

Section 1100 – PURPOSE, RULES, AND DEFINITIONS

1100.01 **Short Title.** This Chapter shall be known, cited and referred to as the Montgomery Zoning Code, except as referred to herein, where it shall be known as “this Section”, or if appropriate, “this Chapter.”

1100.02 **Purpose.** This Chapter is adopted for the purpose of:

Subd. 1. Protecting the public health, safety, comfort, convenience and general welfare.

Subd. 2 Dividing the area in the City into zones and districts regulating therein the location, construction, reconstruction, alteration and use of structures and land.

Subd. 3 Promoting orderly development of the residential, business, industrial, recreational and public areas.

Subd. 4 Conserving and developing the natural resources in the City.

Subd. 5 Providing for the compatibility of different land uses and the most appropriate use of land throughout the City while carrying out the intent of the Comprehensive Plan.

Subd. 6 Providing for the administration of this Chapter and defining the powers and duties of the administering officer as provided hereinafter.

Subd. 7 Prescribing penalties for the violation of the provisions in this Chapter or any amendment thereto.

Subd. 8 To prohibit the use of buildings, structures, and lands that are incompatible with the intended use or development of lands within the specified zones.

1100.03 **Rules.** The language set forth in the text of this Chapter shall be interpreted in accordance with the following rules of construction:

A. Any use not herein expressly allowed is hereby expressly prohibited.

B. The singular number includes the plural, and the plural the singular.

C. The present tense includes the past and future tenses, and the future the present.

D. The word “building” includes structure and dwelling.

E. The word “person” includes individual, corporation, co-partnership, and association.

F. The word “shall” is mandatory, and the word “may” is permissive.

G. All measured distances expressed in feet shall be to the nearest tenth of a foot.

H. In the event of conflicting provisions, the more restrictive provisions shall apply.

1100.04 Definitions. For the purpose of this Chapter, the following definitions shall apply unless the context specifically indicates or requires a different meaning.

Subd. 1 Abutting. A common border or property line or separated only by streets, highways, alleys, railroad tracks, or public utility right-of-way.

Subd. 2 Access. A means of vehicular or pedestrian approach or entry to or exit from property.

Subd. 3 Accessory Use or Structure. A use or structure, or portion of a structure, subordinate to and serving the principal use or structure on the same lot.

Subd. 4 Agriculture. The use of land for growing and producing field crops. Keeping or producing of livestock and poultry and all activities incident thereto. The term shall not include feedlots, the raising of fur-bearing animals, or the operations of riding academies, commercial stables and kennels. The term shall include incidental retail selling by the producer of products raised on the premises, provided that space necessary for parking of vehicles of customers shall be furnished off the public right-of-way.

Subd. 5 Agricultural Building or Structure. Any building or structure, with the exception of dwelling units, which is used primarily for agricultural activities.

Subd. 6 Alley. Any dedicated public way affording a secondary means of vehicular access to abutting property, and not intended for general traffic circulation.

Subd. 7 Alteration. Any change or rearrangement, other than incidental repairs, in the supporting members of an existing building, such as bearing walls, columns, beams, girders or interior partitions, as well as any change in doors or windows, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, the consummated act of which may be referred to herein as “altered” or “reconstructed,” or the moving of a building or structure from one location to another, which would prolong the building’s life.

Subd. 8 Animal Hospital. A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

Subd. 9 Antenna. Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omnidirectional antennas, such as whip antennas.

Subd. 10 Apartment. A room or suite of rooms with cooking facilities available which is occupied as a residence by a single family, or a group of individuals living together as a single family unit. This includes any unit in buildings with more than two dwelling units.

Subd. 11 Applicant. The owner of land who wishes to obtain a building permit, zoning, or subdivision approval, or a permit to allow land-disturbing activities. Applicant also means that person's agents, employees, and others acting as his or her legal representative.

Subd. 12 Automobile Body Shop. A place where the following services may be carried out: collision service such as frame, or fender straightening and repair; painting and undercoating of automobiles.

Subd. 13 Automobile Repair-Major. General repair, rebuilding or reconditioning of engines, motor vehicles, tractor, or trailers, including body work, frame work, welding, and major painting surface.

Subd. 14 Automobile Repair-Minor. The replacement of any part or repair of any part which does not require the removal of the engine head or pan, engine transmission or differential; incidental body and fender work, minor painting and upholstering service when the service above stated is applied to passenger automobiles and trucks, not in excess of 7,000 pounds gross vehicle weight.

Subd. 15 Automobile Service Center. An establishment in which the retail sale of accessories and services for automobiles are provided as the primary use, including the customary space and facilities for the installation of such commodities on or in such vehicles, but not including the space for facilities for major storage, repair, bumping, painting and refinishing.

Subd. 16 Automobile Service Station. A retail place of business engaged primarily in the sale of motor vehicle sales, but also may be engaged in supplying goods and services generally required in the operation and maintenance of motor vehicles. These may include sale of petroleum products, sale and servicing of tires, batteries, automotive accessories and replacement items, washing and lubrication services, and the performance of automotive maintenance and repair.

Subd. 17 Automobile Service Station/Motor Fuel Station. A place where, along with the sale of engine fuels, the following services may be carried out: general repair or service, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame or fender straightening and repair; painting and undercoating of automobiles.

Subd. 18 Banners and Pennants. Attention-getting devices which resemble flags and are of a paper, cloth or plastic-like material.

Subd. 19 Basement. A portion of a building located entirely or partly underground but having half or more of its floor to ceiling height below the average grade of the adjoining ground.

Subd. 20 Bed and Breakfast Home. A house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the home shall live on the premises.

Subd. 21 Bed and Breakfast Inn. A house, or portion thereof, where short-term lodging rooms and meals are provided. A resident manager must occupy the site when guests are present.

Subd. 22 Berm. A mound of earth, or the act of pushing earth into a mound. A narrow shelf or path at the top or bottom of a slope.

Subd. 23 Best Management Practices (BMPs). Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing and minimizing the degradation of surface water, including construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies. Techniques proven to be effective in controlling runoff, erosion and sedimentation including those documented in the Minnesota Construction Site Erosion and Sediment Control Planning Handbook (BWSR, 1988); Protecting Water Quality in Urban Areas (MPCA 2000); the Minnesota Urban Small Sites BMP Manual (Metropolitan Council 2001); and other sources as approved by the City of Montgomery, as such documents may be amended, revised or supplemented.

Subd. 24 Block. An area of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, boundaries of a subdivision or boundaries of the municipality.

Subd. 25 Bluff. A topographical feature such as a hill, cliff, or embankment in which the average grade of any portion of the slope is thirty (30) percent or greater and there is at least a 25-foot rise in elevation.

Subd. 26 Bluff Face. The area between the toe of the bluff and the top of the bluff.

Subd. 27 Bluff Impact Zone. A 25-foot zone at the top of a bluff.

Subd. 28 Bluff Overlay District. The Overlay District shown on the map: “Bluff Overlay District of the Le SueurWMO” where potential bluffs exist. This map is located in the office of the Le SueurWMO.

Subd. 29 Bluff, Toe of. The lower side of a bluff where the average slope levels off to 18 percent or less.

Subd. 30 Bluff, Top of. The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in slope is apparent, the top of the bluff shall be determined as the highest end of a fifty (50) foot segment that exceeds eighteen (18) percent slope.

Subd. 31 Boarding House (Rooming or Lodging). A building other than a motel or hotel where, for compensation and by prearrangement for definite periods, meals or lodgings are provided for three or more persons, but not to exceed twenty (20) persons.

Subd. 32 Board of Zoning Adjustment and Appeal. The Montgomery City Council.

Subd. 33 Boulevard. The portion of the street right-of-way between the curb line or surfaced roadway and the property line.

Subd. 34 Brewery. A facility with a capacity to manufacture 15,000 or more barrels of alcoholic and nonalcoholic malt liquor a year. This definition does not include a brewpub.

Subd. 35 Brewery, Micro. A facility with a capacity to manufacture less than 15,000 barrels of alcoholic and nonalcoholic malt liquor a year. This definition does not include a brewpub.

Subd. 36 Brewpub. A small brewery operated in conjunction with a bar or restaurant provided the beer is sold for consumption on the premises and not sold to other bars, restaurants, or wholesales, except that an establishment licensed under Minn. Stat. Sec. 340A.301, Subd. 6(d) may sell growlers off-sale with appropriate license.

Subd. 37 Buffer. Land area used to visibly separate one area from another or to shield or block noise, lights or other nuisances or an area of natural,

unmaintained, undisturbed vegetated ground cover abutting or surrounding a watercourse, public waters wetland, or wetland.

Subd. 38 Building. Any structure, either temporary or permanent, having a roof, and used or built for the shelter or enclosure of persons, animals, chattels or property of any kind.

Subd. 39 Building Coverage. The horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.

Subd. 40 Building, Detached. A building surrounded by an open space on the same lot.

Subd. 41 Building Height. The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs, to the deck line of mansard roofs and to the highest point for gable, hip and gambrel roofs.

Subd. 42 Building Setback Line. A line on a lot, generally parallel to a lot line or road right-of-way line, located a sufficient distance off the lot line to provide the minimum yards required by this Chapter. The building setback lines delimit the area in which buildings are permitted subject to all applicable provisions of this Chapter.

Subd. 43 Building, Residential. A building which is arranged, designed, used or intended to be used for residential occupancy by one or more families, and which includes, but is not limited to, the following types:

- (1) Single-family dwellings;
- (2) Two-family dwellings;
- (3) Multiple-family dwellings;
- (4) Townhouses

Subd. 44 Building, Main or Principal. A building in which is conducted, or intended to be conducted, the principal use of the lot on which it is located.

Subd. 45 Business. Any establishment, occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.

Subd. 46 BWSR. The Minnesota Board of Water and Soil Resources.

Subd. 47 Car Wash. A building or area that provides facilities for washing and cleaning motor vehicles, which may use production line methods with a conveyor, blower, or other mechanical devices, and which may employ some hand labor.

Subd. 48 Cellar. That portion of a building having more than one-half (1/2) of the floor-to-ceiling height above the average grade of the adjoining ground.

Subd. 49 Church. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body, organized to sustain public worship. A *Church* as defined above may include living quarters for persons employed on the premises of the church.

Subd. 50 City. The City of Montgomery.

Subd. 51 Clear-Cutting. The entire removal of a stand of vegetation.

Subd. 52 Clinic (Medical). A business designed and used for the diagnosis and treatment of patients which is licensed by the State. A building in which a group of physicians, dentists and/or allied professional assistants are associated for carrying on their profession. The clinic may include a dental or medical laboratory, but shall not include in-patient care or operating rooms for major surgery.

Subd. 53 Club or Lodge, Private. An association of persons who are bona fide members paying annual dues, which owns, hires or leases the building, property or a portion thereof; the use of the premises being restricted to members and their guests. It shall be permissible to serve food and meals on the premises, provided adequate facilities are available.

Subd. 54 Clustering/Cluster Housing. The development pattern and technique whereby structures are arranged in closely related groups to make the most efficient use of the natural amenities of the land.

Subd. 55 Commercial Car Washes. A principal, accessory building, or part of a principal building equipped with mechanical equipment or conveyor system and other equipment and facilities for washing automobiles.

Subd. 56 Commercial Kennels. Any place where four or more of any type of domestic pets, over four months of age, are boarded, bred, trained, or offered for sale.

Subd. 57 Commercial Wireless Telecommunication Service. Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.

Subd. 58 Commissioner. The Commissioner of the Department of Natural Resources or Department of Public Safety. Appointed members of the Watershed Board or the Watershed Planning Commission.

Subd. 59 Common Interest Community (CIC). A method of allocating the ownership of land and structures in a development as regulated by the Minnesota Condominium Act (Minnesota Statute Chapter 515).

Subd. 60 Common Open Space. Any open space, including parks, nature areas, playgrounds, trails and recreational buildings and structures, which is an integral part of a development and is not owned on an individual basis by each owner of the dwelling unit.

Subd. 61 Community Center. A place, structure, area, or other facility used for and providing religious, fraternal, social, and/or recreational programs generally open to the public and designed to accommodate and serve the community.

Subd. 62 Compensatory Storage. Excavated volume of material below the floodplain elevation required to offset floodplain fill.

Subd. 63 Comprehensive Plan. A computation of goals, policy statements, standards, programs and maps for guiding the physical, social and economic development, both public and private, as defined in the Minnesota Municipal Planning Act, and includes any part of the plan separately adopted and any amendment to the plan or parts thereof.

Subd. 64 Conditional Use. A use classified as conditional generally may be appropriate or desirable in a specified zoning district, but requires special approval because if not carefully located or designed it may create special problems such as excessive height or bulk or traffic congestion.

Subd. 65 Condominium. A form of individual ownership within a multi-family building with joint responsibility for maintenance and repairs of the common property. In a condominium, each apartment or townhouse is owned out-right by its occupant and each occupant also owns a share of the land and other common property.

Subd. 66 Construction Activity. A disturbance to the land that results in a change in the topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography that may result in accelerated storm water runoff, leading to soil erosion and the movement of sediment into surface waters or drainage systems.

Subd. 67 Construction Plan. The map or drawing accompanying a subdivision plat and illustrating the specific location and design of improvements to be

installed in the subdivision in accordance with City engineering and City Code requirements and as conditioned in the approval of the plat.

Subd. 68 Contour Map. A map on which irregularities of land surface are shown by lines connecting points of equal elevation. Contour interval is the vertical height between contour lines.

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Subd. 70 Contractors' Offices and Yards. An area where vehicles, equipment, and/or construction materials and supplies commonly used by building, excavation, roadway construction and similar contractors are stored or serviced.

Subd. 71 Convalescent, Nursing, and Rest Home. A home for aged, chronically ill or convalescent persons in which two or more persons not of the immediate family are received, kept or provided with food, shelter and care of compensation, but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of disease or injury, maternity cases or mental illness.

Subd. 72 Convenience Facility. An establishment where the principal use is the sale of gasoline or any other automobile engine fuel (stored only in underground tanks), kerosene, motor oil, lubricants, grease or minor accessories, directly to the public on the premises. In addition, household and convenience items, food or other miscellaneous retail goods commonly associated with the same also may be sold.

Subd. 73 Convenience Store. Any retail establishment offering for sale prepackaged and/or prepared food products, household items, gasoline, and other petroleum products.

Subd. 74 Cooperative. A multi-unit development operated for and owned by its occupants. Individual occupants do not own their specific housing unit outright as in a condominium, but they own shares in the total enterprise.

Subd. 75 County. Le Sueur County in Minnesota.

Subd. 76 Covenant. A contract between two individuals which constitutes a restriction of a particular parcel of land.

Subd. 77 Curb Level. The grade elevation established per the approved utility plans of the curb in front of the center of the building. Where no curb level has

been established, the engineering staff shall determine a curb level or its equivalent for the purpose of this Chapter.

Subd. 78 Dance, Health, and Martial Arts Studios. A building with the primary purpose of offering one or more facilities for instruction, training, encouragement, or assistance in physical fitness, in return for the payment of a fee entitling the member to the use of the facilities.

Subd. 79 Day Care Facility. Any state licensed facility, public or private, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than twenty-four (24) hours per day. Day care facilities include, but are not limited to: family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, daytime activity centers, day treatment programs, and day services as defined by Minnesota Statute Chapter 119 and referred to as “Child Care Center”.

Subd. 80 Day Care Facility, In-home. Any state licensed facility where child care is provided in the principal residence as regulated by Minnesota Statute.

Subd. 81 Dead Storage. The permanent pool volume of a water basin, or the volume below the runout elevation of a water basin.

Subd. 82 Density. A number expressing the relationship of the number of dwellings to an acre of land.

Subd. 83 Detention Basin. Any natural or manmade depression for the temporary storage of stormwater runoff.

Subd. 84 Developer. The owner of land proposed to be subdivided or his/her legal representative.

Subd. 85 Development. The construction of any public improvement project, infrastructure, structure, street, or road, or the subdivision of land.

Subd. 86 Dewatering. The removal of water for construction activity.

Subd. 87 Distillery, Micro. A facility with no more than 3,000 square feet of floor area for the production and packaging of alcoholic beverages for distribution, retail, or wholesale, on or off premises, and which meets all state and local alcoholic beverage control laws and regulations.

Subd. 88 Drain or Drainage. Any method for removing or diverting water from water-bodies, including excavation of an open ditch, installation of subsurface drainage tile, filling, diking, or pumping.

Subd. 89 Drinking Establishment. A commercial establishment dispensing alcoholic beverages for consumption on the premises where the preparation of food may or may not be provided; including restaurants, and supper clubs.

Subd. 90 Drive-Through. Any restaurant, financial institution, product or service vending enterprise where business is transacted through a window or other mechanical device with a patron who is in a vehicle.

Subd. 91 Dwelling, Attached. One which is joint to another dwelling or building at one (1) or more sides by a party wall or walls.

Subd. 92 Dwelling, Detached. One which is entirely surrounded by open space on the same lot with no common party walls.

Subd. 93 Dwelling Unit. A residential building or portion thereof intended for occupancy by a single-family but not including hotels, motels, boarding or rooming houses or tourist homes. There are two (2) principal types, single-family and multiple family which are grouped into two-family, duplex, twin-home, townhouse, and apartment groups.

A. Single-Family – A building in which a single housekeeping unit is maintained or intended to be maintained.

B. Two-Family Dwelling or Duplex – A building in which two housekeeping units are maintained or intended to be maintained.

C. Twin-home – A building designed exclusively for or occupied exclusively by no more than two (2) families living independently of each other with each unit located on a separate, single parcel of record, with the party wall separating the units acting as a dividing line.

D. Townhouse – A residential building containing two (2) or more dwelling units with at least one (1) common wall, each unit so oriented as to have all exits open to the outside.

E. Apartment – A residential building containing three (3) or more dwelling units, most commonly occupied by tenants in a rental arrangement, with common walls, and separate housekeeping and cooking facilities for each.

Subd. 94 Easement. A grant by an owner of land for a specific use by persons or agencies other than the owner. A limited ownership interest in land enabling the construction and maintenance of public services and utilities thereon including, but not limited to, sanitary sewers, water mains, electrical lines, telephone lines, storm sewer or storm drainage facilities, gas lines, and conservation and pedestrian trails.

Subd. 95 ECS. Erosion and Sediment Control.

Subd. 96 Efficiency Unit. A dwelling unit with one primary room which doubles as a living room, kitchen, and bedroom.

Subd. 97 Energy Dissipation. Methods employed at pipe outlets or along pipe alignments to prevent erosion including but not limited to: concrete aprons, riprap, collars, splashguards, and gabions.

Subd. 98 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.

Subd. 99 Erosion. The progressive wearing away of the ground surface as a result of wind, flowing water, ice movement, or land disturbing activities.

Subd. 100 Erosion Control. Methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.

Subd. 101 Escrow. A deposit of cash with the City of Montgomery in lieu of an amount required and still in force on a performance or maintenance bond.

Subd. 102 Essential Services. Overhead or underground electrical, gas, steam or water transmission or distribution systems and structure or collection, communication, supply or disposal systems and structures used by public utilities or governmental departments or commissions or as are required for the protection of the public health, safety or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes and accessories in connection therewith but not including buildings.

Subd. 103 Excavation. Any breaking of ground, except common household gardening and ground care.

Subd. 104 Exterior Storage. The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

Subd. 105 External Solid Fuel-Fired Heating Device. A device designed for external solid fuel combustion so that usable heat is derived for the interior of a building, and includes solid fuel-fired stoves, solid fuel-fired cooking stoves, and combination fuel furnaces or boiler which burn solid fuel. Solid fuel-fired heating devices do not include natural gas-fired fireplace logs, wood-burning fireplaces, or wood stoves in the interior of a dwelling.

Subd. 106 Extraction. The removal, filling, or storage of rock, sand, gravel, clay, silt other like material.

Subd. 107 Façade. That portion of any exterior elevation of a building exposed to public view extending from grade to the top of the parapet wall or eaves and the entire width of the building elevation.

Subd. 108 Fall Zone. The area on the ground within a prescribed radius from the base of a personal wireless facility. The fall zone is the area within which there is a potential hazard from falling debris. Examples of this could be ice or collapsing material. The fall zone is hereby defined as 50% of the height of the tower.

Subd. 109 Family. An individual, or two or more persons related by blood, marriage or adoption, or a group of not more than four (4) persons not so related, living together as a single housekeeping unit using common cooking and kitchen facilities.

Subd. 110 Farm. A tract of land which is principally used for agricultural activities such as the production of cash crops, livestock or poultry farming. Such farms may include agricultural dwelling and accessory buildings and structures necessary to the operation of the farm.

Subd. 111 Fence. Any structure, partition, wall, gate or enclosure of wood, iron, metal or other material erected to serve as a dividing marker, enclosure, physical barrier, or visual barrier. For the purpose of this subdivision, a fence shall not include naturally growing shrubs, trees, or other foliage.

Subd. 112 Fill. The deposit of soil or other earth material by artificial means.

Subd. 113 Financial Institution. A commercial banking establishment or savings and loan association chartered by the State of Minnesota or the United States.

Subd. 114 Flood. A temporary rise in stream flow or stage that results in inundation of normally dry areas.

Subd. 115 Floor Area. The sum of the horizontal areas of each story of the building measured from the exterior faces of the exterior walls. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways and enclosed and unenclosed porches.

Subd. 116 Flood Frequency. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Subd. 117 Frontage. That boundary of a lot which abuts an existing or dedicated public street.

Subd. 118 Frontage Road. A local road or street auxiliary to and located on the side of a highway for service to abutting property and adjacent areas and for control of access.

Subd. 119 Funeral Home. A building that provides facilities for funerals; a chapel for funeral services; rooms for viewing the remains in caskets (slumber rooms, repose rooms, viewing rooms, visitation rooms) before final services or cremation; rooms for preparation of bodies (embalming, cosmetic treatment and clothing of the deceased); display rooms and storage for caskets; garages for hearses and other equipment; and administrative offices. A funeral home may include living quarters for the funeral director/owner.

Subd. 120 Garage, Private. an accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles, non-commercial trailers, or household belongings of the family or families residing upon the premises.

Subd. 121 Garage, Public. Any building or premises, except those used as a private or storage garage, used for equipping, repairing, hiring, selling or storing motor driven vehicles.

Subd. 122 Garden Center. A place of business where retail and wholesale products and produce are sold to consumers. These centers, which may include a nursery and/or greenhouses, import most of the items sold. These items may include plants, handicrafts, nursery products and stock, fertilizers, potting soil, hardware, lawn and garden power equipment and machinery, hoes, rakes, shovels, and other garden and farm tools and utensils.

Subd. 123 General Development Plan. A report in text and in map form with the map drawn to scale depicting the general location and relationship of structures, streets, driveways, recreation areas, parking areas, utilities and the like, as related to a proposed development.

Subd. 124 Governing Body. City Council of Montgomery.

Subd. 125 Grade. The average of the finished surface of the ground adjacent to the exterior walls of the building or structure, or the slope of a street, specified in percentage terms.

Subd. 126 Greenhouse. A structure used for the cultivation or protection of flowers, vegetables and nursery stock.

Subd. 127 Group Home, Residential. A building or structure where persons reside for purposes of rehabilitation, treatment or special care. Such persons may be orphaned, suffer chemical or emotional impairment, or suffer social maladjustment or dependency.

Subd. 128 Hard Surface (Parking). Shall mean only non-aggregate impervious concrete or asphalt.

Subd. 129 Hardship. As defined in Minnesota Statutes, Chapter 462, as amended.

Subd. 130 Health Care Facility. An institution providing health services primarily for human in-patient medical or surgical care for the sick and injured and including related facilities such as laboratories, out-patient, departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities.

Subd. 131 Highly Susceptible Wetland Type. A wetland characterized as a sedge meadow; open or coniferous bog; calcareous fen; low prairie; coniferous or hardwood swamp; or seasonally flooded wetland.

Subd. 132 Home Occupation. Any gainful occupation or profession engaged in by the occupant of a dwelling at or from the dwelling when carried on within a dwelling unit that is clearly a customary, incidental, and secondary use of the residential dwelling unit and does not alter the exterior of the property or affect the residential character of the neighborhood. Such uses include professional offices, minor repair services, photo or art studies, dressmaking, barber shops, beauty shops, or similar uses.

Subd. 133 Horse Hobby Farm. A horse hobby farm shall meet all of the following criteria: (1) must have minimum 5 acres of pastureland; and, (2) a maximum of 3 horses one year of age or older and one foal under the age of 1-year; and, (3) no boarding of horses is permitted; and, (4) there shall be no commercial use of the property; and, (5) the owner of the horses must have the subject property as primary residence; and, (6) there must be a fence around the pasture area (maintained in good condition) and set back a minimum of 10' from any property line; and, (7) the property is maintained in compliance with the rules and regulations of the Minnesota Pollution Control Agency, the State of Minnesota, and the City of Montgomery.

Subd. 134 Hospital. An institution providing persons with intensive medical or surgical care and devoted primarily to the diagnosis and treatment of disease or injury, maternity cases or mental illness.

Subd. 135 Horticulture Use. - The use of land for the growing or production for income of fruits, vegetables, flowers, nursery stock including plants and trees, and cultured sod.

Subd. 136 Hotel. A building containing guest rooms in which lodging is provided with or without meals for compensation and which is open to transient

or permanent guests or both, and where no provision is made for cooking in any guest room, and which ingress and egress to and from all rooms is made through inside lobby or office supervised by a person in charge.

Subd. 137 Impervious Surface. A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. For the purpose of the Zoning Code, impervious surfaces shall include, but not be limited to the following: building square footage, rooftops where the overhang is greater than two (2) feet; covered decks; decks or platforms with open joints with less than one quarter (1/4) inch spacing; sidewalks greater than two (2) feet in width; retaining walls greater than two (2) feet in width; bridges over surface waters; driveways; gravel surfaces; and other similar surfaces as determined by the Zoning Administrator or by his/her designee.

Subd. 138 Indoor Entertainment, Cultural Facilities, and Services and Amusement Services. An enclosed building that houses indoor uses such as bowling alleys, roller and ice skating rinks, and movie theaters that are privately owned and operated with the intention of earning a profit by providing entertainment for the public.

Subd. 139 Industry, heavy. A use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials.

Subd. 140 Industry, light. A use engaged in the manufacture, predominately from previously prepared materials, of finished products or parts.

Subd. 141 Infiltration Area. A stormwater retention method for the purpose of reducing the volume of stormwater runoff by transmitting a flow of water into the ground through the earth's surface.

Subd. 142 Infrastructure. The system of public works for a county, state, or municipality including, but not limited to, structures, roads, bridges, culverts, sidewalks; stormwater management facilities, conveyance systems and pipes; pump stations, sanitary sewers and interceptors, hydraulic structures, permanent erosion control and stream bank protection measures, water lines, gas lines, electrical lines and associated facilities, and phone lines and supporting facilities.

Subd. 143 Interim Use. A use which requires an interim use permit, as defined within this Chapter. Interim Use Permits are reviewed by the Planning Commission and granted by the City Council for a specific period of time in accordance with procedures specified in this Chapter.

Subd. 144 Junk Yards/Salvage Yards. An open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed,

disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles.

Subd. 145 Kennel, Commercial. Any lot or premises on which more than three (3) dogs, or four (4) cats or other household pets are either permanently or temporarily boarded, bred and/or sold.

Subd. 146 Laboratory, Medical or Dental. An establishment primarily engaged in providing professional analytic or diagnostic services to the medical profession, or to a patient, on direction of physician; or an establishment primarily engaged in making dentures, artificial teeth, and orthodontic appliances to order for the dental profession.

Subd. 147 Land Disturbing or Development Activities. Any change of the land surface including removing vegetative cover, excavating, filling, grading, stockpiling soil, and the construction of any structure that may cause or contribute to erosion, or the movement of sediment into water bodies. The use of land for new and continuing agricultural activities shall not constitute a land disturbing activity under this Chapter.

Subd. 148 Landlocked Basin. A basin that does not have a natural outlet at or below the existing 100-year flood design elevation as determined using the Simplified Hydrologic Yield Method or other acceptable hydrologic analysis method identified in the Surface Water Management Plan, as amended.

Subd. 149 Landscape Wall. A structure less than four feet in height and constructed of wood, masonry block, concrete or natural stone that is used as part of a landscape design and not requiring special structural properties as does a retaining wall.

Subd. 150 Least Susceptible Wetland Type. A wetland characterized as a gravel pit, cultivated hydric soil, dredged material or fill, or material disposal site.

Subd. 151 Licensed Day Care Facilities. Include, but not limited to family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, development achievement centers, and adult daycare centers.

Subd. 152 Light Manufacturing. Fabrication, processing, or assembly employing only electric or other substantially noiseless and inoffensive power sources, utilizing hand labor or quiet machinery, and processes, and free from neighborhood disturbing agents, such as odors, gas, fumes, smoke, cinders, flashing or excessively bright lights, refuse matter, electromagnetic radiation, heat or vibration. Such uses include, but are not limited to, the following: lumberyard, machine shops, products assembly, sheet metal shops, plastics, electronics, signs and displays, printing, publishing, fabricated metal parts, appliances, clothing, textiles, and used auto parts.

Subd. 153 Loading Space. An off-street space on the same lot with a building or group of buildings, for temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

Subd. 154 Local Government Unit (LGU). The City of Montgomery, Minnesota.

Subd. 155 Local Water Plan. The City of Montgomery's Surface Water Management Plan, as amended.

Subd. 156 Lot. A separate parcel, tract or area of land undivided by any public street or private road, which has been established by plat, metes and bounds subdivision, or as otherwise permitted by law, and which is occupied by or intended to be developed for and occupied by a principal building or group of buildings and accessory buildings, or utilized for a principal use and uses accessory thereto, including such open spaces and yards as are designed and arranged or required by this Chapter for the building, use or development.

Subd. 157 Lot of Record. Any lot which is one (1) unit of a plat heretofore duly approved and filed, or one unit of an auditor's Subdivision or a Registered Land Survey that has been recorded in the office of the County Recorder.

Subd. 158 Lot Area. The area of a lot in a horizontal plane bounded by the lot lines.

Subd. 159 Lot, Corner. A lot situated at the junction of, and abutting on two or more intersecting streets.

Subd. 160 Lot Coverage. The area of the lot occupied by impervious surface.

Subd. 161 Lot Depth. The mean horizontal distance between the front lot line and the rear lot line of a lot.

Subd. 162 Lot Line. The property line bordering a lot except that where any portion of a lot extends into the public right-of-way shall be the lot line for purposes of this Chapter.

Subd. 163 Lot Line, Front. That boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front line shall be designated by the owner and filed with the County Recorder.

Subd. 164 Lot Line, Rear. That boundary of a lot which is opposite the front lot line. If the rear line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

Subd. 165 Lot Line, Side. Any boundary of a lot which is not a front lot line or a rear lot line.

Subd. 166 Lot, Substandard. A lot or parcel of land for which a deed has been recorded in the office of the County Recorder upon or prior to the effective date of this Chapter which does not meet the minimum lot area, structure setbacks or other dimensional standards of this Chapter.

Subd. 167 Lot Width. The maximum horizontal distance at the building setback.

Subd. 168 Low Floor Elevation. The finished surface elevation of the lowest floor of a structure.

Subd. 169 Major Watershed. One of the 87 major watershed units delineated by the map titled State of Minnesota Watershed Boundaries, 1979, produced by the Minnesota Department of Natural Resources as included in the Wetland Conservation Act Rules 8420.0549.

Subd. 170 Manufacturing. Manufacturing, processing, packaging, or assembly of products and also breweries, cement production, stone cutting, brick, glass, batteries (wet cell), ceramic products, mill working, metal polishing and plating, paint (pigment manufacturing), rubber products, plastics, meat packing, flour, feed grain milling, milling, food and agricultural products, coal, tar, distillation of bones, sawmill, lime, gypsum, plaster of paris, glue, size, cloth, and similar use.

Subd. 171 Manufactured/Modular Home. A factory built, single-family structure that is manufactured under the authority of 42 U.S.C. Section 5401, the National Manufactured Home Construction and Safety Standards Act, is transportable in one or more sections, and is used as a place of human habitation, but is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, and which does not have wheels or axles permanently attached to its body or frame.

Subd. 172 Manufactured/Modular Home Park. Any site, lot, field or tract of land under single ownership, designated, maintained or intended for the placement of two (2) or more occupied homes. It shall include any buildings, structure, vehicle, or enclosure intended for use as part of the equipment of such mobile/manufactured home park.

Subd. 173 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 bearing and distances of the lines forming the boundaries of the property or delineates a fractional portion of a section, lot or area by describing lines or portions thereof.

Subd. 174 Mini Storage/Self-service Storage Facility. A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled-access stalls or lockers for the dead storage of a customer's goods or wares. No sales, service or repair activities other than the rental of dead storage units are permitted on the premises, and outdoor storage must be fully screened from public view at street level.

Subd. 175 Mining. The extraction of sand, gravel, rock, soil or other material from the land in the amount of one thousand (1,000) cubic yards or more and the removal thereof from the site. The only exclusion from this definition shall be removal of materials associated with construction of a building, provided such removal is an approved item in the building permit.

Subd. 176 Minnesota Pollution Control Agency (MPCA). The State organization responsible for the NPDES/SDS permitting system.

Subd. 177 Moderately Susceptible Wetland Type. A wetland characterized as shrub-carr, alder thicket; fresh wet meadow not dominated by reed canary grass; or shallow or deep marsh not dominated by reed canary grass, cattail, giant reed, or purple loosestrife.

Subd. 178 Modular Home. A non-mobile housing unit that is basically fabricated at a central factory and transported to a building site where final installations are made, permanently affixing the module to the site. Any building which is of closed construction, i.e. constructed in such a manner that concealed parts or processes of manufacture cannot be inspected at the site, without disassembly, damage or destruction, and which is made or assembled in manufacturing facilities, off the building site, for installation, or assembly and installation, on the building site. See Minnesota Statutes Section 326B.194.

Subd. 179 Motel. A building or group of detached, semi-detached, or attached buildings containing guest rooms or dwellings, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of automobile transients.

Subd. 180 Motor Home or Recreation Vehicle. Any vehicle mounted on wheels and for which a license would be required if used on highways, roads or streets, and so constructed and designed as to permit occupancy thereof for dwelling or sleeping purposes and used for recreational purposes.

Subd. 181 Motor Vehicle. Any passenger vehicle, truck, truck-trailer, trailer or semi-trailer propelled or drawn by mechanical power.

Subd. 182 MSL. Mean Sea Level. It represents the average 19-year height of the surface of the sea for all stages of the tide.

Subd. 183 Non-Conforming Lot. Any lot of record which does not comply with the minimum lot area, frontage or depth requirements of the district in which it is located, as required by this Chapter.

Subd. 184 Non-Conforming Sign. Any sign which lawfully existed on the effective date of this Chapter, or any amendments thereto, which does not conform to all the applicable sign standards and regulations contained in this Chapter.

Subd. 185 Non-Conforming Structure. Any building or structure which lawfully existed on the effective date of this Chapter, or any amendment thereto, which does not comply with the bulk, placement, land use intensity or height regulations of the zoning district in which it is located, as required by this Chapter.

Subd. 186 Non-Conforming Use. Any use of land, buildings, or structures lawfully existing at the time of the adoption of this Chapter, or any amendments thereto, which does not comply with all the regulations of this Chapter or any amendment hereto governing the zoning district in which the use is located.

Subd. 187 Non-Point Source. Nutrient and pollution sources not discharged from a single point e.g. runoff from agricultural fields, feedlots or urban streets.

Subd. 188 Normal Water Level (NWL). For a reservoir with a fixed overflow, the NWL is the lowest crest level of that overflow. For a reservoir whose outflow is controlled wholly or partly by movable gates, siphons or other means, it is the maximum level to which water may rise under normal operating conditions, exclusive of any provision for flood storage. For a closed depression wetland, it is the maximum level to which the water may rise under normal precipitation conditions exclusive of any provision for flood storage.

Subd. 189 NPDES/SDS. National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS). This permitting system is managed by the Minnesota Pollution Control Agency (MPCA).

Subd. 190 NRCS. The Natural Resource Conservation Service.

Subd. 191 NURP. The Nationwide Urban Runoff Program developed by the Environmental Protection Agency to study storm water runoff from urban development.

Subd. 192 Nursery, Landscape. A business growing and selling trees, flowering and decorative plants and shrubs and which may be conducted within a building or without, for the purpose of landscape construction.

Subd. 193 Nursing Home. A building with facilities for the care of children, the aged, infirm, or place of rest for those suffering bodily disorder. Said nursing home shall be licensed by the State Board of Health.

Subd. 194 Odorous Matter. Any material or matter that yields an odor which is offensive in any way.

Subd. 195 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 the debris carried by such water.

Subd. 196 Offices and Professional Services. A building in which professional and management duties and services are carried out, including psychiatrists and psychologists' offices; architectural, engineering, planning, legal offices, and photographic studios and businesses of a nonretail nature and clerical services and duties are carried out, including corporate banks, credit unions, insurance and real estate offices.

Subd. 197 Off-Sale. Retail sale in the original package of any alcoholic beverages, intoxicating liquor, 3.2% malt liquor or other items, as part of a commercial transaction from the liquor store for consumption away from the dispensary.

Subd. 198 On-Sales. A building with facilities for serving any alcoholic beverages, intoxicating liquor, 3.2% malt liquor or other items and short order foods.

Subd. 199 Open Sales Lot. Any land used or occupied for the purpose of displaying of goods for sale, rent, lease, or trade, where such goods are not enclosed within a building and under the open sky prior to sale.

Subd. 200 Ordinary High Water Mark. A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

Subd. 201 Outdoor Seating. A commercial seating area for business patrons which is not located in an "Indoor Area" as defined by Minnesota Statute 144.413 Subdivision 1a.

Subd. 202 Outdoor Wood-Fired Boiler. A fuel burning device designed: (1) to burn primarily wood by hand-firing; (2) not to be located inside structures

ordinarily occupied by humans; and, (3) to heat spaces or water by the distribution through pipes of a fluid heated in the device, typically water. Examples of common uses of outdoor wood-fired boilers include: residential or commercial space heating, heating of domestic hot water, and heating of water for swimming pools, hot tubs or whirlpool baths.

Subd. 203 Outlot. A lot remnant or parcel of land that is part of a larger unified development that is intended to remain as open space or as another use not containing buildings or structures. No building permits will be issued by the City for an outlot meeting this definition.

Subd. 204 Owner. Any individual, firm, association, partnership, corporation, trust or any other legal entity having proprietary interest in the land.

Subd. 205 Parcel. A parcel of land designated by plat, metes and bounds, registered land survey, auditor's subdivision, or other accepted means and separated from other parcels or portions by its designation.

Subd. 206 Parking Space. A suitably surfaced and permanently maintained area on privately or publicly owned property either within or outside of a building of sufficient size to store one standard automobile.

Subd. 207 Partially Land-locked Basin. A stormwater storage area that discharges only for events larger than the 2-year design event. The 2-year design event is a 24-hour rainfall using type II distribution.

Subd. 208 Pedestrian Way. A public or private right of way across or within a block, to be used by pedestrians.

