

**EXHIBIT A**

**SECTION 500**

**ZONING, PLANNING, AND LAND USE REGULATIONS**

Proposed Draft

# EXHIBIT A

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## **500.01: INTENT, PURPOSE AND APPLICATION**

### **Subd. 1 – Intent.**

This Section is enacted pursuant to the authority conferred by the State of Minnesota in Sections 462.351 to 462.364 for the purpose of:

1. Promoting and protecting the public health, safety, and general welfare of the residents of this incorporated area of the city,
2. Protecting and preserving the physical character, social and economic stability of residential, commercial, industrial and other use areas,
3. Securing the most appropriate use of land,
4. Preventing the overcrowding of the land and undue congestion of population,
5. Providing adequate light, air and reasonable access,
6. Facilitating adequate and economical provision of transportation, water supply and sewage disposal,
7. Planning for location of schools, recreation facilities and other public requirements, and,
8. Providing for the protection of access to direct sunlight for solar energy systems.

## **500.02: SCOPE**

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

## **500.03: SHORT TITLE**

This Section or Chapter of the City Code is the Zoning Code of Freeport, Minnesota and will be referred to herein as “this Section”, “this Code”, “the Zoning Ordinance”, and/or “the/this Ordinance”. A particular subpart of this Section shall be referred to as a “Subsection”.

## **500.04: APPLICATION**

This Code applies to all of the area within the corporate limits of the city.

## **500.05: GENERAL PROVISIONS**

### **Subd. 1 – Interpretation.**

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare.

### **Subd. 2 – Compatibility with Other Regulations.**

Where the provisions of this Ordinance impose greater restrictions than those of any statute, other ordinance, or regulation, the provision of this Ordinance shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this Ordinance, the provisions of such statute, other ordinance or regulation shall be controlling.

### **Subd. 3 – Relation to the Comprehensive Plan and/or Land Use Plan.**

It is the policy of the City that the enforcement, amendment, and administration of this Chapter be accomplished consistent with the recommendations contained in the City Comprehensive Plan and/or the City Land Use Plan, as developed and amended from time to time by the City Council. The Council recognizes the City Comprehensive Plan and/or the Land Use Plan as the official policy for the regulation of land use and development in accordance with the policies and purpose herein set forth. In accordance with Minnesota Statutes Chapter 473, the City will not approve any rezoning or other changes in these regulations that are inconsistent with the City Comprehensive Plan.

### **Subd. 4 – Conformance to Ordinance.**

No building or structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered nor shall any building or land be used except for the purpose permitted in the district in which the building or land is located.

### **Subd. 5 – Reduction of Yards or Lots Not Permitted.**

No lot area, yard or other open space existing on or after the effective date of this Ordinance shall be reduced below the minimum required for it by this Ordinance, and no lot area, yard or other open space which is required by this Ordinance for one use shall be used as the required lot area, yard or other space for another use.



#### **Subd. 6 – Uses Not Provided for Within Zoning Districts.**

Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered prohibited. The City Council or property owner, may, if appropriate, initiate an amendment to the Zoning Ordinance to provide for the particular use under consideration or may find that the use is not compatible for development within the City.

#### **Subd. 7 – Application.**

All applications required by this Ordinance shall be fully completed and filed in the City records.

#### **Subd. 8 – Fees and Expenses.**

Any person filing a petition for an application required by this Ordinance shall pay a prescribed fee according to a fee schedule established by the City Council. All fees shall be set annually by Ordinance or Resolution of the City Council.

#### **Subd. 9 – Building Permits.**

As required, no person shall erect, alter, or move any building or part thereof without first securing a building permit.

### **500.06: RULES AND DEFINITIONS**

#### **Subd. 1 – Rules.**

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

#### **Subd. 2 – Definitions.**

For the purpose of this Code, the terms defined in this Section have the meanings given them.

Accessory Use or Structure. A subordinate detached building or use which is located on the same lot on which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such main building or use.

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

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

Amendment. Any modification of the Ordinance text or map. A map amendment shall be known as a rezoning.

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

Apartment Building. Three (3) or more apartments grouped in one building sharing common hallways and building entry.

Appeal. An action brought by an applicant where it is alleged that there is an error in any order, request, decision or determination by the City Administrator in the enforcement of the Zoning Ordinance.

Automobile repair, major. General repair, rebuilding or reconditioning of engines, motor vehicles or trailers, including body work, frame work and major painting service.

Automobile repair, minor. Incidental repairs, replacement of parts and motor service to automobiles, but not including any operation specified under Automobile repair, major.

Automobile service station. Any building or premises used for the dispensing or sale of automobile fuels, lubricating oil or grease, tires, batteries or minor automobile accessories. Services offered may include the installation of tires, batteries or minor accessories; minor automobile repairs; and greasing or washing of individual automobiles. When sales, services and repairs as detailed here are offered to the public, the premises will be classified as a public garage. Automobile service stations shall not include the sale or storage of vehicles; shall not include premises offering major automobile repairs, automobile wrecking or detached car washes.

Bed and Breakfast. An owner-occupied single-family dwelling where lodging, in up to four guest rooms, and breakfast are provided to the traveling public by the resident owner for compensation.

Building. Any structure for the shelter, support or enclosure of persons, animals, or property of any kind.

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

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

Cemetery. Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries.

City Council. The City Council of Freeport.

Commercial Recreational Uses. Uses including, miniature golf, waterslides, amusement centers, bowling alley, pool hall, dance hall, skating and similar uses

Conditional Use. A land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.

Condominium. A multiple dwelling or development containing individually owned dwelling units and jointly owned and shared areas and facilities, which dwelling or development is subject to the City of Freeport City Code Chapter 5 Zoning, provisions of the Minnesota Condominium Act, Minnesota Statutes, Chapter 515, or the Uniform Condominium Act, Minnesota Statutes, Chapter 515A.

Contractor Operations. An area and/or building devoted to use by a business that contracts to supply materials or work in the building trade field.

Convenience Store. A retail establishment, which generally sells a limited range of food products, nonprescription drugs, candy and other perishable goods. This includes soda and similar beverage dispensing and food products, which can be heated and/or prepared onsite, and retailing of nonautomotive goods.

Convenience Store with Motor Fuel Sales. A convenience store as defined herein that also sells gasoline from pump islands.

Day Care Facility. Any State licensed facility, public or private, which provides one or more persons with care, training, supervision, habitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than twenty-four (24) hours per day, in a place other than the person's own home. Day care facilities include, but are not limited to: family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, daytime activity center, day treatment programs, and day services as defined by Minn. Stat. Section 245.782, Subd. 5.

Deck. A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending above ground.

Drive-In Establishments. Any use where products and/or services are provided to the customer under conditions where the customer does not have to leave the car or where

fast service to the automobile occupants is a service offered regardless of whether service is also provided within a building.

Dwelling. A building or portion thereof designed or used exclusively for residential occupancy, including single-family, two-family and multiple-family dwelling units, but not including hotels, motels, boarding or lodging houses.

Dwelling Unit. One or more rooms in a dwelling designed for occupancy by one family for living purposes and having separate permanently installed cooking and sanitary facilities.

Earth Sheltered. A building constructed so that more than 50% of the exterior surface area of the building, excluding garages or other accessory buildings, is covered with earth and the building code standards are satisfied.

Essential Services. Erection, construction, alteration, or maintenance by public utilities or municipal departments of commissions, of underground or overhead gas, electrical, communication, steam or water transmissions, or distribution systems, including poles wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, and other similar equipment and accessories in connection therewith (but not including buildings) reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions for the public health, safety, or general welfare.

