



## CITY OF FREEPORT

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### May 7, 2014 - City Council Meeting Agenda Freeport City Hall • 6:00 pm

6:00p Call to Order

6:01p Zoning Ordinance Review (Continued from 4/2/14)

7:45p Adjourn – *Motion to adjourn*

Dates: April 22<sup>nd</sup> Special Meeting (in lieu of regular meeting) – Local Board of Appeal & Equalization (LBAE)  
May 27<sup>th</sup> Regular Meeting

1. ~~1,000 feet from the ordinary high water mark of a lake, pond, or flowage; and~~
2. ~~300 feet from a river or stream or the landward extent of a flood plain designated by ordinance on such a river or stream, whichever is greater. The practical limits of shorelands may be less than the statutory limits whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner.~~

- A. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under this Subsection must be received by the Commissioner at least ten days prior to such hearings.
- B. A copy of amendments and final decisions granting variances or conditional uses under this Subsection must be received by the Commissioner within ten days of final action or amendment.

### **500.39: GENERAL REQUIREMENTS**

The intent of Subsections 500.41 to 500.46 is to establish general development performance standards. The regulations provided herein apply equally to all districts except where special provisions provide otherwise.

### **500.43: OFF-STREET PARKING**

#### **Subd. 1 – Purpose.**

The purpose of this Subsection is to assist in alleviating or preventing congestion of the public right-of-way and to promote the safety and general welfare of the public by establishing minimum requirements for off-street parking of motor vehicles in accordance with the intensity of utilization of the various parcels of land or structures.

#### **Subd. 2 – Intent.**

The intent of this Subsection is to establish general standards for off-street parking. In all zoning districts, with the exception of allowed uses in “C-1” Central and Neighborhood Commercial District, off-street parking facilities for the storage of motor vehicles for use of occupants, employees, and patrons of the building or structures hereafter erected, altered, or extended must be provided and maintained as herein prescribed.

#### **Subd. 3 – Permit Required.**

- A. No person shall construct, enlarge or change the dimensions of a parking area or driveway, unless and until a permit is secured from the City, except that a separate driveway permit shall not be required if the proposed driveway is constructed as

shown on the approved residential subdivision grading plan. The permit application shall be accompanied by a site plan which in addition to other information, shall show the location of the off-street parking area provided for such building.

- B. A permit shall not be required for the routine maintenance/repair of an existing driveway. However, any expansion, addition or upgrade of an existing driveway shall be compliant with the performance standards of this Subsection and driveways abutting roadways of other jurisdiction must secure permission from the appropriate jurisdiction.

**Subd. 4 – Parking Lot Dimensions.**

A parking space, as referred to in this Code, must be at least nine feet wide by 20 feet long. In considering parking lots, a standard of 300 square feet per parking space is used to compute total requirements including maneuvering areas.

Angle of Parking	Stall Width	Stall Length	Aisle Width
45°	12.5' regular; 15.5' handicapped	18'	16'
60°	10.5' regular; 13.5' handicapped	18'	18'
90°	9.0' regular; 12.0' handicapped	18'	24'

**Subd. 5 – General Requirements.**

- A. When the determination of the number of required parking spaces results in a fractional space that fraction, if one-half (1/2) space or greater, shall be rounded up to equal one (1) space.
- B. The term “floor area” for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor area dimensions of the buildings, structure or use times the number of floors, minus twenty (20) percent, except as may be hereinafter modified.
- C. When a structure contains two (2) or more types of uses, the gross floor area of each use shall be calculated and shared spaces such as hallways and bathrooms shall be excluded as non-productive space. The resulting net useable floor space figure shall be utilized to determine the off-street parking requirement.
- D. The City Council may consider a reduction in the amount of parking space required for joint or mixed uses (other than purely residential) where it is sufficiently demonstrated and documented that a specific timing element (e.g. differing hours of operation are perpetually maintained; mixed storefront and multiple family residential uses in a single structure) or the nature of the use (e.g.

senior housing; proximity to transit terminals/stations, etc.), will demonstrably affect the demand for parking.

- E. Where a use is not specifically mentioned, off-street parking requirements are the same as for similar uses as determined by the Zoning Administrator.
- F. On-street parking is not to be counted when calculating the off-street parking requirements in this Subsection.
- G. Garage spaces may be counted as parking spaces provided that a garage space may not be counted if blocked by another space.
- H. Loading space is not to be construed as supplying off-street parking space.
- I. Whenever a use requiring off-street parking is increased in floor area and such use is located in a building existing on or before January 1, 1996, additional parking space for the additional floor area must be provided and maintained in amounts hereafter specified for that use.
- J. Off-street parking facilities for dwellings must be provided and located on the same lot or parcel of land as the building they are intended to serve.
- K. An entrance to or exit from a residential parking area may not be more than 24 feet in width. An entrance to or exit from a commercial or industrial parking area may not be more than 36 feet in width.
- L. Off-street parking areas shall not be designed so that vehicles must back into the street or public way.
- M. Where a use is not specifically mentioned, off-street parking requirements are the same as for similar uses.

#### **Subd. 6 – Number of Parking Spaces Required.**

The amount of required off-street parking for new uses or buildings and additions to existing buildings will be determined as follows.

- A. Single-family, two-family dwellings, and townhouses units - One space per unit.
- B. Multiple family dwellings - Parking space required will be addressed at the time of parking permit application (one or two spaces will be required). A garage must be of the same architectural treatment as the dwelling.
- C. Boarding houses, hotels, motels, and dormitories - One parking space for each dwelling unit or individual for whom sleeping accommodations are provided.

- D. Places of assembly - One parking space must be provided for each four units of seating capacity in churches, theaters, gymnasiums, auditoriums, stadiums, or arenas. For schools (public or private) one parking space must be provided for each four units of seating capacity based upon the design of the auditorium, gymnasium, or stadium within the school.
- E. Places of medical treatment - One parking space must be provided for each two employees plus one for each four beds in hospitals, sanitariums, rest homes, and nursing homes, one parking space must be provided for each two employees plus one for each doctor plus one per 100 square feet of floor area in clinics (medical or dental).
- F. Offices - One parking space must be provided for each 250 square feet of floor space.
- G. Bowling alley - At least five parking spaces for each alley, plus additional spaces as may be required herein for related uses contained within the principal structure.
- H. Motor fuel station - At least four off-street parking spaces plus two off-street parking spaces for each service stall. Those facilities designed for sale of other items than strictly automotive products, parts, or service must provide additional parking in compliance with other applicable sections of this Code.
- I. Retail store and service establishments - At least one off-street parking space for each 250 square feet of floor area.
- J. Retail sales and service business with 50% of gross floor area devoted to storage, warehouses, and/or industry - One space for each 250 square feet devoted to public sales and/or service plus one space for each 500 square feet of storage area or one space for each employee on the maximum shift, whichever is appropriate.
- K. Restaurants, night clubs, taverns, or cafes - One parking space for each four seats, but not less than 15 spaces.
- L. Manufacturing, fabrication, or processing of a product or material warehouse, storage, handling of bulk goods, post offices - One parking space for each two employees based on the maximum planned employment on each shift or one space for each 400 square feet of floor area, whichever is greater.

**Subd. 7 – Parking Lot Design Standards.**

- A. Parking lots shall be setback at least ten (10) feet from all property lines.
- B. Adequate ingress and egress must be provided from a public street or alley.

- C. The parking lots must be maintained in a usable dustproof condition and kept graded and drained to dispose of surface water.
- D. Whenever the parking lot boundary adjoins property zoned for residential use a landscaped buffer approved by the City Council is required. Said landscape buffer shall be of sufficient width to prevent headlights from shining into residential lots on a year round basis. ~~a setback of three feet from the lot line is required,~~
- E. Necessary curbs or other protection against damage to adjoining properties, streets and sidewalks must be provided and maintained.
- F. Parking lot designs for more than five (5) vehicles shall be reviewed by the City Engineer for adequacy of drainage and circulation.

## **500.44: OFF-STREET LOADING**

### **Subd. 1 – Loading Spaces Required.**

- A. C-2 Highway Commercial District. One (1) off-street loading and unloading spaces shall be provided for units with a gross area of ten thousand (10,000) square feet. One (1) additional space shall be provided for each additional fifteen thousand (15,000) square feet of floor space.
- B. C-1 Central and Neighborhood Commercial Districts. Off-street unloading facilities are subject to approval by the Zoning Administrator. On-street unloading shall be prohibited during peak travel periods so as to not interfere with traffic flow.
- C. Industrial Districts. In industrial districts, the use of any building requiring loading or unloading of materials to or from trucks shall require one (1) off-street loading spaces for the first ten thousand (10,000) square feet of floor space and an additional space for each additional fifteen thousand (15,000) square feet of floor space.

### **Subd. 2 – Required Screening.**

- A. Off-street loading spaces adjacent to collector or arterial streets and/or areas guided toward residential use within the Comprehensive Plan shall be screened from the view from the adjacent roadway.
- B. For new construction occurring after the date of the adoption of this Ordinance, truck loading and receiving areas may not be on the front side of a building facing the street (this does not include drive-in entrances).

~~In commercial and industrial zoning districts, truck berths, or loading and unloading of goods or wares must be provided on the same lot for each building designed to be used~~

~~for these purposes. Where truck berths are for each building designed to be used for these purposes. Where truck berths are provided inside the building, such area may not be included in the total floor area used for determining the required numbers of such berths, nor for parking space requirements.~~

**Subd. 2—Retail.**

~~Retail stores, shopping centers, or shops must provide one truck berth for each two business places or one for each 20,000 square feet of floor area, whichever is greater.~~

**Subd. 3—Industrial.**

~~Industrial and manufacturing uses must provide one truck berth for each 10,000 square feet of floor area over 10,000 square feet.~~

**500.45: FENCING, SCREENING, AND LANDSCAPING**

**Subd. 1 – Fencing.**

A. Definitions.

1. “Fence” shall mean a partition, wall, hedge, or row(s) of continuous vegetative plantings that are erected as a dividing marker, visual, or physical barrier, or enclosure.
2. “Fence, Permanent” shall mean a fence constructed of wood, rust-resistant chain link steel, prefabricated and rust resistant aluminum, prefabricated vinyl, landscape masonry units, landscape brick units, stone, or decorative concrete. If wooden material is used it shall be made of processed wood, i.e. cedar, green treated, brown treated, or resin (but not creosote) composite. For the purposes of this Ordinance trellises, arbors, pagodas, and the like shall not be considered a fence.
3. “Fence, Natural Living” shall mean a divider or barrier comprised of living vegetative materials. The owner of the adjacent property may trim or prune parts of the living fence that extend onto their property.

B. Permit Required.

1. All permanent fences require a zoning permit from the City Zoning Administrator.
2. Fences exceeding six (6) feet in height require approval from the City Zoning Administrator and issuance of a building permit.

3. Permit Application. Application for a zoning and/or building permit shall be on an approved form and shall include:
  - a. The name, address (property and mailing), and phone number of the Applicant.
  - b. The name, address, and phone number of the Property Owner, if different than the Applicant.
  - c. A site plan illustrating the proposed location(s) of the fence on the subject property in relation to property lines, existing buildings, and other pertinent information.
  - d. A written description of proposed fence materials.
  - e. Applicant and Property Owner signatures.
  - f. A fee as may be specified by the City Council.

C. Exemptions. The following are exempt from this Ordinance:

1. Snow fences erected and/or maintained between November 1 and April 10.
2. Temporary fences associated with short-term events erected for a maximum of 10 days.
3. Underground fences for animal control.
4. Fences used for containment of farm animals within the Agricultural/Rural Residential District.
5. Silt fences when required by a Professional Engineer licensed in the State of Minnesota and/or the Building Official.
6. Ornamental fences composed of typical fence materials and erected solely as a landscaping enhancement and not for containment or screening purposes.
7. Fences or fence panels not exceeding six (6) feet in length and not reasonably contiguous.
8. Fences associated with public safety emergencies or operations.



