

# CITY OF FLOODWOOD

## ZONING ORDINANCE

ORDINANCE NUMBER 121200-226

Adopted December 12, 2000

<sup>1</sup> 12/13/2005 Amendments

<sup>2</sup> 08/22/2006 Amendments

<sup>3</sup> Section 5.5 Amendments 2003

Accessory Structure Maximum Height increased to 26' 2007

Amendment to Section 14 June 23, 2009

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ORDINANCE NO. 121200-226

**ZONING ORDINANCE**

AN ORDINANCE REGULATING THE LOCATION, HEIGHT, BULK, NUMBER OF STORIES, SIZE OF BUILDINGS AND OTHER STRUCTURES; THE PERCENTAGE OF LOT WHICH MAY BE OCCUPIED, THE SIZE OF YARDS AND OTHER OPEN SPACES, THE DENSITY AND DISTRIBUTION OF POPULATION, THE LOCATION AND USE OF BUILDING, STRUCTURES AND LAND FOR TRADE, INDUSTRY, RESIDENTIAL AND OTHER PURPOSES; CREATING DISTRICTS FOR SUCH PURPOSES AND ESTABLISHING THE BOUNDARIES THERE OF; PROVIDING FOR CHANGES IN REGULATIONS, RESTRICTIONS AND BOUNDARIES OF SUCH DISTRICT; DEFINING CERTAIN TERMS USED HEREIN; PROVIDING FOR ENFORCEMENT AND ADMINISTRATION AND IMPOSING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE.

PURPOSE

Pursuant to the authority conferred by the State of Minnesota in Chapter 462 of the State Statutes and for the purpose of promoting the public health, safety, morals and general welfare of the inhabitants of the City of Floodwood, now therefore.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FLOODWOOD

SECTION 1

This ordinance shall be known and cited as the “Zoning Ordinance of the City of Floodwood.”

The following ordinances and further amendments are hereby adopted by reference into the City of Floodwood Zoning Ordinance.

- A. Ordinance Number 062591-200 an Ordinance to Prevent, Reduce or Eliminate Blighting Factors and Public Nuisances Within the City of Floodwood and to Provide Penalties for the Violation Thereof.

## SECTION 2

### DEFINITIONS

#### Section 2.1

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted or defined as follows. Words used in the present tense include the future tense. The singular number includes the plural. The word “person” includes a corporation, partnership, association, society or agency, as well as an individual. The word “lot” includes the word “plot” or “parcel.” The term “shall” is always mandatory. The word “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged, or deigned to be used or occupied.”

#### Section 2.2 - Definition of Terms

Accessory Use. A use, building or structure subordinate and incidental to the principal use of the land or a building on the same lot and serving a purpose customarily incidental to the principal use of land or building.

Alley: A public or private thoroughfare, which affords only secondary means of access to abutting property.

Automotive Service Station. Any building or premises used for the retail sale of liquefied petroleum products for the propulsion of motor vehicles, and including such products as kerosene, fuel oil, packaged naphtha, lubricants, tires, batteries, anti-freeze, motor vehicle accessories and other items customarily associated with the sale of such products; and for the rendering of service and making of adjustments and replacements to motor vehicles; as incidental to other services rendered, washing, waxing, and polishing of motor vehicles and making of repairs to motor vehicles except those of a major type.

Billboard. Any sign pertaining to a business, product or event which is not carried on or manufactured in or upon the premises upon which it is located.

Board. Board of Appeals and Adjustments<sup>1</sup>

Buffer Zone: A landscaped area of land intended to separate two or more uses or structures which are incomparable with each other because of design, function, uses or operations.

Building. Any building or structure, or portion thereof, which is used, or designed or intended to be used for human habitation, for living, sleeping, cooking, or eating purposes or any combination thereof, or for the support, enclosure, shelter or protection of persons, animals or property.

Building Coverage. That percentage of the total area of a lot which is covered by structures.

Building Height. The vertical distance from the grade at the building line to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, height of the ridge for gable, hip, and gambrel roofs.

Building Line. The edge or side of a building nearest a lot line, including where applicable, the outer edge of overhanging eaves, but not steps.

Building Principal. A structure in which the primary use of the lot is situated.

Commercial Business Development (CBD). CBD within a Planned Unit Development (PUD).

Commercial Use. A land use for the purpose of commerce or business.

Commission. The Planning Commission of the City of Floodwood.

Conditional Use. The use of land in a district where such use requires additional controls and safeguards not required of permitted uses.

Condominium. Means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners. Any multi-unit dwelling may be held under multiple ownership.

Council. The City Council of the City of Floodwood.

District. A section or sections of the City of Floodwood within which the regulations governing the use of buildings and premises or the height and area of buildings and premises are uniform.

Dwelling Unit. A structure or portion thereof, providing independent cooking, living, sleeping and toilet facilities for one family.

Dwelling, One Family or Single Family. A detached building designed for or occupied exclusively by one family and constituting one dwelling unit.

Dwelling, Two Family. A detached building designed for or occupied exclusively by two families and constituting two dwelling units.

Dwelling, Three Family. A detached building designed for or occupied exclusively by three families and constituting three dwelling units.

Dwelling, Multiple Family. A detached building or portion thereof, designed for occupancy by three or more families and constituting at least three dwelling units.

Estate. A dwelling unit situated on a parcel of land at least one-half (½) acres in size.

Family. One or more persons occupying the premises and living as a single housekeeping unit, as distinguished from a group occupying a rooming house, club, fraternity, or hotel.

Flashing sign. A sign, part or all of whose lights go on and off intermittently.

Garages, Private. Residential accessory buildings principally intended for the storage of automobiles.

Grade (Ground Level). The average of the finished ground level at the center of all walls of a building. In case walls are parallel to within five (5) feet of a sidewalk, the above ground level shall be measured at the sidewalk.

Guest Room. Guest room is any room or rooms used, or intended to be used, by a guest for sleeping purposes. Every one hundred (100) square feet of superficial floor area in a dormitory is a guest room.

Hardship: *Synonymous with "undue hardship" as defined by Minnesota Statute Section 462.357 subd. 6(2).*<sup>1</sup>

Home Occupation. Any gainful occupation or profession conducted within the dwelling, or accessory building, by a resident thereof.

Home occupations shall meet the criteria specified below:

- a.) Only residents residing on the premises shall be engaged in such occupation.
- b.) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the main floor area of the dwelling unit shall be permanently set aside to be used in the conduct of the home occupation.
- c.) There shall be no change to the outside appearance of the premises that would reflect the presence of a home occupation other than one sign, not to exceed two square feet, non-illuminated, and mounted flat against the wall of the principal building.
- d.) No equipment shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot or in a neighboring dwelling unit. In the case of electrical interference, no equipment shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- e.) No home occupation shall be permitted that creates the need for parking which frequently infringes upon the on-street parking in the neighborhood.
- f.) For uses within the dwelling unit the entrance to the space devoted to such occupation

shall be within the dwelling unit.

- g.) There shall be no exterior storage of equipment or materials used in the occupation.
- h.) The home occupation must be conducted entirely within a building.
- i.) Permissible home occupations include, but are not limited to the following: art studio, dressmaking, special offices of a clergyman, lawyer, architect, engineer, accountant, beautician, professional offices, real estate agent or appraiser, teaching, day care centers, and miscellaneous services including sales, repairs, fix-it shops, etc.

Hotel. Any building containing six or more guest rooms intended or designed to be used or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests, whether rent is paid in money, goods, labor, or otherwise.

Housekeeping Unit. Anyone or a group of individuals living together as a unit.

Incidental. Directly and immediately pertaining to, or involved in, though not an essential part.

Junkyard. Any area where waste, discarded or salvaged materials are stored, bought, sold, exchanged, baled or packaged, disassembled or handled, including house wrecking yards, used lumber yards, and places or yards for storage of salvaged house wrecking and structural steel materials and equipment, automobile tractor, or machinery wrecking and used parts yard, but not including areas where such uses are conducted entirely within a completely enclosed building and not including the processing of used, discarded or salvaged materials as part of manufacturing operations.

Kennel: Any lot or premises, on which four or more dogs, more than six months of age, are kept.

Lot. A parcel of land shown as an individual unit of ownership on the most recent plat of record or other public records.

Lot, Corner. A lot abutting the intersection of two or more streets.

Lot, Depth of. The mean horizontal distance between the front and rear lot lines measured in the direction of its side property lines.

Lot, Interior. A lot other than a corner lot, with frontage only on one street.

Lot Lines. The lines bounding a lot.

Lot of Record. A lot which is a part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds of St. Louis County, Minnesota.

Lot Width. The mean horizontal distance between side lot lines measured parallel to the street line or its chord if curved.

Mayor. The Mayor of the City of Floodwood.

manufactured Home A structure transportable in one or more sections, which is designed to be used for permanent occupancy as a dwelling and which is not constructed to the standards of the uniform building code:

- A. Residential Trailer – A manufactured home which was not constructed in accordance with federal manufactured housing construction and safety standards (HUD), in effect after June 15, 1976.
- B. Manufactured Home – A manufactured home constructed in accordance with federal manufactured housing construction and safety standards (HUD code) in effect after June 15, 1976.

Motor Vehicle Dealer. A person engaged in the sales of new and/or used motor vehicles.

Motor Vehicle Repair Garage. Any building used for major automobile repairs defined to be spray painting, body, fender, clutch, transmission, differential, axle, spring and frame repairs; major overhauling of engines requiring the removal of engine cylinder head or crankcase pan; repairs to radiators requiring the removal thereof, or recapping or retreading of tires.

Nonconforming Use. A structure of land lawfully used or occupied as of the date of enactment of this Ordinance, which does not conform to the regulations of this Ordinance.

Nursery School. A home or institution where care and instruction are provided for four or more non-resident children during the day, including a kindergarten.

Nursing Homes. A home for aged, chronically ill or incurable persons in which three or more persons not of the immediate family are received, kept and provided with food, shelter and care, for compensation; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis, treatment or care of the sick, or injured, or of sane, inebriate or contagious cases.

Ordinance. This ordinance or any subsequent revisions thereto.

Parking Space. A permanently surfaced area either within a structure, or in the open, exclusive of driveway or access drives, for the temporary parking of a motor vehicle.

Permitted Uses. Uses permitted under this Ordinance which require no additional action by the planning commission or the City Council.

Planned Unit Development. A tract of land developed as a unit rather than as individual development, wherein two or more buildings and activities may be located in relationship to each other rather than to lot lines or zoning district boundaries.

Screened. Concealed or cut off from view.

Sign. Any face or any lettered or pictorial device or structure designed to inform or attract attention.

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 topmost 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 or cellar is more than six (6) feet above grade, such basement or cellar shall be situated between the rear property line of the lot and the rear line of the building projected to the side property lines of the lot.

