

CITY OF SKYLINE  
LAND USE (ZONING)

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## LAND USE (ZONING)

### **Sec. 10.01. Scope.**

**Subd. 1. Provisions are Minimum Requirements.** In their interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements for the promotion of the public health, safety, comfort and general welfare. When the provisions of this Chapter impose greater restrictions than those of any statute, other ordinance, or regulation, the provisions of this Chapter shall be controlling. When any statute, other ordinance, or regulation impose greater restrictions than those of this Chapter, the provisions of such statute, other ordinance, or regulation shall be controlling.

**Subd. 2. Provisions Are Cumulative.** The provisions of this Chapter shall be interpreted to be cumulative of, and to impose limitations in addition to all other codes, laws, ordinances, and regulations in existence or which may be passed governing any subject matter of this Chapter. Several provisions of this Chapter also shall be interpreted to be cumulative of each other. To the greatest extent possible, the provisions of this Chapter shall be construed to be consistent with, and not conflict with, the provisions of such other codes, laws, ordinances, and regulations, and with each other, to the end that all such provisions may be given their fullest application.

**Subd. 3. Provisions Are Not a Consent, License, or Permit.** The provisions of this Chapter shall not be interpreted to be or to grant a consent, license, or permit to use any property or to establish, locate, construct, or maintain any structure or use, or to carry on any trade, industry, occupation, or activity.

**Subd. 4. Unlawful Uses and Structures Are Not Validated.** This Chapter shall not be interpreted to validate or make lawful any unlawful use or structure existing upon the effective date of the Chapter. Any such unlawful use or structure shall remain unlawful to the extent that said use or structure is in conflict with provisions of this Chapter.

**Sec. 10.02. Definitions.** The terms used in this Chapter shall have the following meanings:

**Subd. 1. Accessory Structure.** A structure detached from, but located on the same lot as the principal structure or principal use, the use of which is incidental and accessory to that of the principal structure or principal use.

**Subd. 2. Accessory Use.** A use incidental to and on the same lot as a principal use.

**Subd. 3. Adjacent or Contiguous.** Means adjoining, bordering, touching, or contiguous. If two (2) lots are separated by a public street, they shall not be deemed to be adjacent. If separated by a public alley or public walk, they shall be deemed adjacent.

**Subd. 4. Apartment.** A dwelling unit within a house or building containing two (2) or more similar units. Each apartment is intended to be occupied by a single housekeeping unit. (See definition of family.)

**Subd. 5. Apartment House/Building.** A building containing three (3) or more apartments. (See definition of dwelling, Multi-Family.)

**Subd. 6. Bedroom.** Any room used principally for sleeping purposes and does not contain separate kitchen and sanitary facilities.

**Subd. 7. City Council.** The Mankato City Council sitting as a governing board exercising the authority to grant variances from the numeric requirements of the Mankato Zoning Code, and to hear and decide appeals from an administrative decision or enforcement order of the City Clerk.

**Subd. 8. Buffer Area.** A landscaped area intended to separate and/or partially obstruct the view of adjacent land uses or properties from one another.

**Subd. 9. Building.** A structure built upon the surface of the earth and used, or intended to be used, for any use or occupancy. A fence shall not be considered a building for setback purposes. Also referred to as a structure.

**Subd. 10. Building Height.** The vertical measurement of a structure measured from the average elevation of the finished ground grade within ten (10) feet of the building to the highest point of the roof surface of 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.

**Subd. 11. Building Line.** A line parallel to or concentric with the street right-of-way line, or any other property line, at the foundation level of a building and representing the distance which the building is set back from the street right-of-way line or other property line.

**Subd. 12. Canopy and Awning.** Any projecting structure, moveable or stationary, that is attached to and supported by a building. Does not include canopies covering fuel dispensing islands at automobile service stations.

**Subd. 13. Child Care (Commercial).** A building or portion of a building where care, protection, and supervision are provided for a fee on a regular basis for children of any age.

**Subd. 14. Child Care (Home).** A private residence where care, protection, and supervision are provided for a fee for children of any age, and the persons providing care reside at the residence.

**Subd. 15. Church or Place of Religious Worship.** An institution that people regularly attend to participate in or hold religious services, meetings, and other related activities.

**Subd. 16. Commercial Use.** An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

**Subd. 17. Commercial Vehicle.** Any vehicle used in connection with a commercial use.

**Subd. 18. Community Center.** A place, structure, area, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community. May also be referred to as a convention center or civic center.

**Subd. 19. Conditional Use.** A use that owing to some special circumstances pertaining to its location or operation may be permitted in a district subject to approval by the City Council and is subject to conditions approved by the Council.

**Subd. 20. Cul-de-Sac.** A local street, one end of which is closed and consists of a circular turn around.

**Subd. 21. Deck, Attached.** A structure within six (6) feet of the main building that may or may not have railings or access to the ground, but does not contain walls or a roof. May also be referred to as a balcony.

**Subd. 22. Deck, Unattached.** A structure six (6) feet or more from the main building that may or may not have railings or access to the ground, but does not contain walls or a roof.

**Subd. 23. Density.** The number of dwellings or principal buildings or uses permitted per net acre of land. Net acre of land shall not include land required for public streets.

**Subd. 24. Development.** All structures and other human modifications of the natural landscape.

**Subd. 25. Driveway.** A private way used by vehicles to gain access to an individual lot or parcel of land. For one- and two-family dwellings, the driveway shall be defined as the length and width of a driving surface that is used to gain access to a private garage.

**Subd. 26. Dwelling.** A building or portion thereof designed or used exclusively for residential occupancy, including one-family and two-family but not including units used for occupancy in hotels or motels. May also be called a residence or residential building.

**Subd. 27. Dwelling, Multi-Family.** A residential building used for occupancy by three (3) or more families living independently of each other and containing three (3) or more dwelling units, but not including group, row, townhouses, or dormitories.

**Subd. 28. Dwelling, One-Family, Attached (Group, Row, or Townhouse).** One of two or more residential dwellings joined to other dwellings by a common wall without openings and with individual entrances to each dwelling from the exterior. Each dwelling unit shall have principal access onto the ground floor and shall be occupied by not more than one family.

**Subd. 29. Dwelling, One-Family, Detached.** A residential building containing not more than one (1) dwelling unit and entirely surrounded by open space and yards located on the same lot.

**Subd. 30. Dwelling, Two-Family.** A residential building containing not more than two (2) dwelling units, but not including group, row, or townhouses. May also be referred to as a duplex.

**Subd. 31. Dwelling Unit.** One (1) or more rooms physically arranged so as to create an independent housekeeping unit for occupancy by one (1) family. A dwelling unit contains separate toilet, cooking, and sleeping accommodations. Dwelling units may be rented or owner-occupied. May also be called a residence or rooming house dwelling unit.

**Subd. 32. Easement.** The right of a person, government agency, or public utility to use public or private property for a specific purpose.

**Subd. 33. Essential Service Utility Structure and Facility.** Includes, but is not limited to, a structure or facility used for the location, maintenance

and/or service of communication lines, natural gas, petroleum pipelines, television cable, or electrical transmission lines.

**Subd. 34. Family.** An individual or two (2) or more persons related by blood, marriage, or adoption, or a group of not more than three (3) unrelated persons, living together as a single housekeeping unit within a dwelling unit, as distinguished from individuals or a group occupying a hotel, motel, club, lodge, sorority, fraternity, or dormitory.

**Subd. 35. Fence.** Any artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

**Subd. 36. Floor Area.** The sum of the gross horizontal area of all floors of a building as measured from the exterior faces of the exterior walls.

**Subd. 37. Floor Area, Livable or Usable.** The sum of the gross horizontal area of all floors of a building as measured from the interior faces of the interior walls, excluding the areas of unoccupied cellars, accessory garages, porches, attics, basements, stairways, bathrooms, and utility and heating rooms.

**Subd. 38. Floor Area Ratio (FAR).** The floor area of the building, or buildings, on a lot divided by the area of that lot, or in the case of planned developments, the sum of the floor area of all buildings divided by the gross site area.

**Subd. 39. Frontage.** The length of any one (1) property line of a lot that abuts a public street. All sides of a lot adjacent to public streets shall be considered frontage and yards shall be provided as indicated in this Chapter.

**Subd. 40. Garage, Private.** An accessory use situated on the same lot of the principal use, and designed for the private storage of motor vehicles owned by the occupant of a principal use. No facilities for mechanical service or repair of a commercial or public nature are provided in the private garage. Such garage may be attached to the principal building or detached from the principal building. When a private garage is attached to a principal building, it shall be considered part of the principal building for setback and yard purposes.

