

**CITY OF NEW YORK MILLS,  
MINNESOTA**

**ZONING ORDINANCE  
NO. 125**

**AN ORDINANCE TO REPLACE NO. 93 , NO. 101A  
& 118 ENTITLED "ZONING ORDINANCE"**



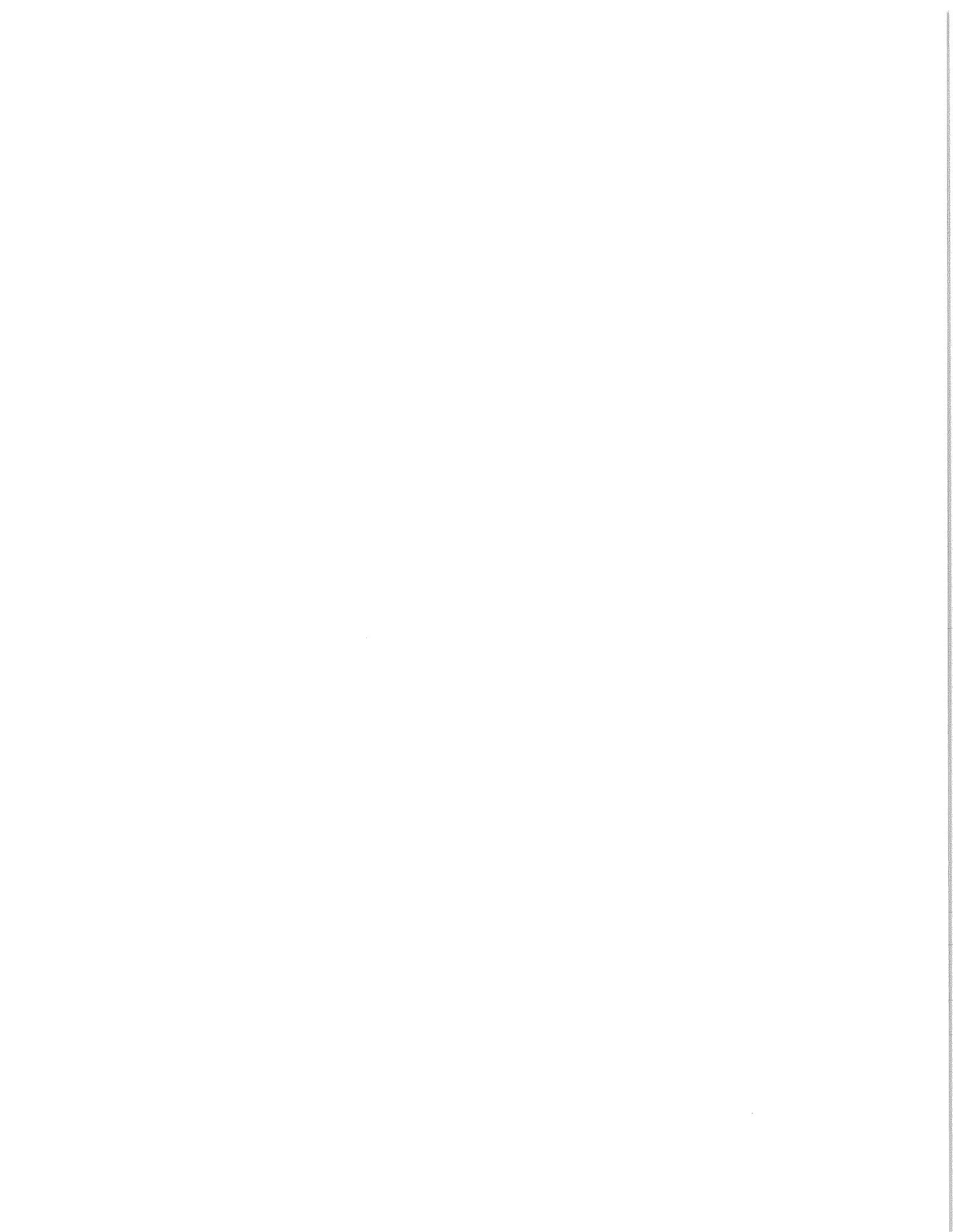
**NEW YORK MILLS  
ZONING  
COMMISSION**

**CITY OF NEW  
YORK MILLS**

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**This ordinance is enacted pursuant to the authority granted  
by the Municipal Planning Act, Minnesota Statutes, Sections  
462.351 to 462.363.**

**Adopted 3/14/2017**





**ZONING LEGEND**

- RA = RESIDENTIAL A
- RB = RESIDENTIAL B
- RBC = RESIDENTIAL B COMMERCIAL
- C = COMMERCIAL
- CI = COMMERCIAL INDUSTRIAL
- CORPORATE LIMITS

This is to certify that this is the official zoning map of the City of New York Mills.

Date: 3/14/17

Mayor: Mike R. Ferber

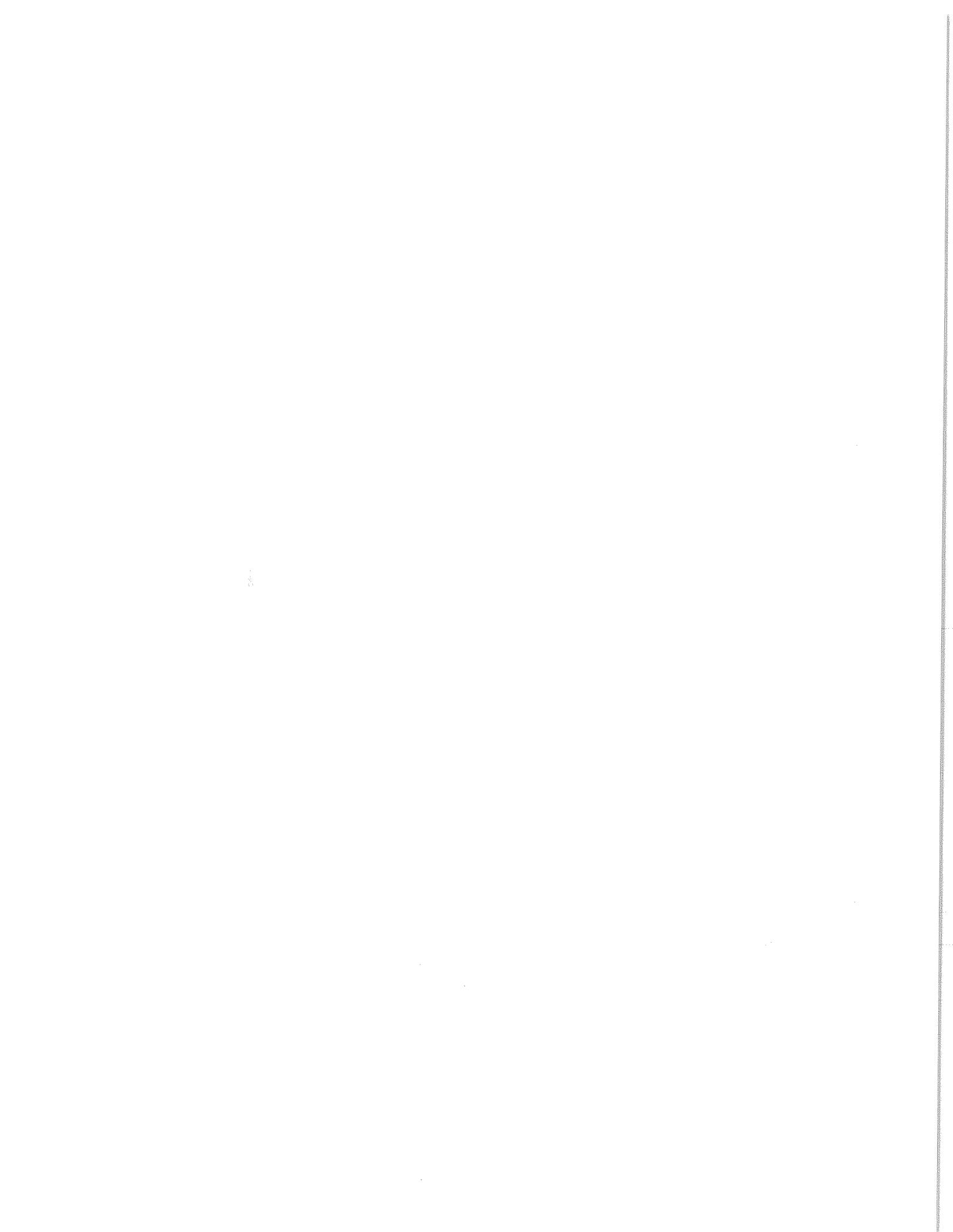
Clerk: Darlu Berry



**CITY OF NEW YORK MILLS ZONING MAP**

Date: March 10, 2017 Drawn By: MW

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ZONING ORDINANCE  
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### ***SIGN ORDINANCE***

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# **THE CITY OF NEW YORK MILLS, MINNESOTA ZONING ORDINANCE NO. 125**

**An Ordinance to replace No.93, No. 101-A and No. 118  
Entitled  
“Zoning Ordinance”**

## **SECTION I. GENERAL PROVISIONS**

### **1. TITLE**

This ordinance shall be known as and referred to as the *Zoning Ordinance of the City of New York Mills, Minnesota*, except as referred to herein, where it shall be known as “*this Ordinance*” or as the *City Zoning Ordinance*. *The City Council of New York Mills hereby ordains:*

### **2. AUTHORIZATION, INTENT AND PURPOSE**

(A) This ordinance is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, Sections 462.351 to 462.363. It is the purpose of this ordinance to establish standards and regulations for the review and approval of all proposed development of property within the corporate limits of the city and to provide a development review process that will be comprehensive, consistent, and efficient in the implementation of the comprehensive plan and other goals, policies, and standards of the city.

(B) In order to foster and preserve the public health, safety, comfort, and welfare and to aid in the harmonious, orderly, and progressive development of the city, it is the intent of the City Council that the development process in the city be efficient, in terms of time and expense, effective, in terms of addressing the natural resource and public facility implications of proposed development, and equitable, in terms of consistency with established regulations and procedures, respect for the rights of property owners and consideration of the interest of the citizens of the city.

### **3. REPEAL PREVIOUS ORDINANCES**

This ordinance repeals Ordinance No. 93 entitled “Zoning Ordinance, New York Mills, Minnesota 56567, dated April 13, 1993, “ and No. 101-A dated September 10, 1996, entitled “An Ordinance to Amend No. 93 Entitled Zoning Ordinance, New York Mills, Minnesota 56567”, as well as Ordinance No. 118 dated December 16, 2008.”

#### **4. COMPLIANCE**

From and after the effective date of this Ordinance, the use of all land and every building or structure and the erection or structural alteration of any building or portion of a building or structure in the City of New York Mills shall be in conformity with the provisions of this Ordinance. Any structure or use lawfully existing at the passage of this Ordinance but not now in conformity with the regulations of the appropriate zoning district may be continued subject to the regulations of Minnesota State Statute 462.357, Subdivision 1e, as it may be amended. Although a non-conforming use may be repaired, restored, maintained, or improved in most instances, it may not be expanded. In cases where a non-conforming use is rebuilt, the City may impose reasonable conditions to protect the public health, welfare, or safety.

#### **5. INTERPRETATION**

In interpreting and applying the provision of these regulations, they shall be held to be the minimum requirements for the promotion of the public health, safety, morals, comfort and general welfare. It is not intended by these regulations to interfere with, abrogate or annul any easement, covenants, or other agreements between parties. However, wherever these regulations impose greater restrictions upon the use of buildings, structures or land or require more restrictive building lines, then the provisions of this Ordinance shall apply.

#### **6. SEVERABILITY**

If any section, specific provision, or standard of these regulations or any zoning district boundary that now exists or may exist in the future is found by a court of competent jurisdiction to be invalid or inappropriately applied for any reason, such decision shall not affect the validity or application of the remainder of this Ordinance. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

#### **7. RULES OF CONSTRUCTION**

For the purposes of these regulations, the following rules of construction shall apply:

(A) These regulations shall be construed to achieve the purposes and intent for which they are adopted;

(B) In the event of a conflict between the text of these regulations and any caption, figure, illustration, table, or map, the text of these regulations shall control;

(C) In the event of any conflict in limitations, restrictions, or standards applying to an individual use or structure, the more restrictive provisions shall apply;

(D) Words used in the present tense include the future tense;

(E) Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise;

(F) Any act authorized by these regulations to be carried out by a specific official or agency of the city is impliedly authorized to be carried out by a designee of such official or agency;

(G) The time within which an act is to be done shall be computed by excluding the first and including the last day; if the last day is a Saturday, Sunday or a legal holiday, that day shall be excluded;  
and

(H) Any words and terms not defined herein shall have the meaning indicated by common dictionary definition.

## **8. REVIEW FEES**

Applications for a standard zoning permit submitted to the city under these regulations shall be reviewed initially by the city's zoning administrator. If all requests are in compliance with the established zoning ordinance, a zoning permit may be issued, at which time a zoning permit fee as adopted by the City Council shall be due and payable. Such fee shall be based upon total project cost and may be revised from time to time as needed by the City Council. Should such application contain a request to deviate from the established zoning ordinance, a variance application or conditional use application must be completed and submitted to the city for approval. All variance and conditional use applications submitted to the city under these regulations shall be accompanied by a payment of a fee as adopted by the City Council from time to time to defray the costs incurred by the city in reviewing the application and implementing the procedures necessary to carry out the established variance or conditional use request. No application shall be considered complete and subject to review by the City until such fee is paid. The City Council may, at their discretion, require a set fee up-front, with funds to be placed into a deposit account at the City, whereupon all expenses and fees relating to subject application shall be deducted from the balance. At the culmination of the application procedure, when it is certain that no further expenses shall be incurred, the City may refund any excess funds back to the applicant. The application fee shall not be a part of the zoning permit fee itself which shall be due and payable upon approval of the variance or conditional use, and prior to issuance of the zoning permit. All fees collected to help defray administrative and legal costs incurred in any application which have a nexus to the actual costs, shall be non-refundable, whether the permit is approved or not. The City Council has the right to impose additional fees, if necessary to cover the administrative costs incurred by it in reviewing, investigating and administering an application for a variance. These additional fees must be fair, reasonable and proportionate and have a nexus to the actual cost of the service for which the fee is imposed. Any such additional fees must be paid prior to issuance of the permit. In addition to the fees adopted by the City Council, all applicants for development approval shall reimburse the city for reasonable costs incurred as a result of the application's review by a legal, engineering, or

other special consultant, provided that the applicant is notified of the need to retain such special consultant and agrees to such retention. Payment of these fees shall be made prior to a final vote or decision by the City Council or the Zoning Administrator on a given development application. The Zoning Administrator shall maintain a current list of review fees that shall be available on request.

## 9. DEFINITIONS

For the purpose of this chapter, the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

**ABUTTING**— Having property boundaries or lot lines in common with, but not being separated by a street, alley, or other public right-of-way.

**ACCESS**— A way or means of approach to provide vehicular or pedestrian physical entrance to a property.

**ACCESSORY**—A use, building, or structure, or part of a building or structure which:  
(1) Is subordinate to and serves the principal building or structure or principal use;

(2) Is subordinate in area, location, extent, or purpose to the principal building or structure or principal use served;

(3) Contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use; and/or

(4) Is located on the same lot as the principal building or structure or principal use served, with the exception of an adjacent lot as permitted.

**ACRE**— 43,560 square feet.

**ALLEY**—A permanent service right-of-way which affords only a secondary means of access from such right-of-way to abutting property and is not intended for general traffic circulation.

**BASEMENT**—A story entirely or partly underground and having at least one-half of its height below grade.

**BILLBOARD**—An **off-premise** free standing identification sign. A sign which does not relate in its subject matter to the premises on which it is located or to activities, products, services, or accommodations on the premises, not including traffic, street, or directional signs.

**BUFFER**— A combination of vegetation, fencing, berms, and open spaces which is used to physically separate or screen land uses.

**BUILDING LINE**—A line parallel to the lot line at the required setback beyond which a structure may not extend.

**BULK**—The size and setback of buildings or structures, and the location of buildings or structures with respect to one another, and includes, but is not limited to the following:

- (1) Size and height of buildings;
- (2) Location of exterior walls at all levels in relation to lot lines, streets, or to other buildings;
- (3) All open space allocated to buildings; and
- (4) Amount of lot area and lot width provided per dwelling unit.

**BUSINESS**—An enterprise which occupies time, attention, labor and materials, or wherein merchandise is sold or where services are offered.

**CAMP**—a tract of land on which may be located temporary or permanent buildings, structures, or tents, which is used for seasonal, recreational, or other similar temporary purposes.

**CANOPY or AWNING**—A permanent roof-like shelter which may be freestanding or extending from part or all of a building face and is constructed of some durable material such as metal, glass, fiberglass or plastic.

**COMMERCIAL VEHICLE** —A motor vehicle which has a gross weight in pounds, including vehicle and maximum load, in excess of 8,000 pounds and which is not primarily designed for carrying passengers.

**CONDITIONAL USE**—A permitted land use or development as defined by ordinance that would not be appropriate generally but may be allowed with reasonable restrictions as provided by official controls upon a finding that certain conditions as detailed in the zoning ordinance are met, but which is a use that complements or is otherwise compatible with the intended overall development within a district.

**DAY CARE CENTER/FACILITY**—Any state licensed facility, public or private, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habilitation, rehabilitation or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own home.

**DAY CARE, IN-HOME**—A licensed or unlicensed day care provider which regularly provides supervision and care of children in their home, for periods of less than 24 hours a day. This does not include an operation which receives only children from a single family.

**DECK**—A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to principal use or site and at any point extending above ground level.

**DENSITY**—The permitted number of dwelling units per acre of land to be developed.

**DEVELOPMENT**—The following activities:

- (1) The division of a parcel of land into two or more parcels;
- (2) The construction, reconstruction, conversion, structural alteration, relocation, enlargement, or demolition of a structure;
- (3) The mining, excavation, landfill, drilling, grading, deposition of refuse, solid or liquid waste, or fill on a parcel of land;
- (4) The alteration of the shore or bank of a pond, lake, river, or other waterway; or
- (5) Any use or change in the use or intensity of use of any structure or any change in the intensity of use of land.

**DISTRICT**—A part, zone, or geographic area within the city within which certain zoning or development regulations apply.

**DWELLING, MULTI-FAMILY**—Three or more dwelling units on one lot, including modular homes, attached along and sharing one or more common walls between any two units and/or are stacked one above another

**DWELLING, SINGLE-FAMILY**—A detached dwelling, designed for or intended to be occupied by one family.

**DWELLING, TOWNHOUSE**—An attached group of dwelling units, including modular homes, which share one or more common walls between any two units and in which each unit has living space on the ground floor and a separate entrance on the ground floor.

**DWELLING, TWO-FAMILY (DUPLEX)**—A dwelling designed and intended to house two families or persons living independently of each other.

**DWELLING UNIT**—One or more rooms in a building which are arranged, designed, or used as living quarters for one family only, including individual bathrooms and complete kitchen facilities that are permanently installed to serve the entire family within each dwelling unit, not available for rental on a daily or weekly basis.

**EASEMENT**—A grant by an owner of land for the specific use of said land by the public, generally, or to a person or persons.

**EXPANSION-ENLARGEMENT, OR INTENSIFICATION:** Any increase in a dimension, size, area, volume, or height, any increase in the area of use, any placement of a structure of part thereof where none existed before, any addition of a site feature such as a deck, patio, fence, driveway, parking area or swimming pool, any improvement that would allow

the land to be more intensely developed, any move of operations to a new location on the property, or any increase in intensity of use based on a review of the original nature, function or purpose of the nonconforming use, the hours of operation, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, typed of goods or services offered, odors, area of operation, number of employees and other factors deemed relevant by the city.

**EXTERNAL SOLID FUEL-FIRED HEATING DEVICE**—A device designed for external solid fuel combustion so that usable heat is derived for the interior of a building, and includes solid fuel-fired stoves or combination of fuel furnaces or boiler which burn solid fuel. Solid fuel-fired heating devices do not include natural gas-fired fireplace logs or wood-burning fireplaces or wood stoves in the interior of a dwelling.

**FAMILY**—One or more persons related by blood, marriage, or adoption, or not more than four persons not so related, occupying a dwelling and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, private club, or hotel as herein defined.

**FENCE**—A free-standing structure made of metal, masonry, composite material or wood, or a combination thereof, including gates, resting on or partially buried in the ground, rising above ground level and used to delineate a boundary or as a barrier or means of protection, confinement, or screening. FENCE does not include arbors, trellises or retaining walls.

**FRONTAGE**— The length of the property line on any one parcel parallel to and along each public right-of-way it borders.

**GARAGE, PRIVATE**—A building designed for the storage of motor-driven vehicles, including not more than one commercial vehicle the load capacity of which shall not exceed a gross vehicle weight of 8,000 pounds, under the control of the owner or tenant of the premises and which is not operated or leased for commercial gain.

**GRADE**—The average level of the ground adjacent to the exterior walls of a building or structure.

**GREENHOUSE**—A plant nursery located in a building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season flowers, shrubs and plants.

**GREENHOUSE, COMMERCIAL**—A greenhouse where flowers, shrubs, and plants that are grown off-site are sold.

**GREENHOUSE, NON-COMMERCIAL**—A greenhouse where flowers, shrubs and plants are grown on-site for personal enjoyment. Non-commercial greenhouses are a form of agriculture.

**GROUP /ELDERLY CARE-IN HOME**—A licensed residential facility for the elderly or individuals unable to live independently or provide care for themselves daily on a long-term basis, which provides food, lodging and assisted care in a home setting, and serves three or more persons who are not members of a family. Care is administered by a licensed caregiver on a 24-hour per day basis.

**HOME OCCUPATION**—A business, profession, occupation, or trade which is conducted within a residential portion of a building or an accessory structure for the economic gain or support of residents of the dwelling, and which is incidental and secondary to the residential use within the dwelling.

**IMPERVIOUS SURFACE**—An all-weather surface or ground cover that resists the absorption of surface water into the soil. Such surfaces include but are not limited to those constructed of stone, brick, asphalt, concrete, tile, terrazzo, gravel composite, or any other paving material, used for parking, driveways, patios, terraces, walkways and the like, as well as areas covered by buildings, porches, and tennis courts. An exception will be made for open decks if it can be proven that the underlying surface is pervious and deck floor boards are spaced a minimum of one eighth (1/8") inch apart, allowing for water to fall through and soak in before running off. Pervious pavers, which means pavers where the water soaks immediately through the paver itself rather than the area around it will not be considered impervious surface if proof is given that shows that the sub-grade has been correctly installed with an underlying system of base rock for storm water drainage, allowing storm water to percolate through the surface rather than running off into surrounding areas or storm drains.

**IMPROVEMENT**—Any structure, object, fence, gate, wall, work of art, or other object that permanently becomes part of, is placed upon, or is affixed to real estate.

**INDUSTRY, HEAVY**—The assembly, fabrication, manufacturing, storage, or processing of goods and materials that ordinarily have significant impacts on the environment or on the use and enjoyment of adjacent property in terms of noise, smoke, fumes, odors, glare, or health and safety hazards, or that otherwise do not constitute "light industry" such as food processing plants, resource extraction, recycling centers, sawmills, composting services, scrap or salvage operations, petroleum storage facilities, or facilities handling or processing hazardous and/or toxic material.

**INDUSTY, LIGHT**—The assembly, fabrication or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication or processing takes place, where such processes are housed entirely within a building, or where the area occupied by outdoor storage of goods and materials used in the assembly, fabrication, or processing does not exceed 25% of the floor area of all buildings on the lot. This includes, but is not limited to printing, publishing, or photography plants, dry-cleaning processing stations, carpet cleaning establishments, facilities for auto body work, welding, painting, or major repair work, research laboratories which are designed or equipped for basic or applied research or experimental study, testing, or analysis in the natural sciences

or engineering, including any educational activities associated with and accessory to such research. This shall not include uses that constitute "heavy industry".

INGRESS/EGRESS—Entrance or access and exit, respectively.

INTERIM ORDINANCE (or Moratorium)—A suspension or limitation on certain land uses pending study of the issues surrounding them.

INTERIM USE—A temporary use of the land to which reasonable conditions may be attached and which will expire on a certain date, or after a certain event.

LANDSCAPING—Trees, shrubs, flowers, vines, potted plants, ground cover, walkways, ponds, fountains, sculptures, earth berms, fences, stone, bark, and other materials used to create an outdoor environment.

LOADING SPACE—A space with access to a street or alley for the standing, loading, or unloading of motor vehicles delivering or picking up goods and materials.

LOT—A Parcel of land legally described or subdivided as a distinct portion or piece of land or lot of record designated by plat, metes and bounds, registered land survey, auditors plot or other accepted means, and separated from other parcels or portions by that description for the purpose of sale, lease or separation, to be separately owned, used, or developed.

LOT AREA—The area of a horizontal plane bounded by the front, side and rear lot lines, but not including area occupied by streets or bodies of water fed by natural means.

LOT LINE—A line defining the ownership boundary of a lot.

LOT OF RECORD—A single lot which is part of a subdivision plat which has been officially recorded or a single parcel of land, the deed of which has been officially recorded.

MANUFACTURED HOME—A dwelling as defined by M.S. Stat. 327.31 and 327.32, as they may be amended from time to time. Subd. 6. **Manufactured home.** "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 this chapter (State Code Ch #1350). A manufactured home is essentially ready for occupancy upon leaving the factory and being transported to a building site apart from hooking up to utilities.

**MANUFACTURED HOME PARK**—A contiguous parcel of land which has been developed for the placement of manufactured homes and is owned by an individual, a firm, trust, partnership, public or private association, or corporation, as otherwise defined in Chapter 151 of this code.

**MANUFACTURING**—Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

**METES AND BOUNDS**—A description of real property which identifies a parcel of land by its shapes and boundaries, starting at a known point and describing the bearing and distances of lines forming the boundaries of the property or delineating a fractional portion of a section, lot or area by described lines or portions thereof.

