

**CHAPTER ONE  
ADMINISTRATION**

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## SECTION 1.0 TITLE AND APPLICATION

- 1.1 Title. This Chapter shall be known, cited and referred to as Chapter One of the Scandia Development Code except as referred to herein, where it shall be known as “this Chapter.”
- 1.2 Purpose and Intent. This Chapter of the Scandia Development Code is adopted for the following purposes:
- (1) To implement the Scandia Comprehensive Plan.
  - (2) To protect the public health, safety and general welfare of the community.
  - (3) To provide rules and procedures for the administration of the Development Code
  - (4) To provide for amendments
  - (5) To define the powers and duties of the city staff, the Zoning Board of Adjustment and Appeals, the Planning Commission and the City Council in relation to the Development Code;
  - (6) To protect areas needed for future public use from further development through Official Maps.
  - (7) To prescribe penalties for the violation of the provisions of the Development code.
- 1.3 Relationship to the Comprehensive Plan. It is the policy of the City of Scandia that the enforcement, amendment, and administration of the Scandia Development Code be accomplished consistent with the recommendations contained in the City Comprehensive Plan, as developed and amended by the Planning Commission and City Council of the City. The Council recognizes the City Comprehensive Plan as the official policy for the regulation of land use and development in accordance with the policies and purpose herein set forth. In accordance with Minnesota Statutes Chapter 273, the City will not approve any rezoning or other change in these regulations that are inconsistent with the Comprehensive Plan.
- 1.4 Conformity with this Chapter
- (1) 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 the provisions of this Chapter.
  - (2) Except as herein provided, no building, structure or premises shall hereafter be used or occupied and no building permit shall be granted that does not conform to the requirements of this Chapter.
  - (3) Except as herein provided, no land subdivision shall be permitted that creates nonconformities.
- 1.5 Application.
- (1) In their interpretation and application, the provisions of this Chapter shall be held to be the minimum requirements necessary to accomplish the general and specific purposes of the Development Code.
  - (2) Where the conditions imposed by any provisions of this Chapter are either more or less

restrictive than comparable conditions imposed by other law, ordinance, rule, or regulation of the city, state, or federal government, the law, ordinance, rule, or regulation which imposes the more restrictive condition, standard, or requirement shall prevail.

- 1.6 Authority. This Chapter is enacted pursuant to the authority granted under the Municipal Land Planning Act, Minnesota Statutes, Section 462.351 to 462.363.
- 1.7 Separability. It is hereby declared to be the intention of the City that the several provisions of this Chapter are separable in accordance with the following:
- (1) If any court of competent jurisdiction shall adjudge any provision of this Chapter to be invalid, such judgment shall not affect any other provisions of this Chapter not specifically included in said judgment.
  - (2) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Chapter to a particular property, building, or other structure, such judgment shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgment.

**SECTION 2.0 ENFORCEMENT AND PENALTIES**

- 2.1 Enforcement. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of this Chapter, the Zoning Administrator, in addition to other remedies, may institute any proper criminal action or proceedings in the name of the City of Scandia, and hereby shall have the powers of a police officer to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain or correct such violations, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about said premises.
- 2.2 Penalties. Any person who violates a provision of this Chapter is guilty of a misdemeanor and, upon conviction thereof, shall be fined or penalized not more than the maximum levels established by the State of Minnesota for misdemeanor offenses. Each act of violation and every day on which a violation occurs or continues is a separate violation.

**SECTION 3.0 ZONING ADMINISTRATOR**

- 3.1 Designation of Zoning Administrator. The City Council shall appoint the Zoning Administrator. The Zoning Administrator may delegate authority to staff and/or consultants as necessary to carry out the requirements of this and the other Chapters of the Development Code.
- 3.2 Duties of Zoning Administrator. The Zoning Administrator shall be responsible to:
- (1) Receive, review, file and forward all applications for amendments, variances, conditional uses, appeals or other matters to the designated official bodies.
  - (2) To recommend and collect fees, as established by city ordinance, for all applications, permits or other matters covered under the provisions of this Development Code
  - (3) Maintain permanent and current records as required by this Chapter, including but not limited to all maps, amendments, and conditional uses, variances, appeals, and applications therefore.
  - (4) Issue administrative permits as provided in this Development Code.
  - (5) Review all building permits issued for structures in the City to ensure compliance with the regulations contained in this Development Code.
  - (6) Conduct inspections of structures and use of land to determine compliance with the terms of this Development Code.
  - (7) Notify in writing persons responsible for violations, indicating the nature of the violation and the action necessary to correct it.
  - (8) Issue stop work orders for violations of this Development Code.
  - (9) Institute, with the advice and consent of the City Attorney, in the name of the City, any appropriate legal actions or proceedings against a violator as provided for in this Development Code.

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## SECTION 4.0 RULES AND DEFINITIONS

4.1 Rules of Word Construction. For the purposes of interpretation of the Development Code, certain terms or words herein shall be interpreted as follows:

- (1) The word “person” includes an owner or representative of the owner, firm, association, organization, partnership, trust, company or corporation as well as an individual.
- (2) The words “shall” and “must” are mandatory; the word “may” is permissive.
- (3) Unless the context clearly requires otherwise, the singular includes the plural, the plural includes the singular, and the use of past, present and future tense shall include the other tenses.
- (4) All measured distances expressed in feet shall be to the nearest tenth of a foot.
- (5) When calculating parking stall requirements, any fraction of a number shall constitute an additional parking space.
- (6) For terminology not defined in this Chapter, elsewhere in the Development Code, in another City ordinance, or in the Minnesota State Building Code, Merriam-Webster’s Collegiate Dictionary Tenth Edition shall be used to define such terms.
- (7) If a conflict arises between any graphic illustrations presented in this code and the text of this code, the text shall prevail.

4.2 Definitions. The following words and terms, wherever they occur in the Development Code, shall be interpreted as herein defined:

- (1) **Abandoned Sign:** Any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of one (1) year or more; or any sign which pertains to a time, event or purpose which no longer applies; or any sign whose permit has expired shall be deemed to have been abandoned. Signs applicable to a use temporarily suspended because of a change in ownership or management of such use shall not be deemed abandoned unless the property remains vacant for a period of one (1) year or more. Any sign remaining after demolition of a principal structure shall be deemed to be abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a conditional use permit or a variance shall also be subject to the definition of abandoned sign.
- (2) **Accessory Dwelling Unit:** A dwelling unit that is located on the same lot as a principal residential or commercial structure to which it is accessory, and that is subordinate in area and form to the principal use. A density unit is not attributed to this dwelling unit when calculating density.
- (3) **Accessory Use or Structure.** A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
- (4) **Administrator:** The City Zoning Administrator.

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- (5) **Agricultural Building:** A structure on agricultural land designed, constructed, and used to house farm implements, livestock or agricultural produce or products used by the owner, lessee or sublessee of the building and members of their immediate families, their employees and persons engaged in the pickup or delivery of agricultural produce or products.
  - (6) **Agricultural Direct-Market Business:** A commercial enterprise in which agricultural products are produced on a site and marketed and sold directly to consumers without an intermediate wholesaler or distributor other than a farm co-op organization. Direct market business may include enterprises such as pick-your-own operations, and operations in which delivery of products is made directly to consumers.
  - (7) **Agricultural-Business, Seasonal:** A seasonal business not exceeding six (6) months in any calendar year operated on a rural farm as defined offering for sale to the general public, produce or any derivative thereof, grown or raised on the property.
  - (8) **Agricultural Processing:** Processing on the farm of horticulture, forestry, dairy, egg, or apiary products grown on the farm in the course of preparing the product for market. Agricultural processing shall not include animal slaughtering or meat/animal processing. Agricultural processing is subordinate and incidental to the farm operation. Agricultural processing includes activities such as cutting, drying, packaging, canning, milling, grinding, freezing, heating and fermenting of product.
  - (9) **Agricultural Production:** Land uses including the production of horticulture and nursery stock, fruit of all kinds, vegetables, forage, grains, bees and apiary products and raising domestic farm animals. This activity does not need to be the principal source of income.
  - (10) **Agritourism Use:** A commercial or nonprofit use on a working farm or plant nursery in which the public or invited groups participate in public recreational or educational activities. These activities must be related to agriculture and incidental to the farm or nursery operation. This term includes farm tours, hay rides, corn mazes, field trips or educational experiences or classes related to agricultural products or skills, or similar uses. Campgrounds or overnight camping shall not be considered an Agritourism Use.
  - (11) **Alteration:** To change or make different; to remodel or modify.
  - (12) **Animal Unit:** A unit of measure used to compare differences in the production of animal wastes which has a standard as the amount of waste produced on a regular basis by a slaughter steer or heifer.
  - (13) **Animals, Domestic Farm:** Cattle, hogs, bees, sheep, goats, llamas, chickens, turkeys, bison, horses (including miniatures) and other animals generally kept for commercial food or fiber production purposes and commonly accepted as farm animals in the State of Minnesota.
  - (14) **Animals, Domestic Pets:** House pets such as dogs, cats, ferrets and birds (except those defined as farm animals or wild animals) that can be contained within a principal structure throughout the entire year, provided that containment can be accomplished without special modification to the structure requiring a building permit from the City. Includes rabbits normally sheltered outside the home.
  - (15) **Animals, Wild or Exotic:** Any animal that is wild, ferocious, or vicious by nature, habit, disposition or character. Animals in this category include any ape (including chimpanzee,

gibbon, gorilla, orangutan, or siamang), baboon, bear, bobcat, cheetah, crocodile, coyote, deer (including members of the deer family such as elk, antelope and moose), elephant, fox, hippopotamus, hyena, jaguar, leopard, lion, lynx, monkey, puma, also known as cougar, mountain lion or panther, rhinoceros, a snake which is poisonous, snow leopard, tiger, wolf, or hybrid mix of any of the wild animals such as wolf/dog mixes.

- (16) **Antenna:** That portion of any equipment used to radiate or receive radio frequency energy for transmitting or receiving radio or television waves. Antennas may consist of metal, carbon fiber, or other electromagnetically conductive rods or elements. Antennas are regulated to the extent the regulations are not preempted by the Federal Communications Commission.
- (17) **Antenna, Amateur Radio:** That portion of any equipment used to radiate or receive radio frequency energy or electromagnetic signals for “Amateur Radio Service” communications as defined in 47 C.F.R. Part 97.3(4) and used in 47 C.F. R. Part 97.15(a). (from margin notes)
- (18) **Antenna, Household Radio, Television and Short-Wave Radio Receiving:** A wire, set of wires or any device consisting of metal, carbon fiber or other electromagnetically conductive surfaces, rods, elements or open mesh, including television, receive only (TVROs) satellite dishes two meters or less in diameter, used in conjunction with the reception of household radio, television and short-wave radio receiving equipment. (from margin notes)
- (19) **Antenna, Satellite Dish:** A device consisting of metal, carbon fiber or other electromagnetically conductive surfaces, rods, elements or open mesh and in the shape of a shallow dish, cone, horn or cornucopia. Such device is used to transmit and/or receive radio, television or electromagnetic waves between terrestrially and/or orbitally based uses. This definition shall include, but not be limited to, what are commonly referred to as satellite earth stations, television receive-only (TVROs) and satellite microwave antennas.
- (20) **Apartment:** A room or suite of rooms with cooking facilities designed to be occupied as a residency by a single family.
- (21) **Applicant:** Any person or entity that is required to submit an application for a permit or approval required by this Development Code.
- (22) **Appraised Valuation:** The market value of a structure as determined by the current records of the County Assessor.
- (23) **Architectural Design Guidelines.** The Architectural Design Guidelines of the City of Scandia dated September, 2009 as may be amended from time to time.
- (24) **Area, Net Developable:** Those lands within a development parcel remaining after the deletion of flood plains, wetlands, slopes greater than 25%, unbuildable easements or rights-of-way, and required building setbacks.
- (25) **Arts and Heritage Center:** A facility and grounds used for events such as, but not limited to, art displays, concerts and musical performances, theatrical events, and public gatherings.
- (26) **Assisted Living Facility or Assisted Living Residence:** Housing establishment with services that is registered with the State of Minnesota and provides sleeping accommodations to more than 12 adult residents, at least 80% of whom are 55 years of age or older, and at a minimum provides or makes available health-related services under a class A or class F home care

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license issued by the State of Minnesota, whether offered or provided directly by the establishment or another entity.

- (27) Attorney: The City Attorney.
- (28) Banner: A temporary sign made of lightweight fabric or similar material with no enclosing framework that is mounted to a pole or a building at one or more edges. National flags, state or municipal flags or the official flag of any organization shall not be considered a banner if displayed for noncommercial purposes.
- (29) Bar or Tavern: A building with facilities for the serving of beer, liquor, wine, set-ups and short order foods.
- (30) Basement: Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level/grade plane) on all four sides, regardless of the depth of excavation below ground level.
- (31) Bed and Breakfast Inn: An owner-occupied private home where accommodations are offered for one or more nights to transients; in addition, a breakfast meal is served on the premises to no more than 10 persons.
- (32) Best Management Practices (BMP's): Water quality and erosion and sediment control management practices that are the most effective and practicable means of controlling, preventing and minimizing degradation of surface water. BMP's include schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, surface waters, or stormwater conveyance systems. BMP's also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage
- (33) Board of Adjustment and Appeals: A judicial type body that hears administrative appeals, requests for variances, and requests for building permits in Official Map Areas.
- (34) Brew on Premises Store: A retail business that sells the ingredients and equipment to customers to brew beer, other malt liquor or wine at the store for personal or family consumption.
- (35) Brewery, Craft: A facility with a capacity to manufacture twenty thousand (20,000) or fewer barrels of alcoholic and nonalcoholic malt liquor a year. This definition excludes small breweries operated in conjunction with a bar or restaurant defined herein as an accessory use.
- (36) Buffer: A strip of land intended to create physical separation between potentially incompatible uses of land.
- (37) Buffer, Wetland: Undisturbed strip of land adjacent to shorelines and wetlands consisting of native or existing vegetation.
- (38) Buildable Land: Land with a slope less than 25%, and situated outside of any required setbacks, and land situated outside of every floodway, drainageway, or drainage easement; except on a natural environment lake where a 200-foot structure setback is required, the

buildable area calculation shall be measured from the 150-foot setback rather than the 200-foot setback.

- (39) **Building:** Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of any person, animal or property of any kind. When any portion thereof is completely separated from every other part thereof by area separation, each portion of such building shall be deemed as a separate building.
- (40) **Building Code:** The Minnesota State Building Code.
- (41) **Building Height:** The vertical distance from the average of the highest and the lowest point of grade for that portion of the lot covered by the building, to the highest point of the roof for flat roofs, to the roof deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip or gambrel roofs. No structure shall exceed the maximum height permitted for the zoning district in which it is located, except for church spires, chimneys, agricultural silos, wind energy conversion systems, wireless communication antennas and towers and flag poles up to 45 feet in height. The height of a stepped or terraced building is the maximum height of any segment of the building.
- (42) **Building Official:** The designated authority charged with the administration and enforcement of the State Building Code.
- (43) **Building Permit:** A permit required from the responsible governmental agency before any site work, construction or alteration to structures can be started.
- (44) **Building Setback Line:** A line within a lot parallel to a public right-of-way line, a side or rear lot line, a bluff line or a high water mark or line, behind which buildings or structures must be placed.
- (45) **Building Setback:** The minimum horizontal distance between the building and the lot line.
- (46) **Business:** Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.
- (47) **Campgrounds:** Any area, whether privately or publicly owned, used on a daily, nightly, weekly, or longer basis for the accommodation of 5 or more tents, or recreational camping vehicles, free of charge or for compensation.
- (48) **Caregiver:** An individual 18 years of age or older who provides care for a mentally or physically-impaired person and is a relative, legal guardian, or health care agent of the mentally or physically-impaired person for whom the individual is caring.
- (49) **Car Wash:** A building or area that provides hand or machine operated facilities for washing and cleaning motor vehicles.
- (50) **Cellar:** Any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story as defined in the Building Code.

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- (51) Cemetery: Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes and including, but not limited to, columbariums, mausoleums and chapels when operated in conjunction with and within the boundaries of such cemetery.
  - (52) Certificate of Occupancy: A certificate issued by the building official authorizing the use or occupancy of a building or structure.
  - (53) Club or Lodge: A non-profit association of persons who are members paying annual dues, use of premises being restricted to members and their guests. It shall be permissible to serve food and meals on such premises providing there is adequate dining room for the purpose of serving food and meals and providing further that such serving of alcoholic beverages is in compliance with the applicable federal, state and local laws.
  - (54) Cluster Developments: See Open Space Conservation Subdivision.
  - (55) Columbarium: A structure, room, or other space in a building or structure containing niches for internment of cremated remains in a place used, or intended to be used, and dedicated for cemetery purposes.
  - (56) Commercial Food Producing Farm Operations: See “Farm” definition.
  - (57) Commercial Recreation: All uses such as tennis, racquet ball clubs, amusement centers, bowling alleys, golf driving ranges, miniature golf, movie theaters that are privately owned and operated with the intention of earning a profit by providing entertainment to the public.
  - (58) Common Open Space: Land held in common ownership used for agriculture, natural habitat, pedestrian corridors and/or recreational purposes which is protected from future development.
  - (59) Comprehensive Plan: The policies, statements, goals and interrelated plans for private and public land and water use, transportation and community facilities, including recommendations for planned execution, documented in texts, ordinance and maps which constitute the guide for the future development of the City.
  - (60) Conditional Use: A specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the Development Code, and upon a finding that certain conditions as detailed in the zoning ordinance exist and that the structure and/or land use conform to the comprehensive land use plan and are compatible with the existing neighborhood. See Chapter One, Section 8.
  - (61) Condominium: An estate in real property consisting of an undivided interest in common with other purchasers in a portion of a parcel of real property, together with a separate interest in space in a residential building.
  - (62) Conference Center: A hall or other building which is designed to hold meetings, public and private business and social events or conferences. May be included as part of a resort.
  - (63) Conservation Easement: An interest in real property created in a manner that imposes limitations or affirmative obligations in regard to the use of property including the retention, protection and maintenance of natural resources, open space and agriculture.

