

Chapter 32

ZONING¹

Article I. In General

- Sec. 32-1. Definitions.**
- Sec. 32-2. Intent and purpose.**
- Sec. 32-3. Interpretation and construction; cumulative effect.**
- Sec. 32-4. Compliance.**
- Sec. 32-5. Application to existing structures.**
- Sec. 32-6. Exception for single-family residential homes.**
- Sec. 32-7. Incorporation by reference.**
- Sec. 32-8. Opt-Out of Minnesota Statutes, Section 462.3593.**
- Secs. 32-9--32-30. Reserved.**

Article II. Administration and Enforcement

Division 1. Generally

- Sec. 32-31. Administrator.**
- Sec. 32-32. Violations.**
- Sec. 32-33. Supremacy of more restrictive provisions.**
- Sec. 32-34. Fees.**
- Sec. 32-35. Certificate of compliance.**
- Secs. 32-36--32-58. Reserved.**

Division 2. Board of Adjustment and Appeals; Appeals and Variances

- Sec. 32-59. Board of adjustment and appeals.**
- Sec. 32-60. Variances.**
- Secs. 32-61--32-78. Reserved.**

Division 3. Nonconformities

- Sec. 32-79. Continuation of nonconforming uses.**
- Sec. 32-80. Dimensionally substandard buildings or structures.**
- Sec. 32-81. Unlawful uses, buildings and structures.**
- Sec. 32-82. Permit holders and permit applicants.**
- Sec. 32-83. Change from one nonconforming use to another.**
- Sec. 32-84. Change of use with approval of the board of adjustment.**
- Sec. 32-85. Restoration of nonconforming buildings or structures.**
- Sec. 32-86. Discontinuation of use.**
- Secs. 32-87--32-115. Reserved.**

Division 4. Amendments

¹ State Law References: Zoning, Minn. Stats § 462.357

GRANT CODE

- Sec. 32-116. Generally.
- Sec. 32-117. Applications.
- Sec. 32-118. Hearing.
- Sec. 32-119. Report to city council.
- Sec. 32-120. City council action on application.
- Sec. 32-121. Re-application.
- Secs. 32-122--32-140. Reserved.

Division 5. Conditional Use Permits

- Sec. 32-141. Generally.
- Sec. 32-142. Existing uses.
- Sec. 32-143. Application.
- Sec. 32-144. Planning commission hearing.
- Sec. 32-145. Burden of proof.
- Sec. 32-146. Standards.
- Sec. 32-147. Conditions.
- Sec. 32-148. Planning commission report.
- Sec. 32-149. City council action on application.
- Sec. 32-150. Denial.
- Sec. 32-151. Reapplication.
- Sec. 32-152. Amended applications.
- Sec. 32-153. Recording of copy with county.
- Sec. 32-154. Compliance with permit; violation of conditions.
- Sec. 32-155. Expiration and suspension.
- Sec. 32-156. Annual review of issuances.
- Secs. 32-157--32-180. Reserved.

Division 6. Other Permits and Certificate of Occupancy

- Sec. 32-181. Building permit and compliance with building code required.
- Sec. 32-182. Moving permit.
- Sec. 32-183. Septic permit.
- Sec. 32-184. Driveway access permit.
- Sec. 32-185. Grading permit required; exceptions.
- Sec. 32-186. Sign permits.
- Sec. 32-187. Certificate of occupancy.
- Secs. 32-188--32-212. Reserved.

Division 7. Environmental Assessment (EAW) and Impact Statements (EIS)

- Sec. 32-213. Environmental assessment worksheet.
- Sec. 32-214. Environmental impact statement.
- Sec. 32-215. Time delays in permitting process.
- Sec. 32-216. Halting of construction projects.
- Sec. 32-217. Reimbursement of city expenses and deposits.
- Secs. 32-218--32-242. Reserved.

Article III. Zoning Districts Established; Permitted Uses; Dimensional Standards

ZONING

Division 1. Generally

- Sec. 32-243. Districts established.
- Sec. 32-244. Zoning district map.
- Sec. 32-245. Table of uses.
- Sec. 32-246. Minimum area, maximum height and other dimensional requirements.
- Sec. 32-247. Permitted encroachments on required yards.
- Sec. 32-248. Setbacks.
- Sec. 32-249. Height.
- Secs. 32-250--32-276. Reserved.

Division 2. Overlay Districts

- Sec. 32-277. Intent; list of overlay districts; regulations.
- Sec. 32-278. Floodplain (FP) overlay district.
- Sec. 32-279. Airport overlay (AZ) district.
- Sec. 32-280. Lake and shoreland management overlay district.
- Sec. 32-281. Agricultural land preservation (AP) district.
- Secs. 32-282--32-310. Reserved.

Article IV. Supplemental Regulations

Division 1. Generally

- Sec. 32-311. Minimum standards; purpose.
- Sec. 32-312. The principal building.
- Sec. 32-313. Accessory buildings and other non-dwelling structures.
- Sec. 32-314. Public convenience structures.
- Sec. 32-315. Fences.
- Sec. 32-316. Exterior storage.
- Sec. 32-317. Environmental pollution issues.
- Sec. 32-318. Screening.
- Sec. 32-319. Landscaping.
- Sec. 32-320. Reasonable maintenance required.
- Sec. 32-321. Lighting, lighting fixtures and glare.
- Sec. 32-322. Off-street loading and unloading areas.
- Sec. 32-323. Traffic control.
- Sec. 32-324. Explosives permitted only by exception.
- Sec. 32-325. Fallout shelters.
- Sec. 32-326. Guesthouses.
- Sec. 32-327. Bed and breakfasts.
- Sec. 32-328. Horse boarding and training.
- Sec. 32-329. Radiation and electrical interference prohibited.
- Sec. 32-330. Environmental nuisances.
- Sec. 32-331. Other nuisances.
- Sec. 32-332. Noise control.
- Sec. 32-333. Coin-operated machines.
- Sec. 32-334. Swimming pools.
- Sec. 32-335. Interim uses and structures.
- Sec. 32-336. Automobile sales and showrooms.
- Sec. 32-337. Livestock.
- Sec. 32-338. Manufactured homes.
- Sec. 32-339. Recreation vehicle or trailer regulations.

GRANT CODE

- Sec. 32-340. Service stations.
- Sec. 32-341. Drainage.
- Sec. 32-342. Permits for land reclamation; use of public waters.
- Sec. 32-343. Soil conservation plans.
- Sec. 32-344. Mining.
- Sec. 32-345. Agricultural operations.
- Sec. 32-346. Access drives and access.
- Sec. 32-347. Tennis courts.
- Sec. 32-348. Vegetative cutting.
- Sec. 32-349. Solid waste landfill facilities.
- Sec. 32-350. Planned unit developments.
- Sec. 32-351. Wind Energy Conversion Systems.
- Sec. 32-352. Rural Event Facility.
- Sec. 32-353. Supper Clubs.
- Sec. 32-354. Forestry Products and Processing (non-retail)
- Secs. 32-355--32-371. Reserved.

Division 2. Off-Street Parking

- Sec. 32-372. General provisions.
- Sec. 32-373. Surfacing and drainage.
- Sec. 32-374. Required spaces.
- Sec. 32-375. Location.
- Sec. 32-376. Design and maintenance of off-street parking areas.
- Sec. 32-377. Truck parking in residential areas.
- Secs. 32-378--32-397. Reserved.

Division 3. Signs

- Sec. 32-398. Definitions.
- Sec. 32-399. Purpose.
- Sec. 32-400. Exemption for inside signs.
- Sec. 32-401. Substitution clause.
- Sec. 32-402. Permit required, exemptions.
- Sec. 32-403. Prohibited signs.
- Sec. 32-404. Offensive signs.
- Sec. 32-405. Required signs.
- Sec. 32-406. Private traffic signs.
- Sec. 32-407. Private signs in right-of-way.
- Sec. 32-408. Illuminated signs.
- Sec. 32-409. Political signs.
- Sec. 32-410. Displays.
- Sec. 32-411. Real estate signs.
- Sec. 32-412. Construction signs.
- Sec. 32-413. Electrical signs.
- Sec. 32-414. Multi-faced signs.
- Sec. 32-415. Restrictions at certain locations.
- Sec. 32-416. Conditional use permit.
- Sec. 32-417. Restrictions in agricultural districts.
- Sec. 32-418. Permitted signs--Residential districts.
- Sec. 32-419. Same--Commercial districts.
- Sec. 32-420. Permitted signs for uses requiring a conditional use permit.
- Sec. 32-421. Obsolete signs.
- Sec. 32-422. Unsafe or dangerous signs.
- Secs. 32-423--32-442. Reserved.

ZONING

Division 4. Antenna Regulations

- Sec. 32-443. Definitions.
- Sec. 32-444. Purpose.
- Sec. 32-445. Exemptions and modifications.
- Sec. 32-446. Permit requirements.
- Sec. 32-447. Letter of intent.
- Sec. 32-448. Fees and escrows.
- Sec. 32-449. Periodic submissions.
- Sec. 32-450. Preferences for antenna and support structure locations.
- Sec. 32-451. Location, use, lot size and dimensional requirements.
- Sec. 32-452. Antenna regulations in all districts.
- Sec. 32-453. Amateur radio antennas and towers.
- Sec. 32-454. Noise and traffic.

Division 5. Solar Energy Systems

- Sec. 32-455. Definitions
- Sec. 32-456. Purpose.
- Sec. 32-457. Residential Solar Energy Systems.

GRANT CODE

ARTICLE I. IN GENERAL

Sec. 32-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory building means a subordinate building, or a portion of the main building, which is located on the same lot as the main building and the purpose of which is clearly incidental to that of the principal building. (See section 32-313.)

Accessory use means a use incidental or subordinate to the principal use of the same land.

Access, shared, means a single accessway onto a public street, within the road right-of-way, for the use of more than one property owner to gain access to a private driveway.

Administrator means the city council.

Agricultural building means a structure on agricultural land as defined in farm, rural of this section, designed, constructed and used to house farm implements, livestock or agricultural produce or products used by the owner, lessee or sublessee of the building and members of their immediate families, their employees and persons engaged in the pickup or delivery of agricultural produce or products.

Agricultural business, seasonal, means a seasonal business located on a minimum of five acres of land which offers for sale to the general public produce or any derivative thereof. Accessory items may also be sold if they are approved by the city council. The produce or derivatives must be grown on land owned or leased by the applicant.

Agriculture. See *Farm, rural* and section 32-245.

Animal unit means a unit of measure used to compare differences in the production of animal wastes which has a standard as the amount of waste produced on a regular basis by a slaughter steer or heifer.

Animals, domestic farm, means cattle, hogs, horses, bees, sheep, goats, chickens and other animals commonly kept for commercial food-producing purposes.

Animals, domestic pet, means dogs, cats, birds and similar animals commonly kept in a residence. Animals considered wild, exotic or nondomestic, such as bears, lions, wolves, ocelots and similar animals shall not be considered domestic pets.

Apartment means a room or suite of rooms with cooking facilities designed to be occupied as a residency by a single family.

Archery Range means an area or facility designated or operated primarily for a shooting range of bow-and-arrow as defined within Minnesota State Statutes (chapter 87A). Such facilities may be located indoors or outdoors and shall be operated in compliance with the applicable Minnesota State Statutes. Outdoor (archery) shooting ranges shall be setback a minimum of 750-feet from all property lines, or as regulated within MN State Statutes, whichever is greater. Such facilities shall have primary access and frontage on a county or state roadway.

Area, net developable, means those lands within a development parcel remaining after the deletion of floodplains, wetlands, slopes greater than 12 percent and unbuildable easements or rights-of-way.

Armory, or convention halls means a large building able to accommodate individuals and groups that gather to promote and share a common interest. Such facilities typically include auditoriums, concert halls, lecture

ZONING

halls, meeting rooms and conference rooms.

Arterials, means principal arterial routes as defined in the City's Comprehensive Plan, adopted by the City Council on May 5, 2009.

Attorney means the city attorney.

Auto or motor vehicle reduction yard means a lot or yard where one or more unlicensed motor vehicles, or the remains thereof, are kept for the purpose of dismantling, wrecking, crushing, repairing, rebuilding, sale of parts, sale as scrap, storage or abandonment. (See also *Junkyard*.)

Automobile repair means the replacement of any part or repair of any part which does not require the removal of the engine head or pan, engine, transmission or differential; incidental body and fender work, minor painting and upholstery service when said service above stated is applied to passenger automobiles and trucks not in excess of 7,000 pounds gross vehicle weight.

Automobile service station (gas station) means a place where any motor fuel, lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles. This definition includes greasing, oiling or sale of automobile accessories on the premises. This definition also includes minor repairs and replacement of parts and motor services to passenger automobiles and trucks not exceeding 1 1/2 tons capacity. This definition shall not include major repair, rebuilding or reconditioning of engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; overhaul, painting or paint job; vehicle steam cleaning or automatic car or vehicle washing devices.

Automobile service uses means those uses catering to the traveling public. These include auto and truck laundries, drive-in businesses, service stations, repair garages, public garages, motels, hotels, seasonal produce sales, motor vehicle sales, trailer sales and rental, boat sales, rental services and restaurants.

Basement means a portion of a building between floor and ceiling, located partly above and partly below grade, and having one-half or less of its floor-to-ceiling height below the average grade of the adjoining ground. Earth-sheltered houses that meet all other requirements of the building code shall not be considered basements.

Bed and breakfast means an owner-managed and owner-occupied residential structure used as a lodging establishment where rooms are rented on a nightly basis, and in which only breakfast is included as part of the basic compensation.

Boardinghouse means a building other than a motel or hotel where, for compensation and by pre-arrangement for definite periods, meals or lodging are provided for three or more unrelated persons, but not to exceed eight persons.

Broadcasting Studio means a facility or building where the production and transmission of radio or television broadcasts originate, which may include ancillary office and business spaces to support the operations.

Building means any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of any person, animal or property of any kind. When any portion thereof is completely separated from every other part thereof by area separation, each portion of such building shall be deemed as a separate building.

Building code means the Minnesota State Building Code.

Building height means the vertical distance between the lowest grade level at the building line and the uppermost point on the roof.

Building official means the officer or other designated authority, certified by the state, charged with the administration and enforcement of the state building code, or his duly authorized representative.

GRANT CODE

Building setback means the minimum horizontal distance between the building and the lot line.

Building setback line means a line within a lot parallel to a public right-of-way line, a side or rear lot line, a bluffline or a high-water mark or line, behind which buildings or structures must be placed.

Business means any occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.

Business, Seasonal means a business which operates for not more than six (6) months of any calendar year, and whose primary product or service offered is based on agricultural products or activities produced on site and may or may not include a permanent structure for operations. Examples of such businesses include, but are not limited to: the sale of locally produced produce or any derivative thereof grown or raised on the property, outdoor/indoor seasonal sales such as Christmas trees, plants, flowers, etc., which may be produced in a greenhouse or outdoors, seasonal events such as hayrides, apple orchards and associated activities, which may include associated retail sales.

Carport means an automobile shelter having one or more sides open.

Cellar means that portion of the building having more than one-half of the clear floor-to-ceiling height below the average grade of the adjoining ground. Underground buildings that meet all other requirements of the building code shall not be considered cellars.

Certificate of compliance. See section 32-35.

Certificate of occupancy. See section 32-187.

Channel means a natural or artificial watercourse with definite bed and banks to confine and conduct continuously or periodically flowing water, including but not limited to streams, rivers, creeks, ditches, drainageways, canals, conduits, culverts, waterways, gulleys, ravines or washes, and including any area adjacent thereto which is required to carry and discharge the regional flood. (See chapter 14, pertaining to flood prevention.)

Channel flow means that water which is flowing within the limits of a channel.

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

Club or lodge means a nonprofit association of persons who are bona fide members paying annual dues, use of premises being restricted to members and their guests.

Cluster development means a pattern of subdivision development which places detached houses, duplexes or townhouse units into compact groupings while providing a network of commonly owned or dedicated open space.

Commercial food producing farm operations. See *Farm, rural* and section 32-245.

Comprehensive plan means the policies, statements, goals and interrelated plans for private and public land and water use, transportation and city facilities, including recommendations for planned execution, documented in texts, ordinances and maps which constitute the guide for the future development of the city or any portion of the city.

Conditional use means a land use or development as defined by ordinance that may not be appropriate generally, but may be allowed with appropriate restrictions as provided by official controls upon a finding that:

- (1) Certain conditions as detailed in the zoning ordinances exist;
- (2) The use or development conforms to the comprehensive land use plan of the city; and

ZONING

- (3) The use or development is compatible with the existing neighborhood.

Condominium. See *Dwelling, multiple.*

Curb level means the grade elevation of the curb in front of the center of a building. Where no curb has been established, the city engineer shall determine a curb level or its equivalent for the purpose of this chapter.

Decibel means the unit of sound measured on the "A" weighing scale of a sound level meter, set on slow response, the weighing characteristics of which are specified in the "Standards on Sound Level Meters of the USA Standards Institute."

Depth of lot means the horizontal distance between the frontage right-of-way line and rear lot line. On a corner lot, the side with the largest frontage is its depth, and the side with the lesser frontage is its width.

Depth of rear yard means the horizontal distance between the rear building line and the rear lot line.

Disposal area, on-site sewage treatment. See chapter 12, article IV.

Dredging means the process by which soils or other surface materials, normally transported by surface water erosion into a body of water, are removed for the purpose of deepening the body of water.

Drive-in means any use where products and/or services are provided to the customer under conditions where the customer does not have to leave the car or where service to the automobile occupants is offered regardless of whether service is also provided within a building.

Driveways, shared, means an accessway, standing partly on one owner's land and partly on an adjacent owner's land, over which both owners hold a right-of-way.

Dwelling means a building or one or more portions thereof occupied exclusively for human habitation, but not including rooms in hotels, motels, nursing homes, boardinghouses, nor trailers, tents, cabins, or trailer coaches. (Also see *Dwelling unit.*)

Dwelling, attached, means a dwelling which is joined to another dwelling at one or more sides by a party wall or walls.

Dwelling, detached, means a dwelling which is entirely surrounded by open space on the same lot.

Dwelling, duplex or two-family, means a residential building containing two complete dwelling units.

Dwelling, multiple or apartment building, means a residential building, or portion of a building, containing three or more dwelling units served by a common entrance.

Dwelling, seasonal, means a residential building not capable of year-round occupancy due to nonwinterized construction or inadequate nonconforming year-round on-site sewage treatment systems.

Dwelling, single, means a residential building containing one detached dwelling unit.

Dwelling, townhouse, means a residential building containing two or more dwelling units with at least one common wall, each unit so oriented as to have all exits directly to the out-of-doors.

Dwelling unit means a residential accommodation including complete kitchen and bathroom facilities, permanently installed, which is arranged, designed, used or intended for use exclusively as living quarters for one family.

Engineer means the city engineer.

GRANT CODE

Essential services--Governmental uses, buildings and storage means governmental services such as office buildings, garages, temporary open space, open storage when not the principal use, fire and police stations, recreational areas, training centers, correctional facilities or other essential uses proposed by federal, state, county, local, special districts and school districts, except that schools shall not be permitted under this provision.

Essential services--Public utility uses means underground or overhead gas, electrical, distribution systems; collection, communication, supply or disposal system, including poles, wires, pipes, conduits, cables, traffic signals, or other similar equipment and accessories, but not including buildings or transmission services.

Essential services--Public utility uses, transmission services, buildings and storage means transmission service such as electrical power lines of a voltage of 35 kv or greater, or bulk gas or fuel being transferred from station to station and not intended for en route consumption or other similar equipment and accessories.

Exterior storage includes the term "open storage" and means the storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

Family means an individual, or two or more persons each related by blood, marriage, adoption or foster care arrangement, living together as a single housekeeping unit, or a group of not more than four persons not so related, maintaining a common household, exclusive of servants.

Farm, rural, means a commercial food-producing use on ten or more contiguous acres and is defined in Minn. Stats. § 273.111, subd. 7, to wit: Real property shall be considered to be in agricultural use provided that annually it is devoted to the production for sale of livestock, dairy animals, dairy products, poultry and poultry products, fur bearing animals, horticultural and nursery stock, fruit of all kinds, vegetables, forage, grains, bees, apiary products.

Feedlot means the place of housing or feeding of livestock or other animals for food, fur, pleasure or resale purposes in yards, lots, pens, buildings or other areas not normally used for pasture or crops and in which substantial amounts of manure or related other wastes may originate by reason of such feeding of animals.

Fence means a partition, structure, wall or gate erected as a dividing marker, visual or physical barrier, or enclosure.

Fill means any act by which soil, earth, sand, gravel, rock or any similar material is deposited, placed, pushed, or transported and shall include the conditions resulting therefrom.

Final plat means a drawing or map of an approved subdivision, meeting all requirements of chapter 30, pertaining to subdivisions, and in such form as required by the city for purposes of recording.

Floor area means the gross area of the main floor of a residential building measured in square feet and not an attached garage, breezeway or similar attachment.

Floor area, gross, means the sum or the gross area of the various floors of a building measured in square feet means the basement floor area shall not be included unless such area constitutes a story.

Floor area ratio means the numerical value obtained through dividing the gross floor area of a building by the net area of the lot or parcel of land on which such building is located.

Floor plan, general, means a graphic representation of the anticipated use of the floor area within a building or structure.

Forestry Products and Processing means the storage and processing of forestry products on a site that does not include public retail sales. Any processing conducted as part of the use may not use any chemicals and may not produce any hazardous waste. Examples of such use may include, but is not limited to, firewood processing, wood processing, wood storage or logging. This use does not include the removal of existing trees or vegetation on the site

ZONING

for processing, which may be subject to a different land use and permitting process.

Frontage means that boundary of a lot which abuts a public street or private road.

Garage, private, means a detached one-story accessory building, or portion of the principal building, including a carport, which is used primarily for the storing of passenger vehicles, trailers or farm trucks.

Garage, repair, means a building or space for the repair or maintenance of motor vehicles, but not including factory assembly of such vehicles, auto wrecking establishments or junkyards.

Garage, storage, means any premises, except those described as a private or public garage used exclusively for the storage of power-driven vehicles.

Golf Course means an area of land laid out for a minimum of nine (9) holes to play golf each including a tee, fairway, and putting green to include natural and artificial hazards. The golf course operations and grounds may include a clubhouse, driving range, maintenance buildings and other uses which support the principal operations (such as, but not limited to swimming pools, tennis courts, etc.) of the golf course.

Gun Range or Gun Club, indoor means an indoor facility designated or operated primarily for the use of firearms as defined within the applicable Minnesota State Statutes and laws. All operations related to the shooting range, and the discharge of firearms, shall be permitted only within a fully enclosed facility, and shall be regulated by the applicable Minnesota State Statutes including, but not limited to, chapter 87A Shooting Ranges. Such facilities shall have primary access and frontage on a county or state road and shall be setback a minimum of 150-feet from any property line.

Grazable acres, means the area of the parcel or site that excludes 1) wetlands other than Types 1 and 2, 2) any wetland less than ¼ acre, and 3) the Homesite.

Home occupation means any gainful occupation or profession engaged in by an occupant only of a dwelling unit which is a use that is clearly incidental to the use of the dwelling unit for residential purposes, when conducted on the premises. The following criteria must be met, or the proposed use must be established as a conditional use in the zoning district proposed and proper permit obtained:

- (a) No persons other than members of the Family who reside 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 thirty percent (30%) of floor area of the Dwelling Unit shall be used in the conduct of the Home Occupation.
- (c) Any business operations conducted in an Accessory Building or garage shall be conducted entirely within the accessory building, and no exterior modifications to the building shall be permitted which would indicate that the structure is being used for commercial activity, except as permitted in Section d.
- (d) There shall be no change in the outside appearance of the Principal Building or Premises, or other visible evidence of the conduct of such Home Occupation other than any signage as permitted by the City's ordinances.
- (e) No traffic shall be generated by such Home Occupation in greater volume than would normally be expected to a residence in a residential neighborhood, and the driveway shall be designed accordingly.
- (f) Parking areas may not exceed four (4) stalls and shall not be located in any required yard setback area and must be screened from any adjacent residential use.
- (g) No equipment, activity, or process 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.

GRANT CODE

- (h) No outside storage is permitted.

Homesite, means the residence, all outbuildings permitted by the City's Code of Ordinances and the immediately adjacent property mowed and utilized by the property owner for any purpose. In determining the number of Grazable acres in as required by Section 32-337(b), the Homesite area shall constitute half (½) acre for parcels of six acres or less, and one (1) acre for parcels greater than six acres.

Horse boarding and training facilities means a facility for the purpose of containing, caring for (not including a veterinary use), riding, driving or training of horses. A horse boarding and training facility may include showing, riding, providing lessons, team sorting and other such activities associated with the boarding and training of horses.

Hotel means a building having provision for nine or more guests, in which lodging is provided with or without meals, for compensation, and which is open to transient or permanent guests or both, and where no provision is made for cooking in any guest room, and which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge.

Hotel or Motel means a building which provides a common entrance, lobby, halls and stairway and in which ten or more people are, for compensation, lodged with or without meals. Such operations may include a single building or a group of detached, semi-detached, or attached buildings containing guest rooms or dwellings, with garage or parking space conveniently located to accommodate each unit.

Institutional housing means housing for students who are mentally or physically handicapped and similar housing of a specialized nature.

Junkyard means an area where discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber products, bottles and used building materials. Storage of such material in conjunction with a permitted manufacturing process when within an enclosed area or building shall not be included.

Kennel, commercial, means any place where four or more of any type of domestic pets over four months of age are boarded, bred, trained or offered for sale.

Kennel, private, means any place where four or more of any type of domestic pets over four months of age are owned by any member or members of the household.

Land alteration means the excavation or grading of land involving movement of earth and materials in excess of 50 cubic yards.

Land reclamation means the reclaiming of land by depositing material so as to elevate the grade. Depositing a total of more than 50 cubic yards of material per lot or parcel, either by hauling in or regrading the area.

Landscaping means planting trees, shrubs and turf covers such as grasses and shrubs.

Loading space means a space, accessible from a street, alley or way, in or outside of a building, for the use of trucks while loading and unloading merchandise or materials.

Lodging room means a room rented as sleeping and living quarters, but without cooking facilities. In a suite of rooms without cooking facilities, each room which provides sleeping accommodations shall be counted as one lodging room.

Lot means a parcel of land designated by metes and bounds, registered land survey, plat or other means, and which description is either recorded in the office of the county recorder or registrar of titles or used by the

ZONING

county treasurer or county assessor to separate such parcel from other lands for tax purposes.

Lot, double frontage, means a lot of record on December 7, 1982, having frontage on two (2) streets which do not intersect at a corner of the lot.

Lot area means the area of a horizontal plane within the lot lines.

Lot area, minimum per dwelling unit, means the minimum number of square feet or acres of lot area required per dwelling unit.

Lot, buildable, means a lot which meets or exceeds all requirements of the city land use and development ordinances without the necessity of variances.

Lot, corner, means a lot situated at the junction of and abutting two or more intersecting streets; or a lot at the point of a deflection in alignment of a single street, the interior angle of which does not exceed 135 degrees.

Lot depth means the mean horizontal distance between the front and rear lines of a lot.

Lot, interior, means a lot other than a corner lot, including through lots.

Lot line means a lot line is the property line bounding a lot, except that where any portion of a lot extends into a public right-of-way or a proposed public right-of-way, the line of such public right-of-way shall be the lot line.

Lot line, front, means that boundary of a lot which abuts a public street or a private road. In the case of a corner lot, it shall be the shortest dimension of a public street. If the dimensions of a corner lot are equal, the front lot line shall be designated by the owner. In the case of a corner lot in a nonresidential area, the lot shall be deemed to have frontage on both streets.

Lot line, rear, means that boundary of a lot which is opposite to the front lot line. if the rear lot line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

Lot line, side, means any boundary of a lot which is not a front lot line or a rear lot line.

Lot, through, means any lot other than a corner lot which abuts more than one street. On a through lot, all the street lines shall be considered the front lines for applying this chapter.

Lot width means the horizontal distance between the side lot lines of a lot measured at the setback line.

Manufactured home means a structure transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary and complies with the standards established under Minn. Stats. § 327.31, subd. 3. No manufactured dwelling shall be moved into the city that does not meet the manufactured home building code as defined in Minn. Stats. § 327.31, subd. 3.

Manufactured home lot means a parcel of land for the placement of a single manufactured home for the exclusive use of said manufactured home.

Manufactured home park means any site or tract of land designed, maintained or intended for the placement of two or more occupied manufactured homes. Manufactured home park shall include any building,

GRANT CODE

structure, vehicle or enclosure intended for use as part of the equipment of such manufactured home park.

Manufacturing, general, means all manufacturing, compounding, processing, packaging, treatment or assembly of goods or materials which would involve a risk of offensive or dangerous noise, odor or pollution beyond the lot on which the use is located. Such uses include, but are not limited to, the following: sawmill; refineries; commercial feedlots; acid, cement; explosives; flour, feed and grain milling or storage; meat packing; slaughterhouses; coal or tar asphalt distillation; rendering of fat, grease, lard or tallow; alcoholic beverages; poisons; exterminating agents; glue; lime; gypsum; plaster of Paris; tanneries; automobiles parts; paper and paper products including storage; electric power generation facilities; vinegar works; junkyards, auto reduction yards; foundry; forge, casting of metal products; rock, stone and cement products.

Manufacturing, limited, means all compounding, processing, packaging, treatment or assembly of goods and materials, provided such use will not involve the risk of offensive odors, glare, smoke, dust, noise, vibrations or other pollution extending beyond the lot on which the use is located. Such uses include, but are not limited to, the following: lumber yard, machine shops, products assembly, sheet metal shops, plastics, electronics, general vehicle repair (repair garage), body work and painting, contractor shops and storage yard, food and nonalcoholic beverages, signs and displays, printing, publishing, fabricated metal parts, appliances, clothing, textiles and used auto parts.

Manure means any solid or liquid containing animal excreta.

Mean flow level means the average flow elevation of a stream or river computed as the mid-point between extreme low and extreme high water.

Medical uses means those uses concerned with the diagnosis, treatment and care of human beings. These include hospitals, dental services, medical services or clinics, nursing or convalescent home, orphan's home, rest home and sanitarium.

Mining means the extraction of sand, gravel, rock, soil or other material from the land and the removal thereof from the site. For the purposes of this chapter, mining shall not include the removal of materials associated with the construction of a building, the removal of excess materials in accordance with approved plats or utility highway construction, minor agricultural and sod removal.

Modular or prefabricated home means a non-mobile dwelling unit for year-round occupancy constructed or fabricated at a central factory and transported to a building site where final installations are made permanently affixing the dwelling unit to the site. Said dwelling unit shall be equivalent to a unit constructed on the site, meeting all requirements of state law.

Motor court, motor hotel or motel means a building or group of buildings other than a hotel used primarily as a temporary residence of a motorist.

Motor freight terminal means a building or area in which freight brought by motor truck is transferred and/or stored for movement by motor truck.

Noise, ambient, means the all-encompassing noise associated with a given environment, being either a composite of sounds transmitted by any means from many sources near and far or a single predominant source.

Nonconforming lot means any legal lot already in existence, recorded or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written.

Nonconforming use means any lawful use of land or any lawful use of a building or structure existing on the effective date of the ordinance from which this chapter is derived, or any amendment thereto, which use does not conform with the regulations for the district in which it is located after the effective date of the ordinance from which this chapter is derived or such amendment.

ZONING

Noxious matter means material which is capable of causing injury or is in any way harmful to living organisms or is capable of causing detrimental effect upon the physical or mental health of human beings.

