

## **TITLE VII**

### **LAND USE REGULATION (ZONING)**

#### **CHAPTERS:**

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- 7-02. Zoning Districts Established.
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## CHAPTER 7-01

### GENERAL PROVISIONS

#### SECTIONS:

- 7-0101. Purpose and Intent.
- 7-0102. Application of District Regulations.
- 7-0103. Nonconforming Lots, Structures and Uses.
- 7-0104. Rules and Definitions.
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#### SEC. 7-0101. PURPOSE AND INTENT.

**Subd. 1. Purpose:** This Chapter is intended to promote the general health, safety, morals, convenience, and welfare of the people of the City and these regulations are necessary to provide adequate open spaces; to avoid undue concentration of population; to secure safety from fire and other disasters and danger; to maximize the use of public facilities and resources; to control and abate unsightly use of buildings or land; to facilitate adequate provisions for utilities, such as transportation, water, sewage, and other public needs; such as schools, parks, and emergency services, to encourage the most appropriate use of land; and to conserve and stabilize the value of property.

**Subd. 2. Compliance.** No structure shall be located, erected, constructed, reconstructed, moved, converted, or enlarged; nor shall any structure or land be used or be designed to be used, except in full compliance with all the provisions of this Chapter and after the lawful issuance of all permits and certificates required by this Chapter.

**Subd. 3. Severability.** If any provision of this Chapter or the application of any provision to particular circumstances is held invalid, the remainder of the Chapter or the application of such provision to other circumstances shall not be affected.

#### SEC. 7-0102. APPLICATION OF DISTRICT REGULATIONS.

**Subd. 1. Zoning Upon Annexation.** All land hereafter annexed to the City shall be zoned A-1 Single family residential until the zoning designation is changed by Council action.

**Subd. 2. All-Encompassing.** No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed or reconstructed, moved or altered except in conformity with all district regulations herein specified.

**Subd. 3. Non-Reduction.** No yard or lot existing on the effective date of this Chapter shall be reduced in area or dimension below the minimum requirements of this Chapter. Yards or lots created after the effective date of this Chapter shall meet, at least, the minimum requirements established by this Chapter.

**Subd. 4. Rules for Interpretation of District Boundaries.** Where uncertainty exists as to the boundaries to districts as shown on the Official Zoning Map, the following rules shall apply:

**A. Streets.** Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;

**B. Lot Lines.** Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

**C. City Limits.** Boundaries indicated as approximately following City Limits shall be construed as following City Limits;

**D. Railroads.** Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

**E. County Drains.** Boundaries indicated as approximately following the center lines of County drains or other bodies of water shall be construed to follow such center lines;

**F. Extensions.** Boundaries indicated as parallel to or extensions of features indicated in Subparagraphs A through E. above, shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the Map or field survey;

**G. Vacated Ways.** Whenever any street, alley, or other public way is vacated in the manner authorized by law, the zoned district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation and all included in the vacation shall then, and henceforth, be subject to all regulations of the extended districts.

### **SEC. 7-0103. NONCONFORMING LOTS, STRUCTURES AND USES.**

**Subd. 1. Intent.** It shall be deemed nonconforming when, within the districts established by this Chapter or amendments that may later be adopted, there exist lots, structures and uses of land and structures which were lawful before this Chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Chapter or future amendments. This Chapter permits these non-conformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this Chapter to be incompatible with permitted uses in the districts involved. It is further the intent of this Chapter that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses not permitted in the district.

**Subd. 2. Nonconforming Lots of Record.** In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record on the effective date of this Chapter provided that it fronts on a public right-of-way and provided, further, that the width and area measurements are at least seventy-five (75) percent the minimum requirements of this Chapter. This provision shall apply provided that side yards and front yard setbacks shall conform to the regulations for the district in which such lot is located.

**Subd. 3. Nonconforming Uses of Land.** Where, on the effective date of this Chapter, or amendment thereof, lawful use of land exists that is made no longer permissible under the terms of this Chapter as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

A. No such nonconforming use shall be enlarged or extended to occupy a greater area of land than was occupied on the effective date of this Chapter;

B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use on the effective date of this Chapter;

C. If any such nonconforming use of land ceases for any reason for a period of more than twelve (12) months, any subsequent use of such land shall conform to the regulations specified by this Chapter for the district in which such land is located.

**Subd. 4. Nonconforming Structures.** Where a lawful structure exists on the effective date of this Chapter that could not be built under the terms of this Chapter by reason of restrictions on area, lot coverage, height, yards, elevation, or other characteristics, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such structure may be enlarged or altered in a way which increase its non-conformity;

B. Should such structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at time of destruction, and no building permit has been applied for within 180 days of when the property is damaged, it shall not be reconstructed except in conformity with the provisions of this Chapter;

C. Should such structure be moved for any reason or any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved;

D. On any structure devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on a repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding twenty-five (25) percent of the current replacement value of the building, provided that the cubic content of the building as it existed on the effective date of this Chapter shall not be increased; and

E. Nothing in this Chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

**Subd. 5. Nonconforming Uses of Structures and Land in Combination.** If a lawful use of structures or of structures and land in combination (hereinafter, use) exists on the effective date of this Chapter that would not be allowed in the district under the terms of this Chapter, that use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No existing structure devoted to a use not permitted by this Chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;

B. Any nonconforming use may be extended throughout any parts of a building which were arranged or designed for such use on the effective date of this Chapter, or amendment thereof, but no such use shall be extended to occupy any land outside such building;

C. Any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the Board of Adjustment, by making findings in the specific case, shall find that the proposed use is equally or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this Chapter;

D. Any nonconforming use which is replaced by a permitted or conditional use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed;

E. When a nonconforming use is discontinued or abandoned for twelve (12) months, the nonconforming use shall not be resumed unless otherwise approved by the Council;

F. Where nonconforming use status applies to a structure and premises in combination, continuing use of the land in a nonconforming manner shall not be permitted if the structure is removed or destroyed.

**Subd. 6. Phasing-Out of Qualifying Nonconforming Uses.** The following nonconforming uses of buildings, structures or land may continue for a period no longer than one (1) year from the effective date of this Chapter, or any amendment hereto which causes the use to be nonconforming:

A. Any nonconforming use with a building or structure having an assessed valuation of \$2,000.00 or less on the effective date of this Chapter or amendment thereto.

B. Any nonconforming use of land where no enclosed building is involved or where the only buildings involved are accessory or incidental to such use or where such use is maintained in connection with a conforming building.

**Subd. 7. Phasing-Out of Nonconforming Automotive Salvage or Junk Yards.** Nonconforming automotive salvage or junk yards may continue as a nonconforming use for no more than three years after the effective date of this Chapter, except that an automotive salvage or junk yard may continue as a nonconforming use in a commercial or industrial district if, within that period, it is completely enclosed within a building or within a continuous solid fence of such height, not less than eight (8) feet, as to screen completely the operations of the salvage or junk yard. Plans of such a building or fence shall be approved by the Council before it is erected.

#### **SEC. 7-0104. RULES AND DEFINITIONS.**

**Subd. 1. Rules.** For the purpose of this Chapter, certain terms or words used herein shall be interpreted as follows:

A. The words "used" or "occupied" include the words "intended", "designed", or "arranged to be used or occupied".

B. The word "lot" includes the words "plot" or "parcel".

**Subd. 2. Definitions.** The following terms, as used in this Chapter, shall have the meanings stated:

**1. "Accessory Building or Use"** - A building or use which: (1) is subordinate to and serves a principal building or principal use; (2) is subordinate in area, extent, or purpose to the principal building or principal use served; (3) contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use; and (4) is located on the same zoning lot as the principal building or principal use. Examples of accessory uses are private garages, storage sheds, play houses, and swimming pools.

**2. "Agriculture"** - The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities.

**3. "Automobile Salvage Yard"** - The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot or parcel of land of two or more motor vehicles, which, for a period exceeding 30 days, have not been capable of operating under their own power and from which parts have been or are to be removed for reuse or sale, shall constitute prima facie evidence of an automobile wrecking yard.

**4. "Basement"** - A story having more than 50 percent of its clear height below finished grade.

**5. "Bed and Breakfast Inn"** - An owner occupied dwelling unit that contains guest rooms where lodging, with or without meals, is provided for compensation.

**6. "Board of Adjustment"** - The local body appointed by the Council, whose responsibility is to hear appeals from decisions of the Zoning Officer.

**7. "Building"** - Any structure used or intended for supporting or sheltering any use or occupancy.

**8. "Business Service"** - Any business activity which renders service to other commercial or industrial enterprises.

**9. "Campground"** - An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and major recreational equipment, and which is primarily used for recreational purposes and retains an open air or natural character.

**10. "Certified Massage Therapist"** - An individual or person over the age of eighteen (18) who practices or administers massage and has completed a course of study at a school of massage, that is approved by the American Massage Therapy Association and is a member of the American Massage Therapy Association.

**11. "Child Care Facility (Commercial)"** - A building or structure where care, protection and supervision are provided for a fee, on a regular schedule and in compliance with State of Minnesota Child Care Licensing Regulations (Department of Human Services Rule 9503).

**12. "Child Care Facility (Residential)"** - A private residence where care, protection, and supervision are provided, for a fee and on a regular schedule, and in compliance with State of Minnesota Child Care Licensing Regulations (Department of Human Service Rule 9502).

**13. "Church"** - An institution that people regularly attend to participate in or hold religious service. The term "church" shall not carry a secular connotation and shall include buildings in which religious services of any denomination are held.

**14. "Clinic"** - Any establishment where human patients are examined and treated by doctors or dentists but not hospitalized overnight.

**15. "Club"** - An establishment operated for social, recreational, or educational purpose but open to only members and not the general public.

**16. "Coverage"** - That percentage of the lot area covered by principal and accessory use structures.

**17. "Commercial Use"** - An occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

**18. "Comprehensive Plan"** - The general plan for land use, housing, transportation and community facilities prepared and maintained by the Council for the City.

**19. "Conditional Use"** - A use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would not be detrimental to public health, safety, or general welfare.

**20. "Day Care Facility"** - Any facility licensed by the Minnesota State Department of Public Welfare, public or private, which for a fee or other compensation regularly provides one or more persons with care, training, supervision, rehabilitation or developmental guidance on a regular basis, for periods of less than twenty-four (24) hours per day, in a place other than in the person's home. Day care facilities include, but are not limited to: Commercial and residential child care facilities, day care centers, day nurseries, nursery schools, daytime activity centers, and adult day care facilities.

**21. "Drive-up Facility"** - An establishment that, by design of physical facilities or by service or packaging procedures, encourages or permits customers to receive a service or obtain a product that may be used or consumed in a motor vehicle on the premises.

**22. "Dwelling"** - Any structure designed or used as the living quarters for one or more families.

**23. "Dwelling, Multiple-Family"** - A residence designed for or occupied by three or more families, with separate housekeeping and cooking facilities for each.

**24. "Dwelling, Single-Family"** - A residence designed for or occupied by one family only.

**25. "Dwelling, Two-Family"** - A residence designed for or occupied by two families only, with separate housekeeping and cooking facilities for each. This would include single-family homes with an apartment in the basement. A two family dwelling (duplex) with a rooming unit(s) shall be considered and classified as a multi-family dwelling.

**26. "Dwelling Unit"** - A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

**27. "Dwelling Unit Occupancy"** - Occupancy of a dwelling unit for the purpose of enforcing provisions of this Chapter shall be limited by restrictions as stated in this Chapter.

**28. "Essential Services"** - The erection, construction, alteration, or maintenance by public utilities or municipal or other governmental agencies of underground or overhead communication, gas, electrical, steam or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare.

**29. "Family"** - One or more persons related by blood, marriage, adoption, or other legal relationship, occupying a premise and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, club, fraternity, or hotel. Legal relationships shall include guardianship, foster parent/child, or any other relationship which is created by Court Order.

**30. "Grade"** - The elevation of the immediately adjacent finished or natural ground contour.

**31. "Group Home for the Disabled"** - A dwelling shared by four or more disabled persons, including resident staff, who live together as a single housekeeping unit and in a long-term, family-like environment in which staff persons provide care, education, and participation in community activities for the residents with the primary goal of enabling the resident to live as independently as possible in order to reach their maximum potential. As used herein, the term "disabled" shall mean having: 1) a physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently; 2) a record of having such an impairment; or 3) being regarded as having such an impairment. However, "disabled" shall not include current illegal use of or addiction to a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals. The term "group home for the disabled" shall not include alcoholism or drug treatment center, work release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration.

**32. "Home Occupation"** - An occupation, profession, activity, or use carried on in a dwelling unit which is clearly incidental and secondary to the use of the building for dwelling purposes, and which does not change the character thereof.

**33. "Junkyard" (See Automobile Salvage Yard)** - A parcel of land on which waste material or inoperative vehicles and other machinery are collected, stored, salvaged, or sold.

**34. "Light Manufacturing"** - The processing and fabrication of certain materials and products where no process involved will produce noise, vibration, air pollution, fire hazard, or noxious emission which will disturb or endanger neighboring properties. Light manufacturing includes but is not limited to the production of the following goods: home appliances; electrical instruments; office machines; precision instruments; electronic devices; time pieces; jewelry; optical goods; musical instruments; novelties; wood products; printed material; lithographic plates; type composition; machine tools; dies and gages; ceramics; apparel; lightweight non-ferrous metal castings; film processing; light sheet metal products; plastic goods; pharmaceutical goods; and food products.

**35. "Lot"** - A parcel of land occupied or capable of being occupied by one or more structures.

**36. "Lot Area"** - The total horizontal area within the lot lines of a lot exclusive of any portion of the right-of-way of any public roadway.

**37. "Lot of Record"** - Any lot which individually or as a part of a subdivision, has been recorded in the office of the County Recorder.

**38. "Lot, Depth of"** - A mean horizontal distance between the front and rear lot lines.

**39. "Lot, Width of:"** - The mean width measured at right angles to its depth.

**40. "Manufactured Housing" (See Mobile Home)"** - A factory-built, single-family, detached housing unit that is manufactured according to the National Manufactured Housing Construction and Safety Standards Act of 1974 and shall include manufactured homes or mobile homes.

**41. "Massage"** - The rubbing, stroking, kneading, tapping, or rolling of the body with the hands for the exclusive purpose of relaxation, physical fitness, or beautification and for no other purposes. It is administered, for a fee, by a certified massage therapist.

**42. "Massage Parlor"** - A place where the practice of massage is carried out.

**43. "Mobile Home"** - Any type of potentially mobile structure which is designed constructed and equipped for use as a single-family dwelling unit suitable for year-round occupancy, not drawn by its own power, but with its own permanently attached metal frame undercarriage to which wheels may be attached.

**44. "Mobile Home Park"** - A parcel of land under single ownership that has been planned and improved for the placement of manufactured housing for dwelling purposes.

**45. "Nonconforming Structure"** - Any structure that does not meet the limitations on structure size and location on a lot, for the district in which such structure is located, or for the use to which such structure is being put.

**46. "Nonconforming Lot"** - A use or activity which lawfully existed prior to the adoption, revision, or amendment of this Chapter, but which fails by reason of such adoption, revision, or amendment to conform to the use district in which it is located.

**47. "Nonconforming Use"** - A lawful use of land that does not comply with the use regulations for its zoning district but which complied with applicable regulations at the time the use was established.

**48. "Open Space"** - An area that is intended to provide light and air, and is designed for either environmental, scenic, or recreational purposes. Open space may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas, and water courses. Open space shall not be deemed to include driveways, parking lots, or other surfaces designed or intended for vehicular travel.

**49. "Planned Unit Development"** - Land under unified control to be planned and developed as a whole in a single development operation or a definitely programmed series of development operations or phases. A planned development includes principal and accessory structures and uses substantially related to the character and purposes of the planned development. A planned development is built according to general and detailed plans that include not only streets, utilities, lots and building location, and the like, but also site plans for all buildings as are intended to be located, constructed, used, and related to each other, and plans for other uses and improvements on the land as related to the buildings. A planned development includes a program for the provisions, operations, and maintenance of such areas, facilities, and improvements as will be common use by some or all of the occupants of the planned development district, but which will not be provided, operated, or maintained at general public expense.

**50. "Principal Structure"** - The structure in which the primary use of the lot on which the structure is located is conducted.

**51. "Principal Use"** - The primary use of land or structures, as distinguished from a secondary or accessory use.

**52. "Recycling Facility"** - A facility in which recoverable resources, such as newspaper, glass, and metal are collected, separated and processed prior to shipment to others who will use those materials to manufacture new products.

**53. "Salvage Yard"** - A place where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled or handled; including auto salvage yards, house wrecking yards, and used material yards; but not including pawn shops, antique shops, purchase as storage of used furniture and household equipment, or the placing and sale of used cars in operable condition.

**54. "Structure"** - Anything constructed or erected, the use of which requires a fixed location on the ground, including, in addition to buildings, billboards, carports, porches, decks, and other building features but not including sidewalks, drives, fences, and patios.

**55. "Supply Yards"** - A commercial establishment storing or offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods. Supply yards do not include the wrecking, salvaging, dismantling or storage of automobiles and similar vehicles.

**56. "Travel Trailer"** - Any vehicle or structure designed and used for human living quarters which meets all of the following qualifications.

**A.** Is not used as the permanent residence of the owner or occupant;

**B.** Is used for temporary living quarters by the owner or occupant while engaged in recreational or vacation activities;

**C.** Is towed or otherwise transported, by its own or by other motive power on the public streets or highways incidental to such recreational or vacation activity.

**D.** The term trailer shall not include mobile home. The term "trailer" shall include, but not be limited to campers, camper tents, house trailers, camping trailers, travel trailers, tent trailers, motor homes, and any self-propelled vehicle constructed to provide living accommodations.

**57. "Trailer Parks"** - A park, court, camp site, lot, parcel or tract of land designed, maintained, or intended for the purpose of supplying the location or accommodations for any trailers, as defined herein, and upon which said trailers are parked. The term "trailer park" shall include all buildings used or intended for use as a part of the equipment thereof whether a charge is made for the use of the park and its facilities or not. "Trailer Park" shall not include automobile, mobile home or trailer sales lots on which unoccupied trailers or mobile homes are parked for purposes of inspection and sale.

**58. "Use"** - The purposes for which land or a building is designed or intended or for which either land or a building is or may be occupied or maintained.

**59. "Variance"** - A variance is a relaxation of the terms of this Chapter where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Chapter would result in unnecessary and undue hardship. As used in this Chapter, a variance is authorized only for area, size of structure, size of yards, setback and side yard requirements, and parking requirements; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or adjoining zoning districts.

**60. "Wind Energy Conversion System (WECS)"** - Any device that is designed to convert wind power to another form of energy such as electricity, mechanical, or heat (also referred to as wind charger, wind turbine, or windmill).

**61. "Yard"** - An open space on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this Chapter.

**62. "Yard, Front"** - The space extending between side lot lines from the front property line and the building setback line. The front property line is the boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot it shall be the shortest dimension on a public street. If the dimensions are equal, the front property line shall be designated by the City.

**EXCEPTION:** Reverse Corner Lots - a reverse corner lot exists when, based on a proposed building, it is not feasible for the shortest dimension on a public street to be the front property line. In these cases, the lot line abutting the other right-of-way becomes the front property line. The minimum front yard setback must be met wherever the front property line is placed. A rear yard must be designated, but the rear yard may or may not be opposite the front yard. If one of the side yards is parallel to a street, a minimum 12 foot setback must be maintained. If no side yard is parallel to a street, the other side yards must have a width that is a minimum of 10% of the narrow width of the lot, wherever they may be placed.

**63. "Yard, Rear"** - A space extending between the rear line of the principal structure and the rear line of the lot and extending the full width of the lot.

**64. "Yard, Side"** - A space between the building and the side line of the lot and extending from the front property line to the rear property line. In the case of corner lots with normal frontage, there will be only one side yard, adjacent to the interior lot.

**65. "Zoning Officer"** - The person appointed by the Council to grant zoning certificates and, following Council or Board of Adjustment approval, conditional uses or variances.

## **SEC. 7-0105. BOARD OF ADJUSTMENT.**

**Subd. 1. General.** In accordance with law, the City Council shall be the Board of Adjustment. The Board shall adopt rules to govern its procedures. The Board shall hold meetings, keep minutes, and pursuant to notice, shall conduct hearings, take testimony under oath, and render decisions in writing within forty-five (45) days after hearing or continued hearing. A fee of \$100 shall be charged for any appeal or proceeding filed with the Board.

**Subd. 2. Appeals.** The Board shall have the power to hear and decide appeals from any order, requirement, decision, grant or refusal made by the Planning Commission or Zoning Officer in the administration of this Chapter.

**Subd. 3. Conditional Uses.** The Board shall have the power to authorize conditional uses if the following requirements are met:

**A.** The conditional uses shall be in accordance with the standards specified for such class of conditional uses as specified in the district regulations provisions of this Chapter.

**B.** The conditional use shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the performance standards of the fencing and screening provisions of this Chapter.

**C.** The conditional uses shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds, adjacent buildings and property.

**D.** The conditional use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.

**E.** The conditional use shall organize vehicular access and parking to minimize traffic congestion in the area.

**F.** The conditional use shall preserve the purpose of this Chapter.

## CHAPTER 7-02

### ZONING DISTRICTS ESTABLISHED

#### SECTIONS:

7-0201.	Establishment of District Regulations.
7-0202.	R-1 Single Family Residential District.
7-0203.	R-2 Urban Residential District.
7-0204.	R-3 Multi-Family Residential District.
7-0205.	R-4 Mobile Home District.
7-0206.	C-1 Central Business District.
7-0207.	C-2 Commercial District.
7-0208.	C-3 Commercial Park District.
7-0209.	I-1 Light Industrial District.
7-0210.	I-2 Highway Industrial District.
7-0211.	SC-1 Conservation District.
7-0212.	P Public Facilities District.
7-0213	Planned Unit Development (PUD).
7-0214.	Permanent Foundation Required.
7-0215.	Moved Buildings.

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#### SEC. 7-0201. ESTABLISHMENT OF DISTRICT REGULATIONS.

##### Subd. 1. Zoning Map.

**A.** A map entitled "Barnesville Zoning Map" is hereby adopted as part of this Chapter. The Zoning Map shall be kept on file available for examination at the office of the City Clerk. It shall be the responsibility of the Zoning Officer to maintain and update the Map and to record each amendment thereto within thirty days after official publications of the ordinance adopting the amendment.

**B.** The Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk and bearing the seal of the City of Barnesville under the following words: "This is the Official Zoning Map of the City of Barnesville, Minnesota" together with the date of adoption of this Chapter.

**C.** In the event that the official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or numbers of changes, and additions, the Council may, by resolution, adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or emissions which may have appeared in the prior Official Zoning Map, but no corrections shall have the effect of amending or changing the original Zoning Chapter or any subsequent amendment thereof.

**D.** The new Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk, and bearing the seal of the City of Barnesville under the following words: "This is the Official Zoning Map of the City of Barnesville, Minnesota referred to in Section 7-0201 of the Zoning Chapter, adopted by the Council of the City of Barnesville, Minnesota on January 1, 2013."

## **Subd. 2. Establishment of Zoning Districts.**

**A. General.** The City will be divided into nine (9) zoning districts which are described herein. These prescribed district regulations for land use and building and development standards must be enforced uniformly within each district. The purpose of the district, permitted uses, conditional uses, and yard and lot requirements are listed for each general land use district. Any use not permitted by right or located in a City utility easement shall require a conditional use permit.

**B. Residential Districts.** Districts designated for residential use, R-1, R-2, R-3, and R-4 are limited to agricultural uses, accessory structures, and the uses normally associated with residential neighborhoods. Such uses include schools, churches, and parks. However, under the provisions of the PUD Section, planned unit residential projects are permitted which may include limited business facilities integrated into the neighborhood design.

**C. Commercial Districts.** Districts designated for commercial use C-1 and C-2 are limited to business activities and certain residential uses. Establishment of compact commercial districts provides for more efficient extension of City utilities and services. Most industrial uses are separated from other uses in order to maximize access and reduce hazards typically associated with industrial uses. However, research industrial uses and light industrial uses are permitted if they are of such a nature that hazards are not present and they meet specific requirements set forth in this Chapter.

**D. Industrial District.** The districts designated for industry, I-1 and I-2 provide suitable space for future industrial development performance standards, parking specifications, and yard regulations are set forth in this Chapter in order to insure safe industrial development that is compatible with adjacent uses.

**E. Special District.** A special district typically designated to accommodate a narrow or special set of user or special purposes. The only Special District designated in this Chapter is the SC-1, Conservation District which is provided to prevent development and use of land that is unsuitable for development due to periodic flooding or due to its location in an environmentally sensitive area.

### **SEC. 7-0202. R-1 SINGLE FAMILY RESIDENTIAL DISTRICT.**

**Subd. 1. Purpose.** The R-1, Single-Family Residential District, is designated for low density single-family residences and to provide certain private and public facilities and services that are compatible with the neighborhood.

#### **Subd. 2. Permitted Uses:**

- A.** Agriculture.
- B.** Single-Family Dwellings.
- C.** Public and Private Schools.
- D.** Public Parks & Playgrounds.

**E. Essential Services.**

**F. Accessory Uses.**

**G. Day care facilities serving 12 or fewer persons, residential care facilities serving 6 or fewer persons, and group family day care facilities licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, serving 14 or fewer persons.**

**H. Manufactured Housing.**

**I. Home Occupations. (Source: Ord. 2012-05)**

**Subd. 3. Conditional Uses:**

**A. Cemeteries.**

**B. Non-Profit Recreational Uses.**

**C. Nursery Schools.**

**D. Hospitals and Clinics for Humans.**

**E Public Utility Buildings.**

**F. Water Recreation & Storage.**

**G. Fire Stations.**

**H. Municipal Buildings and Libraries.**

**I. Two Family Dwellings.**

**J. Planned Unit Residential Projects.**

**K. Greenhouses.**

**L. Private Schools.**

**M. Nursing Homes.**

**N. Churches.**

**P. Bed and Breakfast Facilities.**

**Subd. 4. Yard and Lot Requirements:**

	<u>One Family</u>	<u>All Other Uses</u>	<u>Accessory Structures</u>
Minimum Lot Area (sq.ft.)	7,200	7,200	
Minimum Lot Width at Setback Line (ft.)	60	60	
Minimum Lot Depth (ft.)	120	120	
Minimum Rear Yard Setback (ft.)	25	25	[2]
Minimum Front Yard Setback (ft.)	25	25	25
Minimum Side Yard Setback (ft.)	[1]	[1]	[2]
Maximum Lot Coverage	35%	35%	

[1] 10% of lot width at front yard setback. On corner lots, the setback on the side yard adjacent to the street shall be a minimum of twelve (12) feet from the property line.

[2] Five (5) feet unless a garage entrance faces onto a street, avenue, or alley, the minimum setback will be 18 feet from the property line to accommodate vehicle parking off the right-of-way. On corner lots, the setback on the side yard adjacent to the street shall be a minimum of twelve (12) feet from the property line. A setback of ten (10) feet is required if there is a utility easement. On a lot 30,000 sq. ft. or larger accessory buildings with sidewalls greater than ten (10) feet shall have a required setback of fifteen (15) feet from the property line.

**Subd. 5. Accessory Uses and Buildings Permitted in the R-1 District:**

**A. Home Occupations.**

**B. Garage Space.** All single family homes built, assembled or placed on residential lot must provide, at the minimum, access to and space for sheltered, off-street parking for two standard sized automobiles.

**C. Permitted Intrusions into Front and Side Yard Setbacks.**

Uncovered porches, stairs, stoops, or decks that are less than thirty inches (30") above grade at all points along the perimeter, may extend three feet (3') into any required interior side yard setback, eight feet (8') into any required street side yard setback, and eight feet (8') into any required front yard setback.

Add-on entryways to existing residential dwellings may encroach into the required front yard setback not more than five feet (5') and not exceed fifty (50) square feet in total size.

Covered porches that are at least fifty percent (50%) open on each of the three (3) sides ("open" defined as without solid walls or windows blocking free passage of air), balconies, and decks elevated over thirty inches (30") above grade at any point on the perimeter,

may extend up to five feet (5') into the required front yard setback and up to four feet (4') into the required street side yard setback.

After erecting any of the above listed, in no case may the remaining interior side yard setback be less than five feet (5'); or the street side yard setback be less than ten feet (10') or the front yard setback be less than fifteen feet (15'). Ramps for handicapped access may extend to a property line.

## **SEC. 7-0203. R-2 URBAN RESIDENTIAL DISTRICT.**

**Subd. 1. Purpose.** The R-2 Urban District is designated for land that is presently developed in predominately urban residential lots. The purpose of this district is to permit the continuation and limited expansion of the more densely populated, established sections of the City.

### **Subd. 2. Permitted Uses:**

- A.** Agriculture.
- B.** Single-Family Dwellings.
- C.** Two-Family Dwellings.
- D.** Public & Parochial Schools.
- E.** Public Parks & Playgrounds.
- F.** Essential Services.
- G.** Accessory Uses.
- H.** Day care facilities serving 12 or fewer persons, residential care facilities serving 6 or fewer persons, and group family day care facilities licensed under Minnesota Rules, parts 9502.0315 to 9502.0445, serving 14 or fewer persons.
- I.** Manufactured Housing.
- J.** Home Occupations.

### **Subd. 3. Conditional Uses:**

- A.** Cemeteries.
- B.** Non-Profit Recreational Uses.
- C.** Nursery Schools.
- D.** Nursing Homes.
- E.** Hospitals & Clinics for Humans.
- F.** Public Utility Buildings.

- G. Fire Stations.
- H. Funeral Homes.
- I. Water Recreation & Water Storage.
- J. Municipal Buildings & Libraries.
- K. Bed and Breakfast Facilities.
- L. Planned Unit Residential Projects.
- M. Residential Facility for 7 or More Persons.
- N. Churches.
- O. Daycare Facilities Serving Over 12 People.

**Subd. 4. Yard and Lot Requirements:**

	<u>One Family</u>	<u>All Other Uses</u>	<u>Accessory Structures</u>
Minimum Lot Area	6,000	6,000	
Minimum Lot Width at Setback Line (ft.)	50	50	
Minimum Lot Depth	120	120	
Minimum Rear Yard Setback (ft.)	25	25	[3]
Minimum Front Yard Setback (ft.)	[1]	[1]	25
Minimum Side Yard Setback (ft.)	[2]	[2]	[3]
Maximum Lot Coverage	35%	35%	

[1] Twenty-five (25) feet from the property line except on residential streets where the right-of-way is one hundred (100) feet, in which case the setback shall be seventeen and one-half (17.5) feet from the property line.

[2] 10% of lot width at the front yard setback. On corner lots, the setback on the side yard adjacent to the street shall be a minimum of twelve (12) feet from the property line.

