this Ordinance, shall be considered to have committed an offense subject to the penalties set out in this subdivision.

SUBDIVISION 2. ENFORCING.

In case any building or structure is erected, constructed, reconstructed, altered, converted, or any building, structure or land is used in violation of this Ordinance, the Zoning Administrator in addition to other remedies may institute proper action or proceedings in the name of the City of Arlington and hereby shall have the powers of a police officer to prevent such unlawful erection, construction, reconstruction, alteration, conversion, or use, to restrain, correct or abate such violations to prevent the occupancy of said building, structure or land, or prevent any illegal act, conduct, business or use in or about said premises.

SECTION 20: VALIDITY

Should any section or provision of this Ordinance be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

SECTION 21: REPEAL OF CONFLICTING ORDINANCES

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

This ordinance shall become effective immediately upon publication.

For City of Arlington
First Reading: June 4, 2001
Second Reading: June 18, 2001
Published: June 28, 2001

/s/ David Czech
By David Czech
Its Mayor

/s/ Lowell C. Enerson
By Lowell C. Enerson
Its City Administrator

ORDINANCE NO. 190

THE CITY COUNCIL OF THE CITY OF ARLINGTON, MINNESOTA TO PROMOTE THE PUBLIC SAFETY, HEALTH AND WELFARE, HEREBY ORDAIN AS FOLLOWS:

AN ORDINANCE REGULATING THE PLACEMENT OF FENCES IN RESIDENTIAL ZONES WITHIN THE CITY OF ARLINGTON.

Effective September 22, 2005

1. This Ordinance shall regulate the placement of fences within single family and multiple family residential zones within the City of Arlington. From and after the date of adoption of this Ordinance, no fence shall be erected in any such zone without first obtaining a land use permit from the City of Arlington.
2. Land Use permits shall be issued for fences in residential zones only if all provisions of this Ordinance are complied with.
3. No fences shall be erected in the front yard of any property in a residential zone. The front yard for purpose of this Ordinance is defined as all that portion of the yard between the front wall of the dwelling structure and the public street fronting the dwelling.
4. Any fence shall be considered a structure for the purpose of the setback requirement from the rear lot line of any lot.
5. For corner lots in a residential zone, no fence shall be erected in the yard facing the public street fronting the property. No fence shall be erected on the portion of the yard facing the side street of the property any closer to the side street than a line which is the extension of the side wall of the home facing said side street.
6. The City encourages, but does not require, fence lines to be built jointly by neighboring property owners along the boundary line between the separate properties. However, if one property owner wishes to erect a boundary fence without participation by the other property owner, said fence shall be built with a minimum setback of two (2) feet, to allow the owner of the fence sufficient access to maintain both sides of the fence, to include the control of grass and weeds along the fence line. Depending on the nature of the fence and the property, the City may require a wider setback in its discretion.
7. Fences shall be no more than six (6) feet in height, and shall use construction material and methods approved by the City as part of the land use permit, to create a fence which will be sturdy, attractive, in keeping with the general design character of the neighborhood, which will not present an unreasonable danger to children or animals, and will tend to maintain the property values of the surrounding properties. Fence construction material must be approved by the city, but a minimum requirement shall be that the construction material shall be treated or coated or of such material as to be resistant to rot and rust. Supporting posts must be buried at least 30 inches deep in concrete and must be substantial enough to stabilize the fence to keep it in a straight and erect position.
8. All fences already in existence at the date of enactment of this Ordinance, and all fences erected within the City hereafter, shall be kept free of weeds and refuse, shall be

maintained so as to avoid sagging, and shall be kept properly painted, stained, or rust proofed, as appropriate for the material of which the fence is constructed.

9. Any replacement, repair or relocation of any fences already in existence at the date of enactment of this Ordinance shall comply with this Ordinance in all respects.
10. If any fence is found to be in violation of this Ordinance, the City shall notify the property owner by written notice served on the property owner personally or by U.S. Mail to the property owner's last known address, stating that the property owner has 30 days to bring the fence in compliance with this Ordinance. If the property owner fails to bring the fence in compliance with this Ordinance within said 30 day notice term, then the fence permit shall be considered void and said fence must be immediately removed by the property owner.

ORDINANCE NO. 176

THE CITY COUNCIL OF THE CITY OF ARLINGTON, MINNESOTA TO PROMOTE THE PUBLIC SAFETY, HEALTH AND WELFARE, HEREBY ORDAIN AS FOLLOWS:

AN ORDINANCE REGULATING THE PLACEMENT OF FENCES IN COMMERCIAL AND INDUSTRIAL ZONES WITHIN THE CITY OF ARLINGTON.

Effective August 21, 2003

1. This Ordinance shall regulate the placement of fences within commercial and industrial zones within the City of Arlington. From and after the date of adoption of this Ordinance, no fence shall be erected in any such zone without first obtaining a building permit from the City of Arlington.
2. Building permits shall be issued for fences in commercial and industrial zones only if all provisions of this Ordinance are complied with. The City may, in its sole discretion, grant a variance for the placement of a fence that does not conform to the terms of this Ordinance.
3. No fences shall be erected in the front yard of any property in a commercial and industrial zone. The front yard for the purpose of this Ordinance is defined as all of the portion of the yard between the front wall of the commercial or industrial structure and the public street fronting the property.
4. Any fence shall be considered a structure for the purpose of the setback requirement from the rear lot line of any lot.
5. For corner lots in a commercial or industrial zone, no fence shall be erected in the yard facing the public street fronting the property. A fifteen (15) foot setback is required on the portion of the yard facing the side street of the property.
6. The City encourages, but does not require, fence lines to be built jointly by neighboring property owners along the boundary line between the separate properties. However, if one property owner wishes to erect a boundary fence without participation by the other property owner, said fence shall be built with a minimum setback of two (2) feet from the bottom line of said fence, to allow the owner of the fence sufficient access to maintain both sides of the fence, to include the control of grass and weeds along the fence line. Depending on the nature of the fence and the property, the City may require a wider setback in its discretion.
7. Fences shall be no more than six (6) feet in height with an additional eighteen (18) inch allowance for barbed wire. The barbed wire addition, if any, shall be restricted to straight wire lines, held by bracket extensions from the main fence and slanted inward toward the property of the owner constructing the fence. The fence shall be of construction material and methods approved by the City as part of the building permit, to create a fence which will be sturdy, attractive, in keeping with the general design character of the neighborhood, which will not present an unreasonable danger to children or animals, and will tend to maintain the property values of the surrounding properties. Fence construction material must be approved by the City, but a minimum requirement shall be that the construction material shall be treated or coated or of such material as to be