Nursery, day, means a use where care is provided for three or more children under kindergarten age for periods of four hours or more per day for pay.

Nursery, landscape, means a business growing and selling trees, flowering and decorative plants, and shrubs which may be conducted within a building or without.

Nursing home means a building with facilities for the care of children, the aged, or the infirm or a place of rest for those suffering bodily disorder.

Office uses means those commercial activities that take place in office buildings, where goods are not produced, sold or repaired, including but not limited to banks, professional offices, governmental offices, insurance offices, real estate offices, telephone exchanges, utility offices, radio broadcasting and similar uses.

Official control means legislatively defined and enacted policies, standards, precisely detailed maps, and other criteria, all of which control the physical development of a municipality or a county, or any part thereof, or any detail thereof, and the means of translating into ordinances all or any part of the general objectives of the comprehensive plan. Such official controls may include, but are not limited to ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes, housing codes and official maps.

Official map means a map adopted in accordance with the provisions of Minn. Stats. § 462.359.

Open sales lot means lands devoted to the display of goods for sale, rent, lease or trade where such goods are not enclosed within a building.

Open storage means storage of any material outside of a building.

Owner means and includes all persons interested in a property as fee simple owner, life estate holder, encumbrance or otherwise.

Parking space means a suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one standard automobile.

Pedestrian way means a public or private right-of-way across or within a block or tract, to be used by pedestrians.

Performance standards means the minimum development standards as adopted by the city council and on file in the office of the building official.

Person means any person, corporation or association, including governmental agencies and political entities.

Planned unit development (PUD), means any development on a single parcel of land having more than one principal use, whether commercial, residential, not-for-profit, industrial or any combination thereof; including, but not limited to townhomes, apartments, multi-use structures, mixed residential and commercial developments shall be classified as a Planned Unit Development. Notwithstanding the foregoing, any lot or parcel on which a single family dwelling is located and a second use is made by the owner of the lot or parcel shall not be classified as a Planned Unit Development.

Planning advisory commission or *planning commission* means the duly appointed planning and zoning advisory commission of the city.

GRANT CODE

Planning agency means a planning commission or department, however created, or the office of the planning or zoning director or inspector, or the office of any official designated as such planning or zoning director or inspector, together with any staff members, employees or consultants of such commission, department, director, inspector or official, and the board of adjustment and appeals and its employees or staff.

Principal use, means the primary or predominant use of any lot or parcel, as distinguished from an accessory use. The principal use shall be the purpose for which land is designated, arranged, or intended.

Protective or restrictive covenant means a contract entered into between private parties which constitutes a restriction of the use of a particular parcel of property.

Public land means land owned and/or operated by a governmental unit, including school districts.

Race track means any area where one or more animals or power-driven vehicles are raced for profit or pleasure.

Recreation, commercial outdoor means recreational uses conducted almost wholly outdoors for a fee, including, but not limited to golf driving ranges, miniature golf, Frisbee golf courses, tennis courts and outdoor skating rinks. Such uses may include support accessory structures such as a ticket booth, warming house, or small bathroom facility, but in all cases shall be clearly incidental to the principal outdoor recreational use.

Recreation equipment means play apparatus such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and trailers not exceeding 25 feet in length, picnic tables, lawn chairs, barbecue stands and similar equipment or structures, but not including tree houses, swimming pools, playhouses exceeding 25 square feet in floor area, or sheds utilized for storage of equipment.

Recreation, private means an accessory structure and/or use that are customary and incidental to the principal residential use of a site, including swing sets, play structures, sand boxes, tennis courts, sport courts, swimming pools and the like, intended for the enjoyment and convenience of the residents of the principal use and their occasional guests.

Recreation vehicle means any vehicle or structure designed and used for temporary, seasonal human living quarters which meets all of the following qualifications:

- (1) Is not used as the permanent residence of the owner or occupant;
- (2) Is used for temporary living quarters by the owner or occupant while engaged in recreation or vacation activities;
- (3) Is towed or self-propelled on public streets or highways incidental to such recreation or vacation activities.

Examples of such vehicles include van campers, tent camping trailers, self-contained travel trailers, pickup campers, camping buses, and self-contained, self-propelled, truck-chassis-mounted vehicles providing living accommodations.

Recreation vehicle park means a park, court, campsite, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying the location or accommodations for any recreation vehicles as defined in this section, and upon which said recreation vehicles are parked. The term "recreation vehicle park" shall include all buildings used or intended for use as part of the equipment thereof, whether a charge is made for the use of the park and its facilities or not.

Research means medical, chemical, electrical, metallurgical or other scientific research and quality control, conducted in accordance with the provisions of this chapter.

Resort means any structure or group of structures containing more than two dwelling units or separate living quarters designed or intended to serve as seasonal or temporary dwellings on a rental or lease basis for profit

ZONING

with the primary purpose of said structure or structures being recreational in nature. Uses may include a grocery for guests only, fish-cleaning house, marine service, boat landing and rental, recreational area and equipment and similar uses normally associated with a resort operation.

Restaurant, Tavern or bar means a building with facilities for the serving of food, liquor and beer. The food shall be prepared on site and consumed on the premise at either the bar counter or at tables.

Retail business uses means stores and shops selling personal service or goods for final consumption.

Roadside sale stand means a structure used on a seasonal basis only for the display and sale of products with no space for customers within the structure.

Runway means a surface of an airport landing strip.

Runway, instrument, means a runway equipped with air navigation facilities suitable to permit the landing of aircraft by an instrument approach under restricted visibility conditions.

Rural Event Facility means a facility that operates on a for-profit basis to host outdoor or indoor gatherings. The gatherings may include, but are not limited to, events such as weddings or other ceremonies, banquets, picnics or any other gatherings of a similar nature. Such facilities shall be required to obtain a Conditional Use Permit, and must meet the following additional minimum standards:

- (1) Located on a minimum of 20 acres, as defined in Section 32-246(c)4, and zoned A1 or A2;
- (2) Have direct access to a County or State Road

Schools – commercial means a school established to provide for the teaching of clerical, managerial, or artistic skills including such things as karate, painting and dance. Such facilities may be owned and operated privately for profit or not-for-profit.

Schools – public and private means an institution or building in which children and young people usually under 19 receive education. Such institutions may be funded by public funds, private organizations, or private individuals. Such facilities must have frontage on an improved county or state roadway, and have a minimum of 20 contiguous acres.

Screening means and includes earth mounds, berms or ground forms; fences and walls; landscaping (plant materials) or landscaped fixtures (such as timbers) used in combination or singularly so as to block direct visual access to an object throughout the year.

Seasonal standing or flowing water means a recognizable body of standing or flowing water that exists longer than any 30 consecutive day period within any calendar year.

Setback means the minimum horizontal distance between a structure and street right-of-way, lot line or other reference point as provided by ordinance. Distances are to be measured perpendicularly from the property line to the most outwardly extended portion of the structure.

Shopping center means any grouping of two or more principal retail uses whether on a single lot or on abutting lots under multiple or single ownership.

Sign means a display, illustration, structure or device which directs attention to an object, product, place, activity, person, institution, organization or business. (See division 3 of article IV of this chapter.)

Solid waste landfill means demolition, sanitary, modified, hazardous, and all other types of solid landfill.

Story means that portion of a building included between the surface of any floor and the surface of the floor next above. A basement shall be counted as a story and a cellar shall not be counted as a story.

Street means a public right-of-way which affords a primary means of access to abutting property.

GRANT CODE

- (1) *Street, collector*, means a street which serves or is designed to serve as a trafficway for a neighborhood or as a feeder to a major road.
- (2) *Street, intermediate, or minor arterial*, means a street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other areas generating heavy traffic.
- (3) *Street, local*, means a street intended to serve primarily as an access to abutting properties.

Street pavement means the wearing or exposed surface of the roadway used by vehicular traffic.

Street width means the width of the right-of-way measured at right angles to the centerline of the street.

Structural alteration means any change, other than incidental repairs, which would affect the supporting members of a building, such as bearing walls, columns, beams, girders, or foundations.

Structural, historic, scenic means a building, structure, archaeological site, or other place that is listed on the national or state register of historic places, or is designated as a significant historic site of the city council. All unplatted cemeteries meeting provisions of Minn. Stats 307.08 are significant historic sites.

Subdivision means a described tract of land which is to be or has been divided into two or more lots or parcels for the purpose of transfer of ownership, building development, or for tax assessment purposes. The term "subdivision" includes resubdivision, and where it is appropriate to the context, relates to either the process of subdividing, or to the land subdivided, or to the development for which it is being subdivided.

Substandard building or substandard structure means any building or structure lawfully existing on the effective date of the ordinance from which this chapter is derived or any amendment thereto, which building or structure does not conform, after the effective date of the ordinance from which this chapter is derived or such amendment, with the regulations, including dimensional standards, for the district in which it is located.

Supper club means a building with facilities for the preparation and serving of meals and where meals are regularly served at tables to the general public. The building must be of sufficient size and design to permit the serving of meals to not less than 50 guests at one time. Intoxicating liquors may be sold on-sale and live entertainment and/or dancing shall be permitted.

Theater means a building or part of a building devoted to the showing of motion pictures or theatrical or performing arts productions as a principal use, but not including an outdoor drive-in theater.

Transportation terminal means truck, taxi, air, bus, train and mass transit terminal and storage area, including motor freight (solid and liquid) terminal.

Truck stop means a motor fuel station devoted principally to the needs of tractor-trailer units and trucks, and which may include eating and/or sleeping facilities.

Use means:

- (1) Any purpose of which a building or other structure or a tract of land may be designed, arranged, intended, maintained or occupied; or
- (2) Any activity, occupation, business or operation carried on, or intended to be carried on, in a building or other structure, or on a tract of land.

Use, accessory, means a use subordinate to and serving the principal use or structure on the same lot and customarily incidental to such principal use.

Use, conditional. See Conditional use.

ZONING

Use, nonconforming. See *Nonconforming use*.

Use, open, means the use of land without a building or including a building incidental to the open use.

Use, principal. See *Principal structure or use*.

Use, substandard. See *Substandard building or structure*.

Variance means a modification or variation of the strict provisions of this chapter as applied to a specific piece of property in order to provide relief for a property owner because of undue hardship or particular difficulty imposed upon the property by this chapter. A variance shall normally be limited to height, bulk, density and yard requirements. A modification in the allowable uses within a district shall not be considered a variance.

Vehicle repair means general repair, rebuilding or reconditioning of engines, motor vehicles or trailers, including body work, framework, welding and major painting services.

Veterinary means those uses concerned with the diagnosis, treatment and medical care of animals, including animal or pet hospitals.

Warehousing means the storage, packing and crating of materials or equipment within an enclosed building or structure.

Waterfront uses, residential, means boat docks and storage, fish house, fish cleaning, water recreation equipment and other uses normally incidental to a lakeshore residence, provided such uses are for the exclusive use of the occupants and nonpaying guests.

Wholesaling means the selling of goods, equipment and materials by bulk to another person who in turn sells the same to customers.

Wind energy conversion system (WECS) means one (1) tower with rotors and motors with one conversion generator.

Yard means the open space on an occupied lot which is not covered by any structure.

Yard, front, means a yard extending across the front of the lot between the inner side yard lines and lying between the front line of the lot and the nearest building line.

Yard, rear, means a yard extending across the rear of the lot between the inner side yard lines and lying between the rear line of the lot and the nearest building line.

Yard, required, means a yard area which may not be built on or covered by structures because of the dimensional setbacks for said structures within the zoning district.

Yard, side, means a yard between the side lines of the lot and the nearest building line.

Zoning district means an area within the city in which the regulations and requirements of this chapter are uniform.

(Ord. No. 50, §§ 3, 401.03, 402.01, 12-7-1982; Ord. No. 53, § 1, 7-7-1983; Ord. No. 54-B, § 1, 6-5-1984; Ord. No. 58-A, § 2(749.01), 8-5-1986; Ord. No. 54C-2003, § 1, 2-4-2003; Ord. No. 1997-78, § 719.011, 9-2-1997; Ord. No. 2004-109, § 4, 8-3-2004; Ord. No. 2005-117, § 1, 11-1-2005; Ord. No. 2015-41, 12-1-2015; Ord. No. 2015-42, 12-1-2015; Ord. No. 2015-44, 1-5-2016; Ord. No. 2016-46, 6-7-2016)

GRANT CODE

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ZONING

Sec. 32-2. Intent and purpose.

(a) *General purposes.* The general purposes of this chapter are to provide for the orderly growth and renewal of the city, to protect and conserve its natural resources, its ecological systems and its economic stability by fostering appropriate land use so as to preserve and promote the public health, safety and general welfare.

(b) *Specific purposes.* It is hereby determined by the city council that in order to accomplish the general purposes of this chapter as set forth in subsection (a) of this section, it is necessary and proper to establish and enforce the regulations contained in this chapter for the following specific purposes:

- (1) To stage development and redevelopment to coincide with the availability of existing services.
 - (2) To divide the city into districts, providing for and regulating therein the location, construction, reconstruction, alteration, and use of buildings, structures and land for residential, business, agricultural and other specified uses.
 - (3) To protect the character and maintain the stability of residential, business, and agricultural areas within the city, and prohibit uses, buildings or structures which are incompatible with the character of development in such areas.
 - (4) To provide adequate light, air, privacy and convenience of access to property.
 - (5) To limit congestion in public streets and to foster public safety and convenience in travel and transportation.
 - (6) To provide protection against fire, explosions, obnoxious fumes and other hazards in the interest of public health, safety and comfort.
 - (7) To prevent environmental pollution.
 - (8) To prevent the destruction or improvident exploitation of city resources.
 - (9) To preserve the value of land and buildings throughout the city.
 - (10) To provide for the gradual and equitable elimination of those uses of land, buildings and structures, and of those buildings and structures which do not conform to the standards for the area in which they are located and which may adversely affect the development and the value of property in such areas.
 - (11) To provide for the condemnation of such nonconforming buildings or structures and of land as is necessary or appropriate for the rehabilitation of the area blighted thereby.
 - (12) To provide for the enforcement of this chapter and to define and limit the powers and duties of the administrative officers and bodies responsible therefor.
 - (13) To protect and preserve economically viable agricultural land.
 - (14) To provide for the wise use and conservation of energy resources.
- (Ord. No. 50, §§ 201, 202, 12-7-1982)

Sec. 32-3. Interpretation and construction; cumulative effect.

(a) *Interpretation.* In the application of this chapter, the provisions thereof shall be interpreted to be the minimum requirements necessary to accomplish the general and specific purposes of the chapter.

(b) *Construction.* Nothing contained in this chapter shall be deemed to be a consent, license or permit to use any property or to locate, construct or maintain any building, structure or facility, or to carry on any trade, industry, occupation or activity.

(c) *Cumulative effect.* Except as herein provided, the provisions of this chapter are cumulative and in addition to the provisions of other laws and ordinances, heretofore passed or which may be passed hereafter, governing the same subject matter as this chapter.

GRANT CODE

(Ord. No. 50, §§ 203.01, 203.11, 203.12, 12-7-1982)

Sec. 32-4. Compliance.

Except as hereinafter provided, no building or structure shall be erected, moved, altered or extended, and no land, building or structure, or part thereof, shall be occupied or used unless in conformity with regulations specified in this chapter for the district in which it is located.

(Ord. No. 50, § 401.01, 12-7-1982)

Sec. 32-5. Application to existing structures.

This chapter shall not apply to buildings and structures, nor to the use of any building, structure or land to the extent of such use existing on the effective date of the ordinance from which this chapter is derived. However, this chapter shall apply to any change in use, alteration, extension or movement of a building or structure, and to any change in the use of land subsequent to the effective date of the ordinance from which this chapter is derived.

(Ord. No. 50, § 401.02, 12-7-1982)

Sec. 32-6. Exception for single-family residential homes.

In order to maintain affordable housing stock, to maintain the historic character of the city, and to preserve the value of residential properties, the following exceptions to this chapter are recognized:

- (1) Any single-family residence in existence on a parcel of land less than 2.5 acres in size shall be allowed to be expanded or improved, provided that all such expansions or improvements shall be made subject to all other applicable regulations including the building code and long-term sewage disposal regulations.
- (2) Detached accessory buildings shall be allowed on nonconforming lots of record, upon which a principal residential structure exists, but subject to all other requirements of city ordinances including the building code.
- (3) Nothing herein shall exempt nonconforming contiguous lots from the provisions of section 32-246(b)(3).

(Ord. No. 1999-85, § A(401.021), 7-6-1999)

Sec. 32-7. Incorporation by reference.

- (a) The following are incorporated into this chapter by reference:
 - (1) The Grant comprehensive plan.
 - (2) The National Pollutant Discharge Elimination System, MN R100001 (NPDES general construction permit) issued by the Minnesota Pollution Control Agency, August 1, 2013, as amended.
 - (3) The Grant Engineering and Design Guidelines manual.
 - (4) The Rules of the Valley Branch Watershed District, pursuant to the authorization and policies contained in Minnesota Statutes Chapters 103B, 103 D, and 103G, and Minnesota Rules 8410 and 8420.
 - (5) The Rules of the Rice Creek Watershed District, pursuant to the authorization and policies contained in Minnesota Statutes Chapters 103B, 103 D, and 103G, and Minnesota Rules 8410 and 8420.

(Ord. No. 2015-39, 4-7-2015)

Sec. 32-8. Opt-Out of Minnesota Statutes, Section 462.3593.

Pursuant to authority granted by Minnesota Statutes, Section 462.3593, Subdivision 9, the City of Grant opts-out of the requirements of Minn. Stat. § 462.3593, which defines and regulates Temporary Family Health Care Dwellings.

ZONING

This Ordinance shall be effective immediately upon its passage and publication.
(Ord. No. 2016-47, 8-2-2016)

Secs. 32-9--32-30. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 32-31. Administrator.

(a) *Agent of administration.* Administration of this chapter shall be by the city council until such time as it is necessary to establish the office of zoning administrator who shall be appointed by the city council and serve at its pleasure.

(b) *Duties of the administrator.* The city council, hereafter referred to as the city zoning administrator, zoning administrator or administrator, shall enforce the provisions of this chapter as provided herein; in addition to the duties and powers of the zoning administrator under this chapter, express or implied, he shall have the duty and power to:

- (1) Issue permits required by this chapter.
- (2) Conduct inspections of land, buildings or structures at reasonable times to determine compliance with and enforce the provisions of this chapter.
- (3) Maintain all records necessary for the enforcement of this chapter, including but not limited to all maps, amendments, and special use permits, variances, appeal notices, and applications therefor.
- (4) Receive, file and forward all appeals, notices, applications for variances, special use permits or other matters to the appropriate officials or boards.
- (5) Institute in the name of the city, any appropriate actions or proceedings to enforce this chapter.
- (6) Serve as ex officio, nonvoting member of the planning commission.

(Ord. No. 50, §§ 501, 502, 12-7-1982)

Sec. 32-32. Violations.

In the event of a violation or the threatened violation of any provision of this chapter, or any provision or condition of a permit issued pursuant to this chapter, the city in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violation or threatened violation.
(Ord. No. 50, § 801.04, 12-7-1982)

(a) Violations to this chapter which involve any land alteration that would cause a building permit, grading permit, or any other land altering permit to be required are also subject to the provisions contained within Article I Chapter 30 Subdivisions.
(Ord. No. 2015-39, 4-7-2015)

Sec. 32-33. Supremacy of more restrictive provisions.

(a) When any condition imposed by any provision of this chapter on the use of land or buildings or on the bulk of buildings is either more restrictive or less restrictive than similar conditions imposed by any provision of any other city ordinance or regulation, the more restrictive conditions shall prevail.

(b) This chapter is not intended to abrogate any easements, restrictions or covenants relating to the use of land or imposed on lands within the city by private declaration or agreement, but where the provisions of this chapter are more restrictive than any such easement, restriction, covenant or provision of any private agreement, the provisions of this chapter shall prevail.

GRANT CODE

(Ord. No. 50, § 901.02, 12-7-1982)

Sec. 32-34. Fees.²

(a) There shall be an application fee for all applications made pursuant to the provisions of this chapter as established by ordinance.

(b) Municipal corporations and governmental agencies shall be exempt from the fee requirements of subsection (a) of this section.

(Ord. No. 50, § 511, 12-7-1982)

Sec. 32-35. Certificate of compliance.

(a) *Issuance.* The zoning administrator shall issue a certificate of compliance in any district for a proposed use listed in article III as a use which must obtain a certificate of compliance prior to construction or occupancy, if the proposed use will not be contrary to the provisions of this chapter, and other codes and ordinances have been fully complied with.

(b) *Conditions; review.* Conditions required by this chapter shall be applied to the issuance of the certificate of compliance, and a periodic review of the certificate and proposed use may be required. The certificate shall be granted for a particular use and not for a particular person or firm.

(c) *Records.* The zoning administrator shall maintain a record of all certificates of compliance issued including information on the use, location and conditions imposed as part of the permit such as time limits, review dates and such other information as may be appropriate.

(d) *Application.* Whenever this chapter requires a certificate of compliance, an application therefor, in writing, shall be filed with the zoning administrator.

(e) *Information to be submitted.* The application shall be accompanied by development plans of the proposed use showing such information as may be reasonably required by the zoning administrator, including but not limited to those listed below. These plans shall contain adequate information upon which the zoning administrator can determine that the proposed development will meet all development standards if the project proceeds in accordance with such plans, including:

- (1) Site plan drawn to scale showing parcel and building dimensions.
- (2) Location of all buildings and their square footage.
- (3) Curb cuts, driveways, access roads, parking spaces, off-street loading areas and sidewalks.
- (4) Landscaping and screening plans.
- (5) Finished grading and drainage plans sufficient to drain and dispose of all surface water accumulated in the area.
- (6) Sanitary and storm sewer plans with estimated use.
- (7) Soil type and soil limitations for the intended use. If severe soil limitations for the intended use are noted, a plan or statement indicating soil conservation practices to be used to overcome said limitation shall be made prior to the certificate application.
- (8) Location of well on applicant's property and adjacent properties.
- (9) Erosion and sedimentation control plans in compliance with Section 30-172.
- (10) Stormwater management plans in compliance with Section 30-173.

² **State Law References:** Fees in connection with official controls, Minn. Stats. § 462.353, subsds. 4, 4a.

ZONING

- (11) Permanent stormwater treatment inspection and maintenance plan, and maintenance agreement as defined in Chapter 30, sections 30-103, 30-172 and 30-173.
- (12) Any additional data reasonably requested by the zoning administrator.
- (f) *Action.* The zoning administrator shall issue or deny the certificate of compliance within ten days of the date on which all of the required information has been submitted.
- (g) *Lack of action.* If no such action on the request for a certificate of compliance is taken within such time, the request for a certificate of compliance shall be considered denied.
- (h) *Appeal.* If the request for a certificate of compliance is denied or if conditions are imposed, the applicant may appeal the decision to the board of adjustment and appeals. The procedures to be followed in this case shall be the same as those followed for an appeal to any administrative decision made by the zoning administrator. (Ord. No. 50, § 506, 12-7-1982; Ord. No. 2015-39, 4-7-2015)

Secs. 32-36--32-58. Reserved.

DIVISION 2. BOARD OF ADJUSTMENT AND APPEALS; APPEALS AND VARIANCES

Sec. 32-59. Board of adjustment and appeals.³

(a) *Established.* There is hereby established a board of adjustment and appeals. The board of adjustment and appeals shall have the powers provided by law.

(b) *Definitions.* The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Hardship means the proposed use of the property and associated structures in question cannot be established under the conditions allowed by this chapter or its amendments and no other reasonable alternate use exists; however, the plight of the landowner must be due to physical conditions unique to the land, structure or building involved and are not applicable to other lands, structures or buildings in the same zoning district; these unique conditions of the site cannot be caused or accepted by the landowner after the effective date of the ordinance from which this chapter is derived or its amendments. Economic considerations alone shall not constitute a hardship.

(c) *Notice.* In addition to the notice of hearing required by this division, a notice shall be published in the official newspaper once at least ten days before the date of the hearing. If the board of adjustment authorizes the issuance of a permit, the council or other board or commission having jurisdiction shall have six months from the date of the decision of the board to institute proceedings to acquire such land or interest therein, and if no such proceedings are started within that time, the officer responsible for issuing building permits shall issue the permit if the application otherwise conforms to city ordinances. The board shall specify the exact location, ground area, height and other details as to the extent and character of the building for which the permit is granted.

(d) *Membership.* The board of adjustment and appeals shall consist of the city council.

(e) *Structure and conduct of board.* The chair of the board of adjustment and appeals shall be the mayor. The deputy mayor shall be the vice-chair and the city clerk shall be the secretary. Subject to such limitations as may be imposed by the city council, the board may adopt rules for the conduct of proceedings before it. Such rules may include provisions for giving of oaths to witnesses and the filing of written briefs by the parties. The board shall provide for a record of its proceedings which shall include minutes of its meetings, its findings and the action

³ **State Law References:** Board of adjustments and appeals, Minn. Stats. §§ 462.354, subd. 2, 462.357, subd. 6, 462.359.

GRANT CODE

taken on each matter heard by it, including the final order.
(Ord. No. 50, §§ 503.01--503.03, 12-7-1982)

Sec. 32-60. Variances.

An application for a variance shall be filed with the zoning administrator. The application shall be accompanied by development plans showing such information as the zoning administrator may reasonably require for purposes of this section, including:

- (1) Whom to contact.
 - a. Application shall be made to the city clerk at least 15 days prior to the hearing presentation.
 - b. All application and escrow fees must be paid and the application deemed complete in order for the public hearing to be scheduled.
 - c. The applicant shall appear at the Grant Town Hall, 8380 Kimbro Avenue North, at the time set for the hearing. After the city planning commission has reviewed the presentation it will make its recommendations to the city council to either approve it, deny it, or continue the matter to a later meeting if the presentation is not complete enough to make a decision.
 - d. When the requested matter is passed onto the city council the applicant shall appear before the council with presentation materials. After the city council has reviewed the request, it will make its decision to approve the request with conditions, to deny the request, or to continue the matter to a later meeting if information is missing which is considered necessary to making a decision.
- (2) What to present.
 - a. A site plan of professional quality approximately three feet by three feet in size, drawn to scale, legible and visible from at least 20 feet. At least ten smaller copies, 8 1/2 inches by 11 inches, should also be available. The plan should:
 1. Show location of all lot lines. If a survey map is available, it shall be presented.
 2. Show all adjacent roads.
 3. Show all driveways and present building locations to scale. Indicate footage from lot lines, etc.
 4. Show locations of existing wells, septic systems, ponds, streams, steep grades, and other pertinent topographic features.
 5. Show to scale the locations of proposed structures, wells, sanitary facilities and septic systems, landscaping, driveways, parking areas, and other information that may apply to the specific proposal.
 6. Show locations of neighbors' properties and exact distance of neighbors' buildings and structures, wells, septic systems, driveways, ponding areas, and general topographic information.
 7. Show plans of professional quality of proposed structures drawn to scale, with setbacks indicated.
 - b. Certain uses require approval of other governmental agencies such as the department of natural resources, pollution control agency, watershed district.
 - c. A statement of reasons why the request is made.

(Ord. No. 50, § 503.04, 12-7-1982)

Secs. 32-61--32-78. Reserved.

ZONING

DIVISION 3. NONCONFORMITIES⁴

Sec. 32-79. Continuation of nonconforming uses.

Except as hereinafter provided in this division, the lawful use of land or the lawful use of a building or structure existing on the effective date of the ordinance from which this chapter is derived or on the effective date of any amendment thereto may be continued although such use does not conform to the provisions of this chapter, except as otherwise provided in this division.

(Ord. No. 50, § 402.02, 12-7-1982)

Sec. 32-80. Dimensionally substandard buildings or structures.

Except as hereinafter provided in this division, buildings or structures lawfully existing on the effective date of the ordinance from which this chapter is derived or on the effective date of any amendment thereto may be maintained although such building or structure does not conform to the dimensional standards of this chapter, but any such building or structure shall not be altered or improved beyond normal maintenance, except that any lawful dimensional substandard residential building, accessory building or structure may be altered or improved if the existing substandard dimension relates only to setback requirements and does not exceed ten percent of the minimum setback requirements, but such alteration or improvement shall conform to all of the provisions of this chapter and shall not increase the existing substandard square footage.

(Ord. No. 50, § 402.03, 12-7-1982)

Sec. 32-81. Unlawful uses, buildings and structures.

No unlawful use of property existing on the effective date of the ordinance from which this chapter is derived or any amendment thereto nor any building or structure which is unlawfully existing on such date shall be deemed a nonconforming use or a nonconforming building or structure.

(Ord. No. 50, § 402.04, 12-7-1982)

Sec. 32-82. Permit holders and permit applicants.

Any nonconforming structure that is ready for or under construction on the effective date of the ordinance from which this chapter is derived or any amendment thereto may be completed and occupied in accordance with the requirements of any valid building permit issued therefor prior to such effective date.

(Ord. No. 50, § 402.05, 12-7-1982)

Sec. 32-83. Change from one nonconforming use to another.

A nonconforming use may be changed only to a use permitted in the district in which it is located; except that if no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restrictive classification, and provided such change is approved by the board of adjustment and appeals as hereinafter provided. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use.

(Ord. No. 50, § 402.06, 12-7-1982)

Sec. 32-84. Change of use with approval of the board of adjustment.

A nonconforming use all or partially conducted in buildings may be changed to another nonconforming use only upon determination by the board of adjustment, after a public hearing, that the proposed new use will be no

⁴ **State Law References:** Nonconformities, Minn. Stats. § 462.357, subs. 1c--1e.

GRANT CODE

more detrimental to its neighborhood and surroundings than is the use it is to replace. In determining relative detriment, the board of adjustment shall take into consideration, among other things, traffic generated; nuisance characteristics such as emission of noise, dust and smoke; fire hazards; and hours and manner of operation. (Ord. No. 50, § 402.07, 12-7-1982)

Sec. 32-85. Restoration of nonconforming buildings or structures.

(a) A nonconforming building or structure which is damaged and/or destroyed by a calamity such as, but not limited to, fire, flood, wind, explosion, tornado, or earthquake, to the extent of more than 50 percent of the market value of said building or structure, as determined by current records of the county assessor and for which no building permit has been applied for within 180 days of when the property was damaged, shall not be restored except in conformity with all current ordinance requirements.

(b) A nonconforming building or structure which is or becomes damaged and/or destroyed through dilapidation, lack of repair, care, and/or upkeep, or similar cause, shall not be restored except in conformity with all current ordinance requirements if no building permit has been applied for within 180 days of when the property was damaged and the dollar value of the repairs necessary to restore the building or structure to comply with all current health, safety, plumbing, electrical, and/or building codes is more than 50 percent of the market value for said building or structure as determined by current records of the county assessor. (Ord. No. 50, § 402.08, 12-7-1982; Ord. No. 1996-71, § A, 8-6-1996; Ord. No. 1999-85, § B, 7-6-1999)

Sec. 32-86. Discontinuation of use.

A nonconforming use of a structure or parcel of land which has been discontinued for a period of 12 months or more shall not be reestablished, and any further use shall be in conformity with the regulations of all city ordinances. (Ord. No. 50, § 4, 12-7-1982; Ord. No. 1996-71, § B, 8-6-1996)

Secs. 32-87--32-115. Reserved.

DIVISION 4. AMENDMENTS⁵

Sec. 32-116. Generally.

An amendment to this chapter may be initiated by the city council, the planning commission or by petition of affected property owners as defined herein. An amendment not initiated by the planning commission shall be referred to the planning commission for study and report, as hereinafter provided, and may not be acted upon by the council until it has received the recommendation of the planning commission. (Ord. No. 50, § 508.01, 12-7-1982)

Sec. 32-117. Applications.