Expansion, Enlargement, or Intensification. 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.

Fence. A partition, wall, hedge, or row(s) of continuous vegetative plantings that are erected as a dividing marker, visual, or physical barrier, or enclosure.

Fence, Permanent. 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.

Fence, Natural Living. 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.

Finance, Insurance and Real Estate. Establishments operating primarily in the fields of finance, insurance and real estate including, but not limited to, depository institutions, credit institutions, investment companies, security and commodity exchanges, insurance agents and brokers, real estate developers, buyers, agents and lessees.

Flood Plain. The areas adjoining a watercourse or lake which have been or hereafter may be covered by a regional flood.

Frontage. That part of a lot fronting on one side of a street between the side lot lines or between a street right-of-way and a side lot line.

Garage, Private. An accessory building designed or used for the private (i.e. not commercial) storage of automobiles or trucks owned and used by the occupants of the building to which it is accessory.

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

Glare. The effect produced by the intensity and direction of any artificial illumination sufficient to cause annoyance, discomfort, or temporary loss or impairment of vision.

Gross Floor Area. The sum of the gross horizontal areas of the several floors of the building, measured from the exterior faces of the exterior walls including basements.

Home Occupation. Home occupations are defined as and limited to all of the following: (i) Gainful occupations or professions engaged in by the occupant(s) of a dwelling; (ii) Which are carried on within a dwelling unit or structure(s) accessory thereto; and, (iii) Which are clearly incidental to the principal use of the property as a residential dwelling unit.

Hotel/Motel. Any building or portion thereof where lodging is offered to transient guests for compensation in which there are sleeping rooms, but not cooking facilities, within individual rooms or units.

Industry, Heavy. A use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes using flammable or explosive materials, or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions.

Industry, Light. A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

Landscaped Buffer. A portion of a required setback between adjoining properties wherein the natural terrain is altered to provide an opaque screen. Alteration of the natural terrain, may include, but is not limited to the planting of trees, ornamental grass, shrubs, other ground cover, and/or the construction of a berm or fence. Where berming or fencing is employed trees vegetative landscaping shall accompany the berm or fence.

Lot. One unit of a recorded plat or subdivision ~~land~~ occupied or to be occupied by a building and its accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this Code, having not less than a minimum area required by this Code for a building frontage on a street.

Lot Area. The area of a horizontal plane within the lot lines.

Lot, Corner. A lot situated at the intersection of two or more streets, or bounded on two or more adjacent sides by street lines.

Lot Coverage. The area or percentage of a lot's horizontal surface occupied by the combined sum of all structures.

Lot Depth. The shortest horizontal distance between the front lot line and the rear lot line measured from a ninety (90) degree angle from the street right-of-way within the lot boundaries.

Lot, Double Frontage/Through. A lot having its front and rear yards each abutting on a street, not including an alley. Both street lot lines are considered to be front lot lines for applying yard and parking requirements.

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

Lot Line. The property line bounding a lot.

Lot Line, Front. The lot line separating the lot from the street other than the alley. In the case of a corner lot, the front lot line is the shortest lot line along a street other than an alley. In the case of a through lot, each street has a front lot line.

Lot Line, Rear. The lot line which is opposite and most distant from the front lot line. In the case of an irregular, triangular or other shaped lot, a line 10 feet in length within the lot paralleled to and at a maximum distance from the front lot line.

Lot Line, Side. Any lot line not a front or rear lot line.

**Lot, Width.** The shortest horizontal distance between the side lot lines measured at the building setback line.

**Lot of Record.** A lot or parcel for which a deed has been recorded in the office of the County Register of Deeds prior to the date of adoption of this Ordinance.

**Luminaire.** A complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts. A luminaire does not include a pole or other support.

**Manufactured Home Park.** Any site, lot, field or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park.

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

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

**Multiple-Family Dwelling.** A dwelling containing three or more dwelling units designed with more than one dwelling unit connecting to a common corridor or entranceway.

**Non-Conforming Use or Legal Non-Conformity.** 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.

**Non-Conforming Land Use.** An activity using land, buildings, and/or structures for a purpose that was legally allowed when established but that is not currently allowed as a use in the zoning district in which it is located.

**Non-Conforming Structure.** A legal non-conformity other than a non-conforming land use that complied with ordinance standards at the time it was established but that does not currently conform to an ordinance standard such as height, setback, or size.



Non-Conforming Lot of Record. 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.

Nurseries or Greenhouses. A place where plants are grown for sale, transplanting or experimentation.

Nursing Home, Rest Home or Convalescent. A private home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, but not containing equipment for surgical care or for treatment of disease or injury.

Office. A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

On-sale liquor establishment. Any establishment wherein alcoholic beverages are sold, served or given away for consumption on the premises. Typical on-sale uses include but are not limited to the following establishments: ballrooms, dance bars, piano bars, billiard and/or game parlors, nightclubs, or other private clubs. This definition shall not include standard restaurants as defined herein, or veterans clubs.

Ordinary High Water Level (OHWL). The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial, as determined by the Department of Natural Resources. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel.

Personal Services. An establishment or place of business primarily engaged in providing individual services generally related to personal needs, such as a beauty salon, spa, tanning salon, tailor shop, or similar.

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

Planned Unit Development. An integrated development involving two or more principal uses or structures, including but not specifically limited to single-family residential uses, multiple-family residential uses, offices, or commercial uses, or any combination thereof, and similar such uses or combinations.

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

Principal Use or Structure. The main building on a lot in which the intended allowable use of the property is conducted and any additions thereof.



Restaurant, Fast Food. An establishment whose principal business is the sale of food and/or beverages in a ready-to-consume state for consumption:

- A. Within restaurant building;
- B. Within a motor vehicle parked on the premises; or
- C. Off the premises as carry-out orders; and whose principal method of operation includes the following characteristics:
  - 1. Food and/or beverages are usually packaged prior to sale and are served in edible containers or in paper, plastic, or other disposable containers;
  - 2. The customer is not served food at a table by an employee, but receives it at a counter window, or similar facility and carries it to another location on or off the premises for consumption.

Restaurant, Standard. An establishment whose principal business is the sale of food and beverages, including alcohol, to customers in a ready-to-consume state, but not including an on-sale liquor establishment, and whose method of operation includes one or both of the following characteristics:

- A. Customers, normally provided with an individual menu, are served their food and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed;
- B. A cafeteria-type operation where food and beverages generally are consumed within the restaurant building.

Retail Trade. Establishments engaged in selling merchandise to the general public for personal or household consumption and rendering services incidental to the sale of the goods. Retail trade includes the selling and renting of goods and products including but not limited to apparel, health and beauty products, food, appliances, furniture, tools, hardware, toys, and sporting goods.

Right-of-way. The area between property lines of a road, street, alley, pedestrian way or easement or other street.

Semipublic Use. The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

Setback. The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, top of a bluff, road, highway, property line, or other facility.

Sewage Treatment System. A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Subsection 500.49 of this Chapter.

Sewer System. Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

Single-Family Dwelling. A detached dwelling designed exclusively for occupancy by one family.

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

Street. A public way for vehicular traffic, whether designated as a street, highway, arterial, arterial parkway, throughway, road, avenue, lane, place, or however otherwise designated.

Street, Cul-De-Sac. A street with a single common ingress and egress and with a turn-around at the end.

Street, Dead-End. A local street open at one end only and without a special provision for vehicles turning around.

Street Frontage. That portion of a parcel of land abutting one or more streets. An interior lot has one street frontage and a corner lot two such frontages.