resistant to rot and rust. Supporting posts must be buried at least 30 inches deep and must be substantial enough to stabilize the fence to keep it in a straight and erect position.

8. Fences may exceed six (6) feet in height, plus an additional eighteen (18) inch allowance for barbed wire, only if granted a special variance by the City, and in such case, shall be no higher than eight (8) feet, plus the eighteen (18) inch barbed wire allowance. The granting of such a height variance shall be in the sole discretion of the City. If the City chooses to grant such variance, it shall have the right to impose special conditions for such fence, in keeping with public health, safety, welfare and the maintenance of neighborhood property values.
9. All fences already in existence at the date of enactment of this Ordinance, and all fences erected within the City hereafter, shall be kept free of weeds and refuse, shall be maintained so as to avoid sagging, and shall be kept properly painted, stained, or rust proofed, as appropriate for the material of which the fence is constructed.
10. Any replacement, repair or relocation of any fences already in existence at the date of enactment of this Ordinance shall comply with this Ordinance in all respects.
11. If any fence is found to be in violation of this Ordinance, the City shall notify the property owner by written notice served on the property owner personally or by U.S. Mail to the property owner's last known address, stating that the property owner has 30 days to bring the fence in compliance with this Ordinance. If the property owner fails to bring the fence in compliance with this Ordinance within said 30 day notice term, then the fence permit shall be considered void and said fence must be immediately removed by the property owner.
12. *Any fence that is proposed and would abut a Residential zoned property must first hold a public hearing to determine what type of fence/material would be acceptable.*

Amended by Ordinance 188
Effective June 10, 2004

ORDINANCE NO. 196

THE CITY COUNCIL OF THE CITY OF ARLINGTON, MINNESOTA TO PROMOTE THE PUBLIC SAFETY, HEALTH AND WELFARE, HEREBY ORDAIN AS FOLLOWS:

AN ORDINANCE REGULATING TELECOMMUNICATION TOWERS, ANTENNAS AND RELATED FACILITIES WITHIN THE CITY OF ARLINGTON AND PROVIDING FOR ADMINISTRATION AND ENFORCEMENT OF SUCH REGULATIONS.

Effective May 4, 2006
Repealed and Replaced with Ordinance 215 on Nov. 19, 2007

**CITY OF ARLINGTON
ORDINANCE NO. 215**

**AN ORDINANCE REPEALING AND REPLACING ORDINANCE 196 REGARDING THE
REGULATION OF TELECOMMUNICATION TOWERS, ANTENNAS AND RELATED
FACILITIES WITHIN THE CITY OF ARLINGTON AND PROVIDING FOR ADMINISTRATION
AND ENFORCEMENT OF SUCH REGULATIONS**

WHEREAS, the City of placed Ordinance 196 into effect several years ago; and

WHEREAS, the Arlington Planning Commission finds portions of Ordinance 196 are not up to date; and

WHEREAS, the City of Arlington initiated a request to repeal Ordinance 196 and replace it with Ordinance 215 relating to the regulation of telecommunication towers, antennas and related facilities within the City of Arlington; and

WHEREAS, the Arlington Planning Commission has reviewed and studied the request and developed text to be included in Ordinance 215; and,

WHEREAS, a public hearing was properly noticed and held on November 1, 2007 by the City of Arlington Planning Commission; and

WHEREAS, the Planning Commission at its meeting on November 1, 2007 approved a resolution recommending the City Council approve Ordinance 215; and

WHEREAS, the City Council approved the first reading of Ordinance 215 at its regular meeting on November 5, 2007; and

WHEREAS, the City Council approved second reading and the adoption of Ordinance 215 at its regular meeting on November 19, 2007.

**NOW THEREFORE, BE IT RESOLVED THAT TO PROMOTE THE PUBLIC SAFETY,
HEALTH AND WELFARE, THE CITY COUNCIL OF THE CITY OF ARLINGTON HEREBY
ORDAINS:**

SECTION 1. FINDINGS AND PURPOSE

Subdivision 1. Findings.

1. The Federal Communications Act of 1934 as amended by the Telecommunications Act of 1996 ("the Act") governs the construction, placement, and modification of personal wireless service facilities.
2. Consistent with the Act, the general purpose of this section is to manage the placement, construction, and modification of telecommunication towers, antennas and related facilities in order to protect the health, safety and welfare of the public, while not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the city.

Subdivision 2. Purpose.

