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ZONING ORDINANCE

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SECTION 1 INTENT AND PURPOSE

Subdivision 1: GENERAL PURPOSE

Pursuant to the authority conferred by the State of Minnesota in Section 462.357, as amended, and for the purpose of:

1. promoting and protecting the public health, safety, and general welfare of the residents of the incorporated area of the City of Gilman;
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.

Subdivision 2: ADULT USES

It is the intent of the Council to not provide for Adult Uses within the City of Gilman at this time. Benton County has adopted regulations governing, and provided adequate locations for Adult Uses. The Council finds that the Adult Uses are more appropriate in the County and outside the corporate limits, given the present development of the City in relation to its limited size. Therefore, it is the City's intent to promote Adult Uses outside of the corporate limits. The Council further adopts and incorporates by

reference Benton County's definitions and rules of interpretation as they apply to Adult Uses.

Subdivision 3: ZONING ORDINANCE SCOPE

This Ordinance which shall be known and cited as the Gilman Zoning Ordinance, an ordinance setting minimum and maximum standards for the height and size of buildings, the size of yards, courts and other open spaces, the density of population, the location and use of buildings and land for trade, commerce, industry, residence and other purposes; creating districts for said purposes and establishing the boundaries thereof; providing for changes in regulations, restrictions and boundaries of such districts; defining certain terms used herein; providing for enforcement and administration, and imposing penalties for the violation of this Ordinance.

SECTION 2
TITLE

This Ordinance shall be known as "The Zoning Ordinance of Gilman, Minnesota" and will be referred to as "this Ordinance."

SECTION 3 JURISDICTION, APPLICATION AND INTERPRETATION

Subdivision 1: JURISDICTION

This Ordinance applies to all of the area within the corporate limits of the City of Gilman.

Subdivision 2: APPLICATION AND INTERPRETATION

1. Higher Standards Prevail. Where the conditions imposed by any provision of this Ordinance are either more or less restrictive than comparable conditions imposed by any law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.
2. Building Permits.
 - A. Permit Required. No structure, fence or sign may be erected, converted, enlarged, moved, demolished, reconstructed or altered without first obtaining a Permit, and no structure or land may be used for any purpose nor in any manner which is not in conformity with the provisions of this Ordinance. The Building Inspector will issue a Permit only after determining that the building plans, together with the application, comply with this Ordinance. If the Building Code does not require a Building Permit, a Permit must still be obtained to ensure compliance with setback, height and use restrictions and this Ordinance.
 - B. Application. Permit Applications must be made to the City Clerk on forms to be furnished by the City Clerk's office.
 - C. Fee. Each applicant shall pay at the time of the application the required fees established by resolution of the City Council.

- D. Plan. Each Permit application to construct or alter any building with a foundation must be accompanied by a Certificate of Survey, if deemed necessary, drawn to scale showing the dimensions of the lot to be built upon and the size and location of the building and accessory buildings to be erected as well as existing structures, easements and ingress and egress routes. Permit Applications must also contain any other information the Building Inspector or City Clerk deems necessary.
- E. Municipal Improvements. All municipal improvements serving the property must be completed (with roadways having at least one lift of blacktop) before building permits will be issued.
- F. Certificate of Occupancy. All newly constructed buildings or changes in use must obtain a Certificate of Occupancy from the Building Inspector prior to use or occupancy of the building.
- G. Outlots. No building permit shall be issued for construction on a lot or parcel designated as an outlot in a duly recorded plat.

Subdivision 3: SEPARABILITY

1. If any court of competent jurisdiction shall declare any provision of this Ordinance to be invalid, such judgment shall not affect any other provision of this Ordinance not specifically included in said judgment.
2. If any court of competent jurisdiction declare invalid the application of any provision of this Ordinance to a particular property, building or other structure, such judgment shall not affect the application of said provision to any other property, building or structure not specifically included in said judgment.

Subdivision 4: LOTS OF RECORD

All lots which are part of a subdivision legally recorded with the Benton County Recorder prior to the passage of this Ordinance shall be considered lots of record and legally buildable even though such lot or lots may not conform to the minimum requirements of this Ordinance, provided the setback requirements of this Ordinance are complied with.

SECTION 4 RULES AND DEFINITIONS

Subdivision 1: RULES

For purposes of this Ordinance, the following rules apply:

1. **Tense.** The present tense includes the past and future tenses, and the future tense includes the present.
2. **Measurements.** All measured distances shall be to the nearest integral foot. Unless clearly specified to the contrary, all references to height shall be measured from "grade" as defined by this section.
3. **Definitions.** Whenever a word or term appears in the text of this Ordinance, its meaning should be construed as set forth in Subdivision 2 of this Section 4. If a term is not defined in this Ordinance, guidance should first be obtained by looking to the Uniform Building Code as adopted by the City.

Subdivision 2: DEFINITIONS

For the purpose of this Ordinance, the following terms are defined:

1. **ACCESSORY BUILDING.** A subordinate building or structure on the same lot as the principal structure or part of the principal structure, occupied by or devoted exclusively to an accessory use.
2. **ACCESSORY USE.** A use incidental to, subordinate to, and auxiliary to the principal permitted use of the premises.
3. **ALLEY.** Any dedicated public way providing a secondary means of ingress and/or egress to land.
4. **ANTENNA.** Any structure or device used to collect or transmit electrical magnetic waves, including but not limited

to directional antennas such as panels, microwave and satellite dishes, and omni-directional antennas such as whip antennas.

5. **AUTOMOBILE RECYCLING YARD.** A place maintained for keeping, storing or piling in commercial quantities, whether temporarily, irregularly, or continually; buying or selling at retail or wholesale any old, used or second-hand material of any kind, including used motor vehicles, machinery, and/or parts thereof, cloth, rugs, clothing, paper, rubbish, bottles, rubber, iron or other metals, or articles which from its worn condition render it practically useless for the purpose for which it was made and which is commonly classed as junk. This shall include a lot or yard for the keeping of unlicensed motor vehicles or the remains thereof for the purpose of dismantling, sale of parts, sale as scrap, storage or abandonment. This shall not prohibit the keeping of one (1) unlicensed motor vehicle within a garage or other structure in residential districts.
6. **AWNING.** A roof like shelter or cover, generally made of fabric or other material designed for protection from the weather or as a decorative embellishment, projecting from a structure's wall or roof over a window, door, deck, walk or the like.
7. **BASEMENT.** That portion of a floor of a building which is wholly or partially, up to fifty (50) percent, underground or below grade.
8. **BILLBOARD.** A free standing sign which directs attention to a business, commodity, service or entertainment not exclusively related to the premises where such a sign is located or to which it is affixed.
9. **BOARDING OR ROOMING HOUSE.** A boarding or rooming house shall be construed to mean any dwelling occupied in any such manner that certain rooms in excess of those used by members of the immediate family and occupied as a home or family unit, are leased or rented to

persons outside of the family, without any attempt to provide therein cooking or kitchen accommodations, providing that accommodations are not provided for more than ten (10) persons.

10. **BOUNDARY LINE.** Any line indicating the bounds or limits of any tract or parcel of land, or also a line separating the various zoning use districts as shown on the Official Zoning Map.
11. **BUILDABLE LOT AREA.** The lot area for purposes of determining compliance with the minimum lot area requirements of the Zoning Ordinance is the contiguous area of a lot which is sufficient in area to accommodate the construction of water supply systems, sewage treatment systems (including sewer lines), buildings, and driveways, while still providing for adequate setbacks. The following shall not be included in calculating the lot area: floodways, wetlands, wetland buffers, right-of-ways/road easements, bluffs, property below the ordinary high water mark of a public water as recognized by the Minnesota Department of Natural Resources or within the meander line of a river or stream, or poor soils which are unsuitable for individual sewage treatment systems. The lot area may contain soils with certain limiting characteristics such as shallow bedrock or high water table.
12. **BLUFF.** A topographic feature such as a hill, cliff or embankment having the following characteristics (an area with an average slope of less than eighteen (18%) percent over a distance of fifty (50) feet or more shall not be considered part of the bluff):
 - A. Part or all of the feature is located in a shoreland area:
 - B. The slope rises at least twenty-five (25) feet above the ordinary high water level of the water body;

- C. The grade of the slope from the toe of the bluff to a point twenty-five (25) feet or more above the ordinary high water level averages thirty (30%) percent or greater; and
 - D. The slope must drain toward the waterbody.
- 13. **BUILDING.** Any structure, either temporary or permanent, having a roof, and used or built for the sheltering or enclosure of any person, animal, or chattel or property of any kind, when any portion thereof is completely separated from every other part thereof by division walls from the ground up and without openings, each portion of such building shall be deemed as a separate building.
 - 14. **BUILDING, PRINCIPAL.** A building or structure in which is conducted the main or principal use of the lot on which said building or structure is situated.
 - 15. **BUILDING HEIGHT.** The vertical distance measured from the average ground level adjoining the building to the highest point of the roof surface if a flat roof, to the deck line of mansard roofs, and to the mean height level between eaves and ridge of gable, hip and gambrel roofs.
 - 16. **BUILDING LINE.** A line measured across the width of the lot at the point where the main structure is placed in accordance with the setback requirements of this Ordinance.
 - 17. **CANOPY.** A permanent roof structure attached to and supported by the building and projecting over public property but does not include a projecting roof.
 - 18. **CLEAR-CUTTING.** The removal of all or substantially all of a stand of trees.
 - 19. **CLINIC.** A public or proprietary institution providing diagnostic, therapeutic or preventive treatment of ambulatory patients by one or more doctors.

20. **COMMERCIAL WIRELESS TELECOMMUNICATIONS SERVICES.** Licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.
21. **COMPREHENSIVE MUNICIPAL PLAN.** A compilation of the City's policy statements, goals, standards, and maps for guiding the physical, social and economic development, both private and public, of the municipality and its environs, including air space and subsurface areas necessary for mined underground space development pursuant to Minnesota Statutes Sections 469.135 to 469.141, and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, including proposed densities for development, a community facilities plan, a transportation plan, and recommendations for plan execution. The comprehensive plan represents recommendations for the future development of the community.
22. **CONDITIONAL USE.** A use which, because of unique characteristics, cannot be classified as a permitted use in any particular district. After due consideration, in each case, of the impact of such use upon neighboring land and of the public desirability for the particular use at the particular location, a "Conditional Use Permit" allowing the use may be granted.
- See Section 22 for details on the procedure and requirements for granting a Conditional Use Permit.
23. **CONVENIENCE STORE.** A retail business with primary emphasis placed on providing the public a convenient location to quickly purchase from a wide variety of consumable products (predominantly food or food and gasoline) and services.

24. **DAY CARE.** The regular providing of care or supervision for pecuniary gain or otherwise to one or more children for periods of less than twenty-four (24) hours per day.
25. **DIRECTIONAL SIGN.** A sign erected on public or private property which bears the address and/or name of a business, institution, church or other use or activity plus directional arrows or information on location.
26. **DWELLING.** A building or portion thereof, designed or used exclusively for residential occupancy, but not including hotels, motels, and garage space.
27. **DWELLING, MULTIPLE FAMILY.** A building designed with three (3) or more units for occupancy by three (3) or more families living independently of each other.
28. **DWELLING, SINGLE FAMILY.** A dwelling occupied by only one (1) family, and so designed and arranged as to provide cooking and kitchen accommodations and sanitary facilities for one (1) family only.
29. **DWELLING, TWO FAMILY.** A dwelling so designed and arranged to provide cooking and kitchen accommodations and sanitary facilities for occupancy by two (2) families.
30. **DWELLING UNIT.** A dwelling containing living quarters including sleeping, eating, cooking and sanitation for a single family.
31. **ESSENTIAL SERVICES.** The phrase "essential services" means the 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.

32. **FAMILY.** A family is: (i) any number of persons living together in a room or rooms comprising a single dwelling unit and related by blood, marriage, adoption or any unrelated persons who reside therein as though a member of the family; or (ii) any group of five (5) or fewer persons not so related but inhabiting a single dwelling unit.
33. **FARMING.** The cultivating or pasturing of a parcel of land or using it for the raising of livestock or fowl for commercial purposes.
34. **FARMSTEAD.** Property on which structures and a farm dwelling are located for management, storage and general farm operation.
35. **FENCE.** Any lineal structure including walls, hedges or similar barriers used to prevent access by persons or animals or acting as a visual or sound barrier.
36. **FENCE, OPEN.** A Fence that permits 50% or greater visibility.
37. **FENCE, SOLID.** A Fence that permits less than 50% visibility.
38. **FLOOR AREA.** The area within the exterior walls of the main building or structure as measured from the outside walls at the ground level, not including garages or unenclosed porches.
39. **FLOOR-AREA-RATIO.** A quotient which expresses the total gross floor area as a multiple of the total area of the lot. The quotient is determined by dividing the gross floor area of all buildings as measured from exterior walls on any lot by the area of the lot.

40. **FRONTAGE.** The width of a lot or building site measured on the line separating it from the public street or way. The front line of corner lots shall be considered the shortest street line.
41. **GARAGE, COMMERCIAL.** Any premises used for storing or caring for motor vehicles, or premises where any such motor vehicles are equipped for operation, are repaired or are kept for remuneration, for hire or for sale.
42. **GARAGE, PRIVATE.** An accessory building designed or used for the storage of motor vehicles, boats, trailers, and recreational equipment owned and used by the occupants of the building to which it is accessory.
43. **GASOLINE SERVICE STATION.** A building or structure designed or used for the retail sale or supply of fuels, lubricants and other operating commodities for motor vehicles, and including the customary space and facilities for the installation of such commodities on or in such vehicles, but not including special facilities for the painting, major repair or similar servicing thereof.
44. **GRADE.** The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the structure and a line five (5) feet from the structure.
45. **GREEN SPACE.** An area of natural growth such as grass, trees, or shrubs.
46. **HARDSHIP.** The property in question cannot be put to a reasonable use if used under conditions allowed by this Ordinance and the City's other official controls, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone will not constitute an undue hardship if reasonable use for the property exists under the terms of this Ordinance.

47. **HOME OCCUPATION.** Any gainful occupation engaged in by the occupants of a Dwelling at or from the Dwelling when carried on within the Dwelling Unit and meeting the following requirements:
- A. No part of the occupation may be carried on in the garage or in an Accessory Building.
 - B. Only residents of the Dwelling may be employed on the premises.
 - C. The home occupation may not require internal or external alterations or involve construction features not customarily found in Dwellings.
 - D. The entrance to the space devoted to such occupation must be located within the Dwelling.
 - E. No exterior display or storage of equipment or materials used in the occupation.
 - F. No exterior signs, except as allowed in the sign regulations for the zoning district in which such home occupation is located.
 - G. The use of the Dwelling Unit for the home occupation must be clearly incidental and subordinate to its residential use.
 - H. Except for a day care, not more than 15% of the Dwelling Unit's habitable floor area shall be used in the conduct of the home occupation.
 - I. No traffic may be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood.

- J. Any need for parking generated by the conduct of the home occupation must be met off the street and not within the front yard.
 - K. Permissible home occupations include, but are not limited to the following: art studio, dressmaking, special offices of a clergyman, lawyer, architect, engineer, accountant; and real estate agent or appraiser, when located in a Dwelling Unit occupied by the same; miscellaneous services including sales, repairs, fix-it shops, etc.; and teaching with musical, dancing, and other instruction limited to one (1) pupil at a time (except that day care and group homes shall be permitted to have such numbers as is permitted within the applicable zoning district).
- 48. **KENNEL.** An accessory structure or fenced area whose principal purpose is to house or confine two (2) or less pets.
 - 49. **KENNEL, COMMERCIAL.** A structure, building or fenced area whose principal purpose is to house or confine three (3) or more pets.
 - 50. **LAND USE PLAN.** A compilation of policy statements, goals, standards, and maps, and action programs for guiding the future development of private and public property. The term includes a plan designating types of uses for the entire municipality as well as a specialized plan showing specific areas or specific types of land uses, such as residential, commercial, industrial, public or semipublic uses or any combination of such uses. A land use plan may also include the proposed densities for development.
 - 51. **LOT.** A lot is a piece or parcel of land occupied or to be occupied by a building, structure or use, or by other activity permitted thereon and including the open spaces required under this Ordinance, and having legal access to a public street.

52. **LOT AREA.** The area of a horizontal plane within the lot lines.
53. **LOT, CORNER.** A lot situated at the junction of two (2) or more intersecting streets, or a lot at the point of deflection in alignment of a single street, the interior angle of which is one hundred thirty-five (135) degrees or less.
54. **LOT, COVERAGE.** The part of percentage of the lot occupied by buildings or structures, including accessory buildings or structures.
55. **LOT DEPTH.** The shortest horizontal distance between the front lot line and the rear lot line measured at a right angle.
56. **LOT FRONTAGE.** The front of a lot shall be that boundary abutting a public right-of-way having the least width. If no public right of way exists, the boundary abutting a private right of way leading to a public right of way shall be used to determine lot frontage
57. **LOT LINE.** A property boundary line of any lot held in single or separate ownership, except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the edge of the street or alley right-of-way.
58. **LOT OF RECORD.** A lot which is part of a subdivision, the map of which has been recorded in the office of the Benton County Recorder or a lot described by metes and bounds, the deed to which has been recorded in the office of the Benton County Recorder prior to the effective date of this Ordinance and which was a legally buildable lot as of the date of this Ordinance.
59. **LOT WIDTH.** The shortest horizontal distance between the side lot lines measured at right angles to the lot depth.
60. **MANUFACTURED HOME.** A structure, transportable in one or more sections, which in the traveling mode, is eight

(8) body feet or more in width, or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a Dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of the United States Department of Housing and Urban Development or the head of any successor agency with responsibility for enforcement of federal laws relating to manufactured homes, and complies with the standards established under this Code and Minnesota Statutes Chapter 327, as amended.

