

***CITY OF WILLMAR***  
***ZONING ORDINANCE***

***1994***

ORDINANCE NO. 1060

AN ORDINANCE (KNOWN AS THE WILLMAR ZONING ORDINANCE) REGULATING THE USE AND DEVELOPMENT OF PROPERTY WITHIN THE CITY OF WILLMAR; AND REPEALING ORDINANCE NO. 785 AND ALL AMENDMENTS THERETO

The City of Willmar hereby ordains:

SECTION 1. WILLMAR ZONING ORDINANCE.

The City of Willmar does hereby adopt regulations for the use and development of property within the City as set forth in an Ordinance, the full text of which is on file in the Office of the City Clerk.

SECTION 2. COPIES AVAILABLE.

Copies of the full text of this Ordinance are available without charge at the Office of the City Clerk, to any citizen of the City of Willmar.

SECTION 3. EFFECTIVE DATE.

This Ordinance becomes effective from and after its adoption and second publication.

This Ordinance introduced by Councilman: Kelly .  
This Ordinance introduced on: September 7, 1994 .  
This Ordinance published on: September 13, 1994 .  
This Ordinance given a hearing on: September 21, 1994 .  
This Ordinance adopted on: September 21, 1994 .  
This Ordinance published on: September 27, 1994 .

# CITY OF WILLMAR ZONING ORDINANCE

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**SECTION 1: TITLE AND APPLICATION**

- A. **TITLE.** This Ordinance shall be known as the "Willmar Zoning Ordinance," except as referred to herein, where it shall be known as "this Ordinance."
- B. **INTENT AND PURPOSE.** The intent and purpose of this Ordinance is to:
1. Protect and promote the general welfare of the people who are citizens of, reside in, or who transact business or own property in the City.
  2. Promote the orderly and compatible development of residential, business, industrial, recreational, and public areas.
  3. Provide adequate light, air, and convenience of access to property.
  4. Limit congestion in the public rights-of-way.
  5. Promote development coinciding with the availability of necessary public services and utilities.
  6. Divide the City into zones/districts; regulate the location, construction, reconstruction, alteration, and use of land, structures, or improvements within the various zones/districts.
  7. Preserve the value of land and buildings throughout the City.
  8. Provide for the gradual elimination and regulation of those uses of land, buildings, structures, and improvements which do not conform to the standards of the zones/districts in which they are located, and which may adversely affect the development and the value of property in such zones/districts.
  9. Provide for the wise use and conservation of natural resources.
  10. Provide for the enforcement of this Ordinance, define the duties of the administrative officers and responsible parties, and provide penalties for the violation of the provisions herein contained.

- C. RELATION TO COMPREHENSIVE LAND USE PLAN. It is the policy of the City of Willmar that the enforcement, amendment, and administration of this Ordinance be accomplished with due consideration of the goals and policies contained in the Comprehensive Land Use Plan as developed and amended from time to time by the Planning Commission and City Council.
- D. STANDARDS.
1. Where the conditions imposed by any provisions of this Ordinance are either more or less restrictive than comparable conditions imposed by other ordinance, rule, or regulation of the City, the ordinance, rule, or regulation which imposes the more restrictive condition, standard, or requirement shall prevail.
  2. In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and welfare.
  3. No structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used for any purpose or in any manner which is not in conformity with the provisions of this Ordinance.
  4. Except as herein provided, no building, structure, or premises shall hereafter be used or occupied and no building permit shall be granted that does not conform to the requirements of this Ordinance.
- E. ZONING MAP. The Zoning Map, as amended from time to time as herein provided, shall be and comprise a part of this Ordinance.
1. Annexed Territory. Annexed territory shall be in the Agriculture District unless otherwise stipulated in the annexation ordinance/resolution or Municipal Board annexation order.
  2. Zoning District Boundaries. Zoning district boundary lines of this Ordinance follow lot lines, center lines of roads and streets, railroad right-of-way lines, the center of water courses, or corporate limit lines, all as they exist upon the effective date of this Ordinance. Appeals and questions of doubt concerning the exact location of a zoning district boundary line shall be heard by the Board of Zoning Appeals. When any street, alley, or other public right-of-way is vacated by official action of the City, the zoning district abutting the center line of said alley or other public right-of-way shall not be affected by such proceeding.