Subd. 209 Permittee. The person or political subdivision in whose name a permit is issued pursuant to this Chapter.

Subd. 210 Performance Standard. A criteria established to control noise, odor, toxic or noxious matter, vibration, fire and explosive hazards, glare or heat, or other nuisance elements which a particular use, property or process may not exceed.

Subd. 211 Permitted Use. Any use allowed in a zoning district, subject to the minimum requirements and restrictions established in this Chapter for that zoning district.

Subd. 212 Person. Any individual, firm, partnership, corporation, company, association, joint stock association or body politic including any trustee, receiver, assignee or other similar representative thereof.

Subd. 213 Personal Services. Uses such as laundromats, barbershops or beauty salons, and photography studios.

Subd. 214 Personal Wireless Services. Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.

Subd. 215 Pharmacy. Retail sale of any pharmaceuticals or other similar items wherein the merchandise is exhibited or sold.

Subd. 216 Physical Recreation or Training. A business that provides physical exercise, training or recreation equipment and/or space for use onsite. Health and fitness centers, dance studios, karate facilities and gymnastics facilities shall be considered examples of such use. Training or self-improvement shall be an important component of the activity, and differentiate it from commercial recreation uses, where sport is the predominate activity.

Subd. 217 Places of Worship. A church, synagogue, temple, mosque, or other facility that is used for worship by persons of similar beliefs, or a special purpose building that is designed or particularly adapted for the primary use of conducting on a regular basis, religious services and associated accessory uses by a religious congregation and which building together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

Subd. 218 Planning Commission. The Planning & Zoning Commission of Montgomery appointed by the City Council.

Subd. 219 Planned Unit Development. A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.

Subd. 220 Plat. The drawing or map of a subdivision prepared for filing of record pursuant to Minnesota Statutes Section 505 and containing all elements and requirements set forth in applicable local regulations adopted pursuant to Minnesota Statutes Section 462.358 and 505.

Subd. 221 Pole Building. A structure built within perimeter foundations, having solid wood, built-up wood, or steel columns which either rest on concrete caissons or are direct-buried in the earth with a footing pad, having a roof system of wood or steel engineered trusses, and having exterior roofs or walls of corrugated steel or other architectural metals. Metal engineered buildings with full perimeter foundations are not included in this definition.

Subd. 222 Political Subdivision. A county, city, town, school district, or other local government jurisdiction to which the state provides state aids or on which the state imposes state mandates.

Subd. 223 Prefabricated Home. A non-mobile housing unit, the walls, floors and ceilings of which are constructed at a central factory and transported to a building site where final construction is completed, permanently affixing the unit to the site.

Subd. 224 Premises. A lot, parcel, tract or plot of land together with the building and structures thereon.

Subd. 225 Principal Structure or Use. One which determines the predominant use as contrasted to accessory use or structure.

Subd. 226 Proof of Parking. An area of a lot other than that area secured for yards, usable open space or landscaping which is allocated for parking but is not paved or striped, until such time as deemed needed by the City.

Subd. 227 Property Line. The legal boundaries of a parcel of property which may also coincide with a right-of-way line or a road, cartway, and the like.

Subd. 228 Property Owner. Any person, association or corporation having a freehold estate interest, leasehold interest extending for a term or having renewal options for a term in excess of one year, a dominant easement interest, or an option to purchase any of same, but not including owners of interests held for security purposes only.

Subd. 229 Protective Covenant. A contract entered into between private parties which constitutes a restriction of the use of a particular parcel of property.

Subd. 230 Public Buildings. Buildings or structures owned and operated by a municipal, school district, county, state, or other government unit.

Subd. 231 Public Health and General Welfare. As defined in Minnesota Statutes, Section 103D.011, Subdivisions 23 and 24.

Subd. 232 Public Improvement Project. A public road or utility project that provides a common benefit to the community (such as, but not limited to, collector and arterial roads, and trunk stormwater facilities) and is included in an approved Capital Improvement Plan or Transportation Plan.

Subd. 233 Public Land or Building. Land or building owned or operated by municipal, school district, county, state or other governmental unit.

Subd. 234 Public Parks and Playgrounds. Includes all uses such as tennis courts, ballfields, basketball courts, picnic areas and the like that are commonly provided for the public at parks, playgrounds, community centers and other sites, owned and operated by a government unit or school district for the purpose of providing recreation.

Subd. 235 Public Utility. Any person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under Federal, State or Municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, transportation or water, including buildings used by said persons, municipal entities or corporations. For purposes of this Chapter, Commercial Wireless Telecommunication Services shall not be considered a public utility and is defined separately (see Commercial Wireless Telecommunication Service).

Subd. 236 Public Utility Structures. Persons, corporations or governments supplying gas, electric, transportation, water, sewer, or land line telephone service to the general public. For the purpose of this Chapter, “Commercial Wireless Telecommunication Services” shall not be considered a public utility use and is defined separately.

Subd. 237 Public Waters Wetlands. All Type 3, 4, and 5 wetlands, as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition), not included within the definition of public waters, that are ten or more acres in size in unincorporated areas or 2-1/2 or more acres in incorporated areas.

Subd. 238 Public Waters. Waters of the state as defined in Minnesota Statutes Section 103G.005, Subd. 15.

Subd. 239 Publication. An official notice as prescribed by state statutes in a newspaper so designated for this purpose by the City Council.

Subd. 240 Quasi Public Organization. A service organization that is established to provide the community and its residents with supplemental services and needs. Examples of these organizations include but are not limited to Lions, Kiwanis, Rotary, Elks, Masons, American Legion, VFW, and Women’s Service Clubs.

Subd. 241 Recreation Equipment, Residential. Play apparatus such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and trailers not exceeding 20 feet in length, picnic tables, lawn chairs, barbeque stands and similar equipment or structures. This definition shall not include tree houses, swimming pools, play houses exceeding 25 square feet of floor area or sheds utilized for storage of equipment.

Subd. 242 Recreation, Commercial. Includes all uses such as bowling alleys, golf courses and driving ranges, racing tracks, movie theaters, etc. that are

privately owned and operated with the intention of earning a profit by providing entertainment for the public.

Subd. 243 Recreation, Public. Includes all uses such as tennis courts, ball fields, picnic areas, and the like that are commonly provided for the public at parks, playgrounds, community centers, and other sites owned and operated by a unit of government for the purpose of providing recreation.

Subd. 244 Recycling Center. A facility that is not a junkyard and in which recoverable resources, such as newspapers, glassware, and metal cans are collected, stored, flattened, crushed, or bundled, within a completely enclosed building.

Subd. 245 Redevelopment. The rebuilding, repair or alteration of a structure, land surface or facility that creates less than 1 acre of new impervious surface, involves greater than 1 acre of land disturbance, and for which over 50 percent of the parcel involved is disturbed by a land disturbing activity. Note: for the purposes of this Chapter if an activity creates more than 1 acre of new or additional impervious surface the activity is considered new development and exceptions in this Chapter for redevelopment do not apply to the increased (new) impervious service.

Subd. 246 Regional Flood. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the one hundred (100) year recurrence interval. Regional flood is synonymous with the term “base flood” used in the Flood Insurance Study.

Subd. 247 Registered Land Survey. A survey map of registered land designed to simplify a complicated metes and bounds description, designating the same into tract or tracts of registered land survey number.

Subd. 248 Regulatory Flood Protection Elevation. An elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments in the flood plain that result from designation of a floodway.

Subd. 249 Re-plat. The platting of an area that was previously platted.

Subd. 250 Research/Design Facilities. Medical, chemical, electrical, metallurgical, or other scientific research and quality control, conducted in accordance with the provisions of this Chapter.

Subd. 251 Restaurant. A business establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in non-disposable containers, and where the customers

consume these foods while seated at tables or counters located within the business building.

Subd. 252 Restaurant, Fast-food. An establishment that offers quick food service of items already prepared, prepackaged or quickly served. Orders are not generally taken at the customer's table but at an order/pickup counter or at a drive-thru window. Food may be consumed onsite or carried-out.

Subd. 253 Retail Shops and Services. Stores and shops selling personal services or goods for final consumption or the provision of services to the general public that produce minimal off-site impacts.

Subd. 254 Retaining Wall. A structure constructed of wood, masonry block or natural stone that is four feet in height or taller and used to support or prevent the advancement of earth.

Subd. 255 Retention. The prevention of direct discharge of stormwater runoff into receiving water or conveyance networks; examples include systems that discharge through percolation, exfiltration, infiltration and evaporation processes that generally have residence times of less than three days.

Subd. 256 Right-of-Way. A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied or presently occupied by a road, pedestrian walkway, railroad, electric transmission lines, oil or gas pipeline, telephone cable, cable TV, water and sewer lines, and other similar uses.

Subd. 257 Right-of-Way Lines. The lines that form the boundaries of a right-of-way.

Subd. 258 Runoff. Rainfall, snowmelt, or irrigation water flowing over the ground surface.

Subd. 259 Satellite Dish Antenna. A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn or cornucopia. Such device is used to transmit and/or receive radio or electromagnetic waves between terrestrially and orbital based uses. This definition shall include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television, receive only) and satellite microwave antennas.

Subd. 260 Schools. A building with equipment, courses of study, class schedules, enrollment of pupils ordinarily in pre-kindergarten through grade 12 or any portion thereof, and staff meeting the standards established by the commissioner of education.

Subd. 261 Screening. A device or materials used to conceal one element of a development from other elements or from adjacent or contiguous development. Screening may include one or a combination of the following materials – walls, berms, or plantings.

Subd. 261.5 Seasonal Employee Housing. Seasonal Employee Housing means accommodations designed to provide sleeping rooms with bathroom facilities for a period not to exceed 255 consecutive days within a calendar year.

Subd. 262 Seasonal Produce Stand. A temporary use for the purposes of selling seasonal produce.

Subd. 263 Sediment. The solid mineral or organic material that is in suspension, is being transported, or has been moved from its original location by erosion and has been deposited at another location.

Subd. 264 Sedimentation. The process or action of depositing sediment.

Subd. 265 Setback. The minimum distance between the building line and related front, side and rear setback lines.

Subd. 266 Setback Line. The setback line shall be measured from the property line.

Subd. 267 Shoreland District. Consists of land located within a floodplain, within 1,000 feet of the OHW of a public water or public waters wetland, or within 300 feet of a stream or river.

Subd. 268 Sign. Any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message, or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.

A. Sign, Banner. A temporary sign typically made of cloth, plastic or vinyl materials. Banner signs shall not be considered as permanent signage.

B. Sign, Billboard. A sign structure with a surface area over one hundred (100) square feet per surface that identifies or communicates a commercial or non-commercial message.

C. Sign, Building. A sign attached to the outside of a building wall, roof, canopy or awning.

D. Sign, Commercial Speech. Speech or graphics advertising a business, profession, commodity, service or entertainment.

E. Sign, Electronic Variable Message. Signs whose message may be changed at reasonable intervals as determined by this Chapter by electronic process or remote control and whose movement is the periodic changing of information against a solid, colorless background, engineered for maximum legibility and readability, and having a constant light level and glare reduced screens.

F. Sign, Freestanding. A sign supported by one or more upright poles, columns, or braces, placed in or on the ground and not attached to any building or structure.

G. Sign, Monument. A freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and solid from the grade to the top of the sign structure and is typically encased or supported by masonry materials.

H. Sign, Non-commercial Speech. A sign that contains a non-commercial message. Examples of non-commercial messages include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

I. Sign, Off-premise. A commercial speech sign which directs the attention of the public to a business not on the same lot or site where such a sign is located.

J. Sign, Portable. A non-permanent sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; balloons used as messages, umbrellas used for messages; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicles are used in the normal day-to-day operations of the business. This definition does not include those defined in this Chapter as sandwich boards.

K. Sign, Projecting. A sign that projects from the wall of a face of a building or structure, including an awning, canopy or marquee.

L. Sign, Reader Board. A sign having a message not permanently affixed to the sign face and the copy is manually changed.

M. Sign, Sandwich Board. A freestanding temporary sign, with no moving parts or flashing lights, no larger than eight square feet total sign size per side (no taller than 4 feet from grade); displayed outside an

establishment during business hours. It is not intended as permanent business signage.

N. Sign, Temporary. A non-permanent sign erected, affixed, or maintained on-premise for a limited period of time.

Subd. 269 Single Family Detached Residential. A detached dwelling containing one dwelling unit designed for occupancy by one family.

Subd. 270 Site. Any lot or parcel of land or combination of contiguous lots or parcels of land.

Subd. 271 Site Plan. The development plan, drawn to scale, for one or more lots on which is shown the existing and proposed conditions of the lot.

Subd. 272 Slightly Susceptible Wetland Type. A wetland characterized as a floodplain forest; fresh wet meadow dominated by reed canary grass; or a shallow or deep marsh dominated by reed canary grass, cattail, giant reed, or purple loosestrife.

Subd. 273 Solar Structure. A structure designed to utilize solar energy as an alternate for, or supplement to, a conventional energy system.

Subd. 274 Stabilized. The exposed ground surface that has been covered by staked sod, erosion control blanket, riprap, mulch, wood fiber blanket or other material that prevents erosion from occurring. Grass seeding alone is not stabilization.

Subd. 275 Stacks or Chimneys. Any vertical structure incorporated into a building and enclosing a flue or flues that carry off smoke or exhaust from a solid fuel-fired heating device, especially the part of such a structure extending above a roof.

Subd. 276 Standard. A preferred or desired level of quantity, quality, or value.

Subd. 277 Storm Water Detention Pond. A natural or created ponding area that provides temporary storage of excess stormwater for the purpose of attenuating the peak rate of runoff by controlling the rate of pond discharge. Ponding areas that drain completely between storm events are dry detention ponds. Ponding areas that provide temporary storage in combination with a permanent wet pool are wet detention ponds.

Subd. 278 Storm Water Management Plan. A plan for the permanent management and control of runoff prepared and implemented in accordance with the standards set forth in this Chapter.

Subd. 279 Storm Water Pollution Prevention Plan (SWPPP). A plan of BMPs or equivalent measures designed to control runoff and erosion and to retain and control sediment on site during the period of land disturbing activities in accordance with the standards set forth by MPCA and this Chapter.

Subd. 280 Storm Water Quality Pond. A created ponding area per W.W. Walker (1987) criteria that provides a permanent pool for the purpose of sediment and pollutant removal to reduce water quality impacts of urban development.

Subd. 281 Storm Water Retention Pond. A natural or created ponding area that provides permanent storage of excess stormwater for the purpose of attenuating the peak volume of runoff, from which the only release of flow is by infiltration or evaporation.

Subd. 282 Story. That portion of a building included between the surfaces of any floor and the surface of the floor next above, including below ground portions of earth sheltered buildings.

Subd. 283 Story, Half. A story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two (2) feet above the floor of such story.

Subd. 284 Street. A public right-of-way which affords primary means of access to abutting property, and shall also include avenue, highway, road or boulevard.

Subd. 285 Street, Arterial. A street which serves, or is designed to serve, heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

Subd. 286 Street, Collector. A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to an arterial street.

Subd. 287 Street, Cul-De-Sac. A minor street with only one outlet and having an appropriate turn-around for the safe and convenient reversal of traffic movement.

Subd. 288 Street, Local. A street intended to serve primarily as an access to abutting properties.

Subd. 289 Street Pavement. The wearing or exposed surface of the roadway used by vehicular traffic.

Subd. 290 Street Width. The width of the right-of-way, measured at right angles to the centerline of the street. The distance between the right-of-way lines of a street.

Subd. 291 Structure. Anything constructed, the uses of which requires permanent location on the ground, or attached to something having a permanent location on the ground. When a structure is divided into separate parts by an unpierced wall, each part shall be deemed a separate structure.

Subd. 292 Structural Alteration. Any change in the supporting members of a building such as bearing walls, columns, beams, or girders, or any change in the roof or in any exterior walls.

Subd. 293 Subdivision. The division or re-division of a lot, tract, or parcel of land into two (2) or more lots either by plat or by metes and bounds description.

Subd. 294 Surface Water. All streams, lakes ponds, marshes, wetlands, reservoirs, spring, rivers, drainage systems, waterways, watercourses, and irrigation systems whether natural or artificial, public or private.

Subd. 295 Surface Water Management Plan. The City of Montgomery's Surface Water Management Plan prepared to meet requirements of the Le Sueur Watershed Management Organization. Adopted and implemented in accordance with Minnesota Statutes, Section 103B.231 and Minnesota Rules 8410 for Local Water Plans, as amended.

Subd. 296 Taproom. An area which allows the on-sale consumption of malt liquor produced by the brewer on the premises of or adjacent to one brewery location owned by the brewer. Such use shall be accessory to the primary use of a brewery or micro brewery.

Subd. 297 Temporary Outdoor Sales and Display of Merchandise. Products displayed outdoors and intended to be sold at retail by a related and established principal use, provided said products and displays do not interfere with vehicular or pedestrian circulation or visibility.

Subd. 298 Temporary Structure, Non-Conventional. A structure or unit over 120 square feet in size, without any foundation or footings, consisting of a frame that is covered at any time with a covering made of plastic, fabric, canvas, metal, fiberglass or similar material; that does not require a building permit; that is not intended for human occupancy, and is intended or used to provide storage for vehicles, boats, recreational vehicles, or other personal property, whether fully or partially covered. "Non-Conventional Temporary Structure" includes structures commonly known as hoop houses, canopy-covered carports and tent garages, but does not include structures that are in place for less than ten (10) days, and structures that have been constructed pursuant to a building permit issued by the City.

Subd. 299 Temporary Use. A use established for a fixed period of time with the intent to discontinue use upon the expiration of the time period.

Subd. 300 Townhouse. A single-family attached residence building consisting of three or more dwelling units having the first story at the ground level with no separate dwelling units directly above or below and with each dwelling unit separated from the adjoining unit by a fire resistant wall or walls with no openings and extending from the basement to the roof.

Subd. 301 Tower. Any ground or roof mounted pole, spire, structure, or combination thereof taller than fifteen (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. 302 Tower, Multi-User. A tower which is designed to accommodate the antennas of more than one personal wireless service provider or governmental entity.

Subd. 303 Tower, Single User. A tower to which is attached only the antennas of a single user, although the tower may be designed to accommodate the antennas of multiple users as required in this Chapter.

Subd. 304 Toxic Matter or Material. Those materials which are capable of causing injury to living organisms by chemical means when present in relatively small amounts.

Subd. 305 Truck Terminal. Any use, area or building where cargo, trucks, truck parts, loading equipment and the like, is stored and/or where trucks load and unload on a regular basis.

Subd. 306 Undue Hardship. As defined in Minnesota Statute, Chapter 462.357, Subdivision 6, as amended.

Subd. 307 Unlicensed Wireless Services. The offering of telecommunications services using duly authorized devices, which do not require individual licenses; direct-to-home satellite services are excluded from this definition.

Subd. 308 Use. The purpose or activity for which the land or building thereon is designated, arranged, or intended, or for which it is occupied, utilized, or maintained.

Subd. 309 Use, Accessory. A use subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

Subd. 310 Use, Non-Conforming. Use of land, buildings, or structures legally existing at the time of adoption of this Chapter which does not comply with all the regulations of this Chapter, or any amendments hereto, governing the zoning district in which such use is located.

Subd. 311 Use, Permitted. A public or private use which of itself conforms with the purposes, objectives, requirements, regulations, and performance standards of a particular zoning district.

Subd. 312 Use, Principal. The main use of land or buildings as distinguished from subordinate or accessory use. A principal use may be either permitted or conditional.

Subd. 313 Use, Temporary. A building permitted to exist during periods of construction of the main building or use, or for special events.

Subd. 314 Variance. A modification or variation of the provisions of this Chapter where it is determined that by reason of special and unusual circumstances relating to a specific lot, that strict application of this Chapter would impose practical difficulties to the property owner in the use of their land.

Subd. 315 Warehousing. The commercial storage of merchandise and personal property.

Subd. 316 Warehouse and Distribution. A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, but excluding bulk storage of materials that are flammable or explosive or that create hazardous or commonly recognized offensive conditions.

Subd. 317 Water Basin. An enclosed natural depression with definable banks capable of containing water that may be partly filled with public waters.

Subd. 318 Water Body. All surface waters, water basins, watercourses, and wetlands as defined in this Chapter.

Subd. 319 Watercourse. Any natural or improved stream, river, creek, ditch, channel, culvert, drain, gully, swale, or wash in which waters flow continuously or intermittently in a definite direction.

Subd. 320 Waters of the State. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

Subd. 321 Wellhead Protection Plan. A document that provides for the protection of a public water supply, submitted to the Minnesota Department of Health, is implemented by the public water supplier, and complies with: A) the wellhead protection elements specified in the 1986 amendments to the Federal Safe Drinking Water Act, United States Code, title 42, chapter 6A, subchapter

XII, part C, section 300h-7 (1986 and as subsequently amended); and B) Minnesota Rules parts 4720.5200 to 4720.5290, as amended.

Subd. 322 Wetland. Any wetland as defined in Minnesota Statutes, Section 103G.005, as amended. Land which is annually subject to periodic or continuing inundation by water and commonly referred to as a bog, swamp or marsh.

Subd. 323 Wetland Conservation Act (WCA). The Minnesota Wetland Conservation Act of 1991, as amended.

Subd. 324 Wholesale Business. Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, individuals or companies.

Subd. 325 Yard. A required open space on a lot which is unoccupied and unobstructed by a structure from its lowest level to the sky except as permitted in this Chapter. The yard extends along the lot line at right angles to such lot line to a depth or width specified in the setback regulations for the zoning district in which such lot is located.

Subd. 326 Yard, Rear. The portion of the yard on the same lot with the principal building located between the rear line of the building and the rear lot line and extending for the full width of the lot.

Subd. 327 Yard, Side. The yard extending along the side lot line between the front yard and rear yard to a depth or width required by setback regulations for the zoning district in which such lot is located.

Subd. 328 Yard, Front. A yard extending along the full width of the front lot line between side lot lines and extending from the abutting street right-of-way line to a depth required in the setback regulations for the zoning district in which such lot is located. For lots that abut more than one street such as corner and through lots, there may be more than one front yard for purposes of calculating setbacks. Front yard setbacks shall apply to all yard spaces adjacent to a street right-of-way.

Subd. 329 Zero Lot Line. A type of residential development that allows one of the sides of the principal structure to be located immediately adjacent to the side lot line.

Subd. 330 Zoning Administrator. The duly appointed person charged with enforcement of this Chapter.

Subd. 331 Zoning Amendment. A change authorized by the City Council either in the allowed use within a district or in the boundaries of a district.

Subd. 332 Zoning District. An area or areas within the limits of the city for which the regulations and requirements governing use are uniform.

Subd. 333 Zoning Map. The map or maps incorporated into this Chapter as a part thereof, designating the zoning districts. The zoning map is a graphic representation of locations of zoning districts within the City as adopted by specific Ordinances.

Section 1105 – GENERAL PROVISIONS

1105.01 Application of this Chapter.

Subd. 1 Scope. This Chapter shall be applicable to all lands and waters (i.e. wetlands, drainage ditches, holding ponds, etc.) within the corporate limits of Montgomery, Minnesota.

Subd. 2 Minimum Standards. In their interpretation and application, the provisions of this Chapter shall be held to the minimum requirements for the promotion of the public health, safety and general welfare.

Subd. 3 Open Space. No part of the yard or open space required for a given building shall be included as a part of the yard or other space required for another building, and no lot shall be used for more than one principal building.

Subd. 4 Connection to City Utilities Required. Each new occupied building shall be required to connect to the City utilities.

Subd. 5 Language Construction. Where the conditions imposed by any provision of this Chapter are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, building code, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

Subd. 6 Structures Must Conform. Except as otherwise provided in this Chapter, no structure shall be erected, converted, enlarged, reconstructed, or altered; and no structure or land shall be used for any purpose or in any manner which is not in conformity with this Chapter. Temporary buildings that are used in conjunction with construction work, including trailers and manufactured/mobile homes used as offices and for tool storage, may be permitted in any district during the period that construction is taking place, but such temporary buildings shall be removed within thirty (30) days after completion of construction work.

Subd. 7 Limitation on Building Permits. No building permit for new developments shall be issued on land described by metes and bounds.

Subd. 8 Monuments. All international, federal, state, county and other official monuments, benchmarks, triangulation points, and stations shall be preserved in their precise locations; and it shall be the responsibility of the applicant to ensure that these markers are maintained in good condition during the following construction and development. All section, ¼ section and 1/16 section corners shall be duly described and tied.

Subd. 9 Setbacks. Where adjoining structures existing at the time of adoption of this Chapter have a different setback from that required, the front setback of a new structure shall conform to the average prevailing setback in the immediate vicinity. The Planning & Zoning Commission shall determine the necessary front yard setback in such cases subject to approval by the City Council.

Subd. 10 Things Not to be Used as Dwelling Units. No cellar, basement with unfinished structure above, accessory building, tent, or tent like item, shall be used as a dwelling unit.

Subd. 11 Comprehensive Plan Required. The City of Montgomery shall adopt a zoning district consistent with the Comprehensive Land Use Plan. In the event land not identified in the Comprehensive Plan is annexed, the Planning & Zoning Commission shall review and provide recommendation to the City Council who shall approve an appropriate land use and zoning district.

Subd. 12 Nonconforming Uses. From and after the effective date of this Chapter, the use of all land and every building or portion of a building erected, altered in respect to height and area, added to, or relocated, and every use within a building or use accessory thereto in the City, shall be in conformity with the provisions of this Chapter. Any existing buildings or structures and any existing use or properties not in conformity with the regulations herein prescribed shall be regarded as nonconforming, but may be continued, extended or changed, subject to the special regulations herein provided with respect to nonconforming properties or uses.

Subd. 13 Limited Use as Dwelling Units. No recreational vehicle or trailer shall be used as a dwelling unit in excess of fourteen (14) total calendar days per calendar year.

1105.02 Private Agreements. This Chapter does not abrogate any easement, covenant, or any other private agreement, which is not legally enforceable, provided that where the regulations of this Chapter are more restrictive (or impose higher standards or requirements) than the easements, covenants or other private agreements, the requirements of this Chapter shall govern.

1105.03 Separability. It is hereby declared to be the intention that several provisions of this Chapter are separable in accordance with the following:

Subd. 1 If any court of competent jurisdiction shall judge any provisions of this Chapter to be invalid, such judgment shall not affect any other provisions of this Chapter not specifically included in the judgment.

Subd. 2 If any court of competent jurisdiction shall judge invalid the application of any provision of this Chapter to a particular property, building, or structure, such judgment shall not affect other property, buildings, or structures.

1105.04 Nonconforming Uses and Structures. Except as hereinafter provided, a nonconforming use or nonconforming structure, building and/or land shall not be extended or expanded.

It is recognized that there exists within the district established by this Chapter and subsequent amendments, lots, structures and uses of land and structures which were lawful before this Chapter was passed or amended, which would be prohibited, regulated or restricted under the terms of this Chapter or future amendments.

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 nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Subd. 1 Any nonconforming use of a structure, a nonconforming use of land or a nonconforming use of a structure and land existing at the time of the adoption of this Chapter may be continued including through repair, replacement, restoration, maintenance, or improvement but not including expansion. "Expansion" shall be defined as any structural alteration, change or addition that is made outside of the original building or any change in the building's occupancy capacity or parking demand except those required by law or this Chapter.

Subd. 2 Nothing in this Chapter shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the City's Building Official.

Subd. 3 When any lawful nonconforming use of any structure or land in any district is discontinued for a period of more than one (1) year or is changed to a conforming use, any future use of said structure or land shall be in conformity with the provisions of this Chapter.

Subd. 4 When any lawful nonconforming use of any structure or land in any district is damaged by wind, fire, flood, explosion, earthquake, war, riot or other similar peril to the extent of greater than fifty percent (50%) of its market value at the time of destruction and no building permit has been applied for within 180 days of the date of destruction, it shall not be reconstructed except in conformity with the provisions of this Chapter. The City Building Inspector shall be responsible for making the determination whether a nonconforming use of any structure or land has been destroyed greater than fifty percent (50%) of its market value at the time of destruction. In making this determination, the Building Inspector shall consider the market value of the entire nonconforming use. This determination shall be reviewed and approved by the City Council. In the event that a building permit is applied for within 180 days of the date of destruction, the

City may impose reasonable conditions upon the building permit in order to mitigate any newly created impact on adjacent properties.

Subd. 5 A lawful nonconforming use of a structure or parcel of land may not be changed to a similar nonconforming use or to a more restrictive nonconforming use.

Subd. 6 Alterations may be made to a building containing lawful nonconforming residential units when they will improve the livability of the unit provided the number of dwelling units in the building is not increased.

Subd. 7 Expansion of an existing principal building found to be nonconforming only by reason of height and yard setback in which a permitted use is conducted may be allowed provided the expansion does not create a new nonconformance. Furthermore, expansions in these instances shall not be allowed to any part of the building that is within a setback that is not currently being met.

Subd. 8 Nothing in this Chapter shall prevent the strengthening or restoration of a wall or structural member in a building maintained for nonconforming use when such action is taken pursuant to a building permit as hereinafter provided. Buildings found to be non-conforming only by reason of height, yard or area requirements shall be exempt from the provisions of this Section.

Subd. 9 When a nonconformity in a structure or use of land or a structure is created by an amendment to this Chapter, the rights granted by this Section to the continuance of nonconformities apply to the nonconformities existing on the date of the amendment.

Subd. 10 Whenever in any zoning district a use is neither permitted nor specified as a use allowed through the issuance of a conditional use permit or interim use permit, the use shall be considered prohibited. In such case the City Council, the Planning & Zoning Commission, or a property owner may request a study by the City to determine if the use is acceptable and if so what zoning district would be most appropriate and to determine the types of conditions and standards to apply to the use if it were allowed as a use. The Planning & Zoning Commission, upon receipt of the staff study may, if appropriate, initiate an amendment to the City's zoning code to provide for the particular use under consideration or may find that the use is not compatible for development in the City.

1105.05 Nonconforming Lots.

Subd. 1 Single Family District. 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 at the effective date of adoption or amendment of this Chapter. This provision shall apply even though such lot fails to meet the

requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving lot area, width, or both, shall conform to the regulations for the district in which such lot is located.

Subd. 2 Non-Residential Lots. A non-residential lot or parcel of land for which a deed, recorded contract for deed, or other legal conveyance has been executed prior to the effective date of this Chapter shall be deemed a buildable lot provided it can meet the minimum setback requirements in the zoning district where it is located.

Subd. 3 Contiguous Lots Under Same Ownership. If two (2) or more contiguous lots in any district are under the same ownership, and any individual lot does not meet the area and width requirements of this Chapter, the lot must not be considered as a separate parcel or land for the purpose of sale or development. The lot must be combined with the one (1) or more contiguous lots so they equal one (1) or more parcels of land, each meeting the area and width requirements of this Chapter. Lots shall not be permitted to be subdivided which result in one or more non-conforming lots.

1105.06 Interim Use Permits.

Subd. 1 Criteria for Granting Interim Use Permits. The City Council may consider an interim use permit for a use which is not specifically listed in this Chapter as an interim use within the affected zoning district and may grant a permit provided such interim use, after review of the Planning & Zoning Commission and the City Council, is found to otherwise meet the criteria for granting an interim use permit within the affected zoning district. The City Council shall make the following findings in order to approve an interim use:

- A. The proposed interim use will utilize property where it is not reasonable to utilize it in a manner provided for the City's Comprehensive Plan and Zoning Code.
- B. The proposed interim use is presently acceptable but, given anticipated development, will not be acceptable in the future.
- C. The proposed interim use will not hinder permanent development on the site.
- D. The proposed interim use will not adversely impact implementation of the Comprehensive Plan for the area.
- E. The proposed interim use will not be injurious to the surrounding neighborhoods or otherwise harm the public health, welfare, and safety.

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

G. Adequate utilities, access roads, drainage and necessary facilities have been or will be provided.

H. The date or event that will terminate the interim use has been defined with certainty.

I. Permission of the interim use will not impose additional costs on the public if it is necessary for the public to take the property in the future.

Subd. 2 Conditions for Granting Interim Use Permits. In permitting a new interim use, the City Council may impose, in addition to the standards and requirements expressly specified by this Chapter, additional conditions which the City Council considers necessary to protect the best interest of the surrounding area or the community as a whole. Any City Council approval of an interim use shall be subject to the following conditions:

A. Except as otherwise authorized by this Section, an interim use shall conform to this Chapter as if it were established as a conditional use.

B. The date or event that will terminate the interim use shall be defined with certainty. The City Council may require the applicant to deposit a cash amount with City, or provide some other form of security, to ensure compliance.

C. In the event of a public taking of property after the interim use is established, the property owner shall not be entitled to compensation for any increase in value attributable to the interim use.

D. Other conditions as the City Council deems reasonable and necessary to protect the public interest and to ensure compliance with the standards of this Chapter and policies of the City's Comprehensive Plan.

Subd. 3 Procedure for Applying for an Interim Use Permit. The property owner or his/her agent shall meet with the Zoning Administrator to explain their proposal, learn the procedures, and obtain an application form.

A. The applicant shall file the completed application form together with the required exhibits with the Zoning Administrator and shall pay a filing fee as established from time to time by the City Council. All applications for an interim use permit must be received not later than 30 days prior to the Planning & Zoning Commission meeting.

B. The Zoning Administrator shall review the submitted application and exhibits and shall make determination whether the application is complete and if additional materials are needed to be supplied by the applicant. If the Zoning Administrator determines the application is complete he shall transmit the application to the Planning & Zoning Commission and shall notify all property owners within 350 feet of the outer boundaries of the property in question, 10 days prior to hearing; however, failure of any property owner to receive such notification shall not invalidate the proceedings.

C. The Zoning Administrator shall set the date for a public hearing and shall have notice of such hearing published at least once in the legal newspaper, not less than ten (10) days and not more than thirty (30) days prior to said hearing.

D. The Planning & Zoning Commission shall hold the public hearing and then study the application to determine possible adverse effects of the proposed conditional use and to determine what additional requirements may be necessary to reduce such adverse effects and recommend one (1) of three (3) actions to the City Council after holding the public hearing-approval, denial, or conditional approval.

E. The City Council shall take appropriate action on the request for an Interim Use Permit, taking into consideration the recommendations of the Planning & Zoning Commission. If it grants the Interim Use Permit, the City Council may impose conditions it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate.

F. Revocation of Interim Use Permits. Where an Interim Use Permit has been issued pursuant to the provisions of this Chapter, such permit shall become null and void without further action by the Planning & Zoning Commission or the City Council unless work thereon commences within one (1) year of the date granting of such Interim Use Permit. The Interim Use Permit shall not be assignable or transferable. An Interim Use Permit shall be deemed to authorize only one particular use and shall expire if that use shall cease for more than ninety (90) consecutive days.

G. In the event that the applicant violates any of the conditions set forth in the permit, the City Council shall have the authority to revoke the Interim Use Permit.

H. No application of a property owner for an interim use shall be considered by the Planning & Zoning Commission within a one (1) year period following a denial for such a request, except the Planning & Zoning

Commission may permit a new application if in its opinion new evidence or a change in circumstances warrant it.

I. The applicant and/or their representative shall appear at the public hearing to present and answer questions on their proposed Interim Use Permit.

Subd. 4 Other Conditions.

A. An amended Interim Use Permit application may be administered in a manner similar to that required for a new conditional use permit. Amended conditional use permits shall include reapplications for permits that have been denied or permits that have expired, requests for changes in conditions, and as otherwise described in this Chapter.

B. A periodic review of the use may be attached as a condition of approval of a conditional use permit. Unless otherwise stipulated, the term shall be the life of the use.

C. If the City enacts or amends official land use controls in such a way as to render a conditional use nonconforming with the official controls, the subject to section nonconforming uses, regardless of the permit which was previously issued.

D. If a use that is subject to an existing Interim Use Permit and is still in conformance with the provisions of this Chapter is destroyed, damaged, or otherwise altered, it may be rebuilt to the same scale, intensity, and height as existed prior to the destruction without being subject to a new Interim Use Permit application. Any increase in scale, intensity, or height shall require submittal of a new Interim Use Permit application.

1105.07 Opt-out of Minnesota Statutes, Section 462.3593. Pursuant to authority granted by Minnesota Statutes, Section 462.3593, Subd. 9, the City of Montgomery opts-out of the requirements of Minnesota Statutes, Section 462.3593, which defines and regulates Temporary Family Health Care Dwellings.

Section 1110 – ADMINISTRATION

1110.01 Enforcing Officer. The City Administrator shall serve as the Zoning Administrator. The Zoning Administrator or his/her designee is authorized and directed to enforce all the provisions of this Chapter and shall perform the following duties:

Subd. 1 Review and issue all applications pertaining to use of land, buildings, or structures, and forward requests for conditional use permits, variances, or rezoning to the Planning & Zoning Commission. Also determine if applications comply with the terms of this Chapter.

Subd. 2 Periodically conduct inspections of buildings and use of land to determine compliance with the terms of this Chapter. In regards to performance standards, the Zoning Administrator may require the services of a testing laboratory to determine compliance. The cost of employing the testing laboratory shall be paid for by the owner if a violation of this Chapter is established.

Subd. 3 Maintain permanent and current records of this Chapter, including but not limited to, maps, amendments, conditional uses, variances, appeals and applications.

Subd. 4 Institute in the name of the City of Montgomery any appropriate actions for proceedings against a violator as provided for in this Chapter.

Subd. 5 Notify, in writing, any person responsible for violating a provision(s) of this Chapter, indicating the nature of the violation and ordering the action necessary to correct it.

Subd. 6 Order discontinuances of illegal uses of land, buildings or structures, or take any action authorized by this Chapter to ensure compliance with or to prevent violation of its provisions.

Subd. 7 Maintain a current file of applications and building permits; all certificates of occupancy; and all copies of notices of violation, discontinuances, or removal for such time as necessary to ensure continued compliance with the provisions of this Chapter and, on request, provide information to any person having proprietary or tenancy interest in any specific property.

1110.02 Board of Zoning Adjustments and Appeals.

Subd. 1 The City Council shall act as the Board of Zoning Adjustments and Appeals.

Subd. 2 The Board of Zoning Adjustments and Appeals shall provide for a record of its proceedings, which shall include the minutes of its meetings, its findings, and the action taken on each matter heard by it, including the final order.

Subd. 3 The Board of Zoning Adjustments and Appeals shall have power and duty of hearing and deciding appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of this Chapter and to also hear and decide on requests for variances.

Subd. 4 Hearings by the Board of Adjustment and Appeals shall be held within a reasonable time and upon such notice to interested parties as is provided in this Chapter. The board shall make its order deciding the matter and shall serve a copy of such order upon the appellant or petitioner by mail. Any party may appear at the hearing in person or by agent or attorney.

Subd. 5 The Board of Adjustment and Appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination as, in its opinion, ought to be made, and to that end shall have all the powers of the officer from whom the appeal was taken, and may issue or direct the issuance of a permit. The reasons for the Board's decision shall be stated and recorded. The decision of the Board shall be final, but any person having an interest affected by such decision shall have the right to appeal to the Le Sueur County District Court regarding questions of law and fact. A majority vote of the Board of Adjustments and Appeals shall be necessary to reverse any decision of an administrative officer of the City or of the City Council, or to decide in favor of the applicant.

