

CITY OF HEIDELBERG

2020 ZONING CODE

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## **CHAPTER 11. LAND USE REGULATIONS (ZONING)**

### **Section 1100 - GENERAL REGULATIONS AND DEFINITIONS AND ESTABLISHMENT OF DISTRICTS**

1100.01 Intent, Scope and Interpretation of Standards. From and after June 25, 2001, the use of all land and every building and the erection of structural alterations of any building or portion of a building in the City shall be in conformity with the provisions of this Chapter. Any structure or use lawfully existing on June 25, 2001, but not in conformity with the regulations of the appropriate zoning district may be continued subject to Section 1137.

1100.02 Interpretation. In their interpretation and application, the provisions of this Chapter shall be held to the minimum requirements. Wherever this Chapter imposes a greater restriction than is imposed or required by other provisions of law, City Code provisions or rules or regulations, the provisions of this Chapter shall govern.

1100.03 Legislative Intent.

Subd. 1 General Purposes. The general purposes of this Chapter are:

- A. To carry out the intent of the Comprehensive Plan and to promote the public health, safety, order, convenience, prosperity and general welfare. Further, this Chapter is adopted:
- B. To protect conservation parks, residential, commercial, industrial and institutional areas from the intrusion of incompatible uses;
- C. To encourage the use of land and structures for the highest and best use according to their special characteristics and peculiar suitability for particular uses;
- D. To prevent the overcrowding of land;
- E. To avoid the undue concentration of population;
- F. To conserve and enhance the taxable value of land and buildings;
- G. To promote the safe, rapid, and efficient movement of people and goods;
- H. To encourage the growth and productivity of the local economy;
- I. To protect against fire, smoke, explosion, noxious fumes, offensive noise, vibration, dust, odors, heat, glare, panic, and other hazards to people;
- J. To facilitate the provision of public services;

K. To secure equity among individuals in the utilization of their property.

#### 1100.04 Interpretation of Language/Definitions.

Subd. 1 Interpretation of Language. Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of this Chapter. The word “building” shall include the word "structure” and the word "used” shall include “arranged, designed, constructed, altered, converted, rented, leased” or “intended to be used.”

Subd: 2 Definitions.

Accessory Use or Structure - A use or structure subordinate to the principal use of a building or to the principal use of land and which is located on the same lot serving a purpose customarily incidental to the use of the principal building or land use. Accessory uses in residential districts shall not involve the conduct of any business, trade or industry, or any private way or walk giving access to such activity and shall not include the boarding of animals or the keeping of fowl or farm animals. For purposes of this ordinance, additional lodging facilities are considered to be principal uses.

Agriculture – The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals. The term shall include incidental retail selling by the producer of the products raised on the premises, providing that customer parking space is furnished of the public right-of-way.

Alley – A public or private right-of-way less than 30 feet in width which affords secondary means of access to abutting property.

Apartment - One or more rooms in a “Multiple Dwelling” arranged, intended, designed or occupied as a dwelling unit by a “Family” in permanent residence, and having its own permanently installed range, refrigerator, kitchen sink and sanitary facilities.

Apartment Building - Three or more dwelling units grouped in one building.

Automobile Repair, Major - General repair, rebuilding or reconditioning of engines, motor vehicles, or trailers; collision services including body, frame or fender straightening or repair; overall painting or paint shop and vehicle steam

cleaning.

Automobile Repair, Minor – Incidental body or fender work, or other minor repairs, painting and upholstering, replacement of parts and motor service to passenger cars and trucks not exceeding 1-1/2 tons capacity, but not including any operation named under “Automobile Repair, Major” or any other similar use.

Automobile or Trailer Sales Area – An open area, other than a street, used for the display, sale or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done.

Automobile Service or Filling Station - A place where gasoline, kerosene or other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale and delivered directly into motor vehicles including greasing and oiling, but excluding “Automobile Repair, Major” and “Automobile or Trailer Sales Area.”

Automobile Wash - A building or portion of a building, containing facilities for washing more than one automobile, using production line methods.

Automobile Wrecking - The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, or wrecked vehicles or their parts.

Block – A tract of land bounded by streets or a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines, unsubdivided acreage or boundary line of the corporate limits of the City.

Board – The Zoning Board of Appeals.

Boarding or Lodging House – A dwelling or part of a dwelling occupied by a single housekeeping unit where meals and/or lodging are provided for five or more persons for compensation by previous arrangement but not transients.

Building - Any structure for the shelter, support or enclosure of persons, animals, chattel, or property of any kind. When separated by bearing walls without openings, each portion of a building so separated shall be deemed a separate building.

Building, Accessory - A subordinate building, the use of which is incidental to that of the main building on the same lot.

Building Line – An imaginary line separating “Buildable Lot Area” and required “Yards”.

Buildable Lot Area – That part of the lot not included within the open space

required by this Chapter.

Clinic – A place used for the care, diagnosis and treatment of sick, ailing, infirm and injured persons and those who are in need of medical or surgical attention, but who are not provided with board or room nor kept overnight on the premises.

Club - A non-profit association of persons who are bona fide members, paying regular dues, and are organized for some common purpose, but not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.

Commission – The Planning and Zoning Commission.

Convalescent (Rest) Home – A home designed and licensed to provide care for aged or infirm persons requiring or receiving personal care or custodial care complying with the standards established by the Minnesota State Board of Health.

Court – An open unoccupied and unobstructed space, other than a yard, on the same lot with a building or group of buildings. The use of the word "Court" does not imply any reference to judicial courts.

Dwelling - Any building or portion of a building designed or used exclusively as the residence or sleeping place of one or more persons, but not including a tent, cabin, trailer or other temporary or portable housing.

Dwelling, Multiple Family - A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, Single Family - A building designed or used exclusively for residence purposes by one family.

Dwelling, Two Family - A detached residential building containing two dwelling units, designed for occupancy by not more than 2 families.

Dwelling Unit - One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

Essential Services – The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires,

drains, sewers, pipe, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection with such services, reasonably necessary for the furnishing of adequate service by public utilities or governmental agencies or for the public health or safety or general welfare, but not including buildings.

Family - Any number of individuals, living together on the premises as a single non-profit housekeeping unit (except for necessary servants) as distinguished from a group occupying a boarding house, lodging house, hotel, club, fraternity or sorority house.

Floor Area – The sum of the gross horizontal areas of the several floors of a building, measured from the exterior walls, including basements and attached accessory buildings.

Frontage - All the property abutting on one side of a street between intersecting or intercepting streets, or between a street and a right-of-way, waterway, end of dead-end street, or City boundary measured along the street line. An intercepting street shall determine only the boundary of the frontage on the side of the street which it intercepts.

Garage, Private - A detached accessory building or portion of the principal building used for the storage of self-propelled passenger vehicles, non-commercial trailers, and household equipment.

Garage, Public - A structure or portion of a structure, other than a private garage, used for the storage, sale, hire, care, repair or refinishing of self-propelled vehicles or trailers.

Guest Home - A dwelling or part of a dwelling occupied by a single housekeeping unit where meals and/or lodging are provided for transient guests for compensation by previous arrangements.

Height – The distance between the highest point of a structure and the highest ground elevation at the base.

Home Occupation – An occupation taking place as subordinate to a principal residential use and operated by the occupant of the dwelling.

Hotels - Any building or portion of a building where lodging is offered to transient guests for compensation and in which there are more than five sleeping rooms, with no cooking facilities in individual dwelling units.

Junk Yard - Land or buildings where waste, discarded, or salvaged materials are bought, sold, exchanged, stored, cleaned, packed, disassembled or handled,



including but not limited to scrap metal, rags, paper, rubber products, glass products, lumber products, and products resulting from the wrecking of automobiles or other machinery.

Kennel – Any structure or premises on which 5 or more domestic animals over 4 months of age are kept.

Loading Space – An off-street space or berth on the same lot with a building or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

Lot – One unit of a recorded plat or subdivision, which unit has frontage on a public street and is occupied, or to be occupied, by a building and its accessory buildings, and including as a minimum, such open spaces as are required under this Chapter.

Lot Area – The land area with the lot lines.

Lot, Corner – A lot abutting upon 2 or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees. The point of intersection of the street lines is the corner.

Lot, Coverage – The total allowable amount of lot area, expressed as a percentage, which may be covered by a principal use and its accessory structures.

Lot, Depth – The average distance between the front and rear lot line (the greater frontage of a corner lot shall be deemed its depth and the lesser frontage its width).

Lot, Double Frontage – An interior lot having frontage on two streets. Sometimes referred to as a through lot.

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

Lot Line, Front – The line separating the lot from a street.

Lot Line, Rear – The lot line opposite and most distant from the front lot line.

Lot Line, Side – Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is called a side street lot line. A side lot line separating a lot from another lot, or lots is called an interior side lot line.

Lot Width – The mean width of the lot measured at right angles to its depth.

Manufactured Home – A structure, transportable in one or more sections, which in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or, when erected onsite, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities and includes 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 US Department of Housing and Urban Development and complies with the standards established under this Chapter.

Manufactured Home Park – Any lot or part of a lot, or any parcel of land which is used or offered as a location for 2 or more manufactured homes.

Non-Conforming Use – A use lawfully in existence on the effective date of this Chapter and not conforming to the regulations for the district in which it is situated, except that such a use is not non-conforming if it would be authorized under a conditional use permit where located.

Non-Conforming Lot – A lot which does not comply with the minimum lot area or frontage requirements of the district in which it is located.

Non-Conforming Structure – A structure which does not comply with the bulk, yard, setback or height regulations of the district in which it is located.

Non-Conforming Use of Land - Any use of a lot which does not conform to the applicable use regulations of the district in which it is located.

Non-Conforming Use of Structures – A use of a structure which does not conform to the applicable use regulations of the district in which it is located.

Parking Space - A permanently surfaced area of not less than 200 square feet, either within a structure or in the open, exclusive of driveways or access drives, for the parking of a motor vehicle.

Permanent Foundation - a masonry, treated wood, or concrete base affixed to the land and the rest of the structure through dedicated and permanent footings located below ground level to a point below the frost line or frost protected by other means and methods compliant with the building code. A typical manufactured/mobile home mounting system is not permanent and therefore not allowed.

Premises - A lot or plot with the required front, side and rear yards for a dwelling

or other uses as allowed under this Chapter.

**Setback** – The shortest horizontal distance between the lot line and any portion of a building or the allowable building line as defined by the general yard regulations of this Chapter.

**Sign** - A name, identification, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure, or land in view of the general public and which directs attention to a product, place, activity, purpose, institution or business.

**Sign, Advertising** - A sign which directs attention to a business, commodity, service, activity, or entertainment not necessarily conducted, sold or offered upon the premises where such a sign is located.

**Sign, Awning** - A business marquee sign that is attached or painted on the street facing side of an awning.

**Sign, Business** – A sign which directs attention to a business or profession or a commodity, service, or entertainment sold or offered upon the premises where such a sign is located.

**Sign, Day** - A business sign that is only displayed during hours of operation and for a current offering such as a menu or sale as opposed to general advertising.

**Sign, Directional** - A sign with no more than an arrow, name of facility and/or distance.

**Sign, Directory** - A wall mounted sign or window sign for a business indicating current status such as tenants, food menu, times of operations or dates of upcoming events.

**Sign, Flashing** - An illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times where such sign is in use.

**Sign, Freestanding** – A sign that has its own attachment to the ground, as opposed to being attached to a building.

**Sign, Illuminated** - A sign that is front illuminated by a light that is not part of the sign face but illuminating onto it.

