

CHAPTER 11: LAND USE

SECTION 11.01 PURPOSE AND INTENT. The purpose of this code is to safeguard the health, property and public welfare by controlling the design, location, use or occupancy of all buildings and structures through the regulated and orderly development of land and land uses within the city.

SEC. 11.02. SCOPE, JURISDICTION, AND INTERPRETATION. The provisions of this code shall apply to the construction, addition, alteration, moving, repair and use of any building, structure, parcel of land or sign within a jurisdiction, except work located primarily in a public way, public utility towers and poles, and public utilities unless specifically mentioned in this code.

Where, in any specific case, different sections of this code specify different requirements, the more restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

In fulfilling these purposes, this ordinance is intended to benefit the public as a whole and not a specific person or class of persons. Although, through the implementation, administration and enforcement of this code, benefits and detriments will be enjoyed or suffered by specific individuals, such is merely a byproduct of the overall benefit to the whole community. Therefore, unintentional breaches of the obligations of administration and enforcement imposed on the jurisdiction hereby shall not be enforceable in tort.

If any portion of this code is held invalid for any reason, the remaining herein shall not be effected.

Subd. 1. Existing Buildings and Uses. Lawfully established buildings and uses in existence at the time of the adoption of this code shall be permitted to have their existing use or occupancy continued, provided such continued use is not dangerous to life.

Subd. 2. Additions, Alterations or Repairs. Additions, alterations or repairs shall be permitted to be made to any building or use without requiring the existing building or use to comply with the requirements of this code, provided the addition, alteration or repair conforms to that required for a new building or use.

Subd. 3. Maintenance. All buildings or uses, both existing and new, and all parts thereof, shall be maintained. The owner or designated agent shall be responsible for the maintenance of the buildings and parcels of land. To determine compliance with this section, the code official shall be permitted to cause any structure or use to be inspected.

Subd. 4. Moved or Temporary Buildings, Structures, and Uses. Buildings or structures moved into or within the city shall comply with the provisions of this code for new buildings and structures.

Temporary buildings, structures and uses such as reviewing stands and other miscellaneous structures, sheds, canopies or fences used for protection of the public shall be permitted to be erected, provided a special approval is received from the code official for a limited period of time. Temporary buildings or structures shall be completely removed upon the expiration of the time limit stated in the permit.

Subd. 5. Illegal Uses. Uses that were illegally established prior to adoption of this code shall remain illegal.

Subd. 6. Interpretations. The interpretation and application of the provisions of this code shall be by the code official. An appeal of an interpretation by the code official shall be submitted to the board of adjustments and appeals, which, unless otherwise provided, are authorized to interpret the code and such interpretation, shall be considered final.

Uses are permitted within the various zones as described in this code and as otherwise provided herein.

It is recognized that all possible uses and variations of uses that might arise cannot reasonably be listed or categorized. Mixed uses/sites or any use not specifically mentioned or about which there is any question shall be administratively classified by comparison with other uses identified in the zones described in this code. If the proposed use resembles identified uses in terms of intensity and character, and is consistent with the purpose of this code and the individual zone's classification, it shall be considered as a permitted/non permitted use within a general zone classification, subject to the regulations for the use it most nearly resembles. If a use does not resemble other identified allowable uses within the zone, it may be permitted as determined by the hearing body in a public hearing as an amendment to this code pursuant to Section 11.24

SEC. 11.03. DUTIES AND POWERS OF THE CODE OFFICIAL. This section establishes the duties and responsibilities for the zoning code official and other officials and agencies, with respect to the administration of this code. The zoning code official and/or designee shall be referred to hereafter as "the code official."

Subd. 1. Deputies. The code official may appoint such number of technical officers and other employees as shall be authorized from time to time. The code official shall be permitted to deputize such employees as may be necessary to carry out the function of this code.

Subd. 2. Liability. The code official, or designee, charged with enforcement of this code, acting in good faith and without malice in the discharge of the duties described in this code, shall not be personally liable for any damage that may accrue to persons or property as a result of an act or by reason of an act or omission in the discharge of such duties. A suit brought against the code official or employee because such act or omission performed by the code official or employee in the enforcement of any provision of such codes or other pertinent laws or ordinances implemented through the enforcement agency shall be defended by the city until final termination of such proceedings, and any judgments resulting there from shall be assumed by the City.

This code shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling any building or parcel of land for any damages to persons or property caused by defects, nor shall the enforcement agency or its jurisdiction be held as assuming any such liability by reason of the reviews or permits issued under this code.

Subd. 3. Cooperation of Other Officials and Officers. The code official shall be authorized to request, and shall receive so far as required in the discharge of the duties described in this code, the assistance and cooperation of other officials of the city.

Subd. 4. Comprehensive Plan. The code official shall assist the planning commission in the development and implementation of the comprehensive plan.

SEC. 11.04. PERMITS. It is unlawful for any person to hereafter erect, alter, wreck, or move any building or structure, or portions thereof, without first securing a

building and/or zoning permit as required.

Subd. 1. Penalties. It shall be a misdemeanor for any contractor, property owner, tenant, or other person to commence or constitute any work on any project for which a zoning permit is required and for which no permit has been granted by the City or the permit has been cancelled or a stop work order issued.

Subd. 2. Required Permits. A zoning permit shall be required prior to construction, repair, or alteration of structures regulated by the Minnesota State Building Code, driveways, sidewalks, patio slabs, fences, decks, steps, porches, and storage sheds. A zoning permit shall not be required for construction, repair, or alteration of swing sets, play equipment, or structures used exclusively for providing shelter for pets.

Subd. 3. Fees. A fee for service shall be charged. All fees shall be set by the City Council and a schedule shall be made available at the office of the code official.

SEC. 11.05. REVIEWS AND APPROVALS. The code official shall be authorized to undertake reviews, make recommendations and grant approvals as set forth in this code.

Subd. 1. Administrative Reviews and Permits. All departments, officials and employees who are charged with the duty or authority to issue permits or approvals shall issue no permit or approval for uses or purposes where the same would be in conflict with this code. Any permit or approval, if issued in conflict with this code, shall be null and void.

A. Review of building permits. All applications for building permits and amendments thereto shall be submitted to the code official for review and approval prior to permit issuance. Each application shall include two sets of building plans and all data necessary to show that the requirements of this code are met.

B. Site plan reviews. The code official shall receive all applications for site plan review for completeness and prepare submittals for review by the appropriate body.

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C. Conditional-use permits. The code official shall receive all applications for conditional uses and variances as required by this code, review for completeness and prepare submittals for review by the appropriate body.

D. Amendments. All requests for amendments or changes to the comprehensive plan, this code or zoning map shall be submitted to the code official for processing.

Subd. 2. Fees. A fee for service shall be charged. All fees shall be set by the City Council and a schedule shall be made available at the office of the code official.

Subd. 3. Expiration. Each license, permit or approval issued shall expire after 180 days if no work is undertaken or such use or activity is not established, unless a different time of issuance of the license or permit is allowed in this code, or unless an extension is granted by the issuing agency prior to expiration. Any work for which a zoning permit has been issued shall be completed according to the approved plans and specifications within one year following the issuance of the zoning permit, and if not so completed, the zoning permit shall automatically cancel.

Subd. 4. Validity of Licenses, Permits and Approvals. For the issuance of any license, permit or approval for which the commission or board is responsible, the code official shall require that the development or use in question proceed only in accordance with the terms of such license, permit or approval, including any

requirements or conditions established as a condition of issuance.

Except as specifically provided for in this code and conditions of approval, the securing of one required review or approval shall not exempt the recipient from the necessity of securing any other required review or approval.

Failure to comply fully with the terms of any permit, license or approval shall be permitted to be grounds for cancellation or revocation. Action to cancel any license, permit or approval shall be permitted to be taken on proper grounds by the code official. Cancellation of a permit or approval by the commission or board shall be permitted to be appealed in the same manner as its original action.

Subd. 5. Violations; Unlawful Acts. It shall be unlawful for any person to erect, construct, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy, or maintain any building or land or cause or permit the same to be done in violation of this code. When any building or parcel of land regulated by this code is being used contrary to this code, the code official shall be permitted to order such use discontinued and the structure, parcel of land, or portion thereof, vacated by notice served on any person causing such use to be continued,. Such person shall discontinue the use within the time prescribed by the code official after receipt of such notice to make the structure, parcel of land, or portion thereof, comply with requirements of this code.

SEC. 11.06. ENFORCEMENT.

A. It shall be the duty of the City Administrator through appropriate staff and subordinates to enforce this Chapter through proper legal channels.

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When any work shall have been stopped by the City for any reason whatsoever, it shall not again be resumed until the reason for the work stoppage has been completely removed.

B. It shall be the duty of the City Attorney, when called upon by the City Administrator, to perform such duties as may be necessary to enforce the provisions of this Chapter.

SEC. 11.07. CERTIFICATE OF OCCUPANCY. A certificate of occupancy shall be obtained before occupying or using any building or portion thereof if such building is hereafter erected or structurally altered, or the occupancy/use of any building or portion thereof is altered or changed.

Subd. 1. Sale of Rental Property. A certificate of occupancy shall be obtained when a residential rental property is sold and prior to the transaction closing. A fee, as set by resolution, shall apply to certificate of occupancies issued.

Subd. 2. Fees, Inspections and Reinspections. An inspection of a property will be performed as part of the initial fee, a reinspection fee, as set by resolution, shall apply to a second and subsequent re inspections if required.

Subd. 3. Owner Contractors. An occupancy deposit, as set by resolution, shall be assessed with the building permit for all new residential construction when an owner (own contractor) is not using a State of Minnesota licensed contractor. This deposit will be forfeited if occupancy occurs prior to the Certificate being issued.

Subd. 4. Temporary Use Permits. A temporary use permit may be requested for a period of 30 days with one 30 day extension possible if deemed appropriate by the code official. A deposit and fee will be set by resolution. The deposit will be forfeited if the Certificate of Occupancy is not obtained when the temporary use permit has expired.

Subd. 5. Enforcement. Loss of any deposit does not relieve the permit holder of legal enforcement provisions as set out in this Code.

SEC. 11.08. DEFINITIONS

1. ACCESSORY BUILDING. An incidental subordinate building customarily incidental to and located on the same lot occupied by the main use or building, such as a detached garage.

2. ACCESSORY USE. A use conducted on the same lot as the primary use of the structure to which it is related; a use that is clearly incidental to and customarily found in connection with, such primary use.

3. AGRICULTURE. The tilling of the soil, raising crops, farm animals, livestock, horticulture, gardening, beekeeping and aquaculture.

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4. ALLEY. Any public way or thoroughfare more than 10 feet, but less than 16 feet, in width, which has been dedicated to the public for private use.

5. ALTERATION. Any change, addition or modification in construction, occupancy or use.

6. AMUSEMENT CENTER. An establishment offering five or more amusement devices, including, but not limited to, coin-operated electronic games, shooting galleries, table games and similar recreational diversions within an enclosed building.

7. APARTMENT HOUSE. Any building or portion thereof which contains three or more dwelling units and, for the purpose of this code, includes residential condominiums.

8. AUTOMOBILE REPAIR, MAJOR. An establishment primarily engaged in the repair or maintenance of motor vehicles, trailers and similar large mechanical equipment, including paint, body and fender, major engine and engine part overhaul, which is conducted within a completely enclosed building.

9. AUTOMOBILE REPAIR, MINOR. An establishment primarily engaged in the repair or maintenance of motor vehicles, trailers and similar mechanical equipment, including brakes, muffler, upholstery work, tire repair and change, lubrication, tune ups, transmission work, which is conducted within a completely enclosed building.

10. AUTOMOBILE SELF-SERVICE MOTOR FUEL DISPENSING FACILITY. That portion of property where flammable or combustible liquids or gases used as fuel are stored and dispensed from fixed equipment into fuel tanks of motor vehicles by persons other than a service station attendant. Such an establishment shall be permitted to offer for sale at retail other convenience items as clearly secondary activity and shall be permitted also to include a free-standing automatic car wash.

11. AUTOMOBILE WRECKING. See Junk Yards

12. BASEMENT. Any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story as defined herein.

13. BED and BREAKFAST INN. A house, or portion thereof, where short-

term lodging rooms and meals are provided. The operator of the inn shall live on the premises or in adjacent premises.

14. BOARD. The board of appeals and adjustments.

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15. BOARDING HOUSE. A dwelling containing a single dwelling unit and not more than 10 guestrooms or suites of rooms, where lodging is provided with or without meals, for compensation for more than 1 week.

16. BUILDING. Any structure used or intended for supporting or sheltering any use or occupancy.

conducted.

17. BUILDING, MAIN. A building in which the principal use of the site is

18. BUILDING, TEMPORARY. A building used temporarily for the storage of construction materials and equipment incidental and necessary to on-site permitted construction of utilities, or other community facilities, or used temporarily in conjunction with the sale of property within a subdivision under construction.

19. BUILDING CODE. The Minnesota State Building Code and supporting codes as adopted by the city.

20. BUILDING HEIGHT. The vertical distance above the average existing grade measured to the highest point of the building. The height of a stepped or terraced building shall be the maximum height of any segment of the building.

21. BUILDING LINE. The perimeter of that portion of a building or structure nearest a property line, but excluding open steps, terraces, cornices and other ornamental features projecting from the walls of the building or structure.

22. BUSINESS OR FINANCIAL SERVICES. An establishment intended for the conduct or service or administration by a commercial enterprise, or offices for the conduct of professional or business service.

23. COMMERCIAL, HEAVY. An establishment or business that generally uses open sales yards, outside equipment storage or outside activities that generate noise or other impacts considered incompatible with less-intense uses. Typical businesses in this definition are lumber yards, construction specialty services, heavy equipment suppliers or building contractors.

24. COMMERCIAL, LIGHT. An establishment or business that generally has retail or wholesale sales, office uses, or services, which does not generate noise or other impacts considered incompatible with less intense uses. Typical businesses in this definition are retail stores, offices, catering services or restaurants.

25. COMMERCIAL RETAIL SALES AND SERVICES. Establishments that engage in the sale of general retail goods and accessory services. Businesses within this definition include those that conduct sales and storage entirely within an enclosed structure (with the exception of occasional outdoor "sidewalk" promotions); businesses specializing in the sale of either general merchandise or convenience goods.

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26. COMMUNITY WATER and SEWER SYSTEM. Utilities systems serving a group of building, lots or an area of the city or more than 25 persons, with the

design and construction of such utilities systems as approved by the city and the State of Minnesota.

27. **COMPREHENSIVE PLAN.** The declaration of purposes, policies and programs for the development of the city.

28. **CONDITIONAL USE.** A use that would become harmonious or compatible with neighboring uses through the application and, maintenance of qualifying conditions.

29. **CONDOMINIUM.** A single-dwelling unit in a multiunit dwelling or structure, that is separately owned and may be combined with an individual interest in the common areas and facilities of the property.

30. **CONFORMING USE.** A use which is permitted by Ordinance in the district within which located but excluding a legal non-conforming use.

31. **CONGREGATE RESIDENCE.** Any building or portion thereof which contains facilities for living, sleeping and sanitation, as required by this code, and may include facilities for eating and cooking, for occupancy by other than a family. A congregate residence may be a shelter, convent, monastery, dormitory, and fraternity or sorority house but does not include jails, hospitals, nursing homes, hotels or lodging houses.

more streets.

32. **CORNER LOT.** A lot situated at the junction of and fronting on 2 or

33. **COURT.** A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls of a building.

corpses.

34. **CREMATORY.** A furnace or establishment for the cremation of

35. **CURB LEVEL.** The level of the established curb in front of the building measured at the center of such front. Where no curb level has been established, the city public works department shall establish such curb level or its equivalent for the purpose of this chapter.

36. **DAY CARE, FAMILY.** "Family Day Care Home" means a residence or portion of a residence licensed by the Department of Human Services under chapter 9502 for no more than ten children at one time of which no more than six are under school age, and must meet building code requirements.

37. **DAY CARE, GROUP.** "Group day care home" means any residence or portion of a residence licensed by the Department of Human Services under chapter

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9502 for no more than 14 children at any time, and must meet building code requirements.

38. **DISTRICT.** A section of the city for which the regulations governing height, area, use of buildings and premises are the same

39. **DRIVEWAY.** A private access road, the use of that is limited to persons residing, employed, or otherwise using or visiting the parcel in which it is located.

40. DWELLING, MULTIPLE UNIT. A building or portion thereof designed for occupancy by three or more families living independently in which they may or may not share common entrances and/or other spaces. Individual dwelling units may be owned as condominiums, or offered for rent.

41. DWELLING, SINGLE FAMILY. A detached dwelling unit with kitchen and sleeping facilities, designed for occupancy by one family.

42. DWELLING, TWO FAMILIES. A building designed or arranged to be occupied by two families living independently, with the structure having only two dwelling units.

43. DWELLING, TOWNHOUSE. A single-family dwelling unit constructed in a group of three or more attached units in which each unit extends from the foundation to roof with open space on at least two sides.

44. EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above said lot or lots.

45. FAMILY. An individual or two or more persons related by blood or marriage or a group of not more than five persons (excluding servants) who need not be related by blood or marriage living together in a dwelling unit.

46. FARM ANIMALS. Animals other than household pets that shall be permitted to, where permitted, be kept and maintained for commercial production and sale and/or family food production, education or recreation. Farm animals are identified by three categories: large animals, e.g., horses and cattle; medium animals, e.g., sheep and goats; or small animals, e.g., rabbits, chinchillas, chickens, turkeys, pheasants, geese, ducks and pigeons.

47. FLOOR AREA, GROSS. The sum of the horizontal areas of floors of a building measured from the exterior face of exterior walls or, if appropriate, from the center line of dividing walls; this includes courts and decks or porches when covered by a roof.

48. FLOOR AREA, NET. The gross floor area exclusive of vents, shafts, courts, elevators, stairways, exterior walls and similar facilities.

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49. FRONTAGE. The width of a lot or parcel abutting a public right-of way measured at the front property line.

50. FUNERAL HOME/MORTUARY. An establishment where the dead are prepared for burial, kept before burial or cremation and where wakes and funerals may be held.

51. GARAGE, PRIVATE. A building or portion of a building not more than 1,200 square feet in area, in which only private or pleasure-type motor vehicles used by tenants of the building or buildings on the premises are stored or kept.

52. GARAGE, PUBLIC. Any premises, except those described as a private garage, used for storage or care of power driven or towed vehicles, or where any such vehicles are equipped for operation, repair or are kept for remuneration, hire or sale.

53. GRADE (adjacent ground elevation). The lowest point of elevation of

the existing surface of the ground, within the area between the building and a line 5 feet from the building.

54. **HABITABLE SPACE (room).** Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

55. **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.

56. **HOUSEHOLD PETS.** Dogs, cats, rabbits, birds, etc., for family use only (noncommercial) with cages, pens, etc.

57. **JUNK YARD.** Any building, structure, premises, or place within the City at, upon, or within which there is kept, stored, or piled in quantities, whether temporarily, irregularly, or continually, old, used, or second hand material of any kind, including, but not limited to, the following: clothing, paper, bottles, vehicles not currently licensed, parts of motor vehicles, agricultural or construction equipment or parts thereof, building materials, or any other article which from its worn condition renders it practically useless for the purpose for which it was intended and which is commonly classed and referred to as junk.

58. **KITCHEN.** Any room or portion of a room within a building designed and intended to be used for cooking or preparation of food.

59. **LANDSCAPING.** The finishing and adornment of unpaved yard areas. Materials and treatment generally include naturally growing elements such as grass, trees, shrubs and flowers, this treatment shall be permitted also to include the use of logs, rocks, fountains, water features and contouring of the earth.

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60. **LIVESTOCK.** Includes, but is not limited to horses, bovine animals, sheep, goats, swine, reindeer, donkeys, mules and any hoofed animals.

61. **LODGING HOUSE.** Any building or portion thereof containing not more than five guest rooms where rent is paid in money, goods, labor or otherwise.

62. **LOT.** One unit of a recorded plat or subdivision occupied or to be occupied by a building and its accessory buildings and including as a minimum such open spaces as are required under this code and having frontage on a public right-of-way.

63. **LOT AREA.** The land area within the lot lines.

64. **LOT AREA PER FAMILY.** The lot area required by this code to be provided for each family in a dwelling.

65. **LOT DEPTH.** The mean horizontal distance between the mean front right-of-way and the mean rear lot line. The greater frontage of a corner lot is its depth, and its lesser frontage is its width.

streets.

66. **LOT, DOUBLE FRONTAGE.** An interior lot having frontage on two

67. **LOT, INTERIOR.** A lot other than a corner lot.

68. **LOT LINES.** The lines bounding a lot, as defined herein.

69. LOT WIDTH. The width of a lot is its own mean width measured at the building setback line.

70. MANUFACTURED HOME. A structure, transportable in one or more sections, which in the traveling mode is 8 feet or more in body width, or forty feet or more in body length, or when erected on site, 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein.

71. MANUFACTURING, HEAVY. All other types of manufacturing not included in the definitions of light and medium manufacturing.

72. MANUFACTURING, LIGHT. The manufacturing, compounding, processing, assembly, packaging or testing of goods or equipment, including research activities, conducted entirely within an enclosed structure, with no outside storage, serviced by a modest volume of trucks or vans and imposing a negligible impact on the surrounding environment by noise, vibration, smoke, dust or pollutants.

73. MANUFACTURING, MEDIUM. The manufacturing, compounding, processing, assembling, packaging or testing of goods or equipment within an enclosed structure or an open yard that is capable of being screened from neighboring properties, serviced by a modest volume of trucks or other vehicles.

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74. MOTEL, HOTEL. Any building containing six or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests.

75. NONCONFORMING LOT. A lot whose width, area or other dimension did not conform to the regulations when this code became effective.

