

# **AMENDED ZONING ORDINANCE**

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City of Kerkhoven

Kerkhoven, Minnesota

Adopted February 2003

# Kerkhoven Planning Commission

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CHAPTER 1  
GENERAL PROVISIONS

**1. PURPOSE AND INTENT**

- 1.01**    Purpose. This is an Ordinance for the purpose of promoting the public health, safety and general welfare, by regulating the location, size of buildings and other structures; the percentage of lot which may be occupied; the size of yards and other open spaces; the density and distribution of population; the uses of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes; forestry, soil conservation, water supply conservation, and establishing standards and procedures regulating such uses.
- 1.02**    Short Title. This ordinance shall be known and may be cited as the “Zoning Ordinance of the City of Kerkhoven.”
- 1.03**    Interpretation and Intent. In interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements adopted for the promotion of the public health, safety and welfare. To protect the public such provisions are intended to provide for adequate light and air, safety from fire and other danger; prevent undue concentration of population; provide ample parking facilities; regulate the location and operation of businesses, industries, dwellings and buildings for other specified purposes; provide for orderly and compatible development of the various land uses; encourage energy conservation and the use of renewable energy resources; provide for administration of the Ordinance; provide for amendments hereto; and provide for official recording of the Ordinance and all amendments hereto.
- 1.04**    Existing Law. Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, code, statute, resolution, or regulation, the regulations which are more restrictive, or impose higher standards or requirements shall prevail.

**2. RULES AND REGULATIONS**

- 2.01**    Rules. For the purposes of this Ordinance, certain terms or words used herein shall be interpreted as follows:
- 1.**        The word person includes an owner or representative of the owner, firm, association, organization, partnership, trust, company or corporation as well as an individual.
- 2.**        The present tense includes the future tense, the singular includes the plural, and the plural includes the singular.

3. The word shall is mandatory, the word may is permissive.

4. For terminology not defined in this Ordinance, the most current Webster dictionary shall be used to define such terms.

## **2.02** Definitions.

Accessory Building. A detached building on the same lot with, and of a nature customarily incidental and subordinate to the principal structure.

Accessory Use. A use subordinate to and exclusively for a purpose incidental to the principal use.

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

Agricultural Building. Any structure existing or erected and used principally for agricultural purposes.

Alley. A minor way which is used primarily for vehicular service access to the back or the side of properties abutting on a street.

Amusement Park. The permanent use of at least two (2) acres of land for the purpose of providing a variety of amusement facilities to the public for compensation either in the form of admission fees and/or fees for use of separate amusement facilities.

Automotive Repair Shop. A place where the following services for vehicles may be carried out: sale of engine fuels, parts and lubricants, general mechanical repair and engine rebuilding.

Automotive Service Station (Gas Station). A place where gasoline, kerosene or any other motor fuel, lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles. This definition includes minor repairs, replacement of parts and motor services for vehicles.

Automobile and Truck Body Repair Shop. A place where the primary purpose is to repair frames and/or vehicle bodies.

Basement. The portion of a building located wholly or partly underground.

Boundary Lines. Any line indicating the bounds or limits of any tract or parcel of land; also a line separating the various use districts as shown on the City Zoning Map.

Building. Any structure for the shelter, support or enclosure of persons, animals, or property of any kind.

Building Area. The aggregate of the maximum horizontal cross section area of the principal building on a lot, excluding chimneys projecting not more than three (3) feet, eaves, gutters, steps, open porches, balconies, terraces and bay windows not extending through more than one (1) story and not projecting more than two (2) feet.

Church. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

Club or Lodge. A nonprofit association of persons who are bona fide members paying annual dues, with the use of the premises being restricted to members and their guests. It shall be permissible to serve food and meals on such premises, provided that adequate dining space and kitchen facilities are available.

Comprehensive Plan. Unless otherwise stated, it is the general plan for land use, housing, transportation and community facilities prepared and maintained by the City Council for the municipality.

Conditional Use. A use other than those permitted which must meet certain conditions to insure compatibility with the land uses in a district before such a use may be approved and permitted by the City Council.

Day Care Facility. Any public or private facility licensed by the Commissioner of Human Services, or any designee thereof, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than twenty-four (24) hours per day, in a place other than the person's own home. Day care facilities include, but are not limited to: family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, day-time activity centers, day treatment programs and day services.

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

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

Dwelling, Two-Family. A residence designed for or occupied by two families only, with separate housekeeping and cooking facilities for each.

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

Efficiency Dwelling Unit. Any one room unit having cooking facilities and used for combined living, dining and sleeping purposes.

Essential Service. The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground or overhead telephone, gas, electrical, steam, hot water, communication, or water transmission, distribution, collection, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith for the furnishing of adequate service by such private or public utilities or municipal departments or commissions.

Exterior Storage (Includes Open Storage). The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

Family. One or more persons related by blood, marriage, adoption or foster-parent relation occupying a premises and living as a single housekeeping unit, or a group of not more than four persons, who are not related maintaining a common household and using common cooking and kitchen facilities.

Garage, Private. A building detached or attached to a main building and generally providing for the storage of automobiles.

Height, Building. The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the top story in the case of a flat roof, to the deck line of a mansard roof, or to between the plate and ridge of a gable, hip or gambrel roof.

Home Occupation. Any gainful occupation or profession conducted within the dwelling, or accessory building, by a resident thereof. (See Home Occupations, Subsection 15.01.)

Hotel (Motel). Any building containing six or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, for sleeping purposes by guests. A motel may also consist of separate cottages.

Kennel. Any lot or premises where more than three (3) dogs are kept for a period of more than ten (10) days.

Landscaping. Plantings such as trees, grass, shrubs, rock gardens, fountains, etc.

Loading Space. A space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials and which abuts upon a street, alley or other appropriate means of access.

Lot. A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, and may consist of:

- a. A single lot of record;
- b. A portion of a lot of record;
  - c. A combination of complete lots of record, or complete lots of record and portions of lots of record, or of portions of lots or record;
  - d. A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot be created which does not meet the requirements of this Ordinance.

Lot Area. The area of a horizontal plane within the lot lines.

Lot Coverage. Includes those areas covered by principal buildings, accessory buildings and garages.

Lot Depth. Lot depths shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

Lot Frontage. The front of a lot shall be construed to be the portion nearest the street at the required setback line of the principal building.

Lot Line. A property boundary line of any lot.

Lot Line, Front. The boundary of a lot which abuts an existing or dedicated public street. If the dimensions of a corner lot are equal, the front line shall be designated by the owner and filed with the Zoning Administrator.

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

Lot of Record. Any lot which is one (1) unit of a plat heretofore duly approved and filed, or one (1) unit of an Auditor's Outlot or a Registered Land Survey, or a parcel of land not so platted, subdivided or registered but for which a Deed, Auditor's Subdivision or Registered Land Survey has been recorded in the Office

of the County Recorder for Swift County, Minnesota, prior to the effective date of this Ordinance.

Lot Width. The distance between the side lot lines, measured along the setback line as established by this Ordinance, or if no setback line is established, the distance between the side lot lines measured along the street line.

Manufactured Building. A manufactured building ( or prefabricated structure) is any structure manufactured in accordance with the requirements of the Minnesota Prefabricated Structures and Manufactured Building Code promulgated in accordance with Minnesota Statutes § 16.852 and Minnesota Statutes § 16.85 (State Building Code).

Mobile (Manufactured) Home. A structure, transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities. A recreational travel trailer shall not be considered a mobile home.

Mobile Home Park. A site, lot or tract of land which harbors mobile homes and any building, structure or enclosure used or intended for use as part of the equipment of such mobile home park.

Mobile Home Stand. The part of an individual mobile home lot which has been reserved for placement of the mobile home, appurtenant structures or additions.

Motor Freight Terminal. A building or area in which freight brought by motor truck is assembled and/or stored for routing in intrastate or interstate shipment by motor truck.

Nonconforming Use. A building, structure or premises legally existing and/or used prior to adoption of this Ordinance, or any amendment thereto, and which does not now conform with the use provision of this Ordinance for the district in which the use is located.

Nursing Home, Convalescent Home. A health care institution licensed to serve aged or infirm persons who require nursing care and related assistance.

Parking Space, Off-Street. An off-street parking space as specified in the Parking Standards of this Ordinance. Space for maneuvering incidental to parking or unparking shall not encroach upon any public way. Every off-street parking lot shall be accessible from a public way.

Planning Commission. The Planning Commission City of Kerkhoven.

Prefabricated Structure. See Manufactured Building.

Principal Building. The structure that contains a principal use as opposed to an accessory use.

Public. Uses owned or operated by municipal, school district, county, state or other governmental units.

Residential Facility. Any facility licensed by the State of Minnesota, public or private, which for gain or otherwise regularly provides one or more persons with twenty-four (24) hours per day care, food, lodging, training, education, supervision, habilitation, rehabilitation and treatment. Residential facilities include, but are not limited to: state institutions under the control of the commissioner of public welfare, foster homes, half-way houses, residential treatment centers, maternity shelter, group homes, or schools for handicapped children.

Retail. The sale of items in small quantities directly to the consumer.

Retirement Home. A retirement facility for the elderly who are generally in good health and able to care for themselves. Such facilities are characterized as having separate dwelling units or sleeping rooms with central eating facilities. This definition shall include public housing for the elderly.

Rooming Unit. A separate room providing minimum housing accommodations for a tenant with direct access to the outside or access through a hallway to an outside entrance, arranged primarily for sleeping, and which may include a private bath but shall not include any kitchen equipment such as a sink or cooking device.

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

Setback. The distance between a front property line and the front building line of a principal structure or building; projected to the side lines of the lot. For purposes of earth shelter buildings only above grade portions shall be used in determining setback requirements (see also definition of grade).