- F. AUTHORITY. This Ordinance is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, Sections 462.351 to 462.365.
- G. SEPARABILITY. It is hereby declared to be the intention of the City that the several provisions of this Ordinance are separable in accordance with the following:
1. If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgement shall not affect any other provisions of this Ordinance not specifically included in said judgement.
  2. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building, or other structure, such judgement shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgement.
- H. VIOLATIONS AND PENALTIES. Any person who violates any of the provisions of this Ordinance shall, upon conviction thereof, be guilty of a misdemeanor and shall be punished as provided for in the laws of the State of Minnesota. Each day that a violation is permitted to exist shall constitute a separate offense.
- I. OTHER REMEDIES. For the purpose of enforcing the provisions of this Ordinance, or to prevent violations thereof, the City shall have available to it all of the lawful remedies and procedures provided by Statute or other law, including but not limited to obtaining from the Court having jurisdiction thereof restraining orders, mandatory injunctions, or other appropriate forms of relief.

## SECTION 2: RULES AND DEFINITIONS

- A. RULES. The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:
1. The singular number includes the plural, and plural the singular.
  2. The present tense includes the past and the future tenses, and the future the present.
  3. The word "shall" is mandatory, while the word "may" is permissive.
  4. The masculine gender includes the feminine and neuter.
- B. DEFINITIONS. The following is a list of commonly used terms in this Ordinance and their definitions. Definitions pertaining to signs are found in Section 5 of this Ordinance.
1. *Accessory building or use*. A subordinate building, structure, or use which is located on the same lot on which the main building or use is situated, and which is reasonable, necessary, and incidental to the conduct of the primary use of such building or main use.
  2. *Adult entertainment uses*. A use which involves any of the following activities or which utilizes any of the following business procedures or practices; either:
    - a. Any use or business which is conducted exclusively for the patronage of adults and as to which minors are specifically excluded from patronage thereat either by law or by the operators of such business; or
    - b. Any other use or business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing, or relating to specified sexual activities or specified anatomical areas.

Specifically included in the term, but without limitation, are adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, and adult body painting studios.

3. *Agricultural uses.* Those uses commonly associated with the growing of produce on farms. These include: field crop farming; pasture for hay; fruit growing; tree, plant, shrub, or flower nursery without building; truck gardening; roadside stand for sale in-season of products grown on premises; and livestock raising and feeding, but not including fur farms, commercial animal feed lots, or kennels. These uses are subject to Minnesota Pollution Control Standards.
4. *Airport.* The Willmar Municipal Airport.
5. *Airport Zoning District.* An overlay zoning district indicating the area subject to regulation by the Airport Zoning Board of the City of Willmar.
6. *Annexation.* The lawful process by which territory outside the City limits is attached to, and becomes a part of, the City of Willmar.
7. *Apartment.* A room or suite of rooms which is designed for, intended for, or occupied as a residence by a single family or an individual, and is equipped with cooking facilities.
8. *Basement.* A portion of a building between floor and ceiling, located partly above and partly below grade, and having one-half or more of its floor to ceiling height below the average grade of the adjoining ground. Underground or earth houses that meet all other requirements of the Building Code shall not be considered basements.
9. *Bed and breakfast.* Lodging establishments providing short term guest accommodations within the primary residence of the applicant. Such facility must be licensed by the Minnesota Department of Health or its designee. The commercial serving of food shall be limited to breakfasts served to overnight guests only. In addition to meeting the parking requirement for a residence, one (1) additional hard-surfaced, off-street parking space per guest room shall be provided and be adequately screened from adjacent residences. Conditional uses issued for bed and breakfast establishments shall be issued specifically to the applicant and are not transferable with the property. Initial approval shall be provisional, subject to a one-year review. At such time, the conditional use may be reissued, reissued subject to additional conditions, or not issued if evidence is presented that such use presents a negative impact on the surrounding neighborhood.