D. Prohibited Fences. The following are prohibited fences in any and all zoning districts:

1. Fences with metal sheathing.
2. Barbed wire, chicken wire, high tensile, electric wire, woven wire, or other livestock fencing, except if the property is zoned Agricultural/Rural Residential District.
3. A series of gates.
4. Fences including creosote lumber.
5. Living fences consisting of invasive plant species or harboring pests and/or rodents.
6. Makeshift, flimsy materials, or material such as paper, twine, rope, tin, webbing, and the like, except when used for traffic control or police security.
7. Any fence which is or has become dangerous to the public safety, health, or welfare.
8. Fences with components not designed or intended for employment as fence material, including, but not limited to, garage doors, tires, pallets, sheet metal, ribbed steel, metal siding, corrosive metal, solid (i.e. more than ninety percent (90%) opaque) metal, galvanized ribbed steel, household items (appliances, fixtures, furniture), and the like.
9. Non-permanent fences except as specifically allowed herein.

E. Fence Standards Applicable to All Fences. The following standards apply to fences in all zoning districts:

1. Enclosed fences must have a minimum of two access gates.
2. Unless otherwise defined in this Section, fences shall be located no closer than two (2) feet from any side or rear yard lot line on the property of the person constructing or causing the construction of the fence. The two foot setback is required to allow the owner of the fence sufficient access to maintain both sides of the fence, to include the control of grass and weeds along the fence line.
3. Fences in the front yard shall meet setback requirements of the applicable zoning district.

4. Fences in rear abutting alleys shall be place a minimum of five (5) feet from the property line.
5. Height.
  - a. Fences in residential zoning classifications shall not exceed six (6) feet in height and in the case of grade separation, the highest must be determined on the basis of measurement from the average point between the highest and lowest grade.
  - b. Fences in commercial and/or industrial zoning classifications shall not exceed eight feet in height unless a conditional use permit is issued by the City Council.
6. Clear Sight Triangle Required. Location.
  - a. A fence, wall, structure, coniferous tree or obstruction greater than thirty (30) inches in height may not be erected, established, or maintained on a corner lot within a designated sight triangle.
  - b. Said sight triangle is defined as being bounded by lot lines and a line connecting points on each lot line 20 feet from the intersection of the lot lines.
  - c. The sight triangle requirement does not apply to chain link fences with openings of one and five-eighths (1-5/8) inches to two (2) inches which do not exceed forty-eight (48) inches in height.
  - d. The sight triangle requirement does not apply to the “C-1” District.
7. Fences may be placed in a City utility and/or drainage easement at the sole expense of the property owner. In the event access to the easement is required, the City shall reserve the right to remove the fence without notice and solely at the owner’s expense. Replacement of any fence placed in an easement shall be the sole expense of the property owner.
8. Living fences shall not exceed six (6) feet in height and shall be maintained by the property owner, except that the owner of adjacent property may trim or prune parts of the living fence that extend onto their property.
9. Fences must be built so the “best side” is facing out. It shall be the property owner’s responsibility to maintain the outer side of the fence, including trimming of grass and weeds.
10. Wood fences must be slated so as to allow air flow through the fence.

11. Fencing around pool areas, when required, must be a minimum of six feet high. This fence must have two access gates and the Property Owner is solely responsible for ensuring the gates are locked when the pool is unattended.

F. Standards Applicable to Fences in Commercial and Industrial Districts. In addition to the standards contained in Chapter 500.45, Subd. 1, Subp(d) as may be amended the following standards apply to fences in Commercial and Industrial Districts:

1. Required permanent fencing. In commercial districts (C-1 and C-2) adjacent to residential districts, and not divided by streets, alleys, or roads recognized by the City Council, the commercial property owner must erect and maintain a fence not to exceed eight (8) feet in height or be less than six (6) feet in height and must screen the adjacent residential lot from eighty percent (80%) of the light emitted from cars, signs, or other lights as a direct cause of the commercial property's activities and screen the litter produced by the users of the commercial property. The fence shall be placed from the property line at a distance of two (2) feet or greater, as to achieve compliance, to allow the commercial property owner to maintain the fence and ground from the fence to the adjacent residential district property line.

### **Subd. 2 – Screening.**

Screening shall be accomplished by fencing, dense vegetative cover, and/or a combination of fencing and vegetative cover. Materials and equipment, except as provided in the district provisions of this Code must be stored within a building or structure or screened so as not to be visible from adjoining properties, except the following:

- A. Usable laundry equipment (clotheslines),
- B. Recreational equipment and vehicles,
- C. Materials being used on site for construction, remodeling, or demolition activities that are the subject of a valid, issued building and/or zoning permit.
- D. Landscaping material being employed on site during the current growing season.

### **Subd. 3 – Vegetation.**

In all zoning districts the lot area remaining after provided for parking, driveways, loading, sidewalks, or other requirements must be planted and maintained in grass, sodding, shrubs, or other acceptable vegetation or landscaping techniques.

## **500.47: DWELLING UNIT RESTRICTIONS**

### **Subd. 1 – Basement.**

A basement (except when used as a portion of the living space of the family, or as an earth sheltered home, cellar, garage, tent, or mobile home, or accessory building) may not be used as a residence or dwelling unit, temporarily or permanently, except elsewhere allowed in this Code. Basement dwelling units are subject to the applicable building code and other related codes as adopted by the City of Freeport.

### **Subd. 2 – Prohibited Living Quarters.**

Tents, play houses or similar structures may be used for play or recreational purposes, but shall not be independent living quarters.

### **Subd. 3 – One Principal Structure Per Lot.**

Accept as may be provided under Subsection 500.55 (PUD) the number of principal structures per lot is strictly limited to one (1) principal structure per lot.

## **500.475: OUTDOOR STORAGE**

### **Subd. 1 – Residential Uses.**

- A. All outside storage of materials and equipment for residential uses shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following:
  1. Clothes line pole and wire.
  2. Parking of licensed and operable vehicles in compliance with this Ordinance (Off-street parking).
  3. Any combination of five (5) or fewer licensed and operable recreational vehicles (RV's, boats, snowmobiles on a trailer, etc.) and/or seasonal automobiles may be parked or stored on property outside a home, provided:
    - a. They are not stored within the front yard, except if parked on an approved driveway.
    - b. If stored within the side or rear yard, they are at least five feet from the property line, placed on an improved surface (e.g. crushed rock, gravel, cement, etc.) and landscaped/screened so as to be less visible from adjacent properties. If stored on a corner lot said

storage must not interfere with motorist's views from intersecting streets. Such items shall not be stored on a turf surface.

c. Standards of the City's Abandoned Car Ordinance are met.

4. Parking of one (1) commercial motor vehicle of not over 32 foot length used by the resident occupant, and parking of passenger cars, but not including the storage of vehicles which are inoperable or for sale or rent.
5. Construction and landscaping material currently being used on the premises for a period not to exceed six (6) months of any given project start date.
6. Lawn furniture or furniture used and constructed explicitly for outdoor use.
7. Playground equipment.
8. Dog houses.
9. Rear or side yard exterior storage of firewood for the purpose of consumption only by those inhabiting the property on which it is stored.

**Subd. 2 – Commercial/Industrial Uses.**

A. Commercial/Industrial Uses: All non-residential outside storage shall conform to the following conditions:

1. The area occupied is not within a required front yard.
2. If abutting a Residential District or a residential use a landscaped buffer of no less than 15 feet in width is provided according to a plan approved by the City.
3. The storage area is covered to control dust as approved by the City and proper storm water drainage is maintained, except drive aisles and entries/exits shall be covered with asphalt and/or cement.
4. All lighting is directed away from the public right-of-way and from neighboring residences.

**Subd. 3 – Refuse and Waste.**

A. Refuse: All lots within all zoning districts shall be maintained in a neat and orderly manner. No rubbish, salvage materials, junk, or miscellaneous refuse shall be openly stored or kept in the open, when the same is construed by the City Council to be a menace or nuisance to the public health, safety, or general welfare of the City, or to have a depressing influence upon property values in the area.

B. Waste Materials: Waste materials are to be picked up and disposed of in accordance with any and all city standards applicable to refuse/waste materials. Excluded waste materials must be disposed of in a safe and appropriate manner in accordance with local, state, and federal law. Release of excluded waste materials to public or independent sewage treatment systems, the environment, or the solid waste stream is strictly prohibited. The disposal service shall, upon collection, immediately assume title to and liability for solid waste materials, recyclables, and demolition debris.

## **500.48: ACCESSORY STRUCTURES**

### **Subd. 1 – General Standards.**

- A. Agricultural buildings on agricultural properties and industrial buildings on industrial properties are exempt from the requirements of this Section.
- B. In cases where an accessory building is attached to the principal structure it shall be made structurally part of the principal structure and shall comply in all respects with the requirements of this Ordinance applicable to the principal structure.
- C. An accessory building unless attached to and made a part of the principal structure shall not be closer than ten (10) feet to the principal structure, unless a smaller separation is granted under a conditional use permit.
- D. Accessory buildings or structures shall not be constructed on any lot prior to the construction of a principal building.
- E. Accessory buildings shall not be constructed in the front yard. Accessory structures are allowed in the side and/or rear yard providing setbacks are achieved.
- F. Private garages and accessory structures larger than one-hundred twenty (120) square feet shall be placed on a permanent foundation which shall be defined as a floating slab with a rodent inhibiting barrier extending to a depth of at least one (1) foot below the average grade. A storage or utility structure of one-hundred twenty (120) square feet or less shall be placed on a leveled four (4) inch gravel or rock base with a rodent inhibiting barrier provided between the base and the structure.
- G. Architectural Detail Requirements: Accessory structures shall have architectural details which are the same or reasonably similar to the principal structure based on, but not limited to, the following:
1. Roof orientation and pitch, excluding flat roofs;

2. Roof type (e.g. gabled or hipped);
3. Eave, overhang depth, and fascia/soffit type and appearance;
4. As an exterior material, steel siding is allowed provided it is architectural grade with concealed fasteners; and,
5. Exterior color.

H. Size Limit: Accessory structures shall be clearly and reasonably subordinate to the principal structure in terms of both scale and bulk. Total accessory structure square footage, excluding attached garages, shall not exceed ten (10) percent of the lot area or six hundred (600) square feet, whichever is greater.

I. Number of Accessory Structures Limited: For all districts a maximum of one (1) detached accessory building less than or equal to one-hundred twenty (120) square feet is allowed per lot. In addition, a maximum of one (1) detached accessory structure greater than one-hundred twenty (120) square feet is allowed per lot. In lieu of the additional detached structure of greater than one-hundred twenty (120) square feet two structures equal to or less than 120 square feet may be allowed.

J. Accessory structures shall not encroach upon easements.

**Subd. 2 – Setbacks.**

A. Accessory Structure Setback Requirements: These requirements may be modified if a conditional use permit is granted:

District	Side, Interior	Side, Corner	Rear
R-1	Underlying zoning standard.	Underlying zoning standard for front yard.	Five feet unless rear loading, then 10 ft.
R-2	Underlying zoning standard.	Underlying zoning standard for front yard.	Five feet unless rear loading, then 10 ft.
Commercial (C-1 and C-2)	Underlying zoning standard.	Underlying zoning standard for front yard.	Underlying zoning standard.
Industrial	Underlying zoning standard.	Underlying zoning standard for front yard.	Underlying zoning standard.

**Subd. 3 – Maximum Height.**

Accessory Structure Height Limited: The height of an accessory structure greater than one-hundred twenty (120) square feet shall not exceed eighteen (18) feet in height as measured from the average grade to the highest part of the structure. Structure heights exceeding eighteen (18) feet in height may be approved under a conditional use permit.

## **500.485: HOME OCCUPATIONS**

### **Subd. 1 – General Standards.**

- A. All home occupations shall comply with the following performance standards:
1. Home occupations shall be clearly incidental and subordinate to the principal residential use of the property.
  2. Home occupations shall not change the residential character of the neighborhood, be incompatible with surrounding land uses, disturb surrounding residential uses, or be intrusive to surrounding dwellings.
  3. Home occupations shall not occupy or use greater than twenty-five percent (25%) of the combined footprint of structures on the subject parcel. In addition, a home occupation shall not occupy or use greater than twenty-five percent (25%) of the lot area; except that home day care providers may use greater than twenty-five percent (25%) of the lot area for play/recreation purposes.
  4. A home occupation shall not be established before a dwelling unit exists on the subject property.
  5. Operation of a home occupation shall be limited to the residential dwelling, an attached garage, or an accessory structure.
  6. Home occupations shall not generate excessive employee, customer, or client traffic that is detrimental to the character of the surrounding properties.
  7. Home occupations shall be conducted in a manner which produces no indication of noise, vibration, smoke, dust, odors, heat, or glare detectable at or beyond the property line.
  8. Any equipment used in conjunction with a home occupation shall not create electrical interference to surrounding properties.
  9. Home occupations shall not require internal or external alterations or involve construction features not customarily found in dwellings except where required to comply with local and state fire and police recommendations.