1. In furtherance of the goals of the city and within the framework of the Act and state law, the city will give due consideration to the city's comprehensive plan, zoning districts, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas. Specifically, the purposes of this section are:
 - A. To provide for wireless telecommunication services for the residents and businesses of the City;
 - B. To minimize adverse visual impacts of telecommunication towers and facilities through design, siting, landscaping, and innovative camouflaging techniques;
 - C. To promote and encourage shared use and collocation of telecommunication towers and antenna support structures so as to reduce the number of towers needed to serve the area;
 - D. To avoid damage to adjacent properties caused by telecommunication towers and facilities by ensuring that those structures are soundly and carefully designed, constructed, modified, maintained and promptly removed when no longer used or when determined to be structurally unsound.

Subdivision 3. Severability.

Should any section, subdivision, clause or other provision of this Ordinance be held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole, or of any part thereof, other than the part held to be invalid.

SECTION 2. DEFINITIONS

Subdivision 1. Definitions.

For purposes of this section the following terms have the meanings given them, except where the context clearly indicates a different meaning:

- A. **"Antenna"** means any device which is designed to transmit or receive any electromagnetic, microwave, radio, television, or other frequency energy waves including but not limited to directional and omni-directional antennae such as microwave dishes,

satellite dishes and whip antennae.

- B. **“Antenna support structure”** means a building, water tower, or other structure, other than a telecommunications tower, which can be used for location of telecommunications facilities.
- C. **“Applicant”** means a person who applies for a permit to develop, construct, build modify or erect a tower or antenna under this section.
- D. **“Application”** means the process by which the owner of a plot of land within the city or other person submits a request to develop, construct, build, modify or erect a tower or antenna upon that land.
- E. **“Commercial wireless telecommunication services”** mean licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and television similar services that are marketed to the general public.
- F. **“Engineer”** means an engineer licensed by the state of Minnesota.
- G. **“Person”** means any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.
- H. **“Stealth”** means design features that blend a structure into the surrounding environment; examples of stealth facilities include, without limitation, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and telecommunications towers designed to appear other than as a tower, such as light poles, power poles, and trees or other vertical structures as they normally appear in their existing environments.
- I. **“Telecommunications facilities”** means cables, wires, lines, wave guides, antennas or any other equipment or facilities associated with the transmission or reception of telecommunications located or installed on or adjacent to a tower or antenna support structure. The term does not include:
 - 1) A satellite earth station antenna two meters in diameter or less located in an industrial or commercial district;
 - 2) A satellite earth station antenna one meter or less in diameter, wherever located;
or
 - 3) A tower.
- J. **“Telecommunications tower”** or **“tower”** means any ground or roof mounted pole, spire, structure or combination thereof taller than 15 feet including supporting lines, cables, wires, braces and masts intended primarily for the purpose of mounting an antenna or similar apparatus above grade.

SECTION 3. GENERAL REGULATIONS

Subdivision 1. Development of towers; approvals required.

- A. Towers supporting amateur radio antennas and conforming to all applicable provisions of this Ordinance shall be allowed in rear yards of residentially zoned parcels under a conditional use permit is issued and no more than one tower exists at any one time on one residential parcel.
- B. Commercial telecommunications towers shall be allowed in industrial zoning districts provided a conditional use permit is issued.
- C. **Building permit required.** Towers may not be constructed in any zoning district unless a building permit has been issued by the building official.
- D. **City property.** The city may authorize the use of city property for towers in accordance with the procedures of this code. The city has no obligation to allow the use of city property for this purpose.
- E. **Right-of-way.** Except as approved by the city, no part of any telecommunications tower or telecommunications facilities, nor any lines, cable, equipment, wires or braces shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk or property line.
- F. **Proof of insurance coverage required.** The applicant shall provide evidence satisfactory to the city that its tower and telecommunication facilities thereon are adequately insured for personal injury and property damage liability. Upon request, the holder of a conditional use permit issued under this chapter shall submit to the city clerk a photocopy of a certificate of insurance showing that the tower or antenna facility is insured for that calendar year.

Subdivision 2. Exemptions.

No permits are required for the following:

- A. Household television antennas extending less than 15 feet above the highest point of a residential structure.
- B. Satellite dish receiving antennas two meters or less in diameter.
- C. Adjustment, repair or replacement of the elements of an antenna, provided that such work does not constitute a clear safety hazard.
- D. Antennas and antenna support structures used by the city for city purposes.
- E. Emergency or routine repairs, reconstruction, or routine maintenance of previously approved facilities, or replacement of transmitters, antennas, or other components or previously approved facilities which do not create a significant change in visual impact or an increase in radio frequency emission levels, and provided that such work does not constitute a clear safety hazard.

- F. Two-way communication transmitters used on a temporary basis by a “911” emergency services, including fire, police and emergency aid or ambulance service.
- G. Radio transceivers normally hand-held or installed in moving vehicles, such as automobiles, watercraft, or aircraft. This includes cellular phones.

SECTION 4. PERFORMANCE STANDARDS.

Subdivision 1. Co-location capability.

- A. A proposal for a new commercial wireless telecommunication service tower shall not be approved unless the Council finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within one mile of the proposed tower because:
 - 1) The planned equipment would exceed the structural capacity of the existing or approved tower or building, or
 - 2) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment as documented by a qualified and licensed professional engineer.
 - 3) Existing or approved towers and buildings within one mile of the proposed tower cannot accommodate the planned equipment at a height necessary to function reasonable as documented by a qualified and licensed engineer.
 - 4) Other unforeseen reasons that make it not feasible to locate the planned equipment upon an existing or approved tower or building.
- B. A new tower may not be built, constructed or erected in the city unless the tower is capable of supporting additional telecommunications facilities other than what the applicant proposes.

Subdivision 2. Setback requirements.