10. *Boarding house.* A building other than a hotel where, for compensation by prearrangement for definite periods, lodging or lodging and meals are provided to three or more persons, not of the principal family therein, but not including a building providing these services for more than ten persons.
11. *Building area.* The portion of a lot remaining after required yards (setbacks) have been provided.
12. *Building.* Any structure having a roof supported by columns or walls used or intended for enclosing or sheltering any use, person, or property.
13. *Building Code.* The Building Code currently in effect at any time in the City.
14. *Building height.* The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.
15. *Building Inspector.* The Building Inspector of the City of Willmar.
16. *Building permit.* A permit issued by an authorized official of the City to an agent or an owner of land granting lawful authority to build, repair, alter, or reconstruct buildings, structures, or improvements.
17. *Building setback.* The minimum horizontal distance between the building and the lot line.
18. *Building setback line.* A line within a lot parallel with a lot line or a high water mark or line identifying the setback area where buildings are prohibited.
19. *Business.* Any occupation, employment, or enterprise wherein merchandise is exhibited or sold, or where services are offered or performed for compensation.
20. *Carport.* A vehicle shelter having one or more sides open.
21. *Certificate of Compliance.* A certificate issued by the Zoning Administrator certifying that a parcel of land or lot is occupied and used in full compliance with the provisions of this Ordinance.

22. *Certificate of Occupancy.* A certificate issued by the Zoning Administrator or the Building Inspector certifying that a building is acceptable for occupancy and is in compliance with the Building Code and the Zoning Ordinance.
23. *Church.* A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.
24. *City.* The City of Willmar, Minnesota.
25. *City Attorney.* The City Attorney of the City of Willmar.
26. *City Engineer.* The City Engineer of the City of Willmar.
27. *City sewer.* A pipe or system of pipes connected with the municipal sewage collection system owned and operated by the City.
28. *City water.* The water distribution system of the City, owned and operated by Willmar Municipal Utilities.
29. *Cluster development.* A pattern of subdivision development which places detached houses, duplexes, or townhouse units into compact groupings and may provide a network of commonly owned or dedicated open spaces.
30. *Club or lodge.* A non-profit association of persons who are bona fide members paying dues, use of premises being restricted to members and their guests. It shall be permissible to serve food and meals on such premises providing adequate dining room space and kitchen facilities are available. Serving of alcoholic beverages to members and their guests shall be allowed, providing such serving is secondary and incidental to the operation of the dining room for the purpose of serving food and meals, and providing further that such serving of alcoholic beverages is in compliance with the applicable Federal, State, and Municipal laws.
31. *Commission.* The Planning Commission of the City of Willmar.
32. *Comprehensive Land Use Plan.* The land use policy plan and the summary plan map, as amended, adopted by the City Council in December 1989.