Street, Loop. A short, independent street that usually terminates along the same collector street of its origin.

Street, Through. A major collector or arterial street that serves more than one neighborhood, or carries traffic between neighborhoods, or streets that extend continuously between other major streets in the community. Through streets shall not include cul-de-sac streets, dead-end streets or loop streets.

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

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

Townhouse. A single structure consisting of three or more dwelling units having the first story at or near the ground level with no other dwelling unit connected to the other dwelling unit except by a party wall with no openings.

Twin Home. A single structure consisting of two dwelling units, each designed for occupancy by one family with separate entrances connected only by a party wall with no openings.

Two-Family Dwelling. A dwelling with two units designed with a common corridor or entryway exclusively for occupancy by two families living independently of each other.

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

Variance. A modification or variation of the provisions of this chapter, as applied to a specific piece of property.

Wetland. A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition).

Wholesale Trade. Establishments primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm, construction contractors, or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies.

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

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

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

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

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

### **500.13: ZONING MAP**

For the purpose of this Code, the City is divided into use districts as shown on a map entitled, “Official Zoning Map”. The Clerk-Treasurer and/or his/her designee 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 Official Zoning 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.

### **500.15: ZONING UPON ANNEXATION**

Land annexed to the city in the future is to be placed in the “A” Agricultural/Rural Residence District until placed into another district by action of the City Council.

### **500.17: PROHIBITIONS IN DISTRICTS**

#### **Subd. 1 – Rules.**

- A. Except for non-conforming uses, in each district land and structures may be used only for the purposes listed by this Code as permitted in the district. In each district, a building erected or structurally altered must
  - 1. Be provided with the yards specified,
  - 2. Be on a lot of the area and width specified, and
  - 3. May not exceed the height specified in this Code for the district.
- B. Open space or lots required for building may not, during the existence of that building, be occupied by or counted as open space for another building.

### **500.19: DISTRICT CLASSIFICATIONS**

The following district classifications are established and continued within the City of Freeport:

- “A” Agricultural/Rural Residence
- “R-1” Single and Two-Family Residential District
- “R-2” Multiple Family Residential District
- “C-1” Central and Neighborhood Commercial District
- “C-2” Highway Commercial District
- “I-1” General Industrial District
- “S” Shore Land Overlay District

### **500.21: ZONING DISTRICT BOUNDARIES**

The boundaries of districts are shown on the zoning district map and are the center lines of streets; the center lines of alleys; the rear lot lines where there are no alleys; the side lines of recorded lots or designated distances where land is un-platted. Where uncertainty exists as to the exact location of a boundary line, the location of such line is to be determined by the City Council.

## **500.23: “A” AGRICULTURAL/RURAL RESIDENCE DISTRICT**

### **Subd. 1 – Purpose.**

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

### **Subd. 2 – Permitted Uses.**

- A. Agriculture, including farm dwellings and agricultural related buildings and structures subject to Minnesota Pollution Control standards, but not including commercial feed lots or similar commercial operations.
- B. Single-family dwellings.
- C. Public parks, recreational areas, wildlife areas, and game refuges.
- D. Nurseries and tree farms.
- E. Essential services.

### **Subd. 3 – Permitted Accessory Uses.**

- A. Operation and storage of vehicles, machinery, and equipment which is incidental to permitted or conditional uses allowed in this district, subject to the standards contained in Subsection 500.475 of this Section.
- B. Boarding or renting of rooms to not more than two persons.
- C. Living quarters for persons employed on the premises.
- D. Home occupations, subject to the standards contained in Subsection 500.485 of this Section.
- E. Signs as regulated in the R-1 Single and Two Family Residential District.
- F. Roadside stands for the sale of agricultural products.

### **Subd. 4 – Conditional Uses.**

The following uses require a conditional use permit based on the procedures set forth in Subsection 500.63 of this Code:

- A. Governmental and public utility buildings and structures necessary for the health, safety, and general welfare of the community.
- B. Commercial outdoor recreational areas including golf courses, club houses, swimming pools, and similar facilities.
- C. Processing and packaging of agricultural products, including livestock, cold storage plants, livestock farming, and livestock feed lots and sales yards, subject to all applicable pollution control standards.
- D. Kennels and animal hospitals, fur farming, stables and riding academies provided that the property containing such use is adequate and is adequately separated from residential, commercial and industrial districts.
- E. Churches, schools, and similar uses.
- F. Uses deemed by the City Council to be similar to those listed in the zoning district.

**Subd. 5 – Lot, Yard, and Area.**

<b>Lot Area – Existing Lots on June 1, 2014</b>	<b>Lot Area - Lots Created After June 1, 2014</b>	<b>Lot Width</b>	<b>Side Yard</b>	<b>Front Yard</b>	<b>Rear Yard</b>
10 Acres	40 acres	250 ft.	60 ft.	100 ft.	100 ft.

**500.25: R-1, SINGLE AND TWO-FAMILY RESIDENCE DISTRICT**

**Subd. 1 – Intent.**

It is the intent of this district to permit the development of single-family and two-family dwellings in the City where adequate municipal utilities exist or are to be extended, to provide for reasonable standards for such development, to avoid overcrowding, and to prohibit the use of the land which would be incompatible with or detrimental to the essential residential character of the district.

## **Subd. 2 – Permitted Uses.**

- A. Single and two-family dwellings.
- B. Attached single family dwellings, not exceeding four units per structure.
- C. State licensed residential facility or a housing with services establishment registered under chapter 144D serving six or fewer persons; licensed day care facility serving twelve (12) or fewer persons; group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve fourteen (14) or fewer children, except that residential facilities whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be permitted. ~~Group homes.~~
- D. Essential services.
- E. Solar energy.
- F. Existing farming operations.
- G. Limit to two (2) cords of exposed wood.
- H. Manufactured homes, if such manufactured houses comply with the following conditions:
  - 1. The house may not have ground floor space of less than 800 square feet or a width of less than 20 feet at its narrowest point.
  - 2. The house must be placed on a permanent foundation which complies with the State Building Code and which are solid for the complete circumference of the house.
  - 3. The house must have exterior siding of conventional exterior dwelling-type materials. Metal siding must have horizontal edges and overlap in sections no wider than 12 inches. Sheet metal siding is not permitted.
  - 4. The house must be built in compliance with Minnesota State Building Code.
  - 5. Manufactured houses which vary from these requirements may be permitted in this zone when authorized by the Board of Adjustment. Before a variance is granted, the Board, must find that the value of the adjacent property will not be diminished by the placement of the manufactured house. The variance must state any conditions which may be set by the Board in granting the variance.

### **Subd. 3 – Permitted Accessory Uses.**

- A. Private garages and parking spaces ~~and car ports~~ for passenger cars, trucks, recreational vehicles and equipment.
- B. Home occupations, as provided under Subsection 500.485 of this Section.
- C. Detached accessory structures, as provided under Subsection 500.48 of this Section.
- D. Signs associated with home occupations, as provided under Subsection 500.35 of this Section.

