TITLE 12

ZONING REGULATIONS

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CHAPTER 1

TITLE; PURPOSE; APPLICATION

SECTION:

12-1-1: Short Title
12-1-2: Purpose
12-1-3: Application Of Provisions
12-1-4: Separability

12-1-1: **SHORT TITLE:** This title shall be known, cited and referred to as the *ANDOVER CITY ZONING ORDINANCE* except as referred to herein, where it shall be known as "this title". (Amended Ord. 8, 10-21-1970)

12-1-2: **PURPOSE:** This title is adopted for the purpose of:

A. Protecting the public health, safety, morals, comfort, convenience and general welfare.

B. Dividing the city into zones and districts, restricting and regulating herein the location and use of structures and the land.

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

D. Providing adequate light, air and convenience of access to property.

E. Limiting congestion in the public rights-of-way.

F. Preventing overcrowding of land and undue concentration of structures by regulating the use of land and buildings and the bulk of buildings in relation to the land and buildings surrounding them.

G. Providing for the compatibility of different land uses and the most appropriate use of land throughout the city; protecting and guiding the development of rural areas.

H. Conserving and developing natural resources.

I. Fostering agriculture and other industries.

J. Preventing a wasteful scattering of population.

K. Securing safety from flood.

L. Reducing waste from excessive miles of roads.

M. Conserving the natural and scenic beauty and attractiveness of roadsides.

N. Providing for the administration of this title and amendments thereto.

O. Defining the powers and duties of the administrative officers and bodies, as provided hereinafter.

P. Prescribing penalties for the violation of the provisions of this title or any amendment hereto. (Amended Ord. 8, 10-21-1970)

12-1-3: **APPLICATION OF PROVISIONS:**

A. Minimum Requirements: In their interpretation and application, the provisions of this title shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.

B. More Restrictive Provisions Apply: Where the conditions imposed by any provision of this title are either more restrictive or less restrictive than comparable conditions imposed by any other laws, ordinances, statutes, resolutions, or regulations of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

C. Compliance With Provisions: Except as in this title specifically provided, no structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with this title.

D. Annexed Land:

1. When land is proposed to be annexed to the city, the Planning and Zoning Commission shall hold a public hearing upon the permanent zoning of said land. The results of the hearing, along with a recommendation, shall be presented to the governing body.

2. In the event of annexation proceedings becoming final before the permanent zoning is determined, the annexed area shall be placed in the most restrictive district and such classification shall be considered as an interim step pending permanent classification. (Amended Ord. 8, 10-21-1970)

12-1-4: **SEPARABILITY:** It is hereby declared to be the intention that the several provisions of this title are separable in accordance with the following:

A. If any court of competent jurisdiction shall adjudge any provision of this title to be invalid, such judgment shall not affect any other provisions of this title not specifically included in said judgment.

B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this title to a particular property, building, or structure, such judgment shall not affect other property, buildings, or structures. (Amended Ord. 8, 10-21-1970)

CHAPTER 2

RULES AND DEFINITIONS

SECTION:

12-2-1: Rules Of Word Construction
12-2-2: Definitions

12-2-1: **RULES OF WORD CONSTRUCTION:** The language set forth in the text of this title shall be interpreted in accordance with the following rules of construction:

A. The singular number includes the plural and the plural the singular.

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

C. The word "shall" is mandatory, and the word "may" is permissive.

D. Whenever a word or term defined hereinafter appears in the text of this title, its meaning shall be construed as set forth in such neuter genders.

E. The masculine gender includes the feminine and neuter genders.

F. All measured distances expressed in feet shall be to the nearest tenth of a foot. In event of conflicting provisions, the more restrictive provision shall apply. (Amended Ord. 8, 10-21-1970)

12-2-2: **DEFINITIONS:** The following words and terms, whenever they occur in this title, are defined as follows:

ACCESS DRIVE: A road with a width of at least twenty feet, as required by Fire Code, constructed of material that can provide all-weather driving capabilities for emergency vehicles. (amd. Ord. 314, 10-4-2005)

ACCESSORY DWELLING UNIT (ADU): A subordinate habitable dwelling unit, which has its own basic requirements of shelter, heating, cooking, and sanitation, accessory to a single-family dwelling (hereinafter principal dwelling unit). (Amended Ord. 463, 6-21-16)

ACCESSORY USE OR STRUCTURE: A use or structure or portion of a structure subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

AGRICULTURAL USE, RURAL: An area of five (5) or more contiguous acres which is used for the production of farm crops such as vegetables, fruit trees, grain and other crops and their storage on the area. (Amd. 4/18/06, Ord. 325A)

AGRICULTURAL USE, URBAN: An area of less than five (5) contiguous acres which is used for the purpose of growing produce including crops, fruit trees, shrubs, plants and flowers, vegetables, and the like, provided such produce is intended solely for the use of owners on the property or sale away from the property. (Amd. 4/18/06, Ord. 325A)

AIRPORT OR HELIPORT: Any land or structure which is used or intended for use for the landing and takeoff of aircraft, and any appurtenant land or structure used or intended for use for port buildings or other structures or rights of way.

ALLEY: A public right-of-way which affords a secondary means of access to abutting property.

ANIMAL ASSISTED THERAPY (AAT): Also known as pet therapy, is a goal-directed type of therapy, delivered and/or directed by a health/human service provider working within the scope of his or her profession, in which an animal meeting specific criteria is used as an integral part of a treatment process designed to promote improvement in the physical, social, emotional, and/or cognitive functioning of the patient. (Amd. 10/20/09,Ord 388)

ANIMAL THERAPY FACILITY: A facility that provides Animal Assisted Therapy on properties larger than five acres in size.

ANIMALS, DOMESTIC: Dogs, cats and other similar animals that can

be purchased at a retail pet store and maintained indoors. (Amd. 4/18/06, Ord. 325A)

ANIMALS, FARM: Animals commonly kept on a farm, such as cattle, swines (including pot-bellied pigs), sheep, goats, and other similar animals, excluding poultry. (Amd. 4/18/06, Ord. 325A; Amended Ord. 426, 1/2/13)

ANIMALS, NONDOMESTIC: Animals not defined as domestic, farm or pleasure/recreational animals that are of a wild nature or disposition or which, because of its vicious nature or other characteristics, would constitute a danger to human life or property including the prohibited animals listed in City Code 5-1C-2. (Amended Ord. 325A, 4-18-2006)

ANIMALS, PLEASURE/ RECREATIONAL: Horses, ponies, foals, donkeys, burros, mules, alpacas and llamas. (Amended Ord. 325A, 4-18-2006)

APARTMENT: A room or suite of rooms with cooking facilities which is occupied and normally rented as a residence by a single family; shall include buildings with three (3) or more dwelling units and efficiency units.

AUTO REDUCTION YARD: A lot or yard where two (2) or more unlicensed motor vehicles or the remains thereof are kept for the purpose of dismantling, sale of parts, sale as scrap, storage, or abandonment.

AUTOMOBILE SERVICE STATION: All premises whereon the owner or occupant conducts the business of furnishing, selling or dispensing motor fuel and liquified petroleum for motor vehicles. These regulations shall also pertain to automobile repair, service and painting establishments. (Amended Ord. 314, 10-4-2005)

AVERAGE FOOT-CANDLE: The level of light measured at an average point of illumination between the brightest and darkest

areas.

BASEMENT: A portion of a building located partly underground but having less than half its floor to ceiling height below the average grade of the adjoining ground.

BED AND BREAKFAST: A small lodging establishment that offers overnight accommodations and breakfast for a fee, but usually does not offer other meals. (Amended Ord. 436, 4-15-2014)

BOARDING HOUSE (ROOMING OR LODGING HOUSE): A building other than a motel or hotel where, for compensation and by prearrangement for definite periods, meals or lodgings are provided for three (3) or more persons, but not to exceed eight (8) persons.

BUILDING: Any structure having a roof which may provide shelter or enclosure of persons, animals or chattel, and when said structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

BUILDING HEIGHT: A distance to be measured from the mean curb level along the front lot line or from the mean ground level for all of the portion of the structure having frontage on a public right-of-way, whichever is higher, to the top of the cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch type roof, to the mean distance of the highest gable on a pitched or hip roof.

BUILDING MATERIALS: Construction equipment and building materials Currently being used for the construction of a structure on a premise of a property for which an active building permit has been applied for and issued. (Amended Ord. 380, 4/21/09)

BUSINESS: Any occupation, employment or enterprise wherein merchandise is exhibited or sold, or which occupies time, attention, labor and materials, or where services are offered for compensation.

CARPORT: An automobile shelter having one or more sides open.

CELLAR: That portion of the building having more than one-half (1/2) of the floor to ceiling height below the average grade of the adjoining ground.

CEMETERY: Land used for the burial of human bodies, excluding crematoriums. (Amended Ord. 314, 10-4-2005)

CLUB, PRIVATE: A place of assembly and activity where membership is required and directed toward and limited to people with specific interests or of a specific group. (Amended Ord. 436, 4-15-2014)

CLUB, PUBLIC: A place of assembly and activity where membership typically is required and is directed toward the general public, and where the sponsoring organization is non-profit. (Amended Ord. 436. 4-15-2014)

COMMERCIAL FEEDLOT: An area where fifteen (15) or more nondomestic animals are confined.

COMMERCIAL GREENHOUSE: A retail business where the primary operations are the selling of landscaping and plant materials grown on site either in an enclosed building or outside. (Amended Ord. 436, 4-15-2014)

COMMERCIAL RECREATION: A recreation facility operated as a business and open to the public for a fee.

COMMERCIAL VEHICLE: Any vehicle, including truck, semi-tractor, or van, primarily used for the movement of cargo or passengers in the normal operation of a business.

COMMUNITY: City of Andover.

COMPOSTING FACILITY: A commercial, industrial or institutional facility that is primarily engaged in the disposal of yard waste not typically collected by commercial and residential waste haulers. Yard waste includes compostable items such as leaves, lawn clippings and shrub prunings but, for the proposes of this definition, also includes tree branches, tree trunks, and stumps from removed trees.

COMPREHENSIVE PLAN: Unless otherwise stated, it is the general plan for land use, transportation, and community facilities prepared and maintained by the community Planning and Zoning Commission.

CONDOMINIUMS: A form of individual ownership of property as defined by the uniform condominium act of the state of Minnesota[1].

CONTINUOUS OPERATION: Describes a business that is open to the public for some portion of each hour of the 24-hours in a day. It also includes a business that is open to the public for more than 5 hours of the overnight period beginning at 11pm and ending at 7 am. (Amended Ord. 421, 10/2/12)

CONTRACTORS' SHOPS AND STORAGE YARDS: An area and/or building used for the storage and maintenance of equipment, materials, or vehicles devoted to use by a person who contracts to supply certain materials or to do certain work in the field of building trades or landscaping. (Amended 7/21/20, Ord. 509)

CREMATORIUM: A place within a funeral home where bodies are consumed by incineration and the ashes of the deceased are collected for permanent burial or storage in urns as a part of a funeral conducted on the site subject to the setback requirements of City Code 12-5 . Any other cremations shall be subject to limitations by the City Council through the Conditional Use Permit process based on the location, size of the site, surrounding land uses and any other health or

[1] MSA § 515A.1-101 et seq.

safety concerns. (Amended Ord. 314, 10-4-2005)

CURB LEVEL: The grade elevation established by the governing body of the curb in front of the center of the building. Where no curb level has been established, the engineering staff shall determine a curb level or its equivalent for the purpose of this title.

DAYCARE CENTER: Any facility, public or private, that, for compensation or otherwise, provides for the care of children outside their homes for periods of less than twenty four (24) hours per day. Daycare centers include, but are not limited to, day nurseries, nursery schools, childcare centers and daycare facilities (includes family and group family daycare facilities per Minnesota State Statutes). (Amended Ord. 436, 4-15-2014)

DECK: A horizontal, unenclosed platform with or without attached railings, seats, trellises or other features, attached or functionally related to a principal use or site. (Amd. 4/18/06, Ord. 325A)

DENSITY ZONING: The permission of lower density (lot areas) standards under conditions whereby the number of dwelling units permitted is not greater than permitted by the application of the regular provisions of the district but with all land excluded from the lot area requirements added onto public or semipublic open space (park, playground, school site, walkway or other approved open green space).

DOG KENNEL, COMMERCIAL[2] : Any place where a person accepts dogs from the general public and where such animals are kept for the purpose of selling, boarding, breeding, training, or grooming, except for a veterinary clinic. There shall be a fenced yard or dog enclosures present to prevent the running at large or escape of dogs confined therein.

[2] See also section 5-1A-1 of this code, definition of “kennel, commercial”.

DOG KENNEL, PRIVATE[1] : A place where more than three (3) dogs over six (6) months of age are kept for private enjoyment and not for monetary gain, provided such animals are owned by the owner or the lessee of the premises on which they are kept. There shall be a fenced yard or dog enclosures present to prevent the running at large or escape of dogs confined therein.

DRIVE IN BUSINESS: Any business in which people are provided a service or a sale is made without the passenger being required to leave the vehicle.

DROP IN CHILDCARE CENTER: A center whose total licensed capacity is based primarily on children who attend on an irregular basis.

DRY CLEANING PROCESSING: The business of processing clothing through a special cleaning process that involves the use of the chemical known as “perchloroethylene” or “PERC”, or other state or federally approved chemicals. The scope of this use is to accommodate the processing of clothes that are dropped off at the site approved for the use and up to 4 additional drop sites. The site and the processing equipment therein shall be sized accordingly. This scope of this use is not intended to serve as a regional processing center for large scale operations. (Amended Ord. 323, 2-7-2006)

DURABLE AND DUSTLESS SURFACE: Asphalt, concrete, or other surface (water sealed) as approved by the engineer or building official.

DWELLING, DETACHED: A dwelling which is entirely surrounded by open space on the same lot.

DWELLING UNIT: A residential building or portion thereof intended for occupancy by a family, but not including hotels, motels, boarding or rooming houses, tourist homes or trailers. It shall include manufactured homes.

DWELLING UNIT, ATTACHED (SINGLE-FAMILY): A form of individual ownership of a single-family attached dwelling unit which entails joint ownership

[1] See also section 5-1A-1 of this code, definition of “kennel, private”.

and responsibility for maintenance and repairs of the land and/or other common property. This shall include, but not be limited to, townhouses, carriage homes, and manor homes. Such structures shall not exceed two (2) stories in height, excluding the basement.

EXTERIOR LIGHTING: Temporary or permanent lighting that is installed, located or used in such a manner to cause light rays to shine outside. Fixtures that are installed indoors that are intended to light something outside.

EXTERIOR STORAGE (INCLUDES OPEN STORAGE): The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

FAMILY: A. An individual or two (2) or more persons related by blood, marriage or adoption living together; or

B. A group of not more than five (5) persons who need not be related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit, exclusive of usual servants.

FARM TRUCK: A. All single unit trucks, truck tractors, tractors, semi-trailers, and trailers used by the owner thereof to transport agricultural, horticultural, dairy, and other farm products, including livestock, produced or finished by the owner of the truck, and any other personal property owned by the farmer to whom the license for the truck is issued, from the farm to market, and to transport property and supplies to the farm of the owner. Trucks, truck tractors, tractors, semi-trailers, and trailers registered as "farm trucks" may be used by the owner thereof to occasionally transport unprocessed and raw farm products, not produced by the owner of the truck, from the place of production to market when the transportation constitutes the first haul of the products, and may be used by the owner thereof either farmer or logger, who harvests and hauls forest products only, to transport logs, pulpwood, lumber, chips, railroad ties and other raw and unfinished forest products from the

place of production to an assembly yard or railhead when the transportation constitutes the first haul thereof; provided, that the owner and operator of the vehicle transporting planed lumber shall have in his immediate possession a statement signed by the producer of the lumber designating the governmental subdivision, section and township where the lumber was produced and that this haul, indicating the date, is the first haul thereof. The licensed vehicles may also be used by the owner thereof to transport, to and from timber harvesting, any gravel and other road building materials for timber haul roads.

B. "Farm trucks" shall also include only single unit trucks, which, because of their construction, cannot be used for any other purpose and are used exclusively to transport milk and cream enroute from a farm to an assembly point or place for final manufacture, and for transporting milk and cream from an assembly point to a place for final processing or manufacture. This definition shall not be construed to mean that the owner or operator of the truck cannot carry on usual accommodation services for patrons on regular return trips, such as butter, cream, cheese and other dairy supplies.

FARM WINERIES: A rural residential property that is a minimum of 2 ½ acres in size, where the owner is engaged in making of table, sparkling, or fortified wines from grapes, grape juice, other fruit bases, in conformance with State Statutes and Federal Laws. (Amd. 2/20/07, Ord. 339)

FEEDLOT, LIVESTOCK: The place of confined feeding of livestock, poultry, or other animals for food, fur, pleasure or resale purposes in yards, lots, pens, buildings, or other areas not normally sued for pasture or crops and in which substantial amounts of manure or related other wastes may originate because of such feeding of animals. (Amd. 4/18/06, Ord. 325A)

FINANCIAL INSTITUTION: An institution established for the receiving, keeping, lending, or sometimes issuing of money and making easier the exchange of funds by checks, notes, etc. These include, but are not limited to, banks, mortgage bankers, savings and loan associations, and similar

lending or banking institutions.

FLOOR AREA: In R-1 through R-4 districts for one- and two-family dwelling units, "floor area" shall be defined as the square footage of ground coverage of the structure, exclusive of the garage; except, that full two-story structures shall require only a minimum of eighty percent (80%) of the district requirements for "floor area" as defined herein. For the purpose of application of this term, a "full two-story" shall be defined as a structure of which the second story contains at least sixty percent (60%) of the minimum square footage of floor area for the applicable district.

FOOT-CANDLE: The international unit of illumination produced on a surface.

FULLY SHIELDED LIGHT FIXTURE: No light shines above the horizontal, from any part of the fixture either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire.

GARAGE, PRIVATE: A detached or attached accessory building or carport, which is used primarily for storing passenger vehicles or trailers.

GARAGE, PUBLIC: A building or portion of a building, except any herein defined as a "private garage" or as a "repair garage", used for the storage of motor vehicles, or where any such vehicles are kept for remuneration or hire and in which any sale of gasoline, oil and accessories is only incidental to the principal use.

GOVERNING BODY: City Council.

GROUP FAMILY DAYCARE FACILITY: Means a daycare for no more than 14 children at any one time. The total number of children includes all children of any caregiver when the children are present in the residence. (Amended Ord. 436, 4-15-2014)

GUESTHOUSE: An accessory building detached from the principal building where accommodation

for sleeping is provided but no kitchen facility is provided.

HOME OCCUPATION: Any gainful occupation or profession clearly secondary to the main use of the dwelling as a residence that is conducted entirely within the dwelling or as allowed by Conditional Use Permit and which meets the requirements of Chapter 10 of this title.

HOTEL: A building which provides a common entrance, lobby, halls and stairway and in which lodging is offered with or without meals to eight (8) or more guests.

IESNA: Illuminating Engineering Society of North America.

INCINERATORS: Any structure or equipment for the burning of trash not within a building.

JUNKYARD: An open area where waste, used, or secondhand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron, and other metals, paper, rags, rubber, tires and bottles.

K-12 SCHOOL: Any building or group of buildings, the use which meets the compulsory education laws of the State of Minnesota for elementary school, middle school (junior high school), secondary school (senior high school). (Amended Ord. 436. 4-15-2014)

KENNEL, ANIMAL (EXCEPT DOGS): Any place where four (4) or more of any single type of domestic animal, over four (4) months of age, is owned, boarded, bred, or offered for sale.

LAND RECLAMATION: The reclaiming of land by depositing of materials so as to elevate the grade. Any lot or parcel upon which four hundred (400) cubic yards or more of fill is to be deposited shall be considered "land reclamation".

LANDSCAPING: Planting, such as trees, grass, and shrubs.

LIGHTING, DIFFUSED: Lighting that is filtered or dispersed so as to be reduced in intensity.

LIGHTING, INDIRECT: Lighting designed so that the direct source of light is not visible, and is screened through plastic, neon tube, or similar design.

LIQUID STORAGE SYSTEM, LIQUID STORAGE TANK OR TANK: Any one or a combination of containers including tanks, vessels, enclosures, or structures and underground appurtenances connected to them, that is used to contain or dispense an accumulation of liquid substances deemed by the city to pose a threat to the public's health, safety or welfare. (Amended Ord. 314, 10-4-2005)

LODGING ROOM: A room rented as sleeping and living quarters but without cooking facilities and with or without an individual bathroom. In a suite or rooms without cooking facilities, each room which provides sleeping accommodation shall be counted as one lodging room.

LOT: A parcel of land occupied or used or intended for occupancy or use by a use permitted in this title, abutting on a public street, and of sufficient size to provide the yards required by this title.

LOT AREA: The area of a lot in a horizontal plane bounded by the lot lines.

LOT AREA PER FAMILY: The number of square feet of lot area required per dwelling unit.

LOT, CORNER: A lot situated at the junction of, and abutting on two (2) or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed one hundred thirty five degrees (135°).

LOT DEPTH: The mean horizontal distance between the front lot line and the rear lot line of a lot.

LOT LINE: A property line bounding a lot; except, that where

any portion of a lot extends into the public-right-of way, the line of such public right-of-way shall be the lot line for applying this title.

LOT LINE, FRONT: That boundary of a lot which abuts an existing or dedicated public street and, in the case of a corner lot, it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front lot line shall be designated by the owner and filed with the City Council. If the corner lot is located outside the Metropolitan Urban Service Area (MUSA) and lacks municipal sanitary sewer, the owner may designate the front line, provided one of the lot lines abutting a public street meets the minimum width requirement for the zoning district. Setbacks shall be determined by said designation of front lot line.

LOT LINE, REAR: That boundary of a lot which is opposite the front lot line. If the rear lot line is less than ten feet (10') in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet (10') in length within the lot, parallel to, and at the maximum distance from the front lot line.

LOT LINE, SIDE: Any boundary of a lot that is not a front lot line or a rear lot line.

LOT OF RECORD: Any lot which is one unit of a plat heretofore duly approved and filed, or one unit of an Auditor's Subdivision 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 of Anoka County, Minnesota, prior to the effective date of this title.

LOT, THROUGH: A lot that has a pair of opposite lot lines abutting two (2) substantially parallel streets, and which is not a corner lot. On a "through lot", both street lines shall be front lot lines for applying this title.

LOT WIDTH: The horizontal distance between the side lot lines of a lot measured at the front setback line. (Amended Ord. 314, 10-4-2005)

LUMBERYARD: A retail business that stores lumber and wood related

products to be sold for use in construction and/or home improvement. (Amended Ord. 380, 4/21/09)

MANUFACTURED HOME: A structure, transportable in one or more sections that, in the traveling mode, is eight (8) body feet or more in width, or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except, that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certificate required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under Minnesota statutes chapter 327 including the manufactured home building code adopted therein.

MANUFACTURED HOME PARK: Any premises which has facilities to accommodate one or more occupied manufactured homes.

MANUFACTURING: Such uses include, but are not limited to, the following: lumberyard, machine shops, products assembly, sheet metal shops, plastics, electronics, food and beverages, signs and displays, printing, publishing, fabricated metal parts, appliances, clothing and textiles. (Amended Ord. 436, 4-15-2014; Amended 7/21/20, Ord. 509)

MEDICAL AND DENTAL CLINICS: Those uses concerned with the diagnosis, treatment and care of human beings not requiring overnight care.

MINI STORAGE: A structure containing separate storage spaces of varying sizes leased or rented on an individual basis.

MINING: The extraction of sand and gravel or other material from the land in the amount of four hundred (400) cubic yards or more and removal thereof from the

site without processing.

MODULAR HOMES: A non-mobile housing unit that is basically fabricated at a central factory and transported to a building site where final installations are made permanently affixing it to the site, built to meet or exceed the state building code.

MORTUARY AND FUNERAL HOME: A building used for human funeral services that may contain space and facilities for funeral services, preparation of the dead for burial, the performance of autopsies and other surgical procedures on the dead, the storage of caskets, funeral urns, and other related funeral supplies and the storage of funeral vehicles. A funeral home shall not include facilities for cremation, unless allowed by a Conditional Use Permit. A funeral chapel shall be considered an accessory use to a funeral home. (Amended Ord. 314, 10-4-2005)

MOTEL (TOURIST COURT): A building or group of detached, semi-detached or attached buildings containing guest rooms or dwellings, each of which has a separate entrance outside of the building, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of automobile transients.

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.

MOTOR VEHICLE: Any self-propelled vehicle not operated exclusively upon railroad tracks vehicles known as trackless trolleys that are propelled by electric power obtained from overhead trolley wires but not operated upon rails, except snowmobiles and mobile homes.

MULTIPLE CONVERSIONS: Where the owner of a multiple dwelling transfers ownership of the dwelling units to separate owners

(i.e., renters can become owners of their respective dwelling units).

MULTIPLE RESIDENCE (APARTMENT BUILDINGS): Two (2) or more dwelling units in one structure.

NON-CONFORMING STRUCTURE: Any structure permitted by the previous zoning ordinance and existing upon the effective date of this title, which would not conform to the applicable regulations if the structures were to be erected under the provisions of this title.

NON-CONTINUOUS OPERATION: Describes a business that closes to the public for at least five hours duration between the hours of 11 pm and 7 am each day of the week. (Amended Ord. 421, 10/02/12)

NOXIOUS MATTER OR MATERIAL: Material capable of causing injury to living organisms by chemical reaction, or is capable of causing reaction, or is capable of causing detrimental effects on the physical or economic well-being of individuals.

NURSERY, DAY: A use where care is provided for pay for three (3) or more children under kindergarten age for periods of four (4) hours or more per day.

OFF SITE THERAPEUTIC MASSAGE SERVICES: Massage services conducted away from a licensed massage establishment. Such off site massage service locations include, but are not limited to, businesses and private homes.

OFF STREET LOADING SPACE: A space accessible from a street, alley, or driveway for the use of trucks or other vehicles while loading or unloading merchandise or materials. Such space shall be of size as to accommodate one vehicle of the type typically used in the particular business.

OFFICE USES: Those commercial activities that take place in office buildings, where goods are not produced, sold, or repaired. These include: banks, general offices,

governmental office, insurance office, real estate office, taxicab office but not taxi stand, travel agency or transportation ticket office, telephone exchange, utility office, radio broadcasting and similar uses.

ON SITE THERAPEUTIC MASSAGE SERVICES: Massage services conducted at a licensed massage establishment. Such on site massage service locations shall include, but shall not be limited to, businesses and private homes.