Signs, Off-Site. A sign other than an on-site sign. (See Subsection 19.08 and 19.09.)

Signs, On-Site. A sign relating in its subject matter to the premises on which it is located, or to products, accommodations, service, or activities on the premises. Not to include signs erected by the outdoor advertising industry in the conduct of the outdoor advertising business. (See Subsection 19.08 and 19.09.)

Solar Energy System. Any solar collector or other solar device or any structural design of a building whose primary purpose is to collect, convert and store solar energy for useful purposes including heating and cooling of buildings, domestic water heating, electric power generation, and other energy using processes.

Story. The portion of a building included between the upper surface of any floor and the upper surface of the floor next above, including below ground portions of earth sheltered buildings. If the finished floor level directly above a walkout basement, or unused under-floor space is more than six (6) feet above grade as defined herein for more than fifty percent (50%) of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such basement, or unused under-floor space shall be considered as a story.

Street. A public way for vehicular traffic, whether designated as a street, highway, thoroughfare, arterial, parkway, collector, throughway road, avenue, lane, place or however otherwise designated, which has been dedicated or deeded to the public for public use and which affords principal means of access to abutting property.

Structure. Anything erected with a fixed location on the ground, or attached to something having a fixed location on the ground or in the ground in the case of earth sheltered buildings. Among other things, structures include buildings, manufactured homes, walls, fences, billboards, and poster panels.

Swimming Pool. A structure designed to be used for swimming which has a capacity of 1,000 gallons or more or which has a depth of over 24 inches.

Trailer. Any vehicle or structure designed and used for human living quarters which meet all of the following qualifications:

- a. Is not used as the permanent residence of the owner or occupant.
- b. Is used for temporary living quarters by the owner or occupant while engaged in recreational or vacation activities.
- c. Is towed or otherwise transported, by its own or by other motive power, on the public streets or highways incidental to such recreational or vacation activity.

The term "trailer" shall not include "Mobile Home". The term "trailer" shall include, but not be limited to, campers, camper tents, house trailers, camping trailers, travel trailers, tent trailers, and any self-propelled vehicle constructed to provide living accommodations.

Trailer Parks. A park, court, campsite, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying the location or accommodations for any trailers, as defined herein, and upon which said trailers are parked. The term "trailer park" shall include all buildings used or intended for use as a part of the equipment thereof whether a charge is made for the use

of the park and its facilities or not. "Trailer park" shall not include automobile, mobile home or trailer sales lots on which unoccupied trailers or mobile homes are parked for purposes of inspection and sale.

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

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

Veterinary Clinic. Those uses concerned with the diagnosis, treatment and care of animals, including animal or pet hospitals.

Yard. An open space on a lot unoccupied and unobstructed from the ground upward, except as otherwise provided in this Ordinance.

Yard, Front. The space extending between side lot lines from the front property line and the building setback line.

Yard, Rear. A space extending between the rear line of the main building and the rear line of the lot and extending the full width of the lot.

Yard, Side. A space between the building and the side line of the lot and extending from the front setback line to the rear yard.

Zoning Administrator. Representative of the City who has been assigned the responsibility of enforcing the provisions of this Ordinance.

### **3. APPLICATION OF DISTRICT REGULATIONS**

The regulations set by this Ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided:

**3.01** Compliance. No building, structure, or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all of the provisions of this Ordinance.

**3.02** Nonreduction of Yard or Lots. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum

requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

- 3.03** Zoning Upon Annexation. All territory which may hereafter be annexed to the City shall be considered to be zoned agricultural until such time that the zoning is changed.

**4. NONCONFORMING LOTS AND USES**

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

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

- 1.** No existing use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use to a use permitted in the district in which it is located.
- 2.** Any nonconforming use may be extended throughout any parts of a building which were arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
- 3.** Should any principal structure be destroyed by any means to an extent of more than fifty (50) percent of its market value at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.
- 4.** On any structure devoted in whole or in part to any nonconforming use, work may be done in any period on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing provided

that the cubic content of the building as it existed at the effective date of this Ordinance shall not be increased.

5. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by an official charged with protecting the public safety, upon order of such official, except in the event that the strengthening or restoring of the building would exceed fifty percent (50%) of the market value of the structure.
6. Any nonconforming use may be changed to another nonconforming use within twelve (12) months provided that the Board of Adjustment, by making findings in the specific case, shall find that the proposed use is equally or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this Ordinance.
7. When a nonconforming use is discontinued for twelve (12) months, the original nonconforming use shall not be resumed unless otherwise approved by the City Council.
8. Where a nonconforming use applies to a structure and land in combination, continuing use of the land in a nonconforming manner shall not be permitted if the structure is removed or destroyed.
9. Any nonconforming use which is replaced by a permitted or conditional use, shall thereafter conform to the regulations as prescribed by this ordinance or amendments hereto. The nonconforming use may not thereafter be resumed.
10. Any existing sign which is not properly maintained for a period of sixty (60) days shall be deemed to be a non-conforming use.

**4.03** Status of Variances or Conditional Use Permits. If a conditional use permit or a variance has been granted as provided in this Ordinance, it shall not be deemed a nonconformity, but shall without further action be deemed permitted in such district.

**4.04** District Changes. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of different classification, the foregoing therein shall come into existence upon the change of district boundaries to the Official Zoning Map.

**5. OFFICIAL ZONING MAP**

- 5.01** Official Zoning Map. The City is hereby divided into zones, or districts, as shown on the Official Zoning Map, which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

The Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 5.00 of Ordinance Number \_\_\_ of the City of Kerkhoven, Minnesota" together with the date of the adoption of this Ordinance.

If, in accordance with the provisions of this Ordinance and Chapter 462, Minnesota Statutes, changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council certifying such change. The amending Ordinance shall provide that such changes or amendments shall not become effective until they have been duly published.

No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as provided under Section 9.12 of this Ordinance.

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the Office of the City Clerk shall be the final authority as the current zoning status of land and water areas, buildings and other structures in the City.

- 5.02** Replacement of Official Zoning Map. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature of number of changes and additions, the City Council may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such corrections; shall have the effect of amending the original zoning Ordinance or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted as part of Ordinance No. \_\_ of the City of Kerkhoven."

## CHAPTER 2

### ADMINISTRATION AND ENFORCEMENT

## 6. ADMINISTRATION AND ENFORCEMENT

The Zoning Administrator designated by the City Council shall administer and enforce this Ordinance. He may be provided with the assistance of such other persons as the City Council may direct.

If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, building or structures, removal of illegal buildings or structures or of additions, alterations or structural changes thereto, discontinuance of any illegal work being done, or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

## **7. BUILDING PERMITS**

**7.01**    Building Permits Required. No building or other structure shall be erected, moved, added to or structurally altered without a permit issued by the Zoning Administrator. No building permit shall be issued except in conformity with the provisions of this Ordinance.

**7.02**    Application for Building Permit. All applications for building permits shall be accompanied by site plans. The site plans shall show the actual dimensions and shape of the lot to be built upon, the exact sizes and locations on the lot of buildings already existing, if any, and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required, including existing or proposed building or alteration; existing or proposed uses of the building and land; existing or proposed parking; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with; and provide for the enforcement of this Ordinance.

**7.03**    Expiration of Building Permit. If the work described in any building permit has not begun within three (3) calendar months or if work described in the building permit is not completed within twelve (12) months for single-family and two-family residential dwelling units, eighteen (18) months for three residential dwelling units and above and twelve (12) months for commercial and industrial uses, said permit shall expire. Time limitations cited above shall also apply to accessory buildings. The Zoning Administrator may grant a reasonable extension subject to the demonstration of a hardship condition. If canceled by the Zoning Administrator, a written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new building permit has been obtained.

**7.04**    Building Permit Fees. The City Council shall establish a schedule of fees for Building Permits by Ordinance. The schedule of fees shall be posted in the

office of the Zoning Administrator and may be amended only by the City Council.

## **8. CONDITIONAL USES AND REZONING**

**8.01** Initiating Rezoning and Conditional Uses. Either the Planning Commission or Council may initiate a proposed rezoning or conditional use permit. Also, a property owner or representative of the property owner may request a rezoning or conditional use permit if it applies to his property. In such case, the property owner or his representative shall fill out an application, copies of which are available from the Zoning Administrator, and pay the required fee. No application for a conditional use permit or rezoning of a particular piece of property shall be accepted more than once in any twelve (12) month period except as follows:

1. Rezoning—Applications which are withdrawn prior to action taken by the City Council.
2. Conditional Use Permits—Applications for conditional uses allowed in the particular zoning district different from that applied for within a twelve (12) month period.
3. Changing Circumstances—If the Planning Commission determines that the circumstances surrounding a previous application for a rezoning or conditional use permit have changed, an application for a rezoning or conditional use may be submitted more than once within a twelve (12) month period.

### **8.02** Filing Application.

1. Rezoning—The application shall be filed with the Zoning Administrator who shall refer the application together with his comments thereon to the Planning Commission.
2. Conditional Use Permits—The application shall be filed with the Zoning Administrator who shall refer the application together with his comments thereon to the Planning Commission.
3. Proof of Ownership—The applicant shall upon request supply proof of title of the property for which the conditional use permit or rezoning is requested consisting of an Abstract of Title or Registered Property Abstract currently certified together with any unrecorded documents whereby the petitioners acquire a legal or equitable ownership interest.