76. NONCONFORMING STRUCTURE. A building or structure or portion thereof lawfully existing at the time this code became effective, which was designed, erected or structurally altered for a use that does not conform to the zoning regulations of the zone in which it is located.

77. NONCONFORMING USE. A use that lawfully occupied a building or land at the time this code became effective, which has been lawfully contained and which does not now conform to the use regulation.

78. OPEN SPACE. Land areas that are not occupied by buildings, structures, parking areas, streets, alleys or required yards. Open space shall be permitted to be devoted to landscaping, preservation of natural features, patios, recreational areas and facilities.

79. PARK. A public or private area of land, with or without buildings, intended for outdoor active or passive recreational uses.

80. PARKING LOT. An open area, other than a street, used for the parking of automobiles.

81. PARKING SPACE, AUTOMOBILE. A space within a building or private or public parking lot, exclusive of driveways, ramps, columns, office and work areas, for the parking of an automobile.

82. PERSON. A natural person, heirs, executors, administrators or assigns, and includes a firm, partnership or corporation, it's or their successors or assigns, or the agent of any of the aforesaid.

83. PLANNED UNIT DEVELOPMENT (PUD). A residential or commercial development guided by a total design plan in which one or more of the zoning or subdivision regulations, other than use regulations, shall be permitted to be waived or varied to allow flexibility and creativity in site and building design and location, in accordance with general guidelines.

84. PLOT PLAN. A plot of a lot, drawn to scale, showing the actual measurements, the size and location of any existing buildings or buildings to be erected, the location of the lot in relation to abutting streets, and other such information.

85. POOLS (SWIMMING), HOT TUBS AND SPAS.

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A. Barrier. A fence, a wall, a building wall of an above-ground swimming pool or a combination thereof, which completely surrounds the swimming pool and obstruct access to the swimming pool.

B. Power Safety Cover. A pool cover that is placed over the water area, and is opened and closed with a motorized mechanism activated by a control switch.

C. Private Swimming Pool, Indoor. Any private swimming pool that is totally contained within a private structure and surrounded on all four sides by walls of said structure.

D. Private Swimming Pool, Outside. Any private swimming pool that is not an indoor pool.

E. Private Swimming Pool. Any structure that contains water over 24 inches in depth and which is used, or intended to be used, for swimming or

recreational bathing in connection with a residential occupancy and which is available only to the family and guests of the householder. This includes above-ground/on-ground pool, hot tub, in-ground pool or spas.

86. PRACTICAL DIFFICULTY. As used in connection with granting of a variance, "practical difficulty" means the property owner (or applicant) proposes to use the property in a reasonable manner not permitted by the code; the plight of the owner (or applicant) is due to circumstances unique to the property not created by the owner (or applicant); and the variance, if granted, will not alter the essential character of the neighborhood. Economic considerations alone shall not constitute a "practical difficulty" if reasonable use for the property exists under the terms of this Chapter. "Practical difficulty" also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. Special consideration shall be given for earth sheltered construction as defined in Minnesota Statutes, Section 216C.06, Subd. 14, when such construction is in harmony with the provisions of this Chapter.

87. PUBLIC SWIMMING POOL. Any swimming pool other than a private swimming pool.

88. PUBLIC IMPROVEMENT. Any drainage ditch, storm sewer or drainage facility, sanitary sewer, water main, roadway, parking, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or for which the local government responsibility is established.

89. PUBLIC SERVICES. Uses operated by a unit of government to serve public needs, such as police (with or without jail), fire service, ambulance, judicial court or government offices, but not including public utility stations or maintenance facilities.

90. PUBLIC UTILITY STATION. A structure or facility used by a public or quasi-public utility agency to store, distribute, generate electricity, gas, telecommunications, and related equipment, or to pump or chemically treated water. This does not include storage or treatment of sewage, solid waste or hazardous waste.

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91. PUBLIC WAY. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

92. PREMISES. A lot or plot with the required front, side and rear yards for a dwelling or other use as allowed under this code.

93. RECREATION, INDOOR. An establishment providing completely enclosed recreation activities. Accessory uses shall be permitted to include the preparation and serving of food and/or the sale of equipment related to the enclosed uses. Included in this definition shall be bowling, roller skating or ice skating, billiards, pool, motion picture theatres, and related amusements.

94. RECREATION, OUTDOOR. An area free of buildings except for restrooms, dressing rooms, equipment storage, maintenance buildings, open-air pavilions and similar structures used primarily for recreational activities.

95. RECYCLING FACILITY. Any location whose primary use is where waste or scrap materials are stored, bought, sold, accumulated, exchanged, packaged, disassembled or handled, including, but not limited to, scrap metals, paper, rags, tires and bottles, and other such materials.

96. REGISTERED DESIGN PROFESSIONAL. An architect or engineer registered or licensed to practice professional architecture or engineering as defined by statutory requirements of the professional registration laws of the state.

97. RELIGIOUS, CULTURAL AND FRATERNAL ACTIVITY. A use or building owned or maintained by organized religious organizations or nonprofit associations for social, civic or philanthropic purposes, or the purpose for which persons regularly assemble for worship.

98. RENOVATION. Interior or exterior remodeling of a structure, other than ordinary repair.

99. RESTAURANT. An establishment that sells prepared food for consumption, Restaurants shall be classified as follows:

A. Restaurant, fast food. An establishment that sells food already prepared for consumption, packaged in paper, Styrofoam or similar materials, and may include drive-in or drive-up facilities for ordering.

B. Restaurant, general. An establishment that sells food for consumption on or off the premises.

C. Restaurant, take-out. An establishment that sells food only for consumption off the premises.

100. SETBACK. The minimum required distance between the property line and the building line.

tract of land.

101. SITE PLAN. A plan that outlines the use and development of any

102. STORY. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than 6 feet above grade as defined herein for more than 50% of the total perimeter or is more than 12 feet above grade as defined herein at any point, such usable or unused under-floor space shall be considered as a story.

103. STREET. Any thoroughfare or public way or easement in private ownership, not dedicated or maintained as a public street, which affords the principal means of access to two or more sites.

104. STRUCTURE. That which is built or constructed, and edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

105. SUBDIVISION. The division of a tract, lot or parcel of land into two or more lots, plats, sites or other divisions of land.

106. USE. The activity occurring on a lot or parcel, for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied, including all accessory uses.

107. USE, ACCESSORY. A use clearly incidental or accessory to the principal use of a lot or a building located on the same lot as the primary use.

or premises.

108. USE, CHANGE OF. The change within a classified use of a structure

109. USE, CONDITIONAL. A use permitted in a particular zoning district only upon showing that such use in a specified location will comply with all standards of this code for the location or operation of such use.

110. USE, NONCONFORMING. A use that lawfully occupied a building or land at the time this code became effective, which has been lawfully continued and which does not now conform to the use regulations.

111. USE, PRINCIPAL. A use that fulfills a primary function of a household, establishment, institution or other activity.

112. USE, TEMPORARY. A use that is authorized by this code to be conducted for a fixed period of time. Temporary uses are characterized by such activities

as the sale of agricultural products, contractors' offices and equipment sheds, fireworks, carnivals, flea markets, and garage sales.

113. VARIANCE. A modification or variation of the provisions of this code, as applied to a specific piece of property, except that modification in the allowable uses

within a district shall not be considered a variance.

114. YARD. Any space in the same lot with a building open and unobstructed from the ground to the sky.

115. YARD, FRONT. A yard extending across the front of a lot between the side lot lines and lying between the rear property line and the nearest point of the building.

116. YARD, REAR. A yard extending across the rear of the lot between the side lot lines and lying between the rear property line and the nearest point of the building.

117. YARD, SIDE. A yard extending along the side of a lot between the front and rear lot lines and lying between the side property line and the nearest point of the building.

SEC. 11.09. CLASSIFICATIONS OF DISTRICTS.

Subd. 1. Residential Uses.

R-A: Residential/Agricultural District. This district is to accommodate existing agricultural uses until such time as this land is ready to be used in accordance with the comprehensive plan. Housing development is intended to be restricted to very low density single-family units unless served by public utilities.

R-1: Single family residential. Single family detached dwellings are the primary land use in this district with twin homes and town homes permitted at a rate of no more than 7 units per acre, and up to 4 units per town home. Attached housing shall be arranged horizontally.

R-2: Multiple Family Residential. Allowing the addition of a higher density housing to the R-1 district with 8 to 16 units per acre density and up to 8 units in a building and may be arranged horizontally or vertically.

R-3: High Density Residential. Intended to accommodate multifamily densities exceeding 16 units per acre. Care shall be taken to allow for adequate traffic flow with increased densities and the impact on existing neighborhoods and streets.

<u>Residential uses</u>	<u>R/A</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>

Single family	X	X	X	X
Twin homes		X	X	X
Town homes		X*	X	X
Multi family-limit 8 units			X	X
Multi family over 8units				X
Agriculture limited	X			
Public parks/recreation		X	X	X
Railroad R.O.W.	X	X	X	X
Family day care	X	X	X	X

Group day-care				X
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*limited to 4 units per lot

<u>Accessory use</u>	R-A	R-1	R-2	R-3
Garages-limited	X	X	X	X
Storage buildings-limited	X	X	X	X
Swimming pools/private	X	X	X	X
Living unit for help	X	X	X	X

<u>Conditional use</u>	R-A	R-1	R-2	R-3
Churches		X	X	X
Bed and breakfast		X	X	X
Home occupation	X	X	X	X

Subd. 2. Home Occupations. Home occupations shall be permitted in all residential zones as a conditional use provided the home occupation is clearly and obviously subordinate to the main use of the dwelling unit for residential purposes. Home occupations shall be conducted wholly within the primary structure on the premises

Conditions:

1. The home occupation shall not exceed 15 percent of the floor area of the primary structure.
2. Other than those related by blood, marriage or adoption, no more than one person may be employed in the home occupation.
3. Inventory and supplies shall not occupy more than 50 percent of the area permitted to be used as a home occupation.

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4. There shall be no exterior display or storage of goods on said premises.
5. Home occupations involving beauty shops or barber shops shall require all health department and plumbing code approvals.
6. Sales and services to patrons shall be arranged by appointment and scheduled so that not more than one patron vehicle is on the premises at the same time.
7. Two additional parking spaces shall be provided on the premises, except only one need be provided if the home occupation does not have an employee. Said parking shall comply with the parking requirements in this code.

Subd. 3. Residential-Dimensional Requirements, Setbacks.

<u>Dimensional requirements</u>	<u>R/A</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>
Maximum height-stories	2.5	2.5	2.5	4
Maximum height-feet	30'	30'	45'	56'
Accessory-stories	1.5	1.5	1.5	1.5
Accessory-height	18'*	18'*	18'*	18'*

* For every foot or part thereof over 13' in height the required setbacks shall be increased by 1 foot.

For this table an accessory building is considered a storage shed or detached garage. This does not apply to structures attached to the principal building.

<u>Lot area requirements</u>	<u>R/A</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>
Area single family	22,000	7,000	7,000	7,000
Area twin homes (per unit)	N/A	5,000	5,000	5,000
Area over 2 units (per unit)	N/A	6,000	16,000*	16,000*
Minimum lot frontage	100'	70'	70'	70'
Lot depth	150'	100'	100'	100'
Allowable coverage ^{*2}	40%	35%	40%	40%

*for 3 unit dwelling plus 2,500 for additional dwellings

^{*2}Coverage includes hard surfaced parking areas

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Principal buildings

<u>Yard setbacks</u>	<u>R/A</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>
Front arterial street	35'	35'	35'	35'
Other streets ^{*1}	25' [*]	25' [*]	25' [*]	25' [*]
Side ^{*2}	15'	5'	5'	5' [*]
Rear ^{*3}	50'	25' [*]	25' [*]	25' [*]

^{*1} If 75% or more of the frontage on the same side of the street between two intersecting streets is improved with buildings that have observed greater or lesser setbacks, then no new building or structure shall project beyond a straight line drawn between the closest front corners of the two nearest adjacent buildings. For corner lots, the principal building setback shall not be less than the average setback of 75% of the principal buildings that

have the least amount of setback within the block, provided the average setback does not vary more than 20% from the setback observed for the adjacent structure in the event the setback shall not be less than 80% of said adjacent principal building setback.

^{*2} Three or more units on the same lot the side yard requirements shall be 10% lot frontage.

Note: Side setback measured from property line or from any duly recorded easement line.

^{*3} In R-1, R-2 and R-3 the rear yard requirement is 20% of lot depth or 25' whichever is greater.

Source: Ordinance No. 338, Third Series
Effective Date: 03-12-2015

Subd. 4. Residential-Accessory Structures and Uses.

Attached/Detached Accessory Structures and Uses:

Private garages and storage sheds provided that all garage and storage space, attached and detached, excluding storage space which is a part of the interior of the principle main building or structure including the basement and attic thereof, shall not exceed 1,200 square feet of floor space; provided also that any accessory building more than 120 square feet must have a minimum 3-foot rise over a 12-foot distance pitched roof and a minimum 6-inch eave and it must rest on a permanent foundation of wood or concrete material and is erected in its entirety in accordance with the State Building Code.

All detached accessory structures shall be a minimum of 10' from the principal building and 3' from all side yards and no closer then the back building line of the principal structure from the street.

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Maximum coverage of accessory structures in the rear yard shall be 30%.

If the vehicle door faces an alley in an accessory structure it shall be setback 24' from center of the alley.

All R zones both frontages on a corner lot shall comply with front yard setback.

Private Swimming Pools, when completely enclosed within a chain link or similar fence, having openings so that a 1 ¾ inch sphere cannot pass through. The bottom of the fence shall be no higher than four inches above the ground. The fence must be six feet high and located at least four feet from the edge of the pool. Fence openings or points of entry to the pool area shall be equipped with self-closing and self-latching lockable gates.

Source: Ordinance No. 280, Third Series
Effective Date: 1-12-06

Subd. 5. Commercial Uses.

H-C: Highway Commercial:

Located along main traffic routes to accommodate larger volumes of traffic. Intended for service type uses such as automobile sales and service, drive-up establishments including restaurants and banks, commercial retail/service uses such as insurance and real estate sales, and lodging facilities.

C-C: Community Commercial:

Local service type uses such as insurance and banks, grocery and convenience stores and other uses that merchandise for sale or service. Care shall be taken to allow for traffic and parking required for these types of uses.

N-C: Neighborhood Commercial:

This district would accommodate low volume traffic uses that would have lesser impact on adjacent residential areas. These uses would tend to be non-retail low volume service uses.

C-R: Commercial Reserve:

This area is identified to be used for future commercial development.

B: Business Park:

Business Park Areas are planned land use to a higher standard to protect both the

offices. Limited commercial which supports the business park would require a conditional use permit. All storage is intended to be completely enclosed within a building.

<u>Allowed uses</u>	<u>H-C</u>	<u>C-C</u>	<u>B</u>	<u>N-C</u>
Auto repair, major	X			
Auto repair, minor	X	X		
Auto-fueling	X	X		
Business/financial services-offices	X	X	X	X
Commercial, light *	X	X	CU	CU
Retail sales and service.	X	X		CU
Lodging/Hotel-Motel	X	X		CU
Public service/admin.	X	X	X	X
Recreation, Indoor/Outdoor	X	X		
Restaurant	X	X		CU
Manufacturing, light			X	
R & D Laboratories			X	
Medical/health services	X	X	X	CU

Subd. 6. Commercial-Dimensional Requirements, Setbacks

<u>Dimensional requirements</u>	<u>H-C</u>	<u>C-C</u>	<u>B</u>	<u>N-C</u>
Maximum height-stories	2	2	4	2
Maximum height-feet	30'	30'	48'	24'
Accessory-stories	1	1	1	1
Accessory-height	15'	15'	15'	15'

<u>Lot area requirements</u>	<u>H-C</u>	<u>C-C</u>	<u>B</u>	<u>N-C</u>
Minimum lot area	10,000	10,000	10,000	7,000
Minimum frontage	100'	100'	100'	70'

Minimum lot depth	100'	100'	100'	100'
<u>Allowable lot coverage</u>				
Buildings	50%	50%	40%	60%
Hard surfaced area (building + paving)	70%	70%	60%	80%

<u>Yard setbacks</u>	<u>H-C</u>	<u>C-C</u>	<u>B</u>	<u>N-C</u>
Front arterial street*	60"	60'	60'	35'
Other streets*	25'	25'	25'	25'
Side	15'	15'	15'	10%
Rear	25'	25'	35'	25'

Subd. 7. Downtown.

D: Downtown.

This zone reflects the unique mixture of uses in and around the Downtown. A variety of uses fit including, community-scale retail, professional services, public/civic uses, parks, offices, dining and entertainment, banking, lodging, and housing.

All new buildings or substantially remodeled buildings shall require a conditional use. It must be shown that this use is compatible with the character and scale of the Downtown area.

Dimensional, lot area and setback requirements shall be judged on an individual basis as part of the conditional use application.

Subd. 8. Allowable Projections Into Yards.

A. General. Eaves, cornices or other similar architectural features shall be permitted to project into required yard no more than 12 inches. Chimneys or other cantilevered projections shall be permitted to project no more than 2 feet, provided the width of any side yard is not reduced to less than 3 feet.

B. Front Yards. Open, unenclosed ramps, porches, platforms or landings, not covered by a roof, shall be permitted to extend no more than 6 feet into the required front yard, provided such porch does not extend above the first level and is no more than 6 feet above grade at any point.

C. Rear Yards. Windows shall be permitted to project into a required rear yard no more than 12 inches.

Subd. 9. Landscaping Requirements.

A. General. Landscaping is required for all new buildings and additions over 500 square feet as defined in this section. Said landscaping shall be completed within 1 year from the date of occupancy of the building.

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B. Front Yards. Front yards required by this or other applicable codes shall be completely landscaped, except for those areas occupied by access driveways, walls and structures.

C. Street-side Side Yards. All flanking street-side yards shall be completely landscaped, except for those areas occupied by utilities, access driveways, paved walks, walls and structures.

D. Maintenance. All live landscaping required by this or other applicable codes shall be properly maintained. All dead or dying landscaping shall be replaced immediately and all sodded area mowed, fertilized and irrigated on a regular basis.

Source: Ordinance No. 272, Third Series
Effective Date: 3-10-05

Subd. 10. Limited Industrial

I-1: Limited Industrial: The purpose of this district is to designate sufficient

land for industrial development, to provide for expansion of the City's tax base and

accommodate needed employment. Only industrial developments which do not adversely affect adjacent business or residential districts are intended to be allowed. Industrial establishments should be either,

- 1) ones whose operations are relatively free from objectionable

influences, or

- 2) one whose objectionable features will be obviated by design or

appropriate devices. In the interest of general health and welfare, residential and certain institutional uses are not intended to be permitted within this District.

A. Permitted Uses. The following uses shall be permitted within the I-1 Limited Industry District:

1. Manufacturing. Any light manufacturing use or process including repairs, assembling, fabricating, altering, converting, finishing, processing, treating, testing, packaging or bottling,; except any use or process hereinafter specifically excluded or which would not be in keeping with the purpose of the district as stated above. Such determination shall be made by the Zoning Administrator upon review of the building permit application.

2. Warehousing, Storage and Wholesaling. The storage, handling, assembly and distribution of goods and materials for retail, wholesale or on-site use.

B. Conditional Uses. The following uses may be allowed in the I-1 Limited Industry District, subject to the provisions of Section 11.22:

1. General. Any permitted use in the I-2 District, provided that any objectionable features normally associated with these uses, such as those deemed to be hazardous, offensive or objectionable by reason of odor, dust, cinders, gas fumes, noise, vibration, radiation, refuse matter or water-carried waste, shall be treated, controlled or eliminated through design, mechanical devices, screen planting

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or walls or other measures as specified by the Planning Commission, and provided that the use and its day-to-day activity will not be hazardous, noxious or offensive.

2. Other heavy commercial or industrial uses as determined appropriate by the City Planning Commission.

3. Residential. Dwellings for business owners and their families and such sleeping and boarding accommodations as are customarily incidental and necessary to a permitted use. Additions to such existing buildings may be authorized where the number of families or the number of lodging accommodations is not increased.

C. Accessory Uses. The following uses are permitted only when auxiliary to a principal use permitted above; they may not exist as principal uses in their own stead:

1. Any accessory use, building or structure customarily incidental to a principal use permitted above, and located on the same lot therewith.

2. Specialized freight and yard equipment, private utility structures, secondary processing structures and similar specialized structures.

3. Parking and loading facilities as regulated herein.

4. Signs as regulated herein.

D. Special District Provisions.

1. Landscaping. All open areas of any site, lot, tract or parcel shall be graded to provide proper drainage, and except for areas used for parking, drives or storage, shall be landscaped with trees, shrubs or planted ground cover. It shall be the owner's responsibility to see that this landscaping is maintained in an attractive and well-kept condition. All adjacent vacant lots, tracts or parcels under the same ownership shall also be properly maintained.

2 Storage. All raw materials, supplies, finished or semi-finished products and equipment shall be stored in an orderly manner with all materials stored in neat and well organized stacks, piles, or other orderly method appropriate for the material. In no event shall junk, rubbish, debris, weeds or tall grass, by-products, salvage and inoperable equipment or any other material or matter not used in the normal course of business be allowed to accumulate, or become offensive in any manner, to any measurable degree whatsoever. The Council may require all raw materials, supplies, finished or semi-finished products and equipment shall be stored within a completely enclosed building or within the confines of a 100 percent opaque wall or fence not less than five feet high. Provided, however, that motor vehicles necessary to the operation of the principal use and of not more than three-quarter ton capacity may be stored within the permitted parking lot areas.

