

TITLE XV: LAND USAGE

Chapter

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CHAPTER 150: ZONING ORDINANCE

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TITLE, PURPOSE, RULES AND DEFINITIONS

SECTION 150.01 TITLE.

This Chapter, adopted pursuant to the authority of Minnesota Statutes Chapter 462, shall be known, cited and referred to as the Annandale Zoning Ordinance except as referred to herein, where it shall be known as “this Chapter.”

SECTION 150.02 INTENT AND PURPOSE.

1. This Chapter is adopted for the purpose of:
 - A. Protecting the public health, safety, morals, comfort, convenience and general welfare.
 - B. Promoting orderly development of the residential, commercial, industrial, recreational and public areas.
 - C. Conserving the natural and scenic beauty and attractiveness of the City.
 - D. Preserving property values by regulating the use of land, buildings and structures, including the regulation of the location, size, use, density, and height of buildings and the arrangement of buildings on lots.
 - E. Conserving and developing natural resources in the City.
 - F. Providing for the compatibility of different land uses and the most appropriate use of land throughout the City.
 - G. Minimizing environmental pollution.
 - H. Conserving energy through the use of solar systems and the encouragement of solar and earth-sheltered structures for commercial, industrial, and residential uses.
 - I. Complying with State and Federal mandates regarding land use, shorelands, and wetlands.
2. **Purpose and Intent of Adult Use Regulations:** The purpose and intent of the adult use

regulations set forth in this Chapter is to serve a substantial government interest by attempting to preserve the quality and vitality of neighborhoods, protect the City's retail trade, curtail the depression of property values, restrain criminal activity, and slow the spread of sexually transmitted diseases. Adult Use Establishments, as defined by these Zoning regulations, because of their very nature, are recognized as having serious objectionable operational characteristics that have a deleterious effect upon the use and enjoyment of adjacent areas. These secondary effects are especially evident where such uses are concentrated. One of this Chapter's objectives is to disperse the adult uses through separation requirements from another adult use and from other significantly incompatible uses. These regulations allow adult uses only in I-1, Industrial District. In this community, those areas are located throughout the City and provide opportunity for sites with good visibility and access to major streets and highways. The secondary effects associated with adult uses include an increased level of criminal activity, increased risk of exposure to sexually transmitted diseases, depressions of property values, and a detrimental change in the character of the surrounding neighborhoods. However, the City recognizes that our zoning regulations cannot de facto approach prohibition, even though these secondary effects exist. Otherwise, a protected form of expression would vanish. The adult use regulations set forth in these Zoning regulations represent a balancing of competing interests: reduction of objectionable secondary effects through the regulation of adult uses versus the protected rights of the owners, operators, performers, and patrons of those adult uses.

SECTION 150.03 RULES OF INTERPRETATION.

The language set forth in the text of this Chapter shall be interpreted in accordance with the following rules of construction:

1. The singular number shall include the plural and the plural the singular.
2. The present tense shall include the past and future tenses, and the future the present.
3. The word "shall" is mandatory, and the word "may" is permissive.
4. The masculine gender shall include the feminine and neuter genders, and vice versa.
5. Whenever a word or term defined in the Section appears in the text of this Chapter, its meaning shall be construed as the definition set forth in this Chapter.
6. All measured distances expressed in feet shall be to the nearest tenth of a foot.
7. In the event of conflicting provisions, the more restrictive provisions shall apply.

SECTION 150.04 DEFINITIONS.

The following words and terms, whenever they occur in this Chapter, shall be defined as follows:

Accessory Apartment: a portion of the principal structure that is used as a dwelling unit and which has a separate entrance, bath, kitchen and address. One accessory apartment with one bedroom and one occupant is allowed per principal structure, only in the specified zoning districts and only if: the principal structure is owner-occupied; 1 paved off-street parking space is provided, in addition to any parking spaces required for the principal use and any other accessory uses; and no exterior changes are made to the structure until the applicant submits exterior elevation drawings which show that the changes are architecturally compatible with the adjacent properties and consistent with the City Code and are approved by the City.

Accessory Structure: a structure of secondary or subordinate use to the principal structure.

Accessory Use: a use subordinate to and serving the principal use on the same lot and customarily incidental thereto.

Adult Arcade: an establishment where, for any form of consideration, one or more motion picture projectors, slide projectors, or similar machines for viewing by 5 or fewer persons each, are used to show films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Adult Bookstore: an establishment that has a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: 1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or 2) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

Adult Cabaret: a nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

Adult Motion Picture Theater: an establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

Adult Theater: a theater, concert hall, auditorium, or similar establishment characterized by activities featuring the exposure of specified anatomical areas or by specified sexual activities.

Adult Use Establishments: adult use establishments include, but are not limited to, adult arcade, adult bookstore, adult cabaret, adult motion picture theater, adult theater, or sexual encounter establishment.

Agricultural Use: the use of land for the growing and/or production of field crops, livestock and livestock products for the production of income, including but not limited to the following:

1. Field crops, including: barley, soy beans, corn, hay, oats, potatoes, rye, sorghum, and sunflowers.
2. Livestock, including: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds and other animals including dogs, ponies, deer, rabbits and mink.
3. Livestock products, including: milk, butter, cheese, eggs, meat, fur and honey.
4. Tree farms.

Agricultural Buildings or Structure: any building or structure, existing or erected which is used

principally for agricultural purposes, with the exception of dwelling units.

Antenna: any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.

Apartment: a room or suite of rooms with cooking facilities available which is available for rent and which is occupied as a residence by a single family, or a group of individuals living together as a single family unit. This includes any unit in buildings with more than two (2) dwelling units.

Apartment Building: a building containing 3 or more apartments.

Automobile Fuel Station: a building or any portion thereof designed primarily for the supplying of motor fuel retailed directly to the public, but not including major repair or rebuilding for vehicles or equipment.

Basement: a portion of a building located partly underground, but having half or more of its floor-to-ceiling height below the average grade of the adjoining ground.

Building: any structure having a roof which may provide shelter or enclosure of persons, animals, chattel or property of any kind; and when said structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

Building Line: a line parallel to the street right-of-way line at any story level of a building and representing a minimum distance which all or any part of the building is set back from the right-of-way line.

Building Height: the vertical distance to be measured from the average grade of a building line to the top, to the cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch type roof, or to the mean distance of the highest gable on a pitched or hip roof.

Business: any occupation, employment or enterprise wherein merchandise is exhibited or sold for compensation.

Commercial Wireless Telecommunication Services: licensed commercial wireless telecommunication services include cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

Church: a building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

Cocktail Room: A retail storefront area for the on-sale consumption of distilled spirits or wine produced on the premises of one winery or one distillery and in common ownership to the producer of the wine or distilled spirits.

Commercial Recreation: Recreational uses such as dance halls, roller skating rinks, bowling alleys, mini golf, arcades, dance studio, karate studio, pool halls, swimming pools, and similar uses. May be identified as outdoor or indoor uses based on the context of the area.

Common Open Space: any open space including parks, nature areas, playgrounds, trails and recreational buildings and structures, which is an integral part of a development and is not owned on an individual basis by each owner of the dwelling unit. The common open space may either be conveyed to the City or a homeowners association.

Community or Social Service: A service or activity operated by a public or non-profit organization or similar providing advice, assistance, training, guidance, or other such activities to members of the public. This includes food banks, blood banks, substance abuse counseling, employment assistance, housing services, educational services, religious institution offices, and similar but does not include emergency shelters or residential care facilities or other places providing accommodations.