**Sign, Lighted** – A sign where the image has the appearance of being a light by means of back lights or interior lights projecting through a material such as plastic.

Sign, Marquee - A business sign affixed to any hood, marquee or canopy over the entrance to a building,

Sign, Nameplate – A sign which states the name or address or both of the occupant of the dwelling where the sign is placed.

Sign, Neon – A sign that employs lights for the lettering or graphics.

Sign, Projecting – A sign that is attached and projecting from a building in a perpendicular fashion. This includes signs that are painted on or hanging from the end of an awning or canopy.

Sign, Rotating - A sign which revolves or rotates on its axis by mechanical means.

Sign, Surface Area of - The entire area within a single contiguous perimeter enclosing the extreme limits of the actual sign surface, not including any structural elements outside the limits of such sign and not forming an integral part of the display. Only one side of a double-face or V-type sign structure shall be used in computing total surface area.

Sign, Temporary – A sign that is used for a short time in connection with election, construction, real estate sale and events such as festivals, public service, sports/arts happenings and business sales and openings.

Sign, Wall-mounted – A sign that is attached to a building, parallel to the building in a flush manner other than a limited amount of projection allowing for the depth of the sign material.

Sign, Window - A business sign that is painted on the window or displayed in the interior directed to the outside.

Standard, Performance - A criterion established in the interest of protecting the public health and safety for the control of noise, odor, smoke, noxious gases and other objectionable or dangerous elements generated by an inherent in or incidental to land use.

Story – That portion of the building included between the surface of any floor and the surface of the next floor above it, or, if there is no floor above it, the space between the floor and the ceiling next above it.

Story, Half – A story with at least two opposite exterior sides meeting a sloping roof not more than two feet above the floor of such story.

Street - A public or private right-of-way 40 feet or more in width, approved or accepted by public authority or user, which provides a primary means of public

access to abutting property. The term "street" shall include avenue, drive, circle, road, parkway, boulevard, highway, thoroughfare or any other similar term.

Street Line – The right-of-way line of a street.

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

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

Subdivision - A described tract of land which is to be or has been subdivided into 2 or more lots or parcels, any of which resultant parcel is less than 5-1/2 acres in area and 300 feet in width, for the purpose of transfer of ownership or building development, or if a new street is involved, any division of a parcel of land. The term includes re subdivision, and, where it is appropriate to the context, relates either to the process of subdivision or to the land subdivided.

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

Use, Accessory - A use clearly incidental or accessory to the principal use of a lot or a building located on the same lot as the accessory use.

Use, Conditional – A use which is permitted in a district only after a conditional use process which provides for public input and further City review.

Use, Principal Permitted – A use which is permitted outright in a district for which a zoning certificate may be issued by the Zoning Administrator in accordance with the provisions of this Chapter.

Variance -- A modification or variation of the provisions of this Chapter, as applied to a specific piece of property, except that modification in the allowable uses within a district shall not be considered for a variance.

Yard – Any space in the same lot with a building open and unobstructed from the ground to the sky, except for fences 7 feet or less in height, and trees and shrubs.

Yard, Front - A yard lying between the street lines of the lot and the nearest lie of the building.

Yard, Rear – The yard on the opposite side of the lot from the street that the buildings are facing, except that there is no rear yard on lots with streets on 2 sides.

Yard, Side – The yards that are not front or rear yards.

Zoning Administrator - The designated Zoning Administrator of the City, or authorized representative.

Zoning Certificate - A document issued by the Zoning Administrator authorizing buildings, structures, or uses consistent with the terms of this Chapter and for the purpose of carrying out and enforcing its provisions.

Zoning District - An area within the limits of the community for which the regulations and requirements governing use are uniform.

1100.05 Application. This ordinance shall be applicable to all lands and waters within the corporate limits of Heidelberg, Minnesota. Compliance with this ordinance shall also be required for all unincorporated area within two (2) miles of the city limits of Heidelberg; provided that where a municipality lies less than four (4) miles from the limits of Heidelberg, these regulations shall apply only to a line equidistant from Heidelberg and said municipality; and provided further, that the governing body or bodies of unincorporated areas adjacent to the City have not adopted ordinances for the zoning regulation thereof.

Section 1105 - ESTABLISHMENT OF ZONING DISTRICTS AND  
RESIDENTIAL DISTRICTS

1105.01 Establishment of Districts. For the purpose of this Chapter, the City is divided into the following districts:

A. Residential Districts:

1. R-A Agriculture Residence District
2. R-1 Low Density Residence District
3. R-2 Medium Density Residence District
4. R-3 Multiple Family Residence District

B. Business Districts:

1. B-1 Limited Business District
2. B-2 Service Business District
3. B-3 General Business District

C. Industrial Districts:

1. I-1 Limited Industrial District
2. I-2 General Industrial District

1105.02 Zoning Map. The boundaries of the districts established by this Chapter are delineated on the Zoning Map, and this map and all notations, references, and data shown on it are hereby adopted and made part of this Chapter and will be on permanent file, and for public inspection, in the City Hall. It shall be the responsibility of the Zoning Administrator to maintain this map, and amendments to it. The Zoning Map shall be known as the “City of Heidelberg Zoning Map”.

1105.03 District Boundaries. The boundaries between districts are, unless otherwise indicated, either the center lines of streets, alleys or railroad rights-of-way, or such lines extended or lines parallel or perpendicular to them. Where figures are shown on the Zoning Map between a street and a district boundary line, they indicate the district boundary line runs parallel to the street at a distance from its equivalent to the number of feet stated unless otherwise indicated.

1105.04 Annexation. Any land annexed to the City in the future shall be placed in the appropriate district by action of the Council after recommendation of the Planning Commission.

1105.05 Application. The zoning district sections identify the permitted uses and district standards for each district. Additional regulations and exceptions are set forth in General

Regulations. There is also a different section with additional regulations regarding non-conforming uses, lots or structures.

#### 1105.06 R-A Agriculture Residence District.

Subd. 1 Purpose. For low density residential development in those areas where such development fits the Land Use Plan but where municipal utilities are not available at reasonable cost.

Subd. 2 Permitted Principal Uses:

- A. Single family dwellings.
- B. Agriculture, farming and truck gardening, except for the raising of animals.
- C. Level 1 home occupations.
- D. Parks and recreational areas and wildlife areas owned or operated by governmental agencies.
- E. Railroad rights-of-way, but not including railroad yards and shops.
- G. Accessory uses.
- H. Essential services.

Subd. 3 Uses by Conditional Use Permit.

- A. The raising of animals but not feedlots.
- B. Essential services.
- C. Outside commercial recreation such as golf (with clubhouse), miniature golf, tennis and non-motorized cycling.
- D. Level 2 home occupations.
- E. New agricultural buildings.
- F. Individual sewage treatment systems.
- G. State licensed residential facilities serving 6 or fewer persons.

Subd. 4 District Regulations.

A. Height:

1. No height regulation shall be required for agricultural structures unless required by the City as a condition in the granting of a conditional use permit.
2. No sidewall of a dwelling shall exceed 30 feet.

- B. Front Yards: not less than 25 feet.
- C. Side Yards: not less than 10 feet.
- D. Rear Yards: not less than 25 percent of the lot depth.
- E. Lot Width: single family dwelling - not less than 250 feet.
- F. Lot Area: single family dwelling – not less than 2-1/2 acres.



G. Dwellings: all dwellings shall be at least 20 feet wide and on permanent foundation.

#### 1105.07 R-1 Low Density Residence District.

Subd. 1 Purpose. For low density residential development in those areas where such development fits the Land Use Plan and policies, where municipal utilities are available and in areas which are partially or wholly developed residentially. It is further intended that establishment of this District will accommodate a residential development on scattered existing vacant lots, as well as redevelopment in some instances, within previously developed residential areas, using standards previously established.

#### Subd. 2 Permitted Principal Uses.

- A. Parks and recreational areas and wildlife areas owned or operated by governmental agencies.
- B. Single family dwellings.
- C. Level 1 home occupations.
- D. Accessory uses.
- E. Essential services.

#### Subd. 3 Uses by Conditional Use Permit.

- A. Churches and schools.
- B. Hospitals, nursing homes and clinics.
- C. Two family dwellings.
- D. Essential services and public buildings.
- E. Level 2 home occupations.
- F. State licensed residential facilities serving 6 or fewer mentally or physically handicapped persons.

#### Subd. 4 District Regulations.

- A. Height: no sidewall of a structure shall exceed 30 feet.
- B. Front Yards: not less than 25 feet.
- C. Side Yards: 2 side yards totaling a minimum of 25 percent of the lot width, with one yard a minimum of 10 percent of the lot width or 5 feet, whichever is greater.
- D. Rear Yard: not less than 25 percent of the lot depth.
- E. Lot Area:
  - Single family dwelling - not less than 8,000 square feet
  - Two family dwelling - not less than 10,000 square feet
- F. Lot Width:
  - Single family dwelling - not less than 80 feet
  - Two family dwelling - not less than 100 feet

G. Dwelling: all dwellings must be at least 20 feet in width and attached to a permanent foundation.

H. Raising of Animals in accordance with Chapter 10 of the Code is permitted.

#### 1105.08 R-2 Medium Density Residence District.

Subd. 1 Purpose. To provide for a greater variety of housing types in medium density settles.

Subd. 2 Permitted Principal Uses.

A. Parks and recreational areas and wildlife areas owned or operated by governmental agencies.

B. Two family dwellings and multiple family dwellings up to 4 units.

C. Level 1 home occupations.

D. State licensed residential facilities serving 6 or fewer mentally or physically handicapped persons.

E. Accessory uses.

F. Essential services.

Subd. 3 Uses by Conditional Use Permit.

A. Single family dwellings.

B. Multiple family dwellings from 5 to 12 units.

C. Schools and churches.

D. Level 2 home occupations.

E. Public buildings.

F. Essential services.

G. State licensed residential facilities serving from 7 to 16 mentally or physically handicapped persons.

H. Accessory uses.

Subd. 4 District Regulations.

A. Height: no sidewall of a structure shall exceed 30 feet.

B. Front Yards: not less than 25 feet.

C. Side Yards: one- and two-family dwellings - not less than 10 feet

Other buildings – not less than 15 feet

D. Rear Yard: not less than 25 percent of the lot depth.

E. Lot Area: not less than 8,000 square feet for single family and an additional 2,000 square feet for each unit over one.

F. Lot Width: not less than 80 feet for single family and an additional 20 feet for each unit over one.

G. All dwellings must be at least 20 feet in width and attached to a permanent

foundation.

#### 1105.9 R-3 Multiple Family Residence District.

Subd. 1 Purpose. For apartments, rowhouses, townhouses, dormitories, and other buildings of 3 or more dwelling units in those areas where such development fits the Land Use Plan, where properly related to other land uses and thoroughfares, and where adequate municipal utilities are available.

#### Subd. 2 Permitted Principal Uses.

- A. Parks and recreation areas owned or operated by governmental agencies.
- B. Multiple family dwellings, from 5 to 12 units.
- C. State licensed residential facilities serving from 7 to 16 mentally or physically handicapped persons.

#### Subd. 3 Uses by Conditional Use Special Permit.

- A. Multiple family dwellings up to 4 units.
- B. Boarding or lodging houses.
- C. Hospitals, clinics, nursing homes and mortuaries.
- D. Manufactured home parks.
- E. Public buildings.
- F. Multiple family dwellings over 12 units.
- G. Private clubs or lodges, except those whose chief activity is a service customarily carried on as a business.