A tower must comply with the following setback requirements:

- A. A tower shall not interfere with arrival/departure corridors for the Sibley Medical Center heliport as mapped by the Minnesota Department of Transportation Aeronautics Division.
- B. Setback requirements for towers are measured from the base of the tower to the property line of the parcel on which it is located.
- C. Amateur radio towers when not rigidly attached to a building shall be setback a distance equal to the height of the antenna and tower. Amateur radio towers when rigidly attached to a building may exceed the required setback by an amount that is equal to the distance from the point of attachment to the ground.
- D. Commercial wireless telecommunication service towers shall have a minimum setback from any property line equal to the height of the tower plus 10 feet, unless otherwise

provided in this section.

- E. Commercial wireless telecommunication service towers located next to a residential zone shall have a setback equaling the height of the tower plus 100 feet.
- F. The minimum spacing between commercial wireless telecommunication service tower locations is one mile.
- G. A tower setback may be reduced by variance to allow for the integration of a tower into an existing or proposed structure such as a church steeple, light standard, power line support device or similar structure.

Subdivision 3. Engineer certification.

Towers must be designed and certified by a licensed and qualified professional engineer to conform to the latest structural standards and wind loading requirements of the Building Code and the Electronics Industry Association and the provisions of the National Electric Code.

Subdivision 4. Construction standards.

- A. **Tower design.** A tower shall be designed to ensure that visual intrusiveness and impacts on nearby properties is mitigated to the greatest extent feasible.
- B. Every tower affixed to the ground shall be protected to discourage climbing of the tower by unauthorized persons.
- C. **Height Restrictions.**
 - 1) Commercial wireless telecommunication service towers may not exceed the lesser of 195 feet in height or the minimum height necessary to provide adequate coverage in the city by the provider of wireless service. Measurement of tower height must include the tower structure itself, the base pad, and any telecommunications facilities attached thereto. Tower height is measured from grade.
 - 2) Amateur radio towers in residential areas shall not exceed a height equal to the minimum height necessary to provide adequate service but shall in no case exceed seventy (70) feet in height.
- D. **Lighting.** Towers may not be artificially lit except as required by the Federal Aviation Administration or as required by the City for heliport safety. If so required, lighting shall be of a type, color and intensity so as to minimize visual intrusiveness, particularly at night.
- E. **Exterior finish.** Towers not requiring Federal Aviation Administration painting or marking must have an exterior finish as approved in the site plan.
- F. **Fencing.** Fences constructed around or upon parcels containing towers, antenna support structures, or telecommunications facilities must be constructed as approved in the site plan.
- G. **Landscaping.** Landscaping on parcels containing towers, antenna support structures or

telecommunications facilities must be in accordance with landscaping requirements as approved in the site plan. Utility buildings and structures accessory to a tower must be architecturally designed to blend in with the surrounding environment and to meet such setback requirements as are compatible with the actual placement of the tower. Ground mounted equipment must be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the character of the surrounding neighborhood.

H. Associated equipment and accessory buildings.

- 1) Ground equipment associated with a tower or commercial wireless telecommunication service facility shall be screened by vegetative or other screening compatible with the surrounding environment.
 - 2) No more than one accessory building is permitted per commercial wireless telecommunication service tower unless collocation requirements require a second structure. Said accessory structure may be no more than 200 square feet in size, shall meet the setback requirements of the underlying zoning district and be architecturally designed to blend in with the surrounding environment.
 - 3) All support structures shall be reasonably protected against climbing.
- I. **Security.** Commercial wireless telecommunication service towers must be reasonably posted and secured to protect against trespass. All signs must comply with Section 13.5 of this Ordinance.
- J. **Design.** Commercial wireless telecommunication service towers must be of stealth design as approved in the site plan unless the city determines that such design is infeasible due to the lack of vertical structures in the vicinity of the proposed site.
- K. **Signs and advertising.** The use of any portion of a tower for signs other than warning or equipment information is prohibited.
- L. **Types of towers.** Towers must be self-supporting without the use of guys, wires, cables, beams or other means.
- M. **Tower materials.** All metal towers shall be constructed of, or treated with, corrosion-resistant material. Wooden structures shall be impregnated with rot resistant substances.
- N. **Equipment housing.** Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall meet the requirements of Section 4, Subd. 4(H) of this Ordinance.

SECTION 5. APPLICATION PROCESS.

Subdivision 1. Building Permit Required.

A person desiring to construct a tower must submit an application for a building permit and a conditional use permit, to the zoning administrator.

Subdivision 2. Application Requirements. An application to develop a tower must include:

- A. Name, address, and telephone number of the applicant;
- B. Name, address, and telephone numbers of the owners of the property on which the tower is proposed to be located;
- C. Legal description of the parcel on which the tower is proposed to be located;
- D. Written consent of the property owner(s) to the application;
- E. A scaled site plan indicating the location, type and height of the proposed tower, the existing land uses and zoning of the subject parcel, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, drawings of the proposed tower showing elevation and other structures, topography, parking, and depicting the proposed tower design;
- F. A landscape plan showing specific landscape materials, method of fencing, and finished color and, if applicable, the method of camouflage and lighting;
- G. Documentation such as coverage maps showing the need for a tower at the proposed site in order to close a gap in the applicant's wireless telecommunications service, or a gap in the service provided by a person intending to place telecommunications facilities on the tower;
- H. An inventory of existing towers, antennas, or sites approved for towers or antennas, that are either within the city or are sited in a location from which the applicant could provide service within the city, including specific information about the location, height and design of each tower and documentation showing that such existing facilities are unavailable or unsuitable to meet the applicant's need for a tower;
- I. Separation distance of the proposed tower from the other towers described in the inventory of existing sites;
- J. A structural engineering report certifying the ability of the tower to accommodate co-location of additional wireless service provider facilities and a statement by the applicant regarding accommodation for co-location of additional antennas for future users;
- K. The setback distance between the proposed tower and the nearest platted residential property, and unplatted residentially zoned properties;
- L. Proof that all necessary consents or approvals have been applied for from appropriate federal, state or other local agencies;
- M. An application fee established from time to time by resolution of the city council. In the event the city elects to consult with its attorney or a radio frequency (RF) engineer in review of the application, the applicant shall be required to fully reimburse the city for all such expenses;
- N. Other information deemed by the zoning administrator to be necessary.

