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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.

Accessory Dwelling Unit:

A room or set of rooms with cooking, sleeping, and sanitation facilities located on the same lot as a single family detached dwelling or twin home. Accessory dwelling units are smaller in area and intensity as compared to the main (principal) dwelling to which it is accessory.

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 (1) family or an individual and is equipped with cooking facilities.

Apartment Building: Three (3) or more apartments grouped in one (1)

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 portion thereof which is designed or used exclusively for residential purposes including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Dwelling, Apartment. See Dwelling, Multiple Family.

Dwelling, Duplex. A structure containing two separate dwelling units sharing a common entry.

Dwelling, Multiple Family. A structure containing more than four separate dwelling units sharing a common entry and hallways.

Dwelling, Quadraplex. A structure containing four separate dwelling units sharing a common entry.

Dwelling, Single Family Attached. A single family dwelling attached to two or more one-family dwellings by common roof, wall, or floor. This definition includes twin homes and townhomes. Single Family Attached Dwellings may have a common lot line or may be a common interest community with common spaces and individually owned dwelling units.

Dwelling, Single Family Detached. A dwelling unit that is not attached to any other dwelling unit by any means and which does not have any roof, wall, or floor in common with any other dwelling unit.

Dwelling, Triplex. A structure containing three separate dwelling units sharing a common entry.

Dwelling, Townhome. Two or more dwelling units within one structure sharing a common roof, vertical wall, or floor with each unit having separate ingress and egress.

Dwelling, Twin Home. A single family attached dwelling with two dwelling units within one structure divided by a common vertical wall.

Dwelling, Two Family. See Dwelling, Duplex.

Family: One (1) or more persons related by blood, marriage or adoption, or state licensed family, or not more than five (5) persons, 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 (1) 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 (2) 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 (1) 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.

Outlot: A parcel of land subject to future platting prior to development or a parcel of land which is designated for:

- A. Public or private open space.
- B. Public or private wetland buffers.
- C. Public or private conservation purposes.
- D. Rights-of-way.
- E. Utilities.
- F. Other similar purposes.

Outlots created after June 1, 2018 are deemed unbuildable and no building permit shall be issued for such properties until said outlot is platted. Except that building permits may be issued for Outlots to be used for a specific purpose such as signage or common property under a planned unit development or common interest community as designated in a developer's agreement or other agreement.

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.

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 (2) opposite exterior sides meeting a sloping roof not more than two (2) 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 twenty-four (24) inches in depth and five thousand (5,000) gallons in capacity.

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/Ag-R-2/Ag Residence & Agricultural District
- R-1 Single Family Residence District
- R-2 One- and Two-Family Residence District
- R-3 Multiple Family Residence District

BUSINESS DISTRICTS:

- B-1 Service Business District
- B-2 Central Business District

INDUSTRIAL DISTRICTS:

- I-1 Limited Industrial District
- I-2 General Industrial District

PUBLIC AND INSTITUTIONAL DISTRICTS:

- P-I Public Institutional District

PLANNED UNIT DEVELOPMENT DISTRICTS:

- PUD Planned Unit Development

MOBILE HOME PARK DISTRICT:

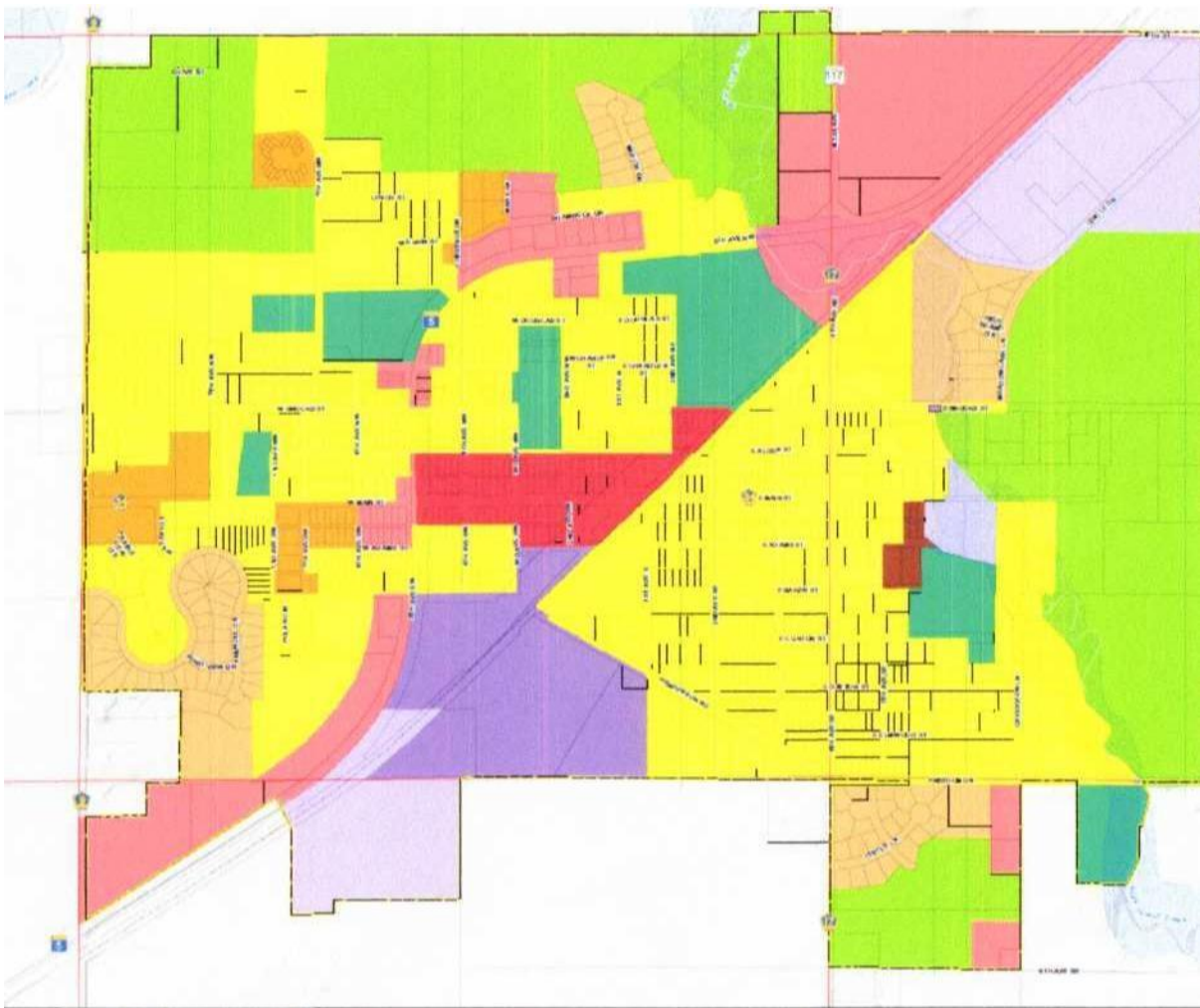
- M-1 Mobile Home Park District

UR: URBAN RESERVE DISTRICT

SECTION 4 : ZONING INSTRUMENTS.

SUBDIVISION 1. ZONING MAP.

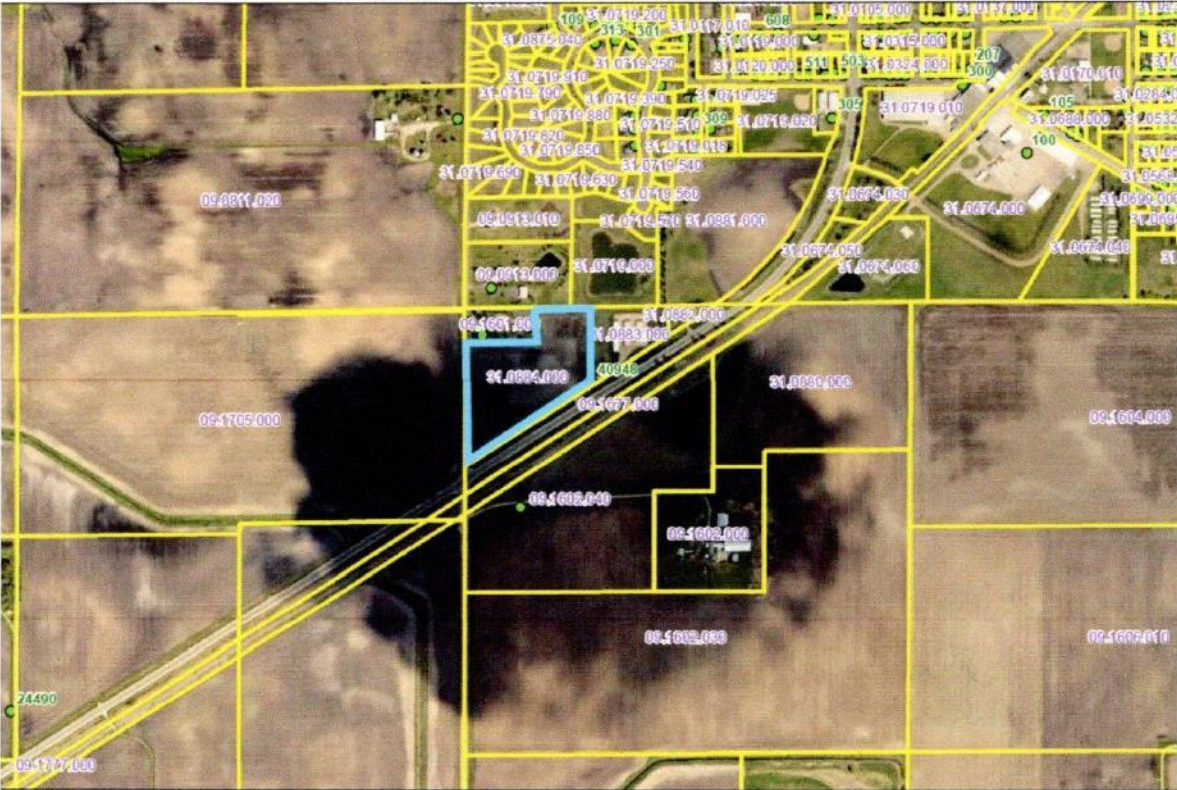
The location and boundaries of the districts established by this Ordinance are hereby set forth on the Zoning Map and said map is hereby made a part of this Ordinance, which map shall be known as the "City of Arlington Zoning Map". Said map and all notations, references, and data shown thereon are hereby 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.



SECTION 4: ZONING INSTRUMENTS.

SUBDIVISION 3. AMENDED ZONING MAP.

The official zoning map shall be amended to rezone the illustrated property (PID No. 31.0884.000) from B-1 Service Business to L-1 Limited Industrial.



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 5 URBAN RESERVE DISTRICT.

SUBDIVISION 1. PURPOSE.

The UR, Urban Reserve District is established for the following purposes:

- A. To preserve a low density, rural environment in a manner conducive to future urbanization.
- B. To protect the integrity, viability, and potential for expansion of existing agricultural uses.
- C. To allow for an orderly transition from agricultural to urban uses through implementation of the orderly annexation agreement, rezoning, and development when in compliance with the Comprehensive Plan.
- D. To defer urban development in areas adjacent to municipal boundaries until it is determined it is economically and financially feasible to extend public utilities and services to the area.
- E. To prevent premature residential subdivision of property.

SUBDIVISION 2. INTENT.

- A. The UR, Urban Reserve District is intended:
 - 1. To apply to lands within the Orderly Annexation Area but external to the corporate limits which are guided toward future urban use within the City's Comprehensive Plan.
 - 2. To implement the City's growth management strategy by prohibiting premature urban development within portions of the City's future land use area, while still allowing reasonable interim uses of these properties. Land within the Urban Reserve is intended to be preserved in current uses/densities until capital funds for the extension of urban facilities and services are committed in either an adopted capital improvement plan or as a result of a petition for extension of urban services. This implements the City's growth management goals and objectives by protecting these areas against interim subdivision that will hinder future urban development and the provision of adequate streets, water, sanitary sewer and other urban services in a cost-effective and efficient manner.
- B. The UR, Urban Reserve is intended to be an interim zone until such time as these areas can be developed at urban densities and can be provided with urban services.
- C. Land within the UR, Urban Reserve shall only be rezoned upon annexation into the city. Once annexed, these areas shall be zoned in conformance with the Future Land Use Plan contained in the City's Comprehensive Plan.

SUBDIVISION 3. PERMITTED USES.

- A. Farming, dairying, pasturage, agriculture, horticulture, and animal and poultry husbandry subject to state pollution control standards, but not including animal feedlots or other commercial operations.
- B. New non-farm dwellings at a density of no less than one (1) unit per forty (40) acres, except as provided under Subdivision 7 (A) of this Section.
- C. Continuation and maintenance of existing non-farm uses.
- 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.
- F. Field crop production.
- G. Nurseries, greenhouses, and tree farms with limited public sales.
- H. Public parks, playgrounds, recreational uses, wildlife areas, and game refuges.

SUBDIVISION 4. CONDITIONAL USES.

The following uses require a conditional use permit. Conditional use permits shall be issued as provided for in Section 22 of the Zoning Ordinance. Uses as identified below or reasonably similar to those listed below that are existing at the time this Section becomes effective shall be considered as having a conditional use permit; however, any expansion of such existing use shall require the issuance of a conditional use permit.

- A. Governmental and public utility buildings and structures.
- B. Retail or wholesale trade related to agricultural operations and services.
- C. Dwellings used for farmers or farm families providing such farm dwelling:
 - 1. Exists on a parcel or tract of record as of the establishment of this Section; or,
 - 2. Exists on a lot comprised of at least forty (40) acres and that factual evidence is submitted which establishes the dwelling as farm related (i.e. assessor's tax classification of agricultural, farm management plan, testimony by local experts, etc.).
- D. Any use allowed in the R1/R2 Agricultural Residence District, B-1 Highway Service District, B-2 Central Business District, I-1 Light Industrial District, or I-2 General Industrial District under the Zoning Ordinance provided such use is located on a lot of record in existence on the effective date of this Ordinance.

- E. Extraction of soil, minerals, and the like.
- F. Essential services.
- G. Commercial riding stables, domestic animal kennels, and similar uses.

SUBDIVISION 5. 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.
- 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 (1) 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. Accessory uses incidental and customary to uses allowed as permitted and conditional allowed within this Section.
- F. Signs:
 - 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 (1) additional sign not to exceed thirty-two (32) square feet in area.

SUBDIVISION 6. PROHIBITED USES.

- A. New or expanded agriculture feedlots.
- B. Non-farm uses on new created parcels/tracts of less than forty (40) acres, except as provided under Subdivision 7 (A) of this Section.

SUBDIVISION 7. LOT/DIMENSIONAL REQUIREMENTS.

- A. Rezoning, subdividing, or re-subdivision of property for the purpose of expanding existing non-farm uses or for developing new non-farm uses shall be prohibited, except that a one-time split of an existing parcel of record as of the adoption of this Section which results in

two (2) lots each being not less than five (5) acres may be allowed provided: soil and water conditions allow a well and an on-site sewer system, access is allowed from an existing public road, approval of such lot split is contingent upon no further division of parcels resulting from said split, and the lot split is filed with each resulting property's records at the Sibley County Recorder's Office.

B. Minimum Lot Area:

1. Parcels created after adoption of this Section: Forty (40) acres, except as provided in Subdivision 7 (A) of this Section.
2. Lots of record existing prior to adoption of this Section: Fifteen thousand, two hundred fifty (15,250) square feet (.35 acre).

C. Minimum Lot Width:

1. Parcels created after adoption of this Section: Two hundred (200) feet.
2. Lots of record existing prior to adoption of this Section: Forty (40) feet.

D. Setback Requirements:

1. Front yard setbacks of not less than thirty (30) feet from all other public rights-of-way, 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 observed smaller front yard setback shall be the minimum distance the existing structures are setback. A viewing triangle measuring twenty-five (25) feet from the intersection of the front/side property line at street intersections shall be maintained free of structures at all times.
2. Side yard setback shall be thirty (30) feet, except existing lots of record less than one hundred (100) feet in width shall have minimum side yard setbacks of ten (10) feet.
3. Minimum rear yard setback shall be thirty (30) feet.

E. Maximum Building Height: Two (2) stories or thirty (30) feet. Heights in excess of thirty (30) feet may be allowed provided a conditional use permit is issued.

F. Site Coverage: No structure or combination of structures shall occupy more than twenty (20) percent of the lot area.

SUBDIVISION 8. RIGHT TO FARM.

Minnesota Statute 561.19, as may be amended, is hereby incorporated by reference and shall be applicable to this district as agricultural uses are allowed within this district.

SECTION 6 : 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 one thousand (1,000) square feet on lots less than ten thousand one (10,001) square feet in area. Detached garages and accessory structures over one thousand (1,000) square feet are allowed under a

conditional use permit.