61. **MANUFACTURED HOME PARK.** Any site, lot, field or tract of land upon which two (2) 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.
62. **MODULAR HOME.** A non-mobile housing unit that is basically fabricated at a central factory and transported to a building site where final installations are made, permanently affixing the module to the site, and bears a seal from the State of Minnesota stating that the unit is approved by the State Building Inspector certifying that the unit is a manufactured building and complies with the State Building Code. A modular home shall be congruous to a single-family dwelling.
63. **MOTEL/HOTEL.** A motel or hotel is a business comprising a series of attached, semi-detached or detached rental units with or without eating facilities for the overnight accommodation of transient guests and travelers.
64. **MPCA.** Means the Minnesota Pollution Control Agency.

65. **NONCONFORMING USE.** Any use of land or a structure established before the effective date of this Ordinance, which use is no longer permitted within that particular zoning district.
66. **NONCONFORMING STRUCTURE.** A structure which, although it conformed to the legal requirements at the time of its construction, no longer conforms to the requirements of this Ordinance (including but not limited to characteristics such as setbacks, building height, or lot coverage).
67. **OFFICIAL MAP.** A map adopted in accordance with Minnesota Statutes Section 462.359 which may show existing and proposed future streets, roads, and highways of the municipality and county, the area needed for widening of existing streets, roads, and highways of the municipality and county, existing and proposed air space and subsurface areas necessary for mined underground space development pursuant to Minnesota Statutes Sections 469.135 to 469.141, and existing and future county state aid highways and state trunk highway rights-of-way. An official map may also show the location of existing and future public land and facilities within the municipality. In counties in the metropolitan area as defined in Minnesota Statutes Section 473.121, official maps may for a period of up to five (5) years designate the boundaries of areas reserved for purposes of soil conservation, water supply conservation, flood control and surface water drainage and removal including appropriate regulations protecting such areas against encroachment by buildings, other physical structures or facilities.
68. **PARKING SPACE.** An enclosed or unenclosed area of not less than two hundred (200) square feet, plus adequate access drives to streets, but exclusive of access or maneuvering area to be used exclusively as a temporary storage space for one (1) motor vehicle and which has a

surface constructed of asphalt, concrete or a similar permanent hard surface.

- 69. **PERMITTED USE.** A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements and performance standards (if any) of such district.
- 70. **PERSON.** Any individual, corporation, firm, partnership, association, organization or other group acting as a unit. It also includes any executor, administrator, trustee, receiver or other representative appointed by law. Whenever the word "person" is used in any section prescribing a penalty or fine, it shall include the partners or members of any corporation, who are responsible for the violation.
- 71. **PLAT.** The drawing or map of a subdivision prepared for filing of record pursuant to Minnesota Statutes Chapter 505 and containing all elements and requirements set forth in applicable local regulations adopted pursuant to Minn. Statutes §462.358 and Minnesota Statutes Chapter 505.
- 72. **PUBLIC UTILITY.** Persons, business entities or governments supplying gas, electric, transportation, sewer, water or land line telephone service to the general public, not including commercial wireless telecommunication service facilities.
- 73. **RECREATIONAL EQUIPMENT.** Equipment including but not limited to boats, canoes, snowmobiles, all-terrain vehicles, campers and the like.
- 74. **REZONING.** Changing any parcel or parcels from one zoning district to another through procedures established by this Ordinance.
- 75. **RIGHT-OF-WAY.** Land dedicated and publicly owned, in fee or by easement, for use as a street, alley, trail, or walkway.

76. **SETBACK.** The minimum horizontal distance between a building and the lot line.
77. **SCHOOL.** An accredited learning institution, providing primary or secondary instructions.
78. **SIGN.** A name, identification, description, display, illustration or device which is affixed to, painted, or represented directly or indirectly upon a building, structure, land, rock, pole, fence or tree and which directs activity, or which is displayed for informational purposes about a person, institution, organization or business and is visible to the general public.
79. **STORY.** That portion of a building included between the surface of any floor and the surface of the floor next above it, or the space between such floor and the ceiling next above it.
80. **STREET FRONTAGE.** The length of the side of a City lot fronting on the street, or, in the case of a corner lot, the shortest side of the lot.
81. **STRUCTURE.** Anything which is built, constructed or erected; an edifice or building of any kind; or any piece of work artificially built up and/or composed of parts joined together in some definite manner.
82. **STRUCTURAL ALTERATION.** Any change in a building or structure affecting its supporting members, including but not limited to bearing walls or partitions, beams, girders, roof, and all exterior walls. Incidental repairs, such as reroofing or residing, are not considered structural alterations.
83. **SUBDIVISION.** The separation of an area, parcel, or tract of land under single ownership into two (2) or more parcels, tracts, lots, or long-term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads, or alleys, for residential, commercial,

industrial, or other use or any combination thereof, except those separations:

- A. Where all the resulting parcels, tracts, lots, or interests will be twenty (20) acres or larger in size and five hundred (500) feet in width for residential uses and five (5) acres or larger in size for commercial and industrial uses;
 - B. Creating cemetery lots;
 - C. Resulting from court orders; or
 - D. The adjustment of a lot line by the relocation of a common boundary determined by the City Clerk to be of inconsequential effect on either property involved.
84. **TEMPORARY SIGN.** Any sign, including without limitation, banners, pennants and private flags, that is intended to be transportable or moveable, whether fixed or not to the ground or a structure.
85. **TOWER.** Any free-standing ground or roof-mounted pole, spire, structure or combination of them taller than fifteen (15) feet, including supporting lines, cables, wires, braces and masks, not wholly contained within a building or other structure and intended primarily for the mounting of an antenna, meteorological device or similar apparatus above grade.
86. **TOWER, COMMERCIAL.** A Tower designed or used for Commercial Wireless Telecommunications Services, public radio transmission or commercial television transmission.
87. **TOWER, MULTI-USER.** A Tower with antennas of more than one Commercial Wireless Telecommunications Service provider or governmental entity attached.
88. **TOWER, SINGLE-USER.** A Tower with only the antennas of a single user attached, although the Tower may be

designed to accommodate antennas of multiple users as required by this Ordinance.

- 89. **TOWNHOUSE.** A single family dwelling utilizing a cluster or row arrangement where each dwelling unit has its own private entrance, and one or more common walls. Townhouse may be located so that all dwelling units are on the same lot or so that each dwelling unit has its own lot.
- 90. **USE.** The purpose for which land or buildings thereon are designed, arranged, or intended to be occupied or used, or for which they are occupied or maintained.
- 91. **UTILITY EASEMENT.** A grant by a property owner for the use of a strip of land for the purpose of constructing and maintaining utilities, including but not limited to sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage ways and gas lines.
- 92. **VARIANCE.** The waiving of a specific provision of the Zoning Ordinance in instances where the strict enforcement of that provision would cause undue hardship because of circumstances unique to the individual property under consideration. See Section 25 for details on the procedure and requirements for granting a variance.
- 93. **WALL SIGN.** A Sign painted on or placed against or attached to the exterior wall surface of a building or structure.
- 94. **YARD.** An open space on the lot which is unoccupied and unobstructed from its lowest level to the sky.
- 95. **YARD, FRONT.** That portion of the yard located between the front lot line, the side lot lines, and the front building line.
- 96. **YARD, REAR.** That portion of the yard located between the rear building line, the side lot lines, and the rear lot line.

97. **YARD, SIDE.** That portion of the yard located between the front and rear yards and between the side building lines and the side lot lines.
98. **CITY CLERK.** As appointed by the City Council.

SECTION 5 GENERAL REQUIREMENTS

Subdivision 1: INTENT

The intent of this Section of the Zoning Ordinance is to establish general development performance standards. The regulations provided in this Section shall apply equally to all districts except where special provisions provide otherwise.

Subdivision 2: ACCESSORY BUILDINGS.

1. Principal Structure Required. An Accessory Building may not be constructed or located on a parcel of property until after the principal structure has been constructed on that parcel.
2. Doors. Doors and windows of Accessory Buildings must be constructed so that they do not extend beyond the lot lines when they are opened.
3. Rear Yard Only. Accessory Buildings may only be constructed in the rear yard of the Lot.

Subdivision 3: OUTSIDE STORAGE, SCREENING AND LANDSCAPING

1. Outside Storage. All materials, waste, recyclables, debris, supplies and equipment must be stored within a building or structure which is on a permanent foundation, except the following:
 - A. Usable laundry equipment (clothes lines) in Residential Districts;
 - B. Recreational equipment and currently licensed motor vehicles and trailers; or
 - C. Temporary storage of construction and landscaping material currently being used on the premises.

2. Landscaping Required. In all zoning districts the lot area remaining after providing for buildings, parking areas, driveways, loading areas, sidewalks or other structures must be planted and maintained in grass, sodding, shrubs or other acceptable vegetation or landscaping techniques. All new uses other than single and two family dwelling units must provide a landscaping plan as part of their site plan review.
3. Topsoil Removal. No person shall strip, excavate or otherwise remove topsoil for sale or for use off premises except (i) in connection with the construction or alteration of a building on the premises or (ii) in connection with excavation or grading incidental to the work on the premises.

Subdivision 4: UNPLATTED PROPERTY

1. Survey Required. Any person desiring to improve unplatted property shall submit to the City a survey of the premises and information on the location and dimensions of proposed buildings, location of easements crossing the property and other information which may be necessary to insure conformance with this Ordinance.
2. Consideration for Planned Streets. All buildings must be located so that they will not obstruct planned future streets.
3. Survey Review. The Council will review the lot survey to determine if the division and creation of the property was in compliance with statutes and regulations applicable at the time of the division. If the Council finds that the division of the property was in compliance with legal requirements applicable at the time of the division, the lot shall be recognized and development of the property shall be allowed in the conformance with this Ordinance. If the Council finds that the division of the property was not in compliance with legal requirements applicable at the time of

the division, the lot shall not be recognized and current standards and procedures for platting shall be imposed.

4. Dedications and Dedication Fees. As a condition of allowing the development of unplatted property the City Council may require that the property owner provide reasonable land, easement and right of way dedications (including applicable park dedications or fees in lieu of land) which would have been required had the property been platted prior to its development.

Subdivision 5: DWELLING UNIT RESTRICTIONS

1. Basement and Temporary Houses Prohibited. No cellar, garage, tent, accessory building, or basement (except when used as an accessory portion of the living space of the family or as an earth sheltered home as defined in Minnesota Statutes §216C.06, Subd. 2, as amended) may be used as a residence or Dwelling Unit.
2. One Principal Structure per Lot. Except and in the case of planned unit developments and R-2 Districts, no more than one (1) principal building may be located on a lot.
3. Manufactured Homes. Manufactured Homes built in conformance with Minnesota Statutes Sections 327.31 to 327.35, as amended, and that comply with all other applicable requirements of this Ordinance and federal and state law are permitted in the same manner as other single family residential units.

Subdivision 6: GENERAL PERFORMANCE STANDARDS

1. Connection to Sanitary Sewer Required. All newly constructed buildings required to have sanitary sewer by the Building Code, Ordinance, or other applicable law, rule, or regulation must be connected to City sewer services.

2. Water required. All newly constructed buildings required to have a drinking water supply by the Building Code, Ordinance, or other applicable law, rule, or regulation must have a supply of potable water. A test for nitrate nitrogen shall be completed. The test shall be completed by a laboratory certified by the Minnesota Department of Health. The test must be conducted within one (1) year prior to the submission of the final plat. A nitrate nitrogen level higher than ten (10) milligrams per liter (mg/l) shall be considered an unsuitable water supply. This requirement may be waived provided the property owner enters into an agreement with the City that no drinking wells will be installed or used.
3. Lighting. Any lighting used to illuminate an off-street parking area, gas station filling area, sign or other structure, must be arranged to deflect light away from any adjoining Residential Zone and from public streets. Direct or sky-reflected glare from floodlights or from high temperature processes such as combustion or welding may not be directed onto any adjoining property. Lights must be hooded or controlled so that they do not light adjacent property. Bare incandescent light bulbs are not permitted in view of adjacent property or public right-of-way.
4. Smoke Emissions. The emission of smoke by any use shall be in compliance with and regulated by the Minnesota Pollution Control Standards, as amended.
5. Dust and Other Particulate Matter. The emission of dust, fly ash or other particulate matter by any use shall be in compliance with and regulated by the Minnesota Pollution Control Standards, as amended.
6. Odors. The emission of odorous matter in such quantity as to be offensive shall not be permitted. The emission of odor by any use shall be in compliance with and regulated by the Minnesota Pollution Control Standards, as amended.

7. Noise. All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness and as measured at any property line, shall not exceed the minimum standards established by the State of Minnesota.
8. Fuel Storage. No tank for the storage of fuel shall be placed or maintained above ground unless complying with all applicable MPCA regulations and approved by the Council.
9. Solar Collectors. Solar collectors must adhere to the setback requirements of the district in which they are placed. When placed on the roof of structures, solar collectors are subject to the height requirements of the district in which they are located. When considering a variance for the placement of solar collectors, the City Council shall consider inadequate access to direct sunlight as a legitimate hardship pursuant to Minnesota Statutes Section 462.357, Subd. 6, as amended.
10. Exterior Finish. Unpainted or uncolored corrugated sheet metal shall be prohibited.

Subdivision 7: HEIGHT AND YARD SETBACK EXCEPTIONS

1. Height Exceptions. This Ordinance's height limitations do not apply to chimneys, cooling towers, elevator bulk heads, fire towers, drive-in movie theater screens, grain elevators, silos, penthouses, stacks, flag poles, tanks, water towers, pumping towers, permitted radio or television towers, monuments, cupolas, steeples and mechanical appurtenances pertaining to and necessary to the permitted use of the district in which they are located, unless in the City Clerk's opinion the construction might be dangerous or in other ways detrimental to surrounding property, in which case a conditional use permit will be required.
2. Yard Setback Exceptions. The following are not considered encroachments on setback requirements: Boiler flues,

chimneys, fireplaces, belt courses, leaders, sills, pilasters, lintels, steps, cornices, eaves and gutters (all of which may not project more than thirty (30) inches into the setback), stone or cement patios and non-barrier creating landscape plantings.

For clarification purposes, the following is a list of features that are not exempt and may not be located within the setback area: outside stairways, fire escapes, porches, patios, platforms, decks, balconies and other similar projections.

Subdivision 8: BUILDING RELOCATION

Each location of a relocated building shall require a building permit. Relocated buildings must conform with the Building Code, be situated in a properly zoned area, and meet all other requirements of this Ordinance.

Subdivision 9: STREET PLAN CONFORMANCE.

No structure may be placed in a location which will interfere with future street or road construction as shown on the City's street plan.

Subdivision 10: TEMPORARY STRUCTURES LIMITED.

No temporary structure, trailer, tent or shack may be constructed, placed or maintained except as an accessory to and during construction of permanent buildings. In no event will any such structure be permitted for longer than one (1) year.

Subdivision 11: HANDICAPPED ACCESSIBILITY.

When applicable, structures and/or facilities, including their exterior environment, shall meet the accessibility portion of the State Building Code, Minnesota Rules, Chapter 1341, or successor rules.

Subdivision 12: BUILDING NUMBERS

Every building shall have a proper building address number(s) made of durable material affixed to the building and clearly posted and placed to be easily seen from the public street.

SECTION 6 FENCES

Subdivision 1: PURPOSE.

The purpose of this Section is to regulate fences in the City, to prevent fences being erected that would be a hazard to the public, or an unreasonable interference with the use and enjoyment of neighboring property and are compatible with existing land uses and other zoning restrictions.

Subdivision 2: FENCE PERMIT

1. Permit. No person may construct, erect or cause to be constructed or erected any Fence within the City without first obtaining a Fence permit from the City Building Inspector.
2. Application. Every Fence permit application must contain a plot plan clearly describing the proposed Fence's type, location, construction materials, height, proximity to lot lines, anchoring methods and any other information the Building Inspector reasonably requires.
3. Fee. Each applicant must pay a Fence permit fee the City Council establishes by resolution.

Subdivision 3. FENCE REGULATIONS.

Fences are permitted in all yards, subject to the following:

1. Residential Districts.
 - A. Height. Fences may not exceed six (6) feet above adjacent-ground grade.
 - B. Within Lot Boundaries. Fences and all supporting structure must be completely within the boundaries of the owner's lot.

- C. Front Corner Fences. All Fences erected to the front of the front corner of a dwelling can be no more than forty-eight (48) inches in height for Open Fences and thirty (30) inches in height for Solid Fences.
 - D. Corner Lot Fences. Fences erected on a corner lot must have two fronts.
 - E. Property Line Setback. A Fence within two (2) feet of the property line will require the abutting neighbor's prior written notification.
- 2. Corner Lot Limitations. No Fence, wall, structure, hedge, shrubs, trees or other obstruction, other than chain link fences with openings of 1 5/8" to 2" not exceeding 48" in height, may be erected, established or maintained on a corner lot within a triangular area bounded by the lot lines and a line connecting points on each lot line twenty (20) feet from the intersection of the lot lines. An object within this area not exceeding thirty (30") inches in height as measured from the centerline elevation of the street will not be considered as an obstruction to vision. Fences that will obstruct or impede the clear view of an intersection by approaching traffic may not be erected on corner lots. This paragraph does not apply to the "B-1" District.
 - 3. Fence Face. The side of the fence considered to be the face (finished side as opposed to structural supports) must face abutting property. If located along a boundary between two properties, both sides must be equally attractive and well maintained.
 - 4. Public Right-of-Way. Fences are not permitted on public right-of-way, or on boulevard areas without the City Council's prior written permission.
 - 5. Fence Height Limits. No fence may exceed eight (8) feet in height and in the case of grade separation, the height of a fence will be determined on the basis of measurement from the average point between the highest and lowest grade.

