

## **ARTICLE 9 – COMPREHENSIVE ZONING**

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## ARTICLE 9 – COMPREHENSIVE ZONING

**9-100 GENERAL PROVISIONS** The following provisions govern comprehensive zoning within the City of Ham Lake, and to the extent that any such regulations are permitted to be enforced beyond the corporate limits of the City of Ham Lake, then the following provisions shall extend to those areas as well. Where words or phrases are shown in *italic print*, it is intended that such words or phrases be interpreted by a specific definition which will occur within the text of this Code. The intent of this Article 9 is to generally establish usage regulations; other portions of the City Code shall also establish specific aspects of usage, such as setbacks, building standards, and the like.

### **9-110 Division into Zoning Districts**

All land within the City shall be classified into specific zoning categories, which are more fully defined and described in Article 9-200. A land use within a given zoning category shall be a *permitted use* if the specific land use is listed under the table of *permitted uses* for that zoning category, or if the land use meets the narrative description of the desired *permitted uses* as found in the textual description of the zoning category, in the sole discretion of the City Council. A land use within a given zoning category shall be allowed as a *conditional use* if the specific land use is listed under the table of *conditional uses* for that zoning category, or if the land use meets the narrative description of the allowed *conditional uses* as found in the textual description of the zoning category, in the sole discretion of the City Council. A land use within a given zoning category shall be allowed as a *temporary conditional use* if the specific land use is listed under the table of *temporary conditional uses* for that zoning category, or if the land use meets the narrative description of the allowed *temporary conditional uses* as found in the textual description of the zoning category, in the sole discretion of the City Council. Shoreland Zoning Districts are not a part of this Article 9, but are found and governed in Article 12, Book II, Non-Codified Ordinances.

### **9-120 Zoning Map**

The City Council has, as a part of the adoption of this code, adopted an official *Zoning Map*, upon which are drawn the boundary lines identifying the various zoning districts. The *Zoning Map* shall be available for public inspection and purchase in reduced form. Boundary lines shall follow property lines. The *zoning officer* shall maintain the *Zoning Map* as needed.

### **9-130 Violations**

It shall be unlawful to conduct or maintain any land use which is not a *permitted use* for a given zoning district, unless a *Conditional Use Permit* has first been obtained authorizing the particular usage. It shall be

unlawful to maintain any land use or condition on any parcel of land which is not in conformance with other regulatory provisions of this code, including any specific conditions of a given *Certificate of Occupancy*. If a given usage is covered by a *Conditional Use Permit*, it shall be unlawful to conduct or maintain any land use or condition which is not in conformance with the provisions of the *Conditional Use Permit*. All such violations shall be misdemeanors, as defined by Minnesota Statutes.

#### **9-140 Certificates of Occupancy**

A *Certificate of Occupancy* is a certificate issued by the Ham Lake Building Official which allows a particular parcel to commence being used for a particular purpose, after having met all requirements of City Codes governing such usages. All *Certificates of Occupancy* which were in existence as of the *Enactment Date*, shall be recognized as valid and current. Excepting certain agricultural buildings and land uses which cannot be required to obtain building permits or *Certificates of Occupancy* by virtue of superseding Minnesota statutes, all land uses shall require the issuance of a *Certificate of Occupancy* prior to their commencement. Excepting non-material changes as described in Article 9-150.2, the City Council shall review and act upon all *Certificates of Occupancy* requested in areas zoned CD-1, CD-2, CD-3, CD-4, I – 1, I-P, and in any mercantile portion of a PUD, after review by the Planning Commission, and may attach conditions to the issuance of a *Certificate of Occupancy*.

#### **9-150 Changes in Usage or Occupancy and Accessory Uses**

**9-150.1 Non Conforming Uses** A *non-conforming use* is a land use which, by virtue of its having been in existence at the time of a code change, is not currently compliant with any provision of the City Code. A *non-conforming use* may continue to exist, but, except in the limited conditions described below, may not be altered (except to effect repairs restoring the pre-existing condition) or expanded unless to a conforming use. If a *non-conforming use* is abandoned or not used because of unrepaired damage for any period of twelve consecutive months, it shall no longer be permitted to exist in a non-conforming status.

A residential dwelling (and ancillary features on the lot) located in a zoning district that does not include residential uses as a permitted or conditional use may be structurally altered to expand the residential use, provided that:

- a. No such alteration would tend to preclude the construction of future commercial service roads that are likely to be constructed over the parcel in the future; and
- b. The livability requirements of this code relating to ISTS and other space will continue to be met on the upland portion of the lot, and



- c. The expansion requires no variances from setback regulations; and
- d. The alteration is not intended to nor will it promote usage of the structure for multiple-family housing.

Notwithstanding the foregoing language, a parcel containing a structure originally constructed as a single family dwelling in areas zoned CD-1, CD-2, CD-3 or CD-4 that converts to a non-residential use may return to use as a single-family dwelling if the non-residential use terminates. This exception to the normal non-conforming use limitations applies only to structures that were in existence as of January 1, 2014.

Self-storage facilities located in areas zoned CD-1 may be expanded in accord with the provisions of Article 9-220.2 (c) of this Code.

**9-150.2 New Occupancy** Other than *Residential Land Uses*, if the occupancy of any parcel of land changes under conditions in which the new occupant will or is likely to conduct activities which will generate a significant change in the parking, drainage, water usage, traffic, signage size, structural components or vegetation of a given parcel, the new occupant shall be required to obtain a new *Certificate of Occupancy* prior to commencing activity. The *Zoning Officer* shall determine whether or not a new *Certificate of Occupancy* is required for any given land use.

**9-150.3 Accessory Uses** An *Accessory Use* is any usage in conjunction with a *permitted use, conditional use or temporary conditional use* which is essential but subservient to the main usage, and customarily and typically found in and about such uses, such as utility lines, enclosed trash facilities and containers, lawn mowers, snow blowers and signage. Except as where specifically regulated by this code, all *accessory uses* are deemed to be a part of the *permitted use, conditional use or temporary conditional use*.

**9-150.4 Historical Cemetery Uses** Notwithstanding language to the contrary in this Code, existing cemeteries in the City as of January 1, 2007 shall not be deemed non-conforming uses and may be expanded on property that adjoins or abuts the existing cemetery property by Conditional Use Permit, regardless of what Zoning classification is in effect for the existing cemetery and the proposed area for expansion. Subsequent expansions shall also be eligible for Conditional Use Permits.

**9-150.5 Non-Conforming Uses Created by Public Purpose Land Acquisition** Notwithstanding the language of Article 9-150.1, if the usage of any parcel in any zoning district would be rendered a non-conforming use as a result of the acquisition of land for public

purposes, whether by eminent domain or voluntary purchase, and whether by a body politic or a public utility possessing the right of eminent domain, the following special conditions shall apply:

**a.** If the acquisition of fee title or right of way easements places a new property line at a distance that is less than the minimum required setback line for any structure or other use of the parcel, replacement structures or infrastructure may nonetheless be placed on the parcel in the same location as the previously existing structures or infrastructure were located, unless to do so would create a threat to public safety as a result of blockage of sight lines or prevention of adequate space for snow storage.

**b.** If, in the situation described in Article 9-150.5 (a) above is present, and the property owner desires to move previously existing structures or infrastructure to other locations on the parcel (including moving to contiguous parcels also owned by the owner), the situation shall be deemed a physical hardship justifying the granting of variances to other setback lines to enable the reconstruction to take place.

**c.** If the land use formerly existing on the parcel (including contiguous parcels owned by the same owner) is no longer allowed as a permitted or conditional use in the particular zoning district as a result of intervening zoning code changes since the inception of the land use, but would have been “grandfathered” had it not been for the removal of elements of the prior usage as a result of the public use acquisition, the land shall nonetheless be permitted to retain its “grandfather” rights, and may be re-established in its previous form, to continue as previously constituted and operated.

**d.** The City Council may also approve reasonable variances to other Code sections in the situations described above, or in situations not described above, but which are caused directly or indirectly by governmental action in acquiring land or easements for public purposes.

## **9-160 Procedural and Administrative Matters**

**9-160.1 Zoning Officer** The *Zoning Officer* shall be a person or persons designated by the City Council to perform the duties enumerated herein. The *Zoning Officer* shall receive all applications to the City for zoning-related review or approvals, make written recommendations or comments to municipal commissions and/or to the City Council, and issue *Certificates of Occupancy*. A decision of the *Zoning Officer* which denies the issuance of any request shall be reviewable by the City Council upon written request by the applicant.

**9-160.2 Planning Commission** The *Planning Commission* shall be a commission of seven members appointed for staggered terms

of three years each by the City Council, and shall perform the functions of a Board of Adjustment as that term is defined by Minnesota Statutes. The *Planning Commission* shall review and make recommendations to the City Council on all subdivision and zoning matters, and shall perform such other duties as from time to time requested by the City Council or as outlined in this code.

**9-160.3 Time Lines** The provisions of any statutory review time deadlines or time lines shall be observed by the City in considering any zoning related matter. However, after final approval of any zoning request by the City Council, or after the issuance of any municipal permit or *Certificate of Occupancy* to any applicant, the issuance of the permit or *Certificate* shall be deemed null and void, and of no force or effect, unless the applicant shall have implemented the activity for which the permit or *Certificate* was issued, or from the date of final approval by the City Council, within one year of the date of issuance or approval.

**9-160.4 Costs of Review** All costs incurred by the City in reviewing, inspecting and processing any zoning matter request shall be established from time to time by resolution of the City Council, and shall be reimbursed to the City by the applicant. An advance deposit may be required by the City, either on a case-by-case basis, or according to a schedule to be established by the *Zoning Officer*. Prior to accepting a zoning matter for review and action, it shall be a requirement that each applicant execute an agreement to reimburse the City's costs, on forms to be established by the City Administrator.

**9-160.5 Site Plan Requirements** All zoning related requests in commercially or industrially zoned areas shall be accompanied by a site plan meeting requirements to be established from time to time by resolution of the City Council, and reviewed by a Site Plan Review Committee. The Site Plan Requirements shall be available for public inspection and copying. The *Zoning Officer*, the *Planning Commission* or the City Council may require additional data or elements to be submitted with the Site Plan as each case dictates.

**9-160.6 Enactment Date** The *enactment date* is the effective date of the ordinance adopting this code, July 21, 2002.

**9-160.7 Advisory Signage** Within a reasonable amount of time after receiving an application for any zoning change, new conditional use permit, new temporary conditional use permit, excavation permit, or, at the direction of the City Council for any other action, the City shall post at least one sign for each roadway

which abuts the parcels involved, in a location clearly visible from each such roadway, reading as follows:

**NOTICE**

**THIS LAND IS THE SUBJECT OF A CURRENTLY PENDING  
LAND USE APPLICATION. FURTHER INFORMATION CAN BE  
OBTAINED BY CONTACTING THE ZONING OFFICER  
AT HAM LAKE CITY HALL.  
TEL. 763-434-9555**

The signs shall be furnished by the City, but shall be maintained in place by the applicant, and shall continue to be in place until the City has taken final action on the particular request. The City Council shall, by resolution, establish a fee for the usage of the signs and a fee as a deposit for the undamaged return of the signs. City staff shall be the sole determiner of the number and locations of the signs for each request.

**9-200 ZONING CATEGORIES AND GENERAL USAGE  
CONDITIONS**

**9-210 Residential Districts**

The residential land uses described in Articles 9-210.1, 9-210.3, 9-210.4 and 9-210.5 are intended to be applicable to developments which utilize individual sewage treatment systems (ISTS). *Residential Land Uses* are any land uses intended for occupancy in human *dwelling units*, and included in Article 9-210.

**9-210.1 Single Family Residential (R-1)** R-1 districts are intended for residential dwellings occupied by a single housekeeping unit. Definition of "SINGLE HOUSEKEEPING UNIT" - means one or more persons, not necessarily related by blood, occupying a portion of a dwelling unit which contains all of the following elements intended for the exclusive use of that particular person or group of persons: bathroom, kitchen or cooking facilities and sleeping quarters. All dwellings and ancillary features shall be constructed in accord with codes adopted by the State of Minnesota, County of Anoka, and City of Ham Lake. A *dwelling unit* is a properly and legally constructed structure in which humans are intended to reside. A *garage* is a structure which, when constructed (as labeled or indicated on the building permit application), was intended to store passenger-sized motor vehicles, regardless of the present usage of the structure.

**a) Permitted Uses**

- Single Family Dwellings, except *Manufacture Mobile Homes*
- Structures ancillary to the dwelling – including Non-Commercial
  - Radio Towers less than forty-five feet (45') in height.
- Public Parks
- Schools
- Full-size (9 hole +) golf courses
- Publicly Owned Buildings
- Underground Utilities
- Above Ground Transmission Lines and poles existing prior to the *Enactment Date*
- Private Dog Kennels meeting requirements of Article 5-150
- Home Occupations under Article 9-350
- Accessory Buildings under Article 9-370
- Licensed Day Care Facilities in Dwellings Occupied as Residences
- Beauty Shops having no employees and one station, and possessing Home Occupation Permits issued under 9-350
- Dog grooming businesses having no employees, and possessing Home Occupation Permits issued under Article 9-350

**b) Conditional Uses**

- Public Utility Structures
- Firewood Sales
- Boarding Houses or Duplexes capable of meeting the provisions of Article 10-300 (Livability) as to each housekeeping unit

**c) Temporary Conditional Uses**

- Therapeutic Massage Facilities
- Raising Chickens
- Raising of Pigeons under Article 9-330.9

**9-210.2 Residential – Manufactured Mobile Home (R-M)** R-M districts are intended for privately owned residential communities consisting of *manufactured mobile homes*, each of which is intended for occupancy by a single housekeeping unit, which communities are commonly known as “mobile home parks”.

**a) Required Features**

- Streets Paved and curbed according to same standards as R-1 subdivisions
- Central Water System (No individual private Wells)
- Central Sewer System, Privately owned and maintained
- Density of not less than one-half acre per dwelling unit
- Minimum size of *Manufactured Home* to be 600 square feet
- Structure Setbacks according to same standards as R-1 Subdivisions
- Private Park on suitable soils, of a size equal to at least 10% of total development area
- Paved Driveways to all dwelling units
- Concrete sidewalk along all curbs, to City specifications
- Landscaping acceptable to City
- Full impoundment of stormwater runoff
- Concrete Block Storm Shelter to State Specifications
- No on-street parking
- Underground utilities
- Provision of Screened and fenced Tenant outside storage area of a size equal to or greater than 150 square feet per dwelling unit
- 

**b) Permitted Uses**

- Maintenance Buildings (to be used for mobile home park equipment)
- *Manufactured Homes*
- Underground Utilities
- A single office structure for park management, of not more than 1500 square feet
- Storm Shelter
- Park
- Outside Tenant Storage Area

**c) Conditional Uses and Temporary Conditional Uses**

- None

**9-210.3 Rural Single Family Residential (R-A)** R-A districts are intended for residential dwellings occupied by a single housekeeping unit, located in unplatted areas.