**MODULAR HOME**—Homes that are built in separate sections in a factory and then transported to a building site on truck beds or dollies, then joined together by local contractors on site. Modular homes are built to conform to all state, local or regional building codes at their destinations. Local building inspectors are responsible for verifying that a modular home's structure meets requirements and that all finish work is done properly. Modular homes require a significant amount of construction on site before they are ready for occupancy.

**MOTOR VEHICLE**—A motorized device intended for the transportation of people or property over land surfaces. The term specifically includes automobiles, trucks, motorcycles, motor bikes, go-carts, all-terrain vehicles, and any other recreational vehicles.

**NONCONFORMING BUILDING OR STRUCTURE**—Any building or structure lawfully existing on the effective date of these regulations or any amendment thereto rendering such use nonconforming, which does not comply with all of these regulations or any amendment thereto.

**NURSING HOME**—An institution or residential facility licensed by the state board of health as provided for in Minnesota Statutes, Section 144.50 for the elderly, chronically ill, infirm, or incurable persons, or a place of rest for those suffering bodily disorders, in which three or more persons, not members of a family residing on the premises, are provided with food, lodging, and medical care, but not including hospitals or clinics.

**OWNER**—A person or persons recorded as such on official records.

**PARCEL**—Contiguous lots or tracts of land owned and recorded by the same person(s) or entity.

**PARK**—A lot, or portion thereof, or aggregation of contiguous lots, used by the public for outdoor recreational activities, including any accessory office, picnic tables, maintenance building, restroom facility, warming facility, storage facility, or similar accessory use or structure.

**PARKING AREA**—An area containing one or more designated parking spaces.

**PARKING LOT**—A public parking area that is open to the sky, containing multiple parking spaces.

**PERMEABLE PAVERS**—pavers constructed of materials such as concrete or fired clay brick which is separated by joints filled with crushed aggregate where water is circumvented around the paver, and the filtering process begins between the pavers in the void space filled with select aggregates.

**PERVIOUS PAVERS**—Pavers constructed of a material in which water is allowed to percolate through the surface of the block itself rather than running off into surrounding areas or storm drains. As the water runs through, the pavers filter urban pollutants letting the ground below breathe. These pavers also allow tree roots and their supporting microbes to interact.

**PLANNED UNIT DEVELOPMENT (PUD)**—A rezoning or conditional use permit to review a project as a “unit” of several buildings or uses, rather than individual buildings on individual lots, encouraging creativity and innovation, and allowing flexibility in the strict application of zoning standards.

**PLAT**—A map, plan, or layout representing a tract of land showing the boundaries, location, and existing conditions, such as easements and utilities, of individual properties and streets or showing a map of a subdivision or site plan.

**PLOT**—A single unit parcel of land or a parcel of land that can be identified and referenced.

**PORCH**—A platform which projects from the exterior wall of a building, has direct access to the street level of the building, is covered by a roof or eave which may be supported by posts, and has no roof-supporting walls on three sides.

**POROUS PAVERS**—Paver system that is constructed in a cellular grid system filled with dirt, sand or gravel. This system provides grass reinforcement, ground stabilization and gravel retention. Usually concrete turf block or plastic blocks which are separated by a significant grid of grass which. Generally with this system, the block is subordinate to the surrounding grid.

**PRINCIPAL BUILDING OR STRUCTURE**—A building or structure containing the principal use of the lot.

**PROPERTY**—A lot, parcel or tract of land, together with any improvement and/or structures erected, constructed or contained thereon.

**PUBLIC UTILITY STRUCTURE**—An electricity or gas substation, water or wastewater storage tank, tower, reservoir, filtration plant or pumping station, telephone repeater

station or similar structure used as an intermediary switching, boosting, distribution or transfer station for electricity between the point of generation and the end user, including communication support structures and antennas, radio, television, microwave transmission or relay towers and other similar distributing equipment.

**RECREATION AREA or RECREATIONAL FACILITY**—A building, auditorium, stadium, outdoor amphitheater, open or enclosed structure, outdoor field or playground containing recreational space, such as a tennis court, golf course, swimming pool, bowling alley, and/or gymnasium, and operated by a government agency or as a business.

**RECREATIONAL VEHICLE**—A vehicular-type portable structure (marine or terrain) without a permanent foundation that can be towed, hauled, or driven, and that is primarily designed as a temporary living accommodation for recreational, camping, and/or travel use, including but not limited to: motor homes, trailers, truck campers, boats, snowmobiles or other such items used primarily for recreational purposes.

**RECREATIONAL VEHICLE PARK**—Any lot or parcel of land designed to be occupied by two or more recreational vehicles as temporary living quarters for recreation or vacation purposes. The term includes any structures or vehicles intended for use as a part of such RECREATIONAL VEHICLE PARK.

**REFUSE**- any waste material except trees, logs, brush, stumps, leaves, grass clippings, and other vegetative matter. This would include but not be limited to food wastes, food wraps, packaging, newsprint, cardboard, or any paper or paper product with ink or dye, animal carcasses, paint or painted materials, furniture, composite shingles, construction or demolition debris or other household or business wastes; asphalt and products containing asphalt; treated or painted wood including but not limited to plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives; any plastic material including but not limited to nylon, PVC, ABS, polystyrene or urethane foam and synthetic fabrics, plastic films and plastic containers; rubber including tires and synthetic rubber-like products.

**RESIDENTIAL FACILITY**—Any state licensed facility, public or private, which for gain or otherwise regularly provides one or more persons with a 24 hour per day substitute for care, food, lodging, training, education, supervision, habilitation, rehabilitation, or treatment they need, but which for any reason cannot be furnished in the person's own home, in contradiction to boarding houses, hotels, motels, and similar types of housing.

**RIGHT-OF-WAY**—A General term denoting a public way, usually in a strip, acquired for or devoted to access, utility, or transportation purposes.

**RIGHT-OF-WAY LINE**—The outer boundary of a right-of-way.

**ROAD FRONTAGE**—All of the property fronting on one side of a street between two intersecting streets, or in the case of a dead-end street, all of the property along one side of the street between an intersecting street and the end of such dead-end street.

**ROADWAY**—The portion of the highway or street, including shoulders, for vehicular use and bicycle use.

**RUNOFF**—That portion of precipitation that has not been absorbed by the soil or plant material and which reaches the drainage system or the edge of a parcel of land.

**SCREENING**—Structures, solid fences, or evergreen vegetation maintained for the purpose of concealing from view the area or objects behind such structures, solid fences or vegetation.

**SETBACK**—The horizontal distance between any portion of a structure or any development activity and a right-of-way, measured at the structure's or development's closest point to the easement, property line, or other point on or near the site.

**SETBACK, REAR**—An open space between a building or structure and the line of the lot on which the building or structure is located, unoccupied and unobstructed from the ground upward, except by fences or as otherwise provided in these regulations. In measuring a rear setback, the horizontal distance between the lot line and the closest projection of the building shall be used. Every required setback shall be measured at right angles (90°) from the property line.

**SETBACK, SIDE**—An open space between the side of a building or structure and a lot line running to the street abutting the lot, projected to the front setback and rear setback of the lot on which the building or structure is located.

**SEXUALLY ORIENTED BUSINESS**—any business that devotes a substantial portion (25% or more) of its inventory, stock in trade, or publicly-displayed merchandise, or devotes a substantial or significant portion of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or derives a substantial or significant portion of its gross revenues from items, merchandise, devices or other materials distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, or relating to Sexual Activities or Sexually Anatomical Areas. Any adult only body painting studios, adult book stores, adult only car washes, adult only hotels or adult only motels, adult only motion picture theaters, adult only mini motion picture theaters, adult only massage parlors, adult only health/sport clubs, adult only sauna/steam room/bathhouses, adult companionship establishments, adult rap/conversation parlors, adult novelty business, adult only motion picture arcade, adult only modeling studios and other premises, enterprises or establishments, businesses, or places open to some or all members of the public at or in which there is an emphasis on the presentation or display, depiction or description of "specified sexual activities" or "specified anatomical areas" which the public could see. This definition does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy, or podiatry by State Licensed or registered persons. Activities classified as obscene as defined by Minnesota Statutes Section 617.241 are not lawful and are not included in the definitions of adult uses.

**SIDEWALKS**—A paved, surfaced, or leveled portion of the right-of-way, paralleling and usually separated from the street, used as a pedestrian walkway.

**SIGHT TRIANGLE**—The area of the corner lot closest to the intersection which is kept free of visual impairment to allow full view of both pedestrian and vehicular traffic.

**SIGN**—Any object, device, display, or structure, or part thereof, which is used primarily to advertise, identify, display, or direct or attract attention to an object, person, establishment, product, service, event, or location by any means including, without limitation, words, letters, figures, designs, symbols, fixtures, colors, or projected images, visible beyond the boundaries of the lot or parcel of which they are situated or visible from any public thoroughfare or right-of-way.

**SITE PLAN**—A scaled plan for proposed development that contains any information that reasonably may be required in order that an informed decision can be made by the approving authority.

**STORY**—That portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

**STORY, HALF**—A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level. A HALF STORY containing an independent apartment or living quarters shall be counted as a full story.

**STREET**—That portion of a public right-of-way or easement which is improved to provide for the movement of motor vehicles.

**STRUCTURE**—Anything constructed, installed or portable, the use of which requires a location on a parcel of land including, but not limited to fences, decks, retaining walls, satellite dishes, outdoor furnaces, greenhouses, a fixed or movable building which can be used for storage, housing, hobby, or business, either temporarily or permanently.

**SUBDIVISION**—The division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building development.

**TEMPORARY USE**—A use that is established for a fixed period of time with the intent to discontinue such use upon the expiration of such time.

**USE**—The purpose or activity for which the land, or any structure thereon, is designed, arranged or intended or for which it is occupied or maintained.

**USE, PERMITTED**—Any use which is or may be lawfully established in a particular district or districts, provided it conforms with all requirements of these regulations for the district in which such use is located.

**USE, PRINCIPAL**—The primary purpose or function that a lot serves or is proposed to serve, as distinguished from an accessory use. A principal use may either be permitted or conditional.

**VARIANCE**—Permission to depart from the literal requirements of these regulations. A variance may be permitted in cases of hardship; meaning a rationale for the departure from the literal requirements of these regulations when their strict enforcement would present undue hardship or practical difficulties in the reasonable use of a property. For example, a variance might be granted on the basis of hardship when, without the variance, the physical characteristics of the property or the only uses allowed on the property render it unusable or unprofitable. An economic or financial hardship alone is not sufficient reason to grant a variance.

**WETLAND**—An area that is permanently or periodically inundated or saturated by surface water or groundwater or otherwise has hydric soil conditions at a frequency and duration sufficient to support, or that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. WETLAND includes all wetlands that are defined as such by federal and/or state statutes and regulations for the purposes of regulating development or other activities within WETLANDS.

**ZONING DISTRICTS**—The districts into which the city has been divided as set forth on the Zoning District Map.

**ZONING DISTRICT MAP**—The Official Zoning Map, showing zoning district boundaries for the city



## **SECTION II.**

## **ZONING USE DISTRICTS**

### **1. ZONING DISTRICTS ESTABLISHED**

In order to carry out the purpose and intent of these regulations, the city is hereby divided into the following districts:

- (A). **RA** *Single Family Residential District*
- (B). **RB** *Multi-Family Residential District*
- (C). **RBC** *Residential B-Commercial District*
- (D). **C** *Commercial District*
- (E). **I** *Industrial*
- (F). **CI** *Commercial-Industrial District*

### **2. ZONING DISTRICT MAPS/BOUNDARIES**

(A) *Purpose.* The purpose of the zoning district map is to set forth the boundaries of the zoning districts of the City of New York Mills established in Section III of the New York Mills Zoning Ordinance No. 93, dated April 13, 1993, Amended by New York Mills Ordinance No. 96, dated May 9, 1995, New York Mills Amended Ordinance No. 101, dated February 11, 1997, and New York Mills Ordinance No. 103, dated April 21, 2003, all of which extend the corporate limits of the City of New York Mills to include certain unincorporated land abutting upon the City Limits. This zoning district map is also amended by Joint Resolution No. 11-13-07, dated November 13, 2007 and Joint Resolution No. 05-13-08, dated May 13, 2008, as well as Joint Resolution No. 06-15-2010i dated June 15, 2010 and Joint Resolution 02-09-2016, dated February 9, 2016 both between the City of New York Mills and the Township of Newton, designating an unincorporated area as in need of orderly annexation and thereby extending the corporate limits of the City of New York Mills to include these respective parcels, with the adoption of this Ordinance.

(B) *Official Zoning Map.* The boundaries of the Zoning Use Districts identified above are hereby established as indicated on a map entitled "New York Mills Zoning Map" which accompanies and is made part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the Clerk and bearing the seal of the City of New York Mills under the following words: "This is to certify that this is the Official Zoning Map of the City of New York Mills" together with the date of adoption of this Ordinance. All notations, dimensions and designations shown thereon shall be as much a part of this Ordinance as if the same were all fully described herein. The map shall be kept at the City Clerk's office on permanent file, available for public inspection, which copy shall be the final authority. The Official Zoning Map may be amended from time to time, and

after a certified copy is filed with the County Recorder as required by M.S. § 462.36, is hereby adopted by reference and declared to be part of this chapter. It is the responsibility of the Clerk or other person appointed by the City Council to administer this chapter to maintain and keep the map up to date, and to record each amendment thereto with the County Recorder within 30 days after official publication of the ordinance adopting the amendment.

(C) *Interpretation of boundaries.* Where uncertainty exists as to the boundaries of districts, as shown on the Official Zoning Map, the Zoning Administrator shall determine the boundaries in accordance with the following rules:

1. District boundary lines are the center lines of highways, streets, alleys, easements, railroad rights-of-way, or section, division of sections, tract and lot lines, or such lines extended, unless otherwise indicated;

2. Distances not specifically indicated on the map shall be determined by the scale of the map; and

3. Where the street or property layout existing on the ground is at variance with that shown on the official zoning map, or in other circumstances not covered by 1 or 2 above, the Zoning Administrator shall interpret district boundaries.

(D) *Vacation.* Whenever any street, alley or other public way is vacated by official action of the City Council, the zoning districts adjoining each side of such street, alley, or public way shall be automatically extended to the center of such vacation and all area included in the vacation shall then and hence forth be subject to all appropriate regulations of the extended districts.

### **3. ANNEXED LAND**

Any land hereafter annexed into the city shall be considered to be in the district that is delineated on the adjacent areas than are designated for orderly annexation, unless otherwise reclassified.

### **SECTION III. RESIDENTIAL**

#### **1. RESIDENTIAL A (RA)**

*Purpose.* The purpose of the Residential-A Single Family District is to provide for moderate density one family dwelling units and directly related, complementary uses.

*(A). Permitted Uses and Structures.* The following uses may be established as permitted uses in the RA District:

1. One-family dwellings or owner-occupied twin homes and their normal accessory buildings
2. Churches and other religious structures and their normal accompanying buildings
3. Parks and playgrounds
4. In-home daycare homes
5. In-home group/elderly care homes
6. Customary home occupations in a residence, provided that such occupation shall be carried on in the main building or main accessory structure and provided further that not more than 25% of the combined floor space of the primary residence and accessory structure is used for this purpose, and no articles for sale be displayed so as to be visible from the street. Also the conduct of the home occupation shall result in no change in the outside appearance of the building or land, or other visible evidence of the conduct of the home occupation other than signage or minor decor. Operation of the use shall not cause a distraction to any existing dwelling on an adjacent lot (including but not limited to lights shining upon adjacent lots or into adjacent buildings, or use of mechanical, electrical, or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare, or other nuisances outside the dwelling unit or accessory structure). The home occupation shall not change the essential residential character of the principal use or the neighborhood. For sign regulations, see Page 105, Signage Provisions. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood.
7. Public utility uses for local service when located within public right of way or utility easement
8. Publicly owned and operated property, public and private schools.
9. No cellar, garage, tent, recreational or motor vehicle, travel trailer, basement with unfinished structure above, or accessory building shall at any time be used as a permanent dwelling unit.

(B). *Conditional Uses.* In some instances, certain uses may be compatible within the Zoning Use District wherein proposed but by their nature, must be judged to ascertain such compatibility and may be subject to the issuance of a conditional use permit in accordance with the procedures and standards set forth in this ordinance. Such uses include, but are not restricted to:

1. Planned Unit Development
2. Cemeteries, human or pet
3. Funeral parlors
4. Clinics, medical and dental offices
5. Community/neighborhood centers
6. Daycare Centers/Facilities

(C). *Accessory Uses & Structures.* All detached accessory buildings shall be constructed with materials and design that are compatible with the general character of the principal structure on the lot as well as the general character of the surrounding neighborhood.

Accessory buildings shall not exceed the height of the primary structure.

Setbacks—SEE general requirements of Residential Districts, page 24.

The following uses are permitted only when auxiliary to a principal use permitted above; they may not exist as principal uses in their own stead.

1. Customary accessory uses structures incidental to the principal uses such as, but not restricted to; private garages, screen porches, decks, wood sheds, and storage sheds, as set forth in Section III, No. 1-6 of this ordinance.

2. The renting of rooms by a resident family for lodging purposes only. Any space rented out for such purposes must comply with all state codes as to egress, fire safety and related issues.

3. Pet Shelters. Pens, runs, cages, houses or other facilities for the keeping of dogs, cats, and other small animals shall be permitted as an accessory use in the RA District in accordance with City Ordinance # 113.

(D). *Temporary Uses & Structures.* Temporary uses and structures shall be allowed with city approval. A Temporary Structure being in place for more than 7 days, but less than 6 months shall require a permit. If a temporary structure needs to be in place for a period of more than 6 months, a permit must be reapplied for and circumstances reviewed. A temporary structure shall under no circumstances be used as permanent living quarters. A fixed time limit may be placed upon any temporary use or structure in

which such use or structure must be removed or terminated at the culmination of the event or elimination of the established need. All signage must conform to the applicable provisions of this article. All signs, related supplies and debris must be removed at the end of the event and the property returned to its original condition.

## **2. RESIDENTIAL B (RB)**

*Purpose.* The purpose of the RB Multiple Family Residential District is to provide for medium density housing in multiple family structures and directly related complementary uses.

*(A). Permitted Uses & Structures.* The following uses may be established as permitted uses in the RB District.

1. Single family dwellings and their normal accessory buildings
2. Duplexes, twin homes and other multi-family dwelling units.
3. Parks and playgrounds
4. In-home daycare homes
5. In-home group/elderly care homes
6. Schools
7. Libraries
8. Customary home occupations in a residence, provided that such occupation shall be carried on in the main building or accessory structure, and provided further that not more than 25% of the combined floor space of the primary residence and accessory structure is used for this purpose. No articles for sale may be displayed so as to be visible from the street. Also the conduct of the home occupation shall result in no change in the outside appearance of the building or land, or other visible evidence of the conduct of the home occupation other than signage and minor decor. Operation of the use shall not cause a distraction to any existing dwelling on an adjacent lot (including but not limited to lights shining upon adjacent lots or into adjacent buildings, or use of mechanical, electrical, or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare, or other nuisances outside the dwelling unit or accessory structure). The home occupation shall not change the essential residential character of the principal use or the neighborhood. For sign regulations, see page 105, Signage Provisions. No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood
9. Churches and other religious structures and their normal accompanying buildings
10. Bed and Breakfast houses

11. Public utility uses for local service when located within public right of way or utility easement

12. Publicly owned and operated property.

13. No cellar, garage, tent, recreational, or motor vehicle, travel trailer, basement with unfinished structure above, or accessory building shall at any time be used as a permanent dwelling unit.

(B). *Conditional Uses.* In some instances, certain uses may be compatible within the Zoning Use District wherein proposed but by their nature, must be judged to ascertain such compatibility and may be subject to the issuance of a conditional use permit in accordance with the procedures and standards set forth in this ordinance. Such uses include, but are not restricted to:

1. Planned Unit Development

2. Cemeteries, human or pet

3. Funeral parlors

4. Clinics, medical and dental offices

5. Community/neighborhood centers

6. Daycare Centers/Facilities Licensed daycare facilities

7. Offices of members of recognized professions, not carried on in the home or in an accessory structure of a home.

(a). Each application for a business or professional office operation shall be individually evaluated in regard to customer or client traffic. It is desirable to have minimal traffic generated by the operation in deference to the residential character of the RB District. Any application which would appear to generate unreasonable client patronage on the premises may be disapproved. "Unreasonable" may be determined in relation to usual pedestrian and motor vehicle traffic volume without such use.

(b). All equipment, including motor vehicles, associated with such operation shall be placed in acceptable storage areas. Refer to City Ordinance No.104 for regulations on parking of large motor s in residential areas.

(c). All office functions shall be subject to approved hours of operation, such hours to be determined and agreed upon at time of conditional permit issuance. (See *Home Occupations*, page 30).

(C). *Accessory Uses & Structures.* All detached accessory buildings shall be constructed with materials and design that are compatible with the general character of the principal structure on the lot as well as the general character of the surrounding neighborhood.

Impervious Surfaces—See general requirements of Residential Districts, page 31

Accessory buildings shall not exceed the height of the primary structure.

Setbacks—SEE general requirements of Residential Districts, page 24.

The following uses are permitted only when auxiliary to a principal use permitted above; they may not exist as principal uses in their own stead.

1. Customary accessory uses incidental to the principal uses such as, but not restricted to; private garages, screen porches, decks, wood sheds, and storage sheds, as set forth in Section III, No. 1-6 of this ordinance.

2. The renting of rooms by a resident family for lodging purposes only. Any space rented out for such purposes must comply with all state codes as to egress, fire safety and related issues.

3. Pet Shelters. Pens, runs, cages, houses or other facilities for the keeping of dogs, cats, and other small animals shall be permitted as an accessory use in the RB District in accordance with City Ordinance # 113.

(D). *Temporary Uses and Structures.* Temporary uses and structures shall be allowed with city approval. A Temporary Structure being in place for more than 7 days, but less than 6 months shall require a permit. If a temporary structure needs to be in place for a period of more than 6 months, a permit must be reapplied for and circumstances reviewed. Under no circumstances shall a temporary structure be used as permanent living quarters. A fixed time limit may be placed upon any temporary use or structure in which such use or structure must be removed or terminated at the culmination of the event or elimination of the established need. All signage must conform to the applicable provisions of this article. All signs, related supplies and debris must be removed at the end of the event and the property returned to its original condition.

### **3. GENERAL REQUIREMENTS OF RESIDENTIAL DISTRICTS**

*Purpose.* It is the purpose of this section to set forth the general requirements pursuant to all residential districts in the city of New York Mills.

(A). ABANDONMENT (See NYM City Ordinance No. 116)

(B). ANIMALS (See NYM City Ordinance No. 113)

(C). BULK REGULATIONS/LOT REQUIREMENTS

#### **1. General.**

(a). All development, except as provided by conditional use, must conform to the minimum bulk regulations as set out in this section.

(b). No building, structure, or land located within the city's zoning jurisdiction shall be used or occupied, and no building or structure shall be erected, moved, reconstructed, extended, enlarged, or altered unless in accordance with the minimum lot area, lot width, and setbacks set forth in this ordinance.

(c). No lot shall hereafter be divided into two or more lots unless all lots resulting from such division conform with all applicable minimum lot size requirements of the zoning district in which such lots are located or as otherwise provided by these regulations.

(d). When two or more contiguous developed and/or vacant lots, each of which lacks adequate area and dimension to comply with minimum lot size requirements of the district in which it is located, are held in common ownership, the lots shall be used as one lot, except when doing so results in a violation of these regulations.

(e). Any lot that is not held in common ownership with a contiguous lot which was of record at the time of the adoption of these regulations, and which does not meet the requirements for minimum lot width and area set forth in this ordinance, may still be utilized for a use permitted under the zoning district in which the lot is located, provided that the applicable setbacks and other provisions of these regulations are met.

#### **2. Lot Size.**

Lots in Residential Districts within the City of New York Mills must contain a minimum area of 9,000 square feet for single family dwellings with minimum frontage of 75'. Two family dwellings and apartment buildings must contain a minimum area of 12,000 square feet or minimum front dimensions of 100'. For each multi-family dwelling over two units, an additional 1,200 square feet in area is required.

3. *Lot Coverage.*

(a). Location of setbacks. All setbacks allocated to a building(s), shall be located on the same lot as such building(s). No required setback or minimum lot area allocated to a building shall be used to satisfy the setbacks or other open space or minimum lot area requirements for any other building.

(b). Uses and structures prohibited in required setbacks. No building or structure shall be located within any setback required by these regulations. No outdoor storage of goods and materials or refuse container shall be located within any required road setback, except for the temporary placement of refuse containers for curbside pick-up in residential districts.

(c). Maintenance of setbacks and other open spaces. The maintenance of setbacks and other open spaces and minimum lot areas set forth in this ordinance shall be a continuing obligation of the owners of the property.

4. *Number of buildings per lot.*

Except as otherwise provided in these regulations, no more than one principal building shall be located on a lot, except as approved as a conditional use or interim use in accordance with these regulations.

5. *Height limitations.*

(a). Building Requirements: No structure shall exceed 2 ½ stories or 35 feet, whichever is less.

(b). Accessory buildings may not exceed the height of the primary structure.

(c). The height limitations established for each district shall not apply to public utility poles and lines, communication support structures, flag poles, spires, cooling towers, parapet walls and tanks, or public water towers.

(d). In a residential district, the height limitation shall not apply to steeples or chimneys.

(e). The height of towers, Poles, Windmills and other such structures is proportionate to the distance they must be located from all property lines. (See Setbacks, page 39).

6. Clear sight triangles at street intersections

(a). The restrictions set out in this subdivision shall apply to the following triangles of land abutting street intersections:

(b). Within the triangles identified in subdivision (a) above, and except as provided in subdivision (c) below, no structures, sign, plant, shrub, tree, berm, fence, wall, or other object of any kind shall be installed, constructed, set out, or maintained so as to obstruct cross-visibility at a level between 30 and 72 inches above the height of the curb.