6. Fences on Property Line. A Fence may be erected on the property line upon mutual agreement in writing of both property owners.
7. Commercial and Industrial Districts. Fences in commercial or industrial districts may be erected on the lot line to the height of eight (8) feet with a security arm for barbed wire. Fencing on non-residential property required for screening exterior storage may exceed the limitations herein but only by a conditional use permit issued pursuant to Section 22.
8. Construction. Every Fence must be constructed in a substantial, workmanlike manner. All construction materials must be of high quality and new or like new, and must be reasonably suited for the purpose for which the Fence is proposed to be used.
9. Maintenance and Repair. All Fences must be maintained in a condition of reasonable repair and will not be allowed to become a nuisance, either public or private. Any Fence which is dangerous to the public safety, health, or welfare is a public nuisance and the City may commence proceedings for its abatement.
10. Prohibited Fences. Electric fences may not be used as boundary fences and materials such as hog wire fencing, barbed wire fencing or snow fencing will not be allowed, except snow stop fences will be allowed from November 1 through April 1 without a permit.

Subdivision 4. VIOLATIONS.

1. No existing Fence in violation of this Section may be replaced or rebuilt. If an existing Fence is replaced or rebuilt, it must come under this Section's regulations.

2. Violation of this Section may be enforced by injunction and the City will be entitled to the remedy of abatement in order that a Fence erected in violation of this Ordinance may be removed.

Subdivision 5. VARIANCE.

Any requested variance from this Section's requirements will be governed by Section 25 of this Ordinance.

SECTION 7 PARKING AND LOADING

Subdivision 1: PARKING SPACES.

The amount of required off-street parking for new uses or buildings and additions to existing buildings will be determined using the following table. The number of spaces specified below must be irrevocably reserved for parking purposes for the specified use.

1. Single family, two family and townhouse units. Two (2) spaces per Dwelling Unit.
2. Boarding house. At least two (2) parking spaces for each three (3) persons for whom accommodations are provided for sleeping.
3. Multiple family dwellings. Two (2) spaces per Dwelling Unit.
4. Motels, motor hotels, hotels. One (1) space per each rental unit plus one (1) additional space for each ten (10) units and one (1) space for each employee on any shift.
5. Church, theater, auditorium. At least one (1) parking space for each four (4) seats based on the design capacity of the main assembly hall.
6. Hospitals. Two (2) spaces per each bed.
7. Medical, dental or hospital out-patient clinics. One (1) space for each one hundred ten (110) square feet of net floor area or seven and one-half (7 ½) spaces per doctor, whichever number of parking spaces is greater.
8. Rest home, nursing home or day nurseries. Four (4) spaces plus one (1) for each three (3) beds for which accommodations are offered.
9. Elderly (senior citizen) housing. One (1) space per unit.

10. Drive-in establishment and fast food. At least one (1) parking space for each thirty-five (35) square feet of gross floor area but not less than fifteen (15) spaces.
11. Office buildings and professional offices. One (1) space for each two hundred (200) square feet of floor area.
12. Bowling alley. At least five (5) parking spaces for each alley, plus additional spaces as may be required herein for related uses contained within the principle structure.
13. Motor fuel station. At least four (4) off-street parking spaces plus two (2) off-street parking spaces for each service stall. Those facilities designed for sale of other items than strictly automotive products, parts and/or service will be required to provide additional parking in compliance with other applicable sections of this Ordinance.
14. Retail store (including convenience stores) and service establishment. At least one (1) off-street parking space for each two hundred (200) square feet of floor area.
15. Retail sales and service business with fifty (50) percent of gross floor area devoted to storage, warehouses and/or industry. One (1) space for each two hundred (200) square feet devoted to public sales and/or service plus one (1) space for each two thousand (2000) square feet of storage area or one (1) space for each employee on the maximum shift which is appropriate.
16. Restaurants, cafes, private clubs serving food and/or drinks bars, taverns, nightclubs. At least one (1) space for each sixty (60) square feet of gross floor area.
17. Funeral Homes. At least twenty (20) parking spaces for each chapel or parlor, plus one (1) parking space for each funeral vehicle maintained on the premises. Aisle space may also be provided off the street for making up a funeral procession.

18. Auto repair, bus terminal, boats and marine sales and repair, bottling company, shop for a trade employing six (6) or less people, garden supply store, building material sales in structure. Eight (8) off-street parking spaces, plus one (1) additional space for each six-hundred (600) square feet of space.
19. Manufacturing, fabricating or processing of a product or material; warehouse, storage, handling of bulk goods, post offices. At least eight (8) spaces, plus one (1) space for each two (2) employees on each shift based on maximum planned employment or at a minimum one (1) space for each six hundred (600) square feet of floor area.
20. Car wash. (In addition to required magazine or stacking space.)
 - A. Automatic drive through, serviced. A minimum of ten (10) spaces, or one (1) space for each employee on the maximum shift, whichever is greater.
 - B. Self-service. A minimum of two (2) spaces.
 - C. Motor fuel station car wash. Zero (0) in addition to that required for the station.

Subdivision 2: RULES FOR DETERMINING PARKING SPACES REQUIRED.

1. Rounding Up. When the determination of the number of required parking spaces results in a fractional space, that fraction shall be rounded up to equal one (1) space.
2. Floor Area. In the case of offices, merchandising or service types of uses "floor area" means the gross floor area used or intended to be used for services to the public as customers, patrons, clients or patients, including areas occupied by fixtures and equipment used for display or sale of merchandise.

3. Use Not Listed. Where a use is not specifically mentioned, off-street parking requirements are the same as for similar uses as determined by the City Clerk.
4. On-Street Parking Not Included. On-street parking is not to be counted when calculating the off-street parking requirements in this Section.
5. "B-1" Central Business District. Off-street parking is not required within the "B-1" Central Business District.

Subdivision 3: OFF-STREET PARKING REQUIREMENTS.

In all districts where off-street parking is permitted or required, the off-street parking area must be constructed and maintained subject to the following regulations:

1. Adequate Ingress and Egress. All off-street parking areas must provide adequate ingress and egress to at least one public street.
2. Hard Surface Required. All off-street parking areas, including parking lots and driveways, must be constructed of concrete, blacktop, or a similar hard, durable and dust-free surface which must be designed to properly drain surface water and prevent water drainage onto adjacent properties or walkways. Gravel and crushed granite type surfaces are specifically prohibited.
3. Setback From Adjoining Residential Uses. Whenever an off-street parking area boundary adjoins residentially zoned property, a setback of eight (8) feet from the lot line is required. This setback also applies to driveways to and from parking areas. The setback area must be a Greenbelt.
4. Curbing Required to Protect Adjoining Properties. Curbs or other protections against damage to adjoining properties, streets and sidewalks must be provided and maintained.

5. City Council Approval Required. Prior to starting construction on any off-street parking lot the plans must be approved by the City Council.
6. Parking Space Size Unless otherwise specified in this Ordinance, parking spaces must contain an area of at least two hundred (200) square feet and must be at least 10 x 20.
7. Industrial District - Front Yard Parking. Parking lots for automobiles and other motor vehicles are permitted in the front and side yards in Industrial Districts if screened by a Green Belt of at least eight (8) feet in width. Industrial Districts adjacent to residentially zoned property have a greater setback as established in specific district.
8. Dwelling Off-street Parking. Off-street parking facilities for residential dwellings must be provided and located on the same lot or parcel of land as the building they are intended to serve.
9. Non-Dwelling Off-Street Parking. Non-dwelling off-street parking spaces must be located within three hundred (300) feet of the building they are intended to serve, as measured from the nearest point of the off-street parking facilities and the nearest point of the structure.
10. Shared Parking Areas. Nothing in this Section should be construed to prevent shared off-street parking facilities for two (2) or more buildings; however, the total spaces must be equal to or greater than the sum of the requirements for the various individual uses.
11. Building Expansions Require Compliance with Parking Requirements. If a use requiring off-street parking is increased in floor area, and the use is located in a building existing on or before this Ordinance's effective date, additional parking space for the additional floor area must be provided as required by this Section.

12. Building Expansions Into Parking Areas. Nothing in this Section is intended to prevent the extension of or an addition to a building or structure into an existing parking area when the same amount of space taken by the extension or addition is provided by an enlargement of the existing parking area or is replaced by an additional area within three hundred (300) feet of the building.
13. Screening. Any off-street parking area containing five (5) or more parking spaces must be screened from any adjacent residential area by proper landscaping as approved by the City Council after review and recommendation of the Council.
14. Maintenance. All parking areas must be maintained in good condition without holes and free of all dust, trash and other debris.
15. Lighting. All parking area lighting must be directed away from adjacent property and must conform with the lighting requirements of this Ordinance.
16. Entrance/Exit Width. No entrance to or exit from a parking area may be more than thirty (30) feet in width. Except in an R-1 District, off-street parking areas must be designed so that vehicles are not required to back into the street or right-of-way.
17. Handicapped Parking. If required by the State Building Code, Handicapped parking must be provided according to State Building Code requirements and meet the requirements of Section 5 of this Ordinance.
18. Permits. When not provided for in a building or other permit, a person must obtain a driveway permit from the City to construct or alter any driveway or other off-street parking area.

Subdivision 4: LOADING AREAS.

1. Loading Spaces.
 - A. Loading space will not be construed as supplying off-street parking space.
 - 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 truck entrances).
2. Loading Berths Required. Any structure, with a gross floor area of ten thousand (10,000) square feet or more, which is to be erected or substantially altered and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, must provide off-street loading meeting the following requirements:

<u>Gross Floor Area</u> <u>square feet</u>	<u>Minimum required</u> <u>loading berths</u>
10,000 to 16,000	1
16,000 to 40,000	2
40,000 to 70,000	3
70,000 to 100,000	4
each additional 40,000	1 additional

SECTION 8 SIGNS

Subdivision 1: GENERAL PROVISIONS:

The following provisions apply to signs located in all zoning districts within the City:

1. Electrical Signs. When electrical signs are installed, the installation must meet the State's Electrical Code. Overhead electrical wiring is not permitted.
2. Sign Facings. A Sign may not contain more than two (2) surface facings or areas facing the public right-of-way.
3. Sign Area Measurement. The square footage of a Sign made up of letters, words or symbols within a frame must be determined from the outside edge of the frame itself. The square footage of a Sign composed of only letters, words or symbols will be determined from imaginary straight lines drawn around the entire copy or grouping of the letters, words or symbols. Double-faced, three dimensional, and multi-faced Signs will be calculated as the area of one side only.
4. Measurement of Freestanding Sign Height. The height of a freestanding Sign will be measured from the elevation of the average adjacent land area within a fifty (50) foot radius of the Sign.
5. Illuminated Signs. If a Sign is illuminated, the illumination must be directed toward and limited to the Sign's surface. The light source may not shine upon any part of a residence or roadway or in any way distract or obstruct traffic. All displays must be shielded to prevent any light to be directed at oncoming traffic in such brilliance as to impair any driver's vision. No device may be illuminated to interfere with or obscure indoor Signs that are visible from public streets. Illuminated Signs may not give off any

intermittent, rotating, concentrated or direction beam, or flashing light of any kind.

6. Commercial Building Sign Area: Total building signage, including wall signs, canopies, awnings, projecting signs, and banners may not exceed 15% of the building face on which the sign will be located. In multi-tenant buildings, each tenant may have one (1) business sign, but the cumulative total sign area may not exceed 15% of the total building face.
7. Projecting Signs: The total area of Projecting Signs on any building, including Wall Signs, Awnings and Canopies, shall not exceed thirty-six (36) square feet. Projecting signs shall be at least eight (8) feet above ground level. In a B-1 District, Projecting Signs may project over a public right-of-way a maximum of six (6) feet. In all other Districts, Projecting Signs may not extend into the public right-of-way. Such Signs must be located on street level, must be easily visible from the sidewalk and must not impede pedestrians' free and complete use of the sidewalk.

Subdivision 2: PROHIBITED SIGNS.

The following Signs are prohibited in any Zoning District or location:

1. Official Traffic Sign Imitation. Any Sign that contains or imitates an official traffic sign or signal, except for private, on-premises Directional Signs.
2. Signs in Public Right-of-Way. Signs erected or temporarily placed within any street right-of-way or upon public lands or easements or other public right-of-ways (except for governmental Signs) except as this Section specifically provides or the City Council approves. The City may grant a permit to locate Signs or decorations on, over or within the right-of-way for a specified period of time in its discretion.

3. Signs Obstructing Ingress or Egress. A Sign or Sign structure erected or maintained that prevents free ingress or egress from any door, window, fire escape, stairway or other opening.
4. Fire Escapes. A Sign or Sign structure attached to a standpipe or fire escape.
5. Unused Signs. Signs and Sign structures not used for signage for twelve (12) consecutive months.
6. Rotating Signs. Any Sign that moves, rotates or revolves on its axis by mechanical means.
7. Traffic Obstruction. Any Sign that obstructs the vision of drivers or pedestrians or detracts from the visibility of any official traffic control device.
8. Flashing Signs. Any Sign displaying any moving parts, illuminated with any flashing or intermittent lights, or any animated Sign, except time and temperature informational Signs in B-1 Central Business and B-2 Highway Business Districts, and then only if approved by the City Council.
9. Roof Mounted Signs. Signs erected, constructed or attached wholly or in part upon or over a building's roof, including without limitation Signs that project over the building's eave line.
10. Portable Signs. Portable Signs, including but not limited to hot air or gas filled balloons; semi-truck umbrellas used for advertising; Signs with wheels removed, attached temporarily or permanently to the ground, a structure or other signs.
11. Vehicle Signs. Signs mounted on a vehicle for advertising purposes, parked and visible from the public right-of-way

(except Signs identifying the related business when the vehicle is being used in the business' normal day-to-day operations).

12. Signs on Rocks, Trees or Fences. Signs erected, placed or maintained on rocks, fences, or trees.
13. Power Line Obstruction. Signs that will interfere with any electric light, power, telephone wires or their supports.
14. Signs Near Churches or Schools. Commercial Signs erected within three hundred (300) feet of a church or school structure along a public roadway, except for a Sign identifying the church, synagogue, place of worship, or school.

Subdivision 3: PERMITTED SIGNS.

1. All Zoning Districts. Except as specially provided for in Section 2 of this Subdivision 3, a Sign may only be erected after obtaining a permit from the City Council.
2. Permissible Signs. The following Signs are allowed without a Sign permit in all Zoning Districts, provided they comply with all other applicable provisions of this Ordinance.
 - A. Public and Governmental Signs: Signs of public, noncommercial nature including Directional Signs, safety Signs, danger Signs, trespassing Signs, traffic Signs, warning Signs, informational Signs, Signs indicating scenic or historic points of interest, memorial plaques and the like, when Signs are erected by or on order of a public officer or employee in the performance of official duty.
 - B. Public Information Signs. Bulletin boards or public information signs not exceeding thirty-two (32)

square feet located only on the premises of public, charitable or religious institutions.

- C. Permanent Building Signs: Names on buildings, construction dates, commemorative tablets, memorial plaques, building identification Signs, cornerstones and the like, which are of permanent construction, are cut or carved into a masonry surface or made of noncombustible material and which are an integral part of the building or structure.
- D. Political Signs: Signs or posters of a temporary nature (not including permanently constructed billboards) announcing candidates seeking political office, campaigns or issues to be voted upon at a public election, and meeting the following criteria:
 - 1. Political Signs must contain the name and address of person(s) responsible for such Signs and that person(s) are responsible for its removal.
 - 2. Political Signs must be setback a minimum of ten (10) feet from the curb line and must not be in a public right-of-way. Political Signs must not exceed sixteen (16) square feet in area and may not be more than eight (8) feet in height in all residential zoning districts and not more than thirty-two (32) square feet in area and no more than ten (10) feet in height in all other zoning districts.
 - 3. Political Signs may be erected no more than sixty (60) days before any election and removed within seven (7) days after the general election for which they are intended. The City has the right to remove and destroy Signs after the

seven (7) day limit and charge an appropriate fee.

4. The City may remove any political signs that do not comply with this Section's requirements.

E. Construction Signs: A non-illuminated Sign announcing the names of architects, engineers, contractors or other individuals or firms involved with the construction, alteration or repair of a building (but not including any advertisement of any product) or announcing the character of the building enterprise or the purpose for which the building is intended.

1. Construction Signs must be confined to the site of the construction, alteration or repair on private property only.
2. Construction Signs must be removed within two (2) weeks after the project is completed.
3. One (1) Construction Sign is permitted for each major street the project abuts.
4. No Construction Sign may exceed twelve (12) square feet in area in an R-1 district, thirty-two (32) square feet in area in all other zoning districts and a maximum height of fifteen (15) feet measured above ground level in all zoning districts.

F. Individual Property Sale, Lease or Rental Signs. An on-premise Sign announcing the name of the owner, manager, Realtor or other person directly involved in the sale or rental of the property or announcing the purpose for which it is being offered.

1. Such Signs are limited to twelve (12) square feet in area in residential districts, thirty-two (32) square feet in all other zoning districts, and maximum height of fifteen (15) feet measured from ground level in all zoning districts.
 2. Such Signs must be located on the property and must be removed within ten (10) days after the property's sale or rental.
- G. Rummage Sale Signs: Signs advertising a rummage sale if they do not exceed four (4) square feet in area, are located on private property, conform to all of this Ordinance's applicable provisions, and are removed upon the sale's termination.
- H. Real Estate Development Project Signs. Real Estate Development Signs meeting the following requirements:
1. Selling or promoting a development project of up to twenty-five (25) acres, one (1) Sign not exceeding thirty-two (32) square feet may be erected on the project site.
 2. For development projects over twenty-five (25) acres, one (1) or two (2) Signs not exceeding thirty-two (32) square feet per sign may be erected.
 3. Such Sign(s) may not exceed fifteen (15) feet in height measured from ground level.
 4. Such Signs must be removed after 95% of the project is developed.