**9-210.31 Permitted Uses:** The following shall be permitted uses in the R-A Districts:

- a) All permitted uses in the R-1 District
- b) Sod Farming
- c) Horticulture
- d) Sales of Produce grown on the site
- e) Maintaining Horses, Donkeys or Mules pursuant to Article 5-200 of the Ham Lake City Code;

**9-210.32 Conditional Uses:** The following shall apply to Conditional Uses in the R-A Districts.

- a) General Requirements for Conditional Uses
  - i) Road Frontage: The lot upon which the conditional use is proposed must contain at least 200 feet of frontage on a public road; and
  - ii) Setback: The building and/or perimeter area of the land upon which activity for which the conditional use permit is proposed is set back at least fifty (50) feet from all lot lines, and
  - iii) Screening: If deemed appropriate by the City Council after review and recommendation of the Planning Commission, an adequate screening barrier of a type and composition acceptable to the City shall be provided.
  - iv) Small Lots: Notwithstanding the following, for R-A lots of three acres or less in size, as measured from the centerline of adjacent roadways, the only Permitted Uses, Conditional Uses and Temporary Conditional Uses allowed shall be those in the R-1 zoning district.
- b) Listing of Conditional Uses: The following *Conditional Uses* shall apply in the R-A Districts:
  - i) All *Conditional Uses* in the R-1 District
  - ii) Public Dog Kennels meeting the requirements of Article 5-163
  - iii) The raising of cattle Livestock or Poultry in limited numbers
  - iv) Cemeteries
  - v) Excavation or mining pursuant to permits issued under Article 11-600 of the Ham Lake City Code, but only within Mining Overlay Districts as defined therein
  - vi) *Farm Wineries* under Article 9-330.4 of the Ham Lake City Code
  - vii) Other Small Businesses which:

- aa) Generate no noise which would violate the standards for residential land uses as found in the regulations of the Minnesota Pollution Control Agency, as expressed therein, which regulations are hereby adopted by reference insofar as they pertain to permitted decibel levels adjacent to or near residential properties, and
- bb) Generate no odors, fumes, vibrations or light beyond the property lines, and
- cc) Are largely screened from outside view, and
- dd) Accommodate all parking on-site, and
- ee) Do not generate unreasonable customer traffic, and
- ff) Do not engage in on-site retail sales

**9-210.33** ***Temporary Conditional Uses:*** The following *Temporary Conditional Uses* shall apply in the R-A districts:

- i) All *Temporary Conditional Uses* in the R-1 District.
- ii) Seasonal *Temporary Conditional Uses* by Permit under Article 9-330.8.

**9-210.4** **Affordable Housing District (R-AH)** R-AH Districts are areas intended for the creation of multiple-family apartment buildings targeted for occupancy by persons aged 55 or older or having low or moderate income, as those terms are from time to time defined by the City Council in concert with the commonly established guidelines of various governmental social service agencies.

**a) *Permitted Uses***

- o Multiple family apartment buildings or cottages and ancillary facilities
- o Recreational facilities for the exclusive use of tenants
- o Underground Utilities
- o Storage Buildings or Garages for the exclusive use of tenants
- o A single business office for building or complex management, of not more than 1500 square feet

**b) *Conditional Uses and Temporary Conditional Uses***

- o None



**9-210.5 Planned Unit Development (PUD)** A PUD district is a development which involves single family housing of the variety found in the R-1 District, combined with a second active land use of a non-residential nature, or a development which involves a single active land use of a residential nature which differs from the housing types commonly found in the R-1 district, such as *townhomes* or facilities found in the R-AH districts. The following features shall be present in PUD developments:

**a) Development Agreement** Every PUD shall require the negotiation and execution of a written development agreement, for recording with the plat of the PUD.

**b) Permitted Uses, Conditional Uses, and Temporary Conditional Uses** The development agreement shall state the *permitted uses, conditional uses and temporary conditional uses* which shall be allowed in the PUD. For non-residential uses, the development agreement shall characterize these uses by reference to a particular zoning category found elsewhere in this code, and while the general zoning category of the property shall be "PUD", the non-residential usage shall be subject to the same requirements and conditions as are found for the zoning category which is chosen to characterize that particular non-residential usage.

**c) Townhomes** *Townhomes* are single family dwellings which have at least one common wall with another single family dwelling, and are *permitted uses* in the PUD district up to a maximum of four units in a given row of *townhomes*.

**d) Density and Lot Requirements** Residential Density in a PUD shall not exceed one dwelling unit per acre. Physical standards for lots, streets and other aspects of development, including setbacks, shall generally be identical to those standards for the same character of land use in the individualized zoning districts; however, zero lot lines may be used for *townhomes*, and minor alterations in other physical standards shall be permitted to encourage cluster housing or other planning techniques, without the need to categorize such alterations as variances.

**e) Private Roads** Private roads may be used in the PUD districts, provided that there is a mechanism approved by the city for maintenance, snowplowing and access for emergency vehicles, school buses, mail vehicles,

governmental inspectors, utility companies, rubbish removal and other common services.

**f) Phasing and Amendments** A PUD may be developed in phases in accord with applicable statutory authority, but all phasing shall be detailed in the development agreement. Amendments to a PUD which do not materially affect land uses or persons outside the PUD may be processed by Planning Commission review and City Council action, but all other amendments shall require a public hearing to be conducted in the same manner as for the original PUD plat.

**9-210.6 Shoreland Residential – General Development (RS-1)**

This district includes lands near bodies of water which meet the definition of General Development Districts in Article 12 of this Code (uncodified Shoreland Zoning Ordinance). Except as may be limited by Article 12, Permitted and Conditional Uses in these districts shall be identical to the Permitted and Conditional Uses in areas zoned R-1.

**9-210.7 Shoreland Residential – Recreational Development (RS-2)**

This district includes lands near bodies of water which meet the definition of General Recreational Districts in Article 12 of this Code (uncodified Shoreland Zoning Ordinance). Except as may be limited by Article 12, Permitted and Conditional Uses in these districts shall be identical to the Permitted and Conditional Uses in areas zoned R-1.

**9-210.8 (Reserved for Sewered Residential Projects)**

**9-210.9 Multiple Family Residential (R-2)**

R-2 districts are intended for duplexes, triplexes, four-plexes or (by conditional use permit) larger multiple-family dwellings such as apartment buildings. Such dwellings may be served by ISTS meeting the standards of this code and state and county rules or regulations, and the lots upon which such dwellings are located shall contain the following features:

**a. Backup ISTS Space** – sufficient suitable soil to enable the installation of a second ISTS to replace the ISTS approved for the initial construction, to the same specifications of the initial ISTS.

**b. Yard Area and Livability** - the Yard Area and Livability requirements for any lot shall be the same square footages as are found in Article 10-302 or single-family dwellings, but

multiplied by the number of units in the multiple family dwelling.

Multiple family dwellings already existing in the City as of January 1, 2009 shall not be required to meet the foregoing yard and ISTS provisions, but shall be considered *non-conforming uses* and subject to prohibitions on expansion or alteration to the degree to which they do not meet current codes regarding ISTS, yard areas and livability.

#### **Permitted Uses**

- Duplexes
- Triplexes
- Four-plexes
- Multiple Family Residential Buildings having more than four dwelling units
- Underground Utilities
- Above Ground Transmission Lines and poles existing prior to January 1, 2009.
- Home Occupations permitted under Article 9-350, provide that the home occupation does not involve the use of employees who are not residents of the dwelling, does not involve the storage of inventory on the site, does not involve deliveries of goods used in the business to the site or shipped from the site, does not involve customers coming to the site, and does not involve the presence of machinery or equipment other than a personal computer, copy machine, fax machine and/or small personal printer.

#### **Conditional Uses**

- Public Utility Structures
- Accessory Buildings

**9-220 Mercantile Districts** The land uses described in Article 9-220 are intended to be applicable to developments which utilize individual sewage treatment systems (ISTS), and to developments which use approved combined sewage treatment systems. All building permits and Certificates of Occupancy in the Mercantile Districts shall require the review and approval of the City Council, after review and recommendation by the Planning Commission, excepting building permits and/or certificates of occupancy being issued for an alteration to an existing structure under circumstances in which the land use will be unchanged, and in which the alteration will not materially affect parking requirements, stormwater runoff, traffic, sewage treatment needs or aesthetics.

**9-220.1 Standards Common to All Mercantile Districts** The following standards shall apply to all of the mercantile districts as listed in Article 9-220.

- a) Paving** All parking lots, drives and surfaces upon which the public shall have access shall be paved according to specifications to be established by the city's engineer;
- b) Drainage** Surface water drainage and ponding needs shall be implemented in the manner directed by the city's engineer;
- c) Landscaping** Landscaping shall be implemented in the manner provided in Article 11-1800;
- d) Setbacks for Paved Areas** There shall be a ten foot setback between any lot line and the back of curb of any parking lot or driveway, and a six foot setback between the back of curb of any parking lot and any building;
- e) Buffering** When any mercantile land use is located adjacent to a residential area, it shall be screened by opaque fencing, vegetation, or both;
- f) Refuse Containers** Refuse containers shall be stored in locations which are completely screened from outside view; hazardous materials shall be stored and disposed of in the manner provided by law;
- g) Parking Lots and Lighting** Off-street parking shall be provided for all patrons and employees. The *Zoning Officer* shall maintain a schedule of parking requirements, to be ratified from time to time by resolution of the City Council, to serve as the general guideline for the establishment of parking requirements, subject to modification by the City Council where merited. Security lighting shall be permitted, and may be required on review of site plans, but shall be directed away from adjacent properties. No light or combination of lights that cast light upon a Residential Land Use shall exceed 4 foot candle meter reading as measured at the residential property line. All measurements shall be made after dark at the property line or edge of roadway.
- h) Off-Street Loading** All deliveries and bulk pickups of merchandise, inventory and supplies shall be made to loading facilities preferably located in the rear of the building, which loading facilities shall be sufficient to enable the prompt and safe transfer of goods.
- i) Signage** All signage shall conform to the provisions of Article 11-300.
- j) Special Considerations** Notwithstanding the limitations as to building styles, construction types and exterior treatments, the City Council, after Planning Commission

review, may depart from strict adherence to the standards found in Article 9-220, where special conditions merit such departure, and where certain standards are met. Such special conditions and standards may include, without limitation, the following items.

i) The departure is not being requested for purely economic reasons;

ii) The nature of the business is such that it requires a specific type of building construction in order to improve the business function, such as requirements for sunlight, specialty equipment, interior lighting or the like;

iii) The business is a permitted or conditional use in the zoning district;

iv) The applicant proposes the usage of special aesthetic treatments which provide a superior exterior view, such as landscaping, vegetation screening, berming, or the like;

v) The property contains unusual topography, mature vegetation or other features which can be preserved or enhanced to produce an overall superior appearance;

vi) The property contains unusual accessibility problems to or from adjacent roadways;

vii) The applicant offers to implement more stringent design limitations in certain site plan features than would normally be required, in exchange for being permitted less stringent design limitations in other site plan features.

**k) Outside Storage** Outside storage and activities for areas zoned CD-3, CD-4, Industrial Park (I-P) and Light Industrial (I-1) shall be as specifically detailed in the Code Sections dealing with those land uses (Articles 9-220.6 and 9-220.7). For areas zoned CD-1 and CD-2, the following provisions shall apply to outside storage, excepting Fireworks sales and storage, which are governed by the provisions of Article 9-330.6. **Unless specifically permitted by this Article 220.1(k), no Outside Storage shall be allowed in any area zoned CD-1 or CD-2.**

1) **Definitions**

**aa) Outside Storage** – personal property (not fixtures) that are located within the Approved Property Lines of any parcel bearing a CD zoning classification, but which are found outside of an enclosed, roofed building (including temporary structures). Outside Storage does not include Refuse Containers, customer vehicles, employee vehicles parked while the employee is on duty, delivery vehicles while in the process of delivery or pickup, construction materials or vehicles being used in an active construction project on the parcel, legal signs or banners, or legal temporary structures. Except where specifically excepted, Outside Storage does include inventory of the business occupying the parcel.

**bb) Inventory** - goods, except Vehicle Inventory, that are offered for sale in the ordinary course of business of any business occupying the parcel. For auto repair shops, inventory shall also be deemed to mean passenger vehicles or pickup trucks awaiting repair services.

**cc) Vehicle Inventory** – Automobiles, Trucks, Trailers, Mobile Homes, Recreational Vehicles, Campers, Camper Tops, Truck Toppers, Boats or other wheeled conveyances that are offered for retail sale at a legal business location whose primary business is the retail sale of one or more of the above items. Rental equipment that may be offered for sale is not Vehicle Inventory. Vehicle Inventory that bears obvious signs that the vehicle is not presently capable of being legally operated or conveyed on a public road is not Vehicle Inventory, including, but not limited to vehicles lacking wheels or inflated tires, operable drive train components, broken windows or lights, required current vehicle registration, missing body parts, such as fenders, doors, hood lids, trunk lids, bumpers, lights or trim.

**dd) Aesthetically Screened Outside Storage** - Inventory or Vehicle Inventory behind an opaque barrier constructed of masonry or brick, attached to and matching or complementary to the main building, and of sufficient height and design so as to give the appearance that the barrier is a part of the main building. No object shall be stored inside of such a barrier if the object protrudes above the height of the barrier. Any gates through the barrier shall be opaque and of aesthetic design.

**ee) Limited Outdoor Displays** - Temporary displays of merchandise which are normally sold or displayed from within an enclosed retail store locations, but which are temporarily placed not more than ten feet from an outside

wall of the main retail sales building during business hours, and then returned to inside storage during non-business hours.”

**ff) Improvement Stores** – Businesses that have as their primary source of revenue the retail sale of plants, seeds, landscaping supplies, produce, or yard statuary.

**gg) 24-Hour Convenience Stores** – Businesses that sell gasoline at retail, and, from the same store location, also sell groceries, auto supplies, sundries, over-the-counter medications and personal products, sundries and other items for human consumption, and which remain open for business at all times of every day.

**hh) Approved Property Lines** – Are the outside perimeter of the real estate parcel or parcels which were shown on the site plan used for the initial municipal approval of a certificate of occupancy or conditional use permit for a particular operation.

**ii) Pool Stores** – retail stores that engage in the retail sales of above ground or below ground recreational swimming pools that contain electric filtration devices providing water circulation and filtration in the pool, and under conditions where an inventory of above ground or in ground swimming pools is maintained, connected by water and electricity to a source originating in a permanent retail building located on the same parcel. A Pool Store shall not be considered a retail store for the purposes of determining permitted uses under Article 9-220.2 (b) or 9-220.3(b).

**jj) Screened Outside Storage** – is Inventory or Vehicle Inventory behind an opaque barrier constructed of wood, metal, plastic, masonry, brick or earthen berm, or which is behind an opaque barrier composed of existing buildings or other structures on the property, or which is behind a semi-opaque barrier of vegetation that substantially conceals the storage from outside view.