#### Subd. 4 District Regulations.

- A. Height: structures shall not exceed 45 feet.
- B. Front Yards: not less than 25 feet, except that for buildings exceeding 3 stories, there shall be an additional setback of 1 foot for every foot that the building exceeds the height of 30 feet.
- C. Side Yards: not less than 15 feet, except that for buildings exceeding 3 stories, there shall be an additional setback of 1 foot for every foot that the building exceeds the height of 30 feet.
- D. Rear Yard: not less than 25 percent of the lot depth.

## Section 1110 - BUSINESS DISTRICTS

### 1110.01 B-1 Limited Business District.

Subd. 1 Purpose. The B-1 District has evolved as a mixed-use area and therefore cannot be zoned to be all residential or all business. It is intended for administrative and professional offices that, because of their low activity, will be compatible with nearby residential uses and in accord with the adopted Land Use Plan for the community. The office uses allowed in this District shall be those which have limited contact with the public and no manufacturing, exterior display, or selling of merchandise to the general public; except where the sale is accessory to the principal permitted use. It is also intended for highway related business where effects on nearby residential uses can be mitigated through careful management using the conditional use process.

#### Subd. 2 Permitted Principal Uses.

- A. Level 1 home occupations.
- B. Single- and two-family dwellings.
- C. Offices for administrative, executive, professional, research work.
- D. Public parks and buildings.
- E. Accessory uses.
- F. Essential services.

#### Subd. 3 Uses by Conditional Use Permit.

- A. Banks and savings and loan institutions.
- B. Motel and hotel.
- C. Medical/dental offices, clinics and mortuaries.
- D. Music studios, such as music, photo, dance, and interior design.
- E. Offices for service where the service is mostly done elsewhere, such as surveyor/engineer offices, plumbing/heating, route sales, transportation providers.
- F. Multiple family dwellings, no more than 12 units.
- G. Service clubs and halls.
- H. Bread and Breakfast establishments.
- I. Churches and schools.
- J. Highway related convenience, fast food and gas stations.
- K. Level 2 home occupations.
- L. Restaurants, cafes,

#### Subd. 4 District Regulations.

- A. Height: not more than 30 feet.
- B. Front Yards: not less than 25 feet.
- C. Side Yards: not less than 10 feet.
- D. Rear Yard: not less than 20 percent of the lot depth.

E. Additional yard requirements that may be conditions of conditional use permits when effects on residential property needs further mitigation.

#### 1110.02 B-2 Service Business District

Subd. 1 Purpose. The B-2 District is intended for commercial activities which might be incompatible with uses in other business districts by reason of traffic considerations, marketing characteristics, area requirements, and other characteristics inherent in these uses.

#### Subd. 2 Permitted Uses.

- A. Armories, convention halls, or exhibition halls.
- B. Bowling alleys, billiards or pool halls.
- C. Bakeries employing not more than 4 persons in the baking process.
- D. Bus station.
- E. Cabinet, carpenter, upholstering, or furniture repair shops employing not more than 4 persons in the construction or repairs process.
- F. Dry cleaning establishments, laundries, laundromats, self-servicing or employing nor more than 4 persons in the laundering, cleaning, and processing process.
- G. Frozen food lockers for individuals or family.
- H. Grocery, fruit, vegetable and meat stores.
- I. Greenhouses, nurseries, and garden stores.
- J. Laboratories, medical and dental.
- K. Lumber yards.
- L. Marine and boat sales and servicing establishments.
- M. Miniature golf courses, par three golf courses or archery or golf driving ranges operated for commercial purposes.
- N. Monument sales, not including processing.
- O. Mortuaries or funeral homes.
- P. Motels, hotels, or apartment hotels.
- Q. Newspaper distribution agencies.
- R. Orthopedic and medical appliance stores, but not including tile assembly or manufacture of such articles.
- S. Pet and animal hospitals.
- T. Plumbing, heating, and air conditioning shops and showrooms.
- U. Printing and publishing shops.
- V. Public utility structures.
- W. Municipal and government buildings.
- X. Radio and television service and repair shops.
- Y. Recording studios.
- Z. Restaurants.
- AA. Skating rinks.
- BB. Metal fabrication and welding shops.

- CC. Telephone booths (outside).
- DD. Theaters.
- EE. Vending machines for ice and milk sales.
- FF. Automobile, truck and farm implement dealers, new and used vehicle lots, boat trailer and mobile home display lots and structures,
- GG. Enclosed warehousing and storage structures.
- HH. Overnight or temporary automobile trailer courts.
- II. Wholesaling and distributing operation.
- JJ. Service stations and repair garages for motor vehicles, tire and battery sales.
- KK. Lumber yards.
- LL. Recreational equipment and supplies sales and services.
- MM. Commercial recreational facilities.

Subd. 3 Uses by Conditional Use Permit.

- A. New or used automobile sales or storage lots, new or used implement sales or storage lots, automobile laundries or car washes, automobile service stations or repair shops.
- B. Restaurants, Breweries, Drive-in restaurants, drive-in theaters, or similar uses.

Subd. 4 District Regulations.

- A. Height: not more than 45 feet except that on any line abutting a residential district, 30 feet.
- B. Front Yards: not less than 50 feet.
- C. Side Yards: no side yard shall be required, except not less than 30 feet from residential districts.
- D. Rear Yard: not less than 20 feet, except not less than 30 feet from residential districts.
- E. Lot Coverage: not more than 50 percent of a lot shall be occupied by buildings.

1110.03 B-3 Central Business District.

Subd. 1 Purpose. The B-3 District is intended for retail stores and offices which are mutually compatible and can benefit from, and contribute to, a compact shopping area serving the City or region.

Subd. 2 Permitted Uses.

- A. Amusement and recreation establishments, such as indoor theaters, swimming pools, skating rinks, billiard halls, bowling alleys and similar commercial recreation facilities.
- B. Animal or pet shops.
- C. Antique, gift, or jewelry stores.

- D. Apparel, dry goods, or department stores:
- E. Appliances, sewing machine sales and service, hardware, paint and wallpaper stores, bicycle sales and repair.
- F. Art and school supply, book and stationery stores.
- G. Art, photographic, music and dance studios.
- H. Bakeries employing not more than 4 persons in the baking process.
- I. Banks, savings and loan associations, and loan and finance companies.
- J. Barber and beauty shops.
- K. Business, commercial, or trade schools.
- L. Camera, or photographic supply stores; hobby, toy, or record stores; sporting goods stores; musical instrument stores.
- M. Candy and ice cream stores.
- N. Clinics, for people only.
- O. Clinics, for treatment of animals, excluding animal runs, stables, or kennels.
- P. Drug, variety, and five-and-ten stores.
- Q. Dry cleaning and laundry collection stations.
- R. Florist shops.
- S. Food, meat, fish and delicatessen stores.
- T. Furniture store; carpet and rug stores.
- U. Grocery, fruit, vegetable, floral or meat stores; candy, ice cream, soft drink or confectionery stores, excluding drive-in type services.
- V. Hardware stores.
- W. Jewelry stores.
- X. Laboratories.
- Y. Leather goods and luggage; shoe stores and shoe repair service.
- Z. Liquor stores and taverns.
- AA. Medical supply stores.
- BB. Motels, hotels.
- CC. Newsstands.
- DD. Locksmith and clock shops.
- EE. Parking lots, ramps and garages other than those accessory to a primary use for the parking and storage of private passenger vehicles only.
- FF. Physical, cultural and health services; gyms, reducing salons and masseurs.
- GG. Post offices.
- HH. Radio or television broadcasting or transmitting stations or studios; radio and television repair, when operated as an accessory to a retail sales establishment.
- II. Sporting goods stores.
- JJ. Stock and brokerage firms.
- KK. Tailor shops.
- LL. Telephone booths (outside).
- MM. Travel and ticket agencies.

Subd. 4 Uses by Conditional Use Permit.

- A. Any business activity of the same general character as those listed in Subd. 3 of this Section.
- B. Restaurants, breweries, tearooms, delicatessens, cafes, and “Drive-in” restaurant facilities.
- C. New and used car display lots.
- D. Dwelling units only where accessory and attached to a principal use as listed in Subd. 3 of this Section.
- E. Pipe and tobacco shops.

Subd. 5 District Regulations.

- A. Height: not more than 45 feet except that on any line abutting a residential district, not more than 30 feet.
- B. Yard Regulations and Lot Coverage Regulations: none required except not less than 30 feet from residential districts.



## Section 1115 - INDUSTRIAL DISTRICTS

### 1115.01 Limited Industrial District.

Subd. 1 Purpose. The 1-1 District is intended to establish areas in which light manufacturing may locate for administrative, wholesaling, manufacturing and related uses which can maintain high standards of appearance, including open spaces and landscaping, and limit external effects such as noise, odors, smoke and vibration. The district will provide locations which offer adequate essential utilities and ensure a functional relationship among various types of land uses.

### Subd. 2 Permitted Principal Uses.

- A. Airports, heliports, cartage and express facilities, and railroad rights of-way.
- B. Storage and warehousing facilities; wholesale business and office establishments.
- C. Bottling establishments.
- D. Building materials sales and storage establishments.
- E. Radio and television towers and stations, electric light or power generating stations.
- F. Engraving, printing, publishing, cartographic, and bookbinding establishments.
- G. Dry cleaning, dyeing and laundering establishments.
- H. Electrical and electronic manufacturing establishments; electrical service shops.
- I. Medical, dental, and optical laboratories.
- J. Public utility structures and governmental buildings.
- K. Jewelry, camera, and photographic manufacturing establishments.
- L. Machine shops – limited operations only.
- M. Bus and truck storage and maintenance lots and garages.
- N. Car washes.

### Subd. 3 Uses by Conditional Use Permit.

- A. Any manufacturing, production, processing, cleaning, storage, servicing, repair and testing of materials, goods, or products similar to those listed in Subd. 2 of this Subsection.
- B. Retail and service establishments essential to a Planned Industrial District and providing goods and services which are primarily for the use of persons employed in this district.

### Subd. 4 District Regulations.

- A. Height: not more than 45 feet, except that cooling towers, elevator penthouses, domes which do not contain usable space, water towers and smokestacks may be

of any height which does not conflict with airport requirements. Also, on any lines abutting residential districts, not more than 30 feet.

B. Front Yards: not less than 30 feet, except not less than 50 feet from residential districts.

C. Side Yards: not less than 15 feet, except not less than 50 feet from residential districts.

D. Rear Yard: not less than 30 feet, except where the district abuts a residential district, not less than 50 feet.

E. Lot Area: not less than 20,000 square feet.

F. Minimum District Area: no 1-1 District shall be established on any tract containing less than 10 acres. This requirement shall not apply where the tract abuts an existing industrial district.

G. Lot Coverage: not more than 50% of the total area of a lot shall be covered by buildings.

#### 1115.02 General Industrial District.

Subd. 1 Purpose. The 1-2 District is intended for general industrial uses which, due to their size and nature, would not be appropriate in the I-1 District.