OPEN SALES LOT (EXTERIOR STORAGE): Any land used or occupied for the purpose of buying and selling any goods, materials, or merchandise and for the storing of same under the open sky prior to sale.

ORNAMENTAL FENCE: A fence not greater than six feet (6') in height that is constructed from aluminum, wrought iron or steel, with pickets no greater than two inches (2") in width and no less than four inches (4") apart. Vertical support posts shall not exceed six inches (6") in width and shall be spaced a minimum of four feet (4') apart. Horizontal framing crosspieces shall not exceed three inches (3") in width. No other material shall obstruct visibility through the fence. Chainlink fences are specifically excluded from this definition.

OUTDOOR DISPLAY STORAGE AND SALES: Means to store or exhibit, outside a commercial or industrial building, a representative sample of merchandise, goods or inventory intended for sale, rent or lease in the normal course of the principal occupant's business. (Amended Ord. 380, 4/21/09)

PARAPET: The extension of the main walls of a building above the roof level.

PARKING SPACE: A suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store a standard automobile.

PARTY WALL: A wall which divides two (2) adjoining properties and in which each of the owners of the adjoining properties has rights of

enjoyment.

PASSENGER AUTOMOBILE: Any motor vehicle designed and used for the carrying of not more than ten (10) persons including station wagons but excluding motorcycles and motor scooters. For purposes of taxation, "passenger automobile" includes pickup trucks and vans.

PASSENGER VEHICLE: Any vehicle classified as a passenger automobile, pickup truck, or van. "Passenger vehicle" does not include motorcycles, motorized bikes, buses, railroad vehicles, farm trucks and special mobile equipment.

PERSONAL SERVICES: Establishments primarily engaged in providing services involving the care of a person or his or her apparel, such as: barber and beauty shops, carpet and upholstery cleaning, catering services, daycare centers, health clubs and spas, laundry and dry cleaning, locksmiths, optical goods stores, pet grooming shops, rapid or quick print shops, shoe repair shops, tailor shops, tax service, travel bureaus.

PHOTOMETRIC PLAN: A point by point plan depicting the intensity and location of lighting on the property.

PICKUP TRUCK: Any truck with a manufacturer's nominal rated carrying capacity of three-fourths (3/4) ton or less and commonly known as a "pickup truck".

PLANNED UNIT DEVELOPMENT (PUD): A development with alternative development standards approved by the City Council to create a higher quality development than might otherwise be achieved through the strict application of this code. The PUD is an overlay to the original zoning district; and the use of a PUD allows the development to waive or modify the standards of the original zoning district.

PLANNING AND ZONING COMMISSION: The Planning and Zoning Commission of the city

unless otherwise designated[1].

POST-SECONDARY SCHOOL: Any building or group of buildings, the use of which is higher in education than secondary school (senior high school). (Amended Ord. 436, 4-15-2014)

POULTRY: Domestic fowls, such as chickens, turkeys, ducks or geese, raised for meat or eggs. (Amd. 4/18/06, Ord. 325A)

PRACTICAL DIFFICULTIES: As used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. (Amended Ord. 407, 6-21-11)

PRINCIPAL ENTRANCE: That entrance of a building designed for use by customers, visitors and tenants; however, it does not include loading doors, service entrances, doors to storage areas or similar entrances.

PRINCIPAL STRUCTURE OR USE: One which determines the predominant use as contrasted to accessory use or structure. A "principal use" may be either permitted or conditional.

PRIVATE CLUB OR LODGE: A building and related facilities owned or operated by a corporation, association, or group of individuals established for the fraternal, social, educational, recreational or cultural enrichment of its members and not primarily for profit, and whose members meet certain prescribed qualifications for membership and pay dues.

PROFESSIONAL

[1] See title 2, chapter 2 of this code.

STUDIO:	A building or portion of a building used as a place of work by an artist, photographer, or artisan. (Amended Ord. 436; 4-15-14)
PUBLIC LAND:	Land owned or operated by municipal, school district, county, state or other governmental units.
RACETRACK:	Any area where two (2) or more power driven vehicles or animals are raced for profit or pleasure.
RECREATION EQUIPMENT (IN RESIDENTIAL DISTRICTS):	Play apparatus such as swing sets and slides, sandboxes, poles for nets, picnic tables, lawn chairs, barbecue stands, and similar equipment or structures, but not including tree houses, swimming pools, playhouses exceeding twenty five (25) square feet of floor area, or sheds utilized for storage of equipment.
RECREATIONAL VEHICLE:	Travel trailers, truck campers, camping trailers and self-propelled motor homes and converted buses licensed as an RV, or boats, snowmobiles, all-terrain vehicles, and other similar vehicular portable structures without permanent foundation, which can be towed, hauled or driven and primarily designed for temporary living accommodation and/or for recreational, camping and travel use. Recreational vehicles parked on or inside a single trailer should be considered as one recreational vehicle
RELIGIOUS INSTITUTION:	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.
RENTAL BUSINESS:	The rental of equipment associated with the primary use of the property. (Amended Ord. 436, 4-15-2014)
REPAIR GARAGE:	Any building, premises and land in which or

upon which a business, service or industry involving the maintenance, servicing, repair or painting of vehicles is conducted or rendered.

REPAIR SERVICE: Repair and/or servicing of such items as musical, scientific and medical instruments, photographic equipment, jewelry, watches, clocks, small household appliances, office machines, shoes and clothes, and similar uses.

RESEARCH: Medical, chemical, electrical, metallurgical or other scientific research conducted in accordance with the provisions of this title.

RESEARCH LABORATORY: An establishment or other facility for carrying on investigation in the natural, physical or social sciences, or engineering and development as an extension of investigations with the objective of creating products.

RESORT: A place that is a destination for vacation or recreation, rest, or frequented for a particular purpose, often with food and/or entertainment. (Amended Ord. 436, 4-15-2014)

REST HOME (NURSING HOME): A private home for the care of children or the aged or infirm or place of rest for those suffering bodily disorders. Such a home does not contain equipment for surgical care or for the treatment of disease or injury, nor does it include maternity care or care for mental illness or infirmities.

RETAIL TRADE AND SERVICES: A business having as its primary function the supply of merchandise, wares, and/or personal services to the consumer. (Amended Ord. 436, 4-15-2014)

RIGHT-OF-WAY: A strip of land acquired by dedication, reservation, prescription or condemnation occupied or intended to be occupied by a street, sidewalk, trail, snow storage, traffic control signs and devices, utilities and utility structures and drainage. (Amended Ord. 314, 10-4-2005)

SEMI-TRAILER: Any vehicle of the trailer type so designed and used in conjunction with a truck tractor that a considerable part of its own weight or that of its load rests upon and is carried by the truck tractor and shall include a trailer drawn by a truck tractor semi-trailer combination.

SETBACK: The minimum horizontal distance between a building and street or lot line. Distances are to be measured from the most outwardly extended portion of the structure at ground level.

SHOPPING CENTER: Any grouping of two (2) or more principal retail uses, whether on a single lot or abutting lots, under multiple or single ownership.

SIGHT TRIANGLE: On corner lots (including rural areas), nothing shall be placed or allowed to grow in such a manner as materially to impede vision between a height of two and one-half feet (2 ½') and ten feet (10') above the centerline grades of the intersecting streets within fifteen feet (15') of the intersecting street right of way lines. This restriction shall also apply to the planting of crops and to yard grades that result in elevations that impede vision within fifteen feet (15') of any intersecting street right of way lines.

SIGN: A name, identification, description, display, structure, illustration, or device which is affixed, painted, or represented either directly or indirectly upon a building or other surface which directs attention to an object, product, place, activity, person, institution, organization or business.

SIGN, ABANDONED: A sign which no longer correctly advertises a bona fide business, lessor, owner, product or activity conducted, or product available on the premises where the sign is displayed, or elsewhere.

SIGN AREA: The area within the frame shall be used to calculate the square footage; except, that the width of a frame exceeding twelve inches (12") shall constitute advertising space, or should such letters or graphics be mounted directly on a wall or fascia or in such a

way as to be without a frame, the dimensions for calculating the square footage shall be the area extending six inches (6") beyond the periphery formed around such letters or graphics in a plane bounded by straight lines connecting the outermost points thereof, and each surface utilized to display a message or to attract attention shall be measured as a separate sign.

SIGN STRUCTURE: The supports, upright, braces and framework of the sign.

SIGN STYLES:

Sign, Audible: Any sign constructed to produce or emit sound. This shall not include order boards used in conjunction with a drive-thru window.

Sign, Bench: A sign that is affixed to a bench, not to include memorial dedications in park areas.

Sign, Combination: A sign incorporating a combination of the features of freestanding and wall signs.

Sign, Flashing: An illuminated sign on which the artificial light is not maintained stationary and/or constant in intensity and color.

Sign, Freestanding: A sign that is supported by one or more uprights, poles or braces in or upon the ground, other than a combination sign. This shall include ground monument style signs.

Sign, Illuminated: Any sign that has characters, letters, figures, designs or outlines illuminated by electric lights or tubes.

Sign, Multifaced: A sign with two (2) or more exposed faces, not to exceed the square footage allowed for a single face sign.

Sign, Reader Board: A sign that has a reader board where copy changes.

Sign, Roof: A sign erected upon the roof deck or above the parapet of a building.

Sign, Wall: A sign attached to or erected against the wall of a

building with the exposed face of the sign in a plane parallel to the plane of said wall.

SIGN TYPES:

Sign, Area Identification: A freestanding sign that identifies the name of a neighborhood, a residential subdivision, a multiple residential complex consisting of three (3) or more structures, a shopping center or area, an industrial area, an office complex consisting of three (3) or more structures, or any combination of the above, could be termed an area identification sign.

Sign, Ballfield Advertising: A sign that is attached to the outfield wall or fence of a baseball or softball field and advertises a business, good, or product. (Amended Ord. 330, 6-6-2006)

Sign, Billboard: A permanent sign or sign structure with a changeable face used to advertise products, goods, or services that are not sold, offered, or otherwise related to activities conducted on the premises on which the sign is located.

Sign, Business Or Industrial Identification: A sign which states the name, address, or both, of the businesses, or occupants of a lot.

Sign, Governmental: A sign that is erected by a governmental unit or public utility for the purpose of public information, warning or directing traffic.

Sign, Institutional: A sign and/or reader board that identifies the name and other characteristics of an institutional use located within designated zoning districts and allowed by this title. "Institutional signs" shall contain no advertisement. (Examples: religious institutions, schools, sanitariums, hospitals, government buildings and nursing homes). (Amended Ord. 480, 3-20-18)

Sign, Memorial Dedication: A sign memorializing a person or persons, deed, or event. Such signs shall not include any type of advertising or commercial message.

Sign, Real Estate: A sign offering property (land and/or buildings) for sale, lease or rent.

Sign, Residential Identification: A sign identifying a resident (including address and profession, occupation or home occupation), school, religious institutions, or other non-business use. (Amended Ord. 480, 3-20-18)

Sign, Scoreboard Advertising: A sign attached to a permanent scoreboard structure at an athletic field that advertises a business, good or product. (Amended Ord. 330, 6-6-2006)

Sign, Temporary: Any sign placed in such a manner as not to be solidly affixed to any building, structure, or land.

Sign, Unsightly: A condition where a sign has deteriorated to the point that one-fourth (1/4) or more of the surface of the name, identification, description or other symbol is no longer clearly recognizable to the human eye at a distance of forty feet (40'). In the case of painted signs, "unsightly" shall mean that the paint is peeling away from the structure surface or is faded so that it is not recognizable to the human eye at a distance of forty feet (40').

SOLAR ENERGY SYSTEM: A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation or water heating. (Amended Ord. 463, 6-21-16)

SPECIAL MOBILE EQUIPMENT: Any vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including, but not limited to: ditch digging apparatus, moving dollies and other machinery such as asphalt spreaders, bituminous mixers, bucket loaders, non-farm tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders,

road rollers, scarifiers, earth moving carryalls, scrapers, power shovels, drag lines, self-propelled cranes and earth moving equipment. The term does not include house trailers, dump trucks, truck mounted transit mixers, truck mounted feed grinders or other motor vehicles designed for the transportation of persons or property to which machinery has been attached.

STOOP: A platform or deck which is the top level of a stairway system that extends from the entrance of a building. (Amd. 4/18/06, Ord. 325A)

STORY: That portion of a building between a floor and ceiling with a minimum height of seven feet (7'). A basement shall not be counted as a story in a residential structure.

STREET: A public or private roadway intended to be used for the passage or travel by vehicles, pedestrians, bicyclists and related maintenance activities. Streets may be local, collector or arterials as defined by the Comprehensive Plan. (Amended Ord. 314, 10-4-2005)

STRUCTURAL ALTERATION: Any change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

STRUCTURE: Anything erected, the use of which requires more or less permanent location on the ground, or attached to something having a permanent location on the ground. This shall include signs.

SUBORDINATE CLASSROOM STRUCTURES: Those structures erected upon a lot containing a school or religious institution structure as the principal use, for the purposes of either classroom instruction or office use associated with the principal use, and which meet all state code requirements. (Ord. 374; 12-2-08; Amended Ord. 480, 3-20-18)

TEMPORARY FAMILY HEALTH CARE FACILITY: A mobile residential dwelling providing an environment facilitating a caregiver's provision of care for a mentally and physically impaired person. (Amended Ord. 463, 6-21-16)

TEMPORARY STRUCTURE: A structure not permanently erected on a site (without a foundation), other than a living unit, that is used for emergency purposes or used on a construction site for offices and equipment storage during construction of a permanent structure.

THEATER: A building or part of a building devoted to showing motion pictures, or for dramatic, musical or live performance.

THERAPEUTIC MASSAGE: The practice of applying pressure on, or friction against, or the rubbing, stroking, kneading, tapping, or rolling of the external parts of the human body with the hands or with the aid of mechanical or electrical apparatus, appliance or device with or without such supplementary aids as rubbing (isopropyl) alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment, or other similar preparation, for the exclusive purpose of tension, stress, pain relief, relaxation, increased range of motion, muscle tone improvement, physical fitness, or beautification and for no other purpose, by a person not licensed as a medical doctor, chiropractor, osteopath, podiatrist, nurse, or physical therapist, or an assistant who works solely under the direction of any of the above described professionals, or beautician and barber who confine their treatments to the scalp, face, and neck.

THERAPEUTIC MASSAGE ESTABLISHMENT: An establishment in the business of providing therapeutic massage services (on site and off site) to the public.

TOWNHOUSES:	Attached dwelling units each with a separate entrance to front and rear yards.
TRAILER:	A vehicular type, portable structure without permanent foundation and capable of movement when drawn by another vehicle as it’s means of propulsion and, primarily designed for towing or hauling cargo and/or things.
TRAILER PARK:	Any premises which has facilities to accommodate one or more occupied travel trailers on a seasonal basis.
TRANSPORTATION TERMINAL:	Truck, bus terminal (other than school bus terminal) and storage area, including motor freight (solid and liquid) terminal, but only if necessary to a principal use permitted in industrial districts.
TRAVEL TRAILER:	Any type of vehicle having less than two hundred (200) square feet of living space which can be readily adapted to or does provide facilities for a person or persons to eat or sleep, and is readily adaptable for transporting.
TRUCK:	Any motor vehicle designed and used for carrying things other than passengers, except pickup trucks and vans included within the definition of "passenger automobile".
TRUCK TRACTOR (TRACTOR):	Any motor vehicle designed and used for drawing other vehicles and having no provision for carrying loads independently nor constructed to carry a load other than a part of the weight of the vehicle and load drawn.
TWO-FAMILY HOME CONVERSIONS:	The changing of an existing two-family home from sole ownership into two (2) separate ownerships.
UNIFORM RATIO:	The maximum to minimum value between adjacent luminaries.

USE:	The purpose or activity for which the land, structure or building thereon is designed, arranged or intended, or for which it is occupied or maintained.
USE, CONDITIONAL:	Either a public or private use as listed which, because of its unique characteristics, cannot be properly classified as a permitted use in a particular district. After consideration, in each case, of the impact of such use upon neighboring land, and of the public need for the particular use at the particular location, such "conditional use" may or may not be granted by the governing body.
USE, OPEN:	The use of a lot without a building, or including a building, incidental to the open use with a ground floor area equal to five percent (5%) or less of the area of the lot.
USE, PERMITTED:	A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and performance standards of such district.
USED AUTO PARTS:	The processing, storage, and sale of secondhand or used automobile or other vehicle parts, provided such use is established entirely within enclosed buildings.
UTILITY – PRIVATE:	Includes cable television, electric, gas, phone, steam, communication services or the like. (Amended Ord. 436, 4-15-2014)
UTILITY – PUBLIC:	Includes municipal sanitary sewer, water, storm sewer and any other municipal utility installed by or for the City of Andover. (Amended Ord. 436, 4-15-2014)
VAN:	Any vehicle of box like design with no barrier of separation between the operator's area and the remainder of the passenger carrying or cargo carrying area, and with manufacturer's nominal rated carrying capacity of three-fourths (3/4) ton or less and commonly known as a "van".
VETERINARY:	Those uses concerned with the diagnosis, treatment and care of animals, including animal or pet hospitals.
WAREHOUSING:	The storage of materials or equipment within an

	enclosed building as a principal use.
YARD:	The required open space on a lot which is unoccupied and unobstructed by a structure from its lowest level to the sky, except as permitted in this title. The "yard" extends along the lot line at right angles to such lot line to a depth or width specified in the setback regulation for the zoning district in which such lot is located.
YARD, FRONT:	The yard extending along the full width of the front lot line between side lot lines and extending from the abutting street right-of-way line to the depth required in the setback regulations for the zoning district in which such lot is located.
YARD, REAR:	The portion of the yard on the same lot with the principal building located between the rear line of the building and the rear lot line extending the full width of the lot.
YARD, SIDE:	The yard extending along the side lot line between the front and rear yards to a depth or width required by setback regulations for the zoning district in which such lot is located.
ZONING DISTRICT:	An area or areas within the limits of the City of Andover for which the regulations and requirements governing use are uniform. (Amended Ord. 8, 10-21-1970; amd. Ord. 8OOOOOO, 8-5-2002; Ord. 8PPPPPP, 8-20-2002; 2003 Code; Ord. 293, 7-6-2004; Ord. 294, 7-6-2004; Ord. 298, 8-4-2004)

CHAPTER 3

ZONING DISTRICTS AND MAP

SECTION:

12-3-1: Purpose Of Zoning Districts
12-3-2: Zoning Districts Established
12-3-3: Purpose Of Each District
12-3-4: Zoning District Map
12-3-5: Minimum District Provisions

12-3-1: **PURPOSE OF ZONING DISTRICTS:** The zoning districts are so designated as to assist in carrying out the intent and purposes of the Comprehensive Plan and to control residential densities in such manner as to adequately provide public services and utilities. The zoning districts are based upon the Comprehensive Plan which has the purpose of protecting the public health, safety, convenience and general welfare by controlling the needs for public utilities, protecting against traffic congestion and accident hazards, protecting the public health from adverse influences generated by nonresidential uses, protecting against the danger of fire, conflagration, and other purposes of a similar nature. (Amended Ord. 8, 10-21-1970, (Amended Ord. 314 10-4-2005)

12-3-2: **ZONING DISTRICTS ESTABLISHED:** For the purpose of this title, the city is hereby divided into the following zoning districts:

Symbol	Name
RR	Single Family Rural Reserve
R-1	Single Family Rural Residential
R-2	Single Family Residential Estate
R-3	Single Family Suburban Residential
R-4	Single Family Urban Residential
R-5	Manufactured Housing
M-1	Multiple Dwelling Medium Density

M-2	Multiple Dwelling
AgP	Agricultural Preserve
GR	General Recreation
LB	Limited Business
NB	Neighborhood Business
SC	Shopping Center
GB	General Business
I	Industrial
CLR	Closed Landfill Restricted

(Amended Ord. 8, 10-21-1970; amd. 2003 Code, Amended Ord. 314 10-4-2005; Amended Ord. 468, 6-6-17)

12-3-3: **PURPOSE OF EACH DISTRICT:**

A. RR Single Family Rural Reserve: Rural Reserve District is approximately one thousand acres in size to accommodate future urban growth beyond the previously planned Municipal Urban Service Area. This area is designated as an area of which is restricted from urban development until a master plan has been approved and municipal sewer and water can be constructed to serve the area. The city prohibits lot splits and subdivisions of less than one parcel per ten acres to prevent this area from rural residential development that would preclude orderly MUSA expansion. However, there are opportunities to allow for rural reserve lot splits of 5 acres minimum in situations which ensure that the majority of the residual land be preserved for future economical urban development as long as the provisions of the city codes are met. The intent of the ordinance is to allow subdivision of land while preserving residual land for future economical urban development. (Amended 468, 6-6-17)

R-1 Single Family Rural Residential:

1. This district is intended to provide a residential atmosphere for those persons desiring to retain a large parcel of land. Such large lots are logical in areas where development into smaller lots would be difficult, or where public utilities will not be available in the foreseeable future. Furthermore, larger houses are more costly and require larger lots. Thus, to provide an area to accommodate those persons with the financial means to erect a large house, it is necessary to have an area of large lots.

2. Land which is wooded, or which has a changing topography, and low

land which tends to be poor agriculturally is also the most expensive to develop for residential sites and, after development, the sites tend to be expensive to maintain. Such areas are the most interesting and most susceptible to large lot development. The district also is intended to preserve productive land for agricultural use. (Amended Ord. 314, 10-4-05)

B. R-2 Single Family Residential Estate: This district is intended to provide a residential atmosphere for those persons desiring a single-family neighborhood with a suburban density. Lots in this district created after 1978 and without City sewer and water must be at least 2.5 acres. This zoning district was used for rural residential developments prior to 1978. No existing properties may be rezoned to R-2. (Amended Ord. 8, 10-21-1970; amd. 2003 Code, Amended Ord. 314 10-4-2005)

C. R-3 Single Family Suburban Residential: This particular district is intended to satisfy those persons who prefer a medium sized lot. Lots in this district created after 1978 and without City sewer and water must be at least 2.5 acres. This zoning district was used for rural residential developments created before 1978. No existing properties may be rezoned to R-3. (Amended Ord. 314 10-4-2005)

D. R-4 Single Family Urban Residential: This district represents urban density use by single-family detached dwellings. (Amended Ord. 314 10-4-2005)

E. R-5 Manufactured Housing District: This district would permit all types of manufactured housing including manufactured homes and modular houses, provided public sewer and water is provided. (Amended Ord. 8, 10-21-1970)

F. M-1 Multiple Dwelling Medium Density: This district is intended to provide a location for medium density attached dwelling units (townhouses) with private entrances. These areas may be transitional, however, the townhouse resident should have convenient access to all facilities provided for single-family neighborhoods. This district's location shall provide sufficient space for buffering from less intense uses. (Amended Ord. 8, 10-21-1970; amd. 2003 Code, Amended Ord. 314 10-4-2005)

G. M-2 Multiple Dwelling District: This district is intended to provide a location for all types of multiple dwellings. This district's location shall have convenient access to all facilities provided for neighborhoods, open space, and buffering from less intense uses. Access to an M-2 district shall be from a collector or arterial roadway. (Amended Ord. 314 10-4-2005)

H. GR General Recreation District: This district is intended to provide a location for all types of commercial recreation uses such as golf driving ranges, outdoor theaters, racetracks, and snowmobile areas, most of which require large amounts of land and good separation from residential areas. This district's location shall provide sufficient space for buffering from less intense uses. (Amended Ord. 314 10-4-2005)

I. LB Limited Business District: This district is suitable only for commercial uses of a limited (less intense) nature. This may be due to the close proximity of residential uses. The LB district can be used as a transitional district or buffer between non-compatible uses such as intense commercial (GB) and low density residential uses. (Amended Ord. 314 10-4-2005)

J. NB Neighborhood Business District: This district is used for retail sales and services in such scale as to serve the surrounding neighborhood needs. Locations for Neighborhood Business districts are typically small plots in close proximity to or surrounded by residential areas. NB zoning districts do not require frontage on an arterial roadway and can be served by local and collector streets. However, this district shall not be served exclusively by local streets. This district's location shall provide sufficient space for buffering from less intense uses. (Amended Ord. 314 10-4-2005)

K. SC Shopping Center District: This zoning classification is reserved for modern retail shopping facilities of integrated design in appropriate locations. Locations for the SC district are larger plots that can accommodate more intensive retail development. Access shall be available from arterial roadways. This district's location shall provide sufficient space for buffering from less intense uses. (Amended Ord. 314 10-4-2005)

L. GB General Business District: These are areas containing a wide variety of business uses including retail, service and semi-industrial. As such, they may contain businesses that tend to serve other business and industry as well as those catering to shopper needs.

M. I Industrial District: These are areas that have the prerequisites for industrial development, but because of proximity to residential areas or the need to protect certain areas or uses from adverse influences, high development standards will be necessary. I district uses include service industries and industries which manufacture, fabricate, assemble or store,

where the process is not likely to create offensive noise, vibrations, dust, heat, smoke, odor, glare or other objectionable influences. Generally, those include wholesale, service and light industries that are dependent upon raw materials refined elsewhere. An industrial "park" which maintains high development standards would be zoned I. This district's location shall provide sufficient space for buffering from less intense uses. (Amended Ord. 8, 10-21-1970, Ord. 314 10-4-2005)

N. CLR Closed Landfill Restricted: This district is intended to apply to former landfills and adjacent lands which are managed under the Closed Landfill Program of the Minnesota Pollution Control Agency (MPCA). The purpose of the district is to limit uses of land both actively filled and related lands, to minimal uses in order to protect the land from human activity where response action systems are in place. This district shall only apply to the former landfill and pertinent adjacent lands (the limits of which are defined by the MPCA). This district shall apply whether the landfill is in public (State, MPCA, County, City, Township), Indian tribal, or private ownership.

1. Permitted Uses

Uses allowed in this district include outdoor equipment or small buildings used in concert with gas extraction systems (i.e. gas to energy system), other response action systems, monitoring wells, or any other equipment designed to protect, monitor or otherwise ensure the integrity of the landfill monitoring or improvement systems. Fences and gates shall be allowed under these provisions.

2. Accessory Uses

Accessory uses shall be limited to installation, operation and maintenance of equipment to support permitted uses.

3. Conditional Uses

Conditional uses shall be limited to passive uses to protect the integrity of the landfill area and to protect any person from hazards associated with the landfill. The landfill shall be planted in cover crops and shall be maintained by the MPCA.