Comprehensive Plan: a compilation of goals, policy statements, standards, programs and maps for guiding the physical, social and economical development, both public and private, of the City and its environs. Said plan includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

Conditional Use: a use which generally may be appropriate or desirable in a specified zone, but which requires special approval because if not carefully located or designed it may create special problems such as excessive height or bulk or abnormal traffic congestions.

Condominium: a form of individual ownership within a multi-family building with joint responsibility for maintenance and repairs. In a condominium, each apartment or townhouse is owned outright by its occupant.

Convenience Food Establishment: an establishment which serves food in or on disposable or edible containers in individual servings for consumption on or off the premises.

Conventional Energy System: any energy system, including supply elements, furnaces, burners, tanks, boilers, related controls, and energy-distribution components, which uses any source(s) of energy other than solar energy. These sources include, but are not limited to, gas, oil, coal, and nuclear materials but exclude windmills.

Day Care Center: a service provided to the public in which children of school or preschool age are cared for during established business hours, and which does not qualify as a home day care.

Day Care Home: a licensed day care facility located within a residential dwelling unit serving 12 or fewer persons.

Density: the number of dwelling units per gross acre of land.

Drive-In Establishment: an establishment which accommodates the patron's vehicle from which the vehicle occupants may receive a service or in which products purchased from the establishment may be consumed. This includes establishments with a special driving lane alongside of the building for "drive thru" service.

Dwelling Unit: any structure or portion of a structure, or other shelter designed as short- or long-term living quarters (sleeping, eating, cooking and sanitation facilities) for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.

Easement: a grant by an owner of land for specific use by a person or persons other than the owner. An easement may be granted for the purpose of constructing and maintaining walkways, roadways, utilities, or other uses.

Exterior Storage (includes Open Storage): the storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

Family:

1. One (1) or more persons related by blood, marriage, or adoption.
2. Five (5) or fewer persons not related by blood, marriage, or adoption will be considered family regardless of the ownership of the unit among the five (5) or fewer persons.

Fence: any partition, structure, wall or gate erected as a divider marker, barrier or enclosure and located along the boundary, or within the required yard.

Floor Area: the sum of the gross horizontal areas of the several floors of a building or buildings – measured from the exterior faces or exterior walls or from the center line of party walls separating two (2) buildings. In particular, “floor area” shall include:

1. Basement space if at least one-half (1/2) of the basement story is above established curb level, or where the curb level has not been established, above the average level of the finished grade.
2. Elevator shafts and stairwells at each floor.
3. Floor space used for mechanical equipment where the structural head-room exceeds seven and one-half (7-1/2) feet except equipment open or enclosed, located on the roof, i.e., bulkheads, water tanks and cooling towers.
4. Attic floor space where the structural head-room exceeds seven and one-half (7-1/2) feet.
5. Interior balconies and mezzanines.
6. Enclosed porches, but not terraces, breezeways, and screened porches.
7. Accessory uses, other than floor space devoted exclusively to accessory off-street parking or loading.

Floor Plan: generally, a graphic representation of the anticipated utilization of the floor area within a building or structure but not necessarily as detailed as construction plans.

Frontage: that boundary of a lot which abuts an existing or dedicated public street.

Garage: An attached or detached accessory building designed or used for the storage of motor vehicles owned and used by the occupants of the building to which it is accessory.

Governing Body: the Annandale City Council.

Grade: the adjacent ground elevation at the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

Home Occupations: any gainful occupation or profession engaged in by the occupant of a dwelling (at or from the dwelling) and carried on within a dwelling unit. Home occupations shall be allowed as an accessory use in specified zoning districts if the home occupations meet the following conditions:

1. Such occupation is carried on in the principal building, and is clearly incidental and secondary to the principal use of the property and does not change the character thereof.
2. Not more than 25% of the gross floor area of the residence is used for this purpose.
3. Only articles made or originating on the premises shall be sold on the premises, unless such articles are incidental to a permitted commercial service.
4. No articles for sale shall be displayed so as to be visible from any street.
5. No person is employed other than a member of the household residing on the premises.
6. No mechanical or electrical equipment is used if the operation of such equipment interferes unreasonably with the desired quiet residential environment of the neighborhood or if the health and safety of the residents is endangered.
7. Such occupation does not generate more than 2 vehicles at one time.
8. Such occupation must provide off-street parking.
9. A person having a home occupation shall provide proof of meeting the above requirements if complaints are received by the City Council.

Hotel: a building which provides a common entrance, lobby, halls and stairway and in which twenty (20) or more people can be, for compensation, lodged with or without meals.

Housing for Elderly Persons means:

1. Housing provided under any state or federal program that the state or federal government determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program; or
2. Housing intended for, and solely occupied by, persons 62 years of age or older; or
3. Housing intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that:

- A. There are significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of these facilities and services is not practicable that the housing is necessary to provide important housing opportunities for older persons;
- B. At least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and
- C. There is publication of, and adherence to, policies and procedures that demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

Housing does not fail to meet the above requirements by reason for having unoccupied units, if unoccupied units are reserved for occupancy by persons who meet the age requirements described above.

In no event shall such definition be less inclusive than said term is defined by Federal Statute Chapter 42 USCS Section 3607, as amended, or Minnesota Statutes 363.02, as amended.

Interim Use: a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

Landscaping: shall include, but not be limited to plantings, trees, grass, ground cover, and shrubs.

Lot: a parcel of land designated by plat, metes and bounds, registered land survey, auditor's plat, or other accepted means, and separated from other parcels or portions by said description for the purpose of sale, lease, or separation thereof.

Lot Area: the area of a lot in a horizontal plane bounded by the lot lines, excluding wetlands, waterbodies, road right of way, required buffer strips, easements, and slopes steeper than three to one (3:1).

Lot, Corner: a lot situated at the junction of, and abutting on two (2) or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees.

Lot Depth: the mean horizontal distance between the front lot line and the rear lot line of lot.

Lot Line: the property line bounding a lot except that where any portion of a lot extends into the public right-of-way, the lot line shall be deemed to be the boundary of said public right-of-way. Lot Lines may be classified as follows:

1. **Lot Line, Front:** that boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front line shall be designated by the City.
2. **Lot Line, Rear:** that boundary of a lot which is opposite the front lot line. If the rear line is less than 10 feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line 10 feet in length within the lot, parallel to, and at the maximum distance from the front lot line.
3. **Lot Line, Side:** any boundary of a lot which is not a front lot or a rear lot line.

Lot Width: shall mean the minimum horizontal distance between the side lot lines of a lot measured within the first 30 feet of the lot depth.

Manufactured Home: a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, 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 a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electric systems contained therein and complies with the standards established under Minnesota Statutes, as may be amended.

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

Metes and Bounds: a method of property description by means of the direction and distance from an identifiable point.

Micro-Brewery: A facility that produces for sale, distribution, and consumption beer, ale, malt liquor, or other beverages made from malt by fermentation and containing not less than one-half of one percent alcohol by volume, and which possesses the appropriate Federal, State of Minnesota, and Municipal licenses.

Micro-Distillery: A facility that produces Ethyl Alcohol, hydrated oxide of ethyl, spirits of wine, rum, brandy, gin, or other distilled spirits, including all dilutions and mixtures thereof, for non-industrial use. A distillery may include a tasting room.

Motel: a building or group of detached, semi-detached, or attached buildings containing guest rooms or dwellings, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of automobile transients.

Non-Conforming Use: any use of land or structures established before the effective date of adoption or amendment of these or preceding regulations which does not conform to the use restrictions of a particular zoning district. This should not be confused with substandard dimensions of a conforming use.