##### Subd. 2 Principal Permitted Uses.

A. Airports, heliports, cartage and express facilities, and railroad rights of-way.

B. Storage and warehousing facilities; wholesale business and office establishments.

C. Bottling establishments.

D. Building materials sales and storage establishments.

E. Radio and television towers and stations, electric light or power generating stations.

F. Engraving, printing, publishing, cartographic, and bookbinding establishments.

G. Dry cleaning, dyeing and laundering establishments.

H. Electrical and electronic manufacturing establishments; electrical service shops.

I. Medical, dental, and optical laboratories.

J. Public utility structures and governmental buildings.

- K. Jewelry, camera, and photographic manufacturing establishments.
- L. Machine shops – limited operations only.
- M. Bus and truck storage and maintenance lots and garages.
- N. Car washes.
- O. Blacksmith shops.
- P. Canning factories and creameries.
- Q. Contractor's offices, shops, yards, and storage facilities for plumbing, heating, glazing, painting, paper hanging, roofing, ventilating, air conditioning, lumber, masonry, electrical and refrigeration industries.
- R. Freight terminals.
- S. Fuel and ice sales and storage facilities.
- T. Garages for storage, repair, and servicing of motor vehicles and farm implements.
- U. Gasoline and oil bulk stations and distributing plants.
- V. Highway maintenance shops and yards.
- W. Monument works.
- X. Public service structures, including power substations, gas regulator stations, sewage disposal plants, telephone exchanges, police or fire stations, elevated tanks, and waterworks.
- Y. Manufacturing, processing, storage, servicing and testing establishments.

Subd. 4 General Industrial District Uses by Conditional Use Permit.

- A. Any manufacturing, production, processing, cleaning, storage, servicing, repair, and testing of materials, goods, or products similar to those listed in Subd. 2 of this Subsection.
- B. Extraction, processing, or storage of sand and gravel, stone, or other raw materials.
- C. Retail and service establishments essential to the operation of a General

Industrial District.

D. Adult Establishments as defined in Section 620.02(A) (Ordinance No. 2-2003).

E. Manufactured Home Parks.

Subd. 5 District Regulations.

A. Height: no structure shall exceed 75 feet, except for lines abutting residential districts, 30 feet.

B. Front Yard: not less than 35 feet, except not less than 50 feet from residential districts.

C. Side Yard: not less than 15 feet, except not less than 50 feet from residential districts.

D. Rear Yard: not less than 30 feet, except not less than 50 feet from residential districts.

E. Lot Area: not less than 20,000 square feet.

F. Minimum District Area: no 1-2 District shall be established on any tract containing less than 4.5 acres. This requirement shall not apply where the tract abuts an existing industrial district.

G. Lot Coverage: not more than 50% of the total area of a lot shall be covered by buildings.

## Section 1135 – GENERAL REGULATIONS

### 1135.01 Scope of Regulations.

Subd. 1 Application of Regulations. Except as may otherwise be provided in Section 1140- Non-Conforming Structures and Uses; after June 25, 2001, all buildings, all uses of land or buildings, all exterior structural alterations or relocation of existing buildings, and all enlargements or additions to existing uses shall be subject to all regulations of this Chapter which are applicable to the zoning district in which the buildings, uses or land is located.

Subd. 2 Permits to Comply with Regulations. The Zoning Administrator or other City department shall not approve an application for a building permit or other license or permit, or certificate of zoning compliance, if such license permit or certificate would authorize the use of change in use of any land or building contrary to the provisions of this Chapter, or the erection, moving, exterior alteration, enlargement, or occupancy of any building designed or intended to be used for a purpose or in a manner contrary to the provisions of this Chapter.

Subd. 3 Area Regulations. No lot shall be reduced or diminished so that yards or other open spaces shall be smaller than prescribed by this Chapter. Nor shall the density of population be increased in any manner except in conformity with the area regulations as provided in this Chapter. Nor shall the area of any lot be reduced below the minimum requirements established in the Chapter except by variance by the Council.

1135.02 Erection of More than One Principal Structure on a Lot. In any district, no more than one structure housing a permitted or permissible principal use may be erected on a single lot.

### 1135.03 Accessory Buildings.

Subd. 1 Proximity to Main Building. In the case where an accessory building is attached to the main building, it shall be made structurally a part of the main building and shall comply in all respects with the requirements of this Chapter applicable to the main building. An accessory building, unless attached and made a part of the main building, shall not be closer than 5 feet to the main building.

Subd. 2 Proximity to Front Yard. A detached accessory building shall not be located in any required front yard.

Subd. 3 Private Detached Garage. One private detached garage per dwelling, having side walls, no higher than 10 feet and floor space no larger than 2,500 square feet are allowed and can occupy the rear yard to within 15 feet of the rear property line. No private detached garage shall occupy more than 30 percent of the area of any side or rear yard. The side yard setback requirements of the district in which the building is located shall apply.

Subd. 4 Storage Sheds. If they have side walls no greater than 8 feet and floor space no larger than 120 square feet, storage sheds can be within 5 feet of the property lines. Structures larger than this will be considered as garages.

1135.04 Height Regulations. Height limitations set forth elsewhere in this Chapter may be increased by 100 percent when applied to the following: chimneys, cooling towers, elevator bulkheads, fire towers, monuments, water towers, stacks, storage lofts, tanks, ornamental towers and spires, wireless towers, or necessary mechanical appurtenances usually required to be placed above the roof level and not intended for human occupancy.

1135.05 Yard Regulations.

Subd. 1 Supplemental Requirements. The following requirements qualify or supplement, as the case may be, the district regulations appearing elsewhere in this Chapter. Measurements shall be taken from the nearest points of the wall of a building to the lot line in question, subject to the qualifications in the following subdivisions.

Subd. 2 Open Yard. Every part of a required yard or court shall be open from its lowest point to the sky and unobstructed except for the ordinary projections of window wells above the bottom of such yard or court and except for the projections of sill belt courses, cornices, and ornamental features not to exceed 4 feet 6 inches.

Subd. 3 Fire Escapes and Stairways. Open or lattice enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers may extend into a required front or rear yard a distance not to exceed 4 feet 6 inches.

Subd. 4 Yard for One Building Only. A yard, court, or other open space provided about any building for the purpose of complying with the provisions of this Chapter shall not again, be used as a yard, court, or other open space for another building.

Subd. 5 Exceptions for Yards Bordering Public Roads.

A. Where existing principal structures within the same block on both sides of a lot encroach into the required setback area, the in-between lot exception setbacks will be established as being at a line drawn between the existing principal structures.

B. Where an existing principal structure within the same block on one side of a lot encroaches into the required setback area, the adjoining lot's exception setback will be the average of the required setback and the setback of the encroaching structure. The next lots will follow this averaging formula between their required setback and the adjacent lot's exception setback, thereby creating a gradual return to the required setback.

C. Existing encroaching structures can be added on to as long as no further

encroachment is created.

Subd. 6 Setback - Corner Lots. The setback requirements shall be observed on each street side of a corner lot. The buildable width of a corner lot shall not be reduced to less than 30 feet by this requirement.

Subd. 7 Setback -- Inflammable Material. A total setback requirement of 300 feet shall be mandatory for all land uses handling highly explosive or inflammable materials in quantity, such as gas service stations, bulk fuel or oil dealers and similar operations, from all schools, churches, hospitals, or any public meeting place having a seating capacity of 50 or more persons.

Subd. 8 Yards for Open Land Uses. Where a lot is to be occupied for permitted uses without buildings or structures on the lot, the side yards and front yards required for the zone within which such lot is located, shall be provided and maintained between such use and the respective lot uses. Side and rear yards shall not be required on lots without buildings or structures when used for garden purposes or public playgrounds.

Subd. 9 Permitted Obstructions in Required Yards. The following shall not be considered to be obstructions when located in the required yards specified:

- A. In Front Yards; one story bay windows projecting 3 feet or less into the yard; and overhanging eaves and gutters projecting 2-1/2 feet or less into the yard.
- B. A landing place or uncovered porch may extend into the required front yard to a distance not exceeding 6 feet, if the landing place or porch has its floor no higher than the entrance floor of the building. An open railing no higher than 3 feet 6 inches may be placed around such place.
- C. The required front yard of a corner lot shall not contain any wall, fence, or other structure, tree, shrub, or other growth which may cause danger to traffic on a street or public road by obscuring the view. A wall, fence, or hedge may occupy part of a required yard. However, on corner lots there shall be a triangular area formed by the property lines of intersecting streets, intersecting alleys and streets, and a line joining points on the lines 25 feet distant from the intersection in which there shall be no wall, fence, or hedge. Trees shall be trimmed from the ground to a height of 10 feet above curb level.
- D. On double frontage lots, the required front yard shall be provided on both streets.
- E. In Side Yards: overhanging eaves and gutters projecting into the yard for a distance of 2 inches per foot of required side yard.

- F. In Rear Yards: enclosed, attached, or detached off-street parking spaces; open off-street parking spaces, accessory structures, tool rooms, and similar buildings or structures for domestic storage; balconies, breezeways and open porches; one story bay windows projecting 2-1/2 feet or less into the yard; and overhanging eaves and gutters projecting 2 1/2 feet or less into the yard, (a) in determining the depth of a rear yard for any building where the rear yard opens into an alley, 1/2 the width of the alley, but not exceeding 10 feet, may be considered as a portion of the rear yard.

#### 1135.06 Vision Clearance.

Subd. 1 Fences. Walls in Front Yard. In any residence zone on any corner lot, no fence or accessory structure or planting shall rise over 2-1/2 feet in height above the level of the public sidewalk within 20 feet of any corner, so as to interfere with traffic visibility across the corner. No fence or wall or shrub planting of more than 2-1/2 feet in height above the level of the public sidewalk shall be erected on any interior lot within 10 feet of the front property line where it will interfere with traffic visibility from a driveway.

Subd. 2 Fences in Side Yard. No fence or wall, other than a retaining wall, along a sideline of a lot in a residence zone, shall be higher than 6 feet to the front yard setback line unless any part above such a height has at least 50 percent of the surface uniformly open and unobstructed. This subdivision shall not apply where the adjoining lot is not in a residential zone.

Subd. 3 Fences in Rear Yard. Fences having a height of 8 feet or less may be used to locate property lines within the required rear yards in the residence district.

Subd. 4 Swimming Pools. The following regulations shall apply to all swimming pools:

- A. An outdoor swimming pool shall be covered with an automatic safety pool cover that meets all performance standards of the American Society for Testing and Materials (ASTM), in compliance with standard ASTM F1346-91, or the pool shall have a barrier that shall be installed, inspected, and approved by the City prior to plastering or filling with water.
- B. For purposes of this subdivision 4, a barrier is defined as a fence, wall, building wall, or combination thereof, which completely surrounds the swimming pool and obstructs access to the swimming pool. The top of the barrier shall be at least forty-eight (48) inches above grade measured on the side of the barrier that faces the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be two (2) inches measured on the side of the barrier that faces away from the swimming pool. The maximum vertical clearance at the bottom of the barrier may be increased to four (4) inches when grade is a solid surface such as a concrete deck, or



when the barrier is mounted on the top of the above ground pool structure. When barriers have horizontal members spaced less than forty-five (45) inches apart, the horizontal members shall be placed on the poolside of the barrier. Any decorative design work on the side away from the swimming pool, such as protrusions, indentations or cutouts, which render the barrier easily climbable, is prohibited.

- C. Placement of outdoor pools is subject to approval of Le Sueur County in accordance with its septic guidelines. Any costs of such inspection shall be at homeowner expense.
- D. No pool shall be located beneath overhanging electrical lines or over underground utility lines of any type. No pool shall be located within any private or public utility, walkway, drainage, or other easement. Lighting for the pool and surrounding area shall be oriented so as to minimize light spilling into neighboring properties.
- E. Pool construction permission shall require applicant submission of pool plans to the City Building Inspector. If approved by the City Building Inspector, the City Clerk shall issue a building permit.