Any proposed conditional use must be approved by the Commissioner of the Minnesota Pollution Control Agency (MPCA) and the City of Andover. Such approved use shall not disturb or threaten to disturb, the integrity of the landfill cover, liners, any other components of any containment system, or the function of any monitoring system that exists upon the described property.

4. Prohibited Uses and Structures

All other uses and structures not specifically allowed as conditional uses, or that cannot be considered as accessory uses, shall be prohibited in the CLR District.

5. General Regulations

Requirements for parking, signs, area, and other regulations are set forth in Title 12 of the City Code. (Amended Ord. 333, 9-19-2006)

12-3-4: **ZONING DISTRICT MAP:**

The boundaries of the districts as established by this title are as shown on the map published herewith and made a part of this title which map is designated as the "zoning district map", as amended from time to time, which map is properly approved and filed with the Zoning Administrator. The district boundary lines on said map are intended to follow street right-of-way lines, street centerlines, or lot lines, unless such boundary line is otherwise indicated on the map. In the case of un-subdivided property or in any case where street or lot lines are not used as boundaries, the district boundary lines shall be determined by use of dimensions or the scale appearing on the map. All of the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and are made part of this title by reference and incorporated herein as fully as if set forth herein at length. (Ord. 8MMMMMM, 7-2-2002; amd. 2003 Code)

12-3-5: **MINIMUM DISTRICT REQUIREMENTS:**

A. Lot splits may be allowed with lot sizes that cannot conform to the minimum district provisions as follows:

1. This provision shall only apply to lot splits which result in no more than two (2) lots. Reduced lot standards shall not be considered for plats containing more than two (2) lots.

2. Each lot within the proposed lot split shall meet at least two (2) of the following requirements for the applicable zoning district: lot width, lot depth, lot area.

3. Each lot within the proposed lot split shall provide at least ninety percent (90%) of the requirement that cannot be met. (Ord. 8CCCCCCC, 6-17-2003)

B. Maximum Height:

1. Principal Structure Height: A Conditional Use Permit may be granted to allow principal buildings to exceed the height limits imposed by provisions of this title provided it is determined that:

a. Adequate fire protection and other safety features are provided.

b. The height and bulk of the building will not destroy a scenic or appropriate view, will not shut off light and air from surrounding properties, or otherwise be detrimental to the public.

c. In no event, however, shall any building occupy more than the permitted percentage of lot area as provided in this title. (Amended Ord. 314, 10-4-05)

2. Exemptions From Height Limits: Height limitations shall not apply to the following:

a. Barns, silos and other agricultural structures for rural agricultural uses,

b. Religious institution spires, steeples, belfries, cupolas and domes

c. Chimneys, flagpoles

d. Public utility facilities

e. Transmission towers and antennae subject to City Code 9-12

f. Parapet walls extending not more than four feet (4') above the height of the building. (Amended Ord. 314 10-4-2005)

g. Wind Energy Conversion Systems (WECS) subject to City Code Title 9, Chapter #13. (Amended Ord. 380 3-16-10)

(see chart on following pages)

	RR	R-1	R-2	R-3	R-4	R-5[1]	M-1	M-2	AgP	GR	LB	NB	SC	GB	I
Lot area per dwelling unit (square feet)															
1-family homes	5 to 10 acres	2.5 acres	2.5 acres	2.5 acres	11,400	5,500									
1-family homes (lots created before 10/17/78)			1 acre	20,000											
Single-family twin homes							6,000	5,000							
Single-family attached							6,000	5,000							
Apartments (lot area per unit in square feet)															
1-bedroom units								4,000							
2-bedroom units								5,000							
Floor area per dwelling unit (square feet) See floor area definition for two story homes															
1-family homes	960	960	1,200	960	960	960			960						
Single-family twin homes							960	960							
Single-family attached							960	960							
1-bedroom apartment units								700							
Each additional apartment bedroom (plus)								150							

	RR	R-1	R-2	R-3	R-4	R-5[1]	M-1	M-2	AgP	GR	LB	NB	SC	GB	I
Lot dimensions															
Lot width-front setback line (feet)	300	300	300	300	80		150	150	300	120	100	150	200	100	100
Lot width (lots created before 10/17/78)			165	100											
Lot width									1,320 feet						
Lot depth (feet)	150	150	150	150	130		150	150		135	135	150	150	150	150
Minimum garage size (square feet)	440	440	440	440	440	220 + 1 prk spc	220 + 1 prk spc	220 + 1 prk spc	440						
Nonresidential lot area (acres or square feet)	10 acres	5 acres	1 acre	20,000 square feet	20,000 square feet		20,000 square feet	20,000 square feet	40 acres	20,000 square feet	20,000 square feet	22,500 square feet	30,000 square feet	20,000 square feet	24,000 Square feet
Minimum district size												2 acres	5 acres		
Principal structure height (maximum) subject to City Code 12-3-5 B.[6]	35	35	35	35	35		35	35		35	35	35	45	45	45
Land coverage (maximum percent of structures)	20	20	20	30	30		20	30		30	Up to 40	Up to 40	Up to 40	Up to 40	Up to 50
Building setbacks[7]															
Any yard setback from county road subject to City Code 12-5-4[7]	50	50	50	50	40	50	50	50		50	50	50	50	50	50

Front yard setback (feet)	40	40	40	35	35[2]		30	40		40	40	40	40	40	40

	RR	R-1	R-2	R-3	R-4	R-5[1]	M-1	M-2	AgP	GR	LB	NB	SC	GB	I
Side yard principal structure setback from interior lot line[3]	10	10	10	10	10		20	30		10	10[4]	10[4]	10[4]	10[4]	10[4]
Side yard setback from property line adjacent to street	40	40	40	35	35[5]		30	30	40	30	30	30	30	30	30
Attached residential garage (over 20 feet wide) from interior lot line					6										
Rear yard setback	50	50	50	30	30		30	30		30	25	25	25	25	25
Rear yard setback for any residential structure from property line adjacent to city street	40	40	40	35	35										

Notes:
1. Allowed by Planned Unit Development only.
2. Unless existing structures would indicate a lesser setback to maintain uniformity.
3. An additional 5-foot setback shall be added when plans for the principal structure accommodate an access for a deck.
4. See Section 12-5-3 of this title for setback adjacent to residential areas.
5. 25 feet if it is a back-to-back lot.
6. See City Code 12-13 for exceptions allowed as a Conditional Use
7. See also City Code 12-5-4 when less than minimum required right-of-way exists

All setback measurements are from property lines.

(Ord. 273, 9-2-2003; amd. Ord. 274, 9-2-2003; amd. Ord. 314, 10-4-2005; Ord. 403, 12-21-10; Amended Ord. 423, 10-16-

12; Amended Ord. 468, 6-6-17)

CHAPTER 4

GENERAL ZONING PROVISIONS

SECTION:

12-4-1: Water Supply
12-4-2: Lot Provisions
12-4-3: Encroachments
12-4-4: Farming Operations
12-4-5: Vacated Streets
12-4-6: Certain Dwelling Units

12-4-1: **WATER SUPPLY:** Public water is required in all new developments located in areas where public water is available. (Amended Ord. 8, 10-21-1970)

12-4-2: **LOT PROVISIONS:**

A. Number Of Buildings Per Lot: Except in Planned Unit Developments there shall be no more than one (1) principal building on one (1) lot in all residential districts unless a resident chooses to live in an existing home while a new home is being constructed. Within thirty (30) days of the issuance of the Certificate of Occupancy for the newly constructed home, the older home shall be removed or demolished. The new principal building must be completed within twelve months of the issuance of the building permit.

B. Access Drive: An access drive, as defined by Section 12-2-2 of this code, shall be provided to every principal building that is three hundred feet (300') or more from a thoroughfare or street. (amd. Ord. 314, 10-4-2005)

C. Restrictions On Lot Coverage: In no event shall off street parking space, driveways, buildings, or structures of any type cover more than seventy five percent (75%) of the lot area resulting in less than twenty five percent (25%) landscaped area in residential districts. (Amended Ord. 314, 10-4-2005)

12-4-3: **ENCROACHMENTS:** The following shall not be considered as encroachments on setback and height requirements, subject to other conditions hereinafter provided:

A. In Any Yards:

1. Posts, flues, belt course, leaders, sills, pilasters, lintels, cornices, eaves, gutters, awnings, open canopies, steps, flagpoles, chimneys, ornamental features, open fire escapes, sidewalks and window wells.

2. Terraces, steps, exposed ramps (wheelchair), stoops, or similar features. These features shall not exceed the height of the ground floor level of the principal structure, nor shall they extend to a distance less than three feet (3') from any lot line or less than one foot (1') from any existing or proposed access drive.

3. Yard lights and nameplate signs in residential districts, trees, shrubs, plants, floodlights, or other source of light illuminating authorized signs, or light standards for illuminating parking areas, loading areas or yards for safety and security reasons. (Amended Ord. 325A, 4-18-2006)

4. All structural projections described above shall not encroach more than thirty-six inches (36") into the required setback area as measured at ground level.

B. In Rear Yards (Not Along Street): Detached outdoor picnic shelters or living rooms or patio decks may extend to within ten feet (10') of a rear lot line. No such structures shall exceed five hundred (500) square feet.

C. In Rear Yards:

1. Clotheslines, outdoor eating facilities, picnic tables, and recreational equipment, provided these are not less than ten feet (10') from any lot line. (Amended Ord. 8, 10-21-1970)

2. Decks shall be allowed to encroach into the rear yard setback provided that no portion of the deck extends more than eight (8) feet into the otherwise required rear yard setback. (Amd. 4/18/06, Ord. 325A)

D. Quasi Public Structures: No quasi-public structure shall be located within the public right of way except by permit issued by the governing body. Such structures shall include, but not be limited to: utility structures and enclosures, bicycle racks, benches, planting boxes, light standards, signs, and other such structures. (Amended Ord. 8, 10-21-1970) (Amended Ord. 314,10-4-2005)

12-4-4: **FARMING OPERATIONS:**

A. Permitted Use: All farms in existence upon the effective date of this title and all farms that are brought into the city by annexation shall be a permitted use.

B. Building Regulations: All dwelling units and structures for processing of farm goods shall require a building permit and conform to all requirements of the building code[1].

C. Conditional Use Requirements: The governing body may require any farm operation to secure a Conditional Use Permit to continue said operations in the event of the following:

1. The farm is adjacent to or within four hundred feet (400') of any dwelling unit and may be detrimental to living conditions by emitting noise, odor, vibrations, hazards to safety and the like.

2. The farming operations are so intensive as to constitute an industrial type use consisting of the compounding, processing, and packaging of products for wholesale or retail trade and further that such operations may tend to become a permanent industrial type operation that cannot be terminated as can a normal farming operation. (Amended Ord. 8, 10-21-1970)

12-4-5**:** **VACATED STREETS[1]:** Whenever any street, alley, easement or public way is vacated by official action, the zoning district abutting the centerline of the said vacated area shall not be affected by such proceeding. (Amended Ord. 8, 10-21-1970)

12-4-6: **CERTAIN DWELLING UNITS:**

A. Certain Structures As Dwelling Units Prohibited: No cellar, garage, tent, travel trailer, basement with unfinished structure above, or accessory building shall at any time be used as a dwelling unit.

B. Manufactured Homes Required To Be In Parks: Manufactured homes shall be located in a manufactured home park approved by the city and the state, except as otherwise permitted by ordinance[3]. (Amended Ord. 8, 10-21-1970)

C. Temporary Family Health Care Dwellings: Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of

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[1] See title 9, chapter 1 of this code.
[1] MSA §§ 462.358, subd. 7 and 412.851.
[3] See title 9, chapter 6 of this code.

Andover opts-out of the requirements of Minn. Stat.462.3593, which defines and regulates Temporary Family Health Care Dwellings. (Amended Ord. 463, 6-21-16)

CHAPTER 5

SETBACK REQUIREMENTS

SECTION:

12-5-1: Front Setbacks For Existing Buildings
12-5-2: Side And Rear Setback Exclusions
12-5-3: Setbacks Adjacent To Residential Areas
12-5-4: Building Setbacks and Future Street Improvements
12-5-5: Animal Shelters

12-5-1: **FRONT SETBACKS FOR EXISTING BUILDINGS:** In an R-2, R-3, or R-4 district where adjoining principal buildings existing at the time of adoption of this title have a lesser setback than that required, the required front yard of a new structure shall not be less than the average front yard of the buildings on each side of the lot for four hundred feet (400') and in no case shall be less than twenty feet (20'). (Amended Ord. 8, 10-21-1970)

12-5-2: **SIDE AND REAR SETBACK EXCLUSIONS:** In all B districts and all I districts, the side and rear setback requirements may be excluded, provided party walls are used. Such exclusion from side and rear setbacks shall be permitted only after issuance of a Conditional Use Permit. (Amended Ord. 8, 10-21-1970)

12-5-3: **SETBACKS ADJACENT TO RESIDENTIAL AREAS:**

A. Business Districts: Where a business district is adjacent to a residential district, the minimum building setback from the lot line shall be thirty-five feet (35').

B. Industrial Districts: In the case of industrial districts, such minimum setback shall be seventy-five feet (75'). (Amended Ord. 8, 10-21-1970)

C. The required setback of structures used for religious institutions, schools, multiple and similar uses shall be at least equal to the height of the structure or as required by City Code 12-3-5, whichever is greater. (Amended Ord. 314 10-4-05; Amended Ord. 480, 3-20-18)

D. Crematorium: A structure containing a crematorium shall be set back a minimum of 300 feet from any residential property line and shall also be required to meet the minimum setback requirements of City Code12-3-5 (Amended Ord. 314 10-4-05).

12-5-4: **BUILDING SETBACKS AND FUTURE STREET IMPROVEMENTS:**

A. Where the right-of-way width for a county road is less than one hundred twenty feet (120'), a one hundred ten foot (110') minimum setback from the centerline of the county road shall be required except in the R-4 Zoning District where the minimum setback from the centerline of the county road shall be one hundred feet (100'). (Amended Ord. 8, 10-21-1970; amd. Ord. 314, 10-4-05)

B. Where less than the minimum roadway right-of-way required by City Code 11-3-3 exists, setbacks for all structures shall be measured assuming right-of-way required by City Code 11-3-3. (Amended Ord. 314, 10-4-05).

C. All buildings constructed on properties that abut a street stub or temporary cul-de-sac shall be required to be set back to accommodate the extension of a future street through the property. The required setback shall conform to City Code 12-3-5 and be measured from the edge of future right-of-way needed to satisfy the requirements of City Code 11-3-3. In the event there are wetlands, floodplains or other obstacles to direct street extension through the property, a feasible route for the roadway extension shall be established prior to determining the setback required by this section (Amended Ord. 314, 10-4-05).

12-5-5: **ANIMAL SHELTERS**:

A. Animals: Any building in which farm animals, pleasure/recreational animals or poultry are kept shall be a distance of one hundred feet (100') or more from any other occupied residence, and any open or roofed enclosure in which such animals are kept shall be a distance of fifty feet (50') or more from any occupied residential lot. The City Council may order the owner of any such animals to apply for a Conditional Use Permit if it is deemed to be in the interest of the public health, safety, or general welfare. (Amended Ord. 8, 10-21-1970; amd. 2003 Code; amd.Ord 314 10-4-2005; Amd. 4/18/06, Ord. 325A))

CHAPTER 6

ACCESSORY STRUCTURES, USES AND TEMPORARY STRUCTURES

SECTION:

12-6-1: Definition
12-6-2: Construction Prior To Principal Structure
12-6-3: Accessory Structure Height
12-6-4: Size And Construction Requirements
12-6-5: Location And Setback Requirements
12-6-6: Temporary Structures

12-6-1: **DEFINITIONS:**

A. Accessory Structure: For the purpose of this chapter, "accessory structure" shall mean garages, sheds, utility buildings and structures, and similar uses accessory to principal structures and uses.

B. Building Height: For the purposes of this section, building height shall mean the vertical distance from the average of grade (the average finished ground level adjoining the exterior of the building) to the average height of the highest roof surface.

12-6-2: **CONSTRUCTION PRIOR TO PRINCIPAL STRUCTURE:** No accessory structure shall be permitted on any lot prior to the principal structure except by Conditional Use Permit.

12-6-3: **ACCESSORY STRUCTURE HEIGHT:** The maximum building height of accessory structures shall be limited as follows:

A. Residential Districts: Except as provided by Section 12-3-5 of this Title, no residential accessory structure shall exceed the building height of the principal structure, and in the R-4 zoning district the maximum accessory structure building height shall not exceed fifteen (15) feet.

B. Business or Industrial Districts: Maximum accessory structure height in a commercial or industrial district shall be equal to the building height of the principal structure, except by conditional use permit or except subject to Section 12-3-5.

12-6-4: **SIZE AND CONSTRUCTION REQUIREMENTS:**

A. Residential Districts:

1. Accessory Structure Area: If an accessory structure or portion thereof serves to satisfy the minimum garage size requirements of Section 12-3-5, then that area, *whether attached or detached*, will not be deducted from the maximum allowable area of accessory structures. The maximum allowable area of residential accessory structures must not exceed the area specified below:

    a. Lots In The R-4 District and Lots Less Than 1 Acre – In the R-4 District and in all other residential districts, on lots of less than one (1) acre the maximum allowable area of accessory structures shall not exceed fifty percent (50%) of the principal structure foundation area (*excluding attached garage*); and the total combined area of attached garage and accessory structures shall not exceed one thousand two hundred (1,200) square feet, whichever is less.

    b. Lots 1 Acre To Less Than 5 Acres -- In residential districts other than the R-4 district, on lots of at least one (1) acre but less than five (5) acres, the maximum allowable area of accessory structures shall not exceed the principal structure foundation area (*excluding attached garage*).

    c. Lots 5 Acres And Larger -- In residential districts other than the R-4 district, on lots of five (5) acres and larger, the maximum allowable area of accessory structures shall be limited only by the setbacks and maximum impervious land coverage requirements of this code.

B. All Districts: Accessory structures shall not occupy more than twenty five percent (25%) of any required rear yard

C. Construction Requirements:
1. To preserve residential neighborhood aesthetics and property values, accessory structures located:
    - closer than the principal structure to a property line fronting on a public right of way; or
    - within the Metropolitan Urban Service Area [MUSA Boundary]; or,
    - on any lot of less than two and a half (2.5) acres,

    shall be located and designed to be architecturally compatible with the principal structure, use and neighborhood.

    Architectural compatibility shall be accomplished by integrating the exterior design elements and finishes of the principal structure, use and neighborhood into the residential accessory structure. Architectural features may include:

    - roof pitch (minimum 4:12 required), soffits, gables, dormers,
    - fenestration (placement of windows/doors);

- exterior finish colors and textures consistent with or complementary to the principal structure;
- decorative exterior finishes, siding, wainscot and veneers (brick, stone, stucco, EFIS, etc.),
- decorative lighting, and
- landscaping.

2. Except as allowed by Section 12-6-5 C for Farm Animals/Livestock, exterior roof and wall finishes of galvanized or unfinished metal panels are not allowed on residential accessory structures.

3. Where a determination of architectural compatibility cannot be made by the Building Official or Zoning Administrator, the determination must be made in accordance with Title 9, Section 9-1-4.

12-6-5: LOCATION AND SETBACK REQUIREMENTS:

A. Setbacks:

1. Front Yard Setbacks:

a. In all districts accessory structures shall not be located nearer the front lot line than the principal structure; except on residential lots with a lot area of one (1) acre or more, the minimum front yard setback is sixty feet (60').

b. In all districts, front yard setbacks for accessory structures are the same as for principal structures *(See Section 12-3-5); e*xcept as specified below:

i. Accessory structures located on a corner lot adjacent to a lot that fronts on a cul-de-sac, shall be setback at least as far as the principal structure on the adjacent cul-de-sac lot.

ii. Where less than the minimum right-of-way required by City Code Section 11-3-3 exists, accessory structure setbacks shall be measured assuming the right-of-way width required by City Code 11-3-3.

iii. Accessory structures located in a yard adjacent to a county road shall have a minimum setback of fifty (50) feet from the property line; except in the R-4 district, where the minimum setback shall be forty (40) feet.

iv. For lots abutting county roads or arterial streets, where less than 120 feet of right-of-way exists, the setback for accessory structures

shall be measured assuming a sixty-foot (60') right-of-way on each side of the existing right-of-way centerline.

2. Side Yard and Rear Yard Setbacks

   a. Residential Districts: In all residential districts, accessory structures shall be setback at least five (5) feet from side and rear lot lines.

   b. Business and Industrial Districts: In business and industrial districts, accessory structures shall be setback at least ten feet (10') from side and rear lot lines, subject to provisions for the abutting residential zone provided herein.

B. Drainage and Utility Easements: Accessory structures and structures shall not be constructed or placed in a drainage or utility easement.

C. Farm Animals/Live Stock: No enclosed accessory structure (barn or shed) in which farm animals, pleasure/recreational animals or poultry are kept may be located within one hundred (100) feet of a residential dwelling. No stationary or moveable open animal shelter may be located within fifty (50) feet of an adjacent residential lot unless the owner of the adjacent lot is the same party. The City Council may order the owner of any farm animals to apply for and obtain a Conditional Use Permit if it is deemed to be in the interest of the public health, safety, or general welfare.

12-6-6: **TEMPORARY STRUCTURES:** Temporary structures shall be allowed by either administrative approval or by Conditional Use Permit as otherwise provided by this title.

A. Administrative Approval: Temporary structures allowed by administrative review and approval by the city administrator include construction trailers, shipping and storage containers and tents. Temporary structures allowed by administrative approval, other than construction trailers, shall be limited to six (6) months in duration. The City Council may extend the six (6) month time limit, if special circumstances exist.

   1. Construction Trailers -- Construction trailers shall be allowed administratively through the commercial site plan review process and building permits. No trailers shall be allowed to be used as temporary sales offices.

   2. Tents -- Tents for private parties and promotional sales events shall be allowed up to ten (10) calendar days per year. A tent permit must be applied for by the property owner or their agent. The Fire Department will review and approve or deny the application based on conformance with the Minnesota State Fire Code.

3. Shipping and Storage Containers -- In all zoning districts, moveable shipping and storage containers shall only be allowed subject to the following limitations:

   i. Containers, with or without contents, must not be on a lot for more than thirty (30) continuous days.

   ii. In no case may a moveable container be used as a permanent or temporary structure or accessory structure.

   iii. Containers must be placed at least fifteen (15) feet back of curb or pavement edge, only within the allowed driveway and shall not interfere with traffic sight lines.

4. Permits And Fees --- No permit fees are required for construction trailers. Permit fees for tents shall be set as stated in Subsection 1-7-3A of this code.

B. Conditional Use Permit: Temporary structures allowed by Conditional Use Permit shall be reviewed subject to the following regulations:

1. There shall be a time limit established for temporary structures to remain on a site as a part of the Conditional Use Permit review during the construction process.

2. Prior to issuance of a temporary structure permit, a site plan review must also be approved.

3. Security measures such as lighting and including connections to the main structure shall be reviewed as a part of the Conditional Use Permit.

4. Parking shall be subject to the provisions of Section 12-14-10 of this title.

5. Signage shall be subject to the provisions of Section 12-14-9 of this title.

6. The Conditional Use Permit will address the date the temporary structure shall be removed from the property. The applicant will provide a written long-term plan for its removal.

7. Temporary structures shall follow the required structure setbacks. The temporary structure is to be located to the side or rear of the site and will be reviewed as a part of the Conditional Use Permit.

8. All applicable requirements of and the Minnesota State Building Code and Minnesota State Fire Code shall be met.

9. Provisions for water and sewer servicing a temporary structure shall be subject to the review and approval of the building official.

10. Upon sale or transfer of ownership of the property, the Conditional Use Permit shall be brought up for renewal or the temporary structure shall be removed.

(Chapter repealed Ordinance 483, 7/17/18)

CHAPTER 7

FENCES AND WALLS

SECTION:

12-7-1:	Permitted Use
12-7-2:	Locations
12-7-3:	Fence Height
12-7-4:	Performance Standards
12-7-5:	Barbed Wire and Electric Fences
12-7-6:	Exemptions From Provisions

12-7-1: PERMITTED USE:

Fences, walls, hedges and similar barriers (herein referred to as fences) shall be permitted in all yards subject to the provisions of this chapter. A permit is required for the construction of all fences or walls that are located on, in, or near any property line, drainage and utility easement, or wetland in the City of Andover. A permit application shall be submitted for review by the Engineering Department and an application fee shall be paid as outlined in Chapter 1-7-3 of this code prior to the issuance of any permit. (Amend. 12/6/05, Ord. 317)

12-7-2: LOCATION:

A. Fences shall be located entirely on the private property of the individual constructing the fence. Fences may be placed up to the property line. It is the responsibility of the property owner to determine the location of property lines. Fences may be located in any private yard or along a side or rear property line, except as follows:

1. No fence shall be placed in the public right-of-way.

2. Fences shall not be placed in underground utility easements. Fences may be placed in other utility easements if they do not interfere with existing utilities. The existence and location of private utility easements and equipment must be determined by contacting Gopher State One Call. (Amended 4/19/11, Ord. 405)

3. Fences shall not be constructed or placed in drainage areas, ponds, or wetlands. Fences shall not be placed in easements that provide vehicle access for the maintenance of drainage, ponding, or wetland areas. (Amended 4/19/11, Ord. 405)

4. For fence placements on 2.5 acres and larger lots, the City may permit non-restrictive fencing in drainage, wetland or ponding areas as long as they do no restrict the flow of water. Access to ponds, wetlands and other such areas may be required by the City for maintenance purposes. (Amended 4/19/11, Ord. 405)

5. Fences in any area shall not enclose, hinder or restrict access to utility boxes, fire hydrants or other above ground utilities. (Amended 4/19/11, Ord. 405; Amended 7/21/20, Ord. 510)

6. Fences on corner lots shall not encroach upon the Sight Triangle as defined in Section 12-2-2 of this code. (Amended 7/21/20, Ord. 510)

B. Any fence placed in violation of this section shall be the liability of the property owner who constructed it. The City, or any other agency having authority to work in a right-of-way or easement area, shall not be liable for repair or replacement of such fences in the event they are moved, damaged, or destroyed by virtue of the lawful use of that area. Any damage caused by the illegal placement of a fence shall be the responsibility of the property owner who constructed it.