## **2) Permitted Outside Storage**

**aa)** Vehicle Inventory is permitted Outside Storage on any CD-1 or CD-2 parcel in connection with a business that is legally permitted to sell Vehicle Inventory. If specifically permitted by the conditions of any Conditional Use Permit or Temporary Conditional Use Permit for any such parcel, vehicles that do not meet the definition of Vehicle Inventory may also be permitted Outside Storage.

**bb)** Aesthetically Screened Outside Storage is permitted outside storage if used as a condition of approval of any site

plan, Conditional Use Permit or Temporary Conditional Use Permit on any CD-1 or CD-2 parcel in connection with the new construction of a main commercial building on the parcel.

**cc)** Limited Outdoor Displays are permitted Outside Storage in both the CD-1 and CD-2 districts. If the business is a 24-Hour Convenience Store, the Limited Outdoor Display need not be moved indoors, but the business shall at all times maintain a clear pedestrian path on sidewalks that is at least 36 inches in width.

**dd)** Inventory is permitted Outside Storage for Improvement Stores and Manufactured/Prefabricated Structure Sales but must be separately identified on the initial site plan submitted with the initial request for certificate of occupancy or conditional use permit, and must be stored only in conformance with that site plan. Bins or containers housing the Inventory shall also be permitted Outside Storage for Improvement Stores and Manufactured/Prefabricated Structure Sales as shall be other items necessarily incident to the storage, maintenance or protection of the Inventory.

**ee)** No Outside Storage shall be permitted for any business unless the storage is within the Approved Property Lines.

**ff)** Pool Stores may display above ground or below ground swimming pools as Permitted Outside Storage only on property under conditional use permit, subject to conditions to be established by the City Council, which must include, at a minimum, the following:

- 1) Pool water must be maintained in a sanitary condition;
- 2) Below ground pools must be surrounded by code-compliant fencing;
- 3) Above ground pools must be constructed in a code-compliant method relative to either fencing or sufficient elevation to prevent accidental entry into the pool;
- 4) Adequate security fencing around the storage display area must be installed to discourage after-hours entry into the pool storage area;
- 5) Reasonable screening from outside view shall be installed;
- 6) All sources of water and electricity shall be connected to the pools in a code-compliant manner;
- 7) Only pools that are intended for use with circulating filters shall be permitted outside; no "kiddy pools",



wading pools or inflatable pools shall be permitted to be displayed outside.

**8)** Winter storage of outside pools shall be done in a manner that covers the pool surface and prevents the accidental entry into the pool;

**gg)** Screened Outside Storage is permitted outside storage if used as a condition of approval of any site plan, Conditional Use Permit or Temporary Conditional Use Permit on any CD-1 or CD-2 parcel involving pre-existing main buildings or structures that:

1) Historically utilized outside storage in connection with business operating on the property, and which uses were never abandoned;

2) Do not involve replacement or major remodeling of the existing structures, but utilizes the existing structures for the business to be operated;

Approval of Screened Outside Storage is discretionary with the City Council.

**i) Revocation** All permits and certificates of occupancy issued in the mercantile districts are subject to revocation under the provisions of Article 9-240.

**3) Office/Warehouses** Office/Warehouse is a term given to a structure that is designed to have office space in front, behind which is situated an open bay or bays, with the office and bay space to be occupied by a single business. The office space and the bay space may also include area for retail sales. The bay space may also be used for manufacturing, other industrial activity, or warehousing. Building Permits may be issued for Office/Warehouses in any Mercantile District as found in Article 9-220. However, specific uses within each Office/Warehouse are subject to the Permitted Use, Conditional Use and Temporary Conditional Use restrictions for the given zoning district in which the Office/Warehouse is constructed. The issuance of a building permit for an Office/Warehouse does not confer upon the property owner the right to use any portion of the structure in a manner inconsistent with the use restrictions for the zoning district in which the structure is located. All new tenants or occupants of any Office/Warehouse must observe the same conditions for site plan or other approval, as would any other occupant. Further, if the zoning district in which the Office/Warehouse is to be constructed contains restrictions on building materials or design, those restrictions must be followed.

### **9-220.2 Commercial Development 1 (CD-1)**

The CD-1 zone is intended to apply to certain commercial uses on lands abutting the city's only major thoroughfare, Trunk Highway 65. In that these lands have high visibility to the traveling public, it is considered important to the preservation of land values in general, as well as important to the continuing ability of the city to generate the establishment of quality commercial development and the concomitant tax and employment base, that structures in the CD-1 zones observe specific construction and aesthetic standards, which are listed below. No usage shall be permitted in the CD-1 zone which does not observe the standards found in Article 9-220.2 (a) below.

**a) Standards for Site and Building Construction**

- i)** Except for structures housing public utility feature, no metal or pole-type building shall be permitted;
- ii)** Exterior wall surfaces shall be of brick, decorative masonry, stone, precast panel, architectural concrete, glass, stucco or wood framed with horizontal lap siding;
- iii)** No galvanized surfaces shall be permitted, either on roofs or siding;
- iv)** All roofs shall be colored and shall incorporate a minimum 18-inch soffit on the eave edge of the roof;
- v)** All roofs shall have a minimum 12-inch overhang on the gable ends;
- vi)** All roofs have a 9.5 inch fascia;
- vii)** Standing metal seam roofing shall be permitted (Minimum 24 gauge, non-galvanized);

**b) Permitted Uses (Including uses that are ancillary to the main use)**

- Clubs and Lodges
- Medical Facilities
  - Assisted Living Facilities
  - Chiropractic
  - Clinics of all medical disciplines
  - Dental
  - Diagnostic Facilities
  - Hospitals
  - Laboratories
  - Nursing Homes
  - Treatment Rooms and Centers
  - Veterinary Clinics
- Hotels, Motels and Lodging Houses under Article 11-1100

- Offices and Office Buildings
- Park and Ride Lots
- Post Offices
- Public Utilities (metal or pole type construction allowed)
- Recreational Facilities (indoor unless noted)
  - Batting Cages
  - Billiard Parlors
  - Bowling Alleys
  - Dance/Gymnastic Studios
  - Health Clubs
  - Martial Arts Studios
  - Miniature Golf Courses (outdoor)
  - Paintball or Laser Tag Facilities
  - Parks (outdoor/publicly owned)
  - Roller Skating Facilities
  - Shooting Range
  - Skateboard Facilities
  - Virtual Golf Facilities
- Restaurants, including liquor service
- Retail Facilities - engaged in the sale of goods (Excluding Motor Vehicle/ Boat/RV/Camper Sales), from freestanding one-store locations, shopping centers, strip malls or enclosed malls, including, but not limited to:
  - Antique Stores
  - Appliance Stores
  - Automobile Parts Stores (new parts only)
  - Bakeries
  - Bicycle Stores
  - "Big Box" Stores (subject to Article 9-400)
  - Book Stores
  - Butcher Shops/Meat Markets
  - Camera Stores
  - Candy Stores
  - Carpet Stores
  - Clothing Stores
  - Coin Stores
  - Convenience Stores
  - Cosmetic Stores
  - Discount Stores
  - E-Cig Stores
  - Electrical, HVAC and Plumbing Equipment Stores
  - Electronics Stores
  - Fireworks (under Article 9-330.6)

- Floral Stores
- Furniture Stores
- Gift Shop
- Grocery Stores
- Hardware Stores
- Health Stores
- Hobby/Game Stores
- Housewares Stores
- Improvement Stores (Lawn & Garden) as defined in Article 9-220.1 (k)(1)(ff)
- Jewelry Stores
- Liquor Stores
- Luggage Stores
- Music Stores
- Office Supply Stores
- Optical Supply Stores
- Paint/Wallpaper Stores
- Pet Stores
- Petroleum product sales (excluding vehicle repair)
- Pharmacies
- Shoe Stores
- Sporting Goods Stores
- Souvenir Stores
- Thrift Stores
- Tobacco Stores
- Video Stores
- Schools and Colleges
- Service Businesses
  - Appliance Repair Shops
  - Barber Shops
  - Beauty Shops
  - Car Washes
  - Day Cares (licensed)
  - Dry Cleaners
  - Electronics Repair Shops
  - Financial Institutions
  - Funeral Homes
  - Government Buildings
  - Insurance Agencies
  - Law Offices
  - Locksmiths
  - Manicure/Pedicure/Nail Care shops
  - Pet Grooming Shops

- Photography Studios
- Print Shops
- Shoe Repair Shops
- Specialty Retail Shops
- Tailor Shops
- Tanning Facilities
- Travel Agencies
- Small Engine Sales and Repair
  - Air Compressors
  - Chain Saws
  - Garden Tractors
  - Lawn Mowers
  - Leaf Blowers
  - Other Motorized Gardening Equipment
  - Power Rakes
  - Power Washers
  - Rototillers
  - Shop Vacs
  - Snowblowers
  - Woodchippers
  - Woodsplitters
- Theatres
- Worship Centers and ancillary features owned by the entity that owns the Worship Center, including classrooms, recreational features, residences for staff, offices and kitchen/dining.

**c) Conditional Uses**

- Automobile Repair Shops (Passenger Vehicles, Pickup Trucks, ATVs, Snowmobiles, Motorcycles, Jet-skis, Boats and other Marine Equipment)
- Equipment Rental Businesses
- Light Manufacturing, defined as follows:  
The fabrication or processing of goods for sale to retailers, wholesalers, other manufacturers or at retail that takes place entire within an enclosed building and that meets the following criteria:
  - a) The business does not generate any noise, odor or vibration detectable from adjoining properties, other than that which occurs in the normal course of business during shipping and receiving activities;

- b) There is no outside storage of any item except Aesthetically Screened Outside Storage as defined in Article 9-220(k)(1)(dd) of this Code.
  - c) No outside cranes or booms are located on the site;
  - d) Retail sales of the business products can occur on the premises if the commodities are the commodities manufactured on site.
- Manufactured/Prefabricated Structure Sales (including, without limitation, housing units, gazebos, storage sheds, playhouses, screened porches, and shelters) together with incidental furnishings such as lawn chairs and picnic tables
  - New Vehicle Sales (must have indoor showroom) limited to the following:
    - **Note:** Where the word “vehicle” is used, the term is hereby defined to exclude mobile homes, busses, semi-tractors, semi-trailers over 30 feet in length, and heavy construction equipment, such as bulldozers, backhoes, road graders, earth moving equipment, cranes and excavators.
    - ATV's (all-terrain vehicles)
    - Automobiles
    - Boats
    - Campers
    - Golf Carts
    - Motorcycles, Motorbikes and Scooters
    - Recreational Vehicles
    - Snowmobiles
    - Commercial Trucks
    - Pickup Trucks
    - Trailers less than 30 feet in length
  - Office Warehouses
  - Pool Stores under Article 9-220.1 (k)
  - Residential Treatment Centers
  - Sexually Oriented Business under Article 9-330.3
  - Self-Storage Facilities, limited to properties on which self-storage facilities were in existence as of January 1, 2014. “Properties” as used herein is intended to include “Expansion Parcels”, which are tax parcels that were on said date contiguous to and in common ownership or control with the parcel on which self-storage facilities were in use on said date and which were lacking a permanent structure/usage and/or providing a parking area or driveway serving the parcel on which the self-storage units were located.

Expansion Parcels do not include parcels that are separated by public roads from the parcel on which the self-storage units were located on said date. It is the intent of this language that the self-storage use be permitted to expand onto the Expansion Parcels if a Conditional Use Permit for such expansion is approved. Notwithstanding these provisions, all self-storage uses shall be considered non-conforming uses and if abandoned or damaged and unrepaired, are subject to the same criteria for termination of allowed usage status as for other non-conforming uses as provided in Article 9-150.1 of this Code.

- Temporary Commercial Structures under Article 9-330.7
- Therapeutic Massage under Article 9-330.5
- Transportation Facilities
- Used Vehicle Sales limited as follows
  - Collector Cars
  - Motor Homes and Recreational Vehicle Trailer Sales\*  
\*(A "Trailer", for the purposes of this code, shall mean a conveyance which is primarily designed to be towed behind a motor vehicle on public highways for usage in camping at bona fide campgrounds or RV parks. The conveyance commonly known in the industry as a "Park Model" is not to be considered a Trailer.)
  - Facilities that meet the following criteria:
    - The lot on which the use is proposed is presently and lawfully used by a business whose primary business is in the automotive industry such as automobile specialty shop, auto repair or recreational vehicle sales lot; and
    - The sales are limited to passenger cars and pickup trucks; and
    - The primary business activity in the automotive industry that qualified the lot to be used for Used Vehicle Sales must continue to be the primary business activity on the lot; Used Vehicle Sales shall be an incidental use only, and shall not replace the primary business activity; or
    - The used vehicle inventory is part of the overall inventory of a New Vehicle Sales operation, limited to vehicles that have been taken in trade by the owner

**d) Temporary Conditional Uses Only**

Certain modular housing sales lots may be allowed as Temporary Conditional Uses in the CD-1 areas under the following limited conditions:

- i)** The permit shall be for no longer than five years;
- ii)** No housing units shall be permitted which are mobile homes, which were at one time mobile homes, or which could become mobile homes with the addition of wheels installed in a pre-engineered or pre-planned receptacle. It is the intention of this usage that the only housing units permitted for display in such areas are single family dwellings of wood frame construction, designed for placement on a permanent foundation in a typical single family residential neighborhood, and not designed for or commonly found in mobile home parks.
- iii)** A single housing unit may be used as a sales office.
- iv)** Marketing of housing units shall be only to consumer-homeowners, and not to retailers or wholesalers;
- v)** All units shall be placed on concrete blocks, at least two courses in height, giving the appearance of a full basement.
- vi)** All units shall be completely finished on the exterior to give the appearance that the unit is inhabited as a part of a quality single family neighborhood. Units may be assembled from pre-constructed component parts on site, but may not be constructed from scratch on the site. Assembly of any display unit shall be complete (weather permitting) within 14 days after commencement of assembly. Each display unit shall obtain a building permit from the City prior to commencement of assembly. A display unit, once in place, shall not be replaced for at least 24 months.
- vii)** All surfaces upon which the public is expected to drive, park or walk shall be paved with bituminous or concrete material according to specifications to be established by the City's engineer.
- viii)** All display units shall have an attached garage for two cars or more.
- ix)** A Site Plan shall be reviewed and approved by the City Council, after review and comment by the Planning Commission, which plan shall limit the number of units to be displayed, provide a landscaping plan, show the locations of all drives, walkways and parking areas, and provide photographic samples of the styles of units to be displayed.
- x)** The City Council may attach such other conditions to the Temporary Conditional Use Permit as are deemed appropriate or necessary to protect public safety, health or welfare, or to protect nearby property values.

**9-220.3 Commercial Development II (CD-2)**



The CD-2 Districts are located adjacent to the CD-1 Districts, and constitute a second tier of commercial activities along the T.H. 65 corridor. These districts also have importance in presenting a visually pleasing image to the traveling public, but are less visible from the T.H. 65 roadway than the CD-1 districts.