### **Subd. 4 – Conditional Uses.**

- A. Governmental and public utility buildings and structures necessary for the health, safety, and general welfare of the community, provided any structure is not within 30 feet of any lot line.
- B. Residential planned unit developments regulated by Subsection 500.55 of this Code.
- C. Public or semi-public recreational buildings, community centers, day-care centers, libraries, museums, memorial buildings, senior citizens' centers, and bed and breakfast housing, provided any structure is not within 30 feet of any lot line.
- D. Churches and schools, provided any structure is not within 30 feet of any lot line.
- E. Day care facilities and nursery schools, provided not less than 30 square feet of outside play space per pupil is available.
- F. Nursing homes, rest homes, and retirement homes, provided the buildings are not less than 50 feet from a lot line abutting an R-1 single and two-family residential district.
- G. Manufactured home parks, provided they shall:
  - 1. Be served by public sewer and water systems.
  - 2. Have any private roadways installed to City specifications as determined by the City Council.
- H. State licensed residential facility serving from seven (7) through sixteen (16) persons or a licensed day care facility serving from thirteen (13) through sixteen (16) persons, providing:



1. The conditional use permit requirements of this Ordinance are considered and satisfied.
2. When abutting a residential use in an area guided toward future residential development within the Comprehensive Plan the required side yard width is doubled and a landscaped buffer yard is provided. The required landscaped buffer yard shall screen the buildings/structures and parking lots from the view of the abutting residential use. The City Clerk or designee shall approve the appropriateness of the landscaped buffer yard.
3. The use complies with off-street parking requirements set forth in this Ordinance.

**Subd. 5 – Interim Uses.**

- A. Off-premise commercial site improvements adjacent to commercially zoned property including fences, driveways, retaining walls, and parking areas. A principal use or structure is not required.

**Subd. 6 – Lot, Yard, Area and Height Requirements.**

- A.

Lot, yard, area, and height requirements*						
	Lot Area Sq. feet	Lot Width	Front Yard	Setbacks Side Yards	Rear Yard	Maximum Height
<b>Single and two-family existing lots (8/30/72)</b>	5,000	50 ft. or less	30 ft.	6 ft.	10 ft.	2 ½ stories or 30 feet
<b>Existing lots (8/30/72)</b>	5,000	50 ft. or more	30 ft.	10 ft.	10 ft.	2 ½ stories or 30 feet
<b>New lots</b>	15,000	75 ft.	30 ft.	10 ft.	10 ft.	2 ½ stories or 30 feet

\* Subsection 500.25, Subd. 6 (C)-(K) apply

- B.

Accessory uses						
	Lot Area Sq. feet	Lot Width	Front Yard	Setbacks Side Yards	Rear Yard	Maximum Height
<b>Single and two-family existing lots (8/30/72)</b>	5,000	50 ft. or less	Not allowed in front yard	6 ft.	5 ft. unless rear loading then 10 ft.	18 feet

Accessory uses						
	<b>Lot Area Sq. feet</b>	<b>Lot Width</b>	<b>Front Yard</b>	<b>Setbacks Side Yards</b>	<b>Rear Yard</b>	<b>Maximum Height</b>
<b>Existing lots (8/30/72)</b>	5,000	51 ft. or more	Not allowed in front yard	10 ft.	5 ft. unless rear loading then 10 ft.	18 feet
<b>New lots</b>	15,000	75 ft.	Not allowed in front yard	10 ft.	5 ft. unless rear loading then 10 ft.	18 feet

- C. Property setbacks are from lot stakes to building overhang.
- D. Where adjacent structures within the same block have front yard setbacks different from those required, the front yard minimum setback must be the average of the adjacent structures.
- E. On corner lot, the width of the side yard setback on the street side may not be less than fifteen (15) feet.
- F. Each attached single family dwelling must meet the lot, yard, area, and height requirements of this subdivision, with the exception that: (1) the side yard setback requirement is waived for the shared party wall, and (2) the lot area requirement is reduced to 7,500 square feet per dwelling unit. Single family attached dwellings sharing a party wall shall not house more than two dwelling units. Each attached single family dwelling unit must have separate and individual front and rear entrances, and separate and individual water and wastewater service.
- G. Church spires, water towers, and chimneys are exempt from height requirements.
- H. Lot coverage for principal and accessory buildings may not exceed 35% of the lot area, except that lots of 7,500 square feet or less may have lot coverage of up to but not exceeding 45 percent.
- I. Lots platted prior to this Code and not serviced by municipal water and wastewater will be considered as build-able at their current size. However, newly platted lots must be a minimum of ten acres when utilizing individual water and wastewater systems. All lots with access to city water and wastewater must utilize those services.
- J. Each lot must have a minimum frontage on a street of 35 feet.
- K. For non-conforming lots refer to Subsection 500.53.

## **500.27: R-2, MULTI-FAMILY RESIDENTIAL DISTRICT**

### **Subd. 1 – Intent.**

It is the intent of this district to provide for multiple-family dwelling unit structures and directly related complementary uses.

### **Subd. 2 – Permitted Uses.**

- A. All permitted uses as allowed in an “R-1” Single and Two-Family Residential District.
- B. Multiple-family dwelling units.
- C. Boarding and rooming houses.
- D. Nursing homes, retirement homes.
- E. Private clubs and lodges not operating for profit.
- F. Churches, places of worship.

### **Subd. 3 – Permitted Accessory Uses.**

- A. All permitted accessory uses as allowed in an “R-1” Single and Two-Family Residential District and subject to applicable setback and height criteria set forth in Subsection 500.25, Subd. 6.
- B. Off-street loading and parking as provided under Subsection 500.43 of this Chapter.

### **Subd. 4 – Conditional Uses.**

The following uses will require a conditional use permit based on the procedures set forth in Subsection 500.63 of this Code:

- A. All conditional uses, subject to the same provisions as allowed in the “R-1” Single and Two Family Residential District.
- B. Townhouses and residential planned unit developments.
- C. Clinics and other buildings for treatment of human beings contingent upon adequate parking being provided.
- D. Motels and hotels when located on property having access to state or federal highways.

## **Subd. 5 – Lot Area, Width, Setbacks, and Height.**

### **A. Minimum Lot Area.**

1. Single and two-family: as set forth in Subsection 500.25, Subdivision 6.
2. Town-houses: 7,000 square feet per lot.
3. Multiple-family: 16,000 square feet minimum up to eight units; each unit over eight shall provide an additional 2,000 square feet of lot area per unit.

### **B. The minimum lot width will be:**

1. Single and two-family: as set forth in Subsection 500.25, Subdivision 6. Each lot must have a minimum frontage on a street of 35 feet.
2. Town-houses: 60 feet. Each dwelling must have a minimum frontage on a front street of 35 feet.
3. Multiple-family: 150 feet with a minimum of 75 feet fronting on a public right-of-way.

### **C. Front yard setback: 30 feet.**

### **D. Side yard setback: 15 feet for each interior side yard; 25 feet for street side yard on corner lots. Multiple family structures shall provide an additional one-half (1/2) foot of setback per one (1) foot of height in excess of thirty-five (35) feet.**

### **E. Rear yard setback: 40 feet.**

### **F. Where adjacent structures within the same block have front yard setbacks different from those required, the front yard minimum setback will be the average of adjacent structures. If there is only one adjacent structure, the setback will be the average of the required setback and the setback of the adjacent structure. In no case will the front yard setback requirement exceed 30 feet.**

### **G. Maximum structural coverage: Forty-five (45) percent.**

### **H. Maximum height:**

1. Single and two family dwellings and townhomes: two and one-half (2½) stories or thirty (30) feet.
2. Multiple family dwellings: four stories or fifty (50) feet.

- I. Lots without municipal water and sewer shall not be considered for multiple-family use.