10. Areas used for home occupations shall meet all applicable fire and building codes.

11. Home occupations shall comply with the city nuisance regulations.

12. Home occupation walk-in traffic shall be conducted only between the hours of 6:00 a.m. and 10:00 p.m.

13. Home occupations shall be operated and licensed as required by applicable state and/or federal law.

**Subd. 2 – Home Occupations Requiring a Conditional Use Permit.**

A. Home occupations requiring a conditional use permit: The following home occupations require the issuance of a conditional use permit. The City Council may impose conditions on the use permit so as to maintain the residential integrity of the surrounding neighborhood:

1. Home occupations involving retail or wholesale trade on-site which is conducted by more persons than the occupant of the dwelling unit.

2. Home occupations providing services on-site which are conducted by the dwelling unit occupant and/or more than one employee.

3. Home occupations involving outdoor storage of materials not typically associated with residential dwellings.

4. Home occupations involving outdoor storage of items of which the dwelling unit occupant is not the fee owner.

5. Home occupations with the potential to reasonably involve the presence of five (5) or more adult customers at the subject property at one time.

6. Home occupations conducted between the hours of 10:00 p.m. and 6:00 a.m. that generate walk-in traffic.

7. Home occupations involving the regular, reoccurring delivery or pick-up of materials by commercial vehicles more than one time per week.

**Subd. 3 – Prohibited Home Occupations.**

A. Home occupations involving illegal substances, illegal devices, and/or unlawful activities are prohibited.

- B. Home occupations involving explosive materials as defined in Mn. Rules 7500.0100 as may be amended are prohibited.
- C. Home occupations involving sexually oriented materials and/or activities as defined by Mn. Statutes as may be amended are prohibited.
- D. Home occupations conducted in a manner which produce noise, vibration, smoke, dust, odors, heat, or glare detectable at or beyond the property line are prohibited.
- E. Home occupations involving materials or storage of items declared a public nuisance, as defined by City nuisance standards.

~~Occupations involving items not typically associated with residential uses.~~

~~Over the counter sale of merchandise produced off the premises, or,~~

~~The employment of persons on the premises other than those customarily residing on the premises.~~

## **500.49: GENERAL PERFORMANCE STANDARDS**

### **Subd. 1 – Sewers.**

All wastewater facilities must be connected to **municipal** ~~community~~ wastewater facilities when available. Where wastewater lines are not constructed or in operation, all wastewater facilities must be connected to approved septic tanks and disposal fields. This subdivision does not apply to temporary construction sites or portable units.

### **Subd. 2 – Lighting.**

Lighting used to illuminate an off-street parking area, sign, or other structure must be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct sky-reflecting glare, whether from flood-lights or from high temperature processes such as combustion or welding **is prohibited**. Glare shall not be directed at, onto, or into any adjoining property. The source of lights must be hooded or controlled in some manner so as not to light adjacent property or the sky. Bare incandescent light bulbs are not permitted in view of adjacent property or public right-of-way.

### **Subd. 3 – Smoke.**

The emission of smoke by any use must be in compliance with the regulations by the State of Minnesota Pollution Control Standards, Minnesota **Rules 7001 – 7030, as may be amended.** ~~Regulation APC 1-15.~~

### **Subd. 4 – Dust and Other Particulate Matter.**

The emission of dust, fly, ash, or other particulate matter by any use must be in compliance with and regulated by the State of Minnesota **Rules 7001 – 7030, as may be amended.** ~~Regulation APC 1-15.~~

**Subd. 5 – Odor.**

The emission of odorous matter in such quantity as to be offensive is not permitted. The emission of odor by any use must be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota **Rules 7001 – 7030, as may be amended.** ~~Regulation APC 1-15.~~

**Subd. 6 – Noise.**

All noise must be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness and as measured at any property line, must not exceed the minimum standards established by the State of Minnesota **Rules 7001 – 7030, as may be amended.** ~~Regulation APC 1-15.~~

**500.50: BUILDING DESIGN STANDARDS**

**Subd. 1 – Single and Two-Family Standards.**

- A. All single and two-family dwellings in the R-1, R-2 and A Districts shall meet the following design criteria:
1. Metal roofs are allowed provided they are constructed with standing seams and concealed fasteners.

**500.51: HEIGHT AND YARD EXCEPTIONS**

**Subd. 1 – Structures.**

Chimneys, cooling towers, elevator bulk head, fire towers, drive-in movie theater screens, grain elevators, silos, penthouses, stacks, tanks, water towers, pumping towers, radio, or television towers, monuments, cupolas, steeples, and mechanical appurtenances pertaining to and necessary to the permitted use of district in which they are located, must not be included in calculating the height of the principal structure. Solar collectors will be considered on an individual basis as a variance as set forth in Subsection 500.55, subdivision 2.

**Subd. 2 – Attached Structures.**

Outside stairways, fire escapes, fire towers, porches, platforms, decks, balconies, boiler flues, and other similar projections will be considered as part of the building and not allowed as part of the required space for yards, courts, or unoccupied space. This

provision does not apply to a fireplace or chimney, not more than eight feet in length and projecting not more than 30 inches into the allowable side yard space, unenclosed porches or other ground level unenclosed projections which may extend into a front or rear yard not more than eight feet or into a side yard not more than six feet.

### **Subd. 3 – Private Driveways and Sidewalks.**

Driveways and sidewalks shall be exempt from yard setbacks and lot coverage requirements.

## **500.53: NON-CONFORMING USES**

### **Subd. 1 – Purpose and Intent.**

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

### **Subd. 2 – Definitions.**

- A. For the purposes of this Section, the following terms and phrases have the meanings given to them:

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

### **Subd. 3 – Standards.**

A. Non-Conforming Uses of Land:

1. A nonconforming use of land and conforming structures used for a non-conforming use of land may be used and continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion.
2. There may be no expansion, enlargement, or intensification of any non-conforming use of land.
3. Change of Non-Conforming Use of Land. A non-conforming use cannot be changed to another non-conforming use. Whenever a non-conforming use has been changed to a conforming use it shall not thereafter be changed to a non-conforming use of a less restricted district.
4. Discontinuance of Non-Conforming Use of Land. If a non-conforming use of land is discontinued or ceased for a period of one (1) year or more, or if a nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value and no building permit has been applied for within 180 days of when the property is damaged; then, the subsequent use of such building or land shall conform thereafter to the uses allowed in the district in which it is located.
5. If a non-conforming use is superseded or replaced by a permitted use, the non-conforming status of the premises and any rights which arise under the provisions of this Section terminate.
6. If replacement, reconstruction, or restoration of a legal non-conforming land use is allowed, it may occur without any land use approval from the City if the resulting use does not create any new adverse impacts on adjacent property and matches exactly the conditions that existed before the work was undertaken or before the use was damaged or destroyed. Work that would not meet this requirement and any work that would be an improvement to a non-conforming land use may not be undertaken unless a conditional use permit has been issued for the property. The City may impose conditions in a conditional use permit to protect the public health, safety, or welfare, and to mitigate any newly created impacts on adjacent property.
7. Notwithstanding the prohibitions contained in the foregoing paragraphs of this subdivision, if approved by the City Council, a non-conforming use may be changed to another non-conforming land use of less intensity if it is in the public interest and a conditional use permit is issued. In all instances the applicant has the burden of proving that the proposed land use is less intense than the exiting nonconforming land use.

## B. Non-Conforming Use of Structures.

1. A nonconforming structure may be used and continued, including through repair, replacement, restoration, maintenance, or improvement.
2. Expansion, Enlargement, or Intensification of a Non-conforming Structure. A non-conforming use of a building may not be expanded, enlarged or intensified by adding onto the building. Except that expansion, enlargement or intensification of conforming aspects of a non-conforming structure are exempt from this requirement. For example, if a structure has a non-conforming front setback, it may be expanded on the sides that do meet setback requirements as long as the expansion itself meets ordinance requirements.
3. Non-Conforming Structure, Structural Change. An existing non-conforming structure devoted to a non-conforming use may not be enlarged, extended, reconstructed, moved, or structurally altered except in changing the use of the structure to a conforming use.
4. Maintenance of Non-Conforming Structure. Maintenance of a building or other structure will be permitted when it includes necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming building or use.
5. Residential Alterations. Alterations may be made to a residential building containing non-conforming residential units when they will improve the livability and safety of such units provided, however, that they do not increase the number of dwelling units in the building. The construction and alteration of garages and accessory buildings is also permitted, as long as the improvements conform with the zoning requirements for both the zoned use of the property, and the non-conforming use.
6. Continuation of Non-Conforming Use of Structure. The lawful use of a non-conforming structure existing at the time of the adoption of this Ordinance may be continued although such use does not conform with the district provisions herein, unless the use ceases for a period of one (1) year or the non-conforming structure is destroyed by fire or other peril to the extent of greater than 50 percent of its market value and no building permit has been applied for within 180 days of when the property was damaged.
7. Restoration Of Non-Conforming Structure After Destruction. Any non-conforming building or structure damaged greater than fifty (50) percent of its market value by fire, collapse, explosion or acts of God, or public enemy, shall not be restored or reconstructed and used as before such destruction if no building permit is issued within 180 days after the



damage occurred; but, if fifty (50) percent or less of its market value is damaged it may be restored, reconstructed or used as before provided that it is done within twelve (12) months of the happening.

8. If replacement, reconstruction, or restoration of a legal non-conforming structure is allowed, it may occur without any land use approval from the City if the resulting use does not create any new adverse impacts on adjacent property and matches exactly the conditions that existed before the work was undertaken or before the use was damaged or destroyed, except for internal improvements and improved materials used to replace roof surfaces, siding, windows, doors, and similar components. Work that would not meet this requirement or any other improvement to a non-conforming development may not be undertaken unless a conditional use permit is issued. The City may impose conditions in its approval to protect the public health, safety, or welfare, and to mitigate any newly created impacts on adjacent property.
9. Signs. Signs pertaining to or advertising products sold on the premises of a non-conforming building or use may be continued only when the non-conforming use is permitted to continue and such signs shall not be expanded in number, area, height, or illumination. New signs shall not exceed the maximum allowed under the City's sign ordinance, and may be erected only after all other signs existing at the time of the adoption of this Ordinance have been removed. The accumulated square footage of new signs installed shall not exceed the square footage of signs previously on site, or the amount allowed in the City's sign ordinance, whichever is less. New signs may not be illuminated unless the previous sign was illuminated, but flashing intermittent or moving illumination shall not be permitted.
10. Buildings Under Construction and Building Permits Granted Prior to Adoption of Ordinance. Any proposed structure which will, under this Ordinance, become non-conforming but for which a building permit has been lawfully granted prior to the effective date of this Ordinance, may be completed in accordance with the approved plans; provided construction is started within sixty (60) days of the effective date of this Ordinance, is not abandoned for a period of more than one hundred twenty (120) days, and continues to completion within two (2) years. Such structure and use shall thereafter be a legally non-conforming structure and/or use.

#### C. Non-Conforming Lots of Record.

An existing lot of record that is non-conforming and that is not improved with a principal use is entitled to be developed with a principal use providing setbacks can be achieved; unless the subject parcel has been in common ownership with an abutting lot or parcel of land, or if it has been part of a larger parcel of land, at any



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

#### **Subd. 4 – Burden of Proof.**

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

### **500.55: PLANNED UNIT DEVELOPMENT**

#### **Subd. 1 – Purpose and Intent.**

A. It is recognized that the City's Zoning Ordinance is structured to regulate land use and development patterns of a conventional or traditional nature; however, there are situations where innovative proposals for the 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 densities, or depart from traditional lot sizes, that the City establishes a Planned Unit Development (PUD). The provisions of this Section are intended to encourage flexible, practical approaches to land use design and development in a manner which is in the best interests of both the developer and the community. More specifically, a PUD may provide for progressive developments which may achieve any number of the following:

1. Provide a maximum choice of living environments by allowing a variety of housing and building types, permitting increased density per acre, a reduction in lot dimensions, building setbacks, or area requirements;
2. Allow a more useful pattern of open space and recreation areas;
3. Provide more convenient access to services, commercial products and workplaces by providing for mixed use development;
4. Provide for development which preserves and/or utilizes existing natural site features and vegetation;

5. Provide more efficient use of land resulting in lower cost in utilities and city services; or
6. Provide for development in harmony with transportation facilities or services, community facilities, and the objectives of the Comprehensive Plan. Because of the flexibility allowed through the approval of a PUD, it is important that the City Council retain absolute authority over the approval or disapproval of a PUD. The approval of a PUD is a legislative decision of the City Council. No property owner has an affirmative right to develop their property using the planned unit development overlay district.