(a) The zoning administrator shall maintain a record of all applications for amendments to this chapter.

(b) Where an amendment to this chapter is proposed by a property owner, an application therefor shall be filed with the city clerk; said application shall be accompanied by development plans, if any, for the use which requires the rezoning. The development plans shall show such information as may be reasonably required by the administrator, including but not limited to those things listed in subsections (c) and (d) of this section.

⁵ **State Law References:** Zoning amendments, Minn. Stats. § 462.357, subds. 3, 4.

ZONING

(c) Such plans shall contain sufficient information for the city to determine whether the proposed development is in keeping with the intent and purpose of this chapter and the comprehensive plan, including:

- (1) Site plan drawn to scale showing parcel and building dimensions.
- (2) Location of all buildings and their size, including square footage.
- (3) Curb cuts, driveways, access roads, parking spaces, off-street loading areas and sidewalks.
- (4) Landscaping and screening plans, including species and size of trees and shrubs proposed.
- (5) Finished grading and drainage plan sufficient to drain and dispose of all surface water accumulated within the area.
- (6) Type of business or activity and proposed number of employees.
- (7) Proposed floor plan and elevations of any building with use indicated.
- (8) Sanitary sewer and water plan with estimated daily flow rates.
- (9) Soil type and soil limitations for the intended use. If severe soil limitations for the intended use are noted, a plan or statement indicating the soil conservation practices to be used to overcome said limitation shall be made part of the application.
- (10) A location map showing the general location of the proposed use within the city.
- (11) A map showing all principal land use within 1,250 feet of the parcel for which application is being made.
- (12) Locations of wells and septic systems on adjacent properties.

(d) The application form shall be accompanied by an accurate list showing the names and the mailing addresses of the record owners of all the property within a minimum of 1,250 feet of the property for which the amendment is sought, verified as to accuracy by the applicant.

(Ord. No. 50, §§ 508.02, 508.03, 12-7-1982)

Sec. 32-118. Hearing.

(a) Once the application is deemed complete, the city clerk shall refer the application to the planning commission for consideration at its next regular meeting.

(b) Notice of the purpose, time and place of such public hearing shall be published in the official newspaper of the city and presented to each of the owners of all property located within a minimum of 1,250 feet of the property described in the application, and such other persons as the planning commission may direct, at least ten days prior to the date of the hearing. A copy of the notice and a list of the owners and addresses to which the notice was presented shall be attested to by the responsible person and shall be made a part of the records of the proceedings. The failure to give notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with the provisions of this section has been made.

(c) The application or his representative shall appear at the public hearing in order to answer questions concerning the proposed use.

(Ord. No. 50, § 508.04, 12-7-1982)

Sec. 32-119. Report to city council.

(a) The planning commission shall make its report on the application to the city council, in writing, after the public hearing. The report shall recommend that the amendment be granted or denied and shall include the planning commission's recommendation as to any conditions to be imposed if the amendment is granted, including time limits or provisions for periodic review and shall state the reasons therefor.

GRANT CODE

(b) The planning commission's report shall be filed with the city council for consideration at its next regular meeting.
(Ord. No. 50, § 508.05, 12-7-1982)

Sec. 32-120. City council action on application.

The city council shall make its decision on the application after it receives the planning commission's report. The city council shall make written findings and shall state therein the reasons for its decision and mail a copy thereof to the applicant.
(Ord. No. 50, § 508.06, 12-7-1982)

Sec. 32-121. Re-application.

No re-application for a zoning amendment shall be resubmitted for a period of six months from the date of the denial of a previous application.
(Ord. No. 50, § 508.07, 12-7-1982)

Secs. 32-122--32-140. Reserved.

ZONING

DIVISION 5. CONDITIONAL USE PERMITS⁶

Sec. 32-141. Generally.

(a) The city is a unique city of mostly agricultural and low density residential uses and zones. The citizens strongly desire to preserve and protect the rural character (as defined in the comprehensive plan) of their city.

(b) The purpose of the conditional use permit is to provide the city with the discretion and flexibility to achieve the goals and objectives of the comprehensive plan and to determine what, if any, uses other than those specifically permitted in this Code may be suitable within the city zoning districts.

(c) Conditional uses as listed in section 32-245 shall be considered only if they support the goals and objectives of the comprehensive plan; protect and enhance the city's rural character; serve, in a general way, the needs of the citizens; and do not negatively affect the general welfare, public health and safety.

(d) In determining whether or not a conditional use may be allowed, the city will consider the nature of the nearby lands or buildings, the effect upon traffic into and from the premises and on adjoining roads, and all other relevant factors as the city shall deem a reasonable prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety.

(e) If a use is deemed suitable, reasonable conditions may be applied to issuance of a conditional use permit, and a periodic review of said permit may be required.
(Ord. No. 1997-77, § 1(505.01), 8-5-1997)

Sec. 32-142. Existing uses.

All uses permitted by this article by conditional use permit in existence prior to the adoption date of the ordinance from which this division is derived shall be automatically issued a conditional use permit by the city. Any changes in the existing use after the adoption date of the ordinance from which this division is derived shall require an amended conditional use permit.

(Ord. No. 1997-77, § 1(505.15), 8-5-1997)

Sec. 32-143. Application.

(a) *Fees and plans.* Application for a conditional use permit shall be filed with the city. In addition to required fees, the application shall be accompanied by development plans for the proposed use showing such information as may be reasonably required by the city, including but not limited to those items listed below. Such plans shall contain sufficient information for the city to determine whether the proposed development will meet all applicable development standards.

(1) Site plan drawn to scale showing parcel and building dimensions.

(2) Location of all buildings and their size, including square footage.

(3) Curb cuts, driveways, access roads, parking spaces, off-street loading areas and sidewalks.

(4) Landscaping and screening plans including species and size of trees and shrubs proposed.

(5) Approved grading and drainage plan from all applicable and appropriate regulatory agencies, such as, but not limited to, the appropriate watershed organization or district, the state department of natural resources, and the Army Corp of Engineers.

(6) Land disturbing activities that disturb 5,000 cubic yards or greater will require a conditional use

⁶ * **State Law References:** Conditional use permits, Minn. Stats. § 462.3595.

GRANT CODE

permit. Application for a grading permit and a conditional use permit shall require the submittal of an erosion and sediment control plan, and stormwater management plan. Erosion and sediment control and stormwater management standards shall comply with the City's Engineering Design Guidelines, and those standards identified in Section 30-172 and 30-173 contained with this Subdivision code.

(7) Permanent stormwater treatment inspection and maintenance plan and agreement as outlined in Chapter 30 Section 30-173.

(8) Type of business activity and proposed number of employees and patrons.

(9) Proposed floor plan and elevations of any building with use indicated.

(10) Sanitary sewer (or septic) and water (or well) plans with estimated flow rates.

(11) Soil type and soil limitations for the intended use. If soil limitations for the intended use are noted, a plan or statement indicating the soil conservation practices to be used to overcome said limitation shall be made a part of the application.

(12) A location map showing the general location of the proposed use within the city.

(13) A map showing all principal and land uses within 1,250 feet of the parcel for which the application is being made.

(14) Proof of ownership of the property for which the conditional use permit is requested, consisting of the deed or contract for deed showing the current owner, together with any unrecorded documents whereby the applicant acquired legal or equitable ownership of the property.

(15) Proof that all property taxes have been paid and no liens or attachments are unsatisfied.

(b) *Denial for incompleteness.* An incomplete application is not a valid application and can be rejected by the city or denied on the basis of being incomplete.

(Ord. No. 1997-77, § 1(505.06), 8-5-1997; Ord. No. 2015-39, 4-7-2015)

Sec. 32-144. Planning commission hearing.

(a) The city shall refer the application to the planning commission for consideration and public hearing at its next regular meeting. Notice of the purpose, time and place of such public hearing shall be published in the official newspaper of the city and presented to each of the owners of all properties located within a minimum of one-quarter mile of the property described in the application and such other persons as the planning commission may direct, at least ten days prior to the date of the hearing. A copy of the notice and a list of the owners and addresses to which the notice was presented shall be attested to by the responsible person and shall be made a part of the records of the proceedings. Failure to give notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with the provisions of this section has been made.

(b) The applicant or his representative shall appear at the public hearing in order to answer questions concerning the proposed use.

(Ord. No. 1997-77, § 1(505.07), 8-5-1997)

Sec. 32-145. Burden of proof.

The applicant shall have the burden of proving that the proposed use is suitable and that all of the standards set forth have been met.

(Ord. No. 1997-77, § 1(505.02), 8-5-1997)

Sec. 32-146. Standards.

ZONING

(a) When certain circumstances exist, the city council may grant a conditional use permit in any zoning district if the applicant has proven to a reasonable degree of certainty that:

- (1) The proposed use is designated in section 32-245 as a conditional use for the appropriate zoning district.
- (2) The proposed use conforms to the city's comprehensive plan.
- (3) The proposed use will not be detrimental to or endanger the public health, safety or general welfare of the city, its residents, or the existing neighborhood.
- (4) The proposed use is compatible with the existing neighborhood.
- (5) The proposed use meets conditions or standards adopted by the city through resolutions or other ordinances.
- (6) The proposed use will not create additional requirements for facilities and services at public cost beyond the city's normal low-density residential and agricultural uses.
- (7) The proposed use will not involve uses, activities, processes, materials, equipment or conditions of operation that will be detrimental to people, property, or the general welfare because of production of traffic, noise, smoke, fumes, glare, odors or any other nuisances.
- (8) The proposed use will not result in the destruction, loss or damage of natural, scenic or historic features of importance.
- (9) The proposed use will not increase flood potential or create additional water runoff onto surrounding properties.

(b) These standards apply in addition to specific conditions as may be specified through the city's ordinances.

(Ord. No. 1997-77, § 1(505.03), 8-5-1997)

Sec. 32-147. Conditions.

(a) In reviewing applications for conditional use permits, the city may attach whatever reasonable conditions are deemed necessary to mitigate anticipated adverse impacts associated with the proposed uses, to protect the value of property within the district, and to achieve the goals of the city's comprehensive plan. In determining such conditions, special consideration shall be given to protecting nearby properties from objectionable views, noise, traffic, and other characteristics associated with such uses. Such conditions may include, but are not limited to, the following:

- (1) Controlling the number, area, bulk, height, and locations of proposed uses.
 - (2) Regulating ingress and egress to the property and the proposed structures thereon with particular references to vehicle and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other catastrophe.
 - (3) Regulating off-street parking and loading areas that may be required.
 - (4) Requiring berming, fencing, screening, landscaping or other means to protect nearby property.
 - (5) Regulating the appearance of all facilities so that they will be harmonious with the neighborhood and city.
- (b) In all cases in which conditional use permits are granted:
- (1) The city shall include in the conditional use permit all drawings, representations, or plans presented by the applicant.
 - (2) The city shall require such evidence and guarantees that are deemed necessary as proof that the standards and conditions stipulated are being and will be met.
 - (3) Periodic reviews, inspections or reporting may be required by the city.

GRANT CODE

- (4) Applicants shall be required to comply with all conditions of approval at their own expense and in accordance with city specifications.
- (5) Applicants shall also provide a financial guaranty to the city, in the form of a cash escrow or letter of credit, in an amount equal to 125 percent of the estimated cost of complying with the conditions. The city shall have the right to retain the financial guaranty until the conditions have been complied with to the reasonable satisfaction of the city.
- (6) In case any conditions are reasonably deemed by the city not to have been complied with, the applicant shall recomplete those items or conditions to the reasonable satisfaction or approval of the city at the applicant's sole cost and expense.

(Ord. No. 1997-77, § 1(505.04), 8-5-1997)

Sec. 32-148. Planning commission report.

(a) The planning commission shall make its report on the application to the city council, in writing, after completing the public hearing. The report shall recommend that the conditional use permit be granted or denied and shall include the planning commission's recommendation as to any conditions to be imposed if the conditional use permit is granted, including time limits or provisions for periodic review and shall state the reasons therefor.

(b) If the planning commission fails to file a report with the city council within the required time, the application shall be referred to the city council as herein provided, without report, after the time for filing the report has expired.

(Ord. No. 1997-77, § 1(505.08), 8-5-1997)

Sec. 32-149. City council action on application.

(a) The city council shall make written findings and shall state therein the reasons for its decision.

(b) The city council may impose such conditions and restrictions, including time limits on the conditional use or periodic review as appears to be necessary and proper to protect adjacent property and comply with the intent and purposes of this chapter and the comprehensive plan.

(Ord. No. 1997-77, § 1(505.09), 8-5-1997)

Sec. 32-150. Denial.

If the city denies a conditional use permit, it shall include in its findings the ways in which the proposed use does not comply with the standards required by this ordinance or other applicable regulations.

(Ord. No. 1997-77, § 1(505.05), 8-5-1997)

Sec. 32-151. Reapplication.

No application for a conditional use permit shall be resubmitted for a period of six months from the date of the denial of a previous application.

(Ord. No. 1997-77, § 1(505.10), 8-5-1997)

Sec. 32-152. Amended applications.

An amended conditional use permit application may be administered in a manner similar to that required for a new conditional use permit. Amended conditional use permits shall include re-applications for permits that have been denied or permits that have expired, requests for changes in conditions, and as otherwise described in this chapter.

(Ord. No. 1997-77, § 1(505.14), 8-5-1997)

Sec. 32-153. Recording of copy with county.

ZONING

A true and correct copy of approved conditional use permits shall be recorded, at the applicant's expense, in the office of the county recorder or registrar of titles.
(Ord. No. 1997-77, § 1(505.16), 8-5-1997)

Sec. 32-154. Compliance with permit; violation of conditions.

(a) *Compliance required.* Any use permitted under the terms of a conditional use permit shall be established and conducted in accordance with all of the terms, conditions and restrictions of such permit. The violation of any term, condition or restriction of a conditional use permit shall be a violation of this division.

(b) *Violations.* In the event of the violation of any term, condition or restriction of a conditional use permit, the city may institute an appropriate action or proceeding in district court for such equitable relief as may be appropriate. Additionally, permits issued pursuant to this division are subject to the provisions of article V of chapter 2, pertaining to ordinance violations.
(Ord. No. 1997-77, § 1(505.12), 8-5-1997)

Sec. 32-155. Expiration and suspension.

If, under such conditional use permit, building is commenced and subsequently determined by the city council to be abandoned for a period of 120 days, the conditional use permit shall be suspended at the end of said 120 days. Before said construction may be recommenced, a conditional use permit can be reinstated by the city council, provided that no changes or alterations in the original plan have been made. If the building permit for the construction that was determined to be abandoned became invalid prior to the recommencement of such construction, the suspended conditional use permit shall expire at the time said building permit became invalid.
(Ord. No. 1997-77, § 1(505.13), 8-5-1997)

Sec. 32-156. Annual review of issuances.

(a) *Monitoring permits issued.* The city council shall, on an annual basis, engage in a review of all conditional use permits issued within the city, for the purpose of ensuring compliance and determining whether issued permits have expired pursuant to section 32-155. The city council shall create a list of conditional use permits to review, which will be kept by the city clerk for updating on an annual basis. The city council shall undertake an informal review of all conditional use permits placed on the list.

(b) *Formal review for compliance.* In the event the city council determines it necessary to formally review a conditional use permit for compliance, the conditional use permit shall be reviewed by the planning commission at a public hearing, with notice of said hearing published in the official newspaper at least ten days prior to the hearing.

- (1) The city clerk shall schedule such public hearing and notify the holder of the permit prior to the hearing.
- (2) The holder of the permit shall be required to pay the conditional use permit review fee which is contained within the city's fee schedule.

(c) *Updating roster of permits.* At the conclusion of the city council's review of its conditional use permits, the city clerk shall update and maintain a current roster of the city's active conditional use permits.
(Ord. No. 1997-77, § 1(505.11), 8-5-1997; Ord. No. 2007-03, § 1(505.08), 12-3-2007)

Secs. 32-157--32-180. Reserved.

DIVISION 6. OTHER PERMITS AND CERTIFICATE OF OCCUPANCY

Sec. 32-181. Building permit and compliance with building code required.

- (a) *Required.* No structure shall hereafter be erected or structurally altered until a building permit

GRANT CODE

shall have been issued, indicating that the existing or proposed structure and the use of the land comply with this chapter and all building codes.

(b) *Proposal to comply with code.* Building permits shall not be issued unless the proposed improvement meets all of the requirements of the building code.

(c) *Site preparation in advance of permit prohibited.* No site preparation work, including rough grading, driveway construction, footing excavation, tree removal or other physical changes to the site shall occur prior to the issuance of a building permit and other zoning use permits.

(d) *Application.* Applications for permits as required by this section shall be made to the city clerk or building official on forms to be furnished by him. The city clerk or building official shall maintain a record of all applications for and all permits issued under this division.

(e) *Site plan.* Application for a building permit shall be accompanied by a site plan drawn to scale showing the dimensions of the lot to be built upon, the size and location of the building, utilities including on-site septic systems, accessory buildings to be erected, the vegetation and major topographic changes, and drawings of the improvement in sufficient detail to permit checking against the building code, and such other information as the city council or building official may reasonably require to determine compliance with this chapter and the building code. In some cases, the city council may require a certificate of survey before a building permit will be issued.

(f) *Erosion and sediment control plan.* Every applicant must adhere to erosion control measure standards and specifications in strict conformance with the provisions of this chapter and the City's Engineering and Design Guidelines document. Erosion and sediment control plans shall also be consistent with the National Pollutant Discharge Elimination System General Permit, as amended, and the filing or approval requirements of relevant Watershed Districts, Watershed Management Organizations, Soil and Water Conservation Districts, or other regulatory bodies. No land shall be disturbed until the plan is approved by the city engineer and conforms to the standards set forth herein.

(g) *Stormwater management plan.* Every applicant must adhere to stormwater management standards and specifications in strict conformance with the provisions of this chapter and the City's Engineering and Design Guidelines document. Stormwater management plans shall also be consistent with the national Pollutant Discharge Elimination System General Permit, as amended, and the filing or approval requirements of relevant Watershed Districts, Watershed Management Organizations, Soil and Water Conservation Districts, or other regulatory bodies. No land shall be disturbed until the plan is approved by the city engineer and conforms to the standards set forth herein.

(h) *Issuance.* No building permit shall be issued for any improvement which would result in a use, building or structure in violation of this chapter, or the subdivision, shoreland management, floodplain, on-site sewer disposal, mining or other city regulations.

(i) *Start of work after issuance.* The work for which a building permit is issued shall commence within 60 days after the date thereof unless an application for an extension of 90 days has been submitted to the building official and approved by him. The work shall be completed within one year of the date of issuance.

(j) *Expiration.* Permits issued by the zoning administrator or building official under the provisions of this section and the building code shall expire and be null and void if the work authorized by a permit is abandoned or suspended for a period of 120 days, or in the event that work is not commenced or completed within the time limitations of section 32-181(g).

(k) *Suspension or revocation.* The building official may, in writing, suspend or revoke a permit issued under the provisions of this chapter and the building code whenever such permit is issued in error or on the basis of incorrect information supplied, or in violation of any city ordinance, regulation or code. Such violation may also be subject to the procedure identified in Section 30-3 Subdivision.

ZONING

(Ord. No. 50, § 509.01, 12-7-1982; Ord. No. 2015-39, 4-7-2015)

Sec. 32-182. Moving permit.

(a) No building or structure which has been wholly or partially erected shall be moved to any other location within the city unless a permit to move said building or structure has been obtained or provided herein. Any such building or structure proposed to be moved shall meet all requirements of the building code applicable to a new building or structure.

(b) Construction sheds, agricultural buildings or temporary structures to be located on a lot for 12 months or less do not need a moving permit.

(Ord. No. 50, § 509.02, 12-7-1982)

Sec. 32-183. Septic permit.

(a) In areas without public sewer facilities, no building permit for any use requiring on-site sewage treatment and disposal shall be issued until a septic permit has first been issued.

(b) A septic permit shall be obtained by Washington County only after proof is furnished by the applicant that a suitable on-site sewage treatment and disposal system can be installed on the site that meets all of the City's dimensional standards as contained within this Chapter, and within Section 12-260 and the applicable Sections of Chapter 30 Subdivisions.. Such system shall conform to all of the requirements of the county's on-site subsurface sewage treatment and disposal regulations.

(Ord. No. 50, § 509.03, 12-7-1982; Ord No. 2020-61, 4-7-2020)

Sec. 32-184. Driveway access permit.

A driveway access permit to a public road shall be secured from the public agency with jurisdiction and maintenance responsibilities over the road, prior to the issuance of a building permit.

(Ord. No. 50, § 509.04, 12-7-1982)

Sec. 32-185. Grading permit required; exceptions.

No person shall do any grading without first having obtained a grading permit from the building official except for the following:

- (1) Grading in an isolated, self-contained area if there is no danger apparent to private or public property.
- (2) An excavation below finished grade for basements and footings of a building, retaining wall or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation nor exempt any excavation having an unsupported height greater than five feet after the completion of such structure.
- (3) Cemetery graves.
- (4) Refuse disposal sites controlled by other regulations.
- (5) Excavations for wells or tunnels or utilities.
- (6) Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate or clay where established and provided for by law, provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous property.
- (7) Exploratory excavations under the direction of soil engineers or engineering geologists.
- (8) An excavation which is less than two feet in depth or which does not create a cut slope greater than five feet in height and steeper than one and one-half horizontal to one vertical.

GRANT CODE

- (9) A fill less than one foot in depth, and placed on natural terrain with a slope flatter than five horizontal to one vertical, or less than three feet in depth, not intended to support structures, which does not exceed 50 cubic yards on any one lot and does not obstruct a drainage course.
- (10) All land disturbing activities which disturb more than 50 cubic yards but do not exceed 5,000 cubic yards shall require a grading permit.
- (11) Any land disturbing activity which exceeds 5,000 cubic yards shall require a Conditional Use Permit.

(Ord. No. 50, § 509.05, 12-7-1982; Ord. No. 2015-39, 4-7-2015)

Sec. 32-186. Sign Permits.

Sign permits shall be required as stated in article IV, division 3 of this chapter.

(Ord. No. 50, § 509.06, 12-7-1982)

Sec. 32-187. Certificate of occupancy.

(a) *When required.* No person may change the use of any land (except for agricultural purposes or for construction of essential services and transmission lines), or occupy a new or structurally altered building used for nonagricultural use, after the effective date of the ordinance from which this chapter is derived, unless he has first obtained a certificate of occupancy.

(b) *Application; temporary certificate.* Application for a certificate of occupancy for a new building or for an existing building which has been so altered may be filed with the building official any time after the application for a building permit for such building. The certificate of occupancy shall be issued within ten days after the construction or alteration of such building or part thereof has been completed in conformity with the provisions of this chapter and the building code. Pending the issuance of said certificate, a temporary certificate of occupancy may be issued, subject to the provisions of the building code for a period not to exceed 12 months during the completion of the erection or the alteration of such a building. The temporary certificate shall not be construed as in any way altering the respective rights, duties or obligations of the owners or of the city relating to the use or occupancy of the premises or any other matter except under such restrictions and provisions as will adequately ensure the safety of the occupants. The use of any structure for which a building permit is required shall be considered a violation of this chapter unless a certificate of occupancy has been issued.

(c) *Issuance.* Application for a certificate of occupancy for a new use of land shall be made to the building official before any such land shall be so used. Such certificate of occupancy shall be issued within ten days after this application if the use is in conformity with the provisions of this chapter.

(d) *Record.* A record of all applications for and certificates of occupancy shall be kept on file.
(Ord. No. 50, § 510, 12-7-1982)

Secs. 32-188--32-212. Reserved.

DIVISION 7. ENVIRONMENTAL ASSESSMENT (EAW) AND IMPACT STATEMENTS (EIS)

Sec. 32-213. Environmental assessment worksheet.

(a) *Review of proposed land uses, etc., required.* No zoning, building permit, structure or land use, variance or ordinance amendment shall be approved prior to review by the planning commission to determine the necessity for completion of a state environmental assessment worksheet (EAW) as required by the Minnesota

ZONING

Environmental Quality Board Regulations (1977).

(b) *Purpose of EAW.* The purpose of an EAW is to assess rapidly, in a worksheet format, whether a proposed action is a major action with the potential for significant environmental effects, or in the case of a private action, whether it is of more than local significance.

(c) *Mandatory filing.* Projects which shall be required to file a mandatory environmental assessment worksheet shall include:

- (1) Construction or opening of a facility for mining gravel, other nonmetallic minerals and fuels involving more than 320 acres.
- (2) An action that will eliminate or significantly alter a wetland of type 3, 4 or 5 (as defined in United States Department of Interior, Fish and Wildlife Service, Circular 39, Wetlands of the United States, 1956) of five or more acres either singly or in a complex of two or more wetlands.
- (3) Construction of a new or additional residential development that includes 100 or more units in an unsewered area.
- (4) Construction of a residential development consisting of 50 or more residential units, any part of which is within a shoreland area.
- (5) Conversion of 20 or more contiguous acres of forest cover to a different land use.

(d) *Option by city.* An optional EAW may be required by the city council or by any project applicant on any proposed action to determine if the project has the potential for significant environmental effects or if the project is of more than city significance, provided any of the following situations exist:

- (1) The proposed project is in or near an area recognized in the city comprehensive plan as being environmentally sensitive due to steep slopes, bluffline, exposed bedrock, floodplain, wetlands, streams, drainage areas, groundwater, erodible soils, prime agricultural soils or unique vegetation.
- (2) The proposed project is in or near an area of natural aesthetics, scenic views, delineated critical area or unique natural beauty as recognized by the comprehensive plan, planning commission or city council.
- (3) The proposed project significantly alters existing traffic patterns or increases the noise level on such roads or streets by more than ten percent.
- (4) The proposed project is adjacent to or near a public recreation land or facility and alters or increases use, noise levels, or traffic, or degrades air quality or natural aesthetics as viewed from the facility.
- (5) The proposed project is construction or opening of a facility for mining and/or processing of gravel, sand, other nonmetallic minerals and fuels involving more than 50 acres.
- (6) The proposed project involves the construction of new or additional residential subdivisions that include 50 or more lots in an unsewered area.

(e) *Preparation of EAW.* The city council shall prepare, or cause to be prepared by consultants, an environmental assessment worksheet which is mandatory or optionally required. The project proposer shall provide the zoning administrator with a draft worksheet. If sufficient detailed information is not made available from the project proposer, or if the zoning administrator cannot complete the EAW because of time or interest conflicts, the zoning administrator may utilize professional consultants to gather necessary information and to complete the worksheet.

(f) *Planning commission recommendation.* The zoning administrator shall submit the environmental assessment worksheet and his recommendation finding to the planning commission at its next regular meeting or special meeting before the next regularly scheduled board meeting. After reviewing the zoning administrator's written findings, the planning commission shall recommend to the city council whether or not there are significant

GRANT CODE

environmental effects from the project to require the writing of an impact statement. The planning commission may hear appeals of the zoning administrator's recommendation at this meeting.

(g) *Environmental impact statement mooted.* Upon completion of said worksheet, the planning commission shall write a recommended finding from the worksheet on whether or not there are sufficient environmental effects or effects of more than local significance which shall require a state environmental impact statement.

(h) *Decision forwarded to state.* Within 45 days of the date the project proponent filed a planning request, the city council shall have reviewed any appeals, the zoning administrator's written finding, and the planning commission recommendation and shall have forwarded its final decision on the necessity for preparing an environmental impact statement to the state environmental quality board to be officially published in the Environmental Quality Board Monitor.

(i) *Distribution.* Copies of the zoning administrator's written findings on the worksheet and the city council's final decision shall be mailed to all points on the official environmental quality board distribution list and to adjacent counties and municipalities likely to be directly impacted by the proposed project. The zoning administrator shall also submit an affidavit certifying the date and places copies of the worksheet were submitted.

(j) *Objection period.* Thirty days after the date of the publication of the city council's decision in the Environmental Quality Board Monitor, if no objections are filed with the EQB, the decision stands.
(Ord. No. 50, §§ 512.01--512.10, 12-7-1982)

Sec. 32-214. Environmental impact statement.

(a) *EIS preparation.* If preparation of an environmental impact statement (EIS) is required, the proponent shall follow the procedure outlined in the state quality board regulations concerning environmental impact statements. A draft impact statement, as prepared by or under the direction of the zoning administrator shall be filed with the environmental quality board (EQB) within 120 days of the decision to require an environmental impact statement.

(b) *Conditional use permit applies.* Any proposed project or use on which an EIS is required shall be considered a conditional use as defined in the current zoning regulations and shall comply with the procedure for approval of a conditional use permit. Mitigating recommendations of the EIS shall be incorporated as conditions of issuance of the conditional use permit.
(Ord. No. 50, §§ 512.11, 512.12, 12-7-1982)

Sec. 32-215. Time delays in permitting process.

Time delays in the normal permit process caused by the filing and review of the EAW and/or EIS shall not be considered part of the permit approval time requirements within this division. Such delays shall be considered as additional required time for each required permit. The permit process for the proposed project may be continued from the point it was interrupted by the EAW/EIS process.
(Ord. No. 50, § 512.13, 12-7-1982)

Sec. 32-216. Halting of construction projects.

Construction begun on projects requiring an EAW shall be halted at such time as an EIS is officially required by the environmental quality board or local city council regulations.

ZONING

(Ord. No. 50, § 512.14, 12-7-1982)

Sec. 32-217. Reimbursement of city expenses and deposits.

(a) *Applicant to pay costs of review.* Any applicant shall agree in writing as part of his application to reimburse the city council prior to the issuance of any permits, for all reasonable costs, including legal and consultant fees incurred by the city council in review of the applicant's project and its impact on the city.

(b) *Deposit required in advance of review.* The applicant shall deposit with the city from time to time an amount determined by the zoning administrator necessary to cover such costs prior to commencement of the review or stage of the review. The applicant shall reimburse the security fund for any deficits caused if the amount actually expended or billed to the city by the consultants exceeds the security fund balance. The city shall refund any money deposited in the security fund and not expended within 30 days after final action on the application. The city shall not pay interest on such security deposits.

(Ord. No. 50, §§ 512.15, 512.16, 12-7-1982)

Secs. 32-218--32-242. Reserved.

GRANT CODE

ARTICLE III. ZONING DISTRICTS ESTABLISHED; PERMITTED USES; DIMENSIONAL STANDARDS

DIVISION 1. GENERALLY

Sec. 32-243. Districts established.

For the purpose of this chapter, the city is hereby divided into the following basic zoning use districts:

<i>District Symbol</i>	<i>Intent and Primary Use</i>
C	The conservancy districts preserve, protect and manage environmentally sensitive areas having wet soils, steep slopes, exposed bedrock or unique natural and biological characteristics in accordance with compatible uses.
A-1	A-1 districts preserve land to be utilized for agriculture and commercial food production on lots smaller than those required in AP districts. A-1 districts provide areas of rural lot density housing with lots large enough for significant agricultural activity to occur.
A-2	The A-2 districts provide rural low density housing in agricultural districts on lands not capable of supporting long-term, permanent commercial food production. A-2 district lot sizes will provide for marginal agriculture and hobby farming.
R-1	R-districts provide low density residential areas in rapidly developing rural settings. R-1 districts provide lots large enough to maintain a semi-rural setting, but lots not large enough to support commercial agriculture. R-1 districts provide a buffer between agricultural districts and urban or rapidly developing districts.
GB	GB districts provide for a general mix of commercial businesses. General business districts will be located in areas where there is a demand for diversified business districts and in areas capable of supplying the utilities for such development.

(Ord. No. 50, § 601.01, 12-7-1982)

Sec. 32-244. Zoning district map.