**a) Standards for Site and Building Construction**

i) Metal or pole-type buildings shall be permitted if surfaces meet the requirements of (b) below, and , provided that no galvanized surface may appear, all roofs shall be colored and incorporate a minimum 18 inch soffit on eave edges, 12 overhang on gable ends, and 9.5 inch fascia.

ii) Modern metal paneling may be used for roof and exterior wall surfaces, provided that on the wall sides facing T.H.65, no more than 25% of the surface area may be modern metal paneling, with the remaining portion of these surfaces being brick, decorative masonry, stone, precast panel, architectural concrete, glass, stucco or wood framed with horizontal lap siding; For other wall surfaces, there shall be a wainscot at least 42 inches in height which is composed of brick, decorative masonry, stone, precast panel, architectural concrete, glass, stucco or wood framed with horizontal lap siding;

**b) Permitted Uses (Including uses that are ancillary to the main use)**

- All Permitted Uses in the CD-1 District
- Broadcasting Studios
- Building Supply Yards/Lumber Yards
- Enclosed Storage and Warehousing
- Landscaping Businesses
- Manufacturing involving no non-enclosed storage
- Public Utilities (metal or pole type construction allowed)
- Research laboratories
- Used Vehicle Sales - limited to the following:
  - ATV's (all-terrain vehicles)
  - Automobiles
  - Boats
  - Campers
  - Golf Carts
  - Motorcycles, Motorbikes and Scooters
  - Recreational Vehicles
  - Snowmobiles
  - Commercial Trucks
  - Pickup Trucks

- Trailers less than 30 feet in length
- Utility Companies

**c) Conditional Uses**

- All conditional uses or temporary conditional uses in the CD-1 District
- Flea Markets under Article 11-1500
- Kennels
- Pawn Shops under Article 11-1300
- Truck Terminals
- Self-storage facilities, but not including the limitations and conditions imposed for such facilities as found in Article 9-220.2 (c).

**9-220.4 Commercial Development III (CD-3)**

The CD-3 zones are areas of the City that are located outside of the TH 65 Corridor, which are suitable for certain institutional activities; neighborhood retail, or which operate under historic permits, and which involve no outside storage of supplies, equipment or inventory excepting motor vehicles used in the business (unless specifically allowed by historic permit) and except as stated below:

**a) Permitted Uses (Including uses that are ancillary to the main use)**

- Campgrounds (may include outside storage of firewood, equipment, picnic tables and other items common to a campground environment)
- Churches, including ancillary structures such as classrooms, offices, recreational facilities, parsonages or other dwellings for occupancy by church staff
- Convenience Stores including outdoor displays and inventory
- Financial Institutions
- Governmental, Business and Professional Offices
- Land Uses Specifically Authorized by Development
- Agreements in effect in whole or in part prior to January 1, 2000
- Licensed Day Care Centers
- Medical Clinics, including general medicine, specialty medicine, dental, optical and chiropractic
- Off Sale Liquor Stores

- Personal Services, including Beauty Shops and Barber Shops
- Petroleum Products Sales including outdoor displays and inventory
- Plant Nurseries, Garden Centers and Produce Markets (including limited outdoor display)
- Veterinary Clinics

**b) Conditional Uses**

- None

**9-220.5 Commercial Development IV (CD-4)**

The CD-4 zones are areas of the City that are located outside of the TH 65 Corridor, which are suitable for certain light industrial or construction trades, and which involve no outside storage of supplies, equipment or inventory excepting motor vehicles used in the business.

**a) Permitted Uses (Including uses that are ancillary to the main use)**

- Electrical, HVAC, Plumbing, Septic Contracting Businesses
- Indoor Storage
- Light Assembly
- Light Manufacturing or Re-Manufacturing
- Office/Warehouse
- Personal Services, including Beauty Shops and Barber Shops
- Small Retail Sales Facilities

**b) Conditional Uses**

- None

**9-220.6 Industrial Park (I-P)** This zoning category shall apply to mercantile parcels which are intended for manufacturing, warehousing, machining, tooling, fabricating, assembly, processing, equipment storage, storage of raw materials or supplies, and the like, as opposed to mercantile parcels used primarily for office or retail activities. Limited office space activity may occur in an Industrial Park, but only as incidental to the main industrial usage of a given parcel.

**a) Physical Requirements**

**i) Building Materials** All building construction shall be of masonry or of products made from concrete or

materials related to concrete. No metal buildings shall be allowed in any I-P District.

**ii) Screening** Any I-P area developed after the effective date of this ordinance which is adjacent to land which is now or which is intended to become a residential land use shall be completely fenced by attractive, opaque fencing of sufficient height to completely screen all future activities within I-P area. Opaque fencing shall be deemed to mean only solid wood or solid metal components. Fence height shall be as determined upon site plan review by the *Planning Commission*, which may also require different screening material, including earthen berming.

**iii) Paving** All drives, parking lots or sidewalks which will be utilized by the general public or by employees of the business shall be paved in accord with standards established by the City's engineer. Equipment storage areas may be surfaced with Class V or other material if the area so surfaced is not to be open to the general public.

**iv) Landscaping** Article 11-1800 of this code shall apply to landscaping in I-P areas.

**b) Usage Limitations** All uses in the I-P areas shall be subject to the same review procedures as are found in Article 9-220 for Mercantile Areas. The following specific usage limitations shall apply to the I-P areas:

**i) Outside Storage** All outside storage shall be fenced for security purposes. Trash containers or accumulations of waste or debris of any kind shall be completely screened from view from outside the lot. All waste and debris shall be properly and promptly disposed of, storage of such material being allowed only for the time interval reasonably necessary to arrange for regular disposal service. During hours in which the business activity within the main building is not being conducted, all storage areas shall be gated and locked. Machinery and vehicles stored on the premises shall be secured so as not to be readily operable or moveable during non-business hours. No unregistered motor vehicles or inoperable vehicle or machinery shall remain on the premises.

**ii) Semi-Trailers, Large Trucks and Truck-Tractors** Semi-trailers may be stored within the fenced area of an I-P lot, provided that each semi-trailer shall be fully licensed and road-worthy. The use of dilapidated, inoperable or otherwise

non-functioning semi-trailers for warehousing or other purposes shall be prohibited. Large trucks and truck-tractors may likewise be stored within the fenced area, but shall likewise be fully and currently licensed and operable. Each semi-trailer shall have a parking stall with minimum dimensions of 12 feet by 125 feet.

**iii) Noise** Noise generated from lots in the I-P areas that are audible in *Residential Land Uses* shall not exceed standards as established by the Minnesota Pollution Control Agency.

**iv) Lighting** No light or combination of lights that cast light upon a *Residential Land Use* shall exceed 4 foot candle meter reading as measured at the residential property line. All measurements shall be made after dark at the property line or edge of roadway.

**v) Fumes and Odor** Fumes and odors generated from lots in the I-P districts shall not exceed published standards as established by the United States Environmental Protection Agency, herein adopted by reference.

**(c) Permitted Uses**

- Assembly Businesses
- Cabinetry Assembly/Manufacturing Shops
- Construction Companies
- Electrical Companies
- Equipment Rental Businesses (large industrial equipment)
- Equipment Repair or Service Businesses
- Fabricating Companies
- Government Storage/Repair Centers
- Machine Shops
- Manufacturing Plants (Excepting Bituminous or Concrete)
- Motor Vehicle Sales - limited to the following:
  - ATV's (all-terrain vehicles)
  - Automobiles
  - Boats
  - Campers
  - Golf Carts
  - Motorcycles, Motorbikes and Scooters
  - Recreational Vehicles
  - Snowmobiles
  - Commercial Trucks
  - Pickup Trucks
  - Trailers less than 30 feet in length

- Plumbing and HVAC Companies
- Public Utilities (metal or pole type construction allowed)
- Textile Companies
- Tooling Companies
- Utility Companies
- Warehouses

**(d) Conditional Uses**

- Bituminous or Ready-Mix Concrete Plants
- Chemical/Paint Companies
- Uses which are normally permitted but which involve some retail sales
- Heavy Equipment Sales
- Trucking Companies
- Transfer Stations for Demolition Debris under the following conditions:
  - 1)** The Transfer Station is fully licensed/permitted by appropriate county, state and federal agencies having jurisdiction over its activities;
  - 2)** The term “Demolition Debris” refers only to concrete, stone, asphalt, wood, plastic, metal or composites. No shingles, putrescible items or hazardous materials shall be intentionally processed at the Transfer Station. Any putrescible items or hazardous materials found to be on the premise shall be handled and disposed of properly and legally.
  - 3)** The location of the actual site within the I-P area is in a sufficiently remote and screened portion of the area so as to eliminate disturbance of nearby existing or possible future residential neighborhoods through noise, light, vibration, odor, fumes, unsightliness or dust.
  - 4)** The activities at the Transfer Station shall be limited to the reception of Demolition Debris on roll-off containers or dump trucks, all contents of which are to be placed on the floor of a completely enclosed building, where the materials will be sorted and re-shipped to recyclers or landfills, in a manner consistent with all applicable regulations and codes. No outside storage of demolition debris will be permitted.

**9-220.7 Light Industrial (I-1)** I-1 zones are areas which are used for limited manufacturing purposes, involving frequent truck traffic

for pickup and delivery of products and materials, and which require a significant portion of the manufacturing process to occur outside of enclosed buildings.

**a) Permitted Uses**

- Ready Mix Concrete Plants
- Priestesses Concrete Plants
- Monument Companies

**b) Conditional Uses or Temporary Conditional Uses**

- None

**9-220.8 Commercial Development V (CD-5)**

The CD-5 Zones are areas of the City that were designated a Multiple Use Options areas in Chapter 4, paragraph 4.7 of the 2005 Ham Lake Comprehensive Plan which are specifically designated by action of the Ham Lake City Council for rezoning to the CD-5 classification, and may also include other lands that are zoned R-A but which are found to either be located in close proximity to the intersections of minor or major arterials, or which abut other land that has been rezoned to the CD-5 classification. Because CD-5 lands will often be found near existing residential areas, or areas expected to develop into residential land uses, building construction, screening and landscaping are to be of upscale quality, and ongoing grounds maintenance given high priority.

**a) Permitted Uses**

- Medical/Dental Clinics or Facilities
- Governmental, business and professional offices
- Parks
- Financial institutions
- Veterinary clinics
- Uses ancillary or incident to the above

**b) Conditional Uses**

The following uses shall be allowed by Conditional Use Permit or Temporary Conditional Use Permit only, after fulfillment of the requirements hereafter outlined.

- Office Warehouses meeting the requirements outlined in Article 9-220.1 and this Article of the Ham Lake City Code
- All Permitted Uses found in areas zoned CD-1 and CD-2 not permitted above, except Fireworks Sales
- Non-profit clubs, lodges or halls
- Institutional Uses (Governmental, Educational and Religious)

- Commercial Recreational Facilities
- Construction Companies
- Enclosed Storage and Warehousing
- Broadcasting Studios and Facilities
- Office Buildings
- Movie Theaters
- Convenience stores

**c) Building, Outside Storage, Screening and Fencing Standards**

All buildings constructed in the CD-5 districts shall meet the same standards as for buildings in the CD-1 zoning districts, as found in Article 9-220.2(a) of this Code. Outside storage shall meet the same standards as for uses in the CD-1 zoning districts, as found in Article 9-220.1(k) of this Code, in particular as regards screening attached to main buildings. Perimeter fencing shall be opaque and of such quality and appearance as is dictated by the conditions of approval of the Conditional Use Permit, but perimeter fencing may be up to eight feet in height, not counting the height of any beam upon which a perimeter fence may be constructed.

**d) Maintenance Standards**

The development agreement for each project approved in a CD-5 zone shall include a maintenance covenant guaranteeing the ongoing maintenance of all buildings, fences, screens, landscaping, paving, curbing or other property improvements. The maintenance covenant shall be assured by an ongoing cash security deposit, Letter of Credit or by an Assessment Agreement permitting the City to complete any unperformed maintenance and to assess the cost thereof against the appropriate property.

**e) Application Procedure**

The initial application for a change to CD-5 zoning shall include the following, which is to be prepared by a registered land surveyor, registered civil engineer or registered architect:

- i)** If the area is to be subdivided, a sketch plan for platting meeting the requirements of Article 10 of the City Code shall be provided;
- ii)** A site plan for each parcel proposed for development that includes:
  - aa)** The maximum perimeter of the footprint for every building to be constructed;
  - bb)** The locations of all parking and drive areas;
  - cc)** The locations of all ISTS and wells;
  - dd)** The locations of all outside storage areas;
  - ee)** The locations of all fencing and screening;



- ff) The location of all landscaped or open areas and ponding.
- iii) For each proposed parcel, a narrative that states the range of specific land uses to which each parcel may be devoted. If Office-Warehouses are proposed, the range of potential land uses shall be given for each bay in each Office-Warehouse.
- iv) An identification of any variances that will be requested in the project.

**f) Conceptual Approval**

Following receipt of all of the items required in the application process, the proposal shall be reviewed by the Planning Commission, and then given conceptual approval, conditional approval or rejection by the City Council. Conceptual approval shall confer no “substantial reliance” or other developmental rights on the applicant, and is intended only as a measure of the initial reaction of the appointed and elected officials of the City to the proposed concept. However, in that the eventual rezoning of the property from R-A to CD-5 would require 4 or more affirmative votes of the City Council, Conceptual Approval shall also require 4 or more affirmative votes of the Ham Lake City Council.

**g) Public Input**

Following Conceptual Approval, the applicant shall submit the following more detailed project plans:

- i) Professionally prepared renderings of the outside plan view of all sides of each parcel proposed by the Developer, noting screening heights. These drawings should accurately portray the future view to the property from all adjoining roads and parcels, and should accurately portray the portions of all areas screened from view;
- ii) A detailed landscaping plan showing the location, size and species of all plantings;
- iii) A colored site plan detailing the locations of all structures, roads, drives, parking stalls, turn lanes or other infrastructure improvements, open areas and ponding.
- iv) A traffic study prepared by a registered professional engineer showing the peak traffic consequences of the project, assuming the most traffic-intensive land uses from the range of land uses reported, and assessing the effect of such traffic on adjacent roads, neighborhoods, and intersections.

- iv) For any land uses proposed that are likely to store or frequently have on site any diesel engine vehicles (except non-business passenger vehicles and pickup trucks), self-propelled construction equipment, other noise-generating motors or devices, or which have loading dock facilities for semi-tractor/trailer deliveries or pickups, a noise study prepared by a qualified acoustical expert predicting the estimated noise levels to be experienced by adjoining properties (except roadways) for a distance of 500 feet from each parcel proposed.
- v) A lighting plan showing the location and illumination pattern of all proposed lighting on each parcel;

Upon submission of all of the above, the City Council shall order the conducting of a public hearing on the proposal. In its order for hearing, the City Council shall designate who shall conduct the public hearing (City Council, Planning Commission or both) and what degree and coverage of notice to give to nearby properties, but not to be less notice than is required by law. The City Council may require more than one public hearing, or may recess any public hearing for continuation.