## **500.29: C-1, CENTRAL AND NEIGHBORHOOD COMMERCIAL DISTRICT**

### **Subd. 1 – Intent.**

The purpose of the C-1 Central and Neighborhood Commercial District is to provide for the establishment of commercial and service activities which draw and serve customers from the community and its surrounding areas within the ‘downtown’ area of the original townsite. The C-1 Central and Neighborhood Commercial District is intended to provide areas appropriate for pedestrian oriented retail uses, professional offices, professional services uses, single family uses, multiple family uses and mixed commercial/residential uses particularly in transitional situations between zones of varying intensities.

### **Subd. 2 – Permitted Uses.**

- A. Business services including banks, professional offices, and professional services.
- B. Post offices, City Hall, and other public/institutional uses.
- C. Clothing sales and services including tailor and dry-cleaning and laundry establishments.
- D. Retail sales and repair services including electronics, household appliances, furniture, lighting, or similar household trade items.
- E. Plumbing, electrical, and HVAC contractor shops providing they have retail showrooms.
- F. Food services including grocery stores, fruit, vegetable and meat markets, supermarkets, restaurants, cafes, delicatessens, candy shops, and bakeries whose products are sold only at retail on the premises.
- G. Personal services including drug stores, hardware stores, stationary and bookstores, news shops, apparel shops, showrooms for articles to be sold at retail, flower shops, commercial greenhouses, Laundromats, convenience stores and video stores.
- H. Personal services including barber and beauty shops, reducing salons, photographic shops, funeral homes, and tanning salons.
- I. Dwelling unit(s) in conjunction with commercial uses provided:
  - 1. Separate and independent access from the commercial unit(s) is provided.

2. The use is adjacent to or provides off-street parking, and
  3. The ground level is solely for permitted commercial activities.
- J. Governmental and public utility buildings and structures.
- K. Essential services.
- L. Theaters, bowling lanes, clubs, and lodges.
- M. Hotels, motels, taverns, private clubs, and lodges.
- N. Clinics and other buildings for the treatment of human beings.

**Subd. 3 – Permitted Accessory Uses.**

- A. Off-street parking and loading areas in compliance with Subsection 500.43 of this Code.
- B. Commercial or business buildings for a use accessory to the principal use providing the standards of Subsection 500.25, Subd. 6 are met.
- C. R-1 attached or detached garages where a non-conforming R-1 principal use has already been established, subject to Lot Area, Width, Setbacks, and Height requirements set forth under Ordinance 500.25, Subd. 6.

**Subd. 4 – Conditional Uses.**

- A. Open outdoor sales, services, or rental as an accessory use provided:
1. The area is fenced or screened from the abutting properties.
  2. Sales areas are properly surfaced to control dust.
- B. Automobile service stations including sales, gasoline service stations, and automobile repair garages, provided that a filling station, public garage, or motor fuel station may not be located within 200 feet of a school, church, hospital, or meeting place having a seating capacity of more than 50 persons.
- C. Public transportation terminals and service stations.
- D. Buildings used for research and testing laboratories, storage buildings, or distributing station.

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

#### **A. Lots of Record as of June 1, 2014:**

1. Front yard: None.
2. Side yard: None, unless abutting a residential district, then a landscaped buffer approved by the City Council is required.
3. Rear yard: None, unless abutting a residential district, then a landscaped buffer approved by the City Council is required.
4. Height: Maximum height of three (3) stories or 45 feet.

#### **B. Lots created after June 1, 2014:**

1. Minimum Lot Size: 10,000 square feet.
2. Minimum Lot Width: 100 feet.
3. Front/Corner Yard Setback: 20 feet.
4. Interior Side Yard Setback: 10 feet, plus landscaped buffer approved by the City Council if abutting a residential area.
5. Rear Yard Setback: 10 feet, plus a landscaped buffer approved by the City Council if abutting a residential area.
6. Maximum Height: Two stories or 35 feet.
7. Maximum Structural Coverage: Fifty (50) percent of lot area.

## **500.31: C-2 COMMUNITY COMMERCIAL DISTRICT**

### **Subd. 1 – Intent.**

The purpose of the C-2 Community Commercial District is to provide space for general business and commercial activities dependent upon high volumes of vehicular traffic. The intent of this Subsection is to provide locations where the vehicular-oriented activities can be maximized with minimal infringement on residential neighborhoods and with minimal conflicts with uses allowed in the C-1 Central and Neighborhood Commercial District.

### **Subd. 2 – Permitted Uses.**

- A. Auto accessory stores.
- B. Automobile (truck, snowmobile, motorcycle, and marine) sales and service.
- C. Commercial recreational services.
- D. Farm implement sales and services.
- E. Motels and hotels.
- F. Tourist oriented retail stores.
- G. Residences when occupied in connection with the commercial use and part of the principal structure.
- H. Restaurants, cafes, taverns, and grocery stores.
- I. Drive-in restaurants, drive-through banks, and other drive-in services.

### **Subd. 3 – Permitted Accessory Uses.**

- A. All permitted accessory uses in the “C-1” Central and Neighborhood Commercial District.
- B. Off-street parking and loading facilities including semi-trailers as provided for under Subsection 500.43 of this Code.

### **Subd. 4 – Conditional Uses.**

The following uses require a conditional use permit based on the proceedings set forth in Subsection 500.63 of this Code:

- A. All conditional uses allowed in the “C-1” Central and Neighborhood Commercial District.
- B. Open air display areas for the sale of manufactured products such as lawn and garden furniture, hardware items, nursery stock, or rental of manufactured products or equipment, including mobile home sales lots.
- C. Recreational camping areas provided:
  - 1. Land area is suitable and adequate for the proposed use.
  - 2. The site is serviced by a paved arterial street.



3. Utilities are provided to each site and approved by the City Council.

D. Retail sales and services on an individual basis.

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

A.

Lot area and yard setbacks				
Sq. feet	Lot Width	Front and Corner Yard	Interior Side Yard	Rear Yard
10,000 sf	100 ft.	30 ft.	10 ft.*	10 ft.*

\* A fifteen (15) foot landscaped buffer yard approved by the City Council is required for every commercial parcel directly abutting a residential lot.

B. Where adjacent structures within the same block have front yard setbacks different from those required, the front yard minimum setback is the average of the adjacent structures. If there is only one adjacent structure, the setback is the average of the required setback and the setback of the existing structure. The front yard setback requirement will not exceed 30 feet in any case.

C. On corner lots, the side yard shall be 30 feet or in line with the adjacent structures on the same block provided this does not reduce the build-able width to less than 30 feet.

D. Height: Maximum Height: 2 ½ stories or thirty (30) feet.

E. Maximum Structural Coverage: Fifty (50) percent.

F. Minimum lot frontage on a public street: Fifty (50) feet.

**500.33: I-1 GENERAL INDUSTRIAL DISTRICT**

**Subd. 1 – Intent.**

It is the intent of this district to provide for and allow a wide range of industrial, warehousing, and wholesale bulk commercial activities in locations that will not conflict with other uses.

### **Subd. 2 – Permitted Uses.**

- A. A branch of trade or industry employing labor and capital, activities not allowed in commercial districts, activities that do not require steam, diesel, or gasoline engines as a prime mover, excepting that no industry or use noxious by reason of odor, dust, smoke, noise, or gas may be included which interferes with other permitted uses.
- B. Light industrial uses including light manufacturing, fabrication, assembly, and production.
- C. Building materials, storage yards, lumber yards.
- D. Contractor equipment and storage yards.
- E. Food processing and distribution facilities.
- F. Wholesale business and warehousing.
- G. Industrial research laboratories.
- H. Machine shops, public and private garages.
- I. Public utility and service buildings and gas regulator stations.
- J. Outdoor recreational facilities.