1110.03 Zoning Amendments.

Subd. 1 Criteria for Granting Zoning Amendments. The City Council may adopt amendments to the zoning Chapter and zoning map in relation to land uses within a particular district or to the location of a district line. Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the City as reflected in the Comprehensive Plan or changes in conditions in the City. Zoning amendments shall be made by a simple majority of the Council.

Subd. 2 Kinds of Amendments.

- A. A change in a district's boundary;
- B. A change in a district's regulations;
- C. A change in any other provision of this Chapter.

Subd. 3 Initiation of Proceedings. Proceedings for amending this Chapter shall be initiated by at least one of the following three methods:

- A. By petition of an owner or owners of property which is proposed to be rezoned, or for which district regulation changes are proposed;
- B. By recommendation of the Planning & Zoning Commission;
- C. By action of the City Council.

Subd. 4 Required Exhibits for Rezoning or District Regulation Changes Initiated by Property Owners.

- A. A preliminary building, site development plan, and boundary line survey of the property.
- B. Evidence of ownership or enforceable option on the property. Abstracter's property certificate showing property owners names and addresses within 350 feet of the outer boundaries of the property in question.
- C. A general development plan showing the potential development of the property, indicating proposed streets, buildings, drainage and landscaping. The plans shall contain sufficient information to determine whether the proposed development is in keeping with the intent and purpose of this Chapter and the Comprehensive Plan. Included shall be site plan drawn to scale, parcel and building dimensions, location of all existing and proposed buildings and their size, including square footage, curb cuts, driveways, access roads, parking spaces, off-street loading areas and sidewalks, landscaping and screening plan, including species and size of trees and shrubs; if required by the Planning & Zoning Commission, finished grading and drainage plans; identify type of business or activity, and proposed number of employees; proposed floor plan and elevations of any building use indicated; sanitary sewer and water plan with estimated daily flow rates; map showing all principal land use within 350 feet of the parcel for which application is being made, and such other information as required by the Planning & Zoning Commission.

Subd. 5 Procedure. The procedure for a property owner to initiate a rezoning or district regulation change is as follows:

- A. The property owner or his agent shall meet with the Zoning Administrator to explain his/her proposal, obtain the procedures, and an application form.
- B. The applicant shall file the completed application form together with the required exhibits with the Zoning Administrator and shall pay a filing fee as established from time to time by the City Council. All applications

for rezoning shall be received in the office of the Zoning Administrator no later than 30 days prior to the Planning & Zoning Commission meeting.

C. Upon the Zoning Administrator determining the applicant's application and exhibits are complete, the Administrator shall transmit the application and required exhibits to the Planning & Zoning Commission and shall notify by mail all property owners within 350 feet of the outer boundaries of the property in question, not less than ten (10) days and not more than thirty (30) days prior to said hearing; however, failure of any property owner to receive such notification shall not invalidate the proceedings. No written notice shall be required for City wide text changes; rezoning of City property, or City initiated property rezoning.

D. The Zoning Administrator shall set the date for a public hearing and shall have notices of such hearing published in the legal newspaper at least once, not less than ten (10) days and not more than thirty (30) days prior to said hearing. The City Council may waive the mailed notice requirements for a city-wide amendment to the zoning ordinance initiated by the Planning & Zoning Commission or City Council.

E. The Planning & Zoning Commission shall hold the public hearing and then shall make recommendation-approval, denial, or conditional approval-to the City Council.

F. The Planning & Zoning Commission shall transmit its recommendation to the City Council for its official action after holding the public hearing.

G. The City Council shall act upon the application within a timeframe in conformance to state statute. The zoning amendment shall require the affirmative vote of a majority of the members of the City Council.

H. The applicant or a duly authorized representative shall attend the public hearing held by Planning & Zoning Commission and the City Council meeting at which their application will be considered for final decision.

I. No application of a property owner for an amendment to the text of the zoning code or the zoning map shall be considered by the Planning & Zoning Commission within a one (1) year period following a denial of the request, except the Planning & Zoning Commission may permit a new application, if, in the opinion of the Planning & Zoning Commission, new evidence or a change of circumstances warrant it.

J. An amendment to this Chapter and/or the zoning map shall be construed as an amendment to the Comprehensive Plan and its map.

Subd. 6 Procedure. The procedure for the Planning & Zoning Commission to initiate an amendment including rezoning or district regulation change is as follows:

- A. The Planning & Zoning Commission shall pass a motion recommending an amendment.
- B. The Planning & Zoning Commission shall submit the proposed amendment to the City Council for review and comment.
- C. The Zoning Administrator shall set the date for the public hearing and shall have notices of the hearing published in the legal newspaper at least once, not less than ten days and not more than 30 days prior to the hearing. The City Council may waive the mailed notice requirements for a citywide amendment to the zoning code initiated by the Planning & Zoning Commission or City Council.
- D. The Planning & Zoning Commission shall hold the public hearing and then shall recommend one of the three actions: approval, denial or conditional approval.
- E. The Planning & Zoning Commission shall transmit its recommendation to the City Council for its official action within 30 days after holding the public hearing.
- F. The City Council shall act upon the application after receiving the recommendation from the Planning & Zoning Commission.

Subd. 7 Procedure. The procedure for the City Council to initiate an amendment including rezoning or district regulation change is as follows:

- A. The City Council shall pass a resolution of intent to amend the zoning code.
- B. The City Council shall submit the proposed amendment to the Planning & Zoning Commission for review and comment.
- C. The Zoning Administrator shall set the date for the public hearing and shall have notices of the hearing published in the legal newspaper at least once, not less than ten days and not more than 30 days prior to the hearing. The City Council may waive the mailed notice requirements for a citywide amendment to the zoning code initiated by the Planning & Zoning Commission or City Council.

D. The Planning & Zoning Commission shall hold the public hearing and then shall recommend one of the three actions: approval, denial or conditional approval.

E. The Planning & Zoning Commission shall transmit its recommendation to the City Council for its official action after holding the public hearing.

F. The City Council shall act upon the application after receiving the recommendation from the Planning & Zoning Commission.

Subd. 8 Public Hearing and Notices. No amendment shall be adopted until a public hearing has been held thereon by the Planning & Zoning Commission. A notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the City at least ten (10) days prior to the day of 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 the affected property and property situated wholly or partly within 350 feet of the property to which the amendment relates. For the purpose of giving mailed notice, the person responsible for mailing notice may use any appropriate records to determine the names and addresses of owners. A copy of the notice and list of the owners and addresses to which the notice was sent to shall be attested to by the responsible person and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this Section has been made.

1110.04 Conditional Use Permits. The Zoning Administrator shall maintain a record of all conditional use permits issued, including information on the use, location, and condition made by the City Council; time limits, review dates and other information as may be appropriate. The Zoning Administrator shall record a copy of every conditional use permit with the Le Sueur County Recorder's Office.

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

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

B. The use will be sufficiently compatible or separated by distance or screened from adjacent residentially zoned or used land so that existing

homes will not be depreciated in value and there will be no deterrence to development of vacant land;

C. The use shall have a structure and site of appearance that will not have an adverse effect upon adjacent residential properties;

D. The use, in the opinion of the City Council, is reasonably related to the overall needs of the City and to the existing land use;

E. The use is consistent with the purposes of the zoning ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use;

F. The use is not in conflict with the Comprehensive Plan of the City;

G. The use will not cause traffic hazard or congestion;

H. Adequate utilities, access roads, drainage and necessary facilities have been or will be provided;

I. The use will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or City;

J. The use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area;

K. The use will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the City.

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

M. The use will not result in the destruction, loss, or damage of a natural, scenic or historic feature of major importance.

Subd. 2 Additional Conditions. The City Council may consider a conditional use permit for a use which is not specifically listed in this Chapter as a conditional use within the affected District and may grant a permit provided such new use, after careful review by the Planning & Zoning Commission and the City Council, is found to otherwise meet the criteria for granting a conditional use within the affected District.

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

- A. Increasing the required lot size or yard dimension;
- B. Limiting the height, size or location of buildings;
- C. Controlling the location and number of vehicle access points;
- D. Increasing the street width;
- E. Increasing the number of required off street parking spaces;
- F. Limiting the number, size, location or lighting of signs;
- G. Requiring dikes, fencing, screening, landscaping or other facilities to protect adjacent or nearby property(s);
- H. Designation sites for open space; or
- I. Establishing a time limit for hours of operation.

Subd. 3 Required Exhibits for Conditional Use Permits.

- A. A preliminary building, site development plan, and a boundary survey of the property.
- B. Evidence of ownership or enforceable option on the property.
- C. A general development plan showing the potential development of the property, including proposed streets, buildings, landscaping and drainage. The plans shall contain sufficient information for the City Council to determine whether the proposed development is in keeping with the intent and purpose of this Chapter and the Comprehensive Plan. Information to include is a site plan drawn to scale, as well as parcel and building dimensions, location of all buildings and their size, including square footage, curb cuts, driveways, access roads, parking spaces, off-street loading areas and sidewalks, landscaping and screening plan, including species and size of trees and shrubs proposed, if required by Planning & Zoning Commission, finished graded and drainage plan, type of business or activity and proposed number of employees, proposed floor plan and

elevations of any building use indicated, sanitary sewer and water plan with estimated daily flow rates, and map showing all principal land use within 300 feet of the parcel for which application is being made, if required by Planning & Zoning Commission.

Subd. 4 Procedure. The procedure for applying for a Conditional Use Permit is as follows:

- A. The property owner or his/her agent shall meet with the Zoning Administrator to explain their proposal, learn the procedures, and obtain an application form.
- B. The applicant shall file the completed application form together with the required exhibits with the Zoning Administrator and shall pay a filing fee as established from time to time by the City Council. All applications for a conditional use permit must be received not later than 30 days prior to the Planning & Zoning Commission meeting.
- C. The Zoning Administrator shall review the submitted application and exhibits and shall make determination whether or not the application is complete and if additional materials are needed to be supplied by the applicant. If the Zoning Administrator determines the application is complete he shall transmit the application to the Planning & Zoning Commission and shall notify all property owners within 350 feet of the outer boundaries of the property in question, 10 days prior to hearing; however, failure of any property owner to receive such notification shall not invalidate the proceedings.
- D. The Zoning Administrator shall set the date for a public hearing and shall have notice of such hearing published at least once in the legal newspaper, not less than ten (10) days and not more than thirty (30) days prior to said hearing.
- E. The Planning & Zoning Commission shall hold the public hearing and then shall study the application to determine possible adverse effects of the proposed conditional use and to determine what additional requirements may be necessary to reduce such adverse effects and recommend one (1) of three (3) actions to the City Council after holding the public hearing-approval, denial, or conditional approval.
- F. The City Council shall take appropriate action on the request for a Conditional Use Permit taking into consideration the recommendations of the Planning & Zoning Commission. If it grants the Conditional Use Permit, the City Council may impose conditions it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate.

G. Revocation of Conditional Use Permits. Where a Conditional Use Permit has been issued pursuant to the provisions of this Chapter, such permit shall become null and void without further action by the Planning & Zoning Commission or the City Council unless work thereon commences within one (1) year of the date granting of such conditional use permit. The Conditional Use Permit shall not be assignable or transferable. A Conditional Use Permit shall be deemed to authorize only one particular use and shall expire if that use shall cease for more than ninety (90) consecutive days.

H. In the event that the applicant violates any of the conditions set forth in the permit, the City Council shall have the authority to revoke the conditional use permit.

I. No application of a property owner for a conditional use shall be considered by the Planning & Zoning Commission within a one (1) year period following a denial for such a request, except the Planning & Zoning Commission may permit a new application if in its opinion new evidence or a change in circumstances warrant it.

J. The applicant and/or their representative shall appear at the public hearing to present and answer questions on their proposed Conditional Use Permit.

Subd. 5 Other Conditions.

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

B. A periodic review of the use may be attached as a condition of approval of a conditional use permit. Unless otherwise stipulated, the term shall be the life of the use.

C. If the City enacts or amends official land use controls in such a way as to render a conditional use nonconforming with the official controls, the subject to section nonconforming uses, regardless of the permit which was previously issued.

D. If a use that is subject to an existing conditional use permit and is still in conformance with the provisions of this Chapter is destroyed, damaged, or otherwise altered, it may be rebuilt to the same scale, intensity, and height as existed prior to the destruction without being subject to a new

CUP application. Any increase in scale, intensity, or height shall require submittal of a new conditional use permit application.

1110.05 Variances.

Subd. 1 Record Maintenance. The Zoning Administrator shall maintain a record of all variances granted, including any restrictions and conditions made by the Board of Zoning Adjustment and Appeal and other information as may be appropriate. The Zoning Administrator shall record a copy of every variance granted with the Le Sueur County Recorder.

2. Criteria for Granting Variances. A Variance to the provision of the Zoning Chapter may be issued by the Board of Zoning Adjustment and Appeal to provide relief to the landowner in those cases where the Chapter imposes practical difficulties to the property owner in the use of their land. Practical difficulties shall be defined as in accordance with state statute. No variances shall be granted that would allow any use not allowed in the zoning district in which the subject property is located. A variance may be granted only in the event all of the following circumstances exist:

- A. The variance is in harmony with the general purposes and intent of this Chapter.
- B. The variance is consistent with the Comprehensive Plan.
- C. The applicant proposes to use the property in a reasonable manner not permitted by this Chapter, the City Code or the City Subdivision Chapter.
- D. The plight of the landowner is due to circumstances unique to the property not created by the landowner.
- E. The variance does not alter the essential character of the neighborhood or locality.

Economic conditions alone shall not be considered a practical difficulty. The Board of Adjustment may impose such conditions upon the premises benefited by a variance as may be necessary to comply with the standards established by this Chapter, or to reduce or minimize the effect of such variance upon other properties in the neighborhood, and to better carry out the intent of the variance. The condition must be directly related to and must bear a rough proportionality to the impact created by the variance. No variance shall 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 federal, state or local law.

Minnesota Statutes Sections 462.357, Subd. (6) & (6a), as amended, are incorporated into Montgomery Chapter 1105, Subd. 5 by reference. Where the language of this Chapter is inconsistent with the statutory variance requirements, the Minnesota statute shall control.

Subd. 3 Required Exhibits for Variances.

- A. A boundary survey from a Minnesota licensed land surveyor of the property and a preliminary building and site development plan.
- B. Evidence of ownership or enforceable option on the property.

Subd. 4 Procedures. The procedure for obtaining a variance from the regulations of this Chapter are as follows:

- A. The property owner or their agent shall meet with the Zoning Administrator to explain their situation, learn the procedures and obtain an application form.
- B. The applicant shall file the completed application form together with the required exhibits with the Zoning Administrator and shall pay a filing fee as established from time to time by the City Council.
- C. The Zoning Administrator shall transmit the variance application to the Planning & Zoning Commission for review and they shall make recommendation to the Board of Zoning Adjustment and Appeal. The Commission shall recommend one (1) of three (3) actions-approval, denial, or conditional approval.
- D. The Zoning Administrator shall set the date for a public hearing and shall have notice of such hearing published at least once in the legal newspaper not less than ten (10) days and not more than thirty (30) days prior to the hearing. The Zoning Administrator shall also notify by mail all property owners within three hundred fifty (350) feet of the outer boundaries of the property in question of such hearing, not less than ten (10) days and not more than thirty (30) days prior to the hearing; however, failure of any property owner to receive such notification shall not invalidate the proceedings. The hearing shall be held by the Board of Zoning Adjustment and Appeal. The applicant or his/her representative shall appear at the public hearing in order to answer questions concerning the proposed variance.
- E. No re-application by a property owner for a variance shall be submitted to the Board of Zoning Adjustment and Appeal within a one (1) year period following a denial of such a request, except the Board may permit a new application if, in the opinion of the Board, new evidence of change or circumstances warrant it.

F. A violation of any condition set forth in granting a variance shall be a violation of this Chapter and automatically terminates the variance.

G. Unless the variance is used within one (1) year after being issued, it shall become null and void.

H. Upon Council approval, all variances shall be recorded with the property at the Le Sueur County Recorder's Office.

1110.06 Mandatory Surveys.

Subd. 1 Surveys Required. Surveys are required and must be filed simultaneously with the application form for the following: all planned unit developments, variances, new commercial or industrial constructions, and new home constructions. All applications filed with the City, which require a survey, and for which a survey is not provided simultaneously with the application, shall be deemed automatically deficient and those applications are to be rejected by City staff. Any such rejection is to be done in the form required by law. The City shall not be responsible for the cost of any survey required in this Chapter.

Subd. 2 Other Surveys Required. Surveys may be required by the Planning & Zoning Commission or the City Council when said surveys are part of the City's review of any application for rezoning, a conditional use permit, or any building permit. Applicant's failure to timely provide the City with a survey required under this Chapter may result in the City Council denying the application on that ground. The City shall not be responsible for the cost of any survey required under this Subdivision.

Subd. 3 Contents of Surveys. All property surveys required under this Chapter shall be prepared by a registered land surveyor and said surveys shall show the property boundary lines, lot dimensions, lot square footage, all setbacks, buildings onsite including location and dimension of all homes, garages, accessory buildings, and other buildings on the subject property, the location of the driveway onto the property, as well as the location of any alley or street providing public access to the subject property. Surveys submitted simultaneously with applications for new building and new housing construction shall also contain full grading information, specifically setting out the current grade and the new proposed grade of the property after construction. If no grade change is proposed, then said survey must specifically state thereon that no grade change is contemplated. The survey map must consist of the pictorial map of the subject property and must contain the legal description of said property.

1110.07 Enforcement. It shall be the duty of the Zoning Administrator and Building Official to cause the provisions of this Chapter to be properly enforced through proper legal channels.

Subd. 1 Building Permit. No person shall construct, alter, wreck or move any kind of structure or building or part thereof without obtaining a building permit. Application for a building permit shall be made to the City on a form furnished by the City.

A. Survey. No person shall construct a new dwelling unit or new commercial or industrial structure on a property without submitting a certificate of survey prior to the commencement of any construction. The survey shall be approved by the Zoning Administrator, shall be in conformance with any approved grading plans for the subdivision in which the property is located, and shall comply with all provisions of this Chapter. The survey shall be prepared and signed by a surveyor licensed in the State of Minnesota, and shall include the following information: legal description, boundary lines of the property and within the property, location and elevation of proposed dwelling unit or commercial structure, proposed elevations of property, easements of record, location of wetlands, trees, all other existing and proposed conditions on the property, and any other information necessary to establish compliance with this Chapter or the availability of adequate utility capacity.

B. Site Plan. A site plan shall be submitted with all building permit applications which result in an expansion of a structure, or for construction of any accessory building. In addition, a site plan shall be required where there is a proposed change in use (i.e. from residential to commercial or industrial and vice versa). The site plan shall comply with all provisions of this Chapter, be approved by the Zoning Administrator, and for commercial and industrial projects with additions or changes in use, by the Planning Commission. The site plan shall include the following information: legal description, boundary lines of the property, lot dimensions, north arrow, the size and location of all existing structures, and the size and location of proposed structures. In the event that the Zoning Administrator cannot verify all provisions of this Chapter are being met based on the submitted site plan, the Zoning Administrator may require submittal of a certificate of survey to verify items such as setbacks.

Subd. 2 State and Federal Permits. Prior to the granting of a building permit, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits.

Subd. 3 Certificate of Occupancy. Certificate of Occupancy shall be obtained before any building erected or structurally altered is occupied or used.

A. Application for a Certificate of Occupancy for a new building or for an existing building which has been altered shall be made to the Building Official as part of the building permit application for construction or

alteration of such building. The certificate shall be issued within ten (10) days after the erection or alteration of such building or part thereof has been completed in conformity with the provisions of this Chapter.

B. Pending the issuance of such a certificate, the Zoning Administrator may direct the Building Official to issue a temporary Certificate of Occupancy for a period not exceeding six (6) months during the completion of the erection or alteration of such building. The temporary certificate shall not be construed as in any way altering the respective rights, duties or obligations of the owners or of the county relating to the use or occupancy of the premises or any other matter except under such restrictions and provisions as will adequately ensure the safety of the occupants.

C. Every Certificate of Occupancy shall state that the building or proposed use of a building or land complies with all provisions of this Chapter and other Building Codes.

D. A record of all Certificates of Occupancy shall be kept on file in the Office of the Zoning Administrator.

Subd. 4 Fees.

A. The fees for a building permit, rezoning, variance, amendment, or conditional use permit shall be established from time to time by the City Council. The City Council may review and revise the fee schedule periodically. The Zoning Administrator shall issue a building permit only after the fee has been paid and a determination has been made that the building plans, together with the application, comply with the terms of this Chapter.

B. In addition to the fees referenced above, and in the event the City incurs professional fees, either legal, engineering or professional planners, or any other cost, including, but not limited to, postage and publication expenses, the applicants may be required to reimburse the City for those fees, and the City officials may require a deposit for these fees prior to the final hearing on the application.

C. Any person filing a petition for an amendment to this Chapter, requesting a variance or a change in regulations within any zoning district shall pay the prescribed fees according to the schedule established from time to time by the City Council before any work proposed may commence. The fee is payable at the time of filing a petition and is not refundable.

D. Municipal corporations and the City of Montgomery shall be exempt from the fee requirements as prescribed by this Chapter.

Subd. 5 Zoning Compliance Review.

A. A zoning compliance review shall be required for the construction of structures which do not require building permits to determine compliance with zoning requirements such as setback, site coverage, structure height and the like. A zoning permit shall be obtained for the following:

1. Permanent fences six feet in height or less.
2. One story detached accessory structures, used as tool or storage sheds, playhouses, and similar uses, 200 square feet in building floor area or less. Such accessory buildings shall only be located in the rear yard and shall be placed such that it is a minimum of three feet (3') from any property line.
3. Signs.
4. Non-conventional temporary structures.

B. Any zoning compliance review application that fails to meet zoning requirements shall be denied by the Zoning Administrator.

Section 1115 – ZONING DISTRICTS AND DISTRICT PROVISIONS

1115.01 Zoning Districts. The zoning districts are so designed as to assist in carrying out the intents and purposes of the Comprehensive Plan which has the purpose of protecting the public health, safety, convenience and general welfare. For the purposes of this Chapter, the City of Montgomery is hereby divided into the following zoning districts.

- R-1 Single-Family Residential District
- R-2 Medium Density Residential District
- R-3 Multiple-Family Residential District
- R-A Residence Agricultural District
- R-MH Residential Manufactured Home Park District
- B-1 Highway Commercial District
- B-2 Community Commercial District
- B-3 Central Business District
- I-1 Light Industrial District
- I-2 Medium Industrial
- PUD Planned Unit Development

Subd. 1 Annexation. Any land annexed into the City shall be placed in the appropriate zoning district by action of the City Council upon recommendation of the Planning & Zoning Commission.

Subd. 2 Right-of-Way Vacations. Whenever any street, alley, or other public way is vacated by official action of the City Council, the zoning district adjoining each side of the street, alley or public way shall be automatically extended to the center of such vacation. All area included in the vacation shall be subject to all appropriate regulations of the extended vacation.

1115.02 R-1, Single Family Residential District.

Subd. 1 Purpose. This district is intended for detached single family, low density development in developed and developing areas of the community that are predominantly residential in character.

Subd. 2 Permitted Uses.

- A. Single family residences
- B. Essential services
- C. Home occupations if all criteria are met in accordance with Section 1120.12
- D. Day care facilities, in-home
- E. Any park or playground and associated accessory structures owned or operated by a governmental agency

F. Public buildings and facilities

G. As required by Minnesota Statutes, Section 462.357, Subd. 7, as it may be amended from time to time, a state licensed residential facility or a housing with services establishment registered under Minnesota Statutes, Chapter 144D, as it may be amended from time to time, serving six or fewer persons, a licensed day care facility serving 12 or fewer persons, and a group family day care facility licensed under Minn. Rules, parts 9502.0315 to 9502.0445, as it may be amended from time to time, to serve 14 or fewer children, except that a residential facility whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use.

H. Housing for designated predatory offender provided the following mandatory conditions are met:

1. The residential structure is not within 1,000 feet of the following facilities:

- a. a public or private school
- b. a licensed day care facility
- c. a public park or playground
- d. a public library
- e. athletic fields and facilities
- f. public golf courses

Subd. 3 Permitted Accessory Uses.

A. Accessory buildings

B. Fences

C. Residential recreation equipment

D. Off-street parking serving the property, but not including the storage of vehicles, which are inoperable or not licensed for sale or rent

E. Nameplate and temporary signs

F. Gardening, where no sale of products is conducted

G. Landscape features

H. Private swimming pools

I. Gazebos and screened porches

J. Yard/garage sales, provided that each sales event runs from Thursday at 8:00 a.m. to the following Sunday at 8:00 p.m. and there are no more than four sales per calendar year

K. Temporary buildings located for the purpose of construction on the premises for a period not to exceed the time necessary for such construction and as long as there is an open building permit for such construction

L. Renters/tenants, a maximum of two per dwelling unit

M. Satellite dishes and solar collectors

Subd. 4 Conditional Uses.

- A. Educational buildings and uses including primary and secondary public and private schools and institutions for higher education
- B. Bed and breakfast homes
- C. Public pools, golf courses, and community centers
- D. Religious uses including churches and synagogues, provided:
 - 1. Direct access is limited to a collector or arterial roadway, or otherwise located so that access can be provided without conducting significant traffic on local residential streets;
 - 2. Buildings are set back 50 feet from all property lines;
 - 3. No more than 70% of the site to be covered with impervious surface and the remainder of the site is suitably landscaped;
 - 4. Adequate off-street parking is provided in accordance with the Off-Street Parking Section of this Chapter;
 - 5. Parking area and waste management areas shall be screened from offsite views;
 - 6. No outside storage shall be allowed; and
 - 7. The project shall not result in significant levels of noise, air, or other pollution, and shall also meet the required performance standards set out in this Chapter.
- E. Public utilities such as water and waste water treatment facilities
- F. Nursing homes and assisted living facilities, provided:
 - 1. Direct access is limited to a collector or arterial roadway, or otherwise located so that access can be provided without conducting significant traffic on local residential streets;
 - 2. Buildings are set back 50 feet from all property lines;
 - 3. No more than 70% of the site to be covered with impervious surface and the remainder of the site is suitably landscaped;
 - 4. Adequate off-street parking is provided in accordance with the Off-Street Parking Section of this Chapter;
 - 5. Parking area and waste management areas shall be screened from offsite views;
 - 6. No outside storage shall be allowed; and
 - 7. The project shall not result in significant levels of noise, air, or other pollution, and shall also meet the required performance standards set out in this Chapter.
- G. Any house or other principal structure moved onto a lot, provided the requirements of this Chapter are met
- H. State licensed residential facilities serving from 7 through 16 persons or a licensed day care facility serving from 13 through 16 persons
- I. Single family attached/duplex units
- J. Cemeteries
- K. Funeral homes
- L. Residential Planned Unit Developments

M. Manufactured Home Park provided the standards of Chapter 11, Section 1115.055 of the City Code related to Manufactured Home Parks are achieved

N. Golf Courses

Subd. 5 Minimum Lot Requirements and Setbacks.

- A. Single family residence minimum lot area: 8,000 sq. ft.
- B. Two family residence minimum lot area: 10,000 sq. ft.
- C. Single family residence minimum lot width: 80 feet
- D. Two family residence minimum lot width: 100 feet
- E. Minimum front yard setback: 25 feet
- F. Minimum side yard setback: 7 feet
- G. Minimum rear yard setback: 30 feet or 25% of lot depth
whichever is less for principal structures; five (5) feet for accessory structures on an alley shall be set back a minimum of ten (10) feet with a minimum of a ten (10) foot parking area for garage entries accessed from the alley.
- H. Maximum building height: 35 feet principal structures; 20 feet accessory structures
- I. Maximum lot coverage: 50 percent
- J. The depth of the front yard of a lot shall be 25 feet deep unless the average depth of at least two existing front yards, for buildings within 150 feet along the same block front of the lot in question, are less or greater than 25 feet, then the required front yards shall be the average depth of such existing front yards. However, the depth of a front yard shall not be less than 20 feet or be required to exceed 25 feet.
- K. All dwellings must be at least 22 feet in width and attached to a permanent foundation.
- L. A single-family house which legally existed or for which a valid building permit had been granted on or before the effective date of this Section, may be expanded by an addition, provided the addition does not extend into the existing side yard, and provided the combined width of the side yard for the building and the adjacent building is not less than 10 feet and the existing side yard setback is at least 5 feet.

Subd. 6 Parking and Garage. Each dwelling unit shall have a minimum of two off-street parking spaces. A minimum of a one-car garage, expandable to a two-car garage, while meeting required yard requirements, is required at the time of constructing the dwelling.

Subd. 7 Rental property shall at all times be subject to and in compliance with the City's Rental Code.

1115.03 R-2, Medium Density Residential District.

Subd. 1 Purpose. This district is intended for single family, attached unit residences for a greater variety of housing types in medium density areas.

Subd. 2 Permitted Uses.

- A. Single family detached residences
- B. Two through four unit residences
- C. Essential services
- D. Home occupations if all criteria are met in accordance with Section 1120
- E. Licensed day-care facility for 12 or fewer persons
- F. Licensed in-home residential care for 6 or fewer persons
- G. Any park or playground and associated accessory structures owned or operated by a governmental agency
- H. Public buildings and facilities
- I. As required by Minnesota Statutes, Section 462.357, Subd. 7, as it may be amended from time to time, a state licensed residential facility or a housing with services establishment registered under Minnesota Statutes, Chapter 144D, as it may be amended from time to time, serving six or fewer persons, a licensed day care facility serving 12 or fewer persons, and a group family day care facility licensed under Minn. Rules, parts 9502.0315 to 9502.0445, as it may be amended from time to time, to serve 14 or fewer children, except that a residential facility whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use.

Subd. 3 Permitted Accessory Uses.

- A. Accessory buildings
- B. Fences
- C. Residential recreation equipment
- D. Off-street parking serving the property, but not including the storage of vehicles which are inoperable or not licensed for sale or rent
- E. Nameplate and temporary signs
- F. Gardening or other horticultural use where no sale of products is conducted on site
- G. Landscape features
- H. Gazebos and screened porches
- I. Private swimming pools
- J. Renters/tenants, a maximum of two per dwelling unit
- K. Satellite dishes and solar collectors
- L. Yard/garage sales, provided that each sales event runs from Thursday at 8:00 a.m. to the following Sunday at 8:00 p.m. and there are no more than four sales per calendar year

M. Temporary buildings located for the purpose of construction on the premises for a period not to exceed the time necessary for such construction and as long as there is an open building permit for such construction

Subd. 4 Conditional Uses.

A. Educational buildings and uses including primary and secondary public and private schools and institutions for higher education

B. Public pools, golf courses, and community centers

C. Religious uses including churches and synagogues, provided:

1. Direct access is limited to a collector or arterial roadway, or otherwise located so that access can be provided without conducting significant traffic on local residential streets;
2. Buildings are set back 50 feet from all property lines;
3. No more than 70% of the site to be covered with impervious surface and the remainder of the site is suitably landscaped;
4. Adequate off-street parking is provided in accordance with the Off-Street Parking Section of this Chapter;
5. Parking area and waste management areas shall be screened from offsite views;
6. No outside storage shall be allowed; and
7. The project shall not result in significant levels of noise, air, or other pollution, and shall also meet the required performance standards set out in this Chapter.

D. Hospitals, medical centers, and clinics, provided:

1. Direct access is limited to a collector or arterial roadway, or otherwise located so that access can be provided without conducting significant traffic on local residential streets;
2. Buildings are set back 50 feet from all property lines;
3. No more than 70% of the site to be covered with impervious surface and the remainder of the site is suitably landscaped;
4. Adequate off-street parking is provided in accordance with the Off-Street Parking Section of this Chapter;
5. Parking area and waste management areas shall be screened from offsite views;
6. No outside storage shall be allowed; and
7. The project shall not result in significant levels of noise, air, or other pollution, and shall also meet the required performance standards set out in this Chapter.

E. Public utilities such as water and waste water treatment facilities

F. Nursing homes and assisted living facilities, provided:

1. Direct access is limited to a collector or arterial roadway, or otherwise located so that access can be provided without conducting significant traffic on local residential streets;
2. Buildings are set back 50 feet from all property lines;

3. No more than 70% of the site to be covered with impervious surface and the remainder of the site is suitably landscaped;
 4. Adequate off-street parking is provided in accordance with the Off-Street Parking Section of this Chapter;
 5. Parking area and waste management areas shall be screened from offsite views;
 6. No outside storage shall be allowed; and
 7. The project shall not result in significant levels of noise, air, or other pollution, and shall also meet the required performance standards set out in this Chapter.
- G. Bed and breakfast homes, if lot size is 9,000 square feet or larger
- H. Any house or other principal structure moved onto a lot, provided the requirements of this Chapter are met
- I. Cemeteries
- J. Funeral homes
- K. Residential planned unit developments
- L. Manufactured home parks provided the requirements of Section 1115.055 are met
- M. State licensed residential facilities serving from 7 through 16 persons or a licensed day care facility serving from 13 through 16 persons

Subd. 5 Minimum Lot Standards and Setbacks.

- A. Minimum lot area:
1. Single family detached: 8,000 sq. ft.
 2. Single family attached/duplex: 10,000 sq. ft. per dwelling unit
 3. Two through four unit buildings: 3,000 sq. ft. per dwelling unit
- B. Minimum lot width: 100 feet for single family attached/duplex; plus 20' for each additional unit over two. 80 feet for single family detached
- C. Minimum front yard setback: 25 feet
- D. Minimum side yard setback: 10 feet for single family attached/duplex
7 feet for single family detached
25 feet for corner lots (side abutting street)
- E. Minimum rear yard setback: 30 feet for principal structures; five (5) feet for accessory structures, except that accessory structures on an alley shall be set back a minimum of ten (10) feet with a minimum of a ten (10) foot parking area for garage entries accessed from the alley.

- F. Maximum height: 40 feet, accessory structures: 20 feet
- G. Maximum lot coverage: 50 percent
- H. Minimum floor area per dwelling unit: 960 sq. ft. for single family detached
800 sq. ft. for single family attached/duplex
- I. Useable open space per dwelling unit (2 or more unit buildings): 400 sq. ft.
- J. The depth of the front yard of a lot shall be 25 feet deep unless the average depth of at least two existing front yards, for buildings within 150 feet along the same block front of the lot in question, are less or greater than 25 feet, then the required front yards shall be the average depth of such existing front yards. However, the depth of a front yard shall not be less than 20 feet or be required to exceed 25 feet.
- K. All dwellings must be a minimum of 20 feet wide and attached to a permanent foundation.
- L. A single-family house which legally existed or for which a valid building permit had been granted on or before the effective date of this Section may be expanded by an addition, provided the addition does not extend into the existing side yard, and provided the combined width of the side yard for the building and the adjacent building is not less than 10 feet and the existing side yard setback is at least 5 feet.

Subd. 6 Parking and Garage. Each dwelling unit shall have a minimum of two off-street parking spaces. A minimum of a one-car garage, expandable to a two-car garage, while meeting required yard requirements is required at the time of constructing the dwelling.

Subd. 7 Rental Property. Rental property shall at all times be subject to and in compliance with the City's Rental Code.

1115.04 R-3, High Density Residential District.

Subd. 1 Purpose. This district is created to provide for areas that are equipped with sufficient capacity of utilities to support higher densities and thereby allowing for a variety of housing types in greater densities up to 20 units per acre.

Subd. 2 Permitted Uses.

- A. Single family residences
- B. Two family residences
- C. Townhouses and multi-family units
- D. Essential services
- E. Accessory uses
- F. Apartments

- G. Any park or playground and associated accessory structures owned or operated by a governmental agency
- H. Public buildings and facilities
- I. Home occupations if all criteria are met in accordance with Section 1120
- J. A state licensed residential facility or a housing with services establishment registered under Chapter 144D serving six or fewer persons, a licensed day care facility serving 12 or fewer persons, and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve 14 or fewer children, except that a residential facility whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use

Subd. 3 Permitted Accessory Uses.

- A. Accessory buildings
- B. Fences
- C. Residential recreation equipment
- D. Off-street parking serving the property
- E. Nameplate and temporary signs
- F. Gardening or other horticulture, where no sale of products is conducted
- G. Landscape features
- H. Private swimming pools
- I. Gazebos and screened porches
- J. Satellite dishes and solar collectors
- K. Temporary buildings located for the purpose of construction on the premises for a period not to exceed the time necessary for the construction and as long as there is an open building permit for such construction

Subd. 4 Conditional Uses.

- A. Manufactured/modular home parks, provided the requirements of Section 1115.055 are met
- B. Educational buildings and uses including primary and secondary public and private schools and institutions for higher education
- C. Public pools, golf courses, and community centers
- D. Religious uses including churches and synagogues
- E. Hospitals and medical centers, provided:
 - 1. Direct access is limited to a collector or arterial roadway, or otherwise located so that access can be provided without conducting significant traffic on local residential streets;
 - 2. Buildings are set back 50 feet from all property lines;

3. No more than 70% of the site to be covered with impervious surface and the remainder of the site is suitably landscaped;
 4. Adequate off-street parking is provided in accordance with the Off-Street Parking Section of this Chapter;
 5. Parking area and waste management areas shall be screened from offsite views;
 6. No outside storage shall be allowed; and
 7. The project shall not result in significant levels of noise, air, or other pollution, and shall also meet the required performance standards set out in this Chapter.
- F. Public utilities such as water and waste water treatment facilities
- G. Nursing homes and assisted living facilities, provided:
1. Direct access is limited to a collector or arterial roadway, or otherwise located so that access can be provided without conducting significant traffic on local residential streets;
 2. Buildings are set back 50 feet from all property lines;
 3. No more than 70% of the site to be covered with impervious surface and the remainder of the site is suitably landscaped;
 4. Adequate off-street parking is provided in accordance with the Off-Street Parking Section of this Chapter;
 5. Parking area and waste management areas shall be screened from offsite views;
 6. No outside storage shall be allowed; and
 7. The project shall not result in significant levels of noise, air, or other pollution, and shall also meet the required performance standards set out in this Chapter.
- H. Bed and breakfast inns
- I. Any house or other principal structure moved onto a lot, provided the requirements of this Chapter are met
- J. Residential planned unit developments
- K. State licensed residential facilities serving from 7 through 16 persons or a licensed day care facility serving from 13 through 16 persons

Subd. 5 Minimum Lot Requirements and Setbacks.

- | | |
|--------------------------------|---|
| A. Minimum lot area: | 1,400 sq. ft. of lot area per dwelling unit for multi unit buildings
8,000 sq. ft. per unit for single and two family dwelling units |
| B. Minimum lot width: | 100 feet for multi unit buildings
80 feet for single family dwelling units |
| C. Minimum front yard setback: | 25 feet |

- D. Minimum side yard setback: 20 feet, plus ½ foot additional setback for every 1 foot of structure height in excess of 20 feet for multi-unit buildings
- 7 feet for single family dwelling units
10 feet for single-family attached/duplex units
- E. Minimum rear yard setback: 30 feet for principal structures; 5 feet for accessory structures except that accessory structures on an alley shall be set back a minimum of ten (10) feet with a minimum of a 10 foot parking area for garage entries accessed from the alley.
- F. Maximum height: 45 feet principal structure, 20 feet for an accessory structure
- G. Maximum lot coverage: 50 percent
- H. Minimum floor area (2 or more unit buildings):
1. Efficiency unit: 400 sq. ft.
 2. One bedroom apartment: 600 sq. ft.
 3. Two bedroom units: 750 sq. ft.
 4. Three bedroom units: 950 sq. ft.
- I. Useable open space per dwelling unit (2 or more unit buildings):
1. 400 sq. ft.