- D. Detached garages and accessory structures on lots greater than ten thousand (10,000) square feet provided the aggregate ground floor square footage of all detached garage/accessory structures do not occupy greater than fifteen (15) percent of the lot area. The aggregate ground floor square footage of all detached garage/accessory structures may exceed fifteen (15) percent of the lot area provided a conditional use permit is issued.
- 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 (1) 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:
 - 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): Ten thousand (10,000) square feet.
- 2. New single family detached lots (with urban services): One (1) acre – forty-three thousand, five hundred sixty (43,560) square feet.
- 3. New hobby farms, residences, agricultural dwelling sites, agricultural operations (individual, private well & septic): Ten (10) acres.

B. Minimum Lot Width: One hundred twenty-five (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 thirty (30) feet from all other public rights-of-way, 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 twenty-five (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 one

hundred (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 (2) 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.

SECTION 7 : R-1 SINGLE 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.

The following uses shall be permitted in the R-1 Residence District:

- A. Single family detached dwellings.
- B. Parks and recreational areas owned or operated by governmental agencies.
- C. 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.
- D. Churches, provided that no building shall be located within fifty (50) feet of any lot line of an abutting lot in any Residence District.
- E. Accessory Buildings and Uses:
 - 1. 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 (2) ton or heavier, and any tractor-trailer units. One (1) commercial motor vehicle of not over thirty-two (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 one thousand (1,000) square feet. Any proposed accessory structure which exceeds this square footage shall be permitted only by a conditional use permit.
 - 2. Swimming pools per Section 17, Subdivision 5.
 - 3. Reserved.
 - 4. 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 (1) 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.
 - 5. Signs: per Section 18 of this Ordinance.

- F. Funeral homes, provided side and/or rear yard screening is provided where the funeral home abuts a lot containing a residential dwelling unit.

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

Buildings or land may be used for the following if granted a conditional use permit:

- A. 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.
- B. Water supply buildings, reservoirs, wells, elevated tanks and similar essential public utility and service structures.
- C. Golf course, golf clubhouse, miniature golf course, driving tee, country club, public swimming pool, private swimming pool serving more than one (1) family, provided that no principal structure shall be located within fifty (50) feet of any lot in a residential district.
- D. Offices of business persons as a home occupation.
- E. Boarding or rental of rooms to one (1) or more persons on the premises.
- F. 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.
- G. Parking of a commercial motor vehicle of over thirty-two (32) foot length used by the resident occupant.

SUBDIVISION 3.5. USES BY INTERIM USE PERMIT WITHIN AN R-1 DISTRICT.

Buildings or land may be used for the following if granted an interim use permit:

- A. Accessory Dwelling Unit, provided:
 - 1. A maximum of one (1) accessory dwelling unit per lot is allowed within the R-1 District.
 - 2. The subject property maintains homestead classification status for property tax purposes and is occupied by the fee owner of the property.
 - 3. The accessory dwelling unit is accessory to a detached single family dwelling or twin home.
 - 4. The accessory dwelling unit is not accessory to a duplex (two-family dwelling), an apartment, or a single family attached structure containing more than two units per structure.
 - 5. The accessory dwelling unit is attached or contained within the principal structure and/or an attached garage. Detached accessory dwelling units are prohibited.

6. The accessory dwelling unit is at least 250 square feet in area.
7. The accessory dwelling unit does not exceed thirty (30) percent of the ground-floor area of the principal structure or 400 square feet, whichever is greater.
8. The accessory dwelling unit shall not alter the basic single-family appearance of the principal structure.
9. If the accessory dwelling unit has separate ingress/egress, a separate street address and separate shutoffs for water and electrical service are required.
10. One (1) off-street parking space shall be provided exclusively for the accessory dwelling unit.

SUBDIVISION 4. HEIGHT, YARD AND LOT REGULATIONS.

A. Height Regulations: No structure shall exceed two and one-half ($2\frac{1}{2}$) 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.

B. Front Yard Regulations:

1. There shall be a front yard having a depth of not less than twenty-five (25) feet, except that in a block where two (2) 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.
2. 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.

C. Side Yard Regulations:

1. 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.
2. 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.

D. Rear Yard Regulations:

1. 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.

E. General Yard Regulations:

1. Cornices, canopies and eaves may extend into a required yard at a distance not exceeding two (2) feet, six (6) inches.
2. Fire escapes may extend into a required front or rear yard at a distance not exceeding two (2) feet, six (6) inches.
3. Setback Exceptions:
 - a. A landing place or uncovered porch or deck may extend into a required front yard a distance not exceeding six (6) feet if the landing place or porch or deck 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.
 - b. Reasonable Accommodation:
 - i. In order to make housing available to an individual with a disability, property owners may request a temporary exception from any required yard for a reasonable accommodation under the federal Fair Housing Act.
 - ii. A request for a reasonable accommodation shall be made by filing an administrative permit application with the Zoning Administrator.
 - iii. Required findings to establish a reasonable accommodation:
 - a) The subject dwelling shall be used by an individual with disabilities protected under fair housing laws.
 - b) The request is necessary to make housing available to an individual with disabilities protected under fair housing laws.
 - c) The requested action shall employ conventional building materials as opposed to flimsy, temporary, or makeshift materials such as pallets, plywood, wire, mesh, dock sections, and similar materials.
 - d) The portion of the reasonable accommodation encroaching in the setback shall be removed if/when an individual with disabilities protected under fair housing laws no longer resides at the subject location.
 - e) The requested action will not impose an undue financial or administrative burden on the City.
 - f) The requested action will not require a fundamental alteration of the nature of the City's land use plan, zoning standards, and/or building code.
4. 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.

5. For lots less than ten thousand (10,000) square feet in size, a maximum of forty (40) percent of a lot may be occupied by buildings. For lots of ten thousand (10,000) square feet or more, a maximum of thirty-five (35) percent of the lot may be occupied by buildings.

F. Lot Size Regulations:

1. Every lot on which a one (1) or two (2) family dwelling is erected shall contain an area of not less than twelve thousand (12,000) square feet. For lots on which three (3) or four (4) family dwellings are erected, two thousand (2,000) additional square feet shall be provided for each dwelling unit in excess of two (2).
2. Every lot on which a one (1) or two (2) 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.
3. 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 re-subdivided to produce a lot not in full conformance with this Section.

SUBDIVISION 5. PARKING REGULATIONS.

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

SECTION 8 : R-2 ONE AND TWO FAMILY RESIDENCE DISTRICT.

SUBDIVISION 1. PURPOSE.

The R-2 Residence District is intended to provide low and medium density residential areas and restrict incompatible commercial and industrial uses.

SUBDIVISION 2. PERMITTED USES.

The following uses shall be permitted in the R-2 Residence District:

- A. Single family detached dwelling units.
- B. Single family attached dwelling units, not to exceed six attached units per structure.
- C. Duplexes, triplexes, and quadraplexes.
- D. Parks and recreational areas owned or operated by governmental agencies.
- E. 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.
- F. Churches, provided that no building shall be located within fifty (50) feet of any lot line of an abutting lot in any Residence District.
- G. Accessory Buildings and Uses:
 - 1. 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 (2) ton or heavier, and any tractor-trailer units. One (1) commercial motor vehicle of not over thirty-two (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 one thousand (1,000) square feet. Any proposed accessory structure which exceeds this square footage shall be permitted only by a conditional use permit.
 - 2. Swimming pools per Section 13, Subdivision 5.
 - 3. 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 (1) 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.
 - 4. Signs: per Section 18 of this Ordinance.

5. Funeral homes, provided side and/or rear yard screening is provided where the funeral home abuts a lot containing a residential dwelling unit.

SUBDIVISION 3. USES BY CONDITIONAL USE PERMIT WITHIN AN R-2 DISTRICT.

Buildings or land may be used for the following if granted a conditional use permit:

- A. 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.
- B. Water supply buildings, reservoirs, wells, elevated tanks and similar essential public utility and service structures.
- C. Golf course, golf clubhouse, miniature golf course, driving tee, country club, public swimming pool, private swimming pool serving more than one (1) family, provided that no principal structure shall be located within fifty (50) feet of any lot in a residential district.
- D. Offices of business persons as a home occupation.
- E. Apartment buildings housing no more than three (3) or four (4) families.
- F. Boarding or rental of rooms to one (1) or more persons on the premises.
- G. 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.
- H. Parking of a commercial motor vehicle of over thirty-two (32) foot length used by the resident occupant.

SUBDIVISION 3.5 USES BY INTERIM USE PERMIT WITHIN AN R-2 DISTRICT.

Buildings or land may be used for the following if granted an interim use permit:

A. Accessory Dwelling Unit, provided:

1. A maximum of one (1) accessory dwelling unit per lot is allowed within the R-2 District.
2. The subject property maintains homestead classification status for property tax purposes and is occupied by the fee owner of the property.
3. The accessory dwelling unit is accessory to a detached single family dwelling or twin home.
4. The accessory dwelling unit is not accessory to a duplex (two-family dwelling), an apartment, or a single family attached structure containing more than two units per structure.

5. The accessory dwelling unit is attached or contained within the principal structure and/or an attached garage. Detached accessory dwelling units are prohibited.
6. The accessory dwelling unit is at least 250 square feet in area.
7. The accessory dwelling unit does not exceed thirty (30) percent of the ground-floor area of the principal structure or 400 square feet, whichever is greater.
8. The accessory dwelling unit shall not alter the basic single-family appearance of the principal structure.
9. If the accessory dwelling unit has separate ingress/egress, a separate street address and separate shutoffs for water and electrical service are required.
10. One (1) off-street parking space shall be provided exclusively for the accessory dwelling unit.

SUBDIVISION 4. HEIGHT, YARD AND LOT REGULATIONS.

A. 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.

B Front Yard Regulations:

1. There shall be a front yard having a depth of not less than twenty-five (25) feet, except that in a block where two (2) 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.
2. 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 fifteen (15) feet, providing a viewing triangle measuring twenty-five (25) feet from the intersection of the front/side property line at street intersections shall be maintained free of structures.

C. Side Yard Regulations:

1. Detached principal structures:

- 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.

2. Attached principal structures:

- a. Except for shared (common) lot lines, each lot of less than one hundred (100) feet

in width at the building line shall have two (2) side yards, each such yard having a width of not less than four (4) feet.

- b. Except for shared (common) lot lines, each lot of one hundred (100) feet and over in width at the building line shall have two (2) side yards, each such yard having a width of not less than eight (8) feet.

- 4. Accessory structures. As required under Section 17, Subd. 6 (Accessory Structures) as may be amended.

G. Rear Yard Regulations:

- 1. 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.

E. General Yard Regulations:

- 1. Cornices, canopies and eaves may extend into a required yard at a distance not exceeding two (2) feet, six (6) inches.
- 2. Fire escapes may extend into a required front or rear yard at a distance not exceeding two (2) feet, six (6) inches.

3. Setback Exceptions:

- a. A landing place or uncovered porch or deck may extend into a required front yard a distance not exceeding six (6) feet if the landing place or porch or deck 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.
- b. Reasonable Accommodation:
 - i. In order to make housing available to an individual with a disability, property owners may request a temporary exception from any required yard for a reasonable accommodation under the Federal Fair Housing Act.
 - ii. A request for a reasonable accommodation shall be made by filing an administrative permit application with the Zoning Administrator.
 - iii. Required findings to establish a reasonable accommodation:
 - a. The subject dwelling shall be used by an individual with disabilities protected under fair housing laws.
 - b. The request is necessary to make housing available to an individual with disabilities protected under fair housing laws.

- c. The requested action shall employ conventional building materials as opposed to flimsy, temporary, or makeshift materials such as pallets, plywood, wire, mesh, dock sections, and similar materials.
 - d. The portion of the reasonable accommodation encroaching in the setback shall be removed if/when an individual with disabilities protected under fair housing laws no longer resides at the subject location.
 - e. The requested action will not impose an undue financial or administrative burden on the City.
 - f. The requested action will not require a fundamental alteration of the nature of the City's land use plan, zoning standards, and/or building code.
- 4. 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 five (25) 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.

6. Building Coverage.

- a. Detached structures. For lots less than ten thousand (10,000) square feet in size, a maximum of forty (40) percent of a lot may be occupied by buildings. For lots of ten thousand (10,000) square feet or more, a maximum of thirty-five (35) percent of the lot may be occupied by buildings.
- b. Attached structures. For lots less than ten thousand (10,000) square feet in size, a maximum of fifty (50) percent of a lot may be occupied by buildings. For lots of ten thousand (10,000) square feet or more, a maximum of forty-five (45) percent of the lot may be occupied by buildings.

F. Lot Size Regulations:

1. Minimum Lot size.

- a. Single family lots existing as of June 1, 2017: not less than 6,000 square feet.
- b. Single family lots created after June 1, 2017: 12,000 square feet.
- c. Single family attached with two units per structure and duplexes: Not less than twelve thousand (12,000) square feet in aggregate.
- d. Attached dwellings units with more than two units per structure: Not less than twelve thousand (12,000) square feet in aggregate, plus two thousand (2,000) additional square feet for each dwelling unit in excess of two (2).

2. Minimum Lot Width:

- a. Lots of record created on or after June 1, 2017: fifty (50) feet.
 - b. Lots of record created on or after June 1, 2017 and fronting on curvilinear streets and cul-de-sacs: street frontage of fifty (50) feet and a width of seventy-five (75) feet at the building line.
 - c. Lots of record created prior to June 1, 2017: fifty feet.
3. 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 re-subdivided to produce a lot not in full conformance with this Section.

SUBDIVISION 5. PARKING REGULATIONS.

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

SECTION 9 : R-3 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-3 District, unless otherwise provided by this Ordinance, no building or land shall be used except for the following:

- A. One (1) and two (2) family dwellings.
- B. Parks and recreational areas owned or operated by governmental agencies.
- C. 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.
- D. Churches, provided that no building shall be located within fifty (50) feet of any lot line of an abutting lot in any Residence District.
- E. Accessory Buildings and Uses:
 - 1. 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 (2) ton or heavier, and any tractor-trailer units. One (1) commercial motor vehicle of not over thirty-two (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 one thousand (1,000) square feet. Any proposed accessory structure which exceeds this square footage shall be permitted only by a conditional use permit.
 - 2. Swimming pools per Section 17, Subdivision 5.
 - 3. Reserved.
 - 4. 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 (1) 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.

- 5. Signs: per Section 18 of this Ordinance.
- F. Multiple dwellings, apartment buildings, townhouses.
- G. Boarding or lodging houses.
- H. Hospitals, convalescent and nursing homes.
- I. 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 (1) or more of the following uses if granted a conditional use permit:

- A. 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.
- B. Water supply buildings, reservoirs, wells, elevated tanks and similar essential public utility and service structures.
- C. Golf course, golf clubhouse, miniature golf course, driving tee, country club, public swimming pool, private swimming pool serving more than one (1) family, provided that no principal structure shall be located within fifty (50) feet of any lot in a residential district.
- D. Offices of business persons as a home occupation.
- E. Boarding or rental of rooms to one (1) or more persons on the premises.
- F. Parking of a commercial motor vehicle of over thirty-two (32) foot length used by the resident occupant.
- G. 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.

SUBDIVISION 4. HEIGHT, YARD and AREA REGULATIONS.

- A. Height Regulations: Structure shall not exceed two and one-half (2¹/₂) 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.
- B. Front Yard Regulations:
 - 1. There shall be a front yard having a depth of not less than twenty-five (25) feet.

2. There shall be a front yard on each street side of a corner lot.

C. Side Yard Regulations:

1. For one (1) and two (2) family dwellings, and their accessory buildings there shall be a side yard as required in Section 7, Subdivision 4 (C).
2. For multiple family dwellings greater than two (2) family, there shall be two (2) side yards, each such yard having a width of not less than fifteen (15) feet.

D. Rear Yard Regulations:

1. There shall be a rear yard as required in Section 7, Subdivision 4 (D).

E. General Yard Regulations:

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

F. Lot Size Regulations:

1. The minimum lot area for a one (1) or two (2) family unit shall not be less than twelve thousand (12,000) square feet.
2. Every lot on which a one (1) or two (2) 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.
3. The minimum lot area for a multiple dwelling containing three (3) or more dwelling units shall not be less than twelve thousand (12,000) square feet, plus two thousand (2,000) square feet for each dwelling unit in excess of two (2).
4. Not more than thirty-five (35) percent of a lot or plot shall be occupied by buildings.

SUBDIVISION 5. PARKING REGULATIONS.

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

1. 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.
2. For all other uses: as required in Section 7, Subdivision 5 (B).

SECTION 10 : 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:

- A. Armories, convention halls, or exhibition halls.
- B. Bowling alleys, billiards or pool halls.
- C. Bakeries employing not more than four (4) persons in the baking process.
- D. Bus Station.
- E. Cabinet, carpenter, upholstering, or furniture repair shops employing not more than four (4) persons in the construction or repair process.
- F. Dry cleaning establishments, laundries, Laundromats, self-servicing or employing not more than four (4) persons in the laundering, cleaning, and pressing process.
- G. Frozen food lockers for individuals or family.
- H. Grocery, fruit, vegetable and meat stores.
- I. Greenhouses, nurseries and garden stores.
- J. Laboratories, medical and dental.
- K. Lumber yards.
- L. Marine and boat sales and servicing establishments.
- M. Miniature golf courses, par three golf courses or archery or golf driving ranges operated for commercial purposes.
- N. Monument sales, not including processing.
- O. Mortuaries or funeral homes.
- P. Motels, hotels or apartment hotels.
- Q. Newspaper distribution agencies.