Open Space: open areas, including parks, nature areas, playgrounds, and trails.

Permitted Use: A use lawfully established within a particular zoning district provided it conforms to all of the requirements and performance standards of that district.

Personal Service: Commercial establishments providing non-medically related services of a personal nature and related retail sales including barber shops, beauty salons, tanning salons, tattoo parlors, dry cleaners, cobblers, tailors, massage salon, and similar.

Planning Commission: the Planning Commission of Annandale except when otherwise designated.

Principal Building or Structure: the main building on a parcel of land.

Principal Use: the main use of land or buildings as distinguished from subordinate or accessory uses. A

principal use may be either permitted or conditional.

Professional Service: Commercial office establishments providing the dispensation of a service for the general public on premises by someone trained and engaged in such work and related supportive activities such as medical clinics, dental clinics, architects, attorneys, chiropractors, stock brokers, and similar.

Property Line: the more restrictive of either the legal boundaries of a parcel of property or a public right of way line if one exists on the property.

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 one hundred (100) year recurrence interval.

Restaurant: an establishment which serves food in or on non-disposable dishes to be consumed primarily while seated at tables or booths within the building.

Setback: the minimum distance between a structure or sanitary facility and a property line.

Sexual Encounter Establishment: an establishment other than a hotel, motel, or similar establishment offering public accommodations, which, for any form of consideration, provides a space where 2 or more persons may congregate, associate, or consort in connection with specified sexual activities or the exposure of specified anatomical areas. This definition does not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in sexual therapy.

Shoreland: land located within the following distances from public waters: (1) One thousand (1,000) feet from the ordinary highwater mark of a lake, pond or flowage; and (2) three hundred (300) feet from a river or stream, or the landward extent of a floodplain designated by regulation of this Code on such a river or stream, whichever is greater. The practical limits of shorelands may be less than the statutory limits whenever the waters involved are bounded by natural topographic divides which extend landward from the water for lesser distances and when approved by the Commissioner. See Shoreland Overlay District for zoning and land use requirements of shoreland property.

Solar Energy: the radiant energy (direct, diffuse, and reflected) received from the sun.

Solar Energy System: a complete design or assembly consisting of a solar energy collector, an energy storage facility (where used), and components to the distribution of transformed energy (to the extent they cannot be used jointly with a conventional energy system). To qualify as a solar energy system, the system must be permanently located for not less than ninety (90) days in any calendar year beginning with the first calendar year after completion of construction.

Passive solar energy systems (a solar energy system that uses natural and architectural components to collect and store solar energy without using any external mechanical power) shall be included in this definition but not to the extent that they fulfill other functions such as structural and recreational.

Solar Structure: a structure designed to utilize solar energy as an alternate for, or supplement to, a conventional energy system.

Specified Anatomical Areas: as used herein, specified anatomical areas means and includes any of the

following: 1) less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areola; or 2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities: as used herein, specified sexual activities means and includes any of the following: 1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; 2) sex acts, actual or simulated, including intercourse, oral copulation, or sodomy; 3) masturbation, actual or simulated, or 4) excretory functions as part of or in connection with any of the activities set forth above.

Story: that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top most story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused under floor space is more than six (6) feet above grade as defined herein for more than fifty percent (50%) of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such basement, cellar or unused under floor space shall be considered as a story.

Structure: anything constructed, the use of which requires more or less permanent location on the ground; or attached to something having a permanent location on the ground.

Structural Alteration: any change, other than incidental repairs, which would prolong or modify the life of the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

Subdivision: the division or redivision of a lot, tract, or parcel of land into two (2) or more lots either by plat, metes and bounds description or other accepted means.

Taproom: An area for the on-sale consumption of malt liquor produced by the brewer for consumption on the premises of a brewery. A taproom may also include sale for off-premises consumption of malt liquor produced at the brewery location or adjacent taproom and owned by the brewery for off-premises consumption, packaged subject to Minn. Stats, § 340A.301, Subd. 7 (b), or its successor.

THC Product Retail Establishment: A retail establishment that allows for the sale of product that contains more than trace amounts of tetrahydrocannabinol and that meets the requirements to be sold for human or animal consumption under Minn. Stat. § 151.72 as may be amended from time to time. Licensed Product does not include medical cannabis as defined in Minn. Stat. §152.22, Subd. 6, as may be amended from time to time. This may be an independent business or a portion of an otherwise permitted retail business.

Tower: any ground or roof mounted pole, spire, structure or combination thereof taller than 15 feet, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade.

Tower, Multi-User: a tower to which is attached the antennas of more than one commercial wireless telecommunication service provider or governmental entity.

Tower, Single-User: a tower to which is attached only the antennas of a single user, although the tower may be designed to accommodate the antennas of multiple users as required in this Ordinance.

Townhouse: a single family building attached by party walls to other single family buildings, and oriented so that all exits open to the outside.

Transient Merchant Stand: portable shelter or vehicle for the temporary sale of merchandise. Such stand may not exceed 250 square feet in floor area, must have no space for customers within the structure, must be located so as to provide safe ingress and egress from public roads, may only be located in specified zoning districts, and may have signs only in conformance with the temporary sign provisions of this Ordinance.

Use: the purpose or activity for which the land or building thereon is designated, arranged, or intended, or for which it is occupied, utilized or maintained.

Variance: a modification or variation of the provisions of this Chapter where it is determined that by reason of special and unusual circumstances relating to a specific lot, strict application of the Chapter would cause an undue hardship.

Vehicle, Recreation:

(1) A vehicle that is used primarily for recreational or vacation purposes, and which is licensed and operable for use on public roadways, whether self-propelled, carried on, or towed behind a self-propelled vehicle.

(2) Operable recreational equipment that is not licensed for use on the public roadway, but used off-road, such as all-terrain vehicles, boats, off-road motorcycles, race vehicles, snowmobiles, or similar equipment. Such equipment shall be properly licensed if required by the State of Minnesota.

(3) Licensed, operable trailers which may be used to tow recreational equipment, whether such trailers are loaded or unloaded, including utility trailers. Where a trailer is loaded with recreational equipment, such trailer and equipment shall be considered one piece of equipment for the purposes of this section.

Wetland: land which is annually subject to periodic or continual inundation by water and commonly referred to as a bog, swamp or marsh and which is designated a wetland by the State.

Yard: a required open space on a lot which is unoccupied and unobstructed by a structure from its lowest level to the sky except as permitted by this Chapter. The yard extends along the lot line at right angles to such lot line to a depth or width specified in the setback regulations for the zoning district in which such lot is located. Yards may be classified as follows:

Yard, Front: a yard extending along the full width of the front lot line between side lot lines and extending from the abutting street right-of-way line to a depth required in the setback regulations for the zoning district in which such lot is located.

Yard, Rear: the portion of the yard on the same lot with the principal building located between the rear line of the building and the rear lot line and extending for the full width of the lot.

Yard, Side: "Yard, Side" shall mean the yard extending along the side lot line between the front yard and rear yards to a depth or width required by setback regulations for the zoning district in which such lot is located.

Zoning Administrator: the duly appointed person charged with enforcement of this Chapter.

Zoning District: an area or areas within the limits of the City for which the regulations and requirements

governing use are uniform as defined by this Chapter.

GENERAL PROVISIONS

SECTION 150.05 APPLICATION OF THIS CHAPTER.