Variance: Any modification or variations of official controls where it is determined that, by reason of exceptional circumstances, the strict enforcement of the official controls would cause unnecessary hardship.

Yard: An open space between building by any lot line which is open to sky unobstructed by any permanent or temporary uses or structures.

Yard Open: A yard in addition to front, side, and rear setbacks, in which no structure, driveway, or parking space shall be located.

Yard Front: A yard extending across the entire front of the lot and measured between the front line of the lot and the front line of the building, or any projection thereof other than steps, balconies paved terraces, porches or bay windows.

Yard Rear: A yard extending across the entire rear of a lot and measured between the rear lot line and the rear of the building, or any projection thereof other than steps, balconies, paved terraces, porches or bay window. On corner lots the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard Side: A yard between the building and the side line of the lot extending from the front yard to the rear yard and measured between the sideline of the lot and the side of the building, or any projection thereof other than steps, balconies, paved terraces, porches or bay windows.

Zoning Official. The officer charged with the administration and enforcement of this Ordinance shall be the person appointed by the Floodwood City Council by resolution.

Additional Definitions: Additional definitions specific to a zoning district may be found included within the specific zoning district section.

## SECTION 3

### OFFICIAL ZONING MAP

#### Section 3.1

The City is hereby divided into districts as shown on the Official Zoning Map, which, together with the matter thereon and the certificate attached thereto, is hereby adopted and declared to be a part of this Ordinance as if described in detail herein. The Official Zoning Map shall be prepared and accurately maintained by the City and be displayed at all times in the Office of the City Clerk.

#### Section 3.2

The Official Zoning Map shall bear a certificate with the signature of the Mayor and the certification of the City Clerk and the date of adoption of this Ordinance. If any changes to the map are made by amendment of this Ordinance, such changes shall be made to the Official Zoning Map and signed and certified upon the map or upon materials attached thereto.

#### Section 3.3

In the event that the Official Zoning Map becomes damaged, lost, or difficult to read or interpret because of the number or nature of changes thereto, a new Official Zoning Map shall be prepared by the City and shall be approved for certification by the Council and signed by the Mayor and certified as the Official Zoning Map by the City Clerk.

#### Section 3.4

Where uncertainty exists as to the boundaries of districts as shown on the official Zoning Map, the boundaries shall be interpreted as following the nearest logical line to that shown-- where shown as approximately following platted lot lines, it shall be construed as following such lines, where shown as approximately following the City limits, railroad tracks, street centerlines, stream or water centerlines or shorelines, it shall be construed as following such lines. Boundaries indicated as extension of or parallel to such lines shall be so construed. Where distances are not shown on the map, they shall be determined by scale of the map. Where any boundaries seem to conflict with physical or cultural features on the land, the Board of Adjustment shall interpret such boundaries.

## SECTION 4

### APPLICATION OF DISTRICT REGULATIONS

Except as hereinafter provided, the regulation set by this Ordinance shall be minimum regulations and shall apply uniformly to each class or kind of structure or land in each district, and particularly:

#### Section 4.1

No structure *on*<sup>1</sup> land shall hereafter be used or occupied and no structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless it is in conformity with all of the regulations herein specified for the district in which it is located.

#### Section 4.2

No part of any yard, other open space, or off street parking or loading space required in connection with any building or use shall be included as part of a yard, open space, loading or parking space of any other building or use.

#### Section 4.3

No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the requirements set forth herein, and all yards or lots created after the effective date of this Ordinance shall meet the minimum requirements of this Ordinance.

#### Section 4.4

All territory which may hereafter be annexed to the City shall be considered to be zoned in the Residential Estates (R-1) until otherwise classified by resolution of the City Council *at time of annexation after the Council has received a report from the Planning Commission making the recommendation as to the zoning designation.*<sup>1</sup>

#### Section 4.5

No fence, wall, hedge or shrub planting which obstructs sight lines at elevations below eight (8) feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street lines and a line connecting them at points fifteen (15) feet from the intersection of the street lines, or in the case of a rounded corner from the intersection of the street property lines extended on streets having an angle of intersection of ninety (90) degrees or more. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such right lines. The same limitations shall apply on a street having an angle of intersection of less than ninety (90) degrees except that the distance back from the point of intersection of the lot lines shall increase ten (10) feet for every ten (10) degrees below ninety (90) degrees.

#### Section 4.6

No accessory building or use shall be permitted in any required front yard and no separate accessory building shall be erected within ten (10) feet of any principal building.

#### Section 4.7

Sign regulations shall not apply to signs or lights established by a government body for public warning or direction, for safety or for traffic control.

#### Section 4.8

Outdoor storage of salvaged materials from buildings, roadways, transportation ways or other uses, in excess of four feet in height, 6 feet in width and 10 feet in length shall not be permitted for periods exceeding 20 days unless adequate screening is provided or they will be utilized on the property for specific building purposes and which a zoning permit has been applied for. This shall apply to all zoning districts.

Outdoor storage of logs, pulp wood and other timber products shall not be permitted in any zoning district unless a conditional use permit is applied for and receives approval in accordance with the zoning ordinance.

## SECTION 5

### OFF-STREET PARKING

#### Section 5.1 - Intent

This section is intended to provide for off-street parking adequate to each type of development in terms of both amount and location in order to reduce the need for parking on the streets and highways and the traffic congestion and hazards caused thereby.

#### Section 5.2 - Off-Street Parking Design Standards

- 1) Accessory off-street parking required for the uses specified herein shall only be for use by automobiles of employees, customers, and residents of the activity served and shall be in addition to provisions for parking for the public at large.
- 2) Off-street parking requirements shall be met on the same lot as the building served or on a lot within one hundred (100) feet thereof especially reserved for such use. Off-street parking facilities for separate uses may be provided collectively on a separate lot if the total spaces are not less than the total requirements of the separate uses and if other requirements are met.
- 3) An off-street parking space shall be at least nine (9) feet in width and at least twenty (20) feet in length, exclusive of access drive and ramps, and have a vertical clearance of at least seven (7) feet.
- 4) All off-street parking spaces for single family dwellings and access areas shall be improved and maintained with minimum of an aggregate base, Class 5 material or such other surface as may be approved by the City, to provide a durable and dust-free surface and shall be so arranged and marked as to provide for orderly and safe parking and storage.
- 5) All off street parking spaces, *driveways, entrances, and other areas where vehicles will be driven or parked*<sup>3</sup> for multi family dwellings two family dwellings, three family dwellings, business, commercial, industrial and manufacturing uses shall be improved and maintained with a minimum of an asphalt or pavement overlying an aggregate base material to provide a durable and dust-free surface and shall be so arranged and marked to provide for orderly and safe parking and storage. *Plans for off-street parking must be submitted with land use permits.*<sup>3</sup>
- 6) All open parking areas with four (4) or more parking spaces adjoining property in a residential district shall be effectively screened by wall, fence, or landscaping.
- 7) Any lighting used to illuminate an off-street parking area shall be so arranged as to reflect light away from adjoining premises in any residential district.

- 8) Every off-street parking area shall be provided with a minimum adequate access of eight (8) feet, if a residence, and sixteen (16) feet if a non-residential use, from a public street or alley.
- 9) All or any part of off-street parking requirements may be met within the building.

### Section 5.3 - Number of Off-Street Parking Spaces Required

The following number of off-street parking spaces are minimum requirements in all districts and “any-portion-of-any-requirement” shall be interpreted to require a full parking space.

- 1) Dwelling: Two (2) parking spaces for each dwelling unit.
- 2) Automobile Sales and Service Garages: One (1) square foot of parking space for each four (4) feet of gross floor area.
- 3) Banks and Business and Professional Offices: One (1) square foot of parking space for each eight (8) square feet of gross floor area or one (1) space per two (2) employees, whichever provides the greater number of spaces.
- 4) Bowling Alleys: Three (3) spaces for each alley.
- 5) Clinics: One (1) space per employee in the maximum shift plus two (2) spaces per examination room.
- 6) Churches and Elementary Schools: One (1) space for each three (3) seats in a principal auditorium and if there is no auditorium, one (1) space for each classroom and office room.
- 7) Dance Halls and Assembly Halls: Three (3) square feet of parking space for each square foot of gross floor area.
- 8) Funeral Homes and Mortuaries: One (1) space for each three (3) seats in the principal auditorium.
- 9) High School and Vocational High School: One (1) space for each full time employee, plus one (1) space for each five (5) pupils of designed student enrollment capacity.
- 10) Hospitals, Clinics, Care Institutions: One-half ( $\frac{1}{2}$ ) space for each bed, plus one (1) space for each employee in the maximum shift.
- 11) Hotel, Motel and Lodging Houses: One and two-tenths ( $1 \frac{2}{10}$ ) space for each room or suite or each lodging unit.

- 12) Manufacturing Establishments: One (1) space for each employee on the maximum shift.
- 13) Restaurants, Beer Taverns and Nightclubs: One (1) space for each three (3) seats in the main seating area.
- 14) Retail Stores and Personal Service Shop: One (1) space for each five hundred (500) square feet of retail or service floor area and one (1) for each employee in the maximum shift.
- 15) Sports Arenas, Auditoriums, Stadiums or Theaters: One (1) parking space for each three (3) seats of designed seating capacity.
- 16) Other Uses: For any use or building not provided for above, the off-street parking requirements shall be determined by the Planning Commission.
- 17) In cases where the aforementioned are deemed too restrictive, the Planning Commission may make special determination to accommodate a relief.

## SECTION 6

### NONCONFORMITIES

#### Section 6.1 - Intent

Within the districts established by this Ordinance there exist lots, structures and uses which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Ordinance or its amendments. It is the intent of this Ordinance to permit these uses to continue until they are removed, but not to encourage their survival. Such uses are declared to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that nonconformity's shall not be enlarged upon, expanded, extended or used as grounds for adding other prohibited uses. However, nothing in this Ordinance shall be deemed to require a change in plans, construction or designated uses of a building on which actual lawful construction has been begun prior to the effective date hereof.

#### Section 6.2 - Nonconforming Lots of Record

In any district in which single family dwellings are permitted, notwithstanding other limitations imposed by this Ordinance, a single family dwelling and customary accessory buildings may be erected on any single lot of record on the effective date of this Ordinance. Such lot must be in separate ownership and not of contiguous frontage with other lots of the same ownership. A lot of record that does not meet lot area or lot width requirements must still meet other requirements of the district.

If two or more lots or combinations of lots with contiguous frontage in single ownership are of record at the effective date of this Ordinance, and if all or part of the lots do not meet the requirements for lot area and lot width, the land involved shall be considered to be an undivided parcel and no portion of said parcel shall be used or sold which does not meet lot area and width requirements of the district in which it is located, nor shall any division of the parcel be made which creates lots or portions of lots below such requirements. Shifting of boundary lines between adjacent properties are permitted if they do not create an illegal lot.