Subd. 6 Rental Property. Rental property shall at all times be subject to and in compliance with the City's Rental Code.

1115.05 R-A, Residence Agricultural.

Subd. 1 Purpose. The R-A district is designed to provide for a large lot rural residential lifestyle, which is separate from and not in conflict with commercial agricultural activities. Within these districts, public sewer and water systems are not available and will require on-site facilities until such time public sewer and other utilities are available.

Subd. 2 Intent. To implement the City's growth management strategy by prohibiting premature urban development within portions of the City's future land use area, while still allowing reasonable interim uses of these properties. Land within the Residence Agricultural District is intended to be preserved in current uses/densities until capital funds for the extension of urban facilities and services are committed in either an adopted capital improvement plan or as a result of a petition for extension of urban services. This implements the City's growth management goals and objectives by protecting these areas against interim subdivision that will hinder future urban development and the provision of adequate streets, water, sanitary sewer and other urban services in a cost-effective and efficient manner.

Subd. 3 Permitted Uses.

- A. Agricultural uses limited to the raising of crops and forestry limited to un-platted or outlotted property
- B. A state licensed residential facility or a housing with services establishment registered under Chapter 144D serving six or fewer persons, a licensed day care facility serving 12 or fewer persons, and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve 14 or fewer children, except that a residential facility whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use
- C. Public parks and playgrounds
- D. Public and semi-public buildings
- E. Single-family detached dwellings
- F. Essential services

Subd. 4 Permitted Accessory Uses.

- A. Accessory structures, and private garages, and farm buildings with or without a primary structure
- B. Fences
- C. Gardening and other horticultural use where no sale of products is conducted on the site
- D. Gazebos and screened porches
- E. Home occupations if all criteria are met in accordance with Section 1120
- F. Landscaping and decorative features
- G. Off-street parking
- H. Private play equipment
- I. Private swimming pool
- J. Renters/tenants a maximum of two per dwelling unit
- K. Satellite dishes and solar collectors
- L. Temporary buildings located for the purpose of construction on the premises for a period not to exceed the time necessary for construction and as long as an open building permit exists
- M. Yard sales, provided that each sales event runs from Thursday at 8:00 a.m. to the following Sunday at 8:00 p.m. and there are no more than four sales per year

Subd. 5 Conditional Uses.

- A. Cemeteries
- B. Churches or places of worship
- C. Educational institutions or facilities

- D. Outside commercial recreation such as golf (with clubhouse), miniature golf, tennis, and non-motorized cycling
- E. Public utility structures not intended for human occupation which occupy an area of more than 500 square feet, or which exceed the height of the highest building on an adjoining lot, or which has an average grade to peak height of 17 feet

Subd. 6 Minimum Lot Requirements and Setbacks.

A. Rezoning, subdividing, or re-subdivision of property for the purpose of expanding existing uses or developing new uses shall be prohibited, except that a one-time split of an existing parcel of record as of the adoption of this Section which results in no more than two (2) lots each being not less than five (5) acres may be allowed provided: soil and water conditions allow a well and an onsite sewer system and access is allowed from an existing public road. Approval of such lot split shall be contingent upon no further division of the parcels resulting from said split. The lot shall be approved by the City and filed with each resulting property at the Le Sueur County Recorder's office

B. Minimum lot area:

1. Parcels created after adoption of this Section: Forty (40) acres, except as provided in Subd. 6(A) of this Section
2. Lots of record existing prior to adoption of this Section: 1.5 acres

C. Minimum floor area/dwelling unit: 960 square feet

D. Maximum accessory structure size: 2,500 square feet

E. Minimum lot frontage: 25 feet

F. Minimum lot depth: 150 feet

G. Maximum lot coverage: 30 percent

H. Maximum height: principal: 40 feet, accessory: 20 feet

I. Minimum front setback: 50 feet

J. Minimum rear setback: 10 feet

K. Minimum side yard setback: 25 feet

L. Rental property shall at all times be subject to and in compliance with the City's Rental Code.

1115.055 R-MH Residential Manufactured Home Park District.

Subd. 1 Purpose. This district is established to allow manufactured home parks in a specified area of the City. Manufactured home parks shall provide ingress and egress roadways, storm shelters, open space for playgrounds, recreation and park purposes and necessary sewer, water, electricity, and refuse services. All new manufactured home parks shall conform to the provisions set forth in the City Code relating to manufactured home parks.

Subd. 2 Permitted Uses. No structure or land shall be used except for one or more of the following uses, as such uses are defined, and in accordance with the design and performance standards:

- A. Manufactured homes, detached, single family dwellings;
- B. Public parks; or
- C. A state licensed residential facility or a housing with services establishment registered under Chapter 144D serving six or fewer persons, a licensed day care facility serving 12 or fewer persons, and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve 14 or fewer children, except that a residential facility whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use.

Subd. 3 Conditional Uses. No structure or land shall be used, except by conditional use permit, for any of the following uses as such are defined, and in accordance with the required lot provisions, design and performance standards, and conditions set by the City Council:

- A. None at this time.

Subd. 4 Permitted Accessory Uses. The following uses are permitted accessory uses, as such uses are defined, and in accordance with the required lot provisions and design standards:

- A. Private garage or parking space;
- B. Off-street parking lot;
- C. Storm shelter;
- D. Open space for playgrounds, recreation and park purposes;
- E. Fence;
- F. Decorative landscape features, i.e., statues, rocks, reflecting ponds, benches, arbors, terraces and patios;
- G. Home occupation, if all criteria are met in accordance with Section 1120.12;
- H. Sign;
- I. Day nursery or day care or group day care;
- J. Storage buildings, screen houses and recreational buildings;
- K. Satellite dishes and antennae; or
- L. Solar collection device.

Subd. 5 Lot Requirements and Manufactured Home Minimum Requirements.

- A. Total land area required: minimum total park area shall be ten (10) acres, 250 feet in width;

- B. Minimum lot size, yards and setbacks per homesite:
1. Lot size: each manufactured homesite shall contain at least 5,000 square feet of land area for the exclusive use of the occupant
 2. Lot depth: 100 feet
 3. Lot width: 50 feet
 4. Front yard setback: 25 feet
 5. Rear yard setback: 10 feet
 6. Side yard setback: 5 feet
 7. Maximum area occupied by a manufactured home shall not exceed 40% of the total area of the manufactured homesite.
- C. Manufactured homes shall be placed upon manufactured home lots so that there shall be at least a twenty (20) foot clearance between manufactured homes and twenty-five (25) feet between the front of the manufactured home and the front lot line and twenty (20) feet between the rear of the manufactured home and the rear lot line.
- D. All structures shall require a building permit.
- E. All manufactured homes installed by a manufactured home park shall be placed upon stands approved by the City and properly anchored to the ground. The anchoring system shall be installed in conformance with applicable sections of the State Building Code.
- F. Each manufactured home unit shall be skirted at its base with a durable material that compliments and is comparable to the exterior design of the unit.
- G. All yards shall be landscaped except for necessary driveway and sidewalk needs which shall not exceed $\frac{1}{2}$ the width of the site.
- H. Each manufactured home lot shall have off-street parking space for at least two (2) vehicles, as required in the Off-Street Parking Section 1120 of this Chapter.
- I. Each site shall be numbered.
- J. Each manufactured home lot shall be so designed that automobiles may not be parked within five (5) feet of the front of the manufactured home. Parking of vehicles on the side or rear portions of an individual lot(s) is prohibited.
- K. All buildings or portions thereof which are determined to be substandard as defined by the Building Inspector are declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified by the Building Inspector.
- L. Manufactured homes that are rented shall at all times be subject to and in compliance with the City's Residential Rental Code.
- M. Manufactured homes may be subject to additional requirements contained in this code including, but not limited to the sections governing parking, home occupations, floodplain, and signs.
- N. Manufactured homes shall meet all the following minimum standards:
1. Exceed twenty-four (24) feet in width

2. Have a minimum floor area of eight hundred (800) square feet
3. The dwelling shall be placed on a permanent foundation
4. All other requirements of federal, state, and local law are satisfied.

Subd. 6 Permit Required. No person shall attempt to develop or operate a manufactured home park within the City without obtaining primary and subsequent renewal license(s) from the Minnesota Department of Health and a permit from the City of Montgomery. The requirements of a permit shall prevail over all other standards and requirements notwithstanding the more restrictive subdivisions of this Chapter. A permit for a manufactured home park may contain other requirements beyond those mentioned in this Subdivision.

Subd. 7 Required Application Materials. The applicant for a permit, in addition to other requirements, shall include the name and address of the Developer and a general description of the construction schedule and construction cost. The application for a permit shall be accompanied by ten (10) copies of plans that indicate the following:

- A. Location and site of the manufactured home park;
- B. Location, size and character of all manufactured home lots, manufactured home stands (i.e. what structure is to be placed on), storage areas, recreational areas, pedestrian walkways/pathways, central refuse disposal, roadways, parking spaces and sites, proposed vegetation, proposed screening and all setback dimensions;
- C. Detailed landscaping plans and specifications;
- D. Location and width of sidewalks/pathways;
- E. Plans for sanitary sewage disposal, surface drainage, water supply, electrical service, telephone service and gas service;
- F. Plans for an overhead street lighting system shall be submitted for approval by the City Engineer;
- G. Plans for drainage, including each lot and the entire manufactured home park, shall be submitted for approval by the City Engineer;
- H. The proposed method of disposing of garbage and refuse shall be identified and described;
- I. Location and size of all streets abutting the manufactured home park, and all driveways from such streets to the park. Access to the manufactured home park must be provided from a public street;
- J. Plans and specifications for all road construction either within the manufactured home park or directly related to park operation;
- K. Floor plans of all service buildings to be constructed within the manufactured home park;
- L. Such other information as may be required or requested by the community;
- M. Detailed description of maintenance procedures and grounds supervision, including but not limited to, lawn maintenance, snow removal

and garbage collection and removal. The proposed procedures shall be as restrictive as those of the City;

N. An acknowledgement wherein the owner of the park grants the City access to the public areas of the park for purposes including, but not limited to, fire protection, emergency assistance and routine patrol/police actions;

O. Plans and specifications for severe weather shelters that shall be designed in accordance with state laws.

Subd. 8 Performance Standards for Manufactured Home Parks.

A. Common Themes Desired. Distinctive design elements and/or themes common throughout the manufactured home park are strongly encouraged;

B. City Water and Sewer Connections. All manufactured homes shall be properly connected to the municipal water supply and the municipal sanitary sewer system. All water and sewer systems shall be constructed in accordance with plans and specifications approved by the Planning Commission and City Council;

C. Ingress/Egress Points. The City shall determine/approve ingress and egress (including the number of ingress/egress points) to manufactured home parks. Access from a roadway supervised by another political subdivision shall be approved in writing by the applicable political subdivision. Said ingress and egress to manufactured home parks shall be designed to minimize congestion and hazards and allow free movement of traffic on adjacent streets. Distinctive design elements/themes are strongly encouraged for manufactured park entrances;

D. Internal Streets and Alleys. All internal streets and alleys shall be of adequate width to accommodate anticipated traffic, and in any case shall meet the following minimum requirements:

1. All internal streets shall be a minimum of 24 feet in width from face-of-curb to face-of-curb with no parking signs posted by the manufactured park owner;
2. All streets shall be provided with a paved concrete or bituminous surface. Pavement edges shall be protected to prevent raveling of the wearing surface and shifting of the pavement base as required by the City;
3. Street surfaces shall be maintained, free of cracks, holes and other hazards;
4. Maximum speed limits within the park shall not exceed ten (10) miles per hour;
5. No parking shall be allowed on internal streets;
6. Dead-end streets shall be prohibited, except cul-de-sacs;
7. All streets shall be posted with no parking signs.

E. Open Space Required. A minimum of 500 square feet per manufactured home lot shall be provided for definable play areas with playground facilities/features and open space within the manufactured

home park. Such areas of open space and/or play area shall not be areas included within any setback nor shall they include any areas of less than 20 feet in length or width. Open space areas are subject to approval by the City. The City may reduce the play area square footage requirement by a maximum of thirty (30) percent of the total square feet required, if the Park Owner/Developer installs trail facilities within the manufactured home park;

F. Off-Street Overload Parking Required. Each manufactured home park shall maintain off-street overload parking lot for guests of occupants in the amount of one (1) space for each three (3) sites. Overload parking lots shall be located within three-hundred (300) feet of the unit(s) to be served and in compliance with the parking lot standards contained in Section 1120;

G. Patio Required. Each manufactured home lot shall have a four-inch thick concrete patio with a minimum total square footage of 150 feet shall be required. All sides of the patio shall be at least nine (9) feet in length;

H. Pedestrian Access Required. All parks shall be provided with safe convenient all-season pedestrian access of adequate width for intended use, durable and convenient to maintain, between individual manufactured home, the park streets and all community facilities provided for park residents. A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of 4 ½ feet and shall be located on at least one side of the street. All manufactured homes shall be connected to common walks, to paved streets, or to paved driveways or parking spaces connecting to a paved street. Such individual walks shall have a minimum width of two (2) feet. Common walkways shall connect to municipal trails where feasible;

I. Tree Planting Required. A minimum of one tree per lot shall be required. In open area and park area, a minimum of twenty trees per acre is required. Tree varieties shall be native to the Montgomery area. Trees shall be bound and burlapped with a minimum trunk diameter of two (2) inches. Tree varieties and sizes proposed are subject to approval by the City;

J. Storm Shelter Plan Required. All manufactured home parks shall provide a storm shelter in the manufactured home park. The shelter must be available to all residents of the park at any time of the day or night. The shelter is subject to issuance of a building permit and all standards contained in the building code;

K. Lot Corners Marked. The corners of each manufactured home lot shall be clearly marked;

L. Utilities to be Buried. All utilities, such as sewer, water, fuel, electric, telephone and television antenna lead-ins, shall be buried to a depth specified by the City Engineer, and there shall be no overhead wires or support poles except those essential for street or other lighting purposes;

M. Screening Required. All manufactured home parks shall be completely screened along all manufactured home park property boundary lines separating the park from adjacent properties and/or right-of-ways by a complete perimeter fence consisting of wood, brick or stone and/or natural growth screening. Such fencing and/or screening shall be maintained in excellent condition at all times and in all other respects comply with the standards applicable to fencing and/or screening set forth within this Section;

N. Landscaping. A properly landscaped area shall be adequately maintained around all public areas, adjacent to all roadways and on each manufactured home lot;

O. Condition of Structures. Every structure in the manufactured home park shall be developed and maintained in a safe, approved and substantial manner. The exterior of every such structure shall be kept in good repair. All of said structures must be constructed to meet existing city codes, state and federal laws;

P. Log of Homeowners and Occupants to be Kept. It shall be the duty of the operator of the manufactured housing park to keep a record of all homeowners and occupants located within the park. The park operator shall keep the record available for inspection at all times by authorized City officials and other public officials whose duty necessitates acquisition of the information contained in the record. The record shall not be destroyed until a period of three years following the date of departure of the registrant from the park. The record shall contain:

1. The name and address of each unit occupant;
2. The name and address of the owner of each unit;
3. The make, model and year of the unit;
4. The date of arrival and departure of each unit.

Q. Caretaker. The operator of any manufactured housing park or a duly authorized attendant and/or caretaker shall be responsible at all times for keeping the park, its facilities and equipment in a clean, orderly, operable and sanitary condition. An authorized attendant or caretaker shall remain within twenty-five (25) miles of the manufactured home park at all times and shall be answerable, along with said operator, for the violation of any provisions of these regulations to which said operator is subject;

R. Accessory Structure-Rules. All provisions of this Section relative accessory structures and outdoor storage shall be adhered to at all times;

S. Subject to Additional Rules. Manufactured home parks may be subject to additional requirements contained in this Chapter including, but not limited to, the sections governing parking, home occupations, flood plain/shoreland, signs, and noise.

Subd. 9 Exceptions. Manufactured home parks constructed prior to 2015, that when constructed, complied with density, lot-size and manufactured home setback requirements, shall be excluded from density, lot-size and setback

requirements contained herein. However, expansions of manufactured home parks shall be subject to and comply with all requirements of this Chapter.

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1115.06 B-1, Community Commercial District.

Subd. 1 Purpose. The B-1 Community Commercial District is intended for commercial activities which may be incompatible with uses in other business districts by reason of traffic considerations, marketing characteristics, area requirements and are generally more compatible with residential neighborhoods. This district could be seen as a transitional or buffer district between residential and commercial uses.

Subd. 2 Special Requirements. Approval of building permits (in the case of new construction) or expansion of certificates of occupancy (in the case of existing facilities) for improvements within the B-1 District shall require submission to the Planning & Zoning Commission of complete building plans, including landscape designs for any side or rear yard fencing abutting residential properties. This requirement is for commercial uses only in the B-1 District. The Planning & Zoning Commission shall review and approve the plans before a building permit and certificate of occupancy may be issued. The landscape design must identify and size all plants and screenings. Within 60 days of submission of such plans and designs, the Planning & Zoning Commission shall recommend approval or denial of such plans and designs to the City Council, which shall make a final determination as to approval or denial.

Subd. 3 Permitted Uses.

- A. Essential services
- B. Public utilities
- C. Churches and places of worship provided off-street parking is provided as required in Section 1120.12
- D. Any park or playground and associated accessory structures owned or operated by a governmental agency
- E. Business and commercial establishments including:
 - 1. Banks, finance, insurance, real estate and tax services
 - 2. Retail and service establishments, including but not limited to:
 - a. antique and gift shops
 - b. automobile, motorcycle, recreational vehicle parts, and accessories (without service)
 - c. bicycle sales, parts, and accessories
 - d. book stores
 - e. electronic stores
 - f. clothing stores
 - g. household furnishings stores
 - h. grocery stores
 - i. hardware stores
 - j. interior decorating, floor covering, paint, wallpaper, and window treatment stores

- k. meat markets and locker shops
- l. pharmacies
- m. liquor stores
- n. office supply stores
- o. pet stores
- p. variety stores

F. Drinking and eating establishments without outdoor seating areas, including, but not limited to:

- 1. Restaurants
- 2. Bakeries
- 3. Catering establishments
- 4. Brewery, micro-distillery, micro-winery, or tap room

G. Personal services, including, but not limited to:

- 1. Salons, spas, barbershops
- 2. Beauty shops, barber shops, funeral homes
- 3. Laundromats and dry cleaners
- 4. Employment agencies
- 5. Photography studios
- 6. Printing and publishing shops
- 7. Seamstress or tailor shops
- 8. Shoe repair shops
- 9. Travel agencies

H. Professional services and offices, including, but not limited to:

- 1. Medical, dental, chiropractic, or optometry offices or clinics
- 2. Legal services
- 3. Accounting
- 4. Insurance
- 5. Real estate
- 6. Lessons for music, dance, martial arts and business vocation
- 7. Massage, aroma therapy, acupuncture, and veterinarian clinics

I. Service and repair services, where all work is conducted indoors, including:

- 1. Bicycle stores
- 2. Electronic stores
- 3. Jewelry and watch stores
- 4. Appliance stores

J. Entertainment and amusement services, including:

- 1. Theatres
- 2. Recreation halls
- 3. Bowling alleys
- 4. Fitness centers and gyms

K. Public and semi-public business uses, such as:

- 1. U.S. postal service
- 2. Government offices
- 3. Library

L. Private clubs and lodge halls

M. Funeral home

Subd. 4 Permitted Accessory Uses. Uses incidental to the principal uses such as:

- A. Off-street parking, off-street loading and unloading areas
- B. Fences
- C. Landscaping and decorative features
- D. Signs
- E. Temporary buildings located for the purpose of construction on the premises for a period not to exceed the time necessary for such construction
- F. Seasonal produce stands and evergreen tree sales

Subd. 5 Conditional Uses. Within the B-1 District no structure or land shall be used for the following except by conditional use permit, and in conformance with the standards specified in Section 1110.04:

- A. Automobile repair, auto body and service stations, subject to the following conditions:
 - 1. Pump islands shall not be less than 25 feet from any street right-of-way, not less than 40 feet from any internal property line, and not less than 40 feet from any non-commercial district boundary
 - 2. Hydraulic hoists, pits, and all lubrication, greasing, washing, repair and diagnostic equipment shall be used and enclosed within a building, except exterior greasing racks for large equipment
- B. Automobile sales lots including passenger and recreational vehicles, provided:
 - 1. Sales area. A permanent principal structure must be included on all sales and rental lots which contain outdoor displays as an accessory use
 - 2. Front yard/display area. Outdoor motor vehicle sales/leasing/rental display area may be permitted within the required front yard provided the following criteria are met:
 - (a) the outdoor parking area shall not be less than ten (10) feet from the front lot line
 - (b) the required display area setback shall be curbed and landscaped to prevent vehicle encroachment into the front yard and side yard setback areas
 - 3. Limits. Outdoor sales display area is not used for seasonal storage or vehicles, boats and/or trailers
- C. Convenience stores, provided the conditions in Section 1120.21 are met
- D. Contractor shops including electrical, plumbing, heating and cooling
- E. Gas stations provided the conditions in Section 1120.21 are met
- F. Daycare facilities, nonresidential licensed shall have all of the following:

1. Loading and drop-off points designed to avoid interfering with traffic and pedestrian movements and designed to promote the safety of children entering the center
 2. Outdoor play areas fenced and located and designed in a manner which mitigates visual and noise impacts on adjoining residential areas
 3. One parking space for each six attendees based on the licensed capacity of the center shall be provided
- G. Drive-thru or drive-up window accessory to a principal use, provided all of the following are met:
1. Drive-up windows and stacking areas shall not be located adjacent to any residential parcel
 2. Stacking areas shall provide for a minimum of six cars per aisle
 3. Public address system shall not be audible from any residential parcel
 4. Drive-up windows and stacking areas shall be screened with suitable materials from adjacent parcels
 5. Drive-up windows shall be designed to avoid interfering with traffic and pedestrian movements
- H. Farm implement dealers and repair
- I. Garden supply stores
- J. Internet sales
- K. Lumberyards
- L. Lodging services, including hotels and motels and bed and breakfasts provided the conditions in Section 1120.24 are met
- M. Nursing homes and assisted living facilities
- N. Outdoor storage incidental to a principal use:
1. Outdoor storage shall be screened by suitable materials, such as fencings or natural landscaping features (trees, shrubbery, berms), as determined by the City Council. The screen must be, at minimum, equal to the height of the tallest item stored on the site
 2. Outdoor storage must be located in a rear or side yard
 3. Shall be kept in a neat and orderly fashion
 4. Shall not contain any unlicensed or inoperable motor vehicles
 5. Shall not be operated in a manner as to constitute a nuisance or harborage of rodents or other wild animals
- O. Public utilities
- P. Rental supply stores
- Q. Small engine repair and maintenance
- R. Schools and educational facilities
- S. Truck and trailer rental for personal use on a daily basis. Trucks for rental shall be limited to single rear axle vehicles
- T. Animal boarding facility not related to veterinary care
- U. Crematories
- V. Commercial planned unit developments

Subd. 6. Interim Uses. Within the B-1 District no structure or land shall be used for the following, except by interim use permit, and in conformance with the standards specified in Section 1105.06:

- A. Light manufacturing and assembly

Subd. 7 Minimum Lot Requirements and Setbacks.

- A. Minimum lot area: 15,000 sq. ft.
- B. Minimum lot width: 75 feet
- C. Minimum front yard setback: 25 feet
- D. Minimum side yard setback: 10 feet
- E. Minimum rear yard setback: 10 feet
- F. Minimum alley setback: 10 feet
- G. Maximum height: 35 feet
- H. Maximum lot coverage: 90 percent

Subd. 8 Other Standards and Requirements.

A. Landscaping Requirements. All open areas of any site, lot, tract or parcel shall be graded to provide proper drainage, and except for areas used for parking, drives, or storage shall be landscaped with trees shrubs, ornamental landscaping materials, or planted ground cover. Plans for the landscaping and screening shall be submitted for approval to the City before any building permit shall be issued. The plan shall show the location, type, quality and size of all existing and proposed trees and plantings in or proposed for the landscaping area. No certificate of occupancy shall be issued until the landscaping is completed in accordance with the approved plans. It shall be the owner's responsibility to see that this landscaping is maintained in an attractive and well kept condition. All vacant lots, tracts or parcels shall also be properly maintained. The City may require a letter of credit or escrow account if installation of this landscaping occurs during periods of frost, snow, or drought. The City may require the screening or fencing of any side or rear yard facing a residential district.

B. Storage of Materials. No accessory building shall be constructed to permit the keeping of articles, goods or materials in the open or exposed to public view, except as provided under Section 1115.06, Subd. 5(N) (conditional uses within the B-1 District).

C. Glare, Fumes, Heat. No glare, fumes or heat shall be produced in any building in this district which is noticeable at a distance of more than fifty (50) feet from the building in which it is produced.

D. Exterior Lighting. Lighting shall be consistent in character throughout the entire property site, in both design and bulb type. Light directed

upward is prohibited. Lighting must be shielded to prevent direct glare. The level of lighting shall not exceed 0.5 lumens at any residential property line or 1.0 lumen at any non-residential property line. The maximum height for exterior lighting is 20 feet. All non-essential lighting will be required to be turned off after business hours, leaving only the necessary lighting for site security.

E. Waste Material. Waste material shall not be washed into the public storm sewer system without first having received a permit to do so from the City Council. If the permit is not granted, a method of disposal shall be devised which will not require additional land for continual operation, will not cause a detrimental effect to the adjacent land, and the waste disposal plan shall be submitted to the Planning & Zoning Commission and City Council for approval. All solid waste material, debris, refuse, or garbage shall be kept within a completely enclosed building or properly contained in a closed container and stored in racks designed for such purpose.

F. Drainage. In the development, improvement or alteration of land, the natural direction of drainage shall not be changed unless plans for the development are submitted to the City and unless the change is approved by the Council. Run-off shall be properly channeled into a storm drain, watercourse, ponding area, or other area approved by the City.

G. Inspections and Testing for Compliance. To comply with the standards set forth above, the Council may require the owner or operator of any permitted use to make such investigations and tests as may be required to ensure adherence to the standards. Such investigation and tests as are required to be made shall be carried out by any independent testing organization as may be selected by the Council after thirty (30) days' notice. The costs incurred in having such investigations or tests shall be borne by the City, except when the results of such disclose non-compliance with the performance standards, in which event the entire investigation or testing cost shall be paid by the owner or operator. The procedure above stated shall not preclude the City from making any tests and investigations it finds appropriate to determine compliance with these performance standards.

H. Parking. Off-street parking shall be provided in accordance with Section 1120.12.

I. Signage Requirements. Signage requirements set out in Section 1120.16 are adopted in their entirety as though repeated verbatim in this Section.

J. All mechanical equipment, whether roof mounted or ground mounted, shall be completely screen from the ground-level view of adjacent properties and public street.

K. Performance Standards. The following rules shall apply to all uses in this district except that legal nonconforming uses may continue at the same performance level at which they operated before they became nonconforming in relation to this Section:

1. All uses and activities shall be inside buildings, with no outside storage or activity allowed, unless a conditional use permit is granted
2. There shall be no noise carrying beyond a lot upon which a business is located, except for normal automobile and pedestrian activity

L. Fire Lock Box. Applicant shall provide a fire lock box as per the Montgomery Fire Department policy. If any major alterations or additions are constructed the building will also be required to install a fire lock box as per Montgomery Fire Department policy.

Subd. 9. Architectural Design.

A. Exterior façade materials. The principal front that looks onto a street shall have an exterior façade comprised of a primary building material a minimum of 42 inches from grade. A secondary building material may be used after 42 inches.

1. Primary materials including brick, stone, stucco, glass, wood, or decorative block
2. Secondary exterior façade materials including metal or decorative concrete masonry units and tilt wall concrete panels units treated with an applied decorative color or texture. Any metal surface must be coated or anodized with a non-reflective glare-free finish. Any decorative concrete shall be colored only by means of a pigment impregnated throughout the entire unit
3. Under no circumstance shall non-decorative sheet aluminum, iron, steel, asbestos, sheet plywood, plain or painted concrete block above grade level be used
4. Any other material approved by the City Council found to be of comparable or superior durability which mimic the appearance of other approved materials

B. Building mass and scale must be controlled through roof line variations, repeating patterns of color, materials, and textures, windows, and awnings and shall be designed to avoid a monolithic or monotonous

appearance. Design features may including, among other features, windows, doorways, cornices, niches, and recesses.

C. The mixture of building materials must be compatible and integrated.

D. All building facades oriented toward public rights of way must not exceed 60 feet in length without visual relief of two or more of the following:

1. The façade is divided architecturally with different materials or textures;
2. There are horizontal offsets of at least two feet in depth;
3. There are vertical offsets in the roof line of at least two feet; and
4. Design features should be similar to those of the front façade.

E. Buildings shall have a minimum of 20% glass coverage on the front facade.

F. Buildings shall be designed to be harmonious with development in the surrounding area with regard to architectural quality and the massing of structures.

G. All subsequent additions and outbuildings constructed after the erection of an original building construction shall be designed in a manner conforming to the original architectural design and appearance.

H. All exterior trash enclosures or other accessory structures shall be constructed of the same materials and colors as the principal building. The height of these structures shall not exceed that of the principal structures.

1. Trash enclosures may not be located in the front.
2. All trash areas that are visible from any public right-of-way will be screened on all sides.

Subd. 10 Lots of Record.

A. For purposes of this Section only, the term “small lots” shall mean those lots of record platted before December 31, 2015, which are zoned highway commercial and are less than 15,000 square feet in area and less than 75 feet wide.

B. Small lots shall be considered conforming lots under this Section and may not be subdivided.

C. Existing principal and accessory buildings located on a small lot shall be considered conforming buildings or structures. Any maintenance or expansion of principal buildings located on small lots must be reviewed

through the site plan process in order to obtain a building permit. No expansion to a principal building on a small lot shall be permitted if the expansion (1) reduces the current front yard setback, or (2) is proposed to be located within 15 feet of a structure located upon an adjacent lot. New accessory buildings on small lots must comply with the setbacks of this Chapter. Accessory buildings existing at the time of adoption of this revised Section may not be expanded.

D. The City Council may provide for other exemptions from this Section which are necessary to accommodate the commercial use of small lots and existing buildings thereon. The City Council shall make written findings supporting its determination.

1115.07 B-2, Highway Commercial District.

Subd. 1 Purpose. The B-2 District is designed to accommodate a wide range of goods and services for the entire community. Businesses in this District are dependent on traffic, visibility, and accessibility to major roadways. It is the intent of this District to promote development that maximizes the full development potential in compatibility, in form, function, and style.

Subd. 2 Special Requirements. All applications for building permits for new construction or for expansion of an existing improvement; or certificates of occupancy for existing facilities and for improvements within the B-2 District shall all be subject to submission to the City of complete building plans, including landscape designs for any side or rear yard fencing abutting a residential district to the Planning & Zoning Commission. The Planning & Zoning Commission shall review and approve before a building permit and certificate of occupancy may be issued. The landscape design must identify and size all plants and screenings. Within 60 days of submission of such plans and designs, the Planning & Zoning Commission shall recommend approval or denial of such plans and designs to the City Council, which shall make the final determination as to approval or denial.

Subd. 3 Permitted Uses.

- A. Essential services
- B. Public utilities
- C. Assisting living/nursing homes
- D. Business and commercial establishments including:
 - 1. Banks, finance, insurance, real estate and tax services
- E. Churches and places of worship provided off-street parking is provided as required in Section 1120
- F. Retail and services establishments, including, but not limited to:
 - 1. Antique and gift shops

2. Automobile, motorcycle, and recreational vehicle parts and accessories (without service)
 3. Bicycle sales, parts and accessories
 4. Book stores
 5. Electronic stores
 6. Clothing stores
 7. Household furnishings stores
 8. Grocery stores
 9. Hardware stores
 10. Interior decorating, floor covering, paint, wallpaper, and window treatment stores
 11. Meat markets and locker shops
 12. Pharmacies
 13. Liquor stores
 14. Office supply stores
 15. Pet stores
 16. Variety stores
- G. Drinking and eating establishments with outdoor seating or dining areas accessory to a principal use, provided they meet the criteria in Section 1120.23, including, but not limited to:
1. Restaurants
 2. Bakeries
 3. Catering establishments
 4. Brewery, micro-distillery, micro-winery, or tap room
- H. Personal services, including, but not limited to:
1. Salons, spas, barbershops
 2. Laundromats and dry cleaners
 3. Employment agencies
 4. Photography studios
 5. Printing and publishing shops
 6. Seamstress or tailor
 7. Shoe repair shops
 8. Travel agencies
- I. Professional services and offices, including, but not limited to:
1. Medical, dental, chiropractic or optometry offices or clinics
 2. Legal services
 3. Accounting
 4. Insurance
 5. Real estate
 6. Lessons for music, dance, martial arts and business vocation
 7. Massage, aroma therapy, acupuncture
 8. Veterinary clinics
- J. Service and repair where all work is conducted indoors, including:
1. Bicycle stores
 2. Electronics stores
 3. Jewelry and watch stores

- 4. Appliance stores
- K. Entertainment and amusement services, including:
 - 1. Theatres
 - 2. Recreation halls
 - 3. Bowling alleys
 - 4. Fitness centers and gyms
- L. Public and semi-public uses, such as:
 - 1. U.S. postal service
 - 2. Government offices
 - 3. Library
- M. Private clubs and lodge halls
- N. Nursing homes and assisted living facilities
- O. Funeral homes

Subd. 4 Permitted Accessory Uses. Uses incidental to the principal uses such as:

- A. Off-street parking and loading and unloading areas
- B. Storage of merchandise
- C. Fences
- D. Landscaping and decorative features
- E. Signs
- F. Temporary buildings located for the purpose of construction on the premises for a period not to exceed the time necessary for such construction
- G. Seasonal produce stand and evergreen tree sales

Subd. 5 Conditional Uses.

- A. Automobile repair, auto body, and service stations, subject to the following conditions:
 - 1. Pump islands shall not be less than 25 feet from any street right-of-way, not less than 40 feet from any internal property line, and not less than 40 feet from any non-commercial district boundary
 - 2. Hydraulic hoists, pits, and all lubrication, greasing, washing, repair and diagnostic equipment shall be used and enclosed within a building, except exterior greasing racks for large equipment
- B. Automobile sales lots including passenger and recreational vehicles, provided:
 - 1. Sales area. A permanent principal structure must be included on all sales and rental lots which contain outdoor displays as an accessory use
 - 2. Front yard/display area. Outdoor motor vehicle sales/leasing/rental display area may be permitted within the required front yard provided the following criteria are met:
 - (a) The outdoor parking area shall not be less than ten (10) feet from the front lot line

- (b) The required display area setback shall be curbed and landscaped to prevent vehicle encroachment into the front yard and side yard setback areas
- 3. Limits. Outdoor sales display area is not used for seasonal storage or vehicles, boats and/or trailers
- C. Commercial car washes, provided the conditions within Section 1120.20 are met
- D. Convenience stores, provided the conditions in Section 1120.21 are met
- E. Contractor shops, including electrical, plumbing, heating and cooling
- F. Motels and hotels
- G. Gas stations provided the conditions in Section 1120.21 are met
- H. Daycare facilities, nonresidential licensed shall have all of the following:
 - 1. Loading and drop-off points designed to avoid interfering with traffic and pedestrian movements and designed to promote the safety of children entering the center
 - 2. Outdoor play areas fenced and located and designed in a manner which mitigates visual and noise impacts on adjoining residential areas
 - 3. One parking space for each six attendees based on the licensed capacity of the center shall be provided
- I. Drive-thru or drive-up window accessory to a principal use, provided all of the following are met:
 - 1. Drive-up windows and stacking areas shall not be located adjacent to any residential parcel
 - 2. Stacking areas shall provide for a minimum of six cars per aisle
 - 3. Public address system shall not be audible from any residential parcel
 - 4. Drive-up windows and stacking areas shall be screened with suitable materials from adjacent parcels
 - 5. Drive-up windows shall be designed to avoid interfering with traffic and pedestrian movements
- J. Farm implement dealers and repair
- K. Garden supply stores
- L. Internet sales
- M. Light manufacturing
- N. Lumberyards
- O. Outdoor storage incidental to a principal use:
 - 1. Outdoor storage shall be screened by suitable materials, such as fencings or natural landscaping features (trees, shrubbery, berms), as determined by the City Council. The screen must be, at minimum, equal to the height of the tallest item stores on the site
 - 2. Outdoor storage must be located in a rear or side yard
 - 3. Shall be kept in a neat and orderly fashion
 - 4. Shall not contain any unlicensed or inoperable motor vehicles

- 5. Shall not be operated in a manner as to constitute a nuisance or harborage of rodents or other wild animals
- P. Rental supply stores
- Q. Small engine repair and maintenance
- R. Schools and educational facilities
- S. Truck and trailer rental for personal use on a daily basis. Trucks for rental shall be limited to single rear axle vehicles
- T. Warehouse and distribution
- U. Animal boarding facility not related to veterinary care
- V. Crematories
- W. Commercial planned unit developments

Subd. 6 Minimum Lot Requirements and Setbacks.

- A. Minimum lot area: 15,000 sq. ft.
- B. Minimum lot width: 75 feet
- C. Minimum front yard setback: 25 feet
- D. Minimum side yard setback: 10 feet
- E. Minimum rear yard setback: 20 feet for lots that abut non-residential districts or 40 feet for lots abutting residential districts
- F. Minimum alley setback: 10 feet
- G. Maximum height: 35 feet
- H. Maximum lot coverage: 90 percent

Subd. 7 Other Standards. Building design and construction materials. In addition to other restrictions of this Chapter, any building or structure within the B-2 District shall meet the following standards:

- A. All exterior trash enclosures or other accessory structures shall be constructed of the same materials and colors as the principal building. The height of these structures shall not exceed that of the principal structure.
- B. Fire lock box. A fire lock box shall be provided as per Montgomery Fire Department policy. If any major alterations or additions are constructed, the building will also be required to install a fire lock box as per Montgomery Fire Department policy.
- C. All mechanical equipment, whether roof mounted or ground mounted, shall be completely screened from the ground-level view of adjacent properties and Public Street.
- D. Landscaping. All open areas of any site, lot, tract, or parcel shall be graded to provide proper drainage, and except for areas used for parking, drives, or storage shall be landscaped with trees, shrubs, ornamental landscaping materials, or planted ground cover. Plans for landscaping and screening shall be submitted for approval to the City before any building

permit shall be issued. The plan shall show the location, type, quality and size of all existing and proposed trees and plantings in or proposed for the landscaping area. No certificate of occupancy shall be issued until the landscaping is completed in accordance with the approved plans. It shall be the owner's responsibility to see that this landscaping is maintained in an attractive and well-kept condition. All vacant lots, tracts, or parcels shall also be properly maintained. The City may require a letter of credit or escrow account if installation of this landscaping occurs during periods of frost, snow, or drought. The City may require the screening or fencing of any side or rear yard facing a residential district.