1. **Minimum Standards.** In their interpretation and application, the provisions of this Chapter shall be the minimum requirements for the promotion of the public health, safety, morals and welfare. Where the conditions imposed by any provision of this Chapter are either more restrictive or less restrictive than comparable conditions imposed by any other law, section of this Code, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.
2. **Other Regulations:** It is intended by these regulations to be consistent with and compliment other municipal controls that exist such as Building and Fire Codes, Subdivision or Flood Plain Regulations, Official Maps, Comprehensive Plans, transportation, utility, storm water, park, capital improvements or other plans. It is not intended by these regulations to repeal, abrogate, annul or in any way impair or interfere with existing provisions or other regulations. Where these regulations impose a greater restriction upon the use of land, buildings or structures than is imposed or required by such other existing provisions by law, contract or deed, the provisions of this Chapter shall prevail and control.
3. **Building Permits.** Hereafter, no person, firm or corporation shall erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure in the City, or cause the same to be done, without first obtaining a separate building permit for each such building or structure from the Zoning Administrator. A permit shall not be required for nonstructural purposes where the cost of such work does not exceed the minimum valuation amount as established by the City.
4. **Demolition:** A permit is required from the City prior to demolition. The property owner/contractor is responsible to insure that all utilities are properly secured. All demolition debris must be removed from the site by truck, including the foundation. All debris must be transported to an approved landfill with documentation provided to the City. Fees for demolition permits shall be established by the City Council.
5. **Building Relocation:** Each relocation of a building shall require a conditional use permit to maintain a high standard of development and to protect adjacent properties from deleterious affects from buildings which alter the character of the neighborhood. All relocated buildings shall conform with, and be situated in, a properly zoned area in accordance with all of the provisions of this Chapter and the Building Code.
6. **Conformity.** Except as this Chapter specifically provides, no structure shall be erected, converted, enlarged, reconstructed, or altered; and no structure or land shall be used for any purpose nor in any manner which is not in conformity with this Chapter.

7. **Model Homes.** Model homes or dwelling units, with or without temporary real estate offices, in a limited number, may be permitted in any residential subdivision subject to the following conditions:
- A. The model home(s) shall be designated on the preliminary plat, reviewed by the Planning Commission, and approved by the City Council. Said approval shall include an approved site plan detailing the area so designated and temporary improvements such as public parking areas and/or similar improvements normally associated with a model home.
 - B. No more than one model home for every 50 lots in an approved final plat may be permitted per subdivision.
 - C. The model home shall exist for a time period of up to three (3) years from the date of plat approval or when ninety (90) percent of the development is completed, whichever comes first, unless extended by the City Council. At the end of said time period, the subdivider shall be required to restore the area to a normal residential character.
 - D. The city shall require a security, in an amount determined by the City Council, to insure restoration of a model home area.
 - E. Model homes and model homes with temporary real estate shall be utilized solely for selling purposes of lots and/or homes within the subdivision in which it is located.
 - F. Temporary parking facilities equal to four (4) paved spaces per model home dwelling unit or a model home with a temporary real estate office are permitted. Parking facilities must be located on the property that the model home is proposed. The overall design, drainage, and surfacing of the temporary parking facility shall be subject to the approval of the Zoning Administrator.
 - G. Access from a temporary parking facility shall be directed away from developed and occupied residential neighborhoods to the greatest extent possible.
 - H. No model home or model home with a temporary real estate office shall incorporate outside lighting which creates a nuisance due to glare or intensity.
 - I. All signage shall comply with the sign regulations as contained in City Code.
 - J. No residential certificate of occupancy shall be issued for a model home or model home with a temporary real estate office until such time as the structure has been fully converted to a residence in compliance with the Uniform Building Code. Additionally, such conversion shall include, but not be limited to, parking lot restoration and the removal of signage and lighting.
 - K. The restoration of all temporary parking areas with appropriate landscaping shall be completed by the end of the following growing season.
8. **Uses Not Provided for Within Zoning Districts.** Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such cases, the Council or the Planning Commission, on their own initiative or upon request, may conduct a

study to determine if the use is acceptable and if so what zoning district would be most appropriate and the determination as to conditions and standards relating to development of the use. The Council, Planning Commission or property owner, upon receipt of the staff study, shall, if appropriate, initiate an amendment to this Chapter to provide for the particular use under consideration or shall find that the use is not compatible for development within the City.

9. **Conformance with Street Plan.** No structure may be placed in such a way as to interfere with future construction of streets, roads or alleys as shown on the City street plan, as such plan may exist or be adopted in the future.
10. **Excavation, Grading and Filling.** Except as otherwise provided for in this Code, or by State or Federal law, any grading, excavation, or filling operation whereby between ten (10) and five hundred (500) cubic yards of dirt, rock, or other material will be used, shall require an administrative permit from the City before the operation shall be allowed. Grading, excavation, or filling operations involving in excess of five hundred (500) cubic feet of dirt, rock, or other material shall require a conditional use permit from the City which shall only be issued upon the satisfaction of all prescribed conditions and following a public hearing on the issue. No permit shall be required for any grading, excavation, or filling operation involving less than ten (10) cubic feet of dirt, rock, or other material, or for any operation normally involved with the construction of any house or building for which a building permit has already been issued.
11. **Separability.** If any court of competent jurisdiction shall judge any provision of this Ordinance to be invalid, that judgment shall not affect any other provisions of this Ordinance not specifically included in the judgment. If any court of competent jurisdiction shall judge invalid the application of any provision of this Ordinance to a particular property, building or other structure, that judgment shall not affect the application of the provision to any other property, building or structure not specifically included in that judgment.
12. **Frontage Required:** No building permit shall be issued for a structure on a lot that does not have frontage on a publicly dedicated and opened right-of-way.
13. **Permitted Encroachments.** The following shall not be considered as encroachments on yard setback requirements:
 - A. Chimneys, flues, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and the like provided they do not project more than two (2) feet into a yard.
 - B. Terraces, steps, uncovered porches or patios, stoops, or similar features may extend into the front yard setback provided they do not extend above the height of the ground floor level of the principal structure. Such features shall not encroach more than ten feet into the front yard.
 - C. A vestibule or covered entrance providing weather protection, provided it extends no more than five (5) feet into the setback area, covers no more than thirty (30) square feet of encroachment, and is not closer than five (5) feet from any lot line.
 - D. A cantilevered extension may extend from the principal building into the required front, side, or rear yard up to a maximum encroachment of two (2) feet and a maximum exterior area of twenty (20) feet, for the purpose of permitting such features as bay windows or

other similar building features. Said encroachment shall be cantilevered, and shall not have footings or foundation supporting the encroachment within the required setback area.

- E. The principal building setback requirements for front and side yards adjacent to a public right of way, as established by the respective zoning districts, may be reduced upon the approval of an administrative permit, to a distance equaling the average setback of principal buildings on either side. In no case shall this distance be less than fifteen feet (15'), nor shall a principal structure be placed more than seven feet (7') beyond the setback of any principal structure on a directly abutting lot.

14. Short Term Rentals Prohibited.

- A. **Purpose.** The City finds that short-term rentals located in residential zoning districts constitute commercial use of residential property, conflict with the residential character of residential zoning districts, disrupt the residential character of neighborhoods, and have a negative impact on the livability of residential neighborhoods. To preserve the residential character of the City's residential districts, preserve property values, and reduce land use conflicts, the City determines, in furtherance of the public health, safety and general welfare, it is necessary to limit short-term rentals to hotels, motels, lodging establishments, and similar accommodations.
- B. **Prohibition.** It is prohibited to rent, lease, or offer for rent or lease any dwelling unit, part of a dwelling unit, lodging room, accessory apartment, or other accommodation for a period of less than thirty (30) consecutive days. Rental of less than this period of time shall only be permitted in state licensed hotels and other lodging establishments where permitted by the City's Zoning Ordinance.