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- (64) **Conservation Use:** Environmentally sensitive and valuable lands protected from any activity that would significantly alter their ecological integrity, balance or character. Conservation uses include lands containing wetlands, hydric soils, woodlands, floodplain, native prairie, wildlife corridors, shorelands, steep slopes and their accessory uses such as interpretive centers, trails and management facilities.
- (65) **Contiguous:** Parcels of land that share a common lot line or boundary. Parcels that are separated by a road right-of-way, easement, or railroad right-of-way are considered contiguous for the purposes of this Development Code.
- (66) **Construction Activity:** 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 stormwater runoff and lead to soil erosion and movement of sediment into surface waters or drainage systems. Examples of construction activity may include clearing, grading, filling excavating, building construction and landscaping
- (67) **Conveyance:** Conveyances shall have the meaning specified in Minnesota Statute 272.12.
- (68) **Cost of Renovation, Repair or Replacement** The fair market value of the materials and services necessary to accomplish such renovation, repair or replacement.
- (69) **Crematorium or Crematory:** A place where bodies are consumed by incineration and the ashes of the deceased are collected for permanent burial or storage in urns.
- (70) **Cultural Resource:** The historic and archeological characteristics of the land, including buildings and landscapes, which provide information regarding the history of the area and its people.
- (71) **Cutoff:** The point at which all light rays emitted by a lamp, light source or luminaire are completely eliminated at a specific angle above the ground.
- (72) **Cutoff Angle:** The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source above which no light is emitted.
- (73) **Cutoff Type Luminaire:** A luminaire with elements such as shields, reflectors, or refractor panels which direct and cut off the light at a cutoff angle that is less than 90 degrees.
- (74) **Decibel:** The unit of sound measured on the "A" weighing scale of a sound level meter, set on slow response, the weighing characteristics of which are specified in the a "Standards on Sound Level Meters of the USA Standards Institute".
- (75) **Delicatessen/Coffee House:** A shop where ready to serve food, such as cooked meats, salads, sandwiches, etc. which are prepared in advance, and coffee, tea or other non-alcoholic beverages are sold.
- (76) **Density:** The number of dwelling units permitted per acre of land.
- (77) **Density Units:** The number of individual dwelling units that can be developed on a parcel of land as established thorough the use of a yield plan. For the purpose of this Development

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Code, a multi - family residential dwelling is considered as having as many density units as there are individual dwelling units, regardless of whether those units are attached or detached.

- (78) **Depth of Lot:** The horizontal distance between the frontage right-of-way line and rear lot line. On a corner lot, the side with the largest frontage is its depth, and the side with the lesser frontage is its width.
- (79) **Depth of Rear Yard:** The horizontal distance between the rear building line and the rear lot line.
- (80) **Development Agreement:** An agreement with the owner of the whole parcel as charged on the tax lists of the County specifying the number of density units allocated amongst the parcels being created, the zoning district the particular parcels are located in, the fact that the use and development and further conveyance of the parcels is subject to the regulations contained in the Development Code.
- (81) **Development Code:** The official controls adopted by the City of Scandia regulating the physical development of land.
- (82) **Disposal Area, On-Site Sewage Treatment:** See Washington County Subsurface Sewage Treatment Regulations.
- (83) **Distillery, Craft:** A distillery producing premium, distilled spirits not exceeding 40,000 proof gallons in a calendar year.
- (84) **Drainageway:** A channel that provides for the drainage of stormwater runoff from a watershed or subwatershed area.
- (85) **Dredging:** The process by which soils or other surface materials, normally transported by surface water erosion into a body of water, are removed for the purpose of deepening the body of water.
- (86) **Drive-In:** Any use where products and/or services are provided to the customer under conditions where the customer does not have to leave the car or where service to the automobile occupants is offered regardless of whether service is also provided within a building.
- (87) **Drive-through:** Any use where products and/or services are provided to the customer under conditions where the customer does not have to leave the car.
- (88) **Driveway Access Permit:** A permit required from the responsible governmental agency that allows access onto a public road. Such permit must be acquired prior to the issuance of a building permit.
- (89) **Dwelling:** A building or 1 or more portions thereof occupied exclusively for human habitation, but not including rooms in hotels, motels, nursing homes. (Also see Dwelling Unit.)
- (90) **Dwelling, Duplex or Two Family:** A residential building containing 2 complete dwelling units.

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- (91) Dwelling, Multiple Family: A residential building, or portion of a building, containing 2 or more dwelling units.
- (92) Dwelling, Seasonal: A residential building not capable of year-round occupancy due to non-winterized construction or inadequate non-conforming year-round on-site sewage treatment systems.
- (93) Dwelling, Single: A residential building containing 1 detached dwelling unit.
- (94) Dwelling Unit: A residential accommodation including complete kitchen and bathroom facilities, permanently installed, which is arranged, designed, used or intended for use exclusively as living quarters for 1 family.
- (95) Engineer: The City Engineer.
- (96) Environmental Assessment Worksheet or Environmental Impact Statement: That document that might be required under Minnesota Statute Chapter 116C and D. See Chapter One, Section 12.0.
- (97) Equestrian Uses: Those uses commonly associated with the raising, maintaining and training of horses for riding, racing or breeding.
- (98) Erosion: The wearing away of the ground surface as a result of the movement of wind, water and/or ice.
- (99) Erosion Control: Methods employed to prevent erosion, such as soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.
- (100) Essential Services: Underground or overhead telephone, gas, electrical, steam, waste, or water transmission services, including necessary structures and accessories such as poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment. Essential Services shall not include Wireless Communication Antennas or Wind Energy Conversion Systems.
- (101) Essential Services—Transmission Facilities: A facility that transforms, converts, or switches telephone, gas, electrical, steam, waste, or water transmission services, such as electrical power lines with a voltage of 35 kv or greater; utility substations; bulk gas or fuel being transferred from station to station and not intended for en route consumption ; or other similar equipment, related buildings, storage and accessories, including necessary structures and accessories for electric substations, gas substations, and telephone switching and relay facilities.
- (102) Exterior Storage: The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.
- (103) Family: An individual, or 2 or more persons each related by blood, marriage, adoption, or foster care arrangement, living together as a single housekeeping unit, or a group of not more than 6 persons not related, maintaining a common household, exclusive of servants.
- (104) Farm: Land whose use is primarily devoted to agricultural uses or the raising and/or breeding of livestock.

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- (105) Farmers' Market: Three or more vendors coordinated by a single organization for the purpose of outdoor display and direct sale of Christmas trees, and nursery and horticultural products (fruits, vegetables, flowers, shrubs, and the like) to consumers.
- (106) Feed and Seed Sales: A retail establishment which offers for sale bulk packages or quantities of feed for farm animals and/or seeds used in agricultural production.
- (107) Feedlot: A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. Open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots.
- (108) Fence: A partition, structure, wall or gate erected as a dividing marker, visual or physical barrier, or enclosure.
- (109) Fill: Any act by which soil, earth, sand, gravel, rock or any similar material is deposited, placed, pushed or transported and shall include the conditions resulting there from.
- (110) Final Plat: A drawing or map of an approved subdivision, meeting all requirements of Chapter Three, Subdivision Regulations and in such form as required by the community for purposes of recording.
- (111) Flag Lot: A lot with access provided to the bulk of the lot by means of a narrow corridor.
- (112) Flashing Light: A light source that is not constant in intensity or color at all times while in use.
- (113) Flood. A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.
- (114) Flood Frequency. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
- (115) Flood Fringe. That portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for Washington County.
- (116) Flood Plain. The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.
- (117) Flood Proofing. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
- (118) Floodway. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.
- (119) Floor Area: The gross area of the main floor of a residential building measured in square feet and not an attached garage, breezeway or similar attachment.

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- (120) **Floor Area, Gross:** The sum or the gross area of the various floors of a building measured in square feet. The basement floor area shall not be included unless such area constitutes a story.
- (121) **Floor Area Ratio:** The numerical value obtained through dividing the gross floor area of a building or buildings by the net area of the lot or parcel of land on which such building or buildings are located.
- (122) **Floor Plan, General:** A graphic representation of the anticipated use of the floor area within a building or structure.
- (123) **Flower Shop:** A building or premises used primarily for the retail sale of potted or cut flowering plants, vegetable and herb plants, flower care and handling, floral design or flower arranging, merchandising, and display and flower delivery and related products and services to consumers.
- (124) **Food and Beverage Processing:** The manufacture or packaging of food and beverage products primarily from raw materials, or bulk storage and handling of the products and materials, but not including meat processing.
- (125) **Foot Print:** The length and width of the building's foundation and the building's height.
- (126) **Foot-candle:** A unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one candle.
- (127) **Frontage:** That boundary of a lot that abuts a public street or private road.
- (128) **Funeral Home:** A building or part thereof used for funeral services. Such buildings may contain space and facilities for a) embalming and the performance of other services used in preparation of the dead for burial; b) the storage of caskets, urns, and other related funeral supplies; and c) the storage of funeral vehicles. Where a funeral home is permitted, a funeral chapel shall also be permitted. This definition shall NOT include facilities for cremation.
- (129) **Garage, Private:** A detached one-story accessory building, or portion of the principal building, including a carport, which is used primarily for the storing of passenger vehicles, trailers or farm trucks.
- (130) **Garage, Storage:** Any premises, except those described as a private or public garage used exclusively for the storage of power-driven vehicles.
- (131) **Garden Supply Store:** A place of business where retail and wholesale gardening, landscaping, or farming products are sold to the retail customer. These centers import the majority of the items sold. These items may include plants, nursery products and stock, fertilizers, potting soil, hardware, power equipment and machinery, hose, rakes, shovels, decorative rock, stone, gravel, mulch, and other similar materials and tools.
- (132) **General Store:** A retail store for the sale of more than one type of general merchandise or food. Typical general merchandise includes clothing and other apparel, equipment for hobbies and sports, gifts, flowers and household plants, dry goods, toys, furniture, antiques, books and stationery, pets, drugs, auto parts and accessories and similar consumer goods.

- (133) **Golf Course:** An area of land laid out for golf with a minimum series of 9 holes each including a tee, fairway, and putting green and often one or more natural or artificial hazards.
- (134) **Governing Body:** The City Council.
- (135) **Government Uses, Buildings and Storage:** An area of land or structures owned or leased by the U.S. federal government, State of Minnesota, Metropolitan Council, Washington County, or City of Scandia for purposes of carrying out governmental duties. This use includes, but is not limited to, public purposes, storage, or maintenance. Publicly or privately operated school facilities are not considered part of this land use.
- (136) **Grade Plane:** A reference plane representing the average of finished ground level adjoining a building at exterior walls.
- (137) **Grocery Store:** A retail establishment which offers for sale food products, household items and other goods associated with the same.
- (138) **Hazardous Material:** Hazardous material means a chemical or substance, or a mixture of chemicals or substances, which:
- (A) is regulated by the federal Occupational Safety and Health Administration under Code of Federal Regulations, title 29, part 1910, subpart Z; or
  - (B) is either toxic or high toxic, an irritant, corrosive, a strong oxidizer, a strong sensitizer, combustible, either flammable or extremely flammable, dangerously reactive, pyrophoric, pressure-generating, a compressed gas, a carcinogen, a teratogen, a mutagen, a reproductive toxic agent, or that otherwise, according to generally accepted documented medical or scientific evidence, may cause substantial acute or chronic personal injury or illness during or as a direct result of any customary or reasonably foreseeable accidental or intentional exposure to the chemical or substance.
- (139) **Health/Recreation Facility:** An indoor facility including uses such as game courts, exercise areas and equipment, locker rooms, Jacuzzi, and/or sauna and pro shop.
- (140) **Height of sign:** the height of the sign shall be computed as the vertical distance measured from the base of the sign at grade to the top of the highest attached component of the sign.
- (141) **High Power Transmission Line:** A 69 KV or greater electric transmission line with towers a minimum of 75 feet in height.
- (142) **Historic Building or Structure:** A building or structure which has been identified by the Washington County Historical Society or the State Historic Preservation Office as a historic building or structure, or other undesignated structures such as residences and barns having public value due to its notable architectural or historical features relating to the cultural heritage of the community.
- (143) **Home Occupation:** A use of a residential or agricultural property for gainful employment which is clearly incidental and subordinate to the use of the property as residential or agricultural and in compliance with all performance standards of the Scandia Development Code.

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- (144) Homeowners Association: A formally constituted non-profit association or corporation made up of the property owners and/or residents of the development for the purpose of owning, operating and maintaining the common open space and facilities.
- (145) Homesteaded Dwelling: A dwelling that is occupied and used for the purposes of a homestead by its owner pursuant to Minnesota Statutes § 273.124.
- (146) Horse Show: An event where horses not boarded on the subject property are shown to the general public and guests.
- (147) Horse Training Facility, Commercial: The use of an accessory building in which horses not owned by the property owner are kept for commercial use including boarding, breeding, hire, sale, show, and training.
- (148) Horse Training Facility, Private: The use of an accessory building incidental to the existing residential, principal use in which horses owned by the property owner are kept for private use and training.
- (149) Hotel: Any building or portion thereof occupied as the more or less temporary abiding place of individuals and containing 3 or more guest rooms, used, designated, or intended to be used, let or hired out to be occupied, or which are occupied by 3 or more individuals for compensation, whether the compensation be paid directly or indirectly.
- (150) Illicit Connection: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system, including any non-stormwater discharge such as sewage, process wastewater, wash water and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by an authorized enforcement agency.
- (151) Illicit Discharge: Any direct or indirect non-stormwater discharge to the storm sewer system, except as exempted in this code.
- (152) 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. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.
- (153) Individual Parcel: A parcel as a whole as charged on the tax lists, or two or more contiguous parcels under common ownership on the effective date of this Development Code.
- (154) Infiltration: The passage or movement of water into the soil surface.
- (155) Institutional Use: Institutional uses include governmental offices and facilities, houses of worship, museums, cemeteries, and parks and trailheads open to the public.
- (156) Instrumental activities of daily living: Has the meaning given in Minnesota Statutes 256B.0659, subdivision 1, paragraph (i) or its successor statutes.
- (157) Interim Use: See Chapter One, Section 9.

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- (158) **Kenel, Commercial:** Any place where 4 or more dogs over 6 months of age are boarded, bred, trained or offered for sale. This term does not include pet shops or veterinary establishments
- (159) **Kenel, Private:** Any place where 4 or more dogs over 6 months of age are owned by any member of the household.
- (160) **Land Alteration:** The reclaiming of land by depositing or moving material so as to alter the grade or topography.
- (161) **Land Clearing:** The removal of a contiguous group of trees and other woody plants in an area of 20,000 square feet or more within any 12 month period.
- (162) **Land Spreading/Land Application:** The placement of waste or waste by-products on or incorporated into the soil surface.
- (163) **Land Spreading/Land Application Site:** Any land used for the purpose of land spreading or the land application of waste or waste by-products.
- (164) **Landscaping:** Planting trees, shrubs and turf covers such as grasses and shrubs.
- (165) **Light Fixture, Outdoor:** Outdoor electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar devices, permanently installed or portable, used for illumination or advertisement. The fixture includes the hardware that houses the illumination source and to which the illumination source is attached including, but not limited to, the hardware casing. Such devices shall include, but are not limited to, search, spot and flood lights for a) buildings and structures, b) recreational areas, c) parking lot lighting, d) landscape lighting, e) billboards and other signs, f) street lighting, g) product display area lighting, and h) building overhangs and open canopies.
- (166) **Light Manufacturing:** A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products. Such uses include, but are not limited to, the following lumber yard, machine shops, products assembly, sheet metal shops, plastics, electronics, motor vehicle repair, body work and painting, contractor shops and storage yards, food and nonalcoholic beverages, signs and displays, printing, clothing, textiles and used auto parts.
- (167) **Light Source:** A single artificial point source of luminescence that emits measurable radiant energy in or near the visible spectrum.
- (168) **Lighting, Outdoor:** Any light source or collection of light sources, located outside a building, including but not limited to, light sources attached to any part of a structure, located on the surface of the ground or located on free standing poles.
- (169) **Livestock:** Cattle, hogs, bees, sheep, goats, llamas, chickens, turkeys, bison, horses (including miniatures) and other animals generally kept for commercial food or fiber production purposes and commonly accepted as farm animals in the State of Minnesota.
- (170) **Livestock Operations:** A lot or structure or combination of lots and structures intended for the breeding, raising or holding of 11 or more animal units.