**Subd. 2 – Conditional Use Permit Required.**

Planned Unit Developments shall require a conditional use permit (CUP) for the zoning district in which the proposed PUD is located. Unless specifically varied, modified, or set aside in the CUP, the underlying zoning district's permitted uses, rules, regulations and requirements shall govern the PUD.

**Subd. 3 – Subdivision Regulations.**

The City intends that the proposed PUD property be subdivided simultaneously with the conditional use permit application. The uniqueness of each PUD, however, may require that specifications and standards for streets, utilities, public facilities and the approval of land subdivisions be altered from the standards set out in applicable City ordinances and policies. The City Council may, therefore, where it finds that such modifications are necessary and that such modifications will not adversely affect the health, safety or welfare of the general community, as part of the approval of the PUD, approve street, utility, and public facility plans as well as subdivisions which are not in compliance with the specifications or requirements established by City ordinances and policies. Applicants will, however, continue to be required to obtain approval of plats in accordance with the procedural requirements of Minnesota Statutes and applicable City ordinances; however, those platting procedures may be accomplished in conjunction with the application process for a PUD. Except as varied by the conditional use permit or by agreement, the property's subdivision and/or platting as a PUD will be subject to the subdivision approval and recording requirements of the City and state law.

**Subd. 4 – Permitted Uses.**

All permitted and accessory uses allowed in the underlying zoning district will be allowed within the PUD. In addition to the uses permitted in the underlying zoning district, all other uses designated as permitted by the CUP will be considered permitted as part of the PUD. No use will be permitted as part of a PUD if that use will have the potential for adversely affecting adjacent property or the public health, safety, or general welfare of the community.

### **Subd. 5 – Lot, Yard, Area, and Height Requirements.**

The lot, yard, area, height and other such performance requirements of the underlying zoning district will apply to the PUD, except as such are specifically modified as part of the PUD approval. An approved PUD may establish lot, yard, area, height or other performance requirements which vary from the underlying zoning district without having to go through the normal variance procedures. In no event, however, may a PUD alter such standards if doing so would violate a fire or safety code requirement. Variances from requirements of an underlying zoning district will not be implied except to the minimum extent required to comply with an approved PUD.

### **Subd. 6 – Property Control.**

The proposed PUD development property must be under unified control at the time of application, and be planned and scheduled to be developed as a whole. The applicant must have acquired actual ownership of or executed a binding sales contract for all of the property comprising the proposed tract. If more than one owner is involved, each owner must agree to be bound by the conditions and regulations which will be effective within the PUD and to record any covenants, easements and other provisions the City requires.

### **Subd. 7 – General Development Provisions.**

- A. Roadways. Any private roadways within the project shall be designed as to permit City emergency fire, police and rescue services to provide protection to each building and to provide adequate access to arterial roadways.
- B. Utility Connections:
  - 1. Water Connections. Where more than one (1) property is served from the same service line, a shut off valve must be located so that the City may shut off each unit's service in addition to the normally supplied shut off at the street.
  - 2. Sewer Connections. Where more than one (1) unit is served by a sanitary sewer lateral which exceeds three hundred (300) feet in length, provisions must be made for a manhole to allow adequate cleaning and maintenance of the lateral. All maintenance and cleaning will be the responsibility of the property owners association, or owner.
- C. Building Types. In addition to the conventional type of construction and arrangements of building, structures uses and property as allowed by this Ordinance, it will be permissible to cluster, adjoin, and attach structures in a row house, townhouse, patio home or similar style of development within the Planned Unit Development.

- D. Subdivision and Ownership. It shall be permissible within a Planned Unit Development to subdivide properties into lesser size parcels for individual ownership and create common open space areas in undivided proportions under joint ownerships. Such ownership arrangements are commonly defined as condominium and/or cooperative developments.
- E. Minimum Project Size:
1. Within residential districts a Planned Unit Development shall not be applied to a parcel of land containing less than one (1) acre.
  2. Within a commercial or industrial district a Planned Unit Development shall not be applied to a parcel of land containing less than two (2) acres.
- F. Density Bonus. As a consequence of all Planned Unit Development's planned and integrated character, the number of dwelling units allowed within the respective zoning district may be increased. The building, parking and similar requirements for these extra units shall be observed in compliance with this Ordinance.
- G. Public Services. The proposed project shall be served by the City water and sewer system and fire hydrants shall be installed at such locations as necessary to provide fire protection.
- H. Municipal Improvements. The City may require all municipal improvements be completed (with roadways having at least one lift of blacktop) before building permits are issued.

**Subd. 8 – Declaration.**

- A. Filing with City. Before the use, occupancy, sale or execution of contracts for sale of an individual building unit, parcel, tract, townhouse, apartment, or common area, the owner must obtain the City's approval and file with the City a declaration of covenants, conditions and restrictions or an equivalent document with the City before filing the declaration, document or floor plans with the Stearns County, Minnesota recording office.
- B. Land Subject to Declaration. The declaration of covenants, conditions and restrictions or equivalent document must specify that deeds, leases or documents of conveyance affecting buildings, units, parcels, tracts, townhouses, or apartments will subject the properties to the declaration's terms.
- C. Owners' Association. Where deemed applicable, the declaration of covenants, conditions and restrictions should provide that an owners' association or corporation be formed and that all owners be members of the association or corporation which maintain all common areas in good repair and which will assess individual property owners proportionate shares of joint or common costs.

This declaration will be subject to the City Attorney's review and approval. This requirement's intent is to protect the property values of the individual owner through establishing private control.

- D. City's Assessment of Costs. The declaration must also provide that in the event the association or corporation fails to maintain properties in accordance with the applicable rules and regulations of the City or fails to pay taxes or assessments on properties as they become due and if the City incurs any expenses in enforcing its rules and regulations, which expenses are not immediately reimbursed by the association or corporation, then the City will have the right to assess each property its pro rata share of the expenses. The assessments, together with interest and collection costs, will be a lien on each property against which each assessment is made and, in addition, each assessment, together with its interest and collection costs, shall also be a personal obligation of the person who was the owner of the property at the time when the assessment became payable.

#### **Subd. 9 – PUD Application and Procedure.**

- A. Application and Fee. Applicants must apply for a PUD by filing for a conditional use permit under Section 500.63 of the City's Zoning Ordinance and paying the required fee.
- B. All property owners within the proposed PUD's boundaries must sign the PUD application.
- C. Application Fee. The City Council may establish a PUD application fee by resolution.
- D. Development Plan. The conditional use permit application for a PUD must be accompanied by ten (10) copies of a development plan, including written information and a preliminary plat, showing the following in addition to other information required by applicable City ordinances:
  - 1. The present ownership and developer of the property.
  - 2. The entire outline, property lines, overall size, dimensions, area, and existing land uses of the property, along with the location of all buildings, roads, utilities, and other structures currently on the property.
  - 3. The use, zoning and ownership of all adjacent properties within one hundred (100) feet of the tract boundaries including the location of all structures and the right-of-way width and traveled width of all adjacent public roadways.
  - 4. The type and location of existing topography and other natural features, including wetlands, soils, vegetation, slopes, water features, drainage, and wildlife, of the property.

5. A general description of the proposed PUD including a written description of proposed variances from regulations of underlying zoning district and subdivision regulations.
  6. Proposed land uses and approximate location and dimensions of roads, sidewalks, trails, lots and lot lines, buildings, easements, utilities, driveways, curb cuts, parking and loading areas, parks, open space, holding ponds, and unique development features; proposed number of lots and densities; distances between buildings and lot lines; landscaping, lighting, grading, and drainage plans; lot coverage and acreage; and other appropriate information.
  7. Proposed development schedule, including progressive phasing, time schedules, expected start and completion date of each phase and the entire development.
  8. Preliminary architectural drawings, if any, illustrating floor plans and exterior construction materials.
  9. Proposed covenants or other private legal restrictions, if any.
- E. Review. A CUP application for a PUD will be governed by the procedures set forth in Section 500.67 of the City's Zoning Ordinance for a conditional use permit.
- F. Conditions. The City may impose such conditions and restrictions on the PUD as it deems necessary or advisable as part of its approval of the CUP.
- G. Development Agreement and Performance Bond. As a condition to approval of the CUP for the PUD by the City Council, the applicant will be required to execute a development agreement which states the conditions of the PUD and the phases of the development. The CUP for the PUD, and its terms and provisions, may be integrated into the PUD development agreement with the Developer. The City may, in its discretion, require that the applicant provide the City with a performance bond or other security deemed sufficient by the City Council to ensure the applicant's compliance with the development agreement.
- H. PUD Amendments. The procedures necessary to amend the CUP for the PUD after it has been approved by the City are the same as the procedures required for the original approval. Nonmaterial changes to the PUD may be made upon approval of the City Council without having to hold a public hearing. Matters will be considered nonmaterial only if they will not result in a change in use which is not otherwise permitted in the underlying district or will not require a variance from the regulations of the underlying zoning district.

- I. Lapse of Time. If within one (1) year of the City Council's approval of the PUD no building permits have been obtained or if within one (1) year of the issuance of the first building permit on the property no construction has commenced, the PUD will become void. An applicant may request and receive an extension from the City Council in the event the applicant can demonstrate a good faith effort has been made to use the PUD, that there is a reasonable expectation the PUD will be used, and the facts upon which the PUD was approved are essentially the same.
- J. Yearly Inspections and Review. The City's Building Inspector will review each PUD at least once each year until completed and will make a report to the City Council on the status of the development in each PUD. If the development is not progressing according to schedule, the owner will be required to submit to the Building Inspector a written statement setting forth the reasons for the lack of progress. Within 30 days of such notice, the City Council will either revoke the approval of the PUD, and the land will thereafter be governed by the regulations applicable in the zoning district in which it is located, or the Council will take such steps as it deems necessary to compel compliance with the approved PUD.

**Subd. 10 – Review and Evaluation Criteria.**

- A. The City Council's review, evaluation, and approval or rejection of a proposed Planned Unit Development and supportive materials and plans may include, but not be limited to, the following criteria:
  1. Adequate property control is established and provided to protect the individual owner's rights and property values and to define legal responsibilities for maintenance and upkeep.
  2. The interior circulation plan plus access from and onto public rights-of-way does not create congestion or dangers and is adequate for the safety of the project residents and general public.
  3. A sufficient amount of useable open space is provided.
  4. The arrangement of buildings, structures and accessory uses does not unreasonably disturb the privacy or property values of the surrounding uses.
  5. The architectural design of the project is compatible with the surrounding area.
  6. The drainage and utility system plans are submitted to the City Engineer and are subject to his/her approval.
  7. The development schedule insures a logical development of the site which will protect the public interest and conserve land.



8. Principal and accessory uses and requirements are in compliance with the district provisions in which the development is intended.
9. The planned unit development can adequately be serviced by City services without the expenditure of taxpayer funds in excess of what would be expected from other permissible development.

**Subd. 11 – City Council Findings.**

- A. In addition to the requirements of a CUP, the City Council must find the following in order to issue a CUP for a PUD:
  1. Comprehensive Plan. The development will be planned so that it is consistent with the Comprehensive Plan for the community.
  2. Harmony. The planned unit development will be planned and developed to harmonize with any existing or imminent development in the area surrounding the project site.
  3. No Disturbance. The development will not be hazardous or disturbing to existing or planned neighboring uses, and will not materially adversely affect the values of adjacent properties.
  4. Adequate Service. The development may be adequately served by essential public or private facilities and services, including streets, police and fire protection, drainage facilities, refuse disposal, water and sewer systems, and schools.
  5. Beneficial. The distribution of buildings, streets and open space of the development will permit site planning that is superior to that which could be obtained without the PUD being approved and thus benefit both the residents of the development and community as a whole.
  6. No Detriment. The distribution or location of buildings, streets and open spaces will not unduly increase the bulk of buildings, density of population, or intensity of use(s) to the detriment of areas outside the development by restricting access to light and air, by creating traffic congestion, or by other means.
  7. Community Welfare. The development will not be detrimental to or endanger the public health, safety, morals, comfort convenience or general welfare.