**Subd. 41. Grade, Ground.** The average elevation of the finished ground levels measured at the center of all exterior walls of a building.

**Subd. 42. Ground Coverage.** Refer to Lot Coverage.

**Subd. 43. Illustrations.** The illustrations in this Chapter are not a part of this Chapter, but are included herein for purposes of explanation and clarification.

**Subd. 44. Impervious Surface.** Impervious surface means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include, but are not limited to, rooftops, sidewalks, patios, storage areas, roads, streets, driveways, and parking lots constructed of concrete, asphalt, or compacted aggregate.

**Subd. 45. Lot.** A piece of land occupied or intended to be occupied by a principal use and its accessory uses together with such open space and yards as is required by this Chapter, and having at least the minimum area, frontage, and width as required by this Chapter. Also referred to as a parcel, tract, property, or piece.

**Subd. 46. Lot, Area.** The total horizontal area within the lot lines of a lot.

**Subd. 47. Lot, Conforming.** A lot that conforms to the minimum width, area, and frontage requirements of this Chapter.

**Subd. 48. Lot, Corner.** A lot abutting, and at the intersection, of two (2) or more streets. A corner lot shall be considered as having primary frontage abutting the required front yard and secondary frontage abutting a corner side yard.

**Subd. 49. Lot, Coverage.** The area of the lot covered by buildings or roofed areas, excluding permitted projecting eaves.

**Subd. 50. Lot, Depth.** The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line, or to the most distant point on any other lot line where there is no rear lot line.

**Subd. 51. Lot, Interior.** An interior lot is a lot other than a corner lot or through lot.

**Subd. 52. Lot of Record.** A lot whose existence, location, and dimensions have been legally recorded or registered in a deed or on a plat.

**Subd. 53. Lot, Nonconforming.** A lot or parcel of land that has less than the required minimum area, width, and frontage as required by this Chapter. Also referred to as a substandard lot.

**Subd. 54. Lot, Through.** A lot having front and rear lot lines abutting a public street.

**Subd. 55. Lot, Width.** The horizontal distance between the side lot lines measured at the required front yard setback line.

**Subd. 56. Manufactured Housing.** Applies to either:

A. A factory-built one-family structure built and transported in sections to a permanent site and not intended for additional transportation once it has been placed on a permanent site.

B. A transportable, factory-built home, designed to be used as a year around residential dwelling. Such structure has wheels or axles permanently attached to its frame. Such structures built prior to June 15, 1976, are referred to as mobile homes.

**Subd. 57. Mobile Home.** A transportable, factory built home built prior to June 15, 1976, and designed to be used as a year around residential dwelling. Such structure has wheels or axles permanently attached to its frame.

**Subd. 58. Motor Vehicle.** As defined by Minn. Stat. § 169.01, subd. 3. May also be referred to as an automobile, vehicle, car, truck, or trailer.

**Subd. 59. Nonconforming Building.** Any building that does not meet zoning district regulations for building size, building height, lot coverage, or setback.

**Subd. 60. Nonconforming Use.** A use of land that does not comply with the use regulations of this Chapter.

**Subd. 61. Open Space, Common.** Open space within or related to a development designed and intended for the common use or enjoyment of the occupants of the development. Parking or driveways shall not be considered permitted open space.

**Subd. 62. Outside Storage.** The keeping in an unroofed area of any goods, bulk material, other materials, merchandise, or products for more than twenty-four (24) hours. Also referred to as unenclosed storage.

**Subd. 63. Park.** Any public or private land available for recreational, educational, cultural, or aesthetic use.



**Subd. 64. Parking Lot.** An unenclosed or enclosed area used for the temporary parking of four (4) or more motor vehicles.

**Subd. 65. Parking Space or Stall.** An obstructed space or area, of such dimension and construction in conformance with this Chapter, that is permanently reserved and maintained for the parking of one (1) motor vehicle.

**Subd. 66. Patio.** An attached or unattached structure at ground level that does not contain walls or a roof, and is not used for parking purposes.

**Subd. 67. Performance Guarantee.** A financial deposit to ensure that all improvements, facilities, or work required will be completed in conformance with the approved plan.

**Subd. 68. Performance Standards.** A set of minimum and maximum design and performance requirements applied to permitted and conditional uses.

**Subd. 69. Principal or Main Building.** A building in which the principal use of the lot is located or conducted.

**Subd. 70. Principal Use.** The permitted or conditional use of property. Also may be defined as the main and predominate use of land or structures as distinguished from a secondary or accessory use.

**Subd. 71. Ramp.** A structure attached to a principal or accessory building which is constructed at a slope that meets the Uniform Building Code requirements for the purposes of providing access to a building.

**Subd. 72. Screen.** The utilization of a fence, wall, vegetation, or other device or means, in order to conceal from view.

**Subd. 73. Setback.** The required minimum horizontal distance between a building line and the related front, side, or rear property lines.

**Subd. 74. Sign.** Any name, identification, description, display, illustration, structure, emblem, or device which is affixed to, painted, or represented upon a building, bench, or other outdoor structure, vehicle, or piece of land, which is intended to direct attention to an object, product, place, activity, person, organization, or business. The structure supporting or intended to support a sign shall be considered part of the sign.

**Subd. 75. Street.** A public or private thoroughfare used, or intended to be used, for travel by motor vehicles.

**Subd. 76.** Townhouse. One of a group of one-family attached dwellings all fronting on a public right-of-way or private driveway, and occupying either individual lots or a common lot when developed in Grouped Housing Projects or Planned Unit Developments.

**Subd. 77.** Trash Enclosure. An accessory use of a property where trash and/or recyclable material containers, or any other type of waste or refuse container is stored.

**Subd. 78.** Used for. The term used for shall include the phrases arranged for, designed for, intended for, and occupied for.

**Subd. 79.** Unrelated Individuals. Two or more individuals who are not related by blood, marriage, or adoption. For the purposes of this Chapter, "related by blood" shall mean whole or half relation between a common ancestor or descendant, brother or sister, uncle or aunt, niece or nephew, or first cousin. For the purposes of this Chapter, "related by marriage" shall include the children of either parent.

**Subd. 80.** Variance. The adjustment by the City Council of the literal provisions of this Chapter in cases where the literal provisions would cause undue hardship because of physical circumstances unique to an individual property. Variances shall be limited to height, bulk, density, and yard requirements.

**Subd. 81.** Yard. An open space on the same zoning lot with a building that is occupied by that building or any other structure, and excluding loading and parking areas, except as otherwise permitted in this Chapter.

**Subd. 82.** Yard, Front. A yard extending across the full width of a lot and having a depth equal to the shortest distance between the front lot line and the building line of the main building, including any enclosed or covered porches, as measured from the existing or future right-of-way on which the lot has primary frontage. The front yard depth shall be measured at right angles to the front property line.

**Subd. 83.** Yard, Rear. A yard extending across the full width of a lot and having a depth equal to the shortest distance between the rear lot line and the building line of the main building, or a depth equal to the shortest distance between the most distant point on any other lot line and the building line of the main building in instances where there is no rear lot line. The rear yard depth shall be measured at right angles to the main building.

**Subd. 84. Yard, Side.** A yard between the side lot line and the building line of the main building, which extends from the front yard to the rear yard and has a width equal to the shortest distance between the side lot line and the building line of the main building. The required side yard width shall be calculated at the front building line and the side yard width shall be measured at right angles to the side lot lines.

**Subd. 85. Yard, Corner Side.** A yard extending across the full depth of a corner lot and having a width equal the shortest distance between the right-of-way line along the lot's secondary frontage and the building line of the main building.

### **Sec. 10.03. Zoning Districts and Map.**

**Subd. 1. Establishment of Zoning Districts.** To carry out the purpose of this Chapter, the City is hereby divided into the following districts:

- |            |  |
|------------|--|
| <b>R-1</b> | <b>One-Family Dwelling District</b>          |
| <b>R-2</b> | <b>One- and Two-Family Dwelling District</b> |

**Subd. 2. Interpretation of District Sequence.** Each district, having been designed to accomplish a specific purpose and encourage a particular type of development, shall be interpreted as separate and distinct. The districts shall not be interpreted to be of a higher or lower class.