- R. Orthopedic and medical appliance stores, but not including the assembly or manufacturing of such articles.
- S. Pet and animal hospitals.
- T. Plumbing, heating and air conditioning shops and showrooms.
- U. Printing and publishing shops.
- V. Public utility structures.
- W. Municipal and government buildings.
- X. Radio and television service and repair shops.
- Y. Recording studios.
- Z. Restaurants.
- AA. Skating rinks.
- BB. Taverns.
- CC. Telephone booths (outside).
- DD. Theaters.
- EE. Vending machines for ice, soft drinks and milk sales.
- FF. Accessory uses, other than signs, customarily incident to the uses permitted in Section 6, Subdivision 2, and Section 9, Subdivision 3.
- GG. Signs: per Section 18 of this Ordinance.

SUBDIVISION 3. USES BY CONDITIONAL USE PERMIT.

Within a B-1 District buildings or land may be used for one (1) or more of the following uses if granted a conditional use permit:

- A. 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:
 - 1. The parking lot shall be surfaced with a dust-free material, and plans for the arrangement of entrances, exits, screening of exterior storage lots, and parking stalls shall accompany the request for a conditional use permit.
 - 2. Artificial lighting shall be directed away from any public right-of-way and any residential district.

3. A screen of acceptable design shall be constructed along the property line when said use is abutting any residential district.
- B. Drive-in restaurants, drive-in theaters, or similar uses that provide goods and services to patrons in automobiles, provided:
 1. A screen of acceptable design shall be constructed along the property line when said use is abutting any residential district.
 2. 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.
 3. Lighting shall be directed away from any public right-of-way and any residential district.
- C. Parking lots in setback zone.
- D. Other business activities of the same general character as listed in Section 10, Subdivision 2.

SUBDIVISION 4. HEIGHT, YARD AND AREA REGULATIONS.

A. Height Regulations:

1. The height regulations of the B-1 District shall be those of Section 9, Subdivision 4 (A).
2. On any lot abutting an R-1 District, the height regulation of the R-1 District Section 7, Subdivision 4 (A) shall be observed.

B. Front Yard Regulations: There shall be a front yard having a depth of thirty (30) feet.

C. Side Yard Regulations:

1. There shall be a side yard having a depth of ten (10) feet, except that:
 - a. 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.

D. Rear Yard Regulations:

1. There shall be a rear yard having depth of not less than twenty (20) feet, except that:
 - a. 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.

- E. Lot Coverage Regulations: Not more than fifty (50) percent of a lot shall be occupied by buildings.

SUBDIVISION 5. PARKING REGULATIONS.

- A. The required parking and loading spaces shall be provided on the premises of each use.
- B. No parking shall be allowed in any required yard except as provided in Section 10, Subdivision 3 (C).
- C. 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.
- D. 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 11 : 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:

- A. Animal or pet shops.
- B. Antique, gifts, or jewelry stores.
- Ba. Apartments mixed with compatible commercial uses in the same building provided:
 - 1. A separate ingress/egress in the rear of the building is provided for the residential units. Alternately, a separate ingress/egress from the public sidewalk in front of the building may be considered through a conditional use permit.
 - 2. Apartments may be located on the ground floor, street level provided a space is reserved for commercial uses. Said space must be at the front of the building and maintain a minimum depth of twenty-five (25) feet and a minimum width equal to the width of the structure.
- C. Apparel, dry goods, or department stores.
- D. Appliance, sewing machine sales and service, hardware, paint and wallpaper stores; bicycle sales and repair.
- E. Art and school supply, book and stationery stores.
- F. Art, photographic, music and dance studios.
- G. Bakeries employing not more than four (4) persons in the baking process.
- H. Banks, savings and loan associations, loan and finance companies.
- I. Barber and beauty shops.
- J. Business, commercial, or trade schools.
- K. Camera, or photographic supply stores, hobby, toy, or record stores, sporting goods stores; musical instrument stores.
- L. Clinic, for people only.

- M. Radio or television broadcasting or transmitting stations or studios; radio and television repair, when operated as an accessory to a retail sales establishment.
- N. Drugs, variety and five-and-ten cent stores.
- O. Dry cleaning and laundry collection stations.
- P. Professional and other business offices; employment agencies.
- Q. Furniture store, carpet and rug stores.
- R. Grocery, fruit, vegetable, floral or meat stores; candy, ice cream, soft drink or confectionary stores, excluding drive-in type service.
- S. Leather goods, and luggage; shoe stores and shoe repair service.
- T. Liquor stores and taverns.
- U. Medical supply stores.
- V. Newsstands.
- W. Laboratories.
- X. Physical culture and health clubs, gyms.
- Y. Pipe and tobacco shops.
- Z. Post offices.
- AA. Restaurants, tearooms, delicatessens, cafes, excluding drive-in type service.
- AAa. Single Family Residential Uses existing at the time of Ordinance adoption (effective date March 22, 2012).
- BB. Tailor shops.
- CC. Telephone booths (outside).
- DD. Theaters.
- EE. Accessory uses as follows:
 - 1. Any accessory use, except signs, customarily incident to the above permitted uses.
 - 2. Signs: per Section 18 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:

- A. Any business activity of the same general character as those listed in Section 11, Subdivision 2.
- B. Any of the uses listed in Section 10, Subdivision 2, except that such uses must conform to the rules set out in Section 11, Subdivisions 4 and 5.
- C. Custom or limited manufacturing, assembly, or treatment of merchandise comprised of cloth, natural or synthetic fiber, leather, ornamental metal, paper, plants, plastic, stone, wax, wood, and wool provided the following standards are met:
- D. New or used passenger automobile sales or storage lots, automobile service stations or repair shops provided:
 - 1. Vehicle parking areas shall be surfaced with a dust-free material, and plans for the arrangement of entrances, exits, and parking stalls shall accompany the request for a conditional use permit.
 - 2. Artificial lighting shall be directed away from any public right-of-way and any residential district.
 - 3. A screen of acceptable design shall be constructed along the property line when said use is abutting any residential district.
- E. All business vehicles shall be accommodated by off-street parking.
- F. Office or retail sales areas shall be maintained at the front (street-facing) side of the building.
- G. Manufacturing operations are limited to the first floor (street level) and below the first floor. Manufacturing operations shall not occur in an upper story. Manufacturing uses shall be compatible with residential uses when in a mixed use structure.
- H. To the extent possible deliveries shall be to the rear of the principal structure in an attempt to keep public streets free from interference by said delivery traffic.

SUBDIVISION 4. HEIGHT, YARD AND AREA REGULATIONS.

- A. Height Regulations: The height regulations of the B-2 District shall be those of Section 9, Subdivision 4 (1).
- B. Yard Regulations and Lot Coverage Regulations: None required except to provide off-street parking and loading if required.

SUBDIVISION 5. GENERAL REGULATIONS.

- A. Lighting shall be directed away from public right-of-way and residential districts.
- B. 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.

SUBDIVISION 6. DESIGN STANDARDS.

- A. Intent and Purpose. It is the intent of the City to promote and encourage high standards of creative, traditionally based, architectural design in the Central Business District. Activities within the Central Business District shall comply with the following design standards and guidelines. The restoration, remodeling and/or expansion of existing buildings shall, to the maximum extent possible, bring exterior facades back to the appearance they had when they were originally constructed, or maintain a similar architectural style to the original construction, or comply to the extent possible with these design standards and guidelines.
- B. Major maintenance of all buildings within the Central Business District shall be permanently kept up so that:
- (1) The visual appearance does not deteriorate to a point where the building becomes visually blighted;
 - (2) The structure becomes uninhabitable;
 - (3) The building becomes structurally deficient; or,
 - (4) The structure becomes hazardous to occupants.
- C. Site and Design Elements. New principal structures and additions to existing principal structures exceeding 50% structure size shall be designed in a manner that is sensitive to, compatible with, and reminiscent of historic building patterns in the central business district in Arlington. Said new principal structures and qualifying additions to existing principal structures shall meet this standard:
- (1) By placing the structure at the front lot line (i.e. on a property line shared with a public street).
 - (2) By purposely treating building exteriors facing public streets in a manner in which the street level story is visually distinct from any upper story of the building. This distinction can be achieved in a number of ways including, but not limited to: an intermediate cornice line, awning, or portico; a change in building materials or detailing; or, a change in window shape or treatment.
 - (3) By incorporating storefront windows as the primary design element on the street level and featuring windows as a prominent design element in upper stories of the building.
 - (4) By employing flat or pitched (gabled, hipped) roofs or a combination thereof. Where flat roofs are employed ornamental parapets or cornices are strongly recommended. Roofing material shall be the same or similar to those employed on roofs on adjacent principal structures. Metal roofing comprised of: non-commercial grade metal; pre-manufactured resin, plastic, fiber, vinyl,

or synthetic panels; or, materials not intended for roofing but employed for roofing purposes are strictly prohibited.

- (5) By securing input from the Arlington Historical Society, other historic organizations (e.g. Minnesota Historical Society; State Historic Preservation Office), and/or the Planning Commission as needed or directed.

D. Windows.

- (1) When window replacement is contemplated, replacement windows shall replicate in dimension or be larger in dimension than what is being replaced.
- (2) Windows which were reduced in size from the original dimensions shall be restored to original dimensions when physically possible.
- (3) Replacement windows shall be placed and installed in a manner that directly abuts approved exterior building materials or traditional trim material which is in keeping with the building's historical exterior trim and material.
- (4) Obstructing of transparent spaces on windows and doors with a permanent opaque material (i.e. 'boarding up' or covering with plywood or similar materials) is at all times strictly prohibited.

E. Exterior building materials.

- (1) Structures within the Central Business District that have existing brick facades are to be retained as brick, unless a conditional use permit as specified below is issued.
- (2) Stucco, exterior insulation and finish systems, and cement board siding are approved exterior building materials.
- (3) Steel, horizontal lap siding may be employed on sides of principal structures not abutting a public street.
- (4) Property owners may seek a conditional use permit to employ alternate exterior building materials providing physical samples of the proposed materials and a written narrative of why the CUP is requested are filed with the Application. The City may require alternate façade enhancements or treatments such as larger windows, additional architectural design elements, and/or more durable materials be employed as part of CUP approval.
- (5) Vertical metal panels, aluminum, vinyl, and wood are prohibited materials and not eligible for use under a conditional use permit.

SECTION 12 : 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:

- A. All uses permitted in the B-1 Service Business District.
- B. Cartage and express facilities, and railroad rights-of-way.
- C. Storage and warehousing facilities; wholesale business and office establishments.
- D. Bottling establishments.
- E. Building materials sales and storage establishments.
- F. Radio and television towers and stations; electric light or power generating stations.
- G. Engraving, printing, publishing, cartographic, and bookbinding establishments.
- H. Dry cleaning, dyeing and laundering establishments.
- I. Electrical and electronic manufacturing establishments; electrical service shops.
- J. Medical, dental, and optical laboratories.
- K. Public utility structures and governmental buildings.
- L. Jewelry, camera, and photographic manufacturing establishments.
- M. Accessory uses as follows:
 - 1. All uses, except signs, customarily incident to the above permitted uses.
 - 2. Signs: per Section 18 of this Ordinance.

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:

- A. Any manufacturing, production, processing, cleaning, storage, servicing, repair and testing of materials, goods, or products similar to those listed in Section 12, Subdivision 2, which comply with the performance standards of this district.
- B. 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.

- A. Height Regulations: No structure shall exceed two and one-half (2¹/₂) 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.
- B. Front Yard Regulations:
 - 1. 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.
 - 2. 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.
- C. Side Yard Regulations:
 - 1. 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:
 - a. 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.
- D. Rear Yard Regulations:
 - 1. There shall be a rear yard having a depth of not less than thirty (30) feet, except:
 - a. 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.
- E. Lot Area Regulations: Every individual lot, site, or tract shall have an area of not less than twenty thousand (20,000) square feet.
- F. Minimum District Area Regulations: No I-1 District shall be established on any tract containing less than ten (10) acres in single ownership or other unified control. This requirement shall not apply where the tract abuts an existing industrial district.
- G. 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.

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

1. 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.
2. 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.

B. Odors: No odors shall be detectable beyond the limits of the property.

C. 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.

D. 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.

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

1. 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.
2. 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 13 : 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:

- A. Cartage and express facilities, and railroad rights-of-way.
- B. Storage and warehousing facilities; wholesale business and office establishments.
- C. Bottling establishments.
- D. Building materials sales and storage establishments.
- E. Radio and television towers and stations; electric light or power generating stations.
- F. Engraving, printing, publishing, cartographic, and bookbinding establishments.
- G. Dry cleaning, dyeing and laundering establishments.
- H. Electrical and electronic manufacturing establishments; electrical service shops.
- I. Medical, dental, and optical laboratories.
- J. Public utility structures and governmental buildings.
- K. Jewelry, camera, and photographic manufacturing establishments.
- L. Blacksmith Shops.
- M. Creameries.
- N. Contractor's offices, shops, yards and storage facilities for plumbing, heating, glazing, painting, paperhanging, roofing, ventilating, air conditioning, lumber, masonry, electrical and refrigeration industries.
- O. Freight and transportation terminals, including airports.
- P. Fuel and ice sales and storage facilities.
- Q. Garages for storage, repair, and servicing of motor vehicles and farm implements.
- R. Gasoline and oil bulk stations and distributing plants.

- S. Highway maintenance shops and yards.
- T. Monument works.
- U. Public service structures, including power substations, gas regulator stations, sewage disposal plants, telephone exchanges, police or fire stations, elevated tanks, and waterworks.
- V. Manufacturing, processing, storage, servicing and testing establishments.
- W. Accessory uses as follows:
 - 1. Accessory uses, except signs, customarily incidental to the above permitted uses.
 - 2. Signs: per Section 18 of this Ordinance.

SUBDIVISION 3. USES BY CONDITIONAL USE PERMIT.

Within an I-2 District, buildings or land may be used for one (1) or more of the following uses if granted a conditional use permit:

- A. Any manufacturing, production, processing, cleaning, storage, servicing, repair, and testing of materials, goods, or products similar to those listed in Section 9, Subdivision 2, which comply with the performance standards of this district.
- B. Extraction, processing, or storage of sand and gravel, stone, or other raw materials.
- C. Retail and service establishments consistent with the operation of a general industrial district.
- D. Junk yards as regulated in Section 17, Subdivision 5.
- E. Sanitary landfills.

SUBDIVISION 4. HEIGHT, YARD AND AREA REGULATIONS.

- A. Height Regulations: No structure shall exceed two and one-half (2^{1/2}) stories or thirty-five (35) feet in height.
- B. Yard Regulations:
 - 1. No building shall be located within twenty-five (25) feet of any residential district.
 - 2. Except for railroad loading areas, no parking or loading space shall be located within twenty-five (25) feet of any residential district.
 - 3. Any open storage of materials or open loading areas shall be located or screened so as not to be visible from any residential district.

SUBDIVISION 5. PERFORMANCE STANDARDS.

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

1. 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.
2. 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.

B. 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.

C. 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.

SECTION 14 : P-I PUBLIC AND INSTITUTIONAL DISTRICT.

SUBDIVISION 1. PURPOSE.

The purpose of the P-I Public and Institutional District is to provide for uses of a public or institutional nature. Public/institutional district uses are 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:

- A. City, state, and federal governmental facilities such as administrative offices, service buildings, and postal offices.
- B. Libraries, community centers, museums, and public art galleries.
- C. Fire stations, police stations, and public works facilities.
- D. Public parks and recreational areas.
- E. Religious institutions or places of worship limited to worship and related social events or educational facilities.
- F. Hospitals, nursing homes, and medical clinics.
- G. Public educational facilities.
- H. Cemeteries.
- I. Public utilities and services.
- J. 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:

- A. 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:
 - 1. Consistency with the Comprehensive Plan.
 - 2. Compliance with applicable facility plans.

3. 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.
4. 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.
5. 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:

- A. Outdoor storage.
- B. 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:

- A. Accessory uses incidental and customary to uses allowed as permitted, conditional, interim and administrative permits in this Section.
- B. Off-street parking and loading.
- C. Signs as regulated by Section 18 of this Ordinance.
- D. Accessory uses subordinate to educational, government, and/or public facilities such as:
 1. Playgrounds.
 2. Athletic facilities.
 3. Portable buildings.
 4. Office and maintenance buildings.
 5. Field houses.
 6. Satellite educational facilities resulting from specific subjects taught at an educational institution such as greenhouses, grow houses, gardens, independent laboratories, construction laboratories.
 7. Satellite training facilities.