3. Screening. All principal, accessory and conditional uses, except business signs, which are situated within 50 feet of a Residential District, shall be screened and buffered from such district by a separation of open space which shall have a minimum depth of 30 feet and shall include a required fence or vegetation screening of not less than 90 percent opacity and not less than five feet nor more than seven feet in height above the level of the Residential District property at the district boundary. Walls or fences of less heights or planting screens may be permitted by the Board of Adjustment, if there is a finding that the nature of extent of the use being screened is

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such that a lesser degree of screening will as adequately promote and protect the use and enjoyment of the properties within the adjacent Residential District, or there is a finding that a screening of the type required by this Chapter would interfere with provisions of adequate amounts of light and air to same said properties. Loading docks in the I-1 District shall be screened so as not to be visible from any public street right-of-way within a Residential District. All required screening devices shall be designed so that they are architecturally harmonious with the principal structures on the site and they shall be properly maintained so as not to become unsightly, hazardous, or less opaque than when originally constructed.

E. General Regulations. Additional requirements for dimensional, signs, parking, and other regulations in the I-1 Limited Industry District are set forth in this Section.

Subd. 11. Special Industry District

I-2: Special Industrial. The purpose of this district is to designate sufficient land for industrial development and to provide attractive land for the purpose of expanding the City's tax base and providing needed employment. This district shall accommodate a wide variety of industrial establishments which may operate to their maximum advantage without adversely affecting other nearby similar or dissimilar uses and activities.

A. Permitted Uses. The following uses shall be permitted within the I-2 General Industry District:

1. General. Any industrial use which is not specifically prohibited herein or any industrial use not listed as a Conditional Use herein may be permitted.

2. Conditional Uses. The following uses may be permitted

in a I-2 General Industry District, subject to the provisions of Section 11.22:

a. Wrecking and Salvage Yards. Junk yard, including automobile wrecking and industrial metal and waste salvage, but not including refuse or garbage disposal, if located at least 200 feet from any Residential District; provided all operations are conducted within an area enclosed with a solid wall or uniform tight board fence, including gates, at least eight feet in height and such enclosure shall be properly maintained.

any Residence District.

from any Residence District.

b. Crematory. If located not less than 200 feet from c. Railroad Sidings. If located not less than 200 feet d. Other Uses. The following uses may only be

authorized as a conditional use by the Council if located at least 400 feet from any Residence District, and if the location of such use has been recommended by the Planning Commission after receiving reports from the Chief of the Fire Department, and the State Pollution Control Agency.

manufacture.

1. Acid manufacture.
2. Cement, lime, gypsum, or plaster of paris
3. Distillation of bones, coal or wood.

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dumping.

4. Explosive manufacture or storage.
5. Fat rendering.
6. Fertilizer manufacture.
7. Garbage, offal or dead animals, reduction or
8. Gas manufacture.
9. Glue or gelatin manufacture.
10. Petroleum refining (including bulk storage).
11. Smelting of tin, copper, zinc or iron ores.
12. Manufacture of paint products, paper pulp,

pyrexilin, inks, soap, tars, vinegars, salts.

13. Meat packing or processing plant.
14. Elevators or other grain storage facilities.
15. Any other uses which, in the opinion of the

Commission, is of similar character to those therein before described.

B. Accessory Uses. The following uses are permitted only when auxiliary to a principal use permitted above; they may not exist as principal uses.

1. Accessory uses as listed in the I-1 District.

C. Special District Provisions.

1. Landscaping. All open areas of any site, lot, tract or parcel shall be graded to provide proper drainage, and except for areas used for parking, drives or storage, shall be landscaped with appropriate dust-free and attractive material. Such landscaping shall conform with the development plan approved at the time the building permit was issued. It shall be the owner's responsibility to see that the lot area is maintained in a well-kept condition. All vacant lots, tracts or parcels abutting and under

the same ownership shall be properly maintained.

2. Storage. All raw materials, supplies finished or semi-finished products and equipment shall be stored in an orderly manner with all materials stored in neat and well organized stacks, piles, or other orderly method appropriate for the material. In no event shall junk, rubbish, debris, weeds or tall grass, by-products, salvage and inoperable equipment or any other material or matter not used in the normal course of business be allowed to accumulate, or become offensive in any manner, to any measurable degree whatsoever. The Council may require all raw materials, supplies, finished or semi-finished products and equipment shall be stored within a completely enclosed building, or within the confines of a 100 percent opaque wall or fence not less than five feet high, provided, however, that motor vehicles necessary to the operation of the principal use may be stored within the permitted parking lot areas.

Source: Ordinance No. 280, Third Series
Effective Date: 1-12-06

3. General Regulations. Additional requirements for dimensional, signs, parking, and other regulations in the I-2 General Industry District are set forth in other section of this code. Side yard setback requirements of 20 feet in Industrial Zones may be waived to a minimum of 5 feet (while meeting State Building Code requirements) with approval of the City Administrator and City Building/Zoning Official when a building is proved to require access to a rail spur for regular business operation. A rail spur is defined as a branch of railroad track extending from the main

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line. Additional requirements for dimensional, signs, parking, and other regulations in the I-2 General Industry District are set forth in other sections of this code.

Source: Ordinance No. 298, Third Series
Effective Date: 8-21-08

Subd. 12 - Public District.

P. Public: This district is intended to provide a procedure for the orderly establishment of public facilities, expansion of their operations or changes in the use of lands and facilities owned by governmental agencies.

A. Permitted Uses. The following uses are permitted within the P -

Public District:

1. Cemeteries.

2. Governmental buildings, community center buildings,

public libraries, and other municipal service buildings, except those customarily considered industrial in use and provided that no buildings shall be located within 25 feet of any lot line of an abutting lot in any Residence District.

governmental agencies.

3. Parks and recreational areas owned or operated by

4. Publicly owned housing.

5. Public schools.

6. Public utilities and Public Uses.

B. Accessory Uses. The following uses shall be permitted accessory uses within the P - Public District.

1. Accessory uses customarily incidental to the uses

permitted in Subdivision 2 of this Section.

2. Automobile parking lot or storage or parking garages.

C. General Regulations. Additional requirements for dimensional, signs, parking, and other regulations in the P - Public District are set forth in other sections of this code.

<u>Dimensional requirements</u>	<u>I-1</u>	<u>I-2</u>	<u>P</u>
Maximum height-stories	2	N/A	2
Maximum height-feet	30'	75'	30'
Accessory-stories	1	1	1
Accessory-height	25'	25'	25'

<u>Lot area requirements</u>	<u>I-1</u>	<u>I-2</u>	<u>P</u>
Minimum lot area	N/A	N/A	N/A
Minimum frontage	50'	100'	50'

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Minimum lot depth	N/A	N/A	N/A
<u>Allowable lot coverage</u>			
Buildings	50%	50%	40%
Hard surfaced area (building + paving)	70%	70%	60%

<u>Yard setbacks</u>	<u>I-1</u>	<u>I-2</u>	<u>P</u>
Front arterial street*	35'	35'	35'
Other streets*	25'	25'	25'
Side	20'	20'	30'
Rear	25'	25'	25'
From "R" District Line	30'	75'	30'

* If 75% or more of frontage on the same side of the street between two intersecting streets is improved with buildings that have observed greater or lesser setbacks, then no new building or structure shall project beyond a straight line drawn between the closest

front corners of the two nearest adjacent principal buildings. For corner lots, the principal building setback shall not be less than the average setback of 75% of the principal buildings that have the least amount of setback within the block, provided the average setback does not vary more than 20% from setback observed for the adjacent principal structure in which event the setback shall not be less than 80% of said adjacent principal building setback.

Source: Ordinance No. 280, Third Series
Effective Date: 1-12-06

Subd. 1. Purpose and Intent. This Section is enacted to minimize losses in those areas subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. This Section is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

Subd. 2. Statutory Authorization. The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

Therefore, the Council of the City of Luverne, Minnesota does ordain as follows: Subd. 3. General Provisions.

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A. This Section shall apply to all lands within the jurisdiction of the City shown on the Official Zoning Maps as being located within the boundaries of the Flood Plain District.

B. The Official Zoning Map together with all explanatory materials thereon, and attached thereto, is hereby adopted by reference and declared to be a part of this Section. The explanatory material shall include the Flood Insurance Study for the City prepared by the Federal Insurance Administration dated November 17, 1981 and the Flood Boundary and Floodway Map and Flood Insurance Rate Map dated May 17, 1982. The Official Zoning Map shall be on file in the office of the City Administrator.

C. The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Board of Appeals and Adjustments shall make the necessary interpretation based on elevations on the regional (100 year) flood profile and other available technical data. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board and to submit technical evidence if he so desires.

D. Warning and Disclaimer of Liability. This Section does not imply that areas outside the Flood Plain District or land uses permitted within this district will be free from flooding or flood damages. This Section shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decision lawfully made there under.

E. Abrogation and Greater Restrictions. It is not intended by this Section to repeal, abrogate, or impair any existing easement, covenants, or deed restriction. However, where this Section imposes greater restrictions, the provisions of the Section shall prevail. All other ordinances of the City or provisions of the City Code inconsistent with this Section are hereby repealed to the extent of the inconsistency only.

Subd. 4. Definition. Unless specifically defined below, words or phrases used in this Section shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Section its most reasonable application.

1. "Accessory Use or Structure" means a use or structure on the same lot, parcel, or premises with, and of a nature customarily and clearly incidental and subordinate to, the principal use or structure.

2. "Basement", for the purposes of this section, means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

3. "Commissioner" means the Minnesota Commissioner of the Department of Natural Resources.

4. "Equal Degree of Encroachment" means a method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

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5. "Flood" means a temporary rise in stream flow or stage that results in inundation of the areas adjacent to the channel.

6. "Flood Frequency" means the average frequency, statistically determined, for which it is expected that a specific flood state or discharge may be equaled or exceeded.

7. "Flood Fringe" means that portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study.

8. "Flood Plain" means the areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.

9. "Flood Proofing" means a combination of structural provisions, changes or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages.

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

11. "Hardship" means the property in question cannot be put to any reasonable use under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to his property, not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under terms of the official controls.

12. "Obstruction" means any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel, modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood hazard area which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.

13. "Manufactured Home" means a manufactured home as defined in Minnesota Statutes, Section 327.31.

14. "Manufactured Home Park" means a manufactured home park as defined in Minnesota Statutes, Section 327.14.

15. "Principal Use or Structure" means all uses or structures that are not accessory uses or structures.

16. "Reach" means a hydraulic engineering term to describe a

In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

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

18. "Regulatory Flood Protection Elevation" - The Regulatory Flood Protection Elevation within the Flood Plain District shall be established by adding one foot to the Base Flood water surface elevations with Floodway listed in the Floodway Data Table contained in the Flood Insurance study. Regulatory Flood Protection Elevations between cross-sections shall be interpolated. The Regulatory Flood Protection Elevation within the Flood Plain District shall be calculated by a qualified registered professional engineer or by the Minnesota Department of Natural Resources, in accordance with procedures in Subd. 11, Paragraph D, Subparagraph 2.

19. "Structure" means anything constructed or erected on the ground or attached to the ground, including but not limited to, the buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers, travel vehicles, and recreational vehicles not specifically exempted from the provisions of this Section, and other similar items.

20. "Travel Trailer," "Travel Vehicle," or "Recreational Vehicle" means the same as "recreational equipment" defined in Minnesota Statutes, Section 168.011 and "recreational camping vehicles" defined in Minnesota Statutes 327.14.

Subd. 5. Establishment of the Flood Plain District.

A. The flood plain area within the jurisdiction of this Section are hereby established as the Flood Plain District. The district shall include those areas designated as numbered and unnumbered A zones on the Flood Insurance Rate Map (or all areas mapped as 100 year Floodplain on the FIRM and FHBM). Within the Flood Plain District, the flood fringe shall include those areas designated as floodway fringe on the Flood Boundary and Floodway Map.

B. The boundaries of the Flood Plain District shall be shown on the Official Zoning Map. Within the district all uses not allowed as permitted uses or permissible as conditional uses shall be prohibited. No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Section and other applicable regulations which apply to uses within the jurisdiction of this Chapter. In addition, a caution is provided here that:

1. New manufactured homes, replacement manufactured homes, and certain travel trailers and travel vehicles are subject to the general provision of this Section and specifically Subd. 10;

2. Modifications, additions, structural alterations or repair after damage to existing non-conforming structures and non-conforming uses of

structures or land area regulated by the general provisions of this Section and specifically Subd. 11; and

3. As-built elevations for elevated or flood proofed structures

must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of the Section and specifically Subd. 11.

Subd. 6. Flood Plain

District (FP) A. Permitted

Uses:

1. Outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
2. Industrial - commercial loading and/or parking areas, and/or airport landing strips adjacent to industrial or commercial property not in the Flood Plain District.
3. Private and public golf courses, tennis courts, driving ranges, picnic grounds, boat launching ramps, parks, wildlife and nature preserves, fishing areas, and single or multiple purpose recreational trails.
4. Residential lawns, gardens, parking areas, and play areas.

B. Standards for FP Permitted Uses:

1. The use shall have a low flood damage potential.
2. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations, or storage of materials or equipment.

C. Conditional Uses:

1. Accessory Structures located within the flood fringe.
2. Extraction and storage of sand, gravel, and other materials.

control structures. pipelines.

3. Marinas, boat rentals, docks, piers, wharfs, and water
4. Railroads, streets, bridges, utility transmission lines, and
5. Storage yards for equipment, machinery, or materials.
6. Placement of fill.
7. Travel trailers, travel vehicles, and recreational vehicles on

individual lots of record in existing or new subdivisions, subject to the exemptions and provisions of Subd. 10 C.

8. Structural works for flood control including but not limited to levees, dikes, and floodwalls constructed to any height where the intent is to protect individual structures, and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency.
9. General crop farming, pasture, grazing.
10. Archery ranges, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting areas.
11. Swimming areas.

D. Standards for Flood Plain Conditional Uses:

1. All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or

equipment, or other uses may be allowed as a Conditional Use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood

damages in the reach or reaches affected.

2. All flood plain Conditional Uses shall be subject to the procedures and standards contained in Subd. 11 D.

3. Fill:

(a) Fill, dredge spoil, and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap, or other acceptable methods.

(b) Dredge spoil sites and sand and gravel operations shall not be allowed in the flood plain unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.

(c) As an alternative, and consistent with item (b) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the Council has received an appropriate plan which assures the removal of the material from the flood plain based upon the flood warning time available.

4. Accessory Structures:

(a) Accessory structures shall not be designed for human habitation.

(b) Accessory structures, if permitted, shall be

constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.

(1) Whenever possible, structures shall be constructed with longitudinal axis parallel to the direction of flood flow; and,

(2) as far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

(c) Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards, as appropriate:

(1) The structure must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and

(2) Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood proofed.

5. Storage of Materials and Equipment:

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

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(b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Council.

6. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provision of Minnesota Statute, Chapter 105. Community-wide structural works for

flood control intended to remove areas from the regulatory flood plain shall not be allowed in the flood plain.

7. A levee, dike, or floodwall constructed in the floodplain shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

E. Standards for permitted and conditional uses in the flood fringe:

1. All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the Regulatory Flood Protection Elevation. If a variance to this requirement is granted, the Board of Appeals and Adjustments must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

2. Commercial Uses - accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.

3. Manufacturing and Industrial Uses - measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Paragraph E, Subparagraph 2 herein. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

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

5. Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

contained in Subd. 10 C.

6. Standards for travel trailers and travel vehicles are

7. All manufactured homes must be securely anchored to an

adequately anchored foundation system that resists flotation, collapse and lateral

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movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

Subd. 7. Procedures for Flood Plain Evaluations in Areas Where No Detailed Study was Performed.

A. Upon receipt of an application for a Conditional Use Permit for a use within the Flood Plain District, the applicant shall be required to furnish such of the

following information as is deemed necessary by the Zoning Administrator for the determination of the Regulatory Flood Protection Elevation and whether the proposed use is within the Flood Plain.

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

2. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.

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

B. The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Flood Plain District and to determine the Regulatory Flood Protection Elevation. Procedures consistent with Minnesota Rules, latest supplement, (currently codified in the 1990 Supplement, Number 1 as Parts 6120.5000 through 6120.6200) shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

1. Estimate the peak discharge of the regional flood.

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

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

C. The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the Council. The Council must formally accept the technical evaluation and the recommended Flood Plain boundary or deny the permit application. The Council, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources, or the Planning Commission for review and comment. Once the Flood Plain Boundary has been determined, the Council shall

refer the matter back to the Zoning Administrator who shall process the permit application consistent with applicable provisions of Subd. 6 of this Ordinance.

Subd. 8. Land Subdivisions.

A. Review Criteria:

1. No land shall be subdivided for building construction which is held unsuitable by the Planning Commission and Council for reason of flooding, inadequate drainage, or inadequate water supply or sewage treatment facilities. All lots within the Flood Plain District shall contain a building site at or above the Regulatory Flood Protection Elevation. All residential lots contiguous to a stream and served by municipal sewer shall contain at least 15,000 square feet and shall be at least 75 feet wide at the building line. All other residential lots served by municipal sewer shall contain 10,000 square feet and shall be at least 100 feet wide at the building line. All

subdivisions shall have water and sewage disposal facilities that comply with the provisions of the Section and have road access no lower than two feet below the Regulatory Flood Protection Elevation. The following setbacks from the Ordinary High Water Mark shall apply to all structures:

(a) 50 feet for lots served by public sewer.

(b) 75 feet for lots not served by public sewer.

For all subdivisions in the Flood Plain District, the Regulatory Flood Protection Elevation, the required elevation of all access roads and required set backs shall be clearly labeled on all required subdivision drawings and platting documents.

B. Flood Plain Determination:

1. When no detailed study has been performed, applicants shall provide the information required in Subd. 7 to determine the 100-year or regional flood elevation, and the Regulatory Flood Protection Elevation for the subdivision site.

C. Removal of Special Flood Hazard Area Designation:

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

Subd. 9. Public Utilities, Railroads, Roads, and Bridges.

A. All public utilities and facilities including but not limited to gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.

B. Railroad tracks, roads, and bridges to be located within the Flood Plain District shall comply with Subd. 6 of this Ordinance. Elevation to the Regulatory Flood Protection Elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of service would not endanger the public health or safety.

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Subd. 10. Manufactured (Mobile) Homes, Manufactured Home Parks, and Recreational Vehicles.

A. New manufactured home parks and expansion to existing mobile home parks shall be subject to the provisions for land subdivisions contained in Subd. 7.

B. Manufactured homes in existing manufactured home parks that are located in the Flood Plain District may be replaced only if in compliance with the following conditions:

1. The manufactured home lies in the Flood Fringe.

2. The manufactured home is constructed, anchored, stabilized, and utilities connected in compliance with requirements of Minnesota Rules, latest supplement, (currently codified in the 1990 Supplement, Number 1, as Parts 1350.0400 through 1350.3800.)

3. The manufactured home owner or renter is notified that the manufactured home site lies in the flood plain and may be subject to flooding.

4. The manufactured home park owner develops a flood emergency plan consistent with the time available after a flood warning.

C. Travel trailers, travel vehicles, and recreational vehicles that do not meet the exemption criteria specified below shall be subject to the provisions of this Section and as specifically detailed below.

1. Exemption - Travel trailers, travel vehicles, and

recreational vehicles are exempt from the provisions of this Section if they are placed in any of the areas listed in Subparagraph 2 and further they meet the following criteria:

(a) Have current licenses required for highway use.

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

2. The following areas are exempted from placement of travel trailers, travel vehicles, and recreational vehicles:

(a) Individual lots or parcels of record.

(b) Existing commercial recreational vehicle parks or

campgrounds.

(c) Existing condominium type associations.

3. Travel trailers, travel vehicles, and recreational vehicles

exempted in Paragraph C, Subparagraph 1 herein, lose this exemption when development occurs on the parcel exceeding \$1,000 dollars for a structural addition to the travel trailer, travel vehicle, or recreational vehicle; or an accessory structure including but not limited to a garage or storage building. The travel trailer, travel vehicle, and recreational vehicle; all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in Subd. 5.

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

(a) Any new or replacement travel trailer, travel vehicle, or recreational vehicle will be allowed in the Flood Fringe provided said trailer or

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vehicle and its contents are placed on fill above the Regulatory Flood Protection Elevation and proper elevated road access to the site exists in accordance with Subd. 5 E. No fill placed in the Flood Plain District to meet the requirements of this Section shall increase flood stages of the 100 year or regional flood.

(b) All new or replacement travel trailers, travel vehicles, or recreational vehicles not meeting the criteria in Item (a) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of Subd. 11 D. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers, travel vehicles, or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding.

Subd. 11. Administration.

A. The Code Official designated in Section 11.03 shall administer and enforce this Section. If the Zoning Administrator finds a violation of the provisions of this Section, he shall notify the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it, as further specified in Section 11.04, Subd. 5.

B. All uses shall obtain a Use Permit in accordance with the

following standards:

1. A Use Permit issued by the Zoning Administrator in

conformity with the provisions of this Section shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the change or extension of a non-conforming use; and prior to the placement of fill or excavation of materials within the flood plain.

2. Application for a Use Permit shall be made to the Zoning Administrator simultaneous to applying for a building permit on forms furnished by him and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation of the channel.

3. Prior to granting a Use Permit or processing an application for a Conditional Use Permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal permits.

4. Use Permits, Conditional Use Permits, or Certificates of Occupancy issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangements, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Chapter, and punishable as provided by Section 11.05. The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Section. Flood proofing measures shall be certified by a registered professional engineer or registered architect.

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5. Certificate of Zoning Compliance for a New, Altered, or Non-conforming Use. It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use of structure until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Section. Where a non-conforming use or structure is extended or substantially altered, the Certificate of Zoning Compliance shall specifically state the manner in which the non-conforming structure or use differs from the provision of this Ordinance.

6. The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alteration or additions to existing structures in the flood plain districts. He shall also maintain a record of the elevations to which structures and alterations or additions to structures are flood proofed.