SECTION 150.06 Non-Conforming Uses. Within the districts established by this Chapter or by amendments, there exist structures and uses of land lawful before these or preceding regulations were passed, but presently prohibited, regulated, or restricted under the terms of this Chapter or its future amendments; it is the intent of this Chapter to permit the non-conformities to continue until they are removed, but not to encourage their continuance. Such uses are declared by this Chapter to be incompatible with permitted structures and uses in the districts involved. It is the further intent of this Chapter that non-conforming uses shall not be enlarged upon, extended or expanded, nor be used for grounds for adding other structures for uses prohibited in the same district. Any structure or use existing at the time of adoption of this Code may be continued subject to the following provisions:

1. **Expanding or Enlarging Non-Conforming Use.** No such use and structure shall be expanded or enlarged nor shall accessory buildings or structures be added.
2. **Discontinued Non-Conforming Use.** A non-conforming use which has been discontinued for a period of twelve (12) months shall not be re-established, and any further use shall be in conformity with the regulations of this Chapter.
3. **Damaged Non-Conforming Structure.** A non-conforming structure which becomes damaged by any cause to the extent of more than fifty percent (50%) of its market value as determined by the current records of the Wright County Assessor, shall not be restored except in conformity with the regulations of this Chapter.

4. **Maintenance.** Normal maintenance of a non-conforming use and structure shall be permitted. Maintenance may include necessary non-structural repairs and incidental alterations which do not enlarge or intensify the non-conforming use.

SECTION 150.07 PENALTY.

Violations of this Chapter 150 will be enforced with the penalty provisions of Section 10.99 of this Code.

ADMINISTRATION

SECTION 150.10 ENFORCEMENT.

1. **Enforcing Officer.** A Zoning Administrator shall be appointed by the Council. The Zoning Administrator shall enforce this Chapter and be responsible for the following duties:
 - A. Review and approve zoning applications for building permits and approve other zoning related permits and make and maintain records thereof.
 - B. Conduct inspections of buildings and uses of land to determine compliance with the terms of this Chapter.
 - C. Maintain permanent and current records of this Chapter, including but not limited to: all maps, amendments, and special uses, variances, appeals and applications therefor.
 - D. Receive, file and forward all applications for appeals, variances, conditional uses or other matters to the designated official bodies.
 - E. Institute, in the name of the City, any appropriate actions or proceedings against a violator as provided for in this Chapter.
2. **Violations and Penalties.**
 - A. Any person who shall violate or refuse to comply with any of the provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine of up to \$700 or a jail term not to exceed 90 days, or both.
 - B. Violation of a condition imposed by any conditional use permit or interim use permit may result in the immediate termination of the permit. The Council shall have the authority to terminate such permit only after a public hearing has occurred.
 - C. Prior to the public hearing, the City shall notify the interested party or parties that termination proceedings concerning the nonconforming, conditioned, interim, incompatible, accessory, special or home occupation use have been scheduled. The notice shall be issued by certified mail or by publication of one (1) legal notice at least ten (10) days prior to the hearing date.

SECTION 150.11 APPEALS AND THE BOARD OF ZONING APPEALS.

- 1. Board of Zoning Appeals.** A Board of Zoning Appeals is hereby continued, which shall consist of the City Council, vested with such administrative authority as hereinafter provided.
- 2. Powers and Duties.** The Board of Zoning Appeals shall act upon all questions as they may arise in the administration of this Chapter, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision or determination made by such administrative official charged with enforcing the Chapter. Such appeal must be made within 30 days after the making of the order or decision appealed from.
- 3. Procedure.** The property owner or agent shall file with the Zoning Administrator a notice of appeal stating the specific grounds upon which the appeal is made.
- 4. Hearings.** Hearings by the Board of Zoning Appeals shall be held within such time and upon such notice to interested parties as is provided in this Chapter and its adopted rules for the transaction of its business. The board shall, within a reasonable time, serve a copy of its order deciding the matter upon the appellant or petitioner by mail. Any party may appear at the hearing in person or by agent or attorney.
- 5. Reversing or Affirming Decisions.** The Board of Zoning Appeals may reverse or affirm wholly or partially, or modify the order, requirement, decision or determination in its discretion, and to that end shall have all the powers of the officer from whom the appeal was taken, and may issue or direct the issuance of a permit. The decision shall not be final and any person having an interest affected by such decision shall have the right to appeal to the district court, in the county in which the land is located, on questions of fact and law. A majority vote of four-fifths of the Board of Zoning Appeals shall be necessary to reverse any decision made by the Zoning Administrator which favored the applicant.

SECTION 150.12 DUTIES OF THE PLANNING COMMISSION IN ZONING ADMINISTRATION.

The Planning Commission shall provide assistance to the Council and to the Zoning Administrator in the administration of this Chapter. The recommendations of the Planning Commission shall be advisory in nature. Specifically, the Planning Commission may review, hold public hearings and make recommendations to the Council on all applications for zoning amendments, variances, interim and conditional use permits and other land use issues referred by the City Council.

SECTION 150.13 ZONING AMENDMENTS.

- 1. Criteria for Granting Zoning Amendments.** The Council may adopt amendments to this Chapter and the zoning map, including changes to land uses within a particular district, to the location of the district line, or to the changing of any parcel or parcels from one zoning district to another. Such amendments shall not be made as a matter of course, but shall be adopted only as a means to reflect changes in the goals and policies of the City as reflected in the Comprehensive Plan or changes in conditions in the City.

2. **Initiation of Proceedings.** Proceedings for amending this Chapter shall be initiated by any one of the following three methods:
 - A. By petition of an owner or owners of property which is proposed to be rezoned, or for which district regulation changes are proposed.
 - B. By recommendation of the Planning Commission.
 - C. By action of the Council.
4. **Required Exhibits for Rezoning or District Regulation Changes Initiated by Property Owners.**
 - A. An accurate listing showing property owners' names and addresses within the affected zone and within three hundred and fifty (350) feet of the outer boundaries of the property in question.
 - B. A certificate of survey and a preliminary development plan.
5. **Procedure for Initiating an Amendment Based Upon a Petition by a Property Owner.** The procedure for a property owner to initiate a rezoning or district regulation change applying to any property is as follows:
 - A. The property owner or its agent shall meet with the Zoning Administrator to explain the situation, learn the procedures, and obtain an application form.
 - B. The applicant shall file the completed application form, together with the required exhibits, with the Zoning Administrator and shall pay a filing fee as established by the Council.
 - C. The Zoning Administrator shall transmit the application and required exhibits to the Planning Commission and shall notify by mail all property owners within the affected zone and within three hundred fifty (350) feet of the outer boundaries of the property in question of the public hearing; however, failure of any property owner to receive such notification shall not invalidate the proceedings, provided a bona fide attempt to give notice has been made.
 - D. The Zoning Administrator shall set a date for a public hearing and shall have notices of such hearing published in the legal newspaper at least once, not less than ten (10) days and not more than thirty (30) days prior to the hearing.
 - E. The Planning Commission shall hold the public hearing and shall transmit to the Council its recommendation of approval, denial or conditional approval.
 - F. The Council shall act upon the application after receiving the recommendation of the Planning Commission.

G. No application of a property owner for an amendment to the text of the Chapter or to the zoning map shall be reconsidered by the City Council within the one (1) year period following a denial of such request, except the City Council may permit a new application or reconsideration, if in the opinion of the City Council, it is warranted by new evidence or a change of circumstances.