5. If such Signs are lighted, they may be illuminated only during those hours when business is in operation or when the model homes or other development are open for conducting business.
- I. Farm Product Signs: Farm product Signs if they are located on the farm residence property, do not exceed thirty-two (32) square feet in area and fifteen (15) feet in height measured from ground level, and are related to farm products, merchandise or services sold, produced, manufactured or furnished on that farm.
- J. Directional Signs: Directional Signs meeting the following requirements:
 1. Only two (2) Directional Signs per street entrance or exit.
 2. Directional Signs may be for the sole purpose of ensuring safe and convenient access and egress to the use for which they apply.
 3. Directional Signs may not exceed two (2) square feet in Residential Zoning Districts, may not exceed eight (8) square feet in all other Zoning Districts.
- K. Decorative Lighting: Decorative lighting meeting all of this Ordinance's other requirements.
- L. Residential Name Plates. In a residential district, one (1) unlighted or indirectly illuminated nameplate not exceeding two (2) square feet in area announcing only the name and/or location of all occupants of a residence.

- M. Home Occupation Signs. In residential and agricultural districts, one (1) identification sign for the home occupation use not exceeding four (4) square feet in area. Home occupation signs must be setback a minimum of fifteen (15) feet from the curb line. Home occupation signs may not be illuminated between the hours of 10:00 p.m. and 7:00 a.m.
 - N. Bulletin Boards. One (1) bulletin board not exceeding twenty-four (24) square feet in area for churches, schools, hospitals or other public institutions.
 - O. Temporary Business Signs. Temporary Signs, including portable signs, for special business events such as business openings and closings, management changes, district wide shopping events or other special occasions shall be permitted without a permit in Commercial Zoning Districts.
3. Commercial and Industrial Districts: The following Signs are permitted in Commercial and Industrial Zoning Districts with a Sign permit:
- A. Awnings and Canopies: One (1) awning and one (1) canopy sign per business projecting not more than six (6) feet over a public right-of-way, located at least eight (8) feet above the ground and not impeding pedestrians' free and complete use of the sidewalk. The gross surface of an awning or canopy Sign may not exceed 50% of the gross surface area of the smallest face of the awning or canopy to which the Sign is to be affixed and may not project higher than the top of the awning or canopy or below the awning or canopy. Canopy and Awning Signage area will be included in the calculation for determining the total Wall Signage permitted on a property.

- B. Wall Signs. One (1) Wall Sign not projecting more than one (1) foot from the wall to which the sign is to be affixed, located at least eight (8) feet above the ground and not impeding pedestrians' free and complete use of the sidewalk. A Wall Sign may not project over the roof line of the building wall to which the sign is affixed. If a building or business abuts two (2) or more public streets, an additional Wall Sign located on each street building face is allowed. If there is more than one (1) business or use in a building with more than one (1) Sign, the operator of each use may install a Wall Sign for their particular use; provided the total signage does not exceed 15% for the applicable building face. Businesses located in strip type centers with store frontage will be allocated sign space based upon each stores portion of the building, unless the building owner requests a different computation in writing. Total combined Canopy and Wall Sign area may not exceed 15% of the building face on which the Signs are located.
- C. Freestanding Signs: Freestanding Signs not exceeding twenty-five (25) feet in height, measured from the ground to the top of the sign or sign pylon, whichever is greater, and not exceeding the lesser of (i) ninety (90) square feet on any sign surface area or (ii) 1 square foot per lineal foot of street frontage of the property. A freestanding sign may be located in any required yard and must meet the district setbacks for structures. The limitations of the area of Freestanding Signs is determined separately from Wall and Canopy Signs.
4. Permitted Signs in Commercial and Industrial Districts with a Conditional Use Permit. The following signs are permitted only in Commercial and Industrial Zoning Districts and only

upon issuance of a Conditional Use Permit pursuant to Section 22 of this Ordinance:

- A. Streamers. Any Sign that contains or consists of streamers, pennants, ribbons, spinners or similar devices, except if used for non-commercial purposes.
 - B. Spotlights. Spotlights giving off an intermittent or rotating beam existing as a collection or concentration of rays of light, revolving beacons, beamed lights or similar devices.
5. Billboards. All Billboards, which must meet the following requirements:
- A. Billboards must be located within a minimum distance of one hundred (100) feet of any highway right-of-way.
 - B. No part of a Billboard may be constructed upon or over any public right-of-way.
 - C. Maximum area of a Billboard Sign is six hundred (600) square feet per side.
 - D. Minimum ground clearance is eight (8) feet.
 - E. Minimum height is fifty (50) feet.
 - F. Minimum distance from R-1 and R-2 Zoning Districts is two hundred (200) feet.
 - G. Minimum distance from other Billboard Signs is five hundred (500) feet.

- H. Minimum distance from street intersections is one hundred (100) feet as measured from the right-of-way.
- I. Billboards may contain no more than two (2) individual signs per facing.
- J. Billboards will be allowed only in Commercial and Industrial Zoning Districts in the areas outlined on the Official Zoning Map or a Billboard map created under this Section.

Subdivision 4: SIGN PERMITS.

1. Sign Permit Application. If a sign permit issued by the City Council is required, a sign permit application containing the following information must be filed with the City Clerk:
 - A. Owner and Erector. The name and address of the Sign owner and Sign erector.
 - B. Sign Drawing. A scale drawing of the proposed Sign, or Signs, showing dimensions and describing materials, lettering, colors, illumination and support systems.
 - C. Building Photographs. Photographs of the building face and the building faces abutting both adjacent buildings.
 - D. Building Drawing & Site Plan. A drawing of the building face and site plan showing the location of the proposed Sign(s) as necessary.
 - E. Building Cross Section. A cross section of the building face showing how the Sign will be attached and how far it will extend from the building.

- F. Sign Photographs. Any pictorial proof or other information showing how the Sign will be attached and how far it will extend from the building.
 - G. Building Sign Plan. A building Sign plan for a building with more than one use or business, showing all Signs.
 - H. Other Information. Any other pertinent information the City's building inspector or City Council may require.
2. Sign Permit Fees. The City Council may establish Sign permit and inspection fees.

Subdivision 5: NONCONFORMING SIGNS

Nonconforming signs that are lawful on the date of this Ordinance's adoption have the rights outlined in Section 10 of this Ordinance regarding their alteration, extension, restoration and abandonment.

Subdivision 6: SIGN MAINTENANCE

1. Maintenance. All Signs and Sign structures, including without limitation all supports, braces, guys and anchors, must be kept in full repair and properly maintained in a clean, sanitary and safe condition. Any existing Sign or Sign structure which is rotted, unsafe, deteriorated, defaced or otherwise altered, must be repainted, repaired, replaced or removed as necessary.
2. Construction: All signs must be constructed of high quality materials in a professional and workmanlike fashion and must be constructed of sufficiently permanent materials so

that they must not succumb to deterioration from weathering or rust.

3. Painting: The owner of any sign must properly maintain painted area of the owner's signs, including all parts and supports of the sign, unless such supports are galvanized or otherwise treated to prevent corrosion.
4. Area Around Sign. The owner or lessee of any sign or the owner of the land on which the sign is located must keep the grass, weeds or other growth cut and the area free from refuse between the sign and the street and also for a distance of six (6) feet behind and at the ends of a sign.

Subdivision 7: OBSOLETE SIGNS

Any sign which no longer advertises a bona fide business conducted or a product sold must be taken down and removed by the owner, agent or person having the beneficial use of the building, or land upon which the sign is located.

Subdivision 8: UNSAFE OR DANGEROUS SIGNS

Any sign which becomes structurally unsafe or endangers the safety of a building or premises or endangers the public safety, must be taken down and removed by the owner, agent, or person having the beneficial use of the building, structure or land upon which the sign is located.

SECTION 9 TOWERS

Subdivision 1: PURPOSE

To accommodate the communication needs of residents and businesses while protecting public health, safety, and general welfare, the City finds that these regulations are necessary to:

1. Facilitate wireless telecommunication services to City residents and businesses;
2. Minimize adverse visual effects of Towers through careful design and siting standards;
3. Avoid potential damage to adjacent properties from Tower failure through structural standards and setback requirements; and
4. Maximize the use of existing and approved Towers and buildings to accommodate new wireless telecommunication antennas to reduce the number of Towers needed to serve the community.

Subdivision 2: CO-LOCATION REQUIREMENTS.

All Commercial Wireless Telecommunication Towers erected, constructed, or located within the City must comply with the following requirements:

1. The City Council will not approve a new Commercial Wireless Telecommunication Service Tower unless it finds that the telecommunications equipment planned for the proposed Tower cannot be accommodated on an existing or approved Tower or building within a one (1) mile search radius (one half ($\frac{1}{2}$) mile search radius for towers one hundred twenty (120) feet or less in height and one quarter

(1/4) mile search radius for towers eighty (80) feet or less in height) of the proposed Tower due to one (1) or more of the following reasons:

- A. The planned equipment would exceed the structural capacity of the existing or approved Tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved Tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
 - B. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the Tower or building as documented by a qualified and licensed professional engineer, and the interference cannot be prevented at a reasonable cost.
 - C. Existing or approved Towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
 - D. Other unforeseen reasons that make it not feasible to locate the planned telecommunications equipment upon an existing or approved Tower or building.
2. Any proposed Commercial Wireless Telecommunication Service Tower which is over one hundred (100) feet in height must be designed, structurally, electrically, and in all other respects, to accommodate both the applicant's antennas and comparable antennas, for at least two (2) additional users.

3. Towers must be designed to allow for future rearrangement of Antennas upon the Tower and to accept Antennas mounted at varying heights.

Subdivision 3: TOWER CONSTRUCTION REQUIREMENTS.

All Towers and Antennas erected, constructed, or located within the City, and all wiring, must comply with the requirements of the City Building Code, State Electrical Code and any other applicable codes or regulations.

Subdivision 4: TOWER AND ANTENNA DESIGN REQUIREMENTS.

Proposed or modified Towers and Antennas must meet the following design requirements:

1. Appearance. Towers and Antennas must be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.
2. Monopole Design Commercial Wireless Telecommunication Service Towers must be of a monopole design unless the City Council determines that an alternative design would better blend in to the surrounding environment or better accommodate multiple use of the Tower.

Subdivision 5: TOWER SETBACKS.

Notwithstanding anything to the contrary in the regulations applicable to a specific zoning district, Towers must conform with each of the following minimum setback requirements:

1. Underlying Zoning District Setbacks. Unless this Section specifies otherwise, Towers must meet the setbacks of the applicable underlying zoning district

2. Additional Setbacks/Residential Property. A Tower shall be setback a minimum of one half ($1/2$) the Tower's height, including all Antennas and attachments, from all structures (except those structures accessory to the tower use). In addition, in all non-residential districts, a Tower must be setback from residentially zoned property by at least two (2) feet for each foot of height of the Tower.
3. Public Right-of-Way. Towers must be set back from existing or planned public rights of way by a minimum distance equal to one half ($1/2$) of the Tower's height including all Antennas and attachments. No part of any Tower, Antenna, support structure, lines, cables, equipment, wires or braces must extend across or over any part of a public right-of-way, public street, highway or sidewalk.
4. Between Principal Structures and Streets. Towers may not be located between a principal structure and a public street, with the following exceptions:
 - A. In industrial zoning districts, Towers may be placed within a side yard abutting an internal industrial street.
 - B. On sites with adjacent public streets on all sides, Towers may be placed within a side yard abutting a local street.
5. Variance. A Tower's setback may be reduced or its location in relation to a public street varied, at the City Council's sole discretion, to allow a Tower's integration into an existing or proposed structure such as a church steeple, light standard, power line support device, or similar structure.

Subdivision 6: TOWER HEIGHT.

1. Height Determination. A Tower's height must be determined by measuring the vertical distance from the Tower's point of contact with the ground to the Tower's highest point, including all Antennas or other attachments, and if the Tower is mounted upon another structure, the height of that structure plus the vertical distance from the Tower's point of contact with the structure must be added together to determine the Tower's height.
2. Height Restrictions. Notwithstanding anything to the contrary in the regulations applicable to a specific zoning district, Towers are subject to the following height restrictions:
 - A. In all residential districts, a Tower's maximum height is thirty-five (35) feet.
 - B. In all non-residential districts, a Tower's maximum height is one (1) foot for each two (2) feet the Tower is setback from residentially zoned property or one hundred fifty (150) feet, whichever is less.

Subdivision 7: TOWER LIGHTING.

Towers may not be illuminated by artificial means and may not display strobe lights unless the lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular Tower or otherwise approved by the City Council. When incorporated into the Tower's approved design, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the Tower.

Subdivision 8: SIGNS AND ADVERTISING.

The use of any portion of a Tower for signs other than warning or equipment information signs are prohibited.

Subdivision 9: ACCESSORY UTILITY BUILDINGS

All utility buildings and structures accessory to a Tower must be architecturally designed to blend in with the surrounding environment and must meet the minimum setback requirements and all other requirements of the underlying zoning district in which the building is located. Ground mounted equipment must be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

Subdivision 10: FENCING

All Commercial Towers and accessory buildings must be enclosed with an aesthetically acceptable fence between eight (8) and ten (10) feet in height with a locked gate to prevent unauthorized entry.

Subdivision 11: LANDSCAPING AND SCREENING

As a condition to approving a Commercial Tower, the City Council will establish reasonable requirements relating to landscaping and screening to improve the aesthetic appearance of the Tower's base and accessory buildings. Existing on-site vegetation should be preserved to the maximum extent possible.

Subdivision 12: MINIMUM SPACING.

Commercial Tower locations must be at least one-fourth (1/4) mile apart. Antennas wholly contained within a building or other

structure and not visible to the general public are exempt from this spacing regulation as determined by the City Council.

Subdivision 13: LICENSES

All proposals to erect any new Tower must be accompanied by all required federal, state or local agency licenses or proof of application for them.

Subdivision 14: ABANDONED OR UNUSED TOWERS

Abandoned or unused Towers or portions of Towers must be removed as follows:

1. All abandoned or unused Towers and associated facilities must be removed within twelve (12) months after the cessation of operations at the site unless the City Council approves a time extension. If a Tower is not removed within twelve(12) months after the cessation of operations at a site, the City may remove the Tower and associated facilities and assess the removal costs against the property.
2. Unused portions of Towers above a manufactured connection must be removed within six (6) months of the time of Antenna relocation. The replacement of portions of a Tower previously removed requires the issuance of a new conditional use permit.

Subdivision 15: ANTENNAS MOUNTED ON ROOFS, WALLS AND EXISTING TOWERS

The City Council may approve the placement of wireless telecommunication Antennas on roofs, walls, and existing Towers if the Antennas meet this Ordinance's requirements and after submittal of: 1) a final site and building plan; and 2) a report prepared by a qualified and licensed professional engineer indicating the existing structure or Tower's suitability to accept

the Antenna and the proposed method of affixing the Antenna to the structure. The report must indicate complete details of all fixtures and couplings and the precise point of attachment.

Subdivision 16: INTERFERENCE WITH PUBLIC SAFETY TELECOMMUNICATIONS

No new or existing telecommunications service may interfere with public safety telecommunications. All applications for new service must be accompanied by an intermodulation study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of new service or changes in existing service, telecommunication providers must notify the City at least ten (10) calendar days in advance of such changes and allow the City to monitor interference levels during the testing process.

Subdivision 17: ADDITIONAL SUBMITTAL REQUIREMENTS

In addition to the information required elsewhere in this Ordinance, all applications to construct Towers must include the following supplemental information:

1. A report from a qualified and licensed professional engineer which does the following:
 - A. Describes the Tower height and design including a cross section and elevation;
 - B. Documents the height above grade for all potential mounting positions for co-located Antennas and the minimum separation distances between Antennas;
 - C. Describes the Tower's capacity, including the number and type of Antennas that it can accommodate;

- D. Documents what steps the applicant will take to avoid interference with established public safety telecommunications;
 - E. Includes an engineer's stamp and registration number; and
 - F. Includes other information necessary to evaluate the request.
2. For all Commercial Wireless Telecommunication Service Towers, a letter of intent committing the Tower owner and his or her successors to allow the shared use of the Tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
3. Before the City issues a building permit, the following supplemental information must be submitted:
- A. Proof that the proposed Tower complies with regulations administered by Federal Aviation Administration; and
 - B. A report from a qualified and licensed professional engineer which demonstrates the Tower's compliance with the applicable structural and electrical standards.
4. A site plan showing the boundaries of the property where the Tower is located, adjacent land uses, the Tower's location and any Accessory Buildings within the property, distance setbacks from property lines for the Tower and all Accessory Buildings, Fence locations and proposed landscaping and screening.

Subdivision 18: EXCEPTIONS

This Section's requirements apply to all structures and developments otherwise permitted under this Ordinance except:

1. Planned Unit Developments, when approved as a part of a preliminary and final development plan under this Ordinance.
2. Public utility structures, including but not limited to water towers, lights and signals, power and telephone poles, and poles supporting emergency warning devices.
3. Church sanctuaries, steeples and bell towers.
4. In accordance with the Federal Communications Commission's preemptive ruling, Towers erected for the primary purpose of supporting amateur radio Antennas may exceed thirty (30) feet in height if the City Council determines that the proposed Tower height is technically necessary to successfully engage in amateur radio communications.
5. A Tower or Antenna not more than thirty (30) feet in height used for residential television reception that is used to receive television signals exclusively for the occupants of the property where the Tower or Antenna is located.
6. A satellite or microwave dish that is one (1) meter or less in diameter used to receive signals exclusively for the occupants of the property where the dish is located.
7. Birdhouses.

SECTION 10 NON-CONFORMING USES

Subdivision 1: INTENT

Within the City's Zoning Districts established by this Ordinance or later amendments, there may exist lots, structures or land uses that were lawful before this Ordinance was passed or amended but which are prohibited, regulated or restricted under the Ordinance or a future amendment of this Ordinance. The City intends to permit nonconformities to continue until they are removed but not to encourage their survival. This Section's intent is that non-conforming uses not be enlarged, extended, or expanded, and that additions not be used as a basis for adding other prohibited uses.

Subdivision 2: CONTINUED USE OF EXISTING STRUCTURES.