C. Variances shall be heard and handled by the Board of Appeals and Adjustment as provided in Section 11.24. The following items shall also be provided in all variance requests in the flood plain zoning district:

1. No variance shall have the effect of allowing in any district uses prohibited in that district; permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular areas, or permit standards lower than those required by State law. In granting a variance, the Board may prescribe appropriate conditions and safeguards including but not limited to those specified in Paragraph D, Subparagraph 4, which are in conformity with the purposes of this Section. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Chapter punishable under Section 11.05.

2. The Board of Appeals and Adjustments shall submit to the

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

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

4. A certified copy of all variances granted shall be recorded in the office of the County Recorder.

D. Applications for Conditional Uses permissible under this Section shall be subject to the general procedures set forth in Section 11.60 and to the following requirements:

1. A copy of the Conditional Use request shall be submitted to the Commissioner of Natural Resources sufficiently in advance so as to allow adequate review which in all cases shall be at least ten (10) days prior to the scheduled

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hearing. A copy of all decisions granting Conditional Use Permits shall be forwarded to the Commissioner of Natural Resources within ten (10) days of such action.

2. Procedures for Evaluating Proposed Conditional Uses within the Flood Plain (FP) District.

(a) Upon receipt of an application for a Conditional Use Permit for a use within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Council and Planning Commission for the determination of the regulatory flood protection elevation, and whether the proposed use is located in the floodway or the flood fringe:

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

(2) Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, size, location; and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.

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

(4) Plans drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the channel.

(5) Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply, and sanitary facilities.

(b) One copy of the above information shall be transmitted to a designated engineer or other expert person or agency for technical

assistance in determining whether the proposed use is in the floodway or flood fringe, the Regulatory Flood Protection Elevation, project effects on flood velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters. Procedures consistent with Minnesota Rules, latest supplement, (currently codified in the 1990 Supplement, Number 1, as Parts 6120.5600 and 6120.5700) shall be followed in this expert evaluation. The designated engineer or expert shall:

(1) Estimate the peak discharge of the regional

flood.

(2) Calculate the water surface profile of the

regional flood based upon a hydraulic analysis of the stream channel and over bank areas.

(3) Compute the floodway necessary to convey the regional flood without increasing flood stages more than 0.5 feet. An equal degree of encroachment on both sides of the stream within the reach shall be assumed.

(c) Based upon the technical evaluation of the designated engineer or expert, the Council and Planning Commission shall determine

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whether the proposed use is in the floodway or flood fringe and the Regulatory Flood Protection Elevation at the site.

3. In passing upon Conditional Use Permit applications, the Council and Planning Commission shall consider all relevant factors specified in other Sections of this Chapter, and

(a) The danger to life and property due to increased flood heights or velocities caused by encroachments.

(b) The danger that materials may be swept onto other lands or downstream to the injury of others.

(c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

(d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(e) The importance of the services provided by the proposed facility to the community.

(f) The requirements of the facility for a waterfront

location.

to flooding for the proposed use.

(g) The availability of alternative locations not subject

(h) The compatibility of the proposed use with existing

development and development anticipated in the foreseeable future.

(i) The relationship of the proposed use to the Comprehensive Plan and flood plain management program for the area.

(j) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(k) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

(l) Such other factors which are relevant to the

purposes of this Section.

4. Upon consideration of the factors listed above and the

purpose of this Chapter, the Council may attach such conditions to the granting of Conditional Use Permits as it deems necessary to fulfill the purposes of this Chapter. Such conditions may include, but are not limited to, the following:

(a) Modification of waste disposal and water supply

facilities. operation.

deed restrictions.

(b) Limitations on period of use, occupancy, and

(c) Imposition of operational controls, sureties, and

(d) Requirements for construction of channel

modifications, dikes, levees, and other protective measures.

(e) Flood proofing measures, in accordance with the State Building Code. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

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5. A certified copy of all Conditional Use Permits shall be recorded in the office of the County Recorder.

E. The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to, at, or above the elevation of the regional flood and is continuous to land outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use. All amendments to this Section including amendments to the Official Zoning Map as it relates to flood plain areas must be submitted to and approved by the Commissioner of Natural Resources and Federal Emergency Management Agency.

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

Subd. 12. Non-Conforming Uses.

A. A structure or the use of a structure or premises which was lawful before the initial adoption or amendment to flood plain controls contained in this Section or similar to those contained herein but which now is not in conformity with the provisions of this Section may be continued subject to the provisions of Section 11.02 and the following conditions:

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

2. Any alteration or addition to a non-conforming structure or non-conforming use which would result in increasing the flood damage potential of that

structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 through FP-4 flood proofing classifications) allowable in the State Building Code, except as further restricted below.

3. The current cost of all structural alterations or additions to any non-conforming structure over the life of the structure shall not exceed 50 percent of the current market value of the structure on the date it became a non-conforming use unless the conditions of this Section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the City's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of Subd. 5 of this Ordinance for new structures. It is the intent of this provision that all values be adjusted to present day values for an as equal a comparison as possible.

4. If any non-conforming use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this Section. The real estate tax assessor shall notify the Zoning Administrator in writing of instances of non-conforming uses which have been discontinued for such a period.

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5. If any non-conforming use or structure is destroyed by any means, including floods, to an extent of 50 percent or more of its market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this Section. The applicable provisions for establishing new uses or new structures in Subd. 6 will apply.

6. The Zoning Administrator shall prepare a list of those non-conforming uses which have been flood proofed or otherwise adequately protected in conformity with Subd. 11, Paragraph D, Subparagraph 4. He shall present such list to the Council which may issue a certificate to the owner stating that such uses, as a result of these corrective measures, are in conformity with the provisions of this Section.

SEC. 11.11. PLANNED UNIT DEVELOPMENT ZONING DISTRICT.

Subd. 1. Purpose. It is recognized that this Chapter is structured to regulate land use and development patterns of a conventional or traditional nature; however there are situations where innovative proposals for use of land may be submitted which do not relate to ordinance controls and would have to be rejected even though feasible and beneficial to the community. It is to accommodate such innovative proposals, even those that may "mix" land uses within a development, exceed stipulated residential densities, or depart from traditional lot sizes, that the PUD District is established. The technology of land development is constantly changing, and creative but practical approaches to the use of land should be encouraged. The provisions of this Section are intended to do so in a manner which is in the best interests of both the developer and the community.

The PUD District when finally established under the provision of this Section shall be applied to and superimposed upon the underlying zoning districts established in Section 11.09 as the same now exist or are amended in the future. It being the intent of the Council that no provision or regulation of the underlying zoning district may be varied, modified or set aside unless specifically allowed in the accepted PUD District final development plan.

Subd. 2. Requirements.

A. Ownership. The tract shall be a development of land under unified control at the time of application, planned and scheduled to be developed as a

whole. However, no authorizations or permits shall be granted for such development unless the applicant has acquired actual ownership of or executed a binding sales contract for all of the property comprising such tract. For purposes of this Section, ownership shall include a lease of not less than fifty (50) years duration. The term "single ownership" shall include a single owner, or a group of land owners, acting through a corporation, where each owner agrees in advance to be bound by the conditions and regulations which will be effective within the district and to record such covenants, easements, and other provisions with the County Recorder at the appropriate time.

B. Minimum Size. No planned unit development shall consist of less than one-half (1/2) acre of contiguous land. Provided, that a public street, public highway, or easements for drainage or utility purposes shall not prevent such land from being considered "contiguous."

C. Comprehensive Plan. The development shall be planned so that it is consistent with the Comprehensive Plan for the community.

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D. Harmony. The planned unit development shall be planned and developed to harmonize with any existing or imminent development in the area surrounding the project site.

E. Financing. The financing for the project shall be proven to be available to the applicant on conditions and in amounts which are sufficient to assure completion of the planned unit development.

F. Permitted Uses.

1. These may include and shall be limited to:

(a) Dwelling units in detached, semi-detached, attached groups of attached, clustered, or multi-storied structures, or any combination thereof;

(b) Any non-residential use, to the extent such non-residential use is designed and intended to serve the residents of the planned unit development, and such other uses as exist or may reasonably be expected to exist in the future;

(c) Public and private education facilities.

2. In a planned unit development designed primarily for other than uses permitted above, the uses shall be limited to those permitted in the zoning district in which the use is located.

G. Recreational Space. A minimum of five (5) percent of the total area of a planned unit development shall be set aside for recreational use. Such use should be effectively separated from automobile traffic and parking and be readily accessible; the term "recreational use" shall not include space devoted to streets and parking.

H. Density. For planned residential developments proposed in existing residential zones, an increase in density may be allowed based on Planning Commission and staff evaluation of design excellence, landscaping, and distinctiveness in site work. The actual amount of density increase shall be a matter of negotiation between the City and landowner, following review of the Preliminary Plan in which an initial density is proposed. In recognizing that the planned unit development process is designed to encourage flexibility and innovative planning and design exercises, it becomes a matter of benefit to both landowner and community to agree upon an appropriate density having economic, aesthetic, and practical value. It is intended that the City be the arbiter in all cases where density increase is proposed.

Subd. 3. Procedure.

A. Preliminary Development Plan; Filing.

1. An applicant for a planned unit development shall submit a

preliminary development plan to the Planning Commission, with a written statement and payment of a fee, for costs incurred by the City in checking and processing such plans. Such application shall be signed by the owner(s) of every property within the boundaries of the proposed planned unit development.

2. The drawings which are part of the preliminary development plan may be in general, schematic form and must contain the following information:

(a) Location and size of the site and nature of the landowner's interest in the land to be developed.

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(b) The density of the land use to be allocated to the several parts of the site to be developed.

(c) The location and size of any common open space and the form of organization proposed to own and maintain such space.

(d) The use and approximate height, bulk, and location of buildings and other structures.

(e) Proposals for collection of sanitary wastes,

distribution of water, and disposal of surface run-off.

(f) Provisions for parking of vehicles and location and width of proposed streets and public ways.

(g) In the case of plans which call for development over a period of years, a schedule showing the proposed times within which applications for final approval of all sections of the planned unit development are intended to be filed.

(h) A topographic map of the subject property or properties, prepared by a registered civil engineer or a licensed land surveyor, covering the entire tract proposed for development and indicating existing conditions. Development for an additional area must include at least three hundred fifty (350) feet, unless the City requires a lesser amount, from tract boundaries. Such map shall be drawn at a scale no smaller than one hundred (100) feet equal one (1) inch, shall indicate topography at two (2) foot contour intervals and show in accurate detail the topography, all planned and existing buildings, and all planned and existing land features and trees. The Planning Commission may make an exception to this requirement if the subject property is in a well-developed area with existing public utilities and improved streets and storm sewers installed.

shall include:

3. The written statement which is a part of such application

(a) A description of the character of the planned unit

development and the manner in which it has been planned to comply with the planned unit development regulations.

(b) A statement of proposed financing.

(c) Economic feasibility analysis of any business uses if the property is not zoned for similar business uses at the time of submittal of the preliminary development plans.

(d) A statement of provisions for ultimate ownership and maintenance of all parts of the development, including streets, structures, and open spaces.

(e) Total estimated population to occupy the planned

unit development, with breakdowns as to the number of school-age children, adults, and families.

B. The Preliminary Development Plan/Approval.

1. Within forty-five (45) days after receipt of the application by the Planning Commission, a public hearing upon said application shall be held by the Planning Commission. The Commission may continue the hearing from time-to-time and refer the matter back to the planning staff of the City for a further report; provided, however, the public hearing or hearings shall be concluded within forty-five (45) days of the date of the first public hearing, unless the landowner shall consent in writing to an extension of time within which the hearings shall be concluded.

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2. Within fifteen (15) days after the conclusion of public hearings, the Planning Commission shall forward the plan to the Council with a written report recommending to the Council that the plan be disapproved, approved, or approved with modifications, and giving the reasons for these recommendations.

3. The Council shall within thirty (30) days of receipt thereof reject, tentatively accept, or modify the Planning Commission report. Failure to act shall be deemed a rejection.

4. In the event tentative approval is granted subject to conditions, the landowner shall, within forty-five (45) days after receiving a copy of the conditions of the Council, notify the Council in writing of the acceptance or refusal to accept all said conditions. Refusal by landowners shall constitute denial of the plans by the Council. Failure of the landowner to notify the Council of his acceptance or denial of the conditions to the plan constitutes acceptance of the conditions.

5. The acceptance, rejection, or modification shall be based on findings as set forth below and shall state in full in what respects the plan would or would not be in the public interest, including but not limited to findings of facts and conclusions based on the following:

(a) The plan is consistent with the stated objectives of planned unit developments and the City's comprehensive plan.

(b) The relationship, beneficial or adverse, of the proposed planned unit development to the area in which it is proposed to be developed.

(c) That authorized distribution of buildings, streets, and open space will permit better site planning and thus benefit both the residents of the development and community as a whole.

(d) That such distribution or location will not unduly increase the bulk of buildings, density of population, or intensity of use to the detriment of areas outside the development by restricting access to light and air or by creating traffic congestion.

C. Final Development Plan; Approval.

1. Within six (6) months following the approval of the preliminary development plan, the applicant shall file with the Planning Commission a final development plan containing in its final form the information required in the preliminary plan. In its discretion, and for good cause, the Planning Commission may extend for six (6) months the period for filing of the final development plan. A public hearing on an application for a final approval of the plan or part thereof, shall not be required, providing the plan, or the part thereof submitted for final approval, is in substantial compliance with the plan given tentative approval.

2. In the event the plan as submitted for final approval is not in substantial compliance with the preliminary plan, the Planning Commission shall, within forty-five (45) days of the date the application for final approval is filed, so notify the landowner, setting forth the particular ways in which the plan is not in substantial compliance. The landowner may 1) treat such notification as denial of the final approval,

2) re-file his plan so that it does substantially comply with the preliminary plan, 3) file a written request with the Planning Commission that it hold a public hearing on its application for final approval. Any such hearing shall be held within thirty (30) days after request for such hearings is made. Within forty-five (45) days of either such hearing or re-filing, the Planning Commission shall recommend and the Council shall by resolution either grant final approval of the plan or deny final approval of the plan.

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3. Should approval of a planned unit development necessitate a change in the City Zoning Ordinance, such change shall be facilitated by amendment of the ordinance following notice and public hearing(s) as required by the Luverne City Ordinance. The Zoning Administrator shall then change the zoning classification on the Official Zoning Map if a zoning change was made. The planned unit development area shall be designated on the official Zoning Map as an overlying PUD District whether or not a zoning change was made. The final plan and all supporting documents shall be filed with the preliminary plan and together they will form the terms and conditions establishing and governing the PUD District.

4. Building permits shall not be issued for any of the structures, nor shall land alterations be made until the following conditions are met, waived, or altered upon recommendation of the Planning Commission and approval of the City Council:

officially recorded; or,

(a) Public open space has been dedicated and

(b) A cash payment in lieu of land donation has been

made to coincide with construction of each building according to the negotiated agreement.

(c) The design and construction specifications for all utilities, street improvements, and mass grading have been approved by the City Engineer.

(d) Any private by-laws, covenants, and deed restrictions have been approved by the City Attorney.

(e) The construction plans for proposed structures have been approved by the Building Inspector.

(f) The final plat (if necessary) has been approved by the City and recorded with appropriate governmental agencies as required by law.

(g) The detailed site development plans have been approved by all appropriate City staff members and the Council and such signatures appear on the plans.

D. Non-Compliance; Inspection.

1. In the event that a plan, or a section thereof, is given final approval and thereafter the landowner shall abandon said plan or the section thereof that has been finally approved, the landowner shall, within 30 days, so notify the Council in writing. In the event the landowner shall fail to commence the planned development within twelve (12) months after final approval has been granted, such final approval shall terminate and be deemed null and void unless such time period is extended by the Council upon written application of the landowner.

2. The Zoning Administrator shall review each planned development at least once each year until completed and shall make a report (through the Planning Commission) to the Council on the status of the development in each PUD District. If development is not progressing according to schedule, the owner shall be required to submit a written statement to the Zoning Administrator setting forth the reasons for the lack of progress.

3. Within thirty (30) days of such notice, the Council shall either revoke the approval of the PUD provisions, and the land shall thereafter be governed by the regulations applicable in the district in which it is located, or it shall take

such steps as it shall deem necessary to compel compliance with the plans as approved, or it shall require the owner to seek an amendment of his plan as provided below.

4. After final approval, no planned unit development plan shall be amended except by the Council after a public hearing before the Planning Commission; provided, however, that the approved development schedule of such plan may be extended for no more than one (1) year by the Council without any hearing or Planning Commission action.

SEC. 11.12. OFF-STREET PARKING. GENERAL PROVISIONS.

Subd. 1. General. There shall be provided at the time of erection of any main building or at the time such buildings are altered, enlarged, converted or increased in capacity minimum off-street parking spaces with adequate provisions for ingress and egress by standard sized vehicles in accordance with the requirements of this code. All parking areas, access drives, and driveways shall be covered with a dust-free, all weather surface, such as concrete or asphalt, with proper surface drainage.

Subd. 2. Parking Space Requirements. Parking spaces shall be in accordance with Sections 11.12.2 through 11.12.4.

A. Required Number. The off-street parking spaces required for each use permitted by this code shall not be less than that found in Table 11.12, 2(a), provided that any fractional parking space is computed as a whole space.

**Table 11.12, 2(a)
Off-Street Parking Schedule**

USE	NUMBERS OF PARKING SPACES REQUIRED
Assembly/Churches	1 per 300 gross square feet
Dwelling unit	2 per dwelling unit
Club/Restaurant	1 per 100 gross square feet
Hotel/Motel	1 per guestroom plus 1 per 500 square feet of common area
Industrial	1 per 500 square feet
Medical offices/Hospitals	1 per 200 square feet
Office	1 per 300 square feet
Retail	1 per 200 square feet
School	1 per 3.5 seats in assembly rooms plus 1 per faculty member
Warehouse	1 per 500 gross square feet

Note:

Reduction and Use of Parking and Loading Space: On-site parking facilities existing at the effective date of this Chapter shall not subsequently be reduced to an amount less than that required under this Chapter for a similar new building or use. On-site parking facilities provided to comply with the provisions of this Chapter shall not subsequently be reduced below the requirements of this Chapter. Such required parking or loading space

shall not be used for storage of goods or for storage of vehicles that are inoperable or for

sale or rent.

B. Combination of Uses. Where there is a combination of uses on a lot, the required number of parking spaces shall be the sum of that found for each use.

C. Location of Lot. The parking spaces required by this code shall be provided on the same lot as the use or where the exclusive use of such is provided on another lot not more than 500 feet radially from the subject lot within the same or less restrictive zoning district.

D. Accessible Spaces. Accessible parking spaces and passenger loading zones shall be provided in accordance with the state building and accessibility codes.

Subd. 3. Parking Stall Dimensions. Parking stall dimensions shall be in accordance with this sub-section.

A. Width. A minimum width of 9 feet shall be provided for each parking stall.
feet. wide.

Exceptions:

1. Compact parking stalls shall be permitted to be 8
2. Parallel parking stalls shall be permitted to be 8 feet
3. The width of a parking stall shall be increased 10

inches for obstructions located on either side of the stall within 14 feet of the aisle or front of the stall.

4. Accessible parking spaces shall be designed in accordance with the state building and accessibility codes.

B. Length. A minimum length of 20 feet shall be provided for each parking stall.
feet in length. length.

Exceptions:

1. Compact parking stalls shall be permitted to be 18
2. Parallel parking stalls shall be a minimum 22 feet in

Subd. 4. Design of Parking Facilities.

A. Driveway Width. Every parking facility shall be provided with one or more access driveways, the width of which shall be the following:

1. Private driveways at least 9 feet. The maximum width for a residential property shall be 22 feet or 35 % of lot frontage which ever is the greatest.

2. Commercial driveways:

- (a) Twelve feet for a one-way enter/exit.
- (b) Twenty-four feet for two-way enter/exit.
- (c) Thirty-two feet for state highway entrances with

MnDot required approvals and permits.

B. Driveway and Ramp Slopes. The maximum slope of any driveway or ramp shall not exceed 20 percent. Transition slopes in driveways and ramps shall be provided in accordance with the standards set by the code official and street department or other governing body.

C. Stall Access. Each required parking stall shall be individually and easily accessed. No automobile shall be required to back onto any public street or sidewalk to leave any parking stall when such stall serves more than two dwelling units or other than residential uses. All portions of a public lot or garage shall be accessible to other portions thereof without requiring the use of any public street.

D. Compact-to-Standard Stall Ratio. The maximum ratio of compact stalls to standard stalls in any parking area shall not exceed 1 to 3.

E. Screening. Buffer Fences and Planting Screens: Off-street parking, loading, and other allowed vehicle storage areas near or abutting Residence Districts shall be screened by a buffer fence of adequate design or a planting buffer screen; plans of such screen or fence shall be submitted for approval as a part of the required site or plot plan, and such fence or landscaping shall be installed as a part of the initial construction.

F. Striping. All Parking Stalls Shall Be Striped.

Exception: A private garage or parking area for the exclusive use of a single family dwelling.

G. Lighting. All lights illuminating a parking area shall be designed and located so as to reflect away from any street and adjacent property.

H. Surfacing. All parking stalls shall be hard surfaced, i.e.

concrete/asphalt.

SEC. 11.13. REQUIRED LOADING AREAS.

Subd.1. Loading and Unloading. Loading and unloading areas for goods, supplies, and services shall be sufficient to meet the requirements for each use. In any event, at least 1.0 off-street loading space must be provided for any business with more than 1,000 square feet of gross floor area, unless otherwise determined by the Planning Commission.

Subd. 2. Central Business District Special Requirements: None of the on-site or off-street parking or loading area requirements of this subdivision shall apply within the *old* B-1 Central Business District zone to existing improved tracts or parcels provided there is not more than a 10 percent increase in the improved area or coverage of the tract or parcel existing on the effective date of this ordinance. The provisions of this paragraph shall not apply to unimproved tracts or parcels nor when existing structures are substantially demolished and a major development or redevelopment of the property occurs.