(c). The restrictions of this subdivision shall not apply to the following:

(aa). Existing natural grades which, by reason of natural topography, rise 30 or more inches above the level of the center of the adjacent intersection;

(bb). Trees having limbs or foliage trimmed in such a manner that no limbs or foliage extend into the area between 30 and 72 inches above the level of the center of the adjacent intersection and

(cc). Fire hydrants, public utility poles, street markers and traffic-control devices.

(D). CAMPING

Camping on city owned or commercial property shall be allowed in designated areas only. No campsite shall be permitted within the City unless it is approved by the City Council.

Temporary camping is allowed on private property for a limited time. As per New York Mills City Ordinance No. 116.18, Subd. C, "guests who may be temporarily staying at a residence may park a vehicle in the yard, on the driveway or on the street or street right of way for a period of no more than seventy-two (72) hours. If a resident is in violation of this section, the City shall notify the resident by letter informing him/her of the violation and allowing the resident two weeks (14 days) to come into compliance with this section. If the resident is still not in compliance after the two-week period, the City may tow away and impound as many vehicles as necessary until the property meets the specifications set forth by this section." Camping in tents, screened houses or recreational camping vehicles shall be permitted on a temporary basis, but they may under no circumstances be used as a permanent dwelling unit. See Section III-A.9 of this Ordinance.

(E). DRAINAGE

No land shall be developed and no use shall be permitted which results in water run-off causing flooding or erosion on adjacent properties. Such run-off shall be properly channeled into a storm sewer drain, water course, ponding area or other suitable facility.

(F). DRAINAGE PLANS

1. In the case of all multiple-family and non-residential developments, detailed grading and drainage plans shall be submitted to the Zoning Administrator for his/her review and the final plan shall be subject to his written approval.

2. In the case of single-family lots where no drainage plan has been approved by the City, the Zoning Administrator shall determine the need for a drainage plan. In any case where the first floor of the structure is lower than the elevation of the street or where the lowest level of the structure is below the elevation of the sanitary sewer, detailed grading and drainage plans shall be submitted to the Zoning Administrator for his review and approval.

(G). **EXPLOSIVES**

Any use requiring the storage, utilization or manufacturing of products which could decompose by detonation shall be located not less than four hundred (400) feet from any residential district line provided that this subdivision shall not apply to the storage or usage of liquefied petroleum or natural gas for normal residential or business purposes. Such storage structures shall not be allowed within front setbacks of residential homes.

(H). **FENCES**

1. **Permit required.** No person shall erect a fence without first having received a zoning permit. (Exception: fences under 24" in height used primarily as borders for flower gardens and landscaping.)

2. **Prohibited fences.** Except as specifically provided below in division (C), the following types of dangerous or hazardous fences shall not be permitted in the city:

- a. Barbed wire fences, (See 3-c below)
- b. Electrical fences (See 3-c below)
- c. Fences with broken glass or other sharp points embedded
- d. Fences that are leaning in such a manner that an angle of 15 degrees or more is produced when measured from the vertical.
- f. Steel fence posts See exceptions below.

3. **Exceptions for hazardous fencing.** Hazardous or dangerous fences, such as those listed in division (B), above, shall only be permitted in the city for the following uses:

- a. Public utility structures (at least eight feet above grade level) and
- b. Communication support structures (at least eight feet above grade level).
- c. Barbed wire or electric fences shall be allowed to contain animals for parcels which exceed 5 acres in size. Restrictions may be placed on parcels bordering residential lots, in relation to setbacks and placement. Steel fence posts are not allowed in residential areas except parcels exceeding 5 acres in size and for temporary fencing.

4. General requirements.

a. All fences shall be constructed of approved materials that are primarily fencing materials, such as wood post, chain link and its accompanying posts, pre-formed fencing, etc. No fences shall be constructed of any other material (ie. plywood/steel sheeting-/pallets). The City Zoning Administrator and Zoning Committee shall make final determination in the event there is a disagreement regarding approval of a proposed material. Steel fence posts (other than tubular steel posts that accompany chain link) are not allowed in residential areas except parcels exceeding 5 acres in size and for temporary fences. Temporary fencing materials such as snow fences are discussed in (f). below.

b. All fences shall be maintained in good and sound condition and shall not create a harborage for rodents. Every damaged or missing element of any fence or wall shall be prepared or replaced immediately.

c. No fence shall be constructed in such a manner as to impede or alter the natural surface water drainage of the property upon which the fence is constructed or any adjoining property.

d. If a fence is to be painted, it shall be painted with a non-lead base paint.

e. The finished side of all fences, or that side of the fence without exposed support or posts, shall face outward toward neighboring property or streets.

f. Snow fences and other temporary fencing—Temporary fences or snow fences may be placed on property to aid in the stating of boundaries for an event; for example, to provide for a safe containment area for attendees to congregate, separated from the flow of traffic and parking. Fences must be constructed of approved materials which would not present a safety hazard to the public. Fences placed as temporary confinement for animals brought into the city as part of an operating zoo, auction or licensed show or exhibition must be constructed of approved materials which would insure the health and safety of the public.

Any temporary fences erected for this purpose must be removed at the culmination of the event. Fences which may be placed temporarily upon private property to protect a designated area, such as newly planted grass or trees must be shorter than 24" and must comply with placement restrictions in regard to street right-of-ways or boundaries. Snow fences may be placed upon private property between the dates of October 15<sup>th</sup> of any given year through May 15<sup>th</sup> of the next year with the following restrictions:

1. No snow fence may be erected within the sight triangle of intersecting highways, streets or alleyways so as to impede the visibility to pedestrian or vehicular traffic, causing a hazard to the health and safety of the public.

2. No snow fence may be erected in any location which would promote the accumulation of snow or debris onto neighboring property.

3. Snow fences must be constructed of approved materials and maintained in good repair so as not to violate the City's ordinance on fencing materials, providing a health or safety issue.

4. Snow fences must be removed from private property by the May 15<sup>th</sup> deadline.

\*\*The Zoning Administrator shall have the final authority on whether or not a temporary fence is in compliance with this ordinance.

g. No fence, wall or other obstruction to vision above a height of 30 inches from the established street grades shall be permitted within the sight triangle of an intersection so as to impede vision of pedestrian and vehicular traffic.

h. All fences must be located on the private property of the person, firm or corporation constructing the fence.

5. Height Regulations.

1. Rear property lines. No fence shall exceed a height of eight (8) feet along the rear of a residential property measured from its top edge to the ground at any point, when installed.

2. Side property lines. Fences located on the side of a property, from the front of the lot back to a point 50% of the average depth of the principal structure cannot exceed a height of five (5) feet when installed. From beyond this point (50% of the depth of the principal structure) back to the rear property line, a fence may not exceed a height of eight (8) feet.

3. Front property lines. No fence located on the front of a lot (or street sides on a corner lot) from the front property line back to a point fifty (50%) percent of the average depth of the principal structure may exceed a height of five (5) feet, measured from its top edge to the ground at any point when installed.

6. Setback Regulations.

Fences must be located inside the property-owner's property line. No fence, wall, hedge or other screening device shall be permitted to encroach on any public easement or right-of-way.

7. Opacity

Fences, hedges or walls located in front yards should not be of a solid nature so as to create a safety hazard for passing motor vehicles or pedestrians. The Zoning Administrator shall have the authority to determine the distance back from the front property

line which a property owner must use fencing which has a higher transparency for safety reasons.

(I). HOME OCCUPATIONS

*Purpose.* The purpose of these regulations is to control the impact that home occupations may have on neighborhood character and on the use and enjoyment of adjacent properties.

1. General. Home occupations such as personal and professional services, handicrafts, dressmaking or tailoring, artistic or food crafts, provided that not more than 25% of the combined floor area of said residence and or accessory structure shall be used for such purposes. Home occupations may be permitted in all residential zoning districts, accessory to any single-family or multi-family dwelling unit, provided that the following requirements are met:

- a. The use may be located in either a dwelling or accessory structure.
- b. The home occupation must be incidental to and secondary to the use of the dwelling for dwelling purposes.
- c. The use must be conducted entirely within the dwelling or accessory structure by persons residing on the premises.
- d. The use shall not utilize mechanical, electrical, or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare, or other nuisances outside the dwelling unit or accessory structure.
- e. Operation of the use shall not cause a distraction to any existing dwelling on an adjacent lot (including but not limited to lights shining upon adjacent lots or into adjacent buildings). The home occupation shall not change the essential residential character of the principal use or the neighborhood.
- f. For sign regulations, refer to SIGNAGE PROVISIONS Page 105).
- g. The home occupation shall not be open to the public between the hours of 10:00 p.m. and 6:00 a.m.
- h. No home occupation may generate more vehicle daily trips either by customers, delivery persons, or employees in greater volumes than would normally be expected for the zoning district in which it is located.

(J). IMPERVIOUS SURFACE REGULATIONS

The amount of impervious surface on any lot in a residential area district shall not exceed thirty-five (35) percent of the total lot area. This includes the size of the accessory building or buildings, when combined with the principal dwelling as well as other

impervious surfaces. An impervious surface is any all-weather surface or ground cover that resists the absorption of surface water into the soil. Such surfaces include those constructed of stone, brick, asphalt, concrete, tile, terrazzo, gravel composite, or any other paving material, used for parking, driveways, patios, terraces, walkways and the like, as well as areas covered by buildings, decks, porches, and tennis courts. . An exception will be made for open decks if it can be proven that the underlying surface is pervious and deck floor boards are spaced a minimum of one eighth (1/8") inch apart, allowing for water to fall through and soak in before running off. Pervious pavers, which means pavers where the water soaks immediately through the paver itself rather than the area around it will not be considered impervious surface if proof is given that shows that the sub-grade has been correctly installed with an underlying system of base rock for storm water drainage, allowing storm water to percolate through the surface rather than running off into surrounding areas or storm drains.

(K). LANDSCAPING, TREES, HEDGES AND SHRUBBERY

In all residential districts, developed uses shall provide a landscaped yard along the streets. Except for driveways and access walks, the yard shall extend along the entire frontage of the lot, and along both streets in the case of a corner lot. In the event trees, hedges or shrubbery exists in the public right of way at the passing of this ordinance, such item is the responsibility of the property owner. These items must be removed at the expense of the property owner at any time at the request of the City. No fence, wall, hedge, shrub or other screening device shall be permitted to be installed, erected or planted on any public easement or right-of-way from the passing of this ordinance forward.

Hedges and shrubbery planted in a dense manner to represent a privacy fence may be erected, placed, maintained or grown along lot lines; however such hedges and shrubs must be maintained to a height of no more than 5' in front yards, including side yard property lines from the front property line back to a point fifty (50%) percent of the average depth of the principal structure.

(L). LICENSING AND BONDING REQUIREMENTS

Licensing and Bonding Requirements shall apply to all contractors doing business within the city limits as defined in Minnesota Statutes, Section 326.83 to 326.991.

(M). LIGHTING

The following restrictions shall apply to any outdoor lighting located in the RA and RB Districts and should serve to protect against excessive glare and light spilling over to neighboring properties:

1. All sources of artificial light shall be so fixed, directed, designed or sized that "glare", whether direct or reflected, as differentiated from general illumination, shall not be visible from beyond the limits of the immediate site from which it originates. No outdoor

lighting shall be of such an intensity or brilliance so as to cause glare or to impair the vision of drivers;

2. Conditions relating to the location and hours of operation for outdoor lighting may be imposed on outdoor recreational uses; and

*\*Public street lighting provided by the City shall be exempt to these requirements.*

N). MAINTENANCE

In all districts, all structures, required landscaping and fences shall be maintained so as not to be unsightly or present harmful health or safety conditions. It is the responsibility of the property owner to maintain fences on both sides, whether facing their own property or that of neighboring property. As per NYM City Ordinance No. 94, "weeds and grass over one foot in height and weeds which have gone to seed or growing in the City of New York Mills are considered to be a nuisance and dangerous to the health and safety of residents of the City and are hereby prohibited."

(O). MANUFACTURED HOMES

The City authorizes the placement of manufactured homes in residential districts within the city if such manufactured homes comply with the following conditions:

1. Single-family dwellings shall be constructed upon a permanent foundation which must extend below the frost line and be finished with state-approved masonry block or masonry block type skirting as designed for this purpose, not be less than thirty (30) feet in length and not less than twenty-two (22) feet in width. Width measurements shall not take account of overhang and other projections beyond the principal walls.

2. The home shall have all wheels, axles, transporting lights, and towing apparatuses removed.

3. A zoning permit and any other required permits shall be obtained for manufactured homes.

4. All such manufactured homes shall be built in compliance with any Minnesota Statutes regulating manufactured homes.

5. Connection to city utilities shall be required.

6. Only one manufactured home may be located on any one lot in a residential district.

(P). MANUFACTURED HOME PARKS

No manufactured home park shall be permitted within the City unless it has been approved and licensed by the State of Minnesota Department of Health and granted a

conditional use permit under the terms of this ordinance. In their review, the Zoning Commission shall look particularly for the reasonable provision of the following facilities:

1. A continuing supply of safe and palatable water.
2. Sanitary facilities and a safe method of sewage disposal.
3. Electricity for artificial lighting and to serve equipment used in the manufactured homes.
4. Patio or outdoor sitting space equal to 100 square feet for each manufactured home space.
5. Parking space equal to two spaces per manufactured home plus adequate onsite parking to serve the visiting public.
6. Recreational facilities.
7. Management office and storage space.
8. Garbage and trash disposal facilities.
9. Adequate and safe access and egress to major public roads.

(Q) MOVING BUILDING STRUCTURES INTO THE CITY

Any building structure moved into the city limits to be placed upon a lot must comply with all zoning regulations, including setbacks, height restrictions, consistency with character of neighboring homes, impervious surface and any other applicable restrictions.

Weight restrictions shall apply to all City streets per applicable classifications once adopted. During the spring months, more restrictive seasonal weight restrictions may be imposed as needed according to conditions.

(R). NONCONFORMING USES, STRUCTURES, AND LOTS

1. Nonconforming uses and structures may continue only in accordance with the provisions of this subchapter. Except as provided by law, any nonconformity including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter may continue through repair, replacement, restoration, maintenance, or improvement, but not expansion. The nonconforming use must be substantially the same size, intensity or essential nature of the use established at the time of the passage of this zoning ordinance.

2. Normal repair and maintenance may be performed to allow the continuation of a nonconforming use or structure. However, the continuation, maintenance or

normal repair shall not extend or expand the nonconforming use or structure and may only include:

(a) Repairs which are necessary to maintain and to correct any damage or deterioration to the structural soundness or interior appearance of a building or structure without expanding or altering the building or structure;

(b) Maintenance of land areas to protect against health hazards and to promote the safety of surrounding land uses;

(c) Repairs which are required to remedy unsafe conditions which cause a threat to public safety; and

(d) Maintenance or repair of a sign in a way that does not change the exterior message.

3. A nonconforming use shall not be expanded, nor shall a nonconforming use be enlarged by additions to the structure in which the nonconforming use is located or the occupation of additional lands, unless its nonconforming status is removed or,

4. A nonconforming structure shall not be moved unless it thereafter conforms to the standards of the zoning district in which it is located and other pertinent regulations.

5. A nonconforming use or occupancy shall not be changed to any other use unless the new use conforms to the standards of the zoning district in which it is located. Once a nonconforming use is changed to a conforming use, the nonconforming use shall not be reestablished. The City may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety. This subdivision does not prohibit a municipality from enforcing an ordinance that applies to adults-only bookstores, adults-only theaters, or similar adults-only businesses, as defined by ordinance.

6. Where a nonconforming use or structure is discontinued or abandoned a period of more than one year, then the use shall not be reestablished or the structure shall be removed or modified to conform to the requirements of these regulations. MN Stat. 462.357 1(e)

7. A nonconforming use will not be allowed to continue if the use is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged. In this case, the City may impose reasonable conditions upon a zoning permit in order to mitigate any newly created impact on adjacent property or water body.

8. Nonconforming vacant lots may be used for any of the uses permitted by these regulations in the zoning district in which it is located, provided that the use meets all

limitations and minimum requirements for setbacks, height, and open space established in these regulations for the zoning district in which the lot is located.

(S). **NUISANCES** (See *NYM City Ordinance No. 106*)

No noise, odors, vibration, smoke, air pollution, liquid or solid wastes, heat, glare dust or other such adverse influences shall be permitted in any district that will in any way will have an objectionable affect upon adjacent or nearby property or violate any State Statutes, Codes, or City Ordinance. All wastes in all districts shall be disposed of in a manner that is not dangerous to public health and safety nor that is not dangerous to public health and safety nor will damage public waste transmission or disposal facilities.

*Radiation and Electrical Emissions.* No activities shall be permitted that emit dangerous radioactivity beyond enclosed areas. There shall be no electrical disturbance adversely affecting the operation at any point of any equipment including but not limited to radio and television reception other than that of the creator of the disturbance.

(T). **OUTDOOR FURNACES**

The City of New York Mills requires any person to obtain a zoning permit for any external solid fuel-fired heating device or external storage unit that is sold or purchased after the date this ordinance becomes effective.

*Definition—“External solid fuel-fired heating device”-* hereafter referred to as “Outdoor Furnace” means a device designed for external solid fuel combustion so that usable heat is derived for the interior of a building but is not located within that building itself.

This ordinance does not apply to the following:

–Grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances.

–The use of electricity, propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

–Campfires; a small outdoor fire intended for recreation or cooking but not including a fire intended for disposal of waste wood or refuse. Campfires and open burning are regulated by State Fire Code. See also City Ordinance No. 88.

1. All outdoor furnaces used, installed, or purchased within the city limits are required to meet emission standards currently required by the Environmental Protection Agency (EPA) and Underwriters Laboratories (UL) listing or similar such approved testing authority. Such furnaces must be installed by a licensed and bonded installer and must comply with state codes. No person shall use an outdoor furnace in violation of this paragraph.

2. All outdoor furnaces are subject to compliance with City Ordinance No. 88 referring to the burning of waste paper and refuse and to City Ordinance No. 106.04 (I) referring to Public Nuisances Affecting Health as well as the City's Ordinance concerning Nuisances (S. above)

3. Any dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities, or any use of an outdoor furnace to burn solid fuels other than those solid fuels for which the outdoor furnace was designed, is declared a public nuisance. See NYM City Ordinance No. 106.

4. All stacks or chimneys must be so constructed to withstand high winds or other related elements and according to the specifications of the manufacturer of the outdoor furnace. All stacks or chimneys must be of masonry or insulated metal with a minimum six-inch flue. A "factory-built" or masonry chimney is also required. No person shall use an outdoor furnace in violation of this paragraph. If there are any residences or businesses within 500 feet, the outdoor furnace shall have a chimney that extends at least as high above the ground surface as the height of the roofs of all residences or businesses not served by the outdoor furnace.

5. Only fuels designed for burning in an outdoor furnace may be burned. For Outdoor wood burners, only clean wood; natural wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives, and does not contain resins or glues as in plywood or other composite wood products may be burned. No garbage or refuse may be burned in an outdoor furnace. No person shall use an outdoor furnace in violation of this paragraph.

6. Storage shall comply with City Ordinance No. 106.06 which refers to Public Nuisances affecting Peace and Safety prohibiting accumulations in the open of materials in a manner conducive to the harboring of rats, mice, snakes or other vermin or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from accumulation or so that the accumulations are unsightly and visible from neighboring properties.

(U). PARKING (See City Ordinance No. 104 Regarding the use and Storage of Large Motor Vehicles in Residential Districts)

*Purpose.* The purpose of the parking regulations is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public, by establishing minimum requirements for parking of motor vehicles in accordance with the utilization of various parcels of land and structures.

*Parking.* Off-street automobile parking spaces shall be provided on every lot in which any new structures are established. Such space shall be provided with vehicular access to a street or alley so as to allow vehicles safe entry onto the roadway,

*Required Parking.* The number of parking spaces provided shall be at least the minimum number provided for the following uses:

- a. One and Two-family dwellings: Two spaces per unit
- b. Multiple-family dwellings: Two spaces per unit.
- c. Manufactured home park: Two spaces per unit.
- d. Business and Professional Office: One space for each 500 square feet of retail floor space
- e. Medical and Dental Offices: Three spaces per doctor or dentist plus one space for each employee during any work period.
- f. Overnight Accommodations: One space for each sleeping unit and one for each employee
- g. Restaurants: One space for each three seats
- h. Service shops for a trade: One space for every 500 square feet of floor space
- i. Other Businesses in Residential Districts: For other businesses in residential districts, the number of spaces required shall be determined by the Council on a case by case basis, based on the nature of the business. Consideration will be given to which business in the schedule, as determined by the City Council, is found to be the most similar.

(V). PERFORMANCE STANDARDS

In order to ensure compliance with the performance standards set forth in this ordinance, the City Council may require the owner or operator of any permitted use to have made such investigations or tests as may be deemed necessary to show adherence to the performance standards. Such investigations or tests as are required shall be carried out by an independent testing organization selected by the City. Such investigations or testing shall be ordered by the owner or operator. The cost of same shall be shared equally by the owner or operator and the City unless the investigation or tests disclose noncompliance with the performance standards, in which situation the entire cost shall be paid by the owner or operator. Performance Standards are referenced in the following: Explosives (G), Maintenance (N), Waste Materials (GG), Drainage (E), Traffic Control (FF), Parking (U), Nuisances (S), and Sewer and Water (DD).

(W). PLANNED UNIT DEVELOPMENTS

For any housing project where the existing or proposed street and lot layout make it impracticable to apply the requirements of this section to individual structures or lots in such a development, an application for a planned unit development permit may be made to the Planning and Zoning Commission. Applicants must obtain zoning

recommendation and Council approval through the use of a conditional use permit or the process or rezoning. A project may be viewed as a unit of several buildings or uses rather than individual buildings on individual lots to allow for flexibility in the application of zoning standards.

(X). PROHIBITED MATERIALS

No materials shall be stored, used, or produced in any residential area, which could endanger the public's health and safety or in any way have an objectionable affect on adjacent property owners. Materials which violate any State Statutes, codes, or City Ordinance, which could potentially harm public waste transmission or disposal facilities, or cause danger to the environment, shall be prohibited. These materials include, but are not restricted to Explosives, Nuisances, Toxic Matter or materials which are stored in a manner conducive to the harboring or rats, mice, snakes, or other vermin or the rank growth of vegetation among the items causing them to be unsightly and visible to neighboring properties.

(Y). REGULATIONS ON AMERICANS WITH DISABILITIES ACT

The Americans with Disabilities Act of 1990 (ADA) will apply to all Residential construction as defined by Federal Civil Rights Legislation.

(Z). REGULATIONS ON RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT

The Religious Land use and Institutionalized Persons Act (RLUIPA) of 2000 shall apply to all residential construction as defined in 42 United States Code, Chapter 21C (P.L. 106-274, approved 9/22/2000).

(AA). RUMMAGE SALES

Rummage sales may be held and signs displayed providing they are performed in accordance with the provisions in this chapter. A person may sell or offer for sale any new, used or secondhand goods or merchandise from a dwelling or residentially zoned area where the general public is invited to purchase, trade, or bargain for such goods or merchandise, commonly known as garage, backyard, rummage or residential sales provided they adhere to the following:

1. No dwelling or residentially zoned area shall be used for such sales more often than twelve days per year in one calendar year.
2. No sale shall be held between the hours of 10:00 p.m. and 7:00 a.m.
3. Property sold or offered for sale shall consist only of property of the offeror, or relatives or friends of the offeror. No property for sale shall be placed or displayed on the street, boulevard or public sidewalk.

4. All related signs shall conform to the applicable provisions of this article, and be removed at the termination of the sale.

5. Signs must be freestanding and may not be affixed to any street signs, utility poles, hydrants, structures or placed on any street or sidewalk so as to impede the flow of traffic.

(BB). SATELLITE DISHES

Satellite dishes of two meters or less in diameter shall be permitted within any yard, except within any sight triangle.

(CC). SETBACKS—

All setbacks shall be measured from the edge of the property line. (Please note that it is the responsibility of the property owner to know the location of lot lines.) For square corner lots, the “front” setback shall be applied to both the front yard where the main door is located and the side yard facing the street or right-of-way; the other yards shall be considered to be the “side” and “rear” setbacks.

1. Principal Structures. The following setbacks apply to the main structure (including an attached garage or deck\*\*\*)

- |     |   |         |
|-----|---|---------|
| a). | Front Yard (building line to R.O.W.)            | 30 feet |
| b). | Side Yard (building line to lot line)           | 15 feet |
| c). | Rear Yard (building line to R.O.W. or lot line) | 25 feet |

In order to comply with size requirements for a new home, the side yard setback for 50' lots which exist within the City at the time of the passage of this ordinance shall be set at ten feet (10').

*\*\*\*In order to maintain a consistent front yard setback of main structures in a residential district, an open deck placed on the front of the main structure will not be considered a part of the principal structure in terms of setback. This setback allowance only applies to a deck which is open to the sky. If such deck is enclosed by screening, glass, solid walls or roof, or any material such as brick or stone extending the exterior walls of the main building, it will be considered a part of the principal structure and must comply with the established 30 foot setback restriction.*

2. Setback Averaging: In any residential district where adjoining principal buildings existing at the time of adoption of this Ordinance have a setback less than 30 feet, the required front yard setback of a new structure shall not be less than the average front yard setback of the buildings on each side.

3. Accessory Buildings: The following setbacks apply to detached accessory buildings (i.e. sheds):

- |     |   |            |
|-----|---|------------|
| a). | Front Yard (building line to R.O.W.)          | ** 30 feet |
| b). | Side or Rear Yard (building line to lot line) | 5 feet     |
| c). | Distance to Main Structure                    | 10 feet    |

4. Accessory Structure: No buildings or other structures may be placed upon any easement or right-of-way. Accessory structures intended to be built adjacent to buildings, such as decks, sidewalks, patios, fences, etc do not have to comply with the regulated distance to main structures. Fences may be placed immediately inside of lot lines.