The boundaries of the districts as established by this chapter are as shown on the map published herewith and made part of this chapter, said map is designated as the official zoning map of the city and shall be maintained as provided herein by the city zoning administrator. The district boundary lines on said map are intended to follow street right-of-way lines, street centerlines or lot lines, unless such boundary line is otherwise indicated on the map. In the case of unsubdivided property or in any case where street or lot lines are not used as boundaries, the district boundary lines shall be determined by use of dimensions or the scale appearing on the map. All of the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and are hereby made a part of this chapter by reference and incorporated herein as fully as if set forth herein at length. Whenever any street or other public way is vacated, any zoning district line following the centerline of said vacated street or way shall not be affected by such vacation.

(Ord. No. 50, § 603.01, 12-7-1982)

ZONING

Sec. 32-245. Table of uses.

(a) When uses in a district are listed as both permitted and as conditional uses, or when any other conflict appears in this chapter with respect to permitted uses within a district, the more restrictive portion shall be applied.

(b) Uses shall be allowed according to the use table in subsection (c) of this section. When a specific use is not listed, the closest similar listed use shall determine the restrictions and conditions which apply.

(c) Uses in conservancy, agricultural, residential and general business districts:

USE	ZONING DISTRICT				
	Conservancy	Agricultural A1	Agricultural A2	Residential R1	General Business (GB)
<i>(KEY)</i> <i>P = Permitted</i> <i>C = Conditional use permit and public hearing</i> <i>I = Interim Use Permit and public hearing</i> <i>CC = Certificate of compliance</i> <i>A = Permitted accessory use</i> <i>N = Not permitted</i>					
Agriculture. (See section 32-345.)	C	P	P	P	N
Agricultural business, seasonal.	N	C	C	N	N
Airports, airstrip, heliports. (See section 32-279.)	N	C	C	N	N
Animals, commercial training.	N	C	N	N	N
Animals, domestic farm (See section 32-337.)	N	P	P	P	N
Antennas or towers over 35 feet in height (as permitted by section 32-249.)	N	C	C	C	C
Archery range, commercial outdoors.	C	C	C	N	N
Armories, convention halls and similar uses.	N	N	N	N	N
Apartment buildings.	N	N	N	N	N
Auto/car wash.	N	N	N	N	C
Auto reduction yard; junk yard.	N	N	N	N	N
Automobile repair.	N	N	N	N	C
Automobile service station. (See section 32-340.)	N	N	N	N	C
Bed and breakfast. (See section 32-327.)	N	C	C	C	N
Blacktop or crushing equipment for highways.	N	C	N	N	N
Boarders.	N	N	N	N	N
Boat dock, noncommercial. (See county chapters 2 and 7.)	A	A	A	A	N
Boat, trailer, marine sales--enclosed.	N	N	N	N	C
Broadcasting studio.	N	N	N	N	C
Business--seasonal.	N	C	C	C	C
Campgrounds, tents and tent trailers only.	N	N	N	N	N
Care facility. (See section 32-338(c).)	N	C	C	C	N
Cemeteries.	N	C	C	C	N
Churches.	C	C	C	C	C
Clear cutting. (See sections 32-343, 32-348 and 32-246(b)(8).)	N	C	C	C	N
Clubs or lodges.	N	C	C	C	C

GRANT CODE

Cluster developments.	N	N	N	N	N
Commercial recreation.	C	C	C	C	C
Community Solar Energy System	N	N	N	N	N
Schools - commercial	N	N	N	N	C
Convents.	N	C	C	C	N
Disposal areas--liquid waste.	N	N	N	N	N
Disposal areas--solid waste.	N	C	N	N	C
Disposal areas--solid and liquid waste.	N	N	N	N	N
Domestic pets.	P	P	P	P	N
Drive-in business.	N	N	N	N	N
Essential services--government uses, buildings and storage.	C	C	C	C	C
Essential services--transmission services, buildings and storage.	C	C	C	C	C
Explosives--manufacture, storage. (See section 32-324.)	N	N	N	N	N
Explosives--utilization. (See section 32-324.)	N	C	C	N	N
Farm.	-----See "Agriculture"-----				
Farm equipment sales.	N	N	N	N	C
Feedlots, commercial. (See sections 32-337 and 32-345.)	N	C	N	N	N
Fences. (See section 32-315.)	A	A	A	A	A
Flammable gases and liquids, business/distribution.	N	N	N	N	N
Forestry Products and Processing (non-retail)	N	I	I	N	N
Forests.	P	P	P	P	C
Fuel sales.	N	N	N	N	C
Funeral homes.	N	N	N	N	N
Garage, private. (See section 32-313.)	A	A	A	A	N
Garage--Repair.	N	N	N	N	C
Garage--Storage.	N	N	N	N	C
Golf courses	N	C	C	C	N
Grading.	-----See section 32-342-----				
Guest house. (See section 32-326.)	N	N	N	N	N
Gun clubs or ranges, indoor	N	C	C	N	C
Home occupations (meeting criteria).	P	P	P	P	N
Home occupations (not meeting criteria).	N	C	C	C	N
Horse boarding and training facilities.	P/C	P/C	P/C	P/C	N
Hotel or motel.	N	N	N	N	N
Identification and nameplate signs.	-----See article IV, division 3-----				
Incidental repair.	N	A	N	N	N
Information centers.	N	CC	C	C	N
Institutional housing.	N	N	N	N	N
Interim uses. (See section 32-335.)	N	C	C	N	C
Junkyard.	N	N	N	N	N
Kennels--private.	N	C	C	C	N
Kennels--commercial.	N	C	N	N	N
Land reclamation. (See section 32-342).	N	C	C	C	C
Landscaping and decorative features. (See section 32-319.)	A	A	A	A	A
Lodging room.	N	N	N	N	N

ZONING

Manufacturing--general.	N	N	N	N	C
Manufacturing--limited.	N	N	N	N	C
Medical uses.	N	C	C	C	C
Mining. (See section 32-344.)	C	C	N	N	N
Manufactured home--care facility. (See section 32-338(c).)	C	C	C	C	N
Manufactured home court/park.	N	N	N	N	N
Manufactured home—other.	-----See section 32-338(l)-----				
Manufactured home--temporary dwelling (See section 32-338(d)).	N	C	N	N	N
Motel or hotel.	N	N	N	N	N
Multiple family dwellings (with central sewer).	N	N	N	N	N
Nature centers, private or public.	C	C	C	C	C
Nursery—commercial.	CC	P	C	C	N
Nurseries--day and school.	N	C	C	C	N
Nursery and garden supplies (exterior or enclosed sales).	N	N	N	N	C
Offices.	N	N	N	N	C
Off-street loading. (See section 32-322.)	N	N	N	N	A
Off-street parking. (See article IV, division 2 of this chapter).	A	A	A	A	A
Parks.	C	C	C	C	C
Photo, art studio.	N	N	N	N	C
Planned unit developments.	N	N	N	N	N
Public enclosed rental storage or garages.	N	N	N	N	C
Racetracks.	N	N	N	N	N
Railroad operations.	N	C	C	N	N
Recreation, Commercial indoor.	N	N	N	N	N
Recreation, Commercial outdoor.	N	C	C	C	C
Recreation, private.	C	C	C	C	N
Recreation equipment storage--commercial (inside storage only).	N	C	C	N	C
Recreation equipment storage--private (side and rear yard only). (See section 32-316.)	A	A	A	A	N
Reduction or processing of refuse, trash and garbage.	N	C	N	N	N
Rental of cars, trailers, campers, trucks and similar equipment.	N	N	N	N	C
Research.	N	N	N	N	C
Residential--multiple family (with central sewer).	N	N	N	N	N
Residential--single-family detached dwellings. (See section 32-246.)	CC	P	P	P	N
Residential--townhouse.	N	N	N	N	N
Residential--two-family dwellings (duplex). (See section 32-246.)	N	N	N	N	N
Residential--waterfront uses.	A	A	A	A	N
Residential Solar Energy Systems – Building Mounted	N	P	P	P	P
Residential Solar Energy Systems – Ground Mounted	N	CC	CC	CC	CC

GRANT CODE

Resorts.	C	C	C	C	N
Rest or nursing homes.	N	N	N	N	N
Restaurants, Bars and Taverns	N	N	N	N	C
Retail business.	N	N	N	N	C
Roadside sales stand (seasonally operated).	CC	CC	CC	CC	N
Roads--private.	N	N	N	N	N
Rural Event Facility	N	C	C	N	N
Sales, auto--open lot displays with on-site display office. (See section 32-336.)	N	N	N	N	C
Sales--open lot (outdoor displays but no office).	N	N	N	N	C
Schools--public and private.	N	C	C	C	N
Signs--advertising. (See article IV, division 3 of this chapter).	N	N	N	N	C
Signs--other than permitted accessory signs.	-----See article IV, division 3-----				
Shooting preserve. (See section 32-328)					
	Commercial	N	C	N	N
	Personal	N	C	N	N
	Private	N	C	N	N
Shopping center.	N	N	N	N	N
Storage, highway construction equipment during construction.	N	C	C	C	N
Storage--as a principal use. (See section 32-316.)	N	C	C	C	C
Storage--normally incidental to the principal use. (See section 32-316.)	A	A	A	A	A
Storage--not accessory to a permitted principal use. (See section 32-316.)	N	C	C	C	N
Structure--historic, scenic, etc.	C	C	C	C	C
Structure--temporary or interim use. (See section 32-335.)	N	N	N	N	N
Supper club.	N	C	C	N	C
Swimming pool--commercial. (See section 32-334.)	N	N	N	N	N
Swimming pool--residential. (See section 32-334.)	CC	CC	CC	CC	N
Terminal--transportation or motor freight.	N	N	N	N	C
Theater.	N	N	N	N	C
Theater--drive-in.	N	N	N	N	N
Townhouse.	N	N	N	N	N
Trailer/recreation vehicle. (See section 32-339.)	CC	CC	CC	CC	N
Trailer/recreation vehicle parks--seasonal use.	N	N	N	N	N
Utility substations.	C	C	C	C	C
Vegetative cutting.	-----See section 32-348-----				
Vehicle sales--enclosed. (See section 32-336.)	N	N	N	N	C
Veterinary clinic.	N	C	N	N	C
Warehousing.	N	N	N	N	C
Waterfront uses--residential.	A	A	A	A	N
Wholesale business.	N	N	N	N	C

ZONING

Wildlife reserve--private or public.	P	P	P	P	N
Wind energy conversion systems (WECS)	N	CC	CC	N	N

(Ord. No. 50, §§ 601.01, 603.02, 604, 12-7-1982; Ord. No. 53, § 2(606.03), 7-7-1983; Ord. No. 54-B, § 1, 6-5-1984; Ord. No. 58-A, § 1, 8-5-1986; Ord. No. 54C-2003, § 3, 2-4-2003; Ord. No. 2004-109, §§ 1, 2, 8-3-2004; Ord. No. 2005-117, § 3, 11-1-2005; Ord. No. 2015-41, 12-1-2015; Ord. No. 2015-42, 12-1-2015; Ord. No. 2015-44, 1-5-2016; Ord. No. 2016-46, 6-7-2016; Ord. No. 2017-53, 12-5-2017)

Sec. 32-246. Minimum area, maximum height and other dimensional requirements.

(a) *Dimensional requirements.* The following chart sets out the minimum area, maximum height and other dimensional requirements of each zoning district.

	<i>Zoning District</i>					
	AP	A-1	A-2	R-1	C	GB
Density Requirements						
Maximum Density (one dwelling unit/acre) ^a	40	10	10	10	10	-
Minimum Lot Size						
Minimum Lot Area per dwelling unit (acres) ^b	5	5	5	5	5	-
Minimum Lot Area per non-residential structure (acres)	See section 32-313(b)					2.5
Minimum Lot Depth (feet)	300	300	300	300	300	150
Minimum Lot Width (feet) ^{c,d}	300	300	300	300	300	300
Minimum Lot Width on a cul-de-sac (feet) ^{c,d}	160	160	160	160	160	160
Minimum Frontage						
Frontage on an Improved Public Road	300	300	300	300	300	300
Frontage on a cul-de-sac	60	60	60	60	60	60
Minimum Setbacks (feet)						
Front Yard	80	65	65	65	65	65
Front Yard along Arterials (from centerline)(feet) ^e	150	150	150	150	150	150
Side Yard (from street in case of corner lot)	80	65	65	65	65	65
Side Yard (from interior lot line)	40	20	20	20	20	20
Rear Yard	50	50	50	50	50	30
Structural Setback from Wetland Type 3, 4 or 5	75	75	75	75	75	75
Subsurface Treatment System from Wetland Type 3, 4 or 5 ⁸	50	50	50	50	50	50
Maximum Height (feet)	35	35	35	35	35	35
Additional Standards						
Minimum Buildable Area (acres) ^f	1	1	1	1	1	1
Maximum Floor Ratio	30%	30%	30%	30%	30%	40%
Parking Surfaces or Structures of any type	50%	50%	50%	50%	50%	80%
Minimum Floor Area Per Dwelling (sq. ft.)	1,000	1,000	1,000	1,000	1,000	-

Note: If standards within the Code conflict with the table above, the standards within the Code apply. The table does not include all dimensional standards within the code.

^a The maximum density in the AP District is one unit per 40 acres or according to the State Statues, Section 473H03. Additional Density Restrictions apply. See subsection (c) of this section. Subsection (c) restricts density to no more than four home sites per quarter-quarter section, if any quarter-quarter section contains less than 40 acres.

^b Lot averaging allows the property owner to create parcels smaller than those of a conventional subdivision plan provided the density of the development does not exceed the maximum density permitted for the zoning district. Subsection (c)2 of this section requires a minimum of twenty (20) acres of contiguous land for a subdivision which creates new residential lots.

GRANT CODE

^c Lot width is defined as the horizontal distance between the side lot lines of a lot measured at the front setback line.\

^d At some place on the lot, a 300-foot diameter circle must be inscribed.

^e See section 32-248 (c) of this chapter.

^f See subsection (b)4 of this section.

^g See section 32-247(4) of this chapter.

⁸ See Chapter 12, Section 12-260 subsections (1) and (3).

(b) *Additions and exception to the minimum area, height and other requirements.*

- (1) *Existing Lot defined.* For the purpose of this article, the term “existing lot” means a lot or parcel of land which was of record as a separate lot or parcel in the Office of the County Recorder or Registrar of titles on or before the date of adoption of the ordinance from which this chapter is derived.
- (2) *Existing Lot of Record exemptions.* Any such lot or parcel created in accordance with the city subdivision regulations in effect at the time that such Lot was created that is at least 2.5 acres in size, shall be exempt from the requirements of subsection (3), pertaining to area, lot width, lot depth and lot frontage and shall be considered buildable if the lot or parcel can comply with the remaining requirements of this section and meet the minimum setback requirements as stated within Section 32-246 (a)
- (3) *Undersized lots.* If in a group of two or more contiguous lots or parcels of land owned or controlled by the same person, any individual lot or parcel does not meet the full width, depth, frontage or area requirements of this article, such individual lot or parcel cannot be considered as a separate parcel of land for purposes of sale or development, but must be combined with adjacent lots or parcels under the same ownership so that the combination of lots or parcels will equal one or more parcels of land each meeting the full lot width and area requirements of this article.
- (4) *Subdivision of lots.* Any lot or parcel of land subdivided by any means for purposes of erecting a structure after the effective date of the ordinance from which this chapter is derived must be approved as required by the city’s subdivision regulations. All new lots created must have at least one (1) acre of accessible buildable land. Buildable land is defined as land with a slope of less than twenty-five (25) percent, and outside of any required setbacks, above any floodway, drainage way, or drainage easement. Property situated within shorelands or floodplains are also subject to the requirements set forth in those respective ordinances.
- (5) *Lots in the floodplain.* All lots in a designated floodplain shall be subject to the county floodplain ordinance as well as regulations provided by this chapter and chapter 14.
- (6) *Heavily wooded sites.* On any lot, clear cutting shall require a conditional use permit. A certificate of compliance shall be required for all cutting on all slopes in excess of eighteen percent. On such slopes, a revegetation plan shall also be required prior to issuance of a building permit. (See sections 32-343 and 32-348.)
- (7) *On-site sewage treatment.* Single family homes and commercial buildings shall demonstrate suitable soil conditions for a minimum on-site sewage treatment area sufficient to accommodate the original drainfield and replacement drainfield.
- (8) Determining the front lot line. A single front lot line shall:
 - i. Be designated by the time the lot is platted or for unplatted lots, at the time of address designation by the Building Inspector or Zoning Administrator.

ZONING

- ii. Provide the driveway access to the property.
 - iii. Meet the frontage requirements of this chapter.
 - iv. Meet all other spacing or access requirements of this chapter.
- (9) Determining the front lot line. A single front lot line shall:
- i. Be designated at the time the lot is platted, or for unplatted lots, at the time of address designation by the Building Inspector or Zoning Administrator.
 - ii. Provide the driveway access to the property.
 - iii. Meet the frontage requirements of this chapter.
 - iv. Meet all other spacing or access requirements of this chapter.

(c) *Density restrictions.*

- (1) The maximum density is one dwelling unit per ten acres.
- (2) No subdivision, which creates new residential lots shall be allowed unless the developer has at least 20 acres of contiguous land.
- (3) Notwithstanding subsection (a) of this section, if any quarter-quarter section contains less than 40 acres of land, then the city shall allow a density calculation to be used allowing no more than four residential homesites within that quarter-quarter section.
- (4) For the purpose of computing the total area of any lot or parcel of land, road and railroad right-of-ways which are held either in fee title or easement which pass through any lot or parcel of land, may be included in the total area calculation or density purposes.

(d) *Denial of permit for unacceptable soils.* A building permit shall not be issued for a lot which either does not meet the minimum acres of acceptable soils for on-site sewage treatment or does not have enough acceptable soils within the lot or under legal contract to construct at least two complete septic/drainfield treatment system.

Sec. 32-247. Permitted encroachments on required yards.

The following shall be permitted encroachments into setback and height requirements, except as restricted by other sections of this chapter:

(a) In any yards: posts, off-street open parking, flues, leaders, sills, pilasters, lintels, cornices, eaves (up to three feet), gutters awnings, open terraces, steps, chimneys, flag poles, open fire escapes, sidewalks, fences, essential services, exposed ramps (wheelchair), uncovered porches, stoops or similar features provided they do not extend above the height of the ground floor level of the principal structure or to a distance less than three feet from any lot line nor less than one foot from any existing or proposed driveway; yard lights, nameplate signs; trees, shrubs, plants; floodlights or other sources of light illuminating authorized illuminated signs, or light standards for illuminating parking areas, loading areas or yards for safety and security reasons, provided the direct source of light is not visible from the public right-of-way or adjacent residential property.

(b) In side and rear yards: fences 30 percent open; walls and hedges six feet in height or less.

(c) On a corner lot: Nothing shall be placed or allowed to grow in such a manner as materially to impede vision between a height of 2 1/2 and ten feet above the centerline grades of the intersecting streets within 100 feet of such intersection.

(d) In no event shall off-street parking, structures of any type, buildings or other improvements cover more than 75 percent of the lot area. In no event shall the landscaped portion of the lot be less than 25 percent of the

GRANT CODE

entire lot as a result of permitted encroachments.
(Ord. No. 50, § 602.03, 12-7-1982)

Sec. 32-248. Setbacks.

(a) *Front setbacks.* Where a vacant buildable lot is adjacent to structures having a substandard setback from that required by this section and existing at the time of adoption of the ordinance from which this article is derived, the zoning administrator shall determine a reasonable, average, calculated front yard setback to implement the requirements of this section, and to fulfill its purpose and intent. However, in no case shall a building be required to be set back more than 180 feet from the street centerline, except where an industrial district is adjacent to a residential district. In a residential district, the front yard setback shall conform to the established setback line, unless the zoning administrator determines that another setback is more appropriate as provided herein.

(b) *Setbacks adjacent to residential areas.* Where a commercial district is adjacent to a residential district, the minimum commercial building setback from the lot line shall be 50 feet.

(c) *Setbacks along arterials.* Along roads and streets designated as arterials in the comprehensive plan, the minimum front setback for principal buildings shall be 150 feet from the nearest planned street centerline.

(d) *Setbacks from private roads.* All setback requirements of this section shall also be applicable to private roads and easement access rights-of-way.
(Ord. No. 50, § 602.04, 12-7-1982)

Sec. 32-249. Height.

(a) No structure shall exceed 35 feet in height, including church spires, belfries, cupolas and domes, monuments, chimneys and smokestacks, flagpoles, public facilities, transmission towers of private radio broadcasting stations, and television antennas; except barns, silos, and other farm structures, utility transmission services and transmission towers of commercial broadcasting stations and government emergency management systems.

(b) Parapet walls shall not extend more than four feet above the height permitted for the buildings.
(Ord. No. 50, § 602.05, 12-7-1982)

Secs. 32-250--32-276. Reserved.

ZONING

DIVISION 2. OVERLAY DISTRICTS

Sec. 32-277. Intent; list of overlay districts; regulations.

(a) At the time of adoption of the ordinance from which this division is derived, or at some future date, the city council may adopt overlay districts to promote specific orderly development or to protect some specific sensitive natural resource.

(b) The following overlay regulations are in addition to regulations imposed by the existing basic zoning use districts:

<i>District Symbol</i>	<i>Intent and Primary Use</i>
AP	Preserve commercial agriculture as a viable permanent land use and a significant economic activity within the city. Areas designated AP would provide land area for permanent economically viable commercial food production.
AZ	Protect life from potential aircraft catastrophe and noise by restricting development in airport zones.
FP	Protect the natural environment, homes and other structures from floodwaters by preserving the natural overflow areas of lakes, streams and rivers.

(c) The following overlay regulations are in lieu of regulations imposed by the existing basic zoning use districts:

<i>District Symbol</i>	<i>Intent and Primary Use</i>
LS-1	Protect the ecological and scenic views of natural, undeveloped water bodies from the harmful effects of development.
LS-2	Protect the recreational value of a water body while allowing residential development along the shoreline.

(Ord. No. 50, §§ 601.02--601.04, 12-7-1982)

Sec. 32-278. Floodplain (FP) overlay district.

(a) *Permitted uses.* As permitted and regulated in chapter 14.

(b) *Accessory uses.* As permitted and regulated under in chapter 14.
(Ord. No. 50, § 605, 12-7-1982)

Sec. 32-279. Airport overlay (AZ) district.⁷

(a) Permitted uses, accessory uses and conditional uses are as specifically provided in this section and in addition to other use regulations covering the same land. The airport zoning district applies to private or publicly owned and operated airfields and the adjacent areas. The specific regulations in this district are in addition to rather than in lieu of regulations imposed by any other zoning classifications for the same land.

(b) The purpose of these regulations is to:

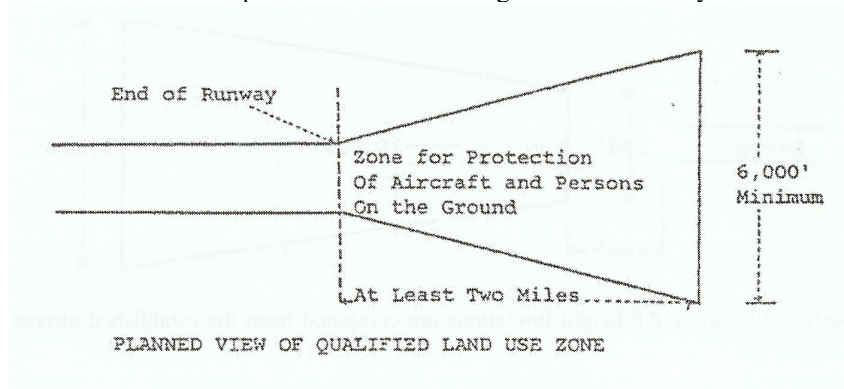
(1) Limit the development and future construction to a reasonable height and use so as not to constitute a hazard for planes operating from the airfields.

⁷ **State Law References:** Airport zoning, Minn. Stats. § 360.061 et seq.

GRANT CODE

- (2) Control the type and extent of land development adjacent to and near the airfields so as not to impede present or future air operations of public benefit and to protect the public from hazards, air traffic noise, and other disturbances.
- (c) The following zones are hereby established:
- (1) Qualified land use zone. Uses shall not be permitted within this zone which might result in an assembly of persons; manufacturing or storage of materials which explode on contact; and the storage of flammable liquid above ground. Prohibited uses shall include educational, institutional, amusement and recreational. Permitted uses shall include single-family homes. No use may be permitted in such a manner as to create electrical interference with radio communications between the airport and aircraft, make it difficult for pilots to distinguish between airport and other lights, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, or otherwise endanger the landing, taking off or maneuvering of aircraft.

Fan-Shaped 2-Mile Area Starting at End of Runway



- (2) Airport zoning. Except as otherwise provided in this article and except as required necessary and incidental to airport operations or recommended by or in accordance with the rules of the Federal Aviation Agency, no structure shall be constructed, altered or maintained, and no trees shall be allowed to grow so as to project above the landing area or any of the airports' referenced imaginary surfaces described below:
- Horizontal surface--a circular plane, 150 feet above the established airport elevation, with a radius from the airport reference point of 5,000 feet.
 - Conical surface--a surface extending from the periphery of the horizontal surface outward and upward at a slope of 20 vertical to one for the horizontal distance of 7,000 feet and to the elevation above the airport elevation of 500 feet.
 - Primary surface--a surface longitudinally centered on a runway and extending in length 200 feet beyond each end of a runway. The elevation of any point on the longitudinal profile of a primary surface, including the extensions, coincides with the elevation of the centerline of the runway, or the extension, as appropriate. The width of a primary surface is 250 feet.
 - Approach surface--a surface longitudinally centered on the extended centerline of the runway, beginning at the end of the primary surface, with slopes and dimensions as follows: The surface begins 250 feet wide at the end of the primary surface and extends outward and upward at a slope 20 vertical to one horizontal, expanding to a width of 2,250 feet at a horizontal distance 10,000 feet.
 - Transitional surfaces--these surfaces extend outward and upward at right angles to the

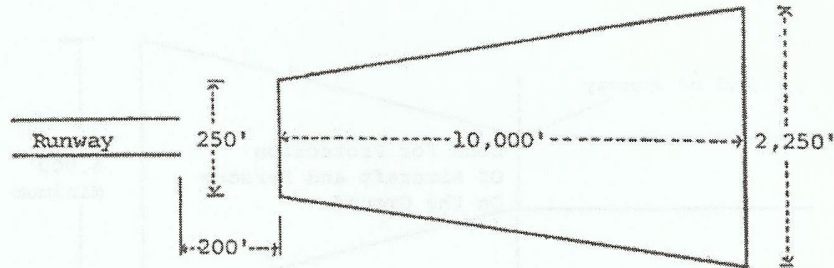
ZONING

runway centerline at a slope of seven vertical to one horizontal from the edges of the primary and the approach surfaces until they intersect the horizontal or conical surface.

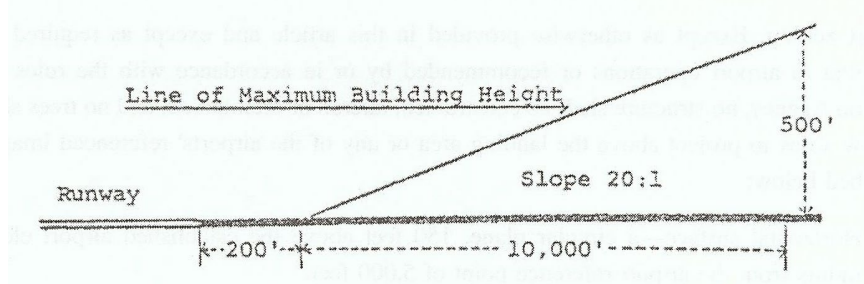
(d) The following shall apply to the airport landing area, approach area, width, slope, horizontal surface and conical surface:

Maximum Height of Buildings, Structures and Trees Below a Runway Approach Surface--

Approach Surface Plan View



Approach Surface Elevation. All height limitations are computed from the established airport elevation.



(Ord. No. 50, § 607, 12-7-1982)

Sec. 32-280. Lake and shoreland management overlay district.

(a) *Permitted uses.* As permitted and regulated under chapter 12 article VII.

(b) *Accessory uses.* As permitted and regulated under chapter 12 article VII.
(Ord. No. 50, § 609, 12-7-1982)

Sec. 32-281. Agricultural land preservation (AP) district.

(a) *Permitted uses.* As permitted and regulated under the city agricultural land preservation overlay district regulations.

(b) *Accessory uses.* As permitted and regulated under the city agricultural land preservation overlay district regulations.
(Ord. No. 50, § 610, 12-7-1982)

Secs. 32-282--32-310. Reserved.

ARTICLE IV. SUPPLEMENTAL REGULATIONS

GRANT CODE

DIVISION 1. GENERALLY

Sec. 32-311. Minimum standards; purpose.

All uses, buildings and structures permitted pursuant to this chapter shall conform to the performance and design standards set forth in this section. Said standards are determined to be the minimum standards necessary to comply with the intent and purposes of this Code as set forth in this article.

(Ord. No. 50, § 701, 12-7-1982)

Sec. 32-312. The principal building.

(a) *Quantity permitted.* Except as provided by a conditional use permit issued pursuant to this chapter, there shall be no more than one residential dwelling unit on any one parcel of land as described in section 32-246, regarding lot provisions.

(b) *Certain structures prohibited for dwelling.* No cellar, garage, recreational vehicle or trailer, basement with unfinished exterior structure above, or accessory building shall be used at anytime as a dwelling unit.

(c) *Multiple uses.* Principal buildings with more than one use, in which one of those uses is a dwelling unit, shall require a conditional use permit.

(d) *Provision for future.* All principal buildings hereafter erected on unplatted land shall be so placed as to avoid obstruction of future street or utility extensions and shall be so placed as to permit reasonably anticipated future subdivisions and land use.

(e) *Required standards.* All principal buildings shall meet or exceed the minimum standards of the state building code, the state fire code, the state department of health, the state pollution control agency, and the county individual sewage treatment system ordinance, except that manufactured homes shall meet or exceed the requirements of the state manufactured home building code in lieu of the state building code.

(f) *Keeping animals.* The keeping of animals except for domesticated pets inside of the dwelling unit shall be prohibited.

(g) *Seasonal principal buildings.* All existing principal buildings in residential districts with nonwinterized construction or inadequate nonconforming year-round on-site sewage treatment systems shall be considered a seasonal principal building.

(1) No building permit shall be issued for the improvement of a seasonal principal building to a continuous year-round (365 days) habitable dwelling unit unless the existing building conforms, or the building after such improvement (including septic systems) will conform with all the requirements of the state building code.

(2) Any alterations, modifications or enlargements of an existing seasonal principal building for the purpose of continuing the seasonal use shall require a conditional use permit.

(h) *Single-family detached dwellings.* In all districts where single-family detached dwellings are permitted, the following standards shall apply for single-family detached dwellings, including manufactured homes, except that these standards shall not apply to manufactured homes permitted by section 32-338:

(1) *Minimum width.* The minimum width of the main portion of the structure shall be not less than 20 feet, as measured across the narrowest portion.

(2) *Foundations.* All dwellings shall be placed on a permanent foundation and anchored to resist overturning, uplift and sliding, in compliance with the state building code.

(Ord. No. 50, § 702, 12-7-1982)

ZONING

Sec. 32-313. Accessory buildings and other non-dwelling structures.