### **Subd. 3 – Permitted Accessory Uses.**

- A. Off-street parking and loading as regulated by Subsection 500.43 of this Code.
- B. Open and outdoor storage, as regulated by Subsection 500.475 of this Code.
- C. Offices clearly subordinate and accessory to a principal use.
- D. Residences when on the same parcel as the principal use which are clearly subordinate to the principal use and which are occupied by an individual employed by the principal use.
- E. Signs, as regulated by Subsection 500.35 of this Code.

### **Subd. 4 – Conditional Uses.**

The following uses will require a conditional use permit based on the procedures set forth in Subsection 500.63 of this Code:

- A. Industrial storage and material recycling.
- B. Manufacturing of cement, concrete, lime gypsum, or plaster.
- C. Grain elevators and storage subject to height restrictions set forth as part of the conditional use permit.
- D. Livestock feeding yards, slaughtering of animals or stock yards.
- E. Other heavy industrial uses, except for the following:
  - 1. Distillation of bone, coal, tar, petroleum, refuse, grain, or wood.
  - 2. Explosive manufacture or storage.
  - 3. Garbage, offal, dead animals, refuse, rancid fats, incineration, glue manufacturing, size or gelatin manufacturing where the processes include the refining or recovery of products from animal refuse or offal.
  - 4. Petroleum or asphalt refining, manufacturing or storage.
  - 5. Smelting or refining of metals from ores.
  - 6. Steam and board hammers and forging presses.
  - 7. Storing, curing and tanning of raw, green, or salted hides or skins.
  - 8. Corrosive acid manufacturing or bulk storage thereof.
  - 9. Junk yards.

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

<u>Lot Area Sq.Feet</u>	<u>Yard Setbacks</u>			
	<u>Lot Width</u>	<u>Front</u>	<u>Sides</u>	<u>Rear</u>
One (1) acre	100 Ft.	40 Ft.	15 Ft.	20 Ft.

- B. For corner lots, the setbacks from all street lines shall be 40 Ft.
- C. Lot structural coverage shall not exceed 50%.

**500.35: SIGNS**

**Subd. 1 – Findings.**

- A. Exterior signs have a substantial impact on the character and quality of the

environment.

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

**Subd. 2 – Purpose and Intent.**

- A. Regulate the number, location, size, type, illumination, and other physical characteristics of signs within the city in order to promote the public health, safety, and welfare.
- B. Maintain, enhance, and improve the aesthetic environment of the city by preventing visual clutter that is harmful to the appearance of the community.
- C. Provide an effective means of communication, consistent with constitutional guarantees and the City's goals of public safety and aesthetics.
- D. Provide for fair and consistent enforcement of sign regulations under the zoning authority of the city.
- E. It is not the purpose or intent of this sign ordinance to regulate the message displayed on any sign, to regulate any building design or display not defined as a sign, or any sign which cannot be viewed from outside of a building.

**Subd. 3 – Effect.**

- A. Allow a wide variety of sign types in commercial zones and a more limited variety of signs in other zones subject to the standards herein.
- B. Allow certain small, unobtrusive signs incidental to the principal use of a site in all zones when in compliance with the requirements of this Section.
- C. Prohibit signs whose location, size, type, illumination, or other physical characteristics negatively affect the environment and where the communication can be accomplished by means having lesser impact on the environment and the public health, safety, and welfare.

- D. Provide for enforcement of this Section through the enforcement provisions contained in the Zoning Ordinance.
- E. A sign may be erected, displayed, or maintained in the city if it is in conformance with the provisions of these regulations.

**Subd. 4 – Definitions.**

- A. Commercial Speech: Speech advertising a business, profession, commodity, service, or entertainment.
- B. Multiple Tenant Site: A site which has more than one tenant and each tenant has a separate ground level exterior public entrance.
- C. Non-Commercial Speech: Dissemination of messages not classified as Commercial Speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service, and informational topics.
- D. Sign: Any letter, word, symbol, poster, picture, statuary, reading matter, or representation in the nature of advertisement, announcement, message, or visual communication whether painted, posted, printed, affixed, or constructed, including all associated brackets, braces, supports, wires, and structures, which is displayed for informational or communicative purposes.
- E. Sign, Abandoned: A sign shall be defined as abandoned when one of the following occurs:
  - 1. A sign and/or supporting structure remains without a message or whose display surface remains blank for a period of one or more years.
  - 2. A sign pertains to a time, event, or purpose which no longer applies.
  - 3. A sign remains after demolition of a principal structure and a building permit has not been issued for construction of a replacement principal structure.
- F. Sign, Awning: A building sign or graphic printed on or in some fashion attached directly to the material of an awning which projects over a window, walk, or the like. Any part of an awning which also extends over a door shall be considered an awning.
- G. Sign, Business: A sign attached to or supported by any structure used or intended for supporting or sheltering any use or occupancy.
- H. Sign, Canopy: A sign that is part of or attached to a canopy or structural protective cover over a door or entrance.

- I. Sign, Face: The surface of the sign upon, against, or through which the message of the sign is exhibited.
- J. Sign, Flashing: Any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use.
- K. Sign, Freestanding: A sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.
- L. Sign, Ground: A freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a total height not exceeding eight feet.
- M. Sign, Height: The vertical distance measured from the base of the sign at average grade to the top of the highest attached component of the sign.
- N. Sign, Illuminated: Any sign which has characters, letters, figures, designs, or outlines illuminated by internal or external electric lights or luminous tubes as part of the design.
- O. Sign, Monument: A freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a total height not exceeding eight feet.
- P. Sign, Nameplate: Any sign which states the name or address or both of the business or occupant of the lot where the sign is placed.
- Q. Sign, Non-Conforming: A sign and its support structure lawfully erected prior to the effective date of this Section which fails to conform to the requirements of this Section.
- R. Sign, Off-premise: A commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same premises where such business sign is located. Easements shall be considered to be outside such platted parcels of land and any sign located or proposed to be located in an easement or shall be considered an off-premise sign.
- S. Sign, On-premise: A sign which identifies or advertises an establishment, person, activity, goods, products, or services located on the premises where the sign is installed.
- T. Sign, Portable: A sign purposefully designed to be transported, including by trailer or on its own wheels.

- U. Sign, Projecting: Any sign which is affixed to a building or wall in such a manner that its leading edge extends more than two feet beyond the surface or such building or wall face.
- V. Sign, Pylon (pole sign): A freestanding sign which has its supportive structure(s) anchored in the ground and which has a sign face elevated above ground level by pole(s) or beam(s) and with the area below the sign face open.
- W. Sign, Roof: A sign erected and constructed wholly on and above the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.
- X. Sign, Rotating: A sign which revolves or rotates on its axis by mechanical means.
- Y. Sign, Structure: Any structure including the supports, uprights, bracing, and framework which supports or is capable of supporting any sign.
- Z. Sign, Stringer: A line of string, rope, cording, or an equivalent to which is attached a number of pennants.
- AA. Sign, Surface Area of: The entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface, not including any structural elements outside the limits of such sign and not forming an integral part of the display, (only one side of a double-face or V-type structure shall be used in computing total surface area.)
- BB. Sign, Suspended: A building sign that is suspended from the underside of a horizontal plane surface and is connected to this surface.
- CC. Sign, Wall: A building sign attached parallel to but within two feet of a wall, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign face.
- DD. Sign, Window: A building sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes/glass and is visible from the exterior of the window.
- EE. Total Site Signage: The maximum permitted combined area of all freestanding and wall identification signs allowed on a specific property.