6. Procedure for Initiating an Amendment Based Upon a Recommendation by the Planning Commission or City Council.

A. The Planning Commission or City Council shall pass a motion recommending an amendment to this Chapter.

B. The Zoning Administrator shall set a date for a public hearing and shall have notices of such hearing published in the legal newspaper at least once, not less than ten (10) days and not more than thirty (30) days prior to the hearing. The Council may waive the mailed notice requirement for a city-wide amendment to the Zoning Chapter.

C. The Planning Commission shall hold the public hearing and shall transmit its recommendation to the Council or the City Council may hold the Public Hearing after receiving a recommendation on the amendment from the Planning Commission.

D. The Council shall act upon the application after receiving the recommendation of the Planning Commission and after at least one public hearing has been held.

SECTION 150.14 CONDITIONAL USES.

1. General Criteria for Granting Conditional Use Permits. In granting a conditional use permit, the Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use on the Comprehensive Plan and upon the health, safety, morals and general welfare of occupants of surrounding lands. Among other things, the Council shall make the following findings where applicable:

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

B. The use will be sufficiently compatible with, or separated by distance or screening from, adjacent lands so that existing or future adjacent uses will not be depreciated in value, the use will not change the essential character of the neighborhood, and there will be no deterrence to development of vacant land.

C. The structure and site shall have an appearance that will not have an adverse effect upon adjacent properties.

D. The use, in the opinion of the Council, is reasonably related to the overall needs of the City and to the existing land use and will not endanger the public health, safety, morals, comfort, convenience, or general welfare of the neighborhood or the City.

- E. The use is consistent with the purposes of this Chapter and the purposes of the zoning district in which the applicant intends to locate the proposed use.
- F. The use is not in conflict with the Comprehensive Plan of the City.
- G. The use will not cause a traffic hazard or congestion.
- H. Adequate utilities, access roads, drainage and necessary facilities have been or will be provided.
- I. The use will not impair an adequate supply of light and air to adjacent property.

2. **Additional Conditions.** In permitting a new conditional use or the alteration of an existing conditional use, the Council may impose, in addition to the standards or requirements expressly specified by this Chapter, additional conditions which the Council considers necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to the following:

- A. Increasing the required lot size or yard dimension.
- B. Limiting the height, size or location of buildings.
- C. Controlling the location and number of vehicle access points.
- D. Increasing the street width.
- E. Increasing the number of required off-street parking spaces.
- F. Limiting the number, size, location, or lighting of signs.
- G. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
- H. Designating sites for open space.

The Zoning Administrator shall maintain a record of all conditional use permits issued including information on the use, location, conditions imposed by the Council, time limits, review dates, and such other information as may be appropriate. A Conditional Use Permit is issued for a use and not to or for an individual, but may be limited in time or to ownership.

2. **Required Exhibits for Conditional Use Permits.** The following exhibits shall be required unless waived by the Planning Commission:

- A. An accurate list showing property owners' names and addresses within three hundred and fifty (350) feet of the outer boundaries of the property in question.
- B. A certificate of survey and a preliminary development plan.

- 3. Procedure.** The procedure for applying for a conditional use permit is as follows:
- A.** The property owner or the owner's agent shall meet with the Zoning Administrator to explain his or her situation, learn the procedures and obtain an application form.
 - B.** The applicant shall file the completed application form together, with the required exhibits, with the Zoning Administrator and shall pay a filing fee as established by the Council.
 - C.** The Zoning Administrator shall transmit the application to the Planning Commission and shall notify by mail all property owners within three hundred fifty (350) feet of the outer boundaries of the property in question; however, failure of any property owner to receive such notification shall not invalidate the proceedings, provided a bona fide attempt to give notice has been made.
 - D.** The Zoning Administrator shall set the date for a public hearing and shall have notice of such hearing published at least once in the legal newspaper, not less than ten (10) days and not more than thirty (30) days prior to the hearing.
 - E.** The Planning Commission shall hold the public hearing and then shall study the application to determine possible adverse effects of the proposed special use and to determine what additional requirements may be necessary to reduce such adverse effects before recommending approval, denial, or conditional approval. The Planning Commission shall transmit its recommendation to the Council for final decision.
 - F.** The Council shall take appropriate action on the request for a conditional use after receiving the recommendations by the Planning Commission. If it grants the conditional use permit, the Council may impose conditions it considers necessary to protect the public health, safety and welfare.
 - G.** Where a conditional use permit has been issued pursuant to the provisions of this Chapter, such permit shall become null and void without further action by the Planning Commission or the Council unless the work authorized by the permit commences within one (1) year of the date of granting such special use. A conditional use permit shall be deemed to authorize only one particular use and shall expire if that use shall cease for more than twelve (12) consecutive months.
 - H.** No application of a property owner for a conditional use permit shall be reconsidered by the City Council within the one (1) year period following a denial of such request, except the City Council may permit a new application or reconsideration, if in the opinion of the City Council, it is warranted by new evidence or a change of circumstances.
 - I.** In the event that the applicant violates any of the conditions set forth in the permit, the conditional use permit may be revoked by the Council. The City may inspect the premises annually to monitor the permit conditions and the property owner will be responsible for payment of the monitoring fee as established by the Council from time to time.

SECTION 150.15 INTERIM USES.

1. The City may authorize interim uses in any zoning district if:
 - A. The use conforms to the zoning regulations.
 - B. The date or event that will terminate the use can be identified with certainty.
 - C. Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future; and
 - D. The user agrees to any conditions that the governing body deems appropriate for permission of the use.

2. **Additional Conditions.** In permitting an interim use, the Council may impose, in addition to the standards or requirements expressly specified by this Chapter, additional conditions which the Council considers necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to the following:
 - A. Increasing the required lot size or yard dimension.
 - B. Limiting the height, size or location of buildings.
 - C. Controlling the location and number of vehicle access points.
 - D. Increasing the street width.
 - E. Increasing the number of required off-street parking spaces.
 - F. Limiting the number, size, location, or lighting of signs.
 - G. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
 - H. Designating sites for open space.

The Zoning Administrator shall maintain a record of all interim use permits issued including information on the use, location, conditions imposed by the Council, time limits, review dates, and such other information as may be appropriate. An Interim Use Permit is issued for a use and not to or for an individual, but may be limited to ownership.

3. **Required Exhibits for Interim Use Permits.** The following exhibits shall be required unless waived by the Planning Commission:
 - A. An accurate list showing property owners' names and addresses within three hundred and fifty (350) feet of the outer boundaries of the property in question.
 - B. A certificate of survey and a preliminary development plan.