Subd. 3. Payment in Lieu of Private On-site Parking. If, in the sole judgment of the Council, it is physically and economically impractical to comply with the on-site parking requirements for the Central Business District contained in this subdivision, the Council may in lieu of private on-site parking, require a payment to the City. The payment shall be based on a per stall amount set from time-to-time by resolution of the Council. The per stall amount shall be based upon the rate of 300 square feet per stall and the approximate current value of unimproved land in the Central Business District plus the current estimated cost of improvements for base work, four-inch blacktop mat, and striping. The total amount of the in lieu payment shall equal the number of on-site parking stalls required by the provisions of this subdivision less the

number of on-site parking stalls existing after improvement, multiplied by the per stall amount. All payments received by the City for this purpose shall be held in a separate

SEC. 11.14. SIGN REGULATIONS.

Subd. 1. Purpose. The purpose of this chapter is to protect the safety and orderly development of the community through the regulation of signs and sign structures.

Subd. 2. Definitions. The following words and terms shall, for the purpose of this chapter and as used elsewhere in this code, have the meanings shown herein.

1. ABANDONED SIGN. A sign structure that has ceased to be used and the owners intend no longer to have used, for the display of sign copy, or as otherwise defined by state law.

2. ANIMATED SIGN. A sign employing actual motion or the illusion of motion. Animated signs, which are differentiated from changeable signs as defined and regulated by this code, include the following types:

3. ELECTRICALLY ACTIVATED. Animated signs producing the illusion of movement by means of electronic, electrical or electro-mechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both of the classifications noted below:

a. Flashing. Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of no illumination. For the purposes of this ordinance, flashing will not be defined as occurring if the cyclical period between on-off phases of illumination exceeds 4 seconds.

b. Patterned Illusionary Movement. Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.

c. Environmentally Activated. Animated signs or devices motivated by wind, thermal changes or other natural environmental input. Includes spinners, pinwheels, pennant strings, and/or other devices or displays that respond to naturally occurring external motivation.

d. Mechanically activated. Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.

4. ARCHITECTURAL PROJECTION. Any projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building, but that does not include signs as defined herein. See also "Awning"; "Backlit awning"; and "Canopy, attached and freestanding."

5. AWNING. An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or

nonrigid materials and/or fabric on a supporting framework that may be either permanent or retractable, including such structures that are internally illuminated by fluorescent or other light sources.

6. AWNING SIGN. A sign displayed on or attached flat against the surface or surfaces of an awning. See also "Wall or fascia sign."

7. BACKLIT AWNING. An awning with a translucent covering material and a source of illumination contained within its framework.

8. BANNER. A flexible substrate on which copy or graphics may be displayed. sign."

9. BANNER SIGN. A sign utilizing a banner as its display surface.

10. BILLBOARD. See "Off-premise sign" and "Outdoor advertising

11. BUILDING ELEVATION. The entire side of a building, from

ground level to the roofline, as viewed perpendicular to the walls on that side of the building.

12. CANOPY (Attached). A multisided overhead structure or architectural projection supported by attachments to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points. The surface(s) and/or soffits of an attached canopy may be illuminated by means of internal or external sources of light. See also "Marquee."

13. CANOPY (Free-standing). A multisided overhead structure supported by columns, but not enclosed by walls. The surface(s) and or soffits of a free standing canopy may be illuminated by means of internal or external sources or light.

14. CANOPY SIGN. A sign affixed to the visible surface(s) of an attached or free-standing canopy. For reference, see Section 11.10.3

15. CHANGEABLE SIGN. A sign with the capability of content change by means of manual or remote input, including signs which are:

a. Electrically Activated. A sign with whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetical or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display. See also "Electronic message sign or center."

b. Manually Activated. Changeable sign whose message copy or content can be changed manually.

16. CITY. The governing authority for the City of Luverne.

17. CODE OFFICIAL. Person designated by the governing authority to enforce the sign ordinance.

18. COMBINATION SIGN. A sign that is supported partly by a pole and partly by a building structure.

19. COPY. Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, excluding numerals identifying a street address only.

20. DEVELOPMENT COMPLEX SIGN. A free standing sign identifying a multiple-occupancy development, such as a shopping center or planned

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industrial park, which is controlled by a single owner or landlord, approved in accordance with Section 11.14, 7 of this chapter.

21. DOUBLE-FACED SIGN. A sign with two faces, back to back.

22. ELECTRIC SIGN. Any sign activated or illuminated by means of electrical energy.

23. ELECTRONIC MESSAGE SIGN OR CENTER. An electrically

activated changeable sign whose variable message capability can be electronically programmed.

24. EXTERIOR SIGN. Any sign placed outside a building.

25. FASCIA SIGN. See "Wall or fascia sign."

26. FLASHING SIGN. See "Animated sign, electrically activated."

27. FREE-STANDING SIGN. A sign principally supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more columns, poles or braces placed in or upon the ground. For visual reference see, Section 11.10.3.

28. FRONTAGE (Building). The length of an exterior building wall or structure of a single premise orientated to the public way or other properties that it faces.

29. FRONTAGE (Property). The length of the property line(s) of any single premise along either a public way or other properties on which it borders.

30. GROUND SIGN. See "Free-standing sign."

31. ILLUMINATED SIGN. A sign characterized by the use of artificial light, either projecting through its surface(s) (internally illuminated); or reflecting off its surface(s) (externally illuminated); or reflecting off its surface(s) (externally illuminated).

32. INTERIOR SIGN. Any sign placed within a building, but not including "window signs" as defined by this ordinance. Interior signs, with the exception of window signs as defined, are not regulated by this chapter.

33. MANSARD. An inclined decorative roof-like projection that is attached to an exterior building façade.

34. MARQUEE. See "Canopy (attached)."

35. MARQUEE SIGN. See "Canopy sign."

36. MENU BOARD. A free-standing sign orientated to the drive-through lane for a restaurant that advertises the menu items available from the drive-through window, and which has no more than 20 percent of the total area for such sign utilized for business identification.

37. MULTIPLE-FACED SIGN. Sign containing three or more faces.

38. OFF-PREMISE DIRECTIONAL SIGN. Any sign that is not located upon the premises of the business to which it refers and directs traffic to that business location.

39. OFF-PREMISE SIGN. See "Outdoor advertising sign."

40. ON-PREMISE DIRECTIONAL SIGN. Any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic on the lot where the said business is located. On-premise directional signs shall include signs marking entrances, exits, parking areas, drive thrus, loading areas or other operational features of the premises.

41. ON-PREMISE SIGN. A sign erected, maintained or used in the outdoor environment for the purpose of the display of messages belonging to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

42. OUTDOOR ADVERTISING SIGN. A permanent sign erected, maintained or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages not belonging to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

43. PARAPET. The extension of a building façade above the line of the structural roof.

44. POLE SIGN. See "Free-standing sign."

45. POLITICAL SIGN. A temporary sign intended to advance a

political statement, cause or candidate for office. A legally permitted outdoor advertising sign shall not be considered to be a political sign.

46. PORTABLE SIGN. Any sign not permanently attached to the ground or to a building or building surface.

47. PROJECTING SIGN. A sign other than a wall sign that is attached to or projects more than 18 inches from a building face or wall or from a

structure whose primary purpose is other than the support of a sign.

48. REAL ESTATE SIGN. A temporary sign advertising the sale, lease or rental of the property or premises upon which it is located.

49. REVOLVING SIGN. A sign that revolves 360 degrees about an axis. See also "Animated sign, mechanically activated."

50. ROOF LINE. The top edge of a peaked roof or, in the case of an extended façade or parapet, the uppermost point of said façade or parapet.

51. ROOF SIGN. A sign mounted on, and supported by, the main roof portion of a building, or above the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such a building. Signs mounted on mansard facades, pent eaves and architectural projections such as canopies or marquees shall not be considered to be roof signs

52. SIGN. Any device visible from a public place that displays either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations. Noncommercial flags or any flags displayed from staffs will not be considered to be signs.

53. SIGN AREA. The area of the smallest geometric figure, or the sum of the combination of regular geometric figures, which comprise the sign face. The area of any double-sided or "V" shaped sign shall be the area of the largest single face only. The area of a sphere shall be computed as the area of a circle. The area of all other multiple-sided signs shall be computed as 50 percent of the sum of the area of all faces of the sign.

54. SIGN COPY. Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, exclusive of numerals identifying a street address only.

55. SIGN FACE. The surface upon, against or through which the sign copy is displayed or illuminated, not including structural supports, architectural features of a building or sign structure, nonstructural or decorative trim, or any areas that are separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a reveal or border.

A. In the case of panel or cabinet type signs, the sign face shall include the entire area of the sign panel, cabinet or face substrate upon which the sign copy is displayed or illuminated, but not open space between separate panels or cabinets.

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B. In the case of sign structures with routed areas of sign copy, the sign face shall include the entire area of the surface that is routed, except where interrupted by a reveal, border, or a contrasting surface or color.

C. In the case of signs painted on a building, or individual letters or graphic elements affixed to a building or structure, the sign face shall comprise the sum of the geometric figures or combinations of regular geometric figures drawn closest to the edge of the letters or separate graphic elements comprising the sign copy, but not the open space between separate groupings of sign copy on the same building or structure.

D. In the case of sign copy enclosed within painted or illuminated border, or displayed on a background contrasting in color with the color of the building or structure, the sign face shall comprise the area within the contrasting background, or within the painted or illuminated border.

56. SIGN STRUCTURE. Any structure supporting a sign.

57. TEMPORARY SIGN. A sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs.

58. UNDER CANOPY SIGN OR UNDER MARQUEE SIGN. A sign attached to the underside of a canopy or marquee.

59. V SIGN. Signs containing two faces of approximately equal size, erected upon common or separate structures, positioned in a "V" shape with an interior angle between faces of not more than 90 degrees with the distance between the sign faces not exceeding 5 feet at the closest point.

60. WALL OR FASCIA SIGN. A sign that is in any manner affixed to any exterior wall of a building or structure and that projects not more than 18 inches from the building or structure wall, including signs affixed to architectural projections from the building provided the copy area of such signs remains on a parallel plane to the face of the building façade or to the face or faces of the architectural projection to which it is affixed.

61. WINDOW SIGN. A sign affixed to the surface of a window with its message intended to be visible to and readable from the public way or from adjacent property.

Source: Ordinance No. 336, Third Series
Effective Date: 8-7-2014

Subd. 3. General Provisions.

A. Conformance to Codes. Any sign hereafter erected shall conform to the provisions of this ordinance and the provisions of the Minnesota Building Code and any other ordinance or regulation within the City.

B. Signs In The Rights-of-Way. No sign other than an official traffic sign or similar sign shall be erected within 2 feet of the lines of any street, or within any public way, unless specifically authorized by other ordinances or regulations of the City or by specific authorization of the Code Official.

C. Projections Over Public Ways. Signs projecting over public walkways shall be permitted to do so only subject to the projection and clearance limit either defined herein or, if not so defined, at a minimum height of 8 feet from grade level

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to the bottom of the sign. Signs, architectural projections or sign structures projecting over a vehicular access area must conform to the minimum height clearance limitations imposed by the City for such structures.

D. Traffic Visibility. No sign or sign structure shall be erected at the intersection of any street in such a manner as to obstruct either free or clear vision, nor at any location where by its position, shape or color, may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal or device.

E. Computation of Frontage. If a premise contains walls facing more than one property line or encompasses property frontage bounded by more than one street or other property usages, the sign area(s) for each building wall or property frontage will be computed separately for each building wall or property line facing a different frontage. The sign area(s) thus calculated shall be permitted to then be applied to permitted signs placed on each separate wall or property line frontage.

F. Animation and Changeable Messages. Animated signs except as prohibited in section 11.14, 6 are permitted in all nonresidential zones as a conditional use approved by the City Planning Commission. Changeable signs, manually activated, are permitted in all nonresidential zones. Changeable signs, electrically activated, are permitted in all nonresidential zones. Area(s) shall apply to allowable signage square footage.

G. Maintenance, Repair and Removal. Every sign permitted by this ordinance shall be kept in good condition and repair. When any sign becomes insecure, in danger of falling or is otherwise deemed unsafe by the code official, or if any sign shall be unlawfully installed, erected or maintained in violation of any of the provisions of this

ordinance, the owner thereof or the person or firm using same shall, upon written notice by the code official forthwith in the case of immediate danger, and in any case within 10 days, make such sign conform to the provisions of this ordinance, or shall remove it. If within 10 days the order is not complied with, the code official shall be permitted to remove or cause such sign to be removed at the expense of the owner and/or the user of the sign, or an administrative citation may be issued as set forth in another section of this code.

H. Obsolete Sign Copy. Any sign copy that no longer advertises or identifies a use conducted on the property on which said sign is erected must have the sign removed within 30 days after written notification of the code official; and upon failure to comply with such notice, the code official is hereby authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the building, structure or ground on which the sign is located, or an administrative citation may be issued as set forth in another section of this code.

I. Nonconforming Signs. Any sign legally existing at the time of the passage of this ordinance that does not conform in use, location, height or size with the regulations of the zone in which it is located, shall be considered a legal nonconforming use structure and shall be permitted to continue in such status until such time as it is either abandoned or removed by its owner, subject to the following limitations:

1. Structural alterations, enlargement or re-erection are permissible only where such alterations will not increase the degree of nonconformity of the signs.

2. Any legal nonconforming sign may be removed or rebuilt without increasing the existing height or area if it is damaged, or removed if allowed to

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deteriorate to the extent that the cost of repair or restoration exceeds 50 percent of the replacement cost of the sign as determined by the code official.

3. Signs that comply with either Item 1 or 2 above require permits.

Subd. 4. Exempt Signs. The following signs shall be exempt from the provisions of this chapter. No sign shall be exempt from section 11.14, 5.

A. Official notices authorized by a court, public body or public safety official.

B. Directional, warning or informational signs authorized by federal, state and/or the city.

C. Memorial plaques, building identification signs and building cornerstones when cut or carved into a masonry surface or when made of noncombustible material and made an integral part of the building or structure.

D. The flag of a government or noncommercial institution, such as a school.

holiday season.

E. Religious symbols decorations within the appropriate public

F. Works of fine art displayed in conjunction with a commercial

enterprise where the enterprise does not receive direct commercial gain.

G. Street address signs that contain no advertising copy and which do not exceed 2.5 square feet in area.

Subd. 5. Prohibited Signs. The following devices and locations shall be specifically prohibited:

A. Signs located in such a manner as to obstruct or otherwise interfere with an official traffic sign, signal or device, or obstruct or interfere with a driver's view of approaching, merging or intersecting traffic.

B. Except as provided for elsewhere in this code, signs encroaching upon or overhanging public right-of-way. No sign shall be attached to any utility pole, light standard, street tree or any other public facility located within the public right-of-way. The code official may approve the installation of "special event" signs on utility property, such as for holidays or community events.

C. Signs which blink, flash or are animated by lighting in any fashion that would cause such signs to have the appearance of traffic safety signs and lights, or municipal vehicle warnings from a distance.

D. Portable signs except as allowed for temporary signs.

E. Any sign attached to, or placed on, a vehicle or trailer parked on public or private property, except for signs meeting the following conditions:

1. The primary purpose of such a vehicle or trailer is not the display of signs.

2. The signs are magnetic, decals or painted upon an integral

part of the vehicle or equipment as originally designed by the manufacturer, and do not break the silhouette of the vehicle.

3. The vehicle or trailer is in operating condition, currently registered and licensed to operate on public streets when applicable, and actively used or available for use in the daily function of the business to which such sign relate.

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4. Vehicles and trailers are not used primarily as static displays, advertising a product or service, nor utilized as storage, shelter or distribution points for commercial products or services for the general public.

5. Balloons, streamers or pinwheels except those temporarily displayed as part of a special sale, promotion or community event. For the purpose of this subsection, "temporarily" means no more than 20 days in any calendar year.

SEC. 11.15. PERMITS.

Subd. 1. Permits Required. Unless specifically exempted, a permit must be obtained from the code official for the erection, alteration and maintenance of all signs erected or maintained within the city. Exemptions from the necessity of securing a permit, however, shall not be construed to relieve the owner of the sign involved from the responsibility for its erection and maintenance in a safe manner and in a manner in accordance with all other provisions of the code.

Subd. 2. Construction Documents. Before any permit is granted for the erection of a sign or sign structure requiring such permit, construction documents shall be filed with the code official showing dimensions, materials and required details of construction, including loads, stresses, anchorage and any other pertinent data. The permit application shall be accompanied by the written consent of the owner or lessee of the premises upon which the sign is to be erected and by engineering calculations signed and sealed by a registered design professional where required by the Minnesota building code.

Subd. 3. Changes to Signs. No sign shall be structurally altered, enlarged or relocated except in conformity to the provisions herein, nor until proper permit, if

required, has been secured. The changing or maintenance of moveable parts or components of an approved sign that is designed for such changes, or the changing of copy, business names, lettering, sign faces, colors, display and /or graphic matter, or content of any sign shall not be deemed a structural alteration.

Subd. 4. Permit Fees. Permit fees to erect, alter or relocate a sign shall be in accordance with the fee schedule adopted from time to time by the City Council. The code official may double the fee for any sign, which requires a permit, if it is not obtained prior to the start of the work.

SEC. 11.16. SPECIFIC IDENTIFICATION SIGN REQUIREMENTS.

Subd. 1. Wall Signs. In single-family residential no wall signs shall be allowed except under section 11.14, 4. Multiple-family residential complex, commercial or industrial buildings, may display wall signs per street frontage subject to the limiting standards set forth in Table 11.16, 2 (a). For shopping centers, planned industrial parks or other multiple occupancy nonresidential buildings, the building face or wall shall be calculated separately for each separate occupancy, but in no event will the allowed area for any separate occupancy be less than (12) square feet.

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A. Wall signs shall not extend beyond the ends or over the top of the walls to which attached and shall not extend above the level of the second floor of the building.

B. Wall signs shall not extend more than 15 inches from the face of the buildings to which attached.

C. Any part of a sign extending over pedestrian traffic areas shall have a minimum clearance of 8 feet. If under 8 feet they must be considered flush with the wall.

Subd. 2. Free-Standing Signs. In addition to any allowable wall signs, every single-family residential subdivision, multiple-family residential complex, commercial or industrial building, shall be permitted to display free-standing or combination of signs per street frontage subject to the standards set forth in Table 11.16, 3 (a). A free standing sign or bulletin board customarily incident to places of worship, libraries, museums, social clubs, schools or societies may be erected on the premises of such institutions. One such sign or bulletin board, not exceeding 32 square feet, may be erected for each entrance on a different street or highway. The area of this sign shall be deducted from the total area allowed of all allowable signage.

A. No freestanding sign shall be located within the right-of-way, less than 15 feet from a side property line, nor be located less than 50 feet from any other freestanding sign. The total number or permitted signs on any lot in all districts shall not exceed 2, of which only one may be pole sign and only one of which may be a freestanding ground or low profile sign. Any additional advertising signs must be on property owned by the business, company or individual.

B. If for any reason the property line is changed at some future date, any freestanding sign made nonconforming thereby must be relocated within 90 days to conform to minimum setback requirements.

C. No freestanding sign shall be more than 30 feet in height above highway grade. Such height shall be measured vertically from the established average grade directly below the sign or entry level of the building or structure, whichever is lower, to the highest point of the sign, including supporting structures. No sign shall project above the permitted principal building height, except for any businesses abutting Highway 75 located within the C-C Community Commercial Service Business District

measured two-tenths (.2) mile either north or south from the intersection of Highway 75 and Interstate 90, would be allowed to install one sign on the property to a height of one hundred (100) feet. The one hundred (100) foot height requirement would be measured from the Interstate 90 road bed. This sign regulation would not supersede any existing height limitations dictated by this Code in any other area.

D. No freestanding sign shall extend over or into public right-of-way, nor shall it overhang the property lines.

E. Freestanding signs under which a pedestrian walkway or driveway passes must have a minimum vertical clearance of 10 feet.

F. Masonry/stone type signs or monuments shall not exceed 6 feet in height and shall not be placed so as to impair visibility for motorists, or be placed in the "clear view" triangle formed by a line 25 feet along each property line from the corner and connected to form the triangle.

Source: Ordinance No. 336, Third Series

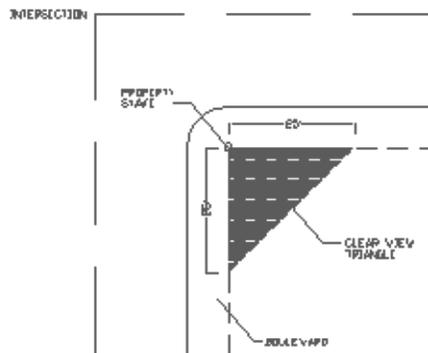
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25'

25'



Subd. 3. On-Premise Directional Signs. No more than two directional signs (one back to back sign) shall be permitted per street entrance to any lot. There shall be no limit to the number of directional signs providing directional information interior to a lot. In residential zones, the maximum area for directional signs shall be 1.5 square feet. For all other zones, the maximum area for any directional sign visible from adjacent property or rights-of-way shall be 6 square feet. Not more than 25 percent of the area of any directional sign shall be permitted to be devoted to business identification or logo, which area shall not be assessed as identification sign area.

Subd. 4. Off-Premise Directional Signs. In addition to any Freestanding sign allowed in Section 11.16, Subd. 2, an off-premise directional sign may be allowed pursuant to the following requirements on any parcel abutting Highway 75, with permission of the owner of the parcel, unless zoned R-1 (1 & 2 Family Residences) where they shall not be allowed.

A. Off-premise directional signs shall be a sign with a maximum area of 32 square feet on a single-faced sign or 64 square feet on a double-faced sign.