### **8.03** Notice of Hearing on Rezoning and Conditional Use Permits.

1. At least ten (10) days prior to the date of hearing, notice of the purpose, time and place of such hearing shall be published in a newspaper of general circulation as designated by the City Council. The applicant and the owners of all property situated wholly or partly within 250 feet of the property lot lines in question shall be mailed or served with a notice

at least ten (10) days in advance of the hearings, unless the rezoning shall affect an area of five (5) acres or more, when, in such case, no mailed notice shall be required. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested and made a part of the records of the proceeding. A failure of any property owner to receive notice or failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings provided a bona fide attempt has been made to comply with the notice requirements of this Section.

2. In the event that the property owner notified leases or rents part or all of his property to some other person, it shall be the responsibility of the property owner to notify the tenant or lessee. Such notification by the property owner shall consist of either posting the official notice or a copy thereof in a conspicuous place within the building so that all tenants may be readily notified or notifying each tenant or lessee individually.

**8.04** Planning Commission Consideration. Providing the applicant has furnished all information as requested by the Zoning Administrator, the Planning Commission shall consider the application at its next meeting, provided that the prescribed notification requirements can be met. The Planning Commission shall arrive at a recommendation within thirty (30) days of the date on which the application was submitted.

**8.05** Report to City Council. The Planning Commission shall make its recommendation to the City Council. The Planning Commission shall forward its recommendation to the City Council for consideration at the City Council's next regular meeting. Upon the Planning Commission's failure to do so, the applicant may appeal directly to the City Council for a decision. Failure to receive a recommendation from the Planning Commission shall not invalidate the proceedings or actions of the City Council.

**8.06** City Council Action.

1. If the City Council does not take action on the application within sixty (60) days after the date on which the application was filed with the Zoning Administrator, the application shall be considered approved, unless the City Council or Zoning Administrator shall extend such time for good cause. Such extension shall not exceed sixty (60) days, and shall be in conformance with Minnesota Statutes §15.99. A conditional use permit or a rezoning may be granted by the City Council by a majority vote of all its members.
2. If the City Council grants the conditional use permit, the City Council may impose such conditions, including time limits, as may be deemed necessary for or appropriate to serve the purposes of the

comprehensive plan, the City of Kerkhoven Zoning Ordinance and to protect the public health, safety and welfare.

**8.07** Issuance of Conditional Use Permit. The Planning Commission shall not recommend approval, and the City Council may not approve a conditional use permit unless the following findings are made pertaining to the district for which application is made:

**1.** Agricultural and Residential Districts (A)(R 1)(R 2)

- (1)** The use will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to service the area.
- (2)** The use will be sufficiently compatible or separated by distance or screening from adjacent residentially-zoned or used land.
- (3)** The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.
- (4)** The use in the opinion of the Council is reasonably related to the overall needs of the community and to the existing and projected land use.
- (5)** The use is consistent with the purposes of zoning ordinance and the purposes of the zoned district in which the applicant intends to locate the proposed use. The proposed conditional use also must be consistent with adjoining or nearby properties which may be in a different zoning district. The proposed conditional use shall not adversely affect the market value of nearby properties which may be impacted by the conditional use.
- (6)** The use is not in conflict with the comprehensive plan of the City.

**2.** Commercial Districts (C 1)(C 2)

- (1)** The use will not cause traffic hazard or congestion.
- (2)** Adjacent residentially-zoned land will not be adversely affected because of excessive traffic generation, notice, glare or other nuisance characteristics.
- (3)** Existing businesses nearby will not be adversely affected because of curtailment of customer trade brought about by intrusion on non-shopping traffic or general unsightliness.

- (4) The use in the opinion of the Council is reasonably related to the overall needs of the community and to the existing and projected land use.
- (5) The use is consistent with the purposes of zoning ordinance and the purposes of the zoned district in which the applicant intends to locate the proposed use.
- (6) The use is not in conflict with the comprehensive plan of the City.
- (7) The proposed conditional use shall not adversely affect the market value of nearby properties which may be impacted by the conditional use.

**3. Light Industrial District (I)**

- (1) Traffic, noise, glare, odor or other nuisance characteristics generated by the use will not have an adverse effect upon existing and future development in adjacent areas.
- (2) When open storage is a principal use or one of the principal uses for a parcel of land, screening may be required as a condition so that abutting properties will not be depreciated in value and to prevent any unsightly storage from being visible from the public roadways.
- (3) The use in the opinion of the Council is reasonably related to the overall needs of the community and to the existing and projected land use.
- (4) The use is consistent with the purposes of the zoning ordinance and the purposes and conditions of the zoned district in which the applicant intends to locate the proposed use.
- (5) The proposed use is not in conflict with the comprehensive plan of the City.
- (6) The proposed conditional use shall not adversely affect the market value of nearby properties which may be impacted by the conditional use.

**8.08** Amended Conditional Use Permits. An amended conditional use permit may be applied for and administered in a manner similar to that required for a new conditional use permit. Amended conditional use permits shall include reapplications for permits that have expired or have been denied, requests for substantial changes in conditions or expansions of use, and as otherwise described in this Ordinance.

- 8.09** Enforcement and Violations. The Zoning Ordinance shall be administered and enforced by the Zoning Administrator. The Zoning Administrator may, with the assistance of the City Attorney, institute in the name of the city any appropriate actions or proceedings, civil or criminal, against a violator as provided by law or city ordinances. Failure to comply with any condition of a conditional use permit, or with any provision of this ordinance shall be a misdemeanor. Each day such violation continues or occurs constitutes a separate offense and may be prosecuted as such. The election of a particular remedy by the city shall not prevent or preclude enforcement by other means or the election of other remedies to enforce this ordinance.
- 8.10** Cancellation of Conditional Use Permits. Where applicable, unless otherwise specified by the Council at the time it is authorized, a conditional use permit shall expire if the applicant fails to utilize such conditional use permit within one (1) year from the date of its authorization.

**9.** BOARD OF ADJUSTMENTS

- 9.01** Establishment. A Board of Adjustment is hereby established. The Planning Commission of the City of Kerkhoven shall serve as the Board of Adjustment.
- 9.02** Proceedings of the Board of Adjustment. The Board of Adjustment shall adopt rules necessary to the conduct of affairs, and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Board of Adjustment shall keep minutes of its proceedings showing which members were present and how each member voted on each question. Records shall be kept of its examinations and other official actions, all of which shall be a public record and be filed in the office of the Zoning Administrator.

- 9.03** Appeals; Notice; Hearings. Appeals to the Board of Adjustment concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer or department of the City of Kerkhoven affected by any decision of the Zoning Administrator. Such appeal shall be taken within sixty (60) days of the decision of the Zoning Administrator, by filing with the Zoning Administrator and with the Board of Adjustment a notice of appeal specifying the grounds therefore. The Zoning Administrator shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken.

The Board of Adjustment shall fix a reasonable time for the hearing of appeal. At least ten (10) days prior to the date of the hearing, notice of the hearing shall be published in the official newspaper, and due notice be given to the parties in

interest. The Board of Adjustment shall make its decision on the appeal within sixty (60) days of filing of the appeal.

**9.04** Stay of Proceedings. An appeal stays all proceedings in furtherance of the action being appealed unless the Zoning Administrator from whom the appeal is taken certifies to the Board of Adjustment, after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the district court on application, on notice to the Zoning Administrator from whom the appeal is taken.

**9.05** Powers. The Board of Adjustment shall have the following powers and duties:

1. To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, interpretation, or determination made by the Zoning Administrator in the enforcement of the Zoning Ordinance.
2. To hear requests for variances from the literal provisions of the Ordinance in instances where this strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of the Ordinance. The Board of Adjustment may not permit as a variance any use that is not permitted under the ordinance for property in the zone where the affected person's land is located. The Board may impose conditions in the granting of variances to insure compliance and to protect adjacent properties.

**9.06** Requirements for Variances. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until:

1. A written application for a variance is submitted demonstrating:
  - (1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
  - (2) That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.

- (3) That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district under the same conditions.
  - (4) The specific nature of the undue hardship justifying a variance.
- 2. There shall be a hearing on the application for variance. The owner of the property for which the variance is sought or his agent and all properties within 250 feet of the property requesting the variance shall be notified by mail at least ten (10) days prior to the hearing.
- 3. All variances require a hearing.
- 4. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.
- 5. Variance requests for the same property shall not be heard within six (6) months of a previous request unless it can be demonstrated to the Zoning Administrator that the conditions for the variance have changed.

**9.07**    Decisions of the Board of Adjustment.

- 1. In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such other requirement, decision, or determination, and to that end shall have powers of the Zoning Administrator from whom the appeal is taken.
- 2. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in the application of this Ordinance.
- 3. A copy of the decision of the Board of Adjustment shall be served on the applicant by mail.

**9.08**    Cancellation of Variances.

- 1. Unless otherwise specified by the Board of Adjustment at the time it is authorized, a variance shall expire if the applicant fails to utilize such variance within one (1) year from the date of its authorization. All variances which have been heretofore authorized and have not been

utilized shall expire one (1) year from the effective date of this Ordinance unless utilized prior to such time.

- 9.09** Appeals from the Board of Adjustment. Any person or persons, or any board, taxpayer, department, board or bureau of the City aggrieved by any decision of the Board of Adjustment may seek review by the district court of such decision, in the manner provided by the laws of the State of Minnesota and particularly by Chapter 462, Minnesota Statutes.
- 9.10** Schedules of Fees, Charges, and Expenses. The City Council shall establish a schedule of fees, charges, and expenses, and a collection procedure for rezoning applications, building permits, variances, conditional uses, appeals, and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the City Clerk and may be altered or amended only by the City Council.

No rezoning, building permit, conditional use, or variance shall be issued or granted unless or until such costs, charges, fees, or expenses have been paid in full, nor shall any action be taken on proceedings before the Board of Adjustment or Planning Commission until charges and fees have been paid in full.