SECTION 6. NON-TOWER FACILITIES.

Subdivision 1. Commercial wireless telecommunication service antennae on roofs, walls and existing towers are a conditional accessory use in the industrial districts and city property, provided that the owner of such telecommunications facilities, by written certification to the building official, establishes the following facts at the time plans are submitted for a building permit:

- A. That the height from grade of the telecommunications facilities and antennae support structure does not exceed the maximum height from grade of the roof, walls, or other antenna support structure by more than 20 feet;
- B. That a qualified and licensed professional engineer submits a written report indicating the existing roof, wall or other antenna support structure is suitable to accept and support the commercial telecommunications accessory antenna and the proposed method of affixing the antenna to the roof, walls, or other antenna support structure; and that the proposed telecommunications facilities and support structure comply with the Uniform Building Code; and
- C. That telecommunications facilities located above the primary roof of an antenna support structure are set back one foot from the edge of the primary roof for each one foot in height above the primary roof of the telecommunications facilities. This setback requirement does not apply to antennas that are mounted to the exterior of antenna support structures below the primary roof; such antennas may not protrude more than six inches from the side of the antenna support structure.

SECTION 7. REMOVAL OF TOWERS OR COMMERCIAL TELECOMMUNICATION SERVICE FACILITIES.

Abandoned or unused towers and associated above-ground facilities must be removed within 90 days of the cessation of operations of the telecommunications facility at the site unless an extension is approved by the City Council. Any tower and associated telecommunications facilities that are not removed within 90 days of the cessation of operations at a site are declared to be public nuisances and may be removed by the City and the costs of removal assessed against the property pursuant to state law and the code. The conditional use permit shall establish an amount to be posted by bond, letter of credit, cash or equivalent by the applicant that will cover the projected cost of removal of towers or telecommunications facilities in the event of abandonment.

SECTION 8. ADDITIONAL REQUIREMENTS.

Subdivision 1. Structural inspections.

- A. The City may conduct inspections at any time, upon reasonable notice to the property owner and the tower owner to inspect the tower for the purpose of determining if it complies with the Uniform Building Code and other construction standards provided by the City Code, federal and state law. The City's expense related to such inspections will be borne by the tower owner or property owner. Based upon the results of an inspection,

the building official may require repair, modification or removal of a tower.

- B. Deviation from original construction for which a permit is obtained constitutes a violation of this Section.
- C. Notice of violations will be sent by postal mail to the owner and the owner will have thirty days from the date the notification is issued to make repairs.

Subdivision 2. Radiation Emission Inspections. The owner of a telecommunications facility shall provide the City with current, technical evidence of compliance with FCC radiation emission requirements at the City's reasonable request.

Subdivision 3. Maintenance. Towers and telecommunication facilities must be maintained in accordance with the following provisions:

- A. Tower owners must employ ordinary and reasonable care in construction and use commonly accepted methods and devices for preventing failures and accidents that are likely to cause damage, injuries, or nuisances to the public.
- B. Tower owners must install and maintain towers, telecommunications facilities, wires, cables, fixtures and other equipment in compliance with the requirements of the National Electric Safety Code and all Federal Communications Commission, state, and local regulations, and in such a manner that they will not interfere with the use of other property.
- C. Towers, telecommunications facilities, and antenna support structures must be kept and maintained in good condition, order, and repair.
- D. Maintenance or construction on a tower, telecommunications facilities or antenna support structure must be performed by qualified maintenance and construction personnel.
- E. All tenants on towers must comply with radio frequency emissions standards of the Federal Communications Commission.
- F. If the use of a tower is discontinued by the tower owner, the tower owner must provide written notice to the city of its intent to discontinue use and the date when the use will be discontinued.

SECTION 8. VARIANCES.

Subdivision 1. The applicant may apply for a variance from the provisions of this section to the extent expressly indicated herein.

Subdivision 2. A variance may be granted if the applicant shows by clear and convincing evidence that it or its tenants cannot meet reasonable service quality needs of end users in the city without a variance from the requirements of this section.

Subdivision 3. If the applicant makes the showing required by Subdivision 2 the City Council must consider the following additional factors in determining whether to grant a variance:

- A. Whether there are exceptional or extraordinary circumstances that apply to the property because of lot size or shape, or topography, or other circumstances over which the owners of the property have no control;
- B. Whether special conditions or circumstances exist that were not created by the applicant or the owner of the property or their predecessors;
- C. Whether the variance would be detrimental to the public or to the owners of other property in the vicinity; and
- D. Whether the variance requested is the minimum variance that would alleviate the hardship.
- E. Whether the variance is in keeping with the spirit and intent of this ordinance.
- F. Whether the variance, if granted, will not alter the essential character of the locality.

Subdivision 4. A variance will be granted only in instances where the strict enforcement of the requirements of this section would cause undue hardship. Economic consideration alone will not constitute an undue hardship if reasonable use of the property exists under the terms of this section.

SECTION 9. VIOLATION AND PENALTY.

Subdivision 1. Violation. If the permittee fails to comply with any provision of the city code, federal or state law or the conditional use permit requirements, the city may impose penalties for noncompliance, or it may revoke the permit in accordance with the following provisions.