8. Similar uses considered reasonably beneficial to educational, governmental, and/or public purposes providing they are consistent with the Comprehensive Plan.

SUBDIVISION 6. PERFORMANCE STANDARDS.

A. Lot Requirements.

1. Minimum Lot Size: None.
2. Lot Width Requirement: None.
3. Minimum Frontage on a Public Street: At least twenty-five (25) feet of a lot must front on a public street.

B. Front, Side and Rear Yard Requirements:

1. Front yard setback shall be thirty (30) feet or the average setback of structures on abutting lots.
2. 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.
3. 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.
4. Required Side/Rear Yard Screening: Where a P-I use abuts property guided for single or two (2) 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 (2) 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 (10) feet. Required screening shall not interfere with snow storage or sight lines at intersections but may encroach into required setbacks.

- C. Maximum Building Height: Maximum building height is forty (40) feet or the average height of the principal structures on adjacent lots on the same side of the street, whichever is less.

D. Lot Coverage: Not more than seventy-five (75) percent of a lot shall be occupied by structures.

E. Other Building/Development Requirements:

1. Development/site plan review is required.
2. Any lights used for exterior illuminations shall be directed away from adjacent properties.
3. Parking lots abutting residential uses shall be screened so as to reasonably dilute headlights from trespassing onto said residential property.

SECTION 15 : PLANNED UNIT DEVELOPMENT DISTRICT.

SUBDIVISION 1. PURPOSE AND INTENT.

The purpose of this Section 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 Ordinance, “PUD” shall mean the same as “planned unit development.”

SUBDIVISION 2. DEFINITIONS.

Development, Greenfield shall mean development proposed for sites not previously serviced by centralized water, sanitary sewer, or storm sewer service.

Planned Unit Development (PUD) shall refer to one (1) 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.

PUD, Residential Cluster shall mean a residential plan/plat proposing a transfer of allowable net density from one (1) portion of the PUD to another as a means of preserving environmentally significant or sensitive areas under Subdivision 3 (A) of this Section, preserving architectural or historically important existing structures under Subdivision 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 Subdivision 3 (E) of this Section.

PUD, Residential Open Space shall mean a residential plan/plat proposing a transfer of allowable net density from one (1) portion of the PUD to another as a means of preserving in perpetuity or establishing and preserving in perpetuity open space amenities under Subdivision 3 (B) of this Section.

PUD, Residential Amenity shall mean a primarily residential plan/plat proposing a transfer of allowable net density from one (1) portion of the PUD to another as a means of providing for a unique scenic or recreational amenity or facility under Subdivision 3 (G) of this Section.

PUD, Residential Mixed Use shall mean a primarily residential plan/plat proposing a transfer of allowable net density from one (1) portion of the PUD to another as a means of providing for mixed housing types and values combined with site amenities under Subdivision 3 (C) of this Section.

PUD, Commercial Mixed Use shall mean a transfer of allowable net density from one (1) portion of the PUD to another as a means of combining commercial storefronts and residential dwelling units within a single structure under Subdivision 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 Subdivision 3 (E) of this Section.

Project Area, Gross shall mean the total area proposed to be developed as a PUD.

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 (1) 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) exists:

- 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 (1) 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 (i.e. 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 Administrator.
- 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 (1) 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 Subdivision 3 (A) or Subdivision 3 (B) or Subdivision 3 (C) or Subdivision 3 (G) is combined with a public benefit under Subdivision 3 (D), Subdivision 3 (E), or Subdivision 3 (F) of this Section. Such density increases shall not be greater than one hundred thirty-three (133) percent of that allowed by the underlying zoning district(s).
 - 3. The Zoning Administrator shall calculate the number of units allowed within a PUD. To make this calculation the Zoning Administrator 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

Administrator shall calculate the number of units available by dividing the net project area by the lot size required by the underlying zoning 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 Subdivision 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 Subdivision 3 (E) of this Section shall be allowed within the Central Business District, the R-2 District, or any combination of the two (2). 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 (1) 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 PUD'S.

- 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 (i.e. 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 thirty (30) percent 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 twenty-four (24) feet so as to provide adequate clearance for emergency vehicles. Parking may be restricted on one (1) 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 to 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.

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 Ordinance 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 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 Section. The Zoning Administrator 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 Section 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 PUD’S – CONTENTS OF COMPLETE APPLICATION.

- A. The applicant shall file with the City a preliminary development plan (ten {10} large scale copies and one {1} 11"x17" 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 |
| Key map showing location of tract with reference to surrounding area. | X | X | X | X | X |
| A listing of required and proposed performance standards including lot area, width, depth, setbacks, | G | 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 |
|---|------------------|----------------------|------------------|----------------|------------|
| lot coverage, and required parking. | | | | | |
| North arrow and scale. | X | X | X | X | X |
| Proof taxes are current. | | X | X | X | X |
| Appropriate certification blocks. | | | X | | X |
| Existing and proposed legal descriptions. | | | X | | X |
| Acreage of tract. | G | X | X | X | X |
| Location and dimensions of existing and proposed streets. | G | X | X | X | X |
| Proposed lot lines and area of lots in square feet. | | X | X | X | X |
| Existing or proposed deed restrictions or covenants. | X, existing only | X | X | X | X |
| Existing or proposed easements or land reserved for or dedicated to public use. | X | X | X | X | X |
| Proposed development staging or timeline for development. | G | X | X | X | X |
| List of required regulatory approvals or permits. | | X | X | X | X |
| Requested or obtained variances. | G | X | X | X | X |
| Requested or obtained rezoning. | G | X | X | X | X |
| Payment of application fee. | | X | X | X | X |
| Setting & Environmental Information | | | | | |
| Property boundaries of all parcels within 200' of the subject parcel. | | X | X | X | X |
| Existing streets, water courses, flood plains, wetlands, or other environmentally sensitive areas on and within 200' of the subject site. | G | X | X | X | X |
| Existing rights-of-way and/or easements on and within 200' of the subject site. | G | X | X | X | X |
| Topographical features of the subject property. | G | X | X | X | X |
| Existing and proposed contour intervals for subject property and within 200' of the subject site. | | X | X | X | X |
| Boundary, limits, nature, and extent of wooded areas, specimen trees, and other significant physical features. | G | 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 |
|--|--------------|----------------------|------------------|----------------|------------|
| Existing system of drainage of subject site. | | X | X | X | X |
| Drainage area map. | | X | X | X | X |
| Drainage calculations. | | X | X | X | X |
| Perc tests. | | X | X | X | X |
| Improvements & Construction Information | | | | | |
| Proposed utility infrastructure plans, including sanitary sewer, water, and storm water management. | | X | X | X | X |
| Soil erosion and sediment control plans. | | X | X | X | X |
| Spot and finished elevations at all property corners, corners of all structures or dwellings, existing or proposed first floor elevations. | | X | X | X | X |
| Construction details. | | X | X | X | X |
| Road and paving cross sections and profiles. | | X | X | X | X |
| Proposed street names. | | X | X | X | X |
| New block and lot numbers. | | X | X | X | X |
| Lighting plan and details. | | X | X | X | X |
| Landscape plan and details. | | X | X | X | X |
| Site identification signs, traffic control signs, and directional signs. | | X | X | X | X |
| Vehicular and pedestrian circulation patterns. | G | X | X | X | X |
| Parking plan showing spaces, size and type, aisle width, curb cuts, drives, driveways, and all ingress and egress areas and dimensions. | | X | X | X | X |
| Preliminary architectural plan and elevations. | | | | X | X |

SUBDIVISION 13. PRELIMINARY PUD'S – 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 Resolution 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-platted 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 Commission 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 one hundred twenty {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 PUD'S – 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 PUD’S – MINOR AND MAJOR CHANGES TO AN APPROVED PRELIMINARY PUD PRIOR TO FINAL PLAN APPROVAL.

- A. A proposed minor change to an approved PUD requires 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 non-residential 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 non-residential structures.
 - 5. A decrease in the amount of landscaping, site perimeter buffering, and open space.
 - 6. An increase in traffic volumes or change in circulation patterns which impacts surrounding development.

SUBDIVISION 16. FINAL PUD’S – CONTENTS OF COMPLETE APPLICATION.

- A. Within twelve (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 Subdivision 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 PUD'S – 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 Resolution 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 Ordinance 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 PUD'S – 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 Subdivision 11 of this Section.

SUBDIVISION 19. FINAL PUD'S – EXTENSION OF TIME FOR FILING.

For good cause shown, the City, at its discretion, may grant an extension of time of one (1) year for filing the final PUD and required accompanying papers, and may grant additional one (1) 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 PUD'S – FAILURE TO FILE – TERMINATION.

- A. In the event the final PUD or any required attendant papers are not filed within twelve (12) months following approval of a preliminary PUD, except as provided elsewhere in this Section 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 twelve (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 (5) years of receiving preliminary approval.
- C. The time period for filing of final PUD's 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 Section; provided, that in all cases when more than two (2) 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 PUD’S – ADJUSTMENTS TO APPROVED FINAL PUD.

- A. The Zoning Administrator is authorized to allow adjustments in accordance with Subsection B (which immediately follows this Subsection). The Zoning Administrator 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 twenty (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 Administrator 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 one hundred ten (110) percent of the estimated 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 Section, 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 (1) 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 Administrator 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 be 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 (1) 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 (5) years from the date of approval of a final PUD with an associated subdivision, or two (2) 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 (1) year or more, and if no extension of time has been granted as provided 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 Section; however, in all cases, when more than five (5) years have elapsed subsequent to the date of approval of a final PUD with associated subdivision, or more than two (2) 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 the subdivision is in compliance with the Subdivision Ordinance or the lot(s)/division(s) of a subdivided PUD were subsequently conveyed.

SECTION 16 : 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.

A. Minimum Density and Area Requirements: Lot areas and density as hereby established shall be considered the minimum requirements within a mobile home park:

1. The establishment of a mobile home park from the date of this Ordinance shall be allowed only by conditional use permit.
2. 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.
3. 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.
4. Minimum lot area per mobile home unit shall be fifty (50) foot frontage by one hundred (100) foot depth, excluding private drives, parking spaces and street rights-of-way.

B. Lot Coverage and Setback Requirements:

1. Maximum lot coverage for mobile home parks shall be twenty-five (25) percent.
2. 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.
3. 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.

C. General Internal Park Development Requirements:

1. There shall be a minimum front yard setback from the mobile home unit to the street line of fifteen (15) feet.
2. 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.

3. The entire mobile home park shall be landscaped (excluding hard surfaced area) and there shall be planted, or otherwise located, one (1) shade tree with a minimum diameter of two (2) inches placed and maintained near each unit pad.
4. 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.

D. Parking and Street Requirements:

1. Parking:

- a. Off-street parking areas shall be surfaced in accordance with the street surface standards below.
- b. 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.
- c. A minimum of two (2) spaces of parking must be provided for each mobile home unit space provided within the park. One (1) 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.

2. Streets:

- a. 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.
- b. Streets shall have a minimum width so as to permit two (2) moving lanes of traffic. Minimum lane width shall be ten (10) feet.
- c. 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.
- d. 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.
- e. 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.

- E. Storage: Enclosed storage lockers when provided, shall be located either adjacent to the mobile home unit 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.

F. Registration:

1. 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:
 - a. The name and address of each mobile home occupant.
 - b. The name and address of the owner of each mobile home.
 - c. The make, model, year and license and number of each mobile home.
 - d. The state, territory or county issuing such license.
 - e. The date of arrival and departure of each mobile home.
 - f. The number and type of motor vehicles of residents in the park.
2. 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.

- G. 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.

- H. 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.

- I. 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 manufacturer's approved 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 homes shall be constructed after June 15, 1976, and bear the Housing and

Urban Development (H.U.D.) certification seal.

J. Mobile Homes Requiring a Conditional Use Permit: Any newly installed manufactured home older than fifteen (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:

1. Interlocked smoke detectors are required in each bedroom and in the corridor.
2. The windows must be double glazed.
3. One (1) egress window is required from each bedroom.
4. Gas piping installation must be retested, re-inspected and approved by the City of Arlington's Building Official.
5. The electrical service must be a minimum of one hundred (100) amp circuit breaker type with ground fault interruption.
6. A building permit is required if approval of the conditional use permit is granted.
7. Compliance with Minnesota Statutes 327.32 and 327.34 and other applicable building codes and standards and regulations.

SECTION 17 : GENERAL REGULATIONS.

SUBDIVISION 1. ADDITIONAL HEIGHT REGULATIONS AND MODIFICATIONS.

- A. Public, semi-public or public service buildings, hospitals, institutions, schools or churches may be erected to a height not exceeding two and one-half ($2\frac{1}{2}$) 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.
- B. Height limitations as set forth elsewhere in this Ordinance, may be increased by one hundred (100) percent when applied to the following:
 - 1. Monuments.
 - 2. Flag poles.
 - 3. Cooling towers.
- C. 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:
 - 1. Church domes, spires, belfries and roof ridges.
 - 2. Chimneys or smokestacks.
 - 3. Television and radio broadcasting antennae.
 - 4. Fire towers.
 - 5. Water towers.
 - 6. 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 rules.

SUBDIVISION 3. MODULAR HOMES.

- A. 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.
- B. No modular home shall have ground floor space of less than eight hundred (800) square

feet, or a width of less than twenty-four (24) feet at its narrowest point.

- C. 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.
- D. 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 six (6) inches. The modular home must be manufactured in compliance with applicable state law.

SUBDIVISION 4. FOUNDATIONS.

- A. 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.
- B. Private and public garages and other storage and/or utility structures (larger than ten by twelve {10x12} feet) 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 one (1) foot depth below the ground surface. Any storage or utility structure ten by twelve (10x12) feet or smaller shall be placed on a minimum leveled four (4) inch gravel or rock base with rodent barrier.
- C. Buildings of pole shed construction shall be anchored with zero point six (0.60) pounds per cubic foot pressure treated poles set on concrete cookies, said concrete cookies to be set at least four (4) feet below the surface of the ground.

SUBDIVISION 5. SWIMMING POOLS.

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

- A. A pool or spa shall not be constructed beneath overhead utility lines of any type or above underground utility lines of any type.
- B. Permanent and seasonal swimming pools and associated pump/filter installations shall not be located closer than four (4) feet to any lot line.
- C. 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 (5) feet in height with vertical openings not exceeding four (4) inches per opening. Mechanically controlled covers can be used in lieu of fencing requirements.
- D. 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.

- E. 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 Subsection C (above). If a ladder is used, it shall be removed or retracted when the pool is not being attended.
- F. 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 Subsection C (above).
- G. 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 five thousand (5,000) gallons in capacity and a twenty-four (24) inch depth.
- H. 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.

SUBDIVISION 6. ACCESSORY STRUCTURES.

- A. Agricultural buildings on agricultural properties and properties zoned I-2, General Industrial are exempt from the requirements of this Section.
- B. 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.
- C. Accessory buildings or structures shall not be constructed on any lot prior to the construction of a principal building.
- D. 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, Subdivision 6 (L) and Section 15 of the 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.
- E. 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.

- F. 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:
11. Roof orientation and pitch, excluding flat roofs.
 12. Roof type (i.e. gabled or hipped).
 13. Eave, overhang depth, and fascia/soffit type and appearance.
 14. As an exterior material, steel siding and/or roofing is allowed provided it is architectural grade with concealed fasteners.
 15. Galvanized and unpainted steel are prohibited as exterior building materials.
 16. Exterior color.
- G. Size Limit: Accessory structures shall be clearly and reasonably subordinate to the principal structure in terms of both scale and bulk.
1. The total square footage of a garage attached to an existing principal structure shall not exceed sixty (60) percent of the foundation size of the dwelling unit to which it is attached, unless a conditional use permit is issued as provided in Section 13, Subdivision 8 (A) (5) and Section 15, of this Ordinance, as may be amended.
 2. Total accessory structure square footage, excluding attached garages shall not exceed ten (10) percent of the lot area or five hundred seventy-six (576) square feet whichever is greater within the R-1, R-2, manufactured home or any commercial district unless a conditional use permit is issued. In addition, aggregate square footage of building coverage per lot shall not exceed the maximum allowed within the applicable zoning classification.
 3. 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. In addition, aggregate square footage of building coverage per lot shall not exceed the maximum allowed within the applicable zoning classification.
- H. 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 is issued meeting the standards of Section 17, Subdivision 6 (L) and Section 22 of the Zoning Ordinance. 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 (3) total structures are allowed.