#### Section 6.3 - Nonconforming Uses of Land

A lawful use on the effective date of this Ordinance or its amendments which is made no longer permissible by the terms of this Ordinance may be continued if it remains otherwise lawful, subject to the following provisions:

- 1) No such use shall be enlarged, increased or extended to occupy a greater area of land than was occupied by such use at any effective date.

- 2) No such use shall be moved in whole or in part to any other portion of the lot or parcel being occupied by such use at any effective date.
- 3) If any such nonconforming use ceases for a period of more than ~~sixty (60)~~<sup>1</sup> six (6) months<sup>1</sup>, any subsequent use of the land shall conform to district regulations for the district in which it is located.

#### Section 6.4 - Nonconforming Structures

Where a lawful structure exists that could not be built under the terms of this Ordinance, such structure may be continued, while under the same ownership, so long as it remains otherwise lawful, providing that:

- 1) No such structure may be enlarged or altered in any way that increases its nonconformity.
- 2) ~~Should such structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.~~ SHOULD SUCH STRUCTURE BE DESTROYED BY FIRE OR OTHER PERIL TO AN EXTENT OF MORE THAN 50% OF ITS MARKET VALUE, AND IF NO BUILDING PERMIT HAS BEEN APPLIED FOR WITHIN 180 DAYS OF WHEN THE PROPERTY IS DAMAGED, IT SHALL NOT BE RECONSTRUCTED EXCEPT IN CONFORMITY WITH THE PROVISIONS OF THIS ORDINANCE. IN THIS CASE THE CITY OF FLOODWOOD MAY IMPOSE REASONABLE CONDITIONS UPON A BUILDING PERMIT IN ORDER TO MITIGATE ANY NEWLY CREATED IMPACT ON ADJACENT PROPERTY.<sup>2</sup>
- 3) Should such structure be moved, it shall thereafter conform to the regulations for the district to which it is relocated.

#### Section 6.5 - Nonconforming Uses of Structures

If a lawful use of a structure or of structures and premises exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, providing that:

- 1) No existing structure devoted to a nonconforming use shall be enlarged, extended, reconstructed or structurally altered unless the use is changed to a permitted use.
- 2) Any nonconforming use may be extended to any other part of a building designed for such use, but no such use may be extended in any way to occupy land outside the building.
- 3) If no structural alterations are made, any nonconforming use of a building, structure, or

premises may be changed to another nonconforming use, provided that the Board of Appeals and Adjustments shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board may require appropriate conditions or safeguards.

- 4) Any structure or structures and land in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations of the district in which it is located, and the nonconforming use may not thereafter be resumed.
- 5) Wherever a nonconforming use of a structure or premise is discontinued or abandoned for six (6) consecutive months or for eighteen (18) months during any three (3) year period, the structure or premises shall not thereafter be used except in conformance with the regulations of the district in which it is located.
- 6) Where nonconforming use status applies to both structure and land, the removal or destruction of the structure shall eliminate the nonconforming status of the land.

#### Section 6.6 - Repairs and Maintenance

On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs and fixtures, wiring, plumbing or repair or replacement of non bearing walls, to an extent not exceeding ten percent (10%) of the replacement value of the building in any one year, provided that such work does not increase the size of the building. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to safe conditions of any buildings or part thereof declared to be unsafe by any official charged with protecting the public safety upon order of such official.

#### Section 6.7 - Conditional Uses

Conditional uses provided for under Section 17 of this Ordinance shall not be deemed a nonconforming use in the district in which it is permitted.

#### Section 6.8 - Cessation of Junkyards or Billboards

Any junkyards or billboards are declared to be nuisances, and any such activities in existence in the Residential Districts at the date of the enactment of this Ordinance shall, at the expiration of one (1) year from such date, become a prohibited and unlawful use and shall immediately be discontinued.

## SECTION 7

### R-1 RESIDENTIAL ESTATES

#### Section 7.1 - Intent

This district is intended to provide for very low density residential development, protected as to its residential quality, values and amenities so as to conform to the system of service available and to provide for such community facilities as will enhance the residential quality of the area.

#### Section 7.2 - Permitted Uses

- 1) Single family dwellings.
- 2) Parks, playgrounds, golf courses and other outdoor recreation areas.
- 3) Temporary buildings for and during construction.
- 4) Private garages and storage sheds.

#### Section 7.3 - Conditional Uses

- 1) Two family dwellings.
- 2) Churches.
- 3) Cemeteries.
- 4) One family farms including truck gardening and plant nurseries.
- 5) Hospitals and nursing homes.
- 6) Planned unit residential development on site of not less than five (5) acres.
- 7) Public utility buildings and structures.
- 8) Elementary, Junior High and Senior High schools.
- 9) Home Occupations.
- 10) Townhouse.
- 11) Condominiums.

#### Section 7.4 - Minimum Lot Dimensions.

- 1) Area.. One-half ( $\frac{1}{2}$ ) acre.
- 2) Width.. One hundred and fifty (150) feet.

#### Section 7.5 - Maximum Building Height, Width, and Length.

- 1) Maximum Building Height shall be two and one-half ( $2\frac{1}{2}$ ) stories and not over thirty-five (35) feet.
- 2) The minimum size of all single and multi-family dwellings shall be twenty-four (24) feet in width and twenty-four (24) feet in length.
- 3) Maximum accessory building height shall be fifteen (26) feet.

Section 7.6 - Minimum Yard Requirements.

Minimum yard setback shall be provided as follows:

- 1) Front Yards... Forty (40) feet.
- 2) Rear Yard... Fifty (50) feet, provided that accessory buildings may be located up to ten (10) feet from rear yard.
- 3) Side Yard... Twenty-five (25) feet. The side yard of a corner lot facing a street shall be thirty (30) feet.
- 4) The main entry door for garages shall have a setback of twenty (20) feet from the property line abutting the street or alley.

Section 7.7 - Maximum Building Coverage.

Twenty percent (20%).

Section 7.8 - Signs.

- 1) One (1) sign identifying home occupation which shall not exceed two (2) square feet in area and shall be placed no more than two (2) feet away from the principal building.
- 2) One (1) sign advertising property for sale, lease or rent which shall not exceed twelve (12) square feet.
- 3) No illuminated, flashing or moving signs are permitted.

## SECTION 8

### R-2 LOW DENSITY RESIDENTIAL EXISTING PLATTED AREAS

#### Section 8.1 - Intent.

This district is intended to provide for a low density, single family residential development, protected as to its residential quality, value and amenities and conforming to the system of services available or to be provided and to provide such community facilities as will enhance the residential quality of the area. (R-2 district is the current platted areas as of September 1, 2000.)

#### Section 8.2 - Permitted Uses.

- 1) Single Family Dwellings.
- 2) Parks, playgrounds, and other outdoor recreation areas.
- 3) Temporary buildings for and during construction.
- 4) Private garages and storage sheds.
- 5) Public Utility Buildings and Structures.
- 6) Any R-1 Use

#### Section 8.3 - Conditional Uses.

- 1) Two family dwellings.
- 2) Churches.
- 3) Nursery schools and child care centers - - non-boarding.
- 4) Planned unit residential developments on sites not less than five (5) acres.
- 5) Public utility buildings and structures.
- 6) Home occupations.
- 7) Townhouse
- 8) Condominiums
- 9) Elementary, Junior High and Senior High Schools.

#### Section 8.4 - Minimum Lot Dimensions

- 1) Width – Fifty (50) feet
- 2) Depth – One hundred (100) feet

#### Section 8.5 - Maximum Building Height, Width, and Length.

- 1) Maximum Building Height shall be two and one-half (2½) stories and not over thirty-five (35) feet.
- 2) Maximum accessory building height shall be fifteen (15) feet.

Section 8.6 - Minimum Yard Requirements.

- 1) Front Yard: Twenty-five (25) feet.
- 2) Rear Yard: Twenty (20) feet, except accessory buildings ten (10) feet.
- 3) Side Yard: Eight (8) feet. The side yard of a corner lot shall be twelve (12) feet.
- 4) Private garages with the main entry door facing the property line shall have a setback of ten (10) feet.

Section 8.7 - Maximum Building Coverage.

Sixty percent (60%)

Section 8.8 - Signs.

As specified in Section 7.8.

## SECTION 9

### R-3 MEDIUM DENSITY RESIDENTIAL

#### Section 9.1 - Intent.

This district is intended to provide for a medium density residential development, protected as to its residential quality, amenity and values and conforming to the system of services available or to be provided and to provide such community facilities as will enhance the residential character of the area.

#### Section 9.2 - Permitted Uses.

- 1) Uses permitted in the R-2 Residential District.
- 2) Two family dwellings.
- 3) Temporary buildings for and during construction.
- 4) Private garages and storage sheds.
- 5) Condominiums.

#### Section 9.3 - Conditional Uses.

- 1) Churches.
- 2) Nursery schools and child care centers - - non boarding.
- 3) Public utility buildings and structures.
- 4) Public parking area if within two hundred (200) feet of a commercial district.
- 5) Clinics, nursing homes, homes for the elderly, convalescent homes.
- 6) Planned unit developments on sites of not less than five (5) acres.
- 7) Three family dwellings.
- 8) Home occupations.
- 9) Elementary, Junior High and Senior High Schools.

#### Section 9.4 - Minimum Lot Dimensions.

- 1) Width: Single family dwelling - - Fifty (50) feet. Two family dwelling - - Seventy-five (75) feet. Three family dwelling - - Ninety (90) feet.
- 2) Depth: One hundred ten (110) feet.

#### Section 9.5 - Maximum Building Height, Width, and Length.

- 1) Maximum Building Height shall be two and one-half (2½) stories and not over thirty-five (35) feet.
- 2) The minimum size of all single and multi-family dwellings shall be twenty-four (24) feet in width and twenty-four (24) feet in length.
- 3) Maximum accessory building height shall be fifteen (15) feet.

Section 9.6 - Minimum Setback Requirements.

- 1) Front Yard: Twenty-five (25) feet.
- 2) Rear Yard: Twenty (20) feet, except accessory buildings ten (10) feet.
- 3) Side Yard: Eight (8) feet. The side yard of a corner lot shall be twelve (12) feet.

Section 9.7 - Maximum Building Coverage.

Fifty percent (50%)

Section 9.8 - Signs.

- 1) As specified in Section 7.8.

## SECTION 10

### R-4 MULTIPLE RESIDENCE DISTRICT

#### Section 10.1 - Intent.

This district is intended to provide for an interesting and pleasant high density residential environment close to major travel, service, retail and other facilities and services.