The lawful use of a building or structure existing at the time of this Ordinance's adoption or amendment that does not conform with the applicable district's provisions may be continued if it remains otherwise lawful subject to the following provisions:

1. Continuance. A nonconforming use may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion.
2. Extended Use. A non-conforming use may be extended throughout the building or structure, provided no structural alterations or changes are made to the building, except those required by law or ordinance or that may be required for safety or necessary to secure or insure the building's continued advantageous use during its natural life.
3. Change to Another Nonconforming Use. If no structural alterations are made to any structure or premises involving a nonconforming use, the use may be changed to another

nonconforming use if the City Council, either by general rule or by making findings in the specific case, finds that the proposed use is as appropriate or more appropriate to the District. In permitting the change, the City Council may require appropriate conditions and safeguards.

4. Replacement by Permitted Use. If a structure's nonconforming use is replaced by a permitted use, the nonconforming use shall be deemed abandoned and may not be resumed.
5. Discontinued Use. If a nonconforming use is discontinued for twelve (12) consecutive months, the use must not be resumed except in conformance with the regulations of the District where the use is located.
6. Removal or Destruction. If the nonconforming use's 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 is damaged, the use may not be rebuilt. In the event a building permit is obtained, the City may impose reasonable conditions upon the building permit in order to mitigate any newly created impact on adjacent property.

Subdivision 3: NON-CONFORMING STRUCTURES.

Where a lawful structure exists that could not be built under this Ordinance because of restrictions on area, lot coverage, height, setbacks or other characteristics of the structure or its location on the lot, the structure may remain and continue to be used so long as it remains otherwise lawful, subject to the following provisions:

1. No Expansion. A nonconforming structure may not be enlarged or altered in a way which increases its non-conformity.

2. Damage. If the nonconforming use's 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 is damaged, the use may not be rebuilt. In the event a building permit is obtained, the City may impose reasonable conditions upon the building permit in order to mitigate any newly created impact on adjacent property.

Subdivision 4: NON-CONFORMING LAND USES.

Where land uses exist independent of a structure that are not permitted under this Ordinance's terms as enacted or amended, the use may be continued if it remains otherwise lawful, subject to the following:

1. No Increased Nonconformity. A non-conforming use may not be enlarged or increased, nor extended to occupy a greater area of land.
2. Replacement by Permitted Use. If the nonconforming use is replaced by a permitted use, the nonconforming use shall be deemed abandoned and may not be resumed.
3. Discontinued Use. If a nonconforming use is discontinued for twelve (12) consecutive months, the use must not be resumed except in conformance with the regulations of the District where the use is located.
4. Moving Use. A non-conforming use may not be moved in whole or in part to any other portion of the lot or parcel not occupied by the use at the effective date of this Ordinance's adoption or amendment.

Subdivision 5: UNSAFE STRUCTURES.

Nothing in this Ordinance is intended to prevent the strengthening or restoring to a safe condition any portion of a building or structure declared unsafe by the City Building Inspector.

Subdivision 6: CONSTRUCTION STARTED BEFORE ENACTMENT.

Any proposed structure, which will, under this Ordinance, become nonconforming 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 one (1) year. Such structure and use must thereafter be a legally non-conforming structure and use.

SECTION 11 GENERAL ZONING DISTRICT PROVISIONS

Subdivision 1: DISTRICT ESTABLISHMENT

The following zoning district classifications are established within the City of Gilman:

1. "A-1" Agricultural District
2. "R-1" Single and Two Family Residential District
3. "R-2" Multiple Family Residential District
4. "B-1" Central Business District
5. "B-2" Highway Business District
6. "I-1" Light Industrial District
7. "I-2" Planned Industrial District
8. "FP" Flood Plain Overlay District

Subdivision 2: ZONING DISTRICT APPLICATION

1. Official Zoning Map. The boundaries of the districts identified in this Section are established and adopted as shown upon the Official Zoning Map on file in the City Clerk's office, designated "The Official Zoning Map of the City of Gilman, Minnesota," dated February 9, 2005, and as subsequently amended and bearing the signatures of the Mayor, and City Clerk. The Official Zoning Map, with all notations, references, data and other information, is made part of this Ordinance as if it were fully set forth in this Ordinance.

2. Amending Official Zoning Map. The City Clerk will maintain the Official Zoning Map and make any necessary amendments as authorized by law and this Ordinance. The Zoning Administrator will record all amendments to the Official Zoning Map on the Official Zoning Map within thirty (30) days after adoption by the City Council. The Official Zoning Map will be available for public inspection at all reasonable times during which the City Hall is customarily open.
3. Annexed Land. All land which may later become a part of the City of Gilman through annexation will be automatically classified in the "R-1" Single and Two Family Residential District until otherwise changed by amendment procedure as prescribed in Section 23 of this Ordinance.

Subdivision 3: ZONING DISTRICT BOUNDARIES

The boundaries of districts are the center lines of streets and alleys; the center of streams; the shorelines of rivers and lakes; the rear lot lines where there are not alleys; the side lines of recorded lots or designated distances where land is unplatted.

Subdivision 4: USES NOT PROVIDED FOR WITHIN ZONING DISTRICTS

1. Prohibited if not permitted. Whenever in any zoning district a use is not specifically permitted, the use is considered prohibited.
2. Uses not listed. The City Council or a property owner may request a study by the City to determine if the use is acceptable and, if so, what zoning district would be most appropriate and the determination as to conditions and standards relating to development of the use. The City Council 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. The City Council may also determine that a use which is not listed is essentially the same as a listed use and treat a use as the same as the listed use.

SECTION 12

"A-1" AGRICULTURAL DISTRICT

Subdivision 1: INTENT

The intent of the A-1 Zoning District is to establish and preserve areas for low density residential and outdoor recreation without permitting intensified development which would require the provision of municipal facilities and services, and further allow agricultural uses in this district.

Subdivision 2: PERMITTED USES

1. Agricultural crop production and gardening (not including the keeping of livestock), farm dwellings and agricultural related buildings and structures.
2. Single-family dwellings.
3. Public parks, undeveloped recreational areas, wildlife areas and game refuges.
4. Wholesale nurseries and tree farms.
5. Essential Services.

Subdivision 3: PERMITTED ACCESSORY USES

1. Operation and storage of vehicles, machinery and equipment which is incidental to permitted or conditional uses allowed in this district.
2. Boarding or renting of rooms to not more than two (2) persons.
3. Living quarters for persons employed on the premises for agricultural purposes.

4. Home Occupations.
5. Private garages.
6. Fences as regulated by Section 6.
7. Parking spaces as regulated by Section 7.
8. Signs as regulated by Section 8.

Subdivision 4: CONDITIONAL USES

The following uses require a Conditional Use Permit based on the procedures set forth and regulated in Section 22 of this Ordinance:

1. Governmental and public utility buildings and structures necessary for the health, safety and general welfare of the community.
2. Commercial outdoor recreational areas including but not limited to golf courses, club houses, country clubs, swimming pools, parks, camping areas, snowmobile trails, riding trails and similar facilities.
3. Processing and packaging or sales of agricultural products or supplies, including livestock; cold storage plants; fertilizer plants; livestock farming; livestock feed lots; agricultural equipment sales yards, and seed sales, subject to all applicable Pollution Control Standards.
4. Commercial Kennels and animal hospitals, stables and riding academies.
5. Churches, schools, hospitals and cemeteries.

6. Essential Services structures and associated buildings.
7. Towers as regulated by Section 9.
8. Uses the City Council determines to be substantially similar to those listed in this zoning district and not detrimental to the City's general health and welfare.
9. Towers and Antennas as regulated by Section 9.

Subdivision 5: LOT, YARD, AREA AND HEIGHT REQUIREMENTS

1. Lot Area. Lot area must be at least forty (40) acres.
2. Lot Width. Lot width must be at least five hundred (500) feet.
3. Setbacks.
 - A. Front Yard Setback. The front yard setback must be at least one hundred (100) feet.
 - B. Side Yard Setback. The side yard setback must be at least sixty (60) feet.
 - C. Rear Yard Setback. The rear yard setback must be at least one hundred (100) feet.
4. Building Height.
 - A. Residential Structures. Residential structures must not exceed thirty five (35) feet in height.
 - B. Non-agricultural, Non-residential Structures. Non-residential structures must not exceed thirty-five (35) feet in height.

- C. Agricultural Buildings. Agricultural buildings have no height restrictions.

Subdivision 6: PROTECTION OF RESIDENTIAL DISTRICTS.

In issuing any conditional use permit that permits or in any way pertains to the construction or operation of any nonresidential facility under this Section, the City Council may, in addition to any other restrictions, stipulate that the construction and operation be situated so that distance from residential property and general topography will prevent the operation from being or becoming a nuisance which will, in any way, be detrimental to residentially zoned property.

SECTION 13

"R-1" SINGLE AND TWO FAMILY RESIDENTIAL DISTRICT

Subdivision 1: INTENT

The intent of the R-1 District is to permit the development of single and two family dwellings in the community; to provide reasonable standards for such development; to avoid overcrowding; and to prohibit the use of land which would be incompatible with or detrimental to the essential residential character of such a district.

Subdivision 2: PERMITTED USES

1. Single and two family dwellings.
2. State licensed residential facilities or housing with services establishment registered under Minnesota Statutes Chapter 144D, as amended, serving six (6) or fewer persons at one time.
3. State licensed day care or nursery school facilities serving twelve (12) or fewer persons at one time.
4. Group family day care facilities properly licensed under Minnesota Rules serving fourteen (14) or fewer children except a residential facility 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 violating criminal statutes relating to sex offenses.
5. Public Parks and playgrounds.
6. Essential Services.

7. Agricultural crop production or gardening (not including the raising and keeping of livestock).

Subdivision 3: PERMITTED ACCESSORY USES

1. Private garages (not exceeding 900 square feet in area) if the exterior covering materials on the roof and side walls are the same or similar to the roof and side wall materials on the principal structure.
2. Home Occupations.
3. Private swimming pools and tennis courts with fencing that prohibits unauthorized entry.
4. Accessory Buildings (not exceeding 120 square feet in area) for storing domestic equipment and non-commercial recreational equipment.
5. Boarding and renting of rooms to not more than two (2) persons.
6. Gazebos and decks serving the principal residential structure.
7. Playhouses.
8. Kennels owned by the principal structure's occupants.
9. Fences as regulated by Section 6.
10. Off-street parking spaces and carports as regulated by Section 7.
11. Signs as permitted and regulated by Section 8.

12. Temporary buildings during periods of construction of principal structures and located on the property no longer than one (1) year.

Subdivision 4: CONDITIONAL USES

The following uses require a Conditional Use Permit based on the procedures set forth in Section 22 of this Ordinance:

1. Governmental, municipal and public utility buildings and structures necessary for the community's health, safety, and general welfare.
2. Public or semi-public recreational buildings and community centers.
3. Churches, public libraries, museums, primary and secondary schools which are accredited by the State Department of Education, and hospitals.
4. Townhouses containing four (4) or fewer units whether in a single unit or on a combination of lots.
5. Essential Services structures.
6. Towers and Antennas as regulated by Section 9.
7. Uses the City Council determines to be substantially similar in nature to the conditional uses listed above and not detrimental to the City's general health and welfare.

Subdivision 5: LOT, YARD, AREA AND HEIGHT REQUIREMENTS

1. Buildable Lot Area.
 - A. Single Family Dwelling. Lot area for lots with a single-family dwelling must be at least 10,000 square feet.

- B. Two-family Dwelling. Lot area for lots with a two-family dwelling must be at least 12,000 square feet.
- C. Other Uses. Lot area for lots for other uses must be determined based upon meeting the maximum floor area ratio.
- 2. Lot Width. Lot width must be at least eighty (80) feet at the established building line.
- 3. Lot Frontage. Lot frontage must be a minimum of fifty (50) feet.
- 4. Lot Depth. Lot depth must be at least one hundred twenty-five (125) feet.
- 5. Setbacks.
 - A. Front Yard Setback. The front yard setback must be at least thirty (30) feet.
 - B. Side Yard Setback. The side yard setback must be at least five (5) feet, except that the side yard setback on corner lots must be at least twenty (20) feet. Conditional uses, if approved must have a side yard setback of at least 20 feet.
 - C. Rear Yard Setback. The rear yard setback must be at least 20 feet.
 - D. Existing Lots. Notwithstanding anything in this Section apparently to the contrary, for Lots platted before this Ordinance's effective date, the setbacks will be as follows:
 - 1. Front Yard = 20 feet

2. Side Yard = 5 feet
6. Building Height.
 - A. Principal Structure. All principal residential structures may not exceed thirty-five (35) feet in height.
 - B. Accessory Buildings. Accessory Buildings may not exceed eighteen (18) feet in height.
7. Floor-area-ratio. The floor-area-ratio may not exceed .30, which means not more than 30% of the lot area may be used for floor areas of all buildings on the lot.
8. Exterior Finish. Corrugated metal siding is not permitted.

Subdivision 6: ACCESSORY BUILDINGS

1. Location - Rear Yard. Detached Accessory Buildings may be located only in the rear yard. Notwithstanding the above restriction, detached garages accessory to single and two family residences may be located in the side yard provided they meet all setback requirements set out in this Ordinance.
2. Number. No lot may contain more than two (2) detached Accessory Buildings.
3. Size. Detached Accessory Buildings may occupy no more than twenty-five percent (25%) of the yard in which they are located.
4. Exterior. All Accessory Buildings must be compatible in design and be homogeneous in appearance to the principal structure and of the same or higher quality of materials as the principal structure. Corrugated metal siding is not permitted.

5. Accessory Building Setbacks.

- A. Located Within 10 Feet of the Principal Building. If located within ten (10) feet of the principal building, Accessory Buildings must comply with all yard requirements applicable to the principal building.
- B. Located Outside 10 Feet of the Principal Building. If Accessory Buildings are to be located more than ten (10) feet from the principal building, they must have a rear and side yard setback of at least three (3) feet.
- C. Detached Accessory Buildings. All detached Accessory Buildings must be setback at least thirty (30) feet from all street right-of-way lines.
- D. Garages near alley. All garages must, if the vehicle entrance backs upon a public alley, be set back at least twenty (20) feet from the public alley right-of-way.

SECTION 14

"R-2" MULTIPLE FAMILY RESIDENTIAL DISTRICT

Subdivision 1: INTENT

It is the intent of the R-2 District to provide for multiple-family dwellings and related complementary uses.

Subdivision 2: PERMITTED USES

1. All permitted uses as allowed in an "R-1" Single and Two Family Residential District.
2. Multiple-family dwelling units including Apartments, Townhouses and attached patio homes.
3. Boarding and rooming houses.

Subdivision 3: PERMITTED ACCESSORY USES

1. All permitted accessory uses as allowed in an "R-1" Single and Two Family Residential District.
2. Off-street loading and parking as regulated by Section 7.

Subdivision 4: CONDITIONAL USES

The following uses require a Conditional Use Permit based on the procedures set forth in Section 22 of this Ordinance.

1. All conditional uses, subject to the same provisions as allowed in the "R-1" Single and Two Family Residential District.
2. Nursing homes, assisted living facilities, and rest homes.

3. Medical clinics and other buildings used for the treatment of human beings.
4. State licensed residential facilities serving from seven (7) through sixteen (16) persons.
5. Licensed day care facilities serving from thirteen (13) through sixteen (16) persons.
6. Manufactured Home Parks as regulated under Section 20 of this Ordinance.
7. Uses the City Council determines to be substantially similar in nature to the conditional uses listed above and not detrimental to the City's general health and welfare.

Subdivision 5: LOT, YARD, AREA AND HEIGHT REQUIREMENTS

1. Buildable Lot Area.
 - A. Single Family Dwelling. Lot area for lots with a single-family dwelling must be at least 10,000 square feet.
 - B. Two-family Dwelling. Lot area for lots with a two-family dwelling must be at least 12,000 square feet.
 - C. Three-family Dwelling or more. Lot area for lots with a three-family Dwelling or more must be at least 15,000 square feet for the first 3 units and an additional 1,500 square feet for each unit after 3.
2. Lot Width. Lot width must be at least eighty-five (85) feet at the established building line.
3. Lot Frontage. Lot frontage must be a minimum of fifty (50) feet.

4. Lot Depth. Lot depth must be at least one hundred twenty-five (125) feet.
5. Setbacks.
 - A. Front Yard Setback. The front yard setback for all structures must be at least thirty (30) feet.
 - B. Side Yard Setback.
 1. Single and Two Family Structures. The side yard setback must be at least five (5) feet, except that the side yard setback on corner lots must be at least thirty (30) feet.
 2. Multi-family and Other Uses. Multi-family and other uses, if approved, must have a side yard setback of at least ten (10) feet.
 3. Accessory Buildings. Accessory Buildings must have a side yard setback of at least five (5) feet.
 - C. Rear Yard Setback.
 1. Principal Structures. Principal structures must have a rear yard setback of at least thirty five (35) feet.
 2. Accessory Buildings. Accessory Buildings must have a rear yard setback of at least five (5) feet.
 3. Garages Facing Rear Lot Line. Garages with vehicle entrances facing the rear lot line must have a rear yard setback of at least twenty (20) feet.

D. Existing Lots. Notwithstanding anything in this Section apparently to the contrary, for Lots platted before this Ordinance's effective date, the setbacks will be as follows:

1. Front Yard = 20 feet
2. Side Yard = 5 feet

6. Building Height.

A. Single and Two Family Dwellings. Single-family and two-family dwellings may not exceed thirty five (35) feet in height.

B. Other Principal Buildings. Principal buildings other than single and two family dwellings may not exceed forty (40) feet in height.

C. Accessory Buildings. Accessory Buildings may not exceed eighteen (18) feet in height.

7. Floor-area-ratio. The floor-area-ratio for single and two family dwellings may not exceed .30, which means not more than 30% of the lot area may be used for floor areas of all buildings on the lot. The floor-area-ratio for all other uses may not exceed .40, which means not more than 40% of the lot area may be used for floor areas of all buildings on the lot.

8. Green Space. For buildings containing three (3) or more dwelling units, there must be a minimum of three hundred (300) square feet of contiguous and useable green space per dwelling unit. Setback areas may not be counted toward the required green space.