**Subd. 3. Map Incorporated.** The location and boundaries of the zoning districts established by this Chapter are as shown on a map entitled, "Zoning Map of the City of Skyline, Minnesota," hereafter referred to as the Official Zoning Map, which is by reference incorporated as part of this Chapter. All notations, references, and other information shown on the Official Zoning Map, and all amendments thereto, shall be as much a part of this Chapter as if specifically set forth and literally described herein.

### **Sec. 10.04. R-1 One-Family Dwelling District.**

**Subd. 1. Purpose.** The purpose of the R-1, One-Family Dwelling District, is to provide for low density residential development.

**Subd. 2. Permitted Uses.** Except as specifically limited herein, the following uses are permitted in the R-1, One-Family Dwelling District:

- A. A One-Family dwelling per lot, which must be owner-occupied unless a conditional use permit is acquired before rental.

- B. Gardens, provided no retail sales.
- C. Home occupations, as regulated by Section 10.30.
- D. Parks, playgrounds, tennis courts, and swimming pools.
- E. Essential Service Utility Structure and Facility.
- F. Community Center or other public or community park or building.

**Subd. 3. Conditional Uses.** All other uses are prohibited unless allowed pursuant to the regulations for conditional uses set forth in Section 10.60 of this Chapter.

**Subd. 4. Minimum Lot Area.** The minimum lot area in the R-1, One-Family Residential District, is seven thousand (7,000) square feet for a one-family dwelling. Lots recorded prior to May 28, 1956, may have a minimum area of five thousand five hundred (5,500) square feet for a single family dwelling.

A minimum lot area of eight thousand (8,000) square feet shall be provided for all other principal buildings and uses in the R-1, One-Family Dwelling District.

**Subd. 5. Minimum Lot Width.** The minimum lot width for the R-1, One-Family Residential District, is sixty (60) feet and shall be measured at the front setback line. Lots recorded prior to May 28, 1956, may have a minimum lot width of fifty (50) feet.

**Subd. 6. Yards and Setbacks.** The minimum yard and setback requirements for the R-1, One-Family Dwelling District, are as follows:

- A. Front Yard Setback.
  - 1. All Buildings. A minimum of thirty (30) feet.
- B. Side Yard Setback.
  - 1. Dwellings. A minimum of five (5) feet.
  - 2. All Other Principal Buildings and Uses. Ten percent (10%) of the lot width, provided the side yard width is a minimum of ten (10) feet or a maximum of thirty (30) feet.

3. Two (2) side yards shall be required for each zoning lot.

C. Rear Yard Setback.

1. Dwellings. A minimum of twenty-five (25) feet.

2. All Other Principal Buildings and Uses. Twenty-five percent (25%) of lot depth, provided the rear yard is a minimum of twenty-five (25) feet or a maximum of seventy-five (75) feet.

D. Accessory Buildings. Accessory buildings shall not be allowed in the required front or side yards. Accessory buildings may be located in the rear yard, provided the building is located at least three (3) feet from any property line.

E. Parking. Except for the property's driveway, all parking surfaces shall be set back a minimum of three (3) feet from any property line.

Not more than thirty-five percent (35%) of the required front, corner side yard, or rear yard setbacks shall be hardsurfaced or used for driveways and/or unenclosed motor vehicle parking. Motor vehicle parking shall not be allowed in the required side yard setback.

No camper, recreational vehicle, boat and/or recreational equipment shall be parked within a setback area. Where practical such items shall be parked on an impervious surface and adjacent to a garage or other accessory structure.

**Subd. 7. Maximum Ground Coverage.** The sum total of lot area that may be covered by all structures located on a zoning lot in the R-1, One-Family Dwelling District, shall not exceed fifty percent (50%) of the lot area.

Accessory buildings shall occupy not more than fifty percent (50%) of the total area of a required rear yard.

**Subd. 8. Maximum Building Height.** The maximum building height in the R-1, One-Family Dwelling District, is thirty-five (35) feet. Accessory buildings shall not exceed a height of fifteen (15) feet.

**Subd. 9. Minimum Structural Requirements.** The following shall be minimum structural requirements in the R-1, One-Family Dwelling District:

A. All structures used for residential occupancy shall have a minimum width of twenty (20) feet at the structure's narrowest dimension and the structure shall be affixed to a continuous permanent perimeter foundation constructed of concrete block, poured concrete, or wood. All structures, either principal or accessory, shall be constructed in conformance with the Uniform Building Code.

**Sec. 10.05. R-2 One- and Two-Family Dwelling District.**

**Subd. 1. Purpose.** The R-2, One- and Two-Family Dwelling District, is intended to provide for low and medium-density residential development.

**Subd. 2. Permitted Uses.** Except as specifically limited herein, the following uses are permitted in the R-2, One- and Two-Family Dwelling District:

- A. Dwellings, one- and two-family and attached one-family, at least one unit of which must be owner-occupied unless a conditional use permit is acquired before rental of both units.
- B. Gardens, provided no retail sales.
- C. Home occupations, as regulated by Section 10.30.
- D. Parks, playgrounds, tennis courts, and swimming pools.
- E. Essential Service Utility Structure and Facility.
- F. Community Center or other public or community park or building.

**Subd. 3. Conditional Uses.** All other uses are prohibited unless allowed pursuant to the regulations for conditional uses set forth in Section 10.60 of this Chapter.

**Subd. 4. Minimum Lot Area.** The minimum lot area for the R-2, One- and Two-Family Dwelling District, is as follows:

- A. One-Family (Attached or Detached). Six thousand (6,000) square feet per dwelling unit. Lots recorded prior to May 28,

1956, may have a minimum size of five thousand five hundred (5,500) square feet for a one-family dwelling.

- B. Two-Family. Eight thousand (8,000) square feet.
- C. All Other Uses. Eight thousand (8,000) square feet.

**Subd. 5. Minimum Lot Width.** The minimum lot width for a one-family dwelling unit is fifty (50) feet and shall be measured at the front setback line. The minimum lot width for all other uses in the R-2, One- and Two-Family Dwelling District, is sixty (60) feet and shall be measured at the front setback line. Lots recorded prior to May 28, 1956, may have a minimum lot width of fifty (50) feet.

**Subd. 6. Yards and Setbacks.** The minimum yard and setback requirements for the R-2, One- and Two-Family Dwelling District, are as follows:

- A. Front Yard Setback.
  - 1. All Buildings. A minimum of thirty (30) feet.
- B. Side Yard Setback.
  - 1. Dwellings. A minimum of five (5) feet.
  - 2. All Other Principal Buildings and Uses. Ten percent (10%) of lot width, provided the side yard is a minimum of ten (10) feet or a maximum of thirty (30) feet.
  - 3. Two (2) side yards shall be required for each zoning lot.
- C. Rear Yard Setback.
  - 1. Dwellings. A minimum of twenty-five (25) feet.
  - 2. All Other Principal Buildings and Uses. Twenty-five percent (25%) of lot depth, provided the yard is a minimum of twenty-five (25) feet or a maximum of seventy-five (75) feet.
- D. Transitional Yard. None required.

E. Accessory Buildings. Accessory buildings shall not be allowed in the required front or side yards. Accessory buildings may be located in the rear yard, provided the building is located at least three (3) feet from any property line.

F. Parking. Except for the property's driveway, all parking surfaces shall be set back a minimum of three (3) feet from any property line. Any two-family use shall provide a minimum of two garage stalls, parking places, or other off-street locations on an impervious surface for each family on the lot.

Not more than thirty-five percent (35%) of the required front, corner side yard, or rear yard setbacks shall be hardsurfaced or used for driveways and/or unenclosed motor vehicle parking. Motor vehicle parking shall not be allowed in the required side yard setback.

No camper, recreational vehicle, boat and/or recreational equipment shall be parked within a setback area. Where practical such items shall be parked on an impervious surface and adjacent to a garage or other accessory structure.

**Subd. 7. Maximum Ground Coverage.** The sum total of lot area that may be covered by all structures located on a zoning lot in the R-2, One- and Two-Family Dwelling District, shall not exceed thirty percent (30%).

Accessory buildings shall occupy not more than fifty percent (50%) of the total area of a required rear yard.

**Subd. 8. Maximum Floor Area Ratio.** No restriction.

**Subd. 9. Maximum Building Height.** The maximum building height in the R-2, One- and Two-Family Dwelling District, is thirty-five (35) feet. Accessory structures shall not exceed fifteen (15) feet in height.

**Subd. 10. Minimum Structural Requirements.** The following shall be minimum structural requirements in the R-2, One- and Two-Family Dwelling District:

A. All structures used for residential occupancy shall have a minimum width of twenty (20) feet at the structure's narrowest dimension and the structure shall be affixed to a continuous permanent perimeter foundation constructed of concrete block, poured concrete, or wood. All structures, either principal or accessory, shall be constructed in conformance with the Uniform Building Code.