I. Accessory Structure Setback Requirements:

| District | Side, Interior | Side, Corner | Rear |
|-------------------------|-----------------------------|--|--|
| Residence & Ag District | Underlying zoning standard. | Underlying zoning standard for front yard. | Five (5) feet unless rear loading, then ten (10) feet. |
| R-1 | Underlying zoning standard. | Underlying zoning standard for front yard. | Five (5) feet unless rear loading, then ten (10) feet. |
| R-2 | Underlying zoning standard. | Underlying zoning standard for front yard. | Five (5) feet unless rear loading, then ten (10) feet. |
| Manufactured Home | Underlying zoning standard. | Underlying zoning standard for front yard. | Five (5) feet unless rear loading, then ten (10) feet. |
| Commercial | Underlying zoning standard. | Underlying zoning standard for front yard. | Underlying zoning standard. |
| Industrial | Underlying zoning standard. | Underlying zoning standard for front yard. | Underlying zoning standard. |

J. 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:

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

K. Accessory structures shall not encroach upon easements.

L. Conditional Use Permit 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 22 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 22 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 a scale/size difference between the principal and accessory structure with the accessory structure being clearly subordinate to the principal structure.
 - 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 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.
 - f. 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).
 - g. 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 22 of the Zoning Ordinance.

SUBDIVISION 7. WIND ENERGY CONVERSION SYSTEMS (WECS).

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.

- A. Ornamental wind devices that are not a WECS shall be exempt from the provisions of this Section.
- B. Definitions:

Commercial Wind Energy Conversion System (WECS): A WECS of equal to or greater than forty (40) kW in total nameplate generating capacity.

Feeder Line: A power line that carries electrical power from one (1) 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.

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 Code Chapter 28 relating to Towers, as may be amended.

Non-Commercial WECS: A WECS of less than forty (40) kW in total nameplate generating capacity.

Rotor Diameter: The diameter of the circle described by the moving rotor blades.

WECS Tower: A vertical structure that supports an electrical generator, rotor blades, and/or meteorological equipment used in the operation of a WECS.

WECS Total Height: The highest point above ground reached by a rotor tip or any other part of the WECS.

WECS Tower Height: The total height of the WECS exclusive of the rotor blades.

Wind Energy Conversion System (WECS): An electrical generating facility comprised of one (1) or more wind turbines and accessory facilities, including but not limited to: power lines, transformers, substations, and meteorological 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.

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.

C. Conditional Use Permit Required:

1. The erection of a WECS shall require a conditional use permit, as prescribed by Section 22 of the Zoning Ordinance.
2. Commercial WECS shall only be allowed as conditional uses within industrial districts or on property owned by the City of Arlington or the Arlington EDA.
3. Non-Commercial WECS 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 setbacks between the WECS and property lines.
4. All applications for a WECS conditional use permit shall be accompanied by a site plan drawn to scale and dimensioned displaying the following:
 - a. The names of project applicants and property owners.
 - b. Project address and legal description.

- c. A description of the project including: nameplate generating capacity, proposed tower height, and proposed rotor diameter.
- d. Proposed site layout.
- e. Engineer's certification of structure design, electrical design, and fall zone.
- f. 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.
- g. 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.
- h. An elevation drawing of the premises accurately depicting the proposed WECS and its relationship to structures on the subject site and adjacent lots.
- i. A written statement or map describing how the proposed structure relates to existing arrival/departure corridors utilized by air ambulances.
- j. In addition, applications for commercial WECS shall include:
 - i. An FAA permit application, if required.
 - ii. A decommissioning plan.

D. Performance Standards:

- 1. A WECS shall not interfere with hospital heliport approach/departure corridors as defined by the Minnesota Department of Transportation.
- 2. Setbacks:
 - a. No part of a WECS (including guy wire anchors) shall be located within or above any required front, side, or rear yard setback.
 - b. WECS towers shall be setback from all property lines a total of one hundred ten (110) percent of the WECS total height.
- 3. Blade arcs created by the WECS shall have a minimum of thirty (30) feet of clearance over any structure or tree.
- 4. Each WECS shall be equipped with both a manual and automatic braking device capable of stopping the WECS operation in high winds (forty {40} miles per hour or greater).
- 5. 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 (1) of the following provisions:

- a. Tower climbing apparatus shall not be located within twelve (12) feet of the ground.
 - b. A locked anti-climb device shall be installed on the tower.
 - c. Towers capable of being climbed shall be enclosed by a locked, protective fence at least six (6) feet high.
6. 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.
 7. 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.
 8. WECS shall be designed and constructed so as not to cause radio and television interference.
 9. Noises emanating from the operation of WECS maintain compliance with Minnesota Pollution Control Standards.
 10. No WECS shall be interconnected with a local electrical utility company until the utility company has reviewed and commented on it.
 11. Standard drawings of the structural components of the WECS 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.
 12. WECS electrical equipment and connections shall be designed and installed in adherence to the Electrical Code.
- E. 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.
 - F. 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.

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.

- A. All single family attached and detached residential dwelling units constructed or moved into the City shall meet the following design standards.

1. 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.
2. The exterior walls 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.
3. Each dwelling unit shall have at least a four-twelve (4:12) roof pitch and shall be covered with shingles, tiles, or a concealed-fastener metal roof, unless a conditional use permit is issued as provided in Section 17, Subdivision 8 (A) (5) and Section 22 of this Ordinance, as may be amended.
4. The total square footage of an attached garage(s) shall not exceed sixty (60) percent of the foundation size (alternately, main floor area) of the dwelling unit to which it is attached, unless a conditional use permit is issued as provided in Section 17, Subdivision 8 (A) (5) and Section 22 of this Ordinance, as may be amended.
5. Conditional Use Permit 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 22 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 22 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 structural orientation and structural setting so as to blend in with the surrounding locale.
 - (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 general compatibility with adjacent and other property in the district.

d. Prior to approving the CUP the City shall consider the action in relation to the specific policies and provisions of Section 22 of the Zoning Ordinance.

SUBDIVISION 9. TEMPORARY STRUCTURES.

A. Purpose: The purpose of this Subdivision is to provide for the regulation of the erection of temporary structures, and structures needed for emergency purposes or for temporary use during the construction of a permanent structure.

B. Intent: The intent of this Subdivision is to protect and provide for the public's health, safety, and welfare and to protect adjacent property values from being negatively impacted.

C. Temporary Structure Defined: A temporary structure is defined as any structure erected or placed on site for less than a total of ninety (90) days from the date of installation. These structures may include, but are not limited to: camping tents, portable shelters, wedding/party tents, facilities in conjunction with construction or emergency activities, cargo containers, and storage pods. Any structure not considered a temporary structure shall be considered a permanent structure and treated as such.

D. Cargo Container Defined: Any portable, weather-resistant receptacle, container, or other structure that is designed or used for the storage or shipment of household goods, commodities, building materials, furniture, or merchandise. A cargo container is typically rented for a temporary use and is delivered and removed from the property via a truck. Cargo containers include, but are not limited to, storage pods, bins, containers, semi-trailers, boxcars, etc.

E. Removal of Temporary Structure: Temporary structures are to be removed when the designated time period, event, or use for which the temporary structure has been created has ceased.

F. Procedure: Temporary structures governed by this Ordinance shall be allowed by an administrative permit, as may be issued by the Zoning Administrator, in all zoning districts except as otherwise provided by this Section.

G. Site Plan Required: A site plan as defined in this Ordinance is required in conjunction with the application for an administrative permit in conjunction with the establishment of new or remodeled temporary structures.

H. Special Requirements for Temporary Structures:

1. There shall be a time limit established for temporary structures to remain on a site as

a part of the administrative permit. Temporary structures allowed by administrative approval shall be limited to a total of ninety (90) days in duration. Applicants shall acknowledge and certify the temporary structure shall be in place for ninety (90) days or less. The Planning Commission may extend the ninety (90) day time limit if a practical difficulty exists for a one (1) time additional term not to exceed ninety (90) additional days. The applicant bears the burden of proving a practical difficulty exists. Any structure in place over ninety (90) days within a twelve (12) month period is not considered a temporary structure.

2. Temporary structures shall follow the required building setbacks of the zoning district it is located in. The temporary structure is to be located to the interior side yard or rear yard of the site and its proposed location will be reviewed as a part of the administrative permit process and site plan review. Placement of temporary structures in front or street-side yards of corner lots is strictly prohibited.
 3. No temporary structure shall be allowed to be serviced by water, sewer, electric, gas or any other type of utility.
 4. All applicable requirements of the State Building Code shall be met.
 5. There can be no more than one (1) temporary structure per parcel.
 6. The structure must be sufficiently anchored to withstand overturning, uplifting, or sliding from an eighty (80) mile-an-hour wind.
 7. The structure must be able to withstand a snow load of twenty (20) pounds per square foot if the structure will be in place at any time during the months of November through April.
 8. No temporary structure shall be placed on a right-of-way or utility easement without receiving prior approval from the City Council.
 9. Party tents or tents for promotional sales shall be allowed up to ten (10) calendar days per year without having to obtain an administrative permit.
 10. Temporary structures larger than one hundred twenty (120) square feet shall require an interim use permit.
 11. If a dispute arises between the City and a property owner over a particular use of a structure, a representative of the City has the right to inspect the structure to determine the proper use of the structure.
 12. Temporary structures shall not be used for habitation purposes.
- I. Special Requirements for Construction Trailers or Emergency Purposes:
1. Construction trailers and temporary structures used for emergency purposes shall be allowed administratively.
 2. No administrative permit shall be issued for construction trailers or structures used for emergency purposes unless a site plan has been approved, if applicable, or unless a

building permit has been issued for a new structure, addition, or remodeling of an existing structure on the property.

3. No trailers shall be allowed to be used as temporary sales offices.
 4. The administrative permit shall terminate twelve (12) months from its date of issuance or within thirty (30) days after a certificate of occupancy has been issued by the Building Official for the permanent structure replacing the temporary emergency structure, whichever occurs first, unless a different time schedule is approved as part of the permit.
 5. Construction trailers and temporary structures used for emergency purposes shall follow the required building setbacks of the zoning district it is located in.
 6. All applicable requirements of the State Building Code shall be met.
 7. Provisions for utilities shall be subject to the review and approval of the Building Official.
 8. Off-street parking, signage, and security measures such as lighting shall be implemented subject to the review and approval of the Zoning Administrator
- J. Practical difficulty: The City Council may issue an interim use permit for temporary structures, including manufactured homes, when a determination of practical difficulties exists upon the property. An interim use permit may be issued for the following practical difficulties:
1. Reconstruction: During the reconstruction of a home or business that has been damaged or destroyed and is uninhabitable. The City Council may grant a permit for a period not to exceed one (1) year in any zoning district.
 2. The City Council may grant an interim use permit with stipulated time limitations for the temporary utilization of manufactured homes or other temporary structures as living quarters when a practical difficulty is found to exist. This standard applies only to the use of temporary structures as living quarters. The following conditions shall apply in such situations:
 - a. Any person requiring such temporary habitation shall make application to the City Council for an interim use permit. The request shall state the location, type of structure, length of time the structure will be used, and the reason for the need of such structure.
 - b. The Zoning Administrator and Building Official shall review each proposal and report their findings and recommendations to the City Council.
 - c. If the City finds that the public health, safety, and general welfare will not be impaired and will not be affected adversely, it may grant a temporary habitation permit, provided that the person so applying shall enter into a written agreement with the City as to when such use is to cease. No permit for temporary habitation shall be granted for a period longer than one (1) year, and the City may revoke such permit upon ninety (90) days written notice if and when it finds:

- (1) That the public health, safety, and general welfare are being impaired by such habitation.
- (2) That the continued existence of such use conflicts with the City's Comprehensive Plan.
- (3) The temporary habitation structure has been abandoned or put to any use other than that stated in the application as the reason for the need of such habitation.
- (4) That the value of public or private property is being affected adversely thereby.
- d. The utilities serving temporary habitation shall comply will all applicable city, county, and state rules.
- e. Any material used to insulate around the exterior of or underneath such temporary habitation shall be non-combustible and non-toxic
- K. Right of Appeal: Any property owner who disagrees with the denial of a permit under this Subdivision, or disagrees with conditions imposed for the issuing of a permit, shall have the right to appeal the decision of the Zoning Administrator to the Board of Zoning Appeals and Adjustments, as set out in City Ordinance.
- . Opt-Out of Minnesota Statutes, Section 462.3593 as may be amended from time to time. Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of Arlington, Minnesota opts-out of the requirements of Minn. Stat. 462.3593, which defines and regulates Temporary Family Health Care Dwellings.

SUBDIVISION 10. SOLAR ENERGY SYSTEMS.

- A. Purpose. The purpose of this Subdivision is to allow for rooftop and building integrated solar energy systems as accessory uses in certain zoning classifications.
- B. Findings. The City finds certain solar energy systems, accessory to existing uses, benefit the public health, safety, and welfare by:
 - 1. Promoting the use of and investment in an abundant, clean, and renewable energy resource,
 - 2. Promoting a reduction in greenhouse gas emissions,
 - 3. Supporting local utility cost savings, and
 - 4. Creating access to community-based solar energy.
- C. Definitions. For the purpose of this Section, certain terms and words are defined as follows:

1. Solar Easement means an easement that limits the height or location or both of permissible development on land on which the easement is placed in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to sunlight as defined in Minnesota Statutes Section 500.30, Subdivision 3 as may be amended.
2. Solar Energy System means a device, combination of devices, or structural design feature, of which a substantial purpose is to provide for the collection, storage, use, and distribution of solar energy for electricity generation, space heating or cooling, or water heating.
3. Solar Energy System, Building Integrated means an active solar energy system that is an integral part of a structure or structural component rather than a separate mechanical or ground mounted device.
4. Solar Energy System, Ground Mounted means a solar energy system structurally mounted to the ground which is not roof mounted.
5. Solar Energy System, Rooftop means an active solar energy system that is structurally mounted to a code-compliant roof of an existing building or structure.
6. Solar Energy System, Wall-Mounted means an active solar energy system that is structurally mounted to a code-compliant wall of an existing building or structure.

D. Solar Energy Systems as an allowed accessory use.

1. Rooftop, wall, and building integrated solar energy systems are allowed as accessory uses, subject to Subdivision 10 E below, in the following zoning classifications: R-1/AG & R-2/AG Residence & Agricultural District, R-1 One and Two Family Residence District, R-2 Multiple Family Residence District, B-1 Service Business District, I-1 Limited Industrial District, I-2 General Industrial District, and the P/I Public Institutional District.
2. Rooftop and building integrated solar energy systems are allowed as accessory uses, subject to Subdivision 10 E below in the following classification: B-2 Central Business District.
3. Accessory ground-mounted solar energy systems not exceeding an aggregate, combined photovoltaic panel area of four hundred (400) square feet in area in the P/I Public Institutional District.

E. General Provisions. The following standards apply to all accessory solar energy systems:

1. A maximum of one (1) solar energy system per lot or parcel shall be allowed.
2. Building and electrical permits shall be secured.
3. Solar energy systems shall be placed to limit visibility from the public right-of-way

to the extent possible and to blend into the building design, provided that minimizing visibility still allows the owner to reasonably capture solar energy.

4. Rooftop solar energy systems:

- a. Shall not exceed the maximum height allowed in the applicable zoning district.
- b. Shall be setback at least one foot from every building wall, roof edge, roof peak, roof ridge, and roof valley.
- c. Shall not cover greater than eighty (80) percent of each side of the roof or wall to which they are affixed.

5. Glare from solar energy systems to adjacent or nearby properties shall be minimized.

6. Solar energy system annual power output (kWh) shall be no more than one hundred twenty (120) percent of the total energy used by the lot or parcel over the previous year. The City, at its discretion, may allow an array designed to produce more than 120% of the energy used provided an interim use permit is issued.

F. Ground mounted solar energy systems are prohibited as principal or accessory uses in all zoning classifications.

G. Solar Access Easements Allowed. The City elects to allow solar easements to be filed consistent with Minnesota Statutes, Chapter 500.30, as may be amended from time to time. Owners of land or solar skyspace are responsible for negotiating, drafting, and executing solar easements. Solar easements shall be filed with the City and the Sibley County Recorder's Office.

SUBDIVISION 11. ADULT ESTABLISHMENTS.

A. Purpose and Intent.

1. Findings of the City Council. Studies conducted by the Minnesota Attorney General, the American Planning Association and cities such as St. Paul; Indianapolis; Alexandria, Minnesota; Rochester, Minnesota; Phoenix, Arizona; Los Angeles, California; Seattle, Washington; have studied the impacts that adult establishments have in those communities. These studies have concluded that adult establishments have an adverse impact on the surrounding neighborhoods. Those impacts include increased crime rates, lower property values, increased transiency, neighborhood blight and potential health risks. The City Council of the City of Arlington makes the following findings regarding the need to regulate adult establishments. The findings are based upon the experiences of other cities where such businesses have located, as studied by City staff. Based on these studies and findings, the city council concludes:

- a. Adult establishments have adverse secondary impacts of the types set forth above.
 - b. The adverse impacts caused by adult establishments tend to diminish if adult establishments are governed by locational requirements, licensing requirements and health requirements.
 - c. It is not the intent of the city council to prohibit adult establishments from having a reasonable opportunity to locate in the city.
 - d. Minnesota Statutes, Section 462.357, allows the city to adopt regulations to promote the public health, safety, morals and general welfare.
 - e. The public health, safety, morals and general welfare will be promoted by the City adopting regulations governing adult establishments.
 - f. Adult establishments can contribute to an increase in criminal activity in the area in which such businesses are located, taxing city crime-prevention programs and law enforcement services.
 - g. Adult establishments can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the proper management and operation of such businesses can, however, minimize this risk, provided the owners and operators of such facilities are regulated by licensing or other procedures.
 - h. Adult establishments can increase the risk of exposure to communicable diseases including but not limited to Acquired Immune Deficiency Syndrome (AIDS) for which currently there is no cure. Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, thereby endangering not only the patrons of such establishments but also the general public.
 - i. Adult establishments can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.
 - j. The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed herein.
2. Purpose. It is the purpose of this Ordinance to regulate Adult Establishments to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to:
- a. Prevent additional criminal activity within the City,
 - b. Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood;

- c. To locate Adult Establishments away from residential areas, schools, churches, libraries, parks, and playgrounds;
 - d. Prevent concentration of Adult Establishments within certain areas of the City.
3. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult oriented materials. Similarly, it is not the intent nor effect of this Ordinance to restrict or deny access by adults to adult oriented materials protected by the First Amendment or to deny access by distributors and exhibitors of adult oriented entertainment to their intended market.