9. Exterior Finish. Corrugated sheet metal siding shall not be permitted.

Subdivision 6: SITE PLAN - CERTIFICATE OF SURVEY.

Prior to the issuance of a permit for any building with a foundation, a site plan for the property must be approved by the City Council. The site plan must contain at a minimum the following:

1. The current and proposed use of the property;
2. A Certificate of Survey;
3. All structures and their dimensions and location;
4. Location of waste facilities including measures used for enclosure and screening (See Section 5 Subd. 3);
5. Location of the water supply and utilities;
6. Elevations and drainage facilities;
7. Streets and ingress and egress;
8. Parking (including typical size and locations of handicap spaces)(See Section 7);
9. Landscaping (including features and types of materials to be used)(See Section 5 Subd. 3);
10. Lighting locations and types of fixtures (See Section 5 Subd. 6);
11. Location and dimensions of required green space;
12. Screening and fences (including types and heights of fencing)(See Section 6);

13. Location and size of signs (See Section 8);
14. Distances to surrounding buildings, and surrounding land uses; and
15. Any other information deemed necessary by the City Clerk or Council.

As part of the site plan review and approval, the City Council may require that changes be made to a site plan. Such changes may include, without limitation, limiting the size and number of street accesses, requiring fencing or screening, requiring changes to the landscape plan, requiring alterations of the location and types of lighting and signage, altering parking lot design and layout, altering building layout, and other alterations and adjustments to ensure a design which is in conformance with this Ordinance, the furtherance of general health, safety, and welfare and is in the best interest of the City.

Subdivision 7: PERFORMANCE BOND.

To ensure site plan improvements, including without limitation landscaping and waste enclosures, are completed in accordance with the approved site plan, a performance bond or other approved security in the amount deemed sufficient by the City Council may be required to be deposited with the City before the issuance of a building permit for the project.

SECTION 15

"B-1" CENTRAL BUSINESS DISTRICT

Subdivision 1: INTENT

It is the intent of the B-1 District to provide for the establishment of commercial and service activities which draw from and serve customers from the community and its surrounding areas.

Subdivision 2: PERMITTED USES

1. Offices or studios of business, professional and service occupations, including but not limited to banks, accountants, brokers, engineers, insurance agents, lawyers, physicians, realtors, chiropractors, and postal stations.
2. Clothing services, including dry-cleaning and laundry establishments, laundromats, and shoe repair shops.
3. Equipment services including radio and television shops, electrical appliance shops, and showrooms of a plumber, decorator or similar trade.
4. Food services including grocery stores, fruit, vegetable and meat markets, supermarkets, restaurants, delicatessens, candy shops, and bakeries whose products are sold only at retail on the premises.
5. Retail sales and personal services including drug stores, hardware stores, stationary and bookstores, news shops, apparel shops, showrooms for articles to be sold at retail, flower shops and commercial greenhouses.
6. Personal services including barber and beauty shops, salons, photographic shops and funeral homes.
7. Governmental and public utility buildings and structures.

8. Recreational services including theaters and bowling lanes.
9. Hotels, motels, taverns, bars, private clubs and lodges.
10. Medical clinics and other buildings for the treatment of human beings.

Subdivision 3: PERMITTED ACCESSORY USES

1. Commercial or business buildings for a use accessory to the principal use.
2. Accessory apartment when included as an integral part of the principal commercial building to be occupied only by the owner or an employee of the business.
3. Fences as regulated by Section 6.
4. Off street parking and loading areas as regulated by Section 7.
5. Signs as regulated by Section 8.

Subdivision 4: CONDITIONAL USES

The following uses require a Conditional Use Permit based on the procedures set forth in Section 22 of this Ordinance:

1. Open outdoor sales, services or rental as an accessory use provided that, in addition to meeting the requirements of Section 22:
 - A. The area is fenced or screened from the abutting properties.
 - B. Sales areas are properly surfaced to control dust.

2. Automobile service stations including gasoline service stations, and auto repair garages.
3. Auto sales with or without service garages (does not include the sale or service of trucks exceeding 2 ton gross weight).
4. Convenience Stores.
5. Drive-in and drive-through restaurants, drive through banks and other drive-through service windows.
6. Public transportation terminals and transformer stations without storage yards.
7. Buildings used for research and testing laboratories, storage buildings or distributing station.
8. Multiple family dwellings as regulated by Section 14.
9. Small animal veterinary clinics and animal hospitals.
10. Towers and Antennas as regulated by Section 9.
11. Uses the City Council determines to be substantially similar to those listed in this zoning district and not detrimental to the City's general health and welfare.

Subdivision 5: LOT, YARD, AREA AND HEIGHT REQUIREMENTS

1. Lot Area, Yard Setbacks. For all permitted uses in the "B-1" district, there will be no requirements for lot areas or yard setbacks except as necessary to meet the Building Code and the Fire Code.
2. Building Height. Buildings hereafter erected may not exceed fifty-five (55) feet in height.

3. Exterior Finish. All new construction and alterations to an existing building or structure must meet the following requirements. Steel is acceptable provided the lower eight (8) feet of the building's face (excluding windows and doors) consists of a material other than steel or corrugated metal.

Subdivision 6: SITE PLAN - CERTIFICATE OF SURVEY

Prior to the issuance of a building permit for any building within a B-1 District, a site plan for the property must be approved by the City Council. The site plan must contain, at a minimum, the following:

1. The current and proposed use of the property;
2. A Certificate of Survey;
3. All structures and their dimensions and location;
4. Location of waste facilities including measures used for enclosure and screening (See Section 5 Subd. 3);
5. Location of the water supply and utilities;
6. Elevations and drainage facilities (including storm sewers and ponding);
7. Streets and ingress and egress;
8. Parking (including typical size and locations of handicap spaces), loading areas and snow storage areas (See Section 7);
9. Landscaping (including features and types of materials to be used) (See Section 5 Subd. 3);

10. Lighting locations and types of fixtures (See Section 5 Subd. 6)
11. Screening and fences (including types and heights of fencing) (See Section 6);
12. Location and size of signs (See Section 8);
13. Distances to surrounding buildings and surrounding land uses; and
14. Any other information deemed necessary by the City Clerk or Council.

As part of the site plan review, the City Council may require that changes be made to a site plan. Such changes may include, without limitation, limiting the size and number of street accesses, requiring fencing or screening, requiring changes to the landscape plan, requiring alterations of the location and types of lighting and signage, altering parking lot design and layout, altering building layout, and other alterations and adjustments to ensure a design which is in conformance with this Ordinance, in furtherance of health, safety, and general welfare and in the best interest of the City.

Subdivision 7: PERFORMANCE BOND.

To ensure site plan improvements, including without limitation landscaping and waste enclosures, are completed in accordance with the approved site plan, a performance bond or other approved security in the amount deemed sufficient by the City Council may be required to be deposited with the City before the issuance of a building permit for the project.

SECTION 16

"B-2" HIGHWAY BUSINESS DISTRICT

Subdivision 1: INTENT

It is the intent of the B-2 District to provide for and limit the establishment of automobile oriented or dependent commercial and service activities.

Subdivision 2: PERMITTED USES

1. All permitted uses as allowed in the "B-1" Central Business District.
2. Automobile sales and service.
3. Commercial recreational services.
4. Farm implement sales and service.
5. Convenience Stores.

Subdivision 3: PERMITTED ACCESSORY USES

1. All permitted accessory uses in the "B-1" Central Business District.
2. Off street parking and loading facilities, including semi-trailers, as regulated by Section 7.

Subdivision 4: CONDITIONAL USES

The following uses require a Conditional Use Permit based on the proceedings set forth in Section 22 of this Ordinance.

1. All conditional uses allowed in the "B-1" Central Business District.

2. 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.
3. Recreational camping areas provided:
 - A. Land area is adequate for the proposed use;
 - B. The site is serviced by an adequately paved arterial street; and
 - C. Utilities are provided to each site and approved by the City Engineer.
4. Rental of equipment or tools.
5. Uses the City Council determines to be substantially similar to those listed in this zoning district and not detrimental to the City's general health and welfare.

Subdivision 5: LOT, YARD, AREA AND HEIGHT REQUIREMENTS

1. Lot Width. Lot width must be at least one hundred (100) feet at the established building line.
2. Lot Frontage. Lot frontage must be at least seventy-five (75) feet.
3. Setbacks.
 - A. Front Yard Setback. The front yard setback must be at least thirty (30) feet.

- B. Side Yard Setback. The side yard setback must be at least ten (10) feet, except that the side yard setback on corner lots must be at least thirty (30) feet.
- C. Rear Yard Setback. The rear yard setback must be at least twenty (20) feet.
- 4. Setbacks Adjoining Residentially Zoned Property. All B-2 uses must be setback at least thirty (30) feet from adjoining residentially zoned property.
- 5. Building Height. Structures may not exceed thirty-five (35) feet in height.
- 6. Floor-area-ratio. The floor-area-ratio may not exceed .60, which means not more than 60% of the lot area may be used for floor areas of all buildings on the lot.
- 7. Exterior Finish. Steel and corrugated metal is permitted provided that at least 20% of the building face (excluding windows and doors) of any side of the building facing a street consists of a material other than steel or corrugated metal.

Subdivision 6: SITE PLAN - CERTIFICATE OF SURVEY.

Prior to the issuance of a building permit for any building within a B-1 District, a site plan for the property must be approved by the City Council. The site plan must contain, at a minimum, the following:

- 1. The current and proposed use of the property;
- 2. A Certificate of Survey;
- 3. All structures and their dimensions and location;

4. Location of waste facilities including measures used for enclosure and screening (screening or enclosure is required);
5. Location of the water supply and utilities;
6. Elevations and drainage facilities (including storm sewers and ponds);
7. Streets and ingress and egress;
8. Parking (including typical size and locations of handicap spaces), loading areas, and snow storage areas;
9. Landscaping (including features and types of materials to be used);
10. Screening and fences (including types and heights of fencing);
11. Lighting locations and types of fixtures (See Section 5 Subd. 6);
12. Location and size of signs;
13. Distances to surrounding buildings and surrounding land uses; and
14. Any other information deemed necessary by the City Clerk or the Council.

As part of the site plan review, the City Council may require that changes be made to a site plan. Such changes may include, without limitation, limiting the size and number of street accesses, requiring fencing or screening, requiring changes to the landscape plan, requiring alterations of the location and types of lighting and signage, altering parking lot design and layout,

altering building layout, and other alterations and adjustments to ensure a design which is in conformance with this Ordinance, in furtherance of health, safety, and general welfare and in the best interest of the City.

Subdivision 7: PERFORMANCE BOND.

To ensure site plan improvements, including without limitation landscaping and waste enclosures, are completed in accordance with the approved site plan, a performance bond or other approved security in the amount deemed sufficient by the City Council may be required to be deposited with the City before the issuance of a building permit for the project.

SECTION 17
"I-1" GENERAL INDUSTRIAL DISTRICT

Subdivision 1: INTENT

It is the intent of this district to provide for and allow a wide range of industrial, warehousing and bulk commercial activities.

Subdivision 2: PERMITTED USES

1. Building materials, storage yards, and lumber yards with fencing and screening to ensure that outside storage is not visible from offsite.
2. Wholesale businesses (excluding petroleum, toxic chemicals and flammable chemicals).
3. Mini-storage.
4. Warehousing.
5. Machine shops, public and private garages.
6. Public utility and service buildings.
7. Contractors equipment and storage yards with fencing and screening to ensure that outside storage is not visible from offsite.
8. Equipment and tool rental.
9. Printing facilities.
10. Wholesale lense grinding.
11. Bottling works and distributors.

Subdivision 3: PERMITTED ACCESSORY USES

1. Open and outdoor storage when fully enclosed by fencing and screening.
2. Offices accessory to a principal use.
3. Residences when on the same parcel as the principal use and occupied by an individual employed by the principal use.
4. Fences as regulated under Section 6.
5. Off street parking and loading regulated under Section 7.
6. Signs as regulated under Section 8.

Subdivision 4: CONDITIONAL USES

The following uses require a Conditional Use Permit based on the procedures set forth in Section 22 of this Ordinance:

1. Any use listed as a permitted or conditional use in the B-2 Highway Business District.
2. Any use which will potentially create noise, odor, dust, smoke, or gas; such use shall be required to meet all requirements established by the Minnesota Pollution Control Agency.
3. Manufacturing of cement, concrete, lime, gypsum or plaster.
4. Distillation of bone, coal, tar, petroleum, refuse, grain or wood.
5. Explosives manufacturing or storage.

6. Fertilizer manufacturing or storage.
7. Garbage, offal, dead animals, refuse, rancid fats, incineration, glue manufacturing, size or relative manufacturing where the processes include the refining or recovery of products from animal refuse or offal.
8. Livestock feeding yards, slaughtering of animals or stock yards.
9. Petroleum or asphalt refining, manufacturing or storage.
10. Smelting or refining of metals from ores.
11. Steam and board hammers and forging presses.
12. Storing, curing and tanning of raw, green or salted hides or skins.
13. Corrosive acid manufacturing or bulk storage thereof.
14. Automobile Recycling yards.
15. Grain elevators and storage subject to height restrictions set forth as part of the conditional use permit.
16. Bulk storage of gas, hazardous waste, hazardous chemicals, or explosives.
17. Mining or excavation of soils.
18. Towers and Antennas as regulated under Section 9.
19. Light manufacturing, including plastic injection molds, precision machine parts, progressive dyes, jigs and fixtures

or customized machine parts and other light manufacturing of products or materials.

20. Uses the City Council determines to be substantially similar to those listed in this zoning district and not detrimental to the City's general health and welfare.

Subdivision 5: LOT, YARD, AREA AND HEIGHT REQUIREMENTS

1. Setbacks.
 - A. Front Yard Setback. The front yard setback must be at least thirty (30) feet.
 - B. Side Yard Setback. The side yard setback must be at least ten (10) feet, except that the side yard setback on corner lots must be at least thirty (30) feet.
 - C. Rear Yard Setback. The rear yard setback must be at least ten (10) feet.
 - D. Setbacks from Residential Property, Churches and Schools. The setback from all residentially zoned property, churches and schools must be at least 40 feet. This setback area must be landscaped and may not be used for parking, loading or driveways.
2. Building Height. Commercial structures may not exceed fifty-five (55) feet in height.
3. Floor-area-ratio. The floor-area-ratio may not exceed .60, which means not more than 60% of the lot area may be used for floor areas of all buildings on the lot.
4. Exterior Finish. All new construction and alterations to an existing building or structure must meet the following requirements. Steel is acceptable provided the lower eight

(8) feet of the building's face (excluding windows and doors) consists of a material other than steel or corrugated metal.

Subdivision 6: SITE PLAN - CERTIFICATE OF SURVEY.

Prior to the issuance of a building permit for any building within a I-1 District, a site plan for the property must be approved by the City Council. The site plan must contain at a minimum the following:

1. The current and proposed use of the property;
2. A Certificate of Survey;
3. All structures and their dimensions and location;
4. Location of waste facilities including measures used for enclosure and screening (See Section 5 Subd. 3);
5. Location of the water supply and utilities;
6. Elevations and drainage facilities;
7. Streets and ingress and egress;
8. Parking (including typical size and locations of handicap spaces) and loading areas (See Section 7);
9. Landscaping (including features and types of materials to be used) (See Section 5 Subd. 3);
10. Screening and fences (including types and heights of fencing) (See Section 6);
11. Lighting locations and types of fixtures (See Section 5 Subd. 6);

12. Location and size of signs (See Section 8);
13. Distances to surrounding buildings, and surrounding land uses; and
14. Any other information deemed necessary by the City Clerk or the Council.

As part of the site plan review, the City Council may require that changes be made to a site plan. Such changes may include, without limitation, limiting the size and number of street accesses, requiring fencing or screening, requiring changes to the landscape plan, requiring alterations of the location and types of lighting and signage, altering parking lot design and layout, altering building layout, and other alterations and adjustments to ensure a design which is in conformance with this Ordinance, in furtherance of health, safety, and general welfare and in the best interest of the City.

Subdivision 7: PERFORMANCE BOND.

To ensure site plan improvements, including without limitation landscaping and waste enclosures, are completed in accordance with the approved site plan, a performance bond or other approved security in the amount deemed sufficient by the City Council will be required to be deposited with the City before the issuance of a building permit for the project.

SECTION 18
"I-2" PLANNED INDUSTRIAL PARK DISTRICT

Subdivision 1: INTENT

It is the intent of this district to provide for and allow industrial, warehousing and bulk commercial activities with certain conditions, covenants, restrictions, reservations and easements being placed on development within this district.

Subdivision 2: PERMITTED USES

1. Bottling establishments.
2. Building material, sales and storage provided all product is fully enclosed by fencing or screening.
3. Broadcasting, antennas, television and radio.
4. Camera and photographic supplies manufacturing.
5. Cartage and express facilities.
6. Stationary, book binding and other types of manufacturing of paper and related products, but not processing of raw materials for paper production.
7. Printing (non-retail).
8. Governmental use.
9. Engraving, printing and publishing.
10. Jewelry manufacturing.
11. Medical, dental and optical laboratories.

12. Railroad right of ways.
13. Storage and warehousing, including mini-storage.
14. Electrical service shops.

Subdivision 3: PERMITTED ACCESSORY USES

1. All permitted accessory uses in the "I-1" Industrial District

Subdivision 4: CONDITIONAL USES

1. Electric light or power generating stations.
2. Electronic products manufacture.
3. Meat or poultry processing plants.
4. Bulk gas storage.
5. Any manufacturing, production, processing, wholesale, retail, cleaning, storage, servicing, repair and testing of materials, goods or products providing no noxious or offensive trade or activity may be carried on, nor may anything be done thereon which may be or become an annoyance or a nuisance or constitute a hazardous or dangerous condition or activity to the City of Gilman by reason of unsightliness or excessive emission of odors, dust, fumes, smoke, or noise, vibrations or otherwise.
6. Uses the City Council determines to be substantially similar to those listed in this zoning district and not detrimental to the City's general health and welfare.