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- (171) **Loading Space:** A space, accessible from a street, alley or way, in or outside of a building, for the use of trucks while loading and unloading merchandise or materials.
- (172) **Lodging Room:** A room rented as sleeping and living quarters, but without cooking facilities. In a suite of rooms without cooking facilities, each room that provides sleeping accommodations shall be counted as 1 lodging room.
- (173) **Lot:** A parcel of land designated by metes and bounds, registered land survey, plat or other means, and which description is either recorded in the Office of the Washington County Recorder or Registrar of Titles or used by the County Treasurer or County Assessor to separate such parcel from other lands for tax purposes.
- (174) **Lot Area:** The area of a horizontal plane within the lot lines.
- (175) **Lot Area, Minimum per Dwelling Unit:** The minimum number of square feet or acres of lot area required per dwelling unit.
- (176) **Lot Averaging:** Allows the property owner to create parcels smaller than those of a conventional subdivision plan provided the density of the development does not exceed the maximum density permitted for the zoning district and the density that can be achieved with a yield plan.
- (177) **Lot, Buildable:** A lot that meets or exceeds all requirements of the City of Scandia Development Code without the necessity of variances.
- (178) **Lot, Corner:** A lot situated at the junction of and abutting 2 or more intersecting streets; or a lot at the point of a deflection in alignment of a single street, the interior angle of which does not exceed 135 degrees.
- (179) **Lot Coverage:** That portion of a lot containing an artificial or natural surface through which water, air or roots cannot penetrate. This definition includes, but is not limited to, driveways, structures, patios and decks.
- (180) **Lot Depth:** The mean horizontal distance between the front and rear lines of a lot.
- (181) **Lot, Interior:** A lot other than a corner lot, including through lots.
- (182) **Lot Line:** A lot line is the property line bounding a lot, except that where any portion of a lot extends into a public right-of-way or a proposed public right-of-way, the line of such public right-of-way shall be the lot line.
- (183) **Lot Line, Front:** That boundary of a lot that abuts a public street or a private road. In the case of a corner lot, it shall be the shortest dimension of a public street. If the dimensions of a corner lot are equal, the front lot line shall be designated by the owner. In the case of a corner lot in a non-residential area, the lot shall be deemed to have frontage on both streets.
- (184) **Lot Line, Rear:** That boundary of a lot that is opposite to the front lot line. If the rear lot line is less than 10 feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line 10 feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

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- (185) Lot Line, Side: Any boundary of a lot that is not a front lot line or a rear lot line.
- (186) Lot, Through: Any lot other than a corner lot that abuts more than 1 street. On a through lot, all property lines abutting the road right-of-way shall be considered the front lines.
- (187) Lot Width: The horizontal distance between the side lot lines of a lot measured at the setback line.
- (188) Luminaire: A complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts.
- (189) Major Highway: Those highways and/or roadways which are classified as Minor Arterials and County Collectors in the Thoroughfare Plan of the City Comprehensive Plan.
- (190) Manufactured Home: A structure, transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under Minnesota Statutes, Chapter 327
- (191) Manure: Any solid or liquid containing animal excreta.
- (192) Mausoleum: A structure for the entombment of the dead in crypts or vaults in a place used, or intended to be used, for cemetery purposes.
- (193) Meat Processing: The processing of a product usable as human or animal food and made wholly or in part from meat or a portion of the carcass of animals.
- (194) Medical Uses: Those uses concerned with the diagnosis, treatment and care of human beings. These include hospitals, dental services, medical services or clinics, nursing or convalescent home, orphan's home, rest home and sanitarium.
- (195) Mentally or physically-impaired person: A person who is a resident of the State of Minnesota who requires assistance with two or more instrumental activities of daily living as certified in writing by a physician or physician assistant licensed to practice in Minnesota, or a certified nurse practitioner.
- (196) Motor Vehicle: Any self-propelled vehicle not operated exclusively on railroad tracks, and any vehicle propelled or drawn by a self-propelled vehicle, including but not limited to cars, trucks, buses, motorcycles, campers, recreational vehicles, and trailers.
- (197) Motor Vehicle, Abandoned, Unlicensed, Inoperable, Discarded, or Junked: Any motor vehicle that is one or more of the following:
- (1) Without a current license;
  - (2) Being held or used for the purpose of resale of used parts therefrom or for the purpose of reclaiming the use of some of the materials therein for the purpose of disposing of the same;
  - (3) Wrecked, discarded or dismantled;

- (4) Incapable of movement under its own power;
  - (5) Left unattended for more than 48 hours on the property of another, if left without the permission of the property owner.
- (198) Mining: The excavation, removal, storage or processing of sand, gravel, rock, soil, clay, or other deposits. For the purposes of this Development Code, mining shall not include the excavation, removal, or storage of rock, sand, dirt, gravel, clay, or other material for the following purposes:
- (A) Excavation for the foundation, cellar, or basement of some pending structure for which a permit has been issued and which is to be erected immediately following the excavation, removal or storage.
  - (B) On-site construction of approved roads, sewer lines, storm sewers, water mains, surface water drainage approved by the local unit of government, agriculture or conservation purposes, sod removal, or other public utilities.
  - (C) Landscaping purposes on a lot used or to be used as a building site.
  - (D) Grading/excavation of less than one acre of land in conjunction with improvement of a site for lot development, providing activities will be completed in 1 year.
  - (E) The removal of excess materials in accordance with approved plats or highway construction.
- (199) Motel: A building or group of detached, semi-detached or attached buildings containing three (3) or more guest rooms or units, each of which has a separate entrance directly from the outside of the building, or corridor, 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 transient guests traveling by automobile.
- (200) Motor Freight Terminal: A building or area in which freight brought by motor truck is transferred and/or stored for movement by motor truck.
- (201) Motor Vehicle, Recreational Vehicle, or Boat Sales: Any place where motor vehicles, recreational vehicles, or boats and boat trailers or other marine related products, are sold to the general public. Business activities accessory to this use include motor vehicle repair, car wash, fuel dispensing, and the rental of vehicles.
- (202) Motor Vehicle Repair, Major: General repair, rebuilding or reconditioning of engines, motor vehicles or trailers; collision service including body, frame or fender straightening or repair; overall painting and upholstery; vehicle steam cleaning.
- (203) Motor Vehicle Repair, Minor: Repairs, incidental body and fender work, replacement of parts and motor services to passenger automobiles and trucks not exceeding 12,000 pounds gross weight, but not to include any operation specified under "Motor Vehicle Repair, Major".
- (204) Motor Vehicle Service Station: A place for the dispensing, sale or offering for sale of motor fuel directly to users of motor vehicles, together with the sale of minor accessories and the servicing of, and minor repair of, motor vehicles.

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- (205) **Motorized Track Inspection Vehicle:** A wheeled vehicle used for track maintenance that is powered by a motor sized to propel the vehicle only and which is not designed to pull other rolling stock.
- (206) **Moving Permit:** A permit required from the responsible governmental agency prior to the moving of any partially or wholly erected structure from one location to another.
- (207) **Municipality:** A city or township, however organized.
- (208) **Natural Drainageway:** A depression in the earth's surface, such as ravines, draws and hollows, that has definable beds and banks capable of conducting surface water runoff from adjacent lands.
- (209) **Natural Resources:** The physical values of the land supplied by nature including, but not limited to, animal life, plant life, soil, rock, minerals and water.
- (210) **Noise, Ambient:** The all-encompassing noise associated with a given environment, being either a composite of sounds transmitted by any means from many sources near and far or a single predominate source.
- (211) **Nominal Parcel:** A parcel not reduced by more than 10% of its lot area due to road right-of-way dedication.
- (212) **Nonconforming Lot:** A separate parcel or lot of record on the effective date of this Development Code, or any amendments thereto, which lot or parcel does not conform to the regulations, including dimensional standards, contained in this Development Code or amendments thereto.
- (213) **Nonconforming Use:** Any legal or lawful use of land or any legal or lawful use of a structure existing on the effective date of this Development Code, or any amendments thereto, which does not conform to the regulations for the district in which it is located after the effective date of this Development Code or such amendment.
- (214) **Noxious Matter:** Material which is capable of causing injury or is in any way harmful to living organisms or is capable of causing detrimental effect upon the physical or mental health of human beings.
- (215) **Nursery, Day:** A use where care is provided for 3 or more children under kindergarten age for periods of 4 hours or more per day for pay.
- (216) **Nursing Home:** A building with facilities for the care of children, the aged, infirm, or place of rest for those suffering bodily disorder.
- (217) **Office:** Those commercial activities that take place in office buildings, where goods are not produced, sold or repaired. Such activities include, but are not limited to banks, professional offices, governmental offices, insurance offices, real estate offices, telephone exchanges, utility offices, radio broadcasting and similar uses.
- (218) **Official Control:** Legislatively defined and enacted policies, standards, precise detailed maps, and other criteria, all of which control the physical development of the city, or any part thereof, or any detail thereof, and the means of translating into ordinances all or any part of the

general objectives of the comprehensive plan. Such official controls may include, but are not limited to ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes, housing codes and official maps and have been adopted by City of Scandia as the Development Code.

- (219) Official Map: A map adopted in accordance with the provisions of Minnesota State Statutes, 394.361.
- (220) Open Sales Lot: Lands devoted to the display of goods for sale, rent, lease or trade where such goods are not enclosed within a building.
- (221) Open Space: Land used for agriculture, natural habitat pedestrian corridors and/or recreational purposes that is undivided and permanently protected from future development.
- (222) Open Space Conservation Subdivision: A grouping of residential structures on smaller lots than allowed in the specific zoning district, leaving some land dedicated as open space. Major subdivisions where bonus lots are allowed providing for the maximum possible protection of agricultural lands, ecologically significant areas, natural landscapes, scenic attributes, open space, and cultural features.
- (223) Open Space Development: See Open Space Conservation Subdivision.
- (224) Open Storage: Storage of any material outside of a building.
- (225) Ordinance: The City of Scandia Development Code.
- (226) Outdoor Temporary Seasonal Sales: A temporary outdoor display and/or sale of the following: Christmas trees, nursery products, and horticultural products (fruits, vegetables, flowers, shrubs, and the like).
- (227) Overlay District: A zoning district shown as an overlay on the zoning map.
- (228) Owner: Includes all persons interested in a property as fee simple owner, life estate holder, and encumbrancer.
- (229) Park and Recreation Committee: An appointed advisory board of the City used to address matters relating to parks, recreation facilities and programs within the City. This Committee also makes recommendations for dedication of land or fees for subdivisions within the City.
- (230) Parking Space: A suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store 1 standard automobile.
- (231) Pasture: Areas where grass or other plants are grown for grazing and where the concentration of animals is managed so that a vegetation cover is maintained during the growing season.
- (232) Pedestrian Way: A public or private right-of-way across or within a block or tract, to be used by pedestrians.
- (233) Pennant: Any lightweight plastic, fabric or other material designed to move in the wind, whether containing a message or not.

- (234) Performance Standards: The minimum development standards as adopted by the governing body and included in this Code and file in the office of the zoning administrator.
- (235) Person: Any person, corporation or association, including governmental agencies and political entities.
- (236) Place of Worship: 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.
- (237) Planned Unit Development: All developments having two or more principal uses on a single parcel of land; and may include townhomes, multi-use structures, recreational uses, mixed residential and commercial type developments, commercial type developments and industrial type developments. See Chapter Two, Section 7.
- (238) Planning Commission: The duly appointed planning and zoning commission of the City.
- (239) Plant Community: A grouping of plants with common environmental requirements living in a common geographic area, i.e., wetlands, grasslands, boreal forests.
- (240) Plant Nursery: A building or premises used for the retail sale of trees, shrubs, flowers or other plants. The use may include the sale of accessory products, including products that are used in the culture, display and decoration of lawns, garden, farms and indoor plants; but does not include the sale of power tools, tractors and other vehicles, decorative rock, stone, gravel, retaining walls and similar materials, except as an incidental use
- (241) Platted Land: Lands with legal descriptions described as lot, block, plat name.
- (242) Prime Farmland: Land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber and oilseed crops. It has the soil quality, growing season, and moisture supply needed to economically produce sustained high yields of crops when treated and managed, including water management, according to acceptable farming methods.
- (243) Pollutant: Any substance which, when discharged, has potential to or does interfere with state-designated water uses; obstruct or cause damage to surface waters; change water color, odor or usability as a drinking water source through causes not attributable to natural processes; add an unnatural surface film on the water; adversely change other chemical, biological, thermal or physical conditions in any surface water; degrade the quality of groundwater; or harm human life, aquatic life, or terrestrial plants and wildlife.
- (244) Principal Structure or Use: All uses or structures that are not accessory uses or structure.
- (245) Private Recreational Area: A recreation use particularly oriented to utilizing the outdoor character of an area including hiking and riding trails, interpretative areas and other passive forms of recreation and not open to the general public.
- (246) Protective or Restrictive Covenant: A contract entered into between private a party that constitutes a restriction of the use of a particular parcel of property.

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- (247) **Public Land:** Land owned and/or operated by a governmental unit, including school districts.
- (248) **Public Recreation Facility:** An outdoor recreation facility owned or operated by a governmental or non-profit organization in which athletic activities are permitted to be played by the general public. Examples of such a facility would be a softball complex, soccer fields, etc.
- (249) **Public Waters:** Any water as defined in Minnesota Statutes, Section 103.G.005 (15.)
- (250) **Quarter-Quarter Section:** A tract of land legally described as a full quarter-quarter section or a 40-acre parcel not reduced by more than 10% due to road right-of-way dedication.
- (251) **Recreation Equipment:** Personal property (non-vehicular) used primarily for recreation and leisure time activities and purposes, including sports equipment, picnic tables, barbecue grills, bird feeders, patio furniture, and the like.
- (252) **Recreation Facilities:** Accessory structures and/or uses that are customary and incidental to the principal use of the site, including swing sets, play structures, sand boxes, skate board ramps, tennis courts, sport courts, swimming pools and their related aprons, and the like, intended for the enjoyment and convenience of the residents of the principal use and their occasional guests.
- (253) **Recreation, Indoor Commercial:** A privately-owned business directed toward the general public that offers recreational entertainment within buildings, such as bowling alleys, billiard halls, and roller skating, operated with the intention of earning a profit.
- (254) **Recreation, Outdoor Commercial:** A privately-owned business directed toward the general public that offers non-motorized recreational activities in outdoor areas, such as waterslides, golf, miniature golf, driving ranges, and skiing and operated with the intention of earning a profit. Campgrounds or overnight camping shall not be considered a Recreation, Outdoor Commercial use.
- (255) **Recreation Vehicle, Camping:** Any vehicle or structure which meets the following qualifications:
- (A) Any vehicular, portable structure mounted on wheels to be towed by a self-propelled vehicle, and designed to be used as temporary living quarters for travel, vacation uses or for recreational uses. Such structures include travel trailers, pop-up (including folding and retractable) campers, ice-fishing houses, and the like.
  - (B) Any vehicular, portable structure designed to be mounted on a truck upon a self-propelled vehicle for use as temporary living quarters for travel, recreation, or vacation uses. Such structures include, but are not limited to, pick-up campers.
  - (C) Any vehicular, portable structure mounted on wheels, designed to be used as temporary living quarters for travel, recreation, or vacation uses, and which is constructed as an integral part of a self-propelled vehicle. Such vehicles include motorhomes, mini-motorhomes, buses converted into campers, and the like.
- (256) **Recreation Vehicle, Large (LRV):** Recreational vehicles that are operable and licensed (if required) including but not limited to: travel trailers, chassis-mounted campers, motor homes,

tent trailers, slide-in campers, airplanes, converted buses, snowmobiles and trailers, boats/watercraft and trailers, ice fish houses and trailers, all-terrain vehicles, and utility trailers.

- (257) **Recyclable Materials:** Materials that are separated from mixed municipal solid waste for the purpose of recycling. For the purpose of this Development Code, these materials are limited to paper, glass, plastics and metals. Refuse derived fuel (RDF) is not a recyclable material under the provisions of this Development Code.
- (258) **Recycling:** The process of collecting and preparing recyclable materials and reusing the materials in their original form or using them in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.
- (259) **Recycling Center:** A facility where recyclable materials are collected, stored, flattened, crushed, or bundled prior to shipment to others who will use those materials to manufacture new products.
- (260) **Refuse:** Putrescible and nonputrescible solid wastes, including garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and market and industrial solid wastes, and including municipal treatment wastes which do not contain free moisture.
- (261) **Regional Flood.** A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.
- (262) **Relative:** A spouse, parent, child, grandchild, sibling, uncle, aunt, nephew, or niece of the mentally or physically-impaired person. Relative includes half, step, and in-law relationships.
- (263) **Research:** Medical, chemical, electrical, metallurgical or other scientific research and quality control, conducted in accordance with the provisions of this Development Code.
- (264) **Residence, Assisted-living:** Housing establishment with services that is registered with the State of Minnesota and provides sleeping accommodations to more than 12 adult residents, at least 80% of whom are 55 years of age or older, and at a minimum provides or makes available health-related services under a class A or class F home care license issued by the State of Minnesota, whether offered or provided directly by the establishment or another entity.
- (265) **Residential facility:** Any facility, public or private, which for gain or otherwise regularly provides one or more persons with a 24-hour per day substitute for care, food, lodging, training, education, supervision, habitation, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the person's own home. Residential facilities include, but are not limited to, state institutions under the control of the commissioner of public welfare, foster homes, residential treatment centers, maternity shelters, group homes, residential programs, or schools for handicapped children.
- (266) **Resort:** Any structure or group of structures containing more than 2 dwelling units or separate living quarters designed or intended to serve as seasonal or temporary dwellings on a rental or lease basis for profit with the primary purpose of said structure or structures being recreational in nature. Uses may include a grocery for guests only, fish cleaning house, marine service,

boat landing and rental, recreational area and equipment and similar uses normally associated with a resort operation.