B. Definitions.

For purposes of this Ordinance the terms defined in this section have the meanings given them.

1. "Adult Establishment" means:

- a. any business that devotes a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise, or devotes a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or derives a substantial or significant portion of its gross revenues from, items, merchandise, devices or other materials distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas; or
- b. any business that engages in any Adult Use as defined in Subdivision 2 of this section.
- c. the term "substantial or significant portion" as used in this ordinance is defined as 25 percent or more of the inventory, stock in trade or publicly displayed merchandize, or 25 percent or more of the floor area (not including store rooms, stock areas, bathrooms, basements, or any portion of the business not open to the public), or 25 percent or more of the gross revenues of the business. All adult establishments and all other businesses stocking any material depicting, exposing, simulating, describing or relating to Specified Sexual Activities or Specified Anatomical Areas shall make available all inventory records and all sales receipts and records for inspection by city staff upon request at all reasonable times.

2. Adult Use. Any of the activities and businesses described below:

- a. "Adult Body Painting Studio" means an establishment or business that provides the service of applying paint, ink, or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.

- b. "Adult Bookstore" means an establishment or business used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, movies, or motion picture film if a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise consists of, or if a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) is devoted to, or if substantial or significant portion of its gross revenues is derived from items, merchandise, devices or materials that are distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.
- c. "Adult Cabaret" means a business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on: (1) the depiction of nudity, Specified Sexual Activities or Specified Anatomical Areas; or (2) the presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.
- d. "Adult Companionship Establishment" means a business or establishment that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- e. "Adult Conversation/Rap Parlor" means a business or establishment that provides the services of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- f. "Adult Health/Sport Club" means a health/sport club that is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- g. "Adult Hotel or Motel" means a hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.
- h. "Adult Massage Parlor/Health Club" means a massage parlor or health club that provides massage services distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- i. "Adult Mini-Motion Picture Theater" means a business or establishment with a capacity of less than 50 persons that as a prevailing practice presents on-premises viewing of movies, motion pictures, or other material distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- j. "Adult Modeling Studio" means a business or establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in Specified Sexual Activities or display Specified

Anatomical Areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.

- k. "Adult Motion Picture Arcade" means any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Specified Sexual Activities or Specified Anatomical Areas.
- l. "Adult Motion Picture Theater" means a motion picture theater with a capacity of 50 or more persons that as a prevailing practice presents material distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas for observation by patrons.
- m. "Adult Novelty Business" means an establishment or business that devotes a substantial or significant portion of its inventory, stock in trade, or publicly displayed merchandise or devotes a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or derives a substantial or significant portion of its gross revenues from items, merchandise, or devices that are distinguished or characterized by an emphasis of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas, or items, merchandise or devices that simulate Specified Sexual Activities or Specified Anatomical Areas, or are designed for sexual stimulation.
- n. "Adult Sauna" means a sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- o. "Adult Steam Room/Bathhouse Facility" means a building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

3. "Nude" or "Specified Anatomical Areas" means:

- a. Less than completely and opaquely covered human genitals, pubic regions, buttocks, anuses, or female breasts below a point immediately above the top of the areola; and
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

4. "Specified Sexual Activities" means:

- a. Actual or simulated: sexual intercourse; oral copulation; anal intercourse; oral-anal copulation; bestiality; direct physical stimulation of unclothed genitals; flagellation or torture in the context of a sexual relationship; the use of excretory functions in the context of a sexual relationship; anilingus; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pedophilia;
- b. Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence;
- c. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;
- d. Fondling or touching of nude human genitals, pubic regions, buttocks, or female breasts;
- e. Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding, or other physical restraint of any person;
- f. Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or
- g. Human excretion, urination, menstruation, or vaginal or anal irrigation.

C. Application of this Ordinance.

Except as this Ordinance specifically provides, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purpose nor in any manner which is not in conformity with this Ordinance.

No Adult Establishment shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the establishment which is prohibited by any ordinance of the City of Arlington, the laws of the State of Minnesota, or the United States of America. Nothing in this Ordinance shall be construed as authorizing or permitting conduct that is prohibited or regulated by other statutes or ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale, or distribution of specified materials to minors.

D. Location.

Adult Establishments are permitted uses in the Agricultural, I-1, and I-2 zoning districts. Adult Establishments must be located at least 500 feet from: (a) any R1- One and Two Family Residence District boundary or R2 Multiple Family Residence District boundary; (b) any site actually used for residential purposes; and (c) any church site, school site, library site, day care facility, park or playground. No Adult Establishment may be located within 500 feet of another Adult Establishment. For purposes of this Ordinance, this 500 foot distance shall be a horizontal measurement from the nearest existing R1 or R2 district boundary or lot line or site used for residential purposes, church, school, library, day care,

park or playground, or another Adult Establishment site, to the nearest point of the proposed Adult Establishment structure.

E. Hours of Operation.

No Adult Establishment shall be open to the public from the hours of 10:00 p.m. to 10:00 a.m. weekdays and Saturdays, nor at any time on Sundays or national holidays.

F. Operation.

1. Off-site Viewing. Any business operating as an Adult Establishment shall prevent off-site viewing of its merchandise, which if viewed by a minor, would be in violation of Minnesota Statutes Chapter 617 or other applicable Federal or State Statutes or local ordinances.
2. Entrances. All entrances to the business, with the exception of emergency fire exits that are not useable by patrons to enter the business, shall be visible from a public right-of-way.
3. Layout. The layout of any display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing including but not limited to books, magazines, photographs, video tapes, or any other material, or any live dancers or entertainers.
4. Illumination. Illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior premises.
5. Signs. Signs for Adult Establishments shall comply with the City's Zoning Ordinance for signs. Signs for Adult Establishments shall not contain representational depiction of an adult nature or graphic descriptions of the adult theme of the operation.
6. Parking. An Adult Establishment shall provide a minimum of one off-street parking space per employee, the total minimum number of such parking spaces to equal the highest number of employees scheduled to work on any shift, and one off-street parking space per customer for the total number of customers for which the facility is designed at full occupancy. Each parking space shall be a minimum of 9 feet wide by 18 feet long, plus sufficient driveway space to allow safe access to and from adjoining public rights of way.
7. Additional Conditions for Adult Cabarets. The following additional conditions apply to adult cabarets:
 - a. No owner, operator or manager of an adult cabaret shall permit or allow any dancer or other live entertainer to perform nude.
 - b. No dancer, live entertainer, performer, patron or any other person shall be nude in an adult cabaret.

- c. The owner, operator or manager of an adult cabaret shall provide the following information to the city concerning any persons who dance or perform live entertainment at the adult cabaret: The person's name, home address, home telephone number, date of birth and any aliases.
- d. No dancer, live entertainer or performer shall be under 18 years old.
- e. All dancing or live entertainment shall occur on a platform intended for that purpose and which is raised at least two feet from the level of the floor.
- f. No dancer or performer shall perform any dance or live entertainment closer than 10 feet to any patron.
- g. No dancer or performer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.
- h. No patron shall pay or give any gratuity to any dancer or performer.
- i. No dancer or performer shall solicit or receive any pay or gratuity from any patron.

G. Licenses.

1. Licenses Required. All Adult Establishments, including any Adult Establishment operating at the time this Ordinance becomes effective, shall apply for and obtain a license from the City of Arlington. A person or entity is in violation of this Ordinance if the person or entity operates an Adult Establishment without a valid license, issued by the City.
2. Applications. An application for a license must be made on a form provided by the City and must include:
 - a. If the applicant is an individual, the name, residence, phone number, and birth date of the applicant. If the applicant is a partnership, the name, residence, phone number, and birth date of each general and limited partner. If the applicant is a corporation, the names, residences, phone numbers, and birth dates of all persons holding more than five percent of the issued and outstanding stock of the corporation;
 - b. The name, address, phone number, and birth date of the operator and manager of the Adult Establishment, if different from the owner's;
 - c. The address and legal description of the premises where the Adult Establishment is to be located;
 - d. A statement detailing any misdemeanor, gross misdemeanor, or felony convictions relating to sex offenses, obscenity, or the operation of an Adult Establishment or adult business by the applicant, operator, or manager, and whether the applicant, operator or manager has ever applied for or held a license to operate a similar type of business in another community. In the case of a corporation, a statement detailing any felony convictions by the

owners of more than five percent of the issued and outstanding stock of the corporation, and whether or not those owners have ever applied for or held a license to operate a similar type of business in another community;

- e. The activities and types of business to be conducted;
- f. The hours of operation;
- g. The provisions made to restrict access by minors;
- h. A building plan of the premises detailing all internal operations and activities;
- i. A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches;
- j. A statement that the applicant is qualified according to the provisions of this Ordinance and that the premises have been or will be inspected and found to be in compliance with the appropriate state, county, and local law and codes by the health official, fire marshal, and building inspector;
- k. The names, addresses, phone numbers, dates of birth, of the owner, lessee, if any, the operator or manager, and all employees; the name, address, and phone number of two persons, who shall be residents of the State of Minnesota, and who may be called upon to attest to the applicant's, manager's, or operator's character; whether the applicant, manager, or operator has ever been convicted of a crime or offense other than a traffic offense and, if so, complete and accurate information of the disposition thereof; the names and addresses of all creditors of the applicant, owner, lessee, or manager insofar as credit which has been extended for the purposes of constructing, equipping, maintaining, operating, or furnishing or acquiring the premises, personal effects, equipment, or anything incident to the establishment, maintenance and operation of the business;
- l. If the application is made on behalf of a corporation, joint business venture, partnership, or any legally constituted business association, it shall submit along with its application, accurate and complete business records showing the names, addresses, and dates of birth of all individuals having an interest in the business, including partners, officers, owners, and creditors furnishing credit for the establishment, acquisition, maintenance, and furnishings of said business and, in the case of a corporation, the names, addresses, and dates of birth of all officers, general managers, members of the board of directors as well as any creditors who have extended credit for the acquisition, maintenance, operation, or furnishing of the establishment including the purchase or acquisition of any items of personal property for use in said operation; and
- m. Complete and accurate documentation establishing the interest of the applicant and any other person having an interest in the premises upon which

the building is proposed to be located or the furnishings thereof, personal property thereof, or the operation or maintenance thereof. Documentation shall be in the form of a lease, deed, contract for deed, mortgage deed, mortgage credit arrangement, loan agreements, security agreements, and any other documents establishing the interest of the applicant or any other person in the operation, acquisition or maintenance of the enterprise.

3. Disqualifications.

- a. All Adult Establishments, including any business operating at the time this Ordinance becomes effective, operating or intending to operate an Adult Establishment shall be prohibited if the license fees and background investigation fees required by this Ordinance have not been paid.
- b. All Adult Establishments, including any business operating at the time this Ordinance becomes effective, shall be prohibited if an applicant, operator, or manager has been convicted of a crime involving any of the following offenses:

- (1) Any sex crimes as defined by Minn. Stat. 609.29 through 609.352 inclusive, or as defined by any ordinance or statute in conformity therewith;

- (2) Any obscenity crime as defined by Minn. Stat. 617.23 through 617.299 inclusive, or as defined by any ordinance or statute in conformity therewith; for which:

- Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense.

- Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; or

- Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the conviction is of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24 month period.

- (3) The fact that a conviction is being appealed shall have no effect on disqualification of the applicant.

- 4. Requalification. An applicant who has been convicted of an offense listed in Section 10, Subdivision 3(b), may qualify for an Adult Establishment license only when the time period required by Section 10, Subdivision 3(b), has elapsed.
- 5. Posting. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the Adult

Establishment. The license shall be posted in a conspicuous place at or near the entrance to the Adult Establishment so that it may be easily read at any time.

6. An Adult Establishment license will not be granted to or held by a person:

- a. Who is under 21 years of age;
- b. Who is overdue or whose spouse is overdue in payments to the city, county, or state of taxes, fees, fines or penalties assessed against them or imposed upon them;
- c. Who has been convicted or whose spouse has been convicted of a gross misdemeanor or felony or of violating any law of this state or local ordinance relating to sex offenses, obscenity offenses, or Adult Establishments;
- d. Who has been or is residing with a person who has been denied a license by the City or any other Minnesota municipal corporation to operate an Adult Establishment, or who has or is residing with a person whose license to operate an Adult Establishment has been suspended or revoked within the preceding twelve (12) months; or
- e. Who has not paid the license and investigative fees required by this Ordinance.

7. An Adult Establishment license will not be granted for:

- a. Any Adult Establishment on premises where the applicant or any of its officers, agents or employees has been convicted of a violation of this Ordinance, or where a license has been revoked for cause, until one year has elapsed after the conviction or revocation;
- b. Any Adult Establishment that is not in full compliance with the City Code and all provisions of state and federal law; or
- c. Any premise that holds an intoxicating liquor, beer, or wine license.

H. Fees.

1. The license fee for Adult Establishments are as follows:

- a. The annual license fee is \$2,000.00.
- b. An application for a license must be submitted to the city administrator and accompanied by payment of the required license fee. Upon rejection of an application for a license, the city will refund the license fee.
- c. Licenses will expire on December 31 in each year. Each license will be issued for a period of one year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rated fee. In computing a pro rated fee, any unexpired fraction of a month will be counted as one month.

- d. No part of the fee paid by any licensee will be refunded, except that a pro rata portion of the fee will be refunded in the following instances upon application to the city council within 30 days from the happening of one of the following events, provided that the event occurs more than 30 days before the expiration of the license:
 1. Destruction or damage of the licensed premises by fire or other catastrophe;
 2. The licensee's illness, if such illness renders the licensee unable to continue operating the licensed Adult Establishment;
 3. The licensee's death; or
 4. A change in the legal status making it unlawful for the licensed business to continue.
 - e. An application must contain a provision in bold print indicating that withholding information or providing false or misleading information will be grounds for denial or revocation of a license. Changes in the information provided on the application or provided during the investigation must be brought to the attention of the city council by the applicant or licensee. If such a change takes place during the investigation, it must be reported to the city administrator in writing. A failure by an applicant or licensee to report such a change may result in a denial or revocation of a license.
2. The one-time non-refundable background investigative fee for an Adult Establishment license is \$500.00 and shall be charged for each person identified on the application as an owner, operator, or manager of the business and for each successor, owner, operator or manager.
 3. The procedures for granting an Adult Establishment license are as follow:
 - a. The City will conduct and complete an investigation within 30 days after the city administrator receives a complete application and all license and investigative fees.
 - b. If the application is for a renewal, the applicant will be allowed to continue business until the city council has determined whether the applicant meets the criteria of this Ordinance for a renewal license.
 - c. If, after the investigation, it appears that the applicant and the place proposed for the business are eligible for a license, the license must be issued by the city council within 30 days after the investigation is completed. If the city council fails to act within 30 days after the investigation is completed, the application will be deemed approved.
 - d. A license will be issued to the applicant only and is not transferable to another holder. Each license will be issued only for the premises described in the application. A license may not be transferred to another premise without the

approval of the city council. If the licensee is a partnership or a corporation, a change in the identity of any partner or holder of more than five percent of the issued and outstanding stock of the corporation will be deemed a transfer of the license. Adult Establishments existing at the time of the adoption of this section must obtain an annual license.

I. Inspection.

1. Access. An applicant or licensee shall permit health officials, representatives of the police department, fire department, and building inspector, to inspect the premises of an Adult Establishment for the purpose of ensuring compliance with the law, at any time it is occupied or open for business. The licensee is at all times responsible for the conduct, activity and operation of the business.
2. Refusal to Permit Inspections. A person who operates an Adult Establishment or his/her agent or employee commits an offense if she or he refuses to permit a lawful inspection of the premises by health officials, representatives of the police department, fire department, and building inspector at any time it is occupied or open for business. Refusal to permit inspections may result in nonrenewal, suspension or revocation of the license as provided in Section 15.
3. Exceptions. The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation. Temporary habitation is defined as a period of time of at least 12 hours.
4. Records. The licensee must keep itemized written records of all transactions involving the sale or rental of all items or merchandise for at least one year after the transaction. At a minimum, those records must describe the date of the transaction, a description of the transaction, the purchase price or rental price, and a detailed description of the item or merchandise that is being purchased or rented. These written records must be provided to the City upon request.