[3] Five (5) feet unless a garage entrance faces onto a street, avenue, or alley, the minimum setback will be 18 feet from the property line to accommodate vehicle parking off the right-of-way. On corner lots, the setback on the side yard adjacent to the street shall be a minimum of twelve (12) feet from the property line. A setback of ten (10) feet is required if there is a utility easement. On a lot 30,000 sq. ft. or larger accessory buildings with sidewalls greater than ten (10) feet shall have a required setback of fifteen (15) feet from the property line.

**Subd. 5. Garage Space.** All single family homes built, assembled or placed on residential lot must provide, at the minimum, access to and space for sheltered, off-street parking for two standard sized automobiles.

**Subd. 6. Permitted Intrusions Into Front and Side Yard Setbacks.** Uncovered porches, stairs, stoops, or decks that are less than thirty inches (30") above grade at all points along the perimeter, may extend three feet (3') into any required interior side yard setback, eight feet (8') into any required street side yard setback, and eight feet (8') into any required front yard setback.

Add-on entryways to existing residential dwellings may encroach into the required front yard setback not more than five feet (5') and not exceed fifty (50) square feet in total size.

Covered porches that are at least fifty percent (50%) open on each of the three (3) sides ("open" defined as without solid walls or windows blocking free passage of air), balconies, and decks elevated over thirty inches (30") above grade at any point on the perimeter, may extend up to five feet (5') into the required front yard setback and up to four feet (4') into the required street side yard setback.

After erecting any of the above listed, in no case may the remaining interior side yard setback be less than five feet (5'); or the street side yard setback be less than ten feet (10') or the front yard setback be less than fifteen feet (15'). Ramps for handicapped access may extend to a property line.

**SEC. 7-0204. R-3 MULTI-FAMILY RESIDENTIAL DISTRICT.**

**Subd. 1. Purpose.** The R-3, Multi-Family Residential District, is designated for apartment complexes, townhouses, retirement complexes, and other innovative multi-family developments.

**Subd. 2. Permitted Uses:**

- A. All permitted uses of the R-2 District excluding single and two-family dwellings.
- B. Multiple-family dwellings.
- C. Townhouses, retirements, nursing and convalescent homes.

**Subd. 3. Conditional Uses:**

- A. All conditional uses of the R-2 District.

**Subd. 4. Yard and Lot Requirements:**

	<u>Multiple Family</u>
Minimum Lot Area (sq. ft.)	[1]
Minimum Lot Width at Front Setback (ft.)	60

Minimum Lot Depth (ft.)	120
Minimum Rear Yard Setback (ft.)	25
Minimum Front Yard Setback (ft.)	25
Minimum Side Yard Setback	[2]
Maximum Lot Coverage	[3]

[1] Not less than 6,000 sq. ft. for each multiple-family dwelling having four (4) dwelling units or less, and not less than 750 additional sq. ft for each additional unit.

[2] Side yard setback shall be a minimum of fifteen (15) feet except on comer lots where it shall be a minimum of twelve (12) feet from the property line. However, a minimum distance of 30 feet must be maintained between structures on adjacent parcels.

[3] Maximum lot coverage for single story units is 40%. For all other units the maximum is 35%.

**Subd. 5. Accessory Uses and Buildings Permitted in the R-3 District**

A. Home occupations.

B. Garage space: All multiple-family units built, assembled, or placed on an R-3 lot must provide, at the minimum, access to and space for off-street parking for 2.25 standard sized automobiles. For rental units, at least one of the off-street parking spaces must be sheltered. Both off-street parking spaces must be sheltered for units built for sale.

C. Storage buildings: These structures are to be used exclusively for the storage of household, yard, and related supplies and equipment.

D. See Section \_\_\_\_\_ for additional restrictions.

**Subd. 6. Usable Open Space:** Except for elderly (senior citizen) housing, each multiple-family dwelling site shall contain at least three hundred fifty (350) square feet of usable open space for each dwelling unit contained therein. Open space shall not include driveways, parking lots, or other surfaces designed or intended for vehicular use.

**SEC. 7-0205. R-4 MOBILE HOME DISTRICT.**

**Subd. 1. Purpose.** The R-4, Mobile Home District, is designated for providing a safe and healthful environment for manufactured homes with due regard to their function as a residential dwelling unit.

**Subd. 2. Permitted Uses:**

A. Mobile Homes.

**B. Mobile Home Park Offices.**

**C. Accessory Structures.**

**D. Home Occupations.** (Source: Ord. 2012-05)

**Subd. 3. Conditional Uses:**

**A. Convenience establishments of a commercial nature that are designed and intended to serve the residents of the park. No visible evidence of commercial character shall be visible to any residential district located outside of the park.**

**B. Public Parks and Playgrounds.**

**Subd. 4. Minimum Requirements for Mobile Home Parks:** The following minimum requirements shall apply to all new mobile home parks, and expansions at existing mobile home parks.

**A. General:**

**1. The minimum area for a new mobile home park is five (5) acres.**

**2. The minimum number of spaces completed and ready for occupancy before the first occupancy is permitted in a new mobile home park shall be ten (10) units.**

**3. Each mobile home site within the park shall have a minimum area of 3,500 sq. ft.**

**4. No mobile home shall be closer than 35 ft. to any adjacent property.**

**5. No less than ten (10) percent of the mobile home park shall be improved for recreational activities for residents of the park.**

**B. Site Plan.**

**1. At time of application for rezoning to a Mobile Home District (R-4), the applicant must submit a site plan to the City. The applicant shall be bound by said site plan after the rezoning to Mobile Home District (R-4). Thereafter, no building permit shall be issued unless in conformance with the approved site plan. Any changes shall be approved by the Council. The site plan shall include:**

**(a) The name and address of all owners and developers of the proposed mobile home court.**

**(b) The legal description and lot size in acres of the proposed mobile home court.**

(c) The location and size of all mobile home lots, convenience establishments, storage areas, recreation areas and facilities, landscaping, existing tree growth, water areas, roadways, sidewalks, and parking sites.

(d) Detailed landscaping and grading plans and specifications.

(e) Plans for sanitary sewage disposal, surface drainage fire hydrants, water systems, electrical service, gas services, cable television, street lighting, and topography diagrams.

(f) Location and size of all public roadways abutting the mobile home park and all street and sidewalk accesses from such street and sidewalk to the mobile home court.

(g) Preliminary road construction plans and specifications including cross section and curb details.

(h) Preliminary floor plans and elevation for all permanent structures.

(i) Description and method of disposing of garbage and refuse.

(j) Staging and timing of construction program regardless of whether the entire area will be developed at one time or in stages.

(k) Such other reasonable information as shall be required by the City.

(l) The scale for all drawings shall be one (1) inch to one-hundred (100) feet.

2. The Planning Commission shall review the site plan and submit its recommendation to the Council.

**Subd. 5. Off-Street Parking:** All off-street parking shall confirm to the requirements of Section 7-0602.

**Subd. 6. Accessory Uses and Structures Permitted in the RA District:**

A. Home Occupation

B. Garages

C. Storage Buildings

**SEC. 7-0206. C-1 CENTRAL BUSINESS DISTRICT.**

**Subd. 1. Purpose.** The C-1, Central Business District, is designated for providing the core service and retail businesses ample space to develop and to allow those services to be accessed conveniently by the residents and other customers. All businesses and services located in this district shall be of a beneficial nature to the City and promote orderly development and generate economic use of land.

**Subd. 2. Permitted Uses:**

- A. Retail Businesses.
- B. Eating & Drinking Establishments.
- C. Offices.
- D. Personal & Professional Services.
- E. Municipal Buildings & Libraries.
- F. Auto Sales, Service & Repair.
- G. Fire Stations.
- H. Trade and Vocational Schools.
- I. Commercial Recreation.
- J. Veterinary Clinics.
- K. Funeral Homes.
- L. Essential Services.

**Subd. 3. Conditional Uses:**

- A. Water Recreation & Water Storage.
- B. Research Laboratories.
- C. Public Utility Buildings.
- D. Planned Unit Business Project.
- E. Multiple-Family Dwellings.
- F. Wholesale Business.
- G. Supply Yards.
- H. Churches.

- I. Light Manufacturing.
- J. Drive-up Facilities.
- K. Public Parks and Playgrounds.
- L. Second Story Rental Apartments.
- M. Second Story Owner Occupied Housing.
- N. Accessory Uses.

**Subd. 4. Yard and Lot Requirements:**

Minimum Lot Width - 25 ft.  
Minimum Lot Depth - 120 ft.

**A. Rear Yard Requirement:** No rear yard setback is required except as hereinafter provided. When required, the rear yard requirements shall be the same as the R-1 District.

1. A rear yard is required for buildings containing any dwelling units.

2. A rear yard is required for any lot of which the rear or side line abuts a residential district (R-1, R-2, R3, or R-4).

**B. Front Yard Requirements:** The minimum front setback on property abutting a public right-of-way in the C-1 District is zero ft.

**C. Side Yard Setback Requirements:** No side yard setback is required except as hereinafter provided. When required, the side yard shall be 10% of the lot width.

1. A side yard is required for any lot of which the side line abuts a residential district.

**Subd. 5. Parking Requirements.** All off-street parking shall conform to the requirements of Section 7-0602.

**SEC. 7-0207. C-2 COMMERCIAL DISTRICT.**

**Subd. 1. Purpose.** The C-2 Business District, is designated to provide areas for commercial establishments that offer a broad range of goods and services.

**Subd. 2. Permitted Uses:**

- A. Auto Sales Service & Repair.
- B. Eating & Drinking Establishments.
- C. Hotels and Motels.

- D. Veterinary Clinics.
- E. Essential Services.
- F. Offices.
- G. Gas/Service Stations.
- H. Fast Food Businesses/Franchises.
- I. Convenience Store.
- J. Retail Businesses.
- K. Personal & Professional Services.
- L. Municipal Buildings and Libraries.
- M. Fire Stations.
- N. Trade and Vocational Schools.
- O. Commercial Recreation.
- P. Funeral Homes.

**Subd. 3. Conditional Uses:**

- A. Water Recreation & Water Storage.
- B. Planned Unit Business Projects.
- C. Accessory Uses.
- D. Wholesale Businesses.
- E. Supply Yards.
- F. Home & Trailer Sales and Displays.
- G. Churches.
- H. Light Manufacturing.
- I. Drive-Up Facilities.
- J. Second Story Rental Apartments.
- K. Second Story Owner Occupied Housing.

**Subd. 4. Yard and Lot Requirements:**

Minimum Lot Area (sq. ft.)	6,000 sq. ft.
Minimum Lot Width (ft.)	50 ft.
Minimum Lot Depth (ft.)	120 ft.
Front Yard Setback (ft.)	25 ft.
Minimum Side Yard Setback	10% of lot width at the front setback or 15 ft, whichever is less. On an interior side yard, 0 ft. is allowed where common walls on attached buildings are located. When adjacent to a residential district, the abutting side yard setback is 10% of lot width at the front setback.
Minimum Rear Yard Setback	20 ft., or when the rear lot line abuts a residential district 25 ft.

Source: Ord. 2013-12, Sec. 1 (2014)

**Subd. 5. Parking Requirements.** All off-street parking shall conform to the requirements of Section 7-0602.

**SEC. 7-0208. C-3 COMMERCIAL PARK.**

**Subd. 1. Purpose.** The C-3 Business District, is designated for businesses providing goods and services in a business park setting.

**Subd. 2. Permitted Uses:**

- A. Retail Businesses.
- B. Offices.
- C. Personal and Professional Services.
- D. Governmental Buildings.
- E. Trade and Vocational Schools.
- F. Research and Testing Laboratories.
- G. Supply Yards.
- H. Warehousing of Non-Explosive Material/Equipment.
- I. Distribution Centers.
- J. Medical, Dental and Optical Laboratories.
- K. Wholesale Businesses.

**L.** Freight and Parcel Shipping Facilities.

**M.** Rental Establishments.

**N.** Essential Services.

**O.** Storm Water Retention Areas.

**P.** Recording Studios.

**Q.** Daycare Centers.

**R.** Car Wash.

**S.** Laundromat.

**T.** Rental Storage Units.

**Subd. 3. Conditional Uses:**

**A.** Light Manufacturing and Assembly.

**B.** Transportation Terminals.

**C.** Radio and Television Offices and Stations.

**D.** Home and Trailer Sales and Displays.

**E.** Vehicle Repair and Service.

**F.** Recreational Vehicle/Trailer Sales, Service & Repair.

**G.** Accessory Uses.

**Subd. 4. Yard and Lot Requirements:**

Minimum Lot Area (sq. ft.) 7,200 sq. ft.

Minimum Lot Width (ft.) 60 ft.

Minimum Lot Depth (ft.) 120 ft.

Minimum Front Yard Setback (ft.) 50 ft.

Minimum Side and Rear Yard Setback (ft.) 15 ft. or half the height of the building, whichever is greater. Rear yard setback is 25 ft. when the rear lot line abuts a residential district.

Source: Ord. 2013-12, Sec. 2 (2014)

## **SEC. 7-0209. I-1 LIGHT INDUSTRIAL DISTRICT.**

**Subd. 1. Purpose.** The I-1, Light Industrial District, provides space for industries that are compatible with adjacent residential or commercial Districts and are free from objectionable influence upon small urban development.

### **Subd. 2. Permitted Uses:**

- A.** Retail Businesses.
- B.** Offices.
- C.** Personal and Professional Services.
- D.** Governmental Buildings.
- E.** Research and Testing Laboratories.
- F.** Supply Yards.
- G.** Warehousing of Non-Explosive Material or Equipment.
- H.** Distribution Centers.
- I.** Truck Terminals.
- J.** Light Manufacturing.
- K.** Essential Services.
- L.** Ag Warehousing and Sales.
- M.** Vehicle Repair, Services and Sales.
- N.** Recreational Vehicle/Trailer Sales, Service and Repair.
- O.** Storm Water Retention Areas.
- P.** Wholesale Businesses.

### **Subd. 3. Conditional Uses:**

- A.** Manufacturing.
- B.** Water Recreation & Storage.
- C.** Locker Plant.
- D.** Chemical Fertilizer Storage.
- E.** Bulk Storage.

F. Oil Filtering or Mixing.

G. Accessory Uses.

**Subd. 4. Yard and Lot Requirements:**

Minimum Lot Area (sq. ft.) 7,200 sq. ft.

Minimum Lot Width (ft.) 60 ft.

Minimum Lot Depth (ft.) 120 ft.

Minimum Front Yard Setback (ft.) 50 ft.

Minimum Side and Rear Yard Setback (ft.) 15 ft. or half the height of the building, whichever is greater. Rear yard setback is 25 ft. when the rear lot line abuts a residential district.

Source: Ord. 2013-12, Sec. 3 (2014)

**Subd. 5. Accessory Uses and Structures Permitted:** Same as C-1 District.

**SEC. 7-0210. I-2 HIGHWAY INDUSTRIAL DISTRICT.**

**Subd. 1. Purpose.** The I-2, Highway Industrial District, provides space for industries and certain highway businesses who have needs for open space, and easy access to the interstate highway.

**Subd. 2. Permitted Uses:**

A. Research and testing laboratories.

B. Bottling Plant.

C. Heavy Equipment Manufacture, Sales, Service, or Repair.

D. Manufacture, Processing, and Fabrication of Clay, Concrete, Wood, Plastic, & Metal Products.

E. Agriculture.

F. Trucking, or Freight Terminal.

G. Warehouse.

H. Essential Services.

**Subd. 3. Conditional Uses:**

A. Chemical Fertilizer Plant.

B. Fuel and Explosive Material Storage Tanks and Terminals.

C. Planned Unit Industrial Park.

D. Public Parks and Playgrounds.

**Subd. 4. Yard and Lot Requirements:** As provided in the C-2 District.

**Subd. 5. Accessory Uses and Structures Permitted:** As provided in the C-1 District.

#### **SEC. 7-0211. SC-1 CONSERVATION DISTRICT.**

**Subd. 1. Purpose.** The SC-1, Conservation District, is designated to provide for uses in environmentally sensitive areas. The purpose of this district is to prevent development of land that is unsuitable for development due to periodic flooding or wetland designation, and to regulate the intensity of the land use in those areas of the SC-1 District that are suitable for development. All uses located in the SC-1 District (or any other District) that are also within the boundaries of a designated wetland, determined according to the Wetland Conservation Act of 1991, must be approved by the Board of Adjustment and the Wetlands Conservation District Zoning Administrator.

##### **Subd. 2. Permitted Uses:**

A. Agriculture.

B. Public Parks & Playgrounds.

C. Essential Services.

D. Accessory Uses.

##### **Subd. 3. Conditional Uses:**

A. Water Recreation & Water Storage.

B. Golf Courses & Country Clubs.

C. Sewage Treatment.

D. Public Utility Buildings.

**Subd. 4. Yard and Lot Requirements:** Same as the R-1 District.

**Subd. 5. Accessory Uses and Structures Permitted:** Same as the R-1 District.

#### **SEC. 7-0212. P PUBLIC FACILITIES DISTRICT.**

**Subd. 1. Purpose.** The P District is established to promote the development, maintenance, use, and identification of City owned, dedicated, or leased land, structures, open space, parks, and other property.

**Subd. 2. Permitted Uses.**

- A. Essential services and essential service structures.
- B. Municipally owned parks and open space.
- C. Municipally owned golf courses, tennis courts, skating rinks and playing fields.
- D. Public preschool, elementary, junior or senior high schools.

**Subd. 3. Project Review.** The Planning Commission will review all development within the Public Facilities District, and shall determine if the proposed development is consistent with the following factors:

- A. Whether the proposed facility is compatible with the area and neighboring uses.
- B. Whether the proposed development would create or cause any of the following:
  - i. An adverse traffic impact of a traffic safety hazard, including, but not limited to, an adverse impact of traffic circulation;
  - ii. Pedestrian-vehicle conflicts of pedestrian safety hazards;
  - iii. An accumulation of garbage or trash;
  - iv. Excessive noise;
  - v. Intrusive lighting;
  - vi. Excessive or unpleasant odors;
  - vii. Noxious fumes;
  - viii. Interference with neighboring properties or uses due to activities associated with the proposed facility or due to its hours of operations.
- C. The use shall comply with the performance standards of the fencing and screening provisions of this Chapter.
- D. The use shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds, adjacent buildings and property.
- E. The use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.
- F. The use shall organize vehicular access and parking to minimize traffic.

G. Other similar elements, although not specifically stated in this ordinance.

**Subd. 4. Yard Requirements.**

A. None, except if the property abuts another zoning district, buildings and other structures must be set back the same distance as is required in the abutting district.

**Subd. 5. Maximum Building Height.** None.

**Subd. 6. Maximum Lot Coverage.** None.

**Subd. 7. Signs.** Churches, schools, hospitals, clinics, libraries or similar uses may be allowed one identification sign, subject to the approval of a conditional use permit; provided that:

1. Such signs shall be solely for the purpose of displaying the name of the institution and its activities or services.
2. The sign is not to exceed 80 square feet in aggregate area.
3. Height is not to exceed 8 feet.
4. Width is not to exceed 12 feet.
5. The sign is of a monument styling, rather than pole mounted.
6. There is ground landscaping surrounding the base of the sign.
7. There are no flashing lights of any type; and
8. Such other terms and conditions as may be appropriate and allowed by law.

**SEC. 7-0213. PLANNED UNIT DEVELOPMENT (PUD).** Planned Unit residential, commercial, or industrial developments shall be permitted according to the guidelines of this Section and the approval of the Council through the conditional use process. A site plan shall be presented to the Council and, after approval, all development shall be in accordance with said plan. The following requirements also apply to planned unit developments:

**Subd. 1.** The area of the land to be developed shall not be less than five (5) acres.

**Subd. 2.** Properties adjacent to the unit plan shall not be adversely affected.

**Subd. 3.** The average density of dwelling units shall not be higher than that permitted in the district in which the planned unit is located.

**Subd. 4.** The use of the land shall not differ substantially from the uses permitted in the district in which the planned unit is located, except that limited commercial facilities, intended to serve only residents of the planned unit and fully integrated into the design of the project, may be considered in residential districts and multiple-family dwellings may be considered in the R-1, R-2, C-1, and C-2 Districts.

**Subd. 5.** The unit plan shall be consistent with the purpose of this Chapter.

**Subd. 6.** The unit plan shall be reviewed and recommendations made by the Planning Commission and the Council to determine if the proposed planned unit is consistent with the Comprehensive Plan and is in the best interest of the City.

**SEC. 7-0214. PERMANENT FOUNDATION REQUIRED.** All principle structures in R-1, R-2, and R-3 Zoning Districts shall have a permanent exterior perimeter foundation. The foundation shall meet all requirements of the International Building Code or the International Residential Code; whichever is applicable. The provision shall not allow post and beam or pier construction above grade as an exterior perimeter foundation. All attached accessory structures must follow these same requirements.

**SEC. 7-0215. MOVED BUILDINGS.**

**Subd. 1.** Subject to Subd. 2 hereof, no building over 150 square feet will be moved within or into the City without having first obtained a conditional use permit (CUP). Any such building allowed by a CUP shall, at a minimum, blend into the neighborhood to which it is moved and have an appearance in harmony with surrounding structures.

**Subd. 2.** A manufactured home may be moved, but without a Conditional Use Permit, provided the structure is a manufactured housing unit being relocated to a subdivision whose covenants do not restrict manufactured housing and provided said manufactured housing unit is in compliance with applicable State Statutes, the Manufactured Home Building Code, and City Ordinances.

## CHAPTER 7-03

### SIGNS

#### SECTIONS:

7-0301.	General.
7-0302.	Definitions.
7-0303.	Banner Signs.
7-0304.	Business Signs.
7-0305.	Construction Signs.
7-0306.	Home-Based Business Signs.
7-0307.	Illuminated Signs.
7-0308.	Motion Signs.
7-0309.	Off-Premise Signs.
7-0310.	Political Signs.
7-0311.	Portable Signs.
7-0312.	R-1 and R-2 Residential Signs.
7-0313.	Residential Signs.
7-0314.	Real Estate Signs.
7-0315.	Roof Signs.
7-0316.	Sign Maintenance.
7-0317.	Obsolete Signs.
7-0318.	Unsafe or Dangerous Signs.
7-0319.	Violations.
7-0320.	P-Public Facilities Zone Signs.

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**SEC. 7-0301. GENERAL** The purpose of this section is to protect, insure, maintain and regain the natural and scenic beauty and attractiveness of the roadsides throughout the city. By the construction of public roads, the public has created views to which the public retains a right-of-view, and it is the intent of these standards to prevent the taking of that right. Signs are recognized as accessory uses and are permitted in all districts subject to the regulations of this Ordinance.

**Subd. 1.** Some general provisions of the sign ordinance include the following:

**A.** All permanent sign installations require a building permit, except for political signs, temporary signs, identification signs, construction signs, and real estate signs 16 square feet or less of aggregate signage (i.e., front and back total).

**B.** No sign shall be allowed that is a hazard to the public health, safety, convenience, or welfare, or that prevents ingress or egress from any door, window or fire escape; that tends to accumulate debris as a fire hazard; or that is attached to a standpipe or fire escape.

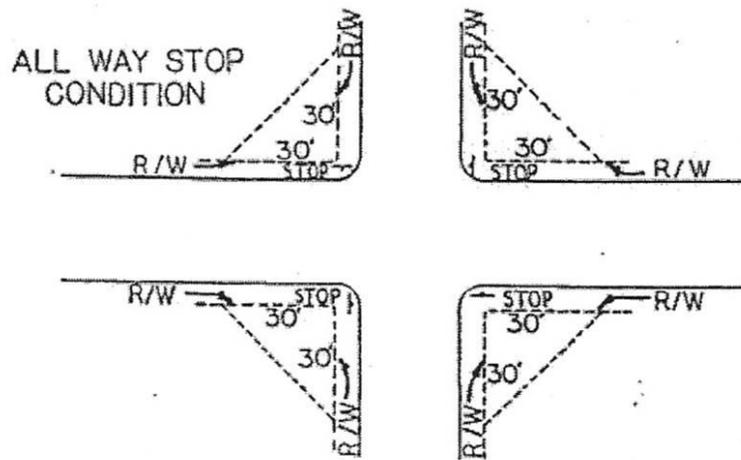
**C.** The regulations contained herein do not apply to signs painted, attached by adhesive, or otherwise attached directly to or visible through windows and glass portions of doors.

**D.** No sign may be erected that, by reason of position, shape, movement, color or any other characteristic, interferes with the proper functioning of a traffic sign or signal or otherwise constitutes a traffic hazard. No signs shall be permitted which would interfere with traffic control.

**E.** Private traffic circulation signs and traffic warning signs in alleys, parking lots, or in other hazardous situations may be allowed on private property, provided that such individual signs not exceed 3 square feet and are utilized exclusively for the purposes intended.

**F.** Signs are prohibited within the public right-of-way of any street or easement except in those commercially zoned areas where buildings are built up to the street right-of-way. In those areas, signs may project out from the building but must leave at least eight feet clear below the sign, must be set back at least one foot from a vertical line drawn above the curb, and must not exceed 32 square feet in area.

**G.** Any sign which constitutes a hazard to traffic, including, but not limited to, signs located within the sign triangle of an intersection, which shall be within thirty feet (30') of an intersecting curb line of an intersection, if it shall impede vision between a height of thirty inches (30") and eight feet (8').



**H.** In any zoning district, animal displays, lights directed skyward, pieces of sculpture, fountains, or other displays or features which do not clearly fall within the definition of a sign, but which direct attention to a product, place, activity, institution, organization or business shall be considered a conditional use.

**I.** Signs giving off an intermittent or rotating beam or ray of light shall be prohibited.

**J.** No sign shall contain indecent or offensive picture or written matter. The Zoning Officer shall be given the authority to determine offensive nature. The Planning Commission will decide any appeal.

**K.** In all zoning districts, one identification sign shall be required per building except accessory structures and residential buildings which shall only be required to display the street address or property number.

L. It is the obligation of the installer of any sign to check for any or all underground utilities and services before excavating for sign foundations.

**SEC. 7-0302. DEFINITIONS.**

A. **Banner Sign** – a temporary sign made of durable, weather resistant fabric or other non-rigid material, with no framework.

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

C. **Electronic Sign** – a sign that utilizes LCD or similar technology to display time, temperature or messages on either a fixed or moving basis, using words and/or graphics.

D. **Illuminated Sign** – a sign characterized by the use of artificial light, either projecting through its surface(s), internally illuminated, or reflecting off its surface(s).

E. **Off-Premise Advertising Sign** – any sign which directs attention to a business, profession, product, service, activity or entertainment not conducted, sold or offered on the premises upon which the sign is located.

F. **Political Sign** – a sign that sponsors a particular candidate for a particular election.

G. **Portable Sign** – any sign which is constructed so as to be movable, either by skids, wheels, truck or other conveyance; any sign which does not have a permanent foundation or is otherwise permanently fastened to the ground and/or which is not wired for electricity in accordance with this code. When on a trailer, the removal of the wheels or undercarriage does not place the sign in another category; neither does the anchoring of the sign by means of concrete blocks, sandbags, or other types of temporary anchors.

H. **Real Estate Sign** – a sign which offers a structure or lot for sale, rent, or trade.

**SEC. 7-0303. BANNER SIGNS.** Temporary advertisement signs in the form of durable, weather resistant banners may be erected with a temporary sign permit, provided:

A. The total area of all temporary signs in the form of banners must not exceed 200 square feet and two signs per building.

B. Banners are allowed to be displayed on existing fences, accessory buildings, and principal building facades, providing they meet the setback requirements.

C. In a multi-tenant structure, the banner must not exceed the width of the front of the space to be occupied or 200 square feet, whichever is less.

D. Each business is allowed a maximum of 20 permits in a calendar year. Each permit will be for 90 days. No temporary sign permit will be issued to any business or institution found guilty of violating the provisions of the temporary sign ordinance more than once in the previous calendar year.

**SEC. 7-0304. BUSINESS SIGNS.** In commercial and industrial districts, on-site signs shall be permitted according to the following provisions:

**A.** One monument or freestanding sign and one wall mounted sign identifying the premises shall be allowed. In structures with joint tenancy and individual outside entrances, each tenant can have its own wall sign.

**B.** The maximum height of any freestanding sign shall be 25 feet from the ground to the top of the sign. A conditional use permit may be considered for taller signs.

**C.** There is no setback required from the edge of the road right-of-way to the nearest portion of any freestanding sign. Side yard setback is the same as for the building.

**D.** The total area of freestanding signage shall not exceed 100 square feet.

**E.** Wall signs may not exceed a maximum of five (5) square feet for every linear foot of building frontage. This formula applies to buildings with either single or joint tenancy.

**SEC. 7-0305. CONSTRUCTION SIGNS.** Construction signs shall not exceed 32 square feet in area. Such signs shall be removed when the project is complete.

**SEC. 7-0306. HOME-BASED BUSINESS SIGNS.** Individuals conducting a bona fide home-based business will be allowed one wall-mounted sign not to exceed an aggregate of 8 square feet facing the street and one free-standing sign not to exceed 8 square feet aggregate.

**SEC. 7-0307. ILLUMINATED SIGNS.** Illuminated signs may be permitted by conditional use. Illuminated signs shall be diffused or indirect so as not to direct rays of light into adjacent property or onto public way which obstructs the view adjacent properties and or signage.

**SEC. 7-0308. ELECTRONIC SIGNS.** Electronic signs are permitted by conditional use in C-1, C-2 and I-1 zoning areas.

**SEC. 7-0309. OFF-PREMISE SIGNS.** Off-premise signs are permitted with the permission of affected property owner, and said sign does not exceed the allowed signage for the parcel where the sign is located.

**SEC. 7-0310. POLITICAL SIGNS.** Political signs are allowed in any district, on private property, with the consent of the owner of the property. Such signs must be removed within 7 days following the date of the election or elections to which they are applied and may be displayed no earlier than 2 months before such date.

**SEC. 7-0311. PORTABLE SIGNS.** An annual portable sign permit must be obtained from the City of Barnesville at a cost of \$15 prior to placement of a portable sign. Portable signs may be used for a period not to exceed thirty (30) days at a time. Upon removal of the portable sign, it must be at least fourteen (14) days before a portable sign may be used at that location, provided that portable signage on that site does not exceed fifty-six (56) days within one calendar year.

**A.** Portable signs may only be used in C-1, C-2 and I-1 zoning areas.

**B.** No portable sign may exceed sixty (60) square feet in area per side, with the sign face to not exceed six feet (6') in height or ten feet (10') in width, and may not exceed eight feet (8') in overall height.

**SEC. 7-0312. R-1 AND R-2 RESIDENTIAL SIGNS.**

**Subd. 1.** Residential signs shall not exceed eight (8) square feet in area and bear only the name and address of occupants of premises.