- 9.11** Amendments to Zoning Ordinance. The regulations, restrictions and boundaries set forth in this Ordinance may from time to time be amended, supplemented, changed, or repealed provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties with interest and citizens shall have an opportunity to be heard. At least ten (10) days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City.
- 9.12** Enforcement and Penalties. Violation of the provisions of this Ordinance or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements after written notice by the Zoning Administrator allowing reasonable time to comply may upon conviction thereof be sentenced as provided by law in misdemeanor cases. Each day such violation continues or occurs constitutes a separate offense and may be prosecuted as such.

The owner or tenant of the building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation, including injunction relief as provided by law.

- 9.13** Separability. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.
- 9.14** Repeal of Conflicting Ordinances: Effective Date. All ordinances or parts of ordinances in conflict with this Zoning Ordinance, or inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect. This Ordinance shall become effective upon its passage and publication.

CHAPTER 3  
ESTABLISHMENT OF USE DISTRICT REGULATIONS

**10.** RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- 10.01** Streets. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
- 10.02** Lot Lines. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
- 10.03** City Limits. Boundaries indicated as approximately following City limits shall be construed as following City limits;
- 10.04** Railroads. Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks;
- 10.05** Extensions. Boundaries indicated as parallel to or extensions of features indicated in Subsection \_\_\_\_ through \_\_\_\_ above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map or field survey.
- 10.06** Vacated Ways. Whenever any street, alley, or other public way is vacated in the manner authorized by law, the zoned district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation and all included in the vacation shall then and henceforth be subject to all regulations of the extended districts.

**11.** AGRICULTURAL ZONE

- 11.01** Purpose (A) - Agricultural Zone. The Agricultural Zone District is established primarily for those annexed unplatted areas within the City that have not been zoned for development and are or will be undergoing a transition from agricultural to urban uses. The urban transition is contingent upon

development plans, proper timing, availability of public utilities and services and compatibility with the comprehensive land use plan.

**11.02** Permitted Uses (A) - Agricultural Zone.

1. Agricultural. All uses herein defined as agricultural with no restrictions as to operations of such vehicles or machinery as are incident to such uses, provided that poultry and livestock shall be adequately housed and shall not be allowed to roam at large.
2. Residential. One family year-round or seasonal dwellings (not to include mobile homes) and their normal accessory buildings.
3. Educational and Social. Day care facilities for twelve (12) or fewer persons; residential facilities for six (6) or fewer.
4. Essential Services. As herein defined.
5. Home Occupations. As herein defined.

**11.03** Conditional Uses (A) - Agricultural Zone

1. Cultural and Educational. Elementary schools, high schools, private schools, libraries, museums and art galleries.
2. Health and Social. Nursing homes, hospitals, convalescent homes, orphanages, residential facilities.
3. Recreational. Parks, playgrounds and athletic fields.
4. Religious. Churches, synagogues, temples, convents, monasteries and nunneries.
5. Public. Federal, state or local governmental buildings or facilities.
6. Resorts and Camping Facilities. Resorts, campgrounds, camper-trailer facilities.
7. Mobile Homes. Individual parking of mobile homes shall be permitted on a temporary basis only.
8. Cemeteries. New or expanded cemeteries.
9. Other Uses. Uses and structures consistent with the stated purpose of this district as may from time to time be approved by the Planning Commission upon proper application.

**11.04** Yard Requirements (A) - Agricultural Zone. As required in the R 1 zone for additions to existing residential dwelling.

**11.05** Lighting (A) - Agricultural Zone. All sources of artificial light, including signs shall be fixed, directed and designed so as not to create a nuisance to an abutting residential lot.

**11.06** Signs (A) - Agricultural Zone. Signs as permitted in a residential district as prescribed in this Ordinance.

**12.** (R 1) SINGLE AND TWO FAMILY RESIDENTIAL DISTRICT

**12.01** Purpose (R 1). The R 1 district is established to encourage the preservation of residential neighborhoods characterized primarily by single-family and two-family dwellings and to preserve undeveloped lands for similar types of residential development.

**12.02** Permitted Uses (R 1) Residential 1.

1. Residential. One and two-family dwellings. Number of accessory buildings per lot shall not exceed one (excluding garage).
2. Cultural, Educational and Social. Libraries, kindergartens, public schools of primary and secondary instruction, day care facilities for twelve (12) or fewer persons, residential facilities for six (6) or fewer.
3. Recreational. Parks, playgrounds, golf courses, bicycle and pedestrian paths, municipal open air swimming pools, provided the use is located not less than 200 feet from an existing residential area; other publicly operated recreational facilities not otherwise restricted by the provisions of this Ordinance.
4. Religious. Churches, synagogues, temples, provided they are not located in structures originally constructed as a dwelling unit(s).
5. Public. Fire stations, police stations.
6. Cemeteries. Existing cemeteries.
7. Essential Services. As herein defined.

**12.03** Conditional Uses (R 1) - Residential 1.

1. Cultural, Educational and Social. Museums, art galleries and private schools of primary and secondary instruction.

2. Health and Social. Retirement, nursing, convalescent homes, hospitals and orphanages.
3. Recreational. Health clubs, athletic fields whose primary purpose is for the playing of scheduled sports activities including structures, concessions and utility stations as are necessary for and normally incidental to their operations.
4. Religious. Convents, seminaries, monasteries, nunneries and churches.
5. Cemeteries. New or expanded cemeteries.

**12.04** Yard Requirements (R 1). [Also see Section 19.]

	One-Family	Two-Family	Accessory Buildings
Lot Area Minimum (sq. ft.)	8,000	12,000	
Lot Frontage Min. at Setback Line (ft.)	60	90	
Lot Minimum Depth (ft.)	120	120	
Rear Yard Min. Setback (ft.)	25	25	5
Front Yard Minimum Setback (ft.) [See Subsection 19.07, Front Yard Encroachments]	25	25	25
Side Yard Minimum (ft.)	10	10	10
Side Yard Min. (ft.) Corner Lot	20	20	
Maximum Lot Coverage	35%	35%	

**12.05** Screening (R 1). All uses, excluding single and two-family residences, where parking or access facilities are located within twenty (20) feet of a single or two-family residential property line shall be required to effectively screen their parking facility from the residential use. Screening may include a sight-obscuring fence at least five (5) feet in height or plantings of sufficient type, density and height so as to provide year-round screening. Before a building permit shall be issued, the Zoning Administrator shall approve the screening proposal.

**12.06** Lighting (R 1). All sources of artificial light other than street lights shall be fixed, directed or designed so as to not measurably increase the amount of light to any abutting residential lot.

**12.07** Signs (R 1). See Supplementary District Regulations—Signs in Residential Districts, Subsection 19.08.

**12-M. (R-1-M) SINGLE-FAMILY RESIDENCE DISTRICT MANUFACTURED HOUSES**

**12.01-M**

Permitted Uses. One-family manufactured homes built in conformance with sections 327.31 to 327.35 of Minnesota Statutes, provided the following design standards are met to assure a favorable comparison with site built housing:

1. Permanent concrete or treated wood foundations with basements will anchor the structure.
2. Roof lines must have at least a 4/12 pitch; flat or shed roofs are not permitted.
3. The minimum widths of the structures shall be 24 feet measured from face of exterior wall.
4. Any metal siding would have horizontal edges and overlap in sections no wider than 12 inches. Sheet metal siding is not permitted.
5. Must be hooked to city utilities and exterior fuel tanks are not permitted. This does not include LP tanks.

**13. (R 2) MULTI-FAMILY RESIDENTIAL DISTRICT**

**13.01** Purpose (R 2). The R 2 district is established to provide high-density residential development. Non-residential uses permitted in this district shall be limited to those uses and buildings that will provide stability and dignity to the area as a residential neighborhood.

**13.02** Permitted Uses (R 2).

1. General. All permitted uses of the R 1 District.
2. Residential. Multiple-family dwellings, mobile (manufactured) homes not less than 24 feet wide provided they meet the following requirements:
  - (1) Shall be placed on a permanent foundation, either a basement or a concrete slab equal to the width and length of the mobile (manufactured) home. The slab shall be a minimum of 3.5 inches thick reinforced with wire mesh and be placed on a 3.5 inch gravel base.
  - (2) Shall be tied down, blocked and anchored in accordance with current state laws and regulations.
  - (3) Shall have skirts around the entire home made of plastic, metal, fiberglass or other comparable material.

3. Health and Social. Retirement, nursing, convalescent homes, residential facilities, day care facilities for twelve (12) or more persons.
4. Cultural, Educational and Social. Museums and art galleries.

**13.03** Conditional Uses (R 2).

1. General. All conditional uses of the R 1 district, excluding those otherwise permitted in the R 2 district.
2. Neighborhood Commercial. A conditional use permit may be granted to permit small retail businesses and personal service stores provided they are arranged and designed to be a functional and harmonious part of a residential neighborhood.
3. Service. Funeral homes.
4. Offices and Clinics. Business or professional offices including without limitation, realtors, accountants, lawyers, engineers, architects, governmental agencies, chiropractors, physicians, and dentists, but not including overnight accommodation for patients.
5. Clubs or Lodges. Operated for the benefit of members only.

**13.04** Yard Requirements (R 2). [Also see Section 19.]

	One-Family	Two-Family	Multiple	Accessory Buildings
Lot Area Minimum (sq. ft.)	6,000	7,500	*	
Lot Frontage Min. at Setback Line (ft.)	45	60	60	
Lot Minimum Depth (ft.)	120	120	150	
Rear Yard Min. Setback (ft.)	25	25	25	5
Front Yard Min. Setback (ft.) [See Subsection 19.07, Front Yard Encroachment]	25	25	25	25
Side Yard Min. (ft.)	10	10	10	10
Corner Lot	20	20	20	

\*Not less than 10,000 square feet for each multiple-family dwelling having four dwelling units or less, and not less than 750 additional square feet for each dwelling unit over four.