J. Expiration and Renewal.

1. Expiration. Each license shall expire at the end of the calendar year and may be renewed only by making application as provided in Section 10. Application for renewal must be made at least 60 days before the expiration date.
2. Denial of Renewal. When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

K. License Suspension.

1. Causes of Suspension. The City may suspend a license for a period not to exceed 30 days if it determines that the licensee or an employee of a licensee has:
 - a. Violated or is not in compliance with any provision of this Ordinance.

- b. Engaged in the sale or use of alcoholic beverages while on the Adult Establishment premises other than at an Adult Hotel or Motel.
 - c. Refused to allow an inspection of the Adult Establishment as authorized by this Ordinance.
 - d. Knowingly permitted gambling by any person on the Adult Establishment premises.
 - e. Demonstrated inability to operate or manage an Adult Establishment in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.
2. Notice. A suspension by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least 10 days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed business premises with the person in charge thereof, or by mailing the notice by U.S. Mail to the last known address of the owner or agent authorized to receive legal notices for the business, as listed on its license application.

L. License Revocation.

1. Suspended Licenses. The City may revoke a license if a cause of suspension in Section 15 occurs and the license has been suspended at least once before within the preceding 12 months.
2. Causes of Revocation. The City may revoke a license if it determines that:
- a. A licensee gave false or misleading information in the material submitted to the City during the application process;
 - b. A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
 - c. A licensee or an employee has knowingly allowed prostitution on the premises;
 - d. A licensee or an employee knowingly operated the Adult Establishment during a period of time when the licensee's license was suspended;
 - e. A licensee has been convicted of an offense listed in Section 10, Subdivision 3(b), for which the time period required in Section 10, Subdivision 3(b), has not elapsed;
 - f. On two or more occasions within a 12-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in Section 10, Subdivision 3(b), for which a conviction has been

obtained, and the person or persons were employees of the Adult Establishment at the time the offenses were committed.

- g. A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.
- 3. Appeals. The fact that a conviction is being appealed shall have no effect on the revocation of the license.
- 4. Exceptions. Section 16, Subdivision 2(g), does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.
- 5. Granting a License After Revocation. When the City revokes a license, the revocation shall continue for one year and the licensee shall not be issued an Adult Establishment license for one year from the date revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license is revoked under Section 16, Subdivision 2 (e), an applicant may not be granted another license until the appropriate number of years required under Section 10, Subdivision 3 b), has elapsed.
- 6. Notice. A revocation by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least 10 days notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof or by mailing the notice by U.S. Mail to the last known address of the owner or agent authorized to receive legal notices for the business, as listed on its license application.

M. License Procedures.

Issuances, suspensions, revocations, and non-renewals of Adult Establishment licenses are governed by the following provisions:

- 1. In the event that the city council proposes not to renew, to revoke, or to suspend the license, the licensee must be notified in writing of the basis for such proposed revocation or suspension. The council will hold a hearing for the purpose of determining whether to revoke or suspend the license. The hearing must be within 30 days of the date of the notice. The city council must determine whether to suspend or revoke a license within 30 days after the close of the hearing or within 60 days of the date of the notice, whichever is sooner. The council must notify the licensee of its decision within that period.
- 2. If the council determines to suspend or revoke a license, the suspension or revocation is not effective until 15 days after notification of the decision to the licensee. If, within that 15 days, the licensee files and serves an action in state or

federal court challenging the council's action, the suspension or revocation is stayed until the conclusion of such action.

3. If the city council determines not to renew a license, the licensee may continue its business for 15 days after receiving notice of such non-renewal. If the licensee files and serves an action in state or federal court within that 15 days for the purpose of determining whether the City acted properly, the licensee may continue in business until the conclusion of the action.
4. If the city council does not grant a license to an applicant, then the applicant may commence an action in state or federal court within 15 days for the purpose of determining whether the City acted properly. The applicant may not commence doing business unless the action is concluded in its favor.

N. Transfer of License.

A licensee shall not transfer this license to another, nor shall a licensee operate an Adult Establishment under the authority of a license at any place other than the address designated in the application.

O. Severability.

Every section, provision, or part of this Ordinance is declared severable from every other section, provision, or part thereof to the extent that if any section, provision, or part of this Ordinance be held invalid by a court of competent jurisdiction it shall not invalidate any other section, provision, or part thereof. The City Council specifically declares that the licensing requirements in this Ordinance are severable from any and all of the other requirements of this Ordinance. The City Council further declares that it would have adopted the other requirements in this Ordinance regardless of the validity or invalidity of the licensing requirements.

P. Enforcement/Penalty.

Any person violating any provision of this ordinance shall be guilty of a misdemeanor, and upon conviction shall be subject to the penalties for a misdemeanor as prescribed by state law. Each day the violation continues shall be considered a separate misdemeanor offense punishable by a separate misdemeanor penalty. If an act which is a violation of this ordinance is also a violation of any other state or federal law, this clause shall not preclude the appropriate authorities from also charging the perpetrator with such separate crime or crimes, subject to the appropriate penalty for each such separate crime. Violations of this ordinance may also be enforced by an appropriate civil action in either state or federal court.

SECTION 18 : SIGNS.

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 (1) 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 (1) 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 (1) 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 (8) 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 (8) 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 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 (2) 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 a 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 {1} 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 (2) 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 (1) 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(s) 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 the proposed sign is located within a public road right-of-way or an easement, the applicant must obtain written permission from the appropriate jurisdiction. A copy of said written permission, if provided by a jurisdiction other than the City of Arlington, may be required.

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 Minnesota Statute 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.
 3. Public safety and traffic management signs erected by governmental units.

SUBDIVISION 7. GENERAL PROVISIONS.

- A. A sign shall not be greater than two hundred fifty (250) square feet in area.
- B. A sign shall project no more than two (2) 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 (5) feet from a property line, except within the central business district.
 2. Signs shall not be placed in highway, street, or utility easements until the applicant obtains written permission from the appropriate jurisdiction. A copy of said written

permission, if provided by a jurisdiction other than the City of Arlington, may be required. Signs proposed to be placed within municipal easements shall require issuance of an interim use permit.

3. Signs shall not obstruct a clear sight triangle at each corner of any intersection of two (2) 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 (2) intersecting streets or a street and a railway, then proceeding twenty-five (25) feet along one curb line, then proceeding diagonally to a point of twenty-five (25) feet from the point of beginning on the other curb line and then proceeding to the point of beginning. In the event the City Engineer finds the required sight triangle inadequate, additional clear areas shall be required.

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 (i.e. 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 (10) days following the general election and thirteen (13) weeks prior to any special election until ten (10) 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. Rotating signs.
 - e. Projecting signs.

f. Pylon (or pole) signs.

2. Maximum Sign Area:

a. Lots containing principal uses which are residential in nature.

- (1) Lots ten thousand (10,000) square feet or less: eight (8) square feet per surface with total area of all signs not to exceed sixteen (16) square feet.
- (2) Lots greater than ten thousand (10,000) square feet but less than one (1) acre: ten (10) square feet per surface with total area of all signs not to exceed twenty (20) square feet.
- (3) Lots greater than one (1) acre but less than ten (10) acres: twelve (12) square feet per surface with total area of all signs not to exceed twenty-four (24) square feet.
- (4) Lots greater than ten (10) acres: sixteen (16) square feet per surface with total area of all signs not to exceed thirty-two (32) square feet.

b. Lots containing principal uses which are non-residential in nature.

- (1) Lots less than twenty thousand (20,000) square feet: thirty-two (32) square feet per surface with total area of all signs not to exceed sixty-four (64) square feet.
- (2) Lots of twenty thousand (20,000) square feet or greater: sixty-four (64) square feet per surface with total area of all signs not to exceed one hundred twenty-eight (128) square feet.

B. B-1 Service Business District:

1. The following types of signs are not permitted:

- a. Rotating signs.
- b. Projecting 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. Rotating signs.
 - b. Projecting 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 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 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. Rotating signs.
 - b. Projecting signs.

2. Signs as regulated in Subdivision 8 (D) (2) (Light Industrial District) of this Section.

F. P/I Public Institutional District:

1. The following types of signs are not permitted:
 - a. Projecting signs.
2. Sign lighting shall not be directed toward a public right-of-way or any residential district.
3. Sign materials, sign structure, and the nature/character of the sign materials/structure shall be consistent with those employed within the public or institutional use and/or structure occupying the subject property.
4. Sign types shall be harmonious with the existing use and/or structure occupying the subject property.

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 20 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 27 of the Zoning Ordinance (Violations and Penalty).

SUBDIVISION 11. SEVERABILITY.

If any subdivision, subsection, sentence, clause, or phrase 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.

SECTION 19 : HOME OCCUPATIONS.

SUBDIVISION 1. PURPOSE AND INTENT.

- A. The purpose of this Section of the Zoning Ordinance is to provide for the conducting of home occupations in residential neighborhoods while protecting the health, safety, and general welfare of the surrounding neighborhood.
- B. The intent of this Section is to establish operational standards and review procedures for home occupations. This Section provides a mechanism to distinguish between permitted home occupations that are allowed under administrative permit and more intense home occupations which require an interim use permit and public hearing.

SUBDIVISION 2. SCOPE.

- A. All occupations conducted in a dwelling unit within a residential zoning district or on the premises of a principal residential use in a residential zoning district shall comply with the provisions of this Section, the provisions of the district in which it is located, and all other Sections of this Ordinance.
- B. Home occupations are defined as and limited to all of the following:
 - 1. Gainful occupations or professions engaged in by the occupant(s) of a dwelling.
 - 2. Which are carried on within a dwelling unit or structure(s) accessory thereto.
 - 3. Which are clearly incidental to the principal use of the property as a residential dwelling unit.
- C. Home occupations shall be classified as either 'Permitted' or 'Special' home occupations. Home occupations not specifically identified as 'Permitted' or 'Special' shall be considered prohibited. Permitted home occupations are allowed without a permit but shall adhere to the 'General Performance Standards' contained in this Section as may be amended. Special home occupations require the issuance of an interim use permit as provided for in Section 23 of the Zoning Ordinance as may be amended and shall adhere to the 'General Performance Standards' contained in this Section as may be amended.
- D. Home occupations whether permitted or allowed under an interim use permit are not transferable, shall expire when the occupation ceases, and/or shall expire upon the sale of the subject property or transfer of title to the real estate upon which the occupation is conducted.
- E. Home occupations existing on the effective date of this Ordinance are considered legal non-conforming uses and shall be allowed to continue. In the event an expansion, enlargement, or intensification of an existing home occupation is contemplated, the standards of this Section shall be applied. "Expansion, Enlargement, or Intensification" of an existing legal non-conforming home occupation shall be as defined in Section 20 of the Zoning Ordinance as may be amended and relating to non-conformance.

- F. Nothing in this Section is intended to prohibit or regulate non-commercial activities in residential neighborhoods.

SUBDIVISION 3. PROHIBITED HOME OCCUPATIONS.

- A. Home occupations involving illegal substances, illegal devices, and/or unlawful activities are prohibited.
- B. Home occupations involving explosive materials as defined in Minnesota Rules 7500.0100 as may be amended are prohibited.
- C. Home occupations involving sexually oriented materials and/or activities as defined by Minnesota Statutes as may be amended are prohibited.
- D. Home occupations conducted in a manner which produce noise, vibration, smoke, dust, odors, heat, or glare detectable at or beyond the property line are prohibited.
- E. Home occupations involving materials or storage of items declared a public nuisance, as defined in Code Chapter 6 (the nuisance ordinance) as may be amended.

SUBDIVISION 4. PERMITTED HOME OCCUPATIONS.

- A. Permitted home occupations are those home occupations which are not identified as 'Prohibited Home Occupations' under Subdivision 3 of this Section or 'Special Home Occupations' under Subdivision 5 of this Section as may be amended.
- B. Permitted home occupations require the issuance of an administrative permit from the Zoning Administrator as provided for in Code Chapter 21, as may be amended.
- C. Permitted home occupations shall comply at all times with the 'Performance Standards' contained in Subdivision 6 of this Section as may be amended.

SUBDIVISION 5. SPECIAL HOME OCCUPATIONS.

- H. Special home occupations require the issuance of an interim use permit as provided for in Code Chapter 23, as may be amended.
- I. Special home occupations are activities which include any of the following:
 - 1. Home occupations involving retail or wholesale trade on-site which is conducted by more persons than the occupant of the dwelling unit.
 - 2. Home occupations providing services on-site which are conducted by the dwelling unit occupant and/or more than one (1) employee.
 - 3. Home occupations involving outdoor storage of materials not typically associated with residential dwellings.

4. Home occupations involving outdoor storage of items of which the dwelling unit occupant is not the fee owner.
5. Home occupations with the potential to reasonably involve the presence of five (5) or more adult customers at the subject property at one (1) time.
6. Home occupations conducted between the hours of 10:00 p.m. and 6:00 a.m. that generate walk-in traffic.
7. Home occupations involving 'Dangerous Weapons' as defined by Minnesota Statutes, provided:
 - a. The applicant possesses a current federal firearms license.
 - b. The applicant provides written evidence of home owners/rental insurance specifying current coverage for proposed home occupation.
 - c. The applicable federal firearms license and home owners/rental insurance are maintained.
 - d. Inspection of the facility by the Fire Marshal and the Police Chief and adherence to conditions as required by said Fire Marshal and/or Police Chief.
 - e. The proposed home occupation maintains compliance with federal, state, and local laws and standards.
 - f. Adherence to conditions imposed under Subsection C of this Section, as may be amended.
8. Home occupations involving the regular, reoccurring delivery or pick-up of materials by commercial vehicles more than one (1) time per week.

J. Right to Impose Conditions for Special Home Occupations:

1. The City Council may impose such conditions on the granting of an interim use permit for a special home occupation as may be necessary to carry out the purpose and provisions of this Section.
2. Such conditions may include, but are not limited to:
 - a. Limiting hours of operation.
 - b. Limiting the number of vehicles at the site at one (1) time.
 - c. Limiting the amount of vehicles used in conducting the home occupation.
 - d. Requiring additional parking be provided on-site and off of the public street.
 - e. Limiting the duration and/or volume of on-street parking.

- f. Limiting the number of employees.
- g. Limiting the volume of traffic generated by the home occupation.
- h. Limiting the amount of outdoor storage of materials, property other than real estate, chattel, and/or equipment used or stored on-site in conjunction with the home occupation.
- i. Requiring additional setbacks and/or buffering so as to reduce noise, vibration, smoke, dust, odors, heat, or glare detectable at or beyond the property line resulting from the home occupation.
- j. Limiting the number of customers, guests, and/or clients present at the site in conjunction with the home occupation.
- k. Limiting the amount of time the interim use permit is in effect to a specific date, time, or event occurrence.
- l. Requiring inspection by the Police Chief and/or the Fire Marshal and adherence to public safety conditions imposed thereby.

SUBDIVISION 6. PERFORMANCE STANDARDS.

A. All 'Permitted' home occupations and all 'Special' home occupations shall comply with the following Performance Standards:

- 1. Home occupations shall be clearly incidental and subordinate to the principal residential use of the property.
- 2. Home occupations shall not change the residential character of the neighborhood, be incompatible with surrounding land uses, disturb surrounding residential uses, or be intrusive to surrounding dwellings.
- 3. Home occupations shall not occupy or use greater than twenty-five (25) percent of the combined footprint of structures on the subject parcel. In addition, a home occupation shall not occupy or use greater than twenty-five (25) percent of the lot area; except that home day care providers may use greater than twenty-five (25) percent of the lot area for play/recreation purposes.
- 4. A home occupation shall not be established before a dwelling unit exists on the subject property.
- 5. Signage for home occupations shall be limited to one (1) non-illuminated sign which shall not exceed four (4) square feet in area.
- 6. Operation of a home occupation shall be limited to the residential dwelling, an attached garage, or an accessory structure.
- 7. Home occupations shall not generate excessive employee, customer, or client traffic that is detrimental to the character of the surrounding properties.

8. Home occupations shall be conducted in a manner which produces no indication of noise, vibration, smoke, dust, odors, heat, or glare detectable at or beyond the property line.
9. Any equipment used in conjunction with a home occupation shall not create electrical interference to surrounding properties.
10. Home occupations shall not require internal or external alterations or involve construction features not customarily found in dwellings except where required to comply with local and state fire and police recommendations.
11. Areas used for home occupations shall meet all applicable fire and building codes.
12. Home occupations shall comply with the City nuisance regulations.
13. Home occupation walk-in traffic shall be conducted only between the hours of 6:00 a.m. and 10:00 p.m.
14. Home occupations shall be operated and licensed as required by applicable state and/or federal law.