- A. Except as provided in subdivision 1(B) below, a permit revocation shall be preceded by written notice to the permittee of the alleged violation(s), the opportunity to cure the violation(s) during a period not to exceed 30 days following receipt of the written notice and a hearing before the city council within 15 days after receiving written notice of the hearing. The hearing shall provide the permittee with an opportunity to show cause as to why the permit should not be revoked.
- B. If the city finds that exigent circumstances exists requiring immediate permit revocation, the city may revoke the permit and shall provide a post-revocation hearing at least 15 days after permittee's receipt of written notice of the hearing.
- C. Any decision to revoke shall be in writing and supported by substantial evidence contained in a written record.

Subdivision 2. Penalties.

Any person violating any provision of this Ordinance is guilty of a misdemeanor and upon conviction shall be subject to the misdemeanor penalties set forth in Minnesota Statute Section 609.02, Subdivision 3, or any laws amending or repealing such law.

SECTION 10. REPEALER.

This ordinance shall repeal all previous rules and regulations relating to commercial telecommunication service structures.

SECTION 11. EFFECTIVE DATE. This Ordinance is effective upon its adoption and publication as prescribed by law.

**CITY OF ARLINGTON
ORDINANCE 240**

**AN ORDINANCE REPEALING AND REPLACING ORDINANCE 117, 136, AND 138
RELATING TO MANAGEMENT OF FLOOD PLAINS WITHIN THE CITY OF ARLINGTON**

Effective Date: April 23, 2009

SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT AND PURPOSE

1.1 Statutory Authorization. The Legislature of the State of Minnesota has, in Minnesota Statutes Chapters 103F and Chapter 462 delegated the authority to local governmental units to adopt regulations designed to minimize flood losses. Minnesota Statute, Chapter 103F further stipulates that communities subject to recurrent flooding must participate and maintain eligibility in the National Flood Insurance Program. Therefore the City of Arlington, Minnesota does ordain as follows:

1.2 Statement of Purpose. The purpose of this Ordinance is to maintain the Community's eligibility in the National Flood Insurance Program and to minimize potential losses due to periodic flooding including loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

1.3 Warning of Disclaimer of Liability. This Ordinance does not imply that areas outside of the flood plain district or land uses permitted within such districts will be free from flooding and flood damages. This Ordinance shall not create liability on the part of the City of Arlington or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decisions lawfully made there under.

1.4 National Flood Insurance Program Compliance. This Ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the Community's eligibility in the National Flood Insurance Program.

SECTION 2.0 GENERAL PROVISIONS

2.1 Adoption of Flood Insurance Rate Map. The Flood Insurance Rate Map for the City of Arlington, dated June 17, 1986, and Panel 270620 0075B of the Flood Insurance Rate Map for Sibley County, dated January 6, 1988, developed by the Federal Emergency Management Agency are hereby adopted by reference as the Official Flood Plain Zoning District Map and made a part of this ordinance. The Flood Insurance Rate Map for the City of Arlington was previously entitled the Flood Hazard Boundary map dated May 17, 1974. The Official Zoning Map shall be on file in the office of the City Clerk-Administrator and the office of the Zoning Administrator.

2.2 Lands to Which Ordinance Applies. This Ordinance shall apply to all lands designated as flood plain within the jurisdiction of Arlington. Flood plain areas within Arlington shall

encompass all areas designated as Zone A, Zone AE, Zone AO, or Zone AH as shown on the Flood Insurance Rate Map adopted in Section 2.1 of this Ordinance.

2.3 Interpretation. The boundaries of the flood plain district shall be determined by scaling distances on the Official Flood Plain Zoning District Map. Where interpretation is needed as to the exact location of the boundaries of the flood plain district, the City Council shall make the necessary interpretation based on the ground elevations that existed on the site at the time the community adopted its initial floodplain ordinance or the date of the first National Flood Insurance Program map that placed the site in the floodplain if earlier and the regional (100-year) flood profile, if available. If 100-year flood elevations are not available, the community shall: 1) Require a flood plain evaluation consistent with Section 4.3 of this Ordinance to determine a 100-year flood elevation for the site; or 2) base its decision on available hydraulic/hydrologic or site elevation survey data which demonstrates the likelihood the site is within or outside of the flood plain.

2.4 Definitions. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application.

2.41 Accessory Use or Structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

2.42 Basement - means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

2.43 Flood Fringe - that portion of the flood plain outside of the floodway.

2.44 Flood Plain - the channel or beds proper and the areas adjoining a wetland, lake or watercourse that have been or hereafter may be covered by the regional flood. Flood plain areas within Arlington shall encompass all areas designated as Zone A, Zone AE, Zone AO, or Zone AH on the Flood Insurance Rate Map adopted in Section 2.1 of this Ordinance.

2.45 Floodway - the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain that are reasonably required to carry or store the regional flood discharge.

2.46 Lowest Floor – the lowest floor of the lowest enclosed area (including basement).

2.47 Manufactured Home – a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”

2.48 Obstruction - any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, dredged spoil, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, stockpile of sand or gravel or other material, or matter in, along, across, or projecting into any channel, watercourse, lake bed, or regulatory flood plain which may impede, retard, or change the direction of flow, either in itself or by catching or collecting debris carried by floodwater.

2.49 Recreational Vehicle – a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Ordinance, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.

2.50 Regional Flood - a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristics of what can be expected to occur on an average frequency in magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used on the Flood Insurance Rate Map.

2.51 Regulatory Flood Protection Elevation. The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

2.52 Structure - anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in Section 12.1 of this Ordinance and other similar items.