- a). Side or Rear Yard (building line to lot line) 5 feet

5. Freestanding Accessory Structures. Towers, Poles, Flagpoles, Windmills and other free standing structures shall be placed upon a lot in such a location that should the structure fall in any direction, it shall fall upon the property on which it is located only, thereby causing no danger to adjacent properties. This regulation does not apply to signs

(DD). SEWER & WATER

The design and construction of water supply facilities and treatment of all sewage and waste shall comply with City and State health standards and requirements.

All homes, businesses, and structures that are to be provided with water and sanitary sewer service and are able to be connected to the City's water and sanitary sewer systems must be hooked up to these public systems. Unless City services are unavailable, no private wells or sewers are allowed. Sand points are allowed for the purpose of lawn and garden watering only. Under no circumstances may a sand point be connected to the City's water and sanitary sewer systems nor may it be used as a primary source of water service to a home.

(EE). STORAGE

In the (RA), (RB) and (RB-C) Zoning Use Districts, all materials and equipment shall be stored within a building (i.e. a garage or shed) or fully screened, by a fence around the perimeter of the yard for example, so as not to be visible from adjoining properties, except for the following: clothes lines, satellite dishes, mailboxes, and recreational equipment, or equipment temporarily being used on the premises and materials if these are used or intended for use on the premises within three (3) months. Any items within the public right of way must be removed at any time at the request of the City.

1. Parking/Storage of Motor Vehicles. No semi trucks, truck-tractors, or combinations thereof are allowed in residential districts at any time. Please see NYM City Ordinance No. 104.

Open, off-street parking of passenger automobiles, pick-up trucks, and boat/trailer combinations is allowed subject to NYM City Ordinance No. 116.18-3 which states that the number of motor vehicles parked in the yard, on the driveway, or on the street or street right-of-way at any residence shall not exceed the number of licensed drivers who permanently reside at that residence. Excluded are any vehicles stored inside a garage, shed or other permanent structure.

No long-term parking (more than 30 days without movement) shall be allowed. Unlicensed or inoperable vehicles are prohibited. See NYM City Ordinance No. 106 and No. 116 for more information on prohibited and abandoned vehicles.

2. Refuse Storage. In all Zoning Use Districts, all waste materials, debris, refuse or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. Receptacles used for storage of refuse shall be placed on the property to be least visible and offensive to the public. The owner of vacant land shall be responsible for keeping such land free of refuse. No tent or other non-permanent structure shall be used to house debris, refuse, or other waste materials.

*(FF) TRAFFIC CONTROL*

The traffic generated by any use shall be channeled and controlled in a manner that will avoid congestion that will avoid congestion on public streets, safety hazard or excessive traffic through residential areas. Traffic into and out of all business and industrial uses or areas shall in all cases be forward moving with no backing onto streets or pedestrian ways. No access drive to any lot shall be located within twenty (20) feet of any two intersecting right-of-way lines not within forty (40) feet of any two intersecting major thoroughfare street right-of-way lines.

*(GG) WASTE MATERIALS*

In all districts, waste material, debris, refuse, garbage, materials not currently in use for construction or otherwise regulated herein shall be kept in an enclosed building or properly contained in a closed container for such purposes. The owner of vacant land shall be responsible for keeping such vacant land free of waste material and noxious weeds.

*(HH) WEIGHT RESTRICTIONS ON CITY STREETS*

Weight restrictions shall apply to all City streets per applicable classifications once adopted. During the spring months, more restrictive seasonal weight restrictions may be imposed as needed according to conditions.



## **SECTION IV: COMMERCIAL**

### **1. RESIDENTIAL B—COMMERCIAL (RBC)**

*Purpose.* The purpose of the RBC Multiple Family Residential-Commercial District is to provide for higher density residential housing as well as commercial uses of a legitimate nature, such as: retail, wholesale, assembling, service, office, financial, recreational, professional and lodging. The general nature of the RBC District is mainly residential. *\*Note: a business whose nature is assembling is allowed provided storage is entirely within the confines of a building.*

(A). *Permitted Uses & Structures.* The following uses may be established as permitted uses in the RBC District, including all uses in the RB District as well as all uses in the C District:

1. Single family dwellings and their normal accessory buildings.

*\*No cellar, garage, tent, recreational or motor vehicle, travel trailer, basement with unfinished structure above, or accessory building shall at any time be used as a permanent dwelling unit.*

2. Churches and other religious structures and their normal accompanying buildings.

3. Parks and Playgrounds

4. In-home daycare homes and daycare centers/facilities

5. In-home group/elderly care homes

6. Schools

7. Libraries

8. Customary home occupations in a residence

9. Duplexes, twin homes and other multi-family dwelling units.

10. Bed and Breakfast houses

11. Public Utility uses for local service when located within public right of way or utility easement

12. Publicly owned and operated property.

13. Business and commercial establishments including but not limited to the following:

a). Retail establishments, including grocery, hardware, drug, clothing, variety and furniture stores; eating and drinking places, auto dealers, automobile service stations, farm implement dealerships, farm supply stores and meat locker shops.

b). Personal services, including laundries, beauty shops, barber shops, funeral homes, printing and publishing shops and photographic studios.

c). Professional services, including medical and dental clinics and attorney's offices.

d). Repair services, including automobile, jewelry, radio and television repair shops, appliance repair shops, farm and implement shops, plumbing contractor's shop and electrical contractor's shop.

e). Entertainment and amusement services, including motion picture theatres, recreation halls and bowling alleys.

f). Lodging services, including hotels and motels.

g). Finance, insurance, real estate and tax services.

14. Public and semi-public buildings, including post office, fire hall and city hall.

15. Private Clubs

16. Apartments

17. Automobile parking lots

18. Essential services.

19. Other such uses which in the determination of the City Council and as formally documented will be compatible and will not be detrimental to uses allowed in this or contiguous districts.

*(B). Conditional Uses.* In some instances, certain uses may be compatible within the Zoning Use District wherein proposed but by their nature, must be judged to ascertain such compatibility and may be subject to the issuance of a conditional use permit in accordance with the procedures and standards set forth in this ordinance. Such uses include, but are not restricted to:

1. Cemeteries, human or pet

2. **Manufactured homes**—The City authorizes placement of manufactured homes within RBC Districts if such homes comply with conditions in this ordinance. See: **Manufactured Homes**, Page 59.

3. **Manufactured home parks**

(C). *Accessory Uses, Buildings & Structures.* All detached accessory buildings shall be constructed with materials and design that are compatible with the general character of the principal structure on the lot as well as the general character of the surrounding neighborhood.

**Setbacks**—SEE general requirements of Commercial Districts, (CC). Page 52.

*\*Setbacks, lot requirements, building requirements and parking requirements—Because of the variety of commercial activities that may occur in this district along with the integration of residential homes, reasonable lot requirements, setbacks, building requirements and parking requirements may be established by the City Council.*

The following uses are permitted only when auxiliary to a principal use permitted above; they may not exist as principal uses in their own stead.

1. Customary accessory uses incidental to the principal uses such as, but not restricted to off street parking and loading and unloading areas, signs, indoor storage of merchandise and wholesaling and manufacturing, when incidental to a permitted use.

(D). *Temporary Uses & Structures.* A Temporary Structure being in place for more than 7 days, but less than 6 months shall require a permit. If a temporary structure needs to be in place for a period of more than 6 months, a permit must be reapplied for and circumstances reviewed. Under no circumstances shall a temporary structure be used as permanent living quarters. A fixed time limit may be placed upon any temporary use or structure in which such use or structure must be removed or terminated at the culmination of the event or elimination of the established need All signage must conform to the applicable provisions of this article. All signs, related supplies and debris must be removed at the end of the event and the property returned to its original condition.

(E). *Nonconforming or Prohibited Structures.* Sexually Oriented Businesses may be permitted under a conditional use permit except that any sexually oriented businesses may not be located within 1,000 feet of a place of worship, school, in-home daycare or daycare facility, public park, boundary of any residential district or dwelling.

## **2. COMMERCIAL (C)**

*Purpose.* The purpose of the Commercial District is in recognition of the existing downtown business and commercial development and the need for its future expansion, rehabilitation and redevelopment as well as to provide for commercial development outside of the downtown area.

### **(A). Permitted Uses and Structures.**

1. Business and commercial establishments including but not limited to the following:

(a). Retail establishments, including grocery, hardware, drug, clothing, variety and furniture stores; eating and drinking places, auto dealers, automobile service stations, farm implement dealerships, farm supply stores and meat locker shops.

(b). Personal services, including laundries, beauty shops, barber shops, funeral homes, printing and publishing shops and photographic studios.

(c). Professional services, including medical and dental clinics and attorney's offices.

(d). Repair services, including automobile, jewelry, radio and television repair shops, appliance repair shops, farm and implement repair shops, plumbing contractor's shop and electrical contractor's shop.

(e). Entertainment and amusement services, including motion picture theatres, recreation halls and bowling alleys.

(f). Lodging services, including hotels and motels.

(g). Finance, insurance, real estate and tax services.

2. Public and semi-public buildings, including post office, fire hall and city hall.

3. Private clubs.

4. Apartments located in areas where businesses are predominant, such as the downtown business area, are permitted provided they are located below ground level or above main floor. Apartments will be permitted on the main level only if they are subordinate in size and location to a business and are located in the rear, or other incidental location to a business. Separate apartment buildings or complexes are allowed in other areas of Commercial Districts, provided they adhere to parking regulations.

5. Automobile parking lots.

6. Essential services.

7. Other such uses which in the determination of the City Council and as formally documented will be compatible and will not be detrimental to uses allowed in this or contiguous districts.

*(B). Conditional Uses.*

1. Sexual Oriented Businesses (see definition)—provided that the use is not located within 1,000 feet of a place of worship, school, in-home daycare or daycare facility, public park, boundary of any residential district or dwelling, or any other sexually oriented business; and

2. Adult Tadoo parlors

3. Cemeteries, human or pet

4. Manufactured homes—The City authorizes placement of manufactured homes within the Commercial District for the purpose of office space or retail sales, but prohibits use as living quarters.

5. Manufactured home parks

*(C) Accessory Uses and Structures.* Uses incidental to the foregoing principal uses, such as off-street parking and loading and unloading areas, on-site signs, indoor storage of merchandise, and wholesaling and manufacturing, when incidental to a permitted use shall be permitted in the Commercial District.

All detached accessory buildings shall be constructed with materials and design that are compatible with the general character of the principal structure on the lot as well as the general character of the surrounding neighborhood.

Setbacks—SEE general requirements of Commercial Districts, (CC.) Page 52.

*\*Setbacks, lot requirements, building requirements and parking requirements—Because of the variety of commercial activities that may occur in this district reasonable lot requirements, setbacks, building requirements and parking requirements may be established by the City Council.*

*(D). Temporary Uses & Structures.* A Temporary Structure being in place for more than 7 days, but less than 6 months shall require a permit. If a temporary structure needs to be in place for a period of more than 6 months, a permit must be reapplied for and circumstances reviewed. Under no circumstances shall a temporary structure be used as permanent living quarters. A fixed time limit may be placed upon any temporary use or structure in which such use or structure must be removed or terminated at the culmination of the event or elimination of the established need All signage must conform to the applicable provisions of this article. All signs, related supplies and debris must be removed at the end of the event and the property returned to its original condition.

### 3. INDUSTRIAL (I)

*Purpose.* The purpose of the Industrial District is to provide for industrial development outside of the other districts authorized by this chapter. Heavy industry may be permissible in this district subject to the issuance of a conditional use permit. This District should be separated from residential districts by natural or structural boundaries such as drainage channels, strips of vegetation, roads and similar features. Storage and handling of materials in the Industrial District shall be conducted in a manner not disturbing to adjoining districts, shall be within a completely enclosed building or effectively screened by appropriate landscaping or a wall or fence of sufficient density to form an effective screen.

(A). *Permitted Uses and Structures.* The following uses and structures may be established as permitted uses in the Industrial District, in accordance with the procedures established in Section VI, Subd. 9 of this ordinance. ("Development Permitted as of Right").

1. *Manufacturing.* Any manufacturing use or process including repairs, assembling, fabricating, altering, converting, finishing, processing, treating, testing, packaging or bottling, except any use of process hereinafter specifically excluded or which would not be in keeping with the purpose of the district as stated above;

2. *Warehousing, Storage & Wholesaling.* The storage, handling, assembly and distribution of goods and materials for retail, wholesale, or on-site use, except for the handling, in quantity, of packaged or bulk hazardous combustible materials and/or flammable liquids or gases. The determination of "hazardous" materials shall be made by the Zoning Administrator.

(B). *Conditional Uses.* The following uses are permitted only subject to the issuance of a conditional use permit in accordance with the procedures and standards set forth in page 91, ("Conditional Use Permits").

1. *Wrecking and Salvage Yards,* if located not less than 200 feet from any residential district.

2. *Sexually Oriented Businesses,* (see definition) provided that the use is not located within 1,000 feet of a place of worship, school, child care home or center, public park, boundary of any residential district or dwelling, or any other sexually oriented business; and

3. *Tattoo parlors.*

4. *Other uses.* The following uses may only be authorized as a conditional use by the City Council if located at least 400 feet from any residential district, and if the location of such use has been recommended by the Planning and Zoning Commission after receiving reports from the Minnesota Pollution Control Agency and the Chief of the Fire Department:

- (a). Cement, lime or gypsum manufacturer
- (b). Distillation of bones, coal or wood
- (c). Explosive manufacturer or storage
- (d). Petroleum refining (including bulk storage)
- (e). Fertilizer manufacturer
- (f). Garbage, offal, or dead animals, reduction or dumping
- (g). Gas manufacturer
- (h). Manufacturer of paint products, paper pulp, inks, soap, tars,  
vinegar, salts
- (i). Any other use, which in the opinion of the City Council, is of similar character to those described.

(C). *Accessory Uses and Structures.* The following uses are permitted only when auxiliary to a principal use permitted above; they may not exist as principal uses in their own stead.

1. **Day care.** Day care shall be permitted within the Industrial District only if accessory to and necessary for a principal industrial use.

(D). *Temporary Uses & Structures.* A Temporary Structure being in place for more than 7 days, but less than 6 months shall require a permit. If a temporary structure needs to be in place for a period of more than 6 months, a permit must be reapplied for and circumstances reviewed. Under no circumstances shall a temporary structure be used as living quarters. A fixed time limit may be placed upon any temporary use or structure in which such use or structure must be removed or terminated at the culmination of the event or elimination of the established need All signage must conform to the applicable provisions of this article. All signs, related supplies and debris must be removed at the end of the event and the property returned to its original condition.

(E). *Prohibited Uses and Structures.*

1. **Residential.** Dwellings, dwelling units, and residences of any kind, including hotels, motels, rooming houses, and tourist homes.

2. **Institutional.** Schools, orphanages, day care facilities (see (C) 1. Above), homes for the aged, and similar institutions for human care.

Setbacks—SEE general requirements of Commercial Districts, (CC). Page 68.

*\*Setbacks, lot requirements, building requirements and parking requirements—Because of the variety of industrial activities that may occur in this district reasonable lot requirements, setbacks, building requirements and parking requirements may be established by the City Council in a conditional use permit.*

**4. COMMERCIAL—INDUSTRIAL (CI)**

*Purpose.* The purpose of the Commercial/Industrial (CI) District is to allow an integration of industrial and office uses that have minimal adverse impacts. Development in this District includes those manufacturing, wholesaling and office activities which can be operated in a clean and quiet manner, as well as certain commercial and recreational activities which are needed to serve the occupants of the district and the residents of adjoining residential districts.

*(A) Permitted Uses.* The following uses may be established as permitted uses in the Commercial/Industrial District, in accordance with the procedures established in Section VI, Subd. 9 of this ordinance. (“Development Permitted as of Right”).

1. All uses as permitted in the Commercial District

2. Manufacturing. Any light manufacturing use or process including repairs, assembling, fabricating, altering, converting, finishing, processing, treating, testing, packaging, or bottling which can be operated in a clean and quiet manner so as not to disturb the integrity of adjoining residential districts, except any use or process hereinafter excluded or which would not be in keeping with the purpose of the District as stated above;

3. Warehousing, storage and wholesaling. The storage, handling, assembly, and distribution of goods and materials for retail, wholesale, or on-site use, except for the handling, in quantity, of packaged or bulk hazardous combustible materials and/or flammable liquids or gases. The determination of “hazardous” materials shall be made by the Zoning Administrator. Storage and handling of materials in the Commercial-Industrial District shall be conducted in a manner not disturbing to adjoining districts, shall be within a completely enclosed building or effectively screened by appropriate landscaping or a wall or fence of sufficient density to form an effective screen.

*(B) Conditional Uses.* The following uses are permitted only subject to the issuance of a conditional use permit in accordance with the procedures and standards set forth on Page 91, Conditional Use Permits.

1. Sexual Oriented Businesses—provided that the use is not located within 1,000 feet of a place of worship, school, in-home daycare or daycare facility, public park, boundary of any residential district or dwelling, or any other sexually oriented business; and

2. Tatoo parlors

3. Cemeteries, human or pet

4. Manufactured homes—The City authorizes placement of manufactured homes within the Commercial-Industrial District for the purpose of office space or retail sales, but prohibits use as living quarters.

5. Manufactured home parks

6. Other uses may be authorized as a conditional use by the City Council if the location of such use has been recommended by the Planning and Zoning Commission.

(C) *Accessory Uses and Structures.* Uses incidental to the foregoing principal uses, such as off-street parking and loading and unloading areas, on-site signs, indoor storage of merchandise, and wholesaling and manufacturing, when incidental to a permitted use shall be permitted in the Commercial District.

All detached accessory buildings shall be constructed with materials and design that are compatible with the general character of the principal structure on the lot as well as the general character of the surrounding neighborhood.

Setbacks—SEE general requirements of Commercial Districts, (CC.) Page 68.

*\*Setbacks, lot requirements, building requirements and parking requirements—Because of the variety of commercial activities that may occur in this district reasonable lot requirements, setbacks, building requirements and parking requirements may be established by the City Council.*

(D). *Temporary Uses & Structures.* A Temporary Structure being in place for more than 7 days, but less than 6 months shall require a permit. If a temporary structure needs to be in place for a period of more than 6 months, a permit must be reapplied for and circumstances reviewed. Under no circumstances shall a temporary structure be used as permanent living quarters. A fixed time limit may be placed upon any temporary use or structure in which such use or structure must be removed or terminated at the culmination of the event or elimination of the established need All signage must conform to the applicable provisions of this article. All signs, related supplies and debris must be removed at the end of the event and the property returned to its original condition.

(E). *Prohibited Uses.*

1. Institutional. Schools, orphanages, day care facilities, homes for the aged, and similar institutions for human care, unless it is determined by the Zoning Committee that such location does not present a danger to the health and safety of occupants. Restrictions may be imposed upon such uses to insure health and safety levels are maintained.

## 5. GENERAL REQUIREMENTS OF COMMERCIAL AND INDUSTRIAL DISTRICTS

*Purpose.* It is the purpose of this section to set forth the general requirements pursuant to all commercial and industrial districts in the city of New York Mills.

(A). ABANDONMENT (See NYM City Ordinance No. 116)

No use, structure, sign, vehicle, machine or any other piece or article or real estate or personal property may be abandoned or permitted, in any public or private place, because of disuse or neglect, to become unsightly or offensive to the public. The occupant of the premises or the owners of the premises on which such abandonment is found shall be notified to remove or abate the same within fourteen (14) days. If it is not removed or abated, the City Council may order the abandonment rectified and place a lien upon said premises equal to the amount of the cost of doing so. The lien shall be certified to the County for placement on the real estate tax roles if not paid for by the owner or occupant.

(B). ANIMALS (See NYM City Ordinance No. 113)

(C). BUILDING CONSTRUCTION REQUIREMENTS

1. Materials. All buildings constructed in the Commercial (C), Industrial (I) or Commercial/Industrial (C-I) Districts shall be finished on all exterior walls with the following permanent finish materials:

- (a). Brick
- (b). Natural Stone
- (c). Decorative concrete block (e.g. split face, ribbed, textured.)
- (d). Cast in place concrete or precise concrete panels
- (e). Steel, aluminum, fiberglass, vinyl or wood siding or cement fiberboard siding, provided surfaces are finished for exterior use and only woods of proven exterior durability are used, such as cedar, redwood and cypress.

(D). BULK REGULATIONS/LOT REQUIREMENTS

1. General.

(a). All development, except as provided by conditional use, must conform to the minimum bulk regulations as set out in this section.

(b). No building, structure, or land located within the city's zoning jurisdiction shall be used or occupied, and no building or structure shall be erected, moved, reconstructed, extended, enlarged, or altered unless in accordance with the minimum lot area, lot width, and setbacks set forth in this ordinance.

(c). No lot shall hereafter be divided into two or more lots unless all lots resulting from such division conform with all applicable minimum lot size requirements of the zoning district in which such lots are located or as otherwise provided by these regulations.

(d). When two or more contiguous developed and/or vacant lots, each of which lacks adequate area and dimension to comply with minimum lot size requirements of the district in which it is located, are held in common ownership, the lots shall be used as one lot, except when doing so results in a violation of these regulations.

(e). Any lot that is not held in common ownership with a contiguous lot which was of record at the time of the adoption of these regulations, and which does not meet the requirements for minimum lot width and area set forth in this ordinance, may still be utilized for a use permitted under the zoning district in which the lot is located, provided that the applicable setbacks and other provisions of these regulations are met.

## 2. Lot Size.

There are no restrictions on lot size in Commercial or Industrial districts, other than the RB portion of the RB-C District, which must comply with those of other residential districts as follows:

Lots in Residential Districts within the City of New York Mills must contain a minimum area of 9,000 square feet for single family dwellings with dimensions of 75' x 120'. Two family dwellings and apartment buildings must contain a minimum area of 12,000 square feet or dimensions of 100' x 120'. For each multi-family dwelling over two units, an additional 1,200 square feet in area is required.

## 3. Lot Coverage.

(a). *Location of setbacks.* All setbacks allocated to a building(s), shall be located on the same lot as such building(s). No required setback or minimum lot area allocated to a building shall be used to satisfy the setbacks or other open space or minimum lot area requirements for any other building.

(b). *Uses and structures prohibited in required setbacks.* No principal building or structure shall be located within any setback required by these regulations. No outdoor storage of goods and materials or refuse container shall be located within any required road setback, except for the temporary placement of refuse containers for curbside pick-up in residential districts.

(c). *Maintenance of setbacks and other open spaces.* The maintenance of setbacks and other open spaces and minimum lot areas set forth in this ordinance shall be a continuing obligation of the owners of the property.

4. Height limitations.

(a). **Building Requirements:** No limitations have been placed upon principal buildings in a commercial or industrial district in respect to height.

(b). **Accessory buildings:** No limitations have been placed upon accessory buildings in respect to height in a commercial or industrial district except;

Freestanding Accessory Structures. Freestanding structures such as towers, poles, flagpoles, and windmills shall be placed upon a lot in such a location that should the structure fall in any direction, it shall fall upon the property on which it is located only, thereby causing no danger to adjacent properties. This regulation does not apply to signs in commercial or industrial districts.

5. Clear sight triangles at street intersections.

(a). The restrictions set out in this division shall apply to the following triangles of land abutting street intersections:

(b). Within the triangles identified in division (a) above, and except as provided in division (c) below, no structures, sign, plant, shrub, tree, berm, fence, wall, or other object of any kind shall be installed, constructed, set out, or maintained so as to obstruct cross-visibility at a level between 30 and 72 inches above the height of the curb.

(c). The restrictions of this division shall not apply to the following:

(aa). *Existing natural grades which, by reason of natural topography, rise 30 or more inches above the level of the center of the adjacent intersection;*

(bb). *Trees having limbs or foliage trimmed in such a manner that no limbs or foliage extend into the area between 30 and 72 inches above the level of the center of the adjacent intersection and*

(cc). *Fire hydrants, public utility poles, street markers and traffic-control devices.*

(E). CAMPING

Camping on city owned or commercial property shall be allowed in designated areas only. No campsite shall be permitted within the City unless it is approved by the City Council.

Temporary camping is allowed on private property for a limited time. As per New York Mills City Ordinance No. 116.18, Subd. C, "guests who may be temporarily staying at a residence may park a motor or recreational vehicle in the yard, on the driveway or on the street or street right of way for a period of no more than seventy-two (72) hours. If a resident is in violation of this section, the City shall notify the resident by letter informing him/her of

the violation and allowing the resident two weeks (14 days) to come into compliance with this section. If the resident is still not in compliance after the two-week period, the City may tow away and impound as many vehicles as necessary until the property meets the specifications set forth by this section." Camping in tents, screened houses or recreational camping vehicles shall be permitted on a temporary basis, but they may under no circumstances be used as a permanent dwelling unit. See Section III-A.9 of this Ordinance.

(F). **DRAINAGE**

No land shall be developed and no use shall be permitted that results in water run-off causing flooding or erosion on adjacent properties. Such run-off shall be properly channeled into a storm sewer drain, water course, ponding area or other suitable facility.

(G). **DRAINAGE PLANS**

In the case of all multiple-family and non-residential developments, detailed grading and drainage plans shall be submitted to the Zoning Administrator for his/her review and the final plan shall be subject to his written approval.

(H). **EXPLOSIVES**

Any use requiring the storage, utilization or manufacturing of products which could decompose by detonation shall be located not less than four hundred (400) feet from any residential district line provided that this subdivision shall not apply to the storage or usage of liquefied petroleum or natural gas for normal residential or business purposes. Such storage structures shall not be allowed within front setbacks.

(I). **FENCES**

1. **Permit required.** No person shall erect a fence without first having received a zoning permit. (Exception: fences under 24" in height used primarily as borders for flower gardens and landscaping.)

2. **Prohibited fences.** Except as specifically provided below in division (C), the following types of dangerous or hazardous fences shall not be permitted in the city:

- (a). Barbed wire fences\* (See 3-C Below)
- (b). Electrical fences (See 3-C Below)
- (c). Fences with broken glass or other sharp points embedded
- (d). Any other type of fence that could result in injuries to persons climbing over; and

(e). Fences that are leaning in such a manner that an angle of 15 degrees or more is produced when measured from the vertical.