(a) *Types of buildings.* Accessory buildings and other non-dwelling structures include the following: storage or tool sheds; detached residential garages; detached rural storage buildings; detached domesticated farm animal buildings; agricultural farm buildings; non-accessory, non-dwelling structures. Said buildings are defined as follows:

- (1) *Storage or tool shed* means an accessory building of less than 120 square feet gross area with a maximum roof height of 12 feet.
- (2) *Detached residential accessory building* means an accessory building used or intended for the storage of motor driven passenger vehicles, hobby tools, garden equipment, workshop equipment, etc., with a maximum gross area regulated in subsection (b) of this section.
- (3) *Detached domesticated farm animal building* means an accessory building used or intended for the shelter of domestic farm animals and/or related feed or other farm animal supportive materials. Said building shall be regulated by subsections (b), (m) and (n) of this section.
- (4) *Agricultural farm building* means an accessory building used or intended for use on a rural farm as defined in section 32-1, the definition agricultural building.
- (5) *Non-accessory, non-dwelling structures* means a structure intended for uses permitted by conditional use permit. (Refer to section 32-245 and subsection (b) of this section.)
- (6) *Greenhouses, private* means a structural building with different types of covering materials, such as a glass or plastic, in which temperature and humidity can be controlled for the cultivation or protection of plants. Such buildings may be temporary or permanent, with a maximum gross area regulated in subsection (b) of this section. Greenhouses of a commercial nature shall be regulated by section (4) or (5) of this section.

(b) *Permitted uses and sizes of accessory buildings and other non-dwelling structures.* The limitations in this subsection (b) also govern sizes of structures granted under a conditional use permit (CUP). Abbreviations used in this subsection are: CUP=conditional use permit; CC=certificate of compliance

- (1) *Storage, boat or tool shed.*
 - a. Permit required: None. See subsection (a)(1) of this section.
 - b. Maximum square footage: 120.
 - c. Maximum roof height: 12 feet.
 - d. Maximum number allowed: One.
- (2) *Detached accessory building.*
 - a. All parcels with less than one buildable acre:
 1. Permit required: Building.
 2. Maximum combined total square footage: 1,000.
 3. Maximum roof height: 35 feet.
 4. Number of buildings allowed: 2.
 - b. All parcels 1.01 acre to 2.99 acre:
 1. Permit required: Building and CC.
 2. Maximum combined total square footage: 1,500.
 3. Maximum height: 35 feet.

GRANT CODE

4. Number of buildings allowed: 2.
 - c. All parcels 3 acres to 4.99 acres:
 1. Permit required: Building and CC.
 2. Maximum combined total square footage: 2,000.
 3. Maximum height 35 feet.
 4. Number of buildings allowed: 2.
 - d. All parcels 5 to 9.59 acres:
 1. Permit required: Building and CC.
 2. Maximum combined total square footage: 2,500.
 3. Maximum Height: 35 feet.
 4. Number of buildings allowed: 3.
 - e. All parcels 9.6 to 14.99 acres:
 1. Permit required: Building and CC.
 2. Maximum combined total square footage: 3,500.
 3. Maximum height: 35 feet.
 4. Number of buildings allowed: 4.
 - f. All parcels 15 to 19.99 acres:
 1. Permit required: Building and CC.
 2. Maximum combined total square footage: 4,000.
 3. Maximum Height: 35 feet.
 4. Number of buildings allowed: 4.
 - g. All parcels 20 acres or more: No limit.
- (3) Non-accessory, non-dwelling structures:
- a. Permits required: CUP and building.
 - b. Maximum combined total square footage: Under 20 acres: as per permit.
 - c. Twenty or more acres: as per permit.
- (4) A certificate of compliance is required on all buildings over 1,000 square feet in area and for all buildings housing animals. For agricultural buildings on rural farm (as defined in section 32-1, agricultural building) only a CC is required.
- (5) No land shall be subdivided so as to have a larger building and/or exceed the total number of buildings as permitted by this section. The square footage of a building is calculated based upon the footprint of the foundation or main floor, whichever is larger, and includes any overhangs which are supported by posts or additional foundation support. Any accessory building may have a lower level, main level and loft area and still be considered an accessory building.
- (6) No portion of an accessory building may be used for human habitation.
- (c) *Tool sheds.* A tool shed as defined in this section may be placed on any lot in addition to the permitted number of accessory buildings.

ZONING

(d) *Building permit for principal building a prerequisite.* No accessory building shall be constructed nor accessory use permitted on a lot until a building permit has been issued for the principal building to which it is accessory.

(e) *Garages.* A detached garage, when there is no garage attached to the principal building, which is 720 square feet or less in size shall not count as one of the accessory buildings or in calculating the square footage limitation, even if it is more than six feet from the principal building, as long as the detached garage exterior matches the exterior design and color of the principal building. If a garage meeting this provision is constructed within 6-feet of the principal building, the structure shall be constructed in compliance with all state fire and building codes.

(f) *Height restrictions.* No accessory building in a commercial district shall exceed the height of the principal building, except by conditional use permit.

(g) *Placement.* Accessory buildings in the commercial districts may be located to the rear of the principal building, subject to the building code and fire zone regulations.

(h) *Conforming lots.*

(1) A detached garage or other accessory building which is in front of the principal structure and set back 300 feet or more from the front lot line may be constructed after the issuance of a certificate of compliance without having to meet the requirements set forth in subsection (i)(2)a, b, and c of this section.

(2) A detached garage or other accessory building which is less than 300 feet from the front lot line and in front of the principal structure on the lot may be constructed after the issuance of a certificate of compliance, provided that the detached garage or accessory building meets the following requirements:

- a. The detached garage or accessory building meets the setback requirements of the underlying zoning district; and
- b. The exterior of the detached garage or other accessory building is consistent with the design and character of the principal structure on the lot on the effective date of the ordinance from which this article is derived; and
- c. The applicant is issued a building permit for the detached garage or accessory building if one is required.

(3) Nonconforming lots. A detached garage or other accessory building may have the same setback as the principal building on a lot by issuance of a certificate of compliance, provided that the detached garage or accessory building meets the following requirements:

- a. The exterior of the detached garage or other accessory building is consistent with the design and character of the principal structure; and
- b. The applicant is issued a building permit for the detached garage or accessory building if one is required.

(i) *Lake frontage lots.* Accessory structures located on lake frontage lots may be located between the public road and the principal structure, provided they can meet all other setbacks of the district.

(j) *Ice fishing houses.* Licensed ice fishing houses stored on parcels of land during summer months shall not be considered an accessory storage building. Licensed ice fishing houses shall meet the size limitations of subsection (b)(1) of this section and all other provisions of this chapter, except subsection (l) of this section.

(k) *Requirements for larger accessory buildings.* Accessory buildings larger than 120 square feet shall require a building permit regardless of improvement value. Roof and wind load shall conform to requirements as

GRANT CODE

contained in the state building code. Agricultural buildings shall be exempt from the state building code and do not require a building permit.

(l) *Certificate of compliance.* An application for a certificate of compliance required for approval and construction of a detached domesticated farm animal building shall include the following:

- (1) A site plan illustrating, within 500 feet of the proposed structure, all adjacent property owners' lot lines, houses, septic systems, fences, wells, animal buildings and other structures and feed storage areas; all wet marshy areas, drainageways and shorelines; all proposed grazing areas on the site; all new utility extensions and driveway accesses to the proposed building; all manure storage and disposal areas.
- (2) A written soil inventory and evaluation from the county soil conservation district, if requested by the city council.
- (3) Details of the building floor plan, elevations, materials and color of structure.

(m) *Placement for agricultural buildings.* The placement of detached agricultural buildings and domestic farm animal buildings shall be according to the following performance standards:

- (1) Setbacks. All domestic farm animal buildings and manure storage sites shall be set back horizontally from natural or manmade features as follows:
 - a. Any property line: 100 feet.
 - b. Any existing well or residential structure on the same parcel: 50 feet.
 - c. Any existing well or residential structure on adjacent or nearby parcel: 200 feet.
 - d. Any body of seasonal or year-round surface of water: 200 feet.
- (2) Slopes. Said building, feedlot or manure storage shall not be placed on slopes which exceed 13 percent.
- (3) Evidence of the seasonally high groundwater level or mottled soil (as established by six foot borings) shall not be closer than four feet to the natural surface ground grade in any area within 100 feet of the proposed building and/or feedlot.
- (4) No marsh or wetland (as established by the predominant wetland vegetation and/or soils) shall be utilized for placement of the proposed structure, feedlot or grazing area.

(Ord. No. 50, § 703, 12-7-1982; Ord. No. 54, § 2, 1-3-1984; Ord. No. 54-A, § 2, 1-3-1984; Ord. No. 60, § 1-3, 9-1-1987; Ord. No. 67, §§ 1, 2, 4-6-1992; Ord. No. 68, § 1, 2-1-1994; Ord. No. 2002-93, § 1, 5-7-2002; Ord. No. 2004-112, § 1, 10-5-2004; Ord. No. 2015-43, 12-1-2015)

Sec. 32-314. Public convenience structures.

No public use or convenience structure shall be located within the public right-of-way except by a certificate of compliance issued by the zoning administrator. Such structures shall include, but not be limited to, trash containers, institutional direction signs, bicycle racks, benches, planting boxes, awnings, flagpoles, bus shelters, light standards, stairs, stoops, light wells, newspaper storage containers, loading wells, signs and others. Such structures do not include utility facilities.

(Ord. No. 50, § 704, 12-7-1982)

Sec. 32-315. Fences.

- (a) Fences may be permitted in all yards subject to the following:

ZONING

- (1) Solid walls in excess of four feet above adjacent ground grades shall be prohibited.
- (2) That side of the fence considered to be the face (finished side as opposed to structural supports) shall face abutting property.
- (3) Fences over six feet in height from the finished grade shall require a building permit in addition to any other required permits.
- (4) No fences shall be permitted on public rights-of-way.
- (b) Fences may be permitted along property lines subject to the following:
 - (1) Fences may be placed along property lines provided no physical damage of any kind results to abutting property.
 - (2) In residential districts, fences on or within three feet of property lines shall require a certificate of compliance.
 - (3) Fences in commercial districts may be erected on the lot line to a height of six feet; to a height of eight feet with a security arm for barbed wire.
 - (4) Fences in residential districts may be located on any side or rear lot line to a height of four feet above finished grade.
 - (5) Fences alongside and rear interior lot lines beginning at the rear building line of the principal structure shall be a maximum of six feet in height except as noted in subsection (b)(6) of this section.
 - (6) Should the rear lot line of a lot be common with the side lot line of an abutting lot, that portion of the rear lot line equal to the required front yard of the abutting lot shall not be fenced to a height of more than four feet.
 - (7) Where the property line is not clearly defined, a certificate of survey may be required by the zoning administrator to establish the property line.
- (b) Fences may be permitted within required yards subject to the following:
 - (1) Fences located within the side and rear yard nonbuildable setback areas beginning at the rear building line shall not exceed six feet in height from finished grade.
 - (2) In residential districts, fences in excess of 36 inches in height along or within the front nonbuildable setback area and less than 20 feet from the front property line shall require a certificate of compliance.
 - (3) Fences located within the buildable area of a lot or eight feet or more from the rear lot line may be up to eight feet in height.
 - (4) Fences in commercial districts located within nonbuildable setback areas shall not exceed six feet in height from finished grade to a height of eight feet with a security arm for barbed wire.

(Ord. No. 50, § 705, 12-7-1982)

Sec. 32-316. Exterior storage.

(a) In nonresidential districts, exterior storage of personal property may be permitted by conditional use permit provided any such property is so stored for purposes relating to a use of the property permitted by this chapter and will not be contrary to the intent and purpose of this chapter.

(b) In all districts, all waste, refuse or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse and weeds. Existing uses shall comply with this provision within 90 days following the effective date of the ordinance from which this article is derived.

GRANT CODE

(c) Unlicensed passenger vehicles and trucks shall not be parked in residential districts for a period exceeding seven days.

(d) All exterior storage not included as a permitted accessory use or a permitted use, or included as part of a conditional use permit or otherwise permitted by provisions of this chapter, shall be considered as refuse. (Ord. No. 50, § 706, 12-7-1982)

Sec. 32-317. Environmental pollution issues.

(a) *Conformance to state regulations.* All uses, buildings and structures shall conform to the regulations of the state pollution control agency relating to air, water, noise and solid wastes.

(b) *Tributary pollution.* No use shall be permitted which will cause or result in the pollution of any tributary of the St. Croix River, Mississippi River, or any lake, stream or other body of water in the city.

(c) *Storage of chemicals.* Chemical insecticides or herbicides shall be stored, handled and utilized as per the standards set forth by the state pollution control agency. (Ord. No. 50, § 707, 12-7-1982)

Sec. 32-318. Screening.

(a) Screening shall be required in residential zones where:

- (1) Any off-street parking area contains more than four parking spaces and is within 30 feet of an adjoining residential zone; and
- (2) The driveway to a parking area of more than six parking spaces is within 15 feet of an adjoining residential use or zone.

(b) Where any business use (structure, parking or storage) is adjacent to property zoned for residential use, that business shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or parking lot is across the street from a residential zone, but not on the side of a business considered to be the front of the business. Existing uses shall comply with this provision within 12 months following enactment of the ordinance from which this article is derived.

(c) All exterior storage shall be screened. The exceptions are:

- (1) Merchandise being displayed for sale;
- (2) Materials and equipment currently being used for construction on the premises; and
- (3) Merchandise located on service station pump islands.

(d) The screening required in this section shall consist of earth mounds, berms or ground forms; fences and walls; landscaping (plant materials) or landscaped fixtures (such as timbers) used in combination or singularly so as to block direct visual access to an object.

(Ord. No. 50, § 708, 12-7-1982)

Sec. 32-319. Landscaping.

(a) Landscaping on a lot shall consist of a finish grade and a soil retention cover such as sod, seed and mulch, plantings or as may be required by the zoning administrator to protect the soil and aesthetic values on the lot and adjacent property.

(b) In all districts, all developed uses shall provide landscaping from the urban curb and gutter to the road right-of-way lines. This landscaped yard shall be kept clear of all structures, exterior storage and off-street

ZONING

parking.

(c) Landscaping shall be provided and maintained on all required front and side yards in all developed districts except where pavement or crushed stone is used for walkways or driveways.
(Ord. No. 50, § 709, 12-7-1982)

Sec. 32-320. Reasonable maintenance required.

In all districts, all structures, landscaping and fences shall be reasonably maintained so as to avoid health and safety hazards and prevent a degradation in the value of adjacent property.
(Ord. No. 50, § 710, 12-7-1982)

Sec. 32-321. Lighting, lighting fixtures and glare.

(a) In all districts, any lighting used to illuminate an off-street parking area or other structure or area shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding shall not be directed into any adjoining property. The source of light shall be hooded or controlled so as not to light adjacent property. Bare light bulbs shall not be permitted in view of adjacent property or public rights-of-way. No light or combination of lights which cast light on a public street shall exceed one footcandle meter reading as measured from the centerline of said street, nor shall any light or combination of lights which cast light on residential property exceed 0.4 footcandles.

(b) Lighting standards shall not exceed 25 feet of the height of the principal building on a lot without a conditional use permit.
(Ord. No. 50, § 711, 12-7-1982)

Sec. 32-322. Off-street loading and unloading areas.

(a) *Location.* All required loading berths shall be off-street and shall be located on the same lot as the building or use to be served. A loading berth shall be located at least 25 feet from the intersection of two street rights-of-way and at least 50 feet from a residential district, unless within a building. Loading berths shall not occupy the required front yard space.

(b) *Size.* Unless otherwise specified in this chapter, a required loading berth shall be not less than 12 feet in width, 50 feet in length and 14 feet in height, exclusive of aisle and maneuvering space.

(c) *Access.* Each required loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner which will least interfere with traffic.

(d) *Surfacing.* All loading berths and accessways shall be improved with a hard surface to control the dust and drainage before occupancy of the structure.

(e) *Prohibited uses.* Any space allocated as a loading berth or maneuvering area so as to comply with the terms of this chapter shall not be used for the storage of goods or inoperable vehicles or be included as a part of the space necessary to meet the off-street parking area requirements.

(f) *Mandatory provision.* Any structure erected or substantially altered for a use which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles shall provide off-street loading space as required for a new structure.
(Ord. No. 50, § 713, 12-7-1982)

Sec. 32-323. Traffic control.

(a) The traffic generated by any use shall be controlled so as to prevent congestion of the public

GRANT CODE

streets, traffic hazards, and excessive traffic through residential areas, particularly truck traffic. Internal traffic shall be so regulated as to ensure its safe and orderly flow. Traffic into and out of business areas shall in all cases be forward moving with no backing into streets.

(b) On any corner lot, nothing shall be placed or allowed to grow in such manner within 15 feet of the intersecting street right-of-way lines as to impede vision between a height of 2 1/2 and ten feet above the centerline grades of the intersecting streets. This restriction shall also apply to the planting of crops and to yard grades that result in elevations that impede vision within 15 feet of any intersecting street right-of-way lines.
(Ord. No. 50, § 714, 12-7-1982)

Sec. 32-324. Explosives permitted only by exception.

No activities involving the commercial storage, use or manufacture of materials or products which could decompose by detonation shall be permitted except as are specifically permitted by the city council. Such materials shall include but not be confined to all primary explosives such as lead-acid and mercury fulminate; all high explosives and boosters such as TNT, tetryl and nitrates; propellants and components thereof, such as nitrocellulose, black powder and nitroglycerine; blasting explosives such as dynamite; and nuclear fuel and reactor elements such as uranium 235 and plutonium.
(Ord. No. 50, § 716, 12-7-1982)

Sec. 32-325. Fallout shelters.

Fallout shelters may be permitted in any district subject to the yard regulations of the district. Such shelters may contain or be contained in other structures or be constructed separately, and in addition to shelter use, may be used for any use permitted in the district, subject to the district regulations on such use.
(Ord. No. 50, § 717, 12-7-1982)

Sec. 32-326. Guesthouses.

(a) *Definition.* The term "guesthouse," for the purpose of this section, means an accessory building detached from the principal building with temporary accommodations for sleeping, but having no kitchen facility. It is intended for the use of persons visiting the occupants of the principal structure.

(b) *Conformance requirements.* Guesthouses, where permitted, shall conform to all requirements of this Code and other regulations applicable to residential dwellings, and setback and yard requirements in relation to the principal structure.

(c) *Parking provisions.* All guesthouses shall have designated off-street parking spaces.

(d) *Certificate of compliance.* A certificate of compliance and building permit shall be required for a guesthouse.
(Ord. No. 50, § 718, 12-7-1982)

Sec. 32-327. Bed and breakfasts.

(a) *Accessory use.* A bed and breakfast facility must be accessory to the use of a property as a single-family residential home. This means that the individual or family who operates the facility must also occupy the house as their primary residence. The house must be at least five years old before a bed and breakfast facility is allowed.

(b) *Maximum size.* Bed and breakfast facilities are limited to a maximum of four bedrooms available for rent to guests. All guest rooms shall be contained within the principal structure.

ZONING

(c) *Employees.* There shall be no more than one person employed by the bed and breakfast residence who is not a resident of the dwelling.

(d) *Location.* The location of another bed and breakfast use within 1,500 feet on a lot size of less than ten acres is prohibited. There is no location restriction for bed and breakfast uses located on parcels of ten acres in size or more.

(e) *Permits/licenses required.* No bed and breakfast use may be lawfully established without first obtaining a conditional use permit pursuant to the provisions of division 5 of article I of this chapter. Additionally, before issuance of a conditional use permit, an applicant must show satisfactory written proof that the property has been inspected and approved by the fire marshal, building official, and health department, and that all required licenses have been issued by the county and/or the state.

(f) *Lighting.* Lighting shall be provided and shall be kept to a contiguous, compact and well-defined area between the residential structure and parking area. Any additional exterior lighting for the bed and breakfast is prohibited.

(g) *Parking.* All parking, whether for guests, property owners, invitees, or employees, shall be on-site. No parking shall be allowed on any public streets or roads.

(h) *Signage.* Bed and breakfast establishments are allowed an identification sign not exceeding four square feet in size. The signs shall be located on site. The sign must match the architectural features of the primary residential structure.

(i) *Recreational uses.* No other recreational uses shall be allowed in conjunction with the operation of the bed and breakfast such as, but not limited to, bicycling, sailing, horseback riding, canoeing, or hiking, unless said recreational uses are specifically allowed and provided for within the conditional use permit.

(j) *Miscellaneous provisions.*

(1) *Septic system.* The septic system shall be up to code and sized for the proposed use. The property must also contain adequate space for an alternative approved septic site.

(2) *Smoke alarms.* Smoke alarms shall be installed and maintained according to the requirements of the fire inspection.

(3) *Maximum length of stay.* No guest shall stay in the facility for more than 14 days within any 30-day period.

(4) *Use restrictions.* The facility shall not be used for commercial receptions, parties, or other public gatherings, or for the serving of meals to nonresident guests for compensation. Additionally, there shall be no cooking in the guest rooms.

(5) *Liquor license.* No liquor is to be sold or served on the premises unless the operator has first obtained a liquor license from the city.

(6) *Guest logbook.* All bed and breakfast facilities must maintain a guest logbook that must include the names and home addresses of guests, guest license plate numbers if travelling by automobile, dates of stay, and the room number of each guest. The log must be available for inspection by city staff upon request.

(7) *Appearance.* Residential structures may be remodeled for the development of a bed and breakfast facility. However, structural alterations may not be made which prevent the structure from being used as a residence in the future. Internal or external changes which will make the dwelling appear less residential in nature or function are not allowed. Examples of such alterations include paving of required setbacks and commercial-type exterior lighting.

(Ord. No. 1997-78, §§ 719.012--719.032, 9-2-1997)

GRANT CODE

Sec. 32-328. Horse boarding and training.

(a) *Allowable without permit; conditions.* The boarding and training of horses shall be permitted without the necessity of a conditional use permit if the following requirements are met:

- (1) The maximum number of horses allowed on a parcel used for boarding and training is ten horses. No horse shall be placed on a site with less than a minimum of five acres. The number of horses allowed on a parcel shall be limited to one horse for every two grazable acres. The definition of grazable acres is set forth in section 32-337(g) and is incorporated herein by reference. In calculating the grazable acres, the area of the foundation or footprint of the buildings on a parcel shall be deducted and not included in the calculation of grazable acres.
- (2) Adequate and appropriate arrangements have been made for the proper storage and disposal of manure and compliance with section 32-337.
- (3) Adequate and appropriate arrangements have been made to preclude surface or groundwater contamination, and proper drainage and all boarding and training operations must comply with sections 32-341, 32-342 and 32-343.
- (4) All exterior lighting used in the boarding and training operation shall comply with section 32-321, commonly referred to as the city lighting ordinance.
- (5) The boarding and training operation shall conform to section 32-332, commonly referred to as the city noise ordinance.

(b) *Criteria for conditional use permit.* In the event that a conditional use permit is applied for, the applicant must meet the standards set forth in subsection (a) of this section, except subsection (a)(1) of this section, and the following shall be considered and reviewed by the city council:

- (1) Plan for the storage and removal of manure and control of odors from the operation.
- (2) Traffic and parking plan for the operation of the boarding and training facility.
- (3) Lighting plan.
- (4) Schedule of plans for equestrian events (sorting, rodeo, shows) to be held on site.
- (5) Hours of operation.
- (6) Noise issues and plan to dissipate the noise by screening or otherwise.
- (7) Fencing and building plans with appropriate setbacks from adjoining properties, roads and buildings on and off the site.

(c) *Revocation.* A violation of this section could result in revocation of the permit, imposition of a fine under chapter 2, article V and/or criminal charges for a misdemeanor violation which is punishable by a fine and/or jail.

(d) *Other requirements.* These requirements are in addition to those set forth in division 5, article II of this chapter governing the issuance of a conditional use permit.
(Ord. No. 2004-109, § 3(720), 8-3-2004)

Sec. 32-329. Radiation and electrical interference prohibited.

No activities shall be permitted that emit dangerous radioactivity beyond enclosed areas. There shall be no electrical disturbance (except from domestic household appliances) adversely affecting the operation of ordinary business or household equipment and appliances. Any such emissions are hereby declared to be a nuisance.
(Ord. No. 50, § 721, 12-7-1982)

ZONING

Sec. 32-330. Environmental nuisances.

(a) *Local standards.* Excluding normal farming activities, no odors, vibration, noise, smoke, air pollution, liquid or solid wastes, heat, glare, dust or other such sensory irritations or health hazards shall be permitted in any district in excess of the minimum standards as set forth in this section. Any violation of said standards is hereby declared a nuisance. The minimum standards shall be as follows:

- (1) *Odors.* Any use shall be so operated as to prevent the emission of odorous or solid matter of such quality or quantity as to be reasonably objectionable at any point beyond the lot line of the site on which the use is located.
- (2) *Vibration.* The following vibrations are prohibited:
 - a. Any vibration discernible (beyond the property line) to the human sense of feeling for three minutes or more duration in any one hour.
 - b. Any vibration resulting in any combination of amplitudes and frequencies beyond the safe range of the standards of the United States Bureau of Mines, or comparable standards, on any structure.
- (3) *Noise.* Any use shall be so operated as to prevent the emission of noise of such volume or duration as to be reasonably objectionable at any point beyond the lot line of the site on which the use is located.
- (4) *Toxic or noxious matter.* Any use shall be so operated as not to discharge across the boundaries of the lot or through percolation into the atmosphere or the subsoil beyond the boundaries of the lot wherein such use is located toxic or noxious matter in such concentration as to be detrimental to or endanger the public health, safety, comfort or welfare, or cause injury or damage to property or business.
- (5) *Air pollution.* Any use shall be so operated as to control the emission of smoke or particulate matter to the degree that it is not detrimental to or a danger the public health, safety, comfort or general welfare.
- (6) *Animals.* Any building in which domestic farm animals are kept shall be a minimum distance of 100 feet from all lot lines. (See section 32-313(n).)

(b) *State standards.* Notwithstanding anything contained herein to the contrary, the minimum standards of the state pollution control agency as to noise, air and water pollution, and glare, shall be the minimum standards for purpose of this section.

(Ord. No. 50, § 722, 12-7-1982)

Sec. 32-331. Other nuisances.

(a) *Unlicensed vehicles.* It shall be a nuisance for any person to store or keep any vehicle of a type requiring a license to operate on the public highway, but without a current license attached thereto, whether such vehicle be dismantled or not, outside of an enclosed building in residential or agricultural districts.

(b) *Junkyards.* It shall be a nuisance to create or maintain a junkyard or vehicle dismantling yard except as provided in this Code.

(c) *Dangers to public health.* The following are declared to be nuisances endangering public health:

- (1) Causing or suffering the effluent from any cesspool, septic tank, drainfield or human sewage disposal system to discharge upon the surface of the ground, or dumping the contents thereof at any place except as authorized by the state pollution control agency.
- (2) Causing or suffering the pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances.

GRANT CODE

(3) Causing or suffering carcasses of animals not buried or destroyed or otherwise disposed of within 24 hours after death.

(d) *Dangers to public peace and safety.* The following are declared to be nuisances affecting public peace and safety:

- (1) The placing or throwing on any street, alley, road, highway, sidewalk or other public property of any glass, tacks, nails, bottles or other nuisances which may injure any person or animal or may cause damage to any pneumatic tire when passing over the same.
- (2) The ownership, possession or control of any unused refrigerator or other container, with doors which fasten automatically when closed, of sufficient size to retain any person, and which is exposed and accessible to the public, without removing the doors, lids, hinges or latches, or providing locks to prevent access by the public.

(Ord. No. 50, § 723, 12-7-1982)

Sec. 32-332. Noise control.

(a) *Noise prohibited.* It shall be unlawful to make, continue or cause to be made or continued, any noise in excess of the noise levels set forth unless such noise be reasonably necessary to the continuation of normal farming practices or preservation of life, health, safety, or property.

(b) *Noise limits.* Any activity not expressly exempted by this section which creates or produces sound, regardless of frequency, exceeding the ambient noise levels at the property line of any property by more than six decibels, as designated at the time and place in the following table and for the duration there mentioned, shall be deemed to be a violation of this section, but any enumeration herein shall not be deemed to be exclusive.

<i>Duration of Sound</i>	<i>7:00 a.m.--6:00 p.m. (all districts)</i>	<i>6:00 p.m.--10:00 p.m. (R-1 districts), and 6:00 p.m.--7:00 a.m. (all other districts)</i>	<i>10:00 p.m.--7:00 a.m. (Residential districts)</i>
Less than 10 minutes	75 dB	70 dB	60 dB
Between 10 minutes and 2 hours	70 dB	60 dB	50 dB
In excess of 2 hours	60 dB	50 dB	40 dB

(c) *Measurement of noise.* In determining whether a particular sound exceeds the maximum permissible sound level are as set forth in column III in the table in subsection (b) of this section:

- (1) Sounds in excess of the residential district limitations as measured in a residential district or other district;
- (2) During all hours of Sundays and state and federal holidays, the maximum allowable decibel levels for residential districts.

(d) *Exemptions.* Sounds emanating from operation of the following are exempt from the provisions of this section:

- (1) Motor vehicles on public highways;
- (2) Aircraft;
- (3) Outdoor implements such as power lawn mowers, snowblowers, power hedge clippers and power saws; and
- (4) Pile drivers or jackhammers and other construction equipment from lawful and proper activities at

ZONING

school grounds, playgrounds, parks or places wherein athletic contests take place.

(e) *Construction equipment.* Except as hereinafter provided, no pile driver, jackhammer or other construction equipment shall be operated between the hours of 6:00 p.m. to 7:00 a.m. on weekdays and during any hours on Saturdays, Sundays and state and federal holidays, except under conditional use permit provided below, and no such equipment shall be operated at any time if the sound level from such operation exceeds 100 decibels measured along any property line; provided however, that said decibel maximum sound limit is reduced to 95 decibels effective the second anniversary of the enactment of the ordinance from which this section is derived, and 90 decibels effective the fourth anniversary; provided further, however, that such equipment, the operation of which conforms to the maximum allowable sound levels as prescribed herein may be operated during the above prohibited hours and days. When any of the above-named equipment is used for any purpose other than construction, the ambient noise levels apply.

- (1) No internal combustion engine or any other power unit when operated in connection with construction or demolition equipment shall be operated at any time other than at the times set forth in this section, and any sound emitted from any such engine or power unit shall not exceed 83 decibels measured along the property line.
- (2) If an emergency situation exists, or if substantial economic loss would result to any person unless allowed additional hours of equipment operation, a conditional use permit may be granted for extended hours of operation of such construction equipment and internal combustion engine or power unit as follows:
 - a. In the event of an emergency situation a permit may be granted for such operation during any hour of any day for a period not to exceed three days or less while the emergency continues and which permit may be renewed for periods of three days or less while the emergency continues.
 - b. In the event of a determination of substantial economic loss to a person, a conditional use permit may be granted for such operation throughout the hours of 7:00 a.m. to 9:30 p.m. on weekdays and throughout the hours of 1:00 p.m. to 5:00 p.m. on Saturdays, Sundays and state and federal holidays, upon the condition that while any construction equipment, internal combustion engine or power unit is in operation, its location shall not be less than 600 feet in any direction from any dwellings, except that if, while any such construction equipment, internal combustion engine or power unit is in operation, its location shall be no less than 1,200 feet in any direction from any dwelling, a permit may be granted for operation during any hour of any day.

(f) *Outdoor implements.* Except as hereinafter provided, any power lawn mower, snowblower, power hedgeclipper, power saw or such other implement designed primarily for outdoor use, shall be operated only between the hours of 7:30 a.m. to 9:00 p.m. on weekdays, or between the hours of 9:00 a.m. to 9:30 p.m. on Saturdays, Sundays and state and federal holidays; provided, however, that such equipment, the operation of which conforms to the maximum allowable sound levels as prescribed herein, may be operated during the above prohibited hours.