2.53 Substantial Damage – means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

2.54 Substantial Improvement – within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

(b) Any alteration of an “historic structure,” provided that the alteration will not preclude the structure’s continued designation as an “historic structure.” For the purpose of this Ordinance, “historic structure” shall be as defined in 44 Code of Federal Regulations, Part 59.1.

2.5 Annexations: The Flood Insurance Rate Map panels adopted by reference into Section 2.1 above may include floodplain areas that lie outside of the corporate boundaries of the City of Arlington at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the City of Arlington after the date of adoption of this ordinance, the newly annexed floodplain lands shall be subject to the provisions of this ordinance immediately upon the date of annexation into the City.

2.6 Severability: If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby."

SECTION 3.0 CONFLICT WITH PRE-EXISTING ZONING REGULATIONS AND GENERAL COMPLIANCE

3.1 The Flood Plain District as Overlay Zoning District. The flood plain zoning district shall be considered an overlay zoning district to all existing land use regulations of the Community. The uses permitted in Sections 4.0 and 5.0 of this Ordinance shall be permitted only if not prohibited by any established, underlying zoning district. The requirements of this Ordinance shall apply in addition to other legally established regulations of the Community and where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall apply.

3.2 Compliance: No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, repaired, maintained, or structurally altered without full compliance with the terms of this Ordinance and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Within the Floodway and Flood Fringe, all uses not listed as permitted uses in Section 4.0 shall be prohibited. In addition, a caution is provided here that:

3.21 New manufactured homes, replacement manufactured homes and certain recreational vehicles are subject to the general provisions of this Ordinance and specifically Sections 4.0 and 12.0;

3.22 Modifications, repair and maintenance, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Ordinance and specifically Section 9.0; and

3.23 As-built elevations for elevated structures must be certified by elevation surveys as stated in Section 7.0 of this Ordinance.

SECTION 4.0 PERMITTED USES, STANDARDS, AND FLOOD PLAIN EVALUATION CRITERIA

4.1 Permitted Uses in the Flood Plain. The following uses of land are permitted uses in the flood plain district:

4.11 Any use of land which does not involve a structure, a fence, an addition to the outside dimensions to an existing structure (including a fence) or an obstruction to flood flows such as fill, excavation, or storage of materials or equipment.

4.12 Any use of land involving the construction of new structures, a fence, the placement or replacement of manufactured homes, the addition to the outside dimensions of an existing structure (including a fence) or obstructions such as fill or storage of materials or equipment, provided these activities are located in the flood fringe portion of the flood plain. These uses shall be subject to the development standards in Section 4.2 of this Ordinance and the flood plain evaluation criteria in Section 4.3 of this Ordinance for determining floodway and flood fringe boundaries.

4.13 Recreational vehicles are regulated by Section 12.0 of this Ordinance.

4.2 Standards for Flood Plain Permitted Uses.

4.22 Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

4.23 Storage of Materials and Equipment:

(a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning or if placed on fill to the regulatory flood protection elevation.

4.24 No use shall be permitted which will adversely affect the capacity of the channels or floodways of any tributary to the main stream, or of any drainage ditch, or any other drainage facility or system.

4.25 All structures, including accessory structures, additions to existing structures and manufactured homes, shall be constructed on fill so that the lowest floor, including basement floor, is at or above the regulatory flood protection elevation. The finished fill elevation must be no lower than one foot below the regulatory flood protection elevation and shall extend at such elevation at least 15' beyond the limits of the structure constructed thereon.

4.26 This Section reserved for future use.

4.27 Commercial and Manufacturing Uses. Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood.

4.28 On-site Sewage Treatment and Water Supply Systems: Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

4.29 All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

4.3 Flood Plain Evaluation

4.31 Upon receipt of an application for a permit for a use or other approval within the Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the floodway or flood fringe.

(a) A typical valley cross-section(s) showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.

(b) Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets.

(c) Photographs showing existing land uses, vegetation upstream and downstream, and soil types.

(d) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

4.32 The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

(a) Estimate the peak discharge of the regional flood.

(b) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.

(c) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than .5' shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

4.33 The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the Governing Body. The Governing Body must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The Governing Body, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency

Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe District Boundaries have been determined, the Governing Body shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of this Ordinance.

SECTION 5.0 UTILITIES, RAILROADS, ROADS AND BRIDGES IN THE FLOOD PLAIN DISTRICT

All utilities and transportation facilities, including railroad tracks, roads and bridges, shall be constructed in accordance with state flood plain management standards contained in Minnesota Rules 1983 Parts 6120.5000 - 6120.6200.

SECTION 6.0 SUBDIVISIONS

6.1 No land shall be subdivided and no manufactured home park shall be developed or expanded where the site is determined to be unsuitable by the City Council for reason of flooding, inadequate drainage, water supply or sewage treatment facilities. The City Council shall review the subdivision/development proposal to insure that each lot or parcel contains sufficient area outside of the floodway for fill placement for elevating structures, sewage systems and related activities.

6.2 In the flood plain district, applicants for subdivision approval or development of a manufactured home park or manufactured home park expansion shall provide the information required in Section 4.31 of this Ordinance. The Council shall evaluate the proposed subdivision or mobile home park development in accordance with the standards established in Sections 4.2, 4.3 and 5.0 of this Ordinance.

6.3 For all subdivisions in the flood plain, the floodway and flood fringe boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

6.4 Removal of Special Flood Hazard Area Designation: The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

SECTION 7.0 ADMINISTRATION

7.1 Permit Required. A Permit issued by the Building Official shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building or structure or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system, prior to the change or extension of a nonconforming use, prior to the repair of a structure that

has been damaged by flood, fire, tornado, or any other source, and prior to the placement of fill, excavation of materials or the storage of materials or equipment within the flood plain.