B. On a parcel where no permitted freestanding signs exist, one off-premise directional sign (pole or ground sign) shall be allowed subject to the setback and height requirements of Section 11.16, Subd 2.

C. On a parcel with one freestanding sign on a pole and no freestanding

ground sign, one off-premise directional sign may be installed under the business sign on the pole or may be installed as a ground sign and the ground sign shall conform to the requirements in Section 11.16, Subd 2, F.

D. On a parcel with one freestanding ground sign and no freestanding sign on a pole, one off-premise directional sign may be installed on a pole or may be installed as a ground sign and the ground sign shall conform to the requirements in Section 11.16, Subd 2, F.

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E. On a parcel with one freestanding sign on a pole and one freestanding ground sign, an off-premise directional sign may be installed under the business sign on the pole.

F. Off-premise directional signs shall display only a business name or logo and directional information.

G. No business shall have more than one off-premise directional sign.

H. Not more than one (1) Off-Premise Directional Sign shall be located on any parcel.

Source: Ordinance No. 336, Third Series
Effective Date: 8-7-2014

TABLE 11.16, 2 (a) IDENTIFICATION SIGN STANDARDS-WALL SIGNS

LAND USE	AGGREGATE AREA (SQUARE FEET)
Single-family residential	2.5 square feet
Multiple-family residential	6 square feet
Nonresidential in a residential zone	Conditional use only
Commercial and industrial	2 square feet for each foot of street frontage

TABLE 11.16, 3 (a) Freestanding SIGN AREA

DISTANCE OF THE SIGN FROM THE PROPERTY LINE	AREA OF PERMITTED SIGNAGE
0-8 feet	32 square feet
8- 25 feet	48 square feet
Over 25 feet	96 square feet

SEC. 11.17. TEMPORARY SIGNS.

Subd. 1. Real Estate Signs. Real estate signs shall be permitted in all zoning districts, subject to the following limitations:

A. Real estate signs located on a single residential lot shall be limited to one sign, not greater than 4 feet in height and 6 square feet in area.

B. Real estate signs advertising the sale of lots located within a subdivision shall be limited to one sign per entrance to the subdivision, and each sign shall be no greater than 12 square feet in area nor 8 feet in height. All signs permitted under this section shall be removed within 10 days after the sale of the last original lot.

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C. Real estate signs advertising the sale or lease of space within commercial or industrial buildings shall be no greater than 32 square feet, nor 8 feet in height, and shall be limited to one sign per street front.

D. Real estate signs advertising the sale or lease of vacant commercial or industrial land shall be limited to one sign per street front, and each sign shall be no greater than 96 square feet and 12 feet in height.

E. Real estate signs shall be removed not later than 10 days after execution of a lease agreement in the event of the purchase.

Subd. 2. Development and Construction Signs. Signs temporarily erected during construction to inform the public of the developer, contractors, architects, engineers, the nature of the project or anticipated completion dates, shall be permitted in all zoning districts, subject to the following limitations:

A. Such signs on a single residential lot shall be limited to one sign, not greater than 8 feet in height and 12 square feet in area.

B. Such signs for residential subdivision or multiple residential lots shall be limited to one sign, at each entrance to the subdivision or on one of the lots to be built upon, and shall be no greater than 8 feet in height and 16 square feet.

C. Such signs for commercial or industrial projects shall be limited to one sign per 150 feet of frontage or part thereof, not to exceed 12 feet in height and 32 square feet in area.

D. Development and construction signs may not be displayed until after the issuance of construction permits by the building official, or approval of the code official and must be removed not later than 48 hours following issuance of a certificate of occupancy for any or all portions of the project.

Subd. 3. Special Promotion, Event and Grand Opening Signs. Promotional signage, including banners, for special events of limited duration, not exceeding 16 square feet in a residential zone and 32 square feet in all other zones and not exceeding 8 feet in height, provided that:

A. Placement shall not exceed 30 days before or 5 days following the event.

B. The names and addresses of the sponsors and the person responsible for removal must be filed with the code official.

Subd. 4. Special Event Signs in Public Ways. Signs advertising a special community event shall not be prohibited in or over public rights-of-way, subject to approval by the code official as to size, location and method of erection. The code official may not approve any special event signage that would impair the safety and convenience of use of public rights-of-way, or obstruct traffic visibility.

Subd. 5. Portable Signs. Portable signs shall be permitted only in commercial and business districts, subject to the following limitations:

A. No more than one such sign may be displayed on any property, and shall not exceed a height of 6 feet or area of 16 square feet.

B. Such signs shall be displayed not more than 20 days in a calendar year.

code. permit.

in this code.

C. Any electrical portable signs shall comply with the State electrical

D. No portable sign shall be displayed prior to obtaining a sign

E. All portable signs shall comply with setback requirements set out

Subd. 6. Political Signs. Political signs shall be permitted in all zoning districts, subject to the following limitations:

A. All political signs shall comply with rules and regulations and specified in Minnesota State Statute.

B. Signs shall not be placed in any public right-of-way or obstruct traffic visibility.

SEC. 11.18. REQUIREMENTS FOR SPECIFIC SIGN TYPES.

Subd. 1. Canopy and Marquee Signs.

A. The permanently-affixed copy area of a canopy or marquee sign shall not exceed an area equal to 25 percent of the face area of the canopy, marquee or architectural projection upon which such sign is affixed or applied.

B. Graphic striping, patterns or color bands on the face of a building, canopy, marquee or architectural projection shall not be included in the computation of sign copy area.

Subd. 2. Awning Signs.

A. The copy area of an awning sign shall not exceed an area equal to 25 percent of the background area of the awning surface to which such a sign is affixed or applied, or permitted area for wall or fascia signs, whichever is less.

B. Neither the background color of an awning, nor any graphic treatment or embellishment thereto such as striping, patterns or valances, shall be included in the computation of sign copy area.

Subd. 3. Projecting Signs.

A. Projecting signs shall be permitted in lieu of freestanding signage on any street frontage limited to one sign per occupancy along any street frontage with public entrance to such occupancy, and shall be limited in area to 2 square feet per each lineal foot of building frontage, except that no sign shall exceed an area of 72 square feet. Projecting signs shall be centered on the building as far as is practicable.

a. A building having multiple commercial tenants shall be permitted to have more than one projecting sign, but total number of projecting signs for the building may not exceed more than one sign for each 25 feet of frontage

B. No such sign shall extend vertically above the highest point of the building façade upon which it is mounted.

C. Such signs shall not extend more than 7 feet from a building or 4 feet from the inner curb line of the nearest street, whichever is less.

D. Such signs shall maintain a clear vertical distance above any public sidewalk a minimum of 8 feet.

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Source: Ordinance No. 336, Third Series
Effective Date: 8-7-2014

Subd. 4. Under Canopy Signs.

A. Under canopy signs shall be limited to no more than one such sign per public entrance to any occupancy, and shall be limited to an area not to exceed 8 square feet.

B. Such signs shall maintain a clear vertical distance above the sidewalk or pedestrian way a minimum of 8 feet or be flush with the building.

Subd. 5. Roof Signs.

A. Roof signs shall be permitted in commercial and industrial areas only when specifically designed into the structure at construction or additional engineering is submitted with permit application.

B. Such signs shall be limited to a height above the roofline of the elevation parallel to the sign face of no more than 25 percent of the height of the roofline in a commercial district and 33 percent in an industrial district.

C. The sign area for a roof sign shall be assessed against the aggregate permitted area for wall signs on the elevation of the building most closely parallel to the face of the sign.

Subd. 6. Window Signs. Window signs shall not be permitted for any nonresidential use in a residential district, and shall be permitted for all commercial and industrial districts, subject to the following limitations.

A. The aggregate area of all such signs shall not exceed 25 percent of the window area on which such signs are displayed. Window panels separated by muntins or mullions shall be considered as one continuous window area.

B. Window signs shall not be assessed against the sign area permitted for other sign types.

Subd. 7. Menu Boards. Menu board signs shall not be permitted to exceed 50 square feet.

Subd. 8. Home Occupation. No sign other than one unlighted sign not over 2.5 square feet in area, attached flat against the dwelling and displaying only the occupants name and occupation, shall advertise the presence or conduct of the home occupation.

SEC. 11.19. SIGNS FOR DEVELOPMENT COMPLEXES.

Subd. 1. Master Sign Plan Required. All landlords or single owner controlled multiple-occupancy development complexes on parcels exceeding 8 acres in size, such as shopping centers or planned industrial parks, shall submit to the code official a master plan prior to issuance of new sign permits. The master sign plan shall

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establish standards and criteria for all signs in the complex that require permits, and shall address, at a minimum, the following:

A. Proposed sign locations.

B. Materials.

C. Type of illumination.

D. Design of free-standing sign structures.

E. Size.

F. Quantity.

G. Uniform standards for non business signage, including directional and informational signs.

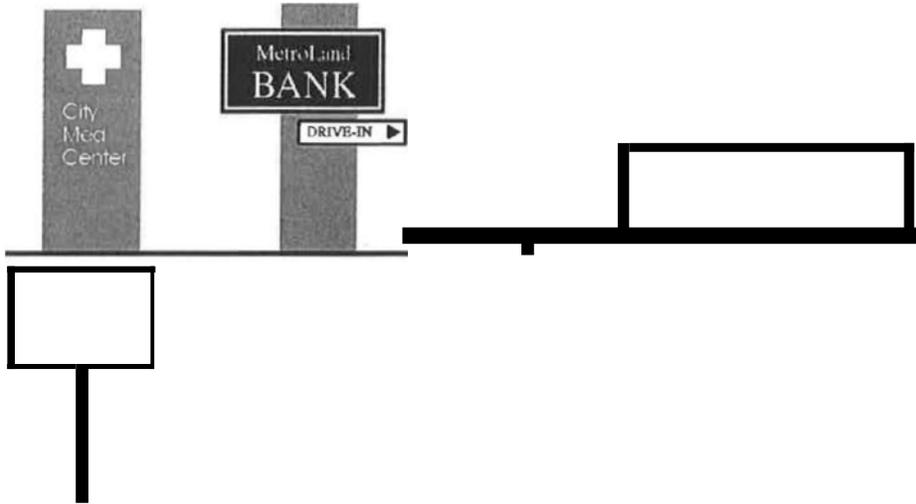
Subd. 2. Development Complex Sign. In addition to the free-standing business identification signs otherwise allowed by this ordinance, every multiple-occupancy development complex shall be entitled to one free-standing sign per street front, at the maximum size permitted for business identification free-standing signs, to identify the development complex. No business identification shall be permitted on a development complex sign. Any free-standing sign otherwise permitted under this ordinance may identify the name of the development complex.

Subd. 3. Compliance With Master Sign Plan. All applications for sign permits for signage within a multiple-occupancy development complex shall comply with the master sign plan.

Subd. 4. Amendment. Any amendments to a master plan must be signed and approved by the owner(s) within the development complex before such amendment will become effective.

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(Sign Appendix)

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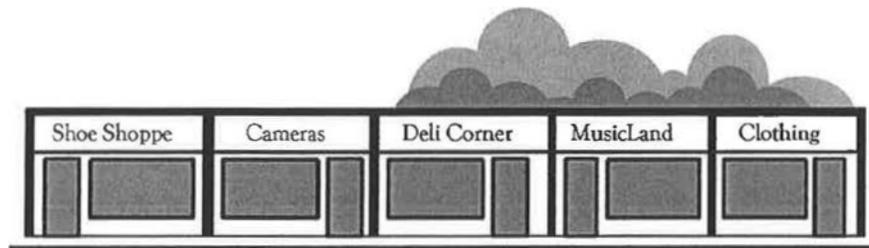
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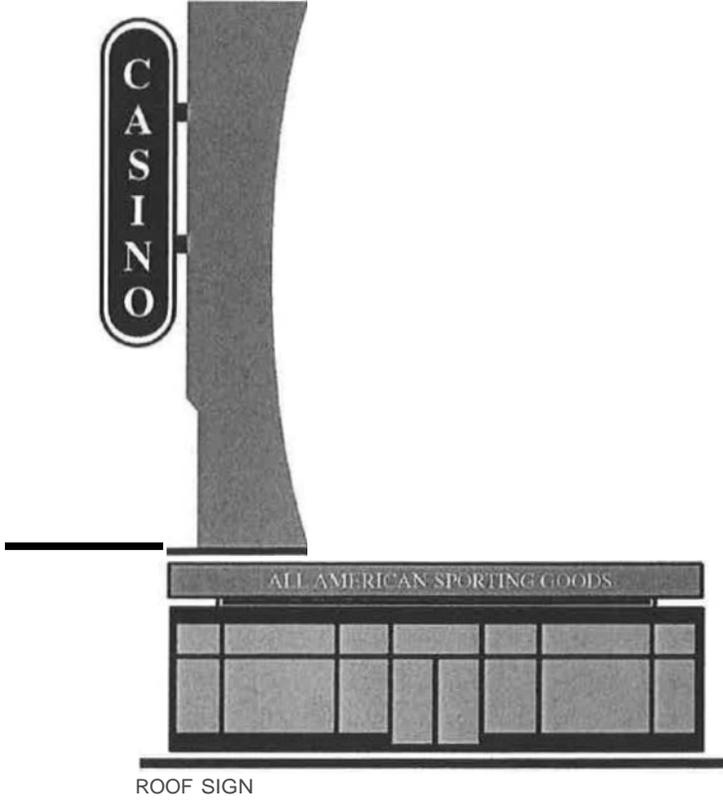
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GROUNDLOWPROFILE

COMMON FREESTANDING SIGN TYPES



WALL OR FASCIA SIGNS ON STOREFRONTS



ROOF SIGN



CANOPY SIGN
ON FREESTANDING CANOOPY

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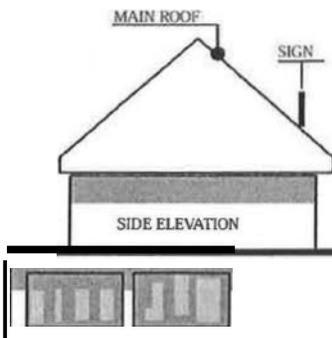
PROJECTING SIGN

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ROOF SIGN

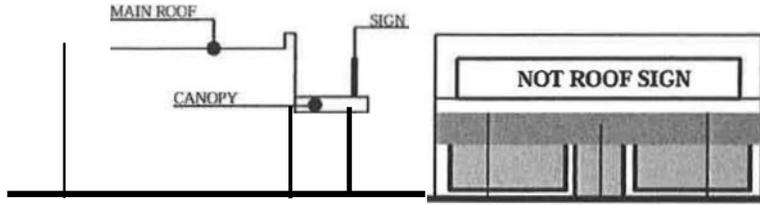
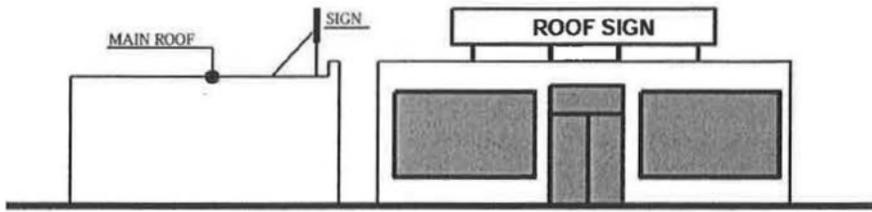


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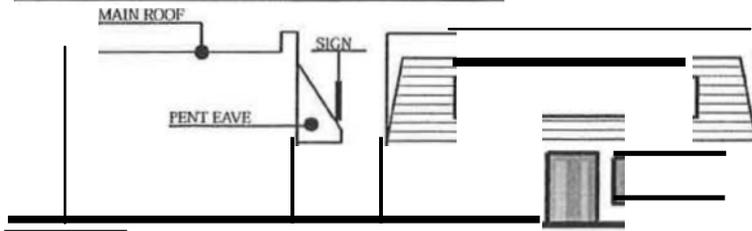
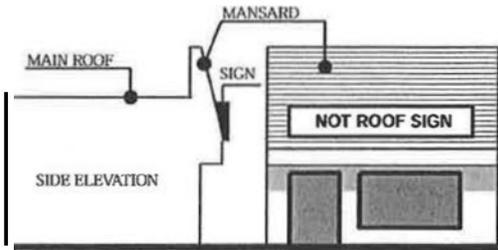
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NOT ROOF SIGN

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FASCIA SIGNS ON ROOF-LIKE PROJECTIONS

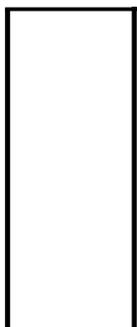
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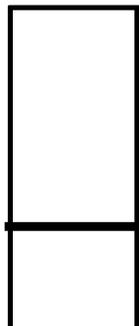
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SIGN STRUCTURES

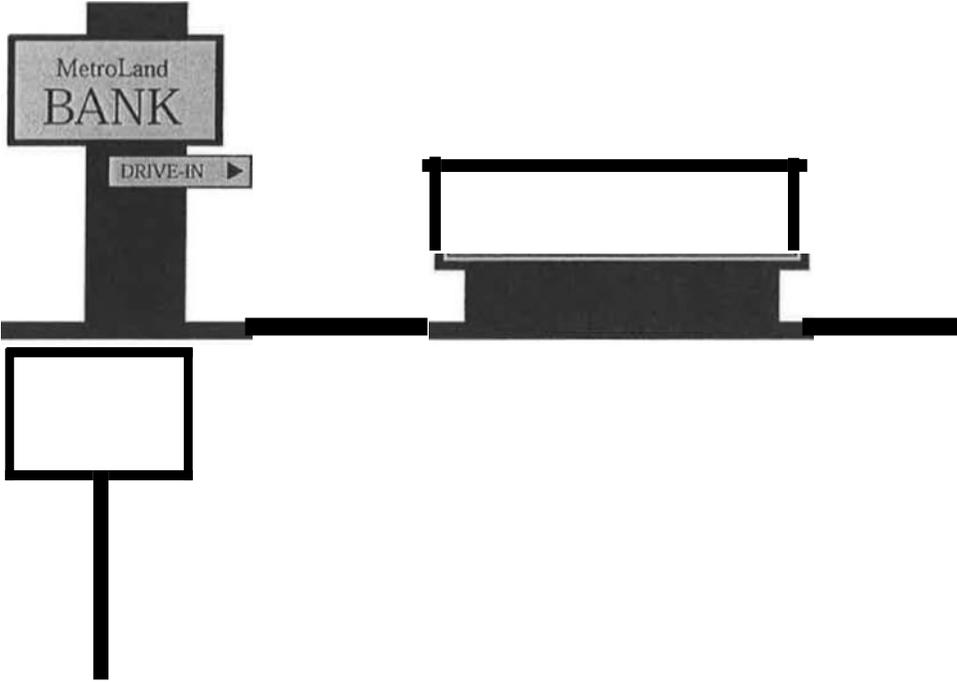


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SIGN STRUCTURE
WITH ROUTED
AREA OF SIGN

SIGN STRUCTURE
WITH INDIVIDUAL
SURFACE-



COPY

City
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APPLIED
GRAPHIC AND
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Center
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COMPUTE SUM
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....REVEAL

AROUND ELEMENTS.

Notes:Sum of sltdcd n as only rcprtSeniS sign area. Sign constructed wllt panels or cablneiS.

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METKOEANDB Drive-In Branch

COMPUTE AREA AROUND COPY ELEMENTS ONLY.



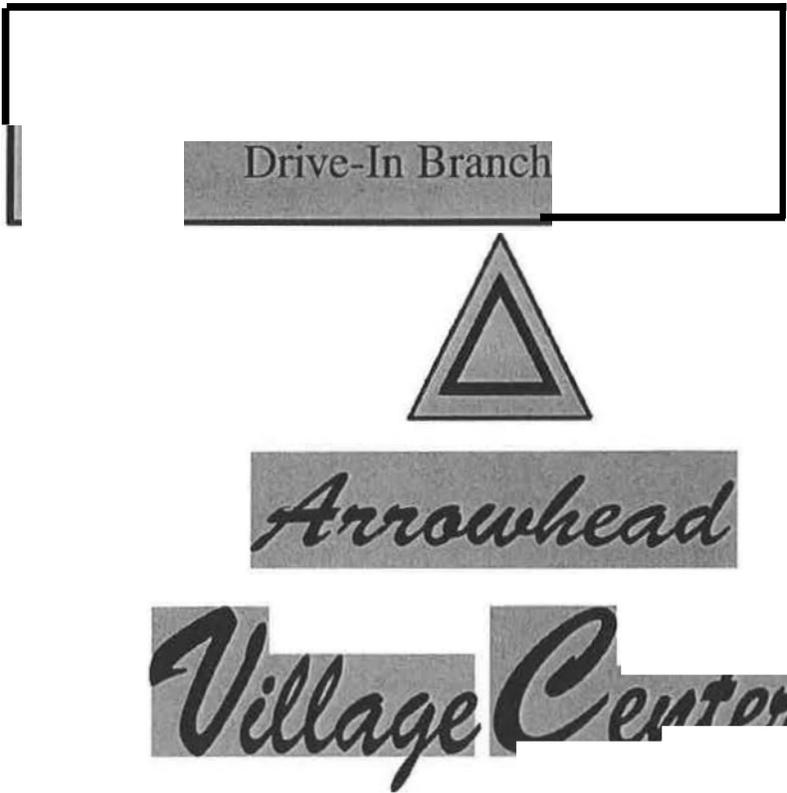
COMPUTE AREA INSIDE DEFINED BORDER OR INSIDE CONTRASTING COLOR AREA.

METROLAND BANK

COMPUTE SUM OF AREAS OF INDNDUAL.. ELEMENTS ON WALL OR STRUCTURE.



IN COMPUTING AREA FOR UPPER-
AND LOWER-CASE LETTERING,
INCLUDE ASCENDERS OR
DESCENDERS, BUT NOT BOTH.
CALCULATE SUPER ASCENDERS
SEPARATELY AS INDICATED.