12-7-3: FENCE HEIGHT:

A. In the rear and side yards up to the front façade of the principal structure, fences up to a height of six (6) feet are allowed. (Amended Ord. 386, 8/5/09)

B. Fences located closer to the front property line than the principal structure, shall not exceed four (4) feet in height. Except as follows:

1. In the RR Single-Family Rural Reserve, R-1 Single-Family Rural Residential and R-2 Single-Family Estate zoning districts, “ornamental fences”, as defined in Section 12-2-2 of this title, of up to six (6) feet in height are permitted in all yards, provided the fence does not encroach upon the Sight Triangle as defined in Section 12-2-2 of this code. (Amended Ord. 386, 8/5/09; Amended Ord. 468, 6-6-17; Amended 7/21/20, Ord. 510)
2. On properties located in the I: Industrial zoning district and located outside of the Metropolitan Urban Service Area (MUSA) boundary, the City may approve a fence in the front yard of up to six (6) feet in height through the Commercial Site Plan (CSP) process, provided that:

A. The fence is to provide screening for an approved use of the property.
B. Landscaping as approved through the Commercial Site Plan shall be utilized to break up the mass of the fence line. (Amended 7/21/20, Ord. 510)

12-7-4: PERFORMANCE STANDARDS:

A. Construction and Materials: Every fence shall be constructed in a workmanlike manner. For all fences constructed after the adoption of this title, all posts, supports, and framework shall be placed on the inside of the fence, with the finished side facing the abutting property or street. Fences in all districts shall be constructed of materials widely accepted in the fencing industry. No plywood boards, canvas, plastic sheeting or metal sheeting shall be used for any fence construction. No fence may have boards, planks, or panels larger than twelve (12) inches in width.

Chain-link fences shall be constructed in such a manner that the barbed end is at the bottom of the fence.

Silt fences shall only be allowed on construction sites or where deemed necessary to prevent soil erosion.

Snow fences shall only be allowed between November 1st and April 15th.

B. Maintenance: All fences shall be maintained in good condition and vertical position. Any missing, broken, incomplete, or deteriorated sections of fencing material or structural elements shall be replaced with the same quality of material and workmanship.

All exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by a protective covering or treatment. If twenty-five percent (25%) of the surface is peeling, cracked, chipped, blistered, or weathered beyond effectiveness, the exterior surface shall be refinished. The entire surface shall be uniformly treated and maintained with the same quality of workmanship. (Amend. 12/6/05, Ord. 317)

Any fence not in conformance with this subsection shall be declared a nuisance and repaired so as to be in conformance or removed by the property owner.

12-7-5: BARBED WIRE AND ELECTRIC FENCES:

A. A security arm for barbed wire to a maximum of eight (8) feet may be permitted by Conditional Use Permit in industrial or business districts, or in any district when used exclusively for enclosing utility and substation sites. (Amended 7/21/20, Ord. 510)

B. Barbed wire and electrical fences may be permitted on residential lots of two and one half (2.5) acres or greater and shall be exclusively for the use of containing farm animals, or pleasure/recreational animals, as defined in City Code. (Amended 7/21/20, Ord. 510)

12-7-6: EXEMPTIONS FROM PROVISIONS:

Fences that are for the sole purpose of containing farm animals are not subject to the provision of this title. (Ord. 8PPPPPP, 8-20-2002; amd. 2003 Code; amd. Ord. 314, 10-4-2005)

CHAPTER 8

REQUIREMENTS FOR SPECIFIC CONDITIONAL USES

SECTION:

12-8-1: Two-Family Home Conversions (Splits)
12-8-2: Liquid Storage Tank
12-8-3: Exterior Storage
12-8-4: Automobile Service Station
12-8-5: Accessory Dwelling Unit (ADU)

12-8-1: TWO-FAMILY HOME CONVERSIONS (SPLITS):

A. Two-family home conversions (splits) may be permitted following issuance of a Conditional Use Permit (which shall be reviewed and pertinent data regarding the unit shall be provided, including, but not limited to, submission of a survey setting out each individual lot and its location along said party wall). Each dwelling unit shall be provided with individual sewer stubs, individual wells or sources of water, separate power supply to each living unit, one hour fire separation between living units, and that a party wall agreement and covenant document, including an arbitration clause, shall be entered into by all affected parties. These upgrades to the structure and providing the city a copy of the party wall agreement and covenant documents by the applicant must take place prior to release of the resolution approving the two-family home split.

B. In the event a two-family home is lacking the required garage space and/or the minimum housing unit size, the applicant must obtain a variance or bring the unit up to current standards. In the event a unit falls below the nine hundred sixty (960) square foot minimum and is more than fifty percent (50%) destroyed (as determined by the building official), the unit will be required to be rebuilt to meet the minimum of nine hundred sixty (960) square feet and also have a garage that meets the minimum size requirement. This would become a standard condition of any variance to structure size (if it were granted). If the building is improperly located on the lot such that it requires a variance to setbacks, a variance would be required to be granted or the unit will not be allowed to be split. (Ord. 8QQQQQ, 10-1-2002)

12-8-2: LIQUID STORAGE TANK:

A. Conditional Use Permit Required For Certain Materials: All uses, including pipelines associated with the bulk storage of oil, gasoline, liquid fertilizer,

chemicals and similar liquids shall require a Conditional Use Permit in order that the governing body may have some assurance that fire, explosion or water or soil contamination hazards are not present that would be detrimental to the public health, safety and general welfare. All tanks that could contain hazardous and/or flammable liquids having a capacity in excess of one thousand (1,000) gallons shall be required to obtain a Conditional Use Permit and a permit from the Fire Department prior to installation. Exceptions are noted below. All public agencies (including school districts, city, county and state) shall be entitled to apply for a Conditional Use Permit for a tank regardless of the zoning district that they are located in.

B. The governing body may require the development of diking around said tanks, suitably sealed, to hold a leakage capacity equal to one hundred fifteen percent (115%) of the tank capacity.

C. Prohibitions

All liquid storage tanks not listed as a Conditional Use in the Uses table (refer to Section 12-13) or as an Exception (as noted in Section 12-8-7 D.) shall be prohibited.

D. Exceptions.

The provisions of this subchapter do not apply to:

1. Existing home heating oil tanks, including those located in basements, cellars, if the storage tank is located upon or above the surface of the floor;
2. Septic tanks.
3. Small (20-30 lb.) propane tanks used on barbeque grills.

E. Installation, Alteration, Repair or Removal Permits.

1. The installation, alteration, repair or removal of any liquid storage system governed by this subchapter requires permits issued by the Fire Chief pursuant to the provisions of the Minnesota State Fire Code and any other applicable code, ordinance, statute, rule or National Fire Prevention Association Standards;
2. Permits and fees. The issuance of permits and the collection of fees shall be in accordance with the fee schedule adopted by the City Council in the amount provided by the fee resolution, set forth in this code;
3. The Fire Chief may deny a permit to persons not capable of performing pursuant to ordinance requirements. (Amended Ord. 314, 10-4-2005)

12-8-3: **EXTERIOR STORAGE:** In all districts excluding residential districts, the governing body may order the owner of property to apply for a Conditional Use Permit to conduct an open storage use, including existing uses, provided it is found that said use constitutes a threat to the public health, safety, convenience, morals or general welfare. (Amended Ord. 8, 10-21-1970; Ord. 380, 4/21/09)

12-8-4: **AUTOMOBILE SERVICE STATION**

The regulation of automobile service stations strives to achieve compatibility of these stations with adjacent and abutting land uses. In addition, such regulation is intended to protect the public health, safety and general welfare by mitigating and potentially detrimental aspects of automobile service stations, including potential traffic hazards, noise, light glare at night, outdoor storage of merchandise, indiscriminate advertising, environmental health hazards, and the like. Automobile service stations shall be subject to the following:

A. All new buildings, the site, tanks, piping and dispensing stations, shall comply with the current provisions of the Minnesota State Building Code, Minnesota State Fire Code, and all provisions related to underground liquid storage systems required in Section 12-8-2 of this code. (Amended Ord. 438, 6-3-14; Amended Ord. 463, 6-21-16)

B. Building permits shall not be issued for new construction or remodeling of facilities unless Fire Department approval has been received.

C. Hours of operation will be approved by the City Council.

D. The site plan shall show parking areas for customers, employees, service vehicles and those needing repair and no other areas of the site will be allowed vehicle parking. No vehicle shall be parked awaiting service longer than ten (10) days. Inoperable vehicles are regulated per section 6-5 of City Code.

E. Pump islands are subject to setback requirements.

F. Exterior storage and sales shall only be allowed as approved through the Conditional Use Permit. (Amended Ord. 314, 10-4-2005)

12-8-5: **ACCESSORY DWELLING UNIT (ADU)**

A. ***Purpose.*** The purpose of this subdivision is to permit and regulate an accessory dwelling unit (ADU). An ADU may be located accessory to a single-family dwelling in the R-1, Single Family Rural zoning district only

as a conditional use subject to the regulations set forth herein. The minimum lot size in the R-1 zoning district ensures that additional housing will have less impact on neighboring properties. Because this use will be located in established one-family residential districts (single family home neighborhoods), the installation and use of an accessory dwelling unit must be strictly controlled to avoid adverse physical, social, economic, environmental and aesthetic impacts. By allowing only those accessory dwelling units that are in compliance with all of the performance standards of this subdivision, the character and quality of existing neighborhoods will be protected.

B. ***Performance standards.*** No property within a single-family residential district shall have more than one dwelling unit, except an ADU may be permitted as a conditional use to a single family dwelling when all of the following requirements are met:

1. The primary residence must be located on a lot within an R-1, Single Family Rural zoning district.

2. The property owner must reside in either the primary residence or the ADU as their permanent residence according to state law.

3. An ADU may not be subdivided or otherwise segregated in ownership from the primary residence structure.

4. An ADU's total floor area shall be no more than 900 square feet and not less than 400 square feet.

5. The ADU shall be separated a minimum of twenty feet (20’) from the primary residence.

6. The ADU shall meet the setback requirements for an accessory structure as specified in the City Code.

7. An ADU shall be designed and maintained as to be consistent with the architectural design, style, appearance and character of the primary residence as a single-family residence. An ADU shall not extend beyond the height of the primary residence.

8. Two off-street parking spaces shall be required for the ADU, in addition to the off-street parking spaces required for the primary residence. An additional garage may be constructed, provided it complies with all state and city regulations.

9. No more than one ADU shall be permitted on a lot or parcel.

10. An ADU shall have a permanent foundation. Houses on wheels or trailers shall be prohibited.

11. An ADU shall be constructed and maintained in accordance with all state laws, state building, plumbing, electrical, mechanical, and fire code regulations and City Code requirements.

12. The primary residence and ADU shall be constructed and maintained in compliance with the property maintenance regulations set forth in the City Code.

13. Rental of the accessory dwelling unit, or rental of the principal dwelling unit if the property owner resides in the accessory dwelling unit, shall require a City rental license pursuant to the City Code.

It is unlawful for a property owner to construct or allow occupancy within an ADU that does not comply with all of the foregoing requirements. (Amended Ord. 463, 6-216)

CHAPTER 9

HOME OCCUPATIONS

SECTION:

12-9- 1: Purpose
12-9- 2: Permitted Home Occupations; Location Restrictions
12-9- 3: Home Occupations In Accessory structures
12-9- 4: Nonconforming Home Occupations
12-9- 5: Conditional Use Permits
12-9- 6: Special Home Occupation Permits
12-9- 7: Inspections
12-9- 8: In-Home Beauty Salons and Barbershops
12-9- 9: Vested Rights
12-9-10: Suspension Or Revocation Of Conditional Use Permit
12-9-11: Illegal Home Occupations; Penalty

12-9-1: **PURPOSE:** The purpose of this chapter is to prevent competition with business districts and to provide a means through the establishment of specific standards and procedures by which home occupations can be conducted in residential neighborhoods without jeopardizing the health, safety and general welfare of the surrounding neighborhood. In addition, this chapter is intended to provide a mechanism enabling the distinction between permitted home occupations and nonconforming or customarily more sensitive home occupations, so that nonconforming home occupations may be allowed through an administrative process rather than a legislative hearing process. (Amended Ord. 8, 10-21-1970)

12-9-2: **PERMITTED HOME OCCUPATIONS; LOCATION RESTRICTIONS:** All home occupations that conform to all of the following provisions may be conducted entirely within the principal structure. Home occupations shall not be conducted in a garage or accessory building unless the property owner has obtained a Conditional Use Permit as stated in Section 12-9-3 of this chapter or has obtained a Special Home Occupation Permit as stated in Section 12-9-4 of this chapter. Home occupations may be conducted by an individual who resides on the property and uses the residence as a primary address for legal purposes. (Amended Ord. 431, 10-15-13)

A. Permitted Home Occupations Enumerated: Permitted home occupations include, and are limited to: art or photo studio, dressmaking, secretarial services, professional offices, repair services, or teaching services limited to three (3) students at any one time and similar uses.

B. Number Of Employees: The number of employees shall be limited to one person on site in addition to family members. (Amended Ord. 8, 10-21-1970)

C. Amount Of Building Space Used: The area within the principal structure used by the home occupation shall not exceed twenty percent (20%) of the dwelling's livable floor area. Basements may be included if they meet all State Building Code requirements. (Amended. Ord. 8, 10-21-1970; amd. 2003 Code)

D. On Site Sales: On site sales shall be prohibited, except those clearly incidental to services provided in the dwelling.

E. Dwelling Changes: Any interior or exterior alterations of a dwelling for a home occupation shall be prohibited, except those customarily found in a dwelling.

F. Vehicles: Vehicles associated with a home occupation shall be regulated as stated in Title 12, Chapter 13, Performance Standards and in Title 6, Motor Vehicle and Traffic. (Amended Ord. 392, 5/18/10)

G. Signs: Signs shall be regulated as stated in Title 12, Chapter 15.

H. Performance Standards: No home occupation shall produce light glare, noise, odor or vibration that will in any way have an objectionable effect upon adjacent or nearby property.

I. Supervision: The home occupation shall be conducted by at least one member of the family who resides in the dwelling unit.

J. Building And Safety Requirements: The home occupation shall meet all applicable fire and building codes. (Amended Ord. 8, 10-21-1970)

12-9-3: HOME OCCUPATIONS IN ACCESSORY STRUCTURES

A. Conditional Use Permit Required: A Conditional Use Permit shall be required for the following home occupations that are located in an accessory structure or detached garage and/or require exterior storage:

1. Cabinet making.

2. Woodworking.

3. Repair services.

4. Similar uses as those stated in Subsections A1 through A3 of this section.

B. Conditions Of Permit: These home occupations shall be subject to the following conditions:

1. Lot Size: The size of the lot or parcel of land shall be three (3) acres or larger.

2. Area Of Use: The combined square footage of the accessory structure and/or outside storage area utilized by the home occupation shall not exceed eight hundred (800) square feet.

3. Setbacks: Setbacks of the accessory building and outside storage area shall be of a magnitude found necessary by the city, but in no case shall there be less than a one hundred foot (100') front yard setback, thirty foot (30') side yard setback and fifty foot (50') rear yard setback or as required in Section 12-3-4 of this title.

4. Storage Restrictions: The outside storage area and all commercial vehicles, materials and equipment for the business being stored on site shall be fenced, landscaped and screened in such a manner as to prevent them from being visible at any time of the year from road rights-of-way, public properties and surrounding properties. (Amended Ord. 314 10-4-2005)

5. Other Requirements: All provisions in Section 12-9-2 of this chapter. (Amended Ord. 8, 10-21-1970)

6. Termination of Use Upon Sale of Property: Upon sale of the premises for which the Conditional Use Permit is granted, such permit shall terminate. (Amended Ord. 314 10-4-2005)

12-9-4: **NONCONFORMING HOME OCCUPATIONS:**

Properties that had nonconforming home occupations prior to the adoption of this title (May 15, 1990) were given an opportunity to apply for a Special Home Occupation Permit. Those that were granted a permit are on file with the Department of Community Development and may continue to operate. However, they shall not increase in extent, number, volume, or scope from any of the information stated in the permit, or the permit will be subject to revocation. (Amended Ord. 314 10-4-2005)

12-9-5: **CONDITIONAL USE PERMITS:** Conditional Use Permits granted in Section 12-9-3 of this chapter shall follow the criteria established in Section 12-

14-6 of this title. These permits shall be valid for one year from the date of issuance (unless otherwise specified in the resolution for approval) and thereafter shall be automatically renewed each year unless objections or complaints are received or the conditions of the permit are not adhered to. (Amended Ord. 8, 10-21-1970)

12-9-6: **SPECIAL HOME OCCUPATION PERMITS:**

A. Temporary Permits: Nonconforming Home Occupation permits granted by Section 12-9-4 of this chapter shall be temporary in nature, and shall be granted to a designated person who resides at the address where the home occupation is being conducted. (Amended Ord. 314, 10-4-2005)

B. Non-transferability Of Permit: These permits shall not run with the land and shall not be transferable.

C. Renewal Of Permit: Special Home Occupation Permits shall be automatically renewed each year unless objections or complaints are received, or conditions of the permit are not adhered to.

D. Termination Of Permit: If the Special Home Occupation Permit holder expires or moves to a new location, the existing permit shall automatically terminate. In the case of death or other separation, the family member(s) remaining at the same address may continue the home occupation if written notice is given to the Department of Community Development and authorization for the continuation of the permit is given with Council approval. (Amended Ord. 314 10-4-05)

12-9-7: **INSPECTIONS:** There may be one annual inspection each year made by the City Administrator or Administrator's designee of the property covered by a Conditional Use Permit or Special Home Occupation Permit. In addition, the City Administrator or the Administrator's designee shall, upon reasonable request, enter and inspect the premises covered by said permit for compliance purposes. (Amended Ord. 8, 10-21-1970)

12-9-8: **IN HOME BEAUTY SALONS AND BARBERSHOPS:**

In home beauty salons/barbershops shall be subject to the following:

A. Compliance with Title 3, Chapter 6 of the City Code.

B. Drawings Submitted: Drawings detailing the salon/shop shall be submitted at the time of the request for the Conditional Use Permit.

C. Compliance With State Requirements: The salon/shop must comply with the State Cosmetology Board and the State Barbers Board requirements.

D. Number of Chairs: One chair salon/barber only.

E. Hours of Operation: The hours of operation shall be approved by the City Council.

F. Parking: Parking requirements shall be as set out in section 12-13-10 of this title.

G. Non-sewered Areas: In non-sewered areas, the septic system shall be in compliance with Title 10, Chapter 4 of this code. A beauty shop/barber shop shall be considered the equivalent to one bedroom in terms of usage under Title 10, Chapter 4 of this code.

H. Termination of Use Upon Sale of Property: Upon sale of the premises for which the Conditional Use Permit is granted, such permit shall terminate. (Amended Ord. 8, 10-21-1970, Ord. 314 10-4-2005)

12-9-9: **VESTED RIGHTS:** No home occupation allowed by Conditional Use Permit or Special Home Occupation Permit shall confer upon any person or to the benefit of any property owner any vested right. Rather, the use shall remain subject to all conditions of the permit as established by the city. The city may find it necessary from time to time to review the conditions of the permit as they relate to the provisions of the general welfare of the community. (Amended Ord. 8, 10-21-1970)

12-9-10: **SUSPENSION OR REVOCATION OF CONDITIONAL USE PERMIT:** When the City Council determines that the public interest so requires, it may revoke or suspend the Conditional Use Permit of a home occupation when it finds, after due investigation and a public hearing, that:

A. The permit holder, or any of his or her employees, has concealed the receipt of stolen property or has knowingly received stolen property.

B. The permit holder has not complied with the provisions of law applicable to the premises, equipment or operation of the home occupation.

C. The permit holder has obtained a permit through fraud or misstatement.

D. The home occupation or activity is being conducted in a manner found to

be detrimental to the health, safety, or general welfare of the public or is a nuisance, or is being operated or carried on in an unlawful manner.

E. The home occupation has not been operating or in business for a period of six (6) consecutive months. (Amended Ord. 8, 10-21-1970)

12-9-11: **ILLEGAL HOME OCCUPATIONS; PENALTY:** All home occupations that are being conducted in violation of this chapter are illegal. Any person violating any provision of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to punishment as defined by state law. (Amended Ord. 8, 10-21-1970)

12-9-12: **FARM WINERIES:** The following provisions shall apply to all farm wineries that are considered home occupations under the Conditional Use Permit process:

C. Farm wineries which shall be allowed on 2 ½ acre or larger parcels in the RR, R-1, R-2 and R-3 Zoning Districts.

C. Farm Wineries shall follow the standard building setbacks for the applicable Zoning District.

D. Whether conducted in a principal or accessory structure, a farm winery shall not be operated as a retail store (i.e. no retail displays will be allowed).

E. Farm wineries shall be allowed only six on-site customer sales per day. All other sales will need to be made by the internet/telephone and mailed or shipped to the buyer.

F. Farm wineries shall be subject to production limits on the amount of wine produced on-site each year, as specified in the Conditional Use Permit.

G. Other Requirements including but not limited to: All provisions of Section 12-9-2 and 12-9-7 of this chapter.

H. Termination of Use Upon Sale of Property: Upon sale of the premises for which the Conditional Use Permit is granted, such permit shall terminate. (Amd. 2/20/07, Ord. 339)

CHAPTER 10

NONCONFORMING USES AND STRUCTURES

SECTION:

12-10-1: Discontinuance Of Use
12-10-2: Change Of Use
12-10-3: Maintenance And Repairs
12-10-4: Non-Conforming Lots of Record

12-10-1: **DISCONTINUANCE OF USE:**

Whenever a lawful nonconforming use of a building or structure or land is discontinued for a period of one year, any future use of said building or structure or land shall be in conformity with the provisions of this title. (Amended Ord. 8, 10-21-1970)

12-10-2: **CHANGE OF USE:**

A. When any lawful nonconforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use.

B. A nonconforming use shall not be expanded so as to incorporate more employees, generate increased amounts of product, or otherwise increase in scale or scope from its inception. (Amended Ord. 314 10-4-2005)

12-10-3: **MAINTENANCE AND REPAIRS:**

A. Nothing in this title shall prevent the placing of a structure in a safe condition when said structure is declared unsafe by the Building Official.

B. Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:

1. The nonconformity or occupancy is discontinued for a period of more than one year; or

2. Any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged. In this case, the city may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property. (Amd. Ord. 378, 3-17-2009)

12-10-4: **NON-CONFORMING LOTS OF RECORD:**

A. An un-platted lot or parcel of land for which a deed or contract for deed has been recorded in the office of the County Recorder upon, or prior to, October 21, 1970 shall be deemed a buildable lot, provided:

1. It has frontage on a public street right-of-way which has been accepted and is currently maintained by the City;

2. The area, width and depth are within sixty percent (60%) of the requirements of this title.

3. Non-conforming lots may be utilized for single-family detached purposes, but said lot or parcel shall not be more intensely developed.

B. If any plat, for which preliminary approval has been granted by the City Council on or before October 21, 1970, was finally approved and filed on or before October 21, 1971, lots contained therein shall be deemed buildable lots, and the provisions of this section not shall apply. (Amd Ord. 314 10-4-2005)

CHAPTER 11

SHORELAND LOTS[1]

SECTION:

12-11-1: Scope
12-11-2: Location Of Structures
12-11-3: Water Supply
12-11-4: Private Sewage Disposal Systems
12-11-5: Preservation Of Natural Topography
12-11-6: Subdivisions

12-11-1: **SCOPE:** All lots having frontage on a lake, river or stream shall be governed by the provisions of this chapter. (Amended Ord. 8, 10-21-1970)

12-11-2: LOCATION OF STRUCTURES:

A. Setbacks:

1. No principal building or dwelling unit shall be located within seventy-five feet (75') of the normal high water mark. Said high water mark shall be as established by the City Engineer or such other person as the City Council shall designate.

2. In areas of unusual topography or substantial elevation above the high water mark, the setback may be varied by the City Council to allow an owner reasonable use of his property.

B. Elevation: No structure, except boathouses, piers and docks, shall be placed at an elevation such that the lowest floor, including a basement, is less than three feet (3') above the highest known water level. (Amended Ord. 8, 10-21-1970)

12-11-3: WATER SUPPLY:

A. Compliance With State Standards: Any public or private supply of water for domestic purposes must conform to the standards of the Minnesota Department of Health and the Minnesota Pollution Control Agency for water quality to ensure safe and healthful conditions. (Amended Ord. 8, 10-21-1970; amd. 2003 Code)

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[1] See also title 13, chapter 4 of this code.

B. Private Wells:

1. Private wells shall be placed in areas not subject to flooding and upslope from any source of contamination. Wells already existing in areas subject to flooding shall be floodproofed in accordance with procedures established in "Statewide Standards And Criteria For The Management Of Flood Plain Areas Of Minnesota".

2. Location of wells shall be determined by the direction of ground water flow, the highest known ground water elevation and any unusual topographic or geologic formations. (Amended Ord. 8, 10-21-1970)

12-11-4: **PRIVATE SEWAGE DISPOSAL SYSTEMS[1]:**

A. Compliance With State Regulations: All private sewage treatment systems must conform to the Minnesota Pollution Control Agency standards for individual sewage treatment systems contained in the document titled "Individual Sewage Treatment Systems Standards, Chapter 7080", a copy of which is hereby adopted to be a part of this chapter, and a copy of which is on file in the office of the Building Official for public use and inspection. (Ord. 108, 9-20-1994; amd. 2003 Code)

B. Soil Absorption Systems:

1. Location and installation of a soil absorption system shall be such that, with reasonable maintenance, it will function in a sanitary manner and will not create a nuisance, endanger the safety of any domestic water supply, nor pollute or contaminate any public surface water.

2. Soil absorption systems shall be placed at least fifty feet (50') from the normal high water mark.

3. Soil absorption systems shall not be acceptable for disposal of domestic sewage for new developments on lots adjacent to public waters under the following circumstances:

a. Low swampy areas or areas subject to flooding.

b. Areas where the ground water table may reach the soil absorption system.

c. Areas of exposed bedrock or any other geologic formation that prohibits percolation of the effluent.

d. In areas of steep ground slope where there is danger of seepage

[1] See also sections 3-3-5, 10-2-3 and title 10, chapter 4 of this code.

of the effluent onto the surface of the ground.

e. In soils where the percolation rate is slower than one inch (1") in sixty (60) minutes. (Amended Ord. 8, 10-21-1970)

12-11-5: **PRESERVATION OF NATURAL TOPOGRAPHY:**

A. Public Waters: Any work that will change or diminish the course, current or cross section of a public water must be approved by the Minnesota State Conservation Department and the city before the work is begun. This includes construction of channels and ditches, lagooning, dredging of lake bottom for the removal of muck, silt or weeds, and filling in the lake bed, including low lying marsh areas. "Approval" shall be construed to mean the issuance of a permit under the provisions of Minnesota Statutes Chapter 103F, and other related statutes by the Director of the Division of Waters, Soils and Minerals. (Amended Ord. 8, 10-21-1970; amd. 2003 Code)

B. Trees: Tree cutting shall be restricted within a thirty five foot (35') wide strip paralleling the lake or river high water mark except as approved by a Conditional Use Permit issued by the city.