**Subd. 2.** No dimension of a sign may be more than three times the other dimensions.

**Subd. 3.** The maximum height of any freestanding sign shall be eight (8) feet as measured from the ground to the top of this sign.

**Subd. 4.** Churches, schools, hospitals, clinics, libraries or similar uses may be allowed one identification sign, subject to the approval of a conditional use permit, provided that:

**A.** Such signs shall be solely for the purpose of displaying the name of the institution and its activities or services;

**B.** There can be a maximum of two freestanding signs, the total square footage of which may not exceed eighty (80) square feet in aggregate area;

**C.** There can be a maximum of two wall-mounted signs, one per wall, with each sign not to exceed thirty-two (32) square feet;

**D.** The maximum height of any freestanding sign shall be eight (8) feet as measured from the existing grade to the top of the sign;

**E.** There are no flashing lights of any type; and

**F.** Such other terms and conditions as may be appropriate and allowed by law.

**SEC. 7-0313. R-3 RESIDENTIAL SIGNS.** One free-standing, monument or wall sign, not greater than forty-eight (48) square feet per face indicating the name and/or address of the building, as well as vacancy information. Signs from forty-eight (48) to sixty-three (63) square feet per face may be allowed with a Conditional Use Permit.

**SEC. 7-0314. REAL ESTATE SIGNS.** Real estate signs for individual lots or structures may be placed in any yard provided such signs are not closer than 10 feet to any property line and they do not exceed 16 square feet.

Real estate signs may be erected for the purpose of selling or promoting a single-family or multiple-family residential project of ten or more dwelling units provided:

**A.** Such signs shall not exceed 100 square feet in area.

**B.** Only one such sign shall be erected on each road frontage with a maximum of 2 such signs per project.

C. Such signs shall be removed from the project when it is totally completed, sold, or leased.

D. Such signs shall not be located closer than 25 feet to any neighboring residence.

**SEC. 7-0315. ROOF SIGNS.** Roof signs are permitted only by conditional use in C-1, C-2 and I-1 Districts.

**SEC. 7-0316. SIGN MAINTENANCE.**

**Subd. 1.** All signs and sign structures must be kept in good repair and in a proper state of maintenance, including, but not limited to, replacing lamps, replacing ballasts in freestanding signs, replacing transformers in building signs, painting the poles of freestanding signs, replacing or repairing the sign faces, replacing torn banners, and replacement of sign fasteners.

**Subd. 2.** Area around sign – the owner or lessee of any sign shall keep the grass, weeds, or other growth cut and the area free from refuse between the sign and the street and also for a distance of 6 feet behind and at the end of said sign.

**SEC. 7-0317. OBSOLETE SIGNS.** Any sign which no longer advertises a bona fide business conducted or a product sold shall be taken down and removed by the owner, agent or person having the beneficial use of the building or land upon which the sign may be found within 30 days after written notice from the Zoning Officer.

**SEC. 7-0318. UNSAFE OR DANGEROUS SIGNS.** Any sign which becomes structurally unsafe or endangers the safety of a building or premises or endangers the public safety as determined by the building inspector, shall be taken down and removed by the owner, agent, or person having the beneficial use of the building, structure, or land upon which the sign is located within 10 days after written notification from the Zoning Officer.

**SEC. 7-0319. VIOLATIONS.** If the Zoning Officer finds any sign in violation of this ordinance, a written notice will be issued to the owner and/or tenant specifying the violation and allowing fourteen (14) days to correct or remove the violation. If the violation is not corrected or discontinued within that time period, the owner and/or tenant of the property will be guilty of a misdemeanor, and each day of violation after the initial time period as specified by written notice constitutes a separate offense.

**SEC. 7-0320. P-PUBLIC FACILITIES ZONING SIGNS.** Churches, schools, hospitals, clinics, libraries, or similar uses may be allowed one identification sign, subject to the approval of a conditional use permit. Provided that:

A. Such signs shall be solely for the purpose of displaying the name of the institution and its activities or services.

B. The sign is not to exceed eight square feet in aggregate area.

C. Height is not to exceed 8 feet.

D. Width is not to exceed 12 feet.

- E.** The sign is of a monument styling, rather than pole mounted.
- F.** There is ground landscaping surrounding the base of the sign.
- G.** There are no flashing lights of any type; and
- H.** Such other terms and conditions as may be appropriate and allowed by

law.

**CHAPTER 7-04**  
**HOME OCCUPATIONS**

**SECTIONS:**

7-0401. Home Occupations.

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**SEC. 7-0401. HOME OCCUPATIONS.**

**Subd. 1. General.** Home occupations are permitted in residential districts in accordance with the other provisions of this Chapter.

**A.** The home occupation shall be conducted by a member of the family residing in the dwelling unit with not more than one employee who is not a member of the family residing in the dwelling unit.

**B.** All activities of the home occupation shall be conducted wholly within the principal or accessory structures and shall occupy not more than twenty-five percent (25%) of the main floor of the dwelling unit. (Source: Ord. 2012-05)

**C. Only** signs as permitted in the R-1 District are allowed.

**D.** Exterior storage of materials or variation from the residential character of the principal structure shall not be permitted.

**E.** Objectionable noise, vibration, smoke, dust, electrical disturbance, odors, heat or glare shall not be produced by the activities associated with the home occupation.

**F.** No home occupation shall require internal or external alterations or involve construction features not customarily found in dwellings except where required to comply with local and state fire and police recommendations. (Source: Ord. 2012-05)

**G.** No home occupation shall be conducted between the hours of ten o'clock (10:00) p.m. and seven o'clock (7:00) a.m. unless said occupation is contained entirely within the principal building and will not require any on-street parking facilities. (Source: Ord. 2012-05)

**H.** Home occupations shall not create a parking demand in excess of that which can be accommodated in an existing driveway, where no vehicle is parked closer than fifteen feet (15') from the curb line or edge of paved surface. (Source: Ord. 2012-05)

**I.** The home occupation shall not involve any of the following: small engine, auto repair or reconditioning, or manufacturing. (Source: Ord. 2012-05)

**J.** Garage sales, yard sales and/or one time seasonal sales shall be conducted no more than six (6) days total in any one hundred eighty (180) day period. (Source: Ord. 2012-05)

**Subd. 2. Bed and Breakfast Facilities.**

**A. District Application.** Bed and breakfast facilities are allowed within any residential district of the City subject to the approval of a conditional use permit.

**B. Conditions of Approval.** A bed and breakfast facility may be allowed provided that:

1. A maximum of eight (8) bed and breakfast units may be established and no more than twenty (20) guests in the principal structure.

2. No meals other than breakfast may be served.

3. The facility shall have a State license (hotel and food), and comply with building and fire codes as may be required or applicable.

4. The facility shall be owner or manager occupied.

5. The principal structure shall have a minimum size of one thousand five hundred (1,500) gross square feet.

6. All bed and breakfast units shall be established within the principal structure.

7. Not more than the equivalent of one full-time person shall be employed by the bed and breakfast facility who is not a resident of the structure.

8. Dining and other facilities shall not be open to the public but shall be used exclusively by the registered guests and residents.

9. No liquor may be sold on the premises.

10. Adequate lighting shall be provided between the principal structure and the parking area for safety purposes. Any additional external lighting is prohibited.

**CHAPTER 7-05**  
**MANUFACTURED HOMES**

**SECTIONS:**

7-0501.           Manufactured Homes.

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**SEC. 7-0501. MANUFACTURED HOMES.** Manufactured homes, as defined in this Chapter, are permitted in R-1 and R-2 Districts subject to the following conditions:

**Subd. 1.** All manufactured homes shall be constructed after June 15, 1976 and bear the HUD certification seal.

**Subd. 2.** The minimum width of the structure at its narrowest point shall not be less than twenty-two (22) feet.

**Subd. 3.** All dwellings shall be placed on a permanent foundation in compliance with the Uniform Building Code as adopted by the City.

**Subd. 4.** Hitches or other visible transport equipment shall be removed.

## CHAPTER 7-06

### OTHER PROVISIONS

#### SECTIONS:

7-0601.	Structural Regulations.
7-0602.	Off-Street Parking and Loading Requirements.
7-0603.	Water Recreation and Water Storage Facilities.
7-0604.	Outside Storage Units, Residential, Commercial and Industrial Uses.
7-0605.	Wind Energy Conservation Systems (WECS).
7-0606.	Drainage Plans.
7-0607.	Exterior Solid Fuel-Fired Heating Devices.
7-0608.	Storm Water Management
7-0609.	Wireless Telecommunications.

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#### SEC. 7-0601. STRUCTURAL REGULATIONS.

**Subd. 1. Height.** No structure shall exceed 45 feet in height above average ground level unless approved by the Board of Adjustment. The Board may authorize a variance to the height regulations in any district if:

**A.** All front, side, and rear yard depths are increased one foot for each additional foot of height; or

**B.** The structure is any of the following and does not constitute a hazard to any established airport: television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers and scenery lofts, silos, cooling towers, ornamental towers and spires, chimneys, elevator bulkhead, smokestacks, conveyors, wind generators and flagpoles.

**Subd. 2. Building Type and Construction.** No galvanized or unfinished steel, galvalum or unfinished aluminum buildings walls or roofs, except those specifically intended to have a corrosive designed finish shall be permitted in any zoning district except in association with farming operations, or in industrial zones, or as permitted by conditional use permit.

**Subd. 3. Temporary Structures.** Temporary structures used in conjunction with construction work shall be permitted only during the period that construction work is in progress. Permits for residing in basement or foundation structure before the completion of the total structure shall not be permitted.

#### SEC. 7-0602. OFF-STREET PARKING AND LOADING REGULATIONS.

**Subd. 1. Intent.** The intent of this section is to promote the safety, convenience, comfort, and common welfare of the public by providing for minimum standards to regulate off-street parking of vehicles, trailers and other equipment in a safe and efficient manner, so as to avoid the unnecessary congestion and interference with the public use of street, to reduce traffic hazards, and to provide a safe operation of traffic circulation.

**Subd. 2. Definitions.** In this chapter, unless otherwise provided, or the context otherwise requires. The following words and phrases shall have the meanings set forth below:

A. "Arterial" means a street or highway which provides as a major function the transmission of vehicular through-traffic along its prolongation of length (in preference to traffic entering the street or highway from an abutting lot or intersecting road), and which performs a major role in serving the transportation needs of the community, and which is identified as a "major arterial" or "community arterial" in the City of Barnesville Master Plan for Roads and Streets.

B. "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used to transport passengers or property if the motor vehicle:

1. has a gross vehicle weight of more than 26,000 pounds;
2. has a towed unit with gross vehicle weight of more than 10,000 pounds and the combination of vehicles has a combined gross vehicle weight of more than 26,000 pounds;
3. is a bus;
4. is of any size and is used in the transportation of hazardous materials that are required to be placarded under Code of Federal Regulations, Title 49, parts 100-185; or
5. is outwardly equipped and identified as a school bus.

C. "Driveway" means the aisle within a parking lot which abuts designated parking spaces and which is reserved exclusively for ingress, egress, and maneuvering of automobiles in and out of those spaces.

D. "Environmental Law" shall mean any and all federal, state, local and foreign statutes, laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements, or other governmental restrictions relating to the protection of the environment or human health, welfare, or safety, or to the emission, discharge, seepage, release, or threatened release of Hazardous Materials (as hereinafter defined) into the environment including, without limitation, in to ambient air, surface water, ground water, or land, or restrictions otherwise relating to the Handling (as hereinafter defined) of such Hazardous Materials.

E. "Gross Vehicle Weight" (GVW) means the value specified by the manufacturer as the maximum gross vehicle weight rating (GVWR) of the vehicle or vehicle combination.

F. "Hazardous Materials" shall mean any material that requires a Department of Transportation placard in order to be transported.

G. "Loading space" means an off-street space on the same lot with a serviced building or contiguous to a group of buildings, designated, or intended for the use of temporarily parked commercial vehicles while loading or unloading, and which abuts upon a street, alley, or other appropriate means of access.

H. "Park" means to stand a vehicle, whether occupied or not, for a period of time greater than is reasonably necessary for loading and unloading.

I. "Parking lot" means a group of parking spaces, and all abutting driveway space required by this chapter for the number and configuration of those spaces, provided, that the parking spaces must be situated in a manner that conforms to the design standards of this chapter, and does not lead to conflicts in vehicle maneuverability or parking space access.

J. "Parking space" means a permanently surfaced area of not less than 170 square feet (8.5 feet wide and 20 feet long), which has adequate access to a public street or alley, which permits the satisfactory ingress and egress of an automobile.

K. "Parking stall" is synonymous with "parking space."

L. "Semitrailer" means a vehicle of the trailer type so designed and used in conjunction with a truck-tractor that a considerable part of its own weight or that of its load rests upon and is carried by the truck-tractor and includes a trailer drawn by a truck-tractor semitrailer combination.

M. "Truck tractor" means

1. A motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than part of the weight of the vehicle and load drawn; and

2. A motor vehicle designed and used primarily for drawing other vehicles used exclusively for transporting motor vehicles or boats and capable of carrying motor vehicles or boats on its own structure.

### **Subd. 3. Off-Street Parking - General.**

A. These parking provisions apply to all land area within the City of Barnesville. The Zoning Administrator is responsible for implementation of this chapter. The requirements of the chapter are subject to review by the Planning Commission.

B. The C-1 Central Business District is exempt from Off-Street Parking and Loading Regulations, except as in subdivision 11.

**Subd. 4. Hazardous Materials.** Off-street parking of vehicles transporting hazardous materials is allowed within residential zoning districts for a period not to exceed four hours. It is unlawful to park in any zoning district any vehicle or trailer used to store anhydrous ammonia or related toxic products.

**Subd. 5. Requirements.** Every building erected, and every building reconstructed or structurally altered such that the existing use is enlarged or the capacity increased by adding or creating dwelling units, guest rooms, bedrooms, floor area, seats, or employees, and every building reconstructed or structurally altered such that the use is altered, after the adoption of the ordinance from which this chapter derives, shall provide, permanently available and at all times maintained, the number of parking spaces required in this Section. This ordinance shall apply to all cars, vehicles, commercial motor vehicles, semi-trailers, tractor-trailers, equipment, boats and other motorized and non-motorized items. It is the intent of this section that cars, vehicles, commercial motor vehicles, semi-trailers, tractor-trailers, equipment,

boats and other motorized and non-motorized items are not considered existing uses as these items are transitory, moveable and the parking of such items is temporary in nature.

**Subd. 6. Intended Use.** The intended use of all parking spaces required in Subdivision 7 is the temporary storage of operable automobiles in the interval of time between usage as a medium of transportation. Parking spaces shall not be used for storage of boats, abandoned or inoperable vehicles, dumpsters, or other objects not within the scope of the intended use as defined in this chapter.

**Subd. 7. Schedule of Off-Street Parking Requirements.** Off-street parking spaces shall be provided for buildings and uses as specified in the following schedule:

### **Off-Street Parking**

<u>Types of Uses</u>	<u>Requirements</u>
Assisted Living	1 space per every 2 residential units.
Automobile repair shops	2 spaces for each repair stall plus 1 space for each employee.
Banks	1 space per 350 feet of gross floor area.
Bowling alleys	4 spaces for each alley, plus additional spaces as may be required for other uses in the principal structure and 1 space for every 2 employees.
Churches	1 space for each 4 seats in the church (sanctuary), plus 1 space for each church employee.
Community centers, libraries, museums	1 space per each 300 square feet of gross floor area.
Drive-in banks	1 space for each 2 drive-in lanes plus drive aisle stacking space of 50 feet for each drive-in lane.
Dwelling, efficiency	1 space per dwelling unit.
Dwelling, multi-family	2 spaces per dwelling unit, or gross floor area divided by 440, whichever is greater.
Dwelling, single-family	2 spaces per dwelling unit.
Dwelling, two-family	2 spaces per dwelling unit.

Funeral homes	1 space per each 60 square feet of floor area available for seating accommodations.
General retail	1 space per 350 square feet of floor area excluding public plazas, malls, and pedestrian walkways, plus 1 space for each 1000 square feet of storage area.
Hospitals	1 space for each two patient beds (excluding bassinets), plus one additional space for each doctor, including visiting doctors, plus 1 space for each 2 employees, including nurses; loading and unloading space for hospital ambulances and similar vehicles are not included in the spaces required.
Hotels, motels, tourist homes, cabins	1 space for each room or suite, plus 2 spaces for each 5 employees.
Industrial and manufacturing	1 space per each 350 square feet of office space, plus 1 space per each 1000 square feet of manufacturing, and warehouse space, plus 1 truck space for each 7,500 square feet of gross floor area.
Lodging, rooming, and boarding houses	1 space for each guest, plus 2 spaces for the owner or manager if resident on the premises.
Medical or dental clinics	1 space per 350 square feet of gross floor area plus 1 space per doctor engaged at the clinic plus 1 space for each employee.
Mobile Home Park	2 spaces for each mobile home lot.
Nursing homes, convalescent homes	1 space for each 4 residents or patients plus 1 space for each 2 employees plus 1 space for emergency vehicles.
Office, professional or public buildings	1 space for each 350 square feet of gross floor area.
Post Office	1 space per each 400 square feet plus 1 space for each employee.

Private clubs or lodges	Parking requirements to be determined by totaling each specific type of use provided for, plus 1 space per 250 square feet of gross floor area for all other areas.
Restaurants, drive-in	1 space per 60 square feet of gross floor area of service and dining area. 2 additional spaces for drive-through service facilities and 1 space for each 200 square feet of kitchen area. Additionally, 100 feet of stacking space must be provided for each drive-through aisle.
Restaurants, night clubs, and cafes	1 space for every 60 square feet of dining and bar area and 1 space for every 200 square feet of kitchen area.
Retirement homes	1 space per residential unit.
Theaters, civic centers, auditoriums, stadiums, sports arenas, or similar uses	1 space for each 4 seats, plus 1 space for each 2 employees.

**Subd. 8. Mixed Uses.** In cases of mixed uses, the parking spaces required shall be the sum of the requirements for the various individual uses, computed separately.

**Subd. 9. Design Standards.**

**A.** All off-street automobile parking facilities shall be designated with appropriate means of vehicular access to a street or alley as well as maneuvering areas. Detailed plans shall be submitted to the proper official for approval for all curb cuts or driveway openings before a permit may be obtained therefor.

**B.** Parking areas shall be paved with an asphaltic or concrete surfacing, afford adequate drainage, and shall have bumper guards where needed.

**C.** Off-street parking areas for one (1) or two (2) family uses shall be in the rear, side yards, garage, carport, upon a well defined driveway or in an area not to exceed twelve (12) feet in width abutting the driveway on one side only in the front yard. The parking area designated in the front yard abutting the driveway shall be surfaced with either concrete, asphalt, or in cases of existing gravel driveway, gravel may be used for such additional parking.

**D.** Off-street parking area for multiple-family units of three (3) or more shall park on a designated parking lot. In no case, unless approved by the Building Official in the issuance of a building permit or by the Council in cases of conditional uses, shall parking be permitted on the front yard except within the limitation as required in the Home Occupation provisions of this Chapter.

**E.** The dimensional standards as set forth in the City of Barnesville Design Standards document, attached to this section as Appendix A, shall be the minimum required.

**F.** Designated parking space and driveways required under the provisions of this Section shall be free of any physical feature which impedes or obstructs full use of those spaces or driveways for the purposes intended.

**G.** All parking facilities, including parking spaces and driveways, shall be located on private property. No parking facilities shall be placed in designated rights-of-way nor within zoning district set-back areas, except where the Zoning Administrator determines that the following conditions are met:

- i. Parking in such areas shall be allowed only if there is sufficient maneuvering space for the driver of any vehicle to enter and leave the parking area without interfering with the normal flow of traffic.
- ii. Backing of vehicles onto arterials is prohibited, except for driveways which serve single-family and two-family residences.
- iii. Backing of vehicles on all other streets or roadways from setback areas into the traveled roadway shall be allowed only from established driveways or curb cuts.

**H.** Parking angles other than the standard angles tabulated in the City of Barnesville Design Standards document (Appendix A) shall be permitted only if the business, commercial, or public establishment, or institution demonstrates to the satisfaction of the City that the dimensional requirements for alternate parking angles do not permit the required number of parking spaces to be provided on lot. In such case, the Zoning Administrator may determine other appropriate dimensional requirements for alternate parking angles.

**I.** In the case of a parking space or group of spaces, in which two or more interpretations may be made concerning applicable dimensional standards according to the City of Barnesville Design Standards document (Appendix A), the Zoning Administrator shall make the appropriate determination. Such determination will consider the geometry of the lot and parking area, and the configuration of physical features on the lot.

**J.** All parking facilities, except those which serve single-family and duplex residences, shall be so arranged that vehicle ingress and egress is possible using a forward motion. Turnaround areas shall be provided if necessary to effect this arrangement; the dimensions of such turnaround areas shall be subject to approval and/or specification by the Zoning Administrator or Engineer.

**K.** At the intersection of any private drive or entrance or exits for a parking area with a public street, no fence, wall, hedge or other planting or structure forming a material impediment to visibility between a height of two and one-half feet and eight feet shall be erected, planted, placed, or maintained, and no vehicle so impeding visibility shall be parked within triangular areas defined by lines connecting points as follows:

Beginning at the point where the midline of the private drive or entrance or exit for a common parking area intersects the public right-of-way, thence to a point 35 feet along the right-of-way line in the direction of approaching traffic, thence to a point 25 feet toward the interior of the property along the previously described midline, and thence to point of beginning (no such visibility triangle need be maintained on the side of the drive, entrance or exit away from approaching traffic on the same side of the street.

**L.** Any lighting shall be arranged so as to have the main thrust of the light reflect away from public rights-of-way and any adjoining residential properties.

**M.** Off-street parking areas in C-3 Commercial Park, I-1 Light Industrial and I-2 Highway Industrial Districts shall be paved with gravel, crushed concrete, concrete, asphalt, or milled-off asphalt surfacing.

**Subd. 10. Off-Street Residential Parking Restrictions.**

**A.** Fish houses, utility tractors, shall not be parked, stored or otherwise continued on residential property for a period greater than seventy-two hours, unless placed completely in the rear yard or side yard of said property.

**B.** Recreational vehicles: Licensed recreational vehicles or equipment, utility trailers or equipment, and/or off-road vehicles located in a front yard or street side yard must be parked on a paved surface consisting of either asphalt or concrete or existing gravel driveways. Recreational vehicles or equipment, utility trailers or equipment, and/or off-road vehicles located in a rear or interior side yard may be kept on an unpaved surface. Travel trailers, converted buses, or converted vans must be parked on a paved surface of either asphalt or concrete.

Unless completely enclosed within a building, no more than a total of three (3) licensed recreational vehicles or equipment, utility trailers or equipment, and off-road vehicles may be stored on a property at the same time with no more than one (1) stored on the side yard. If more than one vehicle or equipment is stored on a trailer, each vehicle or equipment shall be counted separately, but not the trailer.

Regardless of the surface, watercraft shall not be parked in the front yard from December 1 through March 31, and snowmobiles and fish houses shall not be parked in the front yard, regardless of the surface, from May 1 through October 31.

**C.** Except where otherwise allowed in paragraph D of this section, commercial motor vehicles, semi-trailers, tractor-trucks and trucks of more than nineteen thousand (19,000) GVW or greater than thirty (30) feet in length, and contracting or excavating equipment shall not be parked, stored or otherwise continued on any property within the City unless being used in conjunction with a temporary service benefitting the residential premises.

**D.** Truck-Tractors may be parked on a driveway at the residence of the owner, for plug in availability only, from November 19<sup>th</sup> until road restrictions are placed on

roads by the Minnesota Department of Transport each and every spring. Idling of trucks shall not be allowed between 9 p.m. and 6 a.m.

**E.** Junked, unlicensed, or inoperable vehicles shall not be parked, stored or otherwise continued on any property within the City for a period greater than seventy-two (72) hours unless placed completely within an enclosed building.

**F.** No motor vehicle repair work of any kind shall be permitted in conjunction with exposed off-street parking facilities, except for minor repairs of vehicles owned by the occupant or resident of the principal use for which the parking space is intended. No exterior storage of car parts is allowed at any time.

**G.** Except where otherwise allowed by zoning, contractor's supplies and equipment or machinery kept for eventual sale, commercial repair, rental or other commercial purposes may not be stored, kept or otherwise continued on any property within the City. The keeping, storage or otherwise continuing of such materials within the City is prohibited and shall be considered to be a non-conforming use if in existence on the effective date of this Section.

**Subd. 11. Off-Street Commercial and Industrial Parking Restrictions.**

**A.** Commercial motor vehicles, semi-trailers, tractor-trucks and trucks of more than nineteen thousand (19,000) GVW or greater than thirty (30) feet in length may be parked off-street in areas zoned C-1 and C-2 for a period of not more than seventy-two (72) hours.

**Subd. 12. Site Plan Requirements.**

**A.** All businesses, commercial and/or public establishments and institutions within the City shall submit to the Zoning Administrator a plan detailing the location and configuration of all parking and driveway area required for any on-lot or off-lot parking. Each plan shall conform to the design standards set forth in Appendix A, as adapted to the physical conditions of the lot. Each plan shall moreover detail location and dimensions of driveways and parking stalls, parking lot ingress and egress points, building location, and location of relevant physical features. Plans shall moreover be legible and drawn to an appropriate scale.

**B.** The City shall review all plans to ensure the design standards are adhered to and provisions have been made for minimum interference with street traffic, safe interior circulation, and parking. If the City finds that a plan does not conform to the design standards of this chapter, it shall return the plan to the owner of the appropriate business, commercial or public establishments, or institutions for revisions. If the parking plan varies because of the configuration with the lot, the plan must be reviewed by the Planning Commission.

**Subd. 13. Location of Parking Areas.** Off-street parking facilities for both on-site and off-site parking shall be located as specified in this chapter:

**A.** For a single-family and multiple-family dwelling, the parking facility shall be located on the same lot or building site as the building they are required to serve.

**B.** For uses other than specified above, parking facilities must be of probable use to the patrons of the building it is intended to serve and be within a distance of 300 feet, except for motels, hotels, rooming houses, dormitories, and lodges in which case parking facilities must be within 200 feet.

**C.** The distance shall be measured from the nearest lot line on which the structure served is located to the nearest lot line on which the parking is located. Measurement shall be along public or private right-of-way available for pedestrian access from the structure to the parking space. Evidence must be shown that the right-of-way is improved and will be maintained in order to insure pedestrian access from one parking area to the structure.

**Subd. 14. Off-Site Parking.**

**A. General.** Off-site parking may be used where space is not available on-site. Off-site parking provisions do not apply to loading areas. Off-site spaces shall be located only in districts in which similar off-street parking is permitted.

**B. Requirements.** The off-site parking area shall be:

- i. Held in fee simple by the same owner as the use requiring the off-street parking space; or
- ii. Under lease, rental or other form of agreement satisfactory to the City as assuring continuing availability for required off-street parking for the use; or
- iii. Established by the City for the purpose of providing such off-site parking for specific areas and/or land uses and with number of spaces allocated by specific individual lots. Where and to the extent that such sites serve specific businesses or residences, spaces allocated shall be marked and reserved for individuals or establishments. Spaces allocated may be marked and reserved, or may be made available for general public use, in whole or in part; or
- iv. Be dedicated for use as an off-site parking space under conditions which will guarantee continuing availability satisfactory to the City. Such conditions shall include evidence of a recorded agreement; or

- v. Be within a distance of 300 feet, except for motels, hotels, rooming houses, dormitories, and lodges in which case parking facilities must be within 200 feet.

**C. Sign Requirements for Off-Site Parking.** Businesses utilizing off-site parking shall post at least one sign on the front of the building advising of the location of the off-site parking. Such signs shall be no larger than 9 square feet. In addition, a sign of similar size, set back a minimum of 10 feet from the right-of-way, shall be posted at the lot identifying it as parking for the particular business.

**Subd. 15. Loading Areas - Required.** Any business or industrial building, commercial or industrial establishment shall provide adequate off-street facilities for the loading and unloading of merchandise and foods within or adjacent to the building, in such manner as not to obstruct freedom of traffic movements on the public rights-of-way and in parking areas.

**Subd. 16. Loading Areas - Design Requirements.**

**A.** Loading areas shall be of sufficient size to permit loading and unloading without interference with or projection into any public right-of-way. Loading areas shall be provided with access to any public right-of-way. Any yard or setback requirement may be used for such purpose.

**B.** When such loading area consists of established parking spaces, the use as a loading area may not be longer than four hours in any 24-hour period.

**Subd. 17. Nonconforming Parking and Loading Areas.** Lawful parking spaces and loading areas existing on November 1, 2011, may be continued (although such parking spaces and loading areas do not conform to the provisions of this chapter). If the off-street parking or loading areas required by this chapter in relation to specified uses of land, structures or premises are not in accord with the requirements of this chapter, no change shall be made in such characteristics of use which increases nonconformity with these requirements. Cars, vehicles, commercial motor vehicles, semi-trailers, tractor-trailers, equipment, boats, and other motorized and non-motorized items are not considered existing uses as these items are transitory, moveable and the parking of such items is temporary in nature.

**Subd. 18. Enforcement – General.** The Zoning Administrator or his designee is responsible for enforcement of this chapter. This section may be enforced through the use of administrative citations issued pursuant to Chapter 2.18 of the Barnesville City Code.

**SEC. 7-0603. WATER RECREATION AND WATER STORAGE FACILITIES.** Any facility for water recreation with a capacity greater than two thousand (2,000) gallons and/or two (2) feet or more in depth such as private swimming pools, swimming clubs, and commercial

fishing ponds, or any other water storage facility such as reservoirs, fish hatcheries, sewage lagoons, and farm ponds shall comply with the following requirements:

**Subd. 1.** The facility shall conform with the setback requirements.

**Subd. 2.** The facility shall be enclosed by a fence with a self-closing gate no less than four feet high and no more than four (4) inches from the bottom of the fence to the ground to prevent uncontrolled access.

**Subd. 3.** The facility, if operated to attract visitors, shall comply with parking requirements established under Off-Street Parking and Loading provisions of this Chapter.

**Subd. 4.** Before a Zoning Certificate shall be issued to the operator or owner of the facility, a plan shall be submitted to the Board of Adjustment showing the size of the facility, proposed use, parking arrangement and use of buildings on the site, surrounding properties and their usage, and any other pertinent information.

**SEC. 7-0604. OUTSIDE STORAGE UNITS, RESIDENTIAL, COMMERCIAL AND INDUSTRIAL USES.**

**Subd. 1.** For purposes of this ordinance, the word “storage unit” includes portable storage cubes, van boxes, and commercial shipping containers.