**13.05** Screening (R 2). As required in the R 1 district.

**13.06** Lighting (R 2). As required in the R 1 district.

**13.07** Signs (R 2). See Supplementary District Regulations—Signs in Residential Districts, Subsection 19.08.

**14.** (R 3) MOBILE HOME PARK DISTRICT

**14.01** Purpose (R 3). It is the purpose of the R 3 district to set aside areas within the city wherein any mobile home can be placed in a safe and healthful environment.

**14.02** Permitted Uses (R 3). Commercial convenience uses servicing primarily the parks' needs; mobile homes shall only be permitted in the R 3 district unless otherwise specified in the provisions of this Ordinance. No new mobile home park may be established or no existing mobile home park may be expanded or modified unless zoned Mobile Home Park District (R 3).

**14.03** Conditional Uses (R 3).

**1.** General. All conditional uses of the R 1 district.

**14.04** Minimum Requirements for Mobile Home Parks (R 3). The following minimum requirements shall apply to all new mobile home parks and expansions of existing mobile home parks.

**1.** General.

- (1)** The minimum area for a new mobile home park shall be four (4) acres.
- (2)** The minimum number of spaces completed and ready for occupancy before the first occupancy is permitted in a new mobile home park shall be five (5) units.
- (3)** No space shall be rented except for periods of thirty (30) days or more.
- (4)** Commercial convenience uses servicing primarily the parks' needs, including coin-operated laundries, grocery stores, dry cleaning establishments and beauty and barber shops may be permitted in mobile home parks subject to the following restrictions: such establishments and parking areas primarily related to their operations shall not occupy more than ten (10) percent of the area of the park, shall be located, designed and intended to serve frequent trade or service needs only of persons residing in the park, and shall present no visible

evidence of their commercial character to any portion of any residential district outside of the park.

- (5) Notwithstanding the type of development concept used, the maximum average density shall be eight (8) mobile homes per gross acre.
- (6) Maximum building height shall be twenty-five (25) feet.
- (7) A municipal sanitary sewer and municipal water system shall be installed in accordance with city specifications. Each mobile home stand shall be equipped with public water, a public sewer, a telephone outlet and an electric outlet. All utilities supplied to the mobile (manufactured) home park shall be placed underground.
- (8) A mobile home stand shall be used for parking not more than one (1) mobile home.
- (9) Mobile home stands shall be at such elevation, distance and position relative to the street or driveway, that placement and removal of the mobile home with a tractor, tow truck or other customary moving equipment is practical. The manufactured home stand shall have a longitudinal grade of not less than four (4) percent in traverse crown or grade to provide adequate surface drainage.

**2. Mobile Home Lots.** Each mobile home lot shall have:

- (1) At least 4,800 square feet of land area for the exclusive use of the residents of the mobile home located on the lot with a minimum width of forty (40) feet at the setback line and a minimum depth of one-hundred twenty (120) feet.
- (2) Frontage on approved roadway and be numbered.
- (3) The mobile home stand and mobile home unit including accessory structures shall not cover more than fifty percent (50%) of the mobile home lot.

**3. Setbacks.** All mobile homes shall comply with the following setback requirements:

- (1) No mobile home shall be parked closer than ten (10) feet to the side lot lines nor closer than fifteen (15) feet to the front line nor closer than ten (10) feet to the rear lot line.

- (2) Accessory structures such as an awning, cabana, storage shed, carport, windbreak, entryway or solar energy system shall be at least ten (10) feet from the nearest adjoining manufactured home.
4. Parking. Each mobile home lot shall have a graveled or paved off-street parking space for two (2) automobiles. All parking stalls shall be completely within the confines of the lot.
5. Utilities. The following minimum requirements with regard to utilities shall be maintained:
  - (1) All utility lines shall be underground. There shall be no overhead wires or supporting poles except those essential for street or other lighting purposes set forth herein.
  - (2) Garbage, waste and trash disposal must be approved by the city and must conform to all state and local health and pollution control regulations.
6. Internal Private Roads and Streets. All internal roads and streets shall meet the following minimum requirements:
  - (1) Streets shall be graveled with appropriate materials or be hard surfaced with bituminous or concrete as approved by the City Council.
  - (2) All private streets shall be developed with a roadbed of not less than thirty-two (32) feet.
  - (3) State and local traffic laws shall govern the operation of motor vehicles upon all dedicated streets in a mobile home park.
  - (4) Plans for roads and streets in a mobile home park shall be submitted to the City Council for approval.
7. Lighting. Artificial lights shall be maintained during all hours of darkness in all buildings provided for common facilities of occupants' use. The mobile home streets and pedestrian areas shall be lighted in accordance with a lighting plan approved by the city.
8. Signs. See Supplementary District Regulations—Signs in Residential Districts, Subsection 19.08.
9. Recreation Areas. All mobile home parks shall have one or more recreational areas which shall be easily accessible to all park residents. Recreational areas shall be so located so as to be free of traffic hazards and should be centrally located. The size of such recreational area shall

be a minimum of six percent (6%) of the land area of the mobile home park. All equipment installed in such area shall be owned and maintained by the owner or operator of the mobile home park, at his expense.

10. Landscaping. All areas shall be landscaped in accordance with a landscaping plan approved by the City.
11. Tie-Down and Blocking Requirements. Blocking, anchors and tie-downs shall be placed in accordance with Minnesota state law and regulations.
12. Skirting. All mobile home units shall have skirts around the entire mobile home made of plastic, metal, fiberglass or other comparable material.
13. Registration of Occupants. The owner of a mobile home park shall keep a registration of the names and location of each occupant of the mobile home park and shall make said registration list available to the City or its agents for inspection at reasonable times.
14. Inspection. All homes shall comply with state and local fire, health and building regulation.
15. Site Plan.
  - (1) At the time of application for rezoning to a Mobile Home Park District (R 3), the applicant must submit a site plan to the City. The applicant shall be bound by said site plan after the rezoning to Mobile Home Park District (R 3). Thereafter, no building permit shall be issued unless in conformance with the approved site plan. Any changes shall be approved by the City Council. The site plan shall include:
    - i) The name and address of all owners and developers of the proposed mobile home park.
    - ii) The legal description and lot size in acres of the proposed mobile home park.
    - iii) The location and size of all mobile home lots, convenience establishments, storage areas, recreation areas and facilities, landscaping, existing tree growth, water areas, roadways, sidewalk and parking sites.
    - iv) Detailed landscaping and grading plans and specifications.

- v) Plans for sanitary sewage disposal, surface drainage, fire hydrants, water systems, electrical services, gas services, cable television, street lighting and topography diagrams.
- vi) Location and size of all public roadways abutting the mobile home park and all street and sidewalk accesses from such street and sidewalk to the mobile home park.
- vii) Preliminary road construction plans and specifications including cross section and curb details.
- viii) Preliminary floor plans and elevation for all permanent structures.
- ix) Description and method of disposing of garbage and refuse.
- x) Staging and timing of construction program irregardless of whether the entire area will be developed at one time or in stages.
- xi) Such other reasonable information as shall be required by the City.
- xii) The scale for all drawings shall be one (1) inch to one hundred (100) feet.

- (2) The Planning Commission shall review the site plan and submit its recommendations to the City Council.

## 15. ACCESSORY USES AND BUILDINGS PERMITTED IN RESIDENTIAL DISTRICTS

The following accessory uses and buildings are permitted in residential districts:

- 15.01** Home Occupations. Any gainful occupation or profession conducted within the dwelling or accessory building by a resident thereof. Customary home occupations may include, among other, dress or drapery making, millinery, laundry, beautician, photography, professional office, art studio or teaching students.

Home occupations shall meet the criteria specified below:

- 1. No person other than members of the family residing on the premises shall be engaged in such occupation.
- 2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its

occupants, and not more than twenty-five percent (25%) of the main floor area of the dwelling unit shall be permanently set aside to be used in the conduct of the home occupation.

3. There shall be no change to the outside appearance of the premises that would reflect the presence of a home occupation other than one sign, non-illuminated and not to exceed 20 square feet.
4. No equipment shall be used in such home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot or in a neighboring dwelling unit. In the case of electrical interference, no equipment shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
5. No home occupation shall be permitted that creates the need for parking which frequently infringes upon the on-street parking in the neighborhood.
6. There shall be no exterior storage of equipment or materials used in the occupation.
7. he home occupation must be conducted entirely within a building.

**15.02** Garages, Private. A private garage for a single-family dwelling erected as an accessory building shall not exceed 900 square feet unless the lot area exceeds 6,000 square feet, in which event the floor area may be increased by the ratio of 20 square feet for each 1,000 square feet of additional lot area.

**16.** TOOL HOUSES AND SHEDS OR SIMILAR STORAGE BUILDINGS

For the storing of normal household or household related supplies or equipment. The square footage shall not exceed 192 square feet.

**16.01** Fences, Walls and Hedges. In accordance with Supplementary District Regulations of this Ordinance. (See Subsection 19.02.)

**17.** (C 1) COMMERCIAL DISTRICT

**17.01** Purpose. It is the purpose of the C 1 Commercial District to promote civic and high quality commercial uses in the Central Business District of such variety and density as to create an interdependency among such uses thereby creating an economically active area that has immediate access to transportation facilities to serve consumers from the widest possible trade area. This district is further intended to encourage orderly development in areas sensitive to commercial development outside; the Central Business District.