4. **Procedure.** The procedure for applying for an interim use permit is as follows:
- A. The property owner or the owner's agent shall meet with the Zoning Administrator to explain his or her situation, learn the procedures and obtain an application form.
 - B. The applicant shall file the completed application form together, with the required exhibits, with the Zoning Administrator and shall pay a filing fee as established by the Council.
 - C. The Zoning Administrator shall transmit the application to the Planning Commission and shall notify by mail all property owners within three hundred fifty (350) feet of the outer boundaries of the property in question; however, failure of any property owner to receive such notification shall not invalidate the proceedings, provided a bona fide attempt to give notice has been made.
 - D. The Zoning Administrator shall set the date for a public hearing and shall have notice of such hearing published at least once in the legal newspaper, not less than ten (10) days and not more than thirty (30) days prior to the hearing.
 - E. The Planning Commission shall hold the public hearing and then shall study the application to determine possible adverse effects of the proposed interim use and to determine what termination date and additional requirements may be necessary to reduce such adverse effects before recommending approval, denial, or conditional approval. The Planning Commission shall transmit its recommendation to the Council for final decision.
 - F. The Council shall take appropriate action on the request for an interim use permit within sixty-five (65) days of after receiving the recommendations by the Planning Commission. If it grants the interim use permit, the Council shall specify the expiration date and may also impose conditions it considers necessary to protect the public health, safety and welfare.
 - G. Where an interim use permit has been issued pursuant to the provisions of this Chapter, such permit shall become null and void without further action by the Planning Commission or the Council unless the work authorized by the permit commences within 6 months of the date of granting such special use. An interim use permit shall be deemed to authorize only one particular use and shall expire if that use shall cease for more than 6 consecutive months.
 - H. No application of a property owner for an interim use permit shall be reconsidered by the City Council within the one (1) year period following a denial of such request, except the City Council may permit a new application or reconsideration, if in the opinion of the City Council, it is warranted by new evidence or a change of circumstances.
 - I. In the event that the applicant violates any of the conditions set forth in the permit, the interim use permit may be revoked by the Council. Any interim use may be terminated by a change in zoning regulations. The City may inspect the premises periodically to monitor the permit conditions and the property owner will be responsible for payment of the monitoring fee as established by the Council from time to time.

SECTION 150.16 VARIANCES.

- 1. Criteria for Granting Variances.** The City Council may issue a variance to a provision of this Chapter to provide relief to the landowner where this Chapter imposes undue hardship on the property owner. In granting a variance, the Council shall consider the advice and recommendations of the Planning Commission and shall only grant a variance which is in compliance with the variance requirements and considerations of Minnesota Statutes Chapter 462.
- 2. Required Exhibits for Variances.**
 - A.** An accurate list showing property owners' names and addresses within three hundred fifty (350) feet of the outer boundaries of the property in question.
 - B.** A certificate of survey and a preliminary plan.
- 3. Procedures.** The procedures for applying for a variance from the regulations of this Chapter are as follows:
 - A.** The property owner or his or her agent shall meet with the Zoning Administrator to explain the situation, learn the procedures and obtain an application form.
 - B.** The applicant shall file the completed application, form together with the required exhibits, with the Zoning Administrator and shall pay a filing fee as established by the Council.
 - C.** The Zoning Administrator shall transmit the application to the Planning Commission and shall notify by mail all property owners within three hundred fifty (350) feet of the outer boundaries of the property in question; however, failure of any property owner to receive such notification shall not invalidate the proceedings, provided a bona fide attempt to give notice has been made.
 - D.** The Zoning Administrator shall set the date for a public hearing and shall have notice of such hearing published at least once in the legal newspaper not less than 10 days and not more than 30 days prior to the hearing.
 - E.** The Planning Commission shall hold a public hearing on the variance and shall study the application and make a recommendation of approval, denial or conditional approval.
 - F.** The recommendation of the Planning Commission shall be submitted to the City Council for final decision.
 - G.** The City Council shall take appropriate action on the request for a variance after receiving the recommendation of the Planning Commission. If it grants the variance, the

Council may impose such restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established by this Chapter, or necessary to reduce or minimize the effect of such variance upon other properties in the neighborhood, and to better carry out the intent of the variance.

- H. Where a variance has been granted pursuant to the provisions of this Chapter, such approval shall become null and void without further action by the Planning Commission or the Council unless the work permitted by the variance commences within one (1) year of the date of granting such variance.
- I. No re-application by a property owner for a variance shall be reconsidered by the City Council within the one (1) year period following a denial of such a request, except the City Council may permit a new application or reconsideration if, in the opinion of the City Council, it is warranted by new evidence or a change of circumstances.
- J. If the applicant violates any conditions established as part of granting the variance request, the variance may be revoked by the City Council.

SECTION 150.17 PLANNED UNIT DEVELOPMENT (PUD).

- 1. **Purpose.** It is recognized that this Chapter is structured to regulate land use and development patterns of a conventional or traditional nature; however, there are situations where innovative proposals for the use of land may be submitted which do not relate to ordinance controls and would have to be rejected even though feasible and beneficial to the community. It is to accommodate such innovative proposals, even those that may mix land uses within a development, exceed stipulated densities, or depart from traditional lot sizes, that the Planned Unit Development District is established. The technology of land development is constantly changing and creative. Practical approaches to the use of land should be encouraged. The provisions of this section are intended to do so in a manner which is in the best interests of both the developer and the community. More specifically, Planned Unit Development Districts may provide for progressive developments which may achieve any number of the following:
 - A. Provide a maximum choice of living environments by allowing a variety of housing and building types, permitting increased density per acre, a reduction in lot dimensions, building setbacks, or area requirements;
 - B. Allow a more useful pattern of open space and recreation areas;
 - C. Provide more convenient access to services, commercial products, and workplaces by providing for mixed use development;
 - D. Provide for development which preserves and/or utilizes existing natural site features and vegetation;
 - E. Provide more efficient use of land resulting in lower cost in utilities and city services; or

- F. Provide for development in harmony with transportation facilities or services, community facilities, and the objectives of the comprehensive plan.
2. **Overlay District.** A PUD District is an overlay district which may be applied to and superimposed upon any underlying zoning district within the City, but will only be approved in conjunction with a Development Plan for the property. It being the intent of the City that no provision or regulation of the underlying zoning district(s) may be varied, modified, or set aside unless specifically provided for in a Development Plan approved in accord with this section.
 3. **Subdivision Regulations.** The uniqueness of each PUD District may require that specifications and standards for streets, utilities, public facilities and the approval of land subdivisions be altered from the standards set out in City ordinances and policies. The City Council may, therefore, where it finds that such modifications are not necessary and that such modifications will not adversely affect the health, safety or welfare of the general community, as part of the approval of the Development Plan for a PUD District, approve street, utility, and public facility plans as well as subdivisions which are not in compliance with the specifications or requirements established by City ordinances and policies. Applicants will, however, continue to be required to obtain approval of plats in accord with the procedural requirements of Minnesota Statutes and applicable City ordinances; however, those platting procedures may be accomplished in conjunction with the application process for a PUD District.
 4. **Permitted Uses within a PUD District.** All permitted uses and accessory uses allowed in an underlying zoning district within a PUD District will be allowed within a PUD District. Uses requiring a conditional use permit in an underlying zoning district may, in lieu of using the normal conditional use permit proceedings, be approved as “permitted” uses as part of an approved Development Plan. In addition to the uses permitted in the underlying zoning district, all other uses designated as “permitted” by the approved Development Plan will be considered permitted uses within a PUD District. Mixed uses, as specified in the approved Development Plan, will also be permitted within a PUD District. No use may be designated as “permitted” in a Development Plan if that use will have the potential for adversely affecting adjacent property or the public health, safety or general welfare of the community.
 5. **Area, Height, Frontage, Yard Requirements and other non-use regulations.** The area, height, frontage, yard requirements and other performance requirements of the underlying zoning districts will apply within a PUD District except as such are specifically modified in an approved Development Plan. An approved Development Plan may establish area, height, frontage, yard or other performance requirements which vary from the underlying district without having to go through the normal variance procedures; however, in no event may a Development Plan alter such standards if doing so would violate a fire or safety code requirement. Variances from the requirements of an underlying district will not be implied except to the minimum extent required to comply with an approved Development Plan.
 6. **General Requirements.** The following are the minimum requirements which must be met before the City will approve a Development Plan and the establishment of a PUD District:
 - A. **Ownership.** The property located within the PUD must be under unified control at the time of application, and be planned and scheduled to be developed as a whole. The applicant(s) must have acquired actual ownership of or executed a binding sales contract for all of the property comprising such tract. Where more than a single owner is

involved, each owner must agree in advance to be bound by the conditions and regulations which will be effective within the PUD and to record with the Wright County Recorder such covenants, easements, and other provisions required by the City.