7.2 State and Federal Permits. Prior to granting a permit or processing an application for a variance, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits.

7.3 Certification of Lowest Floor Elevations. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Ordinance. The Building Official shall maintain a record of the elevation of the lowest floor (including basement) for all new structures and alterations or additions to existing structures in the flood plain district.

7.4 Notifications for Watercourse Alterations. The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

7.5 Notification to FEMA When Physical Changes Increase or Decrease the 100-year Flood Elevation. As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

SECTION 8.0 VARIANCES

8.1 A variance means a modification of a specific permitted development standard required in an official control including this Ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation and this Ordinance.

8.2 The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this Ordinance as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this Ordinance, any other zoning regulations of the Community, and the criteria specified in the respective enabling legislation which justified the granting of the variance. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

8.21 Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

8.22 Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

8.23 Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

8.3 Variances from the provisions of this Ordinance may be authorized where the Board of Adjustment has determined the variance will not be contrary to the public interest and the spirit and intent of this Ordinance. No variance shall allow in any district a use prohibited in that district or permit a lower degree of flood protection than the regulatory flood protection elevation. Variances may be used to modify permissible methods of flood protection.

8.4 The Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variance sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing. A copy of all decisions granting a variance shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

8.5 Appeals. Appeals from any decision of the Board of Adjustment may be made, and as specified in this Community's Official Controls and also Minnesota Statutes.

8.6 Flood Insurance Notice and Record Keeping. The zoning administrator shall notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and 2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. This Community shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

SECTION 9.0 NONCONFORMITIES

A structure or the use of a structure or premises which was lawful before the passage or amendment of this Ordinance but which is not in conformity with the provisions of this Ordinance may be continued subject to the following conditions. Historic structures, as defined in Section 2.54(b) of this Ordinance, shall be subject to the provisions of Sections 9.1 – 9.4 of this Ordinance.

9.1 No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

9.2 A structural alteration within the inside dimensions of a nonconforming use or structure is permissible provided it utilizes flood resistant materials so as not to result in increasing the flood damage potential of that use or structure. A structural addition to a structure must be elevated to the regulatory flood protection elevation in accordance with Section 4.25 of this Ordinance.

9.3 The cost of all structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of the structure, then the structure must meet the standards of Section 4.0 of this Ordinance for new structures.

9.4 If any nonconforming use of a structure or land or nonconforming structure is substantially damaged, as defined by Section 2.53 of this Ordinance, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The City Council may issue a permit for reconstruction if the use is located outside the floodway and, upon reconstruction, is adequately elevated on fill in conformity with the provisions of this Ordinance.

9.5 If a substantial improvement occurs, as defined in Section 2.54 of this Ordinance, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of Section 4.0 of this Ordinance for new structures, depending upon whether the structure is in the floodway or flood fringe, respectively.

SECTION 10.0 PENALTIES FOR VIOLATION

A violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variance) shall constitute a misdemeanor.

10.1 In responding to a suspected ordinance violation, the Zoning Administrator and the Community may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The Community must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

10.2 When an ordinance violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the Community's plan of action to correct the violation to the degree possible.

10.3 The Zoning Administrator shall notify the suspected party of the requirements of this Ordinance and all other Official Controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the Community. If the construction or development is already completed, then the Zoning Administrator may either (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into

compliance with the official controls, or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30-days.

10.4 If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Ordinance and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition that existed prior to the violation of this Ordinance.

SECTION 11.0 AMENDMENTS

All amendments to this ordinance, including revisions to the Official Flood Plain Zoning District Map, shall be submitted to and approved by the Commissioner of Natural Resources prior to adoption. The flood plain designation on the Official Flood Plain Zoning District Map shall not be removed unless the area is filled to an elevation at or above the regulatory flood protection elevation and is contiguous to lands outside of the flood plain. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this Ordinance and said notice shall include a draft of the ordinance amendment or technical study under consideration.

SECTION 12.0 TRAVEL TRAILERS AND TRAVEL VEHICLES

Recreational vehicles that do not meet the exemption criteria specified in Section 12.1 below shall be subject to the provisions of this Ordinance and as specifically spelled out in Sections 12.3-12.4 below.

12.1 Exemption - Recreational vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in Section 12.2 below and further they meet the following criteria:

12.11 Have current licenses required for highway use.

12.12 Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.

12.13 The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

12.2 Areas Exempted For Placement of Recreational Vehicles:

12.21 Individual lots or parcels of record.

12.22 Existing commercial recreational vehicle parks or campgrounds.

12.23 Existing condominium type associations.

12.3 Recreational vehicles exempted in Section 12.1 lose this exemption when development occurs on the parcel exceeding \$500 for a structural addition to the recreational vehicle or exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation requirements and the use of land restrictions specified in Sections 4.0 of this Ordinance. There shall be no development or improvement on the parcel or attachment to the recreation vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.

12.4 New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

12.41 Any new or replacement recreational vehicle will be allowed in the floodway or flood fringe districts provided said recreational vehicle and its contents are placed on fill above the regulatory flood protection elevation determined in accordance with the provisions of Section 4.3 of this Ordinance and proper elevated road access to the site exists in accordance with Section 4.0 of this Ordinance. No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.

12.41 All new or replacement recreational vehicles not meeting the criteria of 12.41 above may, as an alternative, be allowed if in accordance with the following provisions. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate that the provisions of Sections 12.11 and 12.12 of this Ordinance will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 4.28 of this Ordinance.

EFFECTIVE DATE: This Ordinance shall be in full force and effect from and after its passage and approval and publication, as required by law and/or charter.