- (267) Resource Inventory: A survey of the land's features including its natural resources, cultural resources, scenic views and viewsheds, and physical characteristics.
- (268) Restaurant: A business establishment whose principal business is the preparing and selling of unpackaged food to the customer in a ready-to-consume state.
- (269) Retail Business: Stores and shops selling personal services or goods over a counter.
- (270) Road, Private: A road that is owned and maintained by a private landowner, group of landowners, or association.
- (271) Road, Public: A road owned and maintained by a government jurisdiction.
- (272) Rural Event Activity Area: the specific area within a property that operates as a Rural Event Facility on which any of the activities associated with the facility area likely to occur, including parking areas.
- (273) Rural Event Facility: A facility that operates on a for-profit or nonprofit basis to host outdoor or indoor gatherings that do not exceed twelve (12) hours in duration. The gatherings may include, but are not limited to, events such as weddings or other ceremonies, dances, festivals, picnics or any other gathering of a similar nature that the City determines to be consistent with and supportive of the rural and historic character of the community. Gatherings may not include activities that include the discharge of firearms, competitions among motorized vehicles, or other events that the City determines to be incompatible with the community's character or intent of this chapter.
- (274) Rural Event Facility Guest: An attendant of an event at a Rural Event Facility.
- (275) Scenic Resources: That part of the landscape that provides a picturesque view and may contain outstanding recreational, natural, historic, scientific and manmade values.
- (276) School: A facility that provides a curriculum of pre-school, elementary, secondary, post-secondary and other instruction including, but not limited to, child day care centers, kindergartens, elementary, junior high, high schools and technical or college instruction.
- (277) Screening: Screening includes earth mounds, berms or ground forms; fences and walls; landscaping (plant materials) or landscaped fixtures (such as timbers); used in combination or singularly, so as to block direct visual access to an object throughout the year.
- (278) Security Lighting: Outdoor lighting fixtures installed exclusively as a measure to reduce the possible occurrence of a crime on the property.
- (279) Sediment: The product of an erosion process; solid material both mineral and organic, that is in suspension, is being transported, or has been moved by water, wind or ice, and has come to rest on the earth's surface either above or below water level.
- (280) Sediment Control: The methods employed to prevent sediment from leaving a site. Sediment control practices include silt fences, sediment traps, earth dikes, drainage swales, check dams,

subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

- (281) Self-Service Storage: A structure or structures containing separate storage spaces of varying sizes which are leased or rented individually.
- (282) Septic Permit: A permit required from the responsible governmental agency for the installation of any new or replacement on-site sewage disposal system.
- (283) Setback: The minimum horizontal distance between a structure and street right-of-way, lot line or other reference point as provided by Ordinance. Distances are to be measured perpendicularly from the property line to the portion of the structure closest to the property line.
- (284) Sewage: Any water-carried domestic waste, exclusive of footing and roof drainage of any residence, industry, agricultural or commercial establishment whether treated or untreated.
- (285) Shielding: A technique or method of construction permanently covering the top and sides of a light source by a material which restricts the light emitted to be projected below an imaginary horizontal plane passing through the light fixture.
- (286) Shipping Container: A reusable transport and storage unit for moving products and raw materials between locations or countries. A typical container has doors fitted at one end and is constructed of corrugated weathering steel or steel panels. Includes “intermodal shipping container” or “freight container.”
- (287) Shopping Center: Any grouping of 2 or more principal retail uses whether on a single lot or on abutting lots under multiple or single ownership.
- (288) 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.
- (289) Sign, Advertising: A sign that directs attention to a business or profession or to a commodity, service or entertainment not sold or offered upon the premises where such sign is located or to which it is attached.
- (290) Sign, Animated (also called Dynamic Display signs): Any characteristics of a sign that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure itself, or any other component of the sign. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. This also includes any rotating, revolving, moving, flashing, blinking or animated display, and any display that incorporates rotating panels, LED lights manipulated through digital input, “digital ink,” or any other method or technology that allows the sign face to represent a series of images or displays.

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- (291) Sign Area: The entire area within a continuous perimeter enclosing the extreme limits of such sign. Such perimeter shall not include any structural elements lying outside of such sign and not forming an integral part or border of the sign.
- (292) Sign, Awning: A building sign or graphic printed on or in some fashion attached directly to the awning material.
- (293) Sign, Back-lit or Illuminated: A sign which contains an element designed to emanate artificial light internally or externally.
- (294) Sign, Business: A sign that directs attention to a business or profession or to the commodity, service, or entertainment sold or offered upon the premises where such sign is located or to which it is attached.
- (295) Sign, Development Identification: A sign that identifies the name of a residential, commercial or industrial development at a street entrance to the development.
- (296) Sign, Flashing: An illuminated sign which has a light source not constant in intensity or color at all times while such sign is in use or a sign containing an electric reading board.
- (297) Sign, Freestanding: A sign which has a supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.
- (298) Sign, Identification: A sign that identifies the inhabitant of the dwelling.
- (299) Sign, Monument: Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign.
- (300) Sign, Motion: A sign that has revolving parts or signs that produce moving effects through the use of illumination.
- (301) Sign, Nameplate: A sign that states the name and/or address of the business, industry or occupant of the site and is attached to said building or site.
- (302) Sign, Off-Premises: A sign that directs attention to a use not located upon the premises where the sign is located or to which it is attached.
- (303) Sign, Pedestal: A ground sign usually erected on 1 central shaft or post that is solidly affixed to the ground.
- (304) Sign, Portable: A sign, with or without copy and/or graphics, that is constructed or placed upon a chassis with wheels or skids in order to be movable from one location to another, such as may be mounted on an automobile or trailer. This definition does not include permanent identification signs painted directly on vehicles, principally used for transportation, but does include such signs if the vehicles are not used for transportation purposes but are intended as a structure to support a sign.
- (305) Sign, Pylon/Pedestal: A permanent, freestanding sign mounted on one (1) central shaft or post that is solidly affixed to the ground.
- (306) Sign, Real Estate: A sign offering property (land and/or buildings) for sale, lease or rent.

- (307) Sign, Roof: Any sign erected and construction wholly on and above the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.
- (308) Sign, Sandwich-Board: A sign composed of two boards and being either carried by a person, with one board in front and one behind, creating a "sandwich" effect; or set up in a triangle shape, hinged along the top.
- (309) Sign, Shopping Center or Industrial Park: A business sign designating a group of shops or offices.
- (310) Sign, Temporary: A sign designed or intended to be displayed for a short period of time and that is not permanently installed.
- (311) Sign, Wall: A Building sign attached parallel to, but within two (2) feet of a wall, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one (1) sign surface.
- (312) Small Brewery or Winery as an Accessory Use to a Bar or Restaurant (Brew Pub): A craft brewery or winery operated in conjunction with a bar or restaurant, provided the beer or wine is sold for consumption on the premises and not sold to other bars, restaurants, or wholesalers; except that an establishment licensed under Minnesota Statutes may sell "growlers" off-sale with an appropriate City license.
- (313) Solar Collector: A device, structure or a part of a device or structure for which the primary purpose is to capture sunlight and transform it into thermal, mechanical, chemical or electrical energy.
- (314) Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.
- (315) Solar Energy System (SES): A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for heating or cooling, electricity generation, or water heating. A Distribution Scale Solar Energy System (Distribution SES) operates to distribute energy to predominantly off-site users. A Local Service Solar Energy System (Local SES) operates to distribute energy predominantly to on-site uses.
- (316) Solar Energy System, Building-Integrated: A solar energy system that is an integral part of a principal or accessory building, replacing or substituting for an architectural or structural component of the building. Building integrated systems include, but are not limited to, photovoltaic or hot water solar energy systems that are contained within or substitute for roofing materials, windows, skylights, awnings and shade devices.
- (317) Solar Energy System, Ground-Mounted: A freestanding solar system mounted directly to the ground using a rack or pole rather than being mounted on a building.
- (318) Solar Energy System, Passive: A system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

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- (319) **Special Events:** An outdoor gathering of at least 100 individuals whether on public or private property, assembled with a common purpose for a period of one hour or longer but may not exceed twelve hours in duration; except, that events held during the two-day Taco Daze community celebration shall be considered one event. Special Events include, but are not limited to concerts, theatrical productions, public dances, fairs, carnivals, circuses, parades, flea markets, auctions, marathons, walkathons, festivals, races, bicycle events, celebrations, or any other gathering or events of similar nature. Special Events do not include events that are not open to the public and held on private property such as graduation parties or social parties.
- (320) **Spillage, Light:** Any reflection, glare or other artificial light emission onto any adjoining property or right-of-way above a defined maximum illumination.
- (321) **Sports and Fitness Clubs:** a place which houses exercise or sports equipment and sponsors sports and physical exercise activities.
- (322) **Story:** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above, not including a basement or a story not above grade plane.
- (323) **Story Above Grade Plane.** Any story having its finished floor surface entirely above grade plane, except a basement, which shall be considered as a story above grade where the finished surface of the floor above the basement is:
- (A) more than 6 feet (1,829 mm) above grade plane;
  - (B) more than 6 feet (1,829 mm) above the finished ground level for more than 50% of the total building perimeter; or
  - (C) more than 12 feet 3,658 mm) above the finished ground level at any point.
- (324) **Street:** A public right-of-way that affords a primary means of access to abutting property.
- (325) **Street, Collector:** A street that serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major road.
- (326) **Street, Intermediate or Minor 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.
- (327) **Street, Local:** A street intended to serve primarily as an access to abutting properties.
- (328) **Street Pavement:** The wearing or exposed surface of the roadway used by vehicular traffic.
- (329) **Street Width:** The width of the right-of-way measured at right angles to the centerline of the street.
- (330) **Structural Alteration:** Any change, other than incidental repairs, which would affect the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

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- (331) **Structure:** Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, recreational vehicles not meeting the exemption criteria specified in Section 9.1 (1) of Chapter Six, and other similar items. Used interchangeably with “building” for purposes of this Development Code.
- (332) **Structure, Nonconforming:** Any structure lawfully or legally existing on the effective date of this Development Code, or any amendment thereto, which does not conform to the regulations, including the dimensional standards, for the district in which it is located after the effective date of this Development Code or amendments thereto.
- (333) **Studio:** An indoor space that has been built or equipped to accommodate learning, practicing or the performance of activities such as arts, dance, health and fitness, decorating, music, photography and similar uses.
- (334) **Subdivision:** The process of dividing land into two or more parcels for the purpose of transfer of ownership, building development or tax assessment purposes by platting, replatting, registered land survey, conveyance sale, contract for sale or other means by which a beneficial interest in land is transferred.
- (335) **Subdivision, Major:** All subdivisions not classified as minor subdivisions including, but not limited to, subdivisions of 4 or more lots, or any size subdivision requiring any new street or extension of an existing street.
- (336) **Subdivision, Minor:** Any subdivision containing 3 or less lots fronting on an existing street, not involving any new street or road, or the extension of municipal facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provisions or portion of the Comprehensive Plan, Official Map, Zoning Regulations or these regulations.
- (337) **Temporary Dwelling, Care Facility:** A manufactured home which temporarily serves as a residence for an infirm relative of the occupants residing in the primary single family residence on the property where such relative requires care by the family.
- (338) **Temporary Dwelling, During Construction:** A manufactured home that temporarily serves as a residence for the present or potential occupant that the primary single-family residence is being constructed, reconstructed or altered.
- (339) **Temporary Dwelling, Farm:** A manufactured home located in an agricultural district which is an accessory dwelling unit occupied by members of the family engaged in farming on the premises and meeting other criteria specified in the Development Code.
- (340) **Temporary Outdoor Sales:** Any sales conducted outside a building or structure for a limited period of time. Such sale may include tent sales, sidewalk sales, produce stands and similar outdoor sales.
- (341) **Theatre:** A building for the presentation of films or the performing arts. Theatre facilities regulated under Ordinance 88, regulating Adult-Oriented Uses, are excluded from this definition.

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- (342) Tower: Any pole, spire, structure, or combination thereof, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, or to serve as an antenna.
- (343) Tower Accessory Structure: A structure located at the base of the tower housing base receiving/transmitting equipment.
- (344) Tower, Stealth: A communications tower that is disguised or camouflaged to blend into the surrounding landscape. Examples include towers that are designed to appear as trees, church towers, silos, historic windmills, flag poles or other structures that blend with the local landscape.
- (345) Transient Merchant: Any person, individual, co-partnership, incorporation, both as principal and agent, who is engaged in, does, or transacts any temporary and transient business selling goods, wares, and merchandise; and, who for the purpose of carrying on such business, has complied with the administrative permit requirements of this Chapter, and hires, leases, occupies, or uses a site, parking lot, vacant lot, motor vehicle, or trailer in a zoning district where it is allowed by this Chapter.
- (346) Transient Produce Merchant: Any person who engages in or transacts in a temporary and transient business within the city, selling the products of the farm or garden occupied and cultivated by that person; and, who for the purposes of carrying on such business, hires, leases, occupies, or uses, a site, parking lot, vacant lot, motor vehicle, or trailer on a site other than the property on which the produce is grown and cultivated in a zoning district where it is allowed by this Chapter.
- (347) Transportation/Motor Freight Terminal: A building or area in which freight brought by truck is assembled and/or stored for routing or reshipment, or in which semi-trailers, including tractor or trailer units and other trucks are parked or stored.
- (348) Transportation Terminal: Truck, taxi, air, bus, train and mass transit terminal and storage area, including motor freight (solid and liquid) terminal.
- (349) Travel Trailer/RV Campground: An area or premises operated as commercial enterprise on a seasonal basis and generally providing space for seasonal accommodations for transient occupancy or use by transients occupying camping trailers, self-propelled campers and tents.
- (350) Tree and Woodland Preservation-Related Definitions:
- (A) Caliper Inch: The diameter of a tree measured at 54 inches above ground level.
  - (B) Canopy: the upper layer of a woodland or forest formed by mature tree crowns.
  - (C) Coniferous Trees: A wood plant which, at maturity, is at least 12 feet or more in height, is cone-bearing and has thin needlelike leaves.
  - (D) Construction Zone: Any area in which movement of earth, alteration in topography, soil compaction, disruption of vegetation, change in soil chemistry, change in groundwater or surface water hydrology, or other change in the natural character of the land occurs as a result of the site preparation, grading, building construction, or

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any other construction activity. Examples include road rights-of-way, house and driveway construction areas and drainfields, ponding areas, etc.

- (E) Critical Root Zone (CRZ): An imaginary circle surrounding the tree trunk radius distance of 1 foot per 1 inch of tree diameter, (i.e., a 20 inch diameter tree has a CRZ with a radius of 20 feet).
- (F) Drip Line: The farthest distance away from the trunk that rain or dew will directly fall to the ground from the leaves or branches of the tree.
- (G) Groundcover: the layer of plants that cover the ground surface and provide protection from erosion and drought.
- (H) Invasive Tree Species: a tree species that is non-native to the ecosystem and whose introduction causes economic or environmental harm. Invasive tree species are identified by the Minnesota Department of Natural Resources and include, but are not limited to Common Buckthorn (*Rhamnus cathartica*), Glossy Buckthorn (*Rhamnus frangula*), Tartarian Honeysuckle (*Lonicera tatarica*), Amur Maple (*Acer ginnala*), and Siberian Elm (*Ulmus pumila*).
- (I) Multi-trunk Tree. A multi-trunk tree is considered as one tree if the trunk forks at a height 54 inches above ground level. For multi-trunk trees that fork at or below 54 inches, each trunk is considered a separate tree.
- (J) Ornamental Trees: Trees that are grown primarily for their display of flowers or other attractive features such as fruit, scent or shape.
- (K) Overstory (Canopy) Trees: The tallest trees in the woodland or forest formed by the upper layer of mature tree crowns.
- (L) Primary Deciduous Tree: Native deciduous trees.
- (M) Secondary Deciduous Tree: Native deciduous trees that are Quaking Aspen (*Populus tremuloides*), Box Elder (*Acer negundo*), and Eastern Cottonwood (*Populus deltoides*).
- (N) Significant Tree: A healthy tree measuring a minimum of 6 caliper inches in diameter or greater (as measured 54 inches above the ground) for all primary deciduous trees, a minimum of 20 caliper inches in diameter or greater for all secondary deciduous trees, or a minimum of 12 feet in height for all native coniferous trees.
- (O) Significant Woodland: a treed area of at least 15,000 square feet or more which includes significant trees.
- (P) Understory: layer of the woodland or forest that grows at a height level below the canopy. It includes a mixture of seedlings and saplings of canopy trees, shrubs, grasses and herbaceous plants.
- (Q) Woodland: a treed area of at least 15,000 square feet.

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- (351) **Truck Stop:** A motor fuel station devoted principally to the needs of tractor-trailer units and trucks, and which may include eating and/or sleeping facilities.
- (352) **Use:** The function for which property can be used.
- (353) **Use, Accessory:** A use subordinate to and serving the principal use or structure on the same lot and customarily incidental to such principal use.
- (354) **Use, Open Space:** The use of land without a structure or including a structure incidental to the open space use.
- (355) **Variance:** A modification of a specific permitted development standard required in an official control to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a practical difficulty in complying with the standard. See Chapter One, Section 6.
- (356) **Vegetation, Natural:** Plant life which is native to the location and which would normally grow if the ground were left undisturbed.
- (357) **Veterinary:** Those uses concerned with the diagnosis, treatment and medical care of animals, including animal or pet hospitals.
- (358) **Warehousing:** The storage, packing and crating of materials or equipment within an enclosed building or structure.
- (359) **Warehousing 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.
- (360) **Waterfront Uses, Residential:** Boat docks and storage, fish house, fish cleaning, water recreation equipment and other uses normally incidental to a lakeshore residence, provided such uses are for the exclusive use of the occupants and nonpaying guests.
- (361) **Watershed District or Water Management Organization:** An entity established under Minnesota Statutes, Chapter 103D within a specific drainage area and having the purposes described in Minnesota Statutes 103D.201.
- (362) **Wetland:** As defined in Minnesota Rules 7050.0130, subpart F, those areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Constructed wetlands designed for wastewater treatment are not waters of the state. Wetlands must have the following attributes: a. a predominance of hydric soils; b. inundated or saturated by surface water or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in a saturated soil condition; and c. under normal circumstances support a prevalence of such vegetation.
- (363) **Wholesaling:** The selling of goods, equipment and materials by bulk to another person who in turn sells the same to customers.

- (364) Winery or Cidery, Craft: A facility that manufactures wine or cider, as defined by Minnesota Statutes § 297G.01, with a capacity of seventy-five thousand (75,000) or fewer gallons per year.
- (365) Yard: The open space on an occupied lot that is not covered by any structure.
- (366) Yard, Front: The yard across the full width of the lot extending from the front line of the principal building to the front lot line, except for buildings on Recreational or Natural Environment lakes where the front yard faces the water.
- (367) Yard, Rear: The yard across the full width of the lot extending from the rear line of the principal building to the rear lot line.
- (368) Yard, Required: A yard area that may not be built on or covered by structures because of the dimensional setbacks for said structures within the zoning district.
- (369) Yard, Side: The yard between the principal building and the adjacent side of the lot, extending from the front line of the principal building to the rear line of the principal building.
- (370) Yard Waste Facility: Any site used for the processing or composting of garden waste, leaves, lawn cuttings, weeds, shrub and tree waste and prunings generated off site. Yard wastes generated on site and used on the same site are not included in this definition.
- (371) Yield Plan: A subdivision plan drawn to scale, containing sufficient information showing the maximum number of lots that could be permitted using the performance standards for lots in a conventional subdivision in accordance with the City of Scandia Development Code.
- (372) Zoning District: An area or areas within the City in which the regulations and requirements of this Development Code are applied.