Notes: Sum of shaded areas only represents sign area for code compliance purposes. Examples of signs consist of individual letters, elements or logos placed on building walls or structures.

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SEC. 11.20. SEWER AND WATER SYSTEMS – EXCAVATIONS.

Subd. 1. Sewer and Water Systems. All sewer and water systems hereafter constructed or maintained shall conform to the provisions of this Subdivision and any other provisions of the City Code or regulations of the City and the State of Minnesota.

A. Sanitary Sewers:

1. Public sanitary sewers shall be installed as required by standards and specifications as established by the Council.
2. Where municipal public sanitary sewer is not available, the Council may by ordinance grant a franchise for such sewers to serve all properties in the area where a complete and adequate community sanitary sewer system and plant are designed, and complete plans for the system and plant are submitted to and approved by the Council and the State Board of Health before construction.
3. Individual sewer systems shall be constructed according to standards and regulations approved by the Council and the State Board of Health.
4. Individual sewer systems shall be located at least 50 feet

from any well.

B. Water Systems:

1. Public water facilities, including pipe fittings, hydrants, etc.

shall be installed as required by standards and specifications as established by the Council.

2. Where public water facilities are not available, the Council may by ordinance grant a franchise for such water facilities, to serve all properties within the area where a complete and adequate community water distribution system is designed, and complete plans for the system are submitted to and approved by the Council and the State Board of Health.

3. Individual wells shall be constructed according to standards and regulations approved by the Council and the State Board of Health.

4. Individual wells shall be located at least 50 feet from any sewer system.

Subd. 2. Extraction of Materials and Minerals. Open Pits and Impounding of Waters. All excavations, extraction of materials and minerals, open pits and impounding of waters hereafter established or enlarged shall conform to the provisions of the Subdivision and any other provisions of the City Code or regulations of the City.

A. Definition: Excavations, as used in this Subdivision, shall mean any artificial excavation of the earth, within the City, dug, excavated, or made by the removal from the natural surface of the earth of sod, soil, sand, gravel, stone or other matter or made by tunneling or breaking or undermining the surface of the earth. Excavations ancillary to other construction of any installation erected or to be erected, built, or placed thereon contemporaneously with or immediately following such excavation and covering or to cover such excavation when completed are excepted, if a permit has been issued for such construction or installation. Excavations not exceeding 50 square feet of surface area and two feet in depth are accepted.

B. Conditional Use Permit Required. It is unlawful for any person to hereafter dig, excavate, enlarge, make, maintain, or allow to be maintained, upon property owned or used by him, any open pit or excavation of any impounding water,

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without first making an application for and obtaining from the Council and the Planning Commission a conditional use permit therefore.

C. Application:

1. Application for such permit shall be made in such form, and the applicant shall furnish such information, as shall be required by the Council and among other things shall state:

(a) Applicant's true name and address.

(b) A full description of the location of the land where the pit or excavation is or is to be or where the impounded waters are or are to be maintained, and also a full description of the location on such land of the pit, excavation or impounded waters.

(c) When required by the State of Minnesota, an approval by the State to impound such waters or to make such excavation as described in the application.

of water impounded.

(d) The purpose of the pit or excavation or the quantity

(e) The highways, streets, or other public ways in the

City upon and along which any material for removal is to be hauled or carried.

(f) The estimated time when building or removing will begin and be completed.

2. Such application shall be filed with the Zoning

Administrator and processed in a manner required of all conditional use permit applications.

D. Filing of Map, Plat. The Council may require a map or plat of the proposed pit or excavation to be made and filed with the application before acting on the

same, showing the confines or limits thereof, together with the proposed depth thereof at different parts thereof. A similar map or plat may be required in regard to the proposed container for the impounded water.

E. Conditions of Permit. The Council as a prerequisite to the granting of a permit or after a permit has been granted may require the applicant to whom such permit is issued or the owner or user of the property on which the open pit or excavation or impounded waters are located to:

1. Properly fence any pit or excavation.
2. Slope the banks and otherwise properly guard and keep the pit or excavation in such condition as not to be dangerous from caving or sliding banks.
3. Properly drain, fill or level any pit or excavation, after created, so as to make the same safe and healthful as the Council shall determine.
4. Keep any pit, excavation, or impounded waters within the limits for which the particular permit is granted.
5. Remove excavated material from any pit or excavation, away from the premises, upon and along such highways, streets, or other public ways as the Council shall order and direct.
6. Provide, for the purpose of retaining impounded waters, a container of sufficient strength and durability and maintain such container in safe and proper condition.

F. Bond May Be Required. The Council may require either the applicant or the owner or user of the property on which the open pit or excavation or

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impounded waters are located to post a bond, in such form and sum as the Council shall determine, with sufficient surety running to the City, conditioned to pay the City the extraordinary cost and expense of repairing, from time to time, any highways, streets, or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel, in removing materials for any pit, excavation or impounded waters, the amount of such cost and expense to be determined by the City Engineer; and conditioned further to comply with all the requirements of this Subdivision and the particular permit, and to pay any expense the City may incur by reason of doing anything required to be done by any applicant to whom a permit is issued.

Subd. 3. Performance Standards. It is the intent of this Subdivision to provide that conditional uses in all Residence Districts and permitted and conditional uses of land and buildings in all Business and Industry Districts shall be established and maintained with proper appearance from streets and adjoining properties and to provide that each permitted use shall be a good neighbor to adjoining properties by the control of the following:

A. Standards:

1. Landscaping. All required yards shall either be open landscaped and green areas or be left in a natural state. If any yards are to be landscaped, they shall be landscaped attractively with lawn, trees, shrubs, etc. Any areas left in a natural state shall be properly maintained in a sightly and well-kept condition. Yards adjoining any Residence District shall be landscaped with buffer planting screens. Plans of such screens shall be submitted for approval as a part of the site plan and installed prior to issuance of a Certificate of Occupancy for any tract in the District.

2. Noise. Noise shall be measured on any property line of the tract on which the operation is located. Noise shall be muffled so as to not become objectionable due to intermittence, beat frequency, shrillness or intensity.

3. Odors. Odors from any use hereafter begun shall not be discernible at the property line to a greater degree than odors from plants for the manufacture or fabrication of books, textile weaves, electronic equipment, or other plants in which operations do not result in greater degree of odors. Detailed plans for the prevention of odors crossing property lines may be required before the issuance of a building permit.

4. Glare. Glare, whether direct or reflected, such as from floodlight or high temperature processes, and as differentiated from general illumination, shall not be visible beyond any property line.

5. Exterior Lighting. Any lights used for exterior illumination shall direct light away from adjoining properties.

6. Vibration. Vibration shall not be discernible at any property line to the human sense of feeling for three minutes or more duration in any one hour.

7. Smoke. Measurements shall be of the point of emission. The Ringelman Smoke Chart, published by the United State Bureau of Mines, shall be used for the measurement of smoke. Smoke not darker or more opaque than No. 1 on said Chart may be emitted, except that smoke not darker or more opaque than No. 2 on said Chart may be emitted for periods not longer than four minutes in any thirty minutes. These provisions, applicable to visible gray smoke, shall also apply to visible smoke of different color but with an equivalent opacity.

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8. Dust. Solid or liquid particles shall not be emitted at any point in concentrations exceeding 0.3 grain per cubic foot of the conveying gas or air. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of 500 degrees Fahrenheit and 50% excess air.

9. Hazard. Every operation shall be carried on with reasonable precautions against fire and explosion hazards.

B. Compliance: In order to insure compliance with the performance standards set forth above, the Council may require the owner or operator of any Permitted or Conditional Use to have such investigations and tests as may be required to show adherence to the performance standards. Such investigation and tests as are required to be made shall be carried out by an independent testing organization as may be selected by the City.

Subd. 4. Grading and Excavation Regulations. This section is intended to provide the community fair and equitable grading practices and shall not supersede the requirements of any other ordinance or code.

A. Protection of Utilities. Public utilities or services shall be protected from damage caused by grading or excavation operations.

B. Protection of Adjacent Property. Adjacent properties shall be protected from damage by grading operations. No person shall excavate on land sufficiently close to the property line to endanger any adjoining public street, sidewalk, alley or other public or private property, without supporting and protecting such property from damage that might result.

C. Inspection Notice. The code official shall be notified at least 24 hours prior to the start of work.

D. Temporary Erosion Control. Precautionary measures necessary to protect adjacent water courses and public or private property from damage by water erosion, flooding or deposition of mud or debris originating from the site shall be put in effect. Precautionary measures shall include provisions of properly designed sediment control facilities so that other properties are not affected by erosion from run off.

E. Traffic Control and Protection of Streets. Flaggers, signs, barricades and other safety devices to ensure adequate safety when working in or near

public streets shall be provided. All work on public ways and streets shall be approved by the city street department prior to commencing work.

F. Hazard from Existing Grading. Whenever any existing excavation, embankment or fill has become a hazard to life or limb, endangers structures, or adversely affects the safety, use stability of a public way or drainage area, such excavation, embankment or fill shall be eliminated.

G. Tracking of Dirt Onto Public Streets. Adequate cleaning of equipment to prevent the tracking of dirt and debris onto public streets shall be provided.

H. Maintenance of Waterways and Drainage Areas. Precautionary measures to protect and maintain the flow of waterways and drainage areas shall be taken.

I. Revegetation. The loss of trees, ground cover, and topsoil shall be minimized on any grading project. In addition to mechanical methods of erosion control, graded areas shall be protected to the extent practical from damage by erosion by planting grass or ground cover plants and/or trees. Such plantings shall provide for

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rapid, short-term coverage of the slopes as well as long-term permanent coverage. A plan by a registered design professional shall be provided where required by the code official.

J. Design Standards. The grading design standards required shall be those found in nationally recognized standards.

Subd. 5. Additional Requirements, Exceptions and Modifications.

A. Height Regulations:

1. Where the average slope of a lot is greater than one foot rise or fall in seven feet of horizontal distance from the established street elevation at the property line, one story in addition to the number permitted in the District in which the lot is situated shall be permitted on the down-hill side of any building.

2. Height limitations set forth elsewhere in this Chapter may be increased by 100% when applied to the following:

- (a) Monuments.
- (b) Flag poles.
- (c) Cooling towers.
- (d) Grain elevators.

3. Height limitations set forth elsewhere in this Chapter shall have no limitations when applied to the following:

- (a) Church spires, belfries or domes which do not

contain usable space.

- (b) Water towers.
- (c) Chimneys or smokestacks.
- (d) Radio or television transmitting towers.

B. Yard Regulations: Measurements shall be taken from the nearest point of the wall of a building to the lot line in question, subject to the following qualifications:

1. Cornices, canopies, or eaves may extend into the required front yard a distance not exceeding four feet, six inches.

2. Fire escapes may extend into the required front yard a distance not exceeding four feet, six inches.

3. A landing place or uncovered porch may extend into the required front yard to a distance not exceeding six feet, if the landing place or porch has its floor no higher than the entrance floor of the building. An open railing no higher than

three feet, six inches may be placed around such place.

4. The above enumerated architectural features may also extend into any side or rear yard to the same extent, except that no porch, terrace or outside stairway shall project into the required side yard distance.

C. Yard Landscaping. In all Business Districts and in all Industry Districts, all required yards shall be either open landscaped and green areas or be left in a natural state, except as provided by Subdivision 1, Subparagraph D of this Section. If any yards are to be landscaped, they shall be landscaped attractively with lawn, trees, shrubs, etc. Any areas left in a natural state shall be properly maintained in a sightly and well-kept condition. Yards adjoining any of the Residence Districts shall be landscaped with planting buffer screens. Plans for such screens shall be submitted as a part of the application for building permit and installed as a part of the initial construction.

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D. Storage of Materials. In all Residential and Business Districts, open storage or display of materials in any required front, side, or rear yard shall be prohibited. Any other storage shall be located or screened so as not to be visible.

E. Area Regulations:

1. No part of a yard, or other open space, or off-street parking or loading space required for or in connection with any building for the purposes of complying with this Chapter shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building, unless specifically allowed under other provisions of this Chapter.

2. No yard, lot, or parcel, or combination thereof which are adjacent to each other so as to form one lot with continuous frontage and in the same or similar ownership exercising common control over the entire parcel as a single unit shall, at any time after the effective date of this ordinance, be reduced in size or area below the minimum requirements set forth in this Chapter. Yards or lots created hereafter must meet at least the minimum size and area requirements required by the City Code.

3. Lots of Record. In any district where residential dwellings are permitted, a one (1) family detached dwelling may be erected on any lot of official record at the effective date of this ordinance irrespective of its area or width, provided that a remaining portion of any adjacent lot of official record is not under the same or similar ownership exercising common control over the entire parcel as a single unit and, further, that all other applicable yard and open space requirements, and setbacks are satisfied or a variance obtained.

F. Accessory Uses: The following accessory uses, in addition to those herein before specified, shall be permitted in any Residential District, if the accessory uses do not alter the character of the premises in respect to their use for the purposes permitted in the District:

1. The operation of necessary facilities and the equipment in connection with schools, colleges, universities, hospitals, and other institutions permitted in the District.

parks and playgrounds.

2. Recreation, refreshment, and service buildings in public

3. Fallout shelters.

building.

G. Accessory buildings shall occupy the same lot as the main use or

1. Separation from Main Building. All accessory buildings shall be separated from the main building by 10 feet.

2. Private Garages. An accessory building used as a private garage shall be permitted to be located in the rear yard or side yard provided that setbacks are maintained and the structures do not encroach on recorded easements. In all residential zones garages and accessory building shall not exceed the finished square footage of living space with a cumulative square footage maximum of 1200 square feet.

3. Storage Buildings. All detached accessory buildings used for storage or other similar uses shall be permitted to be located in any portion of the rear yard. No storage building shall be located in the side or front yard. All storage buildings shall be located no closer than 3 feet from the property line, 10 feet from any other building or exceed 12 feet in height. Exception: garages shall be allowed to exceed the height requirement when constructed in a similar/consistent style with the house. Any

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storage building over 120 square feet shall be considered a garage and must meet all state building code requirements and require and building permit.

4. Attachment to Other Building. In case any accessory building is attached to the principal or main building, it shall be made structurally a part of the principal or main building and shall comply in all respects with the requirements of this Chapter applicable to the principal or main building and the building code.

5. Required Main Structure. In all residential zones no accessory structure shall exist without a primary dwelling unit on the same parcel or lot.

H. Placement and Screening of Microwave Dishes in all Zoning

Districts:

1. The purpose of this Section is to regulate microwave

receiving dishes within all Zoning Districts so as to minimize their visual impact.

2. The provisions of this section shall not apply to microwave receiving dishes having a diameter of one (1) meter (39.4 inches) or less.

3. Any microwave receiving dish shall be screened by sight-obscuring fences and/or dense landscape buffers.

4. Location on any roof is prohibited.

5. Satellite and/or antenna dishes shall not be located in any front yard setback or side yard setback.

6. The maximum height from grade level to the highest point of the receiving dish shall be fifteen (15) feet.

7. A zoning permit shall be required for the installation of any dish or antenna. Zoning permit applications shall require the submission of a site plan and structural components.

8. Each dish or antenna shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code.

9. Dish and antenna electrical equipment and connections shall be designed and installed in adherence with the National Electrical Code.

I. Screening of Microwave Dishes In Any District.

1. Any ground mounted microwave receiving dish located in any district except for an Industrial District shall be screened by dense landscape buffers.

2. Ground mounted dishes and antennas shall be set back from all adjoining lots a distance equivalent to the height of the dish or antenna. Ground mounted dishes and antennas shall be located ten (10) feet or more from any other building or structure on the same lot and shall not be located within a utility easement. Location shall not adversely obstruct views from an adjacent property.

SEC. 11.21. FENCES.

Subd. 1. All fence installations shall be processed with a fence permit application. No inspection will be required, fees, if any will be set by resolution. The

application shall contain:

- A. Site plan, including lot dimensions, with structure locations (including setbacks).
- B. Location of proposed fence with heights.
- C. Description of materials used for fence.

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Subd. 2. No fence shall exceed six feet in height, from the front of the house to the back lot lines, and along the back lot line. No fence shall exceed four feet in height from the front of the house to the front lot line, along front lot line. Fences erected or other obstructions on corner lots must maintain a 25 foot (from corner pin location) and along the street side, a clear view triangle. *see 11.16, 3 (a). No fence or other obstructions shall exceed three feet in height in the "clear view area". It shall be the responsibility of the property owner of a fence to provide access for reading meters by means of an unlocked gate or relocation of the meters or reading devices to an accessible location. (Property owners' expense).

Subd. 3. The City of Luverne does not dictate which side of the fence must be "finished". No fences shall be constructed of light-weight materials such as chicken coop wire, barbed wire, or bamboo. Notwithstanding the preceding sentence, chicken coop wire may be used for vegetable gardens located within the perimeter of rear or side yards. Products manufactured for other uses such as plywood, corrugated steel, or fiberglass panels are prohibited as allowed fencing materials.

Subd. 4. The property owner is responsible for locating property lines. Property pins may be located at each corner and should be located before a fence is erected. Property dimensions and street right-of-ways may be obtained from the code official. The owner may also hire a surveyor to locate the property lines, and this is recommended if the location is in dispute. The City of Luverne does not survey properties, or represent a guarantee of lot dimensions or corner locations. Fences must not encroach on adjacent properties. Maintenance of both sides of the fence (painting, mowing, etc.) should be considered when determining placement. It is the responsibility of the fence owner to maintain the fence.

Subd. 5. The City of Luverne does not settle property line disputes between neighbors, including, but not limited to disputes over placement of fences, hedges and trees.

Subd. 6. The City does enforce proper setbacks, as required in other sections of this code. Fences may be placed in easement areas only with approval of the City Public Utilities Departments.

SEC. 11.22. CONDITIONAL USE PERMITS.

Subd. 1. Application.

A. Conditional Use Permits may be issued for any and only the uses or purposes for which such permits are required or permitted by provisions of this Chapter.

B. Applications: An application for a Conditional Use Permit shall be filed with the Zoning Administrator on a form prescribed by the Council. The application shall be accompanied by such plans and elevations and site plans as prescribed by the Planning Commission. The Planning and Zoning Commission shall act on any application and substantiating data within 60 days after receipt of same.

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Subd. 2. Public Hearing. Upon receipt in proper form of the application and other required material, the Planning Commission shall hold at least one public hearing in a location to be prescribed by the Planning Commission. At least ten (10) days in advance of each hearing, notice of the time and place of such hearing shall be published in the official paper of the City. All property owners within 200 feet of the property for which a Conditional Use application has been filed shall be notified by U.S. mail as to the time and place of the public hearing. The applicant shall provide an abstract of all property owners within 200 feet.

Subd. 3. Report to Council. For each application for a Conditional Use Permit, the Planning Commission shall report (within 30 days) to the Council its findings and recommendations, including the stipulation of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest. Upon receipt of the report of the Planning Commission, the Council shall hold whatever public hearings it deems advisable and shall make a decision upon the proposal to grant or deny a Conditional Use Permit. The applicant shall be notified in writing within 30 days of the Council's decision to either grant or deny the Conditional Use Permit.

Subd. 4. Findings. No Conditional Use shall be recommended by the Planning Commission unless said Commission shall find:

- A. That the Conditional Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the immediate vicinity;
- B. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area;
- C. That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided;
- D. That adequate measures have been or will be taken to provide sufficient off-street parking and loading space to serve the proposed use;
- E. That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so that none of these will constitute a nuisance, and to control lighted signs and other lights in such a manner that no disturbance to neighboring properties will result.

Subd. 5. Fees. To defray administrative costs of processing requests for Conditional Use Permits, a fee shall be paid by the applicant. Such fee shall be established by the Council.

Subd. 6. Compliance. Any use permitted under the terms of any Conditional Use Permit shall be established and conducted in conformity with the terms of such permit and of any conditions designated in connection therewith.

Subd. 7. Conditional Use Expiration. Unless otherwise specified by the Council at the time it is authorized, a Conditional Use Permit shall expire if the applicant fails to utilize such Conditional Use Permit within one year from the date of its authorization.

SEC. 11.23. NON-CONFORMING LOTS, LAND USES AND STRUCTURES.

Subd. 1. Intent.

A. Within the Districts as originally established by this Chapter or amendments thereto or other prior zoning regulations of the City, there exist lots, structures, and uses of land and structures which were lawful before previous zoning

regulations or this Chapter were adopted or amended, but which would be prohibited under the terms of these ordinances and amendments thereto.

B. It is the intent of this Chapter to permit these nonconformities to continue as provided hereinafter, but not to encourage their survival. Such uses are declared to be incompatible with permitted uses in the districts involved. It is further the intent of this Chapter that nonconformities shall not be enlarged upon, expanded, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same District.

C. A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land shall not be extended or enlarged after adoption of any ordinance finding such use to be non-conforming by attachment of additional signs to a building, or the placement of additional signs or display devices on the land outside the building, or by the addition of other structures or uses, if such additions are of a nature which would be prohibited generally in the District involved.

D. To avoid undue hardship, nothing in this section shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment to this Chapter and upon which actual building construction has been diligently pursued. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastening in a permanent manner, and demolition, elimination and removal of an existing structure in connection with such construction, provided that actual construction work shall be diligently pursued until the completion of the building involved and a building permit is continuously in force and effect for such construction.

Subd. 2. Non-Conforming Lots of Record.

A. In any District in which single family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Chapter, a single family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Chapter which said original provision herein or amendment thereto would have prohibited such dwelling or accessory building construction. Such lot must be in separate ownership and not of continuous frontage with other lots or parcels in the same or similar ownership exercising common control over the entire parcel as a single unit. This provision shall apply even though such lot fails to meet the requirements for total lot area, width, or depth that are generally applicable in the district, provided that yard dimensions, setbacks, and other requirements not involving total lot area, width, or depth of lots shall conform to the regulations for the District in which said lot is located unless a variance is obtained for said requirements.