#### **Subd. 5 – Permit Required.**

- A. No sign shall be erected, altered, reconstructed, maintained, or moved in the City without first securing a permit from the City. The content of the sign shall not be

reviewed or considered in determining whether to approve or deny a sign permit. Application for a permit shall be in writing and shall contain the following information:

1. Name(s) and address(es) of the owners of the display structure and property;
  2. The address(es) at which sign(s) is/are to be erected;
  3. The legal description of the subject property;
  4. The type of sign;
  5. The cost of the sign;
  6. The proposed sign dimensions and placement on the subject property;
  7. If the proposed sign is located within a public road right of way or an easement, the Applicant must obtain written permission from the appropriate jurisdiction. A copy of said written permission, if provided by a jurisdiction other than the City of Freeport, may be required.
- B. The permit application shall be accompanied by the required fee as specified by the fee schedule.
- C. The City shall approve or deny the permit within the time period under Mn. Stat. 15.99. If the requirements of this Section and other applicable standards contained within the Zoning Ordinance are met the permit shall be approved.

#### **Subd. 6 – Exceptions.**

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

#### **Subd. 7 – General Requirements.**

- A. Off premise signs may only be permitted as conditional uses on property abutting



Interstate 94 and zoned for industrial purposes subject to the procedures set forth in Subsection 500.63 of this Code.

B. Setbacks.

1. Signs shall be setback a minimum of five feet from a property line, except within the Central and Neighborhood Commercial District.
  2. Signs shall not be placed in highway, street, or utility easements until the Applicant obtains written permission from the appropriate jurisdiction. A copy of said written permission, if provided by a jurisdiction other than the City of Freeport, may be required. Signs proposed to be placed within municipal easements shall require issuance of an administrative permit.
  3. Signs shall not obstruct a clear sight triangle at each corner of any intersection of two public streets and/or the intersection of a public street and a railway. Said clear sight triangle shall be defined as beginning at the intersection of the projected curb lines of two intersecting streets or a street and a railway, then proceeding twenty-five feet along one curb line, then proceeding diagonally to a point of twenty-five feet from the point of beginning on the other curb line and then proceeding to the point of beginning. In the event the City Engineer finds the required sight triangle inadequate, additional clear areas shall be required.
- C. Signs or marquees which may extend beyond the building line may not be constructed to extend within one foot of the traveled roadway, provided that the sign does not extend more than seven feet from the building wall.
- D. No lighting for signs shall directly reflect light beams onto any public street or residential lot. Light trespass shall not exceed one-half (1/2) candle foot at any property line shared by the subject parcel and a public street/alley or the subject parcel and a residential district. External illumination for signs shall be constructed and maintained so that the source of light (e.g. bulb or illumination tube) is not visible from the public right-of-way or residential property.
- E. The owner, lessee or manager of any sign or the owner of the land on which the same is located, must keep grass or weeds and other growth cut and debris and rubbish cleaned up and removed from the lot on which the sign is located.
- F. A sign or sign structure that may be, or may hereafter become, rotted, unsafe or unsightly must be repaired or removed by the licensee, owner or manager of the property upon which the sign stands upon written notice of the City Clerk.
- G. Electrical signs must be installed in accordance with the current electrical code.
- H. The following are unauthorized signs:

1. Any sign, signal, marking, or device which is similar to or imitates an official traffic control device, railroad sign or signal, and/or emergency vehicle signal.
2. Signs painted, attached, or in any way affixed to trees, public utility poles, bridges, towers, or similar structures.
3. Signs obstructing any window, door, fire escape, stairway, or opening intended to provide light, air, or access to any building.

**I. Calculation of Sign Area:**

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

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

**Subd. 8 – Signs in Commercial Districts.**

- A.** The number of square feet of business sign area on a lot may not exceed five square feet for each lineal foot of lot frontage, or 20% of the building frontage area, or 125 square feet in area, whichever is greater.
- B. Multi-Tenant Structures:** One incidental sign not exceeding two square feet in area for each lineal foot of a building width or a total frontage of all buildings, announcing only the name or location or both of the multi-tenant structure may be erected without reduction of the square foot allowance.
- C.** Business signs may be attached to or erected flat against the wall of buildings. Business sign structures may be single face, double face, or “V” type. Business signs may not be erected within 100 feet of any abutting residential district if designed to face directly into such district.

- D. Signs attached to or erected flat against the wall of a building shall not extend in height above the wall of that building by more than 50% of the height of the wall to which the sign is attached.
- E. Signs mounted on a building on or above the roof line shall not extend in height above the roof line of that building by more than 50% of the height of the structure to which the sign is attached.
- F. Signs that are freestanding shall not extend in height above the roof line of the tallest building by more than 50% of the height of the tallest building located on the same parcel.

**Subd. 9 – Signs in Industrial Districts.**

- A. The number of square feet of business sign area on a lot may not exceed two square feet for each lineal foot of lot frontage or 10% of the building frontage area, or 75 square feet in area, whichever is greater.
- B. Business signs may be attached to or erected flat against the wall of buildings. If free standing, they must observe all setbacks and side yard lines. Business sign structures may be single face, double face, or “V” type. Business signs are subject to the same setback limitations as other buildings or structures in the districts in which they are located and may not be erected within 100 feet of any abutting residential district if designed to face directly into such district.
- C. Signs attached to or erected flat against the wall of a building shall not extend in height above the wall of that building by more than 50% of the height of the wall to which the sign is attached.
- D. Signs mounted on a building on or above the roof line shall not extend in height above the roof line of that building by more than 50% of the height of the structure to which the sign is attached.
- E. Signs that are freestanding shall not extend in height above the roof line of the tallest building by more than 50% of the height of the tallest building located on the same parcel.

**Subd. 10 – Signs in Residential Districts.**

- A. One name plate sign per lot is allowed.
- B. One home occupation ~~business~~ sign may be erected on each lot wherein a licensed home occupation is being conducted providing the sign does not exceed six square feet in area and must not be illuminated.
- C. A sign for a conditional-use property in an R-1 District or a sign for a permitted or

conditional use in the R-2 District is eligible for one sign per street frontage. Said sign shall not exceed thirty-two (32) feet in total area and ten (10) feet in height.

**Subd. 11 – Off-Premise Signs.**

- A. Off-premise signs shall only be permitted as a conditional use in industrial districts on lots abutting Interstate 94.
- B. The surface area of both sides of an off-premise sign located along Interstate Highway 94 shall not be more than six hundred (600) square feet.
- C. No off-premise sign shall be located within five hundred (500) feet of parks, historical sites, public picnic or rest areas, or within two hundred (200) feet of church or school property.
- D. No off-premise sign shall be located closer than thirty-five hundred (3500) feet horizontal distance from any other advertising sign measured in any direction.
- E. Off-premise signs shall not exceed thirty (30) feet in height above the average ground level at the base of the sign.

**Subd. 12 – Non-Conforming Signs.**

- A. Existing signs attached to a non-conforming building or pertaining to a non-conforming use may be continued only as long as the non-conforming use is permitted to continue. Such signs attached to a non-conforming building or pertaining to a non-conforming use shall not be expanded, intensified, or increased in number, area, height, or illumination. New signs shall comply with all regulations relating to signage 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. The level of illumination in terms of volume, brightness, area covered, and/or size shall not be allowed to increase over that of the prior-existing sign.
- B. The standards of Section 500.53 of the City Code (Non-Conformance) shall apply to signs.