**17.02** Permitted Uses (C 1).

1. Retail and General Business. Animal hospitals, shelters and veterinary clinics, excluding any outside pens and exercise yards, antique stores, appliance sales and repair stores, bakery outlet, boat, snowmobile and motorcycle sales, service and repair, book stores, carpet stores, commercial film developing and processing, confectionaries, dairy products, dance studios, department stores, drapery stores, drug stores, fabric stores, florists, furniture and home furnishings, general contractors (office only), general merchandise, hardware stores, health food stores, hobby shops, interior decorating, jewelry stores, laundries, including laundromats and dry cleaning stores, liquor stores, luggage stores, mail-order houses, meat markets, music stores, office equipment, optical centers, paint and wallpaper stores, pet shops (excluding kennels), pharmacies, photography stores, plumbing and heating shops (excluding contractor's yards), printing shops, sale of wearing apparel of all kinds, rental establishments, shoe stores, sporting goods, super markets, tailor shops, tobacco shops, transportation terminal, travel agencies, variety stores, watch and clock sales and repair.
2. Service, General. Beauty salons, bus and train stations, cable TV distributors, clinics (dental, medical, chiropractic), hotels and motels, insurance offices, locksmiths, shoe repair, mortuaries and funeral homes, publishing and bookbinding establishments, radio and television broadcasting studios and offices, realty office.
3. Automotive Services. Automobile sales, automobile service station, automobile parts and accessories, automotive repair shop (excluding salvage yards), auto glass sales and service, parking garage.
4. Cultural and Educational. Business colleges, museums, art galleries, libraries, trade and vocational schools.
5. Entertainment. Billiard parlors, bowling alleys, cocktail lounges, roller skating and similar indoor recreational uses, night clubs, private clubs or lodges, theaters--(excluding drive-ins).
6. Financial. Banks and savings and loans, including drive-in facilities, credit unions, loan agencies.
7. Health and Social. Hospitals, health clubs - to include tennis, handball, racquetball, aerobic dance, bodybuilding and weight and diet-related facilities and day care facilities.
8. Professional and Business. Business and professional office.

9. Public/Semi-Public Establishments. Armory; civic center; city, county, state and federal offices; libraries; parks and playgrounds; police and fire stations; telephone exchange buildings.
10. Religious. Churches, synagogues, temples.
11. Restaurants. Cafes, restaurants, drive-in type restaurants, provided seating for at least ten customers is provided.
12. Parking Lots. Parking lots and parking ramps.
13. Essential Services. As herein defined.
14. Other. Uses not listed but similar to the permitted uses above and consistent with the stated purpose of this district.

**17.03** Conditional Uses (C 1)

1. Residential. Multiple-family dwelling units.
2. Health and Social. Retirement, nursing, rest or convalescent homes, residential facilities.
3. Wind Energy Conversion System. As required in the R 1 District.

**17.04** Yard Requirements (C 1). Side and rear lot line minimum setback when not abutting a street. (See also Chapter 4, Supplementary District Regulations)

1. Four-hour masonry or concrete walls - no requirements.
2. Two-hour masonry or concrete walls - five (5) feet.
3. All other type construction - ten (10) feet.
4. Buildings erected for residential purposes shall comply with the yard requirements of the R 2 District.

**17.05** Screening (C 1). All lot lines in the C 1 District which abut a residential district shall be effectively screened. Screening may include a sight-obscuring fence at least five (5) feet but not to exceed eight (8) feet in height or plantings of sufficient density and size so as to provide effective year-round screening. Before a building permit can be issued, the Zoning Administrator must review and approve the screening proposal. This provision may be superseded by Subsection 19.02 of Supplementary District Regulations. In cases of common commercial lot lines where comparable land uses are adjacent to each other, the Zoning Administrator may waive the screening requirement for those common property lines between said uses.

**17.06** Lighting (C 1). All sources of artificial light, including signs situated in a C 1 Zone shall be fixed, directed, and designed so as to not create a nuisance to any abutting residential district.

**17.07** Signs (C 1). Off-site and on-site signs. See Subsection 19.09.

**17.08** Accessory Uses and Buildings (C 1). Solar energy systems.

**18.** (C 2) COMMERCIAL DISTRICT

**18.01** Purpose (C 2). It is the purpose of the C 2 Commercial District to provide areas for commercial establishments that offer a wide variety of goods and services to consumers from a large trade area whose uses generally require larger lots than those found in the C 1 Zone, are less dependent on adjacent commercial uses for spin-off business, require close access to major thoroughfares and accommodate primarily automotive oriented customers.

**18.02** Permitted Uses (C 2).

1. General. All permitted uses in the C 1 Commercial District.
2. Wholesale, Retail, Repair, Sales and Service. Agricultural implement dealerships; automobile and truck body repair shops (excluding salvage yards) provided that the outside storage area is effectively screened by a sight obscuring fence at least five (5) feet in height—such screening proposal shall be reviewed and approved by the Zoning Administrator; carwashes; carpenter and cabinet shops; express and parcel delivery establishments; furniture refinishing; contractor or construction office and yards, such as building, cement, electrical, heating, ventilating and air conditioning, masonry, painting and plumbing, refrigeration and roofing where outside equipment storage does not exceed 20,000 square feet, provided that the outside storage area is effectively screened by a sight obscuring fence at least five (5) feet in height—such screening proposal shall be reviewed and approved by the Zoning Administrator; nurseries; garage storage; heavy equipment sales, service and repair; lumber yards provided that the outside storage area is effectively screened by a sight obscuring fence at least five (5) feet in height—such screening proposal shall be reviewed and approved by the Zoning Administrator; mobile home sales, service and repair; recreational home sales, service and repair.
3. Animal Hospitals, Animal Shelters and Veterinary Clinics. Primarily for the treatment of pets and other domestic animals provided that any outside area used for such purposes, including pens and exercising yards shall be located at least 300 feet from any existing residential district.

4. Entertainment. Amusement parks; drive-in theaters with a minimum of five (5) foot sight-obscuring fence; go-kart tracks provided that all of the boundary lines of the lot containing such use is located at least 300 feet from any existing residential district; health clubs; golf-driving ranges; miniature golf courses.
5. Trailer Park and Camping Facilities. Camping facilities for tourists provided that all of the boundary lines of the lot containing the use shall be located at least 300 feet from any existing residential district.
6. Restaurants. Drive-ins; truck stops provided that the parking area containing such use shall be located at least 150 feet from any existing residential district.
7. Uses not listed but similar to the permitted uses above and consistent with the stated purposes of this district.

**18.03** Conditional Uses (C 2).

1. All conditional uses as provided for in the C 1 District.
2. Kennels.

**18.04** Accessory Uses and Buildings (C 2). Solar energy systems; dwelling units for watchman and custodians provided that the dwelling units shall not occupy the front portion of the ground floor and shall not contain more than one bedroom is a permanent structure. Mobile homes may be permitted for watchmen and custodial purposes if approved and licensed by the City Council.

**18.05** Yard Requirements (C 2). As provided in the C 1 District. See also, Chapter 4 Supplementary District Regulations.

1. A 30 foot setback is required when the property abuts a public roadway.

**18.06** Screening (C 2). As provided in the C 1 District.

**18.07** Lighting (C 2). As provided in the C 1 District.

**18.08** Signs (C 2). Off-site and on-site signs. See Subsection 19.09.

**19.** LIGHT INDUSTRIAL DISTRICT

**19.01** Purpose (I). It is the purpose of the I District to permit industrial uses whose objectionable features can be eliminated by design, screening and other appropriate devices.

**19.02** Permitted Uses. The permitted uses are listed below. Accessory uses and essential services are also permitted.

**19.03** Conditional Uses. The City Council may authorize conditional uses and others similar in nature, which will not be detrimental to the integrity of the district. Uses may include permitted uses or conditional uses approved for any other district.

**C 1 LIGHT INDUSTRIAL**

Permitted Uses	Conditional Uses
1. Light Manufacturing	1. Manufacturing
2. Research Laboratories	2. Public Utility Buildings
3. Testing Laboratories	3. Water and Sewage Treatment Facilities
4. Offices	4. Airports
5. Supply Yards	5. Truck and Railroad Terminals
6. Warehousing	6. Grain Elevators
7. Truck Terminals	7. Commercial Recreation
8. Public Parking	8. Animal Clinics
9. Parking Lots	

**19.04** Accessory Uses and Buildings (I). Solar energy systems; temporary buildings for construction purposes for a period not to exceed the duration of such construction; dwelling units for watchmen and custodians provided that the dwelling unit shall not occupy the front portion of the ground floor and shall not contain more than one bedroom in a permanent structure, mobile homes may be permitted to watchmen and custodial purposes if approved and licensed by the City Council.

**19.05** Yard Requirements (I). As provided in the C 1 District. See also Chapter 4 Supplementary District Regulations.

1. A 30 foot setback is required when the property abuts a public roadway.

**19.06** Screening (I 1). As provided in the C 1 District. In addition, all exterior storage areas located on lots any boundary lines of which are abutting or directly across from a residential district shall be effectively screened. Screening may include a sight-obscuring fence five (5) feet in height, or plantings of sufficient density and size so as to provide effective year-round screening. Before a building permit shall be issued, the Zoning Administrator shall approve the screening plan.

**19.07** Prohibited Uses (I).

1. Acetylene gas manufacture.
2. Ammonia or chlorine manufacture.
3. Anhydrous ammonia bulk storage plants, and any other trade, industry, or use that will be injurious, hazardous, noxious, or offensive to an extent equal to or greater than those listed above.

**19.08** Lighting (I). As provided in the C 2 District.

**19.09** Signs (I). On-site and off-site signs. See Subsection 19.09.

CHAPTER 4

SUPPLEMENTARY DISTRICT REGULATIONS

**20.** YARD REGULATIONS

**20.01** Visibility at Intersections in Residential Districts. On a corner lot, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of thirty (30) inches and eight (8) feet within thirty (30) feet of the intersecting curb line of the intersection.