**h) Action Following Public Hearing**

The public hearing, once conducted, shall be deemed to be the public hearing required by Minnesota Statutes Chapter 462.357 (subd. 3) for Zoning Changes and to be the public hearing required by Article 10-204 of this Code at the Preliminary Plat stage of any subdivision. Notwithstanding the provisions of Article 10-204, for plats submitted in areas proposed for rezoning to the CD-5 classification, some or all of the items normally required for submission before the public hearing (as detailed in Article 10-204 (A) and (B) may, in the discretion of the City's engineer, be submitted following the public hearing. Following the public hearing, the City Council (after review and recommendation by the Planning Commission if appropriate) shall adopt a resolution either rejecting the rezoning or conditionally approving the rezoning, but such approval always conditioned on the successful completion of any remaining subdivision work and execution of an approved development agreement. If the City Council determines to reject the proposed rezoning, the rejection shall be deemed to also be a rejection of the proposed subdivision, if any.

**i) Preliminary Plat Approval**

If a subdivision is involved, then following the public hearing, and assuming a conditional approval of the rezoning request, the applicant shall submit the remaining items as required in Article 10-

204 of the City Code for Preliminary Plat Approval. The City Council, shall act on the Preliminary Plat Approval after Planning Commission review and recommendation.

**j) Final Approval of Subdivision and Rezoning**

Following conditional rezoning approval and preliminary plat approval, the City's attorney shall prepare a written development agreement embodying all of the terms and conditions of all previous approvals, and all of the other requirements of this code. Upon approval of the agreement by the City Council, the City Council shall grant final plat and rezoning approval, subject to the execution of the development agreement, including the posting of all required security and municipal fees or deposits, within thirty days after City Council approval. If the applicant fails to execute an approved development agreement within 30 days of City Council approval, then the City Council shall move to reject both the zoning request and the subdivision request.

**k) Deadlines for Filing and Completion; Security**

The following timelines shall apply to the development of properties developed in the CD-5 districts. The Development Agreement may provide for the posting of reasonable security to guarantee the proper and timely completion of all improvements.

**1. Projects involving subdivision:**

**aa)** The plat must be filed within ninety days of the date of final approval.

**bb)** All infrastructure improvements in the subdivision must be completed within one year of the date of filing of the plat, except the second lift of bituminous paving, which shall be completed within a time frame established by the City's engineer.

**cc)** Office-warehouses may not be constructed as separate bays, and all bays of a given office-warehouse must be constructed together, in one construction season.

**dd)** The applicant shall observe an absorption rate of not less than one building unit each six months until all lots in the subdivision have been sold and improved with a building. The City shall grant reasonable extensions to this absorption rate where market conditions warrant.

**2.** Where no subdivision of land is involved, the applicant shall apply for a building permit for all structures proposed in the project within 90 days after final approval, and all site improvements, including completion of all buildings, shall be complete within one year of the date of issuance of the building permit.

**9-220.9 Traditional Use Overlay Districts (TOD)** TOD districts are areas that carry a CD-1 or CD-2 zoning category, but which have been specially designated for the exceptions stated in this section by reason of having historically carried on a specific land use or land uses that have involved a significant investment in infrastructure and/or buildings. Properties included in the following designation as qualifying for TOD treatment (see Article 9-220.94) were properties in the CD-1 and CD-2 zoning districts which carried an estimated value for improvements to real estate that were at least 50% of total market value on Anoka County property tax records for the year of enactment of this Article (2010), or, if contiguous parcels were owned by the same party and the aggregate of the two parcels met the above criteria, then both parcels were included for TOD treatment. If the owner of any property in a CD-1 or CD-2 zoning district that is not included in the initial designation for TOD treatment wishes to have their property included, a condition of approval will be that the owner demonstrate to the satisfaction of the Ham Lake City Council that the value of improvements on the parcel is at least 50% of the total market value expressed on County Tax records for the year in which application is made.

**9-220.91 Permitted Uses, Conditional Uses and Temporary Conditional Uses**

The uses detailed in Article 9-220.3 (b) and (c) shall apply to TOD districts, regardless of whether the underlying zoning in such districts is CD-1 or CD-2.

**9-220.92 Exemption from Certain Building Standards**

The owner of a parcel carrying the TOD designation shall not be required, as a condition of approval of any site plan or building permit, to upgrade existing facilities to meet building standards found in Articles 9-220.2(a) or 9-220.3 (a). New structures constructed on such parcels, such as expansions of existing buildings, may also be exempted from such standards on approval of the City Council if the adherence to the exterior appearance standards required by the foregoing code sections would not significantly improve the overall aesthetic appearance of the property.

**9-220.93 Exemption from Certain Site Standards**

The provisions of Article 9-220.1 (c), (e) and (h) shall not apply to Parcels carrying the TOD designation.

**9-220.94 Designation of Specific Parcels**

Parcels carrying the TOD overlay designation shall be identified by PID number, and shall include the following:

17-32-23-21-0009

17-32-23-21-0013

17-32-23-21-0005  
17-32-23-12-0006  
17-32-23-12-0007  
17-32-23-12-0008  
20-32-23-42-0004  
20-32-23-13-0011

**9-230 Government Facilities Districts (GF)** Lands which are owned in fee by a body politic, including the City of Ham Lake, and which are used for the carrying on of governmental services, or services provided by government, or which are leased by a body politic to a public or private entity for activities or uses which tend to carry out a publicly needed or useful purpose. The *permitted uses* in this district include any use found by resolution of the City Council to be in furtherance of a public need or public purpose, but shall include Radio Transmission Towers under Article 11-1600.

**A. Temporary Conditional Uses**

- Seasonal Temporary Conditional Uses by Permit under Article 9-330.8

**9-240 Revocation of Permit or Certificate of Occupancy** A permit or a *Certificate of Occupancy* may be revoked for any mercantile establishment, for the following reasons. Prior to invoking any such revocation, the City Council shall establish a hearing procedure which affords reasonable due process of law to the holder of the permit or certificate.

**9-240.1 Criminal Violations.** The occupant has committed any criminal violation of law at a gross misdemeanor or felony level which is directly related to the business being conducted on the premises; such violations shall include, but are not limited to:

- a) Conviction by any licensed on-sale or off-sale liquor operator of sales of liquor to minors; illegal purchases of liquor from unlicensed distributors; sale or possession on the premises of any controlled substances by any employee or agent of the establishment;
- b) Violation of any felony level statute pertaining to sexual misconduct by any individual, with the consent or knowledge of the owner, on any premises licensed for on-sale consumption of liquor;
- c) Conviction of a gross misdemeanor or felony level by any pawn-shop owner or employee of possession of stolen property; receiving stolen property; theft or

- related crimes, criminal damage to property; or conspiracy to commit any of the above;
- d) Conviction of the crime of assault at a felony level of any employee or agent of the business against any patron, where the assault was committed in the scope of the violator's employment;
  - e) Conviction, at a felony level, of any agent or employee of any business, of any crime involving the sale, distribution or possession of controlled substances, where such sale, distribution or possession was carried out in direct connection with the business being conducted on the premises;
  - f) Conviction of any agent or employee of the occupant, at a gross misdemeanor or felony level, of any criminal violation of laws pertaining to consumer fraud, unfair trade practices, theft by swindle or trick, false advertising, or other consumer protection statute.

**9-240.2 Environmental Violations.** The occupant has introduced any hazardous waste into the soil on or near the premises, under circumstances in which the occupant has been found civilly liable under any State or Federal environmental law for clean-up or clean-up costs, or for which the occupant has been convicted of any felony-level offense for such introduction.

**9-240.3 Civil Judgments.** The occupant has three or more unsatisfied civil judgments arising out of civil lawsuits claiming fraud or other intentional torts directly related to the business being conducted on the premises.

## **9-300 SPECIAL ZONING MATTERS**

### **9-310 Conditional Use Permits**

A *Conditional Use Permit* is a permit issued after approval by the City Council, which allows a particular parcel to be used for a purpose other than a *permitted use* in a given zoning category. Additional provisions for certain types of *Conditional Use Permits* are found in Article 9- 330 of this code. The following specific terms and conditions shall apply to *Conditional Use Permits*:

**9-310.1 General Guidelines for Issuance** No *Conditional Use Permit* shall be issued unless the usage meets the criteria outlined in Article 9-110. In addition, a *Conditional Use Permit* may be denied if the City Council finds:

- i) that the proposed usage is visually or otherwise incompatible with adjoining pre-existing land uses; or
- ii) that the proposed usage would create unsafe traffic conditions; or

- iii) that the proposed usage would result in noise, light glare, vibrations, fumes or other environmental conditions that would disturb adjoining pre-existing land uses; or
- iv) that the proposed usage would otherwise be harmful to public health, safety or welfare.

**9-310.2 Procedure for Issuance** Application for a *Conditional Use Permit* shall be made on forms prescribed by the *Zoning Officer*, and shall be accompanied by such fees as the City Council may from time to time require. The *Zoning Officer* may request such additional information or data from the applicant as the *Zoning Officer* deems appropriate, prior to scheduling a public hearing. Once all submissions are complete, the *Zoning Officer* shall publish notice in the manner provided by statute of a public hearing to be held before the *Planning Commission*, which shall make recommendations to the City Council after reviewing the application and conducting the public hearing. The public hearing may be continued or recessed in the discretion of the *Planning Commission*. The City Council may attach such conditions to the issuance of *Conditional Use Permit* as it deems appropriate. If the application is denied, notice of the reasons for denial, including specific findings of fact, shall be given in the manner provided by law.

**9-310.3 Renewal and Revocation**

**9-310.31 Duration** A *Conditional Use Permit* shall be issued for a period of one year.

**9-310.32 Administrative Renewal** A *Conditional Use Permit* may be renewed by administrative action under the following conditions:

- a) City Staff shall keep a record of the expiration dates of all *Conditional Use Permits*, and shall conduct an annual inspection of the premises housing the *Conditional Use Permit* to verify ongoing compliance with the conditions of the Permit.
- b) If the annual inspection discloses no ongoing violations of the conditions of the Permit, the City Administrator shall approve the renewal, and make a notation in the Permit file as to such approval. Subject to the provisions of Article 9-310.33, the City Administrator may also approve a renewal where the annual inspection reveals an ongoing violation of the conditions of the Permit, if the violation is promptly cured by the Permit holder.

- c) No renewal fee shall be charged for renewal by administrative action.

**9-310.33 Renewal by City Council Action** Renewal of a Conditional Use Permit by approval of the City Council, after Planning Commission review, shall be required in the following instances:

- a) If the Permit holder requests a material change in the conditions of the Permit; or
- b) If the City staff has documented more than two violations of the conditions of a *Conditional Use Permit* within any given calendar year; or
- c) If the City staff has documented a violation that constituted an immediate threat to public health or safety, requiring the imposition of additional conditions to the permit to lessen the likelihood of a repeat of the violation.
- d) The holder of a Permit requiring renewal by City Council action shall be required to reimburse the City for any expense incurred in renewing the permit.

**9-310.34 Revocation** The City Council may, by resolution, revoke a *Conditional Use Permit* if, after conducting a review which affords reasonable due process of law to the permit holder, the City Council finds:

- a) That the conditions of the permit have been repeatedly violated in the preceding twelve months, and that there is a substantial likelihood that repeated violations will continue to occur; or
- b) That there is an ongoing violation of the permit that has not been cured; or
- c) That there are one or more conditions present at the location covered by the Permit that presents an ongoing threat to public health or safety.

**9-320 Temporary Conditional Use Permits**

A *Temporary Conditional Use Permit* is identical to a *Conditional Use Permit*, and subject to all of the conditions and procedures outlined in Article 9-310, with the following exceptions:

- i) The *Temporary Conditional Use Permit* shall be issued for a finite duration, after which the permit expires and the land usage no longer authorized. There is no renewal of a *Temporary Conditional Use Permit*.
- ii) The City Council may, in its discretion, require annual review of a *Temporary Conditional Use Permit*, and may, in the



initial issuance of the permit, reserve the right to establish additional conditions upon each annual review.

**9-330 Conditions for Certain Types of Conditional Use Permits**

The following types of land use shall be allowed by *Conditional Use Permit* or *Temporary Conditional Use Permit* only, in the zoning districts in which the specific use is so listed, but in addition to the provisions of Article 9-310, the special provisions of this Article 9-330 shall also apply:

**9-330.1 Motor Vehicle Salvage Yards** *A motor vehicle salvage yard is a location in which inoperable motor vehicles are stored, and their parts stripped for retail sales. As of the enactment date, there are two motor vehicle salvage yards located in the City (Certified Auto Recyclers and Jellison Auto Parts), which shall continue to be governed by the provisions of the Ham Lake City Code in effect prior to the enactment date, but which shall nonetheless maintain compliance with the rules and regulations of other jurisdictions having control over their activities, including, without limitation, the Minnesota Pollution Control Agency.*

**9-330.2 Theatres** *A Drive-in Movie Theatre is an outdoor venue in which patrons watch movies projected on a permanent screen, while seated in motor vehicles. Without limitation, the following conditions shall be attached to any conditional use permit issued for a Drive-in Movie Theatre:*

- i)** All driveways, lanes, and surfaces on which motor vehicles will travel or be parked shall be paved with bituminous or concrete surfacing to the same standards as required for other commercial properties;
- ii)** The viewing screen shall not be visible from any other property;
- iii)** An annual maintenance bond or other security acceptable to the City shall be maintained to guarantee the integrity of the paved surfaces;
- iv)** Headlight glare from entering or exiting vehicles shall not be visible from any other property excepting the actual points of entrance/exit from a public road;
- vi)** The City shall impose additional conditions on a case-by-case basis.

**9-330.3 Sexually Oriented Businesses** *A sexually oriented business is a business which derives ten percent or more of its gross revenue from the sale or display of depictions of full or partial human nudity, sexual acts or simulated sexual acts, conditions of sexual excitement or other sexual gratification, including, without limitation, establishments known by the common names of Adult*

Bookstore, Adult Theatre, Massage Parlor, Rap Parlor, Sauna, Adult Entertainment Center, Strip Joint, Strip Bar, Gentleman's Club, or the like. *Nudity* is the display of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depicting of covered male genitals in a discernibly turgid state. Without limitation, the following minimum conditions shall be required of or attached to any new *conditional use permit* for a *sexually oriented business*.

- i)** Each such business shall be located as the sole occupant of a freestanding building;
- ii)** No such location shall be nearer than 1,000 feet from any other structure, nor nearer than 2,500 feet from any school or church;
- iii)** Security cameras shall be installed so as to monitor all locations within the business at all times;
- iv)** No such establishment shall be eligible for any type of liquor, beer, malt liquor or wine license;
- v)** No private booths or viewing rooms shall be permitted; excepting a single private business office, the areas of all rooms shall at all times be visible from the outside, either through glass windows or through open construction;
- vi)** In any setting involving live entertainment, no *obscene acts* shall be permitted. *Obscene acts are:*
  - a)** Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or
  - b)** Clearly depicted human genitals in the state or sexual stimulation, arousal, or tumescence; or
  - c)** Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
  - d)** Fondling or touching of nude human genitals, pubic region, buttocks, or female breast; or
  - e)** Situations involving a person or persons, any of whom are nude, clad in undergarments, or in

- sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraining of any such persons; or
- f) Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or
  - g) Human excretion, urination, menstruation, vaginal or anal irrigation.
- vii) The City shall impose additional conditions on a case-by-case basis.