33. *Conditional use.* An activity or use of the land which, because of special problems of control intrinsic in the use, requires reasonable but special, unusual, or extraordinary limitations for the protection of the public welfare and the integrity of the Comprehensive Land Use Plan.
34. *Conditional use permit.* A permit issued by the Planning Commission, in accordance with procedures specified in this Ordinance, as a flexibility device to enable the City to assign dimensions or conditions to a proposed use.
35. *Condominium.* A multiple dwelling containing individually owned dwelling units and jointly owned and shared areas and facilities, which dwelling is subject to applicable provisions of Minnesota State Statutes.
36. *Council.* The City Council of the City of Willmar.
37. *Day care (home).* A use, restricted to a family dwelling, in which supervision and training of children of school or pre-school age is provided during part of the day (less than twenty-four (24) hours) with no overnight accommodations, and children are delivered and removed daily. The number of children to be cared for shall not exceed twelve, not including the family's own children. All required licenses shall be obtained.
38. *Day care center.* A commercial service provided to the public in which children of school or pre-school age are cared for during established business hours. Overnight accommodations may be provided, and children are delivered and removed daily. All required licenses shall be obtained.
39. *Drive-in.* Any use where products or services, or both, are provided to the customer under conditions where the customer does not have to leave the vehicle, or where service to the vehicle occupants is offered regardless of whether service is also provided within a building.
40. *Driveway access.* Openings or access to a public street or highway from private property.
41. *Duplex.* A residential building containing two (2) complete, independent dwelling units.

42. *Dwelling.* A building occupied or intended to be occupied exclusively for human habitation; does not include rooms in hotels, motels, nursing homes, boarding houses, bed and breakfast establishments, trailers, tents, cabins, cellars, or trailer coaches.
43. *Dwelling, multiple.* A building designed with three or more dwelling units exclusively for occupancy by three or more families living independently of each other. Hallways, entrances, and exits may or may not be shared.
44. *Dwelling, single family.* A detached dwelling unit designed exclusively for occupancy by one (1) family.
45. *Dwelling, single family attached (twin home).* Two (2) single family dwellings with a zero lot line on one side and sharing a common wall, with the common wall and all jointly owned or jointly utilized facilities including, but not limited to, decks, utility lines, and driveways being governed under a declaration of covenants and restrictions.
46. *Dwelling, two (2) family.* A dwelling designed with two (2) dwelling units, exclusively for occupancy by two (2) families living independently of each other.
47. *Dwelling unit.* A residential accommodation, including complete kitchen and bathroom facilities (permanently installed), which is arranged, designed, used, or intended for use exclusively as living quarters for one (1) family.
48. *Essential services.* Gas, electrical, steam, or water transmission or distribution systems; and collection, communication, supply, or disposal systems operated by a public/municipal utility or other governmental agency.
49. *Exterior storage.* The storage of goods, vehicles, equipment, manufactured products, refuse, or any kind of material in the open, not fully enclosed by a building, or not fully screened as defined in Section 3.0.3.
50. *Family.* One (1) person, or two (2) or more persons each related to the other by blood, marriage, adoption, or foster care living together as a single housekeeping unit; or a group of not more than five (5) persons not so related maintaining a common household and using common cooking and kitchen facilities.
51. *Fence.* A partition, structure, wall, or gate erected as a dividing marker, visual or physical barrier, or enclosure.

52. *Final plat.* A map of an approved subdivision or described property prepared in conformity with the Subdivision Ordinance and the laws of the State of Minnesota, acceptable for recording with the County Recorder.
53. *Flood plain.* An area officially designated by lawful authority as an area which might be subject to flooding and as to which special regulations are imposed.
54. *Floor area, gross.* The sum of the gross area of the various floors of a building, in which the basement floor shall not be included unless such area constitutes a story.
55. *Front lot line.* That boundary of a lot which abuts on a public street or a private road; corner lots shall be deemed to have frontage on both streets.
56. *Front yard.* A yard extending across the front of the lot between the inner side or rear yard lines (on corner lots), and lying between the front line of the lot and the nearest building line.
57. *Frontage.* That boundary of a lot which abuts a public street or a private road.
58. *Functional plan.* The capacity of a building or improvement to be used or enjoyed, considered individually and in relation to the surrounding area.
59. *Garage (private).* An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or families residing upon the premises. Such space can be rented to non-residents of the property for private passenger vehicles and/or non-commercial vehicles, trailers, or equipment, provided that not more than one-half of the space is rented to persons not resident on the premises, except that all the space in a garage of one or two car capacity may be so rented.
60. *Garage (public).* A building or portion of a building, except any herein defined as a private garage, used for the storage or repair 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.