(Ord. No. 50, § 724, 12-7-1982)

Sec. 32-333. Coin-operated machines.

Coin-operated automatic machines dispensing food, soft drinks and other food and materials shall not be permitted outside of a building.

(Ord. No. 50, § 725, 12-7-1982)

Sec. 32-334. Swimming pools.

(a) *Standards.* In all districts where single-family dwelling units are permitted uses, the following standards apply:

GRANT CODE

- (1) A building permit shall be required for any swimming pool with a capacity of over 5,000 gallons and/or with a depth of over 24 inches of water.
- (2) An application for a building permit shall include a site plan showing:
 - a. The type and size of pool.
 - b. Location of pool, house, garage, fencing and other improvements on the lot.
 - c. Location of structures on all adjacent lots.
 - d. Location of filter unit, pump and information indicating the type of such units.
 - e. Location of back-flush and drainage outlets, grading plan, finished elevations and final treatment (decking, landscaping, etc.) around the pool.
 - f. Location of existing overhead and underground wiring, utility easements, trees and similar features, and location of any water-heating unit.
- (3) Pools shall not be located within 20 feet of any septic tank/drainfield nor within six feet of any principal structure or frost footing. Pools shall not be located within any required front or side yard setbacks.
- (4) Pools shall not be located beneath overhead utility lines nor over underground utility lines of any type.
- (5) Pools shall not be located within any private or public utility, walkway, drainage or other easement.
- (6) In the case of below-ground pools, the necessary precautions shall be taken during the construction, to:
 - a. Avoid damage, hazards or inconvenience to adjacent or nearby property.
 - b. Ensure that proper care shall be taken in stockpiling excavated material to avoid erosion, dust or other infringements upon adjacent property.
- (7) All access for construction shall be over the owner's land and due care shall be taken to avoid damage to public streets and adjacent private or public property.
- (8) To the extent feasible, back-flush water or water from pool drainage shall be directed onto the owner's property or into approved public drainageways. Water shall not drain onto adjacent or nearby private land.
- (9) The filter unit, pump, heating unit and any other noise-making mechanical equipment shall be located at least 50 feet from any adjacent or nearby residential structure and not closer than ten feet to any lot line.
- (10) Lighting for the pool shall be directed toward the pool and not toward adjacent property.
- (11) Swimming pool enclosures and protective devices.
 - a. Enclosures. Every person owning land within the city upon which there is presently situated an above- or below-ground swimming pool or who constructs such a swimming pool after the effective date of the ordinance from which this section is derived, either of which has a capacity of 3,000 gallons and/or a depth of 42 inches or more of water, shall erect and maintain thereon an adequate enclosure surrounding the property or pool area, sufficient to make such body of water inaccessible to children. Such enclosure, including gates therein, shall be not less than five feet above the underlying ground. All gates shall be self-closing and self-latching with latches placed four feet above the underlying ground and otherwise made inaccessible from the outside to children. Said fence shall be constructed in conformance with and subject to the state building code and approved and inspected by the city building inspector.
 - b. Protective devices. A pool cover or other protective device approved by the city building

ZONING

inspector shall be an acceptable enclosure so long as the degree of protection afforded by the substituted devices or structures is not less than the protection afforded by the enclosure, gate and latch described above and is in compliance with the American Society for Testing and Materials (ASTM) standard F1346. The substitution with such a pool cover or other protective device shall be done by the issuance of a certificate of compliance and shall be considered a variance (not a zoning-type variance) from the provision of subsection (a)(11)a of this section and a written request for the certificate of compliance and variance shall be submitted to the city clerk.

- (12) Water in the pool shall be maintained in a suitable manner to avoid health hazards of any type. Such water shall be subject to periodic inspection by the local health officer.
- (13) All wiring, installation of heating units, grading, installation of pipes and all other installations and construction shall be subject to inspection.
- (14) Any proposed deviation from these standards and requirements shall require a variance in accordance with normal zoning procedures.
- (b) *Fencing and drainage.* In all zoning districts:
 - (1) Required structure or safety fencing shall be completely installed within three weeks following the installation of the pool and before any water is allowed in the pool.
 - (2) Drainage of pools into public streets or other public drainageways shall require written permission of the appropriate local public officials.

(Ord. No. 50, § 726, 12-7-1982; Ord. No. 2005-116, § 1, 6-7-2005)

Sec. 32-335. Interim uses and structures.

(a) *Conditional use permit required.* Interim uses and structures may be placed in agricultural or business districts after obtaining a conditional use permit. These interim uses may be utilized in a temporary manner as specified by the city council, during which the development planned for the area in the city plan has not yet occurred.

(b) *Limitations on duration and activities.* Interim uses and structures utilized for interim storage of wholesale or retail products or shelter of farm crops and animals shall be limited to a maximum of five years or as stipulated by the city council. No wholesale or retail sales or sales office activities shall occur on the site or in the structure.

(c) *Exemption from additional roadway requirement.* Interim uses and structures shall not require additional public roadways.

(d) *Length of time specified by city council.* The city council may specify the length of time which may be utilized for said interim use or structure. The specific length of time may be a condition of approval of the conditional use permit.

(e) *Valuation of structure.* The planning commission and city council shall review the interim use or structure and shall limit the new structural investment on the site to a specific dollar amount, which through a graduated timetable of depreciation of the structure should reach zero book value at a specific year or length of time, after which the interim use or structure shall be removed.

(f) *Alteration of site prohibited.* Grading or alteration of the site, except for driveway access and building construction shall not be permitted for interim uses or structures.

(g) *Recordation.* Conditional use permits issued by the city council for an interim use or structure shall be recorded with the register of deeds by the applicant prior to the issuance of building permits or certificates of occupancy.

GRANT CODE

(Ord. No. 50, § 728, 12-7-1982)

Sec. 32-336. Automobile sales and showrooms.

The building and premises for automobile sales and showrooms shall meet the following requirements:

- (1) *Setbacks and lot requirements.*
 - a. *Parking.* A minimum of 25-foot-wide landscaped yard shall be required and maintained between any public street right-of-way and parking lots or buildings.
 - b. *Contiguous site.* Motor vehicle sales shall be on one lot or contiguous lots not separated by a public street, alley or other use.
 - c. *Lot width.* The minimum lot width shall be 150 feet at the minimum required front yard setback.
 - d. *Lot area.* A minimum lot area of two acres shall be required.
- (2) *Access driveways.*
 - a. Distance of driveway from street intersection. The distance of the driveway from the street intersection shall not be less than 50 feet; provided, however, greater distances may be required to avoid reasonably anticipated traffic hazards.
 - b. Minimum distance between driveways. Minimum distance between driveways shall be 25 feet.
 - c. Minimum driveway angle to street. Minimum driveway angle to street shall be 60 degrees, unless otherwise approved by the city engineer.
 - d. Minimum distance between driveway and adjacent property shall be five feet.
 - e. No driveway shall exceed 25 feet in width.
- (3) *Screening.* A screen shall be erected and maintained along all property lines separating institutional, residential dwelling or business and professional office districts or uses. The screening required in this section shall be not less than five feet in height.
- (4) *Landscaping.* A landscaped yard shall be constructed and maintained on all areas of the site not devoted to the building or parking areas.
- (5) *Surfacing.* The entire site on which motor vehicle sales is located, other than that devoted to buildings and structures or landscaped areas, shall be hard surfaced and maintained to control dust, erosion and drainage, before operation of the business begins.
- (6) *Parking for customers and employees.* The following required parking spaces shall be shown and designated on the site plan:
 - a. *Customer parking.* A minimum of 16 customer parking spaces shall be provided for every acre of total site area in a commercial or business district, and in addition, three spaces for each 1,000 square feet of gross sales floor area.
 - b. *Employee parking.* A minimum of two employee parking spaces shall be provided for every three employees.
- (7) *Parking for outside sales and storage.* The maximum area permitted for outside storage of automobiles, new and used, shall not exceed five square feet of outside storage area to each one square foot of enclosed ground floor area. No more than one automobile shall be stored on each 300 square feet of outside paved storage area. No rooftop parking shall be permitted.
- (8) *Surface drainage plan and improvements.* A drainage plan shall illustrate all paved area surface drainage flows. Catchbasins and/or settling ponds shall be required to dispose of interior parking or display area drainage.

ZONING

(Ord. No. 50, § 729, 12-7-1982)

Sec. 32-337. Livestock.

(a) *Prohibition of depositing manure without safeguards.* No manure or livestock waste shall be deposited, stored, kept or allowed to remain in or upon any storage site or feedlot without reasonable safeguards adequate to prevent the escape or movement of such manure or waste or a solution thereof from the site which may result in pollution of any public waters or any health hazard.

(b) *Pollution control agency standard minimum requirements.* All regulations imposed by the state pollution control agency relating to keeping of livestock shall be adhered to, and such regulations shall be considered the minimum safeguard necessary to prevent pollution of public waters or creation of a health hazard. New livestock feedlots, poultry lots and other animal lots are prohibited within the following areas:

- (1) Within 1,000 feet of the normal high-water mark of any lake, pond or flowage, or within 300 feet of a river or stream.
- (2) Within a floodway.
- (3) Within 1,000 feet to the boundary of a public park.

(c) *Permit required.* No feedlot or manure storage site shall be maintained unless a permit therefor has first been issued by the state pollution control agency and by the zoning administrator as provided herein. The application for a permit by the owner or other person responsible for a feedlot or manure storage site shall be accompanied by plans showing the features and method of operation and construction and existing or proposed safeguards or disposal systems. The city council may thereafter issue a permit therefor upon such conditions as it shall prescribe to prevent pollution of any public water or creation of a health hazard.

(d) *Abatement.* In case the zoning administrator shall find that any manure is stored or kept on any feedlot or storage site without a safeguard, or that any existing safeguard is inadequate, he may order the owner or other responsible person to immediately remove the manure from the feedlot or storage site and refrain from further storage or keeping of any manure thereat unless and until an adequate safeguard is provided as herein prescribed.

(e) *Notification required for loss.* It shall be the duty of the owner of a feedlot or manure storage site or other responsible person in charge thereof to notify immediately the zoning administrator of any loss of stored manure either by accident or otherwise when such loss involves a substantial amount which would be likely to enter any waters of the state. Said notice shall be by telephone or other comparable means and shall be made without delay after discovery of the loss. The notification shall include the location and nature of the loss and such other pertinent information as may be available at the time.

(f) *Minimum site size for keeping domestic farm animals.* The keeping of horses or cattle on a site with less than two acres of existing grazable land per animal unit is hereby declared to be a nuisance. No horses or cattle shall be permitted on any site of less than five acres.

(g) *Grazable acres.* Grazable acres shall be defined as the area of the parcel or site that excludes 1.) wetlands other than Types 1 and 2, 2.) any wetland greater than ¼ acre, and 3.) the Homesite. For the purposes of determining the number of animals permitted per two Grazable acres, the following animal equivalents apply:

	<u>Animal Units</u>
1 slaughter steer or heifer	1
1 horse	1
1 mature dairy cow	1.4
1 swine over 55 pounds	0.4
1 sheep	0.1
1 turkey	0.018
1 chicken	0.01
1 duck	0.02

GRANT CODE

(h) *Conditional use permit for greater density.* The keeping of domestic farm animals in greater density than allowed by subsection (f) of this section shall require a conditional use permit. To obtain such permit, the applicant must demonstrate that facilities are present and appropriate practices are being employed to preclude surface water or groundwater contamination, excessive manure accumulation, odor, noise or other nuisances. The applicant must have a state pollution control agency feedlot permit for the proposed use. (Ord. No. 50, § 730, 12-7-1982; Ord. No. 53, §§ 3, 4, 7-7-1983; Ord. No. 2000-89, § 2, 7-5-2000; Ord. No. 2014-34, 7-1-2014)

Sec. 32-338. Manufactured homes.

(a) *Restrictions on parking and occupying.* No person shall park or occupy a manufactured home (see definition for manufactured home, section 32-1) on the premises of a lot with any occupied dwelling or on any land which is situated outside of an approved manufactured home park, except as listed below.

(b) *Manufactured home parks.* A manufactured home may be placed within an existing approved manufactured home park.

(c) *Use as accessory dwelling unit.* A manufactured home may be permitted by conditional use permit in an agricultural district, R-1 residential district, or conservancy district, if the zoning administrator finds the following conditions are satisfied:

- (1) The manufactured home will be an accessory dwelling unit to be occupied if:
 - a. Persons are infirm to the extent that they require extraordinary care;
 - b. Such care can only be provided, without great economic hardship, by family members residing in the principal dwelling house on the premises; and
 - c. The infirmity and the need for care required by subsections (c)(1)(a) and (b) of this section shall be shown by written statement of a physician.
- (2) The conditional use permit is so conditioned that it will expire and terminate at such time as the care facility is no longer the residence of the person suffering from the infirmity which requires such care, or at such time as such care is no longer required.
- (3) At the time of termination of the conditional use permit, the mobile home care facility shall be removed from the premises within 30 days when practical.
- (4) The conditional use permit is so conditioned so as to be reviewed annually by the zoning administrator.

(d) *Temporary farm dwelling.* A manufactured home may be permitted by conditional use permit in an agricultural district if the zoning administrator finds the following conditions are satisfied:

- (1) The manufactured home will be an accessory dwelling unit located on a farm of at least 75 acres in size.
- (2) The manufactured home will be occupied by persons who are:
 - a. Members of the family of the persons occupying the principal dwelling house on the premises.
 - b. Engaged in the occupation of farming on the premises as partners or other business associates of the persons living in the principal dwelling house on the premises; and who earn 50 percent or more of their annual gross income for federal income tax purposes from such farming on the premises.
- (3) The conditional use permit is so conditioned that it will expire and terminate at such time as the persons occupying the manufactured home are no longer engaged in farming on the premises as required by subsection(d)(2)b of this section.

ZONING

- (4) At the time of termination of the conditional use permit, the manufactured home temporary farm dwelling shall be removed from the premises within 30 days when practical.
- (5) The conditional use permit is conditioned so as to be reviewed annually by the zoning administrator.
- (e) *Temporary construction office.* A manufactured home may be permitted by certificate of compliance in any district if the zoning administrator finds the following conditions are satisfied:
 - (1) The manufactured home will be utilized as a field headquarters for directing the ongoing construction of a project.
 - (2) Only one manufactured home shall be permitted on each project.
 - (3) The manufactured home have adequate sanitary facilities or the site shall have temporary sanitary facilities installed.
 - (4) The manufactured home and parking spaces shall adhere to all setbacks for the zoning district and shall only utilize the permitted access driveway.
 - (5) The manufactured home shall not be used as a dwelling unit.
 - (6) The certificate of compliance is issued only after the building permit has been issued. The manufactured home shall not be placed on the construction site until both a certificate of compliance and a building permit have been issued.
 - (7) Such a permit shall expire when construction is completed or within 180 days from the date of issuance, whichever is less. Renewal of such a permit may be approved by the zoning administrator.
 - (8) The manufactured home shall be removed within 30 days of the permit termination.
- (f) *Temporary dwelling unit during construction.* A manufactured home may be permitted by a certificate of compliance in any residential or agricultural district if the zoning administrator finds the following conditions are satisfied:
 - (1) The manufactured home will be utilized as a temporary dwelling unit by the present or potential occupant of a single-family residence during the construction, reconstruction or alteration of said residence by the present or potential occupant.
 - (2) The manufactured home shall have adequate sanitary facilities as prescribed by the state building code.
 - (3) The certificate of compliance is issued only after the building permit has been obtained for the proposed construction.
 - (4) The manufactured home and parking spaces shall adhere to all setbacks for the zoning district and shall only utilize the permitted access driveways.
 - (5) Such permit shall expire when construction is completed or within 180 days from the date of issuance, whichever is less. Renewal of such permit may be approved by the zoning administrator.
- (g) *Required standards.* All manufactured homes permitted under this section shall meet or exceed the current federal manufactured home construction and safety standards. The manufactured home shall have a sanitary sewer treatment and disposal system in compliance with this Code and the state pollution control agency and the health department.
- (h) *Application of setback regulations.* When the manufactured home is utilized as an accessory dwelling unit to the principal dwelling unit, the placement of the manufactured home is subject to the same zoning district dimensional setbacks as the principal dwelling unit.
- (i) *Use of existing access required.* Manufactured homes utilized as accessory dwelling units shall use the existing road access driveway of the principal dwelling unit.

GRANT CODE

(j) *Distance from other structures.* Manufactured homes utilized as accessory dwelling units shall be separated by a minimum horizontal distance of 40 feet from any other structure.

(k) *Anchoring/tie-down requirements.* Manufactured homes utilized as accessory dwelling units shall have ground anchors or tie-downs as approved by the state manufactured home code.

(l) *Installation requirements.* Manufactured homes used for purposes other than those listed above must be installed per manufacturer's standards and all applicable requirements of the state building code. (Ord. No. 50, § 731, 12-7-1982)

Sec. 32-339. Recreation vehicle or trailer regulations.

(a) *Temporary parking; restrictions.* A camper or travel trailer of the type generally used temporarily as living quarters during the hunting, fishing or vacation season and duly licensed and registered under the laws of the state may be parked on residential property in the city; provided however, that such camper or travel trailer shall not, while so parked, be used as a permanent human dwelling place, living abode or living quarters.

(b) *Compliance with zone regulations.* A camper, travel trailer or other recreational vehicle parked on a lot within an agricultural or residential district shall comply with all parking and building setbacks for the zoning district and shall utilize only the existing permitted access driveway into the site.

(c) *Parking; restrictions.* A camper, travel trailer or other recreational vehicle may not be parked on any land outside of an approved trailer park or an approved sales lot, except that the parking of one unoccupied trailer, less than 25 feet in length, in any accessory private garage, building or in the rear yard of a residential district is permitted, provided that no living quarters shall be maintained or any business practices conducted in said trailer while it is so parked or stored.

(d) *Temporary parking and use as dwelling by guest.* A camper or travel trailer of the type described in subsection (a) of this section and owned by a nonresident guest or visitor may be parked or occupied by said guest or visitor on property on which a permanent dwelling unit is located for a period not to exceed 30 days while visiting the resident of said property. The recreational vehicle or trailer shall have self-contained sanitary facilities or standard on-site facilities as required by county ordinance.

(e) *Temporary use as dwelling during construction; certificate of compliance required.* The zoning administrator may, upon application, grant a certificate of compliance for the use of a residential trailer or similar portable unit for temporary residential purposes within the city in conjunction with a home construction project that is underway; provided however, that a duly authorized and valid building permit shall have been approved by the city building official prior to the application for a certificate of compliance.

(f) *Procedure to obtain certificate of compliance.* The applicant for said certificate of compliance shall file an application with the zoning administrator setting forth the area in which said trailer is to be located, together with a copy of the building permit for the home to be constructed on said property.

(g) *Time limit of certificate.* The term of said certificate of compliance shall not exceed 120 days or the completion of construction of the residential home in question, whichever comes first.

(h) *Conditions attached.* The zoning administrator may attach such conditions and obligations to the issuance of said certificate of compliance as it deems necessary to protect the health, safety and general welfare of the citizens of the city.

(Ord. No. 50, § 733, 12-7-1982)

Sec. 32-340. Service stations.

(a) *Compliance with zone standards required.* Before a conditional use permit for a service station is granted, the minimum requirements of the zoning district in which the service station is to be located shall be met.

ZONING

(b) *Design and construction standards and approvals.* A drainage system, subject to approval by the city engineer, shall be installed. The entire site other than that taken up by a structure or planting, shall be surfaced with concrete or other material approved by the city council. Pump islands shall not be placed in the required yards. The area around the pump island to a distance of eight feet on each side shall be concrete. A box curb not less than six inches above grade shall separate the public right-of-way from the motor vehicle service areas, except at approved entrances and exits. No driveways at a property line shall be less than 50 feet from the intersection of two street right-of-way lines. Each service station shall have at least two driveways with a minimum distance of 170 feet between centerlines when located on the same street.

(c) *Parking restricted.* No vehicles shall be parked on the premises other than those utilized by employees or awaiting service. No vehicle shall be parked or be awaiting service longer than 15 days. Existing service stations shall comply with this requirement within 45 days of the effective date of the ordinance from which this section is derived.

(d) *Storage limitations.* Exterior storage besides vehicles shall be limited to service equipment and items offered for sale on pump islands; exterior storage of items offered for sale shall be within yard setback requirements and shall be located in containers such as racks, metal trays and similar structures designed to display merchandise. Existing service stations shall comply with this requirement within three months of the effective date of the ordinance from which this section is derived.

(e) *Screening.* All areas utilized for storage, disposal or burning of trash, debris, discarded parts and similar items shall be fully screened. All structures and grounds shall be maintained in an orderly, clean and safe manner. Existing service stations shall comply with this requirement within nine months of the effective date of the ordinance from which this section is derived.

(f) *Restriction of activities.* Business activities not listed in the definition of service stations in this chapter are not permitted on the premises of a service station unless a conditional use permit is obtained specifically for such business. Such activities include but are not limited to the following: automatic car and truck wash; rental of vehicles, equipment or trailers; and general retail sales.

(g) *Conditional use permit; records.* Service stations shall be subject to all of the requirements necessary for the review and issuance of a conditional use permit as per division 5 of article II of this chapter. In addition, service stations shall be required to keep accurate records of bulk fuels and liquids.

(h) *Tank materials and installation.* New below-ground storage tanks shall be of a noncorrosive type and installed according to all other state pollution control agency standards.
(Ord. No. 50, § 735, 12-7-1982)

Sec. 32-341. Drainage.

(a) No land shall be developed or altered and no use shall be permitted that results in surface water run-off causing unreasonable flooding, erosion or deposit of minerals on adjacent properties or waterbodies. Such run-off shall be properly channeled into a natural water course or drainageway and/or ponding area.

(b) The zoning administrator, upon inspection of any site which has created drainage problems or could create drainage problems with proposed new development, may require the owner of said site or contractor to complete a grading plan and apply for a grading permit.

(c) The owner or contractor of any natural drainage improvement or alteration may be required by the zoning administrator to obtain recommendations from the state department of natural resources, the soil conservation agent, the affected watershed district and/or the city engineer, as well as obtaining a local grading permit.

(d) On any slope in excess of 13 percent where, in the opinion of the zoning administrator, the natural

GRANT CODE

drainage pattern may be disturbed or altered, the zoning administrator may require the applicant to submit both a grading plan and a soil conservation plan prior to applying for a building permit.
(Ord. No. 50, § 740, 12-7-1982)

(e) Land disturbing activities that alter drainage of any site shall implement erosion and sedimentation control and stormwater management standards that comply with the City's Engineering Design Guidelines, as well as chapter 30, Sections 30-103, 30-172 and 30-173.
(Ord. No. 2015-39, 4-7-2015)

Sec. 32-342. Permits for land reclamation; use of public waters.

(a) *Land reclamation.* Within this section, the term "land reclamation" means the reclaiming of land by depositing or moving material so as to alter the grade. Land reclamation of more than 50 cubic yards up to 5,000 cubic yards requires a grading permit. Land reclamation of 5,000 cubic yards or greater requires a conditional use permit. Land reclamation in floodplains shall be in accordance with chapter 14. The permit shall include as a condition thereof a finished grade plan which will not adversely affect the adjacent land and as conditions thereof shall regulate the type of material permitted, a program for rodent control, a plan for fire control, general maintenance of the site, controls of vehicular ingress and egress, and drainage and control of material disbursed from wind or hauling of material to or from the site.

(b) *Public waters.* No person, partnership or association, private or public corporation, county, municipality, or other political subdivision shall appropriate or use any public water, surface or underground, without first securing a use of public waters permit and written permission of the commissioner of the division of waters, soils and minerals of the state department of natural resources. For purposes of these regulations, public waters shall be as by law, and as follows:

- (1) Public waters shall include all lakes, ponds, swamps, streams, drainageways, floodplains, floodways, natural watercourses, underground water resources and similar features involving directly or indirectly the use of water within the city.
- (2) No public water area shall be filled, partially filled, dredged, altered by grading, mining or otherwise utilized or disturbed in any manner without first securing a public waters use permit from the state department of natural resources and the U.S. Army Corps of Engineers, and a grading permit from the city zoning administrator. Such grading permits shall be reviewed and approved by the department of natural resources, the city engineer, the watershed district, the planning commission and the city council.

(Ord. No. 50, § 741, 12-7-1982; Ord. No. 2004-110, § 2, 6-1-2004; Ord. No. 2007-02, § 1, 6-5-2007)

Sec. 32-343. Soil conservation plans.

(a) *Projects affecting more than one acre.* On any development or land reclamation project with more than one acre of soil, drainage patterns or vegetation cover that would be either destroyed or disturbed by the construction process, the city zoning administrator may require the owner or contractor on said project to request the soil conservation district to prepare a soil conservation plan to protect the soil from erosion or sheet run-off for the duration of the construction project and/or over the long term occupancy of the site.

(b) *Projects affecting less than one acre.* The zoning administrator may require a soil conservation plan on projects which disturb less than one acre of soil, drainage patterns or vegetation cover if, in the judgment of the zoning administrator, significant soil erosion, vegetation destruction or drainage damage may occur during the construction process.

(c) *Contents of plan.* A soil conservation plan shall consist of specific written recommendations on how to protect the soil, vegetation and drainage patterns during the construction process. The zoning administrator may require construction fencing along the edges of the construction area.

ZONING

(d) *Slopes of 13 to 18 percent.* Where construction of a structure is proposed on slopes of 13 percent to 18 percent, the zoning administrator may require the applicant to provide a grading and erosion control plan and may require a certificate of compliance.

(e) *Slopes of 18 to 25 percent.* Where construction of a structure is proposed on slopes of 18 percent to 25 percent, the zoning administrator shall require the applicant to provide a grading and erosion control plan and a certificate of compliance prior to issuance of a building permit.

(f) *Bond.* The city council may require the applicant to post a bond to ensure the orderly completion of the grading and erosion control plan by a specific date.
(Ord. No. 50, § 742, 12-7-1982)

Sec. 32-344. Mining.

All mining and related uses of land, including but not limited to the excavation, removal or storage of sand, gravel, rock, clay and other natural deposits, are subject to the adopted standards, codes, ordinances and regulations of the planning commission and/or city council related to such activities and all regulations in chapter 12, article V.
(Ord. No. 50, § 743, 12-7-1982)

Sec. 32-345. Agricultural operations.

(a) *Applicability.* All agricultural operations in existence upon the effective date of the ordinance from which this section is derived shall be a permitted use. However, all regulations contained herein and other city ordinances in effect shall apply to all changes of the agricultural operation which will cause all or part of the area to become more intensively used or more urban in character. Setback and other regulations shall apply to agricultural operations just as they do to residential developments. Any agricultural building exceeding \$1,000.00 in value erected on a farm shall require a certificate of compliance and shall meet the provisions of this Code.

(b) *Right to farm--Intent of laws.* The city began, and continues to this day, as a city with a farming history. Its citizens prize and cherish the rural atmosphere that has been maintained. They also recognize that this rural atmosphere cannot be protected unless the family farm is also protected. Right-to-farm laws are designed to discourage persons from suing farmers on the basis that a farm operation, even when conducted according to generally accepted agricultural standards, is a nuisance. These laws help established farmers who use good management practices to prevail in private nuisance lawsuits. Right-to-farm laws also document the importance of farming to the state, or locality (such as the city), where they exist. They also help to put nonfarm residents on notice that generally accepted agricultural practices are reasonable activities to expect in designated areas. Finally, right-to-farm laws provide farm families, and others who prize the farming atmosphere, with a psychological sense of security that farming is a valued and accepted activity in the city.

(c) *Same--Application within city.* For all of these reasons, all of the city is hereby designated a "right-to-farm" area. Farming operations are hereby afforded the following property rights in the city:

- (1) Farmers shall have the right to farm without unreasonable restrictions, regulations, or harassment. Complaints against the operations of farms shall be considered to be unwarranted and frivolous as long as the farming activities are being conducted according to generally accepted agricultural standards. These farming activities shall include but not be limited to:
 - a. The right to operate equipment in the fields, on the roads, or on any farm or homestead property, at any time and on any day of the week.
 - b. Farming activities that generate noise and dust. This can be caused in a variety of ways including fieldwork, caring for livestock, harvest, or care and maintenance of the farm.
 - c. The generation of odor from livestock, manure, fertilizer, feed, and farm-related other sources.
- (2) Farmers have a right to farm even if development is taking place around them. If the farm was in

GRANT CODE

operation before the complaining person moved to the area, the complaining person shall be deemed to have "come to the nuisance."

(3) All farming operations that lawfully exist in the city shall be protected by this section.

(d) *Agricultural operations.* Agricultural operations may occur on parcels of five or more contiguous acres in agricultural and residential districts. Agricultural operations may include the production of farm crops, such as vegetables, fruit trees, grain and other crops and their storage on the area, as well as for the raising thereon of farm poultry, domestic pets and domestic farm animals.

(e) *Accessory uses.* Agricultural operations may include necessary accessory uses for treating, storing or producing retail farm market products; provided however, that the operation of any such accessory uses shall be secondary to that of the primary agricultural activity.

(f) *Feedlots require permit.* Agricultural operations may not include commercial livestock pen feeding (feedlots) without first receiving a conditional use permit from the city council and a state pollution control agency feedlot permit.

(g) *Garbage prohibited as food.* Commercial feeding operations shall not include the feeding of garbage to swine or other animals.

(h) *Permit for farm operation required under certain conditions.* The city council may require any farm operation not located in an agricultural district to secure a conditional use permit to continue said operations in the event of the following:

- (1) A nuisance on a farm is adjacent to or within 100 feet of any property line and may be detrimental to living conditions by emitting noise, odor, vibrations, hazards to safety and the like.
- (2) The farm operations are so intensive as to constitute an industrial type use consisting of the compounding, processing and packaging of products for wholesale or retail trade and, further, that such operations may tend to become a permanent industrial-type operation. Excessive trucking operations, more than are generally associated with a family farm, shall be considered an intensive use.

(Ord. No. 50, § 744, 12-7-1982; Ord. No. 2000-88, §§ A, B, 5-20-2000)

Sec. 32-346. Access drives and access.

(a) *Proximity to lot lines.* Access drives may not be placed closer than five feet to any side or rear lot line. No access drive shall be closer than five feet to any single family residence, or no closer than five feet to any commercial building. The number and types of access drives onto major streets may be controlled and limited in the interests of public safety and efficient traffic flow. If the parcel with the access drive abuts a public road, the access must be onto the public road.

(b) *Permit required for access to county roads.* Access drives onto county roads shall require an access permit from the county engineer. This permit shall be acquired prior to the issuance of any building permits. The county engineer shall determine the appropriate location, size and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow. The county engineer may refer the request for an access drive permit onto a county road to the planning commission for its comment.

(c) *Review by engineer.* Access drives to principal structures which traverse wooded, steep or open field areas shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles. The city engineer or building official shall review all access drives (driveways) for compliance with accepted city access drive standards.

(d) *Driveway/accessway standards.* The following table presents the standards for single-family detached and general business locations:

ZONING

	<i>Single-Family Detached</i>	<i>General Business</i>
Slopes	10-foot vertical rise in 100 horizontal feet	8-foot vertical rise in 100 horizontal feet
Width	10-foot driveway base, vegetation cleared to 8 feet on each side of driveway centerline	10-foot driveway base or as approved by the city engineer
Pavement strength	Capable of supporting emergency fire or other heavy vehicles.	

(e) *Access for emergency vehicles.* All lots or parcels shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel from an existing dedicated public roadway.

(f) *Additional access.* In addition to the required direct physical access along the frontage of the lot or parcel to the approved existing public roadway, a lot or parcel may have private easement access drives to the lot over adjacent lots or parcels.