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**SECTION 5.0 AMENDMENTS TO THE DEVELOPMENT CODE  
AND COMPREHENSIVE PLAN (TEXT AND MAP)**

- 5.1 Procedures. Pursuant to Minnesota Statutes 15.99, an application for an amendment to this Development Code shall be approved or denied within 60 days from the date of its official and complete submission unless extended pursuant to Statute or a time waiver is granted by the applicant. Pursuant to Minnesota Statutes 15.99, the City staff is hereby authorized to extend the 60 day time limit by a time period not to exceed 60 additional days, provided written notice of such extension is provided to the applicant before the end of the initial 60 day period. Extensions may also be requested by the applicant. Additional City requirements are as follows:
- (1) Requests for zoning (text or map) amendments shall be filed with the Zoning Administrator on an official application form. The applicant's signature shall be provided on the application form. Additionally, if the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by 1) a fee as set forth in City Ordinance, 2) detailed written and graphic materials, the number and size as prescribed by the Zoning Administrator, fully explaining the proposed change, development, or use, and 3) for amendments involving a change in district boundaries, one copy of a list of property owners located within 1,320 feet of the subject property in a format prescribed by the Zoning Administrator. The application shall be considered as being officially submitted and complete when the applicant has complied with all the specified information requirements.
  - (2) Upon receipt of a complete application, as determined by staff review, and following preliminary staff analysis of the application and request, the Zoning Administrator, when appropriate, shall set a public hearing following proper hearing notification. The Planning Commission shall conduct the hearing, and report its findings and make recommendations to the City Council.
  - (3) Notice of said hearing shall consist of a description of the request and, in for amendments involving a change in district boundaries, a legal property description. Notice shall be published in the official newspaper at least 10 days prior to the hearing and written notification of said hearing shall be mailed at least 10 days prior to all owners of land within 1,320 feet of the boundary of the property in question for amendments involving a change in district boundaries. Failure of a property owner to receive said notice(s) shall not invalidate any such proceedings as set forth within this Chapter.
  - (4) The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and to provide general assistance in preparing a recommendation of the action to the Planning Commission and City Council.
  - (5) The Planning Commission shall consider possible effects of the proposed amendment. Its judgment shall be based upon (but not limited to) the following factors:
    - (A) The proposed action shall be considered in relation to the specific policies and provisions of and shall be consistent with the City Comprehensive Plan, including public facilities and capital improvement plans.
    - (B) Whether the proposed action meets the purpose and intent of this Chapter or in the case of a map amendment, it meets the purpose and intent of the individual district.

- (6) The Planning Commission and City staff shall have the authority to request additional information from the applicant or to obtain expert testimony with the consent and at the expense of the applicant, if additional information is necessary to establish compatibility with the Comprehensive Plan and pertinent sections of this Chapter.
  - (7) The applicant or a representative thereof may appear before the Planning Commission in order to present information and answer questions concerning the proposed request.
  - (8) The Planning Commission shall make a recommendation on the request to the City Council. Such recommendation shall be accompanied by the report and recommendation of the City staff.
  - (9) The City Council shall not act upon an amendment until it has received a report and recommendation from the Planning Commission and the City staff or until 60 days after the first regular Planning Commission meeting at which the request was considered.
  - (10) For any application which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial, approval shall require passage by a 2/3 vote of the full City Council. Approval of any other proposed amendment shall require passage by a majority vote of the entire City Council.
  - (11) The amendment shall not become effective until such time as the City Council approves an ordinance reflecting said amendment.
  - (12) Whenever an application for an amendment has been considered and denied by the City Council, a similar application for an amendment affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least 6 months from the date of its denial unless a decision to reconsider such matter is made by not less than a majority of the full City Council.
- 5.2 Amendments- Initiation. The City Council or Planning Commission may initiate a request to amend the text of this Chapter or the district boundaries of the Zoning Map. The procedural requirements of Section 5.1 of this Chapter shall not apply to such proposed amendments except to the extent required by State Statute. Any person owning real estate within the City may initiate a request to amend the text of this Chapter or the district boundaries of the Zoning Map so as to affect the said real estate.
- 5.3 Certification of Taxes Paid. Prior to approving an application for rezoning, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the rezoning application relates.
- 5.4 Amendments to the Comprehensive Plan. Amendments to the text or any map contained in the Scandia Comprehensive Plan may be initiated and considered according to the procedures established in Section 5.1 of this Chapter and any applicable provisions of state law. Any amendment to the Comprehensive Plan shall require passage by a 2/3 vote of the full City Council.

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## SECTION 6.0 VARIANCES

- 6.1 Purpose. Pursuant to Minnesota Statutes Section 462.351, Subd. 6 as amended from time to time, the purpose of this section is to permit deviations from the requirements of the Development Code in instances where their strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of this Chapter. This section shall not apply to any requested deviation from other portions of the City's code of ordinances unless so provided by such other ordinance either directly or by reference to this section.
- 6.2 Board of Zoning Adjustments and Appeals. The City Council shall act as the Board of Zoning Adjustments and Appeals.
- 6.3 Use Variances Prohibited. No variance may be granted that would allow any use that is not allowed as a permitted, conditional or interim use in the zoning district in which the subject property is located.
- 6.4 Review Criteria. The Board shall only approve a variance when the terms of variance are consistent with the Comprehensive Plan, when it is in harmony with the general purpose and intent of the Development Code as then in force, and when the strict enforcement of the code would result in practical difficulties with carrying out the strict letter of the Code. "Practical difficulties" as used in connection with the variance means:
- (1) The applicant proposes to use the property in a reasonable manner not permitted by the Development Code.
  - (2) The plight of the landowner is due to circumstances unique to the property not created by the landowner.
  - (3) The variance, if granted, will not alter the essential character of the locality.
  - (4) Economic conditions alone shall not constitute practical difficulties.
  - (5) That the proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.
  - (6) That the requested variance is the minimum action required to eliminate the practical difficulty.
  - (7) Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.
- 6.5 Procedures. Pursuant to Minnesota Statutes 15.99, an application for a variance shall be approved or denied within 60 days from the date of its official and complete submission unless extended pursuant to Statute or a time waiver is granted by the applicant. Pursuant to Minnesota Statutes 15.99, the City staff is hereby authorized to extend the 60 day time limit by a time period not to exceed 60 additional days, provided written notice of such extension is provided to the applicant

before the end of the initial 60 day period. Extensions may also be requested by the applicant. Additional City requirements are as follows:

- (1) Requests for a variance shall be filed with the Zoning Administrator on an official application form. The applicant's signature shall be provided on the application form. Additionally, if the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by a non-refundable fee to pay for staff time and indirect costs incurred by the City for processing, reviewing and hearing the application, and an escrow deposit to be applied in reimbursement of the City for all such out-of-pocket costs that are incurred by the City, as set forth in City Ordinance. The application shall be considered as being officially submitted complete when the applicant has complied with all the specified informational requirements, which shall include the following:
  - (A) A written description of the request for the variance, including an explanation of compliance with the variance criteria set forth in this Section.
  - (B) Supporting materials, as outlined in Section 11.0 of this Chapter, as determined by the Zoning Administrator to be necessary for the complete and clear definition and understanding of the request.
- (2) Upon receipt of a complete application, as determined by staff review, and following preliminary staff analysis of the application and request, the Zoning Administrator, when appropriate, shall establish a time and place for consideration by the Planning Commission. At least 10 days before the date of the meeting, a written notice of the meeting shall be mailed to the applicant and to all other owners of property located within 500 feet of the boundaries of the property which is the subject of the application.
- (3) Failure of a property owner to receive notice shall not invalidate any such proceedings as set forth within this Chapter.
- (4) The Zoning Administrator shall cause the preparation of technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the Board.
- (5) The Planning Commission and Zoning Administrator shall have the authority to request additional information from the applicant concerning operational factors or to obtain expert testimony with the consent and at the expense of the applicant concerning operational factors, if such additional information is necessary to establish performance conditions in relation to all pertinent sections of this Chapter.
- (6) The applicant or a representative thereof may appear before the Planning Commission in order to present and answer questions concerning the proposed request.
- (7) The Planning Commission shall make a finding of fact and shall make a recommendation to the City Council on such actions or conditions relating to the request as it deems necessary to carry out the purposes of this Chapter.
- (8) The Board shall not act upon the request until it has received a report and recommendation from the Planning Commission and the City staff or until 60 days after the first regular Planning Commission meeting at which the request was considered.

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- (9) Upon receiving the report and recommendation of the Planning Commission, the Board may grant the variance. Approval of a request shall require passage by a majority vote of the entire Board. In granting any major variance under the provisions of this Section, the Board shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of the regulations or provisions to which the adjustment or variance is granted, as to light, air, and the public health, safety, comfort, convenience and general welfare. Conditions shall be consistent with Section 6.4 and shall be directly related to and shall bear a rough proportionality to the impact created by the variance.
- (10) Where variances are granted under the provisions of this Section, the Board shall require such evidence and guarantee as it may deem necessary to insure compliance with the conditions designated in connection therewith. Following the approval of a variance as required by this Section and prior to the issuing of any building permits or the commencing of any work, the applicant may be required to guarantee to the City the completion of landscaping and any other private exterior amenities or improvements as shown on the approved site plan and as required by the variance approval. The guarantee shall be made by means of a site improvement performance agreement and a financial guarantee as specified in Section 11.0 of this Chapter.
- (11) The Zoning Administrator shall serve a copy of the final order of the Board upon the petitioner by mail.
- (12) Whenever an application for a variance has been considered and denied by the Board, a similar application for a variance affecting substantially the same property shall not be considered again by the Planning Commission or Board for at least 6 months from the date of its denial, unless a decision to reconsider such matter is made by a majority vote of the entire Board.
- 6.6 Appeal of Board Ruling. Any person or persons, any private or public board, or taxpayer of the City aggrieved by any decision of the Board shall have the right to seek review of the decision with a court of record in the manner provided by the laws of the State of Minnesota, and particularly Minnesota Statutes, Chapter 462, as such statutes may be from time to time amended, supplemented or replaced.
- 6.7 Expiration. Unless the variance was approved prior to the effective date of this Chapter, or the Board specifically approves a different time when action is officially taken on the request, approvals which have been issued under the provisions of this section shall expire without further action by the Planning Commission or the Board, unless the applicant commences the authorized use or improvement within 1 year of the date the variance is issued; or, unless before the expiration of the 1 year period; the applicant shall apply for an extension thereof by completing and submitting a request for extension, including the renewal fee as set forth in City Ordinance. The request for extension shall state facts showing a good faith attempt to complete or utilize the approval permitted in the variance. A request for an extension not exceeding 1 year shall be subject to the review and approval of the Zoning Administrator. Should a second extension of time or any extension of time longer than 1 year be requested by the applicant, it shall be presented to the Planning Commission for a recommendation and to the Board for a decision.
- 6.8 Certification of Taxes Paid. Prior to approval of an application for a variance, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the variance application relates.

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## **SECTION 7.0 APPEALS OF RULINGS OF ZONING ADMINISTRATOR OR BOARD OF ADJUSTMENT AND APPEALS**

- 7.1 Board Designation. The City Council shall serve as the Board of Adjustments and Appeals.
- 7.2 Applicability. An appeal shall only be applicable to an interpretation of legislative intent of provisions of this Chapter. Opinions and evaluations as they pertain to the impact or result of a request are not subject to the appeal procedure.
- 7.3 Filing. An appeal from the ruling of an administrative officer of the City shall be filed by the property owner or the owner's agent with the Zoning Administrator within 30 days after the making of the order being appealed.
- 7.4 Stay of Proceedings. An appeal stays all proceedings and the furtherance of the action being appealed unless it is certified to the Board of Adjustment and Appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate a stay would cause imminent peril to life and property. In such case, the proceedings shall not be stayed other than by a restraining order which may be granted by a court of record on application, and upon subsequent notice to the City.
- 7.5 Procedure. The procedure for making such an appeal shall be as follows:
- (1) The property owner or the owner's agent shall file with the Zoning Administrator a notice of appeal stating the specific grounds upon which the appeal is made. Said application shall be accompanied by a fee set forth in City Ordinance.
  - (2) The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports when appropriate and shall provide general assistance in preparing a recommendation on the action to the Board of Adjustment and Appeals.
  - (3) The Board of Adjustment and Appeals shall make its decision by resolution within 60 days from the date on which a completed application is filed.
  - (4) The Zoning Administrator shall serve a copy of the final order of the Board upon the petitioner by mail.
- 7.6 Appeals from the Board of Adjustment and Appeals. Any person or persons, any private or public board, or taxpayer of the City aggrieved by any decision of the Board of Adjustment and Appeals shall have the right to seek review of the decision with a court of record in the manner provided by the laws of the State of Minnesota, and particularly Minnesota Statutes, Chapter 462, as such statutes may be from time to time amended, supplemented or replaced.

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## SECTION 8.0 CONDITIONAL USE PERMITS

- 8.1 Purpose. The purpose and intent of a conditional use permit is to authorize and regulate uses which may be beneficial in a specific instance to the general welfare of the community, yet ensure that such uses are not detrimental to surrounding property, and are consistent with the stated purpose of the zoning district in which such uses are located regarding conditions of operation, location, arrangement, and construction.
- 8.2 Procedures. Pursuant to Minnesota Statutes 15.99, an application for a conditional use permit shall be approved or denied within 60 days from the date of its official and complete submission unless extended pursuant to Statute or a time waiver is granted by the applicant. Pursuant to Minnesota Statutes 15.99, the City staff is hereby authorized to extend the 60 day time limit by a time period not to exceed 60 additional days, provided written notice of such extension is provided to the applicant before the end of the initial 60 day period. Extensions may also be requested by the applicant. Additional City requirements are as follows:

- (1) Pre-Application Concept Review. Prior to the official and complete submission of the request for a conditional use permit, applicants may present a conceptual plan to the Zoning Administrator for review. The concept plan shall include a general description of the proposed use, such as activities proposed for the site, hours of operation, and size of the use; and shall include a sketch plan of the site and location of proposed uses and structures, such as parking areas and access locations; proposed sewage treatment facilities, water service, and storm drainage; and other site elements. The concept plan may describe the proposed general schedule of development; and may include other information useful to understanding the proposed use and site plan.

The Zoning Administrator shall review the concept plan and provide informal comments to the applicant. The Zoning Administrator shall have the prerogative and authority to refer the concept plan to the Planning Commission and/or City Council for discussion, review, and informal comment. Any opinions or comments provided on the concept plan by the Zoning Administrator, Planning Commission, and/or City Council shall be considered advisory only and shall not constitute a binding decision.

- (2) Official and Complete CUP Request Submission. Requests for conditional use permits, as provided within this Chapter, shall be filed with the Zoning Administrator on an official application form. The applicant's signature shall be provided on the application form. Additionally, if the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by 1) a fee as set forth by City ordinance, 2) detailed written and graphic materials, in the number and size prescribed by the Zoning Administrator, fully explaining the proposed change, development, or use, and 3) a list of property owners located within 1,320 feet of the subject property in a format prescribed by the Zoning Administrator. The application shall be considered as being officially submitted and complete when the applicant has complied with all the specified information requirements.
- (3) Upon receipt of a complete application, as determined by staff review, and following preliminary staff analysis of the application and request, the Zoning Administrator, when appropriate, shall set a public hearing following proper hearing notification. The Planning Commission shall conduct the hearing, and report its findings and make recommendations to the City Council.

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- (4) Notice of said hearing shall consist of a legal property description and a description of the request, which shall be published in the official newspaper at least 10 days prior to the hearing and written notification of said hearing shall be mailed at least 10 days prior to the hearing to all owners of land within 1,320 feet of the boundary of the property in question. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Chapter.
  - (5) The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and to provide general assistance in preparing a recommendation on the action to the Planning Commission and City Council.
  - (6) The Planning Commission and City staff shall have the authority to request additional information from the applicant or to obtain expert testimony with the consent and at the expense of the applicant, if such additional information is necessary to establish performance conditions in relation to all pertinent sections of this Chapter.
  - (7) The applicant or a representative thereof may appear before the Planning Commission in order to present information and answer questions concerning the proposed request.
  - (8) The Planning Commission shall make a finding of fact and recommend such actions or conditions relating to the request as it deems necessary to carry out the intent and purpose of this Chapter.
  - (9) The City Council shall not grant a conditional use permit until it has received a report and recommendation from the Planning Commission and the City staff, or until 60 days after the first regular Planning Commission meeting at which the request was considered.
  - (10) Approval of a Conditional Use Permit shall require passage of a resolution by a majority vote of a quorum of the City Council.
  - (11) Whenever an application for a conditional use permit has been considered and denied by the City Council, a similar application for a conditional use permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least 6 months from the date of its denial unless a decision to reconsider such matter is made by a majority vote of the entire City Council.
- 8.3 Information Requirement. The information required for all conditional use permit applications shall be as specified in Section 11.0 of this Chapter.
- 8.4 General Criteria. As may be applicable, the evaluation of any proposed conditional use permit request shall be subject to and include, but be not limited to, the following general criteria:
- (1) The conditional use will be in compliance with and shall not have a negative effect upon the Comprehensive Plan, including public facilities and capital improvement plans.
  - (2) The establishment, maintenance or operation of the conditional use will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety, morals or comfort.

- (3) The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values or scenic views.
- (4) The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
- (5) Adequate public facilities and services are available or can be reasonably provided to accommodate the use which is proposed.
- (6) The conditional use shall conform to the applicable regulations of the district in which it is located and all other applicable standards of this Chapter.
- (7) The conditional use complies with the general and specific performance standards as specified by this Section and this Chapter.