#### 1135.07 Street Closures.

Whenever any street, alley, or other public way is vacated by official action of the City, the zoning district adjoining each side of the street, alley or public way shall be automatically extended to the center of such vacation. All area included in the vacation shall be subject to all appropriate regulations of the extended vacation.

1135.08 Areas Under Water. All areas within the corporate limits of the City which are under water and not shown as included within any zone shall be subject to all of the regulations of the zoning district which immediately adjoins the water area. If the water area adjoins two or more zoning districts, the boundaries of each zoning district shall be construed to extend into the water area in a straight line until they meet the other district at a half-way point.

1135.09 Essential Services: Essential services shall be permitted as authorized and regulated by law and other City Code provisions in any district, it being the intention hereof to exempt such erection, construction, alteration, and maintenance from the application of this Chapter.

1135.10 Structure to Have Access. Every building erected or moved after June 25, 2001, shall be on a lot adjacent to a public street, or with access to an approved private street. All structures shall be located on lots so as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

1135.11 Sign Regulations. The purpose of this section is to establish minimum sign requirements to protect and promote the general welfare, health, safety, order and aesthetics within the City; to

permit adequate signs for effective communication; to limit signs to identify uses and businesses where they are located and to do so in an efficient, effective and aesthetic manner while maintaining an attractive and appealing appearance along streets, highways, private and public property, and the air space above and between developments; and to recognize the need to maintain an attractive and appealing appearance of property and prevent visual clutter, while at the same time assuring that the public is not endangered, annoyed or distracted. It is not the purpose or intent of this section to regulate the content displayed on any sign, nor to regulate any sign which cannot be viewed from outside a building. All signs erected or maintained except official public traffic and street signs, shall conform with the provisions of this Subsection and other City Code provisions or regulations of the City whether or not a sign permit is required. All signs shall be constructed in a matter and of such material that they shall be safe and substantial. All signs shall be properly secured, supported and braced and shall be kept in good repair so that public safety and traffic safety are not compromised.

Subd. 1 General Regulations. The following regulations shall apply to all signs hereafter permitted in all districts:

- A. Signs are considered as accessory uses and appropriate permits are required. The Council may set permit fees by resolution. Signs that are not posted by authorized government officials are prohibited within the public right-of-way, easements or publicly owned land. Building address signs are not counted towards overall permitted signage on a building.
- B. Flashing or rotating signs shall not be permitted in any district. Illuminated signs may be permitted in certain Districts. If illuminated signs are permitted, any sign lighting shall not be directed toward any public road right-of-way or dwelling and shall be subject to requirements of the Electrical Code of the State of Minnesota.
- C. No sign shall be permitted to obstruct any window, door, fire escape, stairway or opening intended to provide light, air or access to any building or structure. No sign shall, by reason of position, shape or color interfere in any way with the proper functioning or purpose of a traffic sign or signal.
- D. Up to three flags containing non-commercial speech only may be displayed upon a lot. Each non-commercial speech flag may not exceed 100 square feet in size per surface.
- E. The owner, lessee or manager of any ground sign and the owner of the land on which the same is located shall keep grass or weeds and other growth cut and shall clean and remove debris and rubbish from the lot on which a sign is located.
- F. All temporary signs must be removed within 7 days of the end of the associated activity.

- G. All portions of signs shall be within the lot lines of the establishment unless accepted in this Section. Additional setbacks are also found in this Section. Building and projecting signs can only be located on the principal building on the lot.
- H. There may be applicable regulations outside of this ordinance that apply to certain sign situations.
- I. Window Signs are permitted in street facing windows of commercial and industrial zoned buildings provided they do not exceed 25 percent of the window area which has street frontage.
- J. Non-commercial speech signs: Notwithstanding any other provisions of this Section, all signs of any size containing non-commercial speech may be posted in any number from 46 days before the state primary election in any general election year until ten (10) days following the general election and 13 weeks prior to any special election until 10 days following the special election. One non-commercial speech sign is allowed on each lot outside of the above specified time period on all properties.
- K. The owner of any sign which is otherwise allowed by this Section may substitute non-commercial speech signs in lieu of any other commercial speech sign or other non-commercial speech sign. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech or favoring of any particular non-commercial speech over any other noncommercial speech. This provision prevails over any more specific provision to the contrary.
- L. Electronic Variable Message Signs are conditionally permitted in industrial and commercial zoning districts under conditions set by the Council. Any message and/or picture on such signs shall not change more than once per five (5) seconds.
- M. In all cases, the minimum setback for all freestanding or monument signs shall be at least 10 feet from any property line. In cases where an easement encumbers area along the property line, the sign must be set outside of the easement area, even if the easement area exceeds ten feet from the property line. No building sign shall extend in height more than six feet above the highest outside wall or parapet of any principal building. Building signs can only be placed on the principal building. Projecting signs shall not exceed the sum of 16 square feet per surface and must be located at a height of eight feet above the top of curb elevation of the street. Such signs can project to five feet from the building face, provided that they do not infringe on the public right-of-way.

Subd. 2 Signs in R-A, R-1, R-2 and R-3 Residential Districts. No sign shall be erected in any R-A, R-1, R-2 or R-3 District, except:

- A. A nameplate sign identifying the owner or occupant of a building or dwelling unit is allowed provided such sign does not exceed 2 square feet in surface area. Such signs may be illuminated but lighted signs are prohibited. Wall-mounted, projecting or freestanding signs may be used.
- B. A temporary sign provided such sign does not exceed 12 square feet in surface area. Such signs shall not be illuminated or lighted signs.
- C. One business sign displaying location information for churches, schools, hospitals, nursing homes, clubs, libraries or similar use. Such signs may be illuminated but lighted signs and neon signs are not allowed. Freestanding signs are allowed up to 24 square feet in surface area, maximum height of 6 feet and setback a minimum of 100 feet from a residential lot line. Wall-mounted signs are allowed up to 24 square feet in surface area. Projecting signs are allowed up to 12 square feet in surface area. Awning signs may be used.
- D. Directional signs not exceeding 2 square feet in surface area displaying information for churches, schools, hospitals, nursing homes, clubs, libraries or similar uses excluding office or commercial establishments. Each such use shall be limited to one sign per thoroughfare approach. Such signs may be illuminated but lighted signs are prohibited.
- E. Directional signs in any parking area where such signs are necessary for the orderly movement of traffic.
- F. Symbols, statues, sculptures and integrated architectural features on buildings may be illuminated and must meet applicable glare standards.

Subd. 3 Signs in B-1 and B-2 Commercial Districts. Signs may be erected subject to the following provisions:

- A. Business signs are allowed. The total surface area of all business signs on a lot shall not exceed 2 square feet per lineal foot of lot frontage or 10 percent of the building frontage area, or 75 square feet in area, whichever is greater. Signs may be illuminated, and lighted signs may be used. Wall-mounted, freestanding, projecting, awning, neon and window signs can be utilized.
- B. Day signs are allowed up to 24 square feet in surface area.

- C. Directory signs are allowed up to 6 square feet in surface area.
- D. Temporary signs up to 24 square feet in surface area.
- E. No sign shall project higher than 6 feet above the height of the building, or 32 feet above the average grade at the building line, whichever is greater.
- F. Signs painted on a building shall be governed by the square footage limitations specified in this Subsection.
- G. No signs shall project more than 3 foot perpendicular to the building.

Subd. 4 Signs in the B-3 Central Business District. Signs may be erected subject to the following provisions:

- A. Business wall-mounted or painted signs are allowed provided the following standards are met: - the sign shall be affixed to the front façade of the building and -shall project no more than 6 inches; the surface area of the sign shall not exceed 1.5 square feet times the width of the building; the height shall not exceed 15 feet above the sidewalk elevation -and also shall not extend above the second floor windowsill; - limited to one per business or building, whichever applies; -the height of the letters and numbers shall not exceed 12 inches.
- B. An additional business wall mounted sign not exceeding 8 square feet in surface area is allowed for side and rear walls that are visible to the public. They may be illuminated during business hours.
- C. Directory signs are allowed subject to the following provisions: -it is located next to entrance and not higher than window; - it shall project from wall no more than 4 inches; - it shall be no more than 4 square feet in surface area; - the lettering height shall not exceed 4 inches.
- D. Applied letters may substitute for wall-mounted and directory signs if constructed of material that does not project a shiny plastic-like appearance.
- E. Business projecting signs are allowed subject to the following provisions: - it shall be no more than 12 square feet in surface area; -minimum distance from ground to sign is 10 feet; -maximum height shall not be above second floor sill; - minimum distance between building and sign is 6 inches; -maximum width of sign is 3.5 feet; -maximum height of letters and numbers is 10 inches; -limited to one per business or building or one to building if there is not physical separation between the business as evidenced by features such as separate entries.

- F. Business window signs are allowed subject to the following provisions: - maximum size is 15 percent of window or 6 square feet, whichever is less; - maximum height of letters and numbers is 12 inches; - limited to one per business or building, whichever applies.
- G. Business awning signs are allowed but will serve as the one wall-mounted sign unless there is a wall-mounted sign where only one is in view when the awning is open or shut. If the awning sign is on the end of the awning it will be considered as the one allowed projecting sign.
- H. Day signs are allowed but must not be in road right-of-way or be a blockage to pedestrians on the sidewalk.
- I. Businesses with service entrances may identify these with signs up to 2 square feet in surface area.
- J. In addition to other signage regulations, the following provisions apply to all signs: - business signs can depict only business name, logo and address; -lighted signs are prohibited; -neon signs are allowed only in windows; -product advertising on signs is prohibited except in windows where they shall not exceed 2 square feet in surface area; -all signs can be illuminated; -plastic signs are prohibited; - signs shall not project above the height of the building.

Subd. 5 Signs in the I-1 and I-2 Industry Districts. Signs may be erected subject to the following provisions:

- A. Advertising sign structures shall be limited to one for a lot of 100-foot frontage or less, and to only one for each additional 100 feet of additional lot frontage. Such structures shall not exceed 55 feet in length. No advertising sign may be erected within 100 feet of a residential district. Such signs may be illuminated.
- B. Sign lighting shall not be directed toward a public right-of-way or any residential district.
- C. The total surface area of all business signs on a lot shall not exceed 3 square feet per lineal foot of lot frontage or 20 percent of the building frontage area or 300 square feet in area, whichever is greater. Such signs may be illuminated.

Subd. 6 Removal. Any sign legally existing at the time of the passage of this section that does not conform to the provisions of this section shall be considered a legal nonconforming sign and may be continued through repair, replacement, restoration, maintenance or improvement but not including expansion. "Expansion" shall be defined as any structural alteration, change or addition that is made outside of the original sign structure, sign area or design. When any legal nonconforming sign is discontinued for a

period of more than one year or is changed to a conforming sign, any future sign shall be in conformity with the provisions of this Section. Any legal nonconforming sign shall be removed and shall not be repaired, replaced, or rebuilt if it is damaged by fire or similar peril to the extent of greater than 50 percent of its estimated value at the time of destruction and no sign permit or building permit has been applied for within 180 days of the date of destruction.

Subd. 7 Severability. If any section, subsection, sentence, clause, or phrase of this Section is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Section. The City Council hereby declares that it would have adopted this Section in each component thereof, subsection, sentence, or phrase thereof, irrespective of the fact that any one or more components, subsections, sentences, clauses, or phrases be declared invalid.