#### Section 10.2 - Permitted Uses.

- 1) Uses permitted in an R-3 District.
- 2) Multi-family dwellings.
- 3) Temporary buildings for and during construction.
- 4) Private garages and storage sheds.
- 5) Townhouses
- 6) Condominiums

#### Section 10.3 - Conditional Uses.

- 1) Churches.
- 2) Nursery schools, child care centers - - non boarding.
- 3) Public utility buildings and structures.
- 4) Public parking areas if within two hundred (200) feet of a commercial district.
- 5) Nursing homes, for the elderly, convalescent homes.
- 6) Planned Unit Developments on sites of not less than five (5) acres.
- 7) Funeral homes, mortuaries.
- 8) Lodges, fraternal organizations.
- 9) Medical clinics, professional offices.
- 10) manufactured home parks subject to the provisions of Section 11.
- 11) Home occupations.

#### Section 10.4 - Minimum Lot Dimensions.

- 1) Area: Single family 5,500 square feet, two family 8,250 square feet, three family 9,900 square feet.  
  
Multiple dwellings: Plus eight hundred (800) square feet for each additional unit over three.
- 2) Width: Uses permitted in R-3 District as specified in Section 9.4, plus an additional ten (10) feet for each additional unit over three.

- 3) Depth: One hundred ten (110) feet, plus an additional ten (10) feet for each portion of two additional residences over three.

Section 10.5 - Maximum Building Height, Width, and Length.

- 1) Maximum Building Height shall be two and one-half (2½) stories and not over thirty-five (35) feet in height.
- 2) The minimum size of all single and multi-family dwellings shall be twenty-four (24) feet in width and twenty-four (24) feet in length.
- 3) Maximum accessory building height shall be fifteen (26) feet.

Section 10.6 - Minimum Setback Requirements.

- 1) Front Yard: Twenty-five (25) feet.
- 2) Rear Yard: Twenty (20) feet.
- 3) Side Yard: Eight (8) feet. The side yard of a corner lot shall be twenty (20) feet.
- 4) Private garages with the main entry door facing the property line shall have a setback of twenty (20) feet.

Section 10.7 - Maximum Building Coverage.

Fifty-five percent (55%)

Section 10.8 - Signs.

As specified in Section 7.8 provided that signs for non-residential uses allowed as conditional uses in the R-4 District may be non-flashing illuminated and may have an area of not more than fifteen (15) square feet.

## SECTION 11

### R-5 MANUFACTURED HOMES

#### Section 11.1 - Intent.

This district is intended to provide for a medium density single family residential development of manufactured homes, protected as to its residential quality, amenity and values and conforming to the system of services available or to be provided and to provide such community facilities as will enhance the residential character of the area.

#### Section 11.2 - Permitted Uses.

- 1) Manufactured home parks or trailer coach parks meeting the requirements of the Minnesota Trailer Coach Park Law.
- 2) Temporary buildings for or during construction.
- 3) Private garages and storage sheds.
- 4) Uses permitted in R-1, R-2, R-3, and R-4 districts.<sup>2</sup>

#### Section 11.3 - Conditional Uses.

- 1) manufactured home or trailer coach sales lots on which unoccupied manufactured homes are parked for the purpose of inspection and sale.
- 2) Retail or service outlets intended to serve occupants of the manufactured home park.
- 3) Public utility buildings and structures.
- 4) Home occupations.
- 5) Condominiums

#### Section 11.4 - Minimum Dimensions.

Minimum area requirements for a manufactured home park site shall be ~~eight (8)~~<sup>two (2)</sup> acres<sup>1</sup> and shall be not less than one hundred fifty (150) feet in width. Eighty (80) percent of the lots within the manufactured home park shall be not less than four thousand (4,000) square feet in area and twenty percent (20%) of the lot shall be not less than three thousand (3,000) square feet in area. Minimum lot requirements may be reduced by ten percent (10%) provided such land is used to provide definable open space and recreation area within the manufactured home park. Such open space or recreation area shall not be areas included within any required yard or setback nor shall they include any area less than twenty (20) feet in length and width.

#### Section 11.5 - Maximum Building Height.

- 1) Twenty-four (24) feet or one and one-half (1½) stories.
- 2) Maximum accessory building height shall be fifteen (26) feet.

### Section 11.6 - Minimum Yard Requirements.

- 1) Front Yard: For manufactured home parks abutting on a federal or state highway or city arterial, the exterior front yard shall be not less than one hundred (100) feet from the centerline of said highway or forty-five (45) feet from said highway right-of-way, whichever is greater.

For lots abutting on all other roads, the exterior front yard shall not be less than seventy-five (75) feet from the centerline of said road or forty (40) feet from said road right-of-way line, whichever is greater.

No manufactured home shall be located closer than twenty (20) feet to the manufactured home park exterior front yard line. There shall be a front yard of not less than ten (10) feet at the front end of each manufactured home site within the manufactured home park.

- 2) Rear Yard: When a manufactured home park abuts a residential district, there shall be a minimum rear yard of fifty (50) feet between the rear property line of the manufactured home park and any manufactured home located therein. A minimum rear yard of twenty-five (25) feet shall be required for any manufactured home park abutting any other district. The minimum distance between manufactured homes within the manufactured home park shall be twenty (20) feet or the sum of the height of the two adjoining manufactured homes, whichever is greater. The point of measurement shall be a straight line at the closest point between the manufactured homes being measured.
- 3) Side Yard: When a manufactured home park abuts a residential district, there shall be a minimum side yard of fifty (50) feet between the side property line of the manufactured home park and any manufactured home located therein. A minimum side yard of twenty-five (25) feet shall be required for a manufactured home park abutting any other district. The minimum distance between manufactured homes within the manufacture home park shall be twenty (20) feet, or the sum of the heights of the two adjoining manufactured homes, whichever is greater. The point of measurement shall be a straight line at the closest point between the manufactured homes being measured.

### Section 11.7 - Maximum Building Coverage.

Fifty percent (50%) of the total manufactured home park area.

### Section 11.8 - Signs.

As specified in Section 10.8.

Section 11.9 - Site Improvements and Designs. Minimum Site Improvements.

The following shall be considered as minimum site improvements which shall be made in developing any manufactured home park.

- 1) Before approving an area for zoning as a R-5 Manufactured Home District, the Council shall require a detailed site plan and a written agreement with the developer of a manufactured home park specifying the improvements and the date they will be made.
- 2) To provide privacy for occupants of the manufactured home park, a twenty (20) foot greenbelt shall be located and maintained along all exterior boundary lot lines not bordering a street.
- 3) A landscaped area shall be located and maintained between the manufactured home park area and any bordering street.
- 4) All manufactured home lots shall be provided with a surface stand, or pad, large enough to cover the entire area underneath any manufactured home parked thereon. Said pad shall be surfaced with asphaltic concrete, or comparable material, of a minimum thickness of two (2) inches or with at least six (6) inches of crushed rock, or aggregate.
- 5) Access to a manufactured home park shall be so designed as to limit ingress and egress points in order to facilitate traffic movement and to control undesirable traffic.
- 6) The interior street system of a manufactured home park shall be designed to provide for convenient access to each manufactured home lot by means of proper located arterial, collector and local access streets.
- 7) A tornado shelter shall be constructed to allow maximum number of residents in manufacture home park to take shelter shall be constructed when five or more manufactured homes are located in a manufactured home park.

## SECTION 12

### R-6 PLANNED UNIT DEVELOPMENT

#### Section 12.1 - Purpose.

The purpose of the Planned Unit Development District is to offer an alternative zone to development as outlined in the residential, commercial, and industrial use districts of this ordinance.

Deviation from the definitive and precise requirements of the several districts is to be conditionally allowed as a Planned Unit Development if the particular areas to be developed can offer greater value to the community and can better meet the community's health, welfare, and safety requirements than if those same areas were to be developed in a single-purpose zone.

The Planned Unit Development may be multi-purpose in nature so that not only may it be residential, commercial or industrial but also it may contain a combination of these uses. Moreover, the Planned Unit Development, through the use of conditional use permits superimposes the regulations of this form of development over any underlying district regulations.

The Planned Unit Development may take any of the following forms:

- 1) Residential Planned Unit Development (PUD): The purpose of the Residential Planned Unit Development is to provide for the harmonious development of residential areas in such a manner:
  - a) that aesthetic qualities of the landscape may be preserved or created which would otherwise be impossible under the traditional one lot-one building concept.
  - b) that provisions may be made for natural non-geometric location of buildings within a site which will provide for economy of development through the use of good street and utility design.
  - c) that land uses consistent with or complementary to existing developments and the community's needs be encouraged.
- 2) Commercial Planned Unit Development: The purpose of the Commercial Planned Unit Development is to allow alternatives to the restrictions made mandatory in the commercial districts in such a manner that more efficient means of providing off-street parking, thoroughfare access, separation of pedestrian and vehicular traffic, stabilization of contiguous property values, buffering of adjacent non-commercial areas, and other general and pertinent planning considerations may be developed and utilized.

- 3) Industrial Planned Unit Development: The purpose of the Industrial Planned Unit Development is to promote the creation of integrated industrial areas providing design features and control standards for superior industrial developments. In particular, attention shall be given to improving aesthetics, architectural form and scale, traffic circulation, and buffers between industrial and non-industrial areas. And, as in all other Planned Unit Developments, exceptions from the specific regulations found in the zoning districts shall be made for developments which propose innovative or original schemes for the creation of a better urban environment.
- 4) Commercial Business Development Planned Unit Development: The purpose of the CBD Planned Unit Development is to encourage the reconstruction or renewal of areas in the Commercial Districts. In cases, whether mixed usage is a goal or not, the development shall insure standards which will provide safe, healthful, aesthetic, and uncongested use of the area. This Ordinance recognizes that in the Commercial districts, the dimension of height is an important factor so that in this Planned Unit Development mixed uses may take this space into account and the City shall judge the use of this space on the merits of the plan and on the general needs of the residents of the City.
- 5) Mixed Use Planned Unit Development: The purpose of the Mixed Use Planned Unit Development is to provide developers with a tool whereby tracts of land outside of the commercial districts may be developed for multiple uses provided the development is compatible with the needs of the residents of the City and in no way detracts from their general health, welfare, or safety. This section makes possible a mixture of land uses in such a manner that residential, commercial, and industrial land uses may be juxtaposed if they are both internally and externally compatible and complementary within themselves and with the remainder of the community. To provide for the proper utilization of land in a Mixed Use Planned Development, it must be assumed that only large tracts shall be determining the merits of any such proposal.