**Subd. 12 – General PUD Regulations.**



- A. As a result of a planned unit developments integrated character, the number of dwelling units allowed within the respective zoning district may be increased by 5%. The development must provide the 25% of the land, specifically lakeshore or river area, be reserved for use of the entire development and that the remainder of any shoreline will be left in a natural state. The parking and similar requirements of these extra units must be observed in compliance with this Code.
- B. It is the intent of this Subsection to require subdivision of property simultaneous with an application for a conditional use permit. The subdivision of land as a planned unit development is the same as imposed in the respective district.
- C. The front, side yard, and shore land restrictions at the periphery of the planned unit development site, at a minimum, is the same as imposed in the respective districts. Lots must be designed so as to allow at least 15 feet between individual structures.
- D. Private roadways within the project must have an improved surface to 20 feet or more in width. No portion of the required 20 foot road system may be used in calculating required off-street parking space.

**Subd. 13 – Administrative Procedure.**

- A. The proponent of a planned unit development must submit a preliminary subdivision plat and plot plan, along with an application for a conditional use permit. The preliminary plat must conform to the provisions of this Code and the subdivision ordinance. The plot plan must be drawn to a scale of not more than 50 feet per inch, showing the following:
  - 1. The existing and proposed topography with contour intervals not greater than two feet,
  - 2. The entire outline, overall dimensions and area of the tract described in the application,
  - 3. Proposed public or community sewer and water system, including size, type, and capacity,
  - 4. Proposed roadway, type, and capacity of paving,
  - 5. The proposed site and existing adjacent developments,
  - 6. Size and location of buildings,
  - 7. Landscaping,
  - 8. Parking areas and arrangements of stalls,

9. Allocation and disposition of park and open space,
  10. Site and lot dimensions,
  11. Type of use and density of each building, including a relief drawing of the general building design or theme intended for all buildings other than single and two-family units.
  12. Location, type, and size of signing.
- B. If the conditional use permit for the preliminary plat and plot plan is approved, the preliminary plat and the plot plan must be attached to and become a part of the conditional use permit. Any modification to the preliminary plat or plot plan will require a resubmission to, and approval by the city council.
  - C. If the conditional use permit is approved, the final plat must be submitted to the city in accordance with the conditions of the permit and the provisions of this Code.

**Subd. 14 – Property Control.**

- A. The property must be in single ownership or under the management and supervision of a central authority or otherwise subject to such supervisory lease or ownership control as may be necessary to carry out the provisions of this Code.
- B. Prior to the use or occupancy or sale or the execution of contracts for sale of an individual building unit, parcel, tract, townhouse, apartment, or common area, declaration of covenants, conditions, and restrictions or any equivalent document must be filed with the city clerk-treasurer for approval as part of the conditional use permit, prior to filings of said declaration or document with the recording officers of Stearns County.
- C. The declaration of covenants, conditions, and restrictions or equivalent document must specify the deeds, leases or documents of conveyance affecting buildings, units, parcels, tracts, townhouses, or apartments and must subject the properties to the term of declaration.
- D. The declaration of covenants, conditions, and restrictions must provide that an owners' association or corporation must be formed and that all owners must be members of said association or corporation which must maintain all properties and common areas in good repair and which must assess individual property owners' proportionate shares of joint or common costs. This declaration must be subject to the review and approval of the City Attorney. The intent of this requirement is to protect the property values of the individual owner through establishing effective private control.

- E. The declaration must additionally among other things, provide that in the event the association or corporation fails to pay taxes or assessments on properties as they become due, then the City must have the right to assess each property its pro-rata share of said expenses. Such assessment, together with interest thereon and costs of collections, must be a lien on each property against which each such assessment is made and, in addition, each such assessment, together with such interest thereon and such cost of collection thereof, is personal obligation of the person who was the owner of such property at the time when the assessment became payable.

## **500.63: CONDITIONAL USE PERMITS**

### **Subd. 1 – Purpose.**

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

### **Subd. 2 – Scope.**

A conditional use permit is required when the use is classified as a ‘conditional use’ within a zoning district. If a proposed use is not specifically defined it shall be considered prohibited, unless found to be reasonably similar to a type of use that is allowed within the district. If the City Council finds the proposed use is reasonably similar to a type of use allowed within the district, the proposed use shall require the issuance of a conditional use permit. The City Council shall make a specific finding within the conditional use permit regarding conformance of the proposed use to any/all standards applicable to the type of use to which it has been found to be reasonably similar.

### **Subd. 3 – Review Procedure.**

The procedure defined in Subsection 500.66, Subd. 1 of this Chapter shall be followed.

### **Subd. 4 – Criteria For Review.**

- A. The City Council shall consider possible adverse effects of the proposed conditional use and what additional requirements may be necessary to reduce any adverse effects, and shall make a recommendation to the City Council within the guidelines as mandated by State law. At a minimum, the Council shall consider the following standards as it would apply to the particular use at the proposed location:
  - 1. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan or Land Use Plan as may be adopted.

2. The proposed use is or will be compatible with present and future land uses of the area.
3. The proposed use conforms to all performance standards contained herein and the City Code.
4. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.
5. Traffic generation by the proposed use is within capabilities of streets serving the property.

**Subd. 5 – Conditional Approval.**

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

**Subd. 6 – Revocation of Conditional Use Permits.**

- A. A conditional use permit shall become null and void without further action by the Planning Commission or City Council unless work thereon commences within one year of the date of granting such conditional use.
- B. A conditional use shall expire if that use shall cease for more than 12 consecutive months.
- C. Inspections may be conducted to determine compliance with the terms of a conditional use permit.
- D. Failure to comply with any condition set forth in a conditional use permit shall be a misdemeanor and shall also constitute sufficient cause for the revocation of the conditional use permit by the City Council following a public hearing. The property owner shall be notified in advance of the City Council's review of the permit. A public hearing established to consider the revocation of a conditional use permit shall be conducted pursuant to the provisions of Subsection 500.66, Subd. 1.

**500.635: INTERIM USE PERMITS**

**Subd. 1 – Purpose.**

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

**Subd. 2 – Scope.**

An Interim Use Permit is required when the use is classified as an ‘Interim use’ within a zoning district. If a proposed use is not specifically defined it shall be considered prohibited, unless found to be reasonably similar to a type of use that is allowed within the district. If the City Council finds the proposed use is reasonably similar to a type of use allowed within the district, the proposed use shall require the issuance of an Interim use permit. The City Council shall make a specific finding within the Interim use permit regarding conformance of the proposed use to any/all standards applicable to the type of use to which it has been found to be reasonably similar.

**Subd. 3 – Review Procedure.**

The procedure defined in Subsection 500.66, Subd. 1 of this Chapter shall be followed.

**Subd. 4 – Criteria For Review.**

- A. The City Council shall consider possible adverse effects of the proposed Interim use and what additional requirements may be necessary to reduce any adverse effects, and shall make a recommendation to the City Council within the guidelines as mandated by State law. At a minimum, the Council shall consider the following standards as it would apply to the particular use at the proposed location:
  - 1. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan or Land Use Plan as may be adopted.
  - 2. The proposed use is or will be compatible with present and future land uses of the area.
  - 3. The proposed use conforms to all performance standards contained herein and the City Code.
  - 4. The proposed use can be accommodated with existing public services and will not overburden the City’s service capacity.
  - 5. Traffic generation by the proposed use is within capabilities of streets serving the property.

**Subd. 5 – Conditional Approval.**

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

**Subd. 6 – Revocation of Interim Use Permits.**

- A. An interim use permit shall become null and void without further action by the Planning Commission or City Council unless work thereon commences within one year of the date of granting such Interim use.
- B. An interim use shall expire if that use shall cease for more than 12 consecutive months.
- C. Inspections may be conducted to determine compliance with the terms of an interim use permit.
- D. Failure to comply with any condition set forth in an interim use permit shall be a misdemeanor and shall constitute sufficient cause for the revocation of the Interim use permit by the City Council following a public hearing. The property owner shall be notified in advance of the City Council’s review of the permit. A public hearing established to consider the revocation of an interim use permit shall be conducted pursuant to the provisions of Subsection 500.66, Subd. 1.

**500.64: BOARD OF ZONING APPEAL/ADJUSTMENT;  
VARIANCES**

**Subd. 1 – Creation and Membership.**

A Board of Zoning Adjustment is hereby established and vested with such administrative authority as is hereinafter provided. Such Board shall consist of the City Council.

**Subd. 2 – Powers.**

- A. The Board of Zoning Adjustment shall have power to grant adjustments in and exceptions to any of the provisions of this Ordinance to the extent of the following and no further:
  - 1. To vary or modify the strict application of any of the regulations or provisions contained in this Ordinance in cases in which there are practical difficulties of unnecessary hardships in the way of such strict application.

2. To permit the extension of a district where the boundary line thereof divides a lot in one ownership at the time of passage of this Ordinance, but such extension of any district shall not exceed one hundred (100) feet.
3. A variance shall not be granted by the Council acting as the Board of Zoning Appeals unless the Board first considers the following standards. At the hearing the applicant shall present a statement and evidence in such form as the Board of Zoning Adjustment may require, showing these facts:
  - a. The variance is consistent with the Comprehensive Plan or Land Use Plan, if adopted.
  - b. The variance is in harmony with the general purposes and intent of the Ordinance.
  - c. The Applicant establishes that there are 'practical difficulties' in complying with the Zoning Ordinance. Practical difficulties as used in connection with the granting of a variance, means that:
    - i. The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance;
    - ii. The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
    - iii. The variance, if granted, will not alter the essential character of the locality.
    - iv. Economic considerations alone shall not constitute practical difficulties.
    - v. Practical difficulties shall include, but is not limited to, inadequate access to direct sunlight for solar energy systems.
  - d. Variances shall be granted for earth sheltered construction as defined in MN. Stat. 216C.06, Subd. 14 as may be amended, when in harmony with the Zoning Ordinance.

### **Subd. 3 – Review Procedure.**

The procedure defined in Subsection 500.66, Subd. 1 of this Chapter shall be followed.

#### **Subd. 4 – Appeals.**

Any person, firm or corporation objecting to the ruling of any official on the administering of the provisions of this Ordinance shall have the right to appeal to the Board of Zoning Adjustment.

#### **Subd. 5 – Revocation of Variance.**

- A. A variance shall become null and void without further action by the Planning Commission or City Council unless work thereon commences within one (1) year of the date of granting such variance.
- B. A variance shall expire if that use shall cease for more than 12 consecutive months.
- C. Inspections may be conducted to determine compliance with the terms of a variance.
- D. Failure to comply with any condition set forth in the variance shall be a misdemeanor and shall also constitute sufficient cause for the revocation of the variance.

### **500.65: TEXT AMENDMENT AND REZONING**

#### **Subd. 1 – Purpose.**

The purpose of this Subsection is to allow for the zoning ordinance (either text or official map) to be amended and modified by following the procedure specified in this Section.

#### **Subd. 2 – Amendment Initiation.**

The City Council may, upon their own motion, initiate a request to amend the text or the district boundaries of this Ordinance. The procedural requirements of this Section shall not apply to such proposed amendments except to the extent required by Minnesota State Statute. Any person owning real estate within the City may initiate a request to amend the district boundaries or text of this Ordinance so as to affect the said real estate, however such request shall be subject to the procedural requirement of this Section.

#### **Subd. 3 – Application and Procedure.**

An amendment to this Chapter (text or map) requires a public hearing and is to be processed in accordance with the procedures set forth in Subsection 500.66, Subd. 1 (Application Review Procedures) of this Section, as may be amended.

#### **Subd. 4 – Criteria for Review.**



- A. The City Council shall consider possible effects of the proposed amendment. Factors to be considered in determining the possible effects of the proposed amendment shall include, but are not limited to, the following:
1. The proposed amendment has been considered in relation to the specific policies and provisions of and has been found to be consistent with an existing comprehensive plan or land use plan.
  2. The proposed amendment is or will be compatible with present and future land uses of the area.
  3. The proposed amendment conforms to all performance standards contained in the Zoning Ordinance.
  4. If applicable, actions resulting from the proposed amendment can be accommodated with existing public services and will not overburden the City's service capacity.
  5. If applicable, traffic generation resulting from the proposed amendment is within capabilities of streets serving the property.