C. Shrubs: Natural shrubbery shall be preserved as far as practicable. Where removal is necessary for construction, shrubbery must be replaced with other vegetation that is equally suitable in retarding surface runoff and soil erosion before such removal can occur.

D. Grading And Filling: Grading and filling on land or any alterations of the natural topography where the slope of the drainage is toward a river, stream or lake and within three hundred feet (300') shall require a Conditional Use Permit issued by the city. (Amended Ord. 8, 10-21-1970)

12-11-6: **SUBDIVISIONS[1]:**

A. Land Suitability: No land shall be subdivided which is held unsuitable for the proposed use by the city because of flooding, inadequate drainage, soil and rock formations with severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed subdivision or of the community.

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[1] See also section 13-4-8 of this code.

B. Shoreland Plats: All plats in shoreland areas shall be submitted to and reviewed by the State Division of Waters, Soils and Minerals before final action by the city. (Amended Ord. 8, 10-21-1970)

Chapter 12

RESIDENTIAL

PERMITTED, PERMITTED ACCESSORY, CONDITIONAL, INTERIM AND PROHIBITED USES[7]

P- Permitted Use	**R-1** Single Family-Rural		**M-2** Multiple Dwelling
PA- Permitted Accessory Use	**R-2** Single Family- Estate		**RR** Single Family Rural Reserve
C- Conditional Use[1] SEE FOOTNOTES	**R-3** Single Family- Suburban		
X- Prohibited Use	**R-4** Single Family- Urban		
PUD- Planned Unit Development	**R-5** Manufactured Housing		
I- Interim Use	**M-1** Multiple Dwelling- Low Density		

If Use Not Specifically Listed or Provided for Elsewhere in the City Code, It Is Prohibited

Permitted, Permitted Accessory, Conditional, Interim and Prohibited Uses	**Zoning Districts**							
	RR	**R-1**	**R-2**	**R-3** [2]	**R-4** [3]	**R-5**	**M-1**	**M-2**
Animals								
Animal Therapy Facility-on properties larger than five acres in size	C	C	C	C	X	X	X	X
Commercial animal training (2.5 acre minimum residential lot size)	C	C	C	C	X	X	X	X
Commercial riding stables	C	C	X	X	X	X	X	X
Dog kennel license - Private (2.5 acre minimum lot size required) in compliance with City Code 5-1A	C	C	C	C	C	C	C	C
Dog kennel license - Commercial (minimum 2.5 acre lot size) in compliance with City Code 5-1A	C	C	C	C	C	C	X	X
Domestic animals in compliance with City Code Title 5	PA	PA	PA	PA	PA	PA	PA	PA
Farm animals up to 5 per acre, plus one additional farm animal per acre above 5 acres on residential properties 5 acres or greater up to a maximum of 20 animals[8] and definition under City Code 12-2	P	P	P	P	X	X	X	X
Farm animals greater than allowed as a permitted use on residential properties 5 acres or greater in compliance with City Code Title 5[8] and definition under City Code 12-2	C	C	C	C	X	X	X	X
Feedlots, except Anoka Independent Grain and Feed Inc. which is a permitted use that predates the adoption of this ordinance.	X	X	X	X	X	X	X	X
Pleasure/recreation animals on residential properties at least 2.5 acres in size in compliance with City Code Title 5 and definition under City Code 12-2	PA	PA	PA	PA	PA	X	X	X
Poultry on residential properties with neither municipal sewer or water in compliance with City Code Title 5 and definition under City Code 12-2	P	P	P	P	X	X	X	X
Dwellings								
Accessory Dwelling Unit (ADU)	C	C	X	X	X	X	X	X
Manufactured homes and modular homes, provided they are developed under a planned unit development and the complex is a minimum of twenty (20) acres in size	X	X	X	X	X	PUD	X	X
Multiple dwellings	X	X	X	X	X	X	PUD	PUD
Relocated dwelling units in compliance with City Code 9-11	C	C	C	C	C	C	C	C
Single-family residential buildings (detached)	P	P	P	P	P	PUD	PUD	PUD
Single-family residential buildings (attached) and townhouses	X	X	X	X	X	X	PUD	PUD
Temporary Family Health Care Facility	X	X	X	X	X	X	X	X
Two-family home conversions (splits) in compliance with City Code 12-8-1	X	X	X	X	X	X	C	C
Home Occupations								
Home occupations within principal structure in compliance with City Code 12-9	PA	PA	PA	PA	PA	PA	PA	PA
Home occupations in accessory structure on a parcel of land three (3) acres or larger utilizing an accessory structure and/or exterior storage in compliance with City Code 12-9	C	C	C	C	C	C	C	C
Barbershops and beauty salons	C	C	C	C	C	C	C	C
Bed and breakfast	C	C	C	C	C	C	X	X
Boarders or roomers, up to two persons, by a resident family, with no private cooking facilities	PA	PA	PA	PA	PA	PA	PA	PA
Cabinet making/wood working (home occupation) in compliance with City Code 12-9	C	C	X	X	X	X	X	X
Commercial greenhouse	C	C	C	C	X	X	X	X

	Daycare Centers- Home Occupation (12 or fewer children)	C	P	P	P	P	P	P	P
	Daycare Centers-Home Occupation (13 or more children)	P	C	C	C	C	C	C	C

P- Permitted Use	**R-1-** Single Family-Rural		**M-2-** Multiple Dwelling	
PA- Permitted Accessory Use	**R-2-** Single Family- Estate		**RR** Single Family Rural Reserve	
C- Conditional Use[1] SEE FOOTNOTES	**R-3-** Single Family- Suburban			
X- Prohibited Use	**R-4-** Single Family- Urban			
PUD- Planned Unit Development	**R-5-** Manufactured Housing			
I- Interim Use	**M-1-** Multiple Dwelling- Low Density			

If Use Not Specifically Listed or Provided for Elsewhere in the City Code, It Is Prohibited

Permitted, Permitted Accessory, Conditional, Interim and Prohibited Uses		**Zoning Districts**						
	RR	**R-1**	**R-2**	**R-3** [2]	**R-4** [3]	**R-5**	**M-1**	**M-2**
Daycare Facility -Group Family	P	P	P	P	P	P	P	P
Farm Wineries (subject to City Code 12-9-12)	PA	PA	C	C	X	X	X	X
Group Homes as regulated by State Statute	C	P	P	P	P	P	P	P
Office in compliance with City Code 12-9	C	PA	PA	PA	PA	PA	PA	PA
Therapeutic massage establishment (as a home occupation offering on site massage services) as regulated by chapter 9 of this title and title 3, chapter 6	P	C	C	C	C	C	C	C
Schools								
K-12 Schools	P	P	P	P	P	P	X	X
Post-secondary Schools	PA	C	C	C	C	C	X	X
Schools exceeding height maximum up to 45 feet in height	C	C	C	C	C	C	C	C
Subordinate Classroom Structures (when located on a licensed Primary and/or Secondary school property)	C	I	I	I	I	I	I	I
Subordinate Classroom Structures (when located on a property where there is a religious institution as the principal use)	P	I	I	I	I	I	I	I
Utilities								
Private utilities (gas, electric, phone, cable, etc) in Complaince with City Code 8-2	P	P	P	P	P	P	P	P
Private utility structures and/or uses (electrical transmission lines, gas pipelines, etc.)	C	C	C	C	C	C	C	C
Public utility uses for local services	P	P	P	P	P	P	P	P
Other								
Agricultural uses- rural (outside MUSA boundary only)	P	P	P	P	X	X	X	X
Agricultural uses- urban	P	P	P	P	P	P	P	P
Antennas in excess of thirty-five feet (35') in height in compliance with City Code 9-12	C	C	C	C	C	C	C	C
Buildings (Principal) exceeding height maximum subject to City Code 12-3-5	C	C	C	C	C	C	C	C
Bulk fuel storage (tanks greater than 1,000 gallon storage capacity) in compliance with City Code 12-8-5	C	C	X	X	X	X	X	X
Campgrounds, gun clubs and ranges, archery ranges, racetracks	C	C	X	X	X	X	X	X
Cemeteries	P	C	C	C	C	C	C	C
Religious Institution	C	C	C	C	C	C	X	X
Clubs and lodges	C	C	C	C	C	C	C	C
Crafts and antique businesses in buildings designated as historical sites by a county, state, or nationally recognized historical organization	X	X	X	X	X	X	X	C
Garages and Accessory Structures in compliance with City Code 12-6	PA	PA	PA	PA	PA	PA	PA	PA
Golf courses and driving ranges	C	C	C	C	C	C	C	C
Highway construction materials (temporary processing and storage)	I	I	I	I	I	I	I	I
Marinas	C	C	C	C	C	C	C	C
Publicly owned and operated property except as herein amended	P	P	P	P	P	P	P	P
Resorts	C	C	C	C	X	X	X	X
Solar Energy Systems (ground mounted) subject to City Code 9-15	PA	PA	X	X	X	X	X	X
Solar Energy Systems (roof mounted) subject to City Code 9-15	PA	PA	PA	PA	PA	PA	PA	PA
Swimming pools and recreation areas or structures	PA	PA	PA	PA	PA	PA	PA	PA
Uses which may be detrimental to the health, safety, and welfare of persons residing or working in the vicinity	X	X	X	X	X	X	X	X

Wind Energy Conversion Systems (WECS)-as defined in and in compliance with Title 9, Chapter 13 of this code. WECS are prohibited on WDE site.	C	C	C	C	C	C	C	C

(Amended Ord. 8, 10-21-1970; amd. Ord. 8JJJJJJ, 7-18-2002; Ord. 8OOOOOO, 8-5-2002; Ord.8QQQQQQ, 10-1-2002; Ord. 8RRRRRR, 10-1-
2002; amd. Ord. 8AAAAAAA, 4-15-2003; amd. 2003 Code; amd. Ord. 314 10-4-2005; amd. Ord. 385 7-21-09; amd. Ord. 388 10-20-09; amd. Ord. 390 3-16-10; amd. Ord. 397 8-17-10; Amd. Ord. 404, 1-18-11; Amd. Ord. 436, 4-15-14; Amd. Ord. 463, 6-21-16; Amd. Ord. 468, 6-6-17; Amd. Ord. 480, 3-20-18)

1 Conditional use permits for uses not listed herein shall not be granted except where the city council determines that said uses are similar in character to those listed herein. Within any of the following districts, no land or structure shall be used for the following uses by districts except by conditional use permit and in accordance with the criteria as stated in subsection 12-15-6D of this title.

2 Private sewer and water systems shall only be permitted on every other lot, or no more frequently than one private system for each forty thousand (40,000) square feet where large lots are established. This shall not apply to lots of record at the time this title is adopted. On each new plat, the lots are to be developed in accordance with this chapter and shall be so designated.

3 Private sewer and water systems shall only be permitted to replace systems on existing lots when municipal sewer and water is not available. (Amended Ord. 314, 10-4-2005)

4 Provided a minimum of twenty five thousand (25,000) square feet of retail floor space is constructed, except as otherwise approved as part of a Planned Unit Development.

5 Loading berths prohibited in the LB district.

6 After a minimum of two thousand (2,000) square feet of retail floor space is constructed, provided the site is two (2) acres or larger.

7 See subsection 13-2-4 of this code for permitted, conditional, and prohibited uses in the AgP district.

8 Farm operations in existence on April 18, 2006 are exempt from this provision. See also City Code 12-4-4.

9 Sec 12-2-2 for definitions of "Continuous Operation and Non-continuous Operation". (Amended Ord. 421, 10-2-12)

10 From November 15th to January 1st continuous operation will be allowed in the General Business and Industrial Zoning District. (Amended Ord. 424, 11-7-12)

Chapter 12

COMMERCIAL/INDUSTRIAL

PERMITTED, PERMITTED ACCESSORY, CONDITIONAL, INTERIM AND PROHIBITED USES[7]

P- Permitted Use	**GR-** General Recreation		
PA- Permitted Accessory Use	**LB-** Limited Business		
C- Conditional Use[1] SEE FOOTNOTES	**NB-** Neighborhood Business		
X- Prohibited Use	**SC-** Shopping Center		
PUD- Planned Unit Development	**GB-** General Business		
I- Interim Use	**I-** Industrial		

If Use Not Specifically Listed or Provided for Elsewhere in the City Code, It Is Prohibited

	Permitted, Permitted Accessory, Conditional, Interim and Prohibited Uses	**Zoning Districts**					
		GR	**LB**	**NB**	**SC**	**GB**	**I**
	Auto Related Uses						
	Automobile service stations in compliance with City Code 12-8-4	X	X	C [6]	C [4]	C	C
	Car wash (automated)	X	X	X	C	X	X
	Car wash (self service)	X	X	X	X	P	P
	Car wash, accessory to automobile service station	X	X	X	P	P	P
	School bus terminal	X	X	X	X	X	P
	Transportation terminals or motor freight terminals	X	X	X	X	X	X
	Vehicle sales (new) in Compliance with City Code 3-8	X	X	X	X	C	C
	Vehicle sales (used) in Compliance with City Code 3-8	X	X	X	X	C	C
	Liquor						
	Liquor licenses in compliance with City Code 3-1	C	X	X	C	C	C
	Liquor License, On-Sale Wine in compliance with City Code 3-1	X	X	C	C	C	C
	Liquor stores, off-sale in compliance with City Code 3-1	X	X	X	C	C	X
	Retail Trade and Services						
	Adult use business as defined in Title 3, Chapter 7 of the City Code	X	X	X	X	C	C
	Barbershops and beauty salons	X	P	P	P	P	X
	Campgrounds, gun clubs and ranges, archery ranges, racetracks	C	X	X	X	X	X
	Christmas tree sales	X	I	I	I	I	I
	Commercial recreation, indoors	P	P	P	P	P	P
	Commercial recreation outdoors	C	C	C	C	C	C
	Commercial riding stables	C	X	X	X	X	X
	Crematorium in compliance with definition under City Code 12-2	X	X	X	X	C	C
	Daycare centers (Commercial)	X	P	P	P	P	P
	Daycare centers (drop in)	X	PA	PA	PA	PA	PA
	Drive in businesses or businesses with a drive through window	X	C	C	C	C	C
	Dry Cleaning Processing (Amended Ord. 323, 2-7-2006) in compliance with definition under City Code 12-2	X	X	X	X	C	C
	Financial institutions	X	P	P	P	P	P
	Hotels and motels	X	X	C	C	C	C
	Lumberyard	X	X	X	X	X	C
	Medical and dental clinics	X	P	P	P	P	P
	Medical clinic - continuous operation	X	C	C	C	C	C
	Mortuaries and funeral homes (without crematorium)	X	P	P	P	P	P
	Pawnbrokers- as defined in Title 3, Chapter 4 of the City Code	X	X	X	C	C	C
	Precious metal dealers-as defined in City Code 3-4	X	X	X	C	C	C
	Professional studios	X	P	P	P	P	P
	Recreational vehicle, boat, and marine equipment sales	X	X	X	P	P	P
	Rental businesses (Equipment)	X	X	I	I	P	P
	Repair services as defined in City Code 12-2	X	P	P	P	P	P
	Resorts	C	X	X	X	X	X
	Restaurants/cafes	P	C	P	P	P	P
	Restaurant with live entertainment	X	X	X	C	C	X
	Retail trade and services	X	C	P	P	P	C
	Secondhand goods dealers as defined in Title 3, Chapter 4 of this code	X	X	X	C	C	C
	Theaters (Indoors)	X	X	X	P	P	P
	Theaters (Outdoors)	C	X	X	X	X	X
	Veterinary clinics (no outside pens or animal storage)	X	C	C	C	P	P

	Other						
	Solar Energy Systems (ground mounted)	X	X	X	X	X	X
	Solar Energy Systems (roof mounted)	PA	PA	PA	PA	PA	PA

Chapter 12

COMMERCIAL/INDUSTRIAL

PERMITTED, PERMITTED ACCESSORY, CONDITIONAL, INTERIM AND PROHIBITED USES[7]

P- Permitted Use	**GR-** General Recreation		
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I- Interim Use	**I-** Industrial		

If Use Not Specifically Listed or Provided for Elsewhere in the City Code, It Is Prohibited

	Permitted, Permitted Accessory, Conditional, Interim and Prohibited Uses	**Zoning Districts**					
		GR	**LB**	**NB**	**SC**	**GB**	**I**
	Schools						
	K-12	X	X	X	X	X	X
	Post-Secondary Schools	C	C	C	C	C	C
	Schools exceeding height maximum up to 45 feet in height	X	C	C	C	C	C
	Storage						
	Bulk fuel storage (tanks greater than 1,000 gallon storage capacity) in compliance with City Code 12-8-2	X	X	C	C	C	C
	Highway construction materials (temporary processing and storage) in compliance with City Code 12-16	I	I	I	I	I	I
	Mini storage (indoor storage only)	X	X	X	X	C	C
	Outdoor display, storage, and sales	X	X	C	C	C	C
	Outdoor display, storage, and sales- during operating hours only	X	X	C	C	C	C
	Tires - Exterior storage of waste tires	X	X	X	X	X	X
	Tires - Interior storage of more than eight (8) waste tires	X	C	C	C	C	C
	Toxic waste storage	X	X	X	X	X	X
	Utilities						
	Private utilities (gas, electric, phone, cable, etc) in Complaince with City Code 8-2	P	P	P	P	P	P
	Private utility structures and/or uses (electrical transmission lines, gas pipelines, etc.)	C	C	C	C	C	C
	Public utility uses for local service	P	P	P	P	P	P
	Other						
	Any incidental repair, processing, and storage necessary to conduct a permitted commercial or industrial principal use but not to exceed thirty percent (30%) of the floor area space of the principal building.	X	PA	PA	PA	PA	PA
	Antennas in excess of thirty-five feet (35') in height in compliance with City Code 9-12	C	C	C	C	C	C
	Buildings (Principal) exceeding height maximum subject to City Code 12-3-5	C	C	C	C	C	C
	Contractors' Shops and Storage Yards	X	X	C[12]	X	P	P
	Religious Institution	X	X	X	C	C	X
	Clubs and lodges	X	X	X	X	P	X
	Continuous operation of a business (footnote 9 & 10)	X	X	P	P	X[10]	X[10]
	Excavation (Mining) greater than 400 cubic yards when no building permit has been issued in compliance with City Code 12-16	I	I	I	I	I	I
	Golf courses and driving ranges	C	X	X	X	X	X
	Group Homes as regulated by State Statute	X	X	X	X	X	X
	Junkyards	X	X	X	X	X	X
	Land Reclamation in compliance with City Code 12-16	I	I	I	I	I	I
	Landfills	X	X	X	X	X	X
	Manufacturing	X	X	X	X	P	P
	Marinas	C	X	X	X	X	X
	Offices	X	P[5]	P	P	P	P
	Publicly owned and operated property except as herein amended	P	P	P	P	P	P
	Research laboratories	X	X	X	X	P	P
	Swimming pools and recreation areas or structures	PA	PA	PA	PA	PA	PA
	Uses which may be detrimental to the health, safety, and welfare of persons residing or working in the vicinity	X	X	X	X	X	X

	Wholesale businesses	X	X	X	X	P	P
	Wind Energy Conversion Systems (WECS)-as defined in and in compliance with Title 9, Chapter 13 of this code. WECS are prohibited on WDE site.	C	C	C	C	C	C

(Amended Ord. 8, 10-21-1970; amd. Ord. 8JJJJJJ, 7-18-2002; Ord. 8OOOOOO, 8-5-2002; Ord.8QQQQQQ, 10-1-2002; Ord. 8RRRRRR, 10-1-2002; amd. Ord. 8AAAAAAA, 4-15-2003; amd. 2003 Code; amd. Ord. 314 10-4-2005; amd. Ord. 385 7-21- 09; amd. Ord. 388 10-20-09; amd. Ord. 390 3-16-10; amd. Ord. 397 8-17-10; Amd. Ord. 404, 1-18-11; Amd. Ord. 436, 4-15-14; Amd. Ord. 480, 3-20-18; Amd. Ord. 509, 7-21-20)

1 Conditional use permits for uses not listed herein shall not be granted except where the city council determines that said uses are similar in character to those listed herein. Within any of the following districts, no land or structure shall be used for the following uses by districts except by conditional use permit and in accordance with the criteria as stated in subsection 12-15-6D of this title.

2 Private sewer and water systems shall only be permitted on every other lot, or no more frequently than one private system for each forty thousand (40,000) square feet where large lots are established. This shall not apply to lots of record at the time this title is adopted. On each new plat, the lots are to be developed in accordance with this chapter and shall be so designated.

3 Private sewer and water systems shall only be permitted to replace systems on existing lots when municipal sewer and water is not available. (Amended Ord. 314, 10-4-2005)

4 Provided a minimum of twenty five thousand (25,000) square feet of retail floor space is constructed, except as otherwise approved as part of a Planned Unit Development.

5 Loading berths prohibited in the LB district.

6 After a minimum of two thousand (2,000) square feet of retail floor space is constructed, provided the site is two (2) acres or larger.

7 See subsection 13-2-4 of this code for permitted, conditional, and prohibited uses in the AgP district.

8 Farm operations in existence on April 18, 2006 are exempt from this provision. See also City Code 12-4-4.

9 Sec 12-2-2 for definitions of "Continuous Operation and Non-continuous Operation". (Amended Ord. 421, 10-2-12)

10 From November 15th to January 1 st continuous operation will be allowed in the General Business and Industrial Zoning District. (Amended Ord. 424, 11-7-12)

11 See subsection 12-9-2 of this code for permitted home occupations.

12 Contractors' Shops and Storage Yards within NB – Neighborhood Business districts shall be located on properties outside of the Metropolitan Urban Service Area (MUSA) boundary.

CHAPTER 13

PERFORMANCE STANDARDS

SECTION:

12-13-1: Purpose And Scope
12-13-2: Enforcement
12-13-3: Exterior Storage
12-13-4: Refuse In All Districts
12-13-5: Screening
12-13-6: Landscaping In All Districts
12-13-7: Glare In All Districts
12-13-8: Off Street Parking Requirements
12-13-9: Off Street Loading And Unloading Areas
12-13-10: Traffic Control
12-13-11: Drainage
12-13-12: Explosives
12-13-13: Fallout Shelters
12-13-14: Guesthouses
12-13-15: Dwelling Units Of Employees On Premises In Residential Districts
12-13-16: Dwelling Units In Commercial And Industrial Districts
12-13-17: Radiation And Electrical Emissions
12-13-18: Other Nuisance Characteristics
12-13-19: Visual Standards
12-13-20: Coin Operated Machines
12-13-21: Residential Building Standards
12-13-22: Interim Performance Standards

12-13-1: **PURPOSE AND SCOPE:** The performance standards established in this chapter are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. The performance standards are also designed to prevent and eliminate those conditions that cause urban blight. All future development shall be required to meet these standards. The standards shall also apply to existing development where so stated. (Amended Ord. 8, 10-21-1970)

12-13-2: **ENFORCEMENT:** The City Zoning Code Enforcement Officer shall

be responsible for enforcing these standards. (Amended Ord. 8, 10-21-1970) (Amended Ord. 314, 10-4-2005)

12-13-3: **EXTERIOR STORAGE:**

A. Residential Districts: All materials and equipment not stored within a building must be fully screened (as outlined in Section 12-13-5) so as not to be visible from adjoining properties, except for the following (Amended Ord. 380, 4/21/09):

1. Clotheslines and recreational equipment. (Amended Ord. 314 10-4-2005)

2. Building materials currently being used on the premises of a property with an active building permit or landscaping materials to be incorporated into a project on the premises of a property with an active remodeling/beautification project not to exceed six (6) months within a calendar year. (Amended Ord. 314 10-4-2005; Ord. 380, 4/21/09; Ord. 392, 5/18/10)

3. Agricultural equipment and materials if these are used or intended for use on the premises.

4. Special mobile equipment permitted only when being used in conjunction with a temporary service including, but not limited to emergency events or a construction, remodeling, or landscaping project benefiting the premises or the temporary, general loading or unloading onto the premises.

B. All Districts except Residential Districts: The City Council may require a Conditional Use Permit for any exterior storage of the following:

1. If it is demonstrated that such storage is a hazard to the public health, safety, general welfare, or morals, or has a depreciating effect upon nearby property values, or impairs scenic views, or constitutes a threat to living amenities. (Amended Ord. 8, 10-21-1970; Ord. 380 4/21/09)

12-13-4: **REFUSE IN ALL DISTRICTS:**

A. Interpretation: All exterior storage not included as a permitted accessory use, a permitted use, or included as part of a Conditional Use Permit, or otherwise permitted by provisions of this title shall be considered as

refuse.

B. Storage Of Refuse: All waste material, debris, refuse, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. All non-residential uses shall have trash enclosures built of materials that match the principal structure and have an opaque gate made of wood or metal (metal chain link with slats is not acceptable). (Amended Ord. 314, 10-4-2005)

C. Vacant Land: The owner of vacant land shall be responsible for keeping such land free of refuse and weeds.

D. Existing Uses To Comply: Existing uses shall comply with this provision within six (6) months following enactment of this title. (Amended Ord. 8, 10-21-1970; amd. 2003 Code)

12-13-5: **SCREENING:**

A. Exterior Storage: Screening from residential properties and public streets as visible from ground level shall be provided with an architecturally compatible opaque fence with a minimum height of six feet as measured from the surface of the exterior storage area. Plant material shall be provided on the outside of the fence for aesthetic appeal. Additional fence height and/or berming shall be required if a six foot fence would not block direct vision of the exterior storage. (Amended Ord. 380, 4/21/09)

1. Landscaping products and merchandise displayed for sale in limited quantities may be exempt from this screening requirement provided that a Conditional Use Permit and commercial site plan approval have been achieved and the approved plan provides specified locations, appearance and maintenance criteria and prevents conflicts with traffic circulation and emergency access.

B. Loading Docks: Screening of loading docks from public streets and residential properties shall be provided to the top of the loading door(s). Such screening shall be provided with a wing wall constructed from the same materials as the principal structure whenever possible. Other views into the loading dock from public streets and residential properties shall be screened with a combination of berming, fencing and landscaping to a minimum height of six feet except within sight triangles at intersections with public streets.