8.5 Performance Standards. As may be applicable, the evaluation of any proposed conditional use permit request shall be subject to and include, but be not limited to, all applicable performance standards provided by Chapter 2 of this Development Code, and the following general standards applicable to all conditional uses:

- (1) The use and site in question shall be capable of supporting the wastewater disposal needs of the proposed use, and shall meet all applicable standards and regulations necessary to protect public health and to protect surface and groundwater resources.
- (2) Adequate parking shall be provided, and the site design for access, circulation, parking and loading areas shall minimize internal and external traffic conflicts.
- (3) An adequate pedestrian circulation system shall be clearly defined and appropriate provisions made to protect such areas from encroachment by parked or moving vehicles.
- (4) All landscaping, screening, woodland and tree preservation requirements shall be met.
- (5) All exterior lighting shall be so directed so as not to cast glare toward or onto the public right-of-way or neighboring property and be in compliance with all city lighting requirements.
- (6) Potential exterior noise generated by the use shall be identified and mitigation measures as may be necessary shall be provided to insure compliance with the city's noise ordinance.
- (7) The site drainage system shall meet all applicable standards for management of water quantity and water quality.
- (8) The architectural appearance and functional design of non-residential buildings and sites shall be in harmony with the Scandia Architectural Design Guidelines and with the character of the surrounding buildings and sites.
- (9) All signs and informational or visual communication devices shall be in compliance with applicable regulations.
- (10) The use and site shall be in compliance with any federal or state laws or regulations which are applicable and any other required permits are obtained and documented to the City.

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- (11) Any applicable business licenses that may be mandated by City ordinance are approved and obtained.
- (12) The hours of operation may be restricted when there is potential negative impact upon the surrounding area or neighboring uses.
- (13) Any costs that may be incurred by the city to monitor compliance with the conditions of the Conditional Use Permit shall be paid by the applicant and/or owner of the property.
- 8.6 Revocation. The Planning Commission may recommend, and the City Council may direct, the revocation of any conditional use permit for cause upon determination that the authorized conditional use is not in conformance with the conditions of the permit or is in continued violation of this Chapter, City Ordinances, or other applicable regulations. The City Council or Planning Commission shall initiate an action and the Zoning Administrator shall notify the responsible person to whom the permit was issued and owner of the property, that the person or property owner has an opportunity to show cause why the permit should not be revoked. A hearing shall be held pursuant to Section 8.2 of this Chapter. The Zoning Administrator shall provide the responsible person to whom the permit was issued and the owner of the property a copy of the proceedings and findings of the Planning Commission and City Council determining whether the conditional use permit shall be revoked.
- 8.7 Amendment. Holders of a conditional use permit may propose amendments to the permit at any time, following the procedures for a new permit as set forth in this Section. No significant changes in the circumstances or scope of the permitted use shall be undertaken without approval of those amendments by the City. The Zoning Administrator shall determine what constitutes significant change. Significant changes include, but are not limited to, hours of operation, number of employees, expansion of structures and/or premises, different and/or additional signage, and operational modifications resulting in increased external activities and traffic, and the like. The Planning Commission may recommend, following the procedures for hearing and review set forth in this Section and the City Council may approve significant changes and modifications to conditional use permits, including the application of additional or revised conditions.
- 8.8 Expiration. Unless the City Council specifically approves a different time when action is officially taken on the request, permits which have been issued under the provisions of this section shall expire without further action by the Planning Commission or the City Council, unless the applicant commences the authorized use within 1 year of the date the conditional use permit is issued; or, unless before the expiration of the 1 year period the applicant shall apply for an extension thereof by completing and submitting a request for extension, including the renewal fee as set forth by City Ordinance. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the conditional use permit. A request for an extension not exceeding 1 year shall be subject to the review and approval of the Zoning Administrator. Should a second extension of time or any extension of time longer than 1 year be requested by the applicant, it shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.
- 8.9 Financial Guarantee. Following the approval of a conditional use permit as required by this Section and prior to the issuing of any building permits or the commencing of any work, the applicant may be required to guarantee to the City the completion of landscaping and any other private exterior amenities or improvements as shown on the approved site plan and as required by the conditional use permit approval. The guarantee shall be made by means of a site improvement performance agreement and a financial guarantee as specified in Section 11.0 of this Chapter.
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- 8.10 Certification of Taxes Paid. Prior to approving an application for a conditional use permit, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the conditional use permit application relates.

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## SECTION 9.0 INTERIM USES

- 9.1 Purpose: The purpose and intent of allowing interim uses is:
- (1) To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction.
  - (2) To allow a use that is presently judged acceptable by the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district.
  - (3) To allow a use which is reflective of anticipated long range change to an area and which is in compliance with the Comprehensive Plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.
- 9.2 Procedures. Uses defined as interim uses which do not presently exist within a respective zoning district shall be processed according to the standards and procedures for a conditional use permit as established by Section 8.0 of this Chapter.
- 9.3 General Standards. An interim use shall comply with the following:
- (1) The use shall meet the applicable standards for a conditional use permit set forth in Sections 8.4 and 8.5 of this Chapter.
  - (2) The use is allowed as an interim use in the respective zoning district.
  - (3) The date or event that will terminate the use can be identified with certainty.
  - (4) The use will not impose additional unreasonable costs on the public.
  - (5) The user agrees to any conditions that the City Council deems appropriate for permission of the use.
- 9.4 Termination. An interim use shall terminate with the occurrence of any of the following events, whichever occurs first:
- (1) The date stated in the permit;
  - (2) Upon violation of conditions under which the permit was issued;
  - (3) Upon change in the City's zoning regulations which renders the use nonconforming;
  - (4) The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.
- 9.5 Certification of Taxes Paid. Prior to approving an application for an interim use permit, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the interim use permit application relates.

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## SECTION 10.0 ADMINISTRATIVE PERMITS AND APPROVALS

10.1 Purpose. The purpose of this section is to establish regulations and procedures for the processing and consideration of activities allowed by administrative permit and of matters delegated for approval by the Zoning Administrator, with the goal of protecting the health, safety, and welfare of the citizens of the City.

10.2 Procedure.

- (1) Requests for administrative permits, as provided within this Chapter, shall be filed with the Zoning Administrator on an official application form. The applicant's signature shall be provided on the application form. Additionally, if the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner.
- (2) The application shall be accompanied by a non-refundable fee, and an escrow deposit to be applied in reimbursement of the City for all out-of-pocket costs that are incurred for processing, reviewing and hearing the application, as set forth by City Ordinance for administrative permit applications. Applications for amending permits shall be accompanied by a non-refundable fee and escrow deposit as set forth by City Ordinance for administrative permits.
- (3) The Zoning Administrator shall review the application and related materials and shall determine whether the proposal is in compliance with all applicable evaluation criteria, codes, ordinances, and applicable performance standards set forth in this Chapter.
- (4) The Zoning Administrator shall consider possible adverse effects of the proposed events or activity. Judgment shall be based upon (but not limited to) the following factors:
  - (A) The use will be in compliance with and shall not have a negative effect upon the Comprehensive Plan, including public facilities and capital improvement plans.
  - (B) The establishment, maintenance or operation of the use, event or activity will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety, morals or comfort.
  - (C) The use, event, or activity will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
  - (D) The establishment of the use, event or activity will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
  - (E) Adequate public facilities and services are available or can be reasonably provided to accommodate the use, event or activity which is proposed.
  - (F) The use, event or activity and site shall, in all other respects, conform to the applicable regulations of the district in which it is located and all other applicable provisions of the Development Code.

- (5) The Zoning Administrator shall make a determination on approval or denial of the administrative permit within sixty (60) days from the date of submission of a complete application. Pursuant to Minnesota Statutes 15.99, the City staff is hereby authorized to extend the 60 day time limit by a time period not to exceed 60 additional days, provided written notice of such extension is provided to the applicant before the end of the initial 60 day period. Extensions may also be requested by the applicant.
- (6) A written permit shall be issued to the applicant when a determination of compliance has been made. Specific conditions to assure compliance with applicable evaluation criteria, codes, ordinances, and the standards of this Chapter shall be attached to the permit.
- (7) Denial of an application due to non-compliance with applicable codes, ordinances, and the standards of this Chapter shall be communicated to the applicant in writing. Within 10 days of the date of such notice, the applicant may submit revised plans and/or information, which shall be evaluated by the Zoning Administrator to determine compliance.
- (8) Unresolved disputes as to administrative application of the requirements of this paragraph shall be subject to appeal as defined by Section 7.0 of this Chapter.

10.3 Information Requirement. The information required for all administrative permit applications shall include:

- (1) A concise statement describing the proposed use, event or activity, including the purpose, type of merchandise involved, dates and times of operation, number of employees involved, provisions for on-site security, provisions for on-site parking, and other pertinent information required by the Zoning Administrator to fully evaluate the application.
- (2) A copy of the approved site plan for the property or an “as built” survey which accurately represents existing conditions on the site, including entrances and exits, bona fide parking and driving areas, and which accurately indicates any proposed temporary structures, including tents, stands, and signs.
- (3) An accurate floor plan, when in the judgment of the Zoning Administrator, such a plan is necessary to properly evaluate the application.
- (4) A copy of the current sales tax certificate issued by the State of Minnesota, if applicable.
- (5) Information identified in Section 11 of this Chapter, as may be applicable.

10.4 Performance Standards. All uses, events or activities allowed by administrative permit shall conform to the applicable standards outlined in the zoning district in which such use, event or activity is proposed and by any performance standards for the use, events or activities which may be provided by City Ordinance or this Development Code.

10.5 Administration and Enforcement.

- (1) The Zoning Administrator shall keep a record of applications and administrative permits.
- (2) A copy of all administrative permits issued shall be forwarded to appropriate staff as determined by the Zoning Administrator.

- (3) Enforcement of the provisions of this paragraph shall be in accordance with Section 2.0 of this Chapter. Violation of an issued permit or of the provisions of this section also shall be grounds for denial of future permit applications.

10.6 Certification of Taxes Paid. Prior to approving an application for an administrative permit, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the administrative permit application relates.

10.7 Expiration.

- (1) Events or activities requiring an administrative permit. An administrative permit for an event or activity shall become null and void upon completion of the event or activity that required the permit, or as may otherwise be specified on the face of the administrative permit issued by the City.
- (2) Uses requiring an administrative permit. Unless otherwise specified by the Zoning Administrator, an administrative permit required for a use or structure shall become null and void pursuant to the provisions of Section 11.9 of this Chapter.

10.8 Non-Permit Approvals. In cases where the Zoning Administrator is given approval authority without a requirement for an administrative permit, determinations shall be based upon the criteria outlined in Section 10.2 (4) of this Chapter.

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## SECTION 11.0 SITE PLAN REVIEW

11.1 Purpose. The purpose of this section is to establish a formal site plan review procedure and provide regulations pertaining to the enforcement of site design standards consistent with the requirements of this Development Code.

11.2 Exceptions to Review. The following shall be exempt from the following requirements:

- (1) Agricultural uses in the AG-C, AP and GR Zoning Districts.
- (2) Single family detached dwellings and related accessory uses.
- (3) Two family attached dwellings and related accessory uses.

11.3 Pre-Application Sketch Review.

- (1) Prior to the formulation of a site plan, applicants may present a sketch to the Zoning Administrator prior to filing of a formal application. The sketch may be conceptual and may include the following related materials:
  - (A) A scale drawing of the proposed site with reference to existing development within 200 feet of adjacent properties.
  - (B) General location of proposed structures.
  - (C) Tentative street arrangements, both public and private.
  - (D) Amenities to be provided such as recreational areas, open space, walkways, etc.
  - (E) General location of parking areas.
  - (F) Proposed sewage disposal facilities, water service and storm drainage.
  - (G) A statement showing the proposed density of the project with the method of calculating said density also shown.
  - (H) Extent of and any proposed modifications to land within any applicable Overlay Districts as described and regulated by this Development Code.
  - (I) Topographic contours at 2 foot intervals.
  - (J) Wetland delineation.
  - (K) Proposed general schedule of development.
  - (L) Information on the proposed developer.
  - (M) Other information or materials useful in reviewing the sketch.
  - (N) Letter of concurrence from landowner, if the landowner is not the applicant.
- (2) The Zoning Administrator shall review the sketch and provide informal comments. The

Zoning Administrator shall have the prerogative and authority to refer the sketch to the Planning Commission and/or City Council for discussion, review, and informal comment. Any opinions or comments provided on the sketch by the Zoning Administrator, Planning Commission, and/or City Council shall be considered advisory only and shall not constitute a binding decision.

- (3) Requests for pre-application sketch review shall be submitted to the Zoning Administrator. If the sketch is to be reviewed by the Planning Commission and/or City Council, as determined by the Zoning Administrator, the sketch shall be accompanied by a list of property owners within a specified distance of the subject property in a format prescribed by the Zoning Administrator. The specified distance shall be consistent with the greatest distance required for the applications that the proposed project would require.

11.4 Minor Projects. Site plans classified as minor projects and may be administratively approved by the Zoning Administrator in lieu of Planning Commission review and City Council approval.

- (1) Definition of Minor Project.

- (A) The site and the use must be in compliance with the Comprehensive Plan.
- (B) The use must be explicitly classified as a permitted or accessory use within the respective zoning districts of this Chapter.
- (C) All applications for site plan approval must be complete and in full accordance with the requirements of this Chapter. All applicable fees shall be paid.
- (D) All project proposals and site plan layouts must meet or exceed the standards of all applicable codes, ordinances, and policies and must be free of any variances from those standards.
- (E) All sites must be legal parcels of record at the time of application.

- (2) Procedures for Review of Minor Projects. Pursuant to Minnesota Statutes 15.99, an application for site plan approval shall be approved or denied within 60 days from the date of its official and complete submission unless extended pursuant to Statute or a time waiver is granted by the applicant. Pursuant to Minnesota Statutes 15.99, the City staff is hereby authorized to extend the 60 day time limit by a time period not to exceed 60 additional days, provided written notice of such extension is provided to the applicant before the end of the initial 60 day period. Extensions may also be requested by the applicant. Additional City requirements for administrative approval of eligible site plans shall be as follows:

- (A) Requests for site plan approval, as provided in this Chapter, shall be filed with the Zoning Administrator on an official application form. The applicant's signature shall be provided on the application form. Additionally, if the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by 1) a fee, and an escrow deposit to be applied in reimbursement of the City for all out-of-pocket costs that are incurred for processing, reviewing and hearing the application, as set forth by City Ordinance, and 2) detailed written and graphic materials, the number and size as prescribed by the Zoning Administrator, fully explaining the proposed change,

development, or use.

- (B) Plan review will be in accordance with established procedures including the coordinated review by other City departments and divisions as determined by the Zoning Administrator.
  - (C) Administrative approval including all applicable conditions and requirements shall be made in writing by the Zoning Administrator, and the applicant, in addition to all other applicable requirements, shall submit a written acknowledgment of that approval prior to the commencement of any development and prior to the issuance of any permits.
  - (D) Any unresolved dispute as to administrative interpretation of City Code, ordinance, or policy requirements may be formally appealed pursuant to Section 7.0 of this Chapter.
- (3) Certification of Taxes Paid. Prior to approving an application for a minor project, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the minor project application relates.

#### 11.5 Major Projects.

- (1) Definition of Major Project.
  - (A) Any project not classified or qualifying as a minor project shall be classified as a major project.
  - (B) Any project resulting in the exterior alteration of a structure to which the Scandia Architectural Design Guidelines (dated September, 2009 and as may be amended) are applicable.
- (2) Procedures for Review of Major Projects. Pursuant to Minnesota Statutes 15.99, an application for site plan approval shall be approved or denied within 60 days from the date of its official and complete submission unless extended pursuant to Statute or a time waiver is granted by the applicant. Pursuant to Minnesota Statutes 15.99, the City staff is hereby authorized to extend the 60 day time limit by a time period not to exceed 60 additional days, provided written notice of such extension is provided to the applicant before the end of the initial 60 day period. Extensions may also be requested by the applicant. Additional City requirements are as follows:
  - (A) Requests for site plan approval, as provided in this Chapter, shall be filed with the Zoning Administrator on an official application form. The applicant's signature shall be provided on the application form. Additionally, if the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by 1) a fee, and an escrow deposit to be applied in reimbursement of the City for all out-of-pocket costs that are incurred for processing, reviewing and hearing the application, as provided for by City Ordinance, 2) detailed written and graphic materials, the number and size as prescribed by the Zoning Administrator, fully explaining the proposed change, project, or use, and 3) a list of property owners within 200 feet of the subject property in a format prescribed by the Zoning Administrator. The request shall be

considered as being officially submitted and complete when the applicant has complied with all the specified information requirements.

- (B) Notice of the meeting at which the Planning Commission will review the application shall consist of a description of the site and the request and shall be mailed at least 10 days prior to the meeting to all owners of land within two 200 feet of the boundary of the property in question. Failure of a property owner to receive said notice shall not invalidate any of the proceedings as set forth in this Chapter.
  - (C) The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the Planning Commission and the City Council.
  - (D) The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to obtain expert testimony with the consent and at the expense of the applicant concerning operational factors, if such additional information is necessary to evaluate the request and/or to establish performance conditions in relation to all pertinent sections of this Chapter. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.
  - (E) The applicant or a representative thereof may appear before the Planning Commission in order to present information and answer questions concerning the proposed request.
  - (F) The Planning Commission shall recommend such actions or conditions relating to the request as it deems necessary to carry out the intent and purpose of this Chapter.
  - (G) The City Council shall not consider a site plan application until it has have received a report and recommendation from the Planning Commission. If, however, the Planning Commission has not acted upon the request after 60 days from the first regular meeting at which the request was considered, the City Council may proceed with its considerations and action on the request.
  - (H) Upon receiving the report and recommendation of the Planning Commission, the City Council will consider the application. The applicant or a representative thereof may appear before the City Council in order to present information and answer questions concerning the proposed request.
  - (I) Approval of a site plan application shall require passage of a resolution by a majority vote of a quorum of the City Council.
  - (J) One set of approved plans, specifications and computations shall be retained by the city for a period of not less than one year from the date of completion of the work covered therein. One set of approved plans and specifications shall be returned to the applicant and shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress.
- (3) Certification of Taxes Paid. Prior to approving an application for a major project, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the major project application relates.