(g) *Shared access.* Shared access is permitted for two contiguous parcels. Shared access is a single access onto a public street, within the road right-of-way, for the use of more than one property owner to gain access to a private driveway. The shared access must be within road right-of-way and terminate outside the lot line of an individual parcel.

(h) *Shared access to contiguous properties.* Shared access may provide access to not more than two (2) contiguous properties. Owners of properties that propose shared access shall provide the City a copy of a developer’s agreement or other agreement that identifies the owner’s responsibilities for maintenance of the shared access.

(i) *Shared driveways.* Shared driveways are not permitted. Shared driveways are an access way, standing partly on one owner’s land and partly on an adjacent owner’s land, over which both owners hold a right-of-way. A shared driveway is generally jointly owned by the owners of the properties it gives access to. (Ord. No. 50, § 745, 12-7-1982)

Sec. 32-347. Tennis courts.

(a) *Standards.* In all districts, the following standards shall apply:

- (1) A certificate of compliance shall be required for all private tennis courts on residential lots.
- (2) A conditional use permit shall be required for all public, semipublic and commercial tennis courts.
- (3) An application for a certificate of compliance or a conditional use permit shall include a site plan showing:
 - a. The size, shape, pavement and subpavement materials;
 - b. The location of the court, the location of the house, garage, fencing, septic systems and any other structural improvements on the lot;
 - c. The location of structures on all adjacent lots;
 - d. A grading plan showing all revised drainage patterns and finished elevations at the four corners of the court;
 - e. Landscaping and turf protection around the court; and
- f. Location of existing and proposed wiring and lighting facilities.

GRANT CODE

(b) *Location relative to lot lines and yards.* Tennis courts shall not be located closer than ten feet to any side or rear lot line. Tennis courts shall not be located within any required front yard.

(c) *Location relative to utilities and easements.* Tennis courts shall not be located over underground utility lines of any type, nor shall any court be placed within any private or public utility, walkway, drainage or other easement.

(d) *Practice walls.* Solid tennis court practice walls shall not exceed ten feet in height. A building permit shall be required for said walls. Said walls shall be setback a minimum of 30 feet from any lot line.

(e) *Fencing.* Chainlink fencing surrounding the tennis court may extend up to 12 feet in height above the tennis court surface elevation.
(Ord. No. 50, § 747, 12-7-1982)

Sec. 32-348. Vegetative cutting.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Clearcutting means removal of all live vegetation in excess of six inches in diameter at breast height on any area of 20,000 square feet or more in size.

Selective cutting means the removal of single scattered live trees or shrubs in excess of six inches in diameter at breast height.

(b) *Prohibited locations.* Clearcutting of vegetation shall not be permitted within any required yard of any lot or parcel within any zoning use district.

(c) *Conditional use permit required commercially.* Clearcutting for commercial tree production purposes shall require a conditional use permit in any district. (See section 32-245.)

(d) *Tree-cutting on slopes.* Selective tree cutting may occur on any lot provided any cutting on slopes of greater than 18 percent shall require a soil conservation district re-vegetation plan and a certificate of compliance prior to issuance of a building permit.
(Ord. No. 50, § 748, 12-7-1982)

Sec. 32-349. Solid waste landfill facilities.

(a) *Access.* All solid waste landfill facilities shall be located so that all forms of vehicular access to it are only from a paved, all-weather public road of at least nine tons per axle capacity.

(b) *Boundary distances from certain zones.* The boundaries of any solid waste landfill facility shall be at least 500 yards from any parcel of land located in a region zoned single-family residential R-1 or limited agricultural A-2 and at least 100 yards from the boundaries of the parcel of land on which the landfill facility is located.

(c) *Required distances from certain facilities.* No portion of any parcel of land on which any solid waste landfill facility is sited may be closer to the following, as indicated; provided that such protected facility is in existence at the time application has been made for city approval of the solid waste landfill facility:

- (1) One thousand five hundred yards to any public or private school or hospital;
- (2) Five hundred yards to any church, public library, public park or trail, or any other public facility;
and

ZONING

(3) One thousand yards to any water well which is used for human or animal consumption.

(d) *Surface water limitations.* No parcel of any land on which any solid waste landfill facility is sited may contain any permanent or seasonal standing or flowing surface water and no portion of the said parcel may be closer than 500 yards to any permanent or seasonal standing or flowing surface water provided that such standing or flowing water is in existence within ten years prior to the time application has been made for city approval of the solid waste landfill facility.

(e) *Compliance to requirements.* The approval, licensing, and operation of any solid waste landfill facility within the city shall meet all applicable requirements and provisions of ordinance. (Ord. No. 58-A, § 2(749.04)--(749.08), 8-5-1986)

Sec. 32-350. Planned unit developments.

(a) A planned unit development (PUD), as defined in the Chapter 32, pertaining to zoning, is prohibited.

(b) Agricultural uses as defined and permitted in Chapter 32, are not prohibited by Section 32-350(a) of the City's Code of Ordinances.

Sec. 32-351. Wind energy conversions systems.

(a) *Purpose and intent.* The purpose is to establish regulations for wind energy conversion systems. A wind energy conversion system is defined as one (1) tower with rotors and motors with one conversion generator.

(b) *Permitted use.* The use of residential Wind Energy Conversion Systems (40 kilowatts or less) for the purpose of providing renewable energy for homes and businesses is a permitted use within the A-1 and A-2 zoning districts with the issuance of a certificate of compliance.

(c) *Performance standards.* The installation of WECS must comply with all rules and regulations of Federal, State, County, and local agencies and the following performance standards:

- (1) One wind energy conversion system is permitted per parcel.
- (2) For all WECS, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.
- (3) The maximum height of a wind energy conversion system shall be based on the height of the Tower, and the Tower shall be a maximum of 35 feet. The Tower height shall be measured from the base of the tower placed on a natural topography to the center of the gearbox.
- (4) Rotor blades or airfoils must maintain a minimum of 12 feet of clearance between the lowest point of the blade and the ground.
- (5) Rotors shall not exceed 26 feet in diameter.

GRANT CODE

- (6) The tower shall be set back a minimum of 1 ½ times the height to be measured to the maximum height of the rotor tip, or the required setbacks as defined in the underlying zoning district, whichever is greater.
- (7) All efforts should be made to site the WECS behind the principal structure. If the location is proposed anywhere else on the property, the Applicant shall be required to provide explanation as to why the proposed location was chosen.
- (8) The color of the structure shall be a non-reflective, non-obtrusive color – either gray or off-white.
- (9) No lights, flashers, reflectors, or any other illuminated devices shall be affixed to the wind energy conversion system. The wind energy conversion system shall not be used for displaying any advertising.
- (10) All State, County, and local noise standards must be met.
- (11) Wind energy conversion systems shall not encroach on public drainage, utility, roadway or trail easements.
- (12) Applicable electrical permits, building permit, and inspections must be obtained prior to installation of the wind energy conversion systems.
- (13) The wind energy conversion system must be installed to meet the manufacturer's specifications.
- (14) To prevent unauthorized climbing, wind energy conversion system towers must comply with one of the following provisions:
 - a. Tower climbing apparatus shall not be located within 12 feet of the ground.
 - b. A locked anti-climb device shall be installed on the tower.
 - c. A protective fence at least six feet height.
- (15) Each wind energy conversion system shall be equipped with both a manual and automatic breaking device capable of stopping the wind energy conversion system in high winds (40 MPH or greater).
- (16) The WECS shall be grounded to protect against natural lightning strikes.
- (17) The appearance of the turbine, tower and any other related components shall be maintained throughout the life of the wind energy system pursuant to industry standards.
- (18) If the City's Zoning Administrator or Building Inspector determines that the wind energy conversion system is unsafe, the owner shall remove the system at their expense. Removal includes the entire structure, including foundations to below natural grade, and transmission equipment.

Sec. 32-352. Rural Event Facility.

ZONING

(a) *Purpose and intent.* The purpose is to establish regulations and performance standards related to Rural Event Facilities that allow for reuse and adaption of historically important structures within the city, while ensuring protection of adjacent properties and rural residential neighborhoods. For example, the reuse of an historic barn on a site which can be protected and reused as a rural event facility will ensure such structure is retained as a part of the rural character of the community.

(b) *Permitted use.* The reuse and adaption of an accessory structure for purposes of a rural event facility, as previously defined, is a permitted use within the A-1 and A-2 zoning districts with the issuance of a Conditional Use Permit.

(c) *Performance standards.* The rural event facility must comply with all rules and regulations of Federal, State, County, and local agencies and the following performance standards:

- (1) A rural event facility may only be located on a site where such facility is accessory to a principal residential use.
- (2) Events shall be limited to a maximum of 300 persons.
- (3) Adequate utilities, including sewage disposal, must be available on the site. The applicable portion of the building code shall determine the appropriate type of bathroom facilities required on a site, and any on-site sewage treatment facilities needed shall be installed under a permit issued by Washington County.
- (4) The rural event facility shall have its primary frontage on a County or State road, and such road shall be used for the exclusive and only access to the facility.
- (5) The rural event facility shall be 20 acres or greater, where lot size is defined consistently with Section 32-246 (c) 4 of this zoning ordinance.
- (6) The rural event facility shall provide on-site parking sufficient to handle all guests, staff, vendor and owner vehicles. All parking standards shall be consistent with those stated within the City's Code of Ordinance.
- (7) Sound amplification is permitted for ceremonies whether located within the rural event facility or on the grounds. All other sound amplification is permitted only within the facility's building, and must adhere to all local and County sound ordinances. Events shall not generate noise that unreasonable annoys, disturbs, or endangers the comfort or peace of any persons, or precludes their enjoyment of property or affects their property's value.
- (8) The rural event site shall be located at least 100 feet from any side lot line, and additional screening may be required for any outdoor event areas. All potential event areas shall be designated on the site plan submitted for review.
- (9) The rural event facility shall be architecturally designed to be consistent with the principal structure; with particular interest in re-use and adaption of historically significant structures within the City.
- (10) The rural event facility must comply with all rules and regulations of Federal, State, County and Local agencies.
- (11) The City may impose conditions related to landscaping, access, security, sanitary sewer, liability or other insurance requirements, and other conditions as necessary.

(Ord. No. 2014-31, 1-7-2014)

GRANT CODE

Sec. 32-353. Supper Clubs.

(a) *Purpose and intent.* The purpose is to establish regulations and performance standards related to Supper Clubs to ensure compatibility of land uses within the City, and to protect existing rural residential neighborhoods and uses from incompatible and more intense uses.

(b) *Permitted use.* The principal use of a property for a Supper Club is a permitted use within the A-1, A-2, and GB zoning districts with the issuance of a Conditional Use Permit.

(c) *Performance standards.* A Supper Club must comply with all rules and regulations of the City's ordinances, Federal, State, County, and local agencies and the following additional performance standards:

- (1) Proposed Supper Clubs in the GB, A1 and A2 zoning districts must adhere to the following standards:
 - a. Adequate utilities, including sewage disposal, must be available on the site. The applicable portion of the building code shall determine the appropriate number of bathroom facilities required on a site, and any on-site sewage treatment facilities needed shall be installed under a permit issued by Washington County.
 - b. The Supper Club shall have its primary frontage on a County or State road, and such road shall be used for the exclusive and only access to the facility.
 - c. The Supper Club shall provide on-site parking sufficient to handle all patrons, deliveries, and employees. All standards for parking areas and sizing shall be consistent with those stated within the City's Code of Ordinance.
 - d. The Supper Club must comply with all rules and regulations of Federal, State, County and Local agencies.
 - e. The City may impose conditions related to landscaping, access, security, sanitary sewer, liability or other insurance requirements, and other conditions as necessary.
- (2) Properties located within the A1 and A2 zoning districts must meet the following standards:
 - a. The Supper Club shall be 20 acres or greater, where lot size is defined consistently with Section 32-246 (c) 4 of this zoning ordinance.
 - b. The Supper Club shall be located at least 100 feet from any side lot line, and additional screening may be required as determined by the Council.

(Ord. No. 2014-32, 2-3-2014)

Sec. 32-354 Forestry Products and Processing (non-retail).

- (a) *Purpose and intent.* The purpose is to establish regulations and performance standards related to small-scale Forestry Products and Processing non-retail operations in the City.
- (b) *Permitted Use.* Forestry Products and Processing (non-retail) is a permitted use within the A1 and A2 zoning districts with the issuance of an Interim Use Permit.
- (c) *Performance Standards.* The forestry products and processing (non-retail) operations must comply with all rules and regulations of Federal, State, County and local agencies and the following performance standards:
 - (1) The operation must be located on a site/lot with a minimum of 40-acres.
 - (2) The operation must have direct access to a paved state or county-owned road and must obtain all necessary driveway permits from the applicable agency.

ZONING

- (3) The operation, including structures, parking, storage area, and any operation related uses may not exceed 15,000 square feet in area.
- (4) No chemicals may be used for the processing of the products on site.
- (5) No manufacturing of products that require fasteners or assembly is permitted. Examples of such products include roof trusses.
- (6) The operation must be setback a minimum of 200-feet from any adjacent property lines.
- (7) The operation must be fully screened from any public right-of-way or adjacent residential use.
- (8) No retail of public sales may be conducted from the site.
- (9) All appropriate permits and/or permission from the applicable local, state or federal agency must be obtained regarding the wood products brought to the site. All species and wood products processed on site must comply with the applicable agency's rules and regulations.

(Ord. No. 2022-67, 9-6-2022)

Secs. 32-355--32-371. Reserved.

DIVISION 2. OFF-STREET PARKING

Sec. 32-372. General provisions.

(a) *Permanency of designated spaces.* Off-street parking spaces and loading spaces existing upon the effective date of the ordinance from which this division is derived shall not be reduced in number unless said number exceeds the requirements set forth herein for a similar use.

(b) *Benches as basis for parking requirements.* In park areas, churches, and other places of public assembly, in which patrons or spectators occupy benches, pews or other similar seating facilities, each 22 inches of such seating facilities shall be counted as one seat for the purpose of determining requirements for off-street parking facilities under this division.

(c) *Parking space dimensions.* Each parking space shall not be less than ten feet wide and 20 feet in length exclusive of an adequately designed system of access drives. Parking lots that separate vehicles based on size may be designed with parking spaces less than or greater than ten feet wide and 20 feet in length, depending upon the size of vehicle, as long as adequate space is provided for easy and safe ingress and egress for the vehicle. Proposed reductions in or additions to the parking space size must be submitted in a dimensioned site plan, with size of vehicle to use parking spaces indicated, to the zoning administrator for review and approval. Signs specifying the vehicle size for use of the parking space may be required by the zoning administrator. Parking spaces for the handicapped shall not be less than 12 feet wide and 20 feet in length.

(d) *Limitations on use of residential parking facilities.* Off-street parking facilities accessory to residential use shall be utilized solely for the parking of passenger automobiles and/or one truck not to exceed 12,000 pounds gross capacity. Under no circumstances shall required parking facilities accessory to residential structures be used for the storage of commercial vehicles or for the parking of automobiles belonging to the employees, owners, tenants or customers of nearby business or manufacturing establishments.

(e) *Restrictions on use of parking areas.* Required off-street parking space in any district shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable, for sale or for rent.

GRANT CODE

(f) *Limitation on size in residential districts.* In residential districts, no more than 25 percent of the required yard area shall be surfaced or utilized for driveway or vehicle storage space.
(Ord. No. 50, § 712.03, 12-7-1982)

Sec. 32-373. Surfacing and drainage.

Off-street parking areas shall be improved with a durable and dustless surface. Such areas shall be so graded and drained as to dispose of all surface water accumulation within the parking area. Durable and dustless surface may include crushed rock and similar treatment for parking accessory to one unit residential structures; all other uses shall utilize asphalt, concrete or a reasonable substitute surface as approved by the city engineer. All surfacing must be completed prior to occupancy of the structure unless other arrangements have been made with the city.

(Ord. No. 50, § 712.01, 12-7-1982)

Sec. 32-374. Required spaces.

Off-street parking spaces (one space equals 300 square feet) shall be as follows for:

<i>Facility</i>	<i>Spaces required</i>
Church and other places of assembly.	One space for each three seats or for each five feet of pew length. Based upon maximum design capacity.
Office.	One space for each 200 square feet of gross floor space.
School, elementary and junior high.	Three spaces for each classroom.
School, high school through college.	One space for each four students based on design capacity plus three additional spaces for each classroom.
Hospital.	One space for each three hospital beds, plus one space for each three employees other than doctors, plus one space for each resident and regular staff doctor. Bassinets shall not be counted as beds.
Sanitarium, convalescent home, rest home, nursing home or institution.	One space for each six beds, for which accommodations are offered, plus one space for each two employees one maximum shift.
Motor fuel station.	Two spaces plus three spaces for each service stall.
Retail store.	One space for each 150 square feet of gross floor area.
Medical or dental clinic.	Six spaces per doctor or dentist.
Restaurants, cafes, bars, taverns or nightclubs.	One space for each 2 1/2 seats, based on capacity design.
Furniture store, wholesale, auto sales, repair shops.	Three spaces for each 1,000 square feet of gross floor area. Open sales lots shall provide two spaces for each 5,000 square feet of lot area, but not less than three spaces.
Warehouse, storage, handling of bulk goods.	One space for each two employees on maximum shift or one for each 2,000 square feet of gross floor area, whichever is the larger.
Uses not specifically noted.	As determined by the planning commission and city council.

(Ord. No. 50, § 712.06, 12-7-1982)

ZONING

Sec. 32-375. Location.

All accessory off-street parking facilities required herein shall be located as follows:

- (a) Spaces accessory to single-family dwellings shall be on the same lot as the principal use served.
- (b) Spaces accessory to uses located in a business district shall be within 800 feet of a main entrance to the principal building served. Parking as required by the state building code for persons with disabilities shall be provided.
- (c) There shall be no off-street parking space within ten feet of any street right-of-way.
- (d) No off-street parking area shall be located closer than five feet from an adjacent lot zoned or used for residential purposes, except when adjoining an existing parking area on the adjacent lot.
(Ord. No. 50, § 712.02, 12-7-1982)

Sec. 32-376. Design and maintenance of off-street parking areas.

- (a) *Design.* Parking areas shall be designed so as to provide adequate means of access to a public alley or street. Such driveway access widths shall be in accordance with the state highway department standards, but in no case shall they exceed 32 feet in width unless a conditional use permit has been obtained approving the larger width. Driveway access shall be so located as to cause the least interference with traffic movement.
- (b) *Calculating space.* When the calculation of the number of off-street parking spaces required results in a fraction, such fraction shall require a full space.
- (c) *Signs.* No signs shall be located in any parking area except as necessary for orderly operation of traffic movement and such signs shall not be a part of the permitted advertising space.
- (d) *Surfacing.* All of the area intended to be utilized for parking space and driveways shall be surfaced with a material to control dust and drainage. Parking areas for less than three vehicle spaces shall be exempt.
- (e) *Lighting.* Any lighting used to illuminate an off-street parking area shall be so arranged so it is not directly visible from the adjoining property and in a downward vertical direction.
- (f) *Curbing and landscaping.* All open off-street parking areas designed to have head-in parking along the property line shall provide a bumper curb not less than five feet from the side property line or a guard of normal bumper height no less than three feet from the side property line. When said area is for six spaces or more, a curb or screening not over four feet in height shall be erected along the front yard setback line and grass or planting shall occupy the space between the sidewalk and curb or screening.
- (g) *Parking space for six or more cars.* When a required off-street parking space for six or more cars is located adjacent to a residential district, a fence or screen not less than four feet in height shall be erected along the residential district property line.
- (h) *Maintenance of off-street parking space.* It shall be the joint responsibility of the operator and owner of the principal use or building to reasonably maintain the parking space, accessways, landscaping and required fences.
- (i) *Access.* All off-street parking spaces shall have access from driveways and not directly from the public street.
- (j) *Determination of areas.* The parking space per vehicle shall not be less than 300 square feet, or an area equal to the width of the parking space multiplied by the length of the parking space, plus 11 feet.
- (k) *Fire access lanes.* Fire access lanes shall be provided as required by the building or fire code.

GRANT CODE

(Ord. No. 50, § 712.04, 12-7-1982)

Sec. 32-377. Truck parking in residential areas.

No motor vehicle over one ton capacity bearing a commercial license and no commercially licensed trailer shall be parked or stored in a residential district except when loading, unloading or rendering a service.

(Ord. No. 50, § 712.05, 12-7-1982)

Secs. 32-378--32-397. Reserved.

DIVISION 3. SIGNS⁸

Sec. 32-398. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Sign means a display, illustration, structure or device which directs attention to an object, product, place, activity, person, institution, organization or business.

Advertising sign means a sign that directs attention to a business or profession or to a commodity, service or entertainment not sold or offered upon the premises where such sign is located or to which it is attached.

Business sign means a sign that directs attention to a business or profession or to the commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is attached.

Flashing sign means an illuminated sign which has a light source not constant in intensity or color at all times while such sign is in use.

Ground sign means a sign which is supported by one or more uprights, poles or braces in or upon the ground.

Identification sign means a sign which identifies the inhabitant of the dwelling, not to exceed two square feet in size.

Illuminated sign means a sign which is lighted with an artificial light source.

Motion sign means a sign that has revolving parts or signs which produce moving effects through the use of illumination.

Nameplate sign means a sign which states the name and/or address of the business or occupant of the site and is attached to said building or site.

Pedestal sign means a ground sign usually erected on one central shaft or post which is solidly affixed to the ground.

Real estate sign means a sign offering property (land and/or buildings) for sale, lease or rent.

Roof sign means a sign erected upon or above a roof or parapet of a building.

⁸ **State Law References:** Restrictions on noncommercial signs, Minn. Stats. § 211B.045.

ZONING

Temporary or seasonal sign means a sign placed on a lot or parcel of land for a period not to exceed 90 days out of any 12-month period. No sign permit fee is required.

Wall sign means a sign attached to or erected against the wall of a building with the exposed face of the sign a plane parallel to the plane of said wall.

Warning sign means a sign which warns the public of a danger or hazard in the immediate vicinity and is obviously not intended for advertising purposes.

Sign area means the entire area within a continuous perimeter enclosing the extreme limits of such sign. However, such perimeter shall not include any structural elements lying outside of such sign and not forming an integral part or border of the sign. The maximum square footage of multi-faced signs shall not exceed two times the allowed square footage of a single-faced sign.

Sign structure means the supports, uprights, braces and framework of the sign.
(Ord. No. 50, § 727.03, 12-7-1982)

Sec. 32-399. Purpose.

The purpose of this division is to protect and retain the natural and scenic beauty of the roadsides throughout city. By the construction of public roads, the public has created views to which the public retains a right-of-way view and it is the intent of these standards to prevent the taking of that right.
(Ord. No. 50, § 727.01, 12-7-1982)

Sec. 32-400. Exemption for inside signs.

The regulations contained herein do not apply to signs painted, attached by adhesive or otherwise attached directly to or visible through windows and glass portions of doors.
(Ord. No. 50, § 727.19, 12-7-1982)

Sec. 32-401. Substitution clause.

The owner of any sign that is otherwise allowed by this division may substitute noncommercial speech in lieu of any other commercial speech or noncommercial speech. This substitution of copy may be made without any additional approval or permitting. The purpose of this section is to prevent any inadvertent favoring of commercial speech over noncommercial speech or favoring of any particular noncommercial speech over any other noncommercial speech. This section prevails over any more specific provision to the contrary.

Sec. 32-402. Permit required, exemptions.

(a) No sign shall be erected, constructed, altered, rebuilt or relocated until a sign permit or conditional use permit for the sign has been issued according to this division.

(b) No permit will be required under this division for the following signs:

- (1) All signs under ten square feet in area, except those that require a conditional use permit.
- (2) Real estate sale signs under nine square feet in area.
- (3) Political signs under nine square feet in area.
- (4) Warning signs which do not exceed nine square feet in area.

(Ord. No. 50, §§ 727.02, 727.17, 12-7-1982)

Sec. 32-403. Prohibited signs.

GRANT CODE

(a) *Obstructions to egress.* No sign shall be allowed that prevents egress from any door, window or fire escape; that tends to accumulate debris as a fire hazard; or that is attached to a standpipe or fire escape or in any other way constitutes a hazard of health, safety or general welfare of the public.

(b) *Traffic hazards.* No sign may be erected that, by reason of position, shape, movement, color or any other characteristic, interferes with the proper functioning of a traffic sign or signal or otherwise constitutes a traffic hazard; nor shall signs be permitted which would otherwise interfere with traffic control.

(c) *Painting on walls, fences, trees, etc.* Signs shall not be painted directly on the outside wall of a building. Signs shall not be painted on a fence, tree, stone or other similar objects in any district.

(d) *Roof signs.* Roof signs are prohibited in all districts.
(Ord. No. 50, §§ 727.04, 727.05, 727.15, 727.16, 12-7-1982)

Sec. 32-404. Offensive signs.

No signs shall contain any indecent or offensive picture or written matter.
(Ord. No. 50, § 727.20, 12-7-1982)

Sec. 32-405. Required signs.

In all zoning districts one identification sign shall be required per building, except accessory structures and residential buildings which shall be required only to display the street address or property number.
(Ord. No. 50, § 727.21, 12-7-1982)

Sec. 32-406. Private traffic signs.

Private traffic circulation signs and traffic warning signs in alleys, parking lots or in other hazardous situations may be allowed on private property provided that such signs do not exceed three square feet and are used exclusively for traffic control purposes.
(Ord. No. 50, § 727.06, 12-7-1982)

Sec. 32-407. Private signs in right-of-way.

Private signs, other than public utility warning signs, are prohibited within the public right-of-way of any street or way or other public property.
(Ord. No. 50, § 727.07, 12-7-1982)

Sec. 32-408. Illuminated signs.

(a) *Prohibitions.* Illuminated signs may be permitted, but flashing signs, except ones giving time, date, temperature, weather or similar public service information, shall be prohibited. Signs giving off intermittent, rotating or directional light which may be confused with traffic, aviation or emergency signaling are prohibited.

(b) *Direction of light rays.* Illuminated signs shall be diffused or indirect so as not to direct rays of light into adjacent property or onto any public street or way.

(c) *Distance from rights-of-way, etc.* No illuminated signs or their support structures shall be located closer than 25 feet to a roadway surface or closer than ten feet to a road right-of-way line or property line, notwithstanding more restrictive portions of this section.
(Ord. No. 50, §§ 727.08, 727.11, 12-7-1982)

Sec. 32-409. Political signs.

Political signs are allowed in any district on private property with the consent of the owner of the property.

ZONING

Such signs must be removed within ten days following the date of the election or elections to which they apply.
(Ord. No. 50, § 727.09, 12-7-1982)

Sec. 32-410. Displays.

In any district, animal displays, lights directed skyward, pieces of sculpture, fountains or other displays or features which do not clearly fall within the definition of a sign, but which direct attention to an object, product, place, activity, person, institution, organization or business, shall require a conditional use permit. Mobile signs on wheels or otherwise capable of being moved from place to place shall conform to the provisions of this division just as permanently affixed signs.

(Ord. No. 50, § 727.10, 12-7-1982)

Sec. 32-411. Real estate signs.

(a) *Placement.* Real estate sales signs may be placed in any yard providing such signs are not closer than ten feet to any property line.

(b) *Development projects.* Real estate development project sales signs may be erected for the purpose of selling or promoting a single-family residential project of ten or more dwelling units, provided:

- (1) Such signs shall not exceed 100 square feet in area.
- (2) Only one such sign shall be erected on each road frontage with a maximum of three such signs per project.
- (3) Such signs shall be removed when the project is 80 percent completed, sold or leased.
- (4) Such signs shall not be located closer than 100 feet to any existing residence.
- (5) Such signs over 32 square feet shall only be permitted by a sign permit.

(Ord. No. 50, §§ 727.12, 727.13, 12-7-1982)

Sec. 32-412. Construction signs.

Construction signs not exceeding 32 square feet in area shall be allowed in all zoning districts during construction. Such signs shall be removed when the project is substantially completed.

(Ord. No. 50, § 727.14, 12-7-1982)

Sec. 32-413. Electrical signs.

All signs and displays using electric power shall have a cutoff switch on the outside of the sign and on the outside of the building or structure to which the sign is attached. No electrically illuminated signs shall be permitted in a residential or agricultural district.

(Ord. No. 50, § 727.18, 12-7-1982)

Sec. 32-414. Multi-faced signs.

Multi-faced signs shall not exceed two times the allowed square footage of a single-faced sign.

(Ord. No. 50, § 727.22, 12-7-1982)

Sec. 32-415. Restrictions at certain locations.

Except for more restrictive provisions of this division, no sign that exceeds 100 square feet in area shall be erected or maintained which would:

- (1) Prevent any traveler on any street from obtaining a clear view of approaching vehicles on the same street for a distance of 500 feet.

GRANT CODE

- (2) Be closer than 1,350 feet to a national, state or local park, historic site, picnic or rest area, church or school.
- (3) Be closer than 100 feet to residential structures.
- (4) Partly or totally obstruct the view of a lake, river, rocks, wooded area, stream or other point of natural and scenic beauty.

(Ord. No. 50, § 727.23, 12-7-1982)

Sec. 32-416. Conditional use permit.

Where a use is permitted in a zoning district by conditional use permit, the sign for that use shall require a conditional use permit unless the sign is otherwise provided for in this division.

(Ord. No. 50, § 727.24, 12-7-1982)

Sec. 32-417. Restrictions in agricultural districts.

(a) *Types of signs allowed.* No signs shall be permitted in an agricultural district except the following enumerated signs, if authorized by a sign permit or other permit as provided in this division: nameplates, real estate sales, ground, political, temporary, wall, identification and business signs.

(b) *Maximum surfaces allowed.* No sign shall be so constructed as to have more than two surfaces.

(c) *Number of each type of sign allowed per lot frontage.* One of each of the permitted type of signs, except temporary signs where two will be permitted and political signs where one for each candidate will be permitted.

(d) *Size restrictions.* Not more than a total of 32 square feet with an eight-foot maximum for any dimension, except as otherwise restricted in this section. Total square feet of permitted signs per lot or parcel shall not exceed 100 square feet.

(e) *Height restrictions.* The top of the display shall not exceed ten feet above grade.

(f) *Setback.* Any sign over two square feet shall be setback at least ten feet from any lot line.

(Ord. No. 50, § 727.25, 12-7-1982)

Sec. 32-418. Permitted signs--Residential districts.

(a) *Types of signs allowed.* Nameplate, real estate sales, political, ground, temporary, wall and identification are allowed in residential districts.

(b) *Maximum surfaces allowed.* No sign shall be so constructed as to have more than two surfaces.

(c) *Number of each type of sign allowed per lot frontage.* One of each of the permitted type signs, except temporary signs where two will be permitted and political signs where one for each candidate will be permitted. No more than 32 square feet of total display area will be permitted at any one time in developed areas.

(d) *Size restrictions.* Not more than a total of 16 square feet with a four foot maximum for any dimension except as otherwise restricted in this section. Total square feet of all signs shall not exceed 32 square feet per lot.

(e) *Height restrictions.* The top of the display shall not exceed eight feet above grade.

(f) *Setback.* Any sign over 1 1/2 square feet shall be set back at least ten feet from any lot line.

ZONING

(Ord. No. 50, § 727.26, 12-7-1982)

Sec. 32-419. Same--Commercial districts.

(a) *Types of signs allowed.* Business, nameplate, identification, illuminated, ground, pedestal, motion, political, real estate sales, temporary and wall signs are allowed in commercial districts. Advertising signs are allowed by conditional use permit only.

(b) *Number of each type of sign allowed per lot frontage.* One advertising sign on any lot having a frontage of 150 feet or more, one real estate sales sign, two temporary signs, one nameplate sign, one political sign for each candidate and one business sign will be permitted.