C. Mechanical Equipment:

1. Rooftop mechanical equipment shall be screened from public streets and residential properties with a cornice, parapet, or other architectural feature to the fullest extent possible. Any remaining protrusions of rooftop equipment above these features shall be painted to match the principal structure.

2. Ground mounted mechanical equipment shall be screened from public streets and residential properties with landscaping or a fence or enclosure that is architecturally compatible with the principal structure.

D. Multiple Frontage Residential Lots: Screening between the rear yard and the adjacent street shall be provided to achieve a minimum height of six feet at plant maturity as measured from the surface of the adjacent street. Such Screening must consist of:

1. Existing vegetation

2. A compact evergreen or deciduous hedge

3. Deciduous and coniferous trees

4. A landscaped berm

5. A combination of the above

E. Buildings: The sides and rear of non-residential buildings and residential structures containing more than two (2) units shall be screened from residential properties within 200 feet, to a minimum height of six feet at plant maturity as measured from the grade of the residential property line. Such screening shall be provided with the following:

1. Existing vegetation

2. A compact evergreen or deciduous hedge

3. Deciduous and coniferous trees

4. A landscaped berm (Amended Ord. 314 10-4-2005)

5. An architecturally compatible opaque fence

6. A combination of the above

F. Parking Areas: Screening from residential properties shall be provided to a minimum height of six feet as measured from the surface of the parking

area. Screening from public rights-of-way shall be provided to a minimum height of three feet. Parking area screening must consist of:

1. An architecturally compatible opaque wall or opaque fence.

2. A landscaped berm

3. Two staggered rows of evergreen trees with trees in each row spaced a maximum of 12 feet. Such trees shall not be used to satisfy minimum tree requirements.

4. A combination of the above.

G. Trash Enclosures and Compactors: Trash collection shall be provided on the interior of the principal structure whenever possible. When exterior trash enclosures are necessary such enclosure shall be constructed from a masonry product that is compatible with the principal structure. Such enclosure shall exceed the height of all waste receptacles stored inside and shall provide adequate space for recycling. The trash enclosure shall have an opaque metal or wood gate. Chain link fencing shall not be allowed. Trash enclosures shall be screened from public rights-of-way and residential properties with coniferous trees equal in height to the trash enclosure at the time they are planted. (Amended Ord. 314, 10-4-2005)

12-13-6: **LANDSCAPING OF NONRESIDENTIAL PROPERTIES:**

A. Purpose and Intent. The City of Andover recognizes the health, safety, aesthetic, ecological and economic value of landscaping and screening. The provisions of this section are intended to:

1. Add visual interest to open spaces and blank facades;

2. Soften dominant building mass;

3. Provide definition for public walkways and open space areas;

4. Ensure significant tree canopy shading to reduce glare and heat build-up;

5. Improve the visual quality and continuity within and between developments;

6. Provide screening and mitigation of potential conflicts between activity areas and more passive areas;

7. Protect and improve property values;

8. Improve air quality and provide a buffer from air and noise pollution;

9. Enhance the overall aesthetic conditions within the City;

10. Limit sight line obstructions and drainage conflicts;

11. Reduce the potential for criminal and illegal activities; and

12. Prevent conflicts with utilities.

B. Landscape Plans: A landscape plan shall be submitted with any Commercial Site Plan Application as described in City Code 12-15-2;

C. Minimum Number of Trees and Shrubs. Except for single and two family uses, development must at a minimum provide the following numbers of trees and shrubs in addition to any trees and shrubs required for screening in Section 12-13-5:

1. One tree per 50 lineal feet of site perimeter

2. One shrub per 20 feet of site perimeter

3. One shrub per 10 lineal feet of building perimeter

D. Credit for Existing Trees. Existing healthy deciduous trees greater than four caliper inches or existing healthy evergreen trees greater than six feet in height and are not identified on the City's prohibited plant species list may be credited toward the minimum required trees on a site.

E. Minimum Tree Size. Required trees must meet the following minimum size standards:

1. Overstory trees must be at least one and one half caliper inches at planting;

2. Single stem ornamental trees must be at least one and one half caliper inches at planting;

3. Evergreen trees and multi-stem ornamental trees must be at least six feet in height at planting.

F. Parking Island Landscaping. The following plant material shall be provided in parking islands without credit toward the minimum number of trees and shrubs described above:

1. One tree per 180 square feet of parking island area;

2. One shrub per 20 square feet of parking island area.

G. Restrictions. The following restrictions on landscaping and screening apply to protect the public health, safety and welfare.

1. Public Easements. Landowners are advised that landscaping features placed in a public easement may be removed without compensation if it is necessary to install, replace or maintain a public utility, sidewalk or drainage way within the easement.

2. Trees, irrigation lines, berms, walls or fences must not be placed in a public easement where public improvements are located without the written approval of the Director of Public Works.

3. Sight Triangle. Landscaping and screening must not interfere with the sight triangle as defined in the City Code. (Amended 5/19/20; Ord. 507)

4. Crime Prevention Through Environmental Design (CPTED). In support of CPTED principles designed to reduce the fear and incidence of crime and to improve the quality of life, landscaping must support the objectives of natural surveillance, territorial reinforcement, access control, and maintenance. These CPTED objectives are further discussed in the Planning Manager's Landscaping and Screening Policies and Procedures document.

5. Fire Hydrant and Utility Clear Zone. The area three feet in radius around all fire hydrants, fire hose connections and utility boxes must be kept free of any trees, shrubs or other landscaping feature that could impede access to or use of the hydrant, fire hose connection or utility box.

H. Administration: The City shall have the authority to adopt and implement landscaping and screening policies and procedures for the purpose of specifying landscape plan submittal requirements, establishing surety rates and procedures and offering landscaping and screening material and design recommendations.

I. Ground cover. All site areas and areas that have been disturbed during construction must be covered with sod to the property lines and/or

adjacent rights-of-way. Rock and mulch may be substituted for sod in landscaping planting beds and along the perimeter of buildings. All landscaping planting beds shall provide a durable edging system. Native plant communities may be re-established in appropriate portions of the site

J. Irrigation Required. All required landscape materials shall be irrigated.

K. Material Maintenance. The property owner must maintain all landscaping and screening materials shown on the approved landscape plan in a manner consistent with the intent and purpose of the plan and City Code requirements. Approved landscaping and screening materials that die, become diseased or are significantly damaged must be replaced at the next appropriate planting period with new materials in conformance with the approved landscape plan and applicable City Code standards.

L. Ground Cover Maintenance. Ground cover must be maintained in accordance with Section 9-10 of this Code.

M. Removal. Unless a modified landscape plan is approved, landscaping and screening materials and structures approved on a landscape plan must not be removed except when replaced in accordance with this Section.

N. Surety. To ensure that landscaping and screening are installed as proposed and survive through at least one full growing season, a landscape performance surety may be required by the City and when required must be submitted prior to issuance of building permits for new development where a landscape plan is required. The surety may consist of a bond, an irrevocable letter of credit, cash deposit or other instrument that provides an equal performance guarantee to the City. (Amended Ord. 314 10-4-2005; Amended Ord. 463, 6-21-16)

12-13-7: **GLARE IN ALL DISTRICTS:**

A. Any lighting used to illuminate an off street parking area, sign, or other structure shall be arranged so as to deflect light away from any adjoining residential zone or from the public streets.

B. Direct or sky reflected glare, where from floodlights or from high temperature processes such as combustion or welding, shall not be directed into any adjoining property.

C. The source of light shall be hooded or controlled in some manner so as not to light adjacent property.

D. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right of way.

E. Any light or combination of lights that cast light on a public street shall not exceed one foot-candle (meter reading) as measured from the centerline of said street. Any light or combination of lights that cast light on residential property shall not exceed 0.4 foot candles (meter reading) as measured from said property. (Amended Ord. 8, 10-21-1970)

12-13-8: **OFF STREET PARKING REQUIREMENTS:**

A. Purpose: The regulation of off street parking spaces in this title is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public by establishing minimum requirements for off street parking of motor vehicles and trailers in accordance with the utilization of various parcels of land or structures and to maintain the general use and character within the zoning designations. (Amended Ord. 392, 5/18/10)

B. Policy: For those rural lots originally intended to be 2.5 acres, but upon development resulted in less than 2.5 acres but at least 2.375 acres are, for the purpose of this ordinance, considered to satisfy the 2.5 acre requirement. (Amended Ord. 392, 5/18/10)

C. Site Plan Required: All applications for a building permit or Certificate of Occupancy in all zoning districts shall be accompanied by a site plan drawn to scale and dimensioned indicating the location of the driveway, off street parking and loading spaces, and storage areas in compliance with the requirements set forth in this chapter.

D. General Provisions:

1. Determining Floor Area: Floor area, for the purpose of calculating the number of off street parking spaces required, shall be determined on the basis of the exterior floor area dimensions of the buildings, structure or use. Floor area shall not include areas used primarily as utility rooms, maintenance areas, restrooms, fitting rooms, alteration rooms, window display areas or lobbies.

2. Change Of Use Or Occupancy Of Land Or Buildings:

a. Land: No change of use or occupancy of land already dedicated to a parking area, parking spaces, or loading spaces shall be made, nor shall any sale of land, division or subdivision of land be made which is necessary for parking, parking stalls, or parking

requirements below the minimum prescribed by these zoning regulations.

b. Buildings: Any change of use or occupancy of any building, including additions thereto, requiring more parking area shall not be permitted until there is furnished such additional parking spaces as required by this title.

3. Permitted Use Of Residential Parking Area:

a. *Driveways* in a residential district shall be utilized solely for the parking of licensed and operable motor and passenger vehicles, trailers, and recreational vehicles, and may not contain no more than one vehicle registered as a commercial vehicle with the State of Minnesota. Said such commercial vehicle shall not: 1.) exceed 12,000 pounds gross vehicle weight; 2) the height of the vehicle shall not exceed nine (9) feet; and 3) the carrying load area shall not exceed the height of the operating area (this height shall not include any accessory equipment such as a ladder, antenna, or aftermarket utility box that may be affixed or attached to the vehicle). (Amended Ord. 392, 5/18/10)

b. *Private Garages*: A private garage in a residential district shall not be utilized for business or industry**,** except as allowed by Section 12-9-3 of this code. Further, not more than one-half (1/2) of the space may be rented for the private vehicles of persons not residents on the premises; except, that all the space in a garage of one or two (2) car capacity may be so rented. In an R-1 or R-2 single-family residential district on a parcel of at least three (3) acres in size, one truck tractor may be stored within an accessory building. Under no circumstances shall the required parking facilities allow for the parking of semi-trailers, unless otherwise allowed by City Code. (Amended Ord. 392, 5/18/10)

c. *Rear yards*: A combination of no more than two (2) of the following: passenger vehicles, pickup trucks, recreational vehicles, or trailers shall be permitted to be stored in the rear yard of a residential property provided they are setback not less than ten (10) feet from all property lines and are fully operable and licensed as required by the State of Minnesota. Each item shall not exceed twenty (20) feet in length. The permitted length for one recreational vehicle may increase to no more than forty five (45) feet in length in the following locations:

(1) On a parcel of land having a minimum lot size of two and

a half (2.5) acres.

(2) On one or more parcels of land sharing a lot line owned by the same person and having a total combined acreage of 2.5 acres. (Amended Ord. 392, 5/18/10)

d. Commercial vehicles exceeding the gross vehicle weight or height as enumerated in Section 12-13-8, D. subpart 3.a. or any special mobile equipment shall only be permitted on any off-street parking area or its respective premises if it is being used in conjunction with a temporary service including, emergency events or a construction, remodeling, or landscaping project benefiting the premises. In no instance shall the duration of such special mobile equipment exceed two (2) consecutive days at any given period of time unless prior authorization from the City has been obtained. (Amended Ord. 392, 5/18/10)

4. Prohibited Use Of Parking Area:

a. Under no circumstances shall required parking facilities accessory to residential structures be used for the parking or storing of semi trailers, flat bed trucks, tow trucks, school buses, or similar. (Amended Ord. 392, 5/18/10)

b. Required off street parking space in any district shall not be utilized for the open storage of goods or for the storage of vehicles which are inoperable, for sale or for rent.

5. Calculating Space:

a. When determining the number of off street parking spaces, fractional results of one-half (1/2) or more shall constitute another space.

b. In stadiums, sports arenas, religious institutions and other places of public assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty two inches (22") of such seating facilities shall be counted as one seat for the purpose of determining requirements. (Amended Ord. 480, 3-20-18)

c. On a structure containing two (2) or more types of use, each use shall be calculated separately to determine the total number of off street parking spaces required, except as provided for under joint parking and shopping centers.

6. Joint Facilities: Off street parking facilities for a combination of

mixed buildings, structures or uses may be provided collectively in any business or recreational district in which separate parking facilities for each separate building, structure or use would be required; provided, that the total number of spaces provided shall equal the sum of the separate requirements of each use during any peak hour parking period, subject to the following conditions:

a. The building or use for which application is being made to utilize the off street parking facilities provided by another building or use shall be located within three hundred feet (300') of such parking facilities.

b. There shall be no substantial conflict in the principal operating hours of the two (2) buildings or uses for which joint use of off street parking facilities is proposed.

c. A properly drawn legal instrument, executed by the parties concerned for joint use of off street parking facilities, duly approved as to form and manner of execution by the City Attorney, shall be filed with the City Clerk and recorded with the County Recorder.

7. Off Site Parking:

a. Any off site parking which is used to meet the requirements of this title shall require a Conditional Use Permit as regulated by Section 12-14-6 of this title and shall be subject to the conditions listed herein.

b. Off site parking shall be developed and maintained in compliance with all requirements and standards of this title.

c. Reasonable access from off site parking facilities to the use being served shall be provided.

d. The site used for meeting the off site parking requirements of this title shall be under the same ownership as the principal use being served.

e. Off site parking for multiple-family dwellings shall not be located more than one hundred feet (100') from the principal use served.

f. Off site parking for nonresidential uses shall not be located more than three hundred feet (300') from the main entrance of the principal use being served. No more than one main entrance shall be recognized for each principal building. (Amended Ord. 8, 10-21-1970)

g. Any use which depends upon off site parking to meet the requirements of this title shall remain under the same ownership until such time as on site parking is provided or a site in closer proximity to the principal use is acquired and developed for parking. (Amended Ord. 8, 10-21-1970; amd. 2003 Code)

E. Design Standards:

1. Parking Space Size: Parking spaces shall not be less than ten feet wide by eighteen feet in length (10' x 18') exclusive of access aisles, and each space shall be adequately served by an access aisle.

2. Residential Design:

a. Parking areas shall be designed so that circulation between parking bays or aisles occurs within the designated parking lot and does not depend upon a public street or alley, except in the case of single-family, two-family, townhouse and quadraminium dwellings.

b. Parking area design that requires backing onto the public street is prohibited, except in the case of single-family, two-family, townhouse and quadraminium dwellings.

3. Curb Cuts:

a. No curb cut access shall be located less than sixty feet (60') from the intersection of two (2) or more street rights-of-way. This distance shall be measured from the intersection of lot lines.

b. All proposed curb cuts along a county road must be reviewed and approved by the County Highway Department.

c. No nonresidential curb cut access shall exceed thirty feet (30') in width unless approved by the City Engineer.

d. No residential driveway located on a cul-de-sac shall exceed twenty-four feet (24') in width at the street curb to the right-of-way/property line. Other residential driveway widths shall not exceed thirty feet (30') in width at the street curb to the right-of-way/property line.

e. Curb cut openings and driveways shall be a minimum of ten feet (10') from the side yard property line in all classes of business, industrial, or multi-family residential districts.

f. Curb cut openings and driveways shall be a minimum of five feet (5') from the side yard property line in all residential districts (R-1, R-2, R-3, R-4, R-5).

g. Driveway access curb openings on a public street shall not be located less than forty feet (40') from one another, except for single-family, two-family, quadraminium and townhouse dwellings.

h. All property shall be entitled to one curb cut/access unless otherwise specified herein:

(1) All commercial/industrial use property shall be allowed one curb cut/access for each one hundred twenty five feet (125') of street frontage.

(2) Multiple dwelling units shall be limited to one curb cut/access for each one hundred twenty five feet (125') of street frontage unless otherwise approved by the city pursuant to a Planned Unit Development[1].

(3) No residential primary curb cut/access shall be created directly onto any street of collector status or greater unless approved by the City Engineer.

(4) No residential accessory curb cut/access shall be permitted directly onto any street unless approved by the City Engineer. (Amended Ord. 8, 10-21-1970)

i. A detail of the curb cut standards is on file in the office of the Building Official.
(Amended Ord. 8, 10-21-1970; amd. 2003 Code)

4. Aisles:

a. Aisles adjacent to or giving access to perpendicular parking spaces or diagonal parking spaces having angles of less than ninety degrees (90°) but greater than sixty degrees (60°) shall be at least twenty-four feet (24') in width.

b. Aisles adjacent to or giving access to parking spaces having angles of sixty degrees (60°) or less shall be at least twenty feet (20') in width.

c. Drives providing circulation between parking bays or aisles shall have a minimum inside turning radius of sixteen feet (16') for drives

[1] See title 13, chapter 3 of this code.

used by passenger vehicles and a minimum inside turning radius of twenty five feet (25') for drives used by semi-trailers or single unit delivery trucks.

5. Grades: The grade elevation of any parking area, driveway and aisles shall not be less than one percent (1%) and shall not exceed five percent (5%).

6. Surfacing:

a. Specifications: All driveways, off street driving, loading, parking and storage areas shall be surfaced in accordance with the standard specifications as adopted by the city and on file with the office of the City Engineer.

b. Maintenance of Parking Facilities: It shall be the responsibility of the owner of the principle use or building to maintain, in a neat and adequate manner, the parking space and accessways with materials in accordance with the standard specifications as adopted by the city and on file with the office of the City Engineer. (Amended Ord. 426, 1/2/13)

c. Exemptions:

(1) Farm dwellings and farm operations are exempt from this paving requirement.

(2) City parks shall be exempt from the paving requirement if approved by the City Council.

(3) Storage areas for heavy construction equipment that would damage the pavement may be exempt from the paving and surfacing requirement, with an acceptable surface approved by the City Engineer.

d. Plans: Plans for surfacing and drainage of driveways for nonresidential uses shall be submitted to the City Engineer for review, and the final plan shall be subject to written approval.

7. Striping: Except for single-family, two-family, townhouse and quadraminium dwellings, all parking stalls shall be marked with white painted lines not less than four inches (4") wide. (Amended Ord. 8, 10-21-1970; Amended Ord. 426, 1-2-13)

8. Lighting:

a. All off street parking areas for residential uses of twelve (12) or more spaces and all off street parking for commercial, industrial, institutional, and public uses shall be equipped with operable lighting designed to illuminate the entire surface of the parking area in conformance with current standards as set forth by the Illuminating Engineering Society of North America (IESNA). This shall not apply to neighborhood parks as identified in the "Andover Comprehensive Park System And Recreation Plan", as amended.

IESNA EXTERIOR LIGHTING GUIDELINES

		General Parking And Pedestrian			Vehicle Use Area Only		
	Land Use	Average	Minimum Foot-Candles	Uniform Ratio	Average	Minimum Foot-Candles	Uniform Ratio
High	Major league athletic events Major cultural or civic events Regional shopping centers (300,000 square feet or greater) Fast food facilities	3.6	0.9	4:1	2.0	0.67	3:1
Medium	Community shopping centers (5,000 –299,999 square feet) Cultural, civic, or recreational events Office parks Hospital parking Transportation parking (airports, commuter lots, etc) Residential complex parking	2.4	0.6	4:1	1.0	0.33	3:1
Low	Neighborhood shopping (under 5,000 square feet) Industrial employee parking Educational facility parking Religious Institution parking	0.8	0.2	4:1	0.5	0.13	4:1

b. For the purposes of interpreting IESNA standards, land use categories shall be interpreted by the Community Development Director.

c. Any lighting used to illuminate the off street parking area shall be fully shielded with a total cutoff angle equal to or less than ninety degrees (90°).

See diagram in official City Code book on file in the City Clerk's office

d. llumination from light fixtures shall be measured at one foot (1') above ground level on a forty five degree (45°) angled plane.

e. Developments where more than one land use exists and different lighting requirements are applicable will be addressed during the commercial site plan review process. (Ord. 293, 7-6-2004)

9. Curbing:

a. All driveways, loading areas, parking areas and storage areas shall be bounded by poured in place concrete curb and gutter for the purpose of traffic control, drainage control, protection of pedestrian movement, protection of landscaped features, aesthetics and maintenance prevention as deemed necessary by the Andover Review Committee, except for single-family, two-family, townhouse and quadraminium dwellings.

b. The city may exempt curbing where the city has approved future expansion of the parking lot.

c. Poured in place concrete traffic safety islands may be required to maintain a safe and orderly flow of traffic within the parking lot and shall be approved by the Andover Review Committee.

F. Location: All accessory off street parking facilities required by this title shall be located and restricted as follows:

1. Required accessory off street parking shall be on the same lot and under the same ownership as the principal use being served.

2. Head-in parking, directly off of and adjacent to a public street, with each stall having its own direct access to the public street, shall be prohibited, except for single-family, two-family, townhouse and quadraminium dwellings.

3. In business districts, there shall be no off street parking within twenty

feet (20') of any street surface.

4. On nonresidential parcels, the boulevard portion of the street right-of-way shall not be used for parking.

5. In all classes of business, industrial or multi-family residential districts, required off street parking and all other uses shall not be provided in the following setback areas:

a. Front yard: Twenty feet (20').

b. Side yard: Ten feet (10') (at least 20 feet if abutting existing or future right-of-way or if abutting a residential district).

c. Rear yard: Ten feet (10').

The requirements of Subsections F5a, F5b and F5c of this section may be deleted if, in the City Engineer's opinion, a parking lot is an integral part of a parking lot on an adjoining parcel of property.

6. In the case of single-family, two-family, townhouse and quadraminium dwellings, parking shall be prohibited in any portion of the property between the public right-of-way and rear of the principal structure except designated driveways leading directly into a garage and one open, surfaced space located contiguous to the side of a driveway, away from the principal use. Said extra space shall be surfaced as provided in Subsection E6 of this section. (Amended Ord. 8, 10/21/1970; Amended 5/19/20; Ord. 506)

G. Number Of Spaces Required: The following minimum number of off street parking stalls shall be provided and maintained by ownership for the respective uses hereinafter set forth:

Type of Use	Parking Spaces Required
Auto repair, major bus terminal, taxi terminal, boats and marine sales and repair, bottling company, shop for a trade employing 6 or less people, garden supply store, building material sales in structure	8 spaces, plus 1 additional space for each 800 square feet of floor area over 1,000 square feet
Bowling alley	5 spaces for each alley, plus additional spaces as may be required herein for related uses contained

	within the principal use
Car wash (in addition to required stacking spaces):	
1. Automatic drive through, serviced	10 spaces, or 1 space for each employee on the maximum shift, whichever is greater
2. Self-service	A minimum of 2 spaces
3. Motor fuel station car wash	0 in addition to that required for the station
Community centers, physical culture studios, libraries, private clubs, lodges, museums, art galleries	10 spaces, plus 1 additional space for each 150 square feet of floor area in excess of 2,000 square feet in the principal structure
Religious Institution, theater, auditorium	1 space for each 3 seats of the design capacity of the main assembly hall. Facilities as may be provided in conjunction with such buildings or uses shall be subject to additional requirements which are imposed by this title
Drive in establishment and convenience food	1 space for each 150 square feet of gross floor area, but not less than 15 spaces
Elderly (senior citizen) housing	Reservation of area equal to 1 space per unit. Initial development is, however, required only ½ space per unit, and said number of spaces can continue until such time as the City Council considers a need for additional parking spaces has been demonstrated
Golf driving range, miniature golf, archery range	10 spaces, plus 1 additional space for each 100 square feet of floor area
Hospitals	2 spaces per bed
Manufacturing, fabricating or	1 space for each 350 square feet of

processing of a product or material	floor area, plus 1 additional space for each company owned truck (if not stored inside principal building)
Motels, motor hotels, hotels	1 space per rental unit, plus 1 space for each 10 units and 1 additional space for each employee on any shift
Motor fuel station	4 spaces, plus 2 additional spaces for each service stall. Those facilities designed for sale of items other than strictly automobile products, parts or service shall be required to provide additional parking in compliance with other applicable sections of this title
New and Used Vehicle Sales	Employee Parking: 3 stalls plus 1 stall per 400 square feet of gross floor area (GFA) beyond the first 1,000 GFA. Customer Parking: 5 stalls plus 5 stalls per acre above the first acre. (Amended Ord. 324, 4-4-2006)
Office buildings; professional offices and clinics	
1. Office buildings and professional Offices	1 space for each 250 square feet of floor area or fraction thereof, but not less than 3 spaces per lot design
2. Clinics (including, but not limited to dental or medical offices, veterinary clinics and animal hospitals)	1 space for each 150 square feet of floor area or fraction thereof, but not less than 3 spaces per lot design
Sporting and health clubs	1 space per 100 square feet of building area, plus 6 spaces per tennis/racquetball or other type of court
Residential, multiple-family dwellings	2 spaces per unit, at least 1 of which spaces shall be in an enclosed garage, plus ½ space per unit for visitors' parking
Residential, single-family, two-family, townhouse and quadraminium units	2 spaces per unit, in addition to required garage

Restaurants, cafes, private clubs serving food and/or drinks, bars, on sale nightclubs	1 stall for every 2.5 seats.
Retail sales and service business with 50 percent or more of gross floor area devoted to storage, warehouses and/or industry	8 spaces or 1 space for each 200 square feet devoted to public sales or service, plus 1 additional space for each 500 square feet of storage area; or at least 8 spaces or 1 additional space for each employee on the maximum shift, whichever is greater
Retail store and service establishment	1 space for each 200 square feet of floor area
Sanitarium, convalescent home, rest home, nursing home or day nursery	4 spaces, plus 1 space for each 3 beds for which accommodations are offered
School, elementary and junior high	1 space for each classroom, plus 1 additional space for each 50 student capacity
School, high school through college and private and day or religious institution schools	At least 1 space for each 7 students based on maximum design capacity, plus 1 additional space for each 3 classrooms
Shopping centers: 1. Basic requirement: a. Small centers – 400,000 square feet or less of gross leasable floor area (GLA)	4 spaces per 1,000 square feet of GLA or portion thereof
b. Medium centers – greater than 400,000 square feet up to and including 600,000 square feet of GLA	4.5 spaces per 1,000 square feet of GLA or portion thereof
c. Large centers – greater than 600,000 square feet of GLA	5 spaces per 1,000 square feet of GLA or portion thereof
2. Shopping centers with cinemas:	
a. Centers having up to and including 200,000 square feet of GLA	Add 3 additional spaces for each 100 areas or fraction thereof to the basic

	requirements
b. Centers having greater than 200,000 square feet of GLA	Add to the basic requirements 3 spaces for each 100 cinema seats or additional fraction thereof above 750
Skating rink (private), dance hall, or public auction house	20 spaces, plus 1 additional space for each 200 square feet of floor space over 2,000 square feet
Warehousing, storage or handling of bulk goods	That space which is solely used as office shall comply with the office use requirements and 1 additional space for each 2,000 square feet of floor area or fraction thereof, plus 1 additional space for each employee on maximum shift and 1 additional space for each company owned truck (if not stored inside principal building)
Undertaking establishments	20 spaces for each chapel or parlor, plus 1 additional space for each funeral vehicle maintained on the premises. Aisle spacing shall also be provided off the street for making up a funeral procession
Other uses	Other uses not specifically mentioned herein shall be determined on an individual basis by the City Council. Factors to be considered in such determination shall include (without limitation) size of building, type of use, number of employees, expected volume and turnover of customer traffic and expected frequency and number of delivery or service vehicles
Reduced parking facilities	When demonstrated to the satisfaction of the City Council that up to 10 percent of the number of parking spaces required by this title would not be needed for the particular use in question, a reduced number of parking spaces may be approved subject to the following:

1. The application for reduction shall be accompanied by supporting data specifically applying to the particular use in question or showing a lesser national standard.