11.6 Evaluation Criteria. The Planning Commission and City Council shall evaluate the effects of the proposed site plans. This review shall be based upon, but not be limited to, compliance with the City Comprehensive Plan and provisions of the Zoning Ordinance.

11.7 Information Requirement. The information required for all site plan applications generally consists of the following items, and shall be submitted when requested and specified by the Zoning Administrator.

(1) Site Plan.

- (A) Name and address of developer/owner.
- (B) Name and address of architect/designer.
- (C) Date of plan preparation.
- (D) Dates and description of all revisions.
- (E) Name of project or development.
- (F) Scale of plan (engineering scale only, at 1 inch equals 50 feet or less).
- (G) North point indication.
- (H) Lot dimension and area.
- (I) Required and proposed setbacks.
- (J) Location, setback and dimension of all buildings on the lot including both existing and proposed structures.
- (K) Contours, streets, utilities, and structures located within 100 feet of the exterior boundaries of the property in question.
- (L) Location, number, and dimensions of existing and proposed parking spaces.
- (M) Location, number, and dimensions of existing and proposed loading spaces
- (N) Curb cuts, driveways.
- (O) Vehicular circulation.
- (P) Sidewalks, walkways.
- (Q) Lighting Plan. The plan shall depict all exterior lighting for the project and must include:
  - 1. Location of all exterior lighting by type.
  - 2. Description, including but not limited to catalog cut sheets by manufacturers and drawings, of the illuminating devices, fixtures, lamps, supports, reflectors, and other devices proposed.

3. Mounting height of all luminaires.
  4. Hours of illumination.
  5. Photometric data, such as that furnished by manufacturers showing the angle of cutoff or light emissions. Photometric data need not be submitted when the shielding of a fixture is obvious to the Zoning Administrator.
  6. Signature of registered engineer or certified lighting professional who prepared the plan.
- (R) Location of recreational and service areas.
- (S) Location of rooftop equipment and proposed screening.
- (T) Provisions for storage and disposal of waste, garbage, and recyclables.
- (U) Location, sizing, and type of water service and sewage disposal facilities and proposed service connections.
- (2) Grading/Storm Water Drainage Plan.
- (A) Name and address of developer/owner.
  - (B) Name and address of architect/designer.
  - (C) Date of plan preparation.
  - (D) Dates and description of all revisions.
  - (E) Name of project or development.
  - (F) Scale of plan (engineering scale only, at 1 inch equals 50 feet or less).
  - (G) North point indication.
  - (H) Existing contours at 2 foot intervals.
  - (I) Proposed grade elevations, 2 foot maximum intervals.
  - (J) Drainage plan including configuration of drainage areas and calculations.
  - (K) Storm sewer, catch basins, invert elevations, type of castings, and type of materials.
  - (L) Spot elevations.
  - (M) Proposed driveway grades.
  - (N) Surface water ponding and treatment areas.
  - (O) Erosion control measures.

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- (3) Landscape Plan.
- (A) Name and address of developer/owner.
  - (B) Name and address of architect/designer.
  - (C) Date of plan preparation.
  - (D) Dates and description of all revisions.
  - (E) Name of project or development.
  - (F) Scale of plan (engineering scale only, at 1) inch equals 50 feet or less).
  - (G) North point indication.
  - (H) Existing landscaping: location, size and common name of all existing significant trees for all areas of a site that will be disturbed or graded. For changes to developed sites, the location, size and common name of all existing trees and shrubs on the site all areas of the site that will be disturbed or graded.
  - (I) Planting Schedule (table) containing:
    - 1. Symbols.
    - 2. Quantities.
    - 3. Common names.
    - 4. Botanical names.
    - 5. Sizes of plant material.
    - 6. Root specification (bare root, balled and burlapped, potted, etc.)
    - 7. Special planting instructions.
  - (J) Tree preservation plan and reforestation plan, as may be applicable pursuant to Chapter 2 of this Development Code.
  - (K) Planting detail (show all species to scale at normal mature crown diameter or spread for local hardiness zone).
  - (L) Typical sections in details of fences, tie walls, planter boxes, tot lots, picnic areas, berms and the like.
  - (M) Typical sections of landscape islands and planter beds with identification of materials used.
  - (N) Details of planting beds and foundation plantings.

- (O) Note indicating how disturbed soil areas will be restored through the use of sodding, seeding, or other techniques.
  - (P) Delineation of both sodded and seeded areas with respective areas in square feet.
  - (Q) Coverage plan for underground irrigation system, if any.
  - (R) Where landscape or man-made materials are used to provide screening from adjacent and neighboring properties, a cross-through section shall be provided showing the perspective of the site from the neighboring property at the property line elevation.
  - (S) Other existing or proposed conditions which could be expected to affect landscaping.
- (4) Other Plans and Information. (May be submitted in combination pursuant to approval by the Zoning Administrator)
- (A) Legal description of property under consideration.
  - (B) Proof of ownership of the land for which a site plan approval has been requested.
  - (C) Architectural elevations of all principal and accessory buildings (type, color, and materials used in all external surfaces).
  - (D) “Typical” floor plan and “typical” room plan.
  - (E) Extent of and any proposed modifications to land within any applicable Overlay Districts as described and regulated by this Development Code.
  - (F) Type, location and size (area and height) of all signs to be erected upon the property in question.
  - (G) Certification that all property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the application relates have been paid.

11.8 Plan Modifications. All site and construction plans officially submitted to the City shall be treated as a formal agreement between the applicant and the City. Once approved, no changes, modifications or alterations shall be made to any plan detail, standard, or specifications without prior submission of a plan modification request to the City for review and approval

- (1) Qualifications. Proposed minor structural additions involving 10% or less of the total existing floor area and proposed minor site modifications involving 10% or less of the total existing site area which meet all ordinance requirements may be approved by the Zoning Administrator prior to a building permit being issued and shall not require Planning Commission or Council review, subject to the following:
  - (A) This Section shall apply in the cases of new projects which have received City Council plan approval, but for which building permits have yet to be taken. This Section shall also apply to existing projects on file which have City Council approved site plans.
  - (B) Compliance with all Ordinance requirements shall be construed to include all adopted policies and codes.

- (C) Any variances from Ordinance and policy requirements shall be subject to the established review and hearing procedures for site plan and variance approval.
  - (D) Plans submitted for minor structural additions or minor site alterations under the terms of this Section shall be the same as those required for site plan approval.
  - (E) A copy of the plans approved under this Section shall be appropriately certified by the Zoning Administrator and placed on file with the City Council approved plans.
- (2) Procedures. Pursuant to Minnesota Statutes 15.99, an application for plan modification shall be approved or denied within 60 days from the date of its official and complete submission unless extended pursuant to Statute or a time waiver is granted by the applicant. Requests for plan modification, as provided in this Chapter, shall be filed with the Zoning Administrator on an official application form. The applicant's signature shall be provided on the application form. Additionally, if the applicant is not the fee owner of the property, the fee owner's signature shall also be provided on the application form, or the applicant shall provide separate written and signed authorization for the application from the fee owner. Such application shall be accompanied by a fee, and an escrow deposit to be applied in reimbursement of the City for all out-of-pocket costs that are incurred for processing, reviewing and hearing the application, as provided by City Ordinance.

#### 11.9 Lapse of Approval.

- (1) Unless otherwise specified by the Zoning Administrator or City Council as may be applicable, the site plan approval shall become null and void 1 year after the date of approval, unless the property owner or applicant has substantially started the construction of any building, structure, addition or alteration, or use requested as part of the approved plan. The property owner or applicant shall have the right to submit an application for time extension in accordance with this Section.
- (2) An application to extend the approval of a site plan for up to an additional 1 year shall be submitted to the Zoning Administrator not less than 30 days before the expiration of said approval. Such an application shall state the facts of the request, showing a good faith attempt to utilize the site plan approval, and it shall state the additional time being requested to begin the proposed construction. The request shall be heard and decided by the Zoning Administrator prior to the lapse of approval of the original request. A request pertaining to a major project involving a longer period of time than 1 year or a second request for a time extension of a major project shall be presented to the Planning Commission for recommendation and to the City Council for a decision. Additional requests for a time extension of a minor project may be approved by the Zoning Administrator, subject to the same procedures established for the first time extension as outlined above.
- (3) In making its determination on whether an applicant has made a good faith attempt to complete the improvements shown on the approved site plan, the Zoning Administrator or the City Council, as applicable, shall consider such factors as the type, design, and size of the proposed construction, any applicable restrictions on financing, or special and/or unique circumstances beyond the control of the applicant which have caused the delay.

11.10 Site Improvement Performance Agreement and Financial Guarantee. Following the approval of the site plan required by this Chapter and before issuance of a building permit, the applicant may be required to guarantee to the City the completion of landscaping and any other private exterior

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amenities or improvements as shown on the approved site plan and as required by the site plan approval. This guarantee shall be made by means of a site improvement performance agreement and a financial guarantee as provided below:

- (1) The applicant shall execute the site improvement performance agreement on forms provided by the City. The agreement shall be approved as to form and content by the City Attorney and shall define the required work and reflect the terms of this Section as to the required guarantee for the performance of the work by the applicant.
- (2) The required work includes, but is not limited to, private exterior amenities such as landscaping, private driveways, parking areas, recreational fields and their related structures, drainage systems, water quality ponds, wetland mitigation, wetland buffers, erosion control, curbing, fences and screening, and other similar facilities. The required work shall also include all aspects of a tree preservation plan and reforestation plan, if applicable.
- (3) A financial guarantee shall be submitted with the executed site performance agreement as provided herein:
  - (A) Financial guarantees acceptable to the City include a cash escrow; or an Irrevocable Letter of Credit.
  - (B) The term of the financial guarantee shall be for the life of the site improvement performance agreement, and it shall be the responsibility of the applicant to ensure that a submitted financial guarantee shall continue in full force and effect until the Zoning Administrator shall have approved and accepted all of the work undertaken to be done and shall thereby have released the guarantee or reduced the amount of the guarantee as provided in this Section.
  - (C) The amount of the financial guarantee shall be established by the Zoning Administrator based upon an itemized estimate of the cost of all required work. A cash deposit or Irrevocable Letter of Credit shall be in the amount of 125% of the approved estimated cost.
  - (D) When any instrument submitted as a financial guarantee contains provision for an automatic expiration date, after which the instrument may not be drawn upon, notwithstanding the status of the site performance agreement or of the required work, the expiration date shall be October 31; further, it shall be the responsibility of the applicant to notify the City in writing, by certified mail, at least 60 days in advance of the expiration date of the intention to renew the instrument or to not renew the instrument. If the instrument is to be renewed, a written notice of extension shall be provided 30 days prior to the expiration date; if the instrument is not to be renewed, and has not been released by the Zoning Administrator, another acceptable financial guarantee in the appropriate amount shall be submitted at least 30 days prior to the expiration. The term of any extension shall be approved by the Zoning Administrator. Upon receipt of an acceptable substitute financial guarantee, the Zoning Administrator may release the original guarantee. If the financial guarantee has not been released and has not been renewed at least 30 days prior to its expiration date, the Zoning Administrator shall draw on the financial guarantee an amount equal to 125% of the estimated cost to complete the improvements.
  - (E) The applicant may submit a separate financial guarantee for that portion of the

required work consisting solely of landscaping improvements with another financial guarantee for all other exterior amenities and improvements which comprise the work.

- (F) The time allowed for completion of the required improvements shall be set out in the site improvement performance agreement. The agreement and the financial guarantee shall provide for forfeiture to the City to cure a default or reimburse the City the cost of enforcement measures. As various portions of such required work are completed by the applicant and approved by the City, the Zoning Administrator may release such portion of the financial guarantee as is attributable to such completed work. Landscaping improvements shall not be deemed complete until the City has verified survivability of all required plantings through two winter seasons, which is defined for the purpose of this Section as the 18-month period of 31 October through 30 April of the second year thereafter.
- (G) The applicant shall notify the City in writing when all or a portion of the required improvements have been completed in accordance with the approved plan and may be inspected. Upon receipt of such notice, the Zoning Administrator shall be responsible for the inspection of the improvements to determine that the useful life of all work performed meets the average standards for the particular industry, profession, or material used in the performance of the work. Any required work failing to meet such standards shall not be deemed to be complete and the applicant shall be notified in writing as to required corrections. Upon determination that the work has been completed, including the winter season survivability of all landscape improvements, a notice of the date of actual completion shall be given to the applicant and appropriate action, to release or to reduce the amount of the financial guarantee shall be taken by the Zoning Administrator.

11.11 Minnesota State Building Code. The review and approval of site improvements pursuant to the requirements of building codes shall be in addition to the site plan review process established under this section. The site plan approval process does not imply compliance with the requirements of these building codes.

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## SECTION 12.0 ENVIRONMENTAL REVIEW

12.1 Purpose. The purpose of this section is to determine whether certain projects have or may have the potential for significant environmental effects and should undergo special procedures of the Minnesota Environmental Review Program and Minnesota Environmental Quality Board.

12.2 General Provisions.

- (1) No development project shall be approved prior to review by the Zoning Administrator to determine the necessity for completion of an Environmental Assessment Worksheet (EAW) or Environmental Impact Statement (EIS). Procedures for EAWs and EISs are set forth in the Minnesota Environmental Quality Review Board (EQB) regulations for the Environmental Review Program authorized by Minnesota Statute 116D.04 and 116D.045 and specified in Minnesota Rules Parts 4410.0200 to 4410.7800.
- (2) Environmental reviews (EAWs and EISs) shall be conducted as early as practical in the processing of a development project. Time delays in the normal permit process caused by the filing and review of the EAW or EIS shall not be considered part of the permit approval time requirements set forth within this Chapter. Such delays shall be considered as additional required time for each required permit. The permit process for the proposed project may be continued from the point it was interrupted by the EAW/EIS process. No decision on granting a permit or other approval required to commence the project may be issued until the EAW/EIS process is completed.

12.3 Environmental Assessment Worksheets (EAWs)

- (1) Purpose. The purpose of an EAW is to rapidly assess, in a worksheet format, whether or not a proposed action has the potential for significant environmental effects.
- (2) Mandatory EAWs. The preparation of an EAW shall be mandatory for those projects that meet or exceed the thresholds contained in the State Environmental Review Program regulations, Minnesota Rules 4410.4300, as may be amended.
- (3) Discretionary EAWs. A discretionary EAW may be required when it is determined that, because of the nature or location of a proposed project, the project may have the potential for significant environmental effects. The Zoning Administrator may suggest and/or the City Council may require the preparation of a discretionary EAW if it is determined that a development project may have some significant environmental impact or when there is a perception of such, provided that the project is not specifically exempted by Minnesota Rules 4410.4600, as may be amended.
- (4) Procedures.
  - (A) Preparation and Distribution.
    1. If the Zoning Administrator determines that an EAW shall be prepared, the proposer of the project shall submit an “Application for Environmental Review” along with the completed data portions of the EAW. The applicant shall agree in writing, as a part of the application, to reimburse the City prior to the issuance of any permits for all reasonable costs, including legal and consultants’ fees, incurred in preparation and review of the EAW.

2. Pursuant to Minnesota Rules 4410.1400, the Zoning Administrator shall promptly review the submittal for completeness and accuracy. If the Zoning Administrator determines that the submittal is incomplete, the submittal shall be returned to the proposer for completion of the missing data. If the Zoning Administrator determines that the submittal is complete, the proposer shall be notified of the acceptance of the submittal within five days. The Zoning Administrator shall have 30 days from notification to add supplementary material to the EAW, if necessary, and to approve the EAW for distribution.
3. Within five (5) days of approving the EAW for distribution, the Zoning Administrator shall distribute copies of the EAW to the EQB for publication of the notice of availability of the EAW in the EQB Monitor. Copies shall be distributed at the same time to the official EAW distribution list maintained by the EQB staff. Within 5 days of submission of the EAW to the EQB, the Zoning Administrator shall provide a press release to the City's official newspaper, containing notice of availability of the EAW for public review.

(B) Neighboring Property Owner Notification.

1. Upon completion of the EAW for distribution, the Zoning Administrator shall provide mailed notice of the availability of the EAW and date of the meeting at which the Planning Commission will consider the matter to all property owners within at least 750 feet of the boundaries of the property which is the subject of the EAW. Said notice shall be mailed a minimum of 10 days before the date of the Planning Commission meeting during which the EAW will be considered.
2. Failure of a property owner to receive notice shall not invalidate any such proceedings as set forth within this Chapter.

(C) Review by Planning Commission. During the 30 day comment period that follows publication of the notice of availability of the EAW in the EQB Monitor, the Planning Commission shall review the EAW. The Commission shall make recommendations to the City Council regarding potential environmental impacts that may warrant further investigation before the project is commenced and the need for an EIS on the proposed project.

(D) Decision by City Council. The City Council shall make its decision on the need for an EIS for the proposed project at its first meeting more than 10 days but not more than 30 days after the close of the comment period. The Council shall base its decision on the need for an EIS and the proposed scope of an EIS on the information gathered during the EAW process and on the comments received on the EAW. Pursuant to Minnesota Rules 4410.1700, in deciding whether a project has the potential for significant environmental effects, the following factors shall be considered:

1. Type, extent and reversibility of environmental effects.
2. Cumulative potential effects of related or anticipated future projects.
3. The extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority.