**Subd. 2.** In all residentially zoned areas, the following provisions shall apply:

**A.** Each residence would be limited to one storage unit at any given time.

**B.** The maximum time a storage unit may be placed on a parcel in a residential area is ninety (90) days.

**C.** The storage unit must be stored on a paved or gravel surface or in the side or rear yard.

**D.** The storage unit must be completely off the road right-of-way.

**E.** Dollied down semi-trailers, in roadworthy condition, can be stored on a paved or gravel surface for a maximum of seven (7) days during a moving process, with permission of the Barnesville Police Department.

**Subd. 3.** In C-2, Highway Business District zoned areas, the following provisions shall apply:

**A.** Each commercial property would be limited to one storage unit, per parcel, at any given time.

**B.** Storage units are not allowed in the front yard of the building, and must be a minimum of seventy-five (75) feet from front street right-of-way.

**C.** Storage units must be screened from view from arterial roads.

**D.** Storage units would be limited to 30 feet in length and eight (8) feet high.

**E.** All storage units must be completely off the road right-of-way.

**Subd. 4.** In C-1, Central Business District zoned areas, the following provisions shall apply:

**A.** Each commercial property would be limited to one storage unit, per parcel, at any given time.

**B.** Storage units are not allowed in the front yard of the building.

**C.** Storage units must be screened from view from arterial roads.

**D.** Storage units would be limited to 30 feet in length and eight (8) feet high.

**E.** The maximum time any storage unit may be placed on a parcel in the Central Business District would be ninety (90) days in a 12-month period.

**F.** Dollied down semi-trailers, in roadworthy condition, can be stored for a maximum of thirty (30) days per year with permission of the Barnesville Police Department.

**G.** All storage units must be completely off the road right-of-way.

#### **SEC. 7-0605. WIND ENERGY CONVERSION SYSTEMS (WECS).**

**A. Purpose.** The ordinance is established to regulate the installation of Wind Energy Conversion Systems (WECS) within the City, not otherwise subject to siting and oversight by the State of Minnesota.

#### **B. Interpretation, Conflict, and Separability.**

1. Interpretation. In interpreting these regulations and their application, the provisions of these regulations shall be held to be the minimum requirements for the protection of public health, safety, and general welfare.

2. Conflict. These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulations, statute, or other provision of law except as provided in these regulations. If any provision of these regulations that impose

restrictions is different from any other ordinance, rule or regulation, statute, or provision of law, the provision that is more restrictive or imposes higher standards shall control, except for tower height.

3. Separability. If any part or provision of these regulations or the application of these regulations to any developer or circumstances is found invalid by any competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered and shall not affect or impair the validity of the remainder of these regulations or the application of them to other developers or circumstances.

**C. Definitions.** As used in this chapter, the following terms shall have the meanings indicated:

1. Aggregated Project. Aggregated projects are those which are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual WECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the aggregated project.

2. Commercial WECS. A WECS of equal to or greater than 5 kW in total name plate generating capacity.

3. Decommissioning. Decommissioning shall mean removal of wind turbines, buildings, cabling, electrical components, foundations, and any other associated facilities.

4. FAA. The Federal Aviation Administration.

5. Fall Zone. The area, defined as the furthest distance from the tower base, in which a tower will collapse in the event of a structure failure. This area is not less than the total height of the structure.

6. Feeder Line. Power lines that transport electrical power from one or more wind turbines to the point of interconnection with a high-voltage transmission line.

7. High-voltage Distribution or Transmission Line. A conductor of electric energy and associated facilities designed for and capable of operations at a nominal voltage of 2 kilovolts or more.

8. Hub Height. Shall mean, when referring to a WECS, the distance measured from ground level to the center of the turbine hub.

9. Meteorological Tower. For purposes of this Chapter, meteorological towers are those towers which are erected primarily to measure wind speed and directions plus other data relevant to siting WECS. Meteorological towers do not include towers

and equipment used by airports, the Minnesota Department of Transportation, or other similar applications to monitor weather conditions.

10. Non-Commercial WECS. A WECS of less than 5 kW in total name plate generating capacity.

11. Power Purchase Agreement. A legally enforceable agreement between one or more persons and a utility where one or more of the signatories agrees to provide electric power and one or more of the signatories agrees to purchase the power.

12. Public Conservation Lands. Land owned in fee title by State or Federal agencies and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, State Scientific and Natural Areas, federal Wildlife Refuges, and Waterfowl Production Areas. For the purposes of this section, public conservation lands will also include lands owned in fee title by non-profit conservation organizations. Public conservation lands do not include private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.

13. Rotor Diameter. The diameter of the circle described by the moving rotor blades.

14. Substations. Any electrical facility designed to convert electricity produced by wind turbines to a voltage for interconnection with transmission lines.

15. Total Height. The highest point, above ground level, reached by a rotor tip or any other part of the WECS.

16. Tower. Towers include vertical structures that support the electrical generator, rotor blades, or meteorological equipment.

17. WECS - Wind Energy Conservation System. An electrical generating facility comprised of one or more wind turbines and accessory facilities, including but not limited to: towers, power lines, transformers, substations, and meteorological towers, that operate by converting the kinetic energy of wind into electrical energy. The energy may be used on-site or distributed into the electrical grid.

18. Wind Turbine. A wind turbine is a piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

**D. Application Procedures.** Application for WECS shall be reviewed and processed in accordance with the conditional use permit procedures established in Section 11.84 of this Chapter. The following information is required in addition to the information required for a site plan or conditional use permit application.

1. The application for all WECS shall include the following information:

- a. The names and addresses of project applicants.
- b. The name and address of the project owner.
- c. The legal description and address of the project.
- d. A description of the project including: number, type, name plate generating capacity, tower height, rotor diameter, tower construction, and total height of all wind turbines and means of interconnection with the electrical grid.
- e. Site layout, including the location of property lines, wind turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures. The site layout shall include distances and be drawn to scale.
- f. Evidence, being certificate of insurance, insurance policy, or other certification satisfactory to City, that the applicant can obtain and maintain adequate liability insurance for the WECS and subject property.
- g. Evidence of a power purchase agreement. (Commercial WECS only).
- h. Registered Engineer's certification. (Commercial WECS only).
- i. Documentation of property ownership or legal control of the property.
- j. Decommissioning Plan as required in part G.2.i and G.2.j of this section.
- k. A noise study, prepared by a qualified professional or WECS provider, that demonstrates that except for intermittent episodes, the WECS shall not emit noise in excess of the limits established in Minnesota Rules 7030 governing noise. (Commercial WECS only). Non-commercial WECS shall comply with the noise limits established by Minnesota Rules 7030.
  - l. (Commercial WECS only) A shadow flicker model that demonstrates that shadow flicker shall not fall on, or in, any existing residential structure. Shadow flicker expected to fall on a roadway or a portion of a residentially zoned property may be acceptable if the flicker does not exceed 30 hours per year; and the flicker will fall more than 100 feet from an existing residence; or the traffic volumes are less than 500 vehicles (ADT). The shadow flicker model shall:

i. Map and describe with a 1000 foot radius of the proposed WECS the topography, existing residences and location of their windows, location of other structures, wind speeds and directions, existing vegetation, and roadways. The model shall represent the most probable scenarios of wind constancy, sunshine constancy, and win direction and speed;

ii. Calculate the locations of shadow flicker caused by the proposed project and the expected durations of the flicker at these locations, and calculate the total number of hours per year of clicker at all locations.

iii. Identify problem areas where shadow flicker will interfere with existing or future residences and roadways and describe proposed mitigation measures, including, but not limited to, a change in sitting of the WECS, a change in the operation of the WECS, or grading or landscaping mitigation measures.

m. (Non-Commercial WECS only) A Non-Commercial WECS shall not cause shadow flicker on adjoining residences.

n. The latitude and longitude of individual wind turbines. A USGS topographical map, or map with similar data, of the project site including boundaries of the project area, surrounding property within one-quarter mile, and any other WECS within ten rotor diameters of the proposed project. (Commercial WECS only).

o. Location of wetlands, scenic, and natural areas (including bluffs) within one mile of the proposes WECS. (Commercial WECS only).

p. FAA permit application. (Commercial WECS only).

q. Location of all known communications towers within two miles of the proposed project. Provide proof that the WECS will not interfere with emergency or other microwave communications. (Commercial WECS only).

r. Description of potential impacts on nearby WECS and wind resources on adjacent properties. (Commercial WECS only).

s. Additional information as stated in Minnesota Rules, Part 7854.0500 (Sub-part 1), as amended.

2. Application Procedures for Aggregated Projects. Aggregated Projects may jointly submit a single application and be reviewed under joint proceedings, including notices, hearing, reviews, and as appropriate, approvals. Permits will be issued and recorded separately. All aggregated projects over the 5 MW threshold currently outlined in State Statute are subject to State regulation.

**E. District Regulations.** WECS will be conditionally permitted or not permitted based on the generating capacity and land use district as established in the table below.

<u>Zoning District</u>	<u>Non-Commercial WECS</u>	<u>Commercial WECS</u>	<u>Meteorological Tower</u>
SC, P	Conditionally Permitted	Conditionally Permitted	Conditionally Permitted
R-1, R-2, R-3, R-4	Conditionally Permitted	Not Permitted	Not Permitted
C-1, C-2	Conditionally Permitted	Conditionally Permitted	Conditionally Permitted
I-1, I-2	Conditionally Permitted	Conditionally Permitted	Conditionally Permitted

**F. Setbacks.** All towers shall adhere to the setbacks established in the following table.

	<u>Non-Commercial</u>	<u>Commercial WECS</u>	<u>Meteorological Tower</u>
Property Lines	1.25 times the total height	1.25 times the total height	1.25 times the total height
Other existing WECS	N/A	600 feet	600 feet

**G. Requirements and Standards.**

1. Safety Design Standards.

a. Engineering Certification. For all Commercial WECS, the manufacturer's engineer or another qualified engineer shall certify that the turbine, foundation, and tower design of the WECS is within acceptable professional standards, given local soil and climate conditions.

b. Clearance. Rotor blades or airfoils must maintain at least 30 feet of clearance from trees and structures and 20 feet of clearance between their lowest point and the ground.

c. Warnings. For all Commercial WECS, a sign or signs shall be posted on the tower, transformer, and substation warning of high voltage. Signs with emergency contact information shall also be posted on the turbine or at another suitable point. Painted aviation warnings are recommended on meteorological towers less than 200 feet.

d. Residentially Zoned Areas. No towers shall be constructed on or attached to structures.

e. Braking. All WECS shall be equipped with both a manual and automatic braking device capable of stopping the WECS operation in winds of 40 miles per hour or greater.

f. Grounding. All WECS shall be grounded to protect against natural lightning strikes in conformance with the Electrical Code as adopted by the City.

## 2. Standards.

a. Total height and number per parcel. Non-Commercial WECS shall have a total height of less than 120 feet and commercial WECS shall have a total height of less than 180 feet. No more than one WECS tower shall be permitted per parcel.

b. Tower configuration. All wind turbines shall be installed with a tubular, monopole type tower.

c. Color and finish. All wind turbines and towers shall be white, off-white, grey, or light blue in color. Blades may be black in order to facilitate deicing. Finishing shall be matte or non-reflective. Meteorological towers are exempt from this requirement.

d. Lighting. Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by FAA permits and regulations. Red strobe lights are preferred for night-time illumination to reduce impact on migrating birds. Red pulsating incandescent lights shall be avoided.

e. Other signage. all signage on site shall comply with City ordinances. The manufacturer's or owner's company name and/or logo may be placed on the nacelle, compartment containing the electrical generator of the WECS.

f. Feeder lines. All communications and feeder lines, equal to or less than 34.5kV in capacity, installed as part of a WECS shall be buried where reasonably feasible. Feeder lines installed as part of a WECS shall not be considered an essential service. This standard applies to all feeder lines subject to City authority. The owner must apply for a variance if the owner desires not to bury the feeder line.

g. Shadow flicker. Shadow flicker may not exceed 30 hours per year and shall not fall more than 100 feet from an existing residential property.

h. Waste disposal. Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state, or federal regulations.

i. Discontinuation and decommissioning. A WECS shall be considered a discontinued use after one year without energy production, unless a plan is developed, submitted to, and approved by the City zoning officer outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities, including the foundation, shall be completely decommissioned within one year of the discontinuation of use.

j. Decommissioning Plan. Each WECS shall have a decommissioning plan outlining the anticipated means and cost of removing WECS at the end of their serviceable life or upon becoming a discontinued use. The cost estimates shall be made by a competent party, such as a professional engineer, a contractor capable of decommissioning, or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for the decommissioning of the WECS and accessory facilities.

k. Orderly development. Upon issuance of a conditional use permit, all Commercial WECS greater than 5 NW shall notify the Energy Facility Permitting Staff or Department of Commerce of the project location and details on the form specified by the Department.

l. Noise. All WECS shall comply with Minnesota Rules 7030 governing noise.

m. Complaint resolution. The owner/operator of all Commercial WECS shall develop a process to resolve complaints from residents and owners of nearby properties. The process shall use an independent mediator or arbitrator and include a time frame for acting on a complaint. The applicant shall make every reasonable effort to resolve any complaint.

n. Electrical codes and standards. All WECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.

o. FAS. All WECS shall comply with FAA standards and permits.

p. Minnesota State Building Code. All WECS shall comply with the Minnesota State Building Code adopted by the State of Minnesota, as amended from time to time.

q. Interference. The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals caused by any WECS. The applicant shall notify all communication tower operators within two miles of the proposed WECS location upon application to the City for permits. No WECS shall be constructed so as to interfere with any microwave transmissions.

r. Right of entrance. By the acceptance of the conditional use permit, the owner/operator grants permission to the City to enter the property to remove the WECS pursuant to the terms of the conditional use permit and to assure compliance with other conditions set forth in the permit.

s. Compliance. All WECS shall comply with any applicable local, state, or federal laws, rules, standards, or regulations impacting their location, construction, operation, or decommissioning.

t. Signage. No advertising signs or banners of any nature shall be allowed on the WECS, except as set forth herein.

u. Ladders. Any access ladder existing on the outside of the tower shall start a minimum of 15 feet above ground level.

v. Such other conditions can be attached to the conditional use permit as the City deems reasonable.

w. Meteorological towers shall not exist in one location for more than 18 months. The location of a meteorological tower shall not be considered to have moved unless the meteorological tower shall have moved at least 1,000 feet from its prior location.

x. Should a WECS not be decommissioned as required herein, the City shall have the right to enter upon the land where the WECS is located for the purpose of decommissioning the WECS. The cost of decommissioning shall be the responsibility of the owner of the land where the WECS is located and the owner of the WECS, jointly and severally. Should either or both fail to pay the City the cost the City incurred in decommissioning the WECS, the City may then spread the charges against the real property benefitted as a special assessment under the authority of M.S. § 429.101, as it may be amended from time to time, and other pertinent statutes for certification to the County Auditor for collection along with current taxes the following year or in annual installments, not exceeding 10, as the City may determine in each case.

y. Applicant shall conform to the latest Distributed Generation Interconnection Agreement and Tariff on file with Barnesville Municipal Utilities. This agreement establishes technical requirements promoting the safe and reliable parallel operation of on-site generation resources. This is required by the State of Minnesota (MN Statute 216B.1611) and has been set forth by Barnesville Municipal Utilities.

3. Avoidance and mitigation of damages to infrastructure and utilities.

a. Roads. Applicants shall:

i. Identify all county, city, or township roads to be used for the purpose of transporting commercial WECS, substation parts, concrete, and/or equipment for construction, operation, or maintenance of the WECS and obtain applicable weight and size permits from the impacted road authority(ies) prior to construction.

ii. Be responsible for restoring or paying damages as agrees to by the applicable road authority(ies) sufficient to restore the road(s) and bridges to preconstruction conditions.

b. Drainage system. The Applicant and owner of the WECS shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation, maintenance, or decommissioning of the WECS.

c. The Applicant and owner of the WECS shall be responsible for any damage to any below grade public or private utilities due to construction, operation, maintenance, decommissioning, or action otherwise resulting for any WECS.

#### **SEC. 7-0606. DRAINAGE PLANS.**

**Subd. 1.** No land shall be developed and no use shall be permitted that results in water runoff causing flooding, erosion, or deposit of minerals on adjacent properties. Such runoff shall be properly channeled into a storm drain, water course, ponding area or other public facilities subject to the review and approval of the City Engineer.

**Subd. 2.** In the case of all residential subdivisions, multiple-family, commercial and industrial developments, the drainage plans with appropriate spot site elevations shall be submitted to the City Engineer for review and the final drainage plan shall be subject to written approval. In the case of such uses, no modifications in grade and drainage flow through fill, erection of retaining walls or other such actions shall be permitted until such plans have been reviewed and received written approval from the City Engineer.

#### **SEC. 7-0607. EXTERIOR SOLID FUEL-FIRED HEATING DEVICES.**

##### **Subd. 1. Definitions.**

**A. Exterior Solid Fuel-Fired Heating Device** - An external device designed for solid fuel combustion so that usable heat is derived for the interior of a building, and includes solid fuel-fired stoves, solid fuel-fired cooking stoves, and combination fuel furnaces or boilers which burn solid fuel. This definition specifically includes all wood boilers located inside accessory buildings. Solid fuel-fired heating devices do not include outdoor fire pits, wood-fired barbeques, gas-fired fireplace logs, or wood-burning fireplaces or wood stoves in the interior of a building.

**Subd. 2. Prohibition of Exterior Solid Fuel-Fired Heating Devices.** Outdoor solid fuel heating devices are prohibited and shall not be installed or operated within the Barnesville City limits.

**Subd. 3. Existing Exterior Solid Fuel-Fired Heating Devices.** All existing exterior solid fuel units installed within City limits at the time of adoption of this ordinance are required to meet emission standards currently required by the Environmental Protection Agency (EPA), which are hereby adopted by reference together with any amendments or modifications made to them in the future. In addition:

**A.** Exterior solid fuel-fired heating devices shall burn clean fuel only, specifically, biomass pellets, corn, firewood, and clean untreated lumber or other clean wood products. Any dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities, or any use of an external solid fuel-fired heating device to burn solid fuels other than those solid fuels for which the external solid fuel-fired heating device was designed, will be declared a public nuisance.

**B.** The following materials shall specifically not be used or burned in exterior solid fuel-fired heating devices: grass, leaves, oil, rubber, plastic, tires, railroad ties, construction debris, coal, painted or chemically treated lumber, composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint, and hazardous and industrial solid waste.

**C.** Exterior solid fuel-fired heating devices may only be used October 1 through April 15.

**D.** Existing exterior solid fuel-fired heating devices must have an attached permanent stack which extends a minimum of 20 feet above the ground. Lower stacks of any existing units shall be extended or replaced within six (6) months after adoption of this ordinance.

**Subd. 4. Phasing out of Existing Exterior Solid Fuel-Fired Heating Devices.**

**A.** If the exterior solid fuel-fired heating device is destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at time of destruction and the owner has not begun reconstruction within 180 days, its use must be discontinued.

**B.** If the use of the exterior solid fuel-fired heating device is discontinued or abandoned for twelve (12) months, its use may not thereafter be resumed.

**SEC. 7-0608. STORM WATER MANAGEMENT.** The purpose of this ordinance is to promote, preserve and enhance the natural resources within the City of Barnesville and protect them from adverse effects brought about by poorly sited development or incompatible activities by regulating land disturbing or development activities that would have an adverse and potentially irreversible impact on water quality.

**Subd. 1. Scope and Effect.** Effective at the date of adoption of this ordinance, every applicant for a single building project or a subdivision which would disturb five (5) acres or more must submit a storm water management plan to the City of Barnesville Zoning Officer and apply for a General Storm Water Permit through the Minnesota Pollution control Agency.

No building permit or subdivision approval to allow land disturbing activities shall be issued until approval of the storm water management plan or a waiver of the approval requirement has been obtained in strict conformance with the provisions of the ordinance.

**Subd. 2. Criteria for Permanent Facilities.** An applicant shall install or construct on or for the proposed land disturbing or development activity, all storm management facilities necessary to manage increased runoff so that the ten-year storm peak discharge rates existing before the development shall not be increased. An applicant may also make an in-kind or monetary contribution to the development and maintenance of community storm water management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant.

**Subd. 3. Design Standards.** Storm water detention facilities constructed in the City of Barnesville shall be designed according to the most current technology using Best Management Practices as reflected in the MPCA publication "Protecting Water Quality in Urban Areas," dated March 2000 and any amendments thereto.

## **SEC. 7-609. WIRELESS TELECOMMUNICATIONS**

**Subd. 1. Purpose.** In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, these regulations are necessary to facilitate provision of wireless telecommunications services to the residents and businesses of the City, minimize adverse visual effects of towers through careful design and siting standards, avoid potential damage to adjacent properties from structural failure through structural standards and setback requirements, and maximize the use of existing and approved structures and buildings to accommodate new wireless telecommunications antennas in order to reduce the number of towers needed to serve the community.

### **Subd. 2. Definitions.**

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

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

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

**Subd. 3. Towers in Residential/Commercial/Industrial Zoning Districts.**

**A.** Towers supporting amateur radio antennas and conforming to all applicable provisions of this Code are allowed only in the rear yard of residentially zoned property.

**B.** Towers supporting commercial antennas and conforming to all applicable provisions of this Code are allowed only upon the following residential/commercial/industrial zoned property under conditional use permits:

**1.** Church sites, when camouflaged as steeples, bell towers, or other architecturally compatible structure.

**2.** Park sites, when compatible with the nature of the park and upon issuance of a lease from the City of Barnesville.

**3.** Government, school, utility, and institutional sites; and

**4.** Industrial zoned property.

**Subd. 4. Conditional Use Permit Requirement.** All commercial wireless telecommunication towers erected, constructed, or located within the City must be approved through a conditional use permit and comply with the following requirements:

**A.** A proposal for a new commercial wireless telecommunications tower must not be approved unless the applicant proves that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a reasonable search radius of the proposed tower due to one or more of the following reasons:

**1.** The planned equipment would exceed the structural capacity of the existing or approved tower or building as documented by a qualified professional engineer and the existing or approved tower cannot be reinforced or modified to accommodate planned or equivalent equipment at a reasonable cost;

**2.** The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified professional engineer and the interference cannot be prevented at a reasonable cost;

**3.** Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified professional engineer; or

**4.** Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

**B.** Any proposed commercial telecommunications tower must be designed structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least one additional user.

**Subd. 5. Tower Construction Requirements.** All towers erected, constructed, or located within the City, and all wiring therefore, must comply with the Minnesota State Building Code.

**Subd. 6. Tower and Antenna Design Requirements.** Proposed or modified towers and antennas must meet the following design requirements:

**A.** Towers and antennas must be designed to blend into the surrounding environment through the use of color, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.

**B.** Commercial wireless telecommunication towers must be a mono-pole design unless the City Council determines that an alternative design would better blend into the surrounding environment or the applicant provides evidence to the City that an alternative design is necessary to successfully engage in commercial telecommunication services.

**C.** All fees for services, hearings, appeals, etc., shall be set by resolution of the Planning Commission.

**Subd. 7. Tower Setbacks.** Towers must conform to each of the following minimum setback requirements:

**A.** Towers must meet the setbacks of the underlying zoning district and may not encroach upon any easement.

**B.** Towers must be set back from the public right-of-way a minimum distance equal to one half of the height of the tower, including all antennas and attachments.

**C.** Towers may not be located between a principal structure and a public street within a front or side yard, with the following exceptions:

**1.** In industrial zoning districts, towers may be placed within a side yard abutting an internal industrially zoned street; or

**2.** On sites adjacent to public streets on all sides, towers may be placed within a side yard abutting a local street.

**D.** A tower's setback may be reduced, or its location in relation to a public street adjusted, at the sole discretion of the City Council, to allow the integration of a

tower into an existing or proposed structure such as a church steeple, light standard, power line support device, or similar structure or if the applicant provides evidence that a setback reduction is necessary to successfully engage in commercial telecommunication services.

**Subd. 8. Tower Height.** All proposed towers must meet the following height limitations:

**A.** The height of towers will be determined by measuring the vertical distance from the tower's center point of contact with the ground or rooftop to the highest point of the tower, including all antennas or other attachments. When towers are mounted upon other structures, the combined height of the structure and tower must meet the height restrictions.

**B.** Towers must conform to the following height restrictions:

**1.** In all residential zoning districts, the maximum height of any tower, including antennas and other attachments, will be the maximum height restriction for primary structures within that zoning district;

**2.** In all non-residential zoning districts, the maximum height of any tower, including all antennas and other attachments, must not exceed one foot for each two feet the tower is set back from a residential zoning district or a maximum height of 150 feet, whichever is less, unless the applicant provides evidence to the City that the proposed tower height is technically necessary to successfully engage in commercial communication services; and

**3.** All towers must meet these maximum height restrictions of this section, unless located upon public buildings, utility structures, church sanctuaries, steeples, and bell towers.

**Subd. 9. Tower Lighting.** Towers must not be illuminated by artificial means and must not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.

**Subd. 10. Signs and Advertising.** The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

**Subd. 11. Screening.** All towers and structures accessory to the tower must be screened in accordance with the requirements stipulated in the conditional use permit.

**Subd. 12. Abandoned or Unused Towers or Portions of Towers.** All abandoned or unused towers and associated facilities must be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the City Council. In the event that a tower is not removed within 12 months of the cessation of operations at a site, the

tower and associated facilities may be removed by the City and the costs of removal assessed against the property.

**Subd. 13. Antennas Mounted on Roofs, Walls, and Existing Towers.** The placement of commercial wireless telecommunication antennas on roofs, walls, and existing towers may be approved by resolution of the City Council provided the antennas meet the requirements of this ordinance. Requests under this section must be accompanied by a final site plan, building plan, and a report prepared by a qualified professional engineer indicating the existing structure or tower's suitability to accept the antenna and the proposed method for affixing the antenna to the structure. Complete details of all fixtures and couplings, and the precise point of attachment, must be indicated.

Private wireless telecommunications antennas, such as satellite dishes and other similar antennas, are permitted uses in all residential districts to a maximum height of 15 feet but may not be located in a required front or side yard setback, except for private wireless telecommunications antennas less than 30 inches in diameter which may be located within a required front or side yard setback if mounted upon a residential structure.

**Subd. 14. Interference with Public Safety Telecommunications.** No new or existing telecommunications service may interfere with public safety telecommunications. Before the introduction of new services, changes in frequencies, or maximum signal output, telecommunication providers must notify the City at least ten (10) calendar days in advance of such changes and allow the City to monitor interference levels during the testing process.

**Subd. 15. Additional Submittal Requirements.**

**A.** In addition to the information required elsewhere in this ordinance, conditional use permit applications for towers must include the following supplemental information:

1. Descriptions of the tower height and design including a cross section and elevation;
2. Documentation of the height above grade for all potential mounting positions for collated antennas and the minimum separation distances between antennas;
3. Descriptions of the tower's capacity, including the number and type of antennas that can be accommodated;
4. Documentation regarding what steps the applicant will take to avoid interference with established public safety telecommunications; and
5. Other information necessary to evaluate the request.

**B.** For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and his or her successor to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.

**C.** Before the issuance of a building permit, the following supplemental information must be submitted:

**1.** Proof that the proposed tower complies with regulations administered by Federal Aviation Administration; and

**2.** A report from a qualified professional engineer which demonstrates the tower's compliance with the aforementioned structural and electrical standards.

**CHAPTER 7-07**

**AGRICULTURE**

**SECTIONS:**

7-0701. Agriculture.

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**SEC. 7-0701. AGRICULTURE.** Agricultural uses shall comply with the following requirements:

**Subd. 1.** Farm buildings, other than a dwelling, shall not be erected within three hundred (300) feet of a neighboring property.

**Subd. 2.** Feed lots, fenced runs, pens, and similar intensively used facilities for animal raising and care shall not be located within any except the SC-1 District and not less than three hundred (300) feet of a neighboring property.

**Subd. 3.** Roadside stands for sale of agricultural products shall be permitted if:

**A.** They are erected at least fifty (50) feet back from the nearest edge of roadway surface;

**B.** They are used exclusively for the sale of agricultural products grown locally;

**C.** Parking spaces are provided off the road right-of-way;

**D.** Signs shall conform to provisions set forth in the Signs provisions of this Chapter.

## CHAPTER 7-08

### FENCING AND SCREENING

#### SECTIONS:

7-0801. Fencing and Screening.

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#### SEC. 7-0801. FENCING AND SCREENING.

**Subd. 1. General.** Fences shall be permitted in all districts subject to the provisions hereinafter provided.

**Subd. 2. Location.** All fences shall be located entirely within the private property of the person, firm or corporation constructing or causing the construction of such fence.

**Subd. 3. Construction and Maintenance.** Every fence shall be constructed in a substantial workmanlike manner and of substantial material reasonably suitable for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance public or private. Any such fence which is, or has become dangerous to the public safety, health or welfare, is a public nuisance, and the Building Official is hereby authorized to commence proper proceedings for the abatement thereof.

**Subd. 4. Barbed Wire and Electric Fences.** Barbed wire or electric fences shall not be permitted, used or constructed except in industrial districts as hereinafter provided or when related to permitted agricultural use, but in any case not in boundary line fences.

**Subd. 5. Residential District Fences.** All residential fences shall be placed within the property being fenced and conform to the following:

A. Fences alongside property lines shall not be more than six (6) feet in height.

B. Fences along any rear property line, which is also the rear property line of an abutting lot, shall not exceed six (6) feet in height.

C. Fences along a rear property line, which line constitutes the side lot line of an abutting lot, shall not exceed six (6) feet in height.

D. The screening provisions for residential districts shall supersede, where applicable, the provisions of this section.

**E.** All posts or similar supporting instruments used in the construction of fences, shall be faced inward toward the property being fenced.

**F.** All fences shall not obstruct drainage.

**G.** Fences are not allowed within utility easements. Existing fences obstructing the use of utility easements shall be removed at the owner's expense when access is required by the utility. Existing fences are those that are existing as of October 1, 2010.

**H.** Fences in required front yards shall not exceed thirty-six inches (36") in height except that fences that are at least seventy-five percent (75%) open may be forty-eight inches (48") in height.

**Subd. 6. Commercial and Industrial District Fences.**

**A.** Commercial and Industrial District fences are those fences located within commercial or industrial zoned areas of the City.

**B.** Fences extending across a required front yard or a required side yard which abuts a street on a corner lot shall be at least seventy five percent (75%) open for the passage of air and light and shall maintain the traffic visibility requirements of this Section.

**C.** All commercial and industrial fences shall require a conditional use permit.

**D.** Fences which are primarily erected as a security measure may have arms projecting into the applicant's property on which barbed wire can be fastened commencing at a point at least seven feet (7') above the ground.