Subdivision 5: LOT, YARD, AREA AND HEIGHT REQUIREMENTS

1. Setbacks.
 - A. Front Yard Setback. The front yard setback must be at least thirty (30) feet.
 - B. Side Yard Setback. The side yard setback must be at least ten (10) feet, except that the side yard setback on corner lots must be at least twenty (20) feet.
 - C. Rear Yard Setback. The rear yard setback must be at least twenty (20) feet.
 - D. Setbacks from Residential Property, Churches and Schools. The setback from all residentially zoned property, churches and schools must be at least 40 feet. This setback area must be landscaped and may not be used for parking, loading or driveways.
2. Building Height. Commercial structures may not exceed fifty-five (55) feet in height.
3. Floor-area-ratio. The floor-area-ratio may not exceed .60, which means not more than 60% of the lot area may be used for floor areas of all buildings on the lot.
4. Exterior Finish. Steel and corrugated metal is permitted.

Subdivision 6: OPEN STORAGE

1. Outdoor Storage and Open Sales Prohibited. Except as provided for in this Subdivision, outdoor storage and open sales are prohibited.
2. Exception to Prohibition. The following may be permitted for outdoor storage after review and approval by the City as provided for in this Subdivision:

- A. Currently licensed vehicles used by the business for transport or manufactured or serviced by the business (not including junked vehicles);
 - B. Heavy machinery mounted on wheels; and
 - C. Movable finished products mounted on wheels.
3. Review and Approval Required for Exception to Apply. The above exempt outdoor storage will only be permitted if approved by the City Council. In any case, the area used for such storage must be screened from view from outside the premises by a fence of a minimum height of six (6) feet, with the maximum height to be determined by the City. Under no circumstances will open or outside storage be allowed within the setback areas.

Subdivision 7: SITE PLAN - CERTIFICATE OF SURVEY

Prior to the issuance of a building permit for any building within an I-2 District, a site plan for the property must be approved by the City Council. The site plan must contain at a minimum the following:

- 1. The current and proposed use of the property;
- 2. All structures and their dimensions and location;
- 3. Location of waste facilities including measures used for enclosure and screening (See Section 5 Subd. 3);
- 4. Location of the water supply and utilities;
- 5. Elevations and drainage facilities (including storm sewers and ponds);
- 6. Streets and ingress and egress;

7. Parking (including typical size and locations of handicap spaces) and loading areas (See Section 7);
8. Landscaping (including features and types of materials to be used) (See Section 5 Subd. 3);
9. Screening and fences (including types and heights of fencing) (See Section 6);
10. Lighting locations and types of fixtures (See Section 5 Subd. 6);
11. Location and size of signs (See Section 8);
12. Distances to surrounding buildings and surrounding land uses;
13. Certificate of Survey; and
14. Any other information deemed necessary by the City Clerk or the Council.

As part of the site plan review, the City Council may require that changes be made to a site plan. Such changes may include, without limitation, limiting the size and number of street accesses, requiring fencing or screening, requiring changes to the landscape plan, requiring alterations of the location and types of lighting and signage, altering parking lot design and layout, altering building layout, and other alterations and adjustments to ensure a design which is in conformance with this Ordinance, in furtherance of health, safety, and general welfare and in the best interest of the City.

Subdivision 7: PERFORMANCE BOND.

To ensure site plan improvements, including without limitation landscaping and waste enclosures, are completed in accordance with the approved site plan, a performance bond or other approved security in the amount deemed sufficient by the City

Council will be required to be deposited with the City before the issuance of a building permit for the project.

SECTION 19

"FP" FLOOD PLAIN OVERLAY DISTRICT

Subdivision 1: INTENT

This district is intended to protect and preserve water channels and areas which should not be developed due to flooding, and are required to carry and discharge flood waters and may be subject to inundation by regional floods.

The "FP" Flood Plain Overlay District must be applied to and superimposed upon Agricultural, Residential, Business, Commercial and/or industrial districts as existing or amended by the text and map of this Ordinance. The regulations and requirements imposed by the "FP" Flood Plain Overlay District must be in addition to those established by the Agricultural, Residential, Business, Commercial, and Industrial districts of this Ordinance.

Subdivision 2: FLOOD PLAIN OVERLAY DISTRICT

The City adopts and incorporates the Benton County Flood Plain Ordinance by reference as the City's Flood Plain Overlay District. The County's Ordinance will control and bind upon citizens in the City regarding Flood Plains and Flood Zones.

SECTION 20 MANUFACTURED HOME PARKS

Subdivision 1: CONDITIONAL USE PERMIT APPLICATION

An applicant for a Manufactured Home Park must apply for a conditional use permit under Section 22 and submit a plan for the proposed park or for the expansion of an existing park for review by the City Council, showing the following either existing or proposed:

1. The extent and area proposed for the Manufactured Home Park or travel trailer court.
2. Road and driveways. The location of sites or units for manufactured homes.
3. The location and number of sanitary conveniences.
4. The proposed disposition of surface drainage.
5. The proposed street surfacing and lighting.
6. The utility easements.
7. The off-street parking.
8. The patios.
9. The building plans and specifications, and location of the shelter required by Minnesota Statutes Section 327.20, as amended.
10. The location of recreation facilities.
11. The location of sidewalks.
12. The location of set-back lines.

13. The location of screening, planting and green areas.
14. Certificate of Survey.
15. Any other information requested by the City.
16. New or expanded manufactured homes must be inspected by the Minnesota Department of Health.

Subdivision 2: SHELTER & SAFETY PLAN.

Each applicant must, as a condition of any permit, have approved by the City Council a safe shelter and safety plan for all current and future residents.

Subdivision 3: RELOCATION

Each Manufactured Home brought into the park must comply with the requirements of Section 5, Subdivision 8 of this Ordinance regarding relocation.

Subdivision 4: COMPLIANCE WITH CODES

All City and State codes governing the construction and installation of the home, sanitary and storm sewer, water and electrical lines must be complied with.

Subdivision 5: MANUFACTURED HOME PARK REQUIRED

No occupied Manufactured Home, house trailer, camper, travel trailer or motor coach may be located on any lot, tract or parcel of land not designated as a Manufactured Home Park or travel trailer court. No Manufactured Home shall be located in a Manufactured Home Park that does not conform to the requirements of the Manufactured Home Building Code as defined by Minnesota Statutes, Chapter 327.31, Subdivision 3, or successor statutes.

Subdivision 6: MAXIMUM LOT COVERAGE

The aggregate maximum lot coverage for Manufactured Home Parks and travel trailer courts is .40, which means not more than 40% of the lot area of the entire park may be used for floor areas of all buildings, Manufactured Homes or other structures on the lot.

Subdivision 7: MINIMUM DISTANCE BETWEEN UNITS

The minimum distance between units is twenty (20) feet, or the sum of the heights of the two (2) units, whichever is greater; the point of measurement being a straight line at the closest point between the units being measured.

Subdivision 8: SETBACKS

There shall be a minimum setback for all Manufactured Homes of at least twenty-five (25) feet from any property boundary line, except the front yard setback adjacent to a street or right-of-way. This twenty-five (25) foot setback area shall act as a buffer zone and must be landscaped according to a landscape plan, to be submitted at the time of application. Such plans must show the type of planting material, size and planting schedule. The front yard setback from a street right-of-way may not be less than twenty (20) feet.

Subdivision 9: PARKING SPACES

Each lot must have a minimum of two (2) parking spaces.

Subdivision 10: PERMIT

A permit must be applied for and approved before moving into a Manufactured Home.

SECTION 21 PLANNED UNIT DEVELOPMENT

Subdivision 1: PURPOSE.

It is recognized that this 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 Planned Unit Development District is established. The technology of land development is constantly changing and creative. Practical approaches to the use of land should be encouraged. The provisions of this Section are intended to do so in a manner which is in the best interests of both the developer and the community. More specifically, Planned Unit Development Districts 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.

Subdivision 2: OVERLAY DISTRICT.

A PUD District is an overlay district which may be applied to and superimposed upon any underlying zoning district within the City, but will only be approved in conjunction with a Development Plan for the property. It being the intent of the City that no provision or regulation of the underlying zoning district(s) may be varied, modified or set aside unless specifically provided for in a Development Plan approved in accord with this Section.

Subdivision 3: SUBDIVISION REGULATIONS.

The uniqueness of each PUD District 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 City ordinances and policies. The City Council may, therefore, where it finds that such modifications are not 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 Development Plan for a PUD District, 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 accord 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 District.

Subdivision 4: PERMITTED USES WITHIN A PUD DISTRICT.

All permitted uses and accessory uses allowed in an underlying zoning district within a PUD District will be allowed within a PUD District. Uses requiring a conditional use permit in an underlying zoning district may, in lieu of using the normal conditional use permit proceedings, be approved as permitted uses as part of an approved

Development Plan. In addition to the uses permitted in the underlying zoning district, all other uses designated as permitted by the approved Development Plan will be considered permitted uses within a PUD District. Mixed uses, as specified in the approved Development Plan, will also be permitted within a PUD District. No use may be designated as permitted in a Development Plan if that use will have the potential for adversely affecting adjacent property or the public health, safety, or general welfare of the community.

Subdivision 5: AREA, HEIGHT, FRONTAGE, YARD REQUIREMENTS, AND OTHER NON-USE REGULATIONS.

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

Subdivision 6: GENERAL REQUIREMENTS:

The following are the minimum requirements which must be met before the City will approve a Development Plan and the establishment of a PUD District:

1. Ownership. The property located within the PUD must be under unified control at the time of application, and be planned and scheduled to be developed as a whole. The applicant(s) must have acquired actual ownership of or executed a binding sales contract for all of the property comprising such tract. Where more than a single owner is involved, each owner must agree in advance to be bound by the conditions and regulations which will be effective within the PUD and to record with the County Recorder such

covenants, easements, and other provisions required by the City.

2. Financing. The financing for the development must be proven to be available to the applicant on conditions and in amounts which are sufficient to assure completion of the development.
3. Council Findings. The Council must find the following:
 - A. Comprehensive Plan. The development will be planned so that it is consistent with the Comprehensive Plan for the community.
 - B. 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.
 - C. Not Disturbing. 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.
 - D. Adequately Served. 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.
 - E. 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 District being approved and thus benefit both the residents of the development and community as a whole.
 - F. Not Detrimental. 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.

- G. Community Welfare. The development will not be detrimental to or endanger the public health, safety, morals, comfort, convenience or general welfare.

Subdivision 7: PROCEDURE.

1. Application. An applicant for a PUD must submit a Preliminary Development Plan, as described below in Subdivision 8, to the City Administrator, together with the application fee as set by the City Council, from time to time, at least 14 days prior to the next regularly scheduled City Council meeting. The application must be signed by the owner(s) of every property within the boundaries of the proposed PUD. Depending upon the nature and scope of the application, the City administrator may, in addition to the standard application fee, require that the applicant deposit up to \$10,000.00 for planning, engineering, administrative and legal expenses incurred by the City in reviewing and processing the application. Any funds remaining after the application is processed will be refunded to the applicant.
2. Public Hearing. The City Council will hold at least one public hearing on the rezoning and the Preliminary Development Plan, after notice of the hearing has been published in the official newspaper and mailed to each owner of property within 350 feet of the subject property at least 10 days prior to the day of the hearing.
3. Approval or Denial by Council. The City Council will approve or deny the application after considering the application and the testimony of the applicant and the public. Since final approval of the Development Plan will involve the rezoning of the subject property, the number of

votes required for approval shall be subject to Minn. Stat. Chpt. 462. If the Preliminary Development Plan receives approval of the City Council, the Final Development Plan, with any changes requested by the City Council, must be presented to the City Council. A public hearing will not be required for approval of the Final Development Plan unless the City Council determines that material changes have been made from the Preliminary Development Plan as approved by the Council. The City Council must approve the Final Development Plan by the affirmative vote of two-thirds of the members of the Council, and the Council will specify any conditions which will be attached to the Final Development Plan if such conditions have not been incorporated therein. The rezoning of the subject property will be considered complete upon approval of the Final Development Plan and approval of the development agreement required by paragraph 7 below.

4. 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 Preliminary or Final Development Plan.
5. Planned Unit Development Agreement ("PUD Agreement") and Performance Bond. In the event the Preliminary Development Plan is approved by the City Council, the applicant will be required to execute a PUD Agreement, which states the conditions of the PUD and the phases of the development. 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 PUD Agreement.
6. Plan Amendments. The procedures necessary to amend the Final Development Plan after it has been approved by the City are the same as the procedures required for the original approval, subject to the provisions of the PUD Agreement. Nonmaterial changes to the Development Plan may be made upon approval of the City Council without

having to hold a public hearing or having the matter considered by the Council. 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 district.

7. Lapse of Time. If within one (1) year of the City Council's approval of the Final Development Plan 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 Development Plan will become void. An applicant may request and receive an extension from the 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.

Subdivision 8: SUBMISSION REQUIREMENTS.

1. Preliminary Development Plan. Ten (10) copies of the following plans and information must accompany the application fee, the entirety of which will be considered the Preliminary Development Plan:
 - A. Project information including site size, ownership, developer, development timing, phasing and construction schedule, and such other information as will be helpful in the approval process.
 - B. Existing site information including soils, vegetation, topography, slopes, conditions, water features, drainage, wildlife, and existing land uses.
 - C. Proposed covenants or other private legal restrictions, if any.

- D. Written Descriptions of variances from regulations of underlying zoning districts and subdivision regulations.
 - E. Preliminary architectural drawings, if any, illustrating schematic floor plans, and exterior construction materials.
 - F. Site plan illustrating the proposed use(s) of land; proposed densities; buildings, including square footage, height and other dimensions, distances between buildings and the front, side and rear lot lines, and other buildings located on the property and on property adjacent to the property; street and walkway locations; curb cuts and driveways; parking areas and loading areas; open spaces; the locations of easements and utilities (existing and proposed); landscaping (showing size, types and locations); lighting; grading; drainage; project phasing; anticipated variances from setbacks or other regulations of the underlying zone; tabulation of density, land use intensity, lot coverage and acreage; percentages of land devoted to buildings, parking, and open space; and any other information which may be helpful to understanding and evaluating the proposal.
2. Final Development Plan Approval. The Final Development Plan must include all of the information provided in the Preliminary Plan except it must include any changes required by the City in its approval of the Preliminary Development Plan.

Subdivision 9: DECLARATION.

1. 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, or at

such earlier time as provided by the Council, 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 Benton County, Minnesota recording office.

2. 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.
3. 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.
4. 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.

Subdivision 10: SUBDIVISION.

It is the intent of the Ordinance to require subdivision of property simultaneous with application for conditional use. The subdivision and/or platting of land as a planned unit development shall be subject to the requirements for approval and recording with the Benton County Recorder as have been established by the City.

Subdivision 11: YEARLY INSPECTIONS AND REVIEW.

The Building Inspector will review each PUD at least once each year until completed and will make a report to the Council on the status of the development in each PUD District. 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. Subject to the PUD Agreement, and within 30 days of such notice, the Council will either revoke the approval of the Development Plan and the PUD, and the land will thereafter be governed by the regulations applicable in the district in which it is located, or the Council will take such steps as it deems necessary to compel compliance with the approved Development Plan.

SECTION 22

CONDITIONAL USE PERMITS

Subdivision 1: PURPOSE.

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

Subdivision 2: PROCEDURE.

1. Application. A person applying for a Conditional Use Permit must fill out and submit to the City Clerk a Conditional Use Permit Application form, accompanied by the required fee and detailed material fully explaining the specific request together with such information as is necessary to show compliance with this Ordinance. The application must include a site plan showing the following, as applicable:
 - A. Site description (legal description).
 - B. A Certificate of Survey.
 - C. Site plan drawn to scale showing the parcel and building dimensions, area and setbacks.
 - D. Location of all existing and proposed buildings and their square footage.
 - E. Curb cuts, driveways, access roads, parking spaces, off-street loading areas, sidewalks, vehicular circulation, and snow storage locations.

- F. Landscaping and screening plans.
 - G. Waste facilities including enclosure and screening.
 - H. Drainage and grading plan.
 - I. Sanitary sewer and water plan with estimated use per day.
 - J. Soil type.
 - K. Any additional written or graphic information reasonably required by the City Clerk or the Council.
- 2. Application Deadline. The City Clerk must receive completed applications at least ten (10) days prior to the City Council's next scheduled meeting.
 - 3. Fees. A fee the City Council shall establish by resolution must accompany the application. An additional fee may be charged for atypical projects, which in the opinion of the City Clerk will require additional staff time and/or City Expenditures. In such case, the applicant will be required to reimburse the City for administrative time, professional services and costs incurred by the City.
 - 4. Public Hearing & Notice. The City Clerk will set a date for the official public hearing.
 - A. Published Notice. The City will publish notice of the public hearing's time, place and purpose at least once in the City's official newspaper at least ten (10) days before the public hearing.

- B. Mailed Notice to Property Owners. The City will also mail notice of the public hearing's time, place and purpose not less than ten (10) days and not more than thirty (30) days before the hearing date to all individual property owners within three hundred fifty (350) feet of the parcel included in the request. The City Clerk must attest and make a part of the proceeding's records a copy of the notice and list of the owners and addresses to which the notice was sent. A property owner's failure to receive notice or a defective notice shall not invalidate any proceedings.
5. City Council's Review. The City Council shall hold a public hearing on the matter and the City Council will, by resolution, either grant or deny the Conditional Use Permit.
- A. Appearance by Applicant. The applicant or the applicant's representative(s) must appear before the City Council in order to answer questions concerning the Conditional Use Permit application.
6. Vote Required. Approval of a Conditional Use Permit will require passage by a majority of the votes cast.
7. Conditions. If the City Council grants the Conditional Use Permit, it may impose conditions it considers necessary to protect the public health, safety and welfare.
8. Written Findings. The City Council will issue written findings stating the reasons for its decision and any conditions imposed, and will serve a copy of its decision on the applicant by U.S. mail, within ten (10)

days after its decision. In any event, the City Council will make a decision on each Conditional Use Permit application within sixty (60) days after the City Clerk receives the application or may extend the time for consideration under state law.