E. Exterior lighting. Lighting shall be consistent in character throughout the entire property site, in both design and bulb type. Light directed upward is prohibited. Externally lit signs, display, building, and aesthetic lighting must be lit from the top and shine downward. Lighting must be shielded to prevent direct glare. The level of lighting shall not exceed 0.5 lumens at any residential property line or 1.0 lumen at any non-residential property line. The maximum height for exterior lighting is 20 feet. All non-essential lighting will be required to be turned off after business hours, leaving only the necessary lighting for site security.

F. Parking requirements. Off-street parking shall be provided in accordance with Section 1120.15.

G. Signage requirements. Signage requirements given in Section 1120.16 are adopted in their entirety as though repeated verbatim in this Section.

H. Waste material. Waste material shall not be washed into the public storm sewer system without first having received a permit to do so from the City Council. If the permit is not granted, a method of disposal shall be devised which will not require additional land for continual operation, will not cause a detrimental effect to the adjacent land, and the waste disposal plan shall be submitted to the Planning & Zoning Commission and City Council for approval. All solid waste material, debris, refuse, or garbage shall be kept within a completely enclosed building or properly contained in a closed container and stored in racks designed for such purpose.

I. Drainage. In the development, improvement or alteration of land, the natural direction of drainage shall not be changed unless plans for the development are submitted to the City and unless the change is approved by the City Council. Run-off shall be properly channeled into a storm drain, watercourse, ponding area, or other area approved by the City.

J. Inspections and testing for compliance. To comply with the standards set forth above, the City Council may require the owner or operator of any permitted use to make such investigations and tests as may be required to ensure adherence to the standards. Such investigation and tests as are required to be made shall be carried out by any independent testing organizations as may be selected by the City Council after thirty (30) days' notice. The costs incurred in having such investigations or tests shall be borne by the City, except when the results of such disclose non-

compliance with the performance standards, in which event the entire investigation or testing cost shall be paid by the owner or operator. The procedure above stated shall not preclude the City from making any tests and investigations it finds appropriate to determine compliance with these performance standards.

Subd. 8 Architectural Design.

A. Building Exterior Façade. The principal front that looks onto a street shall have an exterior façade comprised of a primary building material a minimum of 42 inches from grade. A secondary building material may be used after 42 inches.

1. Primary materials include brick, stone, stucco, glass, wood, or decorative block
2. Secondary exterior façade materials include metal or decorative concrete masonry units and tilt wall concrete panels units with an applied decorative color or texture. Any metal surface must be coated or anodized with a non-reflective glare-free finish. Any decorative concrete shall be colored only by means of a pigment impregnated throughout the entire unit
3. Under no circumstances shall non-decorative sheet aluminum, iron, steel, asbestos, sheet plywood, plain or painted concrete block above grade level be used
4. Any other material approved by the City Council found to be of comparable or superior durability which mimic the appearance of other approved materials

B. Building mass and scale must be controlled through roof line variations, repeated patterns of color, materials, and textures, windows, and awnings and shall be designed to avoid a monolithic or monotonous appearance. Design features may include, among other features, windows, doorways, cornices, niches, and recesses.

C. The mixture of building materials must be compatible and integrated.

D. All building facades oriented toward public rights of way must not exceed 60 feet in length without visual relief of two or more of the following:

1. The façade is divided architecturally with different materials or textures;
2. There are horizontal offsets or at least two feet in depth;
3. There are vertical offsets in the roof line of at least two feet; and
4. Design features should be similar to those of the front façade.

E. Buildings shall have a minimum of 20% glass coverage on the front façade that faces a street, parking lot, or open space.

F. Buildings shall be designed to be harmonious with development in the surrounding area with regard to architectural quality and the massing of structures.

G. All subsequent additions and outbuildings constructed after the erection of an original building construction shall be designed in a manner conforming to the original architectural design and appearance.

H. All exterior trash enclosures or other accessory structures shall be constructed of the same materials and colors as the principal building. The height of these structures shall not exceed that of the principal structures.

1. Trash enclosures may not be located in the front.
2. All trash areas that are visible from any public right-of-way will be screened on all sides.

Subd. 9. Performance Standards. The following rules shall apply to all uses in this district except that legal nonconforming uses may continue at the same performance level at which they operated before they became nonconforming in relation to this Section.

A. All uses and activities shall be inside buildings, with no outside storage or activity allowed, unless a conditional use permit is granted.

B. There shall be no noise carrying beyond a lot upon which a business is located, except for normal automobile and pedestrian activity.

1115.08 B-3, Central Business District.

Subd. 1 Purpose. The purpose of this district is to increase its viability and prosperity by encouraging a diversified commercial center that builds on the historic character of the downtown, using the historic and natural resources available to create a tourist draw, allow retail, office, service, entertainment facilities, as well as public and semi-public uses.

Subd. 2 Special Requirements. Approval of building permits for new construction or for expansion of an existing use or building or certificates of occupancy for existing facilities and for improvements within the B-3 District shall require the submission of complete building plans, including any landscaping, fencing, and parking. Developers are encouraged to meet with staff and the Planning and Zoning Commission to review the plans before official submission to the Planning and Zoning Commission. Within 60 days of final submission of such plans and designs, the Planning and Zoning Commission shall recommend approval or denial of such plans and designs to the City Council, which shall make a final decision as to approval or denial.

Subd. 3 Permitted Uses.

A. Retail shops, service and repair establishments, as well as sales and services, including, but not limited to:

1. Antiques and collectibles
2. Appliances
3. Art studio
4. Automobile, motorcycle, and recreational vehicle parts and accessories
5. Bakery
6. Bicycle sales, parts and accessories
7. Books
8. Electronics
9. Florists
10. Gifts and novelties
11. Salons, spas, barbershops
12. Hardware
13. Household furnishings
14. Interior decorating, floor covering, paint, wallpaper, window treatments
15. Laundromats and dry cleaners
16. Licensed tattoo and piercing
17. Meat markets but not including the processing of meat products other than those sold on the premises. Custom and wild game processing is permitted but not for resale
18. Music studio and instrument sales and service
19. Pet shops, supplies and accessories
20. Photo studio
21. Sporting goods
22. Variety store

B. Offices and professional services such as medical and dental clinics, architect and attorney offices, including, but not limited to:

1. Accounting
2. Printing and publishing
3. Banks and financial institutions
4. Legal services
5. Insurance Agencies
6. Real estate office

C. Drinking and eating establishments, including, but not limited to:

1. Brewery, micro-distillery, micro-brewery, micro-winery, or tap room
2. Brewpub
3. Bars; bar and grill
4. Café
5. Restaurants

- 6. Delicatessens
- 7. Private clubs and lodges
- 8. On and off-sale liquor
- D. Health and medical, including, but not limited to:
 - 1. Medical clinic
 - 2. Chiropractic clinic
 - 3. Dental office
 - 4. Optometrists
 - 5. Pharmacies
 - 6. Therapeutic massage, aroma therapy, acupuncture
 - 7. Veterinary clinics
- E. Hotels or motels
- F. Funeral home
- G. Plumbing and electrical contracting business provided there is no outside storage
- H. Physical recreation activity, including, but not limited to:
 - 1. Bowling alleys
 - 2. Dance studio
 - 3. Fitness centers and gyms
 - 4. Martial arts studios
- I. Public and semi-public uses, such as:
 - 1. Daycare facilities
 - 2. Government offices
 - 3. Library
 - 4. Music or performing arts centers
 - 5. Parks
 - 6. Postal service
 - 7. Religious institution
 - 8. Schools or academies
- J. Service and repair shops where all work is conducted indoors to including, but not be limited to:
 - 1. Bicycles
 - 2. Electronics
 - 3. Watches and jewelry
 - 4. Appliances

Subd. 4 Permitted Accessory Uses.

- A. Accessory structures
- B. Existing residential dwelling units located above the first floor of a business or commercial establishment and first floor units only if in existence prior to the adoption of this Section and provided all requirement of the residential rental code and parking requirements are met and the units meet the size requirements in Section 1115.04, Subd. 5(H)
- C. Fences

- D. Landscaping and decorative features
- E. Off-street loading
- F. Off-street parking
- G. Signs
- H. Temporary buildings located for the construction on the premises for a period not to exceed the time necessary for such construction
- I. Temporary outdoor sales and display of merchandise
- J. Seasonal produce stands

Subd. 5 Conditional Uses.

- A. Convenience stores, provided the requirements of Section 1220.21 are met
- B. Bed and breakfast inns
- C. Any principal structure moved onto a lot
- D. Commercial recreation
- E. Exterior storage provided it is screened from public view
- F. Outdoor seating for food service businesses and drinking establishments, provided the conditions in Section 1120.23 are met
- G. Financial institutions with drive-thru facilities
- H. Multi-tenant buildings provided that the uses are specified as permitted and conditional uses in the B-3 District
- I. Small engine repair and maintenance conducted indoor
- J. Internet sales as a primary source of sales provided no more than 50% of the space is utilized for warehousing of products, the shipping and receiving of products does not conflict with adjacent uses or the safety of vehicular or pedestrian traffic and there is no outdoor storage
- K. Animal boarding facility not related to veterinary care

Subd. 6 Minimum Lot Requirements and Setbacks.

- A. Minimum lot area: 3,000 square feet
- B. Minimum lot width: 25 feet
- C. Maximum lot coverage: 100 percent
- D. Maximum height: principal and accessory: 42 feet
- E. Front, side and rear yards: Each permitted or conditional use including accessory uses in the B-3 District shall have a front, side or rear yard of not less than 10 feet when such use is abutting an alley, any railroad right of way, or residential property.

Subd. 7 Other Standards.

- A. Landscaping: All areas in the B-3 District not covered by buildings, driveways, and paved parking lots shall be sodded, or covered by ground cover deemed acceptable by the City Council. Installation of this landscaping during periods of frost, snow, or drought may be cause for the

City Council to require a letter of credit or escrow account. The City may require the screening or fencing of any side or rear yard facing a residential district.

B. Parking requirements.

1. All off-street parking areas shall meet the parking requirements given in Section 1120. In the event that adjacent on-street parking is insufficient for a particular use, the City Council may require on-premises or adjacent (off-street) parking.
2. Residential uses shall provide two on-premise or adjacent off-street parking stalls per dwelling unit. If the required parking cannot be met on-premises or adjacent to the building, parking within 300 feet of the building is acceptable as long as the spaces are specifically reserved for tenants and property signed. Parking areas shall be directly accessed through public alleys. Parking areas shall be hard surfaced and clearly marked.

Subd. 8 Architectural Building Design and Construction Materials. In addition to other restrictions of this Section and any other Chapter, any building or structure within the B-3 District shall meet the following standards:

1. All buildings shall be designed to be compatible with surrounding structures.
2. All exterior wall surfaces shall consist of one or more of the following:
 - a. Face brick
 - b. Break-off brick
 - c. Break-off block
 - d. Stone or glass curtain wall
 - e. Specifically designed precast concrete units if the surfaces have been integrally treated with an applied decorative material or textures
 - f. Wood wall
3. For new construction, at least 40% of the front face of the building on the first floor shall have windows. Where an existing building is being renovated and main floor windows were removed, the windows shall be restored where practical.
4. All subsequent additions, accessory buildings (which serve the principal commercial use), and any buildings that support a residential use constructed after the erection of an original building, shall have the side abutting the alley or public street conform to the appearance of the original

structure. Sides not directly abutting a public street or alley cannot be of plain or painted concrete block-unless the principal structure is constructed of concrete block, sheet metal, sheet steel, sheet iron, sheet aluminum, sheet plywood, or other similar material. All materials shall conform to the color scheme of the existing principal structure.

5. All additions and accessory structures shall be reviewed by the Planning and Zoning Commission before applying for a building permit. The review by the Planning and Zoning Commission shall include design, color, materials, landscaping, etc. Owner shall provide color renderings of the addition or accessory structure with descriptions and/or samples of materials used for the project.

6. All exterior trash enclosures, other accessory structures, and any buildings that support a residential use shall have the side abutting the alley or public street conform to the appearance of the principal structure. The height of these structures shall not exceed that of the principal structure.

7. All mechanical equipment, whether roof mounted or ground mounted, shall be completely screened from the ground-level view of adjacent properties and public street.

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1115.09 I-1, Light Industrial District.

Subd. 1 Purpose. The I-1 District shall serve as a transition between more industrial uses and residential and other business uses. This district is appropriate for manufacturing, warehousing, and similar industrial uses because of access to warehousing, thoroughfares, the full complement of urban services such as sewer and water, and distance from residential districts. These areas are intended to encourage the development of industrial uses which are clean, quiet, and free of hazardous or objectionable elements such as noise, odor, dust, smoke, glare, or other pollutants. These industries shall be compatible with each other and with surrounding land uses.

Subd. 2 Special Requirements. All applications for building permits (in the case of new construction or expansion) or certificates of occupancy (in the case of existing facilities) for improvements within the I-1 District shall be subject to submission of complete building plans, including storm water drainage and landscape designs to the Planning & Zoning Commission. The Planning & Zoning Commission shall review and approve the building plans before a building permit and certificate of occupancy may be issued. The landscape design must identify and size all plants and screenings. Within 60 days of submission of such plans and designs, the Planning & Zoning Commission shall recommend approval or denial of such plans and designs to the City Council, which shall make the final determination as to approval or denial.

Subd. 3 Permitted Uses.

- A. Manufacturing and assembly operations
- B. Warehousing and storage
- C. Distribution
- D. Office and research facilities
- E. Lumberyard
- F. Billboard signs
- G. Any park or playground and associated accessory structures owned or operated by a governmental agency
- H. Essential services
- I. Professional and business office and services
- J. Public buildings and facilities
- K. Contractors' offices and yards
- L. Garden center
- M. Railroad

Subd. 4 Permitted Accessory Uses.

- A. Accessory buildings related to the operations of the principal use
- B. Parking lots/off-street parking

- C. Fences
- D. Landscaping and decorative features
- E. Off-street loading
- F. Signage
- G. Temporary buildings located for the purpose of construction on the premises for a period not to exceed the time necessary for such construction
- H. Retail sales products manufactured on the site shall be allowed as an accessory use with a maximum of 20% of the floor area of the total building area utilized for such. Parking as required for retail uses shall be provided in addition to that required for the principal use. If excessive on-street parking of vehicles occurs the sales shall cease or be reduced to the level that off-street parking can accommodate

Subd. 5 Conditional Uses.

- A. Outdoor storage
- B. Manufacturing, refining or processing of chemicals
- C. Recycling centers
- D. Mini storage/self-storage
- E. Commercial car wash
- F. Any principal structure moved onto a lot
- G. Commercial recreation
- H. Physical recreation or training
- I. Automobile repair – major
- J. Commercial wireless telecommunications service
- K. Open sales or storage lot
- L. Public utility structure intended for human occupation; occupies an area of more than 500 square feet; or exceeds the height of the highest building on an adjoining lot or an average grade to peak height of 17 feet
- M. Commercial towers and antennas
- N. Internet sales as a primary source of sales, provided no less than 80% of the space is utilized for warehousing of products and provided the shipping and vehicular traffic to the site does not conflict with adjacent uses or adversely impact upon the safety of vehicular or pedestrian traffic

Subd. 6 Minimum Lot Requirements and Setbacks.

- | | |
|--------------------------------|--|
| A. Minimum lot area: | 20,000 |
| B. Minimum lot width: | 100 feet |
| C. Minimum lot depth: | 100 feet |
| D. Minimum front yard setback: | 30 feet, except not less than 50 feet from residential districts |

- E. Minimum side yard setback: 15 feet; corner lot – 30 feet; except not less than 50 feet from any residential district
- F. Minimum rear yard setback: 30 feet
- G. Minimum alley setback: 10 feet
- H. Maximum height: principal or accessory: 40 feet
- I. Maximum lot coverage: 85 percent

Subd. 7 Other Standards and Requirements.

A. Landscaping Requirements. All open areas of any site, lot, tract or parcel shall be graded to provide proper drainage, and except for areas used for parking, drives, or storage, shall be landscaped with trees shrubs, ornamental landscape materials, sodded, seeded, or planted ground cover. Plans for the landscaping and screening shall be submitted for approval to the City before any permit shall be issued. The plan shall show the location, type, quality and size of all existing and proposed trees and plantings in or proposed for the landscaping area. No certificate of occupancy shall be issued until the landscaping is completed in accordance with the approved plans. It shall be the owner's responsibility to see that this landscaping is maintained in an attractive and well-kept condition. All vacant lots, tracts or parcels shall also be properly maintained.

B. Storage of Materials. No accessory building shall be constructed to permit the keeping of articles, goods or materials in the open or exposed to public view. When necessary to store or keep such materials in the open, the lot or area shall be fenced with a screening fence at least six (6) feet high. Such storage shall be limited to the rear two-thirds (2/3) of the property.

C. Glare, Fumes, Heat. No glare, fumes or heat shall be produced in any building in this district which is noticeable at a distance of more than fifty (50) feet from the building in which it is produced.

D. Exterior Lighting. Any lights used for exterior illumination shall be directed away from adjacent properties and shall not hinder or affect the public safety of vehicle traffic.

E. Waste Material. Waste material shall not be washed into the public storm sewer system without first having received a permit to do so from the City Council. If the permit is not granted, a method of disposal shall be devised which will not require additional land for continual operation, will not cause a detrimental effect to the adjacent land, and the waste disposal plan shall be submitted to the Planning & Zoning Commission and City Council for approval. All solid waste material, debris, refuse, or

garbage shall be kept within a completely enclosed building or properly contained in a closed container and stored in racks designed for such purpose.

F. Drainage. In the development, improvement or alteration of land, the natural direction of drainage shall not be changed unless plans for the development are submitted to the City and unless the change is approved by the Council. Run-off shall be properly channeled into a storm drain, watercourse, or ponding area.

G. Inspections and Testing for Compliance. To comply with the standards set forth above, the Council may require the owner or operator of any permitted or conditional use to make such investigations and tests as may be required to ensure adherence to the standards. Such investigation and tests as are required to be made shall be carried out by any independent testing organization as may be selected by the Council after thirty (30) days' notice. The costs incurred in having such investigations or tests shall be borne by the City, except when the results of such disclose non-compliance with the performance standards, in which event the entire investigation or testing cost shall be paid by the owner or operator. The procedure above stated shall not preclude the City from making any tests and investigations it finds appropriate to determine compliance with these performance standards.

Subd. 8 Architectural Standards.

A. Industrial buildings constructed in the City:

1. Shall consist of one or more non-combustible, non-degradable, and essentially maintenance-free exterior materials
2. May be designed so that burnished block and specialty block forms, exposed aggregate concrete, concrete block, pre-cast concrete panels, wood, anodized aluminum or similar metals are used, if appropriately integrated into the overall building design and, in the case of wood, if not subject to damage due to heavy use or exposure
3. Shall not consist of exterior materials such as sheet or corrugated aluminum, or unfinished metals such as tin
4. Shall be compatible with surrounding industrial buildings
5. Shall provide a fire lock box as per Montgomery Fire Department policy. If any major alterations or additions are constructed the building will also be required to install a fire lock box as per Montgomery Fire Department policy

1115.10 I-2, Medium Industrial District.

Subd. 1 Purpose. The I-2 District is intended to accommodate more intense manufacturing and processing that would not be allowed in the I-1, Light

Industrial District. Proposed uses would include manufacturing, production, warehousing with heavy truck traffic and other uses which may generate nominal off-site impacts.

Subd. 2 Special Requirements. All applications for building permits for new construction or for expansion of an existing improvement; or certificates of occupancy for existing facilities and for improvements within the I-2 District shall all be subject to submission to the City of complete building plans, including landscape designs to the Planning & Zoning Commission. The Planning & Zoning Commission shall review and approve the building plans before a building permit and certificate of occupancy may be issued. The landscape design must identify and size all plants and screenings. Within 60 days of submission of such plans and designs, the Planning & Zoning Commission shall recommend approval or denial of such plans and designs to the City Council, which shall make the final determination as to approval or denial.

Subd. 3 Permitted Uses.

- A. Animal hospital
- B. Automobile repair
- C. Contractors' offices and yards
- D. Garden center
- E. Laboratory, medical or dental
- F. Light Manufacturing
- G. Manufacturing
- H. Mini-storage
- I. Professional and business office and services
- J. Public buildings and facilities
- K. Public utility structure that is not intended for human occupation, occupies an area of less than 500 square feet; or does not exceed the height of the highest building on an adjoining lot or an average grade to peak height of 17 feet, whichever is less
- L. Research/design facilities
- M. Truck terminal
- N. Warehousing
- O. Wholesale business

Subd. 4 Permitted Accessory Uses.

- A. Accessory structures
- B. Fences
- C. Landscaping and decorative features
- D. Off-street loading
- E. Off-street parking
- F. Retail sales products manufactured on the site shall be allowed as an accessory use with a maximum of 20% of the floor area of the total

building area utilized for such. Parking as required for retail uses shall be provided in addition to that required for the principal use. If excessive on-street parking of vehicles occurs the sales shall cease or be reduced to the level that off-street parking can accommodate

G. Signage

H. Temporary buildings located for the purpose of construction on the premises for a period not to exceed the time necessary for such construction

I. Taproom

Subd. 5 Conditional Uses.

A. Agricultural uses limited to the raising of crops and forestry

B. Automobile repair, major

C. Commercial kennels

D. Commercial wireless telecommunication service

E. Multi-parcels, tenants, buildings provided that the uses are specified as permitted or conditional uses in the I-2 District

F. Open sales or storage lot

G. Public utility structure that is intended for human occupation, occupies an area of more than 500 square feet; or does exceed the height of the highest building on an adjoining lot or an average grade to peak height of 17 feet

H. Adult uses as provided in Chapter 6, Section 620 of the Montgomery City Code

I. Distillation processes

J. Breweries

K. Breweries, micro

L. Distillery, micro

M. Winery, micro

N. Internet sales as a primary source of sales, provided no less than 80% of the space is utilized for warehousing of products and provided the shipping and vehicular traffic to the site does not conflict with adjacent uses or adversely impact upon the safety of vehicular or pedestrian traffic

O. Seasonal employee housing as an accessory use to the primary industry, with at least the following conditions:

1. The use shall be terminated upon closure of the primary industry; and,

2. The housing shall not be for family units or include dependent children under the age of 18.

Subd. 6 Minimum Lot Requirements and Setbacks.

A. Minimum lot area: 40,000 square feet

B. Minimum lot frontage: 150 feet

C. Minimum lot depth: 250 feet

- D. Maximum lot coverage: 85 percent
- E. Maximum height principal and accessory: 40 feet
- F. Minimum front setback: 45 feet
- G. Minimum rear setback: 25 feet
- H. Minimum side yard setback: 30 feet; corner lot: 45 feet

Subd. 7 Other Standards.

A. Landscaping. All areas in the I-2 District not covered by buildings, driveways, and paved parking lots shall be seeded, sodded, or covered by ground cover deemed acceptable by the Planning & Zoning Commission. Installation of this landscaping during periods of frost, snow, or drought may be cause for the Planning & Zoning Commission to require a letter of credit or escrow account. The City may require the screening or fencing of any side or rear yard facing a residential district.

B. Building design and construction materials. In addition to other restrictions of this Section and any other Chapter, any building or structure within the I-2 District shall meet the following standards:

1. All buildings shall be designed to be compatible with surrounding uses.
2. All exterior wall surfaces directly facing a public street shall consist of one or more of the following:
 - (a) Face brick.
 - (b) Break-off brick.
 - (c) Break-off block.
 - (d) Stone or glass curtain wall.
 - (e) Specifically designed precast concrete units if the surfaces have been integrally treated with an applied decorative material or textures.
 - (f) Factory fabricated cast-in-place or precast panel construction, if the panel materials are any of those named above, glass, prefinished metal (other than unpainted galvanized steel or iron) or plastic.
3. Sixty-five percent of the front of a metal building must be masonry, veneer, glass, or other material approved by the Planning & Zoning Commission. "Front" is defined as the first floor of the

side of the building facing the street. On corner lots, “front” is defined as the side of the building having the address.

4. In case of metal buildings, the Planning & Zoning Commission shall prefer masonry buildings, but other types of construction shall be considered by the Planning & Zoning Commission during the plan review. The Planning & Zoning Commission shall make a final recommendation to the City Council, which makes the final determination approving construction materials.

5. In cases of construction which repairs, reconstructs, remodels, or otherwise alters an existing industrial building, the applicant shall not be required to meet all of the standards, but a proportion. The level is determined by either the percentage of increased value the expansion will create or the percentage of increased square footage that will be created, whichever is less.

(a) Parking requirements. Parking requirements given in Section 1120 of this Chapter are adopted in their entirety as though repeated verbatim in this Section.

(b) Driveway restrictions. Each business within the I-2 District may have one driveway. At the discretion of the Planning & Zoning Commission, more than one driveway may be permitted or required. Consideration of multiple driveways, turn lanes and appropriate right-of-ways shall be addressed by the Planning & Zoning Commission during the overall plan review prior to issuing a building permit.

(c) Loading area requirements. All loading areas in the district shall be on the side or in the rear of the lot and shall be no less than twenty feet from abutting residential areas.

(d) Storage requirements. All outside storage shall be screened from view by dense vegetation or 90% opaque screening. All waste containers shall be screened from view by 90% opaque screening and kept in good repair. Chain link fencing with plastic inserts is prohibited.

(e) Performance standards as to noise, odor, glare, exterior lighting, smoke, fire and safety hazards, water supply, waste disposal, and performance testing are found in Section 1120 of this Chapter.

Subd. 1 Authorization. Planned Unit Developments are intended to encourage the efficient use of land and resources, to promote greater efficiency in public utility services, and encourage innovation in the planning and building of all types of development. Public benefits should be derived as a result of the PUD. Planned unit development authorization may allow:

A. Variety. Within a comprehensive site design concept a mixture of land uses, housing types and densities.

B. Sensitivity. By departing from the strict application of required setbacks, yard areas, lot sizes, minimum house sizes, minimum requirements, and other performance standards associated with traditional zoning; planned unit development can maximize the development potential of land while remaining sensitive to its unique and valuable natural characteristics.

C. Efficiency. The consolidation of areas for recreation and reductions in street lengths and other utility related expenses.

D. Density Transfer. The project density may be clustered, basing density on number of units per acre instead of specific lot dimensions.

E. District Integration. The combination of uses which are allowed in separate zoning districts such as:

1. Mixed residential allows both densities and unit types to be varied within the project.
2. Mixed commercial, industrial, residential, or institutional land use with the integration of compatible land uses within the project.

Subd. 2 Allowed Uses.

A. Uses within the PUD may include only those uses generally considered associated with the general land use category shown for the area on the official Comprehensive Land Use Plan. Specific allowed uses and performance standards for each PUD shall be delineated in a resolution and development plan. The PUD development plan shall identify all the proposed land uses and those uses shall become permitted uses with the acceptance of the development plan. Any change in the uses presented in the development plan will be considered an amendment to the PUD and will follow the procedures specified in this Subsection.

B. The density of development with a PUD shall be the same as would be allowed in the underlying zoning district under typical development standards. If the property involved in the PUD includes land in more than

one zoning district, the number of dwelling units or the square footage of commercial, industrial or institutional uses in the PUD shall be proportional to the amount that would be allowed separately on the parcels located in each of the underlying zoning districts.

Subd. 3 Required Standards.

A. The City shall consider the proposed PUD from the point of view of all standards and purposes of the Comprehensive Land Use Plan to achieve a maximum coordination between the proposed development and the surrounding uses, the conservation of woodlands and wetlands, the protection of health, safety and welfare of the community and residents of the PUD.

B. To these ends, the Council shall consider the location of the buildings, compatibility, parking areas and other features with respect to the topography of the area and existing natural features such as streams and large trees; the efficiency, adequacy and safety of the proposed layout of internal streets and driveways; the adequacy and location of green areas; the adequacy, location and screening of parking areas and garbage receptacles; and such other matters as the Council may find to have a material bearing upon the stated standards and objectives of the Comprehensive Land Use Plan.

Subd. 4 Coordination with Subdivision Regulations. Subdivision review under the subdivision regulations shall be carried out simultaneously with the review of the PUD. The plans required under this Chapter shall be submitted in a form which will satisfy the preliminary and final plat requirements of Chapter 12 of the Montgomery City Code.

Subd. 5 Revisions and/or Changes.

A. Minor changes in the location, placement and height of structures may be authorized by the Planning & Zoning Commission if required by engineering or other circumstances not foreseen at the time the final plan was approved and filed with the Zoning Administrator.

B. Changes in uses, significant changes in the location, size, or height of structures, any rearrangement of lots, blocks and building tracts, changes in the provision of common open spaces, and all other changes to the approved final development plan may be made only after a public hearing conducted by the Planning & Zoning Commission and any changes subsequently approved by the Council. Any changes shall be recorded as amendments to the recorded copy of the final development plan.

C. All of the provisions of this Chapter applicable to the original district within which the PUD District is established shall apply to the PUD District except as otherwise provided in approval of the final plan.

D. If substantial development has not occurred within one (1) year after approval of the PUD Zoning District, the City Council may instruct the Planning & Zoning Commission to initiate rezoning to the original zoning district. It shall not be necessary for the City Council to find that the rezoning was in error. The Council may find and authorize an extension if extraordinary circumstances warrant it.

Subd. 6 Phasing and Guarantee of Performance.

A. The Planning & Zoning Commission shall compare the actual development accomplished in the various PUD zones with the approved development schedule.

B. Upon recommendation of the Planning & Zoning Commission and for good cause shown by the property owner, the Council may extend the limits of the development schedule.

C. The construction and provision of all of the common open space and public and recreational facilities which are shown on the final development plan must proceed at the same rate as the construction of dwelling units, if any. The Planning & Zoning Commission shall review all of the building permits issued for the PUD and examine the construction which has taken place on the site. If they find that the rate of construction of dwelling units is greater than the rate at which common open spaces and public and recreational facilities have been constructed and provided, they shall forward this information to the Council for action.

Subd. 7 Control of Planned Unit Development Following Construction.

A. After the certificate of occupancy has been issued, the use of the land and the construction, modification or alteration of any buildings or structures within the planned development shall be governed by the final development plan.

B. After the certificate of occupancy has been issued, no changes shall be made in approved final development plan except upon application as provided below:

1. Any minor extensions, alterations or modifications of existing buildings or structures may be authorized by the Planning & Zoning Commission if they are consistent with the purposes and intent of the final plan. No change authorized in this Section may

increase the cubic volume of any building or structure by more than ten percent (10%).

2. Any building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan unless an amendment to the final development plan is approved by the Council.

3. Changes in the use of the common open space may be authorized by an amendment to the final development plan by the Council.

4. Any other changes in the final development plan must be authorized by an amendment of the final development plan and approved by the Council.

Subd. 8 Procedure for Processing a Planned Unit Development. There shall be three stages in the PUD process: application conference, preliminary plan, and final plan, as described below:

A. Application Conference. Upon filing of an application for PUD, the applicant of the proposed PUD shall arrange for and attend a conference with the Zoning Administrator. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of his proposal for the area for which it is proposed and its conformity to the provisions of this Section before incurring substantial expense in the preparation of plans, surveys and other data.

B. Preliminary Concept Plan.

Purpose: The preliminary plan provides an opportunity for the applicant to submit a plan to the City showing his basic intent and the general nature of the entire development without incurring substantial costs for architectural, planning, engineering, legal or other services. The plan shall include the following:

1. Specific locations of residential and nonresidential land uses with approximate type and intensities of development.
2. Overall maximum PUD density.
3. Specific location of major streets and pedestrian ways.
4. Location and extent of public and common open space.

5. Staging and time schedule of development.
6. Other special criteria for development.

Schedule:

1. Developer meets with the Zoning Administrator to discuss the proposed developments.
2. The applicant shall file the preliminary plan application and preliminary plat, together with all supporting data.
3. Within thirty (30) days after verification by the Zoning Administrator that the required plan and supporting data is adequate, the Planning & Zoning Commission shall hold a public hearing.
4. The Planning & Zoning Commission shall conduct the hearing and report its findings and made recommendations to the City Council. Notice of the hearing shall consist of a legal property description, description of request, and be published in the official newspaper at least ten (10) days prior to the hearing and written notification of the hearing shall be mailed at least ten (10) days prior thereto to owners of land within three hundred fifty feet (350') of the boundary of the property in question.
5. The City may request additional information from the applicant concerning operational factors or retain expert testimony at the expense of the applicant concerning operational factors.
6. The Council may hold a public hearing after the receipt of the report and recommendations from the Planning & Zoning Commission. If the Commission fails to make a report within sixty (60) days after receipt of the application, then the City Council may proceed without the report. The Council may approve the concept plan and attach such conditions as it deems reasonable.

C. Final Plan Stage. Following preliminary plat approval, if given, the applicant shall submit the final plan stage application and final plat. The application shall proceed and be acted upon by the City in accordance with the Section for zoning district changes. Should a proposal be of limited scale, the City Council may decide to have the preliminary and final plan stages proceed simultaneously.

D. PUD Applications: Number and Content Requirements. Ten (10) copies of the following exhibits, analysis and plans shall be submitted to the City:

Preliminary Plan Stage:

1. Preliminary plat and information required by the Subdivision Code.

2. General Information:

(a) The landowner's name and address and his interest in the subject property.

(b) The applicant's name and address if different from the landowner.

(c) The names and addresses of all professional consultants who have contributed to the development of the PUD plan being submitted, including attorney, land planner, engineer and surveyor.

(d) Evidence that the applicant has sufficient control over the subject property to effectuate the proposed PUD, including a statement of all legal, beneficial, tenancy and contractual interests held in or affecting the subject property and including an up-to-date certified abstract of title or registered property report, and other evidence as the city attorney may require to show the status of title or control of the subject property.

3. Present Status:

A. The address and legal description of the property.

B. The existing zoning classification and present use of the subject property and all lands within one thousand feet (1,000') of the property.

C. A map depicting the existing development of the property and all land within one thousand feet (1,000') thereof and indicating the location of existing streets, property lines, easements, water mains, and storm and sanitary sewers, with invert elevations on and within one hundred feet (100') of the property.

D. A written statement generally describing the proposed PUD and the market which it is intended to serve and its demand showing its relationship to the City's Comprehensive Plan how the proposed PUD is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable regulations of the City.

E. Site Conditions: Graphic reproductions of the existing site conditions at a scale of one inch equals one hundred feet (1" = 100').

1. Contours; minimum two inch (2") intervals.
2. Location, type and extent of tree cover.
3. Slope analysis.
4. Location and extent of water bodies, wetlands and streams and flood plains within three hundred feet (300') of the property.
5. Significant rock outcroppings.
6. Existing drainage patterns.
7. Vistas and significant views.
8. Soil conditions as they affect development.

All of the graphics should be the same scale as the final plan to allow easy cross reference. The use of overlays is recommended for clear reference.

F. Schematic drawing of the proposed development concept including but not limited to the general location of major circulation elements, public and common open space, residential and other land uses.

G. A statement of the estimated total number of dwelling units proposed for the PUD and a tabulation of the proposed approximate allocations of land use expressed in acres and as a percent of the total project area, which shall include at least the following:

1. Area devoted to residential uses.
2. Area devoted to residential use by building type.
3. Area devoted to common open space.
4. Area devoted to public open space.
5. Approximate area devoted to streets.
6. Approximate area devoted to, and number of, off-street parking and loading spaces and related access.

7. Approximate area, and floor area, devoted to commercial uses.

8. Approximate area, and floor area, devoted to industrial or office use.

H. When the PUD is to be constructed in stages during a period of time extending beyond a single construction season, a schedule for the development of such stages or units shall be submitted stating the approximate beginning and completion date for each such stage or unit and the proportion of the total PUD public or common open space and dwelling units to be provided or constructed during each such state and overall chronology of development to be followed from stage to stage.

I. When the proposed PUD includes provisions for public or common open space or service facilities, a statement describing the provision that is to be made for the care and maintenance of such open space or service facilities.

J. Any restrictive covenants that are to be recorded with respect to property included in the proposed PUD.

K. Schematic utility plans indicating placement of water, sanitary and storm sewer systems.

L. The City may excuse an applicant from submitting any specific item of information or document required in this stage which it finds to be unnecessary to the consideration of the specific proposal.

M. The City may require the submission of any additional information or documentation which it may find necessary or appropriate to full consideration of the proposed PUD.

4. Final Plan. Final plan stage submissions should depict and outline the proposed implementations of the general concept stage for the PUD. Information from the general concept stage may be included for background and to provide a basis for the submitted plan. The development stage submissions shall include but not limited to the following:

A. A final plan and information required by the City's Subdivision Code.

B. Ten (10) sets of the preliminary plans drawn to a scale of not less than one inch equals one hundred feet (1" = 100') (or scale requested by the Zoning Administrator containing at least the following information):

1. Proposed name of the development (which shall not duplicate nor be similar in pronunciation to the name of any plat theretofore recorded in Le Sueur County).
2. Property boundary lines and dimensions of the property and any significant topographical or physical features of the property.
3. The location, size, use and arrangement including height in stories and feet and total square feet of ground area coverage and floor area of proposed buildings, including mobile homes, and existing buildings which will remain, if any.
4. Location, dimensions of all driveways, entrances, curb cuts, parking stalls, loading spaces and access aisles, and all other circulation elements including bike and pedestrian; and the total coverage of all circulation elements.
5. Location, designation and total area of all common open space.
6. Location, designation and total area proposed to be conveyed or dedicated for public open space, including parks, playgrounds, school sites and recreational facilities.
7. Proposed lots and blocks and numbering system.
8. The location, use and size of structures and other land uses on adjacent properties.
9. Detailed sketches and provisions of proposed landscaping.
10. General grading and drainage plans for the developed PUD.

11. Any other information that may have been required by the Planning & Zoning Commission and City Council in conjunction with the approval of the preliminary plan.

C. An accurate legal description of the entire area within the PUD for which final development plan approval is sought.

D. A tabulation indicating the number of residential dwelling units and expected population.

E. A tabulation indicating the gross square footage, if any, of commercial and industrial floor space by type of activity (e.g. drug store, dry cleaning, supermarket).

F. Preliminary architectural “typical” plans indicating use, floor, plan, elevations and exterior wall finishes of proposed building, including mobile homes.

G. A detailed site plan, suitable for recording, showing the physical layout, design and purpose of all streets, easements, right-of-ways, utility lines and facilities, lots, blocks, public and common open space, general landscaping plan, structures, including mobile homes, and uses.

H. Preliminary grading and site alteration plan illustrating changes to existing topography and natural site vegetation. The plan shall clearly reflect the site treatment and its conformance with the approved concept plan.

I. A final plat prepared in accordance with the City’s Subdivision Code.

J. A soil erosion control plan acceptable to watershed districts, Department of Natural Resources, Soil Conservation Service, or any other agency with review authority clearly illustrating erosion control measures to be used during construction and as permanent measures.

Subd. 9 Operating and Maintenance Requirements for PUD Common Open Space and Service Facilities.