**9-330.4 *Farm Wineries*** A *Farm Winery* is a business licensed by the State of Minnesota under the provision of Minnesota Statutes Chapter 340A.315 to produce table, sparkling or fortified wines. All of the provisions of Minnesota Statutes Chapter 340A. 315 pertaining to *Farm Wineries* are hereby adopted by reference and made applicable to this Code, whether or not stated herein. *Conditional Use Permits* may be issued to *Farm Wineries* in the same manner and under the same procedures as for other *Conditional Use Permits*, but subject to the following conditions.

**A. Statutory Conditions** It shall be a mandatory condition of any *Conditional Use Permit* issued for a *Farm Winery* that the party holding the permit at all times maintains a Farm Winery License issued by the State of Minnesota. The license shall be prominently displayed at a location where wine is sold on sale or off sale. The licensee shall also furnish evidence of current licensure and liquor liability insurance to the City Administrator at least once each year, at the time the state Farm Winery License is renewed. The party holding the permit shall also at all times maintain compliance with the requirements of Minnesota Statutes Chapter 340A.315.

**B. Social Events** Social Events include weddings, seminars, craft shows, farmers markets, parties and other organized gatherings of people for a specific purpose, as opposed to random visits by members of the public. The following regulations shall apply to all Social Events:

- 1) If the Social Event will extend after sunset, the grounds will be adequately illuminated to promote guest safety.

- 2) Adequate bathrooms will be provided to serve the anticipated crowd.
- 3) No more than 250 guests shall be permitted in attendance at any one time.
- 4) Shelter and seating will be provided as needed, and may be in the form of tents and folding chairs.
- 5) Parking may be on grass surfaces, but shall be arranged in orderly rows and lanes.
- 6) If food other than commercially packaged snacks is served, all applicable conditions of the State and County Health Departments shall be observed, regardless of whether the food is prepared on site or furnished by a caterer.
- 7) The rules and regulations of all units of government pertaining to activities carried on at the Social Event shall be observed at all times.

**C. General On-Sale, Off-Sale and Wine Tasting**

All sales of wine by the glass (on-sale) and all wine tasting outside of a Social Event shall be conducted in a building used for that purpose. The structure shall observe all fire codes and building codes, contain at least one indoor permanent bathroom, and have adequate paved parking to accommodate the customer base. Sales of wine by bottles (off-Sale) shall occur in the same structure, and the premises shall be adequately secured to inhibit burglary or theft.

**D. Reservation of Rights by City**

The City may impose additional requirements for any individual Social Event or for the conditional use permit in general, and each permit shall also provide that the City may alter the conditions from time to time as needed.

**9-330.5 Therapeutic Massage** *Therapeutic Massage* means the practice of administering physical therapy through the massaging, rubbing, kneading or other manipulations of the body, administered solely for therapeutic purposes. Chiropractic medicine is not *Therapeutic Massage*. Massage which results in or is intended to result in the sexual gratification of the recipient is not *Therapeutic Massage*.

**9-330.51 Massage Therapist** A *Massage Therapist* is a person engaging in the practice of *Therapeutic Massage* and who meets one or more of the following qualifications:

- a) The person has passed the examination given by the National Certification Board for Therapeutic Massage & Bodywork (NCBTMB) and maintains current certification by said board; or
- b) The person has passed the MBLEx examination given by the Federation of State Massage Therapy Boards and maintains current certification by said federation; or
- c) The person is a Professional Member (or equivalent) in good standing in the American Massage Therapy Association (AMTA); or
- d) The person is a Professional Member (or equivalent) in good standing in the Associated Bodywork and Massage Professionals (ABMP).

**9-330.52 Minimum Conditions for Certain Permits** Without limitation, the following minimum conditions shall be required of or attached to any *Conditional Use Permit* or *Temporary Conditional Use Permit* issued for *Therapeutic Massage*:

- a) No person shall engage in *Therapeutic Massage* who is not a *Massage Therapist*;
- b) In residential areas, no signage shall be permitted;
- c) Hours of operation shall be limited to 8:00 am to 10:00 pm;
- d) The premises shall be available for random inspection by City agents at all times, without notice;
- e) If the holder of a *Conditional Use Permit* or *Temporary Conditional Use Permit* to engage in *Therapeutic Massage*, or if any agent, employee, subcontractor, independent contractor, joint venture, partner or other associate of the permit holder is convicted of the crime of prostitution or soliciting a prostitute, such

conviction shall be grounds for the City to revoke the permit.

f) The permit holder shall at all times maintain a complete listing of all persons engaged by the permit holder as *Massage Therapists* and shall on request of City staff furnish evidence that each such person meets the qualifications to be a *Massage Therapist*.

**9-330.6 Legal Fireworks** Legal Fireworks shall refer to that term as defined in Minnesota Statutes Chapter 624.20. Subject to the conditions below, the provisions of National Fire Protection Association (“NFPA”) Standard 1124 (2003 Edition) shall control the sales of Legal Fireworks in the City. Actual “display” of Legal Fireworks shall be in conformance with NFPA 1124.

**A. License Required**

A license must be obtained from the City prior to engaging in the sale of any Legal Fireworks. Applications shall be made on forms prepared by the City Administrator, and shall require the submission of a site plan meeting the same standards as for other site plans submitted for commercial building sites. The annual fee for issuance of a permit shall be the maximum fee permitted by Minnesota Statutes. Licenses shall be issued on approval of the City Council, after site plan review by the Planning Commission.

**B. Zoning Districts**

Legal Fireworks may be sold only in the CD-1 and CD-2 Zoning Districts.

**C. Sales Locations**

Legal Fireworks may be sold only from permanent structures meeting the conditions of NFPA 1124 7.4.1 (1), or from temporary, tent-like structures meeting the conditions of NFPA 1124 7.4.1 (2).

**D. Sales from Temporary Structures**

- 1) Licenses issued for temporary structures shall run from June 15 through July 6 of each year, and hours of operation for temporary structures shall be from 9:00 am to 9:00 pm.
- 2) No temporary structure shall be located at a distance closer than fifty feet from any other temporary structure licensed to sell Legal Fireworks.
- 3) All inventory at temporary structure facilities shall be removed from the sales location outside of business hours, to a safe and secure location outside of any

residentially zoned district (or to a location outside of the City of Ham Lake).

4) At no time shall there be present at the location of a temporary structure more than 1200 pounds of product, containing no more than 300 pounds of pyrotechnic composition.

5) Signage for temporary structures shall be a part of the site plan approval, and shall be erected only during the license duration period.

6) Temporary structures shall be located on bituminous or concrete surfaces, and have bituminous or concrete parking area immediately contiguous to the structure, connected to the structure by bituminous or concrete walkway or walkways. The licensee shall provide two parking stalls and sufficient driveway area for every 100 square feet under cover in the temporary structure, plus one additional parking stall and sufficient driveway area for each employee who will be engaged on the same work shift.

7) Temporary structures using the parking lot of an existing business shall meet the parking and driveway requirement without utilizing any of the minimum required parking and driveway requirement for the existing business.

**E. Severability**

A finding by any tribunal of competent jurisdiction that any portion of this ordinance is unenforceable shall affect only the portion so found, and the remainder hereof shall remain in full force and effect.

**F. Renewal Licenses**A license for renewal of a license for fireworks sales may be summarily issued by the City Administrator without Planning Commission or City Council review if the site for which the license is sought has been previously issued a license, and the new application does not present any significant changes in the scope of the previous license, and under conditions in which activities under the previous license did not generate any significant complaints or verified allegations of violations of the conditions of the previous license.

**9-330.7 Temporary Commercial Structures** Following review of a site plan and building code compliance by the city staff, the City's Building Official may issue a permit for a Temporary Commercial Structure ("TCS") under and subject to the following conditions.

**A. Definitions**

**1) Temporary Commercial Structures (“TCS”)** are shelters having walls or partial walls and a roof, constructed of fabric, wood, plastic, glass or metal, or combinations thereof, which have no permanent foundation and are intended for temporary usage in connection with merchandise sales or sponsored activities of a permanent business. A portable toilet is not a TCS. For the purpose of this code, the following shall not be considered to be TCS, and shall not be allowed to be used as a TCS: mobile homes, travel trailers, motor homes, semi-trailers or any other conveyance designed for or capable of traveling, by self-propulsion or trailering on public roadways. This Article specifically also does not pertain to Legal Fireworks, the sale and display of which is exclusively governed by Article 9-330.6.

**2) Parent Business** is the permanent business located on the same real estate parcel, or on a real estate parcel adjoining the real estate parcel upon which the TCS is proposed to be located.

**3) Permit** is a permit which may cover up to three separate events using a TCS.

**B. Zoning Districts** TCS may be located only in districts zoned CD-1, CD-2, CD-3 or CD-4.

**C. Relationship to Business** A TCS may be used only in connection with a Parent Business located on the same or a contiguous real estate parcel.

**D. Locations** A TCS may be located on any area of the parcel upon which a permanent structure could be legally constructed, but may not be located over any portion of an existing individual sewage treatment system or well.

**E. Parking and Accessibility** The site plan submitted in connection with the TCS shall demonstrate the following:

- 1)** That there is adequate space for parking on bituminous or concrete surfaces for all customers and employees expected in attendance;
- 2)** That the proposed activity will not create any traffic hazards on nearby roadways due to stacking, congestion or turning movements;



**F. Duration** The following timing conditions shall be applicable to TCS:

1) The TCS may be used for up to six weeks in any given calendar year. This period may be divided into up to three separate usages, each of which usage must be separated by at least thirty days' duration.

2) No activities involving the general public shall take place at the TCS during hours in which the Parent Business is not open for regular business.

**G. Physical Features** The height, dimensions, structural components, and any electrical, gas, or plumbing features for each TCS shall meet the provisions of all state, county, municipal or federal codes, including, without limitation, the International Building Code, fire codes, electrical code and plumbing code. All signage must meet the City's sign codes, including temporary signs.

#### **9-330.8 Seasonal Temporary Conditional Uses**

A *Seasonal Temporary Conditional Use* is an activity of no more than forty-five days' duration, involving invitees to a specific location, which is not being promoted primarily for commercial exploitation, but which has as its primary function a civic, recreational, celebratory, educational or charitable purpose. Such activities include, without limitation, athletic tournaments, harvest festivals, spring, summer, fall or winter festivals, or the like. A *Seasonal Temporary Conditional Use Permit* may be issued after approval by the City Council, upon review and recommendation of the Planning Commission. The City Council may establish any reasonable condition to the issuance of such a permit. The City Council may require a public hearing to be conducted by the Planning Commission prior to acting on such a permit, but may also direct that the permit be annually reviewed and re-approved by City Staff if no complaints are received regarding the activity.

Notwithstanding the foregoing, in the event that the provisions of the foregoing paragraph overlap or come into conflict with other portions of the Ham Lake City Code regarding certain activities, including, without limitation, Large Assemblies, Field Parties or the use of Temporary Commercial Structures, the usage of this Article 9-330.8 is to be deemed entirely discretionary by the City Council, and the City Council is entitled to decline to use this Article in favor of more restrictive regulatory provisions found elsewhere in the City Code.

To be eligible for a *Seasonal Temporary Conditional Uses by Permit* the parcel of land on which it is proposed must contain at least 20 contiguous acres, and be located in an area zoned R-A or GF.

### **9-330.9 Raising of Pigeons**

#### **A. Definitions**

- 1) “Pigeon”** means a member of the family *Columbidae*, and consists of birds known as “Racing Pigeons”, “Fancy Pigeons” and “Sporting Pigeons” as those terms are commonly known and used in the pigeon raising community.
- 2) “Recognized Pigeon Association”** means the International Federation of Raging Pigeon Fanciers, the American Racing Pigeon Union, Inc., the National Pigeon Club, the American Pigeon Club, the Rare Breeds Pigeon Club, the American Tippler Society, and the International Roller Association.
- 3) “Loft”** means a structure especially built for the housing of pigeons.

#### **B. Conditions**

The following conditions shall be observed by every person granted a conditional use permit to keep, breed and raise pigeons.

- 1) Location.** All pigeons shall be kept in a Loft containing at least 50 square feet of floor area. If the Loft contains more than 120 feet of floor area, the structure shall be deemed an *Accessory Building* and subject to the provision of Article 9-370. A Loft shall not be considered a *Farm Building*.
- 2) Construction Standards.** The Loft shall be constructed as a wood frame building, of sufficient height and other security measures to discourage invasion by predatory animals. The property owner shall not be required to obtain a building permit for the Loft, but plans for the Loft shall be submitted at the time of application for Conditional Use Permit. The Loft shall provide adequate shelter from the elements, and meet any standards recommended by a Recognized Pigeon Association.
- 3) Population Limitations.** No more than 32 pigeons may be kept on any parcel of land. Pigeons that are 28 days old or younger shall not be counted against this limit.

**4) Noise.** The permit holder shall take adequate steps to insure that noise from the pigeons are not audible to nearby properties.

**5) Personal Hobby Use Only.** Pigeons kept in any district but the R-A districts shall be for the personal hobby use of the permit holder, and the activity shall not be operated as any kind of a mercantile venture in areas zoned other than R-A.

**6) Sanitation.** All animal waste shall be removed and properly disposed of in a manner that promotes general health and safety, and all feed shall be stored inside the Loft, safe from invasion by vermin or disease-promoting forces. All feeding activities shall be carried on within the Loft.

**7) Confinement.** Except when involved in exercise, competition or training activities under the supervision of the permit holder, pigeons shall be confined to the Loft, and shall not be permitted to perch or linger on the property of others. Pigeons that have been fed within the previous four hours shall not be released from the Loft.

**8) Banding and Registration.** All pigeons that are six months old or older shall be banded and registered with at Recognized Pigeon Association.

**9) Screening.** All lofts shall be placed in locations where they are screened by buildings, fences or coniferous vegetation from view from adjoining properties.

**C. Annual Inspection.** All facilities shall be subject to an annual inspection by the City. The City may, at the discretion of its staff, delegate the inspection to a Recognized Pigeon Association. The permit holder shall comply with all requirements imposed by any inspection. All costs of inspection shall be the responsibility of the permit holder.

**D. General Nuisance.** The permit holder shall conduct all activities in connection with the keeping and raising of pigeons in a manner that avoids the creation of public or private nuisances, and to this end, and without limitation, the activities shall be conducted so as to eliminate from outside the Loft all odor, noise, vibrations, attraction of rodents, vermin or predatory animals, attractive nuisance, eyesores or other aesthetic detractions from neighborhood appearance, traffic or accumulation of debris or waste.