1135.12 Lot Use Standards. The following standards are required. In the event of any concern or complaint requiring verification, the cost of any testing and investigating shall be shared equally by the owner or operator and the Council, unless the investigation or tests disclose non-compliance with the performance standards. If there is non-compliance, the entire cost shall be paid by the owner or operator.

Subd. 1 Noise. At any property line the sound pressure level of noise radiated from a permitted use shall not exceed what is normal for the zoning district.

Subd. 2 Odors. No unreasonable or persistent odors shall be detectable beyond the limits of the property.

Subd. 3 Exterior Lighting. Any lights for exterior illumination shall direct light away from adjoining property. Glare, whether direct or reflected, such as from floodlights, spotlights, or high-temperature processing, and is differentiated from general illumination, shall not be visible beyond the limits of the property.

Subd. 4 Vibration. No vibrations shall be discernible at any property line to the human sense of feeling for an accumulated total of 3 or more minutes during any hour.

Subd. 5 Emissions. Smoke, dust, electronic air and fumes and gasses shall not exceed what is normal for the zoning district.

Subd. 6 Sewer and Water. The design and construction of water supply facilities and treatment of all sewage and waste shall comply with the City, County and State health standards and requirements.

1135.13 Regulations on Screening, Landscaping, Lighting, Storage and Outdoor Displays.

Subd. 1 Screening. All principal and accessory uses, except business signs, which are situated within 50 feet of a residential district, shall be screened from such district by a

wall or fence of not less than 90 percent opacity and not less than 5 nor more than 7 feet in height above the level of the residential district property at the district boundary. Walls or fences of lesser heights or planting screens may be permitted by the Council if there is a finding that a screening of the type required by this Chapter would interfere with the provisions of adequate amounts of light and air to the properties. Loading docks in the district shall be screened so as not to be visible from any public street right-of-way within a residential district. All required screening devices shall be designed so that they are architecturally harmonious with the principal structures on the site. They shall be properly maintained so as not to become unsightly, hazardous, or less opaque than when originally constructed.

Subd. 2 Landscaping. All exposed ground areas surrounding or within a principal or accessory use including boulevards, which are not devoted to drives, sidewalks, patios, or other such uses shall be landscaped with grass, shrubs, trees or other ornamental landscaped materials. All landscaped areas shall be kept neat, clean and uncluttered. No landscaped areas shall be used for the parking of vehicles or the storage or display of materials, supplies or merchandise.

Subd. 3 Lighting. Lighting shall be directed away from public rights-of-way and residential districts. "Glare" whether direct or reflected, as differentiated from general illumination, shall not be visible from beyond the limits of the immediate site from which it originates.

Subd. 4 Storage Displays. All materials, supplies, merchandise or other similar matter not on display for a direct sale, rental or lease to the ultimate consumer or user shall be stored within a completely enclosed building within the Highway Commercial District, or within the confines of a 100 percent opaque wall or fence not less than 5 feet high. Merchandise which is offered for sale as described above may be displayed beyond the confines of a building in the Highway Commercial District. No storage of any type shall be permitted within the one half of the required front or side street setback nearest the streets.

#### 1135.14 Requirements for Vehicular and Pedestrian Circulation.

Subd. 1 Traffic and Circulation. All commercial buildings or structures and their accessory uses shall be accessible to and from nearby public streets and sidewalks by driveways and walkways surfaced with a hard, all-weather, durable, dust-free material and properly drained. Vehicular traffic generated by a commercial use shall be channeled and controlled in a manner that will avoid congestion on the public streets, traffic hazards, and excessive traffic through residential areas, particularly truck traffic. The adequacy of any proposed traffic circulation system to accomplish these objectives shall be determined by the City Engineer who may require such additional measures for traffic control as the engineer may necessary, including, but not limited to, the following: directional signalization, channelization, standby turn lanes, illumination, and storage



area and distribution facilities within the commercial site to prevent back-up of vehicles on public streets.

Subd. 2 Area Other Than Driveways. No area used by motor vehicles other than driveways serving as ingress and egress to the commercial site shall be located within the public street right-of-way.

Subd. 3 Restrictions. All driveways to or from public streets shall be no closer than 25 feet to a perpendicular running road right-of-way line.

1135.15 Manufactured Home Parks. All manufactured home parks shall be designed and constructed in accordance with standards as set by the Minnesota Department of Health, except that there shall be a setback of 50 feet from any residential property line.

1135.16 Parking and Loading.

Subd. 1 Multiple family residential developments shall have at least one off-street parking stall per dwelling unit, in addition to what off street parking is necessary for operations.

Subd. 2 Except in the Central Business District zone, all uses other than single family dwellings shall have enough off-street parking and loading areas for the traffic generated by the use.

Subd. 3 Parking and loading levels for conditional use permits will be attached as conditions and reviewed for meeting the actual need generated.

1135.17 Home Occupations.

Subd. 1 Level 1 - Permitted Use Standards:

- A. Maximum Floor Use Area – 1,000 square feet (except with uses such as day care where the entire dwelling may be used as a home).
- B. No more than one person, other than the members of the family occupying the dwelling shall be employed in conjunction with the home occupation.
- C. No extra traffic generated over an estimated 4 vehicle trips per day.
- D. No noise, vibration, glare, fumes, odors, or electrical interference detectable off premises.
- E. There shall be no change in the dwelling unit or premises, or other visible evidence of the conduct of such home occupation (including signs other than the district allows as a permitted use).

- F. No home occupation shall cause an increase in the use of any one or more utilities (water, sewer, electricity, garbage) so that the combined total use for the dwelling and home occupation purposes exceeds the average for the residences of the neighborhood.
- G. No special or hazardous wastes generated. NOTE: Level 1 Home Occupation does not have automatic rights to expand to a Level 2 Home Occupation.

Subd. 2 Level 2 - Conditional Use Standards:

- A. Level 2 category has a higher intensity of use than those indicated in Level 1 Permitted Standards.
  - B. Previous investments will not be used as a reason to override these standards or other valid concerns of conditional uses contained in the Ordinance.
  - C. In considering conditional uses for Home Occupations Level 2, the outside appearance will be set and added as a condition.
  - D. Subsequent non-compliance with any conditions will be cause for discontinuance of the conditional use permit.
  - E. Additional conditions may include lighting, hours, buffers, setbacks, service road, signage, platting or other concerns.
- F. Level 2 uses are defined as those uses that do not qualify as Level 1 but that: - use less than 2,000 square feet of floor space (except with uses such as day care where the entire dwelling may be used as a home). -employ less than 4 employees at the site at the same time (other than the occupants of the dwellings). -produce extra traffic generation less than 12 vehicle trips per day. - shall cause no increase in the use of any one or more utilities (water, sewer, electricity, garbage) that strains the utility's provision of services, and -produce no special or hazardous wastes that require special treatment. -need no more signage other than allowed in the District's conditional use section.

Subd. 3 A home occupation may be carried out in an accessory building, with all applicable standards for the designated home occupation level. Subd. 4 All non-conforming home occupations legally existing prior to the adoption of this Ordinance shall be allowed to continue, but shall not be allowed to expand, be rebuilt, relocated, replaced or altered without being brought into compliance with all the requirements of this Section.

## Section 1136 – FLOODPLAIN MANAGEMENT

1136.01 Statutory Authorization and Purpose. Subd. 1 Statutory Authorization. The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

1136.02 Purpose.

Subd. 1 This Section regulates development in the flood hazard areas of the City of Heidelberg. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this Section to promote the public health, safety, and general welfare by minimizing these losses and disruptions.

Subd. 2 National Flood Insurance Program Compliance. This Section is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59-78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

Subd. 3 This Section is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

1136.03 General Provisions.

Subd. 1 Lands to Which Section Applies. This Section applies to all lands within the jurisdiction of the City of Heidelberg shown on the Flood Insurance Rate Maps adopted in Subd. 2 as being located within the boundaries of the Floodplain District. The Floodplain District is an overlay district that is superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this Section. In case of a conflict, the more restrictive standards apply.

Subd. 2 Incorporation of Maps by Reference. The following maps together with all attached material are hereby adopted by reference and declared to be a part of the Official Zoning Map and this Section. The attached material includes the Flood Insurance Study for Le Sueur County, Minnesota, and Incorporated Areas, and the Flood Insurance Rate map panels enumerated below, both dated July 21, 1999, all prepared by the Federal Emergency Management Agency. These materials are on file in the Town Hall.

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Subd. 3 Interpretation. The boundaries of the Floodplain District are determined by scaling distances on the Flood Insurance Rate Map.

- A. Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations must be the governing factor. The Zoning Administrator must interpret the boundary location based on the ground elevations that existing on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.
- B. Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the City Council and to submit technical evidence.

Subd. 4 Abrogation and Greater Restrictions. It is not intended by this Section to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section imposes greater restrictions, the provisions of this Section prevail. All other sections inconsistent with this Section are hereby repealed to the extent of the inconsistency only.

Subd. 5 Warning and Disclaimer of Liability. This Section does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This Section does not create liability on the part of the City of Heidelberg or any officer or employee thereof for any flood damages that result from reliance on this Section, or any administrative decision lawfully made hereunder.

Subd. 6 Severability. If any section, clause, provision, or portion of this Section is adjudged unconstitutional or invalid by a court of law, the remainder of this Section shall not be affected and shall remain in full force.

Subd. 7 Definitions. Unless specifically defined below, words or phrases used in this Section must be interpreted so as to give them the same meaning as they have in common usage and so as to give this Section its most reasonable application.

- A. Base Flood. The flood having a one (1) percent chance of being equaled or exceeded in any given year.
- B. Base Flood Elevation. The elevation of the “regional flood,” as defined. The term “base flood elevation” is used in the flood insurance survey.
- C. Development. Any manmade change to improved or unimproved real estate including, but not limited to, buildings, manufactured homes, and other structures, recreational vehicles, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of materials or equipment.

- D. Farm Fence. A fence as defined by Minnesota Statutes Section 344.02, Subd. 1(a)-(d). An open type of fence of posts and wire is not considered to be a structure under this Section. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are not permitted in the Floodplain District.
- E. Flood Fringe. The portion of the floodplain located outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study, Le Sueur County, Minnesota, and Incorporated Areas.
- F. Flood Insurance Rate Map. An official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
- G. Floodplain. The areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.
- H. Floodway. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.
- I. Manufactured Home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”
- J. Obstruction. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence (with the exception of farm fences), stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
- K. Recreational Vehicle. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Section, the term recreational vehicle is synonymous with the term “travel trailer/travel vehicle.”
- L. Regional Flood. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1% chance/100-

year recurrence interval. Regional flood is synonymous with the term “base flood” used in the Flood Insurance Study.

- M. Regulatory Flood Protection Elevation. An elevation no lower than one (1) foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.
- N. Structure. Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, and other similar items.
- O. Substantial Damage. Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- P. Substantial Improvement. Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:
  - (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
  - (b) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.” For the purpose of this Section, “historic structure” is as defined in 44 Code of Federal Regulations, Part 59.1.

Subd. 8 Annexations. The Flood Insurance Rate Map panels adopted by reference into Subd. 2 above may include floodplain areas that lie outside of the corporate boundaries of the City of Heidelberg at the time of adoption of this Section. If any of these floodplain areas are annexed into the City after the date of adoption of this Section, the newly annexed floodplain lands will be subject to the provisions of this Section immediately upon the date of annexation.