B. If two (2) or more lots or combination of lots and portions of lots or parcels, or portions thereof, with continuous frontage are in the same or similar

ownership exercising common control of the entire parcel as a single unit at any time after the effective date of this ordinance, and the lots or parcels together do not meet the requirements for lot width, depth, and total lot area as established in this Chapter, the lands involved shall be considered to be a non-divisible parcel for the purposes of this Chapter, and no portion of said parcel shall be used or sold which does not meet lot width, depth, and total lot area requirements established by this Chapter unless all or a portion of said land is sold or combined with adjoining other parcels so as to meet or exceed said requirements. No division of any parcel of land may be made which leaves any remaining portion of the land with a width, depth, or total lot area below the requirements stated in this Chapter unless a variance is obtained.

Subd. 3. Non-Conforming Uses of Land. Where, at the original effective

date of this Chapter or amendment thereto, or other prior zoning regulations of the City, wherein the lawful use of land existed prior to the adoption thereof and that under the provisions thereof, such use was no longer permissible under the terms thereof as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

A. No such non-conforming use of land shall be enlarged, increased, or extended to occupy a greater area of land than was occupied on the effective date of the ordinance making such use non-conforming.

B. No such non-conforming use of land shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of the ordinance making such use non-conforming.

C. If any such non-conforming use of land ceases for any reason for a period of more than ninety (90) days, any subsequent use of such land shall conform to the regulations specified in this Chapter for the District in which such land is located.

D. A non-conforming use of land shall not be changed to another non-conforming use of land. When any non-conforming use of land has been changed to a conforming use of land, it shall not thereafter be changed to any non-conforming use.

E. A non-conforming use of land may be changed to lessen the nonconformity of that use of land. Thereafter the use of the land may not be altered so as to increase the nonconformity.

Subd. 4. Non-Conforming Use of Structures.

A. The lawful use of a structure existing at the original effective date of this Chapter, or amendments thereto, or other prior zoning regulations which, under the provisions of such ordinances or regulations do not conform to the provisions therein, shall be discontinued within a reasonable period of amortization of the structure thereafter. A reasonable period of amortization shall begin after the date of the adoption of said ordinance or regulation finding it to be non-conforming and shall be considered to be forty (40) years for buildings of ordinary wood construction, fifty (50) years for buildings of wood and masonry construction, and sixty (60) years for buildings of fireproof type construction. The reasonable period of amortization for other structures shall be ten (10) years.

B. No structure which contains a non-conforming use may be enlarged, extended, converted, reconstructed, or structurally altered unless the use of the structure is changed to one permitted within the district in which such building is located and the non-conforming use thereof shall not thereafter be resumed.

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C. No structure containing a non-conforming use destroyed by any peril or means to an extent where the cost to repair such damage to the structure equals or exceeds the most current assessor's market value prior to the time of said damage shall be reconstructed or repaired except in conformity with the provisions of this Chapter.

D. Should such structure containing a non-conforming use be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

E. When a structure containing a non-conforming use, or such use and premises in combination, is discontinued or abandoned for six (6) consecutive months or any eighteen (18) months during any three year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the District in which it is located.

F. Whenever a structure containing a non-conforming use, or such use and premises in combination, loses its right to lawful use under the provisions of this subdivision, the Council may at any time thereafter require the use of such structure to conform to the regulations of the district in which it is located or its removal and

destruction. Failure on the part of the Council to make such requirement within any period of time after its use becomes unlawful shall not abrogate its right to do so at any future time.

G. On any structure devoted in whole or in part to any non-conforming use, work may be done in any twelve (12) consecutive month period on ordinary repairs and maintenance to non-bearing non-structural walls, fixtures, wiring, or plumbing, to an extent not exceeding ten (10) percent of the most current assessed market value of the structure, provided that the cubical and habitable space content of the building as it existed at the time it became non-conforming shall not be increased.

H. Nothing in this subdivision shall be construed so as to prevent the restoring of a structure containing a non-conforming use to a safe condition when said structure is declared to be hazardous or unsafe by an authorized government official unless the cost of said restoration equals or exceeds the most current assessor's market value of the structure or a conditional use permit is obtained. Such restoration shall not extend the non-conforming use of a structure in any manner, except as reasonably required to eliminate the hazardous or unsafe condition, nor shall the amortization period for its existence be extended. Non-structural and minor alterations may be made to any residential structure containing non-conforming residential dwelling units when the same will improve the liveability of such units provided that it does not increase the number of dwelling units in the structure. Any non-conforming use of a structure, or non-conforming use of a structure and premises combination, to which its non-conformance relates solely to flood plain regulations may, if permitted by said regulations, alter said structure for purposes of substantially reducing potential flood damages to the entire structure. In no event shall any repair or maintenance or other alteration to a non-conforming use of a structure be allowed which would extend or intensify the non-conforming use of said structure.

Subd. 5. Non-Conforming Structures.

A. Well maintained non-conforming structures which contain conforming uses may be maintained, altered, enlarged and rebuilt provided the altered structure is no less conforming than before the alteration.

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SEC. 11.24. VARIANCES AND APPEALS.

Subd. 1. Application. Any person aggrieved by any order or decision of the Building/Zoning Administrator or other City staff enforcing the provisions of this Chapter or desiring a variance from the literal provisions of this Chapter, except those which relate to the use of a property other than the temporary use of a one-family dwelling as a two-family dwelling, may apply therefore and have the matter heard by the Board of Appeals and Adjustments in accordance with the provisions of Minnesota law and the City Code.

Subd. 2. Procedure.

A. Application for any variance or appeal permissible under the provisions of this section shall be made to the Board of Appeals and Adjustments in the form of a written application on such forms as required by the City. Upon receipt of any application, the Board of Appeals and Adjustments shall set a time and place for a public hearing before the Board 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.

B. The Board of Appeals and Adjustments shall thereupon make its decision upon the application within thirty (30) days of the public hearing, unless the Board specifically finds that additional time is needed to make its decision, but in any event the decision must be made within sixty (60) days of the public hearing.

Subd. 3. Conditions for a Variance.

A. A variance shall be permitted only if it is established that it is in keeping with the spirit and intent of the general purpose of this Chapter and that the strict enforcement of the provisions of this Chapter would cause an undue hardship because of the circumstances unique to the individual property under consideration. In its consideration of the standards of practical difficulties or particular hardship and unique situation, the Board of Zoning Appeals and Adjustments shall require the presentation of evidence that:

1. The property in question cannot be put to a reasonable use if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located;

2. The plight of the landowner is due to circumstances unique to the property that are not normally applicable to landholdings within the same District and that were not created by the landowner; and,

3. The variance, if granted, will not alter the essential character of the neighborhood and locality. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of this Chapter. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. Special consideration shall be given for earth sheltered construction as defined in Minnesota Statutes, Section 116J.06, Subd. 2, when such construction is in harmony with the provisions of this Chapter.

B. A variance shall be granted only if the evidence, in the judgment of the Board of Appeals and Adjustments, sustains the conditions enumerated in subparagraph A above. Variances from the provisions of this Chapter shall be granted

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by the Board of Appeals and Adjustments only in accordance with the provisions of this section.

C. Specific conditions and safeguards may be imposed upon the premises benefited by the variance as considered necessary to prevent injurious effects upon other property in the neighborhood or upon public facilities and services. Violations of such conditions and safeguards shall constitute a violation of this Chapter.

D. No variance permitting the erection or alteration of a building shall be valid for a period longer than one year unless a building permit for such erection or alteration is issued and construction is actually begun within that period and is thereafter diligently pursued to completion.

SEC. 11.25. AMENDMENT.

Subd. 1. Application.

A. This Chapter may be amended whenever the public necessity and the general welfare require such amendment by following the procedure specified in this Section.

B. Proceedings for amendment of this Chapter shall be initiated by:

1. A petition of the owner or owners of the actual property;
2. A recommendation of the Planning Commission; or
3. By action of the Council.

C. An application for an amendment shall be filed with the Zoning Administrator. All applications for changes in the boundaries of any zoning district which are initiated by the petition of the owner or owners of property, the zoning of which is proposed to be changed, shall be accompanied by a map or plat showing the lands proposed to be changed and all lands within 350 feet of the boundaries of the property proposed to be rezoned, together with the names and addresses of the owners of the lands in such area as the same appears on the records of the County Treasurer.

Subd. 2. Public Hearing. Upon receipt in proper form of the application and other requested material, if required, the Planning Commission shall in all cases hold at least one public hearing in a location to be prescribed by the Planning Commission. At least ten (10) days in advance of such hearing, notice of the time, place, and purpose of such hearing shall be given in accordance with Minnesota Statutes 462.357, Subd. 3 or other applicable law.

Subd. 3. Authorization.

A. Following the public hearing, the Planning Commission shall make a report of its findings and recommendations on the proposed amendment and shall file a copy with the Council and the Zoning Administrator within sixty (60) days after the hearing. If no report or recommendation is transmitted by the Planning Commission within sixty (60) days after the hearing, the Council may take action without awaiting such recommendation.

B. Upon the filing of such report or recommendation, the Council may hold such public hearings upon the amendment as it deems advisable. After the conclusion of the hearings, if any, the Council may adopt the amendment or any part thereof in such form as it deems advisable. The amendment shall be effective only if two-thirds (2/3) of all the members of the Council concur in its passage.

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Subd. 4. Fees. To defray the administrative costs of processing of requests for an amendment to this Chapter, a fee shall be paid by the petitioner. Such fee shall be determined by the Council.

SEC. 11.26. ZONING MAP. The location and boundaries of the districts established by this Chapter are hereby set forth on the Zoning Map, and said Map is hereby made a part of this Chapter. Said Map shall be known as the "City of Luverne Zoning Map". Said Map and all notations, references and date shown thereon are hereby incorporated by reference into this Chapter and shall be made a part of it as if all were fully described herein. It shall be the responsibility of the Code Enforcement Official to maintain said Map, and amendments thereto shall be recorded in said Zoning Map within (30) thirty days after official publication of amendments. The official Zoning Map shall be kept on file in the City Hall.

SEC. 11.27. DISTRICT BOUNDRIES. The boundaries between districts are, unless otherwise indicated, the center lines of streets, alleys or railroads rights-of-ways or such lines extended or lines parallel or perpendicular thereto; or plot or lot lines; or fractional section lines of the United States public land surveys, as established by law. 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 center line at a distance there from equivalent to the number of feet so indicated, unless otherwise indicated.

Source: Ordinance No. 272, Third Series
Effective Date: 3-10-05

SEC. 11.28. ANNEXATION. Any land annexed in the future into the City limits shall be placed in the R-A Residential-Agricultural District, until placed in another district by action of the Council after recommendation of the Planning Commission unless otherwise specified in an annexation agreement and/or ordinance.

Source: Ordinance No. 312, Third Series
Effective Date: 12-10-09

SEC. 11.29 MORATORIUM PROHIBITING THE GRANTING OF ZONING

(CUP/VARIANCE) APPROVAL, ZONING, PUD APPROVAL, BUILDING PERMITS, OR SIGN PERMITS FOR RETAIL ESTABLISHMENTS SELLING TOBACCO, TOBACCO PRODUCTS, TOBACCO RELATED DEVICES, CONTROLLED SUBSTANCES, DRUGS, OR DRUG PARAPHERNALIA.

SEC. 1. Statement of Policy. The City Council finds that the City is presently faced with the potential of applications for rezoning, zoning (CUP/Variance), PUD approvals, Building Permits or Sign Permits for property within the Moratorium Area as defined in Section 2 as they apply to regulation of Retail Establishments which sell Tobacco, Tobacco Products, Tobacco Related Devices, Controlled Substances, Drugs or Drug Paraphernalia.

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It appears to the Council that the consequences of allowing such applications to be approved may be undesirable because the current ordinances may not be consistent with the City's zoning and development goals. The Council, therefore, finds that it is necessary to study the impact of development under current ordinances to determine whether they fulfill the underlying purposes of the City's land use and zoning provisions as they apply to regulation of Retail Establishments which sell Tobacco, Tobacco Products, Tobacco Related Devices, Controlled Substances, Drugs or Drug Paraphernalia, and to protect the health, safety and welfare of Luverne Citizens. The Council further finds that if, as a result of the study, the land use controls and zoning provisions contained in the City code need to be revised, such revision is a process that cannot be accomplished until a study has been completed and a hearing held. During this period, it is desirable that the Council establish guidelines for the benefit of those who wish to develop property in order to bring about savings of public and private expenditures, to provide the public guides to future City action, and to protect the health, safety and welfare of Luverne Citizens. Since enactment of an amendment to the City Code would undoubtedly modify existing regulations concerning permitted land use and zoning performance standards, zoning (CUP/Variance) applications, rezoning applications, PUD applications, building permits or sign permits for property within the Moratorium Area would be contrary to the purpose of the zoning enabling act, Minnesota Statutes Section 462.351, et seq. The Council further finds that it would be unwise, improper and unjust to allow individual development to occur during this study. The Council further finds that the Rock County Board of Commissioners is considering changes to the Rock County Tobacco Ordinance, and Rock County has decided not to issue new licenses to sell any tobacco, tobacco products or tobacco-related devices. The Council further finds that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, and tobacco related devices, and such sales, possession and use are violations of both State and Federal laws; and because studies, which are hereby accepted and adopted (i.e. CDC, Minnesota Department of Health/ASSIST) have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who have reached the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this ordinance shall be intended to further study the sale, possession, and use of tobacco, tobacco products, and tobacco related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, and tobacco related devices, and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke as stated in Minn. Stat., sections 461.12 to 461.18. In making these findings, the City Council accepts the conclusions and recommendations of the Center for Disease Control in their study "Selected Cigarette Smoking Initiation and Quitting Behaviors Among High School Students, Unties States, 1997," and of the following medical professionals in these medical journals: Khuder Sa, et al., "Age of Smoking Onset and its Effect on Smoking Cessation," *Addictive Behavior* 24(5):673-7, September-

1998; Everett SA, et al., "Initiation of Cigarette Smoking and Subsequent Smoking Behavior Among U.S. High School Students," *Preventive Medicine*, 29(5):327-33.

SEC. 2. Definitions and Interpretations. Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural, and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice-versa. The term "shall" means mandatory and the term "may" means permissive. The following terms shall have the definitions given them:

Subd. 1 Compliance Checks. "Compliance Checks" shall mean the system the county uses to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco related devices are following and complying with the requirements of the Rock County Tobacco Ordinance. Compliance checks shall involve the use of minors as authorized by the Rock County Tobacco Ordinance. Compliance checks shall also mean the use of minors, who attempt to purchase tobacco, tobacco products, or tobacco related devices for educational, research and training purposes as authorized by State and Federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate Federal, State or local laws and regulations relating to tobacco, tobacco products, and tobacco related devices.

Subd. 2 Controlled Substance. "Controlled substance" shall mean a drug, substance or immediate precursor in Schedules I through V of section 152.02, as it may from time to time be amended. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.

Subd. 3 Drug. The term "drug" shall mean all medicines and preparations recognized in the United States Pharmacopoeia or National Formulary and any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of either humans or other animals.

Subd. 4 Drug Paraphernalia. The term "Drug Paraphernalia" shall have the meaning set forth in Minnesota Statute §152.01, as it may be amended from time to time, to wit: (a) Except as otherwise provided in paragraph (b), "drug paraphernalia" means all equipment, products, and materials of any kind, except those items used in conjunction with permitted uses of controlled substances under this chapter or the Uniform Controlled Substances Act, which are knowingly or intentionally used primarily in (1) manufacturing a controlled substance, (2) injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, (3) testing the strength, effectiveness, or purity of a controlled substance, or (4) enhancing the effect of a controlled substance.

(b) "Drug paraphernalia" does not include the possession, manufacture, delivery, or sale of hypodermic needles or syringes in accordance with section 151.40, subdivision 2.

Subd. 5 Individually packaged. "Individually packaged" shall mean the practice of selling any tobacco or tobacco product wrapped individually for sale.

Individually wrapped tobacco or tobacco products shall include but not be limited to single cigarette packs, single bags or cans of loose tobacco in any form, and single cans

or other packaging of snuff or chewing tobacco.

Subd. 6 Loosies. "Loosies" shall mean the common term used to refer to a single or individually packaged cigarette.

Subd. 7 Minor. "Minor" shall mean any natural person who has not yet reached the age of eighteen (18) years.

Subd. 8. Moratorium Area. "Moratorium Area" shall mean the following zoning districts in the City of Luverne:

- H-C Highway Commercial
- C-C Community Commercial
- N-C Neighborhood Commercial
- C-R Commercial Reserve
- Downtown
- I-1 Limited Industrial
- I-2 Special Industrial
- P Public District

Subd. 9. Moveable Place of Business. "Moveable Place of Business" shall refer to any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

Subd. 10. Retail Establishment. "Retail Establishment" shall mean any place of business where tobacco, tobacco products, or tobacco related devices are available for sale to the general public. Retail establishments shall include, but not be limited to, roll-your-own tobacco businesses, smoke shops, grocery stores, convenience stores, and restaurants.

Subd. 11. Sale. A "sale" shall mean any transfer of goods for money, trade, barter, or other consideration.

Subd. 12. Self-service Merchandising. "Self-service Merchandising" shall mean open displays of tobacco, tobacco products, or tobacco related devices in a manner where any person shall have access to the tobacco, tobacco products, or tobacco related devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, or tobacco related device between the customer and the licensee or employee. Self-service merchandising shall not include vending machines.

Subd. 13. Tobacco or Tobacco Products. "Tobacco" or "Tobacco products" shall mean cigarettes and any products containing, made, or derived from tobacco that are intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component,

part, or accessory of a tobacco product, including, but not limited to, cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff, snuff flour, Cavendish; plug and twist tobacco; fine cut and other chewing tobacco; shorts; refuse scraps, clippings, cutting and sweepings of tobacco, and other kinds and forms of tobacco. Tobacco and tobacco products excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

Subd. 14. Tobacco Related Devices. "Tobacco related devices" shall mean any tobacco product as well as a pipe, rolling papers, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products.

Subd. 15. Vending Machine. "Vending Machine" shall mean any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, or tobacco related devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product, or tobacco related device.

Subd. 16. Diversion Program. "Diversion Program" shall mean an alternative to court for juveniles involved in illegal use of tobacco products.

Subd. 17. Smoking. "Smoking" shall mean inhaling or exhaling smoke from any lighted cigar, cigarette, pipe, or any other lighted tobacco or plant product. Smoking also includes carrying a lighted cigar, cigarette, pipe, or any other lighted tobacco or plant product intended for inhalation. See Minn. Stat. §114.413, subd. 4.

SEC. 3. Study. The City Council hereby requires its City Administrator and Staff to initiate a study regarding the impact of the sale of Tobacco, Tobacco Products, Tobacco Related Devices, Drugs, Drug Paraphernalia, or Controlled Substances, within the Moratorium Area under current ordinances to determine whether they fulfill the underlying purposes of the City's land use and zoning provisions, and to protect the health, safety and welfare of Luverne Citizens, regarding the implications of the potential need for amendments to the City Code to implement the results of that study.

SEC. 4. Restrictions on the Granting of Zoning (CUP/Variance) Approval, Rezoning, PUD Approvals and Issuance of Building Permits or Sign Permits. No Zoning (CUP/Variance) approval, Rezoning, or PUD approval, and Issuance of Building Permits or Sign Permits, shall be given by the Council and/or staff for any property within the Moratorium Area for any Retail Establishment which will sell Tobacco, Tobacco Products, Tobacco Related Devices, Drugs, Drug Paraphernalia, or Controlled Substances.

SEC. 5. Duration. This Ordinance shall expire twelve (12) months after the passage of this Ordinance by the City Council, without Council action, or it may be repealed earlier if the Council determines that the requisite studies have been completed and adopted and that appropriate evaluation and action, including any necessary

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revisions of the zoning code, and/or other provisions of the City Code, have been finalized. The duration of this Ordinance may be extended by the adoption of a subsequent Ordinance for a total time period not to exceed the statutory limits in Minn. Stat. 462.355, subdivision 4.

SEC. 6. Variances. The Council may grant a variance to this Ordinance if the Council finds after careful review of all the facts that a proposal is not contrary to the intent of the Comprehensive Plan, that it is compatible with the zoning and official control amendments being considered by the City, that it does not adversely impact the health, safety or welfare of the citizens and that it otherwise meets the requirements of the Luverne City Code, state law and federal law.

SEC. 7. Separability. Every section, provision, or part of this Ordinance is declared separable from every other section, provision or part; and if any section,

provision, or part thereof or action taken hereunder shall be held invalid, it shall not affect any other section, provision, or part.

Source: Ordinance No. 325, Third Series
Effective Date: 4-12-2012

(Sections 11.30 – 11.98, inclusive, reserved for future expansion)

SEC. 11.99. VIOLATION A MISDEMEANOR OR PETTY MISDEMEANOR.

Every person violates a section, subdivision, paragraph, or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, or fails to act when such failure is prohibited or declared unlawful by a Code adopted by reference by this Chapter, and, upon conviction thereof, shall be punished as follows:

Subd. 1. Where the specific section, subdivision, paragraph, or provision specifically makes violation a misdemeanor, the violator shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, the violator shall be punished as for a misdemeanor.

Subd. 2. As to any violation not constituting a misdemeanor under the provisions of Subd. 1 hereof, the violator shall be punished as for a petty misdemeanor.

Subd. 3. Violation of any section, subdivision, paragraph, or provision of this Chapter, shall be deemed continuing in nature, and may be treated as a new and separate offense on each day (consisting of a 24-hour period commencing at 12:00 midnight) during which said violation occurs.

Source: Ordinance No. 272, Third Series
Effective Date: 3-10-05

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