SUBDIVISION 7. REVIEW PROCESS.

- A. Special Home Occupations: Special home occupations require issuance of an interim use permit. The application, process, fee, review criteria, and issuance criteria for interim use permits included in Section 23 of the Zoning Ordinance, as may be amended apply and are hereby incorporated by reference.
- B. Permitted Home Occupations: Permitted home occupations require issuance of an administrative permit from the Zoning Administrator. The application, process, fee, review criteria, and issuance criteria for administrative permits included in Section 21 of the Zoning Ordinance, as may be amended apply and are hereby incorporated by reference.

SUBDIVISION 8. HOME OCCUPATIONS EXISTING PRIOR ORDINANCE EFFECTIVE DATE.

- A. Home occupations existing prior to the effective date of this Ordinance (December 5, 2013) that are prohibited under this Ordinance shall be considered legal non-conforming uses and shall be subject to Section 20 of the Zoning Ordinance relating to non-conformance, as may be amended.
- B. Home occupations in existence prior to the effective date of this Ordinance (December 5, 2013) that require an interim use permit under the standards of this Ordinance shall be required to obtain as applicable, an interim use permit or an administrative permit if/when one of the following occurs:
 1. The home occupation ceases for more than one (1) year.

2. The nature of the home occupation changes to a different type of home occupation requiring an interim use permit.
 3. The home occupation changes to a permitted home occupation.
 4. The existing home occupation is expanded, enlarged, or intensified as defined in the Zoning Ordinance relating to non-conformance.
- C. Home occupations in existence prior to the effective date of this Ordinance (December 5, 2013) that require an administrative permit shall be required to obtain as applicable, an administrative permit or interim use permit if/when one of the following occurs:
1. The home occupation ceases for more than one (1) year.
 2. The nature of the home occupation changes to a different type of home occupation requiring an administrative permit.
 3. The home occupation changes to a permitted home occupation.
 4. The existing home occupation is expanded, enlarged, or intensified as defined in the Zoning Ordinance relating to non-conformance.

SECTION 20 : NON-CONFORMING USES.

SUBDIVISION 1. PURPOSE AND INTENT.

- A. 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.
- B. This Section is intended to accomplish the following:
 - 1. 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.
 - 2. 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.
 - 3. 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.
 - 4. Encourage the elimination of non-conforming uses of land and/or non-conforming structures or reduce their impact on adjacent properties.
 - 5. 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:

"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 (1) of three (3) types: non-conforming land use, non-conforming structure or non-conforming lot of record.

"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.

"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.

"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.

"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 nonconforming 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.

"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.

"Replacement," "Reconstruction," or "Restoration" means construction that exactly matches pre-existing conditions.

SUBDIVISION 3. STANDARDS.

A. Non-Conforming Uses of Land:

1. A non-conforming 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.
2. There may be no expansion, enlargement, or intensification of any non-conforming use of land.
3. 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.
4. 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 non-conforming use is destroyed by fire or other peril to the extent of greater than fifty (50) percent of its market value and no building permit has been applied for within one hundred eighty (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.

5. 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.
6. 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.
7. 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 existing non-conforming land use.

B. Non-Conforming Use of Structures:

1. A non-conforming structure may be used and continued, including through repair, replacement, restoration, maintenance, or improvement.
2. 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.
3. 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.
4. 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.
5. 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.

6. 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 fifty (50) percent of its market value and no building permit has been applied for within one hundred eighty (180) days of when the property was damaged.
7. 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 one hundred eighty (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.
8. 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.
9. Signs. 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.
1. 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.

C. 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 21 : ADMINISTRATIVE PERMITS.

SUBDIVISION 1. PURPOSE.

The purpose of this Section of the Zoning Ordinance is to provide procedures for the issuance of administrative permits.

SUBDIVISION 2. SCOPE.

An administrative permit is required as specified or within a zoning district, zoning standard, and/or for certain activities.

SUBDIVISION 3. PROCEDURE.

- A. Application for an administrative permit shall be filed by the property owner or designated agent with the Zoning Administrator on forms to be provided by the City. Applications shall be accompanied by the information required in Section 21, Subdivision 4, as may be amended, unless specifically waived by the Zoning Administrator. This Section does not apply to requests requiring Planning Commission review and/or City Council approval which shall be processed under Sections 22 and/or 23 of the Zoning Ordinance, as may be amended.
- B. The application shall be accompanied by a fee as established by Resolution. Applications for amending permits shall be accompanied by a fee as established by Resolution.
- C. The Zoning Administrator shall review the application and related materials and shall determine whether the proposal is in compliance with all applicable evaluation criteria, codes, ordinances, and applicable performance standards set forth in this Section. The Zoning Administrator shall notify the applicant, in writing, of an incomplete application within fifteen (15) days of the date of submission.
- D. The Zoning Administrator shall consider possible adverse effects of the proposed events or activity. Judgment shall be based upon (but not limited to) the following factors:
 - 1. Compliance with and effect upon the Comprehensive Plan and any existing public facilities plans as may be amended.
 - 2. The establishment, maintenance or operation of the 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.
 - 3. The use event, or activity will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.

4. The establishment of the use, event or activity will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
5. The use, event or activity shall, in all other respects, conform to the applicable regulations of the district in which it is located.
6. The Zoning Administrator shall make a determination on approval or denial of the administrative permit within sixty (60) days from the date of submission of a complete application.
7. A written permit shall be issued to the applicant when a determination of compliance has been made. Specific conditions to assure compliance with applicable evaluation criteria, codes, ordinances and the standards of this Section shall be attached to the permit.
8. Determination of non-compliance with applicable codes, ordinances and the standards in this Section shall be communicated to the applicant in writing and the application for the permit shall be considered denied; unless, within ten (10) days of the date of such notice, the applicant submits revised plans and/or information with which the Zoning Administrator is able to determine compliance.
9. Unresolved disputes as to administrative application of the requirements of this Section shall be subject to appeal as defined by Section 24 of the Zoning Ordinance, as may be amended.

SUBDIVISION 4. INFORMATION REQUIREMENT.

Information required for all administrative permit applications shall include:

- A. A concise statement describing the proposed use, event or activity, including the purpose, type of merchandise involved, dates and times of operation, number of employees involved, provisions for on-site security, provisions for on-site parking, and other pertinent information required by the Zoning Administrator to fully evaluate the application.
- B. A copy of the approved site plan for the property or a sketch using an approved "as built" survey as the basis which accurately represents existing conditions on the site, including entrances and exits, bona fide parking and driving areas, and which accurately indicates any proposed temporary structures, including tents, stands and signs.
- C. An accurate floor plan, when in the judgment of the Zoning Administrator, such a plan is necessary to properly evaluate the location of the event and the effectiveness of available entrances and exits.
- D. Information identified in Section 21, Subdivision 3 of this Ordinance, as may be amended, as required by the Zoning Administrator.

SUBDIVISION 5. PERFORMANCE STANDARDS.

All uses, events or activities allowed by administrative permit shall conform to the applicable standards outlined in the zoning district in which such use, event or activity is proposed and any/all standards applicable to the proposed request.

SUBDIVISION 6. ADMINISTRATION AND ENFORCEMENT.

- A. The Zoning Administrator shall keep a record of applications and administrative permits.
- B. A copy of all administrative permits issued shall be forwarded to appropriate staff as determined by the Zoning Administrator.
- C. Enforcement of the provisions of this Section shall be in accordance with Section 25 of the Zoning Ordinance as may be amended.
- D. Violation of an issued permit or of the provisions of this Section also shall be grounds for denial of future permit applications.

SUBDIVISION 7. NON-PERMIT APPROVALS.

In cases where the Zoning Administrator is given approval authority without a requirement for an administrative permit, determinations shall be based upon the criteria outlined in Section 21, Subdivision 3 (D) this Ordinance as may be amended.

SECTION 22 : CONDITIONAL USE PERMITS.

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:

- A. Any of the uses or purposes for which such permits are required by the provisions of this Ordinance.
- B. 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.
- C. Commercial excavating and storage of natural material used for building or construction purposes, in any district.
- D. 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.

- A. 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.
- B. 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.
- C. 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.

- D. The City Planning Commission may designate conditions and require guarantees in the granting of use permits in the same manner provided in Section 24 of the Zoning Ordinance, Board of Zoning Adjustment, for the granting of adjustments.
- E. Upon receipt of the report of the City Planning Commission, the City Council may hold whatever public hearings it deems advisable and shall make 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 with Section 18 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.

SUBDIVISION 7. VIOLATION, REVOCATION AND EXPIRATION OF CONDITIONAL USE PERMITS.

A. Violation:

1. A violation of any condition set forth in a conditional use permit shall be a violation of both the conditional use permit and this Ordinance.
2. Upon a complaint filed with the Zoning Administrator by any interested party and/or a review by the Zoning Administrator alleging non-compliance with the terms of the conditional use permit the Zoning Administrator shall notify the permit holder in writing of the alleged violation. The notice shall contain the nature of the violation and the facts that support the conclusion that a violation exists. The written notice shall provide a deadline for compliance that is sixty (60) calendar days from the date of the written notice.

3. Failure to correct a violation within sixty (60) days of written notice from the Zoning Administrator shall be grounds to revoke a conditional use permit through the following procedure:
 - a. The Zoning Administrator shall provide written notice to the permit holder advising that the conditional use permit may be revoked upon conclusion of a public hearing by the Planning Commission and upon review of the findings of fact by the City Council. The written notice to the permit holder shall contain the nature of the violation and the facts that support the conclusion that a violation exists.
 - b. The Planning Commission shall hold a public hearing following the notice and hearing procedures set forth in Section 22, Subdivision 4 of this Ordinance, as may be amended.
 - c. The Planning Commission shall prepare written findings of fact setting forth its findings and recommendations to the City Council. The Planning Commission may recommend that there be a determination that there is no violation, that the permit be revoked, that the permit holder be allowed to seek an amendment to the permit to cure the violation, or such other course of action that the Planning Commission deems appropriate.
 - d. The City Council shall accept, reject, or modify the recommendation of the Planning Commission by Resolution. In the event the City Council rejects or modifies the recommendation of the Planning Commission, it shall prepare written findings of fact giving its reasons for such rejection or modification.
 - e. Following the City Council's action, the Zoning Administrator or designee shall file a certified copy of the Council Resolution with the County Recorder.
 - f. Revocation of the conditional use permit shall be effective upon delivery of the Council's order to the permit holder.
 - g. Any continued operation of the conditional use after a suspension or revocation shall be deemed a violation of this Ordinance and subject to the fines set forth in Section 27 (Validity) of this Ordinance as may be amended.
 - h. Any failure to revoke a conditional use permit for past violations shall not operate as a waiver of the right to suppress future violations.
- B. Expiration of Conditional Use Permits: Where a conditional use permit has been issued pursuant to provisions of this Ordinance, such permit shall become null and void without further action by the Planning Commission or City Council unless construction commences within one (1) year of the date of granting the conditional use permit.
- C. Discontinuance of Conditional Use Permit: Where a conditional use has been established and is discontinued for any reason for a period of one (1) year or longer, the conditional use permit shall be deemed abandoned without further action by the Planning Commission or City Council.

- D. Abandonment of Conditional Use Permit: Where a conditional use has been changed to a permitted use or to any other conditional use, the conditional use permit shall be deemed to be abandoned without further action by the Planning Commission or City Council.
- E. Authorized Use Limited: A conditional use permit shall be deemed to authorize only one (1) particular use.

SECTION 23 : INTERIM USE PERMITS.

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 22 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 22 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 22 of the Zoning Ordinance.
- B. The Planning Commission shall recommend an interim use permit and the Council shall issue such interim use permit only if it finds that such use at the proposed location:
 - 1. Meets the standards of a conditional use permit set forth in Section 22 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.
- C. A change in the City's zoning regulations which render the use non-conforming.

SUBDIVISION 6. VIOLATION, REVOCATION AND EXPIRATION OF INTERIM USE PERMITS.

A. Violation:

1. A violation of any condition set forth in an interim use permit shall be a violation of both the interim use permit and this Ordinance.
2. Upon a complaint filed with the Zoning Administrator by any interested party and/or a review by the Zoning Administrator alleging non-compliance with the terms of the interim use permit the Zoning Administrator shall notify the permit holder in writing of the alleged violation. The notice shall contain the nature of the violation and the facts that support the conclusion that a violation exists. The written notice shall provide a deadline for compliance that is sixty (60) calendar days from the date of the written notice.
3. Failure to correct a violation within sixty (60) days of written notice from the Zoning Administrator shall be grounds to revoke an interim use permit through the following procedure:
 - a. The Zoning Administrator shall provide written notice to the permit holder advising that the interim use permit may be revoked upon conclusion of a public hearing by the Planning Commission and upon review of the findings of fact by the City Council. The written notice to the permit holder shall contain the nature of the violation and the facts that support the conclusion that a violation exists.
 - b. The Planning Commission shall hold a public hearing following the notice and hearing procedures set forth in Section 22, Subdivision 4 of this Ordinance, as may be amended.
 - c. The Planning Commission shall prepare written findings of fact setting forth its findings and recommendations to the City Council. The Planning Commission may recommend that there be a determination that there is no violation, that the permit be revoked, that the permit holder be allowed to seek an amendment to the permit to cure the violation, or such other course of action that the Planning Commission deems appropriate.

- d. The City Council shall accept, reject, or modify the recommendation of the Planning Commission by Resolution. In the event the City Council rejects or modifies the recommendation of the Planning Commission, it shall prepare written findings of fact giving its reasons for such rejection or modification.
 - e. Following the City Council's action, the Zoning Administrator or designee shall file a certified copy of the Council Resolution with the County Recorder.
 - f. Revocation of the interim use permit shall be effective upon delivery of the Council's order to the permit holder.
 - g. Any continued operation of the interim use after a suspension or revocation shall be deemed a violation of this Ordinance and subject to the fines set forth in Section 27 (Validity) of this Ordinance as may be amended.
 - h. Any failure to revoke an interim use permit for past violations shall not operate as a waiver of the right to suppress future violations.
- B. Expiration of Interim Use Permits: Where an interim use permit has been issued pursuant to provisions of this Ordinance, such permit shall become null and void without further action by the Planning Commission or City Council unless construction and/or the use commences within one (1) year of the date of granting the interim use permit.
- C. Discontinuance of Interim Use Permit: Where an interim use has been established and is discontinued for any reason for a period of one (1) year or longer the interim use permit shall be deemed abandoned without further action by the Planning Commission or City Council.
- D. Abandonment of Interim Use Permit: Where an interim use has been changed to a permitted use or to any other interim use, the interim use permit shall be deemed to be abandoned without further action by the Planning Commission or City Council.
- E. Authorized Use Limited: An interim use permit shall be deemed to authorize only one (1) particular use.

SECTION 24 : BOARD OF ZONING ADJUSTMENT.

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. The variance is consistent with the adopted Comprehensive Plan.
- B. The variance is in harmony with the general purposes and intent of this Ordinance.
- C. The Applicant establishes that there are 'practical difficulties' in complying with the Zoning Ordinance. Practical difficulties as used in connection with the granting of a variance, means that:

1. The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance.
 2. The plight of the landowner is due to circumstances unique to the property not created by the landowner.
 3. The variance, if granted, will not alter the essential character of the locality.
- D. Economic considerations alone shall not constitute practical difficulties under the terms of this Ordinance.
- E. Practical difficulties shall include, but is not limited to, inadequate access to direct sunlight for solar energy systems.
- F. Variances shall be granted for earth sheltered construction as defined in Minnesota Statutes 216C.06, Subdivision 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.

SUBDIVISION 5. REVOCATION AND EXPIRATION OF VARIANCE.

- A. The granting of a variance from the provisions of this Ordinance shall be subject to the following conditions. The conditions shall apply to all variances granted and conditions shall be continuing.
- B. A variance shall be effective only for the specific purposes set forth in the variance grant.
- C. A violation of any condition set forth in the granting of the variance shall be a violation of this Ordinance and shall automatically terminate the variance.
- D. The variance shall become null and void without further action by the Planning Commission or City Council upon failure of the variance holder to commence or cause the commencement of construction or installation of the specific purpose within one (1) year of variance grant. Completion of construction or installation of the specific purpose shall be completed within a reasonable time after commencement.
- E. A variance may be renewed by the City Council for good cause should the variance holder file for an extension. Such extension shall be requested in writing and filed with the Zoning Administrator at least sixty (60) days prior to the expiration of the original variance. "Good cause" may include adverse weather conditions, unexpected site conditions, unanticipated labor shortages, and the like. An extension may be granted for up to one (1) year.
- F. Discontinuance of Variance: Where a variance has been granted and the specific purpose for which it was granted has changed to a conforming condition, the variance shall be deemed to be abandoned without further action by the Planning Commission or City Council.

SECTION 25 : 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 26 : 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:

- A. 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.
- B. 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 Administrator 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.
- C. 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 27 : 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 28 SECTION 20: 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. ENFORCEMENT.

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.