**Subd. 7. Required Fencing and Screening.** Where any commercial industrial use, or multi-family building of four (4) or more units (i.e. structure, parking or storage) abuts property zoned for residential use, that business, industry or multi-family building shall provide screening along the boundary of the residential property. Screening shall also be provided where a business, industry, or multi-family building of four (4) or more units is across the street from a residential zone, but not on that side of a business, industry or multi-family building considered to be the front yard. Provided, however, that the provisions of this Section will not apply where a multi-family building abuts property also zoned for multi-family use. All fencing and screening specifically required by this Section shall be subject to traffic visibility requirements of this Section and shall consist of either a fence or a green belt planting strip as provided for below:

**A.** A green belt planting strip shall consist of evergreen trees and/or deciduous trees and plants and shall be of sufficient width and density to provide an effective visual screen. This planting strip shall be designed to provide substantial visual screening to a minimum height of six (6') feet. Earth mounding or berms may be used but shall not be used to achieve more than three feet (3') of the required screen. The planting plan and type of plantings shall require the approval of the Planning Commission.

**B.** A required screening fence shall be constructed of masonry, brick, wood or metal. Such fences shall provide a solid screening effect six feet (6') in height for multi-family uses and at least six feet (6') in height for commercial and industrial uses unless otherwise specified. All screening fences require a conditional use permit. The design and materials used in constructing a required screening fence shall be as required as part of the conditional use permit application.

**Subd. 8. Traffic Visibility.** No fence, wall or hedge shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of twenty-four (24) inches and eight (8) feet where it will interfere with traffic or pedestrian visibility thirty (30) feet from the intersecting curb line from a driveway or alley to a public way. The regulations shall apply unless it can be demonstrated to the Building Official that the structure provides an unobstructed view so as not to create a safety hazard.

**Subd. 9. Residential, Commercial and Industrial Special Purpose Fences.** Residential, commercial and industrial fences for special purposes and fences differing in construction, height, or length may be permitted by the Building Official in any district in the City provided that reasons submitted by the applicant demonstrate the purpose is necessary to protect, buffer or improve the premises for which such fence is intended. Applicants will be required to apply for a conditional use permit.

## CHAPTER 7-09

### ACCESSORY STRUCTURES IN RESIDENTIAL DISTRICTS

#### SECTIONS:

7-0901. Accessory Structures in Residential Districts.

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#### SEC. 7-0901. ACCESSORY STRUCTURES IN RESIDENTIAL DISTRICTS.

**Subd. 1. Structure Placement.** No accessory building shall be erected or located within either a front or side yard, except that accessory buildings in residential districts may be permitted in the side yard behind the front building line of the principal structure, provided that the side yard setback required for a principal structure is maintained.

**Subd. 2. Ground Coverage./Permitted Structure Size** For lots 10,000 square feet or under in area, the total floor area of any garage(s) and accessory buildings may not exceed 1,000 square feet; for lots over 10,000 square feet to 15,000 square feet the total floor area of any garage(s) and accessory buildings may not exceed 1,200 square feet; for lots over 15,000 square feet to 20,000 square feet the total floor area of any garage (s) and accessory buildings may not exceed 1,400 square feet; for lots over 20,000 square feet to 25,000 square feet the total floor area may not exceed 1,600 square feet; for lots over 25,000 square feet to 30,000 square feet the total floor area of any garage(s) and accessory buildings may not exceed 1,800 square feet; for lots over 30,000 square feet to 35,000 square feet the total floor area may not exceed 2,000 square feet and for lots exceeding 35,000 square feet the total floor area of any garage(s) and accessory buildings may not exceed 2,500 square feet; and in all cases the total floor area may not exceed the ground coverage of the dwelling, less any attached garage, unless approved by a conditional use permit. (Source: Ord. 2015-01)

**Subd. 3. Lot Coverage.** No accessory building, structure, and/or detached garage for a single family dwelling shall occupy more than twenty-five percent (25%) of the area of the rear yard. The total area of garages and accessory buildings for a two-family dwelling is limited to 750 square feet per unit.

**Subd. 4. Number of Structures.** Only two detached accessory buildings and/or structures on any single lot, subject to lot coverage requirements. Buildings such as gazebos, outdoor living rooms and pool enclosures may be constructed in addition to the accessory buildings, subject to the lot coverage requirements. (Source: Ord. 2015-01)

**Subd. 5. Appearance of Structure.** Any accessory building which is over 150 square feet or located in the side yard must be similar in design, materials and color to the primary structure located on the lot.

**Subd. 6. Construction Type.** All accessory buildings must be erected on a permanent foundation or anchored to the ground. Storage buildings not on a permanent foundation must be skirted to prevent animals or rodents access under the building or built on a concrete footing.

**Subd. 7. Encroachment.** All buildings including those of less than 120 square feet may not encroach into required easements.

**Subd. 8. Setback Requirements.** No buildings or accessory structures are allowed in required setbacks.

**Subd. 9. Height.** Accessory buildings of 150 square feet or less may not exceed eleven (11) feet in height to the peak. No accessory building over 150 square feet shall be higher than the principal residence. The side walls may not exceed 10 (10) feet as measured from the finished floor to the top plate. On properties of 30,000 square feet or larger, accessory buildings in the rear yard shall be allowed to have side walls up to 12 feet as measured from the finished floor to the top plate. Accessory buildings with sidewalls greater than ten feet shall have a required setback of 15 feet from the rear and side property lines.

**Subd. 10. Sequential Requirements.** No accessory building or structure other than a fence or temporary construction may be constructed prior to the time of construction of the principal building or structure. No accessory building may be constructed on a property where the primary structure is substandard, has safety violations, or is vacant. Upon demolition of the primary structure, the accessory buildings must also be removed from the lot, unless the demolition permit is issued in conjunction with a building permit for a new primary structure.

**Subd. 11. Sequential Requirements - Exceptions.** The requirements of Subdivision 10 may be waived in the following circumstances:

1. An accessory building may remain on the lot when the primary structure has been demolished and removed from the lot in accordance with an order of demolition from the City or its building inspector.

**Subd. 12. Building Permit Required.** Any accessory building which is in excess of 120 square feet is required to have a building permit before construction may begin.

## CHAPTER 7-10

### INDUSTRIAL PERFORMANCE STANDARDS

#### SECTIONS:

7-1001. Industrial Performance Standards.

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#### SEC. 7-1001. INDUSTRIAL PERFORMANCE STANDARDS.

**Subd. 1. General.** All uses shall comply with the requirements of this Section. In order to determine whether a proposed use will conform to the requirements of this Chapter, the Board may also obtain the services of a qualified consultant or the Board may request the assistance of the responsible regulatory agency. Costs for services shall be borne by the applicant.

**Subd. 2. Fire Protection.** Fire prevention and fighting equipment acceptable to the Uniform Fire Code and the Board of Fire Underwriters shall be readily available when any activity involving the handling or storage of flammable or explosive materials is conducted.

**Subd. 3. Electrical Disturbance.** No activity shall cause continuous or repetitive electrical disturbance adversely affecting the operation of other electrical equipment in the vicinity.

**Subd. 4. Noise.** Noise which is determined to be objectionable because of volume, frequency, or beat shall be muffled or otherwise controlled, except fire sirens and related apparatus used solely for public purposes shall be exempt from this requirement.

**Subd. 5. Smoke.** The maximum amount of smoke emission permissible shall be determined by use of the standard Ringleman Chart issued by the U.S. Bureau of Mines. No smoke of a shade darker than No. 2 will be allowed.

**Subd. 6. Vibrations.** Vibrations detectable without instruments on neighboring property in any district shall be prohibited.

**Subd. 7. Odors.** In any district, no malodorous gas or matter shall be permitted which is so objectionable as to damage property interests on any neighboring lot.

**Subd. 8. Air Pollution.** No pollution of air by fly ash, dust, vapors, or other substance shall be permitted which is harmful to health, animals, vegetation or other property.

**Subd. 9. Glare.** Lighting devices which produce objectionable direct or reflected glare on adjoining properties or thoroughfares shall not be permitted.

**Subd. 10. Erosions.** No erosion by wind or water shall be permitted which will carry objectionable substances onto neighboring properties.

**Subd. 11. Water Pollution.** Water pollution shall be subject to the standards established by the Minnesota Pollution Control Agency.

## CHAPTER 7-11

### GEOHERMAL HEATING SYSTEMS

#### SECTIONS:

7-1101.	Purpose.
7-1102.	Definitions.
7-1103.	Construction and Severability.
7-1104.	Subsurface Water Management Policy.
7-1105.	Geothermal Heating System.
7-1106.	Registration of Geothermal Heating Systems
7-1107.	Post-ordinance Geothermal Heating Systems
7-1108.	Application for Geothermal Heating System Permit.
7-1109.	Application Fee.
7-1110.	Application Review.
7-1111.	Permit Decision Criteria.
7-1112.	Complete Inspection.
7-1113.	Post-ordinance Surface Discharges.
7-1114.	City Inspection and Monitoring of Geothermal Facilities.
7-1115.	Defective Geothermal Heating Systems.

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**SEC. 7-1101. PURPOSE.** The purpose of this ordinance is to regulate the use of geothermal heating systems within the City of Barnesville. In furtherance of this overall purpose, this ordinance is specifically intended to serve the following sub-purposes:

**A.** Conservation and beneficial management of geothermal resources and thermal ground waters in a comprehensive and coordinated manner so as to assure their continued availability and productivity;

**B.** Continued support and assistance for individual private geothermal resources and thermal ground water uses, including residential, institutional, commercial, and industrial activities;

**C.** Maximization of the public welfare and economic benefit to be derived from geothermal resources and thermal ground waters;

**D.** Minimization of the potential for damage or degradation to geothermal resources and thermal ground waters; and

**E.** Protection of the surface and subsurface environment during development and utilization of geothermal resources and thermal ground waters.

**SEC. 7-1102. DEFINITIONS.** The following terms, as used in this ordinance, shall have the following meanings, unless the context clearly indicates a different meaning is intended:

- ALTERING:** The deepening, recasting, perforating, re-perforating, the installation of packers or seals, and other material changes in the design of a geothermal heating system.
- CITY ADMINISTRATOR:** City Administrator of the City of Barnesville or the Administrator's authorized representative.
- CONSTRUCTING:** The boring, digging, drilling, or excavating of a geothermal heating system, including the installation of casing or geothermal heating system screens.
- GEOTHERMAL FLUID:** Any fluid transporting or capable of transporting heat.
- GEOTHERMAL HEAT:** Heat derived from geothermal resources, or heat derived from ground water.
- GEOTHERMAL RESOURCES:** The natural heat of the earth, and the energy, in whatever form, below the surface of the earth present in, resulting from, or created by, or which may be extracted from, the natural heat, and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases, in whatever form, found below the surface of the earth, exclusive of oil, hydrocarbon gas, other hydrocarbon gas, other hydrocarbon substances or helium, but including specifically:
- (a) All products of geothermal processes, embracing indigenous steam, hot water, and hot brines;
  - (b) Steam and other gasses, hot water, and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations;
  - (c) Heat or other associated energy found in geothermal formations; and
  - (d) Any by-product derived from them.

**GROUND WATER:** Any water, except capillary moisture, beneath the land surface or beneath the bed of any stream, lake, reservoir, or other body of surface water, whatever may be the geological formation or structure in which such water stands, flows, percolates, or otherwise moves.

**OWNER:** The holder of the record title to real property or the person entitled to use of the thermal ground water at the property.

**PERSON:** A natural person, firm, partnership, association, social or fraternal organization, corporation, non-profit corporation, trust, estate, receiver, syndicate, branch of government, or similar entities, any group or combination acting as a unit, or the successors or assigns of any of the aforesaid.

**POLLUTION:** The contamination or other alteration of the physical, chemical, or biological properties of any surface or ground waters which will or can reasonably be expected to render such waters harmful, detrimental, or injurious to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial use.

**RESERVOIR:** An aquifer or combination of aquifers or zones containing a common geothermal or ground water resource.

**THERMAL GROUND WATER:** Ground water which is less than 250 degrees Fahrenheit at bottom-hole temperature, and possessing sufficient heat to be used for a direct thermal application or in conjunction with a ground water heat pump.

**SEC. 7-1103. CONSTRUCTION AND SEVERABILITY.**

**A.** The provisions of this ordinance shall be construed to the maximum extent possible as consistent with applicable state statutes and regulations. If the provisions of this section and state law are in conflict, then state law shall prevail.

**B.** It is the intention of the Council that the provisions of this ordinance are severable, and if any provision of this ordinance shall be declared unconstitutional or invalid by the judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining provisions of this ordinance.

**SEC. 7-1104. SUBSURFACE WATER MANAGEMENT POLICY.** In furtherance of the purposes of this ordinance, it shall be the policy of the city that all geothermal heating

systems existing on the effective date of this ordinance, and those constructed or altered thereafter, be used in such a manner as to:

A. Conserve and protect the geothermal fluids and ground water within and adjacent to the city in order to: enhance reservoir productivity and benefit, prevent wasteful extraction and disposal of geothermal fluids and thermal ground water, prevent geothermal fluid and thermal groundwater temperature degradation, prevent thermal pollution of surface environments and water, and prevent harmful intermixing of geothermal fluids and other ground water;

B. Allow continued individual utilization of geothermal fluids and thermal ground water for residential, commercial, industrial, and other lawful purposes; and

C. Protect the public health, safety, and welfare from improperly constructed, operated, maintained, or abandoned geothermal heating systems.

**SEC. 7-1105. GEOTHERMAL HEATING SYSTEM.** All geothermal heating systems existing or under construction within the city on the effective date of this ordinance shall be known as pre-ordinance geothermal heating systems and shall be subject to the requirements of Sections 4 through 6 and 14 and 15 of this chapter.

**SEC. 7-1106. REGISTRATION OF GEOTHERMAL HEATING SYSTEMS.** Owners of pre-ordinance geothermal heating systems within the city may register their geothermal heating systems with the City Administrator. Such registration shall be voluntary and without cost to the owner. Said registration shall be on forms supplied by the City and may include but are not limited to: the name and address of the owner, specific location of the geothermal heating system, date of construction, depth and diameter of the geothermal heating system, specifications of casing, bottom hole temperature, static fluid or water level, type of geothermal utilization system, accessibility for monitoring devices, and disposal method, if any. The City Administrator shall direct reasonable public notice to the city's inhabitants at large, explaining the registration program and encouraging participation.

**SEC. 7-1107. POST-ORDINANCE GEOTHERMAL HEATING SYSTEMS.**

A. All geothermal heating systems constructed or altered within the city subsequent to the effective date of this ordinance shall be known as post ordinance geothermal heating systems and shall be subject to the requirements of Sections 4, 14 and 15 of this ordinance.

B. Any pump and dump geothermal heating systems are required to be plumbed directly into the storm sewer system. Properties must be located directly adjacent to a storm sewer main. There will be a onetime \$2,500 fee to connect into the City's system.

C. Only food-grade or USP-grade propylene glycol may be used as a geothermal fluid. No other materials or additives may be used except for potable water. A permanent sign

must be attached to the heat pump specifying that only approved heat transfer fluids must be used.

**SEC. 7-1108. APPLICATION FOR GEOTHERMAL HEATING SYSTEM PERMIT.** Any person, including the city, desiring to construct, install, or alter a geothermal heating system within the city shall first apply for a geothermal heating system permit at the City Hall on forms provided for that purpose. No person shall commence construction or alteration of a geothermal heating system prior to the owner of a proposed geothermal heating system receiving a permit.

**SEC. 7-1109. APPLICATION FEE.** All applications for a geothermal heating system permit shall be accompanied by an application fee which shall be non-refundable, such fee to be according to a fee schedule established by City Council resolution.

**SEC. 7-1110. APPLICATION REVIEW.** The City Administrator, or a person designated by the Administrator, shall review each application for conformity with the applicable City ordinances.

**SEC. 7-1111. Permit Decision Criteria.** Permit decisions shall contain written findings for approval or denial which may include, but are not limited to, the following criteria:

A. The estimated hydrological impact of the proposed geothermal heating system's operations upon the reservoir and surrounding geothermal heating systems;

B. The adequacy of provisions for environmental protection and public safety;  
and

C. The compliance of the proposed geothermal heating system and its use with this ordinance, the City Comprehensive Plan, and all other applicable laws, ordinances, and regulations.

**SEC. 7-1112. COMPLETION INSPECTION.** Upon completion of any geothermal heating system construction or alteration, but prior to regular use, the owner shall promptly notify the City to request a completion inspection and written report thereof to be made for the purposes of assuring compliance with this ordinance.

**SSEC. 7-1113. POST-ORDINANCE SURFACE DISCHARGES.** No geothermal heating system constructed or altered after the effective date of this ordinance shall be operated or altered in such a manner as to cause geothermal fluids or thermal ground water to be discharged onto the surface of the ground or into any public ditch or drainage facility. Construction and routine maintenance of geothermal heating systems shall be exempt from said prohibition; surface discharges for construction and routine maintenance purposes shall be conducted in accordance with written standards issued by the Public Works Director.

**SEC. 7-1114. CITY INSPECTION AND MONITORING OF GEOTHERMAL FACILITIES.** In connection with the principal functions and activities of the city resource

management responsibility, city officials may, upon reasonable notice to the owner, enter upon any property within the city for purposes of inspecting geothermal facilities, or monitoring the operational characteristics of such facilities, when such inspection or monitoring is reasonably necessary to the assessment of other indices related to geothermal or ground water reservoir management, or protection of the public safety and welfare. The city shall provide affected property owners or occupants with reasonable prior notice, describing the nature, purpose, and duration of the necessary inspection or monitoring; such inspections or monitoring shall be conducted in accordance with applicable city and state procedures for inspections. If any person refuses to permit any officer or employee to enter and inspect, the City officer or employee shall not attempt to force entrance, but shall, with the assistance of the City Attorney, seek a search warrant or other appropriate court order.

**SEC. 7-1115. DEFECTIVE GEOTHERMAL HEATING SYSTEMS.** Whenever the City Administrator determines that any geothermal heating system within the city is by the nature of its construction, installation, or operation is adversely interfering with other geothermal heating systems, or is polluting groundwater or surface water, the Administrator shall promptly notify the affected owner, by certified mail, of the wasteful or defective geothermal heating system and require said owner to repair or adjust the geothermal heating system within twenty-four (24) hours; a geothermal heating system continuing wasteful or defective operation after expiration of the twenty-four (24) hours may be prosecuted as a violation of this ordinance.

## CHAPTER 7-12

### FLOOD PLAIN MANAGEMENT

#### SECTIONS:

7-1201. Flood Plain Management.

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#### SEC. 7-1201. FLOOD PLAIN MANAGEMENT.

##### Subd. 1. Statutory Authorization, Findings of Fact and Purpose.

**A. Statutory Authorization.** The Legislature of the State of Minnesota, has, in Minnesota Statutes Chapter 103F and Chapter 462, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

##### **B. Findings of Fact.**

**1.** The flood hazard areas of the City are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

**2. Methods Used to Analyze Flood Hazards.** This Section is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.

**C. Statement of Purpose.** It is the purpose of this Section to promote the public health, safety, and general welfare and to minimize those losses described in this Subdivision by provisions contained herein.

##### Subd. 2. General Provisions.

**A. Land to Which Section Applies.** This Section shall apply to all lands within the jurisdiction of the City shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway or Flood Fringe District.

**B. Establishment of Official Zoning Map.** The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Section. The attached materials shall include the Flood Insurance Study for the City prepared by the Federal Emergency Management Agency dated September 2, 1980, and the Flood Boundary and Floodway Map dated March 2, 1981, and Flood Insurance Rate Map dated

March 2, 1981. The Official Zoning Map shall be on file in the office of the City Clerk and the Building Inspector.

**C. Regulatory Flood Protection Elevation.** The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

**D. Interpretation.**

**1.** In their interpretation and application, the provisions of this Section shall be held to be minimum requirements and shall be liberally construed in favor of the Council and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

**2.** The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of a district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board and to submit technical evidence.

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

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

**Subd. 3. Definitions.** The following terms, as used in this Section, shall have the meanings stated:

**1. "Accessory Use or Structure"** - A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

**2. "Basement"** - Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

**3. "Conditional Use"** - A specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that: (1) certain conditions as detailed in this Chapter exist and (2) the structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

**4. "Equal Degree of Encroachment"** - A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

**5. "Flood"** - A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

**6. "Flood Frequency"** - The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

**7. "Flood Fringe"** - That portion of the flood plain outside of the floodway. Flood Fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for the City of Barnesville, Minnesota.

**8. "Flood Plain"** - The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

**9. "Flood Proofing"** - A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

**10. "Floodway"** - The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.

**11. "Obstruction"** - Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

**12. "Principal Use or Structure"** - All uses or structures that are not accessory uses or structures.

**13. "Reach"** - A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

**14. "Regional Flood"** - A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.

**15. "Regulatory Flood Protection Elevation"** - The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

**16. "Structure"** - Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/ vehicles not meeting the exemption criteria specified herein, and other similar items.

**17. "Variance"** - A modification of a specific permitted development standard required in an official control including this Section to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

#### **Subd. 4. Establishment of Zoning Districts.**

##### **A. Districts.**

**1. Floodway District.** The Floodway District shall include those areas designated as floodway on the Flood Boundary and Floodway Map, adopted herein.

**2. Flood Fringe District.** The Flood Fringe District shall include those areas designated as floodway fringe in the Flood Boundary and Floodway Map, adopted herein.

**B. Compliance.** No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this Section and other applicable regulations which apply to uses within the jurisdiction of this Section. Within the Floodway and Flood Fringe Districts, all uses not listed as permitted uses or conditional uses herein, shall be prohibited. In addition, a caution is provided here that:

**1.** New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this Section and specifically Subdivision 9.

2. Modifications, additions, structural alterations or repair after damage to existing non-conforming structures and non-conforming uses of structures or land are regulated by the general provisions of this Section and specifically Subdivision 11.

3. As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Section and specifically as stated in Subdivision 10.

#### **Subd. 5. Floodway District (FW).**

##### **A. Permitted Uses.**

1. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.

2. Industrial-Commercial loading areas, parking areas and airport landing strips.

3. Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.

4. Residential lawns, gardens, parking areas and play areas.

##### **B. Standards for Floodway Permitted Uses.**

1. The use shall have a low flood damage potential.

2. The use shall be permissible in the underlying zoning district if one exists.

3. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

##### **C. Conditional Uses.**

1. Structures accessory to the permitted uses listed above and the conditional uses listed below.

2. Extraction and storage of sand, gravel, and other materials.

3. Marinas, boat rentals, docks, piers, wharves, and water control structures.

4. Railroads, streets, bridges, utility transmission lines, and pipelines.

5. Storage yards for equipment, machinery, or materials.

6. Placement of fill.

7. Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of this Section.

8. Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

#### **D. Standards for Floodway Conditional Uses.**

1. **All Uses.** No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials, or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.

2. All floodway conditional uses shall be subject to the procedures and standards contained herein.

3. The conditional use shall be permissible in the underlying zoning district if one exists.

4. Fill.

(a) Fill, dredge spoil and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.

(b) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/ sedimentation prevention element to the plan.

(c) As an alternative, and consistent with Subsection (b) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the Council has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The Conditional Use Permit must be title registered with the property in the office of the County Recorder.

## **5. Accessory Structures.**

(a) Accessory structures shall not be designed for human habitation.

(b) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.

(1) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and,

(2) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

(c) Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards, as appropriate:

(1) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and,

(2) Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood proofed.

## **6. Storage of Materials and Equipment.**

(a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Council.

**7.** Structural works for flood control that will change the course, current or cross-section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statutes, Chapter 105. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

8. A levee, dike or floodwall constructed in the floodway shall not cause an increase in the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

**Subd. 6. Flood Fringe District (FF).**

**A. Permitted Uses.** Permitted uses shall be those uses of land or structures listed as Permitted Uses in the underlying zoning use district(s). If no pre-existing underlying zoning use districts exist, then any residential or non-residential structure or use of a structure or land shall be a permitted use in the Flood Fringe provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for Flood Fringe "Permitted Uses" and the standards for all Flood Fringe "Permitted and Conditional Uses".

**B. Standards for Flood Fringe Permitted Uses.**

1. All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the Regulatory Flood Protection Elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the Regulatory Flood Protection Elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.

2. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet for the outside dimension at ground level may be internally flood proofed in accordance with Subdivision 5, Subparagraph D, Item 5(c).

3. The cumulative placement of fill where at any one time in excess of 1,000 cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with Item 1, above.

4. The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.

5. The provisions of Subparagraph E, below, shall apply.

**C. Conditional Uses.** Any structure that is not elevated on fill or flood proofed in accordance with Subparagraph B, Items 1 and 2, above, or any use of land that does not comply with the standards in Items 3 and 4, above, shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in Subparagraph D, below, and Subdivision 10, Subparagraph D.

**D. Standards for Flood Fringe Conditional Uses.**

1. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the Regulatory Flood Protection Elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an

enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: (a) if the enclosed area is above-grade on at least one side of the structure; (b) is designed to internally flood and is constructed with flood resistant materials; and (c) is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

**(a) Design and Certification.** The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

**(b) Specific Standards for Above-Grade, Enclosed Areas.** Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

**(1)** The minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. When openings are placed in a structure's walls to provide for entry of flood waters to equalize pressures, the bottom of all openings shall be no higher than one-foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

**(2)** That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

**2.** Basements, as defined herein, shall be subject to the following:

**(a)** Residential basement construction shall not be allowed below the Regulatory Flood Protection Elevation.

**(b)** Non-residential basements may be allowed below the Regulatory Flood Protection Elevation provided the basement is structurally dry flood proofed in accordance with Item 3, following.

**3.** All areas of non-residential structures including basements to be placed below the Regulatory Flood Protection Elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.

4. When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the City is enforcing a State approved shoreland management ordinance. In the absence of a State approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Council. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

#### **5. Storage of Materials and Equipment.**

(a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(b) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Council.

(c) The provisions of Subparagraph E, following, shall also apply.

#### **E. Standards for All Flood Fringe Uses.**

1. All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the Regulatory Flood Protection Elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

2. **Commercial Uses.** Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater than two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.

3. **Manufacturing and Industrial Uses.** Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Item 2, above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in flood plain areas.

4. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

5. Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

6. Standards for travel trailers and travel vehicles are contained in Subdivision 9, Subparagraph C.

7. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State or local anchoring requirements for resisting wind forces.

#### **Subd. 7. Subdivisions.**

**A. Review Criteria.** No land shall be subdivided which is held unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall contain a building site at or above the Regulatory Flood Protection Elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Section and have road access both to the subdivision and to the individual building sites no lower than two feet below the Regulatory Flood Protection Elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe boundaries, the Regulatory Flood Protection Elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

**B. Removal of Special Flood Hazard Area Designation.** The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

**NOTE:** This Section is not intended as a substitute for a comprehensive City or County subdivision ordinance. It can, however, be used as an interim control until the comprehensive subdivision ordinance can be amended to include necessary flood plain management provisions.

**Subd. 8. Public Utilities, Railroads, Roads, and Bridges.**

**A. Public Utilities.** All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.

**B. Public Transportation Facilities.** Railroad tracks, roads, and bridges to be located within the flood plain shall comply with this Section. Elevation to the Regulatory Flood Protection Elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

**C. On-Site Sewage Treatment and Water Supply Systems.** Where public utilities are not provided: (1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and (2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

**Subd. 9. Manufactured Homes and Manufactured Home Parks and Placement of Travel Trailers and Travel Vehicles.**

**A.** New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Subdivision 7.

**B.** The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Subdivision 6. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Subdivision 6, Subparagraph E, Item 1, then replacement manufactured homes will not be allowed until the property owner develops a flood warning emergency plan acceptable to the Council.

**I.** All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties

to ground anchors. This requirement is in addition to applicable State or local anchoring requirements for resisting wind forces.

**C.** Travel trailers and travel vehicles that do not meet the exemption criteria specified in Item 1 below, shall be subject to the provisions of this Section and as specifically spelled out in Items 3 and 4, below.

**1. Exemption.** Travel trailers and travel vehicles are exempt from the provisions of this Section if they are placed in any of the areas listed in Item 2 below, and further they meet the following criteria:

(a) Have current licenses required for highway use.

(b) Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks and the travel trailer/travel vehicle has no permanent structural type additions attached to it.

(c) The travel trailer or travel vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

**2. Areas Exempted for Placement of Travel/Recreational Vehicles.**

(a) Individual lots or parcels of record.

(b) Existing commercial recreational vehicle parks or campgrounds.

(c) Existing condominium type associations.

**3.** Travel trailers and travel vehicles exempted herein lose this exemption when development occurs on the parcel exceeding \$500.00 for a structural addition to the travel trailer/ travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified herein.

**4.** New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

(a) Any new or replacement travel trailer or travel vehicle will be allowed in the Floodway or Flood Fringe Districts provided said trailer or vehicle and its contents are placed on fill above the Regulatory Flood Protection Elevation and proper elevated road access to the site exists in accordance with this Section. Any fill placed in a floodway for the purpose of elevating a travel trailer shall be subject to the requirements of Subdivision 5.

(b) All new or replacement travel trailers or travel vehicles not meeting the criteria of Subsection (a) above, may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of Subdivision 10, Subparagraph D. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with this Section.

#### **Subd. 10. Administration.**

**A. Zoning Administrator.** A Zoning Administrator or other official designated by the Council shall administer and enforce this Section. If the Zoning Administrator finds a violation of the provisions of this Section, the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in this Section.

#### **B. Permit Requirements.**

**1. Permit Required.** A permit issued by the Zoning Administrator in conformity with the provisions of this Section shall be secured prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a non-conforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.

**2. Application for Permit.** Application for a permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

**3. State and Federal Permits.** Prior to granting a permit or processing an application for a conditional use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal permits.

**4. Certificate of Zoning Compliance for a New, Altered, or Non-Conforming Use.** It is unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Section.

**5. Construction and Use to be as Provided on Applications, Plans, Permits, Variances and Certificates of Zoning Compliance.** Permits, conditional use permits, or Certificates of Zoning Compliance issued on the basis of approved plans and

applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized is unlawful.

**6. Certification.** The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Section. Flood proofing measures shall be certified by a registered professional engineer or registered architect.

**7. Record of First Floor Elevation.** The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures and alterations or additions to structures are flood proofed.

### **C. Board of Adjustment.**

**1. Rules.** The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law.

**2. Administrative Review.** The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this Section.

**3. Variances.** The Board may authorize upon appeal in specific cases such relief or variance from the terms of this Section as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation which justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State law.

**4. Hearings.** Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variance sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

**5. Decisions.** The Board shall arrive at a decision on such appeal or variance within thirty (30) days. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this Section, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other

public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the Board may prescribe appropriate conditions and safeguards such as those specified in Subparagraph D, Item 6 of this Subdivision, which are in conformity with the purposes of this Section. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Section. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

**6. Appeals.** Appeals from any decision of the Board may be made, and as specified in the official controls and also in Minnesota Statutes.