**9-340 Restrictions for Specific Activities**

The following restrictions shall apply to the activities noted below, in all zoning districts within the City.

**9-340.1 Aviation** Aircraft which are required to be registered with either the Federal Aviation Administration (FAA) or the Minnesota Department of Aeronautics, or for which a pilot's license of any kind is required, shall not be permitted to land or to take off except within the boundaries of an airport or heliport operated under the ownership and auspices of the Minnesota Department of Aeronautics or other public body, unless under one of the exemptions listed below. Military aircraft, ambulance aircraft, or aircraft operated by any public agency are exempt from this prohibition. Aircraft for which no registration is required, and for which no pilot's license is required, such as ultra-lites, shall not be operated within 500 feet of any structure. Specific landing and/or takeoff exemptions also include:

- a)** landing is permitted in a bona fide emergency;
- b)** landing and taking off are permitted if in conjunction with a civic event whether publicly or privately sponsored, under the following conditions:
  - i)** helicopter rides are being offered free or for a fee by a licensed pilot in a registered helicopter, in conformance with the rules and regulations of all agencies having jurisdiction over the activities of helicopters; and
  - ii)** the event is sponsored by a non-profit corporation formed specifically for the purpose of sponsoring the event; and
  - iii)** the event lasts no more than three days in total length; and
  - iv)** no more than two such events occur within the City in a given calendar year; once two such events have occurred involving helicopter takeoffs or landings, no more helicopter takeoffs and landings are permitted in the City during the remainder of the calendar year; and
  - v)** takeoffs and landings occur at a location that is separated by at least 500 feet from any occupied building; and
  - vi)** at least 60 days prior to any such takeoffs or landings, the sponsor of the event shall have notified the City Administrator, in writing, of the intention to sponsor helicopter rides, including the dates and times of day, which notification shall include written verification by representatives of the Federal Aviation Administration and the Minnesota Department of Aeronautics that the proposed activity and licensure of actual aircraft and pilot

to be used is in conformance with their rules and regulations; and  
**vii)** no takeoffs or landings occur prior to 10:00 am or after sunset on any given day.

**9-340.2 Manufactured Mobile Homes** *Manufactured Mobile Homes* (as defined by Minnesota Statutes Chapter 327.31, sub. 6) shall not be permitted to be stored or occupied in any area other than in an area zoned R-M, except as follows:

- i)** A *Manufactured Mobile Home* may be used as an office in a mobile home sales lot which is legally being operated in an appropriate zoning district;
- ii)** A *Manufactured Mobile Home* may be used as a temporary dwelling in areas zoned for residential purposes, for a period of up to 180 days, under circumstances in which a previously existing dwelling unit on the lot has been destroyed or severely damaged by casualty;
- iii)** A *Manufactured Mobile Home* may be used as a temporary office in any bona fide construction project, for a period of up to one year;
- iv)** Usage of any *Manufactured Mobile Home* in the manners described in sub-paragraphs i), ii) and iii) above shall not be permitted without the advance consent of the City Council, which may establish additional conditions for such usages.

**9-340.3 Recreational Vehicles (“RV”s)**

A *Recreational Vehicle* is either a self-propelled motor vehicle or a trailer which contains living quarters that include kitchen, bathroom and bedroom features, and which contain facilities to provide heat, running water, electricity and waste disposal. RV’s may not be used for human overnight occupancy except in the following circumstances:

- a.** In a bona fide commercial campground;
- b.** As a guest facility or children’s activity for a time period not exceeding seven days per year;
- c.** If the RV contains at least 200 square feet of living area, is at least 30 feet in length, is fully operational, has a sewage disposal system capable of tying into an ISTS or being transported to an approved RV sewage disposal site and has no visible signs of rust, faded or peeling paint or body damage, an RV may be used in lieu of a *Manufactured Mobile Home* for temporary occupancy under the circumstances and conditions described in Article 9-340.2 (ii) and (iv) of the Ham Lake City Code.

**9-350 Home Occupation Permits**

A *Home Occupation* is a for-profit enterprise carried on in a residential dwelling, under circumstances in which there is no outward indication of the existence of the enterprise visible or otherwise detectable from outside the premises, and which otherwise meets the criteria specified below. A *Home Occupation* permit may be issued by the City Council after review and recommendation by the *Planning Commission*, and subject to any conditions imposed by the City Council. A *Home Occupation* permit may be revoked by the City Council, after affording due process of law to the applicant, if the conditions of issuance or any other ordinance feature are violated.

**9-350.1 Criteria** The following criteria must be observed for any usage to qualify for a Home Occupation Permit.

**a) Incidental Usage** The usage must be clearly incidental and subservient to the usage of the premises as a dwelling, and may not occupy a significant portion of the dwelling unit living space;

**b) Indoors** All activities must be carried on indoors. No outside storage, except the parking of motor vehicles, shall be permitted;

**c) Parking** No on-street parking shall be generated, and no more than a total of four passenger motor vehicles may be parked at the premises in conjunction with the occupation, including employee and customer parking. All parking shall be on paved surfaces;

**d) Employees** No more than one employee who does not live at the residence shall be permitted;

**e) Traffic** The activity may not generate any traffic in excess of that normally generated by a residential dwelling unit;

**f) Nuisance and Compliance** The usage shall not generate any nuisance, and the landowner shall at all times be compliant with all other municipal codes, and the regulations of all other jurisdictions;

**9-350.2 Annual Review** All *Home Occupation* permits shall be reviewed annually by the City Staff, and shall automatically be renewed unless complaints have been received, in which case the permit shall be re-submitted to the *Planning Commission* for review and recommendation to the City Council.

**9-350.3 Special Home Occupation Permits** A party desiring to conduct a Home Occupation in a Garage or Accessory Building under conditions meeting the remaining requirements of Article 9-

350 may apply for a Special Home Occupation Permit under the following procedure:

- a)** The applicant shall submit a site plan drawn to scale showing the locations and dimensions of all buildings and driveways on the premises, and identifying the location where the Home Occupation activity will take place.
- b)** The applicant shall submit a narrative in sufficient detail to describe all aspects of the activity to be conducted and the locations of all such activity.
- c)** The Planning Commission shall conduct a Public Hearing on the proposed application, with mailed notice to all resident whose property lines come within 750 feet of the property lines of the applicant's lot, and published notice at least ten days prior to the hearing.
- d)** Following the Public Hearing, the Planning Commission shall make recommendations to the City Council, including such conditions as are deemed appropriate.

Notwithstanding any provision in Article 9-350.1 (a) to the contrary, a Special Home Occupation shall be mainly confined to the Garage or Accessory Building. A Special Home Occupation Permit shall be subject to the same provisions for revocation as Home Occupation Permits. In addition, notwithstanding any provision in Article 9-350.1 to the contrary, a Special Home Occupation may include uses that are normally not found in residential dwellings, as long as there are no obvious outward indicia of the activities being carried on under the Special Home Occupation Permit, no noise generated which is audible to nearby properties, no odor or vibration generated that is detectable to nearby properties, no outside storage which is visible from nearby properties or public ways and no customer traffic.

Special Home Occupations may involve up to one commercial delivery/pickup by outside delivery service van (such as UPS or Federal Express) or postal vehicle per day. Deliveries of goods produced at the site may be limited in scope and frequency by the approval process, including specifying the type of delivery vehicles that can be used, and including prohibition on commercial logos being displayed on delivery vehicles.

### **9-360 Variations**

The City Council upon appeal or upon direct request made under this Code shall have the power to authorize variances from the requirements of this Code, and to attach such conditions to the variance as it deems necessary to assure compliance with the purpose of this Code. A variance may be permitted if the following requirements are met:

- a) The variance is in harmony with the general purpose and intent of the Code and is consistent with the Comprehensive Plan.
- b) There are practical difficulties in complying with the Code, meaning that:
  - i) The property owner proposes to use the property in a reasonable manner that is otherwise not permitted by the Code; and
  - ii) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
  - iii) The variance, if granted, will not alter the essential character of the locality.

Variances may not be granted to permit a land use that is not a permitted, conditional or temporary conditional use in the particular zoning district. The provision of Minnesota Statutes Chapter 462.357 Subd. 6 (2) relating to solar energy and temporary two-family dwellings shall also be observed. Economic conditions alone do not constitute practical difficulties.

### **9-370 Accessory Buildings and Farm Buildings**

An *Accessory Building* is any structure located or proposed to be located in any *Residential Land Use* in the R-1, R-A and PUD zoning districts, which is not the *dwelling unit*, and which is not a *garage*, which is not a *Farm Building*, and which has a floor size of more than 200 square feet. A building or structure meeting the above definition except for the size, is a *yard shed*. A *Farm Building* is a structure located in an R-A District which is used for bona fide agricultural purposes, including farm machinery storage, crop storage or housing livestock, poultry or horses.

A single *Accessory Building* and a single *yard shed* may be constructed on a Residential Land Use lot which is one (1) acre or less in the R-1, R-A and PUD zoning districts, under the conditions outlined below. It is the intention of this code that for *Residential Land Uses* in the R-1 and PUD districts, for lots which are one (1) acre or less, there shall be a maximum of four structures allowed on a given lot: a *dwelling unit*; a *garage (attached or detached with a maximum size of 3000 square feet)*; an *Accessory Building (freestanding)*; and a *yard shed (under 200 square*



feet). If a *garage* was originally attached to a *dwelling unit*, and has since been converted to become living space in the *dwelling unit*, then that portion so used shall no longer be deemed a *garage*.

Up to two *Accessory Buildings* and a single *yard shed* may be constructed on a Residential Land Use lot which is more than (1) acre and less than ten (10) acres in the R-1, R-A and PUD zoning districts, under the conditions outlined below. One *Accessory Building* may be located in and meet the “Front Yard Setback” size and location requirements, and one *Accessory Building* may be located in and meet the “Side or Rear Yard” size and location requirements outlined below; or, two *Accessory buildings* may be located within the Side or Rear Yard, and subject to the sizes shown in the table under Article 9-370.1, Size Limitations. It is the intention of this code that for Residential Land Uses in the R-1 and PUD districts, for lots which are more than one (1) acre and less than ten (10) acres, there shall be a maximum of five structures allowed on a given lot: a *dwelling unit*, a *garage (attached or detached with a maximum size of 3000 square feet)*; two *Accessory Buildings (freestanding)*; and a *yard shed (under 200 square feet)*.

Provided, that for lots in the R-1, R-A, and PUD districts which are 10 acres or more in size, deviation from these standards may be permitted in the discretion of the City Council on a case-by-case basis.

**9-370.1 Size Limitations** An *Accessory Building* shall be no more than one story in height, and the following size limitations shall apply to *Accessory Buildings*:

Lot size	Maximum Accessory Building Size*	
	Front Yard Setback**	Side or Rear Yard Setback***
One acre or less	676 sq. ft.	1000 sq. ft.
1+ acre to 2.5 acres****	720 sq. ft.	1500 sq. ft.
2.5+ acres to 5 acres	800 sq. ft.	2400 sq. ft. <u>unless approved by City Council</u>
5+ acres to 10 acres	1200 sq. ft.	3000 sq. ft. <u>unless approved by City Council</u>
10+ acres	5000 sq. ft. unless approved by City Council	

\* Sizes shown are the maximum allowable square feet at foundation level.

\*\* The “Front Yard Setback” is the area between the front of the dwelling unit (primary residential structure) and the street right of way. For all lot sizes, *Accessory Buildings* constructed in this area must also be

constructed with the building materials outlined below and be architecturally compatible with the dwelling unit

\*\*\* The “Side or Rear Yard Setback” is the area that lies away from the road right of way and behind the front yard setback.

\*\*\*\* For lots greater than one acre and up to 2.5 acres, the size limits shown may be combined to allow one Accessory Building in the Side or Rear Yard Setback up to 2250 square feet, and with no additional Accessory Building existing or allowed in the Front Yard Setback.

**9-370.2 Building Materials** For lots which are 5 acres or less in size, the outside surface materials of all *Accessory Buildings* shall, as closely as practical, match the color, texture and style of the like surfaces on the dwelling unit. For lots which are more than 5 acres in size, all *Accessory Buildings* in the Front Yard Setback shall match the dwelling unit as outlined above. Pole-type construction shall be permitted only on lots exceeding 5 acres and only in the Side or Rear Yard Setback.

**9-370.3 Height Restriction** For lots which are less than 5 acres in size, the maximum height of an *Accessory Building* shall be equal to the height of the *dwelling unit*, or 25 feet, whichever is less.

**9-370.4 Setbacks and Building Codes** The locations and building standards for *Accessory Buildings* and *yard sheds* shall be as found in setback standards and the building code for other structures, except that the rear yard setback for *Accessory Buildings* shall be ten feet.

**9-370.6 Submittal Requirements** In addition to building plans, The *Zoning Officer* may require the submission of a scaled site plan, rendering or pictorial representations, and other data deemed necessary by the *Zoning Officer*.

**9-370.7 Usage** *Accessory Buildings* and *yard sheds* shall be used only for purposes related to the residential use of the parcel, and shall not be used for the conducting of any business or the storage of any business-related property, such as business equipment, business inventory or business supplies.

**9-370.8 Farm Buildings** A *Farm Building* is a structure located on land zoned R-A, which is not a *dwelling unit*. No *Farm Building* may be constructed at a distance closer than 100 feet from any lot line.

**9-380** *Repealed and deleted May 16, 2016 per Ordinance 16-04.*

**9-390 Opt-Out of Temporary Family Health Care Dwellings Requirements**

Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of Ham Lake opts-out of the requirements of Minn. Stat. §462.3593, which defines and regulates Temporary Family Health Care Dwellings. This Ordinance shall be effective immediately upon its passage and publication.

**9-400 Establishment of Commercial/Industrial Planned Unit Development Overlay District (“CPOD”)**

- A. Establishment of CPOD District.** There is hereby established a CPOD District. All parcels in the City of Ham Lake that have a zoning classification of CD-1 or CD-2, and that lie within one mile of the right-of-way of TH 65 shall be subject to this classification. The present zoning category of CD-1 or CD-2 shall not change, but the City Council may, by ordinance, “overlay” certain selected parcels with the CPOD classification. When so done, such parcels shall remain subject to all of the requirements of the CD-1 or CD-2 District, but shall also be subject to the requirements of the CPOD overlay district. If any of the provisions of the CPOD district conflict with the provisions of the CD-1 or CD-1 districts, the provisions for the CPOD district shall supersede the provisions for the CD-1 and CD-2 districts.
- B. Preliminary Submission Requirements.** The proponent of any proposed land use with a CPOD shall submit to the City an application for preliminary review (the “Preliminary Site Plan”) containing a sketch prepared by a registered land surveyor, engineer or architect at a scale capable of displaying the entire proposed development on a sheet that is 36 inches wide by 24 inches high, displaying the perimeter of the parcel to be developed, along with a footprint of all structures, driveways, parking areas and other areas of impervious surface to be created, along with a narrative that describes the nature of the proposed land uses. If the structures are to be used for rental to unknown tenants, the general nature of the businesses anticipated for tenancies shall be described in sufficient detail to enable the City to apply motor vehicle trip generation statistics to make a preliminary estimate of traffic to be generated by the proposal. The site plan shall also display topographic contours at intervals of four feet or less.
- C. Review Deposit and Agreement.** The Preliminary Site plan shall be accompanied by a cash deposit of \$5,000.00 to defray municipal

review costs, and the applicant shall execute the City's contract agreeing to reimburse the City for any additional costs in reviewing or processing the application. Any portion of the deposit or any future deposit not actually used for municipal review costs shall be refunded to the applicant at the time of final disposition of the application.