## **Sec. 10.10. General Provisions.**

**Subd. 1. Accessory Uses and Structures.** Except as otherwise expressly provided or limited in this Section, accessory uses and structures are permitted in any zoning district in connection with any principal use lawfully existing within such district.

A. **Compliance.** No accessory use or structure shall be established or constructed unless in compliance with this Chapter.

B. **Use Limitations.** In addition to any other condition or limitation required by this Section, accessory uses and structures shall be subject to the following conditions and limitations:

1. No accessory use or structure shall be established or constructed before the principal use is in operation or the principal structure is under construction in accordance with these regulations.

2. In Residential Districts, no permanent sign shall be erected in connection with an accessory use or structure, other than as allowed for home occupations.

C. **General Yard, Bulk, and Height Limitations.** All accessory uses permitted by this Section shall be subject to the following general requirements:

1. **Location of Accessory Building in Required Yards.**

a. Accessory buildings are prohibited in any required front yard or side yard setbacks.

b. No accessory building on a corner lot shall be located in the corner side yard.

2. **Maximum Coverage.**

a. In Residential Districts, an accessory building shall not occupy more than fifty percent (50%) of the total area of the required rear yard.

3. Maximum Height of Accessory Structures.

a. The height of accessory buildings shall not exceed the limits set for uses permitted in the district. However, accessory utility structures shall comply with applicable Federal Communications Commission or Federal Aviation Administration height regulations.

D. Minimum Structural Requirements. Accessory buildings in residential zoning districts shall conform to the following minimum structural requirements:

a. The roof style of the accessory building shall be similar to the roof style of the main building.

b. Corrugated metal exterior finishes are prohibited for accessory buildings that have a ground coverage of greater than one hundred and twenty (120) square feet.

c. The construction shall conform to the Uniform Building Code.

d. The building shall be constructed on a concrete slab or footing.

E. Kennel, Private. Private dog kennels in residential zoning districts shall not be allowed in the required front or side yards. Kennels may be located in the rear yard setback, provided all portions of the kennel are located at least three (3) feet from any property line.

F. No accumulation of trash, junk, toys, equipment or other man-made objects, or natural debris or stacked or loose wood other than as allowed by this Chapter, shall be allowed in any front yard.

G. Swimming Pools, Accessory Use. Accessory swimming pools containing more than three thousand (3,000) gallons or with a depth of water over three and one half (3½) feet shall conform to the following standards. In addition, such pools shall be subject to site plan review pursuant to Section 10.90.

1. No pool shall be located within at least ten (10) feet of any side or rear lot line nor within six (6) feet of any principal structure or frost footing. No pool shall be located within any front yard.

2. No pool shall be located beneath overhead electrical lines or over underground utility lines of any type.

3. No pool shall be located within any private or public utility, walkway, drainage, or other easement.

4. All accessory mechanical apparatus shall be located at least thirty (30) feet from any adjacent residential structure and no closer than five (5) feet to any lot line.

5. Lighting for the pool shall be oriented so as not to cast light onto adjacent properties.

6. A security fence of at least six (6) feet in height shall completely enclose the pool area. The security fence shall be screened in conformance with the requirements of Section 10.88.

H. Satellite Dishes and Antennas. Satellite dishes and antennas shall not be allowed in any required front or side yard. Satellite dishes or antennas shall be allowed in the rear yard, provided the satellite dish or antenna, including support structures, are set back three (3) feet from any property line.

I. All public right-of-way other than public roads shall be maintained by the property owner. This public right-of-way other than driveways shall be grass unless a conditional use permit is granted under Section 10.60 of this Chapter. A driveway shall be asphalt within the public right-of-way unless a conditional use permit is granted under Section 10.60 of this Chapter. If any conditional use permit is granted, the owner shall have the sole financial responsibility to repair or replace the improvement if damage occurs due to reasonable or necessary actions by the City.

**Subd. 2. Obstructions.** Projections of a principal or accessory structure may be located in a required yard only as indicated below. In no case shall any obstruction extend beyond the limits of the lot and adequate drainage shall be provided which is directed away from adjacent private property.

1. Air conditioners, central air outside condensing units, and window units, projecting not more than thirty-six (36) inches into the required yard.
2. Arbors and trellises in all required yards.
3. Architectural ornaments and projections not more than four (4) inches into a required yard.
4. Unenclosed awnings and canopies extending not more than two and one-half (2½) feet into front or side yards and not more than five (5) feet into rear yards. Such canopy shall be cantilevered from the principal or accessory structure and shall not contain separate ground supports.
5. Fences or walls.
6. Fire escapes may extend into the required side yard a distance not exceeding thirty-six (36) inches.
7. Flagpoles.
8. Unenclosed porches, landings, or steps; provided the area of the porch, landing, or step does not exceed sixty-four (64) square feet, and does not project more than eight (8) feet into the required front yard or three (3) feet into the required side yard.
9. Projecting eaves, gutters, bay windows, and cantilevered building extensions, provided the projection is more than thirty-six (36) inches above the ground grade and projects not more than two and one-half (2.5) feet into the required side yard and/or four (4) feet into there required front or rear yards.

10. Fireplaces, not more than two and one-half (2.5) feet into the required side yard and/or four (4) feet into there required front or rear yards

**Subd. 3. Basement Dwellings.** No basement dwelling shall be permitted in any district. Existing basement dwellings shall have the status of nonconforming uses. Basement dwellings are defined in the Uniform Building Code.

**Subd. 4. Corner Lots.** Every corner lot shall provide a required front yard and a corner side yard on the secondary street side of the lot. The width of the corner side yard shall not be less than one-half ( $\frac{1}{2}$ ) the distance of the required front yard depth requirement for the lot. The corner side yard shall extend from the front to the rear of the lot along the secondary side street. No building shall be allowed in the corner side yard, and the restrictions on parking in the front yard shall apply to parking in the corner side yard.

**Subd. 5. Exceptions to District Setback and Height Restrictions.**

A. **Building Height Exceptions.** The building height limits established herein for districts shall not apply to belfries, cupolas, domes, spires, monuments, roof houses, airway beacons, radio towers, windmills, flagpoles, chimneys or flues; not to bulkheads elevators, water tanks or towers, and other structures for essential services; not to similar structures or necessary mechanical appurtenances extending above the roof of any building and not occupying more than twenty-five percent (25%) of the area of such roof.

B. **Side Yard Exceptions for Attached Private Garages.** For one-family dwellings with an attached private garage in existence on the effective date of this Chapter, the required side yard setback may be reduced to three (3) feet for the purpose of constructing an addition to the attached private garage; provided the attached private garage is less than twenty-four (24) feet in width on the effective date of this Chapter. The addition to the attached garage shall only be allowed in conformance with the following:

1. The cumulative width of the existing garage and garage addition shall not be more than twenty-four (24) feet.

2. The building height of the garage addition shall not be greater than the building height of the existing attached garage.
3. The garage addition shall not encroach into a recorded easement.
4. The garage addition shall comply with all the other requirements of this Chapter and the Uniform Building Code.
5. The existing garage and garage addition shall only be used as a private garage.
6. Adequate drainage shall be provided and drainage shall be directed away from adjacent private property.
7. This exception shall not apply to the corner side yard (refer to Sections 10.02 and 10.10, Subd. 4).

C. Exception for Continuation of Existing Building Line. In an instance where the building line of a legal nonconforming principal structure and/or attached private garage is not set back from a property line in conformance with this Chapter, the principal structure and attached private garage may be structurally expanded in a manner consistent with the existing building line and in conformance with the following restrictions:

1. The use of the structure is conforming to the zoning district in which it is located.
2. The expansion of the structure shall not be located closer to the lot line than the existing building line, and at least one-half of the required setback is provided between the building line of the expansion and the lot line.
3. The expansion of the structure will not reduce any other required setback below the minimum standards of this Chapter.
4. The expansion of the structure will conform to all other restrictions of this Chapter, including but not limited to, density, lot coverage, building height, and parking and loading requirements.

5. The height of the expansion shall not be greater than the existing structure at the existing building line.

6. Adequate drainage will be provided and the drainage shall be directed away from adjacent private property.

7. This exception shall not apply to detached accessory buildings.

**Subd. 6. Decks, Patios, Balconies, and Ramps in the R-1 and R-2 Districts.** The following regulations shall apply to accessory decks, patios, balconies, and ramps in the R-1 and Districts.