**7. Flood Insurance Notice and Record Keeping.** The Zoning Administrator shall notify the applicant for a variance that: (1) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. The City shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

**D. Conditional Uses.** The Planning Commission shall hear and decide applications for conditional uses permissible under this Section. Applications shall be submitted to the Zoning Administrator who shall forward the application to the Planning Commission for consideration.

**1. Hearings.** Upon filing with the Planning Commission an application for a conditional use permit, the Planning Commission shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.

**2. Decisions.** The Planning Commission shall arrive at a decision on a conditional use within thirty (30) days. In granting a conditional use permit the Planning Commission shall prescribe appropriate conditions and safeguards, in addition to those specified in Item 6 of this Subparagraph D, which are in conformity with the purposes of this Section. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this Section. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

**3. Procedures to be Followed by the Planning Commission in Passing on Conditional Use Permit Applications Within All Flood Plain Districts.**

(a) Require the applicant to furnish such of the following information and additional information as deemed necessary by the Planning Commission for determining the suitability of the particular site for the proposed use:

(1) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the stream channel.

(2) Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.

(b) Transmit one copy of the information described in Subsection (a) above, to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

(c) Based upon the technical evaluation of the designated engineer or expert, the Planning Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

**4. Factors Upon Which the Decision of the Planning Commission Shall be Based.** In passing upon conditional use applications, the Planning Commission shall consider all relevant factors specified in other provisions of this Section, and:

(a) The danger to life and property due to increased flood heights or velocities caused by encroachments.

(b) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.

(c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

(d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(e) The importance of the services provided by the proposed facility to the community.

(f) The requirements of the facility for a waterfront location.

(g) The availability of alternative locations not subject to flooding for the proposed use.

(h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

(i) The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

(j) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(k) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.

(l) Such other factors which are relevant to the purposes of this Section.

**5. Time for Acting on Application.** The Planning Commission shall act on an application in the manner described above within thirty (30) days from receiving the application, except that where additional information is required pursuant to Item 4, above, the Planning Commission shall render a written decision within thirty days from the receipt of such additional information.

**6. Conditions Attached to Conditional Use Permits.** Upon consideration of the factors listed above and the purpose of this Section, the Planning Commission shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Section. Such conditions may include, but are not limited to, the following:

(a) Modification of waste disposal and water supply facilities.

(b) Limitations on period of use, occupancy, and operation.

(c) Imposition of operational controls, sureties, and deed restrictions.

(d) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

(e) Flood proofing measures, in accordance with the State Building Code and this Section. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

**Subd. 11. Non-Conforming Uses.** A structure or the use of a structure or premises which was lawful before the effective date of this Section but which is not in

conformity with the provisions of this Section may be continued subject to the following conditions:

**A.** No such use shall be expanded, changed, enlarged, or altered in a way which increases its non-conformity.

**B.** Any alteration or addition to a non-conforming structure or non-conforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 flood proofing classifications) allowable in the State Building Code, except as further restricted in Item 3, below.

**C.** The cost of any structural alterations or additions to any non-conforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Subdivision are satisfied. The cost of all structural alterations and additions constructed since the adoption of the City's initial flood plain controls must be calculated into today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of this Section for new structures depending upon whether the structure is in the Floodway or Flood Fringe, respectively.

**D.** If any non-conforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this Section. The Assessor shall notify the Zoning Administrator in writing of instances of non-conforming uses which have been discontinued for a period of 12 months.

**E.** If any non-conforming use or structure is destroyed by any means, including floods, to an extent of 50 percent or more of its market value at the time of destruction, and no building permit has been applied for within 180 days of when the property is damaged, it shall not be reconstructed except in conformity with the provisions of this Section. The applicable provisions for establishing new uses or new structures will apply depending upon whether the use or structure is in the Floodway or Flood Fringe District, respectively.

**Subd. 12. Unlawful Acts.**

**A.** Violation of the provisions of this Section or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) is unlawful.

**B.** Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

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

2. When a City Code violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the City's plan of action to correct the violation to the degree possible.

3. The Zoning Administrator shall notify the suspected party of the requirements of this Section and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the City. If the construction or development is already completed, then the Zoning Administrator may either (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30 days.

4. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Section and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of this Section.

#### **Subd. 13. Amendments.**

A. The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.

B. All amendments to this Section, including amendments to the Official Zoning Map, shall be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days

written notice of all hearings to consider an amendment to this Section and said notice shall include a draft of the ordinance amendment or technical study under consideration.

## CHAPTER 7-13

### PLANNING AND ZONING PROCEDURES

#### SECTIONS:

- 7-1301. Administration.
  - 7-1302. Amendments.
  - 7-1303. Penalties, Violations and Enforcement.
  - 7-1304. Variances.
  - 7-1305. Conditional Use.
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#### SEC. 7-1301. ADMINISTRATION.

**Subd. 1. Enforcement by City.** This Title shall be administered and enforced by the City. The City may institute in the name of the City of Barnesville any appropriate actions or proceedings against a violator as provided by statute, charter, ordinance, or code.

If the provisions of this Title 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 Title to ensure compliance with or to prevent the violation of its provisions.

**Subd. 2. Zoning Officer.** The City Clerk, or the City Clerk's designee, shall serve as the Zoning Officer and shall be responsible for enforcing this Chapter. In carrying out this general authority, the Zoning Officer shall:

**A.** Administer and enforce the provisions of this Chapter in accordance with Subdivision 1 of this Section;

**B.** Maintain permanent and current records pertaining to this Chapter, including but not limited to, maps, amendments, special uses, variances, appeals, planned unit developments, zoning, changes, and applications thereof.

**C.** Receive, file, and forward applications for appeals, variance, special use permits, and other action to the appropriate official bodies.

**D.** Provide clerical and technical assistance to the Board of Adjustment.

**Subd. 3. Zoning Certificate.** Application for a Zoning Certificate shall be accompanied by a plat showing clearly and completely the location, dimensions, and nature of any structure involved and such other information as the Zoning Officer may require for

administration of this Chapter, together with a filing fee of \$2.00. A Zoning Certificate shall be obtained before any person may:

- A. Occupy or use any vacant land, except for the purpose of agriculture; or
- B. Occupy or use any structure hereafter constructed, reconstructed, moved, or enlarged; or
- C. Change the use of a structure or land to a different use; or
- D. Change a nonconforming use.

**Subd. 4. Appeals and Adjustments.** Appeals to the Board of Adjustments may be taken by any person aggrieved by any provision of this Chapter or by any decision of the Barnesville Zoning Officer within thirty (30) days by filing a written notice of appeal specifying the grounds thereof with the Board of Adjustment.

**Subd. 5. Authority of Board of Adjustment.** The Barnesville Board of Adjustment has the Authority to hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by any Barnesville City Official in the enforcement of the Barnesville Zoning Ordinances.

**Subd. 6. Validity of Zoning Certificate.** A Zoning Certificate shall remain valid for a period of one (1) year from the date of issue.

#### **SEC. 7-1302. AMENDMENTS.**

**Subd. 1. General.** The Council may introduce and consider amendments to this Chapter and to the Zoning Map. The Planning Commission or a petition from a person residing or owning property within the City may also initiate amendments.

**Subd. 2. Petitions.** Petitions for amendment shall be filed with the Planning Commission, and the petitioner, upon such filing shall pay an advertising deposit and a filing fee of \$25.00. The Planning Commission shall review the proposed amendment and report its findings and recommendations in writing to the Council and to the petitioner. The proposed amendment shall be introduced before the Council only if a Councilperson elects to do so. If an amendment proposed by petition is not introduced, the advertising deposit shall be refunded to the petitioner otherwise, such deposit shall be paid to the City.

**Subd. 3. Action.** Before acting upon proposed amendment, the Council shall hold a public hearing thereon. Notice of such public hearing, containing a brief summary of the proposed amendment and a reference to the place where copies of the same may be examined, shall be published in the official newspaper of the City at least ten (10) days before the day of the hearing. When an amendment involves changes in District boundaries affecting an area of five acres or less, a similar notice shall be mailed at least ten (10) days before the day of the hearing

to each owner of affected property and property situated wholly or partly within 200 feet of the property to which the amendment relates. All zoning changes or amendments shall not become effective until they have been duly published in the official newspaper of the City.

### **SEC. 7-1303. PENALTIES, VIOLATIONS, AND ENFORCEMENT.**

**Subd. 1. Penalty.** Any person violating any provision of this Chapter shall, upon conviction, be guilty of a petty misdemeanor, punishable by a fine of up to \$200. Each day such violation continues or occurs constitutes a separate offense and may be prosecuted as such. A violation of this Chapter shall be a misdemeanor punishable by up to 90 days in jail and a \$700 fine when preceded by two or more convictions under this Chapter within the immediate preceding 12-month period.

**Subd. 2. Violations.** Violations of the provisions of this Chapter 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 Chapter.

**B.** Failure to comply with a condition in a conditional use permit shall be a violation of this Chapter. Each day such violation continues or occurs shall constitute a separate offense and may be prosecuted as such.

**Subd. 3. Enforcement.** 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.

### **SEC. 7-1304. VARIANCES.**

**Subd. 1. Purpose.** The purpose of a variance is to provide for deviations from the literal provisions of this section in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration.

**Subd. 2. Review Standards.** To qualify for a variance, the applicant must prove undue hardship will result if the strict standards of the Zoning Ordinance are followed. Due to circumstances unique to the individual property, reasonable use of the property would not be allowed.

**A.** Consideration for undue hardship includes:

1. There are circumstances unique to the property that were not created by the landowner.

2. The property, if the variance is granted, will not be out of character with other properties in the same neighborhood.

3. The applicant has exhausted all reasonable possibilities for using his/her property or combining a substandard lot due to size, shape or lot line dimensions, with an adjacent vacant lot.

4. The variance will not be in violation of the intent and purpose of the Comprehensive Plan.

5. The variance requested is the minimum variance necessary to accomplish the intended purpose of the applicant.

**B.** Economic consideration may not constitute an undue hardship if reasonable use of the property exists with application of the minimum standards of this section.

**Subd. 3. Procedure.** The Planning Commission shall review the proposed Variance, hold a public hearing, and report its findings and recommendations, in writing, to the City Council and the applicant. Notice of public hearing shall be published in the official newspaper of the City at least ten (10) days before the day of the hearing. A notice shall be mailed at least ten (10) days before the day of the hearing to each owner of affected property and property situated wholly or partly within 350 feet of the property to which the Variance relates.

**Subd. 4. Conditions.** The Planning Commission recommends to City Council (the Board of Adjustment), who may impose conditions on the approval of a variance. No building permit may be issued except in compliance with the conditions of the variance.

## **SEC. 7-1305. CONDITIONAL USE.**

**Subd. 1. Purpose.** The purpose of a Conditional Use Permit (CUP) is to allow the City discretion in permitting certain uses in particular zoning districts that may be compatible with uses in the district or perceived public needs under certain circumstances. The use must comply with all standards of this section and any additional conditions imposed for specific instances to protect the public health, safety or welfare.

**Subd. 2. Procedure.** The Planning Commission shall review the proposed CUP, hold a public hearing, and report its findings and recommendations, in writing, to the City Council and the applicant. Notice of public hearing shall be published in the official newspaper of the City at least ten (10) days before the day of the hearing. A notice shall be mailed at least ten (10) days before the day of the hearing to each owner of affected property and property situated wholly or partly within 350 feet of the property to which the CUP relates.

**Subd. 3. Conditional Uses.** The Board shall have the power to authorize conditional uses if the following requirements are met:

**A.** The conditional uses shall be in accordance with the standards specified for such class of conditional uses as specified in Sections \_\_\_\_\_ through \_\_\_\_\_.

**B.** The conditional use shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons.

**C.** The conditional uses shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds, adjacent buildings and property.

**D.** The conditional use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.

**E.** The conditional use shall organize vehicular access and parking to minimize traffic congestion in the area.

**Subd. 4. Review Standards.** The request may address the following factors, although the City Council, the Planning Commission, and City staff has the authority to request additional information from the applicant concerning operational factors pertaining to the proposed use or to retain experts with the consent and at the expense of the applicant concerning operational factors, when necessary to establish performance conditions to effect the intent of this section.

**A. Comprehensive Plan.** Compliance with the Comprehensive Plan, public facilities and capital improvement plans, and all sections of the City Code.

**B. Traffic.** The generation and characteristics of the traffic associated with the use and its impact on the traffic volumes and safety associated with driveway location on adjacent streets.

**C. Parking.** The characteristics of the parking area of the use, including the number and design of parking spaces, landscaping, traffic circulation, drainage, and lighting.

**D. Screening and Landscaping.** The ability to screen and buffer incompatible off-site impacts of the proposed use on adjacent property and the surrounding neighborhood. The City may require additional landscaping or screening above that required in the specific zoning district.

**E. Architectural Standards.** The degree that the site or building associated with the proposed use meets or exceeds the architectural design and landscaping standards for the district in which it is located. The City may require additional architectural standards above those required in the specific zoning district.

**F. Other Sections of the City Code.** The applicant may be required to submit additional information demonstrating that the development is able to comply with any other section or the City Code.

**Subd. 5. Conditions.** The Planning Commission may recommend and the City Council may impose conditions to the approval of a CUP.

**Subd. 6. Review.** The Planning Commission may review an existing CUP bi-annually to make sure the property is still in compliance.

**Subd. 7. Duration.** The Conditional Use Permit remains with the property as long as the property and use are in compliance with the conditions attached to the permit by the City Council. A CUP expires if the use has been discontinued for more than 364 consecutive days from the date that the use ceased or the business owner fails to meet the certification requirement of the CUP.

**Subd. 8. Revocation.** If the holder of the permit fails to comply with any of the terms imposed by the CUP, the City may impose penalties or discipline for noncompliance, which may include revocation of the permit.

## CHAPTER 7-14

### SUBDIVISION REGULATIONS (PLATTING)

#### SECTIONS:

7-1401.	Purpose.
7-1402.	Authority.
7-1403.	Jurisdiction.
7-1404.	Surveyor's Certificate.
7-1405.	Land Suitability.
7-1406.	Interpretation, Conflict, Separability.
7-1407.	Public Purpose.
7-1408.	Definitions.
7-1409.	Land Development and Subdivision Application and Approval Procedure.
7-1410.	Plat and Data Requirements.
7-1411.	Subdivision Design Standards.
7-1412.	Required Improvements.
7-1413.	Minor Subdivisions.
7-1414.	Administration and Enforcement.

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**SEC. 7-1401. PURPOSE.** These regulations are adopted for the following purposes:

**Subd. 1.** To make certain regulations and requirements for the platting of land within the City pursuant to the authority contained in Minnesota Statutes Annotated, Chapters 429, 471, and 505.

**Subd. 2.** To protect and provide for the public health, safety, and general welfare of the residents of the City.

**Subd. 3.** To safeguard the best interests of the City and to assist the subdividers in harmonizing their interests with those of the City and its residents.

**Subd. 4.** To guide the orderly future growth and development of the City in accordance with the Comprehensive Plan and to promote appropriate land use density.

**Subd. 5.** To encourage orderly and harmonious growth and development in the extraterritorial area and within the adjacent joint powers zoning area.

**Subd. 6.** To ensure that public facilities and services will be available to all development areas and that the costs of such facilities and services are equitably distributed.

**Subd. 7.** To protect and preserve the value of land and improvements throughout the City, and to minimize conflicting land uses.

**Subd. 8.** To provide for open space through efficient design and dedication of land.

**Subd. 9.** To protect the character and the social and economic stability of all parts of the City and to encourage the orderly and beneficial development of the community through appropriate growth management techniques.

**SEC. 7-1402. AUTHORITY.** The City is vested with the authority to review, approve, and disapprove applications for the subdivision of land, including sketch, preliminary, and final plats. The City may grant variances from these regulations pursuant to the provisions of this Chapter.

**SEC. 7-1403. JURISDICTION.**

**Subd. 1.** These regulations shall apply to all subdivision of land, as defined herein, located within the corporate boundaries of the City or outside the corporate boundaries as provided by law.

**Subd. 2.** No land may be subdivided, conveyed, or recorded after the effective date of these regulations through the use of any legal description other than with reference to a plat approved by the Planning Commission in accordance with these regulations unless such land:

**A.** Was a separate parcel of record on the effective date of these regulations; or

**B.** Was the subject of written agreement to convey entered into prior to the effective date of these regulations; or

**C.** Was a separate parcel of not less than two and one-half (2-1/2) acres in area and one hundred and fifty feet (150') in width on the effective date of these regulations; or

**D.** Was a single parcel of land of not less than fifty (50) acres and having a width of not less than three hundred feet (300'), and its conveyance does not result in the division of land into two (2) or more lots or parcels, any of which is more than five acres (5) in area or three hundred feet (300') in width; or

**E.** Is a single parcel of commercial or industrial land of not less than five (5) acres and having a width of not less than three hundred feet (300') and its conveyance does not result in the division of the parcel into two (2) or more lots or parcels, any one of which is less than five (5) acres in area or three hundred feet (300') in width; or

**F.** Is a single parcel of residential or agricultural land of not less than twenty (20) acres and having a width of not less than five hundred feet (500') and its conveyance

does not result in the division of the parcel into two (2) or more lots or parcels, any one of which is less than twenty (20) acres in area or five hundred feet (500) in width.

**Subd. 3.** When ownership of a parcel or tract of land is transferred by a metes and bounds description, the Planning Commission shall require such parcel or tract to be surveyed and its description to be accompanied by a surveyor's certificate showing the dimensions and location of such parcel or tract. In any case in which failure to comply does not interfere with the purposes of these subdivision regulations, the City may waive such compliance.

**SEC. 7-1404. SURVEYOR'S CERTIFICATE.** All surveys required under this Section shall include the following certification:

I hereby certify that this survey or report was prepared by me or under my direct supervision and that I am a duly registered Land Surveyor under the laws of the State of Minnesota.

/s/

Date:

Registration Number

**SEC. 7-1405. LAND SUITABILITY.** No land shall be subdivided which is held unsuitable by the City for the proposed use due to: flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, or any other feature likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or the community.

**SEC. 7-1406. INTERPRETATION, CONFLICT, SEPARABILITY.**

**Subd. 1.** The standards set forth in these regulations will be generally held as the minimum applied to developments occurring after its enactment. The Council, however, has the option to deviate from the standards set forth herein as part of a pre-planned, coordinated development project processed as a planned unit development (PUD) as governed by the Planned Unit Development Section of City Code, Title VII (Zoning).

**Subd. 2.** Whenever there is a difference between the minimum standards or dimensions specified herein and those contained in other official regulations, resolutions or City Code provisions, the most restrictive will apply.

**Subd. 3.** If any part or provision of these regulations or application thereof to any person or circumstance is judged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to part, provision, or application directly involved in all controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The Council hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application.

**SEC. 7-1407. PUBLIC PURPOSE.** Regulation of subdivision of land and the attachment of reasonable conditions to land subdivision is an exercise of valid police power delegated by the State to the City. The developer has the duty of compliance with reasonable conditions laid down by the Planning Commission for design, dedication, improvement, and restrictive use of the land to conform to the physical and economic development of the City and to the health, safety, and general welfare of the future lot owners in the subdivision and of the community at large.

**SEC. 7-1408. DEFINITIONS.** The following terms, as used in this Chapter, shall have the meanings stated:

1. **“Accessory Use” or “Accessory Structure”** - A building or use which: (1) is subordinate to and serves a principal building or principal use; (2) is subordinate in area, extent, or purpose to the principal building or principal use served; (3) contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use; and (4) is located on the same zoning lot as the principal building or principal use. Examples of accessory uses are private garages, storage sheds, play houses, and private swimming pools.

2. **“Alley”** - A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on a street.

3. **“Applicant”** - The owner, their agent or person having legal control, ownership and/or interest in the land proposed to be subdivided.

4. **“Attorney”** - The attorney employed or retained by the City, unless otherwise stated.

5. **“Bikeway”** - A public right-of-way or easement across a block or within a block to provide access for bicyclists and in which a path or trail is installed.

6. **“Block”** - An area of land within a subdivision that is bounded by streets, or by a combination of streets and public parks, cemeteries, railroad right-of-way, shorelines of waterways, or boundary lines of municipalities.

7. **“Bond”** - Any form of surety bond in an amount and form satisfactory to the governing body. All bonds shall be approved by the governing body whenever a bond is required by these regulations.

8. **“Boulevard”** - The portion of the street right-of-way between the curb line and the property line.

9. **“Buffer”** - A naturally vegetated area or vegetated area along the exterior boundaries of an entire development processed in accordance with a multiphase or phased subdivision application which is landscaped and maintained as open space in order to eliminate or minimize conflicts between such development and adjacent land uses.

**10. "Building"** - Any structure built for the support, shelter or enclosure of persons, animals or movable property of any kind, and includes any structure.

**11. "BWSR"** - State of Minnesota Board of Water & Soil Resources or its successor.

**12. "Certificate of Survey"** - A document prepared by a registered Land Surveyor which precisely describes area, dimensions and location of a parcel of land.

**13. "Certify"** - Whenever these regulations require that an agency or official certify the existence of some fact or circumstance, the City may, by administrative rule, require that such certification be made in any manner, oral or written, which provides reasonable assurance of the accuracy of the certification.

**14. "Capital Improvement"** - A public facility with a life expectancy of three or more years, to be owned and operated by or on behalf of the local government.

**15. "Comprehensive Land Use Plan"** - A comprehensive plan approved by the City, including a compilation of policy statements, goals, standards, fiscal guidelines, and maps indicating the general locations recommended for the various functional classes of land use, places and structures, and for the general physical development of the City, including any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

**16. "Contour Map"** - A map on which irregularities of land surface are shown by lines connecting points of equal elevations. "Contour interval" will mean the vertical height between contour lines.

**17. "Copy"** - A print or reproduction made from an original.

**18. "County"** - Clay County, Minnesota.

**19. "Design Standards"** - Specifications that applicants proposing to subdivide land must follow when preparing plats, both preliminary and final, indicating among other things, the optimum, minimum or maximum dimensions of such items as rights-of-way, blocks, easements and lots.

**20. "Developer"** - The owner of land proposed to be subdivided or its representative who is responsible for any undertaking that requires review and/or approval under these regulations.

**21. "Development"** - The act of building structures and installing site improvements.

**22. "Development Agreement"** - An agreement between the developer and the City through which the City agrees to vest development use or intensity or refrain from interfering with subsequent phases of development through new legislation in exchange for the

provision of public facilities or amenities by the developer in excess of those required under current community regulations.

**23. "Double Frontage Lot"** - A lot other than a corner lot which has a property line abutting on one street and an opposite property line abutting another non-intersecting street.

**24. "Drainage Course"** - A water course or indenture for the drainage of surface water.

**25. "Easement"** - A right granted by the owner of land to another party for specific limited use of that land.

**26. "Engineer"** - The registered engineer employed or retained by the City, unless otherwise stated.

**27. "Equal Degree of Encroachment"** - Method of determining the location of encroachment lines so that the hydraulic capacity of flood plain lands on each side of a stream are reduced by an equal amount when calculating the increases in flood stages due to flood plain encroachments.

**28. "Exactions"** - Requirements of development to dedicate or pay for all or a portion of land or costs of public facilities as a condition of development approval.

**29. "FEMA"** - Federal Emergency Management Agency or its successor.

**30. "Final Plat"** - A drawing or map of a subdivision, meeting all of the requirements of the City and in such form as required by Clay County for the purpose of recording.

**31. "Flood"** - A temporary rise in stream flow or stage that results in inundation of the area adjacent to the channel.

**32. "Flood, 100-Year"** - A flood which is representative of large regional floods known to have occurred generally in Minnesota and North Dakota, and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval as determined by the use of the 100-year flood profile and other supporting technical data in the Flood Insurance Study.

**33. "Flood Frequency"** - The average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

**34. "Flood Fringe"** - That portion of the flood plain outside of the floodway. Flood Fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for the City.

**35. "Flood Hazard Areas"** - The areas included in the floodway and flood fringe as indicated on the Official Zoning Map and the Flood Insurance Study and Flood Insurance Rate Map which have been officially adopted by the City.

**36. "Flood Insurance Rate Map"** - The Flood Insurance Rate Map prepared by the Federal Emergency Management Agency for the City - Revised May 4, 1987, and as applicable and allowed by law, the Flood Insurance Rate Map prepared by the Federal Emergency Management Agency for the County of Clay and dated October 16, 1984.

**37. "Flood Insurance Study"** - The Flood Insurance Rate Map prepared by the Federal Emergency Management Agency and dated May 4, 1987, and, as applicable and allowed by law, the Flood Insurance Study prepared by the Federal Emergency Management Agency for the County of Clay and dated April 16, 1984.

**38. "Flood Plain"** - The areas adjoining a watercourse which has been or hereafter may be covered by the 100-year flood as determined by the use of the 100-year flood profile and other supporting technical data in the Flood Insurance Study.

**39. "Floodproofing"** - A combination of structural provisions, changes or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures and contents of buildings in a flood hazard area in accordance with the Minnesota State Building Code.

**40. "Floodway"** - The channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regional flood determined by the use of the 100-year flood profile and other supporting technical data in the Flood Insurance Study.

**41. "Governing Body"** - The City Council.

**42. "Household"** - Any person or persons who reside or intend to reside in the same housing unit.

**43. "Impact Fee"** - A fee imposed on new development by the local government pursuant to this Chapter in order to mitigate the impacts on community facilities created by the demand for capital improvements by the new development. Impact fees do not include the dedication of rights-of-way or easements for such facilities, or the construction of such improvements. Impact fees also do not include fees exempt by State, County, or local statute.

**44. "Local Collector"** - Local Collectors provide for circulation, access within neighborhoods, and for access to the major collector and arterial system.

**45. "Local Government"** - The City of Barnesville.

**46. "Local Streets"** - Local roads provide land access, and can and do exist in any land use setting. Movement on local streets is incidental and involves traveling to or from a collector, and resultant volumes and speeds are low.

**47. "Lot"** - A parcel or portion of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot must have frontage on an improved public street or approved private street.

**48. "Lot Area"** - The total horizontal area within the lot lines of a lot exclusive of the right-of-way of any public road.

**49. "Lot Base"** - Lots meeting all specifications in the zoning district prior to being subdivided into a two-family dwelling.

**50. "Lot, Corner"** - A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding one hundred thirty-five (135<sup>0</sup>) degrees.

**51. "Lot Double Frontage"** - An interior lot having frontage on two (2) streets.

**52. "Lot Improvement"** - Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment.

**53. "Lot, Interior"** - A lot, other than a corner lot, including through or double frontage lots.

**54. "Lot, Width"** - The minimum required horizontal distance between the side lot lines measured at right angles to the lot depth, at the minimum building setback line. If no setback line is established, the distance between the side lot lines measured along the public right-of-way. Or: The mean width measured at right angles to the depth.

**55. "Major Arterial"** - Major arterials are intended to provide a high degree of mobility and serve longer trips. They should therefore provide for high operating speeds and levels of service. Since movement, not access, is their principal function, access management is essential to preserve capacity. Major arterials in the Barnesville area are Minnesota State Highways 9 and 34.

**56. "Major Collector"** - Major collectors interconnect with and augment the major arterials. They provide both access and movement. Major collectors do not penetrate residential areas.

**57. "Major Subdivision"** - Subdivision of five (5) or more lots.

**58. "Metes and Bounds Description"** - A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a

known point and describing the bearings and distances of the lines forming the boundaries of the property or delineating a fractional portion of a section, lot or area by described lines or portions thereof.

**59. "Minor Subdivision"** - Subdivision of four (4) or fewer lots.

**60. Multiple Family Dwelling** - A building designed with two or more dwelling units exclusively for occupancy by two or more families living independently of each other, but sharing hallways and main entrances and exits.

**61. "Natural Water Way"** - A natural passageway on the surface of the earth, so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area.

**62. "Notice of Noncompliance"** - A notice issued by the Zoning Officer informing the applicant for approval of a subdivision that the sketch plan is not in compliance with these regulations and that the applicant may not apply for preliminary plat approval.

**63. "Obstruction"** - Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, wire, fence, stockpile, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.

**64. "On-Site Sewage Disposal System"** - A septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device.

**65. "Outlot"** - A lot remnant or parcel of land left over after platting, which is intended as open space or other future use, for which no building permit will be issued.

**66. "Owner"** - An individual, association, syndicate, partnership, corporation, trust or any other legal entity holding an equitable or legal ownership interest in the land sought to be subdivided.

**67. "Parcel"** - An individual lot or tract of land.

**68. "Parks and Playgrounds"** - Public land and open space in the City dedicated or reserved for recreational purposes.

**69. "Pedestrian Way"** - A public right-of-way or easement across a block or within a block to provide access for pedestrians and which may be used for the installation of paths or trails.

**70. "Percentage of Grade"** - Along a center line of a street, the change in vertical elevation in feet and tenths of a foot for each one hundred feet of horizontal distance, expressed as a percentage.

**71. "Person"** - Any individual or legal entity.

**72. "Planned Unit Development"** - Land under unified control to be planned and developed as a whole in a single development operation or a definitely programmed series of development operations or phases. A planned development includes principal and accessory structures and uses substantially related to the character and purposes of the planned development. A planned development is built according to general and detailed plans that include not only streets, utilities, lots and building location, and the like, but also site plans for all buildings as are intended to be located, constructed, used, and related to each other, and plans for other uses and improvements on the land as related to the buildings. A planned development includes a program for the provisions, operations, and maintenance of such areas, facilities, and improvements as will be common use by some or all of the occupants of the planned development district, but which will not be provided, operated, or maintained at general public expense.

**73. "Preliminary Plat"** - A detailed drawing or map of a proposed subdivision, meeting the requirements of this Chapter and in compliance with the Comprehensive Plan, submitted to the Planning Commission and governing body for their consideration.

**74. "Private Street"** - A street serving as vehicular access to two or more parcels of land which is not dedicated to the public and is owned by one or more private parties.

**75. "Principal Arterial"** - Transportation facilities that serve the function of movement, and where movement preempts access are classified as principal arterials. The only principal arterial in the Barnesville area is Interstate 94.

**76. "Public Improvement"** - Any drainage ditch, roadway, parkway, street, sanitary sewer, storm sewer, water system, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement or other facility for which the City may ultimately assume ownership, responsibility for maintenance and operation, or which may affect an improvement, for which local government responsibility is established.

**77. "Radical"** - Arrangement of side lot lines intersecting the street as if emanating from a common center.

**78. "Reach"** - A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by the natural or man-made obstruction. In an urban area, the segment of a stream or river between two (2) consecutive bridge crossings would most typically constitute a reach.

**79. "Regulatory Flood Protection Elevation"** - A point not less than one foot (1) above the water surface profile associated with the 100-year flood as determined by the use

of the 100-year flood profile and supporting technical data in the Flood Insurance Study plus any increase in flood heights attributable to encroachments on the flood plain. It is the elevation to which uses regulated by this Chapter are required to be elevated or floodproofed.