#### 1136.04 Establishment of Floodplain District.

Subd. 1 Areas Included. The Floodplain District for the City of Heidelberg includes those areas designated as Zone A on the Flood Insurance Rate Maps adopted in Section 1136.03. Subd. 2. The Floodplain District is an overlay district to all existing land use

districts. The requirements of this Section apply in addition to other legally established regulations of the community. Where this Section imposes greater restrictions, the provision of this Section applies.

Subd. 2 Compliance. No new structure or land shall hereafter be used, and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this Section and other applicable regulations. Within the Floodplain District, all uses not listed as permitted uses in Section 1136.05 are prohibited.

#### 1136.05 Permitted Uses and Standards in the Floodplain District.

Subd. 1 Permitted Uses. The following uses are permitted within the Floodplain District without a permit provided that they are allowed in any underlying zoning district and not prohibited by any other Section; and provided that they do not require structures, fill, obstructions, excavations, drilling operations, storage of materials or equipment or any other form of development as defined in Section 1136.03, Subd. 7(C) of this Section. If the use does require any other form of development, a permit and compliance with Subd. 2 of this Section is required. The permit requirement may be waived if there is an application for a public water work permit from the Department of Natural Resources.

- A. Agricultural uses such as general farming, pasture, grazing, forestry, sod farming, and wild crop harvesting. Farm fences that do not obstruct flood flows are permitted.
- B. Outdoor plant nurseries and horticulture.
- C. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, shooting preserves, target ranges, hunting and fishing areas, and single or multiple purpose recreational trails.
- D. Lawns, gardens, parking areas, and play areas.
- E. Railroads, roads, bridges, utility transmission lines, pipelines and other public utilities, provided that the Department of Natural Resources is notified at least ten (10) days prior to issuance of any permit.

#### Subd. 2 Standards for Permitted Uses.

- A. The use must have low flood damage potential.
- B. The use must not cause any increase in the stage of the 1% chance or regional flood or cause an increase in flood damages in the reach or reaches affected. This provision applies to structures (temporary or permanent), fill (including fill for roads and levees), deposits, obstructions, storage of materials or equipment, and all other uses.

- C. Floodplain developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.
  
- D. Public utilities, roads, railroad tracks and bridges to be located within the floodplain must be designed in accordance with Subd. 2(B) and (C) above or must obtain a Conditional Letter of May Revision meeting the requirements of 44 CFR 603(d).
  - (a) When failure or interruption of these public facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area, such facilities must be elevated to the regulatory flood protection elevation.
  
  - (b) Where failure or interruption of service would not endanger public health or safety, minor or auxiliary roads, railroads or utilities may be constructed at a lower elevation.
  
- E. New or replacement water supply systems and sanitary sewage systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

#### 1136.06 Administration.

Subd. 1 Zoning Administrator. A Zoning Administrator or other official designated by the City Council must administer and enforce this Section.

Subd. 2 Development Approvals. Any construction, enlargement, alteration, repair, improvement, moving or demolition of any building or structure must comply with the requirements of this Section. No mining, dredging, filling, grading, paving, excavation, obstruction, drilling operation or other form of development as defined in Section 1136.03, Subd. 7 of this Section are allowed, other than the uses identified in Section 1136.05, Subd. 1 and the activities allowed under this Section of the City Code.

Subd. 3 Permit Required. A permit must be obtained from the Zoning Administrator prior to conducting the following activities:

- (a) Expansion, change, enlargement, or alteration of a nonconforming use as specified in Section 1136.07 of this Section. Normal maintenance and repair also require a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in Section 1136.03, Subd. 7 of this Section.
  
- (b) Any use that requires fill, obstruction, excavation, storage of materials, or any other form of development as defined in Section 1136.03, Subd. 7 of this Section.



- A. Permit applications must be submitted to the Zoning Administrator on forms provided for that purpose and shall include the following where applicable: plans drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.
- B. Prior to granting a permit, the Zoning Administrator must verify that the applicant has obtained all necessary state and federal permits.

Subd. 4. Variances.

- A. An application for a variance to the provisions of this Section will be processed and reviewed in accordance with applicable state statutes and (list any standards in the existing Zoning Ordinance).
- B. A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.
- C. The following additional variance criteria of the Federal Emergency Management Agency must be met:
  - (a) Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
  - (b) Variances may only be issued by a community upon
    - (i) a showing of good and sufficient cause,
    - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
    - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - (c) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- D. The City Clerk must submit hearing notices for proposed variances to the Department of Natural Resources sufficiently in advance to provide at least ten (10) days' notice

of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

- E. A copy of all decisions granting variances must be forwarded to the Commissioner of the Department of Natural Resources within ten (10) days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- F. The Zoning Administrator must notify the applicant for a variance that: 1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and 2) such construction below the base or regional flood level increases risks to life and property.
- G. The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

Subd. 5 Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota Statutes, Chapter 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

Subd. 6 Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data. 1136.07 Reserved.

#### 1136.08 Penalties and Enforcement.

Subd. 1 Violation Constitutes a Misdemeanor. Violations of the provisions of this Section or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances) constitutes a misdemeanor and is punishable as defined by law.

Subd. 2 Other Lawful Action. Nothing in this Section restricts the City of Heidelberg from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this Section and will be prosecuted accordingly.

Subd. 3 Enforcement. In responding to a suspected Section violation, the Zoning Administrator and City Council may utilize the full array of enforcement actions available to it including, but not limited to, prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City must act in good faith to enforce these official controls and to correct Section violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

#### 1136.09 Amendments.

Subd. 1 Floodplain Designation-Restrictions on Removal. The floodplain designation on the Official Zoning Map shall not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of the Department of Natural Resources if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.

Subd. 2 Amendments Require DNR and FEMA Approval. All amendments to this Section must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner of the DNR must approve the amendment prior to community approval.

Subd. 3 Map Amendments Require Section Amendments. The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Section 1136.03, Subd. 2 of this

## Section. Section 1137 – NON-CONFORMING USES

1137.01 Continued Non-Conforming Use. A non-conforming use may be continued subject to the following limitations and such further regulations as the Council may require for securing the purposes of this Section:

Subd. 1 Enlarging or Moving. A non-conforming use of land shall not be enlarged or increased in land area, nor shall such non-conforming use be moved to any part of the parcel of land upon which the same was not conducted prior to the adoption of this Chapter.

Subd. 2 Changing. A non-conforming use shall not be changed unless changed to a conforming use; such use shall not thereafter be changed to a non-conforming use.

Subd. 3 Discontinuing or Stopping. If any existing non-conforming use of building or land is discontinued or its normal operation is stopped for a period of one year, the use of it shall thereafter conform to the regulations of the district in which it is located.

Subd. 4 Damaged Building. No building which has been damaged by fire, explosion, act of God or the public enemy to the extent of more than fifty percent of its value shall be restored except in conformity with the regulations of this Section. When any lawful nonconforming use of any structure or land in any district is damaged by wind, fire, flood, explosion, earthquake, war, riot or other similar peril to the extent of greater than fifty percent (50%) of its market value at the time of destruction and no building permit has been applied for within 180 days of the date of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance. The City Building Inspector shall be responsible for making the determination whether a nonconforming use of any structure or land has been destroyed greater than fifty percent (50%) of its market value at the time of destruction. In making this determination, the Building Inspector shall consider the market value of the entire nonconforming use. This determination shall be reviewed and approved by the City Council. In the event that a building permit is applied for within 180 days of the date of destruction, the City may impose reasonable conditions upon the building permit in order to mitigate any newly created impact on adjacent properties.

Subd. 5 Alterations. Alterations may be made to a residential building containing nonconforming residential units when such alterations will improve the livability of the unit provided the number of dwelling units in the building is not increased. Subd. 6 Strengthening and Restoration of a Structure. Nothing in this Chapter shall prevent the strengthening or restoration of a wall or structural member in a building maintained for non-conforming use when such action is taken pursuant to a building permit as hereinafter provided. Buildings found to be non-conforming only by reason of height, yard or area requirements shall be exempt from the provisions of this Section.

## Section 1139 – BUILDING AND USE PERMITS

1139.01 Building and Use Permit. Except as hereinafter provided, it is unlawful for any person to construct, erect, alter, wreck or move any building or structure or parts thereof within the corporate limits of the City without first securing a building and use permit from the City. Application for permit shall apply as set forth in the Minnesota Building Code.

1139.02 Application Forms. Application for a building permit shall be made to the City on blank forms to be furnished by the City. Each application for a permit to construct or enlarge a building or structure shall be accompanied by a property survey prepared by a registered land surveyor, showing the dimensions of the lot to be built upon, setbacks and the size and location of the building and accessory buildings to be erected. Applications shall contain such other information as may be deemed necessary for the property enforcement of this Chapter or any other provision of this Code.

1139.03 Fee for Permit. The fee for a building permit shall be determined by the Council.

1139.04 Compliance with Chapter. The City shall issue or may direct the City Clerk to issue the building permit only after determining that the building plans together with the application comply with the terms of this Chapter.

1139.05 Certificate of Zoning Compliance.

Subd. 1 Certificate Required. A Certificate of Zoning Compliance shall be obtained before any building hereafter erected or structurally altered is occupied, or the use of any such building is altered.

Subd. 2 Application. Application for a Certificate of Zoning Compliance for a new building or for existing building which has been altered shall be made to the Zoning Administrator as part of the application for a building permit as required in Section 1139.02 of this Section.

Subd. 3 Certificate Content and Storage. Every Certificate of Zoning Compliance shall state that the building or proposed use of a building or land complies with all provisions of law and this Chapter. A record of all Certificates of Zoning Compliance shall be kept on file in the office of the Zoning Administrator, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or land affected.

## Section 1141 - THE ADMINISTRATIVE OFFICIAL

1141.01 The Administrative Official. The Mayor and Council are hereby authorized and directed to enforce all the provisions of this Chapter. They may delegate the enforcement of this Chapter to any administrative official of the City and supporting staff if deemed necessary, who shall be directly under the control of the Mayor and shall be known as the Zoning Administrator or Zoning Enforcement Officer. Unless the Council appoints otherwise, the Clerk shall serve as the Zoning Administrator and the Zoning Enforcement Officer. The Zoning Administrator shall perform the following duties:

Subd. 1 Examinations. Examine all applications pertaining to use of land, buildings, or structures, and approve same when the application conforms with the provisions of this Chapter.

Subd. 2 Records of Non-Conforming Uses. Keep a record of all non-conforming uses.

Subd. 3 Periodical Inspections. Periodically inspect buildings, structures, and uses of land to determine compliance with the terms of this Chapter. In regard to performance standards, the Zoning Administrator may require the services of a testing laboratory to determine compliance. The cost of employing the laboratory shall be paid for by the owner if a violation of this Chapter is established, otherwise the cost shall be shared evenly between the City and the property owner.

Subd. 4 Written Notification of Violations. Notify, in writing, any person responsible for violating a provision of this Chapter, indicating the nature of the violation and ordering the action necessary to correct it.

Subd. 5 Illegal Use of Land. Order discontinuance of illegal use of land, buildings or structures; order removal of illegal buildings, structures, additions, alterations; order discontinuance of illegal work being done; or take any action authorized by this Chapter to ensure compliance with or to prevent violation of its provisions.

Subd. 6 Maintaining Records. Maintain permanent and current records of the Zoning Chapter, including all maps, amendments, conditional use, and variations.

Subd. 7 Maintaining Files. Maintain a current file of all permits, all certificates, and all copies of notices of violations, discontinuance, or removal for such time as necessary to ensure a continuous compliance with the provisions of this Chapter and, on request, provide information to any person having a proprietary or tenancy interest in any specific property.