3. Exceptions for hazardous fencing. Hazardous or dangerous fences, such as those listed in division (B), above, shall only be permitted in the city for the following uses:

(a). Public utility structures (at least eight feet above grade level) and

(b). Communication support structures (at least eight feet above grade level).

(c). \*Barbed wire or electric fences shall be allowed to contain animals for parcels which exceed 5 acres in size. Restrictions may be placed on parcels bordering residential lots, in relation to setbacks and placement.

(d). Barbed wire is allowed to extend the height of chain link in Industrial districts as a security measure.

4. General requirements.

(a). All fences shall be constructed of approved materials that are primarily fencing materials, such as wood post, chain link, pre-formed fencing, etc. No fences shall be constructed of any other material (ie. plywood/steel sheeting/pallets). The City Zoning Administrator and Zoning Committee shall make final determination in the event there is a disagreement regarding approval of a proposed material. Temporary fencing materials such as snow fences are discussed in (f.) below.

(b). All fences shall be maintained in good and sound condition and shall not create a harborage for rodents. Every damaged or missing element of any fence or wall shall be prepared or replaced immediately.

(c). No fence shall be constructed in such a manner as to impede or alter the natural surface water drainage of the property upon which the fence is constructed or any adjoining property.

(d). If a fence is to be painted, it shall be painted with a non-lead base paint.

(e). The finished side of all fences, or that side of the fence without exposed support or posts, shall face outward toward neighboring property or streets.

(f). Snow fences and other temporary fencing—Temporary fences or snow fences may be placed on property to aid in the stating of boundaries for an event; for example, to provide for a safe containment area for attendees to congregate, separated from the flow of traffic and parking. Fences must be constructed of approved materials which would not

present a safety hazard to the public. Fences placed as temporary confinement for animals brought into the city as part of an operating zoo, auction or licensed show or exhibition must be constructed of approved materials which would insure the health and safety of the public.

Any temporary fences erected for this purpose must be removed at the culmination of the event. Fences which may be placed temporarily upon private property to protect a designated area, such as newly planted grass or trees must be shorter than 24" and must comply with placement restrictions in regard to street right-of-ways or boundaries. Snow fences may be placed upon private property between the dates of October 15<sup>th</sup> of any given year through May 15<sup>th</sup> of the next year with the following restrictions:

1. No snow fence may be erected within the sight triangle of intersecting highways, streets or alleyways so as to impede the visibility to pedestrian or vehicular traffic, causing a hazard to the health and safety of the public.

2. No snow fence may be erected in any location which would promote the accumulation of snow or debris onto neighboring property.

3. Snow fences must be constructed of approved materials and maintained in good repair so as not to violate the City's ordinance on fencing materials, providing a health or safety issue.

4. Snow fences must be removed from private property by the May 15<sup>th</sup> deadline.

\*\*The Zoning Administrator shall have the final authority on whether or not a temporary fence is in compliance with this ordinance.

(g). No fence, wall or other obstruction to vision above a height of 30 inches from the established street grades shall be permitted within the sight triangle of an intersection so as to impede vision of pedestrian and vehicular traffic.

(h). All fences must be located on the private property of the person, firm or corporation constructing the fence.

5. Height Regulations.

(a). Fences constructed in any nonresidential district may either be open or solid fences and shall not exceed eight feet in height.

(b). Fences erected around a public recreational activity, such as a tennis court or a baseball backstop, may exceed the height requirements set forth in this section.

6. Setback Regulations.

Fences must be located inside the property-owner's property line. No fence, wall, hedge or other screening device shall be permitted to encroach on any public easement or right-of-way.

7. Opacity

**Fences, hedges or walls located in front yards should not be of a solid nature so as to create a safety hazard for passing motor vehicles or pedestrians.**

(J). HOME OCCUPATIONS

*Purpose.* The purpose of these regulations is to control the impact that home occupations may have on neighborhood character and on the use and enjoyment of adjacent properties.

1. General. Home Occupations located within the RBC Zoning District may be carried out using the entire residence. Restrictions for a business are limited to the level of impact it would have on neighboring properties. Signage, displays and hours of operation shall be subject to the discretion of the Zoning Commission and shall be determined by the level of impact such items would have on neighboring property.

Placement of businesses in homes within the Commercial or C-I Districts shall comply with regulations of any business placed within that district.

(For sign regulations, refer to SIGNAGE PROVISIONS Page 105).

(K). LANDSCAPING

In all Zoning Use Districts, developed uses shall provide a landscaped yard along the streets. Except for driveways and access walks, the yard shall extend along the entire frontage of the lot, and along both streets in the case of a corner lot.

(L). LICENSING AND BONDING REQUIREMENTS

Licensing and Bonding Requirements shall apply to all contractors doing business within the city limits as defined in Minnesota Statutes, Section 326.83 to 326.991.

(M). LIGHTING

The following restrictions shall apply to any outdoor lighting located in the RBC, C, I and CI Districts and should serve to protect against excessive glare and light spilling over to neighboring properties:

1. All outdoor lighting for nonresidential uses shall be located, screened, or shielded so that adjacent lots located in residential districts are not directly illuminated;

2. All sources of artificial light shall be so fixed, directed, designed or sized that "glare", whether direct or reflected, as differentiated from general illumination, shall not be visible from beyond the limits of the immediate site from which it originates. No outdoor lighting shall be of such an intensity or brilliance so as to cause glare or to impair the vision of drivers;

3. Conditions relating to the location and hours of operation for outdoor lighting may be imposed on outdoor recreational uses; and

*\*Public street lighting provided by the City shall be exempt to these requirements.*

(N). MAINTENANCE

In all districts, all structures, required landscaping and fences shall be maintained so as not to be unsightly or present harmful health or safety conditions. It is the responsibility of the property owner to maintain fences on both sides, whether facing their own property or that of neighboring property. As per NYM City Ordinance No. 94, "weeds and grass over one foot in height and weeds which have gone to seed or growing in the City of New York Mills are considered to be a nuisance and dangerous to the health and safety of residents of the City and are hereby prohibited."

(O). MANUFACTURED HOMES

Manufactured homes are prohibited in Industrial (I) and Commercial-Industrial (C-I) Districts for use as a permanent dwelling unit.

The City authorizes the placement of manufactured homes in residential and commercial districts within the city if such manufactured homes comply with the following conditions:

1. Single-family dwellings shall be constructed upon a permanent foundation which must extend below the frost line and be finished with state-approved masonry block or masonry block type skirting as designed for this purpose, not be less than thirty (30) feet in length and not less than twenty-two (22) feet in width. Width measurements shall not take account of overhang and other projections beyond the principal walls.

2. The home shall have all wheels, axles, transporting lights, and towing apparatuses removed.

3. A zoning permit and any other required permits shall be obtained for manufactured homes.

4. All such manufactured homes shall be built in compliance with any Minnesota Statutes regulating manufactured homes.

5. Connection to city utilities shall be required.
6. Only one manufactured home may be located on any one lot in a residential district.

(P). MANUFACTURED HOME PARKS

No manufactured home park shall be permitted within the City unless it has been approved and licensed by the State of Minnesota Department of Health and granted a conditional use permit under the terms of this ordinance. In their review, the Zoning Commission shall look particularly for the reasonable provision of the following facilities:

1. A continuing supply of safe and palatable water.
2. Sanitary facilities and a safe method of sewage disposal.
3. Electricity for artificial lighting and to serve equipment used in the manufactured homes.
4. Patio or outdoor sitting space equal to 180 square feet for each manufactured home space.
5. Parking space equal to two spaces per manufactured home plus adequate onsite parking to serve the visiting public.
6. Recreational facilities.
7. Management office and storage space.
8. Garbage and trash disposal facilities.
9. Adequate and safe access and egress to major public roads.

(Q). MOVING BUILDING STRUCTURES INTO THE CITY

Any building structure moved into the city limits to be placed upon a lot must comply with all zoning regulations, including setbacks, height restrictions, consistency with character of neighboring homes, impervious surface and any other applicable restrictions.

Weight restrictions shall apply to all City streets per applicable classifications once adopted. During the spring months, more restrictive seasonal weight restrictions may be imposed as needed according to conditions.

**(R). NONCONFORMING USES, STRUCTURES, AND LOTS**

1. Nonconforming uses and structures may continue only in accordance with the provisions of this subchapter. Except as provided by law, any nonconformity including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter may continue through repair, replacement, restoration, maintenance, or improvement, but not expansion. The nonconforming use must be substantially the same size, intensity or essential nature of the use established at the time of the passage of this zoning ordinance.

2. Normal repair and maintenance may be performed to allow the continuation of a nonconforming use or structure. However, the continuation, maintenance or normal repair shall not extend or expand the nonconforming use or structure and may only include:

(a). Repairs that are necessary to maintain and to correct any damage or deterioration to the structural soundness or interior appearance of a building or structure without expanding or altering the building or structure;

(b). Maintenance of land areas to protect against health hazards and to promote the safety of surrounding land uses;

(c). Repairs which are required to remedy unsafe conditions which cause a threat to public safety; and

(d). Maintenance or repair of a sign in a way that does not change the exterior message.

3. A nonconforming use shall not be expanded, nor shall a nonconforming use be enlarged by additions to the structure in which the nonconforming use is located or the occupation of additional lands, unless its nonconforming status is removed or

(a). It is nonconforming solely because of its failure to comply with the off-street parking requirements of these regulations and the enlargement will not increase the required amount of off-street parking by more than three additional spaces;

(b). The expansion will not increase the nonconforming element of the structure and the expansion is otherwise in conformance with these regulations; or

(c). The expansion is required by law or for safety.

4. A nonconforming structure shall not be moved unless it thereafter conforms to the standards of the zoning district in which it is located and other pertinent regulations.

5. A nonconforming use or occupancy shall not be changed to any other use unless the new use conforms to the standards of the zoning district in which it is located. Once a nonconforming use is changed to a conforming use, the nonconforming use shall not be reestablished. The City may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety. This subdivision does not prohibit a municipality from enforcing an ordinance that applies to adults-only bookstores, adults-only theaters, or similar adults-only businesses, as defined by ordinance.

6. Where a nonconforming use or structure is discontinued or abandoned for more than one year, then the use shall not be reestablished or the structure shall be removed or modified to conform to the requirements of MN Stat. 462.357 1(e).

Where a non-conforming use or structure is discontinued or abandoned for six consecutive months, then the use shall not be reestablished or the structure shall be removed or modified to conform to the requirements of these regulations.

7. A nonconforming use will not be allowed to continue if the use is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged. In this case, the City may impose reasonable conditions upon a zoning permit in order to mitigate any newly created impact on adjacent property or water body.

8. Nonconforming vacant lots may be used for any of the uses permitted by these regulations in the zoning district in which it is located, provided that the use meets all limitations and minimum requirements for setbacks, height, and open space established in these regulations for the zoning district in which the lot is located.

(S). NUISANCES (See NYM City Ordinance No. 106)

No noise, odors, vibration, smoke, air pollution, liquid or solid wastes, heat, glare dust or other such adverse influences shall be permitted in any district that will in any way will have an objectionable affect upon adjacent or nearby property or violate any State Statutes, Codes, or City Ordinance. All wastes in all districts shall be disposed of in a manner that is not dangerous to public health and safety nor that is not dangerous to public health and safety nor will damage public waste transmission or disposal facilities.

Radiation and Electrical Emissions. No activities shall be permitted that emit dangerous radioactivity beyond enclosed areas. There shall be no electrical disturbance adversely affecting the operation at any point of any equipment including but not limited to radio and television reception other than that of the creator of the disturbance.

(T). OUTDOOR FURNACES

The City of New York Mills requires any person to obtain a zoning permit for any external solid fuel-fired heating device or external storage unit that is sold or purchased after the date this ordinance becomes effective.

*Definition*—“*External solid fuel-fired heating device*”- hereafter referred to as “*Outdoor Furnace*” means a device designed for external solid fuel combustion so that usable heat is derived for the interior of a building but is not located within that building itself.

This ordinance does not apply to the following:

–Grilling or cooking food using charcoal, wood, propane or natural gas in cooking or grilling appliances.

–The use of electricity, propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

–Campfires; a small outdoor fire intended for recreation or cooking but not including a fire intended for disposal of waste wood or refuse. Campfires and open burning are regulated by State Fire Code. See also City Ordinance No. 88.

1. All outdoor furnaces installed, or purchased within the city limits are required to meet emission standards currently required by the Environmental Protection Agency (EPA) and Underwriters Laboratories (UL) listing or similar such approved testing authority. Such furnaces must be installed by a licensed and bonded installer and must comply with state codes. No person shall use an outdoor furnace in violation of this paragraph.

2. All outdoor furnaces are subject to compliance with City Ordinance No. 88 referring to the burning of waste paper and refuse and to City Ordinance No. 106.04 (I) referring to Public Nuisances Affecting Health as well as the City’s Zoning Ordinance concerning Nuisances (R. above)

3. Any dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities, or any use of an outdoor furnace to burn solid fuels other than those solid fuels for which the outdoor furnace was designed, is declared a public nuisance. See NYM City Ordinance No. 106.

4. All stacks or chimneys must be so constructed to withstand high winds or other related elements and according to the specifications of the manufacturer of the outdoor furnace. All stacks or chimneys must be of masonry or insulated metal with a minimum six-inch flue. No person shall use an outdoor furnace in violation of this paragraph. If there are any residences or businesses within 500 feet, The outdoor furnace

must have a chimney that extends at least as high above the ground surface as the height of the roofs of all such residences and businesses not served by the outdoor furnace.”

5. Only fuels designed for burning in an outdoor furnace may be burned. For outdoor wood burners, only clean wood; natural wood which has not been painted, varnished or coated with a similar material, has not been pressure treated with preservatives, and does not contain resins or glues as in plywood or other composite wood products may be burned. No garbage may be burned in an outdoor furnace. No person shall use an outdoor furnace in violation of this paragraph.

6. Storage shall comply with City Ordinance No. 106.06 which refers to Public Nuisances affecting Peace and Safety prohibiting accumulations in the open of materials in a manner conducive to the harboring of rats, mice, snakes or other vermin or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from accumulation or so that the accumulations are unsightly and visible from neighboring properties.

(U). PARKING/LOADING

*Purpose.* The purpose of the parking regulations is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public, by establishing minimum requirements for parking of motor vehicles in accordance with the utilization of various parcels of land and structures.

1. Parking. Off-street automobile parking or storage space shall be provided on every lot in which any new structures are established. Such space shall be provided with vehicular access to a street or alley so as to allow motor vehicles safe entry onto the roadway, and the space shall comprise an area of not less than three hundred (300) square feet of maneuvering and storage area. This requirement need not be met on the site containing a commercial or industrial building if it can be demonstrated that adequate parking is provided in a municipal or private off-street parking area serving the general area. When a structure is enlarged, the required off-street parking space shall be provided for the enlarged portion. If a use is changed to a different use requiring more space, the additional amount of parking area shall be provided. In addition, the required minimum spaces as provided in division (2) shall apply.

2. Required Spaces. The following uses shall, at a minimum, provide the number of parking spaces as designated:

Single or two family dwellings      Two parking spaces per unit

Multiple family dwellings      Two parking spaces per unit

Mobile Homes      Two spaces per unit

Business and Professional Offices      One space for each 500 square feet of floor space

Medical & Dental Offices	Three spaces per doctor/dentist or provider plus One space for each employee during any work period
Retail Establishment	One space for each 500 square feet of retail floor space
Overnight Accommodations	One space for each sleeping unit and One for each employee
Restaurants	One space for each three seats
Service Stations-full service	Three spaces for each enclosed service stall and one space for each employee on a single shift
Service Commercial Shops for A trade-such as auto repair, Appliance repair shops, cabinet Shops, etc	One space per every 500 square feet of floor space
Industrial Establishments	One space per every employee during any work period

*Uses Not Mentioned—For any use not specifically mentioned in the schedule of parking requirements, the number of spaces required shall be that required for the use in the schedule which is determined by the City Council to be the most similar.*

**Required Parking Spaces and Aisles.**

(a). Each required parking space shall cover a rectangle at least nine (9) feet wide and nineteen (19) feet long. For parallel parking, the length of the parking space shall be increased to 22 feet.

(b). Each required parking space shall have direct and unrestricted access to an aisle. Aisles shall have a minimum width of fifteen (15) feet, unless the parking is designed at 90 degree angles in which case aisles shall have a minimum width of twenty (20) feet.

**3. Off-Street Loading.**

(a). Off-street loading spaces. No building shall be hereafter erected, substantially altered, or its use changed unless loading spaces have been provided in accordance with the provisions of this chapter. One off-street loading space shall be provided and maintained on the same lot for each commercial or industrial use requiring the regular delivery of goods.

(b). Improvement and maintenance of off-street parking and loading spaces. All parking and loading areas shall provide drainage of surface water to

prevent drainage of such water on the adjacent properties or walkways. The owner of any parking or loading area shall maintain the area in good condition.

(c). Shared parking. In order to reduce the total number of parking spaces which would otherwise be required according to division 2 above, joint use of up to fifty percent (50%) of required parking spaces may be permitted for two or more uses located on the same or adjacent parcels. In order to qualify for a joint use reduction, the owner of the parking lot and the owner(s) of adjacent uses must demonstrate that the shared parking will not create a parking shortage during peak hours.

(d). Spaces for the handicapped. Except for single-family dwellings, the number of spaces required under the provisions of division 2 above shall include the parking spaces for handicapped persons in compliance with standards established by the state.

(V). PERFORMANCE STANDARDS

In order to ensure compliance with the performance standards set forth in this ordinance, the City Council may require the owner or operator of any permitted use to have made such investigations or tests as may be deemed necessary to show adherence to the performance standards. Such investigations or tests as are required shall be carried out by an independent testing organization selected by the City. Such investigations or testing shall be ordered by the owner or operator. The cost of same shall be shared equally by the owner or operator and the City unless the investigation or tests disclose noncompliance with the performance standards, in which situation the entire cost shall be paid by the owner or operator. Performance Standards are referenced in the following: Explosives (H), Maintenance (N), Waste Materials (HH), Drainage (F), Traffic Control (GG), Parking/ Loading (U), Nuisances (S), and Sewer and Water (DD).

(W). PLANNED UNIT DEVELOPMENTS

For any housing project where the existing or proposed street and lot layout make it impracticable to apply the requirements of this section to individual structures or lots in such a development, an application for a planned unit development permit may be made to the Zoning Commission. Applicants must obtain zoning recommendation and Council approval through the use of a conditional use permit or the process or rezoning. A project may be viewed as a unit of several buildings or uses rather than individual buildings on individual lots to allow for flexibility in the application of zoning standards.

(X). PROHIBITED MATERIALS

No materials shall be stored, used, or produced in any residential area, which could endanger the public's health and safety or in any way have an objectionable affect on

adjacent property owners. Materials which violate any State Statutes, codes, or City Ordinance, which could potentially harm public waste transmission or disposal facilities, or cause danger to the environment, shall be prohibited. These materials include, but are not restricted to Explosives, Nuisances, Toxic Matter or materials which are stored in a manner conducive to the harboring of rats, mice, snakes, or other vermin or the rank growth of vegetation among the items causing them to be unsightly and visible to neighboring properties.

(Y). REGULATIONS ON AMERICANS WITH DISABILITIES ACT

The Americans with Disabilities Act of 1990 (ADA) will apply to all commercial and industrial construction as defined by Federal Civil Rights Legislation.

(Z). REGULATIONS ON RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT

The Religious Land use and Institutionalized Persons Act (RLUIPA) of 2000 shall apply to all residential construction as defined in 42 United States Code, Chapter 21C (P.L. 106-274, approved 9/22/2000).

(AA). RUMMAGE SALES

Rummage sales may be held and signs displayed providing they are performed in accordance with the provisions in this chapter. A person may sell or offer for sale on a temporary basis, any new, used or secondhand goods or merchandise where the general public is invited to purchase, trade, or bargain for such goods or merchandise, commonly known as garage, backyard, rummage or residential sales provided they adhere to the following:

1. No dwelling, residential structure or residentially zoned area shall be used for such sales more often than three sales per year not to exceed 4 days per sale in one calendar year.

2. No sale shall be held between the hours of 10:00 p.m. and 7:00 a.m.

3. Property sold or offered for sale shall consist only of property of the offeror, or relatives or friends of the offeror. No property shall be placed or displayed on a street, boulevard or public sidewalk.

4. All related signs shall conform to the applicable provisions of this article, and be removed at the termination of the sale. Rummage sales held on public property such as park shelters must follow regulations set by the City Zoning Administrator, and all debris must be cleaned up at termination of the event.

5. Signs must be freestanding and may not be affixed to any street signs, utility poles, hydrants, public structures or placed on any street or public sidewalk so as to impede the flow of traffic.

(BB). SCREENING—WALLS HEDGES & SHRUBBERY

Where any business or industrial use (structure, parking or storage) is adjacent to property zoned for residential use, that business or industry shall provide screening along the boundary of the residential property. The business or industry shall provide and continuously maintain along that property line an opaque privacy fence, dense coniferous tree row, or other similar landscape device suitable to visually screen the differing types of adjacent uses from one another. Failure to maintain landscaped buffers or screening shall be considered a violation of this chapter. Screening shall also be provided where a business or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front as determined by the Zoning Administrator.

(CC). SETBACKS/LOT REQUIREMENTS

(a). Because of the variety of commercial activities that may occur in these districts, reasonable lot requirements, setbacks, building requirements and parking requirements may be established by the City Council. Buildings or structures in any district must be in keeping with the integrity of neighboring buildings or businesses. Front setbacks within the RBC District must be compatible with neighboring houses to maintain a visual continuity along that street; therefore, residences within the RBC District shall follow the same setback requirements of those located within the RA and RB Districts.

(b). Freestanding Accessory Structures. Towers, Poles, Flagpoles, Windmills and other structures shall be placed upon a lot in such a location that should the structure fall in any direction, it shall fall upon the property on which it is located only, thereby causing no danger to adjacent properties. This regulation does not apply to signs in commercial or industrial districts.

*The Telecommunications Act of 1996 shall apply to all commercial and industrial district construction with regard to antennas, towers and related facilities.*

All lots shall front on and have ingress and egress by means of a public right-of-way.

(DD). SEWER & WATER

The design and construction of water supply facilities and treatment of all industrial sewage and waste shall comply with City and State health standards and requirements.

All homes, businesses, and structures that are to be provided with water and sanitary sewer service and are able to be connected to the City's water and sanitary sewer

systems must be hooked up to these public systems. Unless City services are unavailable, no private wells or sewers are allowed. Sand points are allowed for the purpose of lawn watering only. Under no circumstances may a sand point be connected to the City's water and sanitary sewer systems nor may it be used as a primary source of water service to a home.

**(EE). STORAGE**

In the (RB-C), (C), (I) and (CI) Zoning Use Districts, all materials and equipment shall be stored within a building or fully screened by a fence around the perimeter of the yard for example, so as not to be visible from adjoining properties, except for the following: laundry drying, satellite dishes, mailboxes, and recreational equipment, or equipment temporarily being used on the premises and materials if these are used or intended for use on the premises within three (3) months. Any items within the public right of way must be removed at any time at the request of the City.

1. **Parking/Storage of Motor Vehicles.** No semi trucks, truck-tractors, or combinations thereof are allowed in residential districts at any time. Please see NYM City Ordinance No. 104.

Open, off-street parking of passenger automobiles, pick-up trucks, and boat/trailer combinations is allowed subject to NYM City Ordinance No. 116.18-3 which states that the number of vehicles parked in the yard, on the driveway, or on the street or street right-of-way at any residence shall not exceed the number of licensed drivers who permanently reside at that residence. Excluded are any vehicles stored inside a garage, shed or other permanent structure.

No long-term parking (more than 30 days without movement) shall be allowed. Unlicensed or inoperable motor vehicles are prohibited. See NYM City Ordinance No. 106 and No. 116 for more information on prohibited and abandoned vehicles.

2. **Refuse Storage.** In all Zoning Use Districts, all waste materials, debris, refuse or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. Receptacles used for storage of refuse shall be placed on the property to be least visible and offensive to the public. The owner of vacant land shall be responsible for keeping such land free of refuse. No tent or other non-permanent structure shall be used to house debris, refuse, or other waste materials.

**(FF). SUBDIVISION/PLATTING PROVISIONS**

1. **Land Suitability.** Each lot created through subdivision, including planned unit developments authorized under this chapter must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soils and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply, or sewage treatment capabilities, important fish and

wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision or of the community.

2. Consistency with other controls. Subdivision must conform to all official controls of the city. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless public water supply and sewage treatment system are made available and can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of this chapter. Subdivisions must conform to the following Plat Design Standards:

(a). Roads. The design of all roads shall be considered in relation to existing and planned roads, to reasonable circulation of traffic, topographical conditions, to run off of storm waters and to the proposed uses of the areas to be served.

1. Where adjoining areas are not subdivided, the arrangement of roads in new subdivisions shall make provisions for the proper projection of roads. When a new subdivision adjoins un-subdivided land susceptible of being subdivided, then the new road shall be carried to the boundaries of such un-subdivided land. Where new roads extend existing adjoining roads, their projections shall be at the same or greater width, but in no case, less than the minimum required width.

2. Minimum road design standards set forth by the city, including road width and grade standards, shall be observed by the sub-divider.

3. Straight segments of at least 100 feet in length shall be introduced between reverse curves on city streets and alleys.

4. Insofar as practical, road intersections shall be at right angles and no intersection shall be at an angle of less than 60 degrees. It must be evidenced that safe and efficient traffic flow is encouraged.

5. Private roads shall not be approved nor shall public improvements be approved for any previously existing private road.

6. Where a proposed plat is adjacent to a highway, the City Council may require the sub-divider to provide a service road along the right-of-way.

7. The road arrangements shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.

8. At road intersections, curb lines shall be rounded at a radius of not less than 15 feet.

(b). Easements. Utility easements at least 15 feet wide shall be provided for utilities where necessary. They shall be centered on rear and other lot lines or within alley rights-of-way. They shall have continuity of alignment from block to block. At deflection points, easements for pole line anchors shall be provided where necessary.