A. Whenever common open space or service facilities are provided within the PUD, the PUD plan shall contain provisions to assure the continued

operation and maintenance of such open space and service facilities to a predetermined reasonable standard.

B. Common open space and service facilities within a PUD shall be placed under the ownership of one or more of the following or may include a method deemed most appropriate by the City Council:

1. The landlord, where use only by tenants is anticipated; or,
2. The property owners association provided all of the following conditions are met:
 - a. Prior to the use, occupancy, sale or the execution of contracts for sale or an individual building unit, parcel, tract, townhouse, apartment, or common area, a declaration of covenants, conditions and restrictions or an equivalent document as specified in Minnesota Statutes Section 515B.00, as may be amended from time to time, shall be filed with the Zoning Administrator prior to the filings of the declaration of documents or floor plans with the Le Sueur County Recorder's office.
 - b. The declaration of covenants, conditions and restrictions or equivalent document shall specify that deeds, leases or documents of conveyance affecting buildings, units, parcels, tracts, townhouses or apartments shall subject the properties to the terms of the declaration.
 - c. The declaration of covenants, conditions and restrictions shall provide that an owner's association or corporation may be formed, and if such an association or corporation is formed, property owners must be members of the association or corporation which shall maintain all properties and common areas in good repair and which shall assess individual property owners' proportionate shares of joint or common costs. This declaration shall be subject to the review and approval of the City attorney. The intent of this requirement is to protect the property values of the individual owner through establishing effective private control.
 - d. The declaration shall additionally provide that in the event the association or corporation fails to maintain properties in accordance with the applicable rules and regulations of the City, or fails to pay taxes or assessments on properties as they become due, and in the event the City incurs any expenses not immediately reimbursed by the association or corporation, then the City shall have the right to assess each property its pro rata share of the expenses. Such assessments, together with interest thereon and costs

of collection, shall be a lien on each property against which such assessment is made.

e. Membership in the association must be mandatory for each owner and any successive buyer and the association must be responsible for liability insurance, taxes, and the maintenance of the open space facilities to be deeded to it. This requirement may be waived by the City Council for existing units which are being incorporated into a PUD.

f. The open space restrictions must be permanent and not for a given period of years.

g. Property owners must pay their pro rata share of the cost of the association by means of an assessment to be levied by the association which meets the requirements for becoming a lien on the property in accordance with state law and the association must be able to adjust the assessment to meet changing needs.

h. The by-laws and rules of the association and all covenants and restrictions to be recorded must be approved by the City and County prior to the approval of the final PUD plan. If a final PUD plan is filed in one phase, with staged final plats, the by-laws, rules of the association and all covenants and restrictions may be filed with the final plat.

i. The construction and provision of all of the common open space and public improvements and recreational facilities that are shown on the final development plan for a PUD must proceed at the same rate as the construction of dwelling units or other private facilities.

1115.12 Zoning Map.

Subd. 1 The location and boundaries of the districts established by this Chapter are set forth on the official zoning map which is hereby incorporated as part of this Chapter and which is on file with the City Administrator.

Subd. 2 District boundary lines recorded on the City zoning map are intended to follow lot lines, the center lines of streets, alleys, or railroad right-of-ways, the center line of streets, alleys, or railroad right-of-ways projected, the center of water courses or the corporate limit lines as they exist at the time of the enactment of this Chapter.

Subd. 3 It shall be the responsibility of the Zoning Administrator to maintain and amend the zoning map. The Zoning Administrator shall make, or cause to have made, any corrections or amendments to the map after all of the procedures outlined in this Chapter for the making of revisions or amendments shall have been followed by the Planning & Zoning Commission and City Council.

Subd. 4 Amendments to the zoning map shall be recorded on the map after adoption by the City Council. All amendments shall require a public hearing to be held by the Planning & Zoning Commission. The copy of the official zoning map shall be kept on file in the City Administrator's office and shall be available for public inspection at all times during regular office hours.

Subd. 5 In the event that the official zoning map becomes damaged, is destroyed, becomes lost or is difficult to interpret because of the nature or number of changes and additions, the City Council may, by Ordinance, adopt a new official zoning map. The new official zoning map may correct drafting or other errors or omissions in the principal zoning map, but no corrections shall have the effect of amending the original zoning code or any subsequent amendment thereof. The new official zoning map shall be identified by the signature of the Mayor, attested by the City Administrator, and under the following words: "This is to certify that this official Zoning Map supersedes and replaces the official Zoning Map."

1115.13 Exemptions. The following essential services are permitted in any district:

1. The erection, construction, alteration or maintenance, by public utilities, municipal or other governmental agencies of systems, including as, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems;
2. Elevated and underground water storage tanks;
3. Poles, wires, mains, drains, sewers, pipes, conductance, or cables, fire alarm boxes, traffic signals, hydrants; and
4. Any other similar equipment and accessories in connection therewith which is necessary for the furnishing of adequate service of public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings.

Section 1120 – PERFORMANCE STANDARDS

1120.01 Purpose. The performance standards established in this Section are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. The performance standards are designed to prevent and eliminate those conditions that cause blight or are detrimental to environment. All future development in all districts shall be required to meet these standards and the standards shall also apply to existing development where so stated.

Before any building or zoning permit is approved and issued the Zoning Administrator shall determine whether the proposed use will conform to the performance standards. The developer or landowner shall supply data necessary to demonstrate such conformance. Such data may include a description of equipment to be used, hours of operation, method of refuse disposal, and type and location of exterior storage. In all districts, the City may require a Conditional Use Permit for any exterior storage if it is demonstrated that such storage is a hazard to the public health and safety or has a depreciating effect upon nearby property values, or impacts scenic views, or constitutes a threat to living amenities.

No lot or parcel shall be reduced in size below the minimum requirements prescribed in this Chapter. Nor shall the density of population be increased in any manner except in conformity with the area regulations as provided by this Chapter.

Subd. 1 Bulk Storage (Liquid). All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals and similar liquids shall require a Conditional Use Permit in order that the City Council may have assurance that fire, explosion or water or soil contamination hazards are not present that would be detrimental to the public health, safety, and general welfare.

Subd. 2 Screening. Where any business or industrial use developed after the passage of this Chapter that is adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front as determined by the Zoning Administrator. The screening required herein shall consist of a solid fence, wall, landscaping or combination thereof. Fences and walls shall be at least fifty percent (50%) opaque not less than five (5) feet or more than six (6) feet in height but shall not extend within fifteen (15) feet of any street or driveway opening onto a street. The screening shall be placed along the property lines or in case of screening along a street, fifteen (15) feet from the street right of way with landscaping, between the screening and the pavement. Landscaping shall be at least 50% opaque with leaf off conditions.

Subd. 3 Exterior Storage.

A. In all residential districts, all personal property shall be stored within a building or be fully screened so as not to be visible from adjoining properties and public streets, except for the following: laundry drying, recreational equipment, outdoor furniture, cooking equipment, home heating fuel tanks, stacked firewood, construction and landscaping materials, playground equipment, and equipment currently (within a 12-month period) being used on the premises; off-street parking of licensed passenger automobiles and pick-up trucks in accordance with Chapter 9 of the City Code.

B. In non-residential districts, all exterior storage shall be screened. The exceptions are:

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

C. In non-residential districts, up to three commercial vehicles such as delivery and service trucks up to 12,000 pounds of gross vehicle weight may be parked without screening if the vehicles relate to the principal use. Construction equipment, trailers and vehicles over 12,000 pounds shall require screening.

D. In all districts, the City Council may order the owner of any property to cease or modify open storage uses including existing uses, provided it is found that the use constitutes a threat to the public health, safety, convenience or general welfare.

Subd. 4 Fencing.

A. The purpose of this Section is to enact minimum restrictions by regulating the location, height, and type of construction of all fences to ensure orderly and attractive development, to enhance the “curb appeal” from Montgomery’s streets, to protect the health and welfare of Montgomery’s citizens, to allow a free flow of air, and to prohibit unreasonable restrictions of view while allowing each property owner to protect his or her property and privacy.

B. A permit shall be obtained for any permanent fence installed for any purpose. The installation of temporary or seasonal fencing, such as snow fencing, gardening, fence, and the like, without permanent posts are exempt from this requirement. The type of fence to be constructed, the material to be used, height and a site plan showing the location of the

fence, shall be submitted with the permit application. The City may require an applicant to provide a certificate of survey establishing property lines if the property lines are not clearly defined to establish the property lines.

C. Location of Fences.

1. All fences shall be located entirely upon the property of the owner unless the owner of the adjoining property agrees, in writing, that said fence or retaining wall may be erected on the property line of the respective properties. Such agreement shall be submitted at the time of the zoning compliance review permit application or building permit application. Encroachment into a City easement shall require an encroachment agreement between the property owner and the City. Further, neither the City, nor any utility company having authority to use the easements, shall be liable for repair or replacement of fences in the event they are moved, damaged, or destroyed by virtue of the lawful use of the easement. Fences shall not be placed within the public right-of-way. If the City or a private utility company needs to access an easement, the property owner shall be given certified mailed notice at least 48 hours in advance of the work to be done and the fact the fence needs to be removed. In cases of an emergency, no notice is required but an attempt to give notice shall be made.

2. No fence shall be permitted below the ordinary high water mark of a wetland or within a wetland.

3. When driveway, access, or trail easements are located on private property, fences shall not be constructed in the easement.

4. No fences shall be permitted between a required landscape buffer and a collector or arterial street.

5. Temporary fencing, such as fencing installed to enclose a seasonal garden or snow fencing in, winter, may not be located within the front yard setback. Snow fencing shall not be located within any drainage or utility easement.

D. Construction, Maintenance and Design Requirements.

1. Every fence shall be constructed in a workmanlike manner and of substantial material reasonably suited to the purpose for which the fence is 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, which would constitute a public nuisance, or a dangerous condition, public or private. If a fence is allowed to become and remain in such condition,

the Police Department or other designated City official is authorized to notify the owner or owners of the fences of the condition and allow ten (10) days in which to repair or demolish the fence.

2. Link fences, wherever permitted, shall be constructed in such a manner that the barbed end is at the bottom of the fence. No plastic or other slats may be used in a link fence in residential districts, with the exception of dog kennels.

3. No barbed wire or barbed wire fences shall be allowed on private property in agricultural, residential, or commercial zones. Barbed wire fencing is permitted only in an industrial zone, and then solely for the purpose of topping an 8 feet high minimum fence enclosing a storage area. More precisely, the barbed wire fence topping the minimum 8' regular fence must be at least 8' above ground.

4. With the exception of "invisible fences" (underground electric fences to control movement of domestic animals), electrical fences are prohibited in residential districts.

5. All fences shall be constructed in conformity with the wind, stress, foundation, structural, and other requirements of the Minnesota State Building Code.

6. The side of the fence considered being the face shall face an abutting property or street. The face shall be defined as the finished side of the fence rather than the side with structural supports.

7. If fencing is built away from a property line, the property on both sides of the fence must be maintained so as not to create a public nuisance.

8. The height shall be measured from the average point between the highest and lowest grade.

9. Irregular Lot: In the Case of an irregular shaped lot/parcel, the City Administrator or his/her designee shall determine the most appropriate fence height and type based on the requirements stated in this Section.

E. Residential District Fences.

1. Side yards and rear yards: fences within the side or rear yard shall not exceed six (6) feet in height.

2. Front yards: fences in the required front yard setback area shall not exceed four (4) feet in height for chain-link fences and three (3) feet in height for wood fences.

3. Corner or multi fronted lots: in addition to the other provisions contained in this Section, fences located on corner or double fronted lots shall be subjected to the following provisions:

(a) Any fence within the required front yard setback area shall not exceed three (3) feet in height if opaque construction, or four (4) feet in height if open construction.

(b) Fences located within a secondary front yard that is also in the side yard of the primary structure may be extended to a height no taller than six feet if a privacy fence.

(c) Rear yard-multi frontage. Rear yard fences fronting a street right-of-way or alley may be extended to a height no taller than six feet if a privacy fence.

(d) A setback of five (5) feet from the alley right-of-way shall be required for fences located adjacent to any alley.

(e) A setback of two (2) feet from the road right-of-way shall be required for fences located adjacent to any roadway.

(f) A setback of two (2) feet from a public sidewalk shall be required for any fence.

(g) All fences located on a corner shall provide a clear sight triangle as defined elsewhere in this Chapter.

F. Commercial and Industrial Fences.

1. In commercial and industrial zones, fences may not exceed eight (8) feet in height above the ground level, and the use of barbed wire is prohibited, except in industrial zones the top one foot of any fence along side or rear lot lines may be constructed of barbed wire. Barbed wire shall not be used, installed, or constructed on fences fronting any street, or when adjacent to any residential district. The security arm shall be angled in a manner that it extends only over the property of the permit holder and does not endanger the public. The owners of fences must take reasonable precautions to protect the public from injuries caused by accidental contact with the fence.

2. Fences over six (6) feet in height shall be setback from the property line at least five (5) feet. In the setback area there shall be planted a combination of coniferous and deciduous plants in order to soften the appearance of the fence or wall for the affected residential area.

3. Screening fences shall be compatible (similar materials, colors and scale) with the principal building and shall be compatible with the natural surroundings.

G. Swimming Pool Fences.

1. The enclosing of swimming pools by a fence or barrier shall be required in the following instances: All below ground level outdoor swimming pools, regardless of water depth or water volume.

2. All structure or safety fence of a non-climbable type at least five (5) feet in height shall completely enclose the pool, but shall not be located within any required yard areas to prevent uncontrolled access to the pool area. The bottom of the fence shall not be more than four inches (4”) from the ground. Fences shall be of a noncorrosive material and shall be constructed so as to not be easily climbable. All fence openings or points of entry into the pool area enclosure shall be equipped with gates or doors that have self-closing and self-latching devices placed with its latch at least four (4) feet above the ground level so as to be inaccessible to small children. Required structure or safety fencing shall be completely installed before any water is allowed in the pool.

H. Mandatory Retaining Wall Requirements. Retaining walls are allowed under the following conditions:

1. Retaining walls are located at least one (1) foot outside the drainage and/or utility easement.

2. Retaining walls shall meet all International Building Code requirements for such structures.

3. No retaining wall shall cause a visual obstruction to traffic.

4. A site plan shall be submitted to the City along with a zoning permit application, with review and approval by the City.

1120.02 Permitted Encroachments. For the purpose of this Chapter, the following shall be considered as permitted encroachments within the yards indicated.

Subd. 1 In any yard: overhanging roof eaves, open terraces, marquees, flues, sills, lintels, pilasters, cornices, gutters, open canopies and awnings attached to the principal building, not to exceed 50% of the depth of the front or rear yards or two feet from the building on the side yards.

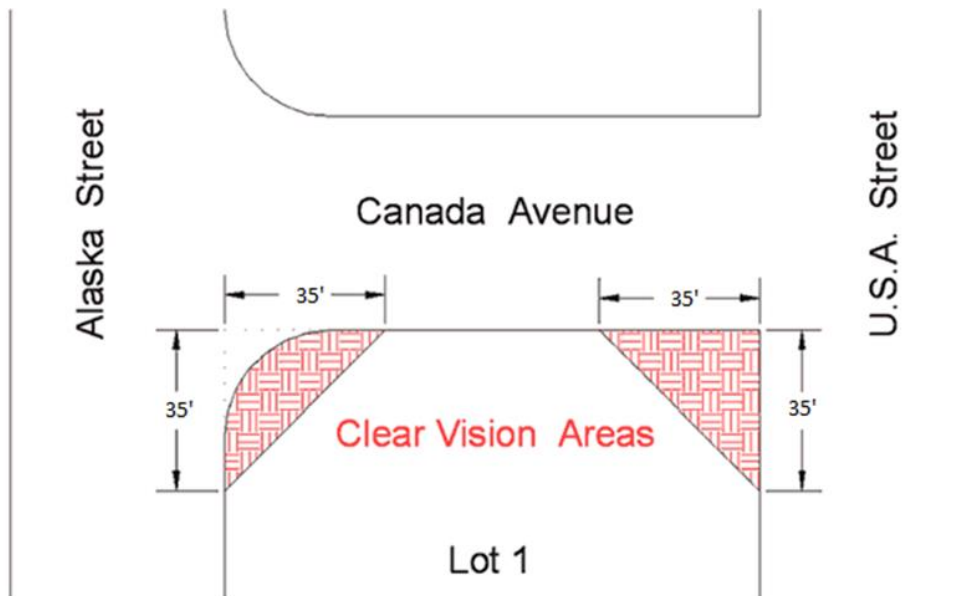
Subd. 2 Yard lights and name plate signs in residential districts, provided the lights and signs are three feet or more from all lot lines. Lights for illuminated parking and loading areas or yards for safety and security purposes may be provided where necessary, provided that the glare is not visible from public rights-of-way or adjacent residential property.

Subd. 3 In front yards: a landing place or uncovered porch may extend into the required front yard a distance not to exceed six feet (6'), if the landing place or porch has its floor no higher than the entrance floor to the building. Bay windows may extend into the required front yard a distance not to exceed four feet (4'). Gutters may extend into the required front yard a distance not to exceed one foot (1').

Subd. 4 In rear yards: balconies, breezeways, detached picnic shelters, swimming pools, recreational equipment, landscaping, driveways, steps, stoops, uncovered porches, patios, picnic tables, open arbors, trellises, laundry drying equipment, detached outdoor living room and outdoor eating facilities, shall be permitted provided they are not less than five (5) feet from any lot line.

Subd. 5 Encroachments in any yard abutting a public or private street shall be considered permitted encroachments, as outlined above, except that no encroachment shall be permitted within present or proposed street right-of-way lines.

Subd. 6 On any corner lot at a street intersection, there shall be no obstruction to traffic visibility 30 inches above the curb or shoulder within the clear sight triangle as defined in the image below.



Subd. 7 Utility boxes and pedestals must have the following clear zones which means no fences can be installed closer than the following distances: Front-8' (the side that is padlocked), Sides-3' on two sides at at least 1' on the fourth side.

1120.03 Accessory Buildings and Structures.

Subd. 1 Principal Use Residential.

A. The maximum allowed size of detached garages and accessory buildings in the R-1, R-2 and R-3 districts is, (1,000) square feet with a maximum sidewall height of 10 feet. Maximum size of detached accessory building in the R-A district shall be 2,500 square feet with a maximum sidewall height of 20 feet. The combined total square feet of all accessory buildings on the property shall not exceed the maximum allowed accessory building size. Pole buildings shall have horizontal siding in the R-1, R-2 and R-3 districts only and shall have the same approximate color as the principal building.

B. Accessory buildings are permitted in any rear or side yard. Buildings shall have a minimum setback of five (5) feet from rear and side yard property lines; a minimum rear yard setback of ten (10) feet from any alley right of way and provide a minimum of ten (10) feet of direct access to the entrance from the alley.

C. No accessory building shall exceed the height of the principal building.

D. Accessory buildings which are 200 square feet in floor area or less shall not require a building permit and a zoning permit shall be required.

E. Accessory buildings over 120 square feet shall be of like color and materials as to the principal building.

F. An accessory structure, under 200 square feet, may be allowed on a vacant parcel, if all of the following conditions are met:

- i. The vacant parcel where the accessory structure will be located shares a property line with parcel that has a principal residential structure; and
- ii. The vacant parcel is owned by the person who owns the parcel with the principal residential structure; and
- iii. The accessory building is movable-not placed on a permeant foundation; and

- iv. If over 120 square feet, meets the design requirements of this Section; and
- v. The accessory building meets all required setbacks; and
- vi. There will be no driveway or other access to the structure from any street.

Subd. 2 Principal Use Commercial or Industrial.

A. No accessory building shall exceed the height of the principal building except by Conditional Use Permit.

B. Accessory buildings may be located any place to the rear or side of the principal buildings, subject to the building code and the fire zone regulations except where prohibited by other sections of this Chapter. No accessory building shall be placed within the street right-of-way or in any platted drainage and utility easement. Conforming residential uses located in the B-1 zoning district shall adhere to the R-1 district requirements.

Subd. 3 All Districts.

A. Accessory buildings shall not be constructed prior to or in lieu of the principal building except for the R-A and the R-1 districts as provided for in this Section.

B. Paved or hard surfaced driveways or parking areas shall be setback a minimum of three (3) feet from the side property line.

C. No more than one (1) principal structure may exist on any lot or parcel.

1120.04 Non-Conventional Temporary Structures. Non-conventional temporary structures are not allowed or permitted within the City limits.

1120.05 Dwelling Units Prohibited. No basement, garage, tent, trailer, recreational vehicle or accessory building shall be used as a permanent dwelling. The basement portion of a finished home or apartment may be used for normal eating and sleeping purposes provided it is properly damp-proofed, has suitable fire protection and exits, and is otherwise approved by the Building Inspector.

1120.06 Relocating Structures.

Subd. 1 Permit Required. No person shall move any principal building from within or without the City limits to a new location within the City without first obtaining approval of a Conditional Use Permit in accordance with the provisions of Section 1110.04 of this Chapter. This permit shall not be required for a building that is in transit through the City when the mover has been permitted by

a lawfully issued permit from the county or the state. In addition, manufactured homes being moved in or out of manufactured home parks, which were in existence prior to the adoption of this Chapter shall not be required to obtain a moving permit, provided a building permit has been issued for the home.

An application for such conditional use permit shall include the following:

- A. The origin including the legal description of the premises from which the building is to be moved from and destination of such building, including the legal description of the premises to which it is proposed such building to be moved;
- B. The route over which it is to be moved;
- C. A description of the building proposed to be moved including: construction materials, dimensions, number of rooms, condition of exterior and interior, and photographs showing ground and street elevations;
- D. The portion of the premises to be occupied by the building when moved;
- E. The location of the lot on which the building is to be located, the dimensions of the lot and the proposed location of the structure on the lot along with setback distances;
- F. The proposed moving date and hours;
- G. The owner of a building to be moved into the City shall file with the application sufficient evidence that the building and lot from which it is to be removed are free of any encumbrances, that all taxes and any other charges against the same are paid in full. The applicant shall file with the application a written statement or bill of sale or other sufficient evidence that the applicant is entitled to move the building;
- H. In every case in which the removal or displacement of any overhead electrical or other wires is required, it shall be the duty of the person, association, or corporation owning, operating, or controlling said wires to remove or displace the same, so far as the same way may be necessary to effect the removal thereof, shall be authorized by such permit. The person moving the structure must notify the person, association, or corporation owning, operating, or controlling said wires to remove or displace the same to facilitate the removal of said wires sufficiently to allow the passage of said building along the street over which said wires are suspended. Any expenses incurred or to be incurred in the moving,

removing or displacing of such wire shall be paid for by the person moving the structure.

Subd. 2 Conditions for Approval. No permit to move a building shall be issued unless and until the following conditions are fully complied with and approved by the City Council:

A. The building to be moved must comply in all respects with the Minnesota State Building Code, other pertinent state rules, and the Montgomery City Code;

B. The lot on which the building is to be located must meet all the minimum dimensional requirements of the zoning district in which it is located;

C. The building must be placed on the lot so as to meet all the front, side and rear yard requirements as set forth in the Zoning Code;

D. A \$10,000.00 escrow deposit shall be made to the City, to be refunded upon final occupancy, grading and landscaping. The funds shall be deposited in an escrow account with an executed escrow agreement;

E. No permit shall be issued under this Section unless and until the Zoning Administrator is satisfied that the building proposed to be moved will in its destination location conform to the general character, age and to the type of architecture of the neighborhood;

F. In addition, the relocated structure:

1. Shall not be at such a variance with the established or expected pattern of development in the neighborhood that it would destroy the overall appearance of the neighborhood;
2. The City shall consider the extent of variance, if any, of the proposed structure with the existing age, bulk, architectural style and quality of construction;
3. The structure shall not substantially diminish or impair property value within the neighborhood;
4. The proposed use of the structure shall meet the zoning district requirements.

G. The structure shall be placed on a permanent foundation within three weeks of delivery to the site.

Subd. 3 Accessory Buildings. No person shall move any accessory building from within or without the City limits to a new location within the City without first obtaining a building or zoning permit, as applicable.

Subd. 4 Building Official: duties.

A. The building official shall inspect the building at its location prior to moving, and the applicant's equipment to determine whether the standards for issuance of a permit are met;

B. The building official may not issue a permit if he/she finds:

1. That any application requirement or any fee or deposit requirement has not been met;
2. That the building is too large to move without endangering persons or property in the City;
3. That the building is structurally unsafe or unfit for the purpose for which it is being moved;
4. That zoning or other regulations of the City would be violated by the building or its destination location;
5. That the building to be moved is not worth at least 60% of the cost of a similar new building as determined by the building inspector; or
6. That the building in its destination location would fail to comply in any respect with any provisions of this code or, in the alternative, that proper assurances of such compliance have not been given.

Subd. 5 Fees and Deposits.

A. All fees, deposits, bonds, and insurance policies shall be provided to the Zoning Administrator;

B. Upon a refusal to issue a permit, the building official or Zoning Administrator shall return to the applicant all deposits, bonds and insurance policies. Building permit fees filed with the application shall not be returned;

C. After a building has been moved, the building official shall furnish the Zoning Administrator with a written statement of all expenses incurred in removing and replacing all property belonging to the City, and of all material used in the process, together with a statement of any and all damage caused to or inflicted upon property belonging to the City. The City shall then authorize the building official to return to the applicant all deposits after the City Administrator deducts the sum sufficient to pay for all of the costs and expenses and for all damage done to the property of the City by reason of the removal of the building. Permit fees deposited with the application shall not be returned.

Subd. 6 Designated Streets for Removal. The building official shall procure from the street department a list of designated streets over which the building may be moved. The building official shall have the list approved by the Le Sueur County Sheriff's Department and shall reproduce the list upon the permit in writing. In making their determinations, the street department and the Le Sueur County Sheriff's Department shall act to assure maximum safety to persons and property in the City and to minimize congestion and traffic hazards on public streets.

Subd. 7 Duties of Permittee.

- A. The permittee shall move a building only over streets designated for such use in the written permit;
- B. The permittee shall notify the building official in writing of a desired change in moving date and hours as proposed in the application;
- C. The permittee shall notify the building official in writing of any and all damage done to property belonging to the City within twenty-four (24) hours after the damage or injury has occurred;
- D. The permittee shall cause red lights to be displayed during the night time on every side of the building while it is on a street, in such manner as to warn the public of the obstruction, and shall at all times erect and maintain barricades across the streets in such manner as to protect the public from damage or injury by reason of the removal of the building;
- E. The permittee shall remove the building from the City streets after twenty-four (24) hours of such occupancy, unless an extension is granted by the building official;
- F. The permittee shall comply with the building code, the zoning code and all other applicable regulations and laws upon relocating the building in the City;
- G. The permittee shall remove all rubbish and materials, and fill all excavations to existing grade at the original building site, when located in the City, so that the premises are left in a safe and sanitary condition;
- H. The Zoning Administrator or designee must certify that all sewer charges and water bills payable against the property within the City from which the building is to be moved have been paid and that all sewer and water connections have been plugged or discontinued at the curb line or at the main, and that all taxes against the property have been paid in full;
- I. The permittee shall re-side all exterior walls, install new doors and door frames, window frames as well as screen and storm windows of the

building moved, unless waived by the Zoning Administrator. Siding must be installed within 12" of final grade;

J. The permittee shall install or cause to be installed a finished grade on all parts of the premises onto which such building is moved, including the planting or installation of live sodding on all parts of the plot or parcel involved;

K. The permittee shall install or cause to be installed new roofing on such building, unless the Zoning Administrator waives such new roofing;

L. The permittee shall construct and provide all necessary and proper drainage for the premises onto which such building is moved. Such drainage shall be installed and constructed according to plans to be submitted by the owner and approved by the building official and the City Engineer. Plans shall be in accordance with the City's storm water management plan;

M. Whenever the premises or parcel of land onto which such building is moved is graded by cutting or filling any part thereof, all slopes in excess of 12% thus created shall be finished, graded and sodded wherever possible, or shall be maintained by the erection of retaining walls. Such walls to be erected by the owner, or their designee, of such premises pursuant to plans and under the supervision of the building official.

Subd. 8 Miscellaneous Conditions.

A. Scope. It is not intended by this Section to interfere with or abrogate or annul any easement, covenant or other agreement between parties. When this Section imposes a greater restriction than is imposed or required by any other section, rule, regulation or by easements, covenants, or agreements, the provisions of this Section shall control.

B. Enforcement.

1. The permittee is liable for any expense, damage or costs in excess of the deposited amounts or securities. The City attorney may prosecute an action against the permittee in a court of competent jurisdiction for the recovery of such amounts;

2. When necessary, because the permittee has not complied with this Section, the City shall proceed to do the work necessary to leave the original premises, if in the City limits, in a safe and sanitary condition. The cost thereof shall be charged against the general deposit.

C. Hours. No building shall be moved across any railroad or bridge, unless the hour be specified and approved by the company or governmental unit controlling such tracks or bridge.

D. Moving Building into City.

1. A person desiring to move a building into the City from outside the City shall notify the building official prior to the process of moving of such building in sufficient time so that the building official may make all necessary inspections in order to determine whether such building complies with the application Section of this code.

1120.07 Height Regulation Exceptions,

Subd. 1 Building Height. Building heights in excess of those standards contained in the district provisions may be permitted through a conditional use permit, provided that all of the following requirements are met:

A. The site is capable of accommodating the increased intensity of use.

B. The use does not negatively impact traffic flow or capacity of surrounding public rights-of-way.

C. For each additional story over three (3) stories or for each additional ten (10) feet above forth (40) feet, front and side yard setback requirements shall be increased by 5%.

D. Applicants proposing structures constructed exclusively for or hosting telecommunications equipment shall provide written verification of approval from the Federal Communications Commission and the Federal Aviation Administration.

E. The City shall require an applicant who proposes the construction of any structure with a height equal to or greater than two hundred (200) feet above ground level, or the alteration of any structure to a height which is equal to or greater than two hundred (200) feet above ground level to notify the Minnesota Department of Transportation Commissioner and the Federal Aviation Administration Commissioner of said proposal at least 30 days prior to the City Council's consideration of said request. The applicant shall submit evidence to the City verifying the Minnesota Department of Transportation and the Federal Aviation Administration have been duly notified of said proposed structure prior to City Council approval.

Subd. 2 Building height limits established for districts shall not apply to the following, provided said structures do not exceed 200 feet above ground level:

- A. Belfries
- B. Chimneys or flues
- C. Church spires
- D. Cooling towers
- E. Cupolas and domes which do not contain usable space
- F. Elevator penthouses
- G. Flag poles
- H. Monuments
- I. Parapet walls extending not more than three (3) feet above the limiting height of the building
- J. Poles, towers, and other structures for essential services
- K. Necessary mechanical and electrical appurtenances
- L. Farming buildings
- M. Wind energy conversion system towers

1120.08 Home Occupations.

Subd. 1 Purpose. The purpose of this Section is to prevent competition with business districts and to provide a means through the establishment of specific standards and procedures by which home occupations can be conducted in residential neighborhoods without jeopardizing the health, safety, and general welfare of the surrounding neighborhood. In addition, this Section is intended to provide a mechanism enabling the distinction between permitted home occupations and special or customarily “more sensitive” home occupations, so that permitted home occupations may be allowed through an administrative process rather than a legislative hearing process.

Subd. 2 Regulations. All occupations conducted in the home shall comply with the provisions of this Section, the provisions of the district in which it is located, and other Sections of this Code.

Subd. 3 Types of Home Occupations and Process.

A. Permitted Home Occupations. No license is required provided there is compliance with the provisions of this Section.

- 1. Permitted home occupations include and are limited to: art studio, seamstress, secretarial services, day care for up to twelve (12) children, family day care, foster care, professional offices such as legal, accounting, insurance or computer technician, teaching with musical, dancing and other instructions which consist of no more than two (2) pupils at a time, the sale of products whose name brand are not marketed and sold in a

wholesale or retail outlet, photography studio, personal care services such as massage therapy, aroma therapy, acupuncture, and similar uses;

2. The following regulations shall apply to permitted home occupations:

(a) No person other than those who customarily reside on the premises and one (1) fulltime equivalent additional employee shall be employed on the premises;

(b) All permitted home occupations shall be conducted entirely within the principal building whenever possible and should not be conducted in an accessory building;

(c) Permitted home occupations shall not create a parking demand in excess of that which can be accommodated in an existing driveway;

(d) The home occupation shall not involve any of the following: repair service or manufacturing which requires equipment other than found in a home; teaching which customarily consists of more than two (2) pupils at a time; over-the-counter sale of merchandise produced off the premises, except for those brand name products that are not marketed and sold in a wholesale or retail outlet.

B. Special Home Occupations. A license for a special home occupation shall require a public hearing before the Planning Commission, following published notice in the official newspaper of the City and mailed notice to property owners within 350 feet of the property in which the home occupation is proposed, not less than 10 days nor more than 30 days prior to the hearing. The Planning Commission shall forward a recommendation to the City Council which shall make a decision regarding the issuance of the license based on the provisions listed in this Section, within 60 days of the completed application for the request. A fee shall accompany application for the special home occupation license if so designated by the City Council.

1. Examples of special home occupations include: barber and beauty services, caterers, day care for over twelve (12) children, carpentry or woodworking, bed and breakfasts as noted in 2E(iii) below, dog grooming, saw sharpening, small appliances, small engine repair, taxidermy and other occupations similar in nature. Licensed tattoo establishments shall not be permitted as a home occupation;

2. The following regulations shall apply to the special home occupations:

(a) Any home occupation which does not meet the specific requirements for a permitted home occupation as defined in this Section shall require a "special home occupation

license” which shall be applied for, reviewed and approved in accordance with the provisions of this Section;

(b) The Planning Commission and the City Council may impose such conditions of the granting of a “special home occupation license” as may be necessary to carry out the purpose and provisions of this Section;

(c) A “special home occupation license” may be issued for a period of one (1) year after which the license may be reissued for periods of up to five (5) years each;

(d) An accessory building may be used for the storage of items incidental to the licensed home occupation;

(e) Special home occupation requirements:

(i) No person other than those who customarily reside on the premises and one (1) fulltime equivalent additional employee shall be employed on the premises;

(ii) Special home occupations may be allowed to accommodate their parking demand through utilization of on-street parking;

(iii) Bed and breakfasts may be permitted as a special home occupation provided that:

(a) The bed and breakfast shall be part of an owner-occupied residential structure;

(b) Four (4) or fewer rooms are for rent for a period not to exceed fourteen (14) consecutive days during any ninety (90) day period;

(c) The establishment conforms to all applicable federal and state regulations, and Building Code requirements;

(d) Primary entrance to all guestrooms shall be from within the dwelling;

(e) No food preparation or cooking shall be conducted within any of the guestrooms;

(f) Food service shall be limited to breakfast;

(g) No other commercial use shall occur on the property, including home occupations. Activities including luncheons, banquets, parties, weddings, meetings, fundraising events or other gatherings for direct or indirect compensation are prohibited;

(h) Parking shall be accommodated on the property and parking requirements for guests are in addition to those required for the principal residential use. Parking shall

conform to the requirements of Section 1120.

Subd. 3 Standards. All home occupations shall conform to the following standards:

A. The use shall be limited to one room in the dwelling unit and shall not exceed 25% of the structure's total floor area. Any home occupation shall be clearly incidental and secondary to the residential use of the premises, should not change the residential character thereof, and shall result in no incompatibility or disturbance to the surrounding residential uses.

1. Day care businesses may occupy more than one room in the dwelling but shall not exceed 50% of the structure's total floor area.

B. No more than one person, other than the members of the family occupying the dwelling, shall be employed in conjunction with the home occupation.

C. No noise, vibration, glare, fumes, odors, or electrical interference detectable off-premises.

D. No special or hazardous wastes, or noxious matter may be generated.

E. No mobile home, travel trailer, motor home, camper or similar vehicle may be used for office, business, industrial manufacturing, testing or storage of items used with or in a business, commercial or industrial enterprise.

F. No interior or exterior business sign shall be permitted unless authorized by the sign regulations for residential districts.

G. There shall be no exterior storage of business equipment, materials, merchandise, inventory, or heavy equipment.

H. Vehicular traffic flow and parking within the driveway shall not increase by more than four additional vehicles at a time.

I. All parking related to the home occupation shall be off-street and within the driveway.

J. Shall not constitute a fire hazard to neighboring residences, will not adversely affect neighboring property values, or constitute a nuisance or otherwise be detrimental to the neighborhood because of excessive traffic, excessive noise, odors, or other circumstances.

K. No home occupation shall operate between the hours of 10:00 p.m. and 6:00 a.m. unless such activity is entirely maintained within the principal building and will not require any on-street parking.

L. The City reserves the right upon issuing any home occupation license to inspect the premises in which the occupation is being conducted to ensure compliance with the provisions of this Section, the Minnesota State Building Code, the Montgomery Residential Rental Code, or any other conditions additionally imposed.

1120.09 Single Family Dwellings. All single-family detached homes, except in the R-MH district and in approved manufactured home parks, shall meet all of the following requirements:

Subd. 1 Minimum Width. Every dwelling shall have a minimum width of twenty-two (22) feet for at least seventy percent (70%) of its length. Width measurements shall not take into account overhangs and other projections beyond the principal walls. Dwellings shall meet the minimum floor area requirements as set out in this Chapter.

Subd. 2 Perimeter Foundation. Every dwelling shall have a full load bearing perimeter foundation with a minimum clear span floor loading capacity to a center wall or beam which complies with the requirements of the Minnesota State Building Code.

Subd. 3 Roofing Material. Every dwelling shall have roofing material consistent with standard and customary dwelling construction and materials with a minimum roof overhand of one (1) foot.

Subd. 4 Compliance with all Adopted Building Codes. Every building shall comply with the City adopted building codes in all respects.

Subd. 5 Building Permit Information Requirements. The application for a building permit in addition to other information required shall indicate the height, size, design and the appearance of all elevations of the proposed building and a description of the construction materials proposed to be used, and the delineation of future deck, porch and/or garage additions whether or not such construction is intended. The exterior architectural design of a proposed dwelling may not be so at variance with, nor so similar to, the exterior architectural design of any structure or structures already constructed or in the course of construction in the immediate neighborhood, nor so at variance with the character of the surrounding neighborhood as to adversely affect the public health, safety or general welfare.

1120.10 Zero Lot Line Provisions. Two-family residential lots may be platted or subdivided in such a manner that the common boundary line for the residential units will

have a zero lot line setback; provided, however, that the lot meets with the following requirements:

Subd. 1 Each lot shall have a minimum square footage of 8,000 square feet for single unattached units and 10,000 square feet for attached/duplex units.

Subd. 2 Separate services shall be furnished to each residential unit for sanitary sewer and water.

Subd. 3 Fence or shrubbery dividers may be installed or maintained on the common boundary line in the rear of the structure.

Subd. 4 The two-family unit shall be constructed in a side-by-side manner.

Subd. 5 A double fire wall in conformance with the building code shall be constructed as a common wall extending from the foundation up to the rafters of the building.

1120.11 Design Standards.

Subd. 1 General.

A. Steel or aluminum buildings. Except in association with permitted farming activities, no galvanized or unfinished steel or unfinished aluminum buildings (walls or roofs), except those specifically intended to have a corrosive designed finish shall be permitted in any zoning district. All dwellings shall be constructed of conventional exterior dwelling type material.