**Subd. 5 – Approvals Required.**

Approval of a proposed amendment shall require a majority vote of all members of the City Council. Amendments which change all or part of the existing classification of a zoning district from residential to either commercial or industrial shall require a two-thirds (2/3) (four (4) out of five (5) members of the City Council) majority vote of all members of the City Council.

**Subd. 6 – Effective Date.**

The amendment shall become effective following City Council approval and publication in the official newspaper.

**500.66: APPLICATION REVIEW PROCEDURES**

**Subd. 1 – Applications for City Council Review.**

- A. Application for any action requiring City Council review and approval under this Ordinance shall be made to the City Clerk on an application provided.
- B. An application will be deemed complete unless the City Clerk or designee sends written notice within fifteen (15) business days of submission of the application indicating that it is not complete and indicating what information is missing.
- C. Pursuant to Minnesota Statutes Section 15.99, as amended, supplemented or

replaced from time to time, an application shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended by the City in accordance with Minnesota Statutes or a time waiver is granted in writing by the applicant.

D. Completed applications shall be processed as follows:

1. Further Data: The City Council, City consultants, and City staff may request additional information from the applicant concerning the application or may retain expert opinions at the expense of the applicant, or may require as a condition of proceeding with its consideration of any matter, that the applicant furnish expert opinion and data at the expense of the applicant.
2. Technical Reports: The City Clerk shall instruct the appropriate staff persons or consultants to prepare technical reports where applicable, and provide general assistance in preparing a recommendation on the action to the City Council. The technical reports are to be entered in and made part of the record of the public hearing.
3. Notice of Hearing (if required): For applications involving Zoning Ordinance text amendments, rezoning, conditional use permits, and variances, the City Clerk or designee shall set a date for a public hearing.
4. Notice of such hearing shall consist of a legal property description, a general description of the property location, and a description of the request. Said notice shall be published in the official newspaper at least ten (10) days prior to the hearing. Written notices shall be mailed not less than ten (10) days nor more than thirty (30) days prior to the hearing to all owners of property, according to the records available to the City within three hundred fifty (350) feet of each parcel included in the request. In addition the public hearing notice shall be mailed to the Department of Natural Resource Area Hydrologist, Stearns County Highway Department and/or the Minnesota Department of Transportation if the application impacts shorelands/flood plains (DNR), County highways or State highways.
5. Notice Not Received: Failure of the City to send, or a property owner to receive notice shall not invalidate any proceedings under this Section, provided that a bona fide attempt has been made to comply with the requirements of this Section.
6. Hearing: After receipt of the report of the City Clerk or designee, the City Council shall conduct the public hearing and consider the application at its next regular meeting.

7. Presentation of Application: The applicant or a representative of the applicant may appear before the Council in order to present the case for the application and to answer questions concerning the request. Alternately, the City Clerk or designee may present the case for application.
  8. The City Council shall hold the public hearing.
- E. Action: Following the public hearing the City Council may:
1. Approve the request based on findings of fact, the approval may include conditions.
  2. Deny the request based on findings of fact.
  3. Postpone action to a specific future date or regular meeting to allow more time for receipt of information.
  4. Occasionally a public hearing may be continued to a specific future date or regular meeting to allow more time for receipt of information.
- F. Notice to Applicant: The City Clerk shall notify the applicant of the decision of the City Council in writing, including any relevant resolution and findings that may have been passed by the City Council.
- G. Filing of Notice of Action: A certified copy of any rezoning, conditional use permit, or variance authorized shall be filed with the Stearns County Recorder if the action has been approved.

**Subd. 2 – Applications for Administrative Review.**

- A. Application for an administrative permit shall be filed by the property owner or designated agent with the City Clerk on forms to be provided by the City. Applications shall be accompanied by information as may be required to fully review and evaluate the request. This Subsection does not apply to requests requiring City Council approval which shall be processed under Subsection 500.66, Subd. 1 of this Ordinance.
- B. The application shall be accompanied by a fee as established by Resolution or Ordinance. Applications for amending permits shall be accompanied by a fee as established by Resolution or Ordinance.
- C. The City Clerk or designee shall review the application and related materials and shall determine whether the proposal is in compliance with all applicable evaluation criteria, codes, ordinances, and applicable performance standards set forth in this Ordinance. The City Clerk or designee shall notify the applicant, in

writing, of an incomplete application within fifteen (15) days of the date of submission.

- D. The City Clerk or designee shall consider possible adverse effects of the proposed events or activity. Judgment shall be based upon (but not limited to) the following factors:
1. Compliance with and effect upon the Comprehensive Plan, Land Use Plan, and any existing public facilities plans as may be amended.
  2. The establishment, maintenance or operation of the use, event or activity will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety or welfare.
  3. The use event, or activity will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.
  4. The establishment of the use, event or activity will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
  5. The use, event or activity shall, in all other respects, conform to the applicable regulations of the district in which it is located.
  6. The City Clerk or designee shall make a determination on approval or denial of the administrative permit within sixty (60) days from the date of submission of a complete application.
  7. A written permit shall be issued to the applicant when a determination of compliance has been made. Specific conditions to assure compliance with applicable evaluation criteria, codes, ordinances and the standards of this Ordinance shall be attached to the permit.
  8. Determination of non-compliance with applicable codes, ordinances and the standards in this paragraph shall be communicated to the applicant in writing and the application for the permit shall be considered denied; unless, within ten (10) days of the date of such notice, the applicant submits revised plans and/or information with which the City Clerk or designee is able to determine compliance.
  9. Unresolved disputes as to administrative application of the requirements of this paragraph shall be subject to appeal as defined by Subsection 500.64, Subd.4 of the Zoning Ordinance as may be amended.

- E. Performance Standards: All uses, events or activities allowed by administrative permit shall conform to the applicable standards outlined in the zoning district in which such use, event or activity is proposed and any/all standards applicable to the proposed request.
- F. The City Clerk shall keep a record of applications and administrative permits.
- G. Enforcement of the provisions of this paragraph shall be in accordance with Section 500.69 of this Chapter as may be amended.
- H. Violation of an issued permit or of the provisions of this Section also shall be grounds for denial of future permit applications.
- I. In cases where the City Clerk or designee is given approval authority without a requirement for an administrative permit, determinations shall be based upon the criteria outlined in this Section as may be amended.

**Subd. 3 – Zoning Review.**

The City Clerk or designee shall be responsible for determining the level of review required and shall ensure compliance with all Sections of this Ordinance as may be amended. Zoning review is appropriate for all proposed building permit activities, fences, uses, outdoor storage, accessory structures, sign placement, and similar land use activities contemplated.

**Subd. 4 – Site Plan Review.**

- A. Purpose: The purpose of this Subdivision is to establish a formal site plan review procedure for commercial, industrial, institutional and multiple family uses and provide regulations pertaining to the enforcement of site design standards consistent with the requirements of this Ordinance.
- B. Exemptions: The following shall be exempt from the requirements of this Subdivision:
  - 1. Single family detached residential units subject to and consistent with an approved plat.
  - 2. Single family attached residential units (common wall structures) not exceeding two dwellings per unit provided they are subject to and consistent with an approved plat.
  - 3. Minor revisions or additions to existing structures that are consistent with the provisions of this Ordinance (including but not limited to: conformance, lot requirements, setbacks, building requirements, parking, etc.) provided that the proposed modifications do not exceed thirty (30)

percent of the floor area of said structure or ten-thousand (10,000) square feet, whichever is less.

4. Accessory structures provided the proposed accessory structure is consistent with the requirements of this Ordinance relating to accessory structures.
  5. Change in use provided the proposed use is consistent with the requirements of this Ordinance relating to permitted, accessory, and conditional uses.
- C. Site Plan as Formal Agreement: All site and construction plans officially submitted to the City shall be treated as a formal agreement between the building contractor, owner and the City. Once approved, no changes, modifications, or alterations shall be made to any plan detail, standard or specification without prior submission of a plan modification request to the City Clerk for their review and approval.
- D. Application for Site Plan Approval: Application for site plan approval shall be filed with the City Clerk on an approved form. Unless specifically waived by the City Clerk or designee, the site plan shall include the following information:
1. A site plan of the subject property (in some instances a certificate of survey prepared by a licensed land surveyor may be required as deemed necessary by the City Clerk, a designee of the City Clerk, and/or City Engineer) depicting the following, as applicable:
    - a. Name and address of developer/owner;
    - b. Name and address of architect/designer, if required by the City Clerk or designee;
    - c. Date of plan preparation and dates and descriptions of all revisions;
    - d. Name of project or development;
    - e. All proposed improvements, including (unless waived by the City Clerk or designee):
      - i. Required and proposed setbacks;
      - ii. Location, setback, and dimensions of all existing and proposed buildings and structures;

- iii. Location of all adjacent buildings located within one-hundred (100) feet of the exterior boundaries of the property in question;
- iv. Location, number, dimensions, and setbacks of proposed parking spaces and drive aisles;
- v. Location, number, and dimensions of proposed loading spaces;
- vi. Location, width, and setbacks of proposed curb cuts and driveways;
- vii. Vehicular and pedestrian circulation;
- viii. Sidewalks, trails, and walkways;
- ix. Location and type of all proposed lighting, including details of all proposed fixtures;
- x. Location of recreation and service areas;
- xi. Location of all proposed outdoor storage including details for screening;
- xii. Location of all exterior heating, ventilation and air conditioning equipment including details for screening;
- xiii. Location of rooftop equipment and proposed screening;
- xiv. Location of proposed fire lanes and fire hydrants;
- xv. Proposed building exterior materials and color;
- xvi. Existing and/or proposed sign locations and dimensions;
- xvii. Existing and/or proposed drainage by contours (two foot maximum);
- xviii. Location, capacity and proposed ownership of existing and/or proposed stormwater facilities;
- xix. Existing and proposed landscaping by size and type of plant material;

- xx. Provisions for storage and disposal of waste, garbage, and recyclables, including details for screening exterior trash/recycling enclosures; and
  - xxi. Location, size, and type of water and sewer system mains and proposed service connections.
- f. Supplemental Data: Additional information, data and other plans and information as required by the City Clerk or designee may be required including but not limited to:
- i. Color drawings or renderings and/or sample exterior building materials proposed for all principal and accessory buildings.
  - ii. Typical floor plan and room plan drawn to scale with a summary of square footage for each use or activity.
  - iii. Vicinity map showing the property in relation to nearby highways or major street intersections.
  - iv. When required, evidence of completion of National Pollutant Discharge Elimination System (NPDES) permitting program.
  - v. If applicable, evidence of compliance with federal, state and local pollution and nuisance laws and regulations, including, but not limited to glare, smoke, dust, odors and noise. The burden of proof for compliance with appropriate standards shall lie with the applicant.
- E. Timeline: Pursuant to Minnesota Statutes Section 15.99, as amended, supplemented or replaced from time to time, an application shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended by the City in accordance with Minnesota Statutes or a time waiver is granted in writing by the applicant.
- F. Required Fee: The applicant shall submit with the required application any/all required fees as established by ordinance related to site plan review. An application shall not be considered complete until the required fee has been paid.
- G. Review Procedures: The City Clerk or designee shall review completed applications for site plan approval. The site plan review shall be evaluated based on its compliance with the effective Comprehensive Plan or Land Use Plan, provisions of this Ordinance and other applicable City Codes and policies. The



City Clerk, designee of the City Clerk, or the Applicant may refer the site plan to the City Council for review and approval.