Where a subdivision is traversed by a water course, drainage way, channel or road, there shall be provided a storm water easement or drainage right-of-way substantially with the lines of such water course, together with such further width or construction or both as will be adequate for stream channel, but also adjoining areas that have been subject to flooding in years of heavy runoff.

(c). Lots. Where possible, side lot lines shall be at right angles to straight or radial to curved road lines. Each lot shall front on a public road or highway. Lots with frontage of two parallel roads shall be permitted only under unusual circumstances.

Lot remnants which are below the minimum lot size must be added to adjacent or surrounding lots rather than be allowed to remain as an unusable outlot or parcel unless the owner can show plans consistent with the purpose of this chapter for the future use of such remnants.

Before the City Council approves a final plat, the sub-divider shall give satisfactory assurance of the provision of the following required improvements:

1. Monuments. Steel monuments shall be placed at all block corners, angle points, points of curves in roads and at intermediate points as shown on the final plat. All U.S., state, city or other official benchmarks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position.

2. Roads. All roads shall be improved in accordance with the road design standards as specified by the City.

3. Water supply. Wherever connection with a community or public water system is available, the public water shall be used. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless public water supply and sewage treatment system are made available and can be provided for every lot in accordance with state and city regulations.

4. Sanitary Sewer. Wherever trunk line sanitary sewer facilities are available, the sub-divider shall be required to install sanitary sewers and connect the same to such trunk line sewers. In other cases, individual on-site sewage treatment systems shall be used. Either shall be provided in accordance with state and city regulations.

5. Storm water management. When possible, existing natural drainage ways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain storm water runoff before discharge to public waters.

Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, and erosion potential, and also reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

3. Information Requirements. Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:

(a). Topographic contours at two-foot intervals or less from United States Geological Survey maps or more accurate maps, showing limiting site characteristics;

(b). The surface water features to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources.

(c). Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil boring, percolation tests, or other methods;

(d). Information regarding adequacy of domestic water supply, extent of anticipated vegetation and topographic alterations and proposed methods for controlling storm water runoff and erosion, both during and after construction activities; and

(e). Location of 100-year floodplain areas and/or shoreland areas from existing maps or data.

4. Dedications. When land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage pond areas for management of storm water and significant wetlands.

5. Platting. All subdivisions that create five or more lots or parcels that are 2 ½ acres or less in size shall be processed as a plat in accordance with M.S. Ch. 505, as it may be amended from time to time. No permit for construction of buildings shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

(GG) TRAFFIC CONTROL

The traffic generated by any use shall be channeled and controlled in a manner that will avoid congestion on any public street, and will not create a safety hazard or excessive

traffic through residential areas. Traffic into and out of all business and industrial uses or areas shall in all cases be forward moving with no backing onto streets or pedestrian ways. No access drive to any lot shall be located within twenty (20) feet of any two intersecting right-of-way lines, and not within forty (40) feet of any two intersecting major thoroughfare street right-of-way lines.

*(HH).* WASTE MATERIALS

Waste materials are subject to the City's Ordinance No. 106.04 (G) referring to Public Nuisances Affecting Health and Ordinance No. 75 regulating the Use of Public Sewers for the City of New York Mills, Minnesota. It shall be unlawful to discharge to any natural outlet within the City or any area under the jurisdiction of the City any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of City Ordinance No. 75 and other regulatory agencies. No waste material shall be washed into the public storm sewer or sanitary sewer system either directly or indirectly that could cause a detrimental effect to adjacent land, causing the pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances except as permitted by the City or other regulatory agencies such as the Environmental Protection Agency and Minnesota Pollution Control Agency. Compliance standards may be obtained from either regulatory agency or the Public Works Director.—The owner of any property serviced by a public sewer may, at the discretion of the City, be required to provide laboratory measurements, tests, and analysis of waters or wastes to illustrate compliance with the City's Ordinance and any special condition for discharge established by the City or regulatory agencies having jurisdiction over the discharge. Should waste material be of a solid form rather than fluid in nature, the storage area shall be so located and fenced as to be removed from public- view. In all districts, waste material, debris, refuse, and garbage, shall be kept in an enclosed building or properly contained in a closed container for such purposes. The owner of vacant land shall be responsible for keeping such vacant land free of waste material, tall grass and noxious weeds.

*(II).* WEIGHT RESTRICTIONS ON CITY STREETS

Weight restrictions shall apply to all City streets per applicable classifications once adopted. During the spring months, more restrictive seasonal weight restrictions may be imposed as needed according to conditions.



## **SECTION V. DECISION MAKING AND ADMINISTRATIVE BODIES**

### **1. CITY COUNCIL.**

(A). The City Council shall operate as established in the existing city code.

(B). The City Council shall make final decision in matters related to this chapter, including conditional uses; appeals; zoning text amendments; map amendments; and variances.

1. Findings and conclusions. As soon as practicable after a decision is made, but within the 60-day period, or the extended 60-day period, as provided for in. § 15.99, the Council shall provide written notice of its decision, including the reasons for its decision and any findings upon which the decision is based, to be mailed to the applicant.

2. Jurisdiction and authority. The City Council shall have the following jurisdiction and authority on matters pertaining to this chapter:

(a). To hear and decide appeals from, and review any order, requirement, decision or determination made by an administrative officer in the enforcement of this chapter where it is alleged that there is an error;

(b). To hear and decide zoning text and map amendments to this chapter;

(c). To hear and decide requests for variances from the literal provisions of this chapter in instances where their strict enforcement would cause an undue hardship because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be keeping with the spirit and intent of this chapter. The Council may not permit as a variance any use that is not permitted under this chapter for property in the zone where the affected person's land is located. The Council may impose conditions in the granting of variances to ensure compliance and to protect adjacent properties;

(d). The City Council shall take into consideration any recommendations from the Zoning Commission when making final decisions on matters before the Council.

### **2. ZONING ADMINISTRATOR**

An administrative staff member designated by the city shall be the Enforcement Officer and shall be responsible for the enforcement of this chapter. The duties of the Zoning Administrator shall be as follows:

(A). Examine all applications pertaining to the use of the land, buildings, or structures and grant approval of, and issue permits or take other appropriate action on, such applications when in conformance with the provisions of this chapter.

(B). Maintain permanent and current records of this ordinance, including but not limited to maps, amendments, variances and conditional uses;

(C). Periodically inspect buildings, structures, and uses of land to determine compliance with the terms of this chapter;

1. The Zoning Administrator or his or her agent shall have the right, at all reasonable times, to enter upon private property for the purpose of administration or enforcement of this Ordinance. This includes the right to conduct investigations, sampling, test borings and other actions necessary for the enforcement of this Ordinance.

(D). Receive, file and forward, along with recommendations, all applications for appeals, variances, conditional uses or other matters to the designated official bodies;

(E). Enforce and administer the provisions of this Ordinance and institute in the name of the City, any appropriate actions or proceedings against a violator as provided for; and

(F). Attend all scheduled Zoning Commission meetings and hearings in an ex-officio capacity.

### **3. ZONING COMMISSION**

(A). *Creation and Membership.* The Zoning Commission shall be advisory in nature, and shall serve at the pleasure of the City Council. The Zoning Commission, consisting of seven (7) members with one being a councilperson, shall be appointed by the Mayor with the advice and consent of the City Council. Officers shall be appointed from among the members of the Commission and shall include a chairman, vice-chairman, secretary and directors. Officers shall be elected at the first meeting of the year. The secretary position shall be filled using a member of the City staff to promote proper communication between the City Council, Commission, City staff, the Building Administrator and the public. An officer may succeed himself/herself. Vacancies shall be filled by vote at the next regular meeting after the vacancy occurs. The duties of the officers are as follows:

1. The chairman shall preside at the meetings and perform such other duties as customary for this office.

2. The vice-chairman shall assume the duties of the chairman in the absence of the chairman.

3. The secretary shall keep an accurate record of all the proceedings of the board meetings.

(B). *Duties.* The Zoning Commission shall have the following jurisdiction and duties:

1. To hear, review and offer recommendations to the City Council on applications for conditional uses, appeals and variances under this chapter;

2. To initiate procedures for changes and amendments to this ordinance, and to hold the required public hearing, and review and recommend appropriate action to the City Council in the manner specified in this chapter.

(C). *Meetings.*

1. All meetings of the Zoning Commission shall be held at the call of the Chairperson or at the request of a majority of the members of the Commission. All hearings conducted by the Zoning Commission shall be open to the public. The Zoning Commission shall be scheduled to meet once a month. If there are no items for discussion on the agenda, the Zoning Commission need not meet.

2. The Zoning Commission shall keep minutes of its proceedings showing the vote of each member, or if absent or failing to vote indicating such fact, and shall also keep records of its hearings and other official actions. Each member of the Zoning Commission shall have an equal vote.

3. Findings of fact shall be included in the minutes of each case requiring zoning committee consideration, and the reasons for recommending action on such request shall be specified.

4. Every recommendation, requirement, decision, or determination of the Zoning Commission shall be filed immediately with the City Council and shall be a public record. The Zoning Commission shall adopt its own rules of procedure not inconsistent with the statutes of the state or with this chapter.

(D). *Quorum.*

No hearing shall be conducted by the Zoning Commission without a quorum, consisting of four members. The concurring vote of the majority of the members voting shall be necessary to any action by the Zoning Commission

**4. BOARD OF APPEALS AND ADJUSTMENTS**

The City Council shall be the Board of Appeals and Adjustments for this city, and have the powers granted under M.S. § 462.357, Subd. 6 and 462.359, Subd. 4, as they may be amended from time to time.

## **SECTION VI. DEVELOPMENT REVIEW PROCEDURES; ENFORCEMENT**

### **1. INTENT**

The intent of this subchapter is to ensure that the city is diligent in processing applications for development approval.

### **2. CONSISTENCY WITH STATE LAW**

Notwithstanding anything in this chapter to the contrary, the provisions of M.S. § 15.99 as it may be amended from time to time, and the following sections shall govern the process for making decisions under this chapter. To the extent to which these sections conflict with the provisions of M.S. § 15.99, as it may be amended from time to time, the provisions of that statute shall apply.

### **3. APPLICATIONS**

(A). Notwithstanding anything to the contrary in this chapter, all applications for any conditional use permit, zoning permit, variance, sign permit, or for any other city approval required by this chapter, or to amend this chapter, shall be made in writing on a form provided by the City, to the City Clerk or other person appointed by the City Council to administer this chapter. The Zoning Administrator is authorized to reject in writing any incomplete application within 15 days of receipt if the application is incomplete, stating the reasons for its rejection, including what information is missing. This rejection shall be sent by first-class mail to the applicant. Every application shall contain the legal description of the property and a statement of the specific permit or action being sought. Nothing in this section shall be deemed to prevent the city from requesting additional information from the applicant upon which to base a decision.

(B). A non-refundable fee, established from time to time by the City Council to cover administrative costs, shall be due and payable prior to the issuance of a zoning permit. See Fees Page 80.

**Applicant must be responsible for locating the boundary lines of their lot. The City is not responsible for locating these boundary lines. The applicant shall also be required by Minnesota Statute § 216D.04 to contact Gopher State One Call before any digging is commenced to locate any electrical, telephone and utility lines. The zoning permit is not valid until the excavation notification center Gopher State One Call) has been contacted.**

### **4. RECORD OF DECISIONS**

The Council, acting as the Board of Adjustments and Appeals, shall provide that a record be made of its proceedings concerning its actions on any application for a permit, zoning ordinance amendment, or appeal. This record shall include the minutes of the meeting, the findings of the Council and the action taken.

## 5. ENFORCEMENT

This Ordinance shall be administered and enforced by the Zoning Administrator, the New York Mills Police Department, the Clerk, or any other staff person who is appointed by the City Council. Any person who, in the opinion of the Clerk or other person appointed by the City Council to administer this chapter, is in violation of the provisions of the zoning code shall receive notice of the violation either by mail or by contact from the New York Mills Police Department or Zoning Administrator. The City Council may direct the Clerk or other person appointed by the City Council to administer this chapter to send a notice of violation. The notice shall state the nature of the violation and the penalty for the violation. If the person to whom the notice of violation is directed fails to comply with the applicable provisions of the zoning code, that person is guilty of a misdemeanor and shall be punished as provided by § 462.351 to 462.364. Each day the violation continues is a separate offense. The owner or tenant of any building, structure, premises or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains a violation may *each* be found guilty of a separate offense and suffer the penalties herein provided of the provisions of this Title. The city may also enforce any provision of this Zoning Code by mandamus, injunction, or any other appropriate remedy in any court of competent jurisdiction.

(A). The Zoning Administrator may, when a violation has been determined by the Zoning Commission to exist:

1. Refrain from issuing any subsequent development approvals for the developer until the violation has been corrected; and
2. Inform the violator that no further work under the existing approval may proceed until the violation has been corrected.

(B). Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint under their right to due process. Such complaint, stating fully the causes and bases thereof, shall be filed with the Zoning Administrator. He or she shall record properly any such complaint, investigate and take action as provided by the Ordinance.

## 6. ZONING PERMIT

(A). *Permit Required.* Except as hereinafter provided, no person, firm or corporation shall construct, erect, alter, wreck or move any building or structure or parts thereof within the corporate limits of the City of New York Mills without first securing a zoning permit from the City of New York Mills. A zoning permit must be applied for and applicable fees paid in full before commencement of any of the following:

1. New construction, reconstruction, or remodeling is commenced, which shall affect the use of the structure or lot, or alter the original footprint, or exterior dimension of the building itself. Replacement of siding, shingles or windows is considered maintenance and does not require a permit except where a dormer, bay or bow window

replaces a flat window. Replacement of a door with a window, or vice versa shall require a permit. It shall not be necessary to secure a zoning permit in order to alter, repair, or otherwise change the interior of any residential building provided the proposed alteration, repair or change will not affect the exterior dimension of such building or change the existing use and occupancy thereof. A permit IS required for the construction of a fence, whether cosmetic or practical, except for any fence under the height of 24" which is used primarily for the bordering of a flowerbed or garden.

2. Any construction, development, or alteration which changes the amount of impervious surface on a lot. Examples are the construction of a gazebo, ramp, or gravelling or paving of a driveway. Impervious surface is defined as an all-weather surface or ground cover that resists the absorption of surface water into the soil.

3. The moving of any structure into or within the city, or from one point to another within the confines of a lot.

(B). *Authority/Requirements for City Approvals*

1. Zoning or other permits pertaining to the construction, reconstruction, remodeling or moving of any structure into or within the city, or the use of any land or structure, must be approved by the Zoning Authority of the City of New York Mills; any variance or conditional use permit shall be decided upon by the City's Zoning Commission with final approval of the City Council of the City of New York Mills, depending upon the criteria set forth in this Ordinance and following the procedures set forth in this Ordinance.

2. **No permit shall be issued to any applicant who is delinquent on any municipal utility fees, charges, taxes, special assessments, penalties, interest or other debts or obligations due to the City on any matter.**

3. Any zoning permit issued in conflict with the provisions of this chapter shall be null and void.

4. No residential contractor who is required to be licensed by the state, and no person employing a residential contractor who is required to be licensed, shall be issued a land use permit unless that contractor is licensed. Any person applying for a permit who is required to have a state license, but who does not have a state license, shall be reported to the State Commissioner of Commerce. The City may impose a \$5.00 local surcharge to each zoning permit, if applicable, to cover the cost of verification that a license is current.

5. Conditions may be placed upon a Zoning Permit upon issuance, if the Zoning Authority deems it necessary to integrate changes in order to achieve complete compliance with the applicable regulations of this Ordinance.

(C). *Fees.* As provided by M.S. § 462.353, Subd. 4, and may be amended from time to time, fees may be established as follows:

1. The Council may fix and determine fees sufficient to defray the costs incurred in reviewing, investigating, and administering applications for an amendment to the provisions of this chapter and to all official maps, and applications for a permit, a variance or for some other approval required under this chapter. Such fees shall be adopted by resolution and such resolution shall be listed and referred to in the City Ordinance book.

2. These fees must be fair, reasonable and proportionate to the actual cost of the service for which the fee is imposed. The City shall adopt management and accounting procedures to ensure that fees are maintained and used only for the purpose for which they are collected.

3. If a dispute arises over a specific fee imposed by a city, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal to district court as provided by M.S. § 462.361, as it may be amended from time to time. The application shall proceed as if the fee had been paid, pending a decision by the court.

(D). *Procedures.* The procedure for applying for a zoning permit shall follow the protocol set forth below:

1. Application for a Zoning Permit shall be made to the City Office on blank forms furnished by the City. Each application for a Zoning Permit shall be accompanied by a plan drawn to scale showing the dimensions of the lot to be built upon, the size and location of the structure in relation to the lot's boundaries. The drawing must also include drainage considerations and the availability of water and sewer systems. Applications may contain such other information as may be deemed necessary for the proper enforcement of this or any other Ordinance. As described above in Applications, Section 3-B, Page 78 above, utility providers must be notified to prevent damage to underground lines and pipes, as well as Gopher State One Call, prior to excavation of any kind. The Zoning Administrator is authorized to reject in writing any incomplete application within 15 days of receipt if the application is incomplete, stating the reasons for its rejection, including what information is missing. This rejection shall be sent by first-class mail to the applicant. Every application shall contain the legal description of the property and a statement of the specific permit or action being sought. Nothing in this section shall be deemed to prevent the city from requesting additional information from the applicant upon which to base a decision. The City may, at their discretion, require proof of the project cost in the form of bids, estimates, or receipts.

2. Inspection—The Zoning Administer shall inspect the location and determine that the building plans together with the application comply with all the terms of this Ordinance, in which event, he/she shall record approval in the City Office.

3. Issuance or Denial of Permit—Upon receiving such approval and payment by the applicant of permit fee, the City Office shall issue the Zoning Permit, with or without conditions. As per NYM City Ordinance #7-16-07c, a license, permit, or other City approval or authorization of any kind may be granted only to an applicant who:

a. has complied with all relevant statutory, charter and ordinance requirements;

b. has paid up to date, all fees, charges, taxes, special assessments, penalties, interest, municipal utility fees and other debts or obligations due from the applicant and payable to the City regarding any matter, and

c. is in compliance with all ordinance requirements and attached conditions regarding other city approvals that have been granted to the applicant for any matter.

These requirements may be waived, at the City Council's discretion.

Should the application NOT comply with all the terms of this Ordinance, the applicant will be contacted in writing of the denial, along with specified reasons why the application was denied. The applicant will then have the opportunity to apply for a variance or appeal.

4. Payment of Fees— Payment of initial fees for a Zoning Permit must be paid in full at the time of issuance. Additional fees, as may be amended from time to time by the City will be imposed to cover administrative costs for any deviation from the City's Zoning Ordinance, such as a variance, conditional use permit or interim use permit. These fees must be paid in full upon application. All fees shall be non-refundable, except as described in D. 1 Application and Payment of Fees, Page 85.

5. Final Actions—The City shall take final action to approve or deny an application described above within 60 days of receiving an application, unless the application is not accepted as complete. If the city cannot take action to approve or deny the application within 60 days of receiving the application, the Zoning Administrator is authorized before the end of the initial 60-day period to make a one-time extension of the time for action by providing written notice by first-class mail to the applicant of the extension, the reasons for the extension, and its anticipated length, which may not exceed an additional 60 days unless approved by the applicant in writing. If the application is not complete upon submission, a letter must be sent to the applicant stating the information which is needed. From the time a letter is sent out requesting information until the requested information is received in the City Office, the 60-day rule shall be suspended, and shall resume at such time as the proper and complete information is acquired to proceed.

6. Additional Extensions of Time— M.S. § 15.99. as it may be amended from time to time, provides for certain exceptions to the time limits established in Section 5 above. These exceptions are as follows. If the provisions of M.S. § 15.99, as it may be amended from time to time are consistent with this section, then the provisions of that statute shall apply.

a. The time limit in Section 5 is extended if a state statute, federal law, or court order requires a process to occur before the city acts on the application, and the time periods prescribed in the state statute, federal law, or court order

make it impossible to act on the application within 60 days. In cases described in this paragraph, the deadline is extended to 60 days after completion of the last process required in the applicable statute, law, or order. Final approval of the city receiving an application is not considered a process for purposes of this paragraph.

b. The time limit in Section 5 is also extended if: (1) an application submitted to a state agency requires prior approval of a federal agency; or (2) an application submitted to the city, requires prior approval of a state or federal agency. In cases described in this paragraph, the deadline for action is extended to 60 days after the required prior approval is granted.

7. Period of Validity—A Zoning Permit shall become null and void one year after the date on which it was issued unless within such period construction, reconstruction, remodeling, or moving of a structure is commenced or a use is commenced.

8. Re-Inspection—Upon completion of the Zoning project for which a permit was issued, the applicant must provide written notice to the Zoning Administrator that the project is completed and ready for occupancy or use. The Zoning Administrator shall then make a physical re-inspection of the project, and make a final determination whether or not the project is in full and complete compliance with all the applicable regulations of this Ordinance. Should the Zoning Administrator determine that the project has *not* been completed in accordance with the application which was approved or the regulations of this Ordinance, a written notification shall be mailed to the applicant. Penalties for non-compliance shall apply as per the city's fee schedule.

9. Appeals/Reapplication— Appeals to the City Council acting as the Board of Appeals and Adjustments may be taken by any affected person where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer of the city in the enforcement of the Zoning Code. No mailed or published notice of the hearing on the appeal is required.

10. Conditions— Conditions may be placed upon a Zoning Permit upon issuance, if the Zoning Authority deems it necessary to integrate changes in order to achieve complete compliance with the applicable regulations of this Ordinance

## 7. VARIANCE

*Definition.* A variance is defined as “a modification or variation of the literal provisions of this zoning ordinance as applied to a specific piece of property.”

(A). *General Criteria and Requirements.* The City Council, acting as a Board of Appeals and Adjustments, may issue variances from the provisions of the zoning ordinance. A variance from the literal provisions of this zoning ordinance may be granted by the City Council only where the strict enforcement of these provisions would cause

undue hardship because of circumstances unique to the individual property under consideration. A variance may be granted only when it is demonstrated that the granting of a variance will be in keeping with spirit and intent of this zoning ordinance. A variance may be granted only in cases of undue hardship.

UNDUE HARDSHIP as used in connection with the granting of a variance means;

(a). The property in question cannot be put to a reasonable use if used under conditions allowed by the zoning ordinance; and

(b). The plight of the landowner is due to circumstances unique to the property not created by the landowner, (self-created hardship); and

(c). The variance, if granted, will not alter the essential character of the locality.

(d). Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of this zoning ordinance.

(e). Undue hardship also includes but is not limited to inadequate access to direct sunlight for solar energy systems.

(f). The City Council, acting as the Board of Appeals and Adjustments may not permit as a variance any use that is not permitted under this zoning ordinance for property in the zone where the affected person's land is located. Exception. The temporary use of a one-family dwelling as a two-family dwelling may be permitted by a variance.

(g). Conditions may be imposed in the granting of variances to ensure compliance and to protect adjacent properties.

(f). Variances shall be granted for earth sheltered construction as defined in M.S. § 216C,06, Subd. 2, as it may be amended from time to time, when in harmony with this zoning ordinance.

A certified copy of any variance shall be filed by the Clerk or other person appointed by the City Council to administer this chapter with the County Recorder, and shall include the legal description of the property included.

(B). *Authority.* The Zoning Commission may provide recommendation on a variance to the City Council, which may authorize such variances from the provisions of this ordinance as will not be contrary to the public interest. Variances may be authorized ONLY in those specific instances enumerated in division 2 above, and then only when the City Council has made findings of fact as hereinafter required.

1. No permit shall be issued to any applicant who is delinquent on any municipal utility fees, charges, taxes, special assessments, penalties, interest or other debts or obligations due to the City on any matter.

2. Any variance issued in conflict with the provisions of this chapter shall be null and void.

3. No residential contractor who is required to be licensed by the state, and no person employing a residential contractor who is required to be licensed, shall be issued a land use permit unless that contractor is licensed. Any person applying for a permit who is required to have a state license, but who does not have a state license, shall be reported to the State Commissioner of Commerce. The City may impose a \$5.00 local surcharge to each zoning permit, if applicable, to cover the cost of verification that a license is current.

(C). *Fees.* As provided by M.S. § 462.353, Subd. 4, and may be amended from time to time, fees may be established as follows:

(a). The Council may in a separate ordinance, or in the Ordinance Establishing Fees and Charges, prescribe fees sufficient to defray the costs incurred in reviewing, investigating, and administering applications for an amendment to the provisions of this chapter and to all official maps, and applications for a permit, a variance or for some other approval required under this chapter.

(b). These fees must be fair, reasonable and proportionate to the actual cost of the service for which the fee is imposed. The City shall adopt management and accounting procedures to ensure that fees are maintained and used only for the purpose for which they are collected.

(c). If a dispute arises over a specific fee imposed by a city, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal to district court as provided by M.S. § 462.361, as it may be amended from time to time. The application shall proceed as if the fee had been paid, pending a decision by the court.

(D). *Procedure.*

1. *Application and payment of fees.* An application for a variance shall be submitted to the Zoning Administrator. A non-refundable application fee established from time to time by the City Council to defray the costs incurred by the city in reviewing the application and implementing the procedures necessary to carry out the established variance or conditional use request must accompany the application. No application shall be considered complete and subject to review by the City until such fee is paid. The City Council may, at their discretion, require a fee up-front, with funds to be placed into a deposit account at the City, whereupon all expenses and fees relating to subject application shall be deducted from the balance. At the culmination of the application procedure, when it is certain that no further expenses shall be incurred, the City may refund any **excess** funds back to the applicant. The application fee shall not be a part of the zoning permit fee itself which shall be due and payable upon approval of the variance or conditional use, and prior to issuance of the zoning permit. All fees collected to help defray administrative and legal costs incurred in any application which have a nexus to the

actual costs, shall be non-refundable, whether the permit is approved or not. The City Council has the right to impose additional fees, if necessary to cover the administrative costs incurred by it in reviewing, investigating and administering an application for a variance. These additional fees must be fair, reasonable and proportionate and have a nexus to the actual cost of the service for which the fee is imposed. Any such additional fees must be paid prior to issuance of the permit. The Zoning Administrator is authorized to reject in writing any incomplete application within 15 days of receipt if the application is incomplete, stating the reasons for its rejection, including what information is missing. This rejection shall be sent by first-class mail to the applicant. Every application shall contain the legal description of the property and a statement of the specific permit or action being sought. Nothing in this section shall be deemed to prevent the city from requesting additional information from the applicant upon which to base a decision

The application shall contain the following information, as well as such additional information as may be prescribed by rule of the Zoning Commission:

- (a). The particular requirements of this chapter which prevent the proposed use or construction;
- (b). The characteristics of the subject property which prevent compliance with the requirements of this chapter;
- (c). The minimum reduction of the requirement of this chapter which would be necessary to permit the proposed use or construction; and
- (d). The particular hardship which would result if said particular requirements of this chapter were applied to the subject property.