A. The following shall not be considered as encroachments in required front yards:

1. Uncovered ramps constructed for the purpose of providing handicap access, provided that the ramp has a railing no higher than thirty-six (36) inches and does not extend nearer than five (5) feet to the front lot line.

B. The following shall not be considered encroachments in required side yards:

1. Uncovered ramps constructed for the purpose of providing handicap access which do not extend nearer than three (3) feet to the side lot line.

C. The following shall not be considered encroachments in required rear yards:

1. Attached decks not more than two (2) feet above grade (exclusive of any railing), or uncovered ramps constructed for the purpose of providing handicap access, provided that the deck or the ramp shall be set back at least ten (10) feet from the rear lot line.

2. Attached uncovered balconies or decks higher than two (2) feet above grade that are set back at least fifteen (15) feet from the rear lot line.

D. Decks and ramps shall be included in the calculations for lot coverage.

E. All of the preceding permitted setback encroachments shall not be construed to allow encroachment into an easement of record.

**Sec. 10.20. Special Provisions Applicable to Specific Permitted and Conditional Uses.**

**Subd. 1. Home Occupations.** It is the finding of the City Council that home occupations affect neighborhood character, have a potential to be a nuisance to neighbors, and may negatively affect City services. The purpose of this Section is to regulate home occupations in order to avoid such negative impacts and to ensure the integrity and goals of the residential zoning districts. Standards for home occupations are intended to ensure compatibility with other permitted uses and the character of the residential neighborhood.

A. **No Special Permission Required.** When an accessory use is deemed a home occupation as defined in this Chapter, it means that the owner, lessee, or other persons who have a legal right to the use of the dwelling unit also have the vested right to conduct the home occupation in conformance with this subdivision, without securing special permission from the City. This shall not be construed to exempt owners, lessees, or other persons who have a legal right to the use of the dwelling unit from other applicable regulations of the City Code.

B. **Allowed in Residential Zoning Districts.** Home occupations are allowed as accessory uses where the principal use of the premises is a dwelling. The accessory use of residential property for a home occupation shall conform to the following standards:

1. Such home occupation shall be conducted solely by residents of the dwelling with one (1) non-resident employee.

2. Such home occupation shall be contained entirely within the dwelling. The use of detached accessory buildings or private garage, attached or detached, for a home occupation is prohibited except as approved as a conditional use under Section 10.60.

3. There shall be no outside storage or materials, goods, supplies, or equipment of any kind related to the



home occupation, except in an accessory structure as approved by the City Council.

4. Such occupation shall create no noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than what normally occurs in a residential zoning district.

5. No commercial vehicle in excess of nine thousand (9,000) pounds gross weight shall be used in connection with the home occupation or parked on the property.

6. One automobile is allowed to be used in connection with a home occupation. Such vehicle shall be parked on a conforming off-street parking stall located on the property.

7. No traffic or parking demand shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.

8. Only one (1) sign shall be allowed. The sign may display the name of the occupant and/or the name of the home occupation. The sign shall be non-illuminated and attached flat to an exterior wall of the dwelling or visible through a window of the dwelling. The sign, exclusive of the wall to which it is attached, shall not exceed 10 square feet.

9. In no way shall the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emissions of sounds, noises, or vibrations.

C. Prohibited Home Occupations. The following uses, by the nature of the investment or operation, have a pronounced tendency to rapidly increase beyond the limits permitted for home occupations. The following uses, therefore, are not permitted as home occupations:

1. Automobile, boat and trailer painting.

2. Automobile, boat and trailer repair or servicing.
3. Automobile, boat and trailer sales or rental.
4. Junkyard, scrapping, or salvage operations.
5. Medical or dental offices.
6. Mortuaries or funeral homes.
7. Painting, electrical, plumbing, or general contractor; unless operated only as an office for said uses, and provided further that no employees report to work at the premises, other than one office employee.
8. Restaurants or other eating and drinking establishments.
9. Any other use as determined by the City Council.

**Subd. 2. Child Day Care.** In addition to any other condition or limitation required by this Chapter, day care facilities that are not operated as home occupations shall be prohibited.

**Subd. 3. Swimming Pools.** Swimming pools containing more than three thousand (3,000) gallons or with a depth of water over three and one-half (3½) feet shall conform to the following standards.

- A. No pool shall be located within ten (10) feet of any side or rear lot line nor within six (6) feet of any principal structure or frost footing. No pools shall be located within any front yard.
- B. No pool shall be located beneath overhead electrical lines or over underground utility lines of any type.
- C. No pool shall be located within any private or public utility, walkway, drainage, or other easement.
- D. All accessory mechanical apparatus shall be located at least thirty (30) feet from any adjacent residential structure and no closer than five (5) feet to any lot line.
- E. Lighting for the pool shall be oriented so as not to cast light onto adjacent properties.

F. A security fence of at least three (3) feet in height shall completely enclose the pool area and the access to the pool area shall be controlled.

**Subd. 5. Substantial Land Alteration.** A Conditional Use Permit shall be required where the excavation, grading, and filling of any land would result in the movement of earth and materials in excess of twenty-five (25) cubic yards and would significantly change the existing ground contour and existing drainage, or cause flooding and/or erosion.

The conditional use permit shall be administered through and subject to the requirements of the conditional use process pursuant to Section 10.60. In addition to the requirements set forth in Section 10.60, applications for a Conditional Use Permit shall include the following:

- A. A legal description of the land to be altered.
- B. The nature of the proposed alteration and future use of the property.
- C. The starting date and the completion date of the land alteration.
- D. The names of all the owners of all the land to be altered.
- E. The names and addresses of all owners and occupants of land adjoining the land to be altered.
- F. A plan showing existing and proposed topography. The plan shall be to scale, and the plan shall include two (2) foot topographic contour intervals depicting existing and proposed topography. The plan shall be signed by a registered surveyor or engineer in the State of Minnesota.
- G. A plan showing existing and proposed vegetation and ground cover.
- H. A soil erosion and sedimentation control plan.

**Subd. 6. Environmentally Sensitive Areas, Slopes.**

- A. Lots located along ravines, having a slope of 17.6 percent or greater, shall conform to the following standards:

1. All structures shall be set back a minimum of ten (10) feet from the bluff line of a ravine or hillside. Bluff line, for purposes of this Chapter, shall be defined as a line along the top of a slope connecting the points at which the slope becomes less than 17.6 percent.
2. All cut, fill, and development activities on a slope equal to or in excess of 17.6 percent may be permitted only as a conditional use. In addition to the submittal requirements for a conditional use permit application, a plan shall be submitted at a scale required in Section 10.90, Subd. 6, and the plan shall include two (2) foot topographic contour intervals depicting existing and proposed topography. The plan shall be signed by a registered surveyor or engineer in the State of Minnesota.
3. An approved public access is provided to the lot or development.

### **Sec. 10.30. Non-Conformities.**

**Subd. 1. Purposes.** This Section regulates and limits the continued existence of uses, structures, and lots established prior to the effective date of this Chapter that do not conform to the regulations of this Chapter applicable in the zoning districts in which such uses, structures, and lots are located.

The zoning districts established by this Chapter are designed to guide the future use of land within the City by encouraging the development or maintenance of desirable residential, business, office, institutional, and industrial areas with appropriate groupings of compatible and related uses and thus to promote and protect the public health, safety, and general welfare. The continued existence of non-conformities is frequently inconsistent with the purposes for which such districts are established and thus the gradual elimination of such non-conformities is generally desirable.

**Subd. 2. General Scope and Scheme of Regulation.** This Section establishes separate restrictions for the following categories of non-conformity:

- A. Nonconforming uses (Subd. 3).
- B. Nonconforming structures (Subd. 4).
- C. Nonconforming lots (Subd. 5).

D. Nonconforming parking surfaces (Subd. 8).

The degree of restriction made applicable to each category of non-conformity is generally related to the degree of incompatibility with permitted uses and the amount of investment typically associated with non-conformities of that type. Pursuant to Section 10.60, provision is made for relief from some of the restrictions of this Section when practical difficulties or particular hardship exist.

**Subd. 3. Nonconforming Uses.** The following restrictions shall apply to nonconforming uses of land.

A. Authority to Continue. Except with regard to the termination by discontinuance or abandonment of a use as provided for below, any lawfully existing nonconforming use may be continued so long as it remains otherwise lawful, subject to the restrictions set forth below:

1. Ordinary Repair and Maintenance. Normal maintenance and incidental repair or replacement, and installation or relocation of non-bearing walls, non-bearing partitions, fixtures, wiring or plumbing, may be performed on any structure devoted in whole or in part to a nonconforming use; provided, however, that this restriction shall not be deemed to authorize any violation of this Section.