#### Section 12.2 - Planned Unit Development Projects.

- 1) This section makes provisions for Residential, Commercial, Industrial Central Business District, and Mixed Use Planned Unit Developments for tracts of land under single or unified ownership. Such Planned Unit Development Projects shall be developed in accordance with an over-all design as shown in a General Development Plan which shall not in any way be inconsistent with the general intents of this Ordinance.
- 2) Regulations:
  - a) All roadways and utilities within a Planned Unit Development shall be constructed to specifications established by the City Council. At the City Council's request, an agreement for the completion of this work shall be established by the City and the developer.
  - b) There shall be no standard minimum size requirement for any Planned Unit Development. It should be expected, however, that the size of the proposed

developments will be such that this form of development will be logical and such that the purposes of this Ordinance will not be defeated.

- c) The burden of justification for any Planned Unit Development project shall be the exclusive responsibility of the developer. He shall be responsible for providing the information and data required in this article. In addition, as the Planned Unit Development is an innovative approach, he shall provide any other data or information as may be required by the Planning Commission or the City Council.
- d) Upon approval of the Planned Unit Development by the City Council, the area will be subject to the stipulations of the conditional use permit and the area shall be rezoned to the Planned Unit Development District. The developer, when so requested, shall make periodic reports of development to the Planning Commission. Under no circumstances, however, shall deviation from the General Development Plan be allowed unless prior approval has been given by the City Council.
- e) Once the request for the conditional use permit and rezoning have been approved by the City Council and the resulting Ordinance becomes effective, the developer may begin construction. It shall be understood, however, that the Planned Unit Development District is in all cases conditional and that no departure from the General Development Plan shall be allowed without prior approval by the City Council. At the termination of the usage of any of the principal buildings in the Planned Unit Development, no new construction or new land use shall be undertaken. The Planned Unit Development District is contractual in nature and once those conditional and approved land uses and structures are no longer in use, the zoning shall revert to its previous classification. The developer shall be responsible for notifying the City of any discontinuance or variance from the conditions of an approved Planned Unit Development.
- f) Nothing in this article or this Ordinance shall be interpreted as negating the necessity of filing a plat as required by the City's Subdivision Regulations. In addition, nothing in this article shall be interpreted as defeating the purpose of the orderly and rational development of the City and of the environment.

Section 12.3 - Administrative Procedure.

- 1) Before any construction, the proponents of a Planned Unit Development project shall submit and receive approval of:
  - a) Preliminary Development Plan.
  - b) General Development Plan, and
  - c) Detailed Development Plan for the construction area.
- 2) The Preliminary Development Plan shall be submitted to the Planning Commission.

The plan shall include the proponent's general intentions regarding function and land use. The plan may be submitted for approval at the same time the Preliminary Plat is being considered.

- 3) After Planning Commission and City Council approval of the Preliminary Development Plan (and the Preliminary Plat where necessary) application for rezoning of the entire area to the Planned Unit Development District shall be made. Accompanying the request, there shall be a reproducible copy of the General Development Plan. The General Development Plan and the Final Plat may be submitted for approval concomitantly.

The General Development Plan shall indicate:

- a) The topographic surface of the entire area to be developed.
  - b) Points of ingress or egress excluding those of one and two family detached residences.
  - c) Recreation and other open space areas.
  - d) Parking areas for other than one and two family detached dwellings.
  - e) Land use of each specific lot or out lot as determined by the Final Plat.
- 4) After Planning Commission approval of the General Development Plan and after City Council approval of the rezoning request, the proponents shall submit a Detailed Development District provided the Final Plat has been approved and provided a plating agreement has been completed with the City. This Detailed Development Plan shall be accompanied by a request for a conditional use permit which, if granted, will specify the uses and conditions of development in the area delineated by this Final Plan by incorporating said Detailed Development Plan into the Ordinance. The submitted, reproducible plan at a minimum shall show:
    - a) Parking areas with stall arrangements for other than one and two family detached dwellings.
    - b) The size, bulk, location, arrangement and use of buildings other than one and two family detached dwellings. In addition where a CBD Planned Unit Development is proposed with mixed uses, floor plans with the various functional uses shall be included.
    - c) General landscaping of the area to exclude ornamental shrubs and plantings provided for in one and two family residential developments.
    - d) Facilities and uses of recreation area.
  - 5) Any deviation from the Detailed Development Plan after approval by the City Council shall be a violation of this Ordinance unless approved by the City Council following review and recommendation of the Planning Commission.

## SECTION 13

### C-1 CORE COMMERCIAL

#### Section 13.1 - Intent

This district is intended to provide a retail and service center for the City and all economic activities that provide jobs for its residents. It should not intrude on residential development, and residential development in this area should be discouraged as harmful to the economic development of the City.

#### Section 13.2 - Permitted Uses.

- 1) Retail uses conducted entirely within a building.
- 2) Eating and drinking establishments except drive-ins.
- 3) Personal service shops.
- 4) Financial institutions.
- 5) Offices, clinics, business schools.
- 6) Theaters, commercial amusement places.
- 7) Hotels, motels.
- 8) Lodges, fraternal organizations.
- 9) Institutional uses, churches.
- 10) Funeral homes, mortuaries.
- 11) Parking lots.
- 12) Public utility buildings and structures.
- 13) Temporary buildings for and during construction.
- 14) Apartments over business establishment.

#### Section 13.3 - Conditional Uses.

- 1) Retail sales lots including used cars.
- 2) Open storage lots included as part of a permitted use.
- 3) Billboard or outdoor advertising signs not exceeding six hundred (600) square feet.
- 4) Wholesale and storage establishments.
- 5) Gasoline service stations and auto repair garages.
- 6) Residences, if in conjunction with a non-residential establishment.
- 7) Day care Center
- 8) Multi-family dwelling
- 9) Condominiums

#### Section 13.4 - Accessory Uses.

- 1) Storage within a building, if accessory to a principal use.
- 2) Off-street parking spaces and loading berths.
- 3) Accessory buildings and uses customarily incidental to the above listed uses.

Section 13.5 - Minimum Lot Dimensions.

No minimum lot area or width is prescribed.

Section 13.6 - Maximum Building Height, Width, and Length.

- 1) Maximum Building Height shall be two and one-half (2½) stories and not over thirty-five (35) feet.
- 2) The minimum size of all single and multi-family dwelling shall be twenty-four (24) feet in width and twenty-four (24) feet in length.

Section 13.7 - Minimum Yard Requirements.

No yards are required provided that if a building abuts on a residential district there shall be a yard of not less than twenty (20) feet provided on the abutting side, which yard shall be screened from view of the residential district.

Section 13.8 - Maximum Building Coverage.

Eighty percent (80%)

Section 13.9 - Signs.

- 1) No flashing signs shall be permitted.
- 2) A sign of not more than four hundred (400) square feet on the facings of all its sides for any one building or for all the uses in the building is permitted.
- 3) Signs may not extend over a sidewalk or other public right-of-way for more than five (5) feet.

## SECTION 14

### C-2 HIGHWAY COMMERCIAL

#### Section 14.1 - Intent

This district is intended to provide roadside service for travelers, as well as for residents, and to provide for the development of activities that use land extensively. Such business activities should not be permitted to interfere with the movement of traffic near or within the amenities of the City.

#### Section 14.2 - Permitted Uses.

- 1) Motels.
- 2) Eating and drinking establishments including drive-in restaurants.
- 3) Gasoline service stations, truck stops.
- 4) Car washes and repair garages but not including open storage of dismantled vehicles.
- 5) Landscape, nursery or garden sales.
- 6) Public utility buildings and structures.
- 7) Temporary buildings for and during construction.
- 8) *Retail uses conducted entirely within a building.*
- 9) *Offices, clinics, business schools.*
- 10) *Theaters, commercial amusement places.*
- 11) *Personal service shops.*
- 12) *Auto, truck, trailer, and farm implement sales.*
- 13) *Marine and boat sales.*
- 14) *Bowling alleys, dance halls.*
- 15) *Miniature golf course, golf driving range and other commercial outdoor recreation activities.*

#### Section 14.3 - Conditional Uses.

- 1) Auto, truck, trailer, and farm implement sales.
- 2) Marine and boat sales.
- 3) Bowling alleys, dance halls.
- 4) Miniature golf course, golf driving range and other commercial outdoor recreation activities.
- 5) Combined business and residential uses.
- 6) Planned unit development for retail and service uses on site of four (4) or more acres.
- 7) Billboards and outdoor advertising signs not exceeding six hundred (600) square feet.
- 8) Condominiums

#### Section 14.4 - Accessory Uses.

- 1) Storage of goods related to sales establishments.
- 2) Off-street parking spaces and loading berths.
- 3) Accessory buildings and uses customarily incidental to the above listed uses.

Section 14.5 - Minimum Lot Dimensions.

- 1) Area: Five thousand (5,000) square feet.
- 2) Width: Fifty (50) feet.
- 3) Depth: One hundred (100) feet.

Section 14.6 - Maximum Building Height, Width, and Length.

- 1) Maximum Building Height shall be two and one-half (2½) stories and not over thirty-five (35) feet.
- 2) The minimum size of all single and multi-family dwellings shall be twenty-four (24) feet in width and twenty-four (24) feet in length.

Section 14.7 - Minimum Yard Requirements.

- 1) Front Yard: Thirty (30) feet.
- 2) Rear and Side Yards: None required provided that if a property abuts a residential district there shall be a yard of not less than twenty (20) feet provided on the abutting side, which yard shall be screened from view of the residential district.

Section 14.8 - Maximum Building Coverage.

Sixty percent (60%)

Section 14.9 - Signs.

- 1) No flashing signs shall be permitted.
- 2) A sign of not more than six hundred (600) square feet on the facings of all its sides for any one building or for all the uses in the building is permitted.
- 3) Signs may not extend over a sidewalk or other public right-of-way.

## SECTION 15

### M-1 INDUSTRIAL DISTRICT

#### Section 15.1 - Intent.

It is intended that this district provide for the activities that give employment to many of the City's residents. In this area, close to rail and highway transportation, the most advantageous sites for such activities are located. However, uses of land which adversely may affect the health or welfare of the people are prohibited.

#### Section 15.2 - Permitted Uses.

- 1) Gasoline service stations.
- 2) Automotive works and repair garages but not including the open storage of dismantled vehicles.
- 3) Landscape nursery or garden sales.
- 4) Public utility buildings and structures.
- 5) Lumber yards, building materials sales yards.
- 6) Auto, truck, trailer and farm implement sales.
- 7) Marine and boat sales.
- 8) Bottling and manufacturing.
- 9) Food processing plants.
- 10) Storage warehouses and open storage yards.
- 11) Transportation and freight terminals.
- 12) Contractor's offices, warehouses, storage yards.
- 13) Hay, grain, feed and fuel supply sales and storage.
- 14) Monument works.
- 15) Temporary buildings for and during construction.