B. Financing. The financing for the development must be proven to be available to the applicant on conditions and in amounts which are sufficient to assure completion of the development.

C. Council Findings. To approve a PUD District, the Council must find the following:

1. **Comprehensive Plan.** The development will be planned so that it is consistent with the Comprehensive Plan for the community
2. **Harmony.** The planned unit development will be planned and developed to harmonize with any existing or imminent development in the area surrounding the project site.
3. **Not Disturbing.** The development will not be hazardous or disturbing to existing or planned neighboring uses, and will not materially adversely affect the values of adjacent properties.
4. **Adequately Served.** The development may be adequately served by essential public or private facilities and services, including streets, police and fire protection, drainage facilities, refuse disposal, water and sewer systems, and schools.
5. **Beneficial.** The distribution of buildings, streets and open space of the development will permit site planning that is superior to that which could be obtained without the PUD District being approved and thus benefit both the residents of the development and the community as a whole.
6. **Not Detrimental.** The distribution or location of buildings, streets and open spaces will not unduly increase the bulk of buildings, density of population, or intensity of use(s) to the detriment of areas outside the development by restricting access to light and air, by creating traffic congestion, or by other means.
7. **Community Welfare.** The development will not be detrimental to or endanger the public health, safety, morals, comfort, convenience, or general welfare.

7. Procedure.

A. Application. An applicant for a PUD must submit a Preliminary Development Plan, as described below, to the Zoning Administrator, together with the application fee as set by the City Council from time to time. The application must be signed by the owner(s) of every property within the boundaries of the proposed PUD. Depending upon the nature and scope of the application, the City may, in addition to the standard application fee, require that the applicant deposit up to \$1,000 for the planning, engineering, administrative and legal expenses incurred by the City in reviewing and processing the application. Any funds remaining after the application is processed will be refunded to the applicant.

- B. Public Hearing.** After the City has received all required application materials, City staff will refer the application to the Planning Commission for review and recommendation to the Council. The Planning Commission will hold at least one public hearing on the rezoning and the Preliminary Development Plan, after notice of the hearing has been published in the official newspaper and mailed to each owner of property within 350 feet of the subject property, at least 10 days prior to the day of the scheduled hearing. The Planning Commission will then make its recommendation for approval or denial of the PUD to the City Council.
- C. Approval or Denial by Council.** The City Council will approve or deny the application after considering the application, testimony of the applicant and the public, and the recommendation of the Planning Commission. Since final approval of the Development Plan will involve the rezoning of the subject property, the Council may approve a final Development Plan and rezoning of the property to PUD only upon the affirmative vote of two-thirds of the members of the Council. If the Preliminary Development Plan receives approval of the City Council, the Final Development Plan, with any changes requested by the City Council, must be presented to the City Council. A public hearing will not be required for approval of the Final Development Plan unless the City Council determines that material changes have been made from the Preliminary Development Plan as approved by the Council. The City Council must approve the Final Development Plan by the affirmative vote of two-thirds of the members of the Council, and the Council will specify any conditions which will be attached to the Final Development Plan if such conditions have not been incorporated therein. The rezoning of the subject property will be considered complete upon approval of the Final Development Plan and approval of the Development Agreement required below.
- D. Conditions.** The City may impose such conditions and restrictions on the PUD as it deems necessary or advisable as part of its approval of the Preliminary or Final Development Plan.
- E. Development Agreement and Performance Bond.** In the event the Preliminary Development Plan is approved by the City Council, the applicant will be required to execute a development agreement which states the conditions of the PUD and the phases of the development. The City may, in its discretion, require that the applicant provide the City with a performance bond or other security deemed sufficient by the City Council to ensure the applicant's compliance with the development agreement.
- F. Plan Amendments.** The procedures necessary to amend the Final Development Plan after it has been approved by the City are the same as the procedures required for the original approval. Non-material changes to the Development Plan may be made upon approval of the City Council without having to hold a public hearing or having the matter considered by the Planning Commission. Matters will be considered non-material only if they will not result in a change in "use" which is not otherwise permitted in the underlying district or will not require a variance from the regulations of the underlying district.
- G. Lapse of Time.** If within 1 year of the City Council's approval of the Final Development Plan no building permits have been obtained, or if within 1 year of the issuance of the

first building permit on the property no construction has commenced, the Development Plan will become void. An applicant may request and receive an extension from the Council in the event the applicant can demonstrate good faith effort has been made to use the PUD, that there is a reasonable expectation that the PUD will be used, and the facts upon which the PUD was approved are essentially the same.

8. Submission Requirements.

- A. Preliminary Development Plan.** 10 copies of the following plans and information must accompany the application fee, the entirety of which will be considered the “Preliminary Development Plan”:
- (1) Project information including site size, ownership, developer, development timing, phasing and construction schedule, and such other information as will be helpful in the approval process.
 - (2) Existing site information including soils, vegetation, topography, slopes, conditions, water features, drainage, wildlife, and existing land uses.
 - (3) Proposed covenants or other private legal restrictions, if any.
 - (4) Written descriptions of variances from regulations of underlying zoning districts and subdivision regulations.
 - (5) Preliminary architectural drawings, if any, illustrating schematic floor plans, and exterior construction materials.
 - (6) Site plan illustrating the proposed use(s) of land; proposed densities; buildings, including square footage, height and other dimensions, distances between buildings and the front, side and rear lot lines, and other buildings located on the property and on property adjacent to the property; street and walkway locations; curb cuts and driveways; parking areas and loading areas; open spaces; the locations of easements and utilities (existing and proposed); landscaping (showing size, types and locations); lighting; grading; drainage; project phasing; anticipated variances from setbacks or other regulations of the underlying zoning; tabulation of density, land use intensity, lot coverage and acreage; percentages of land devoted to buildings, parking, and open space; and any other information which may be helpful to understanding and evaluating the proposal.
 - (7) Plans for the installation and maintenance of all common area amenities and confirmation as to whether the common areas will be conveyed to a public agency or a corporation or association for maintenance. The common areas must be conveyed to such part subject to covenants to be approved by the City which restrict the common areas to the uses specified on the Final Development Plan and which provide for the maintenance of the common area space in a manner which assures its continuing use for its intended purpose. If common area space is not maintained properly to standards established by the City, the City shall have the authority to maintain the property and assess the costs back to the homeowner’s association or other ownership agency.

- B. Final Development Plan Approval.** The Final Development Plan must include all of the information provided in the Preliminary Plan except it must include any changes required by the City in its approval of the Preliminary Development Plan.

- 9. Yearly Inspections and Review.** The Building Inspector may review each PUD at least once each year until completed and make a report to the Council on the status of the development in each PUD District. If the development is not progressing according to schedule, the owner will be required to submit to the Building Inspector a written statement setting forth the reasons for the lack of progress. Within 30 days of such notice, the Council will either revoke the approval of the Development Plan and the PUD, and the land will thereafter be governed by the regulations applicable in the underlying district in which it is located, or the Council will take such steps as it deems necessary to compel compliance with the approved Development Plan.

SECTION 150.18 OPT-OUT OF MINNESOTA STATUTES, SECTION 462.3593.

- 1.** Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of Annandale opts-out of the requirements of Minn. Stat. §462.3593, which defines and regulates Temporary Family Health Care Dwellings.
(Ordinance 352, 8-30-16)