(c) *Size restrictions.*

(1) Except as provided herein, the total square footage of sign area for each lot shall not exceed two square feet of sign area for each lineal foot of lot frontage, except where a location is a corner lot the amount may be increased by one square foot of sign area per front foot of public right-of-way along a side lot line.

(2) No sign shall exceed 200 square feet in area.

(3) Each real estate sales sign, temporary sign and political sign shall not exceed 35 square feet in area.

(4) Each nameplate sign shall not exceed 100 square feet in area.

(d) *Height restrictions.* The top of the display shall not exceed 35 feet above the average grade.

(e) *Setback.* Any sign over six square feet shall be set back at least ten feet from any lot line. In no case shall any part of a sign be closer than two feet to a vertical line drawn at the property line. All signs over 100 square feet shall be setback at least 50 feet from any residential or agricultural district.

(Ord. No. 50, § 727.27, 12-7-1982)

Sec. 32-420. Permitted signs for uses requiring a conditional use permit.

(a) Type, number, size, height, and setback shall be as specifically authorized by terms of the issued permit.

(b) To the extent feasible and practicable, signs shall be regulated in a manner similar to that in the use district most appropriate to the principal use involved.

(Ord. No. 50, § 727.28, 12-7-1982)

Sec. 32-421. Obsolete signs.

Any sign for which no permit has been issued shall be taken down and removed by the owner, agent or person having the beneficial use of the building, structure or land upon which the sign is located within 30 days after written notice from the zoning administrator.

(Ord. No. 50, § 727.29, 12-7-1982)

Sec. 32-422. Unsafe or dangerous signs.

Any sign which becomes structurally unsafe or endangers the safety of a building or premises or endangers the public safety shall be taken down and removed or structurally improved by the owner, agent or person having beneficial use of the building, structure or land upon which the sign is located within ten days after written notice from the city council.

(Ord. No. 50, § 727.30, 12-7-1982)

GRANT CODE

Secs. 32-423--32-442. Reserved.

DIVISION 4. ANTENNA REGULATIONS

Sec. 32-443. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amateur radio antenna means any equipment or device used to transmit, receive or transmit/receive electromagnetic signals for amateur radio service communications as defined in 47 CFR 97.3(4), and as used in 47 CFR 97.15(a).

Antenna means any device which, by use of any means, is designed to transmit or receive any electromagnetic, microwave, radio, television, or other frequency energy waves, of any type, for any purpose.

Antenna support structure means any building, pole, telescoping mast, tower, tripod, or any other structure which supports an antenna.

Height means height above grade at a given location.

Registered engineer means an engineer that is registered in accordance with the laws of the state.

Satellite dish means any device incorporating a reflective surface that is solid, open mesh, or bar-configured that is shallow, dish-, cone-, horn-, or cornucopia-shaped and is used to transmit and/or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVROS, and satellite microwave antennas.

Structure, public, means an edifice or building of any kind, or any piece of work artificially built up or comprised of parts joined together in some definite manner which is owned, or rented and operated by a federal, state, or local government agency.

(Ord. No. 1997-75, § 2, 4-1-1997)

Sec. 32-444. Purpose.

In order to accommodate the communication needs of residents and businesses (while protecting the public health, safety, and general welfare of the community), the council finds that these regulations are necessary in order to:

- (1) Facilitate the provision of wireless telecommunication services to the residents and businesses of the city;
- (2) Minimize adverse visual effects of towers through artful design and siting standards;
- (3) Avoid potential damage to adjacent properties from tower failure, falling ice, high winds, adverse weather and other safety hazards through location, size, heights, development standards and setback requirements;
- (4) Maximize the use of existing and approved towers and buildings to accommodate multiple antennas in order to reduce the number of towers needed to serve the community;
- (5) Protect the inhabitants of the city from possible adverse health effects associated with exposure to levels of NIER (nonionizing electromagnetic radiation) in excess of recognized national standards;
- (6) Preserve the quality of living in residential areas which are in close proximity to radio and

ZONING

television broadcast facilities;

- (7) Ensure that a competitive and broad range of telecommunications services and high quality telecommunications infrastructure are provided to serve the community, as well as serve an important and effective part of the city's emergency response network; and
- (8) Place telecommunication facilities in suitable locations, with residential locations being a last resort.

(Ord. No. 1997-75, § 1, 4-1-1997)

Sec. 32-445. Exemptions and modifications.

An exemption or modification to any requirement of this division shall be heard by the city council. An exemption or modification shall be granted only if it can be shown by the presentation of appropriate engineering data that personal wireless services cannot be provided to a specific area without the granting of an exemption or modification.

(Ord. No. 1997-75, § 10, 4-1-1997)

Sec. 32-446. Permit requirements.

(a) *Conditional use permits required; exceptions.* Except as indicated below, conditional use permits are required before any new antenna support structure and its antenna are installed or constructed. Applications for conditional use permits shall be made on forms available from the city and shall be processed in accordance with Article II, Division 5 of this Chapter.

(b) *Administrative permits.*

(1) An administrative permit may be issued by the Zoning Administrator, or assigns, to any applicant that has complied with all of the terms, requirements, regulations and conditions of this ordinance for the following:

- a. Antennas to be constructed on a public structure.
- b. Satellite dish antennas larger than two meters but smaller than six meters in size.
- c. Antennas or antenna support structures erected temporarily for test purposes or for emergency communications. The term "temporary" means that the antenna or support structure is removed within 72 hours following the termination of testing or emergency communication needs.

(2) Any person aggrieved by the Zoning Administrator's decision shall be entitled to appeal that decision to the city council.

(c) *No permits required.* No permits are required for the following:

- (1) Household television antennas extending less than 15 feet above the highest point of a residential structure.
- (2) Satellite dish receiving antennas two meters or less in diameter.
- (3) Adjustment, repair or replacement of the elements of an antenna, provided that such work does not constitute a clear safety hazard.
- (4) Antennas and antenna support structures used by the city for city purposes.
- (5) Emergency or routine repairs, reconstruction, or routine maintenance of previously approved facilities, or replacement of transmitters, antennas, or other components or previously approved facilities which do not create a significant change in visual impact or an increase in radio frequency emission levels, and provided that such work does not constitute a clear safety hazard.
- (6) Two-way communication transmitters used on a temporary basis by 9-1-1 emergency services,

GRANT CODE

including fire, police and emergency aid or ambulance service.

- (7) Radio transceivers normally hand-held or installed in moving vehicles, such as automobiles, watercraft, or aircraft. This provision includes cellular phones.

(Ord. No. 1997-75, § 5, 4-1-1997; Ord. No. 2021-65, 11-1-2021)

Sec. 32-447. Letter of intent.

A letter of intent committing the tower owner, property owner, and their successors to allow the shared use of the tower shall be submitted to the city at the time of application. Pursuant to the terms of the letter of intent, the tower owner, property owner, and his successors shall, in good faith, lease space on an antenna support structure to other users. In the case of a dispute regarding the lease of space to other users, the existing permit holder and the current applicant shall submit their dispute to binding arbitration. Said binding arbitration shall be completed within 60 days of notification that a dispute exists. The costs of arbitration shall be borne equally by the applicant and the permit holder. Failure to abide by the arbitrator's decision shall result in termination of the permit for the tower and said tower shall be removed within 60 days. All permits shall be subject to review and termination if it is determined by the city that a permitted tower owner, property owner or successor is not in good faith offering antenna space to other users.

(Ord. No. 1997-75, § 11, 4-1-1997)

Sec. 32-448. Fees and escrows.

(a) Any person applying for any permit or site plan under this chapter shall pay to the city at the time of application all fees and escrows which are required.

(b) The fees and escrows shall be set by ordinance on the official Fee Schedule, which shall be adopted annually.

(c) All applicants must reimburse the city for any costs which the city incurs because of the presence of the applicant's antennas or towers, including costs for review of the application materials and review of required periodic submissions.

(Ord. No. 1997-75, § 8, 4-1-1997)

Sec. 32-449. Periodic submissions.

(a) *Submissions at time of initial application.* In addition to the information required elsewhere in this ordinance, applications for conditional use permits or administrative permits shall include the following information, which shall be supplied by a qualified licensed and registered professional engineer:

- (1) Description of the tower height and design, including a cross-section and elevation and site elevation.
- (2) Documentation of the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas.
- (3) Description of the tower's capacity, including the number and type of antennas that it can accommodate.
- (4) Documentation of what steps the applicant will take to avoid interference with established public safety telecommunications.
- (5) Inclusion of the engineer's stamp and registration number.
- (6) Submission of a picture drawing looking down at the energy lobe patterns (or projected patterns) of the site.
- (7) A letter of intent as required by section 32-447.
- (8) A written statement from the city fire department stating that the design of the facility, including

ZONING

its access roads, are in compliance with applicable fire codes and reasonable fire department regulations for access to the site in case of an emergency.

- (9) The city, at its reasonable discretion, may require visual impact demonstrations including mock-ups and/or photo montages to be submitted by the applicant to provide a more accurate visual depiction of the applicant's proposal.
- (10) Applications shall accurately describe and depict the actual antenna support structure/ antennas that the applicant wishes to have reviewed. Applications may be rejected by the city if the applications contain disclaimers which state or imply that the actual antenna support structure and/or antennas may not be constructed as is represented within the application materials.
- (11) Each initial application must also include the information required under subsection (c) of this section, regarding five-year submissions.
- (12) All maps submitted must clearly delineate the city boundaries and all state and county highways within the city.
- (13) Every application must include a map that identifies all properties and their lot lines within a 1,000-foot radius of the proposed tower site. The map must be placed on an aerial that clearly shows principal and accessory structures within a 1,000-foot radius and the location of the proposed tower which must be clearly marked.

(b) *Yearly submission of proof of insurance and compliance of operations.* No later than January 10 of each year, each holder of a conditional use permit or administrative permit issued under this article shall submit to the city clerk a photocopy of a certificate of insurance showing that the tower and/or antenna is insured for that calendar year and shall also submit to the city clerk a copy of a report showing that the tower and antennas are being operated in compliance with all federal and/or state regulations.

(c) *Report required every five years.* Every five years and not later than January 10 on the year of submission, each holder of a conditional use permit or administrative permit under the terms of this article shall provide the following information to the city:

- (1) A written description of the type of technology each company/carrier will provide to its customers over the next five years (i.e. cellular, PCS, ESMR).
- (2) A description of the radio frequencies to be used for each technology.
- (3) A description of the type of consumer services (voice, video, data transmission) and consumer products (mobile phones, laptop PCs, modems) to be offered.
- (4) A listing of all existing, existing to be upgraded or replaced, and proposed communication sites within the city and within five miles of the city for these services.
- (5) An electronic, to-scale copy of a map of the city showing the five-year plan for communication sites, or if individual properties are not known, the geographic service areas of the communication sites. This shall be submitted in PDF, or similar, and must be to-scale with the scale, and existing tower location clearly identified.
- (6) A written list of communication sites (in use or projected to be used within the next five years) in an electronic form, PDF or similar shall be submitted. The list should include at least the following information:
 - a. The communication sites by address and then by county PID number;
 - b. The zoning districts;
 - c. The types of building (i.e., commercial, residential, etc.) and the height of the buildings;
 - d. The name of the carrier, its business address, and a local contact person (with phone number);
 - e. The number of antenna and base transceiver stations (BTS) per site by your carrier and if

GRANT CODE

there are other installations and the number by each carrier;

- f. The height from grade to the top of the antenna installations; location and type of antenna and location of BTS;
- g. The radio frequency range in megahertz and list the wattage output of the equipment and effective radiated power;
- h. A current and up-to-date information submission including the name, address and telephone number (one local and one national) to be contacted in case of an emergency occurring at the site of the antenna support structure.

(Ord. No. 1997-75, § 9, 4-1-1997; Ord. No. 1998-81, § 1, 2-16-1998; Ord. No. 2021-65, 11-1-2021)

Sec. 32-450. Preferences for antenna and support structure locations.

When selecting sites for the construction of new antenna support structures and/or for the placement of new antennas, the following preferences shall be followed:

- (1) *Preferred land use areas.*
 - a. Property in the general business district.
 - b. Public land or structures.
 - c. Athletic complexes, public parks, and golf courses.
 - d. Parking lots, if the monopole replicates, incorporates or substantially blends with the overall lighting standards of the lot.
 - e. Within the easement of a high power overhead transmission line, or within 50 feet of the transmission line easement on the same side of a road. The term "high power" means 69,000 volts or more.
- (2) *Preferred support structures.*
 - a. Water towers.
 - b. Co-location on existing antenna support structures.
 - c. Church steeples.
 - d. Sides of buildings over two stories high.
 - e. Existing power, lighting or phone poles.
- (3) *Prohibitions.*
 - a. No new support structures shall be approved at any location other than a preferred land use area, unless the applicant shows to the reasonable satisfaction of the city that such locations are not feasible from an engineering standpoint.
 - b. No new support structures shall be approved for construction, unless the applicant shows to the reasonable satisfaction of the city that a preferred support structure is not feasibly available for use from an engineering standpoint.

(Ord. No. 1997-75, § 3, 4-1-1997; Ord. No. 1998-81, § 1, 2-16-1998)

Sec. 32-451. Location, use, lot size and dimensional requirements.

(a) *Primary and accessory uses.* The use of antennas/antenna support structures may be either a principal or accessory use of land. If the use is considered a principal use, then the minimum vacant lot size requirements of subsection (b) of this section apply. An antenna/support structure may also be considered an accessory use on a parcel of land on which a principal use already exists, thus a smaller parcel of land may be used provided all other standards contained in this article are met.

ZONING

(b) *Maximum antenna support structure height and vacant lot size requirements.*

<i>Zoning District</i>	<i>Maximum Height (in feet)</i>	<i>Minimum Vacant Lot Size (acres)</i>
A-1	195	10
A-2	195	10
R-1	165	10
Conservancy	195	10
General business	195	2.5

(c) *Exceptions to maximum height restrictions.* The maximum height restrictions in subsection (a) of this section shall not apply to public structures used as an antenna support structure. Additionally, no antenna may extend more than 15 feet above its antenna support structure.

(d) *Setback requirements.* In all districts, all antenna support structures shall be set back from the nearest property line at least a distance equal to the height of the antenna support structure. This provision does not apply to existing antenna support structures unless said structure is enlarged or structurally modified.

(e) *Distance from residences.*

- (1) Antenna support structures of up to 150 feet in height shall not be constructed within 300 feet of any residential structure.
- (2) Antenna support structures of over 150 feet in height shall not be constructed within 500 feet of any residential structure.
- (3) Notwithstanding subsections (e)(1) and (2) of this section, if an antenna support structure is located on the same parcel of land as a residential structure, the setback to that residential structure may be equal to the height of the antenna support structure plus 15 feet.

(f) *Multiple towers.* Generally, only one antenna support structure is permitted on a parcel of land. If, in the opinion of the city, a particular parcel is well suited for more than one support structure, then up to three antenna support structures may be located on a parcel of land if each antenna support structure is located within 100 feet of another antenna support structure, and if all other standards contained in this article are met. Additionally, a second or third antenna support structure will not be allowed on a parcel of land unless the existing antenna support structures on that parcel already hold the maximum number of co-located antennas possible or unless the existing antenna support structures are not feasibly available for use from an engineering standpoint for additional co-located antenna facilities.

(g) *Location limitations.* The location of any antenna support structure on a particular parcel of land shall be located so as to have the least impact possible on adjoining properties, and so that any negative impacts of the antenna support structure shall be confined as much as possible to the property on which the antenna support structure is located.

(Ord. No. 1997-75, § 4, 4-1-1997)

Sec. 32-452. Antenna regulations in all districts.

(a) *Standards.* The following standards shall apply to all antennas and antenna support structures:

- (1) All obsolete and unused antennas and antenna support structures shall be removed within 90 days of cessation of operation at the site, unless an exemption is granted by the city. After the facilities are removed, the site shall be restored to its original or an improved condition. Failure to comply with this provision will result in the city completing the removal and site restoration, and the city's costs shall be assessed against the property and collected as a real estate tax.
- (2) All antenna shall be constructed in compliance with city building and electrical codes.

GRANT CODE

- (3) Structural design, mounting and installation of the antenna shall be in compliance with manufacturer's specifications. The plans shall be approved and certified by a registered professional engineer at the owner's expense.
- (4) When applicable, written authorization for antenna erection shall be provided by the property owner.
- (5) No advertising message shall be affixed to the antenna structure.
- (6) The height of the antenna shall be the minimum necessary to function satisfactorily, as verified by a registered professional engineer.
- (7) Antennas shall not be artificially illuminated and must not display strobe lights. When incorporated into the approved design, the tower may support light fixtures used to illuminate ball fields, parking lots, or other similar areas.
- (8) When applicable, proposals to erect new antenna shall be accompanied by any required federal, state, or local agency licenses.
- (9) No new antenna support structures shall be constructed if it is feasible to locate the proposed new antenna on existing support structures. Feasibility shall be determined according to generally accepted engineering principles. If a new antenna support structure is to be constructed, it shall be designed structurally and electrically to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the antenna support structure is 100 feet in height or more. Any antenna support structure must also be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at different heights. Other users shall include, but not be limited to, other cellular communication companies, personal communication systems companies, local police, fire and ambulance companies.
- (10) Antenna support structures shall be constructed and finished to reduce visual impact and to meet all applicable FAA requirements.
- (11) The use of guyed towers is prohibited. Towers must be self-supporting without the use of wires, cables, beams or other means. The design should utilize a monopole design. The city may grant variances to this requirement in cases where structural, RF design considerations, and/or the number of tenants required by the city prevent the feasible use of a monopole. Permanent platforms or structures, exclusive of antennas, are prohibited.
- (12) The base of any tower shall occupy no more than 500 square feet and the top of the tower shall be no larger than the base.
- (13) Antennas and antenna support structures must be designed to blend into the surrounding environment through use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities. All locations should provide the maximum amount of screening from off-site views as is feasible. Existing on-site vegetation shall be preserved to the maximum extent practicable.
- (14) The base of all antenna support structures shall be landscaped according to a plan approved by the city engineer. Buildings which are constructed or used in conjunction with the antenna support structure shall be designed to be architecturally compatible with other existing structures on the site.
- (15) Antennas shall be subject to state and federal regulations pertaining to nonionizing radiation and other health hazards related to such facilities. If new, more restrictive standards are adopted, antennas shall be brought into compliance with the new standards by the owner and operator. The cost of verification of compliance shall be borne by the owner and operator of the antenna.
- (16) Except as approved by the city as to public utilities, no part of any antenna or support structure, nor any lines, cables, equipment, wires, or braces shall at any time extend across or over any part of any right-of-way, public street, highway, sidewalk, or property line.
- (17) All metal towers and all necessary components shall be constructed of or treated with corrosion

ZONING

resistant material.

- (18) All antennas and support structures shall be adequately insured for injury and property damage.
- (19) All new antenna support structures shall be constructed to provide space for the installation of a city emergency/fire siren in such a fashion that it will not interfere with any antennas. Said space shall be available for said use by the city at no cost to the city.
- (20) No temporary mobile communication sites are permitted except in the case of equipment failure, equipment testing, or in the case of an emergency situation as authorized by the police. Use of temporary mobile communication sites for testing purposes shall be limited to 24 hours; use of temporary mobile communication sites for equipment failure, or in the case of emergency situations, shall be limited to a term of 30 days. These limits can be extended by the city council.
- (21) All equipment and construction regulated by this division shall comply with recognized applicable standards or regulations, such as, but not limited to, those standards and regulations established by the following (or their successors):
 - American National Standards Institute (ANSI)
 - Electronic Industries Association (EIA)
 - Federal Communications Commission (FCC)
 - Federal Aviation Administration (FAA)
 - Institute of Electrical and Electronic Engineers (IEEE)
 - State Building Code (SBC) and other state standards.
 - National Electrical Code (NEC)
 - National Fire Protection Association (NFPA)
 - Occupational Safety and Health Administration (OSHA)
- (22) All applications under this division and all approved uses must at all times also comply with all other applicable city ordinances.
 - (b) *Structures requiring permits.* The following regulations shall apply to all antennas and antenna support structures for which a conditional use permit, administrative permit or site plan is required under this article:
 - (1) The applicant shall demonstrate by providing a coverage/interference analysis and capacity analysis prepared by a registered professional engineer that the location of the antennas as proposed is necessary to meet the frequency reuse and spacing needs and to provide adequate coverage and capacity to areas which cannot be adequately served by locating the antennas in a less restrictive district. Said analysis shall also demonstrate to the reasonable satisfaction of the city that the proposed use will not interfere with the radio, television, telephone, computer, and other similar services enjoyed by the properties in the area.
 - (2) Transmitting, receiving and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving and switching equipment, it shall be situated in the rear yard of the principal use and shall be screened from view by landscaping.
 - (3) Unless the antenna is mounted on an existing structure, at the discretion of the city, a security fence not greater than eight feet in height with a maximum opacity of 50 percent shall be provided around the support structure.
 - (4) All antenna support structures shall be reasonably protected against climbing.
 - (5) At least annually, and at each time a new user is added to an antenna support structure, the owner or operator shall provide to the city a report from a registered engineer that the antenna comply with all applicable regulations regarding emission of radiation and electromagnetic waves.
 - (6) The base of all antenna support structures shall be posted with signs stating "Keep Off" on all

GRANT CODE

sides. Additionally, all telecommunications facilities shall be clearly identified as to location and operator so as to facilitate emergency response. Specifically, an address sign shall be installed in conformance with fire department requirements at the entrance of the public way to provide direction along the access road to the facility itself. Additionally, a permanent, weatherproof, approximately 16 inch by 32 inch facility identification sign shall be placed on the gate in the fence around the equipment building, or if there is no fence, next to the door to the equipment shed itself. Said sign shall identify the facility operator, provide his address, and specify a 24-hour telephone number at which he can be reached.

(Ord. No. 1997-75, § 6, 4-1-1997; Ord. No. 1998-81, § 1, 2-16-1998)

Sec. 32-453. Amateur radio antennas and towers.

(a) *Exemptions.* Antennas and antenna support structures for federally licensed amateur radio operators are hereby exempted from the following provisions of this division:

- (1) Section 32-450(1).
- (2) Section 32-450(3).
- (3) Section 32-451(a).
- (4) Section 32-451(a).
- (5) Section 32-446.
- (6) Sections 32-452(a)(3), (a)(6), (a)(9), (a)(11) and (a)(19).
- (7) Sections 32-452(b)(1), (b)(3), (b)(5) and (b)(6).

(b) *Site plan.* No amateur antenna support structures shall be constructed unless site plan approval has been given by the city engineer. Any person aggrieved by the city engineer's decision shall be entitled to appeal that decision to the city council.

(c) *Support structure construction.* Amateur radio support structures (towers) must be installed in accordance with the instructions furnished by the manufacturer of that tower model. Because of the experimental nature of the amateur radio service, antennas mounted on such a tower may be modified or changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturer's specifications.

(Ord. No. 1997-75, § 7, 4-1-1997)

Sec. 32-454. Noise and traffic.

All telecommunications facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused the residents of nearby homes and the users of nearby recreational areas such as public parks and trails. To that end, all of the following measures shall be implemented:

- (1) Outdoor noise producing construction activities shall take place only on weekdays (Monday through Friday) between the hours of 7:30 a.m. and sunset, unless allowed at other times by the city.
- (2) Back-up generators shall be operated only during power outages and for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 7:30 a.m. and sunset.
- (3) Traffic shall at all times be kept to an absolute minimum, but in no case more than one round trip per day on an average annualized basis once construction is complete.

(Ord. No. 1997-75, § 12, 4-1-1997)

ZONING

Sec. 32-455. Definitions.

Community Solar Energy System means a ground-mounted solar energy production facility that generates up to 1 MWac of electricity and that supplies multiple off-site community members of businesses under the provisions of Minnesota statutes 216B.1641 or successor statute.

Residential Solar Energy Systems – Building Mounted means a solar energy system that is affixed to a principal or accessory structure.

Residential Solar Energy Systems – Ground-mounted means a freestanding solar system mounted directly to the ground using a rack or pole rather than being mounted on a building.

Solar Energy means radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar Energy System means a device or a structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for heating or cooling, electricity generation, or water heating.

Solar Equipment means a device, structure or a part of a device or structure for which the primary purpose is to capture sunlight and transform it into thermal, mechanical, chemical or electrical energy.

Sec. 32-456. Purpose.

The purpose of this division is to establish standards and procedures to allow property owners the reasonable capture and use of sunlight, while ensuring protection of adjacent properties and rural residential neighborhoods from potential adverse impacts of such installations.

Sec 32-457. Residential Solar Energy Systems.

- (a) *Permitted Use.* Residential Solar Energy Systems, building mounted or ground mounted, are a permitted use or permitted use upon issuance of a Certificate of Compliance as shown on the Table of Uses contained in this ordinance.
- (b) *Building Mounted – Solar equipment* if affixed to a structure shall be permitted provided the following standards are met:
 - (1) The equipment or device must be affixed to a structure, principal or accessory, and must meet all setback requirements for principal or accessory structures in the zoning district where the device is to be located.
 - (2) The equipment or device may not extend beyond the height of the building by more than five (5) feet, and may not exceed the maximum building height as permitted within the zoning district.
 - (3) The equipment or device shall cover no more than 80 percent of the roof to which it is affixed.
 - (4) The equipment or device must be designed and constructed in compliance with all applicable building and electrical codes.
 - (5) The equipment or device must comply with all state and federal regulations regarding co-generation of energy.
 - (6) All solar arrays or panels shall be installed or positioned so as not to cause any glare or reflective sunlight onto neighboring properties or structures, or obstruct views of adjacent property owners.
 - (7) Solar equipment which is mounted to a roof that is not flat, and which is visible from the nearest right-of-way, shall not have a finished pitch more than five (5) percent steeper than the roof on which it is affixed.
 - (8) The zoning administrator may require compliance with any other conditions, restrictions or limitations deemed reasonably necessary to protect the residential character of the neighborhood, if applicable.
- (c) *Ground Mounted – solar equipment* not affixed to a structure shall be permitted after issuance of a certificate of compliance provided the following standards are met:

GRANT CODE

- (1) Solar energy systems shall only be allowed as an accessory use on a parcel with an existing principal structure.
- (2) Solar energy systems shall be set back a minimum of 100 feet from a property line with an adjacent residential home, and shall be sited to meet all other applicable structural setback standards within the zoning district for the remaining lot lines.
- (3) The ground equipment shall be constructed outside of all wetland and shoreland setbacks as adopted within the City's ordinances.
- (4) The footprint occupied by a solar energy system shall not exceed 1,000 square feet.
- (5) The equipment or device may not exceed a height of 15 feet.
- (6) The zoning administrator may require landscaping or other means of screening to limit visual impacts of the Solar Energy System.
- (7) The equipment or device must be designed and constructed in compliance with all applicable building and electrical codes.
- (8) The equipment or device must comply with all state and federal regulations regarding co-generation of energy.
- (9) All solar arrays or panels shall be installed or positioned to not cause any glare or reflective sunlight onto neighboring properties, structures, or obstruct adjacent views.
- (10) The city may require compliance with any other conditions, restrictions or limitations deemed reasonably necessary to protect the public health, safety, and welfare and to promote harmony with neighboring uses.

(Ord. No. 2017-53, 12-5-2017)

ZONING

AMENDMENT HISTORY OF THIS CHAPTER SINCE CODIFICATION

Amended October 6, 2009 (Ordinance 2009-13). Added subsections (g), (h) and (i) to 32-346 Access drives and access to address shared access.

Amended October 6, 2009 (Ordinance 2009-14). Added definition to Section 32-1 Definitions for Double Frontage Lot.

Amended October 6, 2009 (Ordinance 2009-15). Added section 32-350 Planned Unit Developments.

Amended December 1, 2009 (Ordinance 2009-16). Added definition to Section 32-1 Definitions for Arterials and amended Section 32-246 to include setbacks from arterials and roadways.

Amended March 10, 2010 (Ordinance 2009-18). Added definition to Section 32-1 for Grazable Acres and Homesite. Amended Section 32-337 (g) regarding definition of Grazable acres.

Amended August 3, 2010 (Ordinance 2010-23). Amended Section 32-330 Environmental Nuisance to include noise standards.

Amended October 4, 2010 (Ordinance 2009-17). Added Section 32-351 Wind Energy Conversion Systems.

Amended May 1, 2012 (Ordinance 2012-27). Amended Section 32-249 to add government emergency management systems to height restrictions.

Amended July 1, 2014 (Ordinance 2014-34). Amended Section 32-337 (f) and (g) to address grazable acres and domestic farm animals.

Amended January 7, 2014 (Ordinance 2014-31). Added Section 32-352 Rural Event Facilities; added Rural Event Facility to Section 32-245 Table of Uses; and added definition of Rural Event Facility to Section 32-1 Definitions.

Amended February 3, 2014 (Ordinance 2014-32). Added Section 32-353 Supper Clubs to include performance standards, and amended Table 32-245 Table of Uses to conditionally permit Supper Clubs in the A-2 Zoning District.

Amended April 1, 2015 (Ordinance 2015-39). Amended Sections 32-32 Violations; 32-35 Certificate of compliance; 32-143 Application (for Conditional Use Permit); 32-181 Building permit and compliance with building code requirements; 32-185 Grading permit required, exceptions; and 32-341 Drainage. Added Section 32-7 Incorporation by Reference. Additions and amendments were made to comply with the Minnesota Pollution Control Agency's standards for municipal separate storm sewer systems.

Amended November 3, 2015 (Ordinance 2015-42). Added definition of Business, Seasonal to Section 32-1, amended Section 32-245 Table of Uses, and Amended Section 32-313 to define Greenhouse, Private as accessory building type.

Amended November 3, 2015 (Ordinance 2015-43). Amended Section 32-313 Accessory buildings and other non-dwelling structures to remove subsection (f) and modify subsection (e).

Amended December 1, 2015 (Ordinance 2015-41). Added definition of Golf Course; Recreation, commercial outdoor; Recreation, private and amended definition of Home Occupation in Section 32-1 Definitions. Amended Section 32-245 Table of Uses.

Amended December 1, 2015 (Ordinance 2015-44). Amended definition of Tavern or Bar to include restaurants in

GRANT CODE

Section 32-1 Definitions. Amended Section 32-245 Table of Uses.

Amended June 7, 2016 (Ordinance 2016-46). *Added definition of Archery Range, Armory, or convention halls, Broadcasting Studio, Gun Range or Gun Club, indoor, Hotel or Motel, Schools – commercial, Schools – public and private, Structure, historic, scenic, and Theater. Amended Section 32-245 Table of Uses.*

Amended August 2, 2016 (Ordinance 2016-47). *Added Section 32-8.Opt-Out of Minnesota Statutes, Section 462.3593.*

Amended December 5, 2017 (Ordinance 2017-53). *Added Division 5 Solar Energy Systems. Amended Section 32-245 Table of Uses.*

Amended January 2, 2018 (Ordinance 2017-56). *Amending Section 32-246 (b) “Additions and exception to the minimum area, heights and other requirements.”*

Amended May 5, 2020 (Ordinance 2020-61). *Amending Section 32-182 Septic Permits and Section 32-246 Dimensional Requirements.*

Amended November 1, 2021 (Ordinance 2021-65). *Amended Division 4 Antenna Regulations Sections 32-446 Permit requirement; 32-449 Periodic submissions.*

Amended September 6, 2022 (Ordinance 2022-67). *Amended Sections 32-1 Definitions and 32-245 Table of Uses and adding Section 32354 Forestry Products and Processing (non-retail).*