**20.02** Fences, Walls and Hedges. No fence, wall or hedge shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of thirty (30) inches and eight (8) feet where it will interfere with traffic or pedestrian visibility from a driveway or alley to a public way. The regulations shall apply unless it can be demonstrated to the Zoning Administrator that the structure provides an unobstructed view so as not to create a safety hazard. See also Subsection 19.11.

**20.03** Residential Yard Storage. In the (A), (R 1) and (R 2) zoning districts, all materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following: Laundry drying equipment, recreational equipment (including snowmobiles, boats and boat trailers, etc.), equipment temporarily being used on the premises, agricultural equipment and materials if these are used or intended for use on the premises, off-street parking of passenger automobiles, pickup trucks and small utility trailers.

**20.04** Parking Lots and Driveways Abutting Residential Districts. Whenever a parking lot or a driveway to a parking lot is established in other than a residential district so as to abut the side or rear line of a lot in a residential district, a sight-obscuring fence of at least five (5) feet in height shall be constructed and maintained along said side or rear lot line.

**20.05** Side Yard and Rear Yard Requirements for Lots in Commercial or Light Industrial Districts Adjacent to a Residential District. Where a lot in a commercial or industrial district abuts a side or rear yard in a residential district, there shall be provided along such abutting commercial or industrial side or rear yards such yard requirements as required in the residential district.

**20.06** Irregular Setback. Where a uniform setback does not exist, the required setback shall be no less than the average of the setback of the two (2) adjacent principal buildings, or if there is only one (1) adjacent principal building, the setback of said main building shall govern, but in no case shall a setback greater than twenty-five (25) feet be required.

**20.07** Yard Encroachments. Every part of a yard or court shall be open and unobstructed by any building or structure, from its lowest point upward, except as follows:

1. Accessory structures, as governed by this Ordinance, are permitted in rear yards.
2. Awnings, balconies, sills, cornices, buttresses, and eaves may project not more than five (5) feet over or half the distance of the required side yard, whichever is less.
3. Walks, steps for negotiation ground slopes, retaining walls, hedges and natural growth, fences, paved terraces and paved areas.
4. Structures used ornamentally or for gardening or for private recreation purposes, and structures for essential services, all accessory to and customarily incidental to the principal use, are permitted in yards and courts and solar energy systems not included in the floor area of the building are permitted side yards, provided that a side yard strip three (3) feet in width adjoining the side line of the lot shall be unobstructed by any structure or feature, except a fence or retaining wall.
5. Uncovered porches may not extend more than three (3) feet into any required side yard.
6. Open work fire balconies and fire escapes may extend not more than three (3) feet into a required yard or court.
7. Chimneys and flues may extend not more than two (2) feet into a required yard or court.
8. Front yard encroachments - Add on entryways to existing residential dwellings may encroach into the twenty-five (25) foot required front yard setback not more than five (5) feet and shall not exceed fifty (50) square feet in total size. Such regulation shall apply to existing residential units within any residential district.

**20.08** Signs in Agricultural and Residential Districts. The following signs shall be permitted in residential districts provided they are illuminated only by the reflector method and so erected that the light source is not visible from outside the premises.

1. Signs traditionally associated with the permitted uses.
2. Signs not exceeding two (2) square feet in area and bearing only property numbers, post box numbers and names of occupants of premises.
3. Signs as permitted for home occupations.
4. Flags and insignias of any government except when displayed in connection with a commercial promotion.
5. An advertising sign in connection with a lawfully maintained nonconforming use or conditional use.
6. Legal notices, identification, information, or directional signs erected or required by governmental bodies.
7. A sign advertising only the sale, rental or lease of the building or premises.
8. Temporary signs connected with political elections.

**20.09** Signs in Commercial and Light Industrial Districts.

1. A sign permit must be obtained prior to installation of any commercial signs.
2. The foundation base and posts of all signs must be on private property.
3. No part of any sign or projection may protrude over the public right-of-way within six (6) feet of the actual or proposed curb line. Signs, marquees, awnings and similar projections may project over the right-of-way a maximum of six (6) feet provided no part is within six (6) feet of the curb line and that it is over eight (8) feet above the sidewalk or the average grade at property line when no sidewalk is in place. If the street is widened, the sign would have to be moved back at the owner's expense to maintain the 6 foot distance of the curb regulation.
4. All sources of artificial light other than street lights shall be fixed, directed or designed so as not to measurably increase the amount of light to any abutting residential lot or public roadway.

5. No sign can be of a height so that if it falls it will project over half way across a street right-of-way.
6. All sign installation shall also conform to the Minnesota Department of Transportation and Federal Aviation Authorities wherever possible.
7. See Section 19.08 for signs in residential districts.

**20.10** Limitation of Principal and Accessory Buildings on One Lot.

1. Not more than one (1) principal building shall be located on a lot in any residential district.
2. No accessory building or structure other than a fence, temporary construction, office or garage for residential use may be constructed prior to the time of construction of the principal building or structure.

**20.11** Fences.

1. Location. All boundary line fences shall be located entirely within the private property of the person, firm or corporation constructing or causing the construction of such fence.
2. Construction and Maintenance. Every fence shall be constructed in a substantial workmanlike manner and of substantial material reasonably suitable for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Any such fence which is or has become dangerous to the public safety, health or welfare, is a public nuisance, and the Zoning Administrator is hereby authorized to commence proceedings for the abatement thereof. Line fences, wherever permitted, shall be constructed in such a manner that the barbed end is at the bottom of the fence and the knuckle end is at the top thereof.
3. Barbed wire fences shall not be permitted, used or constructed except in agricultural, commercial, and industrial districts as hereinafter provided.
4. Residential District Fences. All residential fences shall be placed within the property being fenced.
  - (1) Fences alongside property lines shall not be more than eight (8) feet in height for the distance commencing from a point on such side property line located along the rear lot line and proceeding thence along such side property line to a point thereon which

would be intersected by the front wall line of the existing principal structure on the lot.

- (2) Fences along any rear property line shall not exceed eight (8) feet in height.
- (3) The screening provisions for residential districts shall supercede, where applicable, the provisions of this subsection.
- (4) All posts or similar supporting instruments used in the construction of fences shall be faced inward toward the property being fenced.

5. Commercial and Light Industrial District Fences. All commercial and industrial fences shall be placed within the property being fenced.

- (1) Fences which are primarily erected as a security measure may have arms projecting into the applicant's property on which barbed wire can be fastened commencing at a point at least seven (7) feet above the ground.
- (2) The screening provisions for commercial and industrial districts shall supercede, where applicable, the provisions of this subsection.

6. Agricultural Fences. Barbed wire fences are permitted in the Agricultural Zone.

7. Special Purpose Fences. Fences for special purposes and fences differing in construction, height or length may be permitted by the Zoning Administrator in any district in the City provided that reasons submitted by the applicant demonstrate the purpose is necessary to protect, buffer or improve the premises for which such fence is intended. The Zoning Administrator may stipulate the height, location, construction and type of special fence thereby permitted.

**20.12** Planned Unit Design. For purpose of flexibility, uniqueness, innovative design, energy conservation and the encouragement of the use of renewable energy sources, it is hereby established that a modification of yard requirements may be granted if the applicant files and receives approval in accordance with Section 8.00 as it relates to Conditional Use Permits. The proposal shall meet the following criteria:

- 1. The parcel shall be a minimum of one (1) acre in size.
- 2. The proposal shall be compatible with adjacent land use.

3. Minimum side yard requirements of the parent district shall be maintained on its perimeter lot lines when abutting adjacent lots.
4. The proposal shall not increase the overall density as regulated by the requirements of the parent district, except that a density bonus of up to twenty percent (20%) may be granted in the R 1 and R 2 residential districts for developments that optimize creative and efficient use of land and housing to promote energy conservation and alternative energy sources. Approaches may include active and/or passive solar systems, earth-shelter structures, clustered units of up to four (4) units per structure, landscaping, and energy construction standards that will achieve a heating load of not more than three (3) btu's per square foot per degree day per year. The following shall be required:
  - (1) A site plan depicting the housing units, parking, drainage, streets, landscaping and adjacent buildings and landscaping.
  - (2) A typical cross-section of each type of housing unit.
  - (3) Appropriate easements or covenants to assure future solar access.
  - (4) Evidence that the proposed planned unit design will promote energy conservation or the use of alternative energy sources.

## CHAPTER 5

### OFF-STREET PARKING AND LOADING REQUIREMENTS AND STANDARDS

#### 21. OFF-STREET PARKING AND LOADING REQUIREMENTS

Off-street parking and loading spaces shall be provided for buildings and uses as specified in the following schedule.