B. Building foundations. Building foundations on dwelling units, not exceeding one (1) foot and other such portions of a building's façade need not comply with the requirements for the primary façade treatment or materials.

C. Buildings in all zoning districts shall maintain a high standard of architectural and aesthetic compatibility with surrounding properties to ensure that they will not adversely impact the property values of the abutting properties or adversely impact the public health, safety and general welfare, as determined by the Zoning Administrator.

Subd. 2 Single-family Houses Constructed in or Moved into the City.

A. Must be compatible with neighboring houses.

B. Shall have a minimum 960 square foot foundation size for detached and attached dwelling units, in the residential districts.

- C. Shall have a minimum width of 24 feet for at least 70% of its length.
- D. Shall have a full load-bearing perimeter foundation, and a floor loading capacity which complies with the requirements of the State Building Code.
- E. Shall have a minimum roof pitch of 6:12.
- F. Shall have a minimum roof overhang of one (1) foot on roofs with a 6:12 pitch.
- G. Shall be designed to consist of exterior materials compatible with residential development in the area with regard to architectural quality and the massing of structures, and shall be designed with suitable fenestration.

Subd. 3 Duplexes, Cluster Houses, Townhouses and Multiple Family Building Constructed in the City.

- A. Shall be designed to consist of exterior materials which are compatible with residential development in the area with regard to architectural quality and the massing of structures. Exterior materials should possess certain qualities such as durability, scale, color, and detailing.

Subd. 4 Commercial and industrial buildings shall comply with the architectural and building design standards noted within the respective Sections of this Chapter.

1120.12 Off-Street Parking and Loading.

Subd. 1 General Standards for Applicability. The following regulations and requirements shall apply to all off-street parking and loading facilities in all zoning districts in the City except those located in the B-3, Central Business District. Uses in the B-3 District are not required to provide off-street parking spaces unless they contain residential rental units. Design standards for parking areas in the B-3 District are applicable if off-street parking is provided.

- A. Reduction of Existing Off-Street Parking Space or Lot Area. Off-street parking spaces and loading spaces or parking lot area existing upon the effective date of these provisions shall not be reduced in number or size unless the number exceeds the requirements set forth herein for a similar new use.
- B. Nonconforming Structures. Should a nonconforming structure or use be damaged or destroyed by fire, it may be re-established if elsewhere

permitted in this Chapter, except that in doing so, any off-street parking or loading space which existed before shall be retained.

C. Change of Use or Occupancy of Land. No change of use or occupancy of land already dedicated to a parking area, parking spaces, or loading spaces shall be made, nor shall any sale of land, division or subdivision of land be made which reduces area necessary for parking, parking stalls, or parking requirements below the minimum prescribed by this Chapter.

D. Change of Use or Occupancy of Buildings. Any change of use or occupancy of any building or buildings including additions thereto requiring more parking area shall not be permitted until there is furnished such additional parking spaces as required by this Chapter.

E. Computation of Spaces Required. In computing the number of parking or loading spaces required, the following rules shall govern:

1. Floor space shall mean the gross floor area of the specific use.
2. Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number.
3. The parking space requirement for a use not specifically mentioned herein shall be the same as required for a similar use as determined by the Zoning Administrator.
4. Should a building or structure contain two (2) or more types of uses, each should be calculated separately for determining the total off-street parking spaces required.

F. Maintenance. It shall be the responsibility of the lessee and the owner of the property and buildings to maintain in a neat and adequate manner, the parking space, access-ways, striping, landscaping and required screening.

G. Proof of Parking. Subject to review, the City may reduce the number of required off-street parking spaces in other districts when the applicant can demonstrate in documented form a need which is less than required. In such situations, the City shall require a site plan illustrating "Proof of Parking" availability. The plan shall illustrate where the additional parking will be located and how the traffic circulation will coordinate with the site plan and existing parking lot should use or needs change. The Planning Commission shall also consider:

1. The on-street parking available by the site;
2. The expected usage of the site and parking demand;

3. Surrounding land uses and zoning districts;
4. The provisions of this Chapter affecting the parking lot or loading area;
5. Any other associated aspect that the Planning Commission deems necessary to evaluate the request;
6. The applicant shall install the additional required off-street parking within six (6) months of written notification by the Zoning Administrator.

Subd. 2 Site Plan. Except for single-family dwellings, all applications for a building or an occupancy permit shall be accompanied by a site plan drawn to scale and dimensioned indicating the location of all off-street parking and loading spaces in compliance with the requirements of this Section. Such plan shall be reviewed by the Planning Commission and approved by the City Council, in accordance with the criteria developed in this Subdivision.

Subd. 3 Design of Off-Street Parking and Loading Space. All off-street parking and loading spaces required by these provisions shall be designed as follows:

A. Off-Street Parking Areas.

1. Generally. Off-street parking areas shall be so designed that vehicles are parked in an orderly fashion. Site plans shall show proposed parking spaces, driveways, loading areas, landscaping and screening, and the parking area shall conform to such site plans. Aisle entrance shall be kept clear by appropriate design.
2. Size. Each parking space shall be not less than nine feet (9') wide and twenty feet (20') in length and shall in no case be less than one hundred eighty (180) square feet in area. Each space shall be served adequately by access aisles.
3. Surfacing. All areas intended to be utilized for parking space and driveways shall be surfaced with materials suitable to control dust and drainage. With the exception of Single-Family Residences, all off-street parking areas and driveways shall be paved with concrete or plant mixed bituminous surface. As to Single-Family Residences, all driveways connected to a concrete or bituminous road shall be paved with concrete, plant mixed bituminous, or concrete pavers. As to Single-Family Residences, all off-street parking areas and driveways connected to a gravel road shall be paved with concrete, plant mixed bituminous, concrete pavers, or gravel.
4. Striping. Except for single, two-family and townhouses, all parking stalls shall be marked with white or yellow painted lines

not less than four inches (4") wide.

5. Lighting. All lighting used to illuminate an off-street parking area shall be so arranged as to reflect the light away from adjoining property, abutting the residential uses and public right-of-ways. Glare standards as stated in Section 1120.17 apply to parking lot lighting as they affect adjacent properties.

6. Curbing and Landscaping.

(a) Except for single-family homes, two-family homes and townhouses, all open off-street parking shall have a perimeter curb barrier around the entire parking lot, said curb barrier shall be setback a minimum of five (5) feet from any lot line.

(b) Grass, plantings, or surfacing material shall be provided in all areas bordering the parking area.

7. Location.

(a) All required parking spaces shall be off-street and located on the same lot as the building or use to be served, except in the cases of:

1. A religious institution;
2. condominium developments where off-street parking is designed on a lot, or within a garage on a separate parcel but within the same condominium development.

(b) Required off-street parking spaces may be provided within the principal building for which they are required.

(c) Except in the case of single-family home, two-family home and townhouses, parking areas requiring backing into the public street is prohibited.

B. Joint Parking. The City Council may, upon receiving a report and recommendation from the Planning & Zoning Commission, approve a conditional use permit for one (1) or more businesses to provide the required off-street parking facilities by joint use of one (1) or more sites where the total number of spaces provided are less than the sum of the total required for each business should they provide them separately.

Conditions Required for Joint Use Parking Facilities:

(i) The building or use, for which application is being made to utilize the off-street parking facilities provided by another building or use, shall be located within three hundred (300) feet of such parking facilities.

(ii) The application shall show that there is no substantial conflict in the principal operating hours of the two (2) buildings or uses for which joint use of off-street parking facilities is proposed.

(iii) A properly drawn legal document, executed by both parties agreeing to the joint use of off-street parking facilities, duly approved as to form and manner of execution by the city attorney, shall be filed with the Zoning Administrator and recorded with the Le Sueur County Recorder's office.

C. Schedule of Off-Street Parking Requirements.

<u>USE</u>	<u>SPACES REQUIRED</u>
<u>Commercial</u>	
Auction House	50 spaces, plus one space for each 100 sq. ft. of floor area in excess of 2,000 sq. ft.
Auto Repair	4 per each service bay
Commercial car wash:automatic, drive-through	3 parking spaces for each washing lane, plus one space each employee on the largest shift. Stacking areas for drive-through shall provide for a minimum of six cars per aisle.
Convenience stores/motor fuel stations without service bays	1 per pump, plus 1 per employee on the largest shift
Eating and drinking establishments	1 per 3 seats plus 1 per employee on the largest shift. Stacking areas for drive-through shall provide for a minimum of six cars per aisle
Financial Institutions (e.g. Banks and	1 per 250 square feet of floor area.

Credit Unions)	Stacking areas for drive-through shall provide for a minimum of six cars per aisle.
Funeral Homes	One space per each 250 s.f. floor area, plus one space for every five seats.
Laundromats	.5 per machine
Manufacturing and Processing Facilities	1 per 1,000 sq. ft. of floor area or 1 per employee on the largest shift, whichever is greater
Mini self-storage facilities-self-service	Drive lanes must be large enough to allow 2 lanes of traffic
Mini self-storage facilities-with on-site office and/or indoor storage units	1 parking space for each 50 storage units, evenly distributed throughout storage area; 1 parking space for every 100 storage compartments must be located at the manager's office for the use of visitors if there is an office onsite.
Retail stores and service establishments, Shopping Centers, Strip Malls, Grocery Stores, and outdoor sales space	1 per 200 sq. ft. sales floor, 1 per 400 square feet of outdoor sales space
Retail with outdoor sales lots (e.g. Auto Sales, Boat and Marine Sales, Garden Supply Sales, Landscaping services, Building Materials Sales, Showrooms)	4 spaces plus 1 per 500 sq. ft. of showroom area plus 1 per employee on the largest shift
Transient Lodging (e.g. hotels, motels, Bed & Breakfasts)	1 per guest room plus one space for each employee on the largest shift in addition to spaces required for any associated uses (e.g. restaurants, bars, and conference rooms)
Warehousing	1 per employee on the largest shift

Institutional

Day care, adult day care, nursery school	1 space per teacher/employee on the largest work shift, plus 1 off street loading space per 5 participants
Hospitals	1 per 2 hospital beds plus 1 per employee on the largest shift, and spaces as needed for associated clinics or pharmacy
Libraries, Museums, art studios	1 per 300 sq. ft. floor area plus 1 space per employee on the largest shift
Places of worship	1 per 3 seats (a single seat on a bench shall equal 28")
Schools-elementary and junior high	1 per 7 students
Schools-high school through college	1 per 3 students based upon building design

Office

Office buildings and health related clinics (e.g. medical clinic, dental clinic, mental health clinic, counseling, and veterinary clinic)	1 space per 250 square feet of space
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Residential

Apartments	2 per dwelling unit plus one space for each additional bedroom
Congregate Living Facilities (e.g. Nursing Homes, Assisted living, and group homes)	One space per three beds plus 1 space per employee on the largest shift
Single-family, two-family, mobile homes, Townhomes, triplex, fourplex dwellings	2 per dwelling unit

Recreational/Entertainment

Archery, golf range	1 space per tee/target, plus 1 space per employee on the largest work shift
Bowling alleys	5 per lane plus spaces required for any accessory uses (e.g. restaurants, bars)
Entertainment & Amusement Facilities, Convention or Exhibit hall	1 per every 3 seats plus 1 space per employee on the largest shift
Golf, mini golf	Two spaces per golf hole plus spaces required for any accessory uses (e.g. restaurants, bars)
Sport/health club, studio, fitness center, Community centers, Physical recreation, Pool, Skating rink	1 space per 250 square feet of activity area or 1 space per 4 patrons at the maximum occupancy load, whichever is greater, plus 1 space per employee on the largest shift

Notes:

- For businesses/institutions that house multiple uses, there must be enough parking spaces to satisfy each use (ex. hotel w/event center would need seating for the hotel plus seating for the event center). If facility houses multiple uses that will not occur simultaneously, parking will need to be provided to satisfy the use with the largest requirement of spaces.
- For businesses/institutions that have areas within their business that fit into different uses, parking shall be provided to satisfy the more restrictive requirement (e.g. retail store with warehouse area would need to supply parking to satisfy requirements for the area of the store being used for retail sales).
- For uses not listed, the off-street parking requirements shall be established by the Zoning Administrator based upon the characteristics and functional similarities between uses including, but not limited to: size of building, type of use, number of employees, expected volume and turnover of customer traffic, and expected frequency and number of delivery or service vehicles. All parking to serve the proposed use must be provided on-site.
- A reduction in the number of required parking spaces may be allowed if an acceptable parking study is performed and it is demonstrated that fewer parking spaces are needed to adequately serve the proposed use.

Where calculation in accordance with the foregoing list results in requiring a fractional space, any fraction less than one-half (1/2) shall be disregarded and any fraction of one-half (1/2) or more shall require one space.

D. Off-Street Loading Areas.

1. Location. All required loading berths shall require a conditional use permit, shall be off-street and shall be located on the same lot as the building or use to be served. A loading berth shall be located at least twenty-five (25) feet from the intersection of two (2) street right-of-way and at least fifty (50) feet from a residential district unless within a building. Loading berths shall not occupy the required front yard space.
2. Size. Unless otherwise specified in this Chapter, a required loading berth shall not be less than twelve (12) feet in width, fifty (50) feet in length and fourteen (14) feet in height, exclusive of aisle and maneuvering space. Exception to this requirement shall be the B-3 zoning district.
3. Required Loading Spaces. Determined by the City Council following review by the Planning & Zoning Commission.
4. Access. Each required loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner which will least interfere with traffic.
5. Surfacing. All loading berths and access-ways shall be improved with a durable material to control the dust and drainage.
6. Accessory Use. Any space allocated as a loading berth or maneuvering area so as to comply with the terms of this Chapter shall not be used for the storage of goods, inoperable vehicles or be included as a part of the space requirements necessary to meet the off-street parking area.
7. In connection with any structure which is to be erected or substantially altered, and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, there shall be provided off street loading space.
8. Screening. Except in the case of multiple dwellings, all loading areas shall be screened from abutting and surrounding residential uses in compliance with other provisions of this Chapter.

9. Location. All required loading spaces shall be off-street and located on the same lot as the building or use to be served.

E. Drive-through Windows. Service windows shall be allowed, subject to all of the following requirements:

1. Stacking: Not less than one hundred eighty feet (180') of segregated automobile stacking lane shall be provided for the service window, unless specifically otherwise approved by the City Engineer.
2. Traffic Control: The stacking lane and its access shall be designed to control traffic in a manner to protect the pedestrians, buildings, and green area on the site.
3. Use of Street: No part of the public street or boulevard may be used for stacking of automobiles.

1120.13 Connection to Municipal Sanitary Sewer and Water. Each new occupied building shall be required to connect to the municipal sanitary sewer and water system and City, where it is available. In any district where City sanitary sewer and water is not available, the private sewage disposal system shall meet the standards of the Minnesota Pollution Control Agency and well shall meet the standards of the Minnesota Department of Health. All occupied dwelling units shall also have electric and/or gas service.

1120.14 High Water Elevation. No structure, except retaining walls shall be placed at an elevation such that the lowest floor, including basement floor, is less than three feet (3') above the highest known water level, or less than one foot (1') above the 100-year regulatory flood protection elevation, if determined, of any adjacent lake, pond, river, watercourse, or wetland. If sufficient data on known high water levels is not available, the elevation of the line of permanent aquatic vegetation shall be used as the estimated high water elevation. When fill is required to meet this elevation, the fill shall be allowed to stabilize, and construction shall not begin until the property has been inspected by the building official.

1120.15 Groundwater Elevation. The lowest floor, including basement floor, of all structures shall be at a level at least three feet (3') above the highest known groundwater table elevation. If requested by the building official, the groundwater table elevation shall be determined by a licensed soils engineer using soil borings, piezometers, or the observation of mottled soils.

1120.16 Signs.

Subd. 1 Purpose. It is not the purpose or intent of this Section to regulate the message displayed on any sign; nor is it the purpose or intent of this Chapter to regulate any building design or any display not defined as a sign, or

any sign which cannot be viewed from outside a building. The purpose and intent of this Chapter is to:

- A. Regulate the number, location, size, type, illumination and other physical characteristics of signs within the City in order to promote the public health, safety and welfare.
- B. Maintain, enhance and improve the aesthetic environment of the City by preventing visual clutter that is harmful to the appearance of the community.
- C. Improve the visual appearance of the City while providing for effective means of communication, consistent with constitutional guarantees and the City's goals of public safety and aesthetics.
- D. Provide for fair and consistent enforcement of the sign regulations set forth herein under the zoning authority of the City.
- E. Provide for the safety of the traveling public by limiting distractions, hazards and obstructions.

Subd. 2 General Standards. Notwithstanding any other provision of this Section, signs are a permitted accessory use in all zoning districts subject to the following regulations:

- A. Signs that are not posted by authorized government officials are prohibited within the public right-of-way, easements or publicly owned land.
- B. Illuminated signs may be permitted but devices giving off an intermittent or rotating beam or rays of light shall be prohibited.
- C. One sign with a commercial message on a residentially zoned property that does not exceed six (6) square feet per surface area advertising the sale, rent, or lease of property may be placed in the front yard of the property.
- D. One sign with a commercial message advertising the sale, rent, or lease of property may be placed on a commercial/industrial zoned property that does not exceed thirty-two (32) square feet per surface area may be placed in the front yard of the property. These signs must be removed within 10 days after the closing date of the sale or lease of the property.
- E. One sign with a commercial message advertising the sale, rent, or lease of property that does not exceed two hundred and forty (240) square feet of surface area per side (with a maximum of two sides) may be placed

upon a construction site. These signs must be removed within 10 days after the closing date of the sale of the last lot owned by the development company.

F. No sign shall, by reason of position, shape or color interfere in any way with the proper functioning or purpose of a traffic sign or signal. No sign shall be placed as to interfere with the line-of-sight of vehicle traffic.

G. Signs shall not be painted on fences, rocks, or similar structures or features nor shall paper or similar signs be attached directly to a building wall by an adhesive or similar means.

H. Portable or temporary signs as defined by this Chapter are allowed by permit only in industrial and commercial zoning districts. There shall be no more than one (1) portable or temporary sign on any lot at a time and such sign shall not exceed thirty two (32) square feet in size per surface area with a maximum of two surfaces. Portable or temporary signs may not be displayed for more than 15 days at a time and must be removed immediately after the event advertised. Portable or temporary signs may not be placed in the public right of way, be flashing, having moving parts or be fastened to any pylon or light pole. No permit shall be issued by the City for a portable or temporary sign on a lot for a duration of more than forty-five (45) days within a calendar year. Temporary signage is allowed over and above the typical signage limit allowed on a property for permanent signage.

I. Notwithstanding any other provisions of this Section, all political signs of any size containing non-commercial speech shall be posted in accordance with Minnesota Statutes 211B.045, as amended. One non-commercial speech sign is allowed on each lot outside of the above specified time period on all properties.

J. Building and projecting signs can only be located on the principal building on the lot.

K. The owner of any sign which is otherwise allowed by this Section may substitute non-commercial speech signs in lieu of any other commercial speech sign or other non-commercial speech sign. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial speech over any other non-commercial speech. This provision prevails over any more specific provision to the contrary.

L. Sign permits are required for all signs unless otherwise stated in this Chapter. The fee for sign permits shall be established by the Council and/or as defined by the Minnesota State Building Code fee schedule. All

signs shall conform to the requirements of this Chapter whether or not a sign permit is required. All signs shall be constructed in a manner and of such material that they shall be safe and substantial. All signs shall be properly secured, supported and braced and shall be kept in good repair so that public safety and traffic safety are not compromised.

M. Illuminated signs shall be subject to the electrical requirements of the Electrical Code of the State of Minnesota.

N. No sign shall be attached to or placed upon any building in such a manner as to obstruct any window or door for fire escape or be attached to any fire escape. The minimum clearance of any sign from unprotected electrical conductors shall be not less than thirty-six (36) inches for conductors carrying not over six hundred (600) volts and forty-eight (48) inches for conductors carrying more than six hundred (600) volts.

O. All off-premise commercial signs are prohibited except for signs defined as billboards, or as part of an electronic variable message sign. Off-premise non-commercial speech signs are exempted from this prohibition.

P. Up to 3 flags containing non-commercial speech only may be displayed upon a lot. Exception is City parks and other areas approved by the City Council. Each non-commercial speech flag may not exceed one hundred (100) square feet in size per surface area. Exception: City parks and any other City owned property.

Q. Window signs are permitted in street facing windows of commercial and industrial zoned buildings provided they do not exceed 50% of the window area which has street frontage.

R. Building address signs are not counted towards overall permitted signage on a building.

S. All signs along state highways shall conform to state sign regulations.

Subd. 3 Signs Permitted in Residential Districts.

A. One (1) building sign for each dwelling not to exceed two (2) square feet in area per surface, and no sign shall be so constructed as to have more than two (2) surfaces.

B. One (1) building sign for each dwelling group of six (6) or more units. Such sign not to exceed six (6) square feet in area per surface and no sign shall be constructed as to have more than two (2) surfaces.

C. One (1) building sign for each permitted nonresidential use or use by conditional use permit. Such signs shall not exceed twelve (12) square feet in area per surface and be so constructed as to have more than two (2) surfaces.

D. Non-residential uses of residential property as provided in this Chapter and multi-family dwelling groups of six (6) or more units may be allowed one (1) freestanding or monument sign not more than thirty two (32) square feet per surface and setback ten (10) feet from property lines.

E. Symbols, statues, sculptures and integrated architectural features on buildings may be illuminated and must meet the glare standards listed in this Chapter.

F. Any sign shall be setback at least ten (10) feet from any property line. No sign shall exceed ten (10) feet in height above the average grade level. Signs may be illuminated and must meet the glare standards listed in this Chapter.

G. Electronic variable message signs are not permitted in any residential district.

Subd. 4 Signs Permitted in the B-1 and B-2 Districts.

A. For an individual lot or site as defined by this Chapter with all buildings totaling a gross floor area of greater than one hundred thousand (100,000) square feet, the following signage is permitted:

1. Freestanding or Monument Signs. The maximum freestanding or monument sign surface area shall be two hundred and fifty (250) square feet per public street frontage of the lot or site. This maximum surface area applies to one sign surface of no more than two sides per sign structure. The allotted maximum surface area per public street frontage for the lot or site may be distributed to multiple freestanding/monument signs. In no case shall any one sign be larger than two hundred and fifty (250) square feet per side.
2. All signs within a lot or site shall be spaced no closer than two hundred and fifty (250) feet apart as measured along the public street frontage(s).
3. When placing signs on the corner of a lot at the intersection of two public streets, the applicant shall designate which public street frontage for the lot or site that the total sign square footage should be attributed to and in no case shall the sign area be allowed to be divided between the frontages.

B. For an individual lot or site as defined in this Chapter with all buildings totaling a gross floor area of greater than fifty thousand (50,000) square feet up to one hundred thousand (100,000) square feet, the following signate is permitted:

1. Freestanding or Monument Signs. The maximum freestanding or monument sign surface area shall be two hundred (200) square feet per public street frontage of the lot or site. This maximum surface area applies to one sign surface of no more than two sides per sign structure. The allotted maximum surface area per public street frontage for the lot or site may be distributed to multiple freestanding or monument signs. In no case shall any one sign be larger than two hundred (200) square feet per side.
2. All signs within a lot or site shall be spaced no closer than two hundred and fifty (250) feet apart as measured along the public street frontage(s).
3. When placing signs on the corner of a lot at the intersection of two public streets, the applicant shall designate which public street frontage for the lot or site that the total sign square footage should be attributed to and in no case shall the sign area be allowed to be divided between the frontages.

C. For an individual lot or site as defined by this Chapter with all buildings having a total gross floor area of less than fifty thousand (50,000) square feet, the following signage is permitted:

1. Freestanding or Monument Signs. The maximum freestanding or monument sign surface area shall be one hundred (100) square feet per public street frontage of the lot or site. This maximum surface area applies to one sign surface of no more than two sides per sign structure. The allotted maximum surface area per public street frontage for the lot or site may be distributed to multiple freestanding or monument signs. In no case shall any one sign be larger than one hundred (100) square feet per side.
2. All signs within a lot or site shall be spaced no closer than two hundred and fifty (250) feet apart as measured along the public street frontage(s).
3. When placing signs on the corner of a lot at the intersection of two public streets, the applicant shall designate which public street frontage for the lot or site that the total sign square

footage should be attributed to and in no case shall the sign area be allowed to be divided between the frontages.

D. Freestanding or monument signs shall not exceed a height of twenty (20) feet from average grade in the B-2 Service Business District. The maximum height for freestanding or monument signs shall not exceed thirty (30) feet from the average grade in the B-1 Highway Commercial District.

E. The minimum setback for all freestanding or monument signs shall be ten (10) feet from any property line or as required by the Minnesota Department of Transportation for businesses located on a State Highway, whichever is more restrictive. In cases where an easement encumbers an area along the property line, the sign must be set outside of the easement area even if the easement area exceeds the required setback.

F. Building signs shall not extend more than six (6) feet above the highest outside wall or parapet of any principal building. Building signs can only be placed on the principal building. Sign area is limited to fifteen (15) percent of the building face.

G. Electronic variable message and reader-board signs are permitted as long as the message and/or picture on the sign does not change more than once per five (5) seconds and the sign is an accessory to the principal structure on the lot. No more than one electronic variable message sign shall be allowed per lot.

H. Signs with external illumination must meet the glare standards listed in this Chapter.

I. Internally illuminated freestanding and monument signs and electronic variable message signs shall be a minimum distance of one hundred (100) feet from the leading edge of said sign to an adjoining residential district boundary.

J. If property was originally included in an application for development as part of a larger development which met the definition of "site" pursuant to the City Code, any signage permitted for that property, at the time of development of the site, or in the future, will be counted towards the total amount of signage allowed for the entire site, regardless of whether the property is further subdivided or there has been a change in ownership.

Subd. 5 Signs Permitted in the B-3 Central Business District.

A. Freestanding and Monument Signs are permitted provided a five (5) foot setback from the property line can be met. In cases where an

easement encumbers area along the property line, the sign must be set outside the easement area, even if the easement area exceeds five (5) feet from the property line. Freestanding and Monument signs shall not exceed sixty-four (64) square feet per surface area.

B. Projecting signs shall not exceed the sum of sixteen (16) square feet per surface and must be located a minimum of eight (8) feet above the top of curb elevation of the street. Such signs are permitted to project no more than five (5) feet from the building face, provided the sign does not infringe on the public right-of-way.

C. Signs shall not be placed on the roof of any building or extend above the highest outside wall or parapet of the building.

D. Wall mounted signs are permitted as long as the sign does not exceed one hundred (100) square feet per surface area.

E. External illumination of wall mounted or projecting signs is permitted as long as the illumination conforms to the glare and lighting standards contained in this Chapter.

F. Electronic variable message signs are permitted by conditional use permit and are subject to the following minimum conditions:

1. All applications for placement of an electronic variable message sign must be accompanied by a detailed rendering of the sign as proposed to be located including what material will be used for the monument portion of the sign.
2. The digital display surface of the sign shall not exceed twenty-four (24) square feet.
3. The monument base must be of similar material as the primary building and adjacent buildings. In most cases, this will be some type of brick.
4. Electronic variable message signs shall not be attached to, or extend from, the building face or side.
5. The sign shall not be placed or located in such a manner as to block or obstruct any windows.

Subd. 6 Signs Permitted in Industrial Districts.

A. One (1) freestanding or monument sign per lot for single street frontage lots. In cases where lots have more than one street frontage, such lot shall be allowed up to two (2) freestanding or monument signs which must each be placed on different frontages. The total square footage of all freestanding or monument signs on a lot shall not exceed the sum of one (1) square foot for each front foot of lot, or one hundred (100) square

feet per surface, whichever is smaller. Freestanding or monument signs shall be setback ten (10) feet from any property line. Maximum height is thirty (30) feet from average grade.

B. No building sign shall extend in height more than six (6) feet above the highest outside wall or parapet of any principal building. Building signs can only be placed on the principal building. Sign area is limited to fifteen (15) percent of the building face.

C. Billboard signs are allowed only as the principal use of a lot. Billboards shall not exceed three hundred (300) square feet of sign per surface with a maximum of two sides. Setbacks shall comply with applicable district regulations for principal structures. Billboards shall maintain a spacing of not less than five hundred (500) feet between billboards.

D. Electronic variable message signs and reader-board signs are permitted as part of the allowed signage.

E. Signs may be illuminated and must meet the glare standards listed in this Chapter.

Subd. 7 Sign Removal. Any sign legally existing at the time of the passage of this Chapter that does not conform to the provisions of this Chapter shall be considered a legal nonconforming sign and may be continued through repair, replacement, restoration, maintenance or improvement but not including expansion. "Expansion" shall be defined as any structural alteration, change or addition that is made outside of the original sign structure, sign area or design.

Nothing in this Section shall prevent the return of a sign structure that has been declared unsafe by the City's Building Inspector to a safe condition.

When any legal nonconforming sign is discontinued for a period of more than one year or is changed to a conforming sign, any future sign shall be in conformity with the provisions of this Chapter. Any legal nonconforming sign shall be removed and shall not be repaired, replaced, or rebuilt if it is damaged by fire or similar peril to the extent of greater than fifty percent (50%) of its market value at the time of destruction and no sign permit or building permit has been applied for within one hundred and eighty (180) days of the date of destruction. The City's Building Inspector shall be responsible for making the determination of whether a nonconforming sign has been destroyed greater than fifty percent (50%) at the time of destruction. In making the determination the Building Inspector shall consider the market value of the entire sign at the time prior to the destruction and the replacement value of the existing sign. In the event that a building permit or sign permit is applied for within 180 days of the date of

destruction, the City may impose reasonable conditions upon the building permit in order to mitigate any newly created impact on adjacent properties.

Subd. 8 Sandwich Board Signs.

A. Sandwich board signs shall be allowed in all zoning districts within the City except that in residential districts sandwich board signs will be permitted only for non-residential uses and uses by conditional use permit.

B. Sandwich boards for one-time events shall be exempt from permitting requirements.

C. There shall be only one sandwich board sign allowed for each entity.

D. Sandwich board signs shall not exceed eight square feet in size per surface area.

E. Sandwich board signs may be placed on a public sidewalk or within the public right-of-way provided that the sign owner agrees to indemnify the City with respect to the sign and signs a waiver to this effect.

F. If placed on a sidewalk, a sandwich board sign shall not take up more than three feet of sidewalk width and shall not be placed in the middle of the sidewalk.

G. Sandwich board signs may be removed by the City if they interfere with any City activities (i.e. snow removal, maintenance of the surrounding area, etc.).

H. Sandwich board signs shall be displayed only during the times that the entity is open. No sandwich board sign shall be displayed overnight or when there has been any snow accumulation. Sandwich board signs that do not comply with this requirement may be removed by the City.

I. Sandwich board signs must either be weighted down or removed when there are wind gusts of 20 mph. or greater.

J. Under no circumstances shall a sandwich board sign be used instead of permanent building signage.

Subd. 9 Exemptions. The following signs shall not require a permit. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility of compliance with the provisions of this Chapter.

A. The changing of the display surface on a painted or printed sign only.

B. Signs six (6) square feet or less in size, per surface, except that sandwich boards must always obtain permits even if they are six (6) square feet or less in size.

C. Window signage as permitted in the general standards.

D. Non-commercial speech signs.

E. Decorative awnings.

Subd. 10 Sign Area Calculations. The area of a sign shall be computed by means of the smallest circle, rectangle or triangle that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the building façade against which it is placed, but not including any supporting framework, pole or bracing.

For monument signs, the method in the previous paragraph shall be used. Only the face that is specifically intended to be used for signage shall be included when computing the sign area. Any base or other supporting structure, along with all adjoining structures such as fences or walls shall not be included when computing the sign area.

Subd. 11 Unsafe or Dangerous Signs. Any sign which becomes structurally unsafe or endangers the safety of a building or premises or endangers the public safety shall be taken down and removed by the owner, agent, or person having the beneficial use of the building, structure, or land upon which the sign is located within ten (10) days after written notification from the Zoning Administrator.

1120.17 Lighting Glare.

Subd. 1 Purpose. The purpose of performance standards is to establish specific and quantifiable limitations on identified types of pollution and other activities which have a high nuisance potential. The performance standards apply in all zoning districts unless specifically stated to the contrary.

Subd. 2 Exterior Lighting.

A. Exterior lighting shall be designed and arranged to limit direct illumination and glare upon or into any contiguous parcel. Reflected glare or spill light shall not exceed five-tenths foot-candles as measured on the property line when abutting any residential parcel and one foot-candle on any abutting commercial or industrial parcel. Street lights installed in public right-of-way shall be exempted from these standards.

B. Mitigating measures shall be employed to limit glare and spill light to protect neighboring parcels and to maintain traffic safety on public roads. These measures shall include lenses, shields, louvers, prismatic control devices and limitations on the height and type of fixtures. The City may also limit the hours of operation of outdoor lighting if it is deemed necessary to reduce impacts on the surrounding neighborhood.

C. No flickering or flashing lights shall be permitted.

D. Direct, off-site views of the light source shall not be permitted except for globe and/or ornamental light fixtures approved in conjunction with a site and building plan. Globe and ornamental fixtures shall only be approved when the developer can demonstrate that off-site impacts stemming from direct views of the bulb are mitigated by the fixture design and/or location.

E. The City may require submission of a light distribution plan if deemed necessary to ensure compliance with the intent of this Section.

1. Any lighting used to illuminate an off-street parking area, sign, or other structure(s), shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way.

2. The use of exterior lighting for nonresidential uses shall observe the same hours of operation as the use itself, except that a minimum level of lighting for security purposes may be left on beyond the normal hours of operation.

3. Lighting for canopies covering fueling stations at automobile service stations and drive-thru facilities shall not illuminate abutting properties and the luminaries shall be designed so that the light source (bulb or lamp) is completely shielded from direct view as measured at a point five feet above grade.

4. Because of their unique requirement for nighttime visibility and their limited hours of operations, ball diamonds, playing fields and tennis courts are exempted from the general standards of this Section. Lighting for these outdoor recreational uses shall be shielded to minimize light and glare from spilling over onto

adjacent residential properties. The maximum permitted illumination at the property line shall not exceed two-foot candles.

5. The City Council may require conformance with the illumination levels contained in the Lighting Handbook, Illuminating Engineering Society of North America as part of the review and approval of a private or public development project.

F. The following are exempt from the standards contained in this Section:

1. Decorative seasonal lighting with a power rating of less than or equal to 75 watts.
2. Temporary emergency lighting used by police, firefighters, or other emergency services, as well as all vehicular luminaries.
3. Hazard warning luminaries which are required by federal regulatory agencies.
4. As part of the approval of public street or sidewalk projects, the City Council may vary from the requirements of this Section.

1120.18 Fast-food Restaurants.

Subd. 1 Location Requirements.

- A. No drive-thru shall be located on any street other than an arterial or frontage road.
- B. No access drive shall be within fifty feet (50') of intersecting street right-of-way lines.

Subd. 2 Site Requirements.

- A. No less than twenty percent (20%) of the gross lot area shall be landscaped.
- B. The entire area other than that occupied by structure or landscaping shall be a concrete or paved surface.
- C. Vehicular access points shall be limited to prevent traffic conflicts.
- D. Adequate area shall be designated for snow storage such that clear visibility shall be maintained from the property to any public street.
- E. Lighting shall not directly illuminate outside property.

F. A six inch (6”) non-surmountable curb shall separate all walks and landscape areas from parking areas.

G. Screening as provided in this Code.

H. All menu boards, order microphones, and speakers shall be located in the rear of the building, or other unobtrusive location if the rear yard is adjacent to a public street or residential neighborhood.

1120.19 Drive-thru Businesses. All drive-up windows shall be located in side or rear yards and not in a front yard or between the street and the building.

1120.20 Commercial Car Washes.

Subd. 1 Stacking spaces shall be provided and oriented to prevent traffic backup on adjacent streets.

Subd. 2 Parking and stacking spaces shall be screened from view of adjacent residential use areas.

Subd. 3 Vehicular access points shall be limited to prevent traffic conflicts.

Subd. 4 Vacuums must not interfere with stacking spaces and not be adjacent to a residential use.

Subd. 5 No less than ten percent (10%) of the gross lot area shall be landscaped.

Subd. 6 The entire area other than that occupied by structure or landscaping shall be a concrete or paved surface.

Subd. 7 Adequate area shall be designated for snow storage such that clear visibility shall be maintained from the property to any public street.

Subd. 8 Lighting shall not directly illuminate outside the property.

Subd. 9 A six (6) inch non-surmountable curb shall separate all walks and landscape areas from parking areas.

Subd. 10 Screening shall be provided in accordance with this Code.

1120.21 Convenience Stores/Gas Stations.

Subd. 1 General Provisions.

- A. For architectural purposes, each side shall be considered a front face.
- B. All trash, waste materials, and obsolete parts shall be stored within a separate enclosure.
- C. All goods for sale, other than those required for the operation and maintenance of motor vehicles shall be displayed within the principal structure. The storage of items for sale outside the principal building shall be displayed in manufactured or specially designed containers.
- D. No sales of motor vehicles or trailers or campers shall be permitted.
- E. Open dead storage of motor vehicles shall not be permitted.
- F. Sounds or noise generated from public address systems, speakers and/or television screens at the gas pumps shall not have an objectionable effect upon adjacent or nearby property or exceed limitations as identified in Section 1120.31.
- G. Motor fuel facilities are installed in accordance with state standards. Adequate space shall be provided to access gas pumps and allow maneuverability around the pumps. Underground fuel storage tanks are to be positioned to allow adequate access by motor fuel transports and unloading operations minimize conflict with circulation, access and other activities on the site.
- H. Wherever fuel pumps are to be installed, pump islands shall be installed.
- I. A protective canopy located over the pump island(s) may be an accessory structure on the property; however, adequate visibility both on and off site shall be maintained.

Subd. 2 Site Requirements.

- A. Driveways shall not exceed thirty (30) feet in width and shall be spaced a minimum of thirty (30) feet apart measured at the property line. No more than two (2) access drives to any street shall be permitted.
- B. The total height of any overhead canopy or weather protection shall not exceed twenty feet (20').

Subd. 3 Additional Bulk Requirements.

- A. Lot width: 150 feet

B. Setbacks:

	<u>Front Yard</u>	<u>Side Yard</u>	<u>Rear Yard</u>
Canopy (edge)	10 feet	25 feet	20 feet
Pump island	25 feet	25 feet	25 feet
Accessory building	30 feet	30 feet	30 feet

1120.22 Access Driveways.

Subd. 1 The distance from a driveway to the intersection of two streets shall not be less than twenty (20) feet measured along the street curb line from the point of intersection of the property line extended and the curb line to the point of tangency of the curb return of the driveway with the street curb line; provided, however, that if, in the opinion of the City Engineer, present or future traffic conditions warrant greater distances, such greater distances shall be required subject to approval by the City Council. The distance from a driveway to the intersection of two (2) arterial streets shall be no less than one hundred (100) feet as measured in the same manner.