4. The extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by public agencies or the project proposer, or of EISs previously prepared on similar projects.
  - (E) Within 5 days of Council's decision on the need for an EIS, notice shall be provided to all persons on the EAW distribution list, to all persons who commented in writing during the 30 days comment period, to the EQB staff for publication of the decision in the EQB Monitor and to any person upon written request.
- (5) Mitigation Measures. Any mitigation measures that are considered by the City Council in making its EIS need decision may be incorporated as conditions for approval of conditional use permits, variances, and/or site plan requests as required by this Chapter.

#### 12.4 Environmental Impact Statements (EISs).

- (1) Purpose. The purpose of an EIS is to provide information for governmental units, the proposer of the project and other persons to evaluate proposed projects which have the potential for significant environmental effects, to consider alternatives to the proposed projects and to explore methods for reducing adverse environmental effects.
- (2) Mandatory EISs. An EIS shall be prepared for any project that meets or exceeds the thresholds of any of the EIS categories listed in Minnesota Rules 4410.4400, as may be amended.
- (3) Discretionary EISs. An EIS shall be prepared when the City Council determines that, based on the EAW and any comments or additional information received during the EAW comment period, the proposed project has the potential for significant environmental effects, or when the City Council and the proposer of the project agree that an EIS should be prepared.
- (4) Procedures.
  - (A) All projects requiring an EIS must have an EAW on file with the City, which will be used to determine the scope of the EIS. All EISs shall be prepared according to the procedures and requirements of the State Environmental Review Program, Rules 4410.2100-4410.3000, as may be amended. The costs of preparation of an EIS shall be assessed to the project proposer in accordance with Minnesota Rules Parts 4410.6000 to 4100.6500, as may be amended.
  - (B) Any proposal, project or use on which an EIS is required shall be considered a conditional use as defined in this Chapter and shall comply with the procedure for approval of a conditional use permit. Mitigating measures identified in the EIS shall be incorporated as conditions of issuance of the conditional use permit.

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**SECTION 13.0 NONCONFORMING BUILDINGS, STRUCTURES, USES AND LOTS**

13.1 Purpose. It is the purpose of this section to provide for the regulation of nonconforming buildings, structures, uses, and lots, and to specify those requirements, circumstances, and conditions under which nonconforming buildings, structures, uses, and lots will be operated, maintained, and regulated. It is necessary and consistent with the establishment of the Development Code that nonconforming buildings, structures, uses, and lots not be allowed to continue without restriction. Furthermore, it is the intent of this section that all nonconformities shall be eventually brought into conformity.

13.2 General Provisions.

- (1) **Conditional Uses.** Any established use, building or lot legally existing prior to the effective date of this Chapter and which is herein classified by this Development Code as requiring a conditional use permit may be continued in like fashion and activity and shall automatically be considered as having received conditional use permit approval. Any change to such a use or building shall however require that a new conditional use permit be processed according to this Chapter.
- (2) **Interim Uses.** Any established use, building or lot legally existing prior to the effective date of this Chapter, and which is herein classified by this Chapter as requiring an interim use permit may be continued in like fashion and activity and shall automatically be considered as having received interim use permit approval. Any change to such a use or building shall, however, require that a new interim use permit be processed according to this Chapter.
- (3) **Threats to General Welfare.** Nonconforming buildings, structures, and/or uses, which based upon documented study and evidence, pose a danger and/or threat to the health, safety, and general welfare of the community, shall:
  - (A) Be legally declared a nuisance by the City Council.
  - (B) Upon being identified by the City Council and upon the owner being notified in writing by the Zoning Administrator, the owner shall provide to the City Council a documented time schedule and program with rationale to support the proposed amortization of the building, structure, or use which will result in the termination or correction of the nonconformity.
    1. The termination/correction time schedule shall be based upon, but not be limited to factors such as the initial investment and the degree of threat or danger being posed.
    2. The acceptability of the time schedule shall be determined by the City Council with right of appeal.

13.3 Nonconforming Buildings and Structures.

- (1) **Replacement.** A lawful nonconforming structure which is removed, destroyed or altered by any means to the extent that the cost of repair or replacement would exceed fifty percent (50%) of the appraised value of the original structure shall not be replaced, except in conformity with this Development Code. If a replacement structure cannot be placed on the lot meeting all current standards, the variance procedure must be followed. For the purposes

of this Development Code, the term “Appraised Value” shall mean the market value of the property as determined by the current records of the County Assessor for the year in which the damage was done.

- (2) Restoration of buildings destroyed by fire or peril. Unless a building permit has been applied for within 180 days of when a property is damaged, no lawful nonconforming building or structure which has been destroyed by fire or other peril to the extent of greater than 50% of its market value, as indicated in the records of the county assessor at the time of damage, shall be restored, except in conformity with the regulations of this Chapter. If a building permit has been applied for within 180 days of when the property is damaged, the City may impose reasonable conditions when issuing the permit in order to mitigate any newly created impact on adjacent property or water body.
- (3) Alterations. Alterations to (e.g., repair, normal maintenance, remodeling) of a lawful nonconforming building or structure that are valued at 50% or less of the appraised value of the original nonconforming building or structure may be undertaken provided:
  - (A) The alterations do not expand the building size.
  - (B) The alterations do not change the building occupancy capacity, or parking demand or sewage treatment requirements.
  - (C) The alterations do not increase the nonconformity of the building or the use.
- (4) Expansion of Nonconforming Buildings or Structures.
  - (A) Agricultural or Single Family Residential Buildings and Structures. The expansion of lawful nonconforming agricultural or single family residential buildings and structures may be approved through the Administrative Permit process subject to the provisions of Section 10 of this Chapter, provided that:
    1. The existing structure remains in place, and is expanded.
    2. Expansion of principal or accessory buildings found to be nonconforming only by reason of height, yard setback, or lot area may be permitted provided the structural nonconformity is not increased and the expansion complies with all other performance standards of this Chapter. An Administrative Permit shall not be issued under this section for a deviation from other requirements of this Chapter unless variances are also approved.
    3. The Zoning Administrator finds that any such expansion will not have external negative impacts upon adjacent properties or public rights-of-way.
    4. Long term sewage disposal needs can be met.
  - (B) Commercial, Industrial, Public, Semi-Public, and Multiple Family Structures. Lawful nonconforming commercial, industrial, public, semi-public, and multiple family structures may be expanded on the same lot upon approval of a conditional use permit, provided that:
    1. Expansion of principal or accessory buildings found to be nonconforming only by reason of height, yard setback, or lot area may be permitted provided the structural nonconformity is

not increased and the expansion complies with all other performance standards of this Chapter. A Conditional Use Permit shall not be issued under this section for a deviation from other requirements of this Chapter unless variances are also approved.

2. The request for Conditional Use Permit shall be evaluated based on standards and criteria set forth in Section 8.0 of this Chapter.

3. Long term sewage disposal needs can be met.

- (5) Buildings or Structures in the Floodplain Overlay District. Notwithstanding paragraphs (1), (2), (3) and (4) above, any restoration, alteration, replacement, repair, or expansion of a building or structure located within the floodplain overlay district shall be regulated to the extent necessary to maintain eligibility in the National Flood Insurance Program, and in no case shall increase potential flood damage or increase the degree of obstruction to flood flows in the floodway.

#### 13.4 Nonconforming Uses.

- (1) **Effective Date.** The lawful use of buildings or land existing at the effective date of this Chapter which does not conform to the provisions of this Chapter may be continued, unless:
- (A) The nonconformity or occupancy is discontinued for a period of more than 1 year.
  - (B) If a structure used for any nonconforming use is destroyed by fire or other peril to the extent of greater than 50% of its market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged. If a building permit has been applied for within 180 days of when the property is damaged, the City may impose reasonable conditions when issuing the permit in order to mitigate any newly created impact on adjacent property or water body.
  - (C) Notwithstanding item (B) above, any structure used for a nonconforming use located in the floodplain overlay district that is destroyed by fire or other peril to the extent of greater than 50% of its market value, as indicated in the records of the county assessor at the time of damage, shall be regulated to the extent necessary to maintain eligibility in the National Flood Insurance Program, and in no case shall be continued or reestablished in a manner that results in potential flood damage or obstructs flood flows in the floodway.
- (2) **Continued Use.** A lawful, nonconforming use may be continued, including through repair, replacement, restoration, maintenance, or improvement; provided, however, that no such nonconforming use of land shall be enlarged or increased, including volume, intensity or frequency of use, nor shall any such nonconforming use be expanded to occupy a greater area of land than that occupied by such use at the time of the adoption of this Chapter, nor shall any such nonconforming use be moved to any other part of the parcel of land upon which the use was conducted at the time of the adoption of this Chapter.
- (3) **Changes to Nonconforming Uses.**
- (A) When a lawful nonconforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any nonconforming

use.

- (B) A lawful nonconforming use of a structure or parcel of land may be changed to lessen the nonconformity of use. Once a nonconforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the nonconformity.

### 13.5 Nonconforming Lots.

- (1) Vacant Lots, Single Family Detached Dwellings. A legal nonconforming, substandard lot of record that is vacant may be developed for one single family detached dwelling without variances and upon approval of an administrative permit, provided that:
  - (A) The lot was legally established in accordance with all applicable zoning and subdivision requirements existing at the time of its creation and is a separate, distinct tax parcel.
  - (B) Development of the lot is consistent with the Comprehensive Plan and the lot is properly zoned for single family use.
  - (C) The lot shall be at least 66% of the dimensional standards for lot size and lot width as required by the zoning district and/or the Shoreland Overlay District as applicable.
  - (D) The lot has frontage and access on an improved public street or an approved private road. To be considered an approved private road, the City Council must, by resolution, find that the road is capable of supporting emergency vehicles and that provisions exist for on-going maintenance of the road.
  - (E) The lot must be suitable for the installation of a Type 1 sewage treatment system consistent with Washington County regulations for Subsurface Sewage Treatment Systems or be connected to the city's 201 Community Sewage Treatment System.
  - (F) All structure and septic system setbacks shall be met.
  - (G) Impervious surface coverage must not exceed 25 %.
  - (H) If in the case of two or more contiguous lots or parcels of land under a single ownership, any individual lot or parcel does not meet the minimum requirements of this Development Code, each individual lot or parcel cannot be considered as a separate parcel of land for purposes of sale or development. Such lots must be combined with adjacent lots under the same ownership so that the combination of lots will equal one or more conforming lots as much as possible, unless each individual lot is at least 66% of the dimensional standards for lot size and lot width and meets the requirements of paragraphs (D) through (G), above.
- (2) An existing conforming use or building on a lot of substandard lot area or lot width may be restored, altered, replaced, repaired, or expanded provided such restoration, alteration, replacement, repair, or expansion complies with all other provisions of this Chapter. A nonconforming lot shall not be reduced in size.
- (3) A conforming lot shall not be reduced in size so that it would become nonconforming in any aspect of this Chapter or this Development Code.

13.6 Overlay Districts. Nonconforming buildings and uses as described in the Shoreland Management Overlay District and the Floodplain Management Overlay District of this Chapter shall be subject to the applicable regulations and standards relating to such buildings and uses in that section.

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## SECTION 14.0 OFFICIAL MAPS

- 14.1 Purpose. Land that is needed for future street purposes and as sites for other necessary public facilities and services is frequently diverted to non-public uses which could have been located on other lands without hardship or inconvenience to the owners. When this happens, public uses of land may be denied or may be obtained only at prohibitive cost or at the expense of dislocating the owners and occupants of the land. Identification on an official map of land needed for future public uses permits both the public and private property owners to adjust their building plans equitably and conveniently before investments are made which would make such adjustments difficult to accomplish. It is the purpose of this Section to provide a uniform procedure for the proper use of official maps as authorized by the Minnesota Municipal Planning Act, Minnesota Statutes, Section 462.351 to 462.36.
- 14.2 Official Map Defined. “Official map” as used in this Section means a map adopted in accordance with this Section showing existing streets, proposed future streets, and the area needed for widening of existing streets of the City. An official map may also show the location of existing and future land and facilities within the City. An official map may cover the entire City or any portion of the City.
- 14.3 Initiation of Proceedings. Proceedings for adoption, amendment, or repeal of an official map or any part thereof may be initiated by 1) a recommendation of the Planning Commission, or 2) action by the City Council.
- 14.4 Referral to Planning Commission. Every proposed official map or change in a map shall be referred to the Planning Commission for advice and recommendation thereon, and such recommendation shall be submitted to the City Council within 45 days after reference to the Planning Commission along with the report of the Commission on the effect of the proposal on the comprehensive plan of the City. If no recommendation is received by the Council from the Planning Commission within 45 days after reference of the proposal to the Commission by the Council, the Council may take such action as it may deem proper upon the proposal without further action by the Planning Commission.
- 14.5 Notice and Hearing.
- (1) Upon receiving the recommendation of the Planning Commission or after 45 days from the submission of the proposal to the Planning Commission without a recommendation from the Commission, the Council may call a public hearing on the proposal. A notice of the time, place, and purpose of the hearing and a description of property to be included in the mapped streets and public grounds shall be published in the official newspaper at least 10 days prior to the date of the hearing. At least 10 days prior to the hearing the Clerk shall also mail a copy of the notice to each owner of land situated within or abutting any street or other public ground shown on the official map. For purposes of this notice the owners shall be determined by the records of the County Auditor and the notice shall be addressed to the last known address as shown by the Auditor’s records. Failure to serve any such notice shall not invalidate the proceedings.
  - (2) Hearing. At the time and place specified in the notice, the Council shall hear evidence and arguments concerning the proposal. The hearing may be continued from time to time without further notice. The Council may direct the Planning Commission to conduct a hearing and following the hearing to report its recommendation to the Council.

- 14.6 Preparation and Filing of Maps. The official map or maps shall be prepared in sufficient detail to permit the establishment of future acquisition lines on the ground. In unplatted areas a minimum of a centerline survey shall be made prior to the preparation of the final draft of the official map. The accuracy of the future acquisition lines shown on the official map shall be attested to by a licensed land surveyor. After enactment of any ordinance adopting an official map or amending or repealing a previous official map ordinance, a certified copy of the official map or section to which the ordinance relates together with an attached copy of the ordinance shall be filed with the County Recorder.
- 14.7 Effect. After an official map has been adopted and filed, the issuance of building permits by the City shall be subject to the provisions of this Section. The City shall deny every application for a permit to construct a new building or structure or expand an existing building or structure within any area designated on the official map for street or other public purposes. Whenever any street or highway is widened or improved or any new street is opened, or any interest in lands for other public purposes is acquired by the City, the City is not required in such proceedings to pay for any building or structure placed without a permit or in violation of conditions of a permit within the limits of the mapped street or outside of any building line that may have been established upon the existing street or within any area thus identified for public purposes. The adoption of an official map does not give the City any right, title, or interest in areas identified for public purposes thereon, but the adoption of the map does authorize the City to acquire such interest without paying compensation for buildings or structures erected in such areas without a permit or in violation of the conditions of a permit.
- 14.8 Appeals. Whenever a building permit is denied pursuant to this Section, the Board of Adjustments and Appeals shall, upon appeal filed with it by the owner of the land, grant a permit for building in an area designated on the official map for a street or other public purpose in any case in which the Board finds, upon the evidence and the arguments presented to it, (a) that the entire property of the appellant of which the area designated for public purposes forms a part cannot yield a reasonable return to the owner unless such a permit is granted, or (b) that balancing the interest of the City in preserving the integrity of the official map and of the Comprehensive Plan and the interest of the property owner in the use of his property and in the benefits of ownership, the grant of such permit is required by considerations of justice and equity. The Board of Adjustments and Appeals shall hold a public hearing upon the appeal after notice of the hearing has been published in the official newspaper once at least 10 days before the hearing. If the Board authorizes the issuance of a permit, it shall specify the exact location, ground area, height, and other details as to the extent and character of the building for which the permit is granted. If the Board authorizes issuance of a permit, the Council or other Board or Commission having jurisdiction shall have six months from the date of the decision of the Board to institute proceedings to acquire such land or interest therein, and if no such proceedings are started within that time, the City shall issue the permit if the application otherwise conforms to this Development Code.

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## SECTION 15.0 ADMINISTRATIVE EXCEPTIONS

15.1 Purpose. Administrative exceptions may be granted to certain zoning standards, provided they are consistent with the criteria of this chapter.

15.2 General Criteria. Administrative exceptions may be granted provided the exception is consistent with the following general criteria:

- (1) The exception shall be a minor action only, necessary to adjust or rectify an unusual situation or hardship specific to the property.
- (2) The exception shall not create an unreasonable burden on adjacent properties/owners.
- (3) The exception shall not conflict with other ordinances, policies, regulations and requirements.
- (4) The exception shall not be contrary to the public interest or Comprehensive Plan.

15.3 Allowed Exceptions. The following exceptions may be approved by the Zoning Administrator, with notice to the City Council:

- (1) A single family lot located within the City that deviates from a minimum lot requirement by five percent (5%) or less may be considered to be in compliance for the purposes of the lot size criteria identified in Chapter Two, Sections 3.2 Accessory Structures, and Chapter Two Section 4.0 Standards for Uses in this Development Code.
- (2) Exceptions shall not be granted for minimum lot sizes required for the dimensional standards and other District standards identified in Chapter Two, Section 2.0 Districts, Section 3.0 General Standards, Section 6.0 Open Space Conservation Subdivision, or for Chapter Three, Subdivision Regulations in this Development Code.

15.4. Administrative Exceptions Procedures. An owner of land shall file an application for an administrative exception at the City. The Zoning Administrator shall review the application for administrative exception and approve the request if it is in conformance with the criteria listed in Section 15.2 and 15.3. The Zoning Administrator shall provide the approval to the applicant in writing. If the application does not meet the requirements in Sections 15.2 and 15.3, the Zoning Administrator shall deny the request in writing, stating the reasons for the denial. The Zoning Administrator shall inform the City Council of each approved or denied Administrative Exception. An applicant may appeal the decision of the Zoning Administrator to the City Council within thirty (30) days following the date of the decision. If no appeal is made, the decision of the Zoning Administrator becomes final thirty-five (35) days after the decision.