**Subd. 13 – Substitution Clause.**

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

## **500.37: SHORELAND OVERLAY DISTRICT**

### **Subd. 1 – Intent.**

The uncontrolled use of shorelands in the city affects the public health, safety, and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of public health, safety, and welfare to provide for the wise development of shorelands and flood plain areas. The Legislature of Minnesota has delegated responsibility to the municipalities of the State to regulate the subdivision, use, and development of the shorelands and flood plains and thus preserve and enhance the quality of surface waters, preserve the economic and natural values of shorelands and provide for the wise utilization of waters and related land resources.

### **Subd. 2 – Shoreland Management Classification.**

In order to guide the wise development and utilization of shorelands of public waters for the preservation of water quality, natural characteristics, economic values and the general health, safety, and welfare, all public waters, in the city have been given a shoreland management classification. The public waters of the city have been classified by the Commissioner of the Department of Natural Resources as follows:

- A. Recreational Development Lake - Freeport Lake

### **Subd. 3 – Shoreland Overlay District.**

The shorelands of the city are designated as a shoreland overlay district. The purpose of the shoreland overlay district is to provide for the wise utilization of shoreland areas in order to preserve the quality and natural character of public waters of the city.

- A. Permitted uses. All permitted uses allowed and regulated by the applicable zoning district underlying this shoreland overlay district as indicated on the official zoning map of the city.
- B. Conditional uses. All conditional uses and applicable attached conditions allowed and regulated by the district as indicated on the official zoning map of this city. Notice of all requests for conditional uses and variances must be forwarded to the Department of Natural Resources at least ten days prior to any hearing.
- C. General provisions. The following standards apply to all shorelands of all public waters within the city. All development must utilize city utilities. Where the requirements of the underlying zoning district as shown on the official zoning map are more restrictive than those set forth herein, then the more restrictive standards apply:

- 1.

Freeport Lake Recreational Development Waters	
<b>Lot area (ft.)</b>	20,000
<b>Water frontage and lot at building line (ft.)</b>	150
<b>Building setback from ordinary high water mark (ft.)</b>	100
<b>Building setback from roads and highways (ft.)</b>	50 State or County 30 City or private
<b>Placement of roads and parking lots from ordinary high water mark (ft.)</b>	75
<b>Elevation of lowest floor above highest known water level (ft.)</b>	3
<b>Total lot area covered by impervious surface (%)</b>	30

#### **Subd. 4 – Lots of Record.**

Lots of record in the Office of the County Recorder on July 29, 1980, are allowed as building sites provided:

- A. Such is permitted in the zoning district,
- B. The lot is in separate ownership from abutting lands, and
- C. Sanitary and dimensional requirements of this Code are complied with insofar as practicable.

#### **Subd. 5 – Shoreland Alterations.**

- A. Removal of natural vegetation must be restricted to prevent erosion into public waters, to consume nutrients in the soil, and to preserve shoreland aesthetics. Removal of natural vegetation in the shoreland over land district is subject to the following provisions:
  - 1. Selective removal of natural vegetation will be allowed, provided that sufficient vegetative cover remains to screen cars, dwellings, and other structures when viewed from the water.
  - 2. Clear cutting of natural vegetation must be prohibited.
  - 3. Natural vegetation must be restored insofar as feasible after any construction project is completed in order to retard surface runoff and soil erosion.

4. The provisions of this Subsection do not apply to permitted uses that normally require the removal of natural vegetation.
- B. Grading and filling in shoreland areas or any alterations of the natural topography where the slope of the land is toward public water or a water course leading to a public water must be authorized by a conditional use permit. The permit may be granted subject to the conditions that:
1. The smallest amount of bare ground is exposed for a short time is feasible,
  2. Temporary ground cover, such as mulch, is used and permanent ground cover, such as sod, is planted.
  3. Methods to prevent erosion and trap sediments are employed, and
  4. Fill is stabilized to accepted engineering standards.
- C. Excavations on shorelands where the intended purpose is connection to public water, requires a permit from the City Council before construction is begun. The permit may be obtained only after the Commissioner of the Department of Natural Resources has issued a permit for work in the beds of public waters.

#### **Subd. 6 – Subdivision Provisions.**

- A. Land may not be subdivided that is held unsuitable by the City for the proposed use because of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply, or sewage disposal capabilities, or any other feature likely to be harmful to the health, safety, or welfare of future residents of the proposed sub-division, or of the City.
- B. Plats that are inconsistent with the shoreland district must be reviewed by the Commissioner of Natural Resources before approval by the municipality may be granted. The review requires that the proposed plats be received by the commissioner at least ten days before a hearing is called by the City for consideration of approval of a final plat.
- C. Copies of all plats within shoreland areas, must be submitted to the Commissioner within ten days of final approval by the City.

#### **Subd. 7 – Administration.**

- 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.**

<b>Angle of Parking</b>	<b>Stall Width</b>	<b>Stall Length</b>	<b>Aisle Width</b>
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 32 feet in width. An entrance to or exit from a commercial or industrial parking area may not be more than 40 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 five (5) 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. Compacted gravel driveways are permitted, however, where proposed gravel driveways terminate on a bituminous or concrete street the property owner shall install and maintain an entrance apron surfaced with concrete or bituminous. The entrance apron shall extend the width of the driveway and shall be installed from the edge of the bituminous or concrete roadway surface to the front property line.
- E. Whenever a commercial or industrial use 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.

- F. Necessary curbs or other protection against damage to adjoining properties, streets and sidewalks must be provided and maintained.
- G. 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 in conjunction with a commercial or industrial use and 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).

## **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, campers, recreational vehicles, 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). Junk vehicles as defined under Minnesota Statute 168B.011, Subd. 3, as may be amended, are specifically and completely prohibited from being stored outdoors. The property owner has the burden of proving a vehicle does not meet the ‘junk vehicle’ standard as set under the aforementioned statute.
  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, asphalt, concrete, etc.) and landscaped/screened so as to be less visible from adjacent properties. Areas in which grass or weeds grow through the surface shall not meet said ‘improved surface’ requirement. 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 feet in 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 not more than one cord of firewood which is for 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 improved through the use of compacted gravel, crushed rock, asphalt, or concrete and drive aisles and entries/exits shall be surfaced with asphalt and/or concrete. The storage area shall be maintained in a dust free manner as approved by the City. Proper storm water drainage shall be maintained at all times. Dirt, grass, or surfaces through which weeds/grass protrude do not meet the standard of an ‘improved’ as used above.
  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. Any accessory structure shall be firmly anchored to the surface regardless of structure size.
- 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;
  - 2. Roof type (e.g. gabled or hipped);
  - 3. Eave, overhang depth, and fascia/soffit type and appearance;
  - 4. 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. The City Council may approve a conditional use permit to accommodate larger accessory structures, however, at no time shall an accessory structure exceed the foundation size nor total square footage of the residential dwelling or commercial structure to which it is subordinate.

- I. Number of Accessory Structures Limited: For all districts a maximum of two (2) detached accessory building less than or equal to one-hundred twenty (120) square feet are 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.
- 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.

**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.

## **500.49: GENERAL PERFORMANCE STANDARDS**

### **Subd. 1 – Sewers.**

All wastewater facilities must be connected to municipal 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. Reflected glare or spill light shall not exceed five tenths (0.5) foot-candle when the source of light abuts any residential or public use parcel, or one (1.0) foot-candle when the source of light abuts any commercial or industrial parcel or any public right-of-way measured at one (1) foot above the ground at the property line. The latter requirement shall not apply to properties abutting public streets having foot-candle levels above one (1).

### **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.

### **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.

### **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.



#### **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.

### **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 also 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.

## **500.69: 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.

### **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.

## **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.