#### Section 15.3 - Conditional Uses.

- 1) Billboards and outdoor advertising signs not exceeding six hundred (600) square feet.
- 2) Planned unit industrial development on sites of not less than ten (10) acres.
- 3) Any lawful use of land or building not expressly prohibited or provided for and which, by its nature, does not constitute either a public or private nuisance because of noise, dirt, soot, offensive odor or unsanitary condition.

#### Section 15.4 - Accessory Uses.

- 1) Off-street parking spaces and loading berths.
- 2) Accessory buildings and uses customarily incidental to the above listed uses.

Section 15.5 - Minimum Lot Dimensions.

- 1) Area: Ten thousand (10,000) square feet.
- 2) Width: One hundred (100) feet
- 3) Depth: One hundred (100) feet

Section 15.6 - Maximum Building Height, Width, and Length.

- 1) Maximum Building Height shall be two and one-half (2½) stories and not over thirty-five (35) feet.
- 2) The minimum size of all single and multi-family dwellings shall be twenty four (24) feet in width and twenty-four (24) feet in length.

Section 15.7 - Minimum Yard Requirements.

- 1) Front Yard: Thirty (30) feet.
- 2) Side Yard: Twenty (20) feet provided that where an M-1 Industrial District abuts a residential district a side yard of fifty (50) feet shall be provided on the abutting side, which yard shall be screened from view of the residential district.
- 3) Rear Yard: Thirty (30) feet provided that where an M-1 Industrial District abuts a residential district a rear yard of fifty (50) feet shall be provided on the abutting side, which yard shall be screened from view of the residential district.

Section 15.8 - Maximum Building Coverage.

Sixty percent (60%)

Section 15.9 - Signs.

- 1) No flashing signs shall be permitted.
- 2) A sign of not more than six hundred (600) square feet on the facings of all its sides for any one building or for all the uses in the building is permitted.
- 3) Signs may not extend over a sidewalk or other public right-of-way.

Section 15.10 – Sexually Oriented Businesses.

- 1) Location Restrictions. Adult use only bookstores, adult theaters, adult message parlors, adult conversations/rap parlors, adult saunas, adult entertainment centers, adult cabarets, adult health/sport clubs, adult steam room/bathhouse facilities and other sexually-oriented businesses may be operated or maintained only within the M-1 business district.

- 2) Regulated Uses. No adults-only bookstores, adult theaters, adult message parlor, adult conversation/rap parlor, health/sport club, adult steam room/bathhouse facility, or other sexually oriented business shall:
- (a) be operated or maintained within 1,000 feet of a residentially (R-1, R-2, R-3, R-4) zoned district;
  - (b) be operated or maintained within 1,000 feet of a church, licensed daycare facility, public library, public educational facility which serve persons age 17 or younger, elementary school, high school, place of worship, cemetery or elderly housing facility. Only one of the above regulated uses shall be allowed per block face.
  - (c) be operated or maintained within 2,000 feet of another such sexually-oriented business.
- 3) The distance limitations set forth herein shall be measured in a straight line from the main public entrances of said premises or from the lot lines of properties in residentially zoned districts.
- 4) No sexually oriented business shall be located in the same building or upon the same property as another such use.
- 5) No sexually oriented business shall be located in any place which is also used to dispense or consume alcohol.
- 6) Notwithstanding any other provision of this code, a sexually-oriented business shall not be permitted more than one sign advertising its business, which shall be an on-premise sign only. All such signs:
- (a) shall be flat wall signs;
  - (b) the amount of allowable sign area shall be one square foot of sign area per foot of lot frontage on the street;
  - (c) no merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk in front of the building;
  - (d) window areas shall not be covered or made opaque in any way. No sign shall be placed in any window. A one square foot sign may be placed on the door to state house of operation and admittance to adults only.

(e) no sign shall contain any flashing lights, moving elements, or mechanically changing messages.

(f) no sign shall contain any depiction of the human form or any part thereof.

(g) no sexually-oriented business may have any off-premise sign.

#### 15.10.7 - Definitions

- a) Adults –only bookstore. An establishment having as a substantial or significant portion of its stock in trade, books, magazines, films for sale or viewing on premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined below, or an establishment with a segment or section devoted to the sale or display of such material, for sale to patrons therein.
- b) Adults-only motion picture theater. An enclosed building used regularly and routinely for presenting programs, material distinguished or characterized by an emphasis on matter depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation by patrons therein.
- c) Massage parlor. A massage parlor which restricts minors by reason of age, or which provides the service of “massage,” if such service is distinguished by an emphasis on nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation or participation by patrons therein.
- d) Nudity. The showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast, with less than a fully opaque covering of any portion thereof below the top of the nipple, or depiction of covered male genitals in a discernibly turgid state.
- e) Adult Rap Parlor. A conversation/rap parlor which excludes minors by reason of age, and which provides the service of engaging in listening to conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein for patrons.
- f) Adult Sauna. An establishment or place primarily in the business of providing (i) a steam bath or hot air bathing, and/or (ii) massage services which excludes minors by reason of age, where such distinguished or characterized by an emphasis on nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein for patrons.
- g) Sexual Conduct. Acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person’s unclothed genitals, pubic area, buttocks, or if such person be a

female, her breast.

- h) Sexual Excitement. The condition of human male or female genitals when in a state of sexual stimulation or arousal.
- i) Sadomasochistic Abuse. Flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
- j) Adult Entertainment Center. An enclosed building or a part of an enclosed building, wherein an admission is charged for entrance into the facility, or for food, alcoholic beverages or other beverages intended for consumption within the facility, herein may be observed or which contains one or more coin-operated mechanisms which when activated permit a customer to view one or more live persons unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola, or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals.
- k) Adult Cabaret. A building or portion of a business used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age, or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation or participation by patrons therein.
- l) Adult Health/Sport Club. A health/sport club which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on “specified sexual activities” or nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined herein, for observation or participation by patrons therein.
- m) Adult Steam Room/Bathhouse Facility. A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning relaxing or reducing agent, if such building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, as defined herein, for observation or participation by patrons therein.
- n) Sexually Oriented Business. An adult bookstore, adult theater, adult massage parlor, adult conversation/rap parlor, adult sauna, adult entertainment center, adult cabaret, adult health/sport club, adult steam room/bathhouse facility, or any other business whose primary business activity characterized by emphasis on matters depicting, describing, or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse as defined herein.

## SECTION 16

### ZONE M-2

#### AN INDUSTRIAL, COMMERCIAL & BUSINESS DISTRICT

##### Section 16.1 - Intent.

This district is to provide for activities that create employment and to add economic vitality to the community. This area is a developed Industrial Park with water, sewer, electric power and telephone service on site and natural gas is near by. All residential land use is prohibited.

##### Section 16.2 - Permitted Use.

- 1) Gasoline service stations.
- 2) Automotive works and repair garages but not the open storage of dismantled vehicles.
- 3) Landscape, nursery and garden sales.
- 4) Public utility buildings.
- 5) Building materials sales yards.
- 6) Auto, truck, trailer and farm implement sales, and service.
- 7) Marine and boat sales.
- 8) Bottling and manufacturing.
- 9) Food processing plants.
- 10) Warehouses and open storage yards.
- 11) Transportation and freight terminals.
- 12) Contractor's offices, warehouses, storage yards.
- 13) Fertilizer, seed & fuel sales.
- 14) Monument works.
- 15) Bowling Alleys
- 16) Office Buildings
- 17) Wholesale Outlets
- 18) Temporary buildings for and during construction.
- 19) Billboards & signs not exceeding six hundred (600) square feet.
- 20) Off street parking
- 21) Industrial sales
- 22) Veterinary dispensary and small animal hospital

##### Section 16.3 - Conditional Uses. 5-A

- 1) Retail Sales not specifically included in Permitted Uses
- 2) Convention Center
- 3) Any use of land not expressly prohibited or provided for which creates employment and economic advantage.

Section 16.4 - Minimum Lot Dimensions.

- 1) Area: Ten thousand (10,000) square feet.
- 2) Width: One hundred (100) feet.
- 3) Depth: One hundred (100) feet.

Section 16.5 - Minimum Yard Requirements.

- 1) Front Yard: Thirty (30) feet.
- 2) Side Yard: Twenty (20) feet. Where the side yard abuts a residential district the side yard shall be screened from view of the residential district if requested by the residential property owner.
- 3) Rear Yard: Twenty (20) feet. Where the rear yard abuts a residential district the rear yard shall be screened from view of the residential district if requested by the residential property owner.

Section 16.6 - Maximum Building Coverage.

Sixty percent (60%)

Section 16.7 - Signs.

- 1) Flashing signs are prohibited.
- 2) Signs may not extend over a public right-of-way.

## SECTION 17

### CONDITIONAL USES

#### Section 17.1 - Intent

Conditional use permits for use other than those specifically permitted in each district, are intended to provide for the needs of the community in areas where they may be appropriate, but where special safeguards may be needed to protect other permitted uses from their adverse effects.

#### Section 17.2 - Conditional Use Requirements.

- 1) No land or structure may be used for any purpose, or designed, constructed or altered for such purpose in a district where such use is not listed as permitted use, unless such use is provided for as a conditional use in this district and a conditional use permit is applied for in writing and granted by the City Council.
- 2) A conditional use permit shall only be granted by the Council based upon a statement of findings by the Planning Commission that:
  - a) The use conforms generally to the objectives and the intent of the Ordinance, and
  - b) Such uses will not be detrimental in any way to nearby affected properties or their occupants, and
  - c) Such uses (except in the case of planned unit development) meet the overall density, coverage, yard, height and all other regulations of the district in which they are located, and
  - d) A public hearing has been held thereon by the Planning Commission.

#### Section 17.3 - Procedures on Applications for Conditional Use.

- 1) An application for a conditional use shall be filed with the Zoning Official.
- 2) The Zoning official shall transmit the application to the Planning Commission immediately upon receipt of the application and list of record owners.
- 3) The Planning Commission shall set a date of public hearing on the application for the conditional use permit which hearing shall be held no later than thirty (30) days after receipt of the application from the Zoning Official.

- 4) The Zoning Official shall notify the owners of record of all property lying within ~~three hundred feet~~<sup>1</sup> three hundred fifty (350)<sup>1</sup> feet ~~or the nearest five property owners in two directions~~<sup>1</sup> of the lot for which the conditional use is requested by U.S. mail not later than ten (10) days prior to the hearing . Similar notice shall also be published in the official City Newspaper prior to the hearing, and postal at the City Hall at least ten (10) days prior to the hearing:
- 5) The mailed and published notices shall state:
  - a) The date, time and place of the public hearing.
  - b) The purpose of the public hearing.
  - c) The substance of the proposal in the application.
- 6) The public hearing shall be held in accordance with the rules adopted by the Planning Commission. The application for conditional use shall be described and any opinion in favor or opposed may be heard.
- 7) The Planning Commission shall then make its findings and submit a recommendation to the City Council for approval or rejection of the application and may specify conditions which will improve the appearance of the property, to reduce any of its adverse effects on nearby property or its occupants, to preserve the character of the area, to protect or enhance the view from this or other properties or make it more acceptable in other ways.
- 8) The Planning Commission shall report its findings and recommendation to the City Council within ten (10) days after the public hearing and shall send a copy thereof to the applicant.