**80. "Restrictive Covenants"** - Contracts entered into between all owners and holders of mortgage constituting a restriction on the use of property within a subdivision for the benefit of the property owners, and providing mutual protection against undesirable aspects of property value and economic integrity of any given area.

**81. "Right-of-Way"** - Land acquired by reservation, dedication, or otherwise intended for public use, and intended to be occupied or occupied by a street, trail, railroad, utility lines, oil or gas pipeline, water line, sanitary sewer, storm sewer or other similar uses.

**82. "Road Right-of-Way Width"** - The distance between the property lines measured at right angles to the center line of the street.

**83. "Setback"** - The distance between a building and the nearest property line.

**84. "Single Family Dwelling"** - A dwelling unit designed for occupancy by one family.

**A. "Attached"** - A dwelling which is joined to another at one or more sides.

**B. "Detached"** - A dwelling unit not attached to another dwelling.

**85. "Sketch Plan"** - A conceptual plan to facilitate discussion between the applicant and City Staff regarding a proposed subdivision. The sketch plan may show the proposed layout of streets, lots, proposed playgrounds and parks, the 100-year flood contour line, zoning, approximate lot sizes, and as much relevant information as possible.

**86. "Street"** - A public right-of-way for vehicular traffic, whether designated as a highway, thoroughfare, arterial, parkway, collector, throughway, road, avenue, boulevard, lane, place, drive, court or otherwise designated, which has been dedicated or deeded to the public for public use and which affords principal means of access to abutting property.

**87. "Streets, Arterial"** - Those streets carrying larger volumes of traffic and serving as links between various sub-areas of the City. Arterial streets are intended to provide for collection and distribution of traffic between highways and collector streets; hence regulation of direct access to property is critical.

**88. "Streets, Collector"** - Those streets which carry traffic from local streets to the major system of arterials and highways. Collector streets primarily provide principal access to residential neighborhoods, including, to a lesser degree direct land access.

**89. "Streets, Cul-De-Sac"** - A local street with only one outlet and having an appropriate terminal or terminals for the safe and convenient reversal of traffic movement.

**90. "Streets, Marginal Access" (Frontage Road)** - Those local streets which are parallel and adjacent to high volume arterial streets and highways; and which provide access to abutting properties and protection from through traffic.

**91. "Streets, Local"** - A road or street whose primary function is to provide direct access to residential land uses and is a two-lane road with parking permitted within the roadway. Designation is based upon the zoning of the property abutting the right-of-way. In cases where right-of-way abuts two different zoning classifications the greater width will apply.

**92. "Street, Width"** - The shortest distance between the lines delineating the right-of-way of a street.

**93. "Structure"** - Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground or in the ground in the case of earth sheltered buildings. Among other things, structures include buildings, factories, sheds, detached garages, cabins, manufactured homes, walls, fences, billboards, poster panels, carports, porches, decks, and other building features but not including sidewalks, drives, fences, and patios.

**94. "Subdivider"** - Any person who: (1) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision, or, who (2) directly or indirectly, sells, leases, or develops, or offers to sell, lease or develop, or advertises to sell, lease, or develop, any interest, lot, parcel site, unit, or plat in a subdivision, or, who (3) engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision, and who (4) is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.

**95. "Subdividing"** - The process of dividing land.

**96. "Subdivision"** - The dividing of an area, parcel or tract of land into two or more parcels, tracts, lots or long-term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads or alleys for residential, commercial, industrial or other use or any combination thereof. This term includes resubdivision and where appropriate to the context, will relate to the process of subdividing or to the land subdivided. Subdivision will apply as outlined herein except for these separations:

**A.** Where the resulting parcels, tracts, lots or interests will be twenty (20) acres or larger in size and five hundred feet (500') in width for residential uses and five acres or larger in size of commercial and industrial uses;

**B.** Creating cemetery lots;

C. Resulting from court orders or the adjustment of a lot line by the relocation of a common boundary.

**97. "Surveyor"** - A land surveyor registered under Minnesota State laws.

**98. "Tangent"** - A straight segment of roadway; without horizontal curvature.

**99. "Tracing"** - A plat or map drawn on transparent paper, film, or cloth which can be reproduced by using regular reproduction procedure.

**100. "Tract"** - A lot. The term "tract" is used interchangeably with the term "lot," particularly in the context of subdivision, where a "tract" is subdivided into several lots, parcels, sites, plots, condominiums, tracts, or interests.

**101. "Two-Family Dwelling"** - A residence designed for two (2) families, with separate housekeeping and cooking facilities for each. A two-family dwelling (duplex) with a separate rooming unit(s) will be considered and classified as a multiple family dwelling.

**102. "U.S.G.S."** - United States Geological Service

**103. "Vested Rights"** - Right to initiate or continue the establishment of a use which will be contrary to a restriction or regulation coming into effect when the project associated with the use is completed.

**104. "Zoning Officer"** - The person designated by the City to enforce the Zoning Chapter. If no Administrative Assistant to the Planning Commission is appointed to administer these regulations, the Zoning Officer shall administer these regulations.

**105. "Zoning Chapter"** - Ordinance 1994-9 of the City Code controlling the use of land as adopted by the City, or any revised amendment thereto, now known as City Code, Title VII.

## **SEC. 7-1409. LAND DEVELOPMENT AND SUBDIVISION APPLICATION AND APPROVAL PROCEDURE.**

### **Subd. 1. Discussion of Requirements and Sketch Plan**

**A. Discussion of Requirements.** Before preparing the sketch plan of any development, the developer is requested to discuss with the Zoning Officer the procedure for authorization of the development.

**B. Sketch Plan Submission and Application for Development Permit.** Prior to the submission of a preliminary plat for a subdivision, the developer shall submit to the Zoning Officer a sketch plan of the development, together with an application for a development permit as required by this Chapter, and any other information as required.

**(SEE SEC. 1-0904, FEES, RATES AND CHARGES SCHEDULE)**

**C. Sketch Plan Review.** Upon receipt of the sketch plan and application for development permit, the Zoning Officer shall review the sketch plan for conformance with the regulation and site characteristics for development suitability. The Zoning Officer shall evaluate the site characteristics and limitations, if any, of the proposed site of the development. Should the Zoning Officer find that the proposed plat and data do not meet the objectives of these regulations, the Zoning Officer shall inform the developer and recommend subsequent action.

**D. Approval or Disapproval.** Following the sketch plan review, the Zoning Officer shall, within ten days, approve or disapprove the sketch in writing and advise the developer of any stipulations or conditions that are required in the layout or characteristic of the development proposal. The developer shall certify in writing that he/she agrees to all requirements of these regulations together with any additional requirements or conditions as stipulated in the Zoning Officer's review.

**Subd. 2. Preliminary Plat.**

**A. Submittal to the Planning Commission.**

**1.** After the pre-application meeting and sketch plan review, the preliminary plat shall be submitted to the Zoning Officer with a request for approval of the preliminary plat at least fifteen days prior to the Planning Commission meeting at which the same shall be considered. The applicant must submit eight large size copies in a scale no smaller than one inch equals 100 feet, and one reduced scale (8-1/2 x 11) copy of a preliminary plat and pay the appropriate filing fee as established by the Council. At this time, the applicant must also submit any requests for re-zoning or for variances that may be necessary to accommodate the proposed plat. The application for preliminary plat approval may be rejected if it is judged by the Zoning Officer to be incomplete according to Subd. 2 of Sec. 7-1410. If no action has been taken on the application by the Zoning Officer within ten days of submittal, the application will be forwarded to the Planning Commission for action.

**(SEE SEC. 1-0904, FEES AND RATES SCHEDULE)**

**2. Public Hearing.** Upon receipt of the completed application, the Zoning Officer will schedule a public hearing for the purpose of public review of the preliminary plat by the Planning Commission. The public hearing will be held within forty-five days of the date of filing of the completed application. Notice of the public hearing must appear in the official newspaper at least ten days prior to the hearing and must, at a minimum, consist of a legal description of the property and a description of the request. The City will refer copies of the preliminary plat to other affected County, State, or local jurisdictions, utilities, or other agencies for their review and comment, where appropriate and when required.

**3. Planning Commission Action.** After consideration of all of the information relevant to the request, the Planning Commission may approve, conditionally

approve, or reject the request. Upon the determination of its recommendation, the Planning Commission shall embrace the same with a motion which shall include: reasons for granting approval; all conditions required for approval, or conditions upon which approval will be granted; or reasons for rejection of the preliminary plat. The subdivider shall be notified of the action together with any conditions of approval or reasons for approval or rejection. If the Planning Commission does not act upon the request within forty-five days following the public hearing, the Council may act upon the request without the Planning Commission's recommendation. Approval of the preliminary plat does not guarantee approval of the final plat, rather, it will be considered an expression of approval of the layout submitted on the preliminary plat and as a guide for preparation of the final plat.

**B. Submittal to the Council.** Following the action of the Planning Commission, the preliminary plat and motion of the Planning Commission will be presented to the Council for review and appropriate action.

**1. Council Action.**

(a) The Council shall have the authority to approve, reject, modify, and/or amend the motion of the Planning Commission, or to refer the preliminary plat to the Planning Commission for further study. Referral of the preliminary plat to the Planning Commission for further study shall not constitute final action by the Council. The Planning Commission shall return a report to the Council no later than thirty days following the meeting at which it was deferred.

(b) Upon final decision by the Council, it shall state its decision in a motion. The Council may adopt the motion of the Planning Commission by reference. Upon decision of the Council, the Zoning Officer shall transmit a copy of the motion or notice of adoption without change to the subdivider.

(c) Approval of the preliminary plat shall not constitute an acceptance of the final plat, but shall be deemed an authorization to proceed with preparation of the final plat. Approval of the preliminary plat by the Council shall be effective for a period of one year from the date of approval.

(d) The subdivider may file a final plat limited to such portion of the preliminary plat which he/she proposes to record and develop at the time, provided that such portion must conform to all requirements of this Chapter.

**Subd. 3. Final Plat.**

**A. Submittal to Planning Commission.** After the preliminary plat has been approved, a final plat shall be submitted to the Zoning Officer with a request for approval of the final plat at least fifteen days prior to the Planning Commission meeting at which the same shall be considered. The final plat, which must be prepared by a certified land surveyor, will incorporate all corrections, modifications, and revisions required by the City, other agencies, and affected utility companies, and conform to the approved preliminary plat. The applicant must submit eight large size copies in a scale no smaller than one inch equals 100 feet, and one

reduced scale (8-1/2 x 11) copy of a preliminary plat and supportive information, and pay the appropriate filing fee as established by the Council. All plats must comply with the provisions of the Minnesota Statutes and of this Section.

**(SEE SEC. 1-0904, FEES, RATES AND CHARGES SCHEDULE)**

**1. Zoning Officer Review.** The Zoning Officer shall review the final plat and prepare a report stating whether the final plat is in substantial agreement with City Code provisions, State Statutes, and all of the conditions attached to the approval of the preliminary plat and, if not, in which particulars there is disagreement.

**2. Public Hearing.** The Zoning Officer may schedule a public hearing for the purpose of public review of the final plat by the Planning Commission. If requested by the Planning Commission, the public hearing will be held within forty-five days of the date of filing of the completed application. Notice of the public hearing must appear in the official newspaper at least ten (10) days prior to the hearing and must, at a minimum, consist of a legal description of the property and a description of the request. The City will refer copies of the final plat to other affected County, State, or local jurisdictions, utilities, or other agencies for their review and comment, where appropriate and when required.

**3. Planning Commission Action.**

(a) Within no more than forty-five days after the public hearing, the Planning Commission will report its findings and make its recommendations to the Council.

(b) If the Planning Commission determines that it cannot approve the final plat without certain conditions, it shall by motion set forth the conditions for approval and forthwith send a copy of such conditions to the subdivider, and all further action on the final plat shall be suspended until such time that the subdivider shall respond appropriately. If no further action is taken by the subdivider within three months from the date of the adoption of such conditions, the plat shall be deemed to be disapproved.

(c) Upon the determination of its recommendation, the Planning Commission shall embrace the same with a motion which shall include: reasons for granting approval, or reasons for rejection of the final plat. The subdivider shall be notified of the action together with reasons for approval or rejection. A copy of the resolution of the Planning Commission approving the final plat shall be sent to the Council, together with the plat, and such other data as the Planning Commission shall determine necessary. If the Planning Commission does not act upon the request within forty-five days following the meeting at which the final plat was considered, the Council may act upon the request without the Planning Commission's recommendation.

(d) If the Planning Commission approves the final plat, the Chairman and Secretary shall sign the same.

**B. Submittal to the Council.** Upon the adoption of a motion to recommend approval or disapproval by the Planning Commission, the final plat shall come before the Council for consideration. The Council shall have the authority to hold such hearings on the final plat as it shall deem necessary, and upon such notice as it shall provide.

**1. Council Action.** The Council must take action on the final plat within sixty days after receiving the report and recommendation from the Planning Commission. If the Council is not satisfied with the final plat, it may disapprove the final plat or refer the same to the Planning Commission for further action as it shall determine. Upon such referral, the Planning Commission shall act thereon at its next regular meeting and report back to the Council in no more than forty-five days.

**2. Recording of Plat.** Upon receiving final plat approval by the Council, the applicant or his/her agent must, within thirty days, provide the Zoning Officer with all necessary mylars and hardboards for signatures by the City's designated representative. After all signatures have been applied, the Zoning Officer will record said plat with the Clay County Recorder within sixty days, or the approved final will be considered void.

**Subd. 4. Denial of Final Plat.** The Planning Commission may recommend denial and the Council may deny a subdivision if it makes any of the following findings:

**A.** That the proposed subdivision is in direct conflict with adopted, applicable comprehensive plans of the City, Joint Powers Area, Townships, or County;

**B.** That the physical characteristics of the site, including but not limited to topography, percolation rate, soil conditions, susceptibility to erosion and siltation, susceptibility to flooding, water storage, drainage, and retention, are such that the site is not suitable for the type of development, design, or use contemplated;

**C.** That the site is not physically suitable for the proposed density of development;

**D.** That the design of the subdivision or the proposed improvements may cause environmental damage;

**E.** That the design of the subdivision or the type of improvements are likely to cause serious public health problems;

**F.** That the design of the subdivision or the type of improvements will conflict with easements of record or with easements established by judgment of a court;

**G.** That the proposed subdivision is outside the boundaries of the City and;

**1.** The County, Township, or developer has not certified in writing that they will assume all responsibility for repair and maintenance of dedicated streets until annexed by the City; or

2. The Township or County have not certified in writing that it has the capacity for, and will provide, police and fire protection and on-site sewer system inspections to ensure proper installation.

H. That the proposed subdivision, its site, or its design adversely affects the flood-carrying capacity of the floodway, increases flood stages and velocities, or increases flood hazards within the floodway fringe or within other areas of the City.

I. **MEQB Policies.** That the proposed subdivision is inconsistent with the policies of the Minnesota Environmental Quality Board, as may be amended, and could adversely impact sensitive environmental areas, or potentially disrupt or destroy historic areas which are designated or officially recognized by the Council and/or Federal or State historic preservation laws.

**Subd. 5. Approval of Preliminary and Final Plat Simultaneously.** Where the developer has submitted all data required for both the preliminary and final plat, the Planning Commission, following a public hearing on said plat, may recommend to the Council approval of both the preliminary and final plat simultaneously. Upon such recommendation the Council may follow the above procedure as when a final plat is submitted.

#### **SEC. 7-1410. PLAT AND DATA REQUIREMENTS.**

**Subd. 1. Sketch Plan.** All sketch plans shall be accompanied by general information regarding the proposed subdivision and show in simple form the proposed layout of streets, lots, and other features in relation to existing conditions including information describing the design and character of the subdivision and data on existing topographic conditions. A typical sketch plan should include the following features:

- A. Names of property owners and adjacent property owners.
- B. Location of the property by section, township, range, and county, graphic scale, north arrow, and date.
- C. Locations of property lines, existing easements, burial grounds, railroad right-of-ways, watercourses, wetlands, flood hazard areas, wooded areas, and the location, width, and names of all platted streets or other public ways within or immediately adjacent to the tract.
- D. Locations of existing sewers, water mains, culverts, and utility facilities located on or immediately adjacent to the tract.
- E. Existing drainage patterns and preliminary provisions for collecting and discharging surface water.
- F. The approximate location and widths of proposed streets.

**G.** Preliminary proposals for connection with existing water supply and sanitary sewer system, or alternative means for providing water supply and wastewater treatment and discharge.

**Subd. 2. Preliminary Plat.** The applicant must prepare and submit a preliminary plat, together with a cover letter and appropriate fee. The preliminary plat should contain the information set forth in the Subparagraphs which follow. (Upon specific request, the City may exempt an applicant from the submission of data which is not considered relevant to the application.):

**A. Identification and Description:**

a. The proposed name of the subdivision; names must not duplicate or be alike in pronunciation to the name of any plat recorded in the City or begin with the wording "Replat".

b. Name of the owner(s) of record, or any agent having control of the land, and the land surveyor.

3. Location of boundary lines in relation to a known section, quarter section or quarter-quarter section lines comprising a legal description of the property.

4. Graphic scale not less than one (1) inch to one hundred (100) feet.

5. North point/arrow.

6. Date of preparation.

**B. Existing Conditions:**

1. Boundary lines to include bearings and distances.

2. Location of existing rights-of-way, recorded easements, parks, and other land dedicated for public use.

3. 100-year flood elevations, the regulatory flood protection, and boundaries of floodway and flood fringe areas, if known, taking into consideration the Flood Insurance Study and Flood Insurance Rate Map.

**C. Proposed Subdivision Features:**

1. Layout of proposed streets showing the right-of-way widths, and proposed names of streets in conformance with City and County street identification policies. The name of any street heretofore used in the City or its environs should not be used unless the proposed street is a logical extension of an already named street, in which event the

same name should be used.

2. Locations and widths of proposed alleys, pedestrian ways.
3. Site(s) dedicated for parks, playgrounds or other public uses to include size of such dedications.
4. Areas, other than streets, alleys, bikeways, pedestrian ways and utility easements, intended to be dedicated or reserved for public use, including the size of such area or areas in acres.
5. Lot lines, lot numbers and block numbers.
6. Lot dimensions.
7. Total acreage of proposed plat area.

**D. Supplementary Information:** Any or all of the supplementary information requirements set forth in this Subparagraph should be submitted separately from the plat when deemed necessary by the City staff, consultants, advisory bodies and/or Council to adequately address the application and site in question.

1. Grading plan which must include the proposed grading and drainage of the site, including provisions for surface water ponding and drainage.
2. Proposed fill, levees, channel modifications, and other methods to overcome flood or erosion hazard areas in accordance with the Zoning Chapter and by use of the 100-year flood profile and other supporting technical data in the Flood Insurance Study.
3. Existing zoning classifications for land in and abutting the subdivision.
4. Minimum front and side street building setback line, including those located on curves and within cul-de-sacs.
5. Sites, if any, for multi-family dwellings, shopping centers, churches, industry or other nonpublic uses exclusive of single-family dwellings.
6. Location and size of existing sewers, water mains, culverts or other underground facilities within the preliminary plat area and to a distance of one hundred fifty (150) feet beyond. Such data as grades and locations of catch basins, manholes, hydrants and street pavement width and type also must be shown.
7. Topographic data, including contours at vertical intervals of not more than one half (1/2) foot shown on a contour/topographic map. Water courses, marshes, wooded areas, rock outcrops, power transmission poles and lines, and other significant features

also must be shown. U.S.G.S. data must be used for all topographic mapping where feasible.

**8.** Subsurface conditions on tracts for subdivisions utilizing individual water and sewage disposal systems; location and results of tests to ascertain subsurface soil, rock and ground water conditions and availability; location and results of soil percolation tests.

**9.** Other conditions on the tract: isolated preservable trees one (1) foot or more in diameter, existing houses, barns and other significant features.

**10.** Statement of the proposed use of lots stating type of buildings with number of proposed dwelling units or type of business or industry, so as to reveal the effect of the development on traffic, park facilities, fire hazards, and congestion of population. The City may require the applicant to have formal traffic or other studies performed to the City's satisfaction which show the effect of the proposed development on traffic, fire hazards and congestion.

**11.** If any zoning changes are contemplated, the proposed zoning plan for the areas, including dimensions, must be shown. Such proposed zoning plan will be for information only and will not vest any rights in the applicant.

**12.** A plan for soil erosion and sediment control both during construction and after development has been completed. The plan must include gradients of waterways, design of velocity and erosion control measures, design of sediment control measures, and landscaping of the erosion and sediment control system. Such plans are to be in accordance with Best Management Practices (BMPs) as provided by the Minnesota Pollution Control Agency and the Board of Water and Soil Resources.

**13.** A statement certifying the environmental condition of the site including the presence of any hazardous substance as defined in Minnesota Statutes 115B.02, Subd. 8. Such statement may be required to be based upon an environmental assessment of the site by an environmental engineering firm acceptable to the City.

**14.** An environmental assessment worksheet must be submitted if the City, City consultants, Minnesota Environmental Quality Board, or other groups or agencies determine that one is required by law.

**15.** Sidewalks and bikeways.

**16.** Total square footage of each lot and block.

**17.** Such other information as may be required by the City.

**Subd. 3. Final Plat.** The applicant must submit a final plat together with the appropriate fee and any necessary supplementary information. The final plat, prepared for recording purposes, must be prepared in accordance with provisions of Minnesota State Statutes and Clay County regulations, and such final plat must contain the following information:

## **A. General Requirements:**

**1.** The final plat must be prepared and certified by a land surveyor who is registered in the State of Minnesota and must comply with the provisions of the law and this Chapter.

**2.** Name of the subdivision, which must not duplicate or too closely approximate the name of any existing plat recorded in the County or begin with the wording "Replat".

**3.** Location by section, township, range, county, and state, and including descriptive boundaries of the subdivision, based on an accurate traverse, giving angular and linear dimensions.

**4.** The location of monuments must be shown and described on the final plat. Locations of such monuments must be shown in reference to existing official monuments on the nearest established street lines, including tree angles and distances to such reference points or monuments.

**5.** Location of lots, outlots, street right-of-ways, public highways, alleys, parks, and other features, with accurate dimensions in feet and decimals of feet, with the length of radii and/or arcs of all curves, and with all other information necessary to reproduce the plat on the ground must be shown. Dimensions must be shown from all angle points of curve to lot lines.

**6.** Lots must be numbered clearly, blocks are to be numbered, with numbers shown clearly in the center of the block.

**7.** Total square footage per lot, acreage per block, and total acres in the plat, to be submitted separately from the plat.

**8.** The exact locations, widths, and names of all streets to be dedicated.

**9.** Location, purpose, and width of all easements to be dedicated.

**10.** Scale not less than one inch to one hundred feet (1" = 100') of plat (the scale to be shown graphically on a bar scale), date and north arrow.

**11.** A written statement from the County or Township submitted separately, if the subdivision lies outside the boundaries of the City and is not to be annexed, certifying the following:

**(a)** That the road authority, County, Township or developer, will assume all responsibility for repair and maintenance of dedicated streets until annexation to the City.

(b) That the Township or County has the capacity for and will provide police and fire protection and on-site sewer system and well inspections to insure property installations.

12. An executed copy of restrictive covenants to be submitted separately from the plat.

13. Statement dedicating all easements as follows: "Easements for installation and maintenance of utilities and drainage facilities are reserved over, under, and along the designated areas marked "utility easements."

14. Statement dedicating all streets, alleys, and other public areas not previously dedicated as follows: "Streets, alleys, and other public areas shown on this plat and not heretofore dedicated to public use are hereby so dedicated".

15. Other Data: Such other information that may be required by the City.

**Subd. 4. Certification Required.**

A. Certification by a registered land surveyor in the form required by Section 505.03, Minnesota Statutes, as amended.

B. Execution of all owners of any interest in the land and holders of a mortgage thereon of the certificates required by Section 505.03, Minnesota Statutes, as amended, and which certificate must include a dedication of the utility easements and other public areas in such form as approved by the Council.

C. Space for certificates of approval by the Planning Commission and Council in the following form or in a substantially similar form:

**PLANNING COMMISSION CERTIFICATION**

At a regular meeting of the PLANNING COMMISSION OF THE CITY OF BARNESVILLE, MINNESOTA, on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, the plat of \_\_\_\_\_ to the City of Barnesville, Clay County, Minnesota, was duly recommended for approval to the City Council.

\_\_\_\_\_  
(NAME OF CURRENT PLANNING COMMISSION CHAIR)  
City of Barnesville, Minnesota

**CITY COUNCIL CERTIFICATION**

At a regular meeting of the CITY COUNCIL OF THE CITY OF BARNESVILLE, MINNESOTA, on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, the plat of \_\_\_\_\_ to the City of Barnesville, Clay County, Minnesota, was duly approved.

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(NAME OF CURRENT CITY CLERK) City Clerk  
City of Barnesville, Minnesota

**CITY'S ENGINEER APPROVAL**

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(NAME OF CITY'S ENGINEER)  
City of Barnesville, Minnesota

**SEC. 7-1411. SUBDIVISION DESIGN STANDARDS.**

**Subd. 1.** Conformity with City's Comprehensive Plan and Zoning Chapter. A proposed subdivision must conform to the City's Comprehensive Plan, or similar document, related policies adopted by the Council, and to the Zoning Chapter.

**Subd. 2. Land Requirements.**

**A.** Land should be suited to the purpose for which it is to be subdivided. No plan will be approved if the site is not suitable for the purposes proposed by reason of potential flooding, topography, or adverse soil.

**B.** Land subject to hazards to life, health, or property will not be subdivided until all such hazards have been eliminated unless adequate safeguards against such hazards are provided by the subdivision plan.

**C.** Proposed subdivisions will be coordinated with surrounding jurisdictions and/or neighborhoods, so that the City as a whole may develop efficiently and harmoniously.

**Subd. 3. Blocks.**

**A.** Block length and width, or acreage within bounding streets, must accommodate the size of residential lots required in the area by the Zoning Chapter and provide for convenient access, circulation control, and safety of street traffic.

**B. Block Length.** In general, intersecting streets should be provided at such intervals so as to serve cross-traffic adequately and to meet existing streets. Where no existing plats control, the blocks in residential subdivisions should not exceed eight hundred (800') feet nor be less than three hundred (300') feet in length, except where topography or other conditions justify a departure from this minimum.

**C. Block Width.** The width of the block should normally be sufficient to allow two (2) tiers of lots of minimum depth as required by the Zoning Chapter except when adjoining a lake, stream, river, railroad, or arterial or where one tier of lots is necessary because of topographic conditions. Blocks intended for business or industrial uses should be of such

width as to be considered most suitable for their respective use, including adequate space for off-street parking, deliveries, and loading. Such facilities should be provided with safe and convenient limited access to the street system.

#### **Subd. 4. Lots.**

**A. Area.** The minimum lot area, width, and depth should not be less than that established by the Zoning Chapter in effect at the time of adoption of the final plat.

**B. Side Lot Lines.** Side lines of lots should be at right angles to street lines, radial to curved street lines, or radial to accommodate site specific topographic conditions.

**C. Water Frontage Lots.** Such lots should be designed so that the lot lines extended will maintain the closest approximation to riparian rights.

**D. Frontage on Two Streets.** Double-frontage (lots with frontage on two (2) parallel or non-intersecting streets), should not be permitted except: where lots back on arterial streets or highways, or where topographic or other conditions render subdividing otherwise unreasonable.

**E. Driveway Restrictions.** In the case where a proposed plat is adjacent to a limited access highway, other major highway, principal or minor arterial street, no direct vehicular access from individual lots to such streets or roads will be permitted.

#### **Subd. 5. Streets.**

**A.** Proposed streets must conform to State and County highway plans which have been prepared, adopted, and/or filed as prescribed by law.

**B.** Streets should be logically related to the topography, so as to produce usable lots and reasonable grades.

**C.** Access must be given to all lots and portions of the tract in a subdivision and to adjacent unsubdivided parcels unless the topography clearly indicates that such connection is not feasible. Reserved strips and land-locked areas must not be created.

**D.** The arrangement of streets in new subdivisions should make provision for the appropriate continuation of existing streets in adjoining areas.

**E.** Where adjoining areas are not subdivided, but in the future may be subdivided, the arrangement of streets in a new subdivision should make provision for the proper projection of streets into adjoining areas by carrying the new streets to the boundaries of the new subdivision at appropriate locations. A temporary turn-around facility may be required at the closed end, in conformance with cul-de-sac size requirements. Temporary facilities will not require curb and gutter and the construction standards will be established by the City's Engineer.

**F.** The arrangement of arterial and collector streets should be considered in their relation to the reasonable circulation of traffic, topographic conditions, runoff of storm water, public convenience and safety, and in their appropriate relation to the proposed uses of the area to be served.

**G.** Provisions for Resubdivision of Large Lots and Parcels. When a tract is subdivided into larger than normal building lots or parcels which have the potential for further subdivision, such lots or parcels should be so arranged as to permit the logical location and openings of future streets and appropriate resubdivision, with provision for adequate utility connections for such resubdivision.

**H.** Dead-end streets will be prohibited, except as stated in Subparagraph E, above.

**I.** Private streets are prohibited, except in the case of a planned unit development and/or approval of the Council. No public street improvement will be approved for any private street.

**J.** Where a subdivision abuts, or contains an existing or planned major arterial or a railroad right-of-way, a street approximately parallel to, and on each side of, such arterial and right-of-way may be required for adequate protection of residential properties and separation of through and local traffic. Such service streets must be located at a distance from the major arterial or railroad right-of-way suitable for appropriate use of the intervening land, as for park purposes in residential districts, or for commercial and industrial purposes in appropriate districts. Such distances should be determined with due regard for the requirements of approach grades and future grade separations.

**K.** The street design should not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it.

#### **Subd. 6. Cul-de-Sac Streets.**

**A.** Cul-de-sac streets permanently designed as such, must not exceed three hundred (300') feet in length, including a terminal turn-around which must be provided at the closed end, with a right-of-way radius of not less than sixty (60') feet. The length will be measured along the centerline from the center point of the nearest intersection to the center point of the cul-de-sac.

#### **Subd. 7. Street Design.**

**A. Widths.** Street right-of-way widths will be as determined in the Comprehensive Plan and on the Official Street Map, and where applicable, must conform to County and State standards for trunk highways. In cases where no standard is provided, the following standards will apply:

<b>CLASSIFICATION</b>	<b>ROADWAY RESPONSIBILITY</b>	<b>ROADWAY SECTION</b>	<b>ROADWAY WIDTH (FT)</b>	<b>RIGHT-OF-WAY (FT)</b>
Principal Arterial	Federal and State	4 to 6 lanes plus turn lanes, strict access control, limited parking	72 to 96	150 to 200
Major Arterial and Major Collector	State and County	2 to 4 lanes plus turn lanes, limited access control, limited parking	44 to 72	100 to 125
Local Collector	City	2 lanes, turn lanes at key locations, access allowed, parking allowed	36 to 44	70 to 100
Local Streets	City	2 lanes, access allowed, parking allowed	36 to 40	70

**B. Street Intersections.** Insofar as practical, streets should intersect at right angles. In no case will the angle formed by the intersection of two (2) streets be less than seventy-five degrees (75°). Intersections having more than four (4) corners will be prohibited.