9. Appeal. An applicant may appeal the City Council's decision to the Benton County District Court as provided by law.
10. Amendments. An application for an amendment to a Conditional Use Permit will be administered in the same manner as a Conditional Use Permit.
11. Resubmission. No application, which is substantially the same as an application of a denied Conditional Use Permit, shall be resubmitted for a period of one (1) year from the date of denial. The City Council may permit a new application if, in its opinion, new evidence or a change of circumstances warrant reconsideration.

Subdivision 3: CRITERIA FOR GRANTING CONDITIONAL USE PERMITS.

In granting a Conditional Use Permit, the City Council will consider the effect of the proposed use upon the health, safety, morals, and general welfare of occupants of surrounding land, including land values. Among other things, the City Council must make the following findings when applicable.

1. Not a Burden on Public Facilities. The use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.

2. Compatible with Existing and Planned Adjacent Uses. That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding vacant property for existing and planned uses in the area.
3. No Adverse Affect on Adjacent Properties. The structure and site will not have an appearance, traffic, noise, odors, fumes, dust, vibration, light or emission levels or other features that will have an adverse effect upon adjacent properties for purposes already in use or permitted.
4. Related to the Needs of the City. The use is reasonably related to the overall needs of the City and to existing land uses.
5. Consistent with the Comprehensive Plan. The proposed use is in compliance with the Land Use Plan and other portions of the Comprehensive Plan adopted by the City.
6. Not a Traffic Hazard. The use will not cause a traffic hazard or congestion.
7. Adequate Parking and Loading. That maximum measures have been or will be taken to provide maximum off-street parking and loading space to serve the proposed use.
8. Not detrimental to Health, Safety and Welfare. The proposed use will not be detrimental to the public health, safety, comfort and general welfare of the City.
9. Floodplain. For property located in Floodplain districts, the criteria set out in the Floodplain Ordinance will be met.

Subdivision 4: ADDITIONAL CONDITIONS.

In permitting a new conditional use or the alteration of an existing conditional use, the City Council may impose conditions considered necessary to protect the best interest of the surrounding area or the City as a whole, in addition to the standards and requirements expressly specified by this Ordinance. These conditions may include, but are not limited to the following:

1. Increasing the required lot size or yard dimensions.
2. Limiting the height, size, number or location of buildings.
3. Controlling the location and number of vehicle access points.
4. Increasing the street width.
5. Increasing the number of required off-street parking spaces.
6. Limiting the number, size, location or lighting of signs.
7. Requiring diking, berming, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
8. Designating sites for open space.
9. Designating operating hours and noise levels.
10. A time limit on the use.
11. Any other condition the City Council deems necessary to protect the public interest.

12. Additional Conditions in accord with the Floodplain Ordinance.

Subdivision 5: CHANGES IN CONDITIONAL USES.

Any change involving structural alteration, enlargement, intensification of use, or similar change not specifically permitted by the Conditional Use Permit issued shall require an amended Conditional Use Permit and all procedures shall apply as if a new permit were being issued. The City Clerk will maintain a record of all Conditional Use Permits issued including information on the use, location, and conditions imposed by the City Council and time limits, review dates, and such other information as may be appropriate.

Subdivision 6: RECORDING CONDITIONAL USE PERMITS.

A certified copy of any Conditional Use Permit shall be filed with the Benton County Recorder. The Conditional Use Permits shall include the legal description of the property involved.

Subdivision 7: REVOCATION.

In the event that the applicant violates any of the conditions set forth in this permit, the City Council shall have the authority to revoke a Conditional Use Permit.

Subdivision 8: LAPSE/EXPIRATION.

If within one (1) year after granting a Conditional Use Permit the use permitted has not been started, then the permit will become null and void unless the City Council has approved a petition for an extension. Conditional Use Permits expire if the authorized use ceases for any reason for more than six (6) months. Conditional Use Permits expire if the use is abandoned. A use is

considered abandoned if the use is replaced by another use or discontinued for more than six (6) months.

Subdivision 9: COMPLIANCE.

1. Revocation. The City Council may revoke a Conditional Use Permit if it determines that the permit's terms and conditions are not being complied with.
2. Procedure. The Building Inspector, City Clerk, any Council member or the Mayor may bring before the City Council notice of a potential violation involving the terms or conditions of a Conditional Use Permit which has been issued in the City. In such event, the Building Inspector or City Clerk shall investigate the violation and report back to the Council. If the Council determines that proceedings to consider revocation of the permit are warranted, the Council shall provide five (5) days written notice to the owner of the property (as shown on the property tax records for which the Conditional Use Permit has been issued), of the time and place at which the Council will consider the revocation. The property owner shall have an opportunity to be heard after which time the Council may take all appropriate actions including the revocation and termination of the Conditional Use Permit.
3. Costs of Enforcement. It shall be a term of any Conditional Use Permit issued by the City, whether or not specifically stated, that the property owner(s) shall pay all staff and reasonable attorney's fees associated with enforcement of the terms of the Conditional Use Permit.

SECTION 23

INTERIM USE PERMITS

Subdivision 1: PURPOSE AND INTENT.

The purpose and intent of allowing interim uses are:

1. To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction.
2. To allow a use that is presently judged acceptable by the Board, but that, with anticipated development or redevelopment, will not be acceptable in the future.
3. To allow a use that otherwise may not be allowed under the zoning regulations but, because of its temporary nature, may be acceptable.

Subdivision 2: PROCEDURE.

Interim Use Permits will be processed according to the procedures for Conditional Use Permits.

Subdivision 3: GENERAL STANDARDS.

An interim use must comply with the following:

1. The use must meet the Conditional Use Permit standards set forth in this Code.
2. The use must conform to all applicable zoning regulations.
3. The date or event that will terminate the use must be identified with certainty.
4. The use must not impose additional, unreasonable costs on the public if it is necessary for the public to take the property in the future.

5. The applicant must agree to any conditions deemed appropriate by the City Council for permitting the use.

Subdivision 4: ADDITIONAL CONDITIONS.

In permitting an interim use, the City Council may, impose, in addition to the standards and requirements expressly specified by this Ordinance, additional conditions the City Council considers necessary to protect the interests of the surrounding area.

Subdivision 5: TERMINATION.

An interim use will terminate and become void upon the occurrence of any of the following events:

1. The date stated in the permit.
2. A violation of any condition under which the City Council issued the permit.
3. A change in the applicable zoning regulations, which no longer allows the use.
4. The operator/owner or the use changes.
5. The permit is not utilized for a period of one (1) year from the date issued.

Subdivision 6: REVOCATION.

The City Council may revoke the interim use following a hearing and a finding that any of the permit's conditions are violated.

Subdivision 7: CERTIFICATION OF TAXES PAID.

Before the City Council approves an interim use permit application, the City Council may request that the applicant provide certification that there are not delinquent property taxes, special assessments, interest, or utility fees due upon the parcel of land to which the interim use permit application relates.

SECTION 24
AMENDMENTS/REZONING

Subdivision 1: PROCESS.

1. Initiation of Process/Application. An amendment to the Zoning Ordinance or Zoning Map may be initiated by the City Council or by a petition of affected property owners (as described below).
 - A. Petition. The owner of the subject property or ten (10) or more owners of property in the City may propose a zoning amendment or change, including a rezoning, by submitting fifteen (15) copies of a verified petition to the City Clerk.
2. Application. A person proposing a zoning amendment or change, including a rezoning, must fill out and submit to the City Clerk a Zoning Application form, accompanied by the required fee and detailed materials fully explaining the proposal for an amendment to this Ordinance. The application must include a site plan showing the following, as applicable:
 - A. Site Description (legal description).
 - B. A Certificate of Survey.
 - C. Site plan drawn to scale showing the parcel and building dimensions, area and setbacks.
 - D. Location of all existing and proposed buildings and their square footage.
 - E. Curb cuts, driveways, access roads, parking spaces, off-street loading areas, sidewalks, vehicular circulation, and snow storage locations.

- F. Landscaping and screening plans.
 - G. Waste facilities including enclosure and screening.
 - H. Drainage and grading plan.
 - I. Sanitary sewer and water plan with estimated use per day.
 - J. Soil type.
 - K. Any additional written or graphic information reasonably required by the City Clerk or the Council.
3. Application Deadline. The City Clerk must receive completed applications at least ten (10) days prior to the City Council's next scheduled meeting.
4. Fees. A fee the City Council shall establish by resolution must accompany the application. An additional fee may be charged, for atypical projects, which in the opinion of the City Clerk will require additional staff time and/or City Expenditures. In such case, the applicant will be required to reimburse the City for administrative time, professional services and costs incurred by the City.
5. Public Hearing. The City Clerk will set a date for the official public hearing.
- A. Published Notice. The City will publish notice of the public hearing's time, place and purpose at least once in the City's official newspaper at least ten (10) days before the public hearing.
 - B. Mailed Notice to Property Owners. The City will also mail notice of the public hearing's time, place and purpose not less than ten (10) days and not more than thirty (30) days before the hearing date to all

individual property owners within three hundred fifty (350) feet of the parcel included in the request. The City Clerk must attest and make a part of the proceeding's records a copy of the notice and list of the owners and addresses to which the notice was sent. A property owner's failure to receive notice or a defective notice shall not invalidate any proceedings.

6. City Council's Review. The City Council shall hold a public hearing on the matter and shall, by ordinance, either adopt or deny the proposed amendment or any part of it as the Council deems advisable. In any event, the City Council will act on an amendment request by petition within sixty (60) days after the City Clerk receives the petition or the City may extend the time for consideration under state law.
 - A. Appearance by Applicant. The applicant or the applicant's representative(s) must appear before the City Council in order to answer questions concerning the zoning amendment application.
7. Vote Required. Approval of any amendment to this Ordinance will require passage by a majority vote of the full City Council, except that the adoption or amendment of any portion of this Ordinance which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-thirds (2/3) majority vote of the full City Council.
8. Resubmission. No application of a property owner, which is substantially the same as an application of a denied rezoning request, shall be resubmitted for a period of one (1) year from the date of denial. The City Council may permit a new application if, in its opinion, new evidence or a change or circumstances warrant reconsideration.
9. Appeal. A petitioner may appeal the City Council's decision to the Benton County District Court as provided by law.

Subdivision 2: EFFECTIVE DATE.

Unless the City Council provides otherwise, a zoning amendment will not become effective until after the City Council approves and publishes an Ordinance reflecting the amendment.

Subdivision 3: RECORDING.

A certified copy of all Ordinances amending the Zoning Ordinance or rezoning any property shall be filed with the Benton County Recorder. The rezoning of any abstract or registered property shall include the legal description of the property involved.

Subdivision 4: ZONING MAP.

The City Clerk shall revise the City's Official Zoning Map each time property within the City is rezoned. The applicant shall pay all costs of changes to the Official Zoning Map.

SECTION 25

VARIANCES/APPEALS

Subdivision 1: BOARD OF ADJUSTMENT

1. Established. The Board of Adjustment is the City Council.
2. Procedure Rules. The Board of Adjustment's procedural rules are the same as the City Council's rules.
3. Powers. The Board of Adjustment has the power to do the following:
 - A. Interpret this Ordinance.
 - B. Hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative official charged with enforcing this ordinance.
 - C. Hear and decide appeals regarding exact zoning district boundaries.
 - D. Hear requests for variances from this Ordinance's literal provisions where their strict enforcement would cause undue Hardship because of circumstances unique to the individual property and to grant such variances when it is demonstrated that the actions will be in keeping with this Ordinance's spirit and intent.

Subdivision 2: APPEALS AND ADMINISTRATIVE DECISIONS

Appeals of decisions of the City Clerk will be heard by the Board of Adjustment provided that the person making the appeal files an application for a hearing within thirty (30) days after the decision to be appealed was delivered to the applicant by the City Clerk. The following procedure will be followed:

1. Application. The person making the appeal must apply for a hearing before the Board of Adjustment on forms provided by the City Clerk.
2. Notice and Hearing. The Board of Adjustment will schedule a hearing on the appeal.
 - A. At least ten (10) days prior to the hearing, a notice will be published in the official county newspaper.
 - B. The Board of Adjustment will make their decision within thirty (30) days of the public hearing or may extend the time for consideration as permitted by state law.

Subdivision 3: VARIANCES

No variance in the provisions or requirements of this Ordinance shall be authorized by the Board of Adjustment unless it finds evidence that the following facts and conditions exist:

1. Unique Circumstances. That there are exceptional or extraordinary circumstances or conditions applying to the property in question as to the intended use of the property that do not apply generally to other properties in the same zoning district. The unique circumstances did not result from the acts of the property owner.
2. Necessary to Preserve reasonable use of the property. The property cannot be put to a reasonable use without the variance. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same district and in the same vicinity.
3. Not merely economic. The possibility of increased financial return or economic consideration will not in itself be

deemed sufficient to warrant a variance if a reasonable use for the property exists under this Ordinance's terms. This means that cost or money savings cannot be the only reason for the variance.

4. Maintains the Character of the Neighborhood. The variance will not alter the essential character of the neighborhood.
5. Meets the Spirit of this Ordinance and Comprehensive Plan. The variance maintains the spirit and intent of this Ordinance and the Comprehensive Plan.

Subdivision 4: OTHER CONSIDERATIONS.

1. Solar Energy Systems. Undue hardship shall include, but not be limited to, inadequate access to direct sunlight for solar energy systems.
2. Earth Sheltered Homes. Variances shall be granted for earth sheltered construction as defined in Minn. Stat. §116J.06, Subd. 2, when in harmony with this Ordinance.
3. Non-permitted Use. The Board of Adjustment may not permit as a variance, any use that is not permitted under this Ordinance for property in the zone where the affected person's land is located.
4. Temporary Use for one family dwelling. The Board of Adjustment may permit as a variance, the temporary use of a one family dwelling as a two family dwelling.
5. Conditions. The Board of Adjustment may impose conditions in granting variances to insure compliance and protect adjacent properties.

Subdivision 5: VARIANCE PROCEDURE.

1. Application Filing Required. A person applying for a variance must fill out and submit to the City Clerk a Variance Application form, accompanied by the required fee and detailed material fully explaining the specific variance request. The application must include a site plan showing the following, as applicable:
 - A. Site description (legal description).
 - B. A Certificate of Survey.
 - C. Site plan drawn to scale showing the parcel and building dimensions, area and setbacks.
 - D. Location of all existing and proposed buildings and their square footage.
 - E. Curb cuts, driveways, access roads, parking spaces, off-street loading areas, sidewalks, vehicular circulation, and snow storage locations.
 - F. Landscaping and screening plans.
 - G. Waste facilities including enclosure and screening.
 - H. Drainage and grading plan.
 - I. Sanitary sewer and water plan with estimated use per day.
 - J. Soil type.
 - K. Any additional written or graphic information reasonably required by the City Clerk.

2. Application deadline. The City Clerk must receive completed applications at least ten (10) days prior to the City Council's next scheduled meeting.
3. Fees. A fee the City Council shall establish by resolution must accompany the application. An additional fee may be charged for atypical projects, which in the opinion of the City Clerk will require additional staff time and/or City expenditures. In such case, the applicant must reimburse the City for administrative time and professional services and costs incurred by the City.
4. Public Hearing. The City Clerk shall set a date for the official public hearing.
 - A. Published Notice. The City will publish notice of the Public Hearing's time, place and purpose at least once in the City's official newspaper at least ten (10) days before the public hearing.
 - B. Mailed Notice to Property Owners. The City will also mail notice of the public hearing's time, place and purpose not less than ten (10) days and not more than thirty (30) days before the hearing date to all individual property owners within three hundred fifty (350) feet of the parcel included in the request. The City Clerk must attest and make a part of the proceeding's records a copy of the notice and list of the owners and addresses to which the notice was sent. A property owner's failure to receive notice or a defective notice shall not invalidate any proceedings.
5. Decision by Board of Adjustment. The Board of Adjustment shall hold a public hearing on the matter and the Board of Adjustment will, by resolution, either grant or deny the Variance.

- A. Appearance by Applicant. The applicant or applicant's representative(s) must appear before the Board of Adjustment in order to answer questions concerning the variance application.
6. Vote Required. Approval of any Variance to this Ordinance will require passage by a majority of the votes cast.
7. Conditions and/or Revisions. If the Board of Adjustment grants the Variance, it may impose conditions it considers necessary to protect public health, safety and welfare. The Board of Adjustment may also revise the variance to ensure that it is the minimum variance required.
8. Written Findings. The Board of Adjustment will issue written findings stating the reasons for its decision and any conditions imposed, and will serve a copy of its decision on the applicant by U.S. mail, within ten (10) days after its decision. In any event, the Board of Adjustment will make a decision on each Variance application within sixty (60) days after the City Clerk receives the application or will extend the time for consideration under state law.
9. Recording. A certified copy of every Variance to abstract or registered property shall be filed with the Benton County Recorder. The variance shall include the legal description of the property involved.
10. Resubmission. No application, which is substantially the same as an application of a denied Variance, shall be resubmitted for a period of one (1) year from the date of the denial. The Board of Adjustment may permit a new application if, in its opinion, new evidence or a change in circumstances warrant reconsideration.

Subdivision 6: LAPSE OF VARIANCE.

If within one (1) year after granting a Variance the work permitted is not started, such variance shall become null and void unless a petition for an extension has been approved by the City Council.

SECTION 26
ENFORCEMENT/VIOLATIONS/PENALTIES

Subdivision 1: ENFORCEMENT

This Ordinance shall be administered and enforced by the City Building Inspector and City Council of Gilman, Minnesota. The Building Inspector or City Clerk may institute appropriate action for any violations of this Ordinance at the direction of the City Council and through the City Attorney as deemed necessary.

Subdivision 2: VIOLATIONS AND PENALTIES

Any person, firm or corporation who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor and, upon conviction, shall be fined and imprisoned accordingly. Each day that a violation is permitted to exist shall constitute a separate offense.