61. *Grade (adjacent ground elevation)*. The lowest point of elevation of the finished surface of the ground, paving, or sidewalk within the area between the building and the property line, or when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.
62. *Home occupation*. Work or occupation engaged in by the occupants of a dwelling at or from the dwelling. This activity shall be clearly incidental and secondary to the residential use of the premises. Such home occupation shall not require internal or external alterations or involve construction features not customarily found in dwellings.
63. *Hotel*. A building having provision for six (6) or more guests, in which lodging is provided for compensation, and which is open to transient or permanent guests or both. No provision is made for cooking, and ingress and egress to and from all rooms is made through an inside lobby or area supervised by a person in charge.
64. *Interior lot*. A lot other than a corner lot, including a through-lot.
65. *Junk yard*. Land or buildings where waste, or discarded/salvaged materials are bought, sold, stored, exchanged, cleaned, packed, disassembled, or handled, including but not limited to scrap metal, rags, paper, hides, rubber products, glass products, lumber products, and products resulting from the wrecking of automobiles or other vehicles.
66. *Kennel*. Any place where four (4) or more domestic pets over six months of age are kept, boarded, bred, or offered for sale, excluding a veterinary clinic.
67. *Landscaping*. The covering or dressing of a land area so as to cover the soil with grass, shrubs, trees, rock, or berms.
68. *Livestock*. Cattle, hogs, sheep, goats, horses, poultry, and other animals generally associated with the raising and production of meat, dairy products, and breeding stock.
69. *Lot*. A parcel of land described by metes and bounds, registered land survey, or plat.
70. *Lot (of record)*. A lot which was of record or registered as a separate lot or parcel in the Office of the County Recorder prior to July 13, 1982.

71. *Lot area.* The area of a horizontal plane within the lot lines.
72. *Lot depth.* The mean horizontal distance between the front and rear lines of a lot.
73. *Lot line.* Any property line bounding a lot, including the line abutting a street which is also called the right-of-way line.
74. *Lot width.* The horizontal distance between the side lot lines of a lot measured at the front and rear setback lines, and if they are different, the average of them.
75. *Manufactured home.* A non-mobile detached residential dwelling unit that is fabricated at a central factory and then transported to a building site where final installations are made in accordance with Building Code standards, permanently affixing the unit to the site. Manufactured home siting is regulated by Section 3.J. of this Ordinance.
76. *Mobile home.* A detached residential dwelling unit designed for transportation on streets or highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and the like. A travel trailer is not to be considered a mobile home. Mobile home siting is regulated by Section 3.J. of this Ordinance.
77. *Mobile home park.* A tract of land designed, maintained, and intended for the placement of mobile homes.
78. *Motel.* A building or group of buildings, also called motor hotels, used primarily as a temporary residence for motorists and travelers.
79. *Municipality.* The City of Willmar.
80. *Nonconforming structure or use.* Any structure or use which on the effective date of this Ordinance does not, even though lawfully established, conform to the applicable provisions if the structure or use was to be erected under the terms and standards of this Ordinance.
81. *Official zoning map.* The official zoning map of the City of Willmar.