2. Enlargement of Structure. No structure devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner, including the interior addition of floor area, unless the use of such structure shall thereafter conform to the use regulations of the zoning district in which it is located.

3. Extension of Use. A lawful existing nonconforming use may be extended or expanded throughout an existing building provided that such extension or expansion does not require that the structure devoted to the nonconforming use be structurally altered or enlarged; and provided further that the extension or expansion of the use shall not be allowed if it involves a prohibited home occupation or other prohibited use.

4. Moving. No structure devoted in whole or in part to a nonconforming use shall be moved in whole or in part

for any distance whatsoever, to any other location on the same or any other lot, unless the entire structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located after being so moved. No nonconforming use of land shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot, unless such use shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.

5. Change in Use.

A. A lawful nonconforming use may be changed to a conforming use permitted in the zoning district in which it is located; provided, however, when such a nonconforming use is changed to a conforming use, it shall not thereafter be changed back to any nonconforming use.

B. A lawful nonconforming use may be changed to another nonconforming use of the same or similar type or intensity, or to another nonconforming use of the same or similar type, but of less intensity, subject to interpretation by the City Clerk. The City Clerk shall not approve such change if it will require the violation of the restrictions of this Section. Whenever a nonconforming use is changed to a less intense nonconforming use, it shall not thereafter be changed back to a more intense nonconforming use.

6. Damage or Destruction. Any structure devoted in whole or in part to, or that is accessory to, a nonconforming use and that is damaged or destroyed, by any means, to the extent of more than fifty percent (50%) of the assessed market value, shall not be restored unless the use of such structure shall thereafter conform to the use regulations of the zoning district in which it is located.

7. Termination by Discontinuance or Abandonment. When a nonconforming use is discontinued or abandoned for a period of six (6) consecutive months, regardless of any intent to resume or not to abandon such use, such use shall not thereafter be re-established or resumed. Any subsequent use or occupancy of such land or structure shall comply with the use regulations of the zoning district in which such land or structure is located.

Any period of such discontinuance caused by government action, strikes, material shortages, or acts of God, and without any contributing fault by the nonconforming uses, shall not be considered in calculating the length of discontinuance for purposes of this Section.

**Subd. 4. Nonconforming Structures.**

A. Authority to Continue. Any nonconforming structure may be continued so long as it remains otherwise lawful, subject to the restrictions set forth below.

1. Repair, Maintenance, Alterations, and Enlargement. Except as limited below and allowed elsewhere in this Chapter, any nonconforming structure may be repaired, maintained, altered, or enlarged; provided, however, that no such repair, maintenance, alteration, or enlargement shall either create any new non-conformity or increase the degree of the existing non-conformity of all or any part of such structure.

2. Moving. No nonconforming structure shall be moved in whole or in part, for any distance whatsoever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to all of the regulations of the zoning district in which it is located after being moved.

3. Damage or Destruction. Any nonconforming structure that is damaged or destroyed by any means not within the control of the owner thereof, to any extent, may be repaired or restored; provided, however, that no such repair or restoration shall be allowed that would increase the degree of any non-conformity existing prior to such damage or destruction, and no such repair or restoration shall be allowed for that portion of a structure encroaching into a public right-of-way.

**Subd. 5. Nonconforming Lots.** Subdivided lots of record in existence prior to August 1, 2001, which do not meet the minimum width, area, and frontage requirements of this Chapter, shall be considered legally nonconforming and developable lots, provided all other regulations of this Chapter are satisfied and an approved public access is provided to the lot. If two or more nonconforming lots are contiguous and under single ownership at the time of the enactment of this Chapter, then such lots shall be combined

for the purposes of development in order to satisfy the requirements of this Chapter.

**Subd. 6. Burden of Owner to Establish Legality of Non-Conformity.** The burden of establishing that any non-conformity is lawfully existing under the provisions of this Section shall, in all cases, be upon the owner of the nonconforming property and not upon the City.

**Sec. 10.40. Administration and Enforcement.**

**Subd. 1. Summary of Authority.** The City offices and bodies listed herein, without limitation upon such authority as each may possess by law, have responsibility for implementing and administrating this Chapter in the manner so described.

**Subd. 2. Authority. City Council.**

The City Council shall have the following responsibilities:

- A. Approve, approve with conditions, or deny any application for a conditional use permit.
- B. Approve or deny any application for an amendment to this Chapter.
- C. Take such other actions not delegated to other bodies that may be desirable and necessary to implement the provisions of this Chapter.

**Subd. 3. City Clerk.** Shall receive and process any application for any of the following and forward it to the City Council.

- A. Administer this Chapter and maintain permanent and current records of all associated maps, amendments, conditional uses, variances and appeals.
- B. Maintain a record of all conditional use and variance applications, all nonconforming uses, and all notices of violation, discontinuance, or removal in order to ensure compliance with the provisions of this Chapter and, on request, provide such information for public inspection.
- C. Forward any application for appeal of any administrative order or final decision made in the administration of this Chapter, to the City Council.



- D. Receive and process any application for an amendment, variance or conditional use and forward it to the City Council.
- E. Authorize minor adjustments to approved development site plans.
- F. Render interpretations of the provisions of this Chapter.
- G. Enforce this Chapter (the zoning code).

**Subd. 3. Fees.** Where a filing fee is required by this Chapter, it shall be \$100.00.

### **Sec. 10.50. Conditional Use Permits.**

**Subd. 1. Authority.** The City Council, in accordance with the procedures and standards set out in this Section, may grant conditional use permits authorizing the development of uses listed as conditional uses in the regulations applicable to the district in which the specific property is located. The City Council also reserves the right to review, modify, or terminate the approval of any conditional use permit.

**Subd. 2. Purpose.** The principal objective of this Chapter is to provide for an orderly arrangement of compatible building and land uses, and for the proper locations of all types of uses required by the City. To accomplish this objective, each type and kind of use is classified as permitted in one (1) or more of the various districts established by this Chapter. However, in addition to those uses specifically classified and permitted in each district, there are certain additional uses which may be allowed because of their unusual characteristics or the service they provide the public. These conditional uses require particular considerations as to their proper location in relation to adjacent established or intended use and the planned development of the community, therefore, each application will be reviewed on a case by case basis and will be subject to a public hearing process.

**Subd. 3. Persons Entitled to Seek Conditional Use Permits.** An application for a conditional use permit may be made by any governmental office, department, board or commission, or by any person having a contractual interest in the subject property.

**Subd. 4. Procedure.** The following procedures shall govern application for Conditional Use Permits:

A. Application. An application for a Conditional Use Permit shall be filed with the City Clerk on the form provided and shall contain at least the following information:

1. The applicant's name, address, and proof of interest in the property.
2. The owner's name and address, if different than the applicant, and the owner's signed consent to the filing of the application.
3. The names and addresses of all professional consultants advising the applicant with respect to the proposed development.
4. The street address and legal description of the property.
5. The zoning classification and present use of the subject property.
6. A general description of the proposed conditional use.
7. A statement indicating whether the applicant will require a variance in connection with the proposed conditional use.
8. A site plan.
9. Such other information or documentation as the City Clerk may deem to be necessary or appropriate for a full and proper consideration and disposition of the application.

B. Action of City Clerk. Upon receipt of a properly completed application for a conditional use and accompanying site plan, the City Clerk shall forthwith transmit to the City Council, the application together with all other relevant documents.

C. Public Hearing. Upon receipt of a properly completed application for a conditional use, the City Council shall set a date for a public hearing.

D. Notice. Notice of the public hearing shall be given by the City Council by one (1) publication in one (1) or more newspapers of general circulation.

Notice shall be published a minimum of ten (10) days prior to the hearing date and a maximum of thirty (30) days prior to the hearing. Notice shall also be given by first class mail, or its equivalent, to all owners of property within three hundred (300) feet from the proposed location of the conditional use. The notice shall describe the particular conditional use and shall contain a brief description thereof. County Assessment records and street addresses shall be deemed sufficient for the location or certification of ownership for notification purposes.

E. Action of the City Council. After receipt of the application together with all other documents made part thereof from the City Clerk, the City Council shall either deny the Conditional Use Permit, or grant the Conditional Use Permit with or without conditions.