**C. Tangents.** A tangent of at least one hundred feet (100') must be introduced between reverse curves on arterial and collector streets.

**D. Deflections.** When connecting street lines deflect from each other at one point by more than ten (10) degrees, they should normally be connected by a curve with a radius adequate to ensure a sight distance of not less than five hundred feet (500') for arterials, three hundred feet (300') for collectors, and two hundred feet (200') for all other streets. The Planning Commission may allow greater or lesser sight distances.

**E. Street Intersection Jogs.** Street intersection jogs with centerline offsets of less than one hundred fifty feet (150') are prohibited.

**F. Access to Limited Access Highways.** Access to such limited access highways should normally be at intervals of not less than one-fourth (1/4) mile and through existing and established crossroads where possible.

**G. Platting of Small Tracts.** In the platting of small tracts of land fronting on a limited access highway where there is no convenient access to existing entrances and where access from such plat would be closer than one-fourth (1/4) mile from an existing access point, a temporary entrance permit may be granted. Provision will be made in such plats for the connection of roads to neighboring land. As the neighboring land is platted and developed, and access becomes possible at a preferred location, such temporary entrance permits will become void at the discretion of the City.

**H. Half Streets.** Half streets are prohibited except where it will be practical to require the dedication of the other half when the adjoining property is subdivided, in which case the dedication of a half street may be permitted. The probable length of time elapsing before dedication of the remainder must be considered in this decision.

**I.** Where a subdivision abuts or contains an existing street of inadequate width, sufficient additional width will be provided to meet the above standards.

**J.** Additional right-of-way and roadway widths may be required to promote public safety and convenience when special conditions require it.

**K. Restriction of Access.** Access of local streets onto arterial and collector streets will be discouraged at intervals of less than five hundred (500') feet.

**L. Corner Radii.** Roadways of street intersections will be rounded by a radius of not less than twenty (20') feet. Corners at entrances to the turn-around portions of cul-de-sacs must be rounded by a radius of not less than twenty (20') feet.

**M. Curb and Gutter.** Concrete curb and gutter will be included as part of the required street surface improvement and will be designed for installation along both sides of all roadways. With the exception of multiple family development, mountable curbing may be allowed within residential subdivisions. Barrier curb and gutter will be required in multiple family, commercial, and industrial subdivisions except as approved by the City Engineer.

**N. Street Designation.** Whenever practical, streets and avenues will be designated numerically. The following policies may be generally applied when designating awkward street and avenue configurations.

**1.** Cul-de-sacs less than three hundred feet (300') will assume the designation of the street or avenue they abut.

**2.** Loops must be designated avenues, streets or a combination of both, depending on the depth of the configuration. Generally, the longer the length or depth, the greater the applicability for a separate street and avenue designation. For short loops, the word "circle" must be used to indicate the configuration.

**3.** No street names will be used that duplicate or may be confused with the names of existing streets, unless a new street is a continuation of, or in alignment with, the existing or platted street. In that event, it must bear the same name of the existing or platted

street. Street names must conform to the American Planning Association's Street Naming and Property Numbering System as applicable.

**O. Private Streets,** at a minimum, must be designed to provide twenty-four (24') feet of access lanes and be constructed to a minimum depth of five (5") inches of concrete or a thickness of asphalt sufficient to provide equivalent strength and durability.

**Subd. 8. Alleys.**

**A. Location Permitted.** Alleys or service drives may be provided in commercial and industrial districts.

**B. Widths.** The right-of-way width of all alleys or service drives must be at least twenty-four (24') feet.

**C. Grades.** All centerline gradients in alleys must be at least three-tenths percent (0.3%) and must not exceed six percent (6%).

**D. Alleys.** No alleys will be permitted in residential areas.

**Subd. 9. Sidewalks.**

**A.** Although sidewalks are not required by this Chapter, all sidewalks proposed for a subdivision must conform to the standards outlined in Subd. 3 of Sec. 7-1412.

**Subd. 10. Boulevard Trees.**

**A.** All subdivisions within the City will be required to provide boulevard trees in conformance with the standards outlined below.

**1.** All boulevard trees planted will be a minimum of a 1-3/4 inch balled and burlaped, and of a variety(ies) which shall be agreed to by the City Forester and developer.

**2.** For any residential lot, a boulevard tree may not be planted until the installation of sidewalk and fine grading of the area that lies between the street curb and the sidewalk is complete.

**3.** The number of boulevard trees to be planted on any residential lot will be equivalent to that lot's total lineal footage along the City right-of-way divided by 30 feet, provided the total number of boulevard trees planted on any residential lot may be reduced so as to not conflict with driveways, fire hydrants, easement locations, or other impediments.

**4.** Boulevard trees will be planted within an area five to ten feet from the curb.

**5.** The installation of boulevard trees will be allowed:

**(a)** By any property owner of record in accordance with an agreement with the City Forester.

**(b)** By the City or its agent at such time when 50% of the block is developed, or within one (1) year of the curb and gutter installation, whichever is first.

6. Any property owner of record will be informed prior to the planting of boulevard trees, by the City or its agent.

7. Costs associated with the acquisition and planting of boulevard trees within each subdivision will be paid in full and assessed equally on a per lot basis within said subdivision provided any property owner of record who has acquired and planted a boulevard tree at their own expense, will not be assessed the per lot assessment.

**Subd. 11. Drainage.** A complete and adequate drainage system design approved by the City Engineer will be required for all subdivisions and may include a storm sewer system or system of open ditches, culverts, pipes, catch basins, and ponding areas, or a combination thereof.

**Subd. 12. Easements.** All easements must be dedicated by appropriate language on the final plat as required by law and provisions of this Chapter.

**A. Utility Easements.** Easements of a minimum of twenty (20') foot centered on the rear lot lines, and ten (10') foot wide centered on the side lot lines, must be provided for public and private utilities where necessary. Twenty foot (20') wide easements may be required if City water and/or sewer services are involved. When it is not practical to center easements, the fully required easement width may be required along one property line. Said easements must have continuity of alignment from block to block. The easements, when approved, must not thereafter be changed without the approval of the Council pursuant to the City Charter, as may be amended.

**B. Drainage.** Easements must be provided along each side of the centerline of any natural watercourse or drainage channel to a width sufficient to provide proper maintenance and protection and to provide for storm water runoff. Where necessary, drainage easements corresponding with lot lines must be provided. Such easements for drainage purposes will not be less than twenty feet (20') in width or a width equal to the required side yard setback established by the respective zoning district in which the property is located, whichever is least.

**C. Sight.** Sight easements beyond required zoning setback regulations may be required by the City or State Highway Department to protect major intersections on the State trunk highway system.

**Subd. 13. Protected Areas.** Where land proposed for subdivision is deemed environmentally sensitive by the City, due to the existence of wetlands, drainage courses, watercourses, and/or floodable areas, the design of said subdivision must clearly reflect all necessary measures of protection to ensure against adverse environmental impact. Based upon the necessity to control and maintain certain sensitive areas, the City will determine whether said protection will be accomplished through lot enlargement and redesign or dedication of those sensitive areas in the form of outlots. In general, measures of protection must include design solutions which allow for construction and grading involving a minimum of alteration to sensitive areas. Where these areas are to be incorporated into lots within the proposed subdivision, the applicant will be required to demonstrate that the proposed design will not require construction on slopes over eighteen (18%) percent, or result in significant alteration to the natural drainage system such that adverse impacts cannot be contained within the plat boundary.

## **Subd. 14. Park Land Dedication Requirements.**

**A. General Requirements.** As a prerequisite to residential plat approval, and at the sole determination by the City, applicants must dedicate land for parks, playgrounds, public open spaces, trails, or bikeways and/or must make a cash dedication to the City.

1. City staff will confer with the Park Board, at the time the preliminary plat is under consideration, to secure their recommendation as to the location of any property that should be dedicated to the public, such as parks, playgrounds, or other public property. Such contribution requirement recommendation(s) will be sent to the Planning Commission for review and comment and subsequently to the Council for their approval.

2. Where private open space for park and recreation purposes is provided in a proposed subdivision, such areas may be used for credit, at the discretion of the City, against the requirement of dedication for park and recreation purposes, provided the City finds it is in the public interest to do so.

3. The City may elect, at its sole discretion, to receive a combination of cash and land dedication.

4. During preliminary plat submission, the applicant must provide the City with the number and type of residential units which will occupy the planed area. If during development the number or type of units is altered, the applicant will be required to make a cash dedication to account for the increased density of the project. However, if the number of units is decreased, the applicant will not be refunded that amount of cash or land dedicated during original plat approval.

5. Property being replatted with the same number of units will be exempt from all park land dedication requirements. If the number of units is increased, or if land outside the previously recorded plat is added, then the park land dedication and/or park cash contributions will be based on the additional units added to the plat.

**B. Parkland Dedication.** In all new residential subdivisions, land must be dedicated for public recreation use or open space as established by the Council. The dedicated land must be in addition to property dedicated for streets, alleys, easements, water detention, or other public ways. The amount of land dedicated will be based on the type of development, according to the following:

<b>TYPE OF DWELLING UNIT</b>	<b>MINIMUM AREA DEDICATED PER DWELLING UNIT</b>
Single or Two-Family	700 square feet
Multiple Family	500 square feet

1. Land to be dedicated must be reasonably suitable for its intended use as determined by the City and must be at a location convenient to the public to be served. Factors used in evaluating the adequacy of proposed park and recreation areas must include size, shape, topography, geology, hydrology, tree cover, access, and location.

2. When land is dedicated and deeded to the City for park purposes, it will be the responsibility of the City to maintain such dedicated property.

3. The preliminary plat must show the location and dimensions of all areas to be dedicated in this manner.

4. When a proposed park, playground, recreational area, or other public ground has been indicated on the City's Official Map or within the Comprehensive Plan and is located in whole or in part within a proposed plat, it must be dedicated to the appropriate governmental unit.

5. Land area conveyed or dedicated to the City will not be used in calculating density requirements of the Zoning Chapter, City Code Title VII.

6. Wetlands, ponding areas, and drainage ways accepted by the City may not be considered in the park land and/or cash contribution to the City.

**C. Payment-in-Lieu-of-Dedication.** When, in the opinion of the City and at its sole discretion, it is impractical, inappropriate, and/or in the best interest of the City for a subdivision to not make a dedication of land for public use, the applicant will be required to pay a cash fee based on the type and number of dwelling units. Cash payments in lieu of parkland dedication will be made in accordance with the following:

<b>TYPE OF DWELLING UNIT</b>	<b>MINIMUM AMOUNT OF CASH DEDICATED PER DWELLING UNIT</b>
Single or Two-Family	\$300
Multiple Family	\$200

**(SEE SEC. 1-0904, FEES, RATES AND CHARGES SCHEDULE)**

1. Park cash contributions are to be calculated and paid in full at the time of final plat approval.

2. Cash contributions for parks and trails must be deposited in either the City's Park Fund or similar fund and will only be used for acquisition and development of future parks and trails or development of existing sites as determined by the City. Additionally, said funds may be utilized anywhere within the City park and trail systems.

**D. Purchase and Assessment of Parkland.** The requirement for parkland dedication or payment in lieu of dedication may be waived by the City when an agreement incorporated into a Developer's Agreement has been executed between the City and developer. Such agreement must require the developer to petition for park improvements to be assessed against the property owned by the developer, which may include property outside the current plat. The agreement must set forth the land to be purchased by the City for park purposes and the purchase price for the land. In addition, the agreement must set forth the general type of improvements to be included in the petition for park improvements, as well as the maximum amount of money that may be assessed. Such maximum amount may be based on a sliding scale based on the density of the development. The City may enter into such an agreement only if the Council determines that such an agreement results in a more favorable result to the City than the imposition of the standard parkland dedication or payment in lieu of dedication requirements.

**Subd. 15. Dedication of Storm Water Retention Areas.** Upon approval by the Council, the applicant may be required to dedicate to the public up to six (6%) percent of the land proposed to be subdivided for storm water retention areas. The six (6%) percent dedication may be considered in addition to the parkland dedication required by Subparagraph D, above.

**Subd. 16. Minimum Design Features.** The design features set forth in this Chapter are minimum requirements. The City may impose additional or more stringent requirements concerning lot size, streets, and overall design as deemed appropriate considering the property being subdivided based upon site considerations and the Comprehensive Plan.

## **SEC. 7-1412. REQUIRED IMPROVEMENTS.**

### **Subd. 1. Monuments.**

**A. Monuments** must be placed at all block and lot corners, angle points, points of curves in streets, and at intermediate points as will be required by the City. The monuments must consist of a number five (5) deformed reinforcement rod, a minimum of thirty inches (30") long, which with the exception of lot corner monuments, is placed in concrete a minimum of four feet (4') deep and six inches (6") in diameter or a manufactured monument. Such monuments must be in place at the time of final plat approval.

**B. Stakes** showing the locations of easements must be provided by the subdivider upon request of the City. The stakes must be wood lathes and will be used only to insure the proper location of utilities on the easements. The stakes must not be intended to be permanent survey monuments.

### **Subd. 2. Streets and Alleys.**

**A. Grading.** The full width of the right-of-way of each street and alley dedicated in the plat must be graded in accordance with the plan approved by the City Engineer. Grading should provide for easy installation of sidewalks at some future date.

**B. Paving.** For subdivisions within the City, all streets and alleys must be improved with a concrete or bituminous surface. Streets to be paved must be surfaced for a seven (7) ton axle weight capacity using current Minnesota Highway Department design standards. Streets not to be paved must be improved in accordance with the Clay County or City standards, whichever applies. No building permit will be issued for any lot or parcel in a subdivision prior to the installation of the first lift of bituminous surfacing or concrete surfacing on the streets thereof. Exceptions to this provision may be granted by the Council at their discretion as part of a developer's agreement.

**C. Concrete Curb and Gutter.** Concrete curb and gutter of a City approved design will be required for all streets.

**D. Boulevards.** All boulevards must have four (4") inches of top soil (black dirt) placed on them and then be sodded or seeded.

**E. Street Signs.** Street signs of standard design approved by the City must be installed at each street intersection.

**F. Traffic Control Signs.** Traffic control signs must be installed at the request of the City.

**Subd. 3. Sidewalks.** Unless approved by the City Engineer and established as part of a Sidewalk Agreement, sidewalks, where constructed:

**A.** Must be a minimum of four and one-half feet (4.5') wide and setback a minimum of seven feet (7') from the curb line.

**B.** Must be concrete, four (4") inches thick, placed on a two (2") inch sand cushion.

**C.** Must slope one-quarter (1/4") inch per foot away from the property line and the profile grade must not exceed eight (8%) percent. All grades must be constructed as approved by the City Engineer.

**Subd. 4. Public Utilities.**

**A. Water Main.** A minimum water main of six (6") inch P.V.C. pipe or other approved pipe will be required. Mains over six (6") inches in size may be required, and the additional cost will be allocated pursuant to established City policies. In cul-de-sac streets of more than one hundred fifty (150') feet, provisions must be made to loop feed water mains as "dead end" water mains are not permitted.

**B. Fire Hydrants.** Installation must be pursuant to plans approved by the City Engineer and Fire Chief. A hydrant will be required in the turn-around area of all permanent cul-de-sac streets.

**C. Sanitary Sewer.** Unless otherwise required, a sanitary sewer of eight (8") inch pipe must be installed as the minimum size, placed at grades approved by the City Engineer. Mains over eight (8") inches in size may be required, and the additional cost will be allocated pursuant to established City policies. Service wyes must be a minimum of four (4") inches.

**D. House Services.** Each house service must be run from the main to the property line, where a cap or plug will be placed until the service is extended to the structure. A one (1") inch Type K copper water service, or approved equal; corporation cock, curb box and stop; and four (4") inch plastic pipe, or approved equal, sewer service must be the minimum requirements, and they may be placed in a common trench.

**E.** Reproducible "as-built" drawings showing all utilities and improvements must be furnished to the City by the applicant of all required improvements in developments where the applicant has been responsible for improvements. Such "as-built" drawings must be certified to be true and accurate by the registered engineer responsible for the installation of the improvements.

**Subd. 5. Sanitation.** Water and sewer lines must be installed and connected to the public system to serve all lots within the proposed subdivision under the provisions of applicable statutes and City Code provisions. The Council will require the installation of water and sewer mains at the applicant's expense or under the provisions of applicable statutes and City Code provisions.

**Subd. 6. Sewage Disposal.** Sanitary sewer mains and service connections must be installed to serve all lots in the subdivision and must be connected to the public system.

**Subd. 7. Drainage.** All surface and underground drainage systems must be installed by the applicant to adequately remove all natural drainage that accumulates on the developed property. All such systems must provide complete removal and a permanent solution for the removal of drainage water and will be subject to City review and approval.

**Subd. 8. Utilities Location.** All utilities must be placed underground. All underground work must be completed prior to street surfacing. Placement of all utilities must be reviewed and approved by the City Engineer to ensure efficient access to all other utilities.

**Subd. 9. Construction Plans, Inspection and Warranty.**

**A.** Construction plans for the required improvements, conforming in all respects with City standards and provisions of the City Code, must be prepared at the applicant's expense by a professional engineer who is registered in the State of Minnesota, and said plans must contain professional certification. Such plans together with the quantities of construction items must be submitted to the City Engineer for approval and for an estimate of the total costs of the required improvements. Upon approval, such plans will become a part of the required written agreement. The tracings of the plans approved by the Engineer, plus two (2) prints, must be furnished to the City to be filed as a public record.

**B.** All required improvements on the site that are to be installed under the provisions of these regulations must be inspected during the course of construction by the City Engineer at the applicant's expense, and acceptance by the City will be subject to the Engineer's certificate of compliance with the contract.

**C.** The applicant and/or developer must provide to the City a written warranty that all required improvements on the site meet or exceed all City standards and that such improvements have been inspected and tested in regards to the City standards. The applicant and/or developer will be responsible for having all such inspections and testing completed at their expense.

**SEC. 7-1413. MINOR SUBDIVISIONS.** When in the best interest of the City and in cases of minor subdivisions, the Zoning Officer may waive the platting procedure of this Ordinance.

**Subd. 1.** Minor subdivisions may be exempt from the platting provision of this subsection provided the following conditions are met:

1. The lot split does not contain more than four (4) lots;
2. There is no proposed or perceived need of public improvements as a result of the split;
3. That the lot split is not part of a continuing scheme of lot splitting for a particular area.
4. That the lot split does not violate any provision of the Zoning Ordinance, Comp Plan, or any other State or local ordinance; and
5. That the lot split does not adversely affect public health, safety or welfare.

## **SEC. 7-1414. ADMINISTRATION AND ENFORCEMENT.**

**Subd. 1. Administration.** This Chapter will be administered by the Council or its designee.

**Subd. 2. Amendments.** The provisions of this Chapter may be amended by the Council following a public hearing before the Planning Commission.

### **Subd. 3. Resubdivision of Land.**

**A. Procedure of Resubdivision.** All plats resubdivided or vacated shall follow the same procedure as an original subdivision plat.

**B. Procedure for Subdivision Where Future Resubdivision is Indicated.** Wherever a parcel of land is subdivided and the subdivision plat shows one or more lots containing more than twice the minimum lot size required by the Zoning Chapter, and there are indications that such lots will eventually be resubdivided into building sites, the Planning Commission and Council may require that such parcel of land allow for the future opening of streets and the ultimate extension of adjacent streets, and indicate building site locations which will allow the future subdivision of the lots and the extension of the streets. Easements providing for the future opening and extension of such streets may be made a requirement of the plat.

**C.** No building permit or zoning certificate shall be issued for any parcel unless it has been platted according to these regulations, and is properly zoned for the proposed use. This provision does not prohibit the sale of a portion of a previously platted lot.

### **Subd. 4. Variances.**

**A. General.** The City may find that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal. It may approve variances to these subdivision regulations so that substantial justice may be done and the public interest secured, provided that such variance shall not have the effect of nullifying the intent and purpose of these regulations. The City shall not approve variances unless it shall make findings based upon the evidence presented to it in each specific case that:

**1.** The granting of the variance would be beneficial to the public safety, health, or welfare, and not injurious to other property located adjacent to the proposed modification.

**2.** The conditions upon which the request for a variance is based are unique to the property for which the variance is sought, and are not applicable generally to other property.

**3.** Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations are carried out.

**4.** The variance is consistent with provisions of the Zoning Chapter and proper development of the area.

**B. Conditions.** In approving variances, the City may require such conditions as will, in its judgment, substantially secure the objectives of the standards or requirements of these regulations.

**C. Procedures.** A petition for any such variance shall be submitted in writing by the subdivider for the consideration of the Planning Commission. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner. Action will be taken to grant or deny the variance within sixty (60) days of its receipt by the Zoning Officer.

**Subd. 5. Enforcement.**

**A. Enforcement.**

**1.** It shall be the duty of the Zoning Officer to enforce these regulations and to bring to the attention of the City Attorney any violations or lack of compliance herewith.

**2.** No building permit or zoning certificate shall be issued for any lot or parcel of land in a proposed subdivision before a plat of such subdivision has been approved by the Planning Commission and Council, and filed with the County Recorder.

**3.** No building permit or zoning certificate shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of these regulations.

**B. Civil Enforcement.** Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation, to prevent illegal occupancy of a building, structure or premises.

**Subd. 6. Unlawful Acts.**

**A. Permit Required.** It is unlawful for any person to construct, enlarge, alter, repair, demolish, or move any building or structure on any lot or parcel until all the requirements of these regulations have been fully met and a building permit issued.

**(SEE SEC. 1-0904, FEES, RATES AND CHARGES SCHEDULE)**

**B. Sale of Lots from Unrecorded Plats.** It is unlawful for any person to sell, trade, or otherwise convey any lot or parcel of land as a part of, or in conformity with, any plan, plat, or replat of any subdivision or area located within the jurisdiction of this Chapter unless the plan, plat, or replat has first been recorded in the office of the Clay County Recorder.

**C. Recording Unapproved Plats.** It is unlawful for any person to record in any public office any plans, plats of land laid out in building lots and streets, alleys, or other portions of the same intended to be dedicated to public or private use, or for the use of purchasers or owners of lots fronting on or adjacent thereto, and located within the jurisdiction of this Chapter, unless the same bear thereon, by endorsement or otherwise, the approval of the Council.

## CHAPTER 7-15

### ADULT ENTERTAINMENT

#### SECTIONS:

7-1501.	Purpose.
7-1502.	Definitions.
7-1503.	Zoning Regulations.
7-1504.	Penalty.
7-1505.	Severability.

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**SEC. 7-1501. PURPOSE.** To minimize the detrimental effect that sexually-oriented businesses have on adjacent land uses, this ordinance sets the standards for Adult Entertainment.

**SEC. 7-1502. DEFINITIONS.** The following words and terms when used in this section shall have the following meanings unless the context clearly indicates otherwise:

**1. Adult Establishment:**

**a.** Any business or other undertaking that is conducted exclusively for the patronage of adults and that excludes minors from patronage, either by operation of law or by policy or procedure of the owners or operators of the business; and

**b.** Any business or other establishment, operation, venture or undertaking that engages in any Adult Use as defined in this ordinance.

**2. Adult Use:**

**a.** Adult Body Painting Studio - An establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent to or on the body of a patron when such body is wholly or partially nude in terms of Specified Anatomical Areas as defined herein.

**b.** Adult Bookstores - An establishment that has 25% or greater of its current store stock in merchandise, videos, books, magazines, software, computer programs and/or other periodicals which are distinguished or characterized by their emphasis of matters depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Areas as herein defined.

**c.** Adult Cabaret - A business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on the depiction of Specified Sexual Activities or Specified Anatomical Areas or the presentation, display or depiction of mater that seeks to arouse, evoke or excite sexual or erotic feelings or desire.

**d.** Adult Carwash - A wash facility for any type of motor vehicle that allows employees, agents, independent contractors, or persons to appear in a state of partial or total nudity in terms of Specified Anatomical Areas as defined herein.

**e.** Adult Companionship Establishment - A companionship establishment which excludes minors by reason of age, or which provides the service for a fee of

engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas as defined herein.

**f.** Adult Entertainment Facility - A building or space wherein an admission is charged for entrance, or food or nonalcoholic beverages are sold, intended or available for consumption, and wherein may be observed live presentation of entertainment distinguished or characterized by an emphasis on matters depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Areas as defined herein.

**g.** Adult Health/Sport Club - A health or sport club that excludes minors by reason of age and that is distinguished or characterized by emphasis on Specified Sexual Activities or Specified Anatomical Areas as defined herein.

**h.** Adult Hotel or Motel - A hotel, motel or other place of accommodation for hire that excludes minors by reason of age and presents or provides to its guests or visitors material distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

**i.** Adult Modeling Studio - An establishment whose major business is the provision to customers of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in Specified Sexual Activities as defined herein or display Specified Anatomical Areas as defined herein while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers.

**j.** Adult Motion Picture Arcade - A place at which the public is permitted or invited where coin or slug operated or electronically, electrically or mechanically controlled or operated still or motion picture machines, projectors or other image producing devices are used to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Specified Sexual Activities or Specified Anatomical Areas.

**k.** Adult Motion Picture Theater - A building or space with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas as herein defined, for observation by patrons therein. The phrase "used for" in this definition shall mean a regular substantial course of conduct and not a one-time presentation of such material.

**l.** Adult Mini Motion Picture Theater - A building or space with a capacity for fewer than 50 persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas as herein defined, for observation by patrons therein. The phrase "used for" in this definition shall mean a regular and substantial course of conduct and not a one-time presentation of such material.

**m.** Adult Novelty Business - A Business or establishment that devotes 25% or more of its floor area, excluding store rooms, stock areas, offices, basements, bathrooms or any portion of the business not open to the public, to items or merchandise depicting Specified Sexual Activities or Specified Anatomical Areas or devises that either stimulate human genitals or are designed or used for sexual stimulation.

n. Adult Sauna - A Sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleansing, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas as defined herein.

### 3. General Terms.

a. Dwelling Unit - One or more rooms arranged for residential use containing cooking, living, sanitary and sleeping facilities and physically separated from any other rooms or dwelling units which may be in the same structure.

b. Minor - Any natural person under the age of eighteen (18) years.

c. Nudity - Means uncovered, or less than opaquely covered post pubertal human genitals, pubic areas, the post pubertal human female breast below the point immediately above the top of areola or the covered human male genitals in a discernible turgid state. For purpose of this definition, female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

d. Public Library - Any library that provides free access to all residents of a city or county without discrimination, receives at least half of its financial support from public funds, and is organized under the provisions of Minnesota Statutes, Chapter 14.

e. Public Park - A park, reservation, open space, playground, beach, or recreation center in the City owned, leased, or used, wholly or in part, by a city, county, state, school district, or federal government for recreation purposes.

f. Place of Worship - A building or space that is principally used as a place where people of the same faith or religion regularly assemble for worship.

g. School - A building or space that is principally used as a place where twenty-five (25) or more persons receive a full course of educational instruction. Any post-secondary or post-high school educational building, including any college or any vocational-technical college shall not be deemed a school for purposes of this section.

h. Sign - A name, identification, description, display, or illustration which is affixed to, painted, or represented directly or indirectly upon a building or other outdoor surface or piece of land and which directs attention to an object, project, place, activity, person, institution, organization, or business. However, a "sign" shall not include any display of official court or governmental office notices nor shall it include the flag, emblem, or insignia of a nation, political unit, school, or religious group. A "sign" shall not include a sign located completely within an enclosed building unless the context shall so indicate. Each display surface of a sign shall be considered a "sign."

i. Single-Family Dwelling - A residential building containing one dwelling unit as herein defined including detached, semi-detached and attached dwellings.

j. Specified Anatomical Areas - Less than completely and opaquely covered:

1. human genitals, pubic region or pubic hair, or

2. buttock, or
3. female breast or breasts below a point immediately above the top of the areola; or
4. any combination of the foregoing; or
5. human male genitals in a discernible turgid state, even if completely and opaquely covered.

**k.** Specified Sexual Activities - Include the following:

1. Human genitals in a discernible state of sexual stimulation or arousal; or
2. Acts of human masturbation, sexual intercourse or sodomy; or
3. Fondling or other erotic touching of human genitals, pubic region or pubic hair, buttock or female breast; or
4. Any combination of the foregoing.

**l.** State-Licensed Family Day Care Home, State-Licensed Group Family Day Care Home, State-Licensed Child Care Center - A facility holding a license from the State of Minnesota pursuant to Minnesota Statutes, Chapter 245A, and/or Minnesota Rules, Chapter 9502 or Chapter 9503, as amended.

**m.** Sexually-Oriented Business - An adult establishment or an adult use defined in this section.

**SEC. 7-1503. ZONING REGULATIONS.**

**a.** Sexually-oriented businesses shall be only allowed in the C-2 District, and shall require a conditional use permit provided the following conditions are met:

1. No sexually-oriented business shall be located closer than 1,000 feet from any other sexually-oriented business. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual business premises of the sexually-oriented business to the nearest point of the actual business premises of any other sexually-oriented business.
2. No sexually-oriented business shall be located closer than 1,000 feet from any single family dwelling, two-family dwelling, multiple-family dwelling, planned unit development, mobile home park, place of worship, school, public park, state-licensed family day care home, state-licensed group family day care home, public library,

or state-licensed child care center. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual business premises of the sexually-oriented business to the nearest point of the property line of property used as a single-family dwelling, place of worship, school, park, or state-licensed family day care home, state-licensed group family day care home, or state-licensed child care center.

3. No sexually-oriented business shall be located closer than 1,000 feet from any of the following commercial or residential use districts. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual business premises of the sexually-oriented business to the nearest boundary of the commercial or residential use district:

R-1 - Single Family Residence District  
R-2 - One and Two Family Residence District  
R-3 - Multiple Family Residence District  
R-4 - Mobile Home District  
C-1 - Central Business District  
I-1 - Light Industrial District  
I-2 - Highway Industrial District  
SC-1 - Conservation District

4. The operation or maintenance of more than one Sexually-Oriented Business in the same building or structure is prohibited.

**SEC. 7-1504. PENALTY.** A violation of this section shall be a misdemeanor under Minnesota law.

**SEC. 7-1505. SEVERABILITY.** If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted each section, subsection, sentence, clause, phrase or word thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words be declared invalid.