In the course of its deliberations, the Planning Commission may consult such people as may be deemed helpful or necessary.

Section 17.4 - Conditional Approval.

The City Council may make the granting of a conditional use permit subject to such additional reasonable limitations or conditions as it may impose to enhance the appearance of the property, to reduce any of its adverse effects on nearby property or its occupants, to preserve the character of the area, to protect or enhance the view from this or other properties, or to make it more acceptable in other ways.

Section 17.5 - Action Upon Approval.

Whenever the City Council approves an application for a conditional use, a permit therefore shall be issued by the Zoning Official, who shall be responsible for determining that the conditions imposed by the City Council are met.

Section 17.6 - Failure to Comply.

Failure to comply with such conditions shall void the permit.

## SECTION 18

### ADMINISTRATION AND ENFORCEMENT

#### Section 18.1 - Administration and Enforcement.

The Zoning Official and such other staff assistance as is provided by the City Council shall administer and enforce this Ordinance.

- 1) If the Zoning Official shall find that any provisions of this Ordinance is being violated he shall notify in writing the person responsible for such violation and order corrective actions.
- 2) The Zoning Official shall order discontinuance of illegal use of land, structures, or buildings; removal of illegal buildings or structures or of additions or alterations or structural changes discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance to prevent its violation.

#### Section 18.2 - Zoning Permit Requirement

No building or other structure shall be erected, moved, added to, or structurally altered without a valid building/zoning permit.

Buildings of 120 square feet of gross floor area are exempt from building/zoning permits.

#### Section 18.3 - Procedures on Application for Zoning Permit

- 1) No such zoning permit shall be issued except in conformity with all of the provisions of this Ordinance, except upon written order from the Board of Appeals and Adjustment *on appeal or a conditional use permit*<sup>1</sup> approved by the City Council.
- 2) An application for a zoning permit shall be filed with the Zoning Official.
- 3) All applications for zoning permits shall be accompanied by building and plot plans in duplicate, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lots of buildings already existing, if any; and the location and dimensions of the proposed building or alternation.
- 4) The application shall include such other information as lawfully may be required, including existing or proposed building or alternation; existing or proposed use of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this Ordinance.
- 5) The Zoning Official with staff assistance shall approve or disapprove the application. If approved, the Zoning Official shall issue a Zoning Permit. If disapproved, the Zoning

Official shall notify the applicant of the reason for disapproval.

- 6) One copy of the plan shall be returned to the applicant after such copy either is approved or disapproved. The second copy of the plans, similarly marked, shall be retained by the City.
- 7) The zoning permit shall be displayed on the premises.

Section 18.4 - Expiration of Zoning Permits.

- 1) If the work described in any zoning permit has not begun within one (1) year from the date of issuance, the said permit shall expire and it shall be canceled and written notice thereof shall be given.
- 2) If the work described in any zoning permit has not been substantially completed within three (3) years of the date of issuance, the said permit shall expire and be canceled and written notice thereof shall be given. Further work, as described in the canceled permit, shall not proceed unless a new zoning permit has been obtained.

Section 18.5 - Conformity of Construction of Use.

Zoning permits or occupancy permits issued on the basis of plot plans and applications approved by the Zoning Official authorize only the use, arrangement and construction set forth in such plans, and no other use or arrangement. Use, arrangement, or construction at variance with that authorized plot plan shall be deemed a violation of this Ordinance and is punishable as provided in Section 19 in this Ordinance.

Section 18.6 - Duties of Zoning Official, Board of Appeals and Adjustments and the City Council

It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Planning Commission and that such questions shall be presented to the Board of Appeals and Adjustments only on appeal from the decision of the Planning Commission and that recourse from the decision of the Board of Appeals and Adjustments shall be to the courts, as provided by law.

- 1) It is further the intent of this Ordinance that the duties of the City Council in connection with this Ordinance shall not include hearing and deciding questions of interpretation, or enforcement that may arise. The procedure for deciding such questions shall only be as stated in this section and this Ordinance.
- 2) Under this Ordinance, the City Council shall have only the duties of:
  - a) Considering and adopting or rejecting proposed amendments or the repeal of this Ordinance, as provided by law.
  - b) Establishment of a schedule of fees and charges as stated in Section 18.7

below.

- c) Approving zoning permits for conditional uses, after hearing thereon and recommendations by the Planning Commission.
- d) Exercising their power and duties on the Board of Adjustment.

Section 18.7 - Schedule of Fees, Charges, Expenses.

The City Council hereby may establish a schedule of fees, charges, and expenses and a collection procedure for zoning permits, appeals and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the Zoning Official and may be altered or amended only by the City Council.

- 1) No permit, certificate, conditional use or variance shall be issued unless or until such costs, charges, fees or expenses listed below have been paid in full nor shall any action be taken on proceedings before the Board of Appeals and Adjustment or Planning Commission, unless or until preliminary charges and fees have been paid in full; if there are such.
- 2) Fees for appeals shall be the same as for a variance except that when an appeal is upheld the full amount shall be refunded.

- Fees:
- a) Zoning Permit
  - b) Variance Application
  - c) Conditional Use Application
  - d) Zoning Change Application
  - e) Appeals

## SECTION 19

### BOARD OF APPEALS AND ADJUSTMENTS

#### Section 19.1 - Board of Appeals and Adjustments.

A Board of Appeals and Adjustments is hereby created which shall consist of a ~~designated elected official-city council member~~<sup>1</sup>, one member of the Planning Commission and another appointed member of the community.

- 1) The members shall annually elect one of their members as chairman.
- 2) Members shall serve without additional compensation above the elected official compensation but shall be entitled to reimbursement for expenses incurred in performance of their duties.
- 3) A majority of the members of the Board shall constitute a quorum for the transaction of the business.
- 4) The Board shall keep a written record of all its proceedings which shall include; minutes of its meetings showing the vote of each member or if absent or failing to vote or an indication of such fact; record of its examination and official actions; its findings and final orders indicating the action taken on each matter heard by the Board.
- 5) The Board shall adopt rules for its own proceedings which shall provide among other things for regular or special meetings at the call of the chairman and at such time as the members may determine and also provide for a time limit within which appeals may be taken as provided herein.

#### Section 19.2 - Powers and Duties of Board.

The Board of Appeals and Adjustment shall have the power and duty of hearing and deciding appeals or requests in the following cases.

- 1) Appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the Zoning Official in the enforcement of this Ordinance.
- 2) Requests for variance from the literal provisions of this Ordinance or instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration.

#### Section 19.3 - Procedure for Appeals and Variances.

*Appeal to district court must be within thirty (30) days of service of such order or decision and if appeal is not timely taken, the order or decision is not subject to judicial review.*<sup>1</sup> ~~Appeals from an administrative order or requests for variances from the literal provisions of this Ordinance shall be made within the time limits specified.~~<sup>1</sup>

- 1) Decisions of the Board shall be final subject to review by ~~court~~ *District Court pursuant to Minnesota Statute Section 462-361<sup>1</sup>*.
- 2) ~~Appeals and~~<sup>4</sup> Requests for variances shall be made by filing a notice of appeal or variance with the secretary of the Board.
- 3) A notice of appeal stays all proceedings.
- 4) ~~Upon receipt of the notice of appeal or variance~~ *Upon receipt of the request for a variance,*<sup>1</sup> the secretary of the Board shall immediately transmit to the Board all papers constituting the record.
- 5) Within ten (10) days after the ~~notice of appeal or request for~~<sup>1</sup> a variance is filed with the Board, it shall set a date for hearing hereunto which shall be held no later than ~~thirty (30)~~ *sixty (60)*<sup>1</sup> days after the notice is filed and hear any parties who may appear in person or by agent or attorney.
- 6) Notice of the time and place of hearing shall be published once in the official newspaper of the City as least ten (10) days in advance of the hearing.
- 7) Notice of time and place of hearing shall be mailed not less than ten (10) days in advance of the hearing to the person filing the notice of appeal or variance and to the owner or owners of property within ~~three hundred (300)~~ *three hundred fifty (350)*<sup>1</sup> feet of the subject property. ~~or the nearest five property owners in two directions of the lot.~~<sup>1</sup>
- 8) The City Planning Commission, or a representative authorized by it, shall prior to the hearing on an appeal *or request for a variance*<sup>1</sup>, review and report to the Board. ~~upon the appeal.~~<sup>1</sup>
- 9) The Board may refuse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from in its decision on appeals from an administrative order.
- 10) The Board may prescribe appropriate conditions and safeguards to ensure compliance and to protect adjacent properties when granting a variance.
- 11) The concurring vote of a quorum member of the Board shall be necessary to reverse an administrative order, requirement, decision or determination or to effect any variance in the application of this Ordinance.
- 12) The Board shall, within thirty (30) days of the date of the hearing, make its order deciding the matter and shall serve by mail, a copy of such order upon the persons filing the notice of appeal *to request a variance*<sup>1</sup> ~~or variance~~.

Section 19.4 - Variance Criteria.

A variance from the terms of this Ordinance shall not be granted by the Board unless and until the Board shall make findings that the following conditions exist:

- 1) 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 building in the same district.
- 2) The 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.
- 3) The special conditions and circumstances do not result from the actions of the applicant.
- 4) Granting the variance requested will not confer on the applicant any special privileges that is denied by this Ordinance to other lands, structures, or buildings in the same district.
- 5) The reasons set forth in application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure.
- 6) The granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
- 7) No nonconforming use of neighboring lands, structure or buildings in the same district, and no permitted or nonconforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
- 8) Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

## SECTION 20

### PLANNING COMMISSION

Section 20.1 Establishment and Composition. A Planning Commission, composed of *four*<sup>1</sup> *five*<sup>1</sup> members appointed for three (3) year terms, and ~~including~~<sup>1</sup> a City Council representative and City Engineer ~~and the building inspector~~<sup>1</sup> as ex-officio members only and not included in this number, is hereby established.

- 1) The members shall annually elect one of their members as chairman.
- 2) Members shall serve without additional compensation above the elected official compensation but shall be entitled to reimbursement for expenses incurred in performance of their duties.
- 3) A majority of the members of the Board shall constitute a quorum for the transaction of the business.
- 4) The Board shall keep a written record of all its proceedings which shall include; minutes of its meetings showing the vote of each member or if absent or failing to vote or an indication of such fact; record of its examination and official actions; its findings and final orders indicating the action taken on each matter heard by the Board.
- 5) The Board shall adopt rules for its own proceedings which shall provide among other things for regular or special meetings at the call of the chairman and at such time as the members may determine and also provide for a time limit within which appeals may be taken as provided herein.