2. The applicant must also provide each of the following:

a. A detailed parking plan demonstrating that the parking otherwise required by this title can be provided on the site within ordinance design standards; and

b. A covenant in recordable form, approved as to form and content by the city attorney, executed by all property owners, which covenant provides that the owners, heirs, successors and assigns will not use the area identified for expansion parking for any use except landscaping or to cause compliance with the off street parking requirements of this title.

c. The city may order installation of previously excepted parking spaces at any time when, in the city's judgment, conditions indicate the need for such parking, and the property owner shall comply with said order. (Amended Ord. 8, 10-21-1970; amd. 2003 code)

12-13-9: **OFF STREET LOADING AND UNLOADING AREAS:**

A. General Provisions:

1. Use Restrictions: Any space allocated as a loading berth or maneuvering area so as to comply with the terms of this title shall not be used for the storage of goods, inoperable vehicles or be included as a part of the space requirements necessary to meet the off street parking area.

2. Berths Required During Building Construction: In connection with any structure which is to be erected or substantially altered and which requires

the receipt or distribution of materials or merchandise by trucks or similar vehicles, there shall be provided off street loading space.

3. Hours Of Loading And Unloading: Where noise from loading or unloading activity is audible in a residential district in excess the noise levels in City Code 5-6-4, the activity shall terminate between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M. (Amended Ord. 427, 7-16-13)

B. Location: All required loading berths shall be off street and shall be located on the same lot as the building or use to be served. A loading berth shall not be located less than twenty five feet (25') from the intersection of two (2) street rights-of-way nor less than fifty feet (50') from a residential district unless within a building. Loading berths shall not occupy the required front yard space.

C. Design Standards:

1. Size: Unless otherwise specified in this title, a required loading berth shall be not less than twelve feet (12') in width, twenty five feet (25') in length, unless stated as fifty five feet (55'), and fourteen feet (14') in height, exclusive of aisle and maneuvering space.

2. Access: Each required loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner which will least interfere with traffic.

3. Surfacing: All loading berths and accessways shall be improved with a durable material to control the dust and drainage according to a plan approved by the City Engineer. (Amended Ord. 8, 10-21-1970)

D. Number Of Loading Berths:

Type Of Use	Loading Berths Required
1. Nonresidential uses:	
a. 5,000 square feet space or more net included as part of subsection D2 or D3 of this section	
(1) 4,000 to 20,000 square feet floor area	1 berth
(2) Each additional 10,000 square feet of	1 additional berth

floor area or fraction thereof above 20,000 square feet	
2. Retail sales, offices, public administration buildings, hospitals, schools, hotels, and similar uses: for such a building having 5,000 to 10,000 square feet of floor area	1 loading berth
3. Manufacturing, fabrication, processing and warehousing:	
a. Buildings having 2,000 to 15,000 square feet	1 berth
b. Buildings having 15,001 to 30,000 square feet	1 berth, plus one 55 foot berth
c. Buildings having over 30,000 square feet	1 berth 55 feet in length for each 50,000 additional square feet, plus 1 berth 25 feet in length for each 100,000 square feet. (Amended Ord. 8, 10-21-1970; amd. 2003 Code)

12-13-10: **TRAFFIC CONTROL:**

A. The traffic generated by any use shall be channelized and controlled in a manner that it will minimize:

1. Congestion on the public streets;

2. Traffic hazards; and

3. Excessive traffic through residential areas, particularly truck traffic.

B. Internal traffic shall be so regulated as to ensure its safe and orderly flow. Traffic into and out of business and industrial areas and all traffic from residential lots adjacent to a thoroughfare shall in all cases be forward moving with no backing into streets.

C. On corner lots (including rural areas), nothing shall be placed or allowed to grow in such a manner as materially to impede vision between a height of two and one-half feet (2 1/2') and ten feet (10') above the centerline

grades of the intersecting streets within fifteen feet (15') of the intersecting street right-of-way lines. This restriction shall also apply to the planting of crops and to yard grades that result in elevations that impede vision within fifteen feet (15') of any intersecting street right-of-way lines[1]. (Amended Ord. 8, 10-21-1970)

12-13-11: **DRAINAGE:** No land shall be developed and no use shall be permitted that results in water runoff causing flooding, erosion, or deposit of minerals on adjacent properties. Such runoff shall be properly channeled into a storm drain, watercourse, ponding area, or other public facilities. Any change in grade affecting water runoff onto adjacent property must be as approved by the City Council. (Amended Ord. 8, 10-21-1970)

12-13-12: **EXPLOSIVES:** No activities involving the storage, utilization or manufacture of materials or products such as TNT or dynamite which could decompose by detonation shall be permitted except such as are specifically licensed by the City Council. (Amended Ord. 8, 10-21-1970)

12-13-13: **FALLOUT SHELTERS:** Fallout shelters shall be permitted as principal or accessory uses and structures in any district, subject to the yard regulations of the district. Such shelters may contain or be contained in other structures or be constructed separately and, in addition to shelter use, may be used for any principal or accessory use permitted in the district, subject to the district regulations on such use. (Amended Ord. 8, 10-21-1970)

12-13-14: **GUESTHOUSES:**

A. Guesthouses, for purpose of this title, shall be an accessory building detached from the principal building where accommodations for sleeping are provided but no kitchen facilities are provided. The intended use is for persons visiting the occupants of the principal building and shall not be used as a rental property. (Amd. 4/18/06, Ord. 325A)

B. Guesthouses shall be permitted in all residential districts, shall be located the required depth of the rear yard or more from the principal building, and shall conform to the side yard requirements for the principal building. (Amended Ord. 8, 10-21-1970)

12-13-15: **DWELLING UNITS OF EMPLOYEES ON PREMISES IN RESIDENTIAL DISTRICTS:**

A. Accessory Uses And Structures: The dwelling units of employees on premises in residential districts, for purposes of this title, shall be an accessory use, and if located within a separate structure, such structure shall be an accessory structure.

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[1] See also subsection 12-4-5D of this title.

B. Compliance With District Provisions: Dwelling units shall conform to the provisions applicable to the district in which located except as herein modified.

C. Location:

1. Detached dwelling units shall be a distance from the principal structure equal to the sum of the required rear yard and one-half (1/2) the required front yard for the principal structure.

2. Detached dwellings shall not be located less than the required side yard

for the principal building to any lot line.

D. Parking Lot Required: All dwelling units shall have a designated off street parking lot. (Amended Ord. 8, 10-21-1970)

12-13-16: **DWELLING UNITS IN COMMERCIAL AND INDUSTRIAL DISTRICTS:**

A. Accessory Use; Compliance With District Provisions: Dwelling units for the watchman and family shall be considered as accessory uses and shall conform to all applicable regulations for the district in which located except as herein modified.

B. Restrictions And Requirements:

1. A dwelling unit in the commercial district located in a commercial structure shall not occupy the front half of the ground floor or basement.

2. A dwelling unit in a commercial or industrial building shall not contain more than one bedroom.

3. No detached dwelling unit shall be permitted in the commercial or industrial districts.

4. A dwelling unit which is a part of the principal building shall be provided with one outside entrance. (Amended Ord. 8, 10-21-1970)

12-13-17: **RADIATION AND ELECTRICAL EMISSIONS:** No activities shall be permitted that emit dangerous radioactivity beyond enclosed areas. There shall be no electrical disturbance (except from domestic household appliances) adversely affecting the operation at any such point of any equipment other than that of the creator of such disturbances. (Amended Ord. 8, 10-21-1970)

12-13-18: **OTHER NUISANCE CHARACTERISTICS:** No odors, vibration, smoke, air pollution, liquid or solid wastes, heat, glare, dust, or other such adverse influences shall be permitted in any district that will in any way have an objectionable effect upon adjacent or nearby property. All wastes in all districts shall be disposed of in a manner that is not dangerous to the public health and safety nor will damage public waste transmission or disposal facilities. Minimum standards shall be as follows:

A. Odors

Table III (Odor Thresholds) in Chapter 5, Air Pollution Manual, a copyright of 1951 by Manufacturing Chemists Association, Incorporated, Washington, District of Columbia and subsequent revisions.

B. Vibration

Any vibration discernible (beyond property line) to the human sense of feeling for three (3) minutes or more duration in any one hour and any vibration producing an acceleration of more than 0.1 Gs or resulting in any combination of amplitudes and frequencies beyond the safe range of Table 7, United States Bureau of Mines Bulletin No. 442, Seismic Effects of Quarry Blasting, on any structure.

C. Smoke

Any emission of visible smoke of a shade darker than no. 1 on the Ringelmann smoke chart, as published by the United States Bureau of Mines; except, that visible gray smoke of a shade not darker than no. 3 on said chart may be emitted for not more than four (4) minutes in any thirty (30) minutes.

D. Air pollution (fly ash, dust, fumes, vapor, gases, etc.)

Any emission which can cause any damage to health, animals, or vegetation or other forms of property, or which can cause any excessive soiling at any point, and in no event any emission of any solid or liquid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas or air at any point.

For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of five hundred degrees Fahrenheit (500°F) and fifty percent (50%) excess air. (Amended Ord. 8, 10-21-1970; amd. Ord. 314 10-4-2005)

12-13-19: **VISUAL STANDARDS:**

A. Policy: It is hereby affirmed as essential public policy that the appearance of this community is a proper matter for public concern and that all open spaces, buildings, signs, plantings, surfaces, and structures which may be seen from the public ways and water bodies are subject to the provisions of this title.

B. Prohibited Exteriors:

1. On any non-residential building, the following material shall not be permitted on exterior wall surfaces:

a. Aluminum, steel and metal, except as an accent material;

b. Common or painted concrete blocks;

c. Metal;

d. Galvanized steel (see subsection 12-13-22F of this chapter);

e. Structural clay tile;

f. Sheet metal, either corrugated or plain (see subsection 12-13-22F of this chapter);

g. Similar materials.

2. Such materials, however, may be used as an accent material to complement the architectural design and appeal of the building as determined by the Andover Review Committee. The applicant shall have the opportunity for the City Council to review architectural plans and make a final determination of the materials and design. (Amended Ord. 314 10-4-2005)

12-13-20: **COIN OPERATED MACHINES:** Coin operated, automatic machines dispensing food, soft drinks, and other food and materials shall be governed as follows:

A. Shall not be permitted in residential districts except as approved by Conditional Use Permit as an accessory use within buildings housing the principal use, and if residential, it shall contain four (4) or more families.

B. Shall be permitted as an accessory use to recreation uses in general recreation districts, provided they are within a building, under a

canopy, or otherwise protected from the elements; in no instance shall they be located within any required yards.

C. Shall be permitted accessory uses in all business and industrial districts, provided they are within a building or located outside the building immediately adjacent to said building and protected from the elements by an eave, canopy, or other permitted structure. (Amended Ord. 8, 10-21-1970; amd. 2003 Code)

12-13-21: **RESIDENTIAL BUILDING STANDARDS[1]:** All permitted residential structures in RR, R-1, R-2, R-3, and R-4 zoning districts shall meet the following design criteria (Amended Ord. 468, 6-6-17):

A. All structures shall have permanent concrete or treated wood foundations that will anchor the structure, which comply with the State Building Code as adopted in Section 9-1-1 of this code and which are solid for the complete circumference of the house. Except, four-season porches may be constructed without the permanent foundation, provided the porch does not exceed a maximum coverage of twenty percent (20%) of the footprint of the habitable portion of the principal structure.

B. Sixty percent (60%) of a residential structure shall have a minimum width of twenty-four feet (24'). Width measurements shall not take into account overhangs or other projections. Such width requirement shall be in addition to the minimum area per dwelling requirements of Section 12-3-5 of this title.

C. Single-family dwellings other than approved earth sheltered homes shall have at least a 4:12 roof pitch and shall be covered with shingles or tiles. This requirement shall not apply to three-season porches, four-season porches, greenhouses and solariums, provided they meet the State Building Code and are approved by the Building Official.

D. All single-family dwellings shall have roof overhangs that extend a minimum of one foot (1') from all the walls of the structure unless the style of the house dictates otherwise and said plan is approved by the Building Official prior to any permits being granted.

E. All single-family structures must be built in conformance with Minnesota statutes sections 327.31 to 327.35 or the State Building Code as adopted in Section 9-1-1 of this code.

F. Any metal siding upon single-family residential structures shall have horizontal edges and overlapping sections no wider than twelve inches (12"). Sheet metal siding shall not be permitted in such districts.

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[1] See also title 9, chapter 1 of this code.

G. All exterior construction, including finish and the final grading, shall be completed in accordance with plans and specifications within one year following date of permit issuance. All existing buildings not meeting the provisions of this title shall comply within one year following adoption of this title. (Amended Ord. 8, 10-21-1970; amd. 2003 Code)

12-13-22: **INTERIM PERFORMANCE STANDARDS:**

A. Purpose: Interim performance standards are intended to establish an alternative level of site improvements for properties located in the rural industrial area generally referred to as the Hughs/Westview industrial park area. The City acknowledges that the lack of municipal utilities limits the development potential of these properties. These performance standards are intended to allow continued use, expansion and redevelopment with a level of site improvements that is commensurate with the development potential of the properties.

B. Applicability and Scope: This section shall apply to any expansion of use requiring a conditional use permit or commercial site plan on all properties generally described as the Hughs/Westview industrial park area and legally described as the southwest quarter of the northwest quarter of Section 16, Township 32, Range 24, Anoka County, Minnesota and the west half of the west half of the southeast quarter of the northwest quarter of section 16, Township 32, Range 24, Anoka County, Minnesota.

C. Procedure: Applications shall be processed under the Interim Use Permit procedures described in City Code 12-14-12 except as follows (Amended 5/19/20, Ord. 505):

1. Application: The property owner or designee shall submit a complete application to the Community Development Department. A complete application consists of the following:

a. A completed Interim Use Permit form and fee as described in City Code 1-7-3 (Amended 5/19/20, Ord. 505).

b. A site plan that describes all of the existing and proposed site improvements, including the dimensions of the property, buildings, parking, landscaping and storage areas and distances from property lines.

c. A letter describing the existing use of the property, the proposed use of the property and all of the proposed site improvements.

d. Other information deemed necessary by staff to review the

request.

2. Council Determination: The City Council shall approve or deny the application based on the factors established in this section. The City Council may attach such conditions as they determine necessary to provide the appropriate level of site and building improvements to accomplish the purpose of this section. The level of required improvements shall be determined on a case-by-case basis. Applications shall be reviewed based on the following factors:

a. Existing appearance of the building and site;

b. Compatibility of the proposed site development plan with the other industrial properties in the area;

c. Effect of the proposed use and the proposed site development plan on the adjacent residential neighborhood, including traffic, noise, glare, buffers, and environmental impacts;

D. Deviations to the performance standards will be considered in the following areas:

1. Parking and Impervious Surface Areas:

a. Screening, landscaping, visual appeal, and lighting of parking lot areas.

b. Paving of parking areas for customers.

c. Dust control measures for unpaved parking and storage areas.

2. The amount, type, location, and screening of exterior storage requested as a part of any Interim Use Permit (Amended 5/19/20, Ord. 505).

3. Screening of mechanical equipment and trash bins/dumpsters.

4. Other factors related to the new development proposal, as the City Council may deem relevant.

E. Term of Approval: Interim performance standards approved under this section shall not be subject to the five-year maximum term as noted in City Code Section 12-14-12 (E) (1), and may continue until City sewer and water are extended into the area affected by this section. At that time, any future expansion or redevelopment of the affected properties shall be required to fully conform to the regular performance standards of City Code 12-13. (Amended 5/19/20, Ord. 505)

F. Other Requirements: Proposed improvements or changes in use will be reviewed by the Building Official and Fire Chief. They will make a determination of whether or not the building(s) on the site need to be brought into compliance with applicable building and fire codes. Site improvements must also be made to meet the requirements of the National Pollutant Discharge Elimination System (NPDES). No portion of this section shall be used to vary from these requirements. (Amended 9/18/07; Ord. 353)

CHAPTER 14

ADMINISTRATION AND ENFORCEMENT

SECTION:

12-14- 1: Administration And Enforcement Official
12-14- 2: Commercial Site Plan Review
12-14- 3: Certain Zoning Changes; Input From Adjacent Community
12-14- 4: Amendments
12-14- 5: Rezoning
12-14- 6: Conditional Uses
12-14- 7: Variances
12-14- 8: Public Hearing Process
12-14- 9: Appeal Procedures
12-14-10: Application Fees
12-14-11: Violation; Penalties
12-14-12: Interim Use Permits

12-14-1: **ADMINISTRATION AND ENFORCEMENT OFFICIAL:** This title shall be administered by the Community Development Director who shall be appointed by the City Council. The City Planner may institute, in the name of the city, any appropriate actions or proceedings against a violator as provided by law. (Amended Ord. 8, 10-21-1970; amd. 2003 Code)

12-14-2: **COMMERCIAL SITE PLAN REVIEW:**

A. Purpose: Commercial Site Plan Review is necessary to protect the public health, safety and general welfare as well as to promote orderly development and prevent adverse impacts on the surrounding community.

B. Applicability: All non-residential development proposals shall be required to complete the commercial site plan review process before a building permit can be issued.

C. Additional Approval Required: All development proposals that require additional approvals such as a Conditional Use Permit, Variance or approval from another agency or organization shall obtain these approvals prior to application for commercial site plan review.

D. Application: A completed commercial site plan application and fee as established in City Code 1-7-3 shall be submitted to the Community Development Department.

E. Required Materials: The application and fee shall be accompanied by the required application materials as specified on the commercial site plan application.

F. Completeness Determination: The Community Development Department shall review the application and materials for completeness. If the application is incomplete, staff will issue a letter detailing the deficiencies of the submittal. No further action will be taken until the submittal is complete.

G. Review: Complete applications shall be reviewed by the Andover Review Committee (ARC) for compliance with applicable regulations. ARC shall provide review comments to the applicant within two weeks of receipt of a complete application.

H. Revision: The applicant shall make all necessary revisions to comply with the review comments of ARC and all applicable regulations. The applicant shall then resubmit the commercial site plan to the City. The applicant shall also be required to respond in writing to each review comment to describe how the comment was addressed on the commercial site plan.

I. Continuation to Compliance: The review and revision process described above shall continue until ARC finds the commercial site plan in compliance with all applicable regulations and all other approvals have been granted.

J. Approval : Once the proposal has been found to be in compliance with ARC comments, applicable regulations and all other required approvals have been granted, the applicant shall provide two complete full size and two complete half size plan sets to the City to be signed. A signed plan set shall be returned to the applicant. A signed plan set shall be retained by the City. No building permit shall be issued prior to approval of the commercial site plan.

K. Appeal: Any person aggrieved by a decision of ARC shall be entitled to appeal to the City Council within thirty (30) days of the decision by filing a notice of appeal. The Community Development Department shall schedule a date for hearing before the City Council and notify the aggrieved person of the date. The decision of ARC shall not be voided by the filing of such appeal. Only after the City Council has held its hearing will the decision of ARC be affected.

L. Revisions and Amendments: Administrative approval of minor changes to an approved commercial site plan may be authorized by the Community Development Department upon review and approval by ARC. Proposed changes that involve expansion in the use of the property or other

substantial modifications to the approved commercial site plan shall follow the procedures described in this section.

M. Financial Guarantee: All improvements of the approved commercial site plan should be completed before a Certificate of Occupancy is issued. If in the determination of the Building Official and Fire Chief a building meets the requirements for occupancy and site improvements are substantially completed a Certificate of Occupancy may be issued upon receipt of a cash escrow or letter of credit to guarantee all remaining site improvements will be completed. The amount of the cash escrow shall be determined by the Community Development Department.

N. Inspection: The site shall be inspected as necessary to verify completion of all work on the approved commercial site plan. No financial guarantee shall be refunded until a site inspection has been completed and the work for which the guarantee was held is completed as approved on the commercial site plan. (Amended Ord. 314, 10-4-2005)

12-14-3: **CERTAIN ZONING CHANGES; INPUT FROM ADJACENT COMMUNITY:** Any zoning district change on land adjacent to or across a public right-of-way from an adjoining community shall be referred to the adjacent community for review and comment prior to action by the governing body granting or denying the zoning district classification change. A period of at least thirty (30) days shall be provided for receipt of comments. Such comments shall be considered as advisory only. (Amended Ord. 8, 10-21-1970)

12-14-4: **AMENDMENTS**:

A: In accordance with the provisions of Minnesota statutes, the governing body may, from time to time, adopt amendments. Amendments to the text may be initiated by the City Council, Planning and Zoning Commission, property owner, or resident. Staff shall review all proposed amendments and make recommendations to the Planning Commission. All proposed amendments shall be referred to the Planning and Zoning Commission prior to adoption, and the Planning and Zoning Commission shall hold a public hearing on the proposed amendment. The public hearing shall be held in accordance with Chapter 12-14-8. Fees shall be charged according to the most current fee schedule. The final decisions regarding amendments shall rest with the City Council. (Amended Ord. 8, 10-21-1970, Amended Ord. 314 10-4-2005)

B: Relation to Comprehensive Plan: It is the policy of the City of Andover that the enforcement, amendment, and administration of this

Chapter be accomplished consistent with the recommendations contained in the City Comprehensive Plan, as developed and amended from time to time by the Planning Commission and City Council. The Council recognizes the City Comprehensive Plan as the official policy for the regulation on land use and development in accordance with the policies and purpose herein set forth. In accordance with Minnesota Statutes Chapter 473, the City will not approve any rezoning or other changes in these regulations that are inconsistent with the City Comprehensive Plan. Proposed changes to the City Comprehensive Plan shall have a public hearing per the process in Chapter 12-14-8. (Amended Ord. 314 10-4-2005)

12-14-5: **REZONING:**

A. Procedure: The procedure for changing zoning district boundaries (rezoning) shall be as follows:

1. Initiation Of Rezoning: The Planning and Zoning Commission, the City Council, or a property owner or designee may initiate a rezoning. Persons wishing to initiate a rezoning of property shall fill out a rezoning request form. The rezoning form shall be accompanied by a fee as set forth by ordinance[1]to be used for the costs of processing the application. The rezoning form shall be filed with the Community Development Director. An additional fee as set by ordinance may be required for each meeting in excess of two (2) that is necessary because of incomplete information or changes in the application. (Amended Ord. 8, 10-21-1970; amd. 2003 Code, Amended Ord. 314 10-4-2005)

2. A public hearing shall be held in accordance with section 12-14-8. (Amended Ord. 314 10-4-2005)

3. City Council Action: After a completed application has been submitted, the City Council shall follow the deadline for response to a rezoning application as outlined in State Statute 15.99. (Amended Ord. 314 10-4-2005)

4. Reapplication After Denial: No application for rezoning that has been denied wholly or in part shall be resubmitted for a period of one year from the date of said order of denial. (Amended Ord. 314 10-4-2005)

B. Contract Rezonings:

1. Purpose: The purpose for the contract is to formalize development standards to ensure consistency and compatibility with surrounding land

uses and neighborhoods.

2. Execution: Execution of a zoning contract recorded with the property shall be compulsory for all rezonings to multiple-family, commercial, and/or industrial districts, including the following: (Amended Ord. 8, 10-21-1970)

M-1 multiple dwelling medium density district
M-2 multiple dwelling district
LB limited business district
NB neighborhood business district
GB general business district
SC shopping center district
I industrial district
(Amended Ord. 8, 10-21-1970; amd. 2003 Code)

3. Standards: The following standards shall be included in the zoning contract:

a. Agreement to lay out, develop and maintain the subject property as presented in the accompanying preliminary plat or site plan.

b. Provision to allow the City Council to commence rezoning of the property to the previous zoning district if the preliminary plat or site plan is not adhered to. Said zoning change shall not be contested by the property owner or signer of the zoning contract.

c. Additional standards may be included to protect the health, safety, and general welfare of surrounding land uses.

4. Modifications: Any modification or revision to the zoning contract or attached plans shall be prohibited without majority consent of the City Council. Any substantial modification as determined by the City Council shall be subject to a public hearing and notification of adjacent property owners pursuant to the public hearing requirements of this title. (Amended Ord. 8, 10-21-1970)

12-14-6: **CONDITIONAL USES:**

A. General Provisions:

1. Conditional Use Permits may be granted or denied in any district by action of the City Council.

2. The Community Development Director shall maintain a record of all Conditional Use Permits issued including information on the use,

locations, conditions imposed by the City Council, time limits, review dates, and such other information as may be appropriate. A copy of the Conditional Use Permit shall also be filed with the Building Official. (Amended Ord. 8, 10-21-1970; amd. 2003 Code)

3. Any change involving structural alteration, enlargement, intensification of use, or similar change not specifically permitted by the Conditional Use Permit shall require an amended Conditional Use Permit, and all procedures shall apply as if a new permit were being issued.