- D. "60-Day Rule" and Subdivision Approval Requirements.** In that Minnesota Statutes Chapters 15.99 and 462.358 impose certain mandatory review deadlines for zoning and subdivision decisions, it shall be the policy of the City to process requests received under this portion of the code as rapidly as possible. However, due to the fact that some requirements of the applicant cannot possibly be known until after the City Council has made its listing of requirements under Article 9-423, it is the applicant's responsibility to anticipate and to plan for the preparation of some or all of the items (in particular the EAW, traffic study and noise study) that may be required by the City Council. Failure of the applicant to submit such items in time to enable the City to comply with the decisions required under the aforementioned statutes shall be grounds for the City to deny the request by reason of untimely submission of needed data.

#### **PART I. Vacant Land Development**

The following provisions shall apply exclusively to requests for subdivision, site plan or building permits sought for lands which at the time of application, do not contain any existing structures.

##### **9-410 Parcels Requiring a Planned Unit Development (PUD) Submission**

The Preliminary Site Plan shall be reviewed by City Staff and such consultants as the City Staff shall choose to engage, and a decision made by staff within 15 business days after submission of the application. Any proposal that meets one or more of the following criteria shall be required to submit the proposal as a PUD, under Article 9-420 below.

- a)** A project that will generate 1,440 or more one-way daily motor vehicle trips;
- b)** A project that will create 11,000 square feet or more of impervious drainage surfaces;
- c)** A project abutting residentially zoned land;
- d)** A project abutting any park;
- e)** A project containing or abutting any parcel of record containing lands deemed by City staff to contain or likely to contain designated wetlands;

If a project is found by City staff not to meet any of the above criteria, the proposal shall be processed and proceed in the same manner as other proposals in the CD-1 and CD-2 zoning districts. If a project does meet

any of the above criteria, then the project shall be deemed to require the creation of permanent divisions of land areas (tracts) reserved for public road rights of way, drainage features, or buffer areas, and shall therefore be deemed to be subdivisions of land within the meaning of Minnesota Statutes Chapter 462.358, in that the project will require the separation of the main parcel into two or more tracts.

#### **9-420 PUD Procedural Requirements**

Once a project has been determined by City Staff to require a PUD submission, the applicant shall be notified in writing, and shall be required to proceed under the following provisions.

##### **9-421 Platting Required**

The area within the perimeter of the proposed development shall be submitted as a plat under Article 10 of the City Code. The applicant shall submit a sketch plan of the plat, showing the locations of all areas to be designated as separate tracts to house drainage easements, utility easements, roadway easements and the residential setback and buffer easement required under any portion of the Ham Lake City Code.

##### **9-422 Site Plan**

At the time of submission of the plat, the applicant shall also submit a detailed site plan of the proposed development that displays, at a scale designated by the City's engineer, the following information:

- i. The location of all structures to be constructed;
- ii. The locations of all parking areas and drives;
- iii. The location of an ISTS;
- iv. The location of all loading docks or other delivery areas;
- v. The location of all exterior lighting facilities;
- vi. A landscaping plan;
- vii. The location of all drainage holding ponds and desiltation ponds;
- viii. Proposed provisions for screening where the project abuts residential property or parks;
- ix. The locations of all trash receptacle areas;
- x. The locations of all security or other fencing, including height and materials to be used;

##### **9-423 Preliminary Review**

The Site Plan shall be reviewed by the Planning Commission and City Council at the same time that the sketch plan for the plat is reviewed. After recommendations from the Planning Commission, the City Council shall adopt a list of requirements, supported by written findings of fact that address the following:

- a) The need for dedication of any public roads, drainage easements, scenic easements, utility easements or other public dedications not already shown on the sketch plan;
- b) The need for a detailed traffic study to determine the impact of the proposal on nearby roadways and signalized intersections;
- c) The need for any buffering or screening measures from nearby residential areas that are in addition to those proposed by the original Site Plan;
- d) The need for any noise studies;
- e) The need for the acquisition of any public right of way or easements of any kind outside of the perimeter of the proposed development, and as to such needs, whether or not the acquisition would be considered in furtherance of a public purpose;
- f) The need for an Environmental Assessment Worksheet;
- g) The need for any other additional data or detail deemed necessary for proper final review of the project.

**9-424 Public Hearing**

At the time that the Public Hearing for Preliminary Plat approval is conducted, the Planning Commission shall simultaneously hold a public hearing on the Site Plan. However, no public hearing shall be scheduled until the City has received all of the information required under Article 9-423.

**9-425 Decision**

Within the time required by law, the City Council shall make a decision on approval or denial of the Site Plan. The approval of the Site Plan shall be deemed to be an approval of the Preliminary Plat, although separate additional conditions may be attached to approval of the Preliminary Plat. Disapproval of the Site Plan shall be deemed a disapproval of the Preliminary Plat, although separate conditions may be cited for the disapproval of the Preliminary Plat. If approved, the conditions of approval shall be stated in the motion granting the approval.

**9-430 Development Agreement**

Within 30 days after approval of the Preliminary Plat, the City shall prepare and submit to the applicant a Development Agreement for the project. The Development Agreement shall set forth the conditions that the applicant must meet, as expressed in the approval motion under Article 9-425. Those conditions may include, without limitation, the following:

**A. Drainage Features**

Construction by the applicant of drainage facilities, including ditches, pipes, culverts, swales, holding ponds and desiltation ponds on or off of the site;

**B. Traffic Controls**

Construction by the applicant of turn lanes on public roads or highways, and/or contribution to the cost of intersection improvements, including signalization, at entrances to the site or at nearby intersections of public roads;

**C. Sewer Connectivity**

Design of connections to an ISTS that are readily convertible to reconnection to a public or private common sewer system at such time as such a system is ever constructed, along with an assessment agreement in which the applicant and successors in title agree not to contest special assessments (levied under Minnesota Statutes Chapter 429) in a sum certain, to go toward the cost of any public sewer system that may be constructed within five years of the date of the Development Agreement.

**D. Reimbursement for Eminent Domain Proceedings**

If acquisition of land or easements is found to be in furtherance of a public purpose, an agreement to contribute a reasonable sum to reimburse the City for the costs of eminent domain proceedings necessary to advance such purposes.

**E. Buffering and Screening**

Construction by the applicant of adequate buffering or screening devices designed to shield and protect adjacent residentially zoned properties from noise, light intrusion from the development, and from visibility to the development.

**F. Tree Preservation**

A tree preservation plan designed to conserve existing forests or trees not being removed for the project, and designed to prevent tree disease.

**G. Wetland and Habitat Protection**

Construction of physical features or employment of construction techniques designed to prevent or minimize harm to wildlife habitat or adverse impacts upon wetlands on or off the site.

**H. Groundwater**

Construction of ISTS and ponding in a manner that does not threaten the elevation of groundwater and that does not threaten to contaminate groundwater.

**I. Pedestrian Traffic**

Construction of trails or paths to enhance pedestrian access through or into the proposed site.

**J. Accommodation of Future Development**

Construction, dedication or reservation of land areas that are needed to accommodate roads, drainage, utility easements or other features of anticipated future development of adjacent lands.

**K. Aesthetics and Landscaping**

Construction designs and landscaping features designed to make the development preserve property values on adjacent properties.

The Development Agreement may also require the posting of security in the manner provided by City policy to insure the timely and proper implementation of any of the foregoing elements.

**PART II. Redevelopment or Remodeling of Existing Lands or Structures**

**9-440 Replatting or Redevelopment**

Projects within a CPOD that require replatting of existing platted lands, or that require building permit issuance on any parcel of land that contain a pre-existing structure or structures, shall be required to submit an application containing the information required in Article 9-400 (B), except for topographic data. Such projects shall not be required to fall under the PUD submission requirements unless the project will either:

- A. Result in a project that will generate 1,440 or more one-way motor vehicle trips in excess of the trip generation then currently being generated at the site; or
- B. Result in a project that will create 11,000 square feet or more of impervious drainage surfaces than that which is then currently present on the site.

**PART III. INITIAL DESIGNATION OF OVERLAY LANDS**

The following lands are hereby overlaid with the CPOD designation:

The West Half of the Northwest Quarter of Section 4

The Northeast Quarter of Section 5

The Northwest Quarter of Section 5, except that part platted as Rustic Acres, and except Lots 1-8, Block 1, and Lots 1-4, Block 2, Country Creek

The West Half of the Southeast Quarter of Section 5

The East Half of the Southwest Quarter of Section 5

The West Half of the East Half of the Southeast Quarter of Section 5 lying northerly of Anoka County Highway Plat No. 6 and Soderville Drive

The Northeast Quarter of the Northwest Quarter of Section 8

That part of the Northeast Quarter of Section 8 Lying West of Birch View Acres Plat

**9-500 Transition Zones in CD-1 and CD-2 Districts**

**9-510 Preamble** It is recognized that there are numerous large (and/or adjacent smaller) under-utilized commercial or commercial-eligible parcels in the Trunk Highway 65 Corridor that have not obtained their highest and best commercial usages. Some of these parcels were formerly occupied by



businesses, some are currently occupied by businesses, some are vacant, and some are or were in agricultural use. Such parcels, if required to strictly observe the requirements of CD-1 and CD-2 zoning, will remain vacant and/or under-utilized indefinitely. It is the purpose of this Article 9-500 to identify such parcels and permit a more liberal usage of Conditional Use Permit activity thereon, to promote increased commerce, tax base and employment.

**9-520 Transition Zones** The following lands are hereby designated Transition Zones. This is not a separate zoning category, but shall embrace lands that are or will be zoned CD-1 or CD-2, and provide for Conditional Use Permits within these zones that differ from the Conditional Use Permit provisions found elsewhere in the City Code. Any of the following parcels that are also in the CPOD Overlay Districts created by Article 9-400 of this Code shall be exempt from the provision of Article 9-400 if a development plan is proposed under the auspices of this Article 9-500.

**North Area**

PIN 05-32-23-11-0002  
PIN 05-32-23-11-0003  
PIN 05-32-23-12-0001  
PIN 05-32-23-13-0001  
PIN 05-32-23-14-0002  
PIN 05-32-23-14-0003

**Central Area**

PIN 29-32-23-34-0002  
PIN 29-32-23-34-0005  
PIN 29-32-23-34-0006  
PIN 29-32-23-43-0017

**South Area**

PIN 32-32-23-42-0002  
PIN 32-32-23-42-0003  
PIN 32-32-23-42-0004  
PIN 32-32-23-42-0005  
PIN 32-32-23-41-0006  
PIN 32-32-23-41-0007  
PIN 32-32-23-41-0012  
PIN 32-32-23-43-0016  
PIN 32-32-23-43-0017  
PIN 32-32-23-43-0018  
PIN 32-32-23-43-0019  
Aberdeen Street ROW North of 134<sup>th</sup> Avenue NE

**9-530 Conditional Use Permits** Conditional Use Permits may be issued in the Transition Zones for any mercantile venture that meets the following criteria:

- A. Complete Parcel Usage.** The proposed usage must involve an active commercial use for all and not less than all of the parcels in the North Area, the Central Area or the South Area.
- B. Land Use.** All Conditional Uses now allowed in the CD-1 or CD-2 districts shall be Conditional Uses in the Transition Zones. All existing Conditional Uses, whether or not now permitted as Conditional Uses in the CD-1 or CD-2 districts shall be allowed Conditional Uses in the Transition Zones.
- C. Procedures.** All procedural requirements for issuance of a Conditional Use Permit as found elsewhere in this Code shall be observed, including Public Hearing.
- D. Site Plan and Narrative.** All proposed developments in the Transition Zones must submit a written narrative and a site plan describing their proposal in detail and drawn to a scale of 1" = 50 feet, showing the footprints of all buildings, the location of all drives and parking areas, the location of all outdoor storage or other usage, and the location of all greenspace, ponding or landscape area.
- E. Agency Approvals.** All proposed developments in the Transition Zones must meet or be capable of meeting the requirements of all governmental or quasi-governmental entities having jurisdiction over the activity.

**9-540 Development Agreements and Approval Discretion.** All Conditional Use Permits in the Transition Zones shall be implemented via development agreements with the City, which may include, without limitation, the following requirements:

- A. Screening.** The agreement may impose such screening requirements as are deemed appropriate;
- B. Access Closures.** The agreement may require access closures to adjoining or nearby trunk highways, City or County roads.
- C. Easements.** The agreement may require the dedication of such road, drainage, utility or other easements as are deemed appropriate.

- D. Access Improvements.** The agreement may require that the developer install or pay for access improvements to the development, including, without limitation, the signalization of accesses from public roads.
  - E. Hours.** The agreement may impose operational restrictions in hours, if deemed appropriate.
  - F. Noise Control.** The agreement may require the installation of noise abatement structures or practices if deemed appropriate.
  - G. Environmental Features.** The agreement may require the implementation of environmental best practices or infrastructure as deemed appropriate, including practices relating to the preservation or replanting of vegetation.
  - H. Temporary Permits.** The agreement may require an expiration date for the permit.
  - I. Security.** The agreement may require that the Developer post security acceptable to the City to guarantee performance of the Developer's obligations under the agreement.
  - J. Phasing.** The agreement may provide for the phasing of implementation of the complete development plan over a given number of years.
  - K. Municipal Costs.** The agreement may provide for developer reimbursement of some or all of City costs and expenses in reviewing the proposal.
  - L. Studies.** The agreement may require the developer to furnish such engineering, soils, traffic, environmental, hydrologic, noise or other technical or scientific studies as are deemed appropriate.
  - M. Platting.** The agreement may require platting of the land, or may impose on the Developer the obligation to meet any of the requirements for platted commercial land as found in Article 10 of the City Code.
- 9-550 Intervening Partial Development.** The three geographic areas described as North Zone, Central Zone and South Zone were identified because they contain significant quantities of contiguous land area that

are well suited to a uniform usage. In the event that a conventional land development proposal is approved by the City for a land use involving a permitted or conditional use and a permanent structure or structures on any of the individual parcels within either the North Zone, the Central Zone or the South Zone, then as of the date that a Certificate of Occupancy is issued for any such development, the Transition Zone status for the remainder of the North Zone, Central Zone or South Zone, as the case may be, shall be terminated.

**Appendix 1: *Alphabetical Listing of Defined Terms***

<b>Term</b>	<b>Code Section</b>	<b>Page Number</b>
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**Appendix II: Alphabetical List of Topics**

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Updated through Ordinance 18-03