Section 20.2 Duties. The Planning Commission shall have the following duties:

1. Review Zoning Permits, *requests for*<sup>1</sup> variances, changes and other necessary items relating to the Zoning Ordinance.
2. To interpret and enforce the intent of the ordinance.
3. To prepare and recommend to the Council plans for specific improvements and to aid the Council in the development and completion of such projects.
4. To hear, review and offer recommendations to the Council on applications for conditional uses.

5. To initiate procedures for changes and amendments to the zoning provisions and to hold the required public hearing, and review and recommend appropriate action to the Council in the manner specified.
6. To review and report to the Board on Appeals *and Adjustments on appeals*<sup>1</sup> from administrative orders *and to report to the Board of Appeals and Adjustments on petitions for variances.*<sup>1</sup>

## SECTION 21

### AMENDMENTS

#### Section 21.1 - Amendments.

Amendments, including changes in the Use District boundaries or in the text of this Ordinance, may be adopted upon the concurring vote of all members of the Council

#### Section 21.2 - Initiation of Amendment.

Amendments to this Ordinance may be initiated in one of the following manners:

- 1) By motion of the City Council.
- 2) By motion of the Planning Commission.
- 3) By verified petition of not less than fifty percent (50%) of the property owners within three hundred (300) feet or the nearest five property owners in two directions of a proposed Use District boundary change filed with the Zoning Official.

#### Section 21.3 - Planning Commission Review.

Any amendment not initiated by the Planning Commission shall be referred to it for study and report and shall not be acted upon by the City Council until it has received the recommendation of the Planning Commission or until sixty (60) days have elapsed from the date of referral.

- 1) Before it makes its recommendation to the City Council, the Planning Commission shall hold at least one (1) public hearing on the proposed amendment.
- 2) Notice of the time, date, and purpose of said hearing shall be published at least once in the official newspaper of the City at least ten (10) days before the date of the hearing. Planning commission members shall receive written notice of the public hearing at least ten (10) days prior to the date of the hearing.
- 3) Following the hearing, the Planning Commission shall make a written report of its findings and recommendations on the proposed amendment and shall file a copy of the report with the City Council designate for transmittal to the Council.
- 4) Failure of the Planning Commission to so report within sixty (60) days, following referral of the proposed amendment to it by the City Council shall be deemed approval of the proposed amendment.

Section 21.4 - City Council Action.

Upon the filing of the report of the Planning Commission or upon expiration of the sixty (60) days, the City Council may hold such public hearings on the proposed amendment as it deems advisable. At the conclusion of the hearings, if any, the Council may adopt the proposed amendment or any part thereof as it deems advisable.

## SECTION 22

### VIOLATIONS AND PENALTIES

#### Section 22.1 - Violations.

The owner, lessee, or renter of a building or premises in or upon which a violation of any provision of this Ordinance has been committed or shall exist; or the lessee of the entire building or entire premises in or upon which violation has been committed or shall exist; or the owner or lessee of any part of the building or premises in or upon which such violation has been committed or shall exist, shall be served with an order to remove said violation.

#### Section 22.2 - Penalties.

If the violator has not complied with the said order within thirty (30) days after being so served, the violator shall be guilty of a misdemeanor.

#### Section 22.3 – Fees.

If a zoning permit has not been applied for prior to commencing work, the fee for said zoning permit shall be two (2) times the current rate.

## SECTION 23

### INTERPRETATION

#### Section 23.1 - Interpretation.

In interpreting and applying the provisions of this Ordinance they shall be heard to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare. It is not the intention of this Ordinance to interfere with or annul any easement, covenant or other agreement between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of building or premises or upon height of building or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or permits or by easement, covenants, or agreements, the provisions of this Ordinance shall govern.

## SECTION 24

### VALIDITY

#### Section 24.1 - Validity.

Should any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof, other than the part so declare to be invalid.

SECTION 25

EFFECTIVE DATE

Section 25.1

This ordinance shall become effective after its passage and publication.

PASSED BY THE CITY COUNCIL IN AND FOR THE CITY OF FLOODWOOD, ST. LOUIS COUNTY, MINNESOTA THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
David DeNoyer, Mayor

\_\_\_\_\_  
Patti Karpik, City Clerk

**VARIANCE FEE SYSTEM RESOLUTION**

WHEREAS, the City of Floodwood has determined fees for zoning variance, and

WHEREAS, Section 18.7 of the City of Floodwood Zoning Ordinance allows for establishment of a schedule of fees, charges and expenses for zoning variance pertaining to said ordinance.

NOW, THEREFORE BE IT RESOLVED that the City of Floodwood does hereby adopt the following Zoning Variance Fee:

\$25.00 – if all items noted in the zoning permit are complete.

\$100.00 – if items noted in the zoning permit are incomplete.

Zoning variance fees shall be established to include administration, legal, mailing and other such costs to complete said variance with a minimum for \$25.00.

I CERTIFY THAT the above resolution was adopted by the City of Floodwood.

SIGNED:

ATTEST:

\_\_\_\_\_  
David DeNoyer

\_\_\_\_\_  
Patti Karpik

Mayor \_\_\_\_\_  
Date

Clerk \_\_\_\_\_  
Date

**ZONING CHANGE FEE SYSTEM RESOLUTION**

WHEREAS, the City of Floodwood has determined fees for zoning changes, and

WHEREAS, Section 18.7 of the City of Floodwood Zoning Ordinance allows for establishment of a schedule of fees, charges and expenses for zoning changes pertaining to said ordinance.

NOW, THEREFORE BE IT RESOLVED that the City of Floodwood does hereby adopt the following Zoning Change Fee:

\$25.00 – if all items noted in the zoning permit are complete.

\$100.00 – if items noted in the zoning permit are incomplete.

Said zoning change fee shall be established by the City Council upon application for zoning change and may include such administration and legal fees to complete the zoning change with a minimum fee of \$25.00.

I CERTIFY THAT the above resolution was adopted by the City of Floodwood.

SIGNED:

ATTEST:

\_\_\_\_\_  
David DeNoyer

\_\_\_\_\_  
Patti Karpik

Mayor \_\_\_\_\_  
Date

Clerk \_\_\_\_\_  
Date

**CONDITIONAL USE PERMIT FEE SYSTEM RESOLUTION**

WHEREAS, the City of Floodwood has determined fees for conditional use permits, and

WHEREAS, Section 18.7 of the City of Floodwood Zoning Ordinance allows for establishment of a schedule of fees, charges and expenses for zoning variance pertaining to said ordinance.

NOW, THEREFORE BE IT RESOLVED that the City of Floodwood does hereby adopt the following Conditional Use Permit Fee in reference to the zoning districts:

Fees for conditional use permits shall be the same as those for the zoning permits, both fees of which shall be submitted at the time of application.

I CERTIFY THAT the above resolution was adopted by the City of Floodwood.

SIGNED:

ATTEST:

\_\_\_\_\_  
David DeNoyer

\_\_\_\_\_  
Patti Karpik

Mayor \_\_\_\_\_

Date

Clerk \_\_\_\_\_

Date

**CITY OF FLOODWOOD**

**APPLICATION FOR CONDITIONAL USE PERMIT  
(ORDINANCE REFERENCE - SECTION 17)**

NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
TELEPHONE NUMBER \_\_\_\_\_

1. LEGAL DESCRIPTION OF PROPERTY

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. LOCATION OF PROPERTY (ADDRESS, STREET/ROAD)

\_\_\_\_\_

3. EXISTING ZONING CLASSIFICATION \_\_\_\_\_

4. DESCRIPTION OF CONDITIONAL USE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. WHEN APPLICABLE, APPROPRIATE DETAILED PLANS, SHOWING THE LOCATION, SIZE, USE AND ARRANGEMENT OF ALL EXISTING AND PROPOSED BUILDINGS, STRUCTURES, DRIVEWAYS, DRAINAGE ALL IN RELATION TO LOT LINES SHALL BE INCLUDED WITH THIS APPLICATION.

6. APPROPRIATE FEE(S) SHALL BE INCLUDED.

7. APPLICANT SIGNATURE \_\_\_\_\_

**CITY OF FLOODWOOD**

**APPLICATION FOR VARIANCE TO ZONING ORDINANCE  
(ORDINANCE REFERENCE - SECTION 19)**

NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
TELEPHONE NUMBER \_\_\_\_\_

1. LEGAL DESCRIPTION OF PROPERTY

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. LOCATION OF PROPERTY (ADDRESS/STREET/ROAD)

\_\_\_\_\_

3. EXISTING ZONING CLASSIFICATION \_\_\_\_\_

4. PROPOSED VARIANCE FROM ORDINANCE. PLEASE DESCRIBE, IN DETAIL, AND INCLUDE APPROPRIATE DRAWINGS TO SCALE (WHERE APPLICABLE) THAT WILL ASSIST IN REVIEWING THE APPLICATION.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. APPROPRIATE FEES SHALL BE INCLUDED.

6. APPLICANT SIGNATURE \_\_\_\_\_

**CITY OF FLOODWOOD**  
**APPLICATION FOR ZONING CHANGE**  
**(ORDINANCE REFERENCE - SECTION 21)**

NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
TELEPHONE NUMBER \_\_\_\_\_

1. LEGAL DESCRIPTION OF PROPERTY

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. LOCATION OF PROPERTY (ADDRESS, STREET/ROAD)

\_\_\_\_\_

3. EXISTING ZONING CLASSIFICATION \_\_\_\_\_

4. PROPOSED ZONING CLASSIFICATION \_\_\_\_\_

5. PLEASE DESCRIBE, IN DETAIL, THE PROPOSED ZONING CHANGE, INCLUDING WHY YOU WANT THE ZONING CHANGE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. PROPOSED USE OF PROPERTY

\_\_\_\_\_

7. APPROPRIATE FEES SHALL BE INCLUDED.

8. ATTACH VERIFIED PETITION OF NOT LESS THAN FIFTY (50) PERCENT OF THE PROPERTY OWNERS WITHIN THREE HUNDRED (300) FEET OF A PROPOSED USE DISTRICT BOUNDARY CHANGE.

**CITY OF FLOODWOOD**  
**ZONING - CERTIFICATE OF OCCUPANCY**

1. ZONING PERMIT NUMBER \_\_\_\_\_

2. ADDRESS \_\_\_\_\_

3. NAME AND ADDRESS OF OWNER \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. DESCRIPTION OF PORTION OF BUILDING FOR WHICH CERTIFICATE IS ISSUED:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. ZONING OFFICIAL \_\_\_\_\_

DATE \_\_\_\_\_