#### ~~500.63—Board of adjustment~~

##### ~~Subdivision 1~~

~~The Board of Adjustment is the city council. The board acts upon all questions arising in the administration of this Code, including the interpretation of zoning maps. The board hears and decides appeals from and reviews any order, requirement, decision, or determination made by an administrative official charged with enforcing this Code. An appeal may be taken by any person owning the property under appeal or by an officer, department board, or commission of the city. The board may vary or adapt the strict application of any of the requirements of this Code in the case of exceptionally irregular, narrow, or shallow lots, other exceptionally physical conditions, where such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of reasonable use of the land or building involved, but in no uses except as specifically described. Board of Adjustment decisions are final. Appeals from a Board of Adjustment decision are made to the district court.~~

##### ~~Subd. 2—Variances~~

~~A variance in the provision or requirements of this Code may not be authorized by the Board of Adjustment unless it finds evidence that the following facts and conditions exist:~~

- ~~1. That there are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district.~~
- ~~2. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same district and in the same vicinity. The possibility of increased financial return is not in itself deemed sufficient to warrant a variance.~~
- ~~3. That the authorizing of such variance will not be substantial detriment to adjacent property and will not materially impair the intent and purpose of this Code or the public interest.~~
- ~~4. That the condition or situation of specific piece of property, or the intended use of said property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.~~
- ~~5. That in the case of a solar collection variance, the applicant is unable to utilize solar energy systems under the provisions of this Code.~~
- ~~6. In granting a variance, the Board of Adjustment may impose conditions to insure compliance and to protect adjacent properties. The Board of Adjustment may not permit as a variance any use that is not permitted under this Code for the property in the district where the affected person's land is located.~~

##### ~~Subd. 3—Procedure~~

- ~~1. Requests for a variance or appeal are filed with the city clerk treasurer and must be accompanied by a fee established by council resolution, along with material explaining the request.~~
- ~~2. The Board of Adjustment must set and hold a public hearing on the request. Notice of such hearing must be mailed not less than ten days nor more than 30 days to owners of property abutting affected parcel as determined by the city clerk treasurer. The notice must also be published in the official newspaper within the above time period. Failure of a property owner to receive the notice does not invalidate any such proceedings.~~
- ~~3. A variance is granted by a majority vote of the full Board of Adjustment.~~
- ~~4. Within 15 days after the hearing, the Board of Adjustment must make its order deciding the matter and serve a copy of such order upon the appellant or the petitioner by mail.~~
- ~~5. Decisions by the Board of Adjustment in granting or denying a variance or appeal are final.~~

#### ~~Subd. 4—Lapse of variance~~

~~If within one year after granting a variance the work permitted is not commenced, the variance is null and void unless a petition for an extension has been approved by the city council.~~

### ~~500.65—Procedures: amendment~~

#### ~~Subdivision 1—Initiation~~

~~The council may initiate a request to amend the text or the district boundaries of this Code. A person owning a real estate within the city may initiate, by petition, a request to amend the district boundaries or the text of this Code as to the affect on the real estate. A person owning real estate within the city may request a conditional use permit.~~

#### ~~Subd. 2—Petition~~

~~A request and petition signed by an owner or owners of property which is proposed to be rezoned, or for which district regulation changes are proposed, plus copies of detailed written and graphic materials fully explaining the proposal for an amendment to this Code, must be filed with the city clerk treasurer and must be accompanied by the fee plus costs as established by appendix I.~~

- ~~1. The application must be accompanied by a site plan showing such information as is necessary to show compliance with this Code, including but not limited to:
  - ~~1. Description of site (legal description).~~
  - ~~2. Site plan drawn at scale showing parcel and building dimensions.~~
  - ~~3. Location of all buildings and their square footage.~~
  - ~~4. Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks.~~
  - ~~5. Landscaping and screening plans.~~
  - ~~6. Drainage plan.~~
  - ~~7. Sanitary sewer and water plan with estimated use per day.~~
  - ~~8. Soil type.~~~~

9. ~~Any additional written or graphic data reasonably required by the city clerk treasurer or the city council.~~
2. ~~The council must set a date for a public hearing. Notice of such hearing must be published and mailed, if applicable, in conformance with state law.~~
3. ~~The council may set and hold a public hearing if deemed necessary for reaching a decision.~~
4. ~~Approval of an amendment of this zoning code requires a two-thirds vote of the full council. The council's action is final.~~

#### 500.67 ~~Procedures: conditional use permits~~

##### Subdivision 1 ~~Application~~

~~Application for conditional use permits signed by an owner or owners of property of the affected property may be filed with the city clerk treasurer, together with the required fees and a copy of the application. The application must be accompanied by a site plan showing such information as is necessary to show compliance with this Code, including but not limited to:~~

1. ~~Description of site (legal description).~~
2. ~~Site plan drawn at scale showing parcel and building dimensions.~~
3. ~~Location of all buildings and their square footage.~~
4. ~~Curb cuts, driveways, access roads, parking spaces, off street loading areas, and sidewalks.~~
5. ~~Landscaping and screening plans.~~
6. ~~Drainage plan.~~
7. ~~Sanitary sewer and water plan with estimated use per day.~~
8. ~~Soil type.~~
9. ~~Any additional written or graphic data reasonably required by the city clerk treasurer or the city council.~~
10. ~~The council must set a date for the official public hearing. Notice of the hearing must be published in conformance with the state law and individual notices must be mailed not less than ten days nor more than 30 days prior to the hearing, to all owners of property, according to the assessment records, abutting the parcel included in the request. The notice must also be published in the official newspaper within the time period.~~
11. ~~The council may set and hold a public hearing if deemed necessary for reaching a decision.~~
12. ~~Approval of a conditional use permit requires a majority vote of full council. The council's action is final.~~
13. ~~The city clerk treasurer must notify the applicant of the council's decision in writing.~~

##### Subd. 2 ~~Conditional use standards~~

~~A conditional use permit may not be granted by the council unless the council finds first:~~

1. ~~The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted.~~
2. ~~The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.~~

- ~~3. Additional utilities, access roads, drainage, and other necessary facilities have been or are being provided.~~
- ~~4. Adequate measures have been or will be taken to provide sufficient off-street parking and loading spaces to serve the proposed use.~~
- ~~5. 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.~~
- ~~6. Proper facilities are provided that will eliminate any traffic congestion or traffic hazard which may result from the proposed use.~~
- ~~7. Demonstrated need for the proposed use.~~
- ~~8. Proposed use is in compliance with the comprehensive plan adopted by the city.~~

#### ~~Subd. 3—Compliance~~

~~A use permitted under the terms of any conditional use permit must be established and conducted in conformity to the terms of such permits and of any conditions designated in connection therewith.~~

#### ~~Subd. 4—Lapse of conditional use permit by non-use~~

~~If within one year after granting the conditional use the work permitted has not been started, the permit becomes null and void unless a request for an extension has been approved by the council.~~

### ~~500.68—Procedures: interim use permits~~

#### ~~Subdivision 1—Purpose and Intent~~

~~The purpose and intent of allowing interim use permits is:~~

- ~~1. To allow a use for a temporary period of time until a permanent location is obtained or while the permanent location is under construction.~~
- ~~2. To allow a use that is presently judged acceptable by the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or interim use allowed within the respective district.~~
- ~~3. To allow a use which is reflective of anticipated long range change to an area and which is in compliance with the Comprehensive Plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.~~

#### ~~Subd. 2—Application and Procedure~~

~~Pursuant to Minnesota Statutes 15.99, an application for a interim use permit shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended by the City pursuant to statute or a time waiver is granted by the applicant. Additional City requirements are as follows:~~

- ~~1. A pre-application meeting may be required by City staff at which the appropriate application procedures, requirements and applicable provisions relating to the~~

- request will be reviewed and explained.
- ~~2. Request for interim use permits, as provided within this Code, shall be filed with the city clerk treasurer on an official application form. Unless modified by the city clerk treasurer, such application shall be accompanied by a fee as provided for by City Council resolution. Such application shall also be accompanied by ten (10) copies of detailed written and graphic materials fully explaining the proposed change, development, or use and a certified list of property owners located within three hundred and fifty (350) feet of the subject property. The request shall be considered as being officially submitted when all the information requirements are satisfied. In cases where an application is judged to be incomplete, the City clerk treasurer shall notify the applicant, in writing, within ten (10) days of the date of submission.~~
  - ~~3. Upon receipt of said application, the City Clerk shall set a public hearing following proper hearing notification. The City council shall conduct the hearing, report its findings and make recommendations to the City Council. Notice of said hearing shall consist of a legal property description, description of request and property location, and be published in the official newspaper at least ten (10) days prior to the hearing. Written notification of said hearing shall be mailed at least ten (10) days prior to all owners of land within three hundred and fifty (350) feet of the boundary of the property in question.~~
  - ~~4. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Code.~~
  - ~~5. The city clerk treasurer shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the City Council.~~
  - ~~6. The City Council shall consider possible adverse effects of the proposed interim use and what additional requirements may be necessary to reduce any adverse effects. At a minimum, the City Council, in its judgment, shall consider at a minimum the following standards as it would apply to the particular use at the proposed location:
    - ~~a. The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan.~~
    - ~~b. The proposed use is or will be compatible with present and future land uses of the area.~~
    - ~~c. The proposed use conforms with all performance standards contained in the City Code.~~
    - ~~d. The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.~~
    - ~~e. Traffic generation by the proposed use is within capabilities of streets serving the property.~~~~
  - ~~7. The City shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors. Said information is to be declared necessary to establish performance conditions in relation to all pertinent sections of this Code. Failure on the part of the applicant~~

- ~~to supply all necessary supportive information may be grounds for denial of the request.~~
- ~~8. The City Council shall make findings of fact and recommend such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of this Code. Such recommendation shall be in writing and accompanied by the report and recommendation of the City staff, and shall be entered in and made part of the permanent written record of the City Council meeting.~~
  - ~~9. Approval of a request shall require passage by a majority vote of the City Council.~~
  - ~~10. The city clerk treasurer shall keep a record of applications and interim use permits. A certified copy of any approved interim use permit shall be filed with the County Recorder and the city clerk treasurer must notify the applicant of the city council's decision in writing.~~
  - ~~11. Whenever an application for a interim use permit has been considered and denied by the City Council, a similar application for the interim use permit affecting substantially the same property shall not be considered again by the City council or City Council for at least six (6) months from the date of its denial; and a subsequent application affecting substantially the same property shall likewise not be considered again by the City council or City Council for an additional six (6) months from the date of the second denial unless a decision to reconsider such matter is made by not less than two-thirds (2/3) vote of the full City Council.~~

### ~~Subd. 3 Information Requirement~~

~~The application must be accompanied by a site plan showing such information as is necessary to show compliance with this Code. The zoning administrator may request information that is deemed necessary to demonstrate compliance, including but not limited to:~~

- ~~1. A site plan depicting the following:
  - ~~a. Scale of plan.~~
  - ~~b. North point indication.~~
  - ~~c. Existing boundaries with lot dimension and area.~~
  - ~~d. Existing buildings, structures and other improvements.~~
  - ~~e. All encroachments.~~
  - ~~f. Easements of record.~~
  - ~~g. Legal description of the property.~~
  - ~~h. Ponds, lakes, springs, rivers, delineated wetlands or other waterways bordering on or running through the subject property.~~
  - ~~i. Name and address of applicant and owner.~~
  - ~~j. Name and address of architect/engineer.~~
  - ~~k. Date of plan preparation.~~
  - ~~l. Dates and description of all revisions.~~
  - ~~m. All proposed improvements, including:
    - ~~(1) Existing and proposed setbacks.~~~~~~

- ~~(2) Location of all adjacent buildings located within fifty (50) feet of the exterior boundaries of the property in question.~~
- ~~(3) Location, number, dimensions, and setbacks of proposed parking spaces and drive aisles.~~
- ~~(4) Location, number, and dimensions of proposed loading spaces.~~
- ~~(5) Location, width, and setbacks of all curb cuts and driveways.~~
- ~~(6) Vehicular circulation.~~
- ~~(7) Sidewalks, walkways, trails.~~
- ~~(8) Location and type of all proposed lighting, including details of all proposed fixtures.~~
  