4. All uses existing at the time of adoption of this title (October 21, 1970) shall be considered as having a Conditional Use Permit which contains conditions which permit any land use and structures as they existed on said date, and any enlargements, structural alterations, or intensification of use shall be required to amend their Conditional Use Permit through the process provided in this section. (Amended Ord. 314 10-4-2005)

B. Criteria For Granting Conditional Use Permits:

1. In granting a Conditional Use Permit, the City Council shall consider the advice and recommendation of the Planning and Zoning Commission and:

a. The effect of the proposed use upon the health, safety, morals and general welfare of occupants of surrounding lands.

b. Existing and anticipated traffic conditions, including parking facilities on adjacent streets and land.

c. The effect on values of property and scenic views in the surrounding area, and the effect of the proposed use on the Comprehensive Plan.

2. If it shall determine by resolution that the proposed use will not be detrimental to the health, safety, morals, or general welfare of the community, nor will cause serious traffic congestion or hazards, nor will seriously depreciate surrounding property values, and that said use is in harmony with the general purpose and intent of this title and the Comprehensive Plan, the City Council may grant such permits. (Amended Ord. 8, 10-21-1970)

C. Procedure:

1. Request For Conditional Use; Fee: The person applying for a Conditional Use Permit shall fill out and submit to the Community Development Director a request for Conditional Use Permit form together

with a fee as set forth by ordinance. An additional fee as set forth by ordinance may be required for each meeting in excess of two (2), which is necessary because of incomplete information or changes in the petition. The Community Development Director shall refer the application to the Planning and Zoning Commission. (Amended Ord. 8, 10-21-1970; amd. 2003 Code)

2. A public hearing shall be held in accordance with section 12-14-8. (Amended Ord. 314 10-4-2005)

3. City Council Action: After a completed application has been submitted, the City Council shall follow the deadline for response as outlined in State Statute 15.99. (Amended Ord. 314, 10-4-2005)

4. Amended Application: An Amended Conditional Use Permit application shall be administered in a manner similar to that required for a new conditional use permit; and the fee shall be as set forth by ordinance[1]. Amended conditional use permits shall include reapplications for permits that have been denied, requests for changes in conditions, and as otherwise described in this title. (Amended Ord. 8, 10-21-1970; amd. 2003 Code)

5. Reapplication After Denial: No application for a Conditional Use Permit shall be resubmitted for a period of one year from the date of said order of denial.

6. Hearing May Be Held: When a Conditional Use Permit may be of general interest to the community or to more than the adjoining owners, the Planning and Zoning Commission may hold a public hearing, and the Conditional Use Permit shall be reviewed with notice of said hearing published at least ten (10) days prior to the hearing. (Amended Ord. 314, 10-4-2005)

D. Time Limit On Implementing Conditional Use: If the City Council determines that no significant progress has been made in the first twelve (12) months after the approval of the Conditional Use Permit, the permit will be null and void. (Amended Ord. 8, 10-21-1970)

12-14-7: **VARIANCES:**

A. Variances Authorized: The City Council, as authorized by Minn. Stat. 462.354 subdivision 2, and Minn. Stat. 462.357, subdivision 6, shall have the authority to hear requests for variances from the requirements of the zoning ordinance and other sections of the City Code where variances are authorized, including restrictions placed on nonconformities.

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[1] See subsection 1-7-3H of this code.

(Amended Ord. 407, 6-21-11)

B. Review Criteria:

1. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control and when the variances are consistent with the comprehensive plan. (Amended Ord. 407, 6-21-11)

2. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the official control. "Practical difficulties," as used in connection with the granting of a variance, means:

a. The property owner proposes to use the property in a reasonable manner not permitted by an official control;
b. The plight of the landowner is due to circumstances unique to the property not created by the landowner;
c. The variance, if granted, will not alter the essential character of the locality;
d. Economic considerations alone do not constitute practical difficulties. (Amended Ord. 407, 6-21-11)

C. Conditions Authorized: The City Council may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance. (Amended Ord. 407, 6-21-11)

D. Specific Variances Authorized: No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located, except as follows: (Amended Ord. 407, 6-21-11)

1. Variances shall be granted for earth sheltered construction as defined in Minn. Stat. 216C.06, subdivision 14, when in harmony with the official controls. (Amended Ord. 407, 6-21-11)

2. Variances may be granted for the temporary use of a one family dwelling as a two family dwelling. (Amended Ord. 407, 6-21-11)

E. Procedure: The procedure for granting variances is as follows:

1. Request For Variance; Fee: A person desiring a variance shall fill out and submit to the Community Development Director a request for variance application form together with a fee as set forth by ordinance[1]. (Amended Ord. 407, 6-21-11)

2. Planning and Zoning Commission Review: A public hearing shall be

[1] See subsection 1-7-3H of this code.

held by the Planning and Zoning Commission as provided in City Code 12-14-8. The Planning Commission shall make a recommendation to the City Council based upon the provisions of City Code 12-14-7. (Amended Ord. 407, 6-21-11)

3. City Council Action: The City Council may grant the variance based upon the provisions of City Code 12-14-7. (Amended Ord. 407, 6-21-11)

4. Appeals: The petitioner, if appealing an interpretation of this title by an employee of the city which would require him/her to obtain a variance, shall have the fee refunded if his/her appeal is upheld by the City Council.

5. Emergency Variance Requests: The City Council may waive Planning and Zoning Commission review and take immediate action on emergency variance requests that affect the immediate health, safety and welfare of the citizens of Andover or if time constraints present severe hardship to the applicant. The applicant is required to show the immediacy of the issue and the potential health, safety or welfare threat. The City Council shall determine if the request warrants immediate review. (Amended Ord. 407, 6-21-11)

6. Time Limit On Implementing Variance: If the City Council determines that no significant progress has been made in the first twelve (12) months after the approval of the variance, the variance will be null and void. (Amended Ord. 8, 10-21-1970)

12-14-8: PUBLIC HEARING PROCESS:

B. Council Actions Requiring a Public Hearing: The following Council actions shall require a public hearing:

1. Variance
2. Conditional Use Permit (CUP)
3. Rezoning and Text Amendment
4. Sketch Plan
5. Preliminary Plat
6. Comprehensive Plan Amendment
7. Interim Use Permits (Amended Ord. 436, 4-15-2014)

C. Public Hearing

1. A public hearing on an application for Council actions in this chapter shall be held by the Planning Commission in accordance with the Minnesota State Statutes.
2. A notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the city ten (10) days prior to the day of the hearing.
3. Property owners and occupants within three hundred fifty feet

(350') of subject properties located inside the Municipal Urban Serice Area (MUSA) (based on the City's most current version of Anoka County Property Records) shall be notified in writing.

4. Property owners and occupants within seven hundred feet (700') of subject properties located outside the MUSA (based on the City's most current version of Anoka County Property Records) shall be notified in writing.
5. The notification distance shall be measured from the perimeter of the subject property. Property owner notifications shall be sent by mail. Failure by any property owner or occupant to receive such notice shall not invalidate the proceedings.
6. Staff shall have discretion to expand the notification area on a case by case basis.
7. The hearing may be continued from time to time in the event the Planning and Zoning Commission needs additional information from the applicant or other sources to make its decision.
8. The Planning Commission recommendation shall be presented to the City Council.
9. The City Council shall make the final decision on the proposed action (Amended Ord. 342, 3-6-07)

12-14-9: BOARD OF ADJUSTMENTS AND APPEALS ESTABLISHED:

A. The City Council shall be the Board of Adjustment and Appeals as provided by Minn. Stat. 462.354, subdivision 2, and shall have the powers granted under Minn. Stat. Sections 462.357, subdivision 6, and Minn. Stat. 462.359, subdivision 4, as they may be amended from time to time. (Amended Ord. 407, 6-21-11)

B. Appeals Authorized: A property owner or aggrieved person may appeal any order, requirement, permit, decision or interpretation of the text of this title, or any determination as to the location of the boundary of a zoning district as shown on the zoning map, or any determination by the Zoning Administrator or city employee administering zoning, building or related controls. The City Council shall determine, in harmony with the general purposes of this title and the Comprehensive Plan, by resolution, all appeals. (Amended Ord. 407, 6-21-11)

C. Time For Filing Appeal: At any time within ninety (90) days after the decision subject to appeal as provided in this section and Minn. Stat. 462.359, subdivision 4, except in connection with prosecutions for violations thereof, the applicant or other person or officers of the city affected thereby may appeal to the City Council by filing a written notice stating the action appealed from and stating the specific grounds upon which the appeal is made. (Amended Ord. 407, 6-21-11)

D. Hearings: A hearing on the matter may be conducted by the City Council, or be directed to be held by the Planning and Zoning Commission, with a recommendation provided to the City Council. The City Council shall rule on the appeal. (Amended Ord. 407, 6-21-11)

E. Notice: Notice of the hearing before the Council shall be mailed to all appellants. In all cases involving determination of district boundary lines or interpretation of the text of this title, ten (10) days' published notice of hearing in the official newspaper shall be given. (2003 Code; Amended Ord. 407, 6-21-11)

12-14-10: **APPLICATION FEES:** Application fees for items listed on the Fee Schedule, as set out in Subsections 12-14-5A1, 12-14-6C1 and 12-14-7B1 of this chapter, may be changed from time to time as set forth by ordinance[1]. (Amended Ord. 8, 10-21-1970; amd. 2003 Code) (Amended Ord. 314, 10-4-2005)

12-14-11: **VIOLATION; PENALTIES:** Any person, firm, corporation, or voluntary association which violates or refuses to comply with any of the provisions of this title shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as defined by State Law. Each day that a violation is permitted to exist shall constitute a separate offense. (Amended Ord. 8, 10-21-1970)

12-14-12: **INTERIM USE PERMITS:**

(A) ***Purpose****.* Certain land uses might not be consistent with the land uses designated in the Comprehensive Land Use Plan and they might also fail to meet all of the zoning standards established for the district within which they are proposed. Some such land uses may, however, be acceptable or even beneficial if reviewed and provisionally approved for a limited period of time. The purpose of the interim use review process is to allow the approval of interim uses on a case-by-case basis. Approved interim uses shall have a definite end date and may be subject to specific conditions considered reasonable and/or necessary for the protection of the public health, safety and general welfare.

(B) ***Application/Fee****.* The person applying for an Interim Use Permit shall fill out and submit to the Community Development Director a request for Interim Use Permit form together with a fee as set forth by ordinance. The Community Development Director shall have ten (10) working days from receipt of the application to determine completeness. The Community Development Director shall refer completed applications to the Planning and Zoning Commission.

(C) **P*rocedures****.* The public hearing, public notice and procedural requirements for interim use permits shall be as provided in 12-14-8. The City Council shall act upon the interim use permit within sixty (60) days from the date of submission of

[1] See subsection 1-7-3H of this code.

a complete application unless an extension has been provided pursuant to Minnesota Statutes 15.99. Approval of a request shall require a four-fifths (4/5) vote of the entire City Council.

(D) ***Standards***. The Planning Commission shall recommend an interim use permit and the Council shall issue such interim use permit only if it finds that such use at the proposed location:

(1) Will not create an excess burden on parks, streets, and other public facilities;

(2) Will not be injurious to the surrounding neighborhood or otherwise harm the public health, safety, and general welfare;

(3) Will not have a negative effect on values of property and scenic views;

(4) Will not impose additional unreasonable costs on the public;

(5) Will be subjected to, by agreement with the owner, any conditions that the City Council has deemed appropriate for permission of the use, including a condition that the owner may be required to provide an appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit;

(E) ***Termination***. An interim use permit shall terminate upon the occurrence of any of the following events, whichever occurs first:

(1) Five (5) years from the date of approval; or

(2) The date or event stated in the permit; or

(3) An amendment to the City Code that either no longer allows the interim use or now permits the interim use; or

(4) The use has been discontinued for six months.

(F) ***Revocation***. The City Council may revoke any interim use permit for cause upon determination that the authorized interim use is not in conformance with the conditions of the permit or is in continued violation of the City Code or other applicable regulations.

(G) ***Renewals.*** If an approved interim use is to be continued beyond the date of its expiration or if an expired interim use is to be reinstated, an applicant shall follow the above process for seeking a new interim use approval.

(H) ***Reapplication after Denial*.** No previously denied application for an Interim Use Permit may be considered by City Council for a period of one year from the date of its denial. (Amended Ord. 436, 4-15-2014)

CHAPTER 15

SIGNS

SECTIONS:

12-15-1: Purpose
12-15-2: Scope
12-15-3: Permit Required
12-15-4: Exemptions
12-15-5: Signs Prohibited in All Districts
12-15-6: Real Estate Signs
12-15-7: Performance Standards
12-15-8: Permitted Signs and Standards by Zoning District
12-15-9: Signs Allowed by Conditional Use Permit
12-15-10: Temporary and Promotional Signs
12-15-11: Inspections

12-15-1: **Purpose**: The purpose of this section is to allow effective signage appropriate to the planned character of each zoning district and to provide minimum standards for the safeguard of life, health, safety, property and public welfare by regulating and controlling the design, quality of materials, construction, type, size, location, and maintenance of all signs and sign structures not located within a building.

12-15-2: **Scope**: The sign regulations set forth in this chapter shall apply to all structures and all land uses, except as otherwise provided in this chapter. All signs allowed by this chapter shall be limited to on-premise signs, except where otherwise specifically noted.

12-15-3: **Permit Required**: A permit is required for the installation of any sign in the City except for those exempted in section 12-15-4. A permit application shall be submitted and a fee established by the City Council shall be paid before a permit is issued. There shall be no fee for governmental units or nonprofit organizations.

12-15-4: **Exemptions**: The following signs shall be allowed without a sign permit, provided the sign conforms to City Code 12-15-5 and the requirements for each type of sign shown below (Amended 4/19/11, Ord. 406):

A. Election Signs: Election signs are permitted on any private property. Such signs may be displayed from 90 days prior until ten (10) days after any election. (Amended 4/19/11, Ord. 406)

B. Governmental Signs: Any sign that is erected by a governmental unit or public utility for the purpose of public information, warning or directing traffic. (Amended 4/19/11, Ord. 406)

C. Private Traffic Circulation Signs: Private traffic circulation signs in parking lots, and pedestrian circulation signs, and traffic warning signs in alleys or other hazardous situations are permitted, provided the sign conforms to the Minnesota Manual of Uniform Traffic Control Devices (MMUTCD), as amended. (Amended 4/19/11, Ord. 406)

D. Normal sign alteration and maintenance shall not require a sign permit, including:

1. The changing of the copy or message on a reader board sign, or changing a message on theater marquees.

2. Maintenance, painting, repainting or cleaning of a sign unless a structural change is made.

12-15-5: **Signs Prohibited in All Districts**: The following signs shall not be erected within the city:

A. Any sign that, by reason of position, shape, movement or color, interferes with the proper functioning of a traffic sign or signal or which constitutes a traffic hazard.

B. There shall be no flashing or revolving sign in the front setback area within one hundred twenty five feet (125') of a street intersection (as measured from intersecting right of way lines) or within one hundred twenty five feet (125') of a residential district, except where such sign in no way constitutes a traffic hazard.

C. Signs painted directly on a stone, the outside wall of a building or fence and any sign affixed to a tree, or utility pole. (Amended 4/19/11, Ord. 406)

D. Roof signs, roof advertising symbols, roof logos, roof statues, or roof sculptures. No sign shall extend above the roofline.

E. Signs within the public right of way or easements, except as authorized by the governing body.

F. Audible signs.

G. Billboard signs.

H. Signs displayed on parked semi-trailers used primarily for advertising purposes.

I. Any sign which contains information, whether written or graphic, that is obscene in nature.

J. All signs not expressly permitted or exempted under this chapter.

12-15-6: **Real Estate Signs**: Signs advertising the availability of property for sale, lease, or rent shall be allowed in all districts, subject to the following provisions:

A. All real estate signs shall be subject to the provisions of this chapter, except herein provided.

B. All signs shall be removed within seven (7) days after the completion of the advertised sale or lease.

C. Signs advertising new residential or commercial developments are permitted, provided that:

1. Such signs do not exceed thirty-two (32) square feet in size.

2. There shall be no more than one such sign per street frontage of the development.

D. Signs offering individual properties, either land and/or buildings, for sale, lease or rent shall be limited to six square feet in size. One such sign shall be permitted per lot. A sign permit is not required for the placement of these signs.

12-15-7: **Performance Standards**:

A. Construction Requirements: All signs shall be in compliance with applicable provisions of the Andover Building Code. Every person engaged in the business of erecting signs in the city is required to have a valid contractors license issued by the Building Department.

B. Maintenance And Repair: All signs shall be maintained so as not to be unsightly or create hazards to the public health, safety, or general welfare. All signs, together with their supports, braces, guys and anchors, shall be kept in good repair and in a proper state of preservation. The display surfaces of all signs shall be kept neatly painted or posted at all times. The City may order the removal of any sign that is not properly maintained.

C. Obsolete Signs: Any sign that no longer advertises or identifies a bona fide business conducted or product sold on the premises shall be removed by the property owner within thirty (30) days after written notification from the Zoning Administrator. Support posts and frames that no longer contain signage must be removed by the property owner within six (6) months after written notification from the Zoning Administrator.

D. Size and Placement Standards:

1. Illuminated signs located within fifty feet (50') of a residential district lot line shall be diffused or indirect so as not to reflect direct light into adjacent residences.

2. In all districts, any portion of any sign exceeding four (4) square feet shall be set back a minimum of ten feet (10') from any street right of way line and five feet (5') from any residentially zoned property line.

3. Projection: Signs may project a maximum 2 feet into a required building setback area.

4. Automobile service stations may erect one pylon or pedestal sign not to exceed twenty five feet (25') in height in a setback area, provided no part of any such sign shall be closer to the side lot lines than the required side yard setback, nor within five feet (5') of the rear lot line or any street right of way.

5. Multi-faced signs shall be permitted, with the maximum square footage on each side. Multi-faced signs shall not exceed two (2) times the area of single faced signs.

6. All corner and double frontage lots shall be considered as having two (2) front lot lines for application of regulations pertaining to signs.

E. Area Identification Signs: Area identification signs, including off site signs, shall be permitted in all districts subject to the provisions of this chapter and with the following conditions:

1. The sign shall not be separated from the area or project it identifies by an arterial roadway.

2. The sign shall be within 500 feet of the project it is identifying.

3. The sign shall not be included in the total signage permitted for the property on which it is located.

4. The owner of the property where the sign is to be placed shall give written permission for the sign to be placed on their property.

5. All area identification signs shall be identified on the plat or commercial site plan.

F. Ball Field and Scoreboard Advertising Signs: Ball field advertising and scoreboard advertising signs shall be permitted in all districts subject to the provisions of this chapter and with the following conditions:

1. Ball field advertising signs shall not be visible from adjacent residential properties when viewed at ground level.

2. Ball field advertising signs in City parks shall be subject to the City of Andover Park Advertising Policy.

3. Scoreboard advertising signs shall be placed in such a way so as to minimize to the greatest possible extent the exposure to adjacent residential properties.

4. Ball field and scoreboard advertising signs shall not be illuminated when not in use for ball games.

12-15-8: **Permitted Signs and Standards by Zoning Districts**: Signs shall be permitted by zoning district in accordance with the following standards:

A. Residential Districts:

1. Type: Area identification, ball field advertising, institutional, residential identification, scoreboard advertising, temporary, any sign exempted in section 12-15-4.

    a. Portable, trailer based temporary signs shall be permitted for governmental or institutional uses only.

2. Style: Combination, freestanding, wall.

3. Number: One per lot frontage.

4. Height: Not over ten feet (10') above grade except as otherwise provided herein.

5. Illumination: Indirect or diffused lighting of signs is permitted.

6. Size:

a. Residential identification and temporary, as follows:

Parcels (Land) Size	Maximum Square Feet Per Dwelling
On parcels less than 5 acres	4
On parcels of 5 acres but less than 20	16*
On parcels of 20 acres or greater	20*

*Signs greater than four (4) square feet on parcels of land five (5) acres or more in size shall only identify agricultural related uses.

b. Institutional Signs: Institutional signs up to thirty-two (32) square feet shall be permitted. Sixty-four (64) square feet of signage is permitted for multiple frontage lots.

c. Area Identification Signs: One freestanding sign shall be allowed at each street entrance to a subdivision provided:

(1) The area for development is larger than five (5) acres;

(2) All signs shall be identified on the preliminary plat.

(3) The maximum square footage of the sign is thirty-two (32) square feet.

(4) The sign is located ten feet (10') from any property line.

B. General Recreation (GR) and Limited Business (LB) Districts:

1. Type: Area identification, ball field advertising, business identification, institutional, scoreboard advertising, temporary, any sign exempted in section 12-15-4.

2. Style: Combination, freestanding, illuminated, wall.

3. Height: No taller than the highest outside wall of building, or twenty-five feet (25'), whichever is less.

4. Size:

a. The aggregate square footage of sign space per lot shall not exceed the sum of two (2) square feet per front foot of building.

b. No single sign shall exceed two hundred (200) square feet.

c. No individual business signs shall be arranged so as to create one integrated sign that exceeds two hundred (200) square feet in size.

C. Shopping Center (SC) and Neighborhood Business (NB) Districts:

1. Type: Area identification, ball field advertising, business identification, institutional, scoreboard advertising, temporary, any sign exempted in section 12-15-4.

2. Style: Combination, flashing, freestanding, illuminated, wall.

3. Size:

a. The aggregate square footage of sign space per lot shall not exceed the sum of three (3) square feet per front foot of building.

b. No single sign shall exceed one hundred (100) square feet except area identification signs, which shall not exceed three hundred (300) square feet.

4. Height: No taller than the highest outside wall or parapet or twenty-five feet (25'), whichever is less.

D. General Business (GB) Districts:

1. Type: Area identification, ball field advertising, business identification, institutional, scoreboard advertising, temporary, any sign exempted in section 12-15-4.

2. Style: Combination, flashing, freestanding, illuminated, wall.

3. Size:

a. The aggregate square footage of sign space per lot shall not exceed the sum of four (4) square feet per front foot of building.

b. No sign shall exceed two hundred fifty (250) square feet, except area identification signs, which shall not exceed three hundred (300) square feet.

4. Height: No sign shall be more than twenty five feet (25') above grade.

E. Industrial (I) Districts:

1. Type: Area identification, ball field advertising, business identification, scoreboard advertising, temporary, any sign exempted in section 12-15-4.

2. Style: Combination, flashing, freestanding, illuminated, wall.

3. Size:

a. The aggregate square footage of sign space per lot shall not exceed the sum of four (4) square feet per front foot of building.

b. No sign shall exceed three hundred (300) square feet.

4. Height: No sign shall be more than twenty-five feet (25') above grade.

12-15-9: **Signs Allowed By Conditional Use Permit**:

A. Permitted Signs: The following signs shall be allowed by conditional use permit:

1. Marquees of any type, with or without signs.

2. Signs on benches (not in city parks), newsstands, cabstand signs, bus stop shelters and similar places.

3. Real estate signs over thirty-two (32) square feet per lot frontage and exceeding other sign area limits in business and industrial areas.

4. Institutional signs in residential districts with an aggregate square footage exceeding thirty-two (32) square feet and/or more than one sign per lot frontage, provided:

a. The sign is located ten feet (10') from any property line.

b. The aggregate square footage of sign space shall not exceed one hundred (100) square feet.

c. The sign shall be of the following styles: combination, freestanding, or wall.

d. The sign shall be located at least one hundred thirty feet (130') from any residential structure.

12-15-10: **Temporary and Promotional Signs**: The following signs are permitted, subject to the provisions of this chapter:

A. Temporary Signs: Temporary signs shall be permitted in any district in any yard area except, that:

1. Such sign shall not be within ten feet (10') of any street right-of- way or within five feet (5') of any other lot line.

2. There shall be no more than one (1) such sign per business.

3. The total area of such signs shall not exceed thirty-two (32) square feet. Non-institutional signs in residential districts shall be limited in size as outlined in section 12-16-8-A-6 of this code.

4. A maximum of 60 days of temporary signage is permitted per business per year. (Amended 4/21/11, Ord. 406)

B. Promotional Signs: The City Administrator or designee may approve signs or other devices that do not comply with the standards of this title when they are found to be in conformance with public health, safety, and welfare. Such signs or devices may be used to attract attention, special promotional events (grand openings, carnivals, craft shows, flea markets and other similar events). Such events shall not exceed ten (10) calendar days per year. Examples of the signage and devices that may be approved in this manner are spotlights, skytrackers, balloons, and similar devices. Such signage shall not be counted against the permitted 60 days of temporary signage. (Amended Ord. 8, 10-21-1970; amd. 2003 Code)

C. Temporary Real Estate Signs- The City Administrator or designee may approve temporary, off-site real estate signs.

12-15-11: **Inspections**: Upon proper presentation of credentials, the Building Official or his duly authorized representatives may enter at reasonable times any building, land or structure in the city to inspect or re-inspect any signs. (Amended Ord. 8, 10-21-1970)

CHAPTER 16

REQUIREMENTS FOR SPECIFIC INTERIM USE PERMITS

SECTIONS:

12-16-1: Land Reclamation
12-16-2: Mining
12-16-3: Highway Construction Materials (Temporary Processing and Storage

12-16-1: **Land Reclamation**: Land reclamation shall be permitted only by Interim Use Permits in all districts. The permit shall include, as a condition thereof, a finished grade plan which will not adversely affect the adjacent land, and as conditions thereof shall:

A. Regulate the type of fill permitted;

B. Include a program for rodent control;

C. Include a plan for fire control;

D. Provide for general maintenance of the site;

E. Provide planned controls of vehicular ingress and egress; and

F. Provide for control of material disbursed from wind or hauling of material to or from the site.

12-16-2: **MINING:** In all districts, the conduct of mining shall be permitted only upon issuance of a Interim Use Permit. Such permit shall include, as a condition thereof:

A. A plan for finished grade which will not adversely affect the surrounding land or the development of the site on which the mining is being conducted; and

B. The route of trucks moving to and from the site.

12-16-3: **HIGHWAY CONSTRUCTION MATERIALS (TEMPORARY PROCESSING AND STORAGE:**

A. Site Plan Requirements: The temporary processing and storage of sand, gravel, or other materials shall be permitted only by Interim Use Permit. Such Interim Use Permit shall include a site plan showing:

1. Where the processing is to be done;

2. The location of the plant;

3. Disposal of water;

4. Route of trucks moving to and from the site in removing processed material from the site.

A. Term Of Permit: Such permit shall be granted for a specified period.