Subd. 2 The minimum distance between driveways shall be twenty-five feet (25') measured from the point of tangency of the street curb line with the curb return of the driveway; provided, however, that if, in the opinion of the City Engineer, present or future traffic conditions warrant greater distances, such greater distances shall be required subject to approval by the City Council.

Subd. 3 The driveway angle to the street shall be ninety (90) degrees unless otherwise recommended by the City Engineer and approved by the City Council.

Subd. 4 The distance from a driveway to the property line of an adjacent property shall not be less than five feet (5') measured along the street curb line between the point of intersection of the street curb line with the property line extended and the point of tangency of the street curb line with the curb return of the driveway unless otherwise recommended by the City Engineer and approved by the City Council.

Subd. 5 Access driveways for other than single-family dwellings shall be at least thirty (30) feet wide measured along the property line between the curb faces of the driveway unless otherwise recommended by the City Engineer and approved by the City Council.

Subd. 6 Access driveways for single-family dwellings shall be no less than twelve (12) feet wide nor more than the width of the garage or thirty (30) feet wide, whichever is less, measured along the property line between curb fences of the driveway.

1120.23 Land Alterations.

Subd. 1 A land alteration permit shall be obtained and approved by the City Engineer and Zoning Administrator for all cases where excavation, grading, and/or filling of any land would result in a substantial alteration of existing ground contour or would change existing drainage or would cause flooding or erosion or would deprive an adjoining property owner of lateral support and would remove or destroy the present ground cover resulting in less beneficial cover for present and proposed development. Substantial alteration of land shall be defined as the extraction, grading, and/or filling of land involving movement of earth and materials of twenty-five (25) cubic yards or more. At the discretion of the Zoning Administrator, approval of the land alteration permit by the City Council may be required.

Subd. 2 It is intended hereunder to cover the removal of natural materials from lands including such activity when carried on as a business, but shall not apply to basement excavation or other excavation which is already covered by the Building Code or other such regulations of the City.

Subd. 3 Any person desiring a permit hereunder shall present an application on such form as shall be provided by the City requiring the following information:

- A. The name and address of the applicant. The name and address of the property owner.
- B. The address and legal description of land to be altered.
- C. Nature of proposed alteration and future use of the property.
- D. Starting date and approximate completion date of the operation.
- E. The highway, street, streets, or other public ways in the City upon and along which any material is to be hauled or carried.
- F. The names and addresses of all owners and occupants of the adjoining land that may be affected by said land alterations.
- G. A site plan illustrating present topography and also including boundary lines for all properties, water courses, wetlands, easements, and other significant features within three hundred fifty (350) feet.
- H. A site plan illustrating the proposed finished grade and landscape plan. Erosion and sediment control measures shall be included in the site plan. Final grade shall not adversely affect the surrounding land or the development of the site on which the excavation is being conducted. Top soil shall be of a quality capable of establishing normal vegetative growth.

I. A statement demonstrating the proposed activity will in no way jeopardize the public health, safety, and welfare or in the alternative the site is fenced to provide adequate protection.

J. A statement that the applicant will comply with all conditions prescribed by the City or its officers or agents.

Subd. 4 The City Council may require with a land alteration permit, adequate proof of bonding in the form of a performance bond, sufficient in value to cover the expense of the completion of the development plan or to bring such portion of the completed project to a safe grade and elevation so as to be healthful and safe to the general public and to provide safe and adequate drainage to the site.

Subd. 5 If, during the land alteration work it becomes necessary for the person altering the land to create a condition of grade or drainage not in the interest of health or safety, it shall become that person's duty to correct immediately the dangerous situation created, as well as fence or screen the area from the public upon order of the Building Inspector.

1120.24 Bed and Breakfast Homes.

Subd. 1 Purpose. The purpose of this Section is to have predefined standards in place for the permitting and operation of a bed and breakfast home.

Subd. 2 General Standards. The following regulations shall apply to bed and breakfast homes located in the City:

A. The bed and breakfast home must be owner occupied.

B. Building codes. The bed and breakfast home shall meet all applicable housing, building, and fire codes as required by the State of Minnesota. The home shall be subject to inspection by the City Building Inspector.

C. Food. Food service shall be limited to breakfast, and separate kitchen or cooking facilities shall not be available for guests.

D. Allowed number of rooms. The maximum number of allowed guest rooms in the R-1, R-2, and R-3 zoning districts is three (3), unless the lot is greater than 20,000 sq. ft., in which case five (5) rooms will be allowed. All guest rooms must be located in the primary residence.

E. Parking. Parking shall be in accordance with Subd. 15 of this Section. Parking shall be developed in such a manner that the residential character of the property is preserved. Tandem parking is allowed; however, not more than two (2) cars per tandem will be allowed.

F. Signs. Signs may be permitted in accordance with Section 1120.16.

G. Appearance. Each residential property shall maintain an exterior residential appearance and character, meaning an exterior façade that is compatible with the surrounding houses, and is of an appearance that would be found in a structure designed for residential use to ensure that bed and breakfast uses are clearly secondary and incidental uses of residential buildings.

H. Rental period. No guest shall be permitted to rent accommodations or remain in occupancy for a period in excess of 30 days within any 90-day period.

I. Special functions. There shall be no catering to special or ancillary functions of a commercial nature, whether guest-related or not. Such functions include, but are not limited to, wedding parties and receptions, other similar private parties and receptions, corporate/institutional meetings, seminars, workshops, religious retreats, etc.

J. Annual review. Any conditional use permit issued for a bed and breakfast home shall be reviewed by the Planning & Zoning Commission on an annual basis. Conditions may be added or deleted to the conditional use permit at the time of review.

K. License. A bed and breakfast license must be obtained from the City.

1120.25 Outdoor Seating for Food Service Businesses and Drinking Establishments.

Subd. 1 Food service businesses and drinking establishments, including but not limited to, bakeries, delicatessens, coffee and/or tea shops, and restaurants, may provide outdoor seating for their patrons provided that the following requirements are met:

A. The seating shall be located on private property and outside of any recorded easement areas and demonstrated on a site plan.

B. The seating shall consist of good quality patio or café type furniture that enhances the appearance of the business.

C. No beverages or food shall be served to persons outside of the designated outdoor seating area.

D. The seating area, if not slab on grade, shall be subject to applicable setback requirements.

E. The seating area shall have a permanent surface of concrete, asphalt, wood or other fabricated construction material.

F. The seating shall be located so as not to compromise safety. Seating shall not obstruct the entrance or any required exits or be located on landscaping or parking areas. If located on private sidewalks or walkways, it shall be located so as to leave a minimum of a four foot (4') wide passageway for pedestrians. Applicable building and fire codes for ingress and egress shall be met.

G. No additional parking is required for thirty (30) outdoor seats or less. Any additional seating over thirty (30) seats shall provide required parking based on one (1) space per three (3) seats.

H. The outdoor seating area shall be subordinate to the principal use and shall not exceed 40% of the square footage of the principal use building space.

I. Noises on the outdoor seating area shall be subject to City Code.

J. Lighting shall be permitted to the extent that it only illuminates the designed area. Lighting must otherwise meet the standards otherwise listed in this Chapter.

K. The business owner or designated person shall inspect the premises on a daily basis including all adjacent streets, sidewalks, alleys, parking areas and sidewalks within one-hundred (100) feet and remove all litter. Appropriate receptacles for rubbish, garbage, cigarette paraphernalia, etc. must be provided in close proximity to the outdoor seating area.

L. Additional conditions may be imposed by the City and listed on the approved Conditional Use Permit including but not limited to hours of outdoor seating area use and additional screening or buffering to residential zoned or used areas.

M. No external music audible from adjacent parcels, whether live or recorded, shall be allowed.

Subd. 2 For establishments with liquor licenses the following regulations shall apply in addition to those listed above:

A. The seating shall be located in a compact and contiguous location to the principal structure. No alcoholic beverages shall be served or consumed in an outdoor seating area unless the liquor license approved by the City specifies the compact and contiguous location.

B. The outdoor seating area shall be defined with the use of landscaping and permanent attractive fencing which is a minimum of 4' in height with at least 50% opacity that contains the tables and chairs for the use as demonstrated on a site plan. It shall also prohibit the free passage of any person or substance from the area.

C. No alcoholic beverages shall be served to persons outside of the designated outdoor seating area or those not seated at tables. Signage shall be posted that restricts consumption of alcohol outside of the designated outdoor seating area as approved by the Conditional Use Permit.

D. Bars are prohibited in outdoor seating areas.

E. Patrons shall only access the outdoor seating area through the interior of the principal building and seated by wait staff if at full service restaurants. No other ingress or egress shall be allowed other than required emergency exits.

1120.26 Commercial Towers and Antennas.

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, the Council finds that these regulations are necessary to:

A. Provide for the appropriate location and development of towers and antennas to accommodate the communication needs of the residents and businesses in Montgomery;

B. Maximize the use of approved towers and buildings to accommodate new personal wireless service antennas in order to reduce the number of new towers necessary to serve the community;

C. Ensure antennas and towers are designed, located, and constructed in accordance with all applicable Code requirements to avoid potential damage to adjacent properties from tower failure and weather related occurrences through structural standards and setback requirements;

D. Require antennas and tower sites to be secured in order to discourage trespassing and vandalism;

E. Require tower equipment to be screened from the view of persons located on properties contiguous to the site and/or to be camouflaged in a manner to complement existing structures to minimize adverse visual effects of antennas and towers;

F. Utilize business, industrial and public land, buildings and structures for wireless communications whenever possible and/or appropriate.

Subd. 2 General Requirements.

A. Freestanding commercial towers shall conform to all applicable provisions of this Chapter and shall be allowed only with an approved Conditional Use Permit in the I1, Light Industrial District, and with an approved Conditional Use Permit in the following zoning locations:

1. Church sites when architecturally integrated into steeples or bell towers.
2. Towers may be allowed on park sites, if found to be compatible with the nature, size and character of the park, as recommended by the Park & Recreation Board. All revenues generated through the lease of a City park for wireless telecommunications towers and antennas should be transferred to the park improvement fund.
3. Government, school, and public utility sites.

B. Antennas mounted on roofs, walls, and water towers are permitted uses for the following:

1. Residential districts.
2. Commercial districts.
3. I-1, Light Industrial District.

C. Antenna co-locations are permitted uses on existing monopoles for the following:

1. R-R, Rural Residential District.
2. I-1, Light Industrial District.

D. Amateur radio towers are permitted uses in the following zoning districts and shall conform to the following standards:

1. R-1, R-2, R-3 Residential Districts.
2. Towers supporting amateur radio antennas and conforming to all applicable provisions of this Chapter shall be allowed only in the rear yard of residentially zoned parcels.

Subd. 3 Tower Performance Standards.

A. Lighting. Commercial towers shall not be illuminated by artificial means and shall 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 for camouflage purposes, light fixtures used to illuminate parking lots or other similar areas may be attached to the tower.

B. Signs and Advertising. No signage, advertising, or identification of any kind intended to be visible from the ground or other structures is permitted, except applicable warning and equipment information signage required by the manufacturer or by federal, state, or local authorities.

C. Interference with Public Safety Telecommunications. No new or existing telecommunications service shall interfere with public safety telecommunications.

D. Permit Required. No person, firm or corporation shall erect, construct in place, or re-erect, replace or make structural repairs to any tower without making application for and receiving an approved conditional use permit, when applicable. In all cases, review by the City for all required permits shall be necessary. The City may, in its discretion, condition approval of a conditional use permit on the owner of the tower facilities entering into an agreement with the City under the terms of which the owner agrees to remove, at the owner's expense, all towers and associated facilities following owner's cessation of operations at the site.

E. Building Code Compliance. All towers, antennas, and accessory structures shall be in compliance with the City's currently adopted state Building Code, and shall obtain necessary permits.

F. Structural Design. Structure design, mounting and installation of the tower and antenna shall be in compliance with the manufacturer's specifications. The plans shall be approved and certified by a structural engineer licensed in the State of Minnesota. In addition, communication towers shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two (2) additional users, if the tower is over 100 feet in height, and at least one (1) additional user if the tower is over 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at various heights.

G. Electrical Grounding. Tower and antennas shall be grounded for protection against a direct strike by lightning and shall comply, as to

electrical wiring and connections, with all applicable provisions of all state codes.

H. City Review. The City is authorized to employ an independent technical expert to review technical materials submitted by the applicant, or to determine if additional information is necessary. The applicant shall pay the cost of such review and/or independent analysis.

I. Location. No tower shall be located within any utility or drainage easement.

J. Insurance. The tower, antenna, accessory structure and associated equipment shall be insured against injury or property damage caused by structural failure of the tower or associated equipment.

K. Landscape Bond Requirements. The owner shall guarantee the growth and maintenance of all plants for a minimum of two growing seasons. The guarantee period will not begin until a final landscape inspection has occurred.

L. Construction Bond Requirements. A construction bond shall be posted with the City prior to the issuance of a building permit. The bond shall insure the installation of the tower.

M. Abandoned or Unused Tower or Antennas or Portions of Towers. All abandoned or unused towers and associated facilities shall be removed within six (6) months of the cessation of operations at the site unless an extension is approved by the City. In the event that a tower is not removed, the tower and associated facilities may be removed by the City and the costs of removal assessed against the property. After the facilities are removed, the site shall be restored to its original or an improved state.

Subd. 4 Design Standards.

A. Proposed or modified towers and antennas shall meet the following requirements:

1. Towers and antennas (including antenna cables) shall be designed to blend into the surrounding environment to the maximum extent possible as determined by the City through the use of building materials, colors, texture, screening, landscaping, and other camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.

2. Communication towers shall be of a monopole design.

3. A galvanized finish shall be used on the tower, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.

Subd. 5 Height Restrictions.

A. The height of towers shall be determined by measuring the vertical distance from the tower's 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 at the tower's point of attachment and tower must meet the height restrictions of this Section.

B. The maximum heights for towers are as follows:

1. In residential zoning districts, the maximum height of any commercial tower, including all antennas and other attachments, shall not exceed 200 feet.
2. In residential zoning districts amateur radio antennas are a permitted use if 50 feet or less in height. Amateur radio antennas in excess of 50 feet require a Conditional Use Permit, provided that such height is technically necessary to receive and broadcast amateur radio signals. They shall be in accordance with the preemption ruling PRB1 of the Federal Communications Commission.
3. In the I-1 Industrial zoning district, the maximum height of any commercial tower, including all antennas and other attachments, shall not exceed 200 feet.

C. The maximum height of antennas attached to a structure and not freestanding is 15 feet.

Subd. 6 Setbacks.

A. Towers, accessory buildings, and their related equipment shall conform to the following setback requirements:

1. Commercial towers in the Industrial zoning district shall be setback fifty (50) percent of the height of the tower, from all property line lines.

2. For residential zoned property, towers shall maintain property line setbacks equal to two times the height of the tower from residential zoned property lines.
3. Towers shall only be allowed in the rear yard.
4. Accessory utility buildings and equipment shall meet the minimum accessory use location and setback requirements of the underlying zoning district.

Subd. 7 Accessory Utility Buildings.

- A. All utility buildings and structures accessory to a tower or antenna shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements for accessory structures of the underlying zoning district, except in the B-3 district, accessory structures shall only be allowed in the rear yard and shall maintain a 5' property line setback.
- B. Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

Subd. 8 Antennas Mounted on Roofs, Walls, and Existing Towers.

- A. The placement of personal wireless service antennas on roofs, walls, and existing towers may be approved by the City, without a Conditional Use Permit, provided the antennas meet the requirements of this Chapter, with a building permit approved by the appropriate City staff. In addition to the submittal requirements required elsewhere in this Chapter, an application for a building permit for antennas to be mounted on an existing structure shall be accompanied by the following information:
 1. A site and building plan showing the location of construction of the antennas and the proposed method of attaching them to the existing structure, and documenting that the request meets the requirements of this Chapter;
 2. Certification by a qualified and licensed professional engineer indicating the existing structure or tower's ability to support the antenna.

Subd. 9 Landscaping and Security Fencing.

A. The following requirements shall govern landscaping and fencing surrounding towers and accessory structures supporting towers and antennas, within all zoning districts:

1. Where adequate vegetation is not present, all towers and mechanical equipment facilities shall be landscaped around its perimeter. Landscaping shall consist of trees that are opaque year round, and are a minimum of six (6) feet in height and four (4) feet in diameter at time of planting, and placed ten (10) feet on center, except that no landscaping is required at the entrance to the tower facility.
2. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. Where natural vegetation around the perimeter of the site would provide an adequate visual screen, an undisturbed buffer may be utilized.
3. A chain link or wood fence, a minimum of six (6) feet in height, shall surround the perimeter of the tower and mechanical equipment area. If equipment is housed within a completely enclosed building, fencing is not required. Fencing shall meet the City's fencing requirements set out in this Chapter.
4. Landscaping and fencing requirements may be waived by the City Council, if it is found to not be necessary.
5. Amateur radio towers are exempt from the landscaping requirements.

Subd. 10 Co-Location Requirement.

A. A proposal for a new personal wireless communication service tower shall not be approved unless it can be documented by the applicant that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a one mile 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 and licensed structural engineer licensed in the State of Minnesota, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

2. Existing or approved towers and buildings within a one- mile radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by qualified radio frequency engineer.
3. 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 and licensed engineer.
4. Other unforeseen reasons that make it unfeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.
5. The applicant must demonstrate that a good faith effort to co-locate on existing towers and structures was made, but an agreement could not be reached.

Subd. 11 Existing and Damaged Towers and Antennas.

A. Towers, antennas and tower accessory buildings in existence as of the date of adoption of this Section which do not conform to or comply with this Chapter are subject to the following provisions:

1. If such towers are damaged or destroyed due to any reason or cause whatsoever, the tower may be repaired and restored to its former use, location and physical dimensions upon obtaining a building permit, but without otherwise complying with this Section. Provided, however, that if the cost of repairing or restoring such damaged or destroyed tower or antenna would be fifty percent (50%) or more, as estimated by the City, of the cost of purchasing and erecting a new tower or antenna of like kind and quality and to the former use, physical dimensions and location, then the tower or antenna may not be repaired or restored except in full compliance with this Section.

Subd. 12 Submittal Requirements.

A. The following shall be required for both building permits and Conditional Use Permits for towers and their antennas:

1. A report from a qualified and licensed structural engineer licensed in the State of Minnesota which does the following:
 - (a) Describes the tower height and design including a cross section and elevation;

- (b) Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;
- (c) Describes the tower's capacity, including the number and type of antennas that it can accommodate;
- (d) Describes information on non-interference; and
- (e) Documentation that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower.

2. A certificate of survey and documentation which describes the following:

- (a) All existing conditions on the subject parcel;
- (b) All proposed features relating to the tower location, including the tower, fencing, accessory structures, and driveways;
- (c) Landscaping and/or screening plans;
- (d) Legal description of the property;
- (e) Any additional information as deemed necessary by the City.

3. Before the issuance of a building permit, the following supplemental information shall be submitted:

- (a) Confirmation that the proposed tower complies with the requirements of the Federal Aviation Administration, Federal Communications Commission, and any appropriate state review authority or that the tower is exempt from those regulations;
- (b) A report from a qualified professional engineer licensed in the State of Minnesota which demonstrates the tower's compliance with the state and City structural and electrical, but not radio frequency, standards; and
- (c) Any additional information as deemed necessary by the City.

Subd. 13 Exemptions.

A. The following antennas are exempt from the requirements under this Section except as otherwise provided in Subsection B, C & D of this Section:

1. Satellite earth station antennas that are two (2) meters or less in diameter and located or proposed to be located in a business or industrial district;
2. Antenna designed to receive signals as follows:
 - (a) Antennas that are one (1) meter or less in diameter and that are designed to receive direct broadcast satellite service, including direct-to-home satellite services;
 - (b) Antennas that are one (1) meter or less in diameter and that are designed to receive video programming services via multipoint distribution services, including multi-channel multipoint distribution services, instructional television fixed services, and local multipoint distribution services; or
 - (c) Antennas designed to receive television broadcast signals.

Subd. 14 Residential District Standards. Satellite earth station antennas in excess of one (1) meter in diameter and antennas designed to receive direct broadcast services or multi-channel multipoint distribution services in excess of one (1) meter in diameter may be allowed as a conditional use within the residential zoning districts of the City and, in addition to the requirements of this Section, shall comply with the following standards:

- A. The lot on which the antenna is located shall be of sufficient size to assure that an obstruction-free receive window can be maintained within the limits of the property ownership;
- B. Except where the antenna is screened by a structure exceeding the antenna height, landscape buffering and screening shall be maintained on all sides of the antenna in a manner in which growth of the landscape elements will not interfere with the receive window;
- C. The antenna is not greater than three (3) meters in diameter; and

D. The conditional use permit provisions of this Section are considered and determined to be satisfied.

Subd. 15 Business District Standards. Satellite earth station antennas in excess of two (2) meters in diameter and antennas designed to receive direct broadcast services or multichannel multipoint distribution services in excess of one (1) meter in diameter are allowed as a conditional use within the B-1, B-2, and B-3 districts of the City and, in addition to the requirements of this Section, shall comply with the following standards:

A. The lot on which the antenna is located shall be of sufficient size to assure that an obstruction-free transmit-receive window or windows can be maintained within the limits of the property ownership;

B. Except where the antenna is screened by a structure exceeding the antenna height, landscape buffering and screening shall be maintained on all sides of the antenna in a manner in which growth of the landscape elements will not interfere with the transmit-receive window;

C. The conditional use permit provisions of this Section are considered and determined to be satisfied.

Subd. 16 Industrial District Standards. Satellite earth station antennas in excess of two meters in diameter and antennas designed to receive direct broadcast services or multichannel multipoint distribution services in excess of one (1) meter in diameter may be allowed as a conditional use within the I-1 District of the City and, in addition to the requirements of this Section, shall comply with the following standards:

A. The lot on which the antenna is located shall be of sufficient size to assure that an obstruction free transmit-receive window or windows can be maintained within the limits of the property ownership;

B. Except where the antenna is screened by a structure exceeding the antenna height, landscape buffering and screening shall be maintained on all sides of the antenna in a manner in which growth of the landscape elements will not interfere with the transmit-receive window;

C. The conditional use permit provisions of this Section are considered and determined to be satisfied.

1120.27 Mini Storage or Self-Storage Facilities. Mini storage or self-storage facilities shall be permitted in designated zoning districts provided the following conditions are met:

Subd. 1 No buildings shall be located closer than twenty-five (25) feet to each other to allow for parking, loading, driveway and fire lanes.

Subd. 2 Must demonstrate that building length and spacing allows for proper flow of emergency vehicles and emergency egress.

Subd. 3 Adequate space is provided for snow storage.

Subd. 4 All driveways and parking areas are to be hard (blacktop or concrete) surfaced and adequate turning radius for fire truck maneuverability is to be maintained throughout the site. Designated snow storage space is to be provided to ensure adequate and safe access during winter months.

Subd. 5 If an “on-premises” caretaker dwelling unit is provided onsite, construction of said dwelling unit shall conform to all design standard regulations for multiple family dwelling units of the Minnesota State Building Code.

Subd. 6 Any structures having exposure to an adjacent residential use or public right-of-way, park, or similar public use areas shall be of brick, natural stone, wood, or stucco facing material or alternative material as approved.

Subd. 7 No retailing, wholesaling, manufacturing, repair, or other such activity other than storage is to occur within the self-storage, mini warehousing facility.

1120.28 Demolition.

Subd. 1 Scope. All persons engaged in the renovation, moving and demolition of structure, or portions of structures, including demolition by burning for the purpose of disposal, where authorized by law, or fire training.

Subd. 2 Purpose. The purpose of this Section is to ensure that hazardous materials or items present in the structures are removed prior to the commencement of renovation or demolition and that the hazardous materials or items generated as a result are properly characterized and disposed of or recycled.

Subd. 3 Definitions. In this Section the definition of structure(s) shall include buildings used or formerly used for residential, recreational, governmental, agricultural, commercial or industrial purposes and other buildings of a relatively permanent nature such that they may contain fixtures and devices associated with electrical, plumbing, heating, cooling, safety or lighting systems.

Subd. 4 Removal Requirements. The owner, person authorizing the demolition and the person conducting the demolition shall ensure that all hazardous materials are removed from the structure being demolished prior to commencement of the demolition. All items and material removed must be properly characterized, tested, managed and disposed of and reused or recycled with applicable standards.

Items to be removed include, but are not limited to, those referenced in Minnesota Statutes 115A.03, Subd. 17(A) (major appliances), 115A.90, Subd. 11 (waste tires), and 115A.96, Subd. 1 (automotive fluids, lawn and garden chemicals, pest control products, household cleaners, paint and home improvement products), items containing elemental mercury, items containing PCBs and CFCs.

Subd. 5 Process.

- A. A demolition permit shall be obtained from the City identifying the location of the structure to be demolished, proposed timeframe, applicant, contractor, disposal site, construction material and any hazardous materials.
- B. The applicant/contractor shall be responsible for contacting Gopher State prior to digging.
- C. The applicant/contractor shall be responsible for contacting utility companies of disconnection of utilities.
- D. The applicant/contractor shall be responsible for applying for any/all demolition permits required by the Minnesota Pollution Control Agency and Minn. R. 7030.0805.
- E. The applicant/contractor shall be responsible for restoring the site to a finished state including final grading and planting of grass or vegetation.

Subd. 6 Exemptions.

- A. The requirement to remove items noted in Section 1120, Subd. 4 prior to commencement of demolition does not apply to the following:
 - 1. Structures which are unsafe to enter as determined by the City.
 - 2. The items and materials uncovered during the course of demolition could not have been reasonably identified prior to commencement.
 - 3. The items which cannot be removed in a timely manner due to the fact that the demolition is being performed in response to an emergency situation.

Subd. 7 Fees. The City shall establish a fee for demolition permits as a part of the annual fee schedule.

1120.29 Outdoor Wood-Fired Boilers, External Solid Fuel-Fired Heating Devices.

Subd. 1 Permit Required. All persons seeking to install and operate an external solid fuel-fired heating device within the City of Montgomery must have a City issued permit to do so. No person shall use an external solid fuel-fired heating device within the City of Montgomery without a permit from the City, nor shall any such device be installed and operated in violation of the requirements of this Section. The permit required herein shall be a zoning permit and also shall include a mechanical building permit.

Subd. 2 General Requirements.

- A. All external solid fuel-fired heating devices installed and operated within the city limits of Montgomery, Minnesota, are required to meet emission standards currently required by the Underwriters Laboratories (UL) listing.
- B. 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 violates the permitting requirement set out in Section 1120.31 and is declared a public nuisance.
- C. All stacks or Class A chimneys must be so constructed to withstand high winds or other related elements and according to the specifications of the manufacturer of the external solid fuel-fired heating device. The stack height shall be a minimum of fifteen feet (15') above the self-contained building floor or if the self-contained building is located within thirty feet (30') or less of any neighboring structure not served by the wood-boiler then the stack height shall be at least two feet (2') higher than the highest eave line of the neighboring structure whichever is greater. All stacks or chimneys must be of masonry or insulated metal with a minimum six-inch flue.
- D. Only fuels designed for burning in an external solid fuel-fired heating device may be burned. No garbage or treated wood may be burned in an external solid fuel-fired heating device.
- E. The operation of an external solid fuel-fired heating device is not permissible in the City of Montgomery during the months of May, June, July, August and September.
- F. Spark arresters are required, shall be installed with the external solid fuel-fired heating device, and shall be maintained in good order when the device is in use.

G. A self-contained building shall be erected to house the external solid fuel-fired heating device. This building shall be constructed of like material and like color to the main building, shall be no larger than 120 square feet, and have a lock on the entry door. These units shall not include storage bins or wagons.

H. The self-contained building may only be located in the rear yard and shall meet the following setback requirements: the side setback shall be a minimum of fifteen (15) feet on both sides or 30% of the lot width whichever is greater; the rear yard shall have a minimum setback of twenty (20) feet or 30% of the lot depth whichever is greater.

1120.30 Land and Water Preservation.

Subd. 1 Purpose. The purpose of this Section is to ensure that sensitive physical features such as bluff land, ravines, wetlands and natural waterways are protected.

Subd. 2 Soil Erosion and Sedimentation Control. General Standards:

A. All development shall conform to the natural limitations presented by the topography and soil in order to create the best potential for preventing soil erosion.

B. Slopes over thirty (30) percent in grade shall not be used as a building site.

C. Development on slopes with a grade between twenty (20) percent and thirty (30) percent shall be carefully reviewed to ensure adequate measures have been taken to prevent erosion, sedimentation and structural damage.

D. Erosion and siltation control measures, as determined by the City Engineer, shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.

E. Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time and no exposure shall exceed the requirements of the National Pollutant Elimination System (NPDES) Construction Stormwater Permit. For sites not controlled by the NPDES Construction Stormwater Permit, no exposure shall exceed sixty-five (65) days unless extended by the City Council.

F. Where the topsoil is removed, sufficient arable soil shall be set aside for re-spreading over the disturbed area or new topsoil shall be brought in.

The topsoil shall be restored to a depth of four (4) inches and shall be of a quality at least equal to the sod quality prior to development.

G. Public and private properties and water bodies adjacent to the development site shall be protected from the effects of erosion, sedimentation, flooding or other damage caused by the development or construction activity. Any violations of this provision must be corrected by the owner to the satisfaction of the City within five (5) days of receiving notification of such. If the violation is not remedied within the time period specified, the City may correct the problem and assess the costs incurred to the property owner.

H. All land disturbing activities, whether requiring a permit under this Code or otherwise, shall be undertaken in conformance with best management practices and in compliance with the standards and criteria in this Code.

1. Land disturbing activities shall be planned and conducted to minimize the extent of disturbed area, runoff velocities and erosion potential, and to reduce and delay runoff volumes. Erosion and runoff controls, consistent with Best Management Practices (BMPs), shall be properly installed before commencing land disturbing activities, shall be sufficient to retain sediment on-site, and shall not be removed without approval. Erosion and runoff controls shall be regularly inspected and maintained. Vegetation shall be installed over the disturbed areas promptly if the land disturbing activity ceases or is suspended, and upon completion. Pipe outlets must be provided with temporary or permanent energy dissipation if connected to surface water.

2. Whenever the City determines that any land disturbing activity has become a hazard to any person, or endangers the property of another, adversely affects water quality or any body of water, increases flooding, or otherwise violates the Code, the owner of the land upon which the land disturbing activity is located, or other person or agent in control of such land, upon receipt of written notice from the City, shall within the time period specified therein repair or eliminate such condition. The owner of the land upon which a land disturbing activity is located shall be responsible for the cleanup and any damages from sediment that has eroded from such land. The City may require the owner to obtain a permit from the City before undertaking any repairs or restoration.

3. Erosion and sediment control measures shall meet the standard for the General Permit Authorization to Discharge Storm Water Associated With Construction Activity Under the National

Pollutant Discharge Elimination System/State Disposal System Permit Program Permit MN R100001 (NPDES General Construction Permit) issued by the Minnesota Pollution Control Agency, August 1, 2003, as amended; except where more specific requirements are provided in this Chapter below.

4. If the activity is taking place on a site where the soils are currently disturbed (e.g. a tilled agricultural site that is being developed), areas that will not be disturbed as part of the development and areas that will not be disturbed according to the time frames and slopes specified in the NPDES General Construction Permit Part IV.B.2, shall be seeded with temporary or permanent cover before commencing the proposed land disturbing activity.

5. Where five (5) or more acres of disturbed soil drain to a common location, a temporary (or permanent) sediment basin must be provided prior to the runoff leaving the site or entering surface waters. The basins must be designed and constructed according to the standards in the NPDES General Construction Permit Part III.B.

6. The permittee or applicant must ensure final stabilization of the site in accordance with the NPDES General Construction Permit requirements. The site will be considered as having achieved final stabilization following submission of certificate of completion by the permittee or applicant, and inspection and approval by the City.

7. All on-site storm water conveyance channels shall be designed and constructed to withstand the expected velocity of flow from a 100-year frequency storm without erosion.

Subd. 3 Exposed Slopes. The following control measures shall be taken to control erosion during construction.

A. No exposed slopes shall be steeper in grade than five (5) feet horizontal to one (1) foot vertical unless stabilized as described below. This does not apply to utility construction.

B. At the foot of each exposed slope, a channel and berm shall be constructed to control runoff. The channeled water should be diverted to a sedimentation basin (debris basin, silt or silt trap) before being allowed to enter the natural drainage system.

C. Along the top of each exposed slope, a berm shall be constructed to prevent runoff from flowing over the edge of the slope. Where runoff

collecting behind said berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures shall be taken to prevent erosion. Such measures shall consist of either an asphalt-paved flow apron and drop chute laid down the slope or a flexible slope drain. At the base of the slope drain or flow apron, a gravel energy dissipater shall be installed to prevent erosion at the discharge end.

D. Exposed slopes shall be protected to whatever means will effectively prevent erosion considering the degree of slope, soils material and expected length of exposure. Slope protection shall consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing grasses or temporary seeding of annual grasses. Mulch consists of hay, straw, wood chips, cornstalks, bark or other protective material. Mulch shall be anchored to slopes with stakes and netting, or shall be worked into the soil to provide additional slope stability.

E. Control measures, other than those specifically stated above, may be used in place of the above measures if it can be demonstrated they will as effectively protect exposed slopes.

Subd. 4 Preservation of Natural Drainage and Waterways.

A. The natural drainage system shall be used as far as is feasible for storage and flow of runoff water. Untreated stormwater drainage may be discharged to retention basins or other treatment facilities. Only treated stormwater may be discharged to wetlands, marshlands or swamps. Diversion of treated stormwater to wetlands, marshlands or swamps shall be considered for existing or planned surface drainage. Marshlands and swamps used for treated stormwater shall provide for natural or artificial water level control. Temporary storage areas or retention basins scattered throughout developed areas shall be encouraged in order to reduce peak flow, erosion damage and construction cost.

B. The widths of a constructed waterway shall be sufficiently large to channel runoff from a 100 year storm. Adequacy shall be determined by the expected runoff when full development of the drainage area is reached.

C. No fences or structures shall be constructed across the waterway that will reduce or restrict the flow of water.

D. The banks of the waterway shall be protected with permanent vegetation.

E. The banks of the waterway should not exceed five (5) feet horizontal to one (1) foot vertical in gradient.

F. The gradient of the waterway bed should not exceed a grade that will result in a velocity that will cause erosion of the banks of the waterway.

G. When possible, existing natural watercourses and vegetated soil surfaces shall be used to convey, store, filter and retain runoff before discharge into public waters or a stormwater conveyance system. If the waterway must be constructed, the bed of the waterway should be protected with turf, sod or other approved stabilizing materials. If turf or sod will not function properly, rip rap may be used.

H. If the flow velocity in the waterway is such that erosion of the turf sidewall will occur and said velocity cannot be decreased via velocity control structures, other materials may replace turf on the side walls. Either gravel or rip rap would be allowed to prevent erosion at these points.

Subd. 5 Sediment Control of Waterways.

A. To prevent sedimentation of waterways, sediment control structures shall be incorporated throughout the contributing watershed. Such structures would serve as temporary sediment control features during the construction state of development.

B. Sediment control structures consist of sediment basins (debris basins, de-silting basins or silt traps) and shall be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.

1120.31 Nuisances.

Subd. 1 Storage and Disposal of Chemicals. All commercial and industrial uses associated with the bulk storage of oil, gasoline, liquid fertilizer or other hazardous materials shall require a Conditional Use Permit and compliance with all state and local life safety agency regulations in order that the City Council may have assurance that fire, explosion, or water or soil contamination hazards are not present that would be detrimental to the public health, safety and welfare. All disposal operations shall be in compliance with appropriate state, county and federal regulations.

Subd. 2 Nuisances.

A. Nuisances prohibited. No noise, odors, vibration, smoke, air pollution, liquid or solid wastes, heat, glare, dust or other adverse influences shall be permitted that will in any way have an objectionable effect upon adjacent or nearby property.

B. Noise.

1. It shall be unlawful to make, continue or cause to be made or continued, any noise exceeding the standards established in Minnesota Rule 7030, as amended.

2. Sounds emanating from the operation of motor vehicles on public highways, aircraft, outdoor implements, such as power lawnmowers, snowblowers, power hedge clippers, and power saws, pile drivers or jackhammers and other construction equipment, are exempt from the sound level but not time restriction provisions of this Section. Sounds emanating from lawful and proper activities at school grounds, playgrounds, parks or places where athletic contests take place, are exempt from the provisions of this Section.

C. Emission of smoke or particulate matter. The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota pollution control standards, Minnesota Administrative Rules Chapter 7017. The emission of dust, fly ash and other particulate matter by any use shall be in compliance with and regulated by the State of Minnesota pollution control standards, Minnesota Administrative Rules Chapter 7011. Any use established, enlarged or remodeled after the effective date of this Chapter shall be so operated as to meet the minimum requirements for ambient air quality standards, as established in M.S. Ch. 7009, as it may be amended from time to time, unless a permit has been secured from the City by the owner or operator of the facility or use.

D. Glare and heat. Any use producing intense heat or light transmission shall be performed with the necessary shielding to prevent heat or light from being detectable at the lot line of the site on which the use is located.

E. Toxic and noxious matter. No use or operation shall emit a concentration of toxic or noxious matter across the property line which exceeds applicable regulations of the Minnesota Pollution Control Agency. Any use with toxic materials or noxious matter shall be so operated in compliance with the Clean Air Act, as amended, the Environmental Protection Agency (EPA) and Minnesota Pollution Control Agency (MPCA) regulations. All activities that emit radioactivity shall comply with the minimum requirements of the federal regulatory body.

F. Explosives. Any use requiring the storage, use, or manufacture of products which could decompose by detonation shall be located not less than 400 feet from any residence. This Section shall not apply to the storage or usage of liquefied petroleum or natural gas for normal residential or business purposes.

G. Radiation emission. No operation shall be conducted which exceeds the standards established by applicable regulations of the Minnesota Department of Health.

Section 1199 – VIOLATIONS AND PENALTIES

1199.01 Severability and Savings Clause. If any Section or portion of this Chapter of the Montgomery City Code shall be found to be unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as an invalidation or affect the validity and enforceability of any other Section of this Chapter.

1199.02 Penalty.

Subd. 1 Violation a Misdemeanor. Violation of a Section, subdivision, paragraph, or provision of this Chapter is considered a misdemeanor, and upon conviction the violator may be sentenced to not more than 90 days, or to payment of a fine of not more than \$1,000.00 or both. A defendant convicted of a misdemeanor under this Chapter of the City Code, in addition to the other penalties proscribed by law, shall be made responsible for reimbursing the City its costs of prosecution. This Section is adopted in conformance with Minnesota Statutes Section 412.231, as may be amended from time to time, which the City hereby adopts and incorporates herein.

Subd. 2 Continued Violation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

Subd. 3 Administrative Remedies. The City may, at its sole discretion, invoke any administrative remedy available to it under the Code in the event a person violates any provision of this Chapter. For the purposes of this Section a person is defined as an individual, a partnership, a corporation, or any other entity.

Subd. 4 Non-Exclusivity of Remedies. Violations of this Chapter of the Montgomery City Code may be remedied by the City, at its sole discretion, administratively or through criminal prosecution. These remedy options are not mutually exclusive and the City may pursue both remedy options simultaneously.