- ~~(9) Provisions for outdoor storage and disposal of waste, garbage, and recyclables, including details for screening exterior trash/recycling enclosures.~~
- ~~(10) Location, sizing, and type of water and sewer system mains and proposed service connections.~~
- ~~(11) Location of proposed fire lanes and fire hydrants.~~
- ~~2. Grading/stormwater drainage plan depicting the following:~~
  - ~~a. Existing contours at two (2) foot intervals (may be prepared by a Minnesota licensed surveyor).~~
  - ~~b. Proposed grade elevations at two (2) foot maximum intervals.~~
  - ~~c. Drainage plan, including the configuration of drainage areas and calculations.~~
  - ~~d. Storm sewer, catch basins, invert elevations, type of castings, and type of materials.~~
  - ~~e. Spot elevations (may be prepared by a Minnesota licensed surveyor).~~
  - ~~f. Proposed driveway grades.~~
  - ~~g. Surface water ponding and treatment areas.~~
  - ~~h. Erosion control measures.~~
- ~~3. Landscaping plan depicting the following:~~
  - ~~a. Planting schedule (table) containing:~~
    - ~~(1) Symbols.~~
    - ~~(2) Quantities.~~
    - ~~(3) Common names.~~
    - ~~(4) Botanical names.~~
    - ~~(5) Sizes of plant material.~~
    - ~~(6) Root specification (bare root, balled and burlapped, potted, etc.).~~
    - ~~(7) Special planting instructions.~~
  - ~~b. Location, type and size of all existing significant trees to be removed or preserved.~~
  - ~~c. Planting detail~~
  - ~~d. Note indicating how disturbed soil areas will be restored through the use of sodding, seeding, or other techniques.~~
- ~~4. Other plans and information as required by the City including, but not limited to:~~
  - ~~a. Architectural elevations of all principal and accessory buildings (type, color, and materials used in all external surfaces).~~



- ~~b. "Typical" floor plan and "typical" room plan drawn to scale with a summary of square footage for each use or activity.~~
- ~~c. Type, location and size (area and height) of all signs to be erected upon the property in question.~~
- ~~d. Vicinity map showing the subject property in reference to nearby highways or major street intersections.~~
- ~~e. Lighting plan.~~
- ~~f. When required, evidence of completion of National Pollutant Discharge Elimination System (NPDES) permitting program.~~
- ~~g. If applicable, evidence of compliance with federal, state and local pollution and nuisance laws and regulations, including, but not limited to glare, smoke, dust, odors and noise. The burden of proof for compliance with appropriate standards shall lie with the applicant.~~

~~Subd. 4 – Interim use standards~~

~~An interim use permit may not be granted by the council unless the council finds first:~~

- ~~1. The interim use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted.~~
- ~~2. The establishment of the interim use will not impede the normal and orderly development and improvement of surrounding vacant property for predominant uses in the area.~~
- ~~3. Additional utilities, access roads, drainage, and other necessary facilities have been or are being provided.~~
- ~~4. Adequate measures have been or will be taken to provide sufficient off-street parking and loading spaces to serve the proposed use.~~
- ~~5. 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.~~
- ~~6. Proper facilities are provided that will eliminate any traffic congestion or traffic hazard which may result from the proposed use.~~
- ~~7. Demonstrated need for the proposed use.~~
- ~~8. Proposed use is in compliance with the comprehensive plan adopted by the city.~~
- ~~9. The use is allowed as an interim use in the respective zoning district.~~
- ~~10. The date or event that will terminate the use can be identified with certainty.~~
- ~~11. The use will not impose additional unreasonable costs on the public.~~
- ~~12. The user agrees to any conditions that the City Council deems appropriate for permission of the use.~~

~~Subd. 5 – Compliance~~

~~A use permitted under the terms of any interim use permit must be established and conducted in conformity to the terms of such permits and of any conditions designated in connection therewith.~~



~~Subd. 6 – Lapse of interim use permit by non-use~~

~~Unless the City Council specifically approves a different time when action is officially taken on the request, interim use permits which have been issued under the provisions of this Code shall expire without further action by the City Council within one (1) year of the date of approval unless the applicant has substantially commenced the authorized use or improvement, or unless within thirty (30) days prior to the expiration of the interim use permit the applicant has petitioned for a time extension by completing and submitting a request for an extension, including the renewal fee as established by City Council resolution. Such extension request shall be submitted in writing and shall state facts showing a good faith attempt to complete or utilize the approval permitted in the interim use permit. A request for an extension not exceeding one year shall be subject to the review and approval of the City Council. Should a second extension of time or any extension of time longer than one year be requested by the applicant, it shall be presented to the City Council for a decision.~~

~~Subd. 7 – Enforcement.~~

~~Enforcement of the provisions of this Code shall be in accordance with section 500.69 of this Code. The City reserves the right upon issuing any interim use permits to inspect the premises to ensure compliance with the provisions of this Section or any conditions additionally imposed. Violation of an issued permit or of the provisions of this Section shall be grounds for termination of the interim use permit.~~

~~Subd. 8 – Termination~~

~~An interim use shall terminate on the happening of any of the following events, whichever occurs first:~~

- ~~1. The date or event stated in the permit.~~
- ~~2. Upon violation of conditions under which the permit was issued.~~
- ~~3. Upon change in the City's zoning regulations rendering the use non-conforming.~~

## **500.69: ENFORCEMENT**

### **Subd. 1 – Enforcement Agent.**

This Code is administered and enforced by the City Council or a person designated by the Council, including but not limited to the Zoning Administrator and/or City Clerk Treasurer or his/her designee. It shall be unlawful to violate a provision of this Section of the City Code. The Zoning Administrator, the City Council, and/or an authorized designee may institute in the name of the City of Freeport any appropriate actions or proceedings against a violator. The City Council may institute appropriate action for any violations of this Code at the direction of the City Council and through the city attorney as deemed necessary.

## **Subd. 2 – Enforcement Process.**

A. Notification. For the enforcement of the provisions of this Section, the first zoning violation notice shall be sent by regular mail, and the second notice will be sent by certified mail, return receipt requested to the property owner of which the violation is taking place. A copy of all zoning violation notices shall be sent to the City Council, the local law enforcement agency, and the City Attorney. All zoning violation notices shall contain the following information:

1. A description of the violation that is taking place.
2. A picture (if possible) of the violation that is taking place.
3. Location and/or address of the property at which the violation is taking place.
4. Identification of the Subsection of the City Code that is being violated.
5. The date the violation was discovered.
6. The steps necessary to correct the violation.
7. A deadline in which the violation must be corrected, which is at the discretion of the Zoning Administrator, but which in no case may be longer than sixty (60) days from the date the first notice is mailed.

B. Correction of the Zoning Violation. Upon correction of the violation in the manner stipulated by the zoning violation notice at any point during this enforcement process, the City shall take no further enforcement activity with respect to such specific violation incident.

C. Failure to Correct Zoning Violation – Enforcement Remedies. Failure to correct the zoning violation shall result in the City pursuing enforcement action following notification to the property owner, with the City having the authority to carry out the following enforcement remedies:

1. Withhold Permits. The City shall have the authority to withhold or deny any and all permits or City approvals until the violation is corrected to the satisfaction of the Zoning Administrator.
2. Stop Work Order. The City shall have the authority to issue a stop work order on the property in violation.
3. Abatement. The City shall have the authority to require that the violation be abated by completely removing or stopping the item or use which has been identified in the zoning violation notice. Abatement action by the

City shall not proceed until after a hearing before the City Council.

4. Injunctive Relief. The City shall have the authority to seek an injunction in court to stop any violation of this Section.
5. Civil Remedies. The City shall have the authority to institute appropriate civil action including injunctive and other equitable processes to enforce the provisions of this Section and, at the discretion of the civil court, shall recover reasonable court costs and attorney's fees that are incurred due to the enforcement of the subject violation.
6. Assessment. The City shall have the authority to use the provisions of Minnesota Statutes Chapter 429, as amended, supplemented, or replaced from time to time, to assess charges against any property in violation of any of the provisions of this Section, and any such assessment shall, at the time at which taxes are certified to the County Auditor, be certified for collection in the manner that other special assessments are so certified.
7. Criminal Remedies. The City shall have the authority to institute appropriate misdemeanor action or misdemeanor criminal action for a violation of this Section. Any person who violates a provision of this Chapter is guilty of a misdemeanor and, upon conviction thereof, may be punished by a fine and/or imprisonment as provided for under law.
8. Cumulative Remedies. The powers and remedies of this Section shall not be individually limited and are not exclusive. The powers and remedies of this Article are cumulative and all power and remedies may apply, and any other remedies allowed under State law. Failure to exercise any remedy shall not be a waiver of that remedy.

## **500.70: FEES**

### **Subd. 1 – Payment Required.**

Any person filing a petition requesting an amendment, appeal, adjustment, conditional use permit, variance or other permit described within this Chapter shall pay a fee according to the schedule established by the City Council.

### **Subd. 2 – Amount.**

- A. Fees payable under this Section, and adopted by Ordinance of the City Council, shall be payable at the time of filing a petition and is not refundable.
- B. In addition to the fees referenced above and in the event the City incurs professional fees, either legal, engineering or professional planners, or any other cost, including but not limited to, postage and publication expenses, the applicants

may be required to reimburse the City for those fees, and the City officials may require a deposit for these fees prior to the final hearing on the application.

~~Subd. 2—Zoning conformance permits required~~

~~It is unlawful to erect, improve, alter, wreck, or move any building or part thereof or make improvements to property without first securing a zoning conformance permit. Application for a zoning conformance permit is made to the city clerk treasurer on forms to be furnished by the city. Each application for a permit to construct or alter a building or property must be accompanied by a plot plan drawn to scale showing the dimensions of the lot to be built upon and the size and location of the building and accessory buildings to be erected. Applications for a zoning conformance permit must contain such other information as may be deemed necessary for the proper enforcement of this Code. The fees for zoning conformance permits are established by the city council (appendix I). The council or zoning permit for permitted uses, only after determining that the building plans, together with the application, comply with the terms of this and other city ordinances. Zoning conformance permits are valid for a one year period during which construction is to be initiated and nearing completing. When construction is underway but not complete, an extension may be granted by the council. In cases where no substantial construction is underway, a new permit must be approved prior to any further construction. The city clerk treasurer may issue permits for the replacement of sidewalks, driveways, or steps if there is no change in size.~~

~~Subd. 3—Violations and penalties~~

~~It is unlawful to fail to comply with the provisions of this Code. (See 115.01)~~

~~500.71—Zoning district map~~

~~The clerk treasurer is directed to prepare and maintain in the city offices a map accurately delineating the boundaries of the various zoning districts and the zoning district classification of real property in the city. The map is to be known as the “Zoning District Map of the City of Freeport, Minnesota”. The zoning district map and all notations, references, and other information shown thereon are incorporated in this Code and are as much a part of this Code as if fully set forth herein.~~

**500.71: VALIDITY**

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

**500.72: REPEAL OF CONFLICTING ORDINANCES**

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

**500.73: EFFECTIVE DATE**

This ordinance shall become effective immediately upon publication.

## **SECTION 505 - URBAN AND RURAL SERVICE DISTRICTS**

### **505.01: POLICY**

#### **Subd. 1.**

The city council has reviewed the use of land in the city and has reviewed the current cost of government services offered to the residents and landowners of the city, the current source of funds for those services, and the current approximate relative benefits to urban and rural land in the city from tax support municipal services.

#### **Subd. 2.**

The city council has concluded that it would be desirable to establish an urban service district and a rural service district for the purposes of all municipal property taxes except those levied for the payment of debt service on bonds and judgments pursuant to Minnesota Statutes, Section 272.67.

### **505.03: DISTRICTS**

#### **Subd. 1 – Established.**

An urban service district and a rural service district exists in the city for the purpose of municipal property taxes except those levied for payment of debt bonds and judgments and interest thereon.

### **Subd. 2 – Rural Service District.**

The following parcels of land in the city comprise the rural service district:

1. Parcel number 54-32021-00;
2. Parcel number 54-32028-00;
3. Parcel number 54-32085-00; and
4. Parcel number 54-32051-00.

The City Council finds that the land in the rural service district is un-platted and rural in character and none of it is developed for commercial, industrial, or urban residential purposes. The council also finds that all parcels are greater than the 18 acre minimum size established by the council and are utilized as active agricultural farming operations.

### **Subd. 3 – Urban Service District.**

Land in the city other than that included in rural service district is in the urban service district.

## **505.05: TAX CAPACITY DISTRICT**

The parcels of land in the rural service district receive approximately 50% of the benefits resulting from tax supported municipal service as compared to parcels of land of like value in the urban service district. Therefore, the tax capacity rate to be levied upon the rural service district lands will be 50% of urban district mill rate.

## **505.07: AMENDMENT**

This Section may be amended to change the above benefit ratio or to add or remove lands from the rural service district. An amendment is not required to remove lands which are to be developed for commercial, industrial or residential uses in accordance with Minnesota Statutes, Section 272.67, subdivision 5.

## **505.09: APPLICATION**

This Section applies to taxes payable in 1986 and subsequent years subject to amendment as provided by law.