2. Meeting of Zoning Commission. Upon receipt of the application, the Zoning Commission, at their next meeting shall review the facts presented in the variance application as well as review the requirements of this chapter, and based upon these factors, shall compile a recommendation to be presented to the City Council, acting as the Board of Adjustments and Appeals.

3 Public Notice and Hearing. A public hearing shall be set, advertised and conducted by the City Council, acting as the Board of Adjustments and Appeals. Written notice of said hearing shall be mailed at least 10 days prior to the hearing to all owners of land within three hundred fifty feet (350') of the property in question. A copy of the hearing notice and a list of the property owners and addresses to which the notice was sent shall be attested and made a part of the record of the proceeding. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Title provided a bona fide attempt has been made to comply with the notice requirements of this Section. The City Council acting as the Board of Adjustments and Appeals shall have the authority to request additional information from the applicant or to retain expert testimony with the consent and at the expense of the applicant. Failure by an applicant to supply all necessary supportive information may be grounds for denial of the

request. The applicant or representative thereof may appear before the Board of Adjustment and Appeals to answer questions concerning the proposed variance.

4. *Final Action by City Council.* Following the conclusion of the public hearing, the City Council, acting as the Board of Adjustments and Appeals, shall, based upon the requirements of this chapter, the facts presented in the variance application, recommendation of the Zoning Commission and consideration of facts gathered at the public hearing, make its determination. Such determination shall be accompanied by findings of fact and shall refer to any exhibits containing plans and specifications for the proposed variance, which shall remain a part of the permanent records of the Zoning Commission and City Council. The findings of fact shall specify the reason or reasons for granting or denying the variance. The terms of relief granted shall be specifically set forth in a conclusion or statement. A City Council must either approve or deny an application within 60 days after a complete application is filed, unless the Council determines within that 60 day period that an additional 60 days is necessary and informs the applicant in writing of its decision to and the reasons for extending the first 60 day period by an additional 60 days.

5. *Additional Extensions of Time—* M.S. § 15.99. as it may be amended from time to time, provides for certain exceptions to the time limits established in Section 4 above. These exceptions are as follows. If the provisions of M.S. § 15.99, as it may be amended from time to time are consistent with this section, then the provisions of that statute shall apply.

a. The time limit in Section 4 is extended if a state statute, federal law, or court order requires a process to occur before the city acts on the application, and the time periods prescribed in the state statute, federal law, or court order make it impossible to act on the application within 60 days. In cases described in this paragraph, the deadline is extended to 60 days after completion of the last process required in the applicable statute, law, or order. Final approval of the city receiving an application is not considered a process for purposes of this paragraph.

b. The time limit in Section 4 is also extended if: (1) an application submitted to a state agency requires prior approval of a federal agency; or (2) an application submitted to the city, requires prior approval of a state or federal agency. In cases described in this paragraph, the deadline for action is extended to 60 days after the required prior approval is granted.

The final action to approve or disapprove a variance is to be taken by the City Council, if a vote on a resolution or properly approved motion to approve the application fails for any reason, the failure shall constitute a denial of the application, provided that those voting against the motion state on the record the reasons why they oppose the application.

6. *Notice of Decision.* Except as provided in paragraph d) above, if the application is denied by the City Council, it must state the reasons for denial on the record and provide the applicant in writing a statement of the reasons for the denial. If this

written statement is not adopted at the same time as the denial, it must be adopted at the next meeting following the denial of the application but before the expiration of the time allowed for making a decision under this section. The written statement must be consistent with the reasons stated in the record at the time of the denial. The written statement must be provided to the applicant upon adoption.

If the decision to deny the request is made by the Zoning Administrator or other city official, the official must state in writing the reasons for the denial at the time the official denies the request.

7. Issuance of variance, if granted. Upon final approval by the City Council, the applicant for a variance may obtain from the City Offices, a zoning permit. The City Council has the right to impose additional fees, if necessary to cover the administrative costs incurred by it in reviewing, investigating and administering an application for a variance. These additional fees must be fair, reasonable and proportionate and have a nexus to the actual cost of the service for which the fee is imposed. Any such additional fees must be paid prior to issuance of the permit.

8. Re-Inspection. Upon completion of the Zoning project for which a permit was issued, the applicant must provide written notice to the Zoning Administrator that the project is completed and ready for occupancy or use. The Zoning Administrator shall then make a physical re-inspection of the project, and make a final determination whether or not the project is in full and complete compliance with all the applicable regulations of this Ordinance. Should the Zoning Administrator determine that the project has not been completed in accordance with the application which was approved or the regulations of this Ordinance, a written notification shall be mailed to the applicant.

9. Period of Validity. A Variance shall become null and void one year after the date on which it was issued unless within such period, construction, reconstruction, remodeling, or moving of a structure is commenced or a use is commenced. In approving a variance, the City Council acting as the Board of Adjustments and Appeals may set a date other than the one year timeline, by which work must be commenced and a date by which the work must be substantially completed. If those guidelines are not met, the variance shall become null and void. If the time for completion is one year or over, the procedure in Section D. (Procedures) of this chapter must be followed for an extension.

10. Appeals/Reapplication. Any decision of the City Council shall be final subject to appeal recourse to district court in accordance with state law.

(E). Reapplication.

1. Whenever a variance has been considered and denied, a similar application and proposal for the variance affecting the same property shall not be considered again by the City Council acting as the Board of Adjustment and Appeals for at least one year from the date of its denial, except as follows:

(a). If the Board of Adjustments and Appeals determines that the circumstances surrounding the previous variance application have changed significantly.

(b). If the Board of Adjustments and Appeals decides to reconsider such matter by a vote of not less than a majority of its members

(F.) *Conditions.*

2. A variance shall be permitted only if the applicant has shown that it is in harmony with the general purpose and intent of this chapter and that there are practical difficulties or particular hardships in the way of carrying out the strict letter of the provisions of this Ordinance. In its consideration of the standards of practical difficulties or particular hardship, the Zoning Commission shall require evidence that:

(a). The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located:

(b). The plight of the owner is due to unique circumstance not applicable to adjacent landholding with the same district; and

(c). The variance, if granted, will not alter the essential character of the locality.

3. Variances from the provisions of this chapter shall be granted by the City Council in accordance with the provisions of this ordinance, and may be granted only in the following instances:

(a). To vary the applicable lot area, lot width, and lot depth requirements;

(b). To vary the applicable bulk regulations, including maximum height, lot coverage, and minimum yard requirements;

(c). To vary the applicable off-street parking and off-street loading requirements; and

(d). To vary the regulations relating to restoration of damaged or destroyed nonconforming structures.

4. Specific conditions and safeguards may be imposed upon the premises benefitted by a variance as considered necessary to prevent injurious effects upon other property in the neighborhood or upon public facilities and services. Violation of such conditions and safeguards shall be a violation of this chapter.

5. No variance permitting the erection or alteration of a building shall be valid for a period longer than one year unless a permit for such erection or alteration is

issued and construction is actually begun within that period and is thereafter diligently pursued to completion.

## 8. CONDITIONAL USE PERMIT

(A). *Definition.* “Conditional Use” means a land use or development as defined by ordinance that would 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 Ordinance exist, 2) the use or development conforms to the Comprehensive Land Use Plan of the City and 3) is compatible with the existing neighborhood. *Practical Definition.* A permitted use to which reasonable conditions may be attached based upon factual evidence contained in the public record.

(B). *Authority.* The City Council may, after review and recommendation by the Zoning Commission, grant a conditional use permit authorizing the development of uses listed as conditional permitted uses in each of the Zoning districts in this chapter.

1. **No permit shall be issued to any applicant who is delinquent on any municipal utility fees, charges, taxes, special assessments, penalties, interest or other debts or obligations due to the City on any matter.**

2. Any conditional use permit issued in conflict with the provisions of this chapter shall be null and void.

3. No residential contractor who is required to be licensed by the state, and no person employing a residential contractor who is required to be licensed, shall be issued a land use permit unless that contractor is licensed. Any person applying for a permit who is required to have a state license, but who does not have a state license, shall be reported to the State Commissioner of Commerce. The City may impose a \$5.00 local surcharge to each zoning permit, if applicable, to cover the cost of verification that a license is current.

(C). *General Criteria and Requirements.* Conditional Uses may be approved by a majority vote of the City Council by a showing by the applicant that the standards and criteria stated in this zoning ordinance, and any conditions imposed by the City Council, will be satisfied. A public hearing on the granting of a conditional use permit shall be held in the manner provided in Section F, Procedures, Subd. 2, Page 92, Conditional use restrictions must be reasonable and imposed only after the hearing is held. The City cannot require that conditional use permits be renewed after a specific time. Once a permit is granted, it cannot be modified except with the agreement of the City and the landowner. Conditional use permits cannot be for a specific period. A conditional use permit must be recorded by the City with the County and the conditional use runs with the land and applies even to subsequent purchases of the land so long as the conditions are being met. A conditional use permit can be revoked after a hearing if there is not substantial compliance with the conditions.

The Zoning Commission shall recommend a conditional use permit and the Council shall issue such conditional use permits only if the applicant has shown that the use at the proposed location:

1. Will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the City.

2. Will be harmonious with the general and applicable specific objectives of the City's Comprehensive Plan and this Title.

3. Will be designed, constructed, operated and maintained to be compatible in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area.

4. Will not be hazardous or disturbing to existing or future neighboring uses.

5. Will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems and schools; or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use.

6. Will not create excessive additional requirements at the public's cost for facilities and services and will not be detrimental to the economic welfare of the community.

7. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors.

8. Will have vehicular approaches to the property which do not create traffic congestion or interfere with traffic on surrounding public thoroughfares.

9. Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.

10. Will not depreciate surrounding property values.

(D). *Conditions.*

1. In issuing any conditional use permit, the City Council may impose such conditions or restrictions as deemed necessary to protect the public interest, including but not limited to matters relating to appearance, lighting, hours of operation, and performance characteristics, as well as protection of the value of other property within the district.

2. A conditional use permit shall remain in effect for so long as the conditions agreed upon are observed.

(E). *Fees.* As provided by M.S. § 462.353, Subd. 4, and may be amended from time to time, fees may be established as follows:

1. The Council may in a separate ordinance, or in the Ordinance Establishing Fees and Charges, prescribe fees sufficient to defray the costs incurred in reviewing, investigating, and administering applications for an amendment to the provisions of this chapter and to all official maps, and applications for a permit, a conditional use permit or for some other approval required under this chapter.

2. These fees must be fair, reasonable and proportionate to the actual cost of the service for which the fee is imposed. The City shall adopt management and accounting procedures to ensure that fees are maintained and used only for the purpose for which they are collected.

3. If a dispute arises over a specific fee imposed by a city, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal to district court as provided by M.S. § 462.361, as it may be amended from time to time. The application shall proceed as if the fee had been paid, pending a decision by the court.

(F). *Procedure.* Procedural requirements for granting a Conditional Use Permit are found in Minnesota Statute §462.3595.

1. *Application and Payment of Fees.*

(a). An application for a conditional use permit shall be filed with the Zoning Administrator on a proper form provided for that purpose, and shall be submitted in a timely manner.

(b). The application shall be complete and shall be accompanied by the required fee, detailed plans drawn to scale and showing all details of the land area and proposed use, as well as any other information hereinafter prescribed or as is necessary to make clear the nature of the request and proposed use. The application shall be submitted to the Zoning Administrator. The Zoning Administrator is authorized to reject in writing any incomplete application within 15 days of receipt if the application is incomplete, stating the reasons for its rejection, including what information is missing. This rejection shall be sent by first-class mail to the applicant. Every application shall contain the legal description of the property and a statement of the specific permit or action being sought. Nothing in this section shall be deemed to prevent the city from requesting additional information from the applicant upon which to base a decision.

(c). A non-refundable application fee established from time to time by the City Council to defray the costs incurred by the city in reviewing the application and implementing the procedures necessary to carry out the established conditional use request must accompany the application. No application shall be considered complete and subject to review by the City until such fee is paid. The City Council may, at their discretion, require a fee up-front, with funds to be placed into a deposit account at the City,

whereupon all expenses and fees relating to subject application shall be deducted from the balance. At the culmination of the application procedure, when it is certain that no further expenses shall be incurred, the City may refund any **excess** funds back to the applicant. The application fee shall not be a part of the zoning permit fee itself which shall be due and payable upon approval of the conditional use, and prior to issuance of the zoning permit. All fees collected to help defray administrative and legal costs incurred in any application which have a nexus to the actual costs, shall be non-refundable, whether the permit is approved or not. The City Council has the right to impose additional fees, if necessary to cover the administrative costs incurred by it in reviewing, investigating and administering an application for a conditional use permit. Again, these additional fees must be fair, reasonable and proportionate and have a nexus to the actual cost of the service for which the fee is imposed. Any such additional fees must be paid prior to issuance of the permit. .

(d). The Zoning Administrator shall reject, and refuse to refer to the Zoning Commission, any application not complying with the foregoing. Notification of rejection, along with the reason for such action, shall be given the applicant within ten days of the decision.

(e). Except as specifically excused by the Zoning Commission, the application shall contain the following information:

1. Legal description of the tract of land;
2. Evidence that the applicant has sufficient control over the tract to effectuate the proposed plan, including a statement of all the ownership and beneficial interests in the tract of land and the proposed development;
3. Evidence of the financial capability of the applicant to complete the proposed development;
4. Plans drawn to convenient scale, showing the current zoning classification and existing land use of the tract and those tracts directly adjacent to it, and any significant topographical or physical features of the tract;
5. The location, size, use, and arrangement of proposed buildings and existing buildings which will remain, if any;
6. The proposed quantity and arrangement of off-street parking and loading spaces;
7. The location of proposed entrance, exit, and circulation drives;
8. Preliminary sketches of proposed structures and landscaping, including the general drainage plan for the developed tract;

2. Public Notice and Hearing. A public hearing shall be set, advertised and conducted by the Zoning Commission. Written notice of said hearing shall be mailed at least 10 days prior to the hearing to all owners of land within three hundred fifty feet (350') of the property in question. A copy of the hearing notice and a list of the property owners and addresses to which the notice was sent shall be attested and made a part of the record of the proceeding. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Title provided a bona fide attempt has been made to comply with the notice requirements of this Section. The Zoning Commission and/or the City Council, acting as the Board of Adjustments and Appeals, shall have the authority to request additional information from the applicant or to retain expert testimony with the consent and at the expense of the applicant. Failure by an applicant to supply all necessary supportive information may be grounds for denial of the request. The applicant or representative thereof may appear before the Zoning Commission and/or the Board of Adjustment and Appeals to answer questions concerning the proposed variance.

3. Meeting of Zoning Commission. At the conclusion of the public hearing, the Zoning Commission shall make their determination and recommendation, based upon the requirements of this chapter, the facts presented in the conditional use permit application and consideration of facts gathered at the public hearing.

4. Final Action by City Council. Following the conclusion of the public hearing, the Zoning Commission shall transmit to the City Council its recommendation in the form of a written report. Such recommendations shall be accompanied by findings of fact and shall refer to any exhibits containing plans and specifications for the proposed conditional use permit, which shall remain a part of the permanent records of the Zoning Commission. The findings of fact shall specify the reason or reasons for granting or denying the conditional use permit. The terms of relief granted shall be specifically set forth in a conclusion or statement. This recommendation shall be considered at the next regular City Council meeting and final action shall be taken. A City Council must either approve or deny an application within 60 days after a complete application is filed, unless the Council determines within that 60 day period that an additional 60 days is necessary and informs the applicant in writing of its decision to and the reasons for extending the first 60 day period by an additional 60 days.

When the final action to approve or disapprove a conditional use permit is to be taken by the City Council, if a vote on a resolution or properly approved motion to approve the application fails for any reason, the failure shall constitute a denial of the application, provided that those voting against the motion state on the record the reasons why they oppose the application.

5. Additional Extensions of Time— M.S. § 15.99. as it may be amended from time to time, provides for certain exceptions to the time limits established in Section 4 above. These exceptions are as follows. If the provisions of M.S. § 15.99, as it may be amended from time to time are consistent with this section, then the provisions of that statute shall apply.

a. The time limit in Section 4 is extended if a state statute, federal law, or court order requires a process to occur before the city acts on the application, and the time periods prescribed in the state statute, federal law, or court order make it impossible to act on the application within 60 days. In cases described in this paragraph, the deadline is extended to 60 days after completion of the last process required in the applicable statute, law, or order. Final approval of the city receiving an application is not considered a process for purposes of this paragraph.

b. The time limit in Section 4 is also extended if: (1) an application submitted to a state agency requires prior approval of a federal agency; or (2) an application submitted to the city, requires prior approval of a state or federal agency. In cases described in this paragraph, the deadline for action is extended to 60 days after the required prior approval is granted.

6. Notice of Decision. Except as provided in paragraph d) above, if the application is denied by the City Council, it must state the reasons for denial on the record and provide the applicant in writing a statement of the reasons for the denial. If this written statement is not adopted at the same time as the denial, it must be adopted at the next meeting following the denial of the application but before the expiration of the time allowed for making a decision under this section. The written statement must be consistent with the reasons stated in the record at the time of the denial. The written statement must be provided to the applicant upon adoption.

7. Issuance of conditional use permit, if granted. Upon final approval by the City Council, the applicant for a conditional use permit may obtain from the City Offices, a zoning permit. The City Council has the right to impose additional fees, if necessary to cover the administrative costs incurred by it in reviewing, investigating and administering an application for a conditional use permit. These additional fees must be fair, reasonable and proportionate and have a nexus to the actual cost of the service for which the fee is imposed. Any such additional fees must be paid prior to issuance of the permit.

8. Re-Inspection. Upon completion of the Zoning project for which a permit was issued, the applicant must provide written notice to the Zoning Administrator that the project is completed and ready for occupancy or use. The Zoning Administrator shall then make a physical re-inspection of the project, and make a final determination whether or not the project is in full and complete compliance with all the applicable regulations of this Ordinance. Should the Zoning Administrator determine that the project has *not* been completed in accordance with the application which was approved or the regulations of this Ordinance, a written notification shall be mailed to the applicant. Penalties shall apply as per Page 103 and the fee schedule established by the City which may be amended from time to time.

9. Period of Validity. If substantial construction has not taken place within one year of the date on which the conditional use permit was granted, the permit is null and void except that, on application, the Council, after receiving recommendation from the Zoning Commission, may extend the permit for such additional period as it deems appropriate

A conditional use permit shall remain in effect as long as the conditions agreed upon are observed.

(a). A conditional use permit may not be revoked when a particular applicant sells or a specific time period elapses.

(b). Revocation. Failure to comply with any condition set forth in a conditional use permit, or any other violation of this Title, shall be a misdemeanor and shall also constitute cause for the termination of the conditional use permit by the City Council following a public hearing. Legal notice must be provided.

(c). Minor Alterations. Any minor extensions, alterations or modifications of existing buildings or structures may be authorized by the City Council, acting as the Board of Adjustments and Appeals if they are consistent with the purposes and intent of the final plan. No change may increase the cube of any building or structure by more than ten percent.

**10. Appeals** Any decision of the City Council shall be final subject to appeal recourse to district court in accordance with state law.

**11. Reapplication.**

(a). Whenever a conditional use permit has been considered and denied, a similar application and proposal for the conditional use permit affecting the same property shall not be considered again by the City Council acting as the Board of Adjustment and Appeals for at least one year from the date of its denial, except as follows:

1. If the Board of Adjustments and Appeals determines that the circumstances surrounding the previous conditional use permit application have changed significantly.

2. If the Board of Adjustments and Appeals decides to reconsider such matter by a vote of not less than a majority of its members.

## 9. INTERIM USE PERMIT

(A). *Definition.* An interim use is a temporary use of property until a certain date or until the use is no longer permitted

(B). *Purpose and Intent.* The purpose and intent of allowing interim uses is 1) to allow a use for a limited period of time that reasonably utilizes the property where it is not reasonable to utilize it in the manner provided in the comprehensive guide; and 2) to allow a use that is presently acceptable but that, with anticipated development, will not be acceptable in the future.

(C). *General Criteria and Requirements.* The Zoning Commission shall recommend an interim use permit and the Council shall issue such interim use permits only if it finds that such use at the proposed location:

1. Meets the standards of a conditional use permit set forth on Page 90 of this ordinance.
2. Conforms to the zoning regulations, performance standards and other requirements.
3. Is allowed as an interim use in the zoning district.
4. Will terminate upon a date or event that can be identified with certainty.
5. Will not impose, by agreement, additional costs on the public if it is necessary for the public to take the property in the future.
6. Will be subjected to, by agreement with the owner, any conditions that the City Council has deemed appropriate for permission of the use, including a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit.

(D). *Procedure.* The application, fees, public hearing, public notice and procedure requirements for interim use permits shall be the same as those for conditional use permits as provided in this ordinance.

(E). *Period of Validity/Termination.* An interim use permit shall terminate upon the occurrence of any of the following events; whichever occurs first:

1. The date stated in the permit; or
2. A violation of conditions under which the permit was issued; or
3. A change in the City's zoning regulations which renders the use nonconforming.

(F). *Appeals/Reapplication.*

1. *Appeals.* Any decision of the City Council shall be final subject to appeal recourse to district court in accordance with state law. district court in accordance with state law.

2. *Reapplication.* Whenever a conditional use permit has been considered and denied, a similar application and proposal for the conditional use permit affecting the same property shall not be considered again by the City Council acting as the Board of Adjustment and Appeals for at least one year from the date of its denial, except as follows:

1. If the Board of Adjustments and Appeals determines that the circumstances surrounding the previous conditional use permit application have changed significantly.

2. If the Board of Adjustments and Appeals decides to reconsider such matter by a vote of not less than a majority of its members.

## 10. TEXT AND MAP AMENDMENTS

(A). *Authority.* This chapter and the zoning map may be amended from time to time by the City Council; provided, however, that no such amendment shall be enacted except in accordance with the procedures of this section.

(B). *Initiation.* Proposed changes or amendments may be initiated by the City Council, the Zoning Commission, or by any affected property owner.

(C) *Procedure.*

1. When any proposed change or amendment is initiated by the City Council or by the Zoning Commission, such body shall transmit its proposal to the Zoning Commission for a public hearing.

2. When any proposed change or amendment is initiated by an affected property owner in the city, an application for such amendment shall be filed with the Zoning Administrator. A non-refundable application fee, established from time to time by the City Council to cover administrative costs, shall accompany the application. Such application shall be filed at least three weeks prior to the requested date of the public hearing on the proposed amendment. The application shall be in such form and contain such information as shall be prescribed from time to time by the Zoning Commission, but shall in all instances contain the following information:

(a). The applicant's name and address;

(b). The precise wording of any proposed amendment to the text of this chapter; and

(c). In the event that the proposed amendment would change the zoning classification of any property:

1. A legal description and street address of the property proposed to be re-classified;

2. The name and address of the owner or owners of the said property;

3. The present zoning classification and existing uses of the property proposed to be reclassified;

4. The area of the property proposed to be reclassified, stated in square feet or acres, or fraction thereof; and

5. A map drawn to scale, clearly showing the property proposed to be reclassified and its present zoning classification and existing uses.

3. A public hearing shall be set, advertised, and conducted by the Zoning Commission.

4. Following the conclusion of the public hearing, the Zoning Commission shall transmit to the City Council its recommendation in the form of a written report. Such report shall be accompanied by findings of fact specifying the reasons for the recommendation.

5. Upon receipt of the report of the Zoning commission the City Council shall refuse, or, adopt the proposed amendment.

6. In any case where the Zoning Commission has recommended against the adoption of the proposed amendment or where a written protest against the proposed amendment signed by the owners of 20% of the frontage proposed to be altered, or by the owners of 20% of the frontage immediately adjacent or across the alley therefrom, or by the owners of 20% of the frontage directly opposite the frontage proposed to be altered, is filed with the City Clerk before the adoption of any such amendment, the proposed amendment shall not be passed except by a favorable vote of two-thirds of the City Council.

7. In any situation where a written report specifying recommendation and pertinent findings of fact regarding the proposed amendment has not been transmitted to the City Council within 60 days from the date of public hearing, the City Council may act on such proposal without report from the Zoning Commission.

8. Any decision of the City Council shall be final subject to appeal recourse to district court in accordance with state law.

9. No reapplication of any case denied by the City Council may be made within one year of the date of such denial.

## **11. NONCONFORMITIES**

### *(A). Purpose and Applicability.*

The purpose of this subchapter is to regulate and limit the continued existence of uses and structure established prior to the effective date of these regulations that do not conform to these regulations. Any nonconformity created by a change in the classification of property or the text of these regulations shall be regulated by the provision of this subchapter. Many nonconformities may continue, but the provisions of this subchapter are designed to curtail substantial investment in nonconformities and to bring about their eventual improvement or elimination in order to preserve the integrity and intent of these regulations.

### *(B). General Criteria and Requirements.*

1. Nonconforming uses and structures may continue only in accordance with the provisions of this subchapter. Except as provided by law, any nonconformity including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter may continue through repair, replacement, restoration, maintenance, or improvement, but not expansion. The nonconforming use must be substantially the same size, intensity or essential nature of the use established at the time of the passage of this zoning ordinance.