**Subd. 5. Standards.** The City Clerk shall only recommend the granting of the Conditional Use Permit, granting the Conditional Use Permit subject to conditions, or denying the conditional use based on written findings of fact with regard to each of the standards set forth below and, where applicable, any special standards for specific uses set forth in the provisions of a specific zoning district.

A. It is in keeping with the comprehensive planning policies of the City and this Chapter as amended from time to time.

B. It does not interfere with or diminish the use of property in the immediate vicinity.

C. It can be adequately served by public facilities and services.

D. It does not cause undue traffic congestion.

E. It preserves significant historical and architectural resources.

F. It preserves significant natural and environmental features.

G. It will not cause a negative cumulative effect, when considered in conjunction with the cumulative effect of various

special uses of all types on the immediate neighborhood, and the effect of the proposed type of conditional use upon the City as a whole.

H. It complies with all other applicable regulations of the district in which it is located and other applicable ordinances, except to the extent such regulations have been modified through the planned development process or the granting of a variance.

I. It will not jeopardize the public's health, safety, or general welfare.

**Subd. 6.** Sequence of Approval of Applications for Both a Conditional Use and a Variance. Whenever the applicant indicates that a variance will be necessary in connection with the proposed conditional use (other than a planned development), the applicant shall at the time of filing for a conditional use, file an application for a variance with the City Council.

**Subd. 7.** Conditions of Conditional Uses. The City Council may impose such conditions and limitations concerning the use, construction, character, location, landscaping, screening, parking and other matters relating to the purpose and objectives of this Chapter upon the premises benefited by a conditional use. In addition, the City Council may require a performance guarantee to be submitted to the City in order to ensure compliance with the terms of approval.

The conditions and limitations of approval may be more restrictive than standards outlined in this Chapter, but shall not be less restrictive. Such conditions and limitations may be necessary or appropriate to prevent or minimize adverse effects upon other property and improvements in the vicinity of the proposed property or on public facilities. Such conditions shall be expressly set forth in the resolution granting the conditional use permit. Violation of any such condition or limitation shall be a violation of this Chapter and shall constitute grounds for revocation of the conditional use permit.

**Subd. 8.** No Presumption of Approval. Each proposed conditional use shall be evaluated on an individual basis in order to determine whether approval of the special use is appropriate at the particular location and in the particular manner proposed.

**Subd. 9.** Limitations on Conditional Uses. Subject to an extension of time granted by the City Council, all applicant's must begin construction or other activity within six (6) months of approval.

Subject to an extension granted in the sole discretion of the City Council, no conditional use for the rental of property in an R-1 district shall be valid for more than six (6) months. Subject to an extension granted in the sole discretion of the City Council, no conditional use for the rental of property in an R-2 district shall be valid for more than twelve (12) months.

Except when otherwise provided in the resolution approving a conditional use, a conditional use shall be deemed to relate to, and be for the benefit of, the use and lot in question, rather than the owner or operator of such lot.

**Subd. 10. Fee.** An applicant for a conditional use permit shall pay a non-refundable filing fee in connection with the submittal of the application in accordance with a fee schedule as established, from time to time, by the City Council.

#### **Sec. 10.60. Variances.**

**Subd. 1. Authority.** In accordance with the procedures and standards set forth in this Section, the City Council shall have the authority to grant variances from the provisions of this Chapter in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property.

**Subd. 2. Purpose.** The variance procedure is intended to provide a narrowly circumscribed means by which relief may be granted from unforeseen particular applications of this Chapter that create practical difficulties or particular hardships.

**Subd. 3. Parties Entitled to Seek Variances.** Applications for variances may be filed by the owner of, or any person having contractual interest in, the property.

**Subd. 4. Procedure.** An application for a variance shall be processed in accordance with the following procedures:

A. **Application.** An application for a variance shall be filed with the City Clerk and shall include, at least, the following information:

1. The applicant's name, address, and proof of interest in the property.

2. The owner's name and address, if different than the applicant, and the owner's signed consent to the filing of the application.

3. The names and addresses of all professional consultants advising the applicant with respect to the proposed development.

4. The street address and legal description of the property.

5. The present use of the subject property.

6. A site plan showing existing lot lines and dimensions as well as lot area, all easements, all public streets and private right-of-ways bordering and adjacent to the site, the use and location of all adjacent property.

7. The specific feature or features of the proposed use, construction, or development that require a variance.

8. The specific provisions of this Chapter from which a variance is sought and the precise variance therefrom being sought.

9. Statement of the characteristics of the property that prevent compliance with the provisions of this Chapter.

B. Action of City Clerk. Upon receipt of a properly completed application for an appeal, the City Clerk shall forthwith transmit to the City Council the application together with all other relevant papers and plans.

C. Public Hearing. Upon receipt of a properly completed application for a variance, the City Council shall set a date for a public hearing.

D. Notice. Notice of the public hearing shall be given by the City Clerk by one (1) publication in one (1) or more newspapers of general circulation. Notice shall be published a minimum of ten (10) days prior to the hearing date and a maximum of thirty (30) days prior to the hearing date. Notice shall also be given by first class mail, or its equivalent, to all owners of property within two hundred (200) feet from the proposed location of the

variance. The notice shall describe the particular variance and shall contain a brief description. County assessment records and street addresses shall be deemed sufficient for the location or certification of ownership for notification purposes.

E. City Council Action. The City Council shall render its decision and may grant the variance, grant the variance subject to conditions, or deny the variance.

**Subd. 5. Standards.** In considering an application for a variance, the City Council may approve such variance only upon the finding that the application complies with the standards set forth below.

A. General Standard. No variance shall be granted unless the applicant shall establish that conforming to the strict letter of the provisions of this Chapter would create a unique and particular hardship.

B. Unique and Particular Hardship. Unique and particular hardship is defined as the property is exceptional as compared to other property subject to the same provisions by reason of a unique physical condition, including the presence of an existing use or structure, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject lot. The hardship shall amount to more than a mere inconvenience to the owner and the hardship shall relate to the physical situation of the lot rather than the personal situation of the current owner of the lot.

C. Not Self-Created. The unique physical condition and hardship shall not be the result of any action or inaction of the property owner or its predecessors in title. The unique physical condition shall have existed at the time of the enactment of the provisions from which a variance is sought or was created by natural forces or was the result of governmental action, other than the adoption of this Chapter.

D. Denied Substantial Rights. The carrying out of the strict letter of the provision from which a variance is sought would deprive the owner of the subject lot of substantial rights commonly enjoyed by owners of other property subject to the same provisions.

E. Not Merely Special Privilege. The alleged hardship shall not include the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision. The alleged hardship shall not include the inability of the property owner to realize a greater profit than if the variance were not granted.

F. No Other Remedy. There are no means other than the requested variance by which the alleged hardship can be avoided or remedied to a degree sufficient to permit a reasonable use of the lot.

G. Variance Less Than Requested. A variance less than or different from that requested may be granted when the record supports the applicant's right to some relief but not to the relief requested.

H. Essential Character of the Area. The variance would not result in a development on the lot that:

1. Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity.
2. Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity.
3. Would substantially increase congestion in the public streets due to traffic or parking.
4. Would unduly increase the danger of flood or fire.
5. Would unduly tax public utilities and facilities in the area.
6. Would endanger the public health or safety.
7. Would not be in harmony with the general and specific purposes of this Chapter and the comprehensive planning policies and objectives of the City.



**Subd. 6. Conditions on Variances.** The City Council may impose specific conditions and limitations upon the granting of a variance as are necessary to achieve the purpose and objectives of this Chapter. Such conditions and limitations may include, but are not limited to, those concerning the use, construction, character, location, landscaping, screening, parking, and other matters relating to the purpose and objectives of this Chapter and shall be expressly set forth in the resolution granting the variance. Violation of any such condition or limitation shall be a violation of this Chapter and shall constitute grounds for revocation of the variance.

**Subd. 7. Limitations on Variance.** Subject to an extension of time granted by the City Council, all applicants must begin construction or other activity within six (6) months of approval.

**Subd. 8. Prohibited Variances.** Notwithstanding any other provision in this Section, no variance shall be granted to establish a use not permitted in the zoning district where the property subject to the application is located.

**Subd. 9. Fee.** An applicant for a variance shall pay a non-refundable filing fee in connection with the submittal of the application in accordance with a fee schedule as established, from time to time, by the City Council.