##### 21.01 General Types of Uses.

<u>Types of Uses</u>	<u>Requirements</u>
Automotive repair and body shops	3 spaces for each repair stall plus 1 space for each employee
Banks	1 space per 250 feet of gross floor area
Bowling alleys	5 spaces for each alley, plus 1 space for every 2 employees

Churches	1 space for each 4 seats in the church (sanctuary), plus 1 space for each church employee
Community centers, libraries, museums	1 space per each 250 square feet of gross floor area
Drive-in banks	Reserve space equal to 3 times the number of drive-in window units
Dwelling, efficiency	1½ spaces per efficiency dwelling
Dwelling, units	2 spaces per dwelling unit
Rooming units within dwellings	1 space per rooming unit
Funeral homes	1 space per each 60 square feet of floor area available for seating accommodations
General retail	4 spaces per 1,000 square feet of floor area excluding public plazas, malls and pedestrian walkways
Hotels, motels, tourist homes, cabins	1 space for each room or suite, plus 2 spaces for each 5 employees
Industrial and manufacturing	1 space for each 1½ employees on the shift of the greatest employment plus 1 truck space for each 7,500 square feet of gross floor area
Medical or dental clinics	1 space per 250 square feet of gross floor area plus 1 space per doctor engaged at the clinic plus 1 space for each employee
Nursing homes, convalescent home	1 space for each 4 residents or patients plus 1 space for each 2 employees plus 1 space for emergency vehicles
Office, professional or public buildings	1 space for each 250 square feet of gross floor area
Post Office	1 space per each 400 square feet plus 1 space for each 2 employees

Private clubs or lodges	Parking requirements to be determined by totaling each specific type of use provided for, plus 1 space per 250 square feet of gross floor area for all other areas.
Restaurants, night clubs	1 space per 4 seating accommodations, plus 1 space for each 2 employees
Retirement homes	$\frac{3}{4}$ space per unit
Theaters, civic centers, auditoriums, stadiums, sports arenas or similar uses	1 space for each 4 seats, plus 1 space for each 2 employees
Warehousing and wholesaling	1 space per employee on the shift of greatest employment plus 1 truck space for each 7,500 square feet of gross floor area

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

**21.03** Design Standards.

1. All off-street automobile parking facilities shall be designated with appropriate means of vehicular access to a street or alley as well as maneuvering areas. Detailed plans shall be submitted to the proper official for approval for all curb cuts or driveway openings before a permit may be obtained therefore.
2. Parking and access drive areas be surfaced with gravel, asphaltic, or concrete surfacing, afford adequate drainage and shall have bumper guards where needed.
3. Residential Front Yard Parking Standards:
  - (1) Off-street parking areas for one (1) or two (2) family uses shall be in the rear, side yards, garage, carport, upon a well-defined driveway or in an area not to exceed twelve (12) feet in width abutting the driveway on one side only in the front yard. The parking area designated in the front yard abutting the driveway shall be surfaced with either gravel, concrete or asphalt.
  - (2) Off-street parking areas for multiple-family units of three (3) or more shall park on a designated parking lot. In no case, unless approved by the Zoning Administrator in the issuance of a building permit or by the City Council in cases of conditional

uses, shall parking be permitted on the front yard except within the limitations as required in Item 1 and 2 of this subsection.

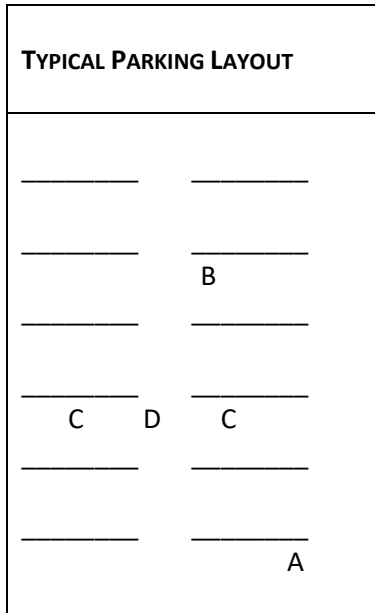
4. Parking area shall be used for automobile parking only with no sales, dead storage, repair work, dismantling or servicing of any kind permitted.
5. If lighting is provided, it shall be arranged to reflect away from the residential area.

**21.04** Uses Not Specified. For any and all uses or structures not specifically provided for, the Board of Adjustment shall determine the necessary parking spaces after considering all the parking demands generated by the use.

**21.05** Location of Parking Facilities. Off-street parking, excluding residential related uses, to the extent required, may be provided either on the same lot or premises with the use generating the parking requirement or on any lot a substantial portion of which is within 800 feet of such use, provided that off-street parking is a use permitted for the lot to be so used.

Also, parking requirements need not be met on the site containing the building if it can be demonstrated that adequate parking is provided in a municipal or private parking lot serving the general area.

## 22. OFF-STREET PARKING STANDARDS



### OVERHANG

**Note:** Overhang dimensions are intended to indicate possible location from parking area edge for location of bumpers.

PARKING ANGLE SPACE DIMENSIONS					
A Parking Angle	B Stall Width	C Stall to Curb	D Aisle Width	E Curb Length	F Overhang
0°	9.0	9.0	12	23	0
	9.5	9.5	12	23	
	10.0	10.0	12	23	
20°	9.0	15.0	11	26.3	0.7
	9.5	15.5	11	27.8	
	10.0	15.9	11	29.2	
30°	9.0	16	11	18	1.0
	9.5	16	11	19	
	10.0	16	11	20	
40°	9.0	18	12	14	1.3
	9.5	18	12	14.8	
	10.0	18	12	15.6	
45°	9.0	19	13	12.7	1.4
	9.5	19	13	13.4	
	10.0	19	13	14.1	
50°	9.0	19	16	11.7	1.5
	9.5	19	16	12.4	
	10.0	19	16	13.1	
60°	9.0	20	18	10.4	1.7
	9.5	20	18	11.0	
	10.0	20	18	11.5	
70°	9.0	20	19	9.6	1.9
	9.5	20	18.5	10.1	
	10.0	20	18.0	10.6	
80°	9.0	19	24	9.1	2.0
	9.5	19	24	9.6	
	10.0	19	24	10.2	
90°	9.0	18	24.5	9.0	2.0
	9.5	18	24.5	9.5	
	10.0	18	24.5	10.0	

All dimensions are to nearest tenth of a foot.

\*Add three feet in width for handicapped stall.

CHAPTER 6  
MOVING BUILDINGS INTO, WITHIN AND OUT OF THE CITY

- 23.** All used buildings moved into, within or out of the City shall comply with the following:
- 23.01** The building is well maintained and in a good state of repair.
  - 23.02** The building will not materially depreciate surrounding property values.
  - 23.03** The building will be consistent with the objectives of the City's Comprehensive Plan.
  - 23.04** Will be designed, constructed, operated and maintained so to be compatible in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area.
  - 23.05** Will not be hazardous or disturbing to existing or planned neighboring uses or adversely affect the public health, safety or general welfare.
  - 23.06** Will not create excessive requirements for public facilities and services and will not be detrimental to the economic welfare of the community.
  - 23.07** The building will be placed upon a concrete block foundation, poured concrete foundation, or other foundation acceptable to the City.
  - 23.08** No person shall move or remove any building within the City without first obtaining a permit from the Zoning Administrator.
  - 23.09** All permits shall be for the duration of one year, from the date of issuance. Any moving, remodeling, alteration, or reconditioning of any building or structure must be completed within a one year period. All landscaping and steps to all outside doors must be completed within the one year period.
  - 23.10** All rubbish and materials shall be removed and all excavations shall be filled to existing grade at the original building site, so that the premises are left in a safe and sanitary condition. This must be completed within 30 days of the building being moved.

CHAPTER 7

**24.** ZONING OF ADULT ESTABLISHMENTS.

**24.01** Sex-Related Activities as Conditional Uses; Adult Establishments

- 1.** Purpose and Intent. It is the purpose of this section to protect the public health, safety, welfare and morals of the community, and to protect individuals and neighborhoods from the adverse effects of

having activities and standards involving pandering to gross sexuality imposed on them.

2. Definitions. As used in this section, the following terms will have the following meanings, unless the context clearly indicates a different meaning:

- (1) Specified sexual activities:
  - i) Human genitals in a state of sexual stimulation or arousal;
  - ii) Acts of human masturbation, sexual intercourse or sodomy;
  - iii) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
- (2) Specified anatomical areas:
  - i) Less than completely and opaquely covered human genitals, pubic region, buttocks or female breast below a point immediately above the top of the areola;
  - ii) Human male genitals in a discernibly turgid or aroused state, whether or not covered.

3. Conditional Uses. None of the following uses, which shall be considered Adult Establishments, shall be permitted in any district unless a conditional use permit for such use has been obtained. These requirements for a conditional use permit shall be in addition to all other requirements of all other applicable sections of this ordinance:

- (1) Book sales and magazine sales, where either the advertising or the displays or signs in or out of the location offer materials showing specified sexual activities or specified anatomical areas. This does not apply to the availability for sale of any material displayed in such a way that only the name of the book or magazine appears.
- (2) Movie theaters offering movies or other displays showing specified sexual activities or specified anatomical areas.
- (3) Any type of theater or establishment offering any kind of show emphasizing specified sexual activities or specified anatomical areas.
- (4) Any coin-operated devices and any place offering coin-operated devices which show specified sexual activities or specified anatomical areas.
- (5) Any cabaret, club or tavern offering any entertainment showing specified sexual activities or specified anatomical areas.

4. Procedure. Any person desiring a conditional use permit for any use specified in this section shall apply in the manner provided by ordinance for a conditional use.
5. Duration. Conditional use permits issued under this section shall expire one year after issuance, and may be renewed by the same procedure that an original conditional use permit is granted.

**24.02** Sex-Related Activities Restricted to Specific Areas. In order to protect public health, welfare, morals and safety, and to prevent degradation of property values or other injury to the people of the City of Kerkhoven, conditional use permits shall issue for adult establishments offering specified sexual activities or displaying C-2. It is further provided, however, that no conditional use permit for such use or establishment shall be issued for any location which is within 250 feet of any residence, church or other place of religious worship, school, public park or playground. No conditional use permit shall issue for any establishment, location or use which is part of, adjacent to, or within 250 feet of any establishment licensed to sell, at off sale or on sale, any alcoholic beverage, beer, wine or intoxicating spirits, or is licensed as a bottle club. In addition to any other conditions established pursuant to Section 24, an annual fee in an amount to be set by annual resolution of the City Council shall be paid to the City of Kerkhoven general fund in recognition of additional law enforcement and other related public safety costs. Said fee shall be payable on approval of the conditional use permit by the City Council, and thereafter on the anniversary date thereof.