Subd. 8 Miscellaneous. Providing technical assistance to the Council.

## Section 1145 – AMENDMENTS AND CONDITIONAL USE PERMITS

### 1145.01 Procedure.

Subd. 1 Application. Requests for amendments or conditional use permits, as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by a fee as provided for the City Council by resolution. This fee shall not be refunded. Such application shall also be accompanied by a detailed written and graphic materials and site map necessary to totally explain the proposed change, development, or use.

Subd. 2 Staff Review/Technical Assistance Reports. Upon receipt of an application for an amendment or conditional use permit, the Zoning Administrator shall review, and when deemed necessary, refer the request to appropriate staff to ensure that informational requirements are complied with. If more information is required, the applicant will be notified in writing from the City of the additional information needed. When all informational requirements have been complied with, the request shall be considered officially submitted. Also, when deemed necessary, the Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports and/or provide general assistance in preparing a recommendation on the request to the Planning Commission and City Council.

Subd. 3 Public Hearing. Upon official submission of the request, the Zoning Administrator shall set a public hearing on the request for the next Planning Commission meeting and shall have the hearing notice published in the official newspaper. Such notice shall contain a legal description and description of the request and shall be published no less than 10 days prior to the hearing. Written notification of the hearing shall also be mailed at least 10 days prior to the date of the hearing to all owners of land within 350 feet of the boundary of the property in question, unless it is a city-wide text amendment. Failure of a property owner to receive said notice shall not invalidate any such proceedings provided a bona fide effort by the City has been made and documented.

Subd. 4 Planning Commission Action. The Planning Commission shall conduct the public hearing at which time the applicant or a representative thereof shall appear to answer questions concerning the proposed request.

A. The Planning Commission shall consider possible adverse effects of the proposed amendment or conditional use. Its judgment shall be based upon (but not limited to) the following factors: - the proposed action has been considered in relation to specific policies and provisions of and has been found to be consistent with the official City Comprehensive Plan. -the proposed use is or will be compatible with present and future land uses of the area. - the proposed use conforms with all standards contained herein. -the proposed use will not tend to or actually depreciate the area in which it is proposed. -the proposed use can be accommodated with existing public services and will not overburden the City's service capacity.

- B. The Planning Commission shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant.
- C. The Planning Commission shall make a finding of fact and recommend such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of the Ordinance. Such recommendation shall be in writing and accompanied by any report and recommendation of the City staff. The written recommendation of the Planning Commission shall be forwarded by the Zoning Administrator for consideration by the City Council.

Subd. 5 City Council Action. Upon receiving the request and any report and recommendation of the Planning Commission and the City staff, the City Council shall have the option to set and hold a public hearing if deemed necessary and shall make a recorded finding of fact.

- A. Approval of a request shall require a passage of a four-fifths (4/5) vote of the City Council.
- B. Whenever an application for an amendment or conditional use permit has been considered and denied by the City Council, a similar application for the amendment or conditional use permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least 6 months from the date of its denial, and a subsequent application affecting substantially the same property shall likewise not be considered again by the Planning Commission or Council for an additional 6 months from the date of the second denial unless a decision to reconsider such matter is made by not less than four-fifths (4/5) vote of the full City Council.

#### 1145.02 Amendments.

Subd. 1 Initiation. The City Council or Planning Commission may, upon its own motion initiate a request to amend the text or the district boundaries of this Ordinance. Any person owning real estate within the City may initiate a request to amend the district boundaries or text of this Ordinance so as to affect the said real estate.

Subd. 2 Effective Date. Amendments shall not become effective until after said Ordinance is published in the official newspaper.

#### 1145.03 Conditional Use Permits.

Subd. 1 Purpose. The purpose of a conditional use permit is to provide the City of Heidelberg with a reasonable degree of discretion in determining the suitability of certain



designated uses upon the general welfare, public health and safety. In making this determination, whether or not the conditional use is to be allowed, the City may consider the nature of the adjoining land or buildings, whether or not a similar use is already in existence and located on the same premises or on other land immediately close by, the affect upon traffic into and from the premises, or on any adjoining roads, and all other future factors as the City shall deem a prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety.

Subd. 2 Conditions. The Council may impose any condition it considers necessary to protect the public health, safety and welfare. These may include, but are not limited to screening, additional setback for buffer, hours of operation, landscaping, service roads to limit access points, lighting, limits on vegetation removal, erosion control, parking, outside appearance, and storage.

Subd. 3 Lapse of a Conditional Use Permit by Non-Use. Whenever within one year after granting a conditional use permit, the use as permitted by the permit shall not have been completed or utilized, then such permit shall become null and void unless a petition for an extension of time in which to complete or utilize the use that has been granted by the City Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least 30 days before the expiration of the original conditional use permit. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the conditional use permit. Such petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.

## Section 1150 – VARIANCES AND APPEALS

1150.01 Purpose and Creation of Board of Adjustment. The purpose of this Section is to provide for:

(1) an appeal process where it is alleged that there is an error in any order, requirement, decision or determination by an administrative officer in the enforcement of this Ordinance; and (2) variances from the literal provisions of the Ordinance in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be keeping with the spirit and intent of this Ordinance. The City Council will hereby be the Board of Adjustment.

1150.02 Conditions Governing Consideration of Variance Requests.

Subd. 1 In considering all requests for a variance and in taking subsequent action, the Board of Adjustment shall make a finding of fact the proposed action will not:

- A. Impair an adequate supply of light and air to adjacent property.
- B. Unreasonably increase the congestion in the public street.
- C. Increase the danger of fire or endanger the public safety.
- D. Unreasonably diminish or impair established property values within the neighborhood, or in any other way be contrary to the intent of this Ordinance.
- E. Continue or create a substandard sewage treatment system.
- F. Violate the intent and purpose of the City Comprehensive Plan.
- G. Allow a use that is prohibited in the zone in question.

Subd. 2 A variance from the terms of this Ordinance shall not be granted unless it can be demonstrated that:

- A. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district. - Special conditions may include exceptional topographic or water conditions or, in the case of an existing lot or parcel of record, narrowness, shallowness or shape of property. -Special conditions and circumstances may not be exclusively economic in nature.
- B. Literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.

C. The special conditions and circumstances do not result from the actions of the applicant.

D. Granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

#### 1150.03 Procedure.

Subd. 1 Application. Appeals or request for variances, as provided within this Ordinance, shall be filed with the Zoning Administrator on an official application form. Such application shall be accompanied by:

A. The fee as set by the City Council by resolution from time to time. This fee shall not be refunded.

B. The detailed written and graphic materials, survey, and site map necessary to fully explain the proposed change, development or use.

C. Reasons that the variance is justified in order to make reasonable use of the land, structure or building, and that the variance is the minimum variance.

Subd. 2 Staff Review/Technical Assistance Reports. Upon receipt of an application for appeal or variance, the Zoning Administrator shall, when deemed necessary, refer the request to appropriate staff to ensure that informational requirements are complied with. When all informational requirements have been complied with, the request shall be considered officially submitted. Also, when deemed necessary, the Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports and/or provide general assistance in preparing a recommendation.

Subd. 3 Public Hearing. Upon official submission of the request, the Zoning Administrator shall set a public hearing on the request for the next Board of Adjustment meeting and have the hearing notice published in the official newspaper. Such notice shall contain a legal description of the property and description of the request and shall be published no less than 10 days prior to the hearing. Written notification of the hearing shall also be mailed at least 10 days prior to the hearing to all owners of land within 350 feet of the boundary of the property in question. Failure of a property owner to receive said notice shall not invalidate any such proceeding as set forth in this Ordinance provided a bona fide effort by the City has been made and documented. Subd. 4 Board of Adjustment Action. The Board of Adjustment shall conduct a public hearing at which time the applicant or a representative thereof shall appear to answer questions concerning the proposed request.

A. The Board of Adjustment shall consider possible adverse effects of the appeal or variance.

B. The Board of Adjustment and City staff shall have the authority to request any additional information from the applicant deemed necessary to establish conditions pertaining to the request.

C. The Board of Adjustment shall make findings of fact, and decide by majority vote of the full Board, such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of the Ordinance. Such decision shall be in writing and accompanied by any report and recommendation of the City staff and filed with the City and also sent to the applicant within 10 days.

D. Whenever an application for a variance has been considered and denied, a similar application for the variance affecting substantially the same property shall not be considered again for at least 6 months from the date of its denial; and a subsequent application affecting substantially the same property shall likewise not be considered again for an additional 6 months from the date of the second denial unless a decision to reconsider such matter is made by not less than four-fifths (4/5) vote of the full City Council.

E. Granted variance shall be filed with the County Recorder.

F. The applicant shall have the right to appeal within 30 days of receipt of the decision to the District Court.

1150.04 Lapse of Variance or Appeal. Whenever within one year after granting a variance or appeal, the use as permitted by the variance or appeal shall not have been completed or utilized, then such variance or appeal shall become null and void unless a petition for extension of time in which to complete or to utilize the use has been granted by the City Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least 30 days before the expiration of the original variance or appeal. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the variance or appeal. Such petition shall be presented to the City Council for decision.

1150.05 Property Survey. In those cases where a stipulated requirement of this Ordinance has been modified through the granting of a variance or appeal, a property survey prepared by a registered land surveyor shall be submitted, outlining lot dimensions, setbacks, and buildings. Said survey shall be a condition of the variance or appeal and shall be submitted prior to the initiation of any improvement on the property in question.

## Section 1155 - DEADLINE FOR CITY ACTION

1155.01 Deadlines for City Action Regarding Application for Variance, Amendments, Rezoning, and Appeals. When all application requirements have been complied with and the request is considered as officially submitted, the City must, except as otherwise provided herein and notwithstanding any other law to the contrary, approve or deny the request within 60 days. Failure to do so results in automatic approval of the request. A denial must include a written reason.

Subd. 1 Additional Information. In requesting additional information from the applicant, the City must do so in writing; within 10 business days of the original application (or follow-up submittals) in order to start the 60-day limit over.

Subd. 2 Extensions. The time limit is extended:

- A. If a state, statute, federal law, or court order requires a process to occur before the City acts on the request, and the time periods prescribed in the state statute, federal law or court order make it impossible to act on the request within 60 days. In cases described in this paragraph, the deadline is extended to 60 days after completion of the last process required in the application statute, law or order. Final approval of an agency receiving a request is not considered a process for purposes of this paragraph.
- B. If a request submitted requires prior approval of a city, town, county, school district, metropolitan or regional governmental entity, state or federal agency the deadline for action is extended to 60 days after the required approval is granted.
- C. The City may extend the timeline before the end of the initial 60-day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant.

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Subd. 2 Extensions. The time limit is extended:

- D. If a state, statute, federal law, or court order requires a process to occur before the City acts on the request, and the time periods prescribed in the state statute, federal law or court order make it impossible to act on the request within 60 days. In cases described in this paragraph, the deadline is extended to 60 days after completion of the last process required in the application statute, law or order. Final approval of an agency receiving a request is not considered a process for purposes of this paragraph.
- E. If a request submitted requires prior approval of a city, town, county, school district, metropolitan or regional governmental entity, state or federal agency the deadline for action is extended to 60 days after the required approval is granted.
- F. The City may extend the timeline before the end of the initial 60-day period by providing written notice of the extension to the applicant. The notification must state the reasons for the extension and its anticipated length, which may not exceed 60 days unless approved by the applicant.