#### **Sec. 10.70. Enforcement.**

**Subd. 1. Authority.** The City Clerk is hereby authorized and directed to enforce all the provisions of this Chapter and shall perform the following duties:

A. **Inspections.** The City Clerk shall have the authority to periodically inspect buildings, structures, and uses of land to determine compliance with the provisions of this Chapter, or of any permit or approval granted pursuant to this Chapter, or of any condition imposed pursuant to this Chapter on any such permit or approval. In regard to performance standards, the City Clerk may require the services of a testing laboratory to determine compliance. The cost of the laboratory services shall be paid for by the person responsible for the violation if one is so determined.

B. **Procedure Upon Discovery of Violation.** Upon finding the existence of any violation of this Chapter, the City Clerk may take any or all of the following procedures:

1. **Stop and Cease-and Desist Orders.** Upon finding the existence of any violation of this Chapter, the City

Clerk shall notify, in writing, the person responsible for such violation, indicating the violation and ordering the action necessary to correct it; specifically, the City Clerk shall order the discontinuance of any illegal use of land or structures, the removal of illegal structures, additions, or alterations, and the discontinuance of illegal work being done.

2. Legal Action. In the enforcement of this Chapter, the City Clerk shall exercise all the powers authorized by the statutes of the State of Minnesota and City Codes and Ordinances to ensure compliance with, or to prevent or abate any violation of the provisions of this Chapter, and in particular shall, when necessary or appropriate, shall cause the City Attorney to initiate any and all actions, legal or equitable, including appeals, that may be required for the enforcement of this Chapter.

3. Revocation of Permits. The violation of any provision of this Chapter, or of any permit or approval granted pursuant to this Chapter, or of any condition imposed pursuant to this Chapter on any such permit or approval, shall be grounds for the revocation of any permit, variance, or approval granted pursuant to this Chapter. If the City Clerk determines any such violation exists, the City Clerk shall forward a report to the City Council regarding the violation. The City Council shall hold a public hearing regarding the violation, after which the Council shall either revoke the permit or approval, modify the original conditions of the permit or approval, or affirm the compliance with the permit or approval, and/or impose a reasonable fine for the violation.

4. Fines and Penalties. In the enforcement of this Chapter, the City Clerk shall, when necessary and appropriate, order the issuance and enforcement of citations to recover fines and penalties for the violation of this Chapter as authorized by State Law and this Chapter.

#### **Sec. 10.80. Amendments.**

**Subd. 1. Authority.** The text of this Chapter and the Official Zoning Map may be amended from time to time by the passage of any ordinance duly adopted by the City Council.

**Subd. 2. Purpose.** The purpose of this Section is to provide standards and procedures for making amendments to the text of this Chapter and the Zoning Map that are of general significance or application. The amendment process is not intended to relieve particular hardships nor to confer special privileges or rights on any person, but only to make adjustments necessary in light of changed conditions or changes in public policy.

**Subd. 3. Parties Entitled to Initiate Amendments.** Amendments to the text of this Chapter and the Zoning Map may be initiated by written petition of any affected property owner the City Clerk or the City Council provided the petition meets the requirements set forth in this Section.

**Subd. 4. Requirements for Amendment Petitions.** Petitions for amendments to this Chapter, shall be in such form and accompanied by such information as shall be prescribed, from time to time, by the City Clerk and shall contain at least the following:

- A. The petitioner's name, address, and interest in the petition and the name, address, and interest of every person, firm, corporation, or government agency represented by the petitioner in the petition.
- B. The precise wording of the proposed amendment, together with concise explanation of its presumed effect.
- C. A statement containing all the circumstances, factors, and arguments that the petitioner offers in support of the proposed amendment.
- D. In the event that the proposed amendment would result in the rezoning of any property, the following shall be supplied:
  - 1. A statement specifying the names of the owners of the land proposed to be rezoned.
  - 2. A statement identifying the majority of owners of the land proposed to be rezoned and being parties to the petition.
  - 3. The street address and legal description of the land proposed to be rezoned.
  - 4. The present zoning classification and use of the land proposed to be rezoned.

5. A concept development plan for the property if the property is vacant or is intended to be redeveloped.
6. A statement of purpose explaining the reasons for the rezoning.

**Subd. 5. Standards for Amendments.** In making their determination, the City Council shall consider the following:

- A. Whether the proposed amendment is compatible with the overall character of existing development in the immediate vicinity of the affected property.
- B. Whether the proposed amendment will have an adverse effect on the value of adjacent properties.
- C. The adequacy of public facilities and services.

**Subd. 6. Procedure for Review and Decision of Proposed Amendments.** A petition to amend the text of this Chapter and the Official Zoning Map shall be processed in accordance with the following procedures:

- A. **Public Hearing.** After the filing of a petition for an amendment in the proper form, the City Clerk shall set a date for a public hearing.
- B. **Notice.** Notice of the public hearing shall be given by the Planning Agency by one (1) publication in one (1) or more newspapers of general circulation. Notice shall be published a minimum of ten (10) days prior to the hearing date and a maximum of thirty (30) days prior to the hearing date. Notice shall also be given by first class mail or its equivalent to all occupants of property within the City Council or as otherwise provided by State Law. County assessment records and street addresses shall be deemed sufficient for the location or certification of ownership for notification purposes.
- C. **Planning Agency Action.** Upon receipt of the petition, including a copy of the proposed text or map changes, the City Council shall hold a public hearing. Within sixty (60) days of the close of the public hearing, the City Council shall approve or deny the proposed amendment, or approve the amendment with modifications. No amendment shall be adopted except by the

affirmative vote of two-thirds (2/3) of all members of the City Council.

D. City Council Action. The City Council shall either adopt or reject the recommendation of the Planning Agency or adopt some modification of the recommendation of the Planning Agency. No amendment shall be adopted except by the affirmative vote of two-thirds (2/3) of all members of the City Council.

**Subd. 7. Fees.** An applicant for an amendment shall pay a non-refundable filing fee in connection with the submittal of the application in accordance with a fee schedule as established, from time to time, by the City Council.

### **Sec. 10.90. Appeals.**

**Subd. 1. Authority.** The City Council shall hear and decide appeals from any order or final decision of the City Clerk by any person aggrieved by such order or final decision.

**Subd. 2. Purpose.** The appeal process is provided as a safeguard against arbitrary, ill-considered, or erroneous administrative decisions. It is intended to avoid the need for legal action by establishing local procedures to review and correct administrative errors. It is not, however, intended as a means to subvert the clear purposes, meanings, or intent of this Chapter or the rightful authority of the City Clerk to enforce the requirements of this Chapter. To these ends, the reviewing body should give all proper deference to the spirit and intent embodied in the language of this Chapter and to the reasonable interpretations of that language by those charged with the administration of this Chapter.

**Subd. 3. Stay of Proceedings.** The filing of an appeal shall stay all proceedings in furtherance of the action appealed from, unless the City Clerk certifies to the City Council, after the notice of appeal has been filed, that by reason of facts stated in the certificate, a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order that may be granted by the City Council or by a court of record.

**Subd. 4. Procedure.** An application for an appeal shall be processed in accordance with the following procedures:

A. Application. An application for an appeal to the City Council shall be filed with the City Clerk no later than forty-five (45) days after the action or decision being appealed.

B. Action of City Clerk. Upon receipt of properly completed application for an appeal, the City Clerk shall forthwith transmit to the City Council the application together with all papers constituting the record upon which the action appealed from was taken.

C. Public Hearing. Upon receipt of a properly completed application for an appeal, together with all papers constituting the record upon which the action appealed from was taken, the City Council shall set a date for a public hearing.

D. Notice. Notice of the public hearing shall be given by the City Council to all affected parties in the same manner as required for the section of this Chapter involved in the appeal.

E. City Council Action. The City Council may reverse or affirm, wholly or partly, or may modify the order or final decision as in its option ought to be made in the premises, and to that end has all the powers of the officer from whom the appeal is taken.

**Subd. 5.** Right to Grant Variances in Deciding Appeals. In any case where the application is accompanied by an application for a variance in accordance with Section 10.70 of this Chapter, the City Council shall have the authority to grant, as part of the relief, a variance, provided it is done so in strict compliance with the provisions of Section 10.70.

**Subd. 6.** Conditions and Limitations on Rights Granted by Appeal. In any case where this Chapter imposes conditions and limitations upon any right, any such right granted by the City Council on appeal shall be subject to such conditions and limitations in the same manner and to the same extent as if secured without the necessity of an appeal.

**Subd. 7.** Fees. An applicant, for an appeal, shall pay a non-refundable filing fee in connection with the submittal of the application in accordance with a fee schedule as established from time to time by the City Council.