2. Normal repair and maintenance may be performed to allow the continuation of a nonconforming use or structure. However, the continuation, maintenance or normal repair shall not extend or expand the nonconforming use or structure and may only include:

a). Repairs that are necessary to maintain and to correct any damage or deterioration to the structural soundness or interior appearance of a building or structure without expanding or altering the building or structure;

b) Maintenance of land areas to protect against health hazards and to promote the safety of surrounding land uses;

c). Repairs which are required to remedy unsafe conditions which cause a threat to public safety; and

d). Maintenance or repair of a sign in a way that does not change the exterior message.

3. A nonconforming use shall not be expanded, nor shall a nonconforming use be enlarged by additions to the structure in which the nonconforming use is located or the occupation of additional lands, unless its nonconforming status is removed or,

(a) It is nonconforming solely because of its failure to comply with off-street parking requirements of these regulations and the enlargement will not increase the required amount of off-street parking by more than three additional spaces;

(b) The expansion will not increase the nonconforming element of the structure and the expansion is otherwise in conformance with these regulations; or

(c) the expansion is required by law or for safety.

4. A nonconforming structure shall not be moved unless it thereafter conforms to the standards of the zoning district in which it is located and other pertinent regulations

5. A nonconforming use shall not be changed to any other use unless the new use conforms to the standards of the zoning district in which it is located. Once a nonconforming use is changed to a conforming use, the nonconforming use shall not be reestablished. Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. The City may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety. This subdivision does not prohibit a municipality from enforcing an ordinance that applies to adults-only bookstores, adults-only theaters, or similar adults-only businesses, as defined by ordinance.

6. Where a nonconforming use or structure is discontinued or abandoned for a period of more than one year, then the use shall not be reestablished or the structure shall be removed or modified to conform to the requirements of these regulations.

7. A nonconforming use will not be allowed to continue if the use is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged. In this case, the City may impose reasonable conditions upon a zoning permit in order to mitigate any newly created impact on adjacent property or water body.

8. Nonconforming vacant lots may be used for any of the uses permitted by these regulations in the zoning district in which it is located; provided that the use meets

all limitations and minimum requirements for setbacks, height, and open space established in these regulations for the zoning district in which the lot is located.

*(C). Termination of Status as Nonconforming.*

1. A nonconforming use or structure may be deemed to be in conformity with these regulations, and may be allowed to continue and to expand as a lawfully existing use or structure, through the issuance of a conditional use permit.

2. No nonconforming structure shall be expanded so as to increase the nonconforming element, such as by further encroachment into a required setback. Any expansion to the nonconforming use or structure shall meet all the requirements established by these regulations for that use or structure in the zoning district in which it is located. Penalty, see page 103.

## **12. DEVELOPMENT PERMITTED AS OF RIGHT**

*(A). Purpose.* Development permitted as of right is that development which permits uses which are compatible with other land uses in a zoning district provided they are developed in conformity with these regulations.

*(B). Application.* An applicant for approval of development permitted as of right shall submit an application for a zoning permit to the Zoning Administrator.

*(C). Action on the Application.* If the Zoning Administrator determines that the proposed development is in compliance with all requirements of these regulations and all other applicable regulations, then a permit shall be issued with or without conditions.

## **13. ENFORCEMENT PROCEDURES**

*(A). Administration.* This Ordinance shall be administered and enforced by the City. The City may institute in the name of the City of New York Mills any appropriate actions or proceedings against a violator as provided by statute, charter, ordinance or code.

The Zoning Administrator or his or her agent shall have the right, at all reasonable times, to enter upon private property for the purpose of administration or enforcement of this Ordinance. This includes the right to conduct investigations, sampling, test borings and other actions necessary for the enforcement of this Ordinance.

If the provisions of this Ordinance are being violated, the City shall notify, in writing, the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The City shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

*(B). Penalties, Violations and Enforcement.*

1. **PENALTY.** Any person violating any provision of this Ordinance shall, upon conviction, be penalized in accordance with the provisions of Section 14 Penalty, Page 103 of this Ordinance. Each day such violation continues or occurs constitutes a separate offense and may be prosecuted as such.

2. **VIOLATIONS.** Violations of the provisions of this Ordinance shall- include by way of example and not limitation;

(a). The owner or tenant of any building, structure, premises or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains a violation may each be found guilty of a separate offense and suffer the penalties herein provided of the provisions of this Ordinance.

(b). Failure to comply with a condition in a conditional use permit or a criteria of an interim use permit shall be a violation of the Ordinance. Each day such violation continues or occurs constitutes a separate offense and may be prosecuted as such.

3. **ENFORCEMENT.**

1. Whenever a violation of the chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and bases thereof, shall be filed with the Zoning Administrator. He or she shall record properly any such complaint, investigate and take action as provided by this chapter.

2. Nothing herein contained shall prevent the City from taking any other appropriate actions or proceedings against a violator as provided by law or City ordinance to prevent or remedy the violation or penalize the violator.

**14. PENALTY.**

Any person, firm, or corporation which violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, thereof, shall be punished by a fine not to exceed \$500 and/or imprisonment not to exceed 90 days. Each day that a violation is continued or permitted to exist shall constitute a separate offense.



**SIGNAGE PROVISIONS**  
**A PART OF ZONING ORDINANCE NO. 125**  
**CITY OF NEW YORK MILLS, MINNESOTA**

**SECTION VII – PURPOSE AND DEFINITIONS**

**(1). FINDINGS, PURPOSE AND EFFECT**

**A. Findings. The City Council hereby finds as follows:**

**1. Exterior signs have a substantial impact on the character and quality of the environment.**

**2. Signs provide an important medium through which individuals may convey a variety of messages.**

**3. Signs can create traffic hazards, aesthetic concerns and detriment to property values, thereby threatening the public health, safety and welfare.**

**4. The city's zoning regulations have, since as early as 1969, included regulation of signs in an effort to provide adequate means of expression and to promote the economic viability of the business community, while protecting the city and its citizens from a proliferation of signs of a type, size, location and character that would adversely impact upon the aesthetics of the community and threaten the health, safety and welfare of the community. The regulation of the physical characteristics of signs within the city has had a positive impact on traffic safety and the appearance of the community.**

**B. Purpose and Intent. It is not the purpose or intent of this sign ordinance to regulate the message displayed on any sign; nor is it the purpose or intent of this article to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building. The purpose and intent of this article is to:**

**1. Regulate the number, location, size, type, illumination and other physical characteristics of signs within the city in order to promote the public health, safety and welfare.**

**2. Maintain, enhance and improve the aesthetic environment of the city by preventing visual clutter that is harmful to the appearance of the community.**

**3. Improve the visual appearance of the city while providing for effective means of communication, consistent with constitutional guarantees and the city's goals of public safety and aesthetics.**

4. Provide for fair and consistent enforcement of the sign regulations set forth herein under the zoning authority of the city.

(2) SEVERABILITY

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

(3) DEFINITIONS

The following words and terms, when used in this Sign Ordinance, shall have the following meanings, unless the context clearly indicates otherwise:

ABANDONED SIGN—Any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of one (1) year, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of one (1) year. Any sign remaining after demolition of a principal structure shall be deemed to be abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a conditional use permit or a variance shall also be subject to the definition of abandoned sign.

AWNING—A roof-like cover, often of fabric, plastic, metal or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure primarily over a window, walk, or the like. Any part of an awning which also projects over a door shall be counted as an awning.

AWNING SIGN—A building sign or graphic printed on or in some fashion attached directly to the awning material.

BALLOON SIGN—A sign consisting of a bag made of lightweight material supported by helium, hot, or pressurized air which is greater than twenty-four (24) inches in diameter.

BILLBOARD—An **off-premise** free standing identification sign. A sign which does not relate in its subject matter to the premises on which it is located or to activities products, services, or accommodations on the premises, not including traffic, street, or directional signs.

BUILDING—Any structure used or intended for supporting or sheltering any use or occupancy.

**BUILDING SIGN**—Any sign attached or supported by any structure used or intended for supporting or sheltering any use or occupancy.

**CANOPY**—A roof-like cover, often of fabric, plastic, metal, or glass on a support, which provides shelter over a doorway.

**CANOPY SIGN**—Any sign that is part of or attached to a canopy, made of fabric, plastic, or structural protective cover over a door or entrance. A canopy sign is not a marquee and is different from service area canopy signs.

**CHANGEABLE COPY SIGN**—A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. Changeable copy signs do not include signs upon which characters, letters or illustration must be changed manually or signs which change or rearrange automatically only once in a 24-hour period.

**COMMERCIAL SPEECH**—Speech advertising a business, profession, commodity, service or entertainment.

**ELEVATION**—The view of the side, front, or rear of a given structure(s).

**ELEVATION AREA**—The area of all walls that face any lot line.

**ERECT**—Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, painting, drawing or any other way of bringing into being or establishing.

**FLAG**—Any fabric or similar lightweight material attached at one end of the material, usually to a staff or pole, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices.

**FLASHING SIGN**—A directly or indirectly illuminated sign which exhibits changing light or color effect by any means, so as to provide intermittent illumination which includes the illusion of intermittent flashing light by means of animation. Also any mode of lighting which resembles zooming, twinkling, or sparkling of a nature bright enough to cause a confusing or distracting ray of light on to or visible from a public roadway.

**FREESTANDING SIGN**—Any sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.

**FRONTAGE**—The line of contact of a property with the public right-of-way.

**GLARE**—to shine with a harsh uncomfortably brilliant light, excessive brightness.

**GRADE**—Grade shall be construed to be the final ground elevation after construction. Earth mounding criteria for landscaping and screening is not part of the final grade for sign height computation.

**GROUND SIGN**—Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a total height not exceeding eight (8) feet.

**HEIGHT OF SIGN**—The height of the sign shall be computed as the vertical distance measured from the base of the sign at grade to the top of the highest attached component of the sign.

**ILLUMINATED SIGN**—Any sign which contains an element designed to emanate artificial light internally or externally.

**ISSUING AUTHORITY**—The City of New York Mills

**LEGALLY ESTABLISHED NONCONFORMING SIGN**—Any sign and its support structure lawfully erected prior to the effective date of this ordinance which fails to conform to the requirements of this ordinance. A sign which was erected in accordance with a variance granted prior to the adoption of this ordinance and which does not comply with this ordinance shall be deemed to be a legal nonconforming sign. A sign which was unlawfully erected shall be deemed to be an illegal sign.

**MONUMENT SIGN**—Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a height exceeding eight (8) feet.

**MULTIPLE TENANT SITE**—Any site which has more than one (1) tenant, and each tenant has a separate ground level exterior public entrance.

**NON-COMMERCIAL SPEECH**—Dissemination of messages not classified as Commercial Speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

**OFF-PREMISE SIGN**—A commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same premises where such business sign is located. For purposes of this sign ordinance, easements and other appurtenances shall be considered to be outside such platted parcel of land and sign located or proposed to be located in an easement or other appurtenance shall be considered an off-premise sign.

**ON-PREMISE MESSAGES**—Identify or advertise an establishment, person, activity, goods, products or services located on the premises where the sign is installed.

**PARAPET (WALL)**—That portion of building wall that rises above the roof level.

**POLE SIGN**—see Pylon Sign.

**PORTABLE SIGN**—Any sign which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support is converted to another sign or attached temporarily or permanently to the ground since this characteristic is based on the design of such a sign.

**PRINCIPAL BUILDING**—The building in which the principal primary use of the lot is conducted. Lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages, and other clearly accessory uses shall not be considered principal buildings.

**PROJECTING SIGN**—Any sign which is affixed to a building or wall in such a manner that its leading edge extends more than two (2) feet beyond the surface or such building or wall face.

**PROPERTY OWNER**—Legal owner of property as officially recorded by Otter Tail County.

**PUBLIC NOTICES**—Official notices posted by public officers, employees or their agents in the performance of their duties, or as directed by such officers, employees or agents.

**PUBLIC STREET RIGHT-OF-WAY**—The planned right-of-way for a public street.

**PYLON SIGN**—Any freestanding sign which has its supportive structure(s) anchored in the ground and which has a sign face elevated above ground level by pole(s) or beam(s) and with the area below the sign face open.

**RESIDENTIAL DISTRICT**—any district zoned for residential uses.

**ROOF LINE**—The upper-most edge of the roof or in the case of an extended facade or parapet, the upper-most height of said façade.

**ROOF SIGN**—Any sign erected and constructed wholly on and above the roof of a building, supported by the roof structure, and extending vertically to the highest portion of the roof.

**ROOF SIGN, INTEGRAL**—Any building sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, so that no part of the sign extends vertically above the highest portion of the roof and so that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.

**ROTATING SIGN**—A sign or portion of a sign which turns about on an axis.

**SETBACK, FRONT**—The minimum horizontal distance permitted between the public right-of-way and a structure on the premises. In instances in which a property fronts on more than one (1) street, front setbacks are required on all street frontages.

**SHIMMERING SIGNS**—A sign which reflects an oscillating sometimes distorted visual image.

**SIGN**—Any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.

**SIGN FACE**—The surface of the sign upon, against, or through which the message of the sign is exhibited.

**SIGN STRUCTURE**—Any structure including the supports, uprights, bracing and framework which supports or is capable of supporting any sign.

**SITE**—A plot or parcel of land, or combination of contiguous lots or parcels of land, which are intended, designated, and/or approved to function as an integrated unit.

**STRINGER**—A line of string, rope, cording, or an equivalent to which is attached a number of pennants.

**SUSPENDED SIGN**—Any building sign that is suspended from the underside of a horizontal plane surface and is connected to this surface.

**TEMPORARY SIGN**—Any sign which is erected or displayed for a specific period of time, and not of a permanent nature.

**TOTAL SITE SIGNAGE**—The maximum permitted combined area of all freestanding and wall identification signs allowed on a specific property.

**VISIBLE**—Capable of being seen by a person of normal visual acuity (whether legible or not) without visible aid.

**WALL**—Any structure which defines the exterior boundaries or courts of a building or structure and which has a slope of sixty (60) degrees or greater with the horizontal plane.

**WALL SIGN**—Any building sign attached parallel to, but within two (2) feet of a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one (1) sign surface.

**WINDOW SIGN**—Any building sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale,

or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

## **SECTION VIII – ADMINISTRATION AND ENFORCEMENT**

### **(1). PERMIT REQUIRED**

No sign shall be erected, altered, reconstructed, maintained or moved in the city without first securing a permit from the city. The content of the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit. Application for a permit shall be in writing addressed to the issuing authority and shall contain the following information:

- A. Names and address of the owners of the display structure and property;
- B. The address at which any signs are to be erected;
- C. The lot, block and addition at which the signs are to be erected and the street on which they are to front;
- D. A complete set of plans showing the necessary elevations, distances, size and details to fully and clearly represent the construction and place of the signs;
- E. The cost of the sign;
- F. Type of sign (i.e. wall sign, monument sign, etc.);
- G. A hold harmless agreement accepting responsibility for the maintenance, usage and liability of sign applied for;
- H. Certification by applicant indicating the application complies with all requirements of the sign ordinance; and
- I. If the proposed sign is along a state trunk highway or interstate highway, the application shall be accompanied by proof that the applicant has obtained a permit from the state for the sign.

The issuing authority shall approve or deny the sign permit in an expedited manner no more than 60 days from the receipt of the complete application, including applicable fee. All permits not approved or denied within 60 days shall be deemed approved. If the permit is denied, the issuing authority shall prepare a written notice within 10 days of its decision, describing the applicant's appeal rights and sending it to the applicant.

### **(2). EXEMPTIONS**

The following signs shall not require a permit. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance, and its compliance with the provisions of this ordinance or any other law or ordinance regulating the same.

- A. Signs Four (4) square feet or less in size; and/or

B. Signs used exclusively for the posting or display of official notices by a public agency or official, or by a person giving legal notice and signs erected or maintained by a public agency or official, or required by law to be displayed by a public utility for directional warning or informational purposes, are not subject to the regulations of this chapter.

C. Traffic, street and directional signs provided by an official unit of government for the direction of traffic as an integral part of traffic control or necessary public information are exempt from this regulation.

D. Temporary special event signs, portable signs and banners providing they are in use for no more than 30 days.

E. Holiday Signs shall not be displayed for over sixty (60) days.

F. Temporary signs providing they are removed after the event or completion of a project. Removal should preferably be done immediately after the event, or within a maximum of three (3) days after the closing of the sale, or completion of the event.

G. Window Signs that are painted directly on the glass or temporary window signs such as sale signs or help wanted signs. Permanent signs affixed in the window or window area shall require a permit if they are larger than four (4) square feet in size.

(3). FEES

As provided by M.S. §462.353, Subd. R, and may be amended from time to time, fees may be established as follows:

a). The Council may in a separate ordinance, or in the Ordinance Establishing Fees and Charges, prescribe fees sufficient to defray the costs incurred in reviewing, investigating, and administering applications for an amendment to the provisions of this chapter and to all official maps, and applications for a permit or for some other approval required under this chapter.

b). These fees must be fair, reasonable and proportionate to the actual cost of the service for which the fee is imposed. The City shall adopt management and accounting procedures to ensure that fees are maintained and used only for the purpose for which they are collected.

c). If a dispute arises over a specific fee imposed by a city, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal to district court as provided by M.S. §462.361, as it may be amended from time to time. The application shall proceed as if the fee had been paid, pending a decision by the court.

(4). MAINTENANCE & REPAIRS

All signs must be kept in good condition. Signs must be of professional quality, including design and materials. Any sign located in the city which may now be or hereafter become out of order, unsightly, rotten or unsafe, and every sign which shall hereafter be erected, altered, resurfaced, reconstructed or moved contrary to the provisions of this section, shall be removed or otherwise properly secured in accordance with the terms of this section by the owners thereof or by the owners of the grounds on which said sign shall stand, upon receipt of proper notice or rebuilt except in accordance with the provisions of this section and upon a permit issued by the issuing authority.

(5). PENALTIES

The penalty for installing any sign without following the established approval process shall be a charge of \$50.00. The owner shall have until the next regularly scheduled Zoning Committee meeting to submit all paperwork, including the application fee, to the city office. If the sign is not then approved by the Zoning Committee, the sign must be brought into compliance, or removed immediately. Failure to do so within a period of two (2) weeks, the City will remove the sign and charge an additional fee.

(6). REMOVAL

All signs which are deemed to be abandoned (see definitions, ABANDONED) shall be removed by the owner of the premises after one year of non-use. The city zoning administrator may also, in conjunction with the city council, call for the immediate removal of any sign which is deemed structurally unsafe, or in disrepair. In the event of the failure of the owner or person, company or corporation having control of any sign, or the owner of the ground on which the sign is located, to remove or repair said sign a notice shall be given and the sign may be removed by the city at the expense of the owner or manager of the sign, or the owner of the ground upon which the sign stands.

(7). VIOLATION

*Violation of this sign ordinance is a misdemeanor. Each day that the violation continues is a separate offense.*

## **SECTION IX – GENERAL PROVISIONS**

(1). SIZE

Sign regulations within residential districts. The following sign regulations shall pertain to all residential districts:

A. No sign in any residential district shall exceed sixteen (16) square feet in area, with dimensions not to exceed a maximum of four (4) feet by four (4) feet except in the following instances:

1. A residential project having a number of buildings shall be permitted one additional sign at the major entry. Such sign shall not be greater than thirty-two (32) square feet in area.

2. Church bulletins, cemetery signs, educational institutions, social facilities and other similar uses: A single identification sign not exceeding twenty (20) square feet shall be allowed. The Religious Land use and Institutionalized Persons Act (RLUIPA) of 2000 shall apply to all residential construction as defined in 42 United States Code, Chapter 21C (P.L. 106-274, approved 9/22/2000).

B. No attached sign shall project higher than one story or ten feet, whichever is lower. No free-standing sign shall project higher than eight feet.

C. Signs in Commercial or Industrial districts shall not exceed 250 square feet in area.

(2). REGULATIONS

A. General. Except as hereinafter provided, no attached signs shall be erected or maintained at any angle to a building or structure which sign extends or projects overhead beyond the sidewalk. Signs may project at a right angle from a building, providing they do not extend into the public right of way.

B. No sign or part thereof shall be located on any private property without the consent of the owner, holder, lessee, agent, or trustee.

(3). UNAUTHORIZED SIGNS

The following signs are unauthorized signs and are therefore prohibited within the city limits:

A. Any sign, signal, marking or device which purports to be or is in imitation of or resembles any official traffic control device or railroad sign or signal, or emergency vehicle signal, **AND** attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal, or which incorporates or makes use of light simulating or resembling traffic signals and control lights, or any sign containing a rotating beam or beam of light resembling emergency vehicles.

B. All off-premise signs, or billboards which advertise products or businesses not connected with the site or building on which they are located.

C. Signs painted, attached or in any other manner affixed to trees, rocks, or similar natural surfaces, or attached to public utility poles, bridges, towers, or similar

public structures which may cause interference with public utility facilities or the maintenance thereof.

D. Portable signs. Portable sign is defined as; "Any sign which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support is converted to another sign or attached temporarily or permanently to the ground since this characteristic is based on the design of such a sign."

F. Flashing, moving, glaring signs. No illuminated sign shall be of **excessive** brightness or shall flash, scintillate, or move in a manner which casts a distracting or confusing ray of light on to a public roadway or residence. Time and temperature, business or message signs not otherwise prohibited under this regulation will be allowed, provided they do not create a hazardous or annoying glare.

G. Any business sign or sign structure which is located in such a manner as to materially impede the motorist's view at any street or highway intersection.

H. Any sign which obstructs any window, door, fire escape, stairway or opening essential to the provision of ingress or egress from any building.

(4). SETBACKS

In order to protect the public's health and safety, freestanding signs must be placed inside property lines, in a location which will not interfere with street and utility maintenance or cause a visual or physical encumbrance for passing motorists or pedestrian traffic. All freestanding signs must be placed on the premises to which they refer. Signs may not be placed in the public right of way, or placed within the city boulevard.

(5). AREA

The surface area or sign face of a sign including the frame work, shall be used to calculate the square footage. Supporting poles, posts or wires shall not be included, unless they are substantial enough in area to be display a message upon their surface area itself, whether the message be visual or verbal. If such letters or graphics be mounted directly on a wall or fascia or in such a way as to be without a frame the dimensions for calculating the square footage shall be the area extending six inches beyond the periphery formed around such letters or graphics in a plane figure bounded by straight lines connecting the outermost points thereof.

All window signs shall be placed on the inside surface of the glass, except for the temporary painting applied directly to the glass surface.

(6). HEIGHT

In Residential districts: Maximum height for a freestanding sign in all residential districts is eight (8) feet. Maximum height for an attached sign in a residential district is one story or ten feet (10'), whichever is less.

In Commercial/Industrial districts, the top of a sign, including its superstructure, if any, shall be no higher than sixty-five (65') feet from ground level, and shall be located on land in an area which is landscaped or if such land is part of an approved parking area, it shall be surfaced or paved as required in the zoning ordinance.

(7). ILLUMINATION

External illumination for signs shall be so constructed and maintained that the source of light is not visible from the public right-of-way or neighboring residential property in such a manner as to be distracting or confusing to traffic or pedestrians, or to cause an annoyance to neighboring property owners.

(8). CANOPIES AND FIXED AWNINGS

Canopies and fixed awnings are an integral part of the structure to which they are attached. They are allowed in the Commercial and Industrial Districts if they meet the following requirements and the applicable square footage requirements.

A. An awning or canopy may not project into the public right-of-way beyond the sidewalk.

B. Awnings or canopies may have no part of the structure nearer the ground surface than seven (7) feet;

C. The architectural style of the awning or canopy must be consistent with the building being served;

D. Awnings or canopies projecting into the required yards may not be enclosed except with a transparent material permitting through vision; and

E. The owner of a structure containing an awning or canopy shall be responsible for the maintenance, usage and liability of said structures, and— a hold harmless clause shall be signed upon application by the owner.

(9). RETROACTIVE AFFECT

This sign ordinance shall apply to all sign applications applied for and/or pending prior to its enactment.

(10). NON-COMMERCIAL SPEECH

*Notwithstanding any other provisions of this sign ordinance, all signs of any size containing Non-Commercial Speech may be posted from August 1 in any general election year until ten (10) days following the general election and thirteen (13) weeks prior to any special election until ten (10) days following the special election.*

**SECTION X – NON-CONFORMING USES**

(1). NON-CONFORMING SIGNS: COMPLIANCE

It is recognized that signs exist within the zoning districts which were lawful before this sign ordinance was enacted, which would be prohibited, regulated or restricted under the terms of this chapter or future amendments. It is the intent of this sign ordinance that nonconforming signs shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other signs or uses prohibited elsewhere in the same district. It is further the intent of this sign ordinance to permit legal nonconforming signs existing on the effective date of this sign ordinance, or amendments thereto, to continue as legal nonconforming signs provided such signs are safe, are maintained so as not to be unsightly, and have not been abandoned or removed subject to the following provisions:

- A. No sign shall be enlarged or altered in a way which increases its nonconformity.
- B. Should such sign or sign structure be destroyed by any means to an extent greater than fifty (50) percent of its replacement cost and no building permit has been applied for within 180 days of when the property was damaged, it shall not be reconstructed except in conformity with the provisions of this ordinance.
- C. Should such sign or sign structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.
- D. No existing sign devoted to a use not permitted by the zoning ordinance in the zoning district in which it is located shall be enlarged, extended or moved except in changing the sign to a sign permitted in the zoning district in which it is located.
- E. When a structure loses its nonconforming status all signs devoted to the structure shall be removed and all signs painted directly on the structure shall be repainted in a neutral color or a color which will harmonize with the structure.

**SECTION XI– SUBSTITUTION CLAUSE**

The owner of any sign which is otherwise allowed by this sign ordinance may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over

non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary.

Passed by the New York Mills City Council this 14th day of March, 2017.

Attested by:

  
\_\_\_\_\_  
City Clerk

  
\_\_\_\_\_  
Mayor

  
(City Seal)