82. *Open sales lot.* Lands devoted to the display of goods for sale, rent, lease, or trade, where goods are not enclosed within a building.
83. *Parking space.* A permanently maintained area, either within or outside of a building, of sufficient size to store one vehicle.
84. *Permitted use.* A use which may be lawfully established in a particular zone/district, provided it conforms with all requirements, regulations, and performance standards (if any) of such district.
85. *Person.* An individual, firm, partnership, association, corporation, or organization of any kind.
86. *Planned Unit Development.* A development, often with a mixture of uses and densities, in which the subdivision, zoning, or other development controls are applied to the project as a whole rather than to individual lots.
87. *Planning Commission.* The Planning Commission of the City of Willmar.
88. *Principal structure/use.* A building, structure, or use which determines the predominant use, as contrasted to an accessory, incidental, or subordinate use.
89. *Private sewer system.* A sewage disposal system on private property, and not connected to the municipal sewer system.
90. *Rear lot line.* That boundary of a lot which is opposite to the front lot line, and in the case of a corner lot, may be either of the two possible other lines depending on which way the principal structure may be faced or fronted.
91. *Rear yard.* A yard extending across the rear of the lot between the inner side yard lines, and lying between the rear line of the lot and the nearest building line.
92. *Recorder.* The County Recorder of Kandiyohi County.
93. *Recreational vehicle.* Any vehicle, such as a van camper, tent camping trailer, self-contained travel trailer, pickup camper, camping bus, or self-contained, self-propelled truck chassis mounted vehicle providing living accommodations, designed and used for temporary recreational or living quarters.

94. *Recreational vehicle park.* A park, court, or campsite designed, maintained, or intended for the purpose of locating and providing accommodations for recreational vehicles.
95. *Recycling center.* A facility that is not a junkyard, at which recoverable resources such as newspapers, cardboard, plastics, glassware, and metal cans are collected, separated, and processed prior to shipment to others who will use those materials to manufacture new products. Processing is defined as the preparation of material for efficient shipment by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, and cleaning. The facility must meet Minnesota Pollution Control Agency requirements for recycling facilities. There shall be no shredding, compacting, baling, or other processing of ferrous metals other than food and beverage containers. Under all circumstances, precautions shall be taken to ensure the containment of recyclable resources while at the center.
96. *Required setback.* A yard area which shall not, because of restrictions contained in this Ordinance, be built on or be covered by structures.
97. *Residential facility.* Any facility, public or private, which for gain or otherwise regularly provides one or more persons with a 24-hour per day substitute for care, food, lodging, training, education, supervision, habilitation, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the person's own home.
98. *Restaurant.* An establishment which serves food to be consumed primarily while seated at tables, counters, or booths within the building.
99. *Retail business uses.* The operation of a business selling goods over a counter or from a store, or selling personal services.
100. *Right-of-way (r/w).* That portion of a dedicated street, avenue, or other public way lying between its outer boundaries, and on which public streets, boulevards, tree plantings, and sidewalks may be located.
101. *Roadside sales stand.* A structure used only for the display and sale of products, and used only on a seasonal basis.

102. *Screening.* A fence, structure, plantings, or earth arrangement designed and used singularly or in combinations to ~~block direct~~ visual access.  
*substantially reduce*
103. *Seasonal business.* Business activities for which the demand or the supply is seasonal.
104. *Setback.* The minimum horizontal distance between a structure and the lot line of the lot on which it is located, which distance is to be measured perpendicularly from the lot line or property line to the nearest portion of the structure.
105. *Shopping center.* Any grouping of eight or more retail uses in one or more principal structures, under single ownership, with adequate off-street parking and a minimum of fifty thousand (50,000) square feet in building area.
106. *Side lot line.* Any boundary of a lot which is not a front lot line or a rear lot line.
107. *Side yard.* A yard between the side line of the lot and the nearest building line.
108. *Street.* A public right-of-way which includes a street roadway, sidewalks, boulevards, and tree planting areas.
109. *Street roadway.* That part of a street or avenue which is designed and used for motor vehicle traffic and parking.
110. *Structure.* Anything which is built, constructed, or erected, an edifice or building of any kind; or any piece of work artificially built up and/or composed of parts joined together in some definite manner whether temporary or permanent in character.
111. *Structural alteration.* Any change, other than incidental repairs, which would affect the supporting members of a building or other structure, such as bearing walls, columns, beams, girders, or foundations.
112. *Subdivision.* A described tract of land which is to be, or has been, divided or subdivided into two or more lots or parcels for the purpose of transfer of ownership, building development, or tax assessment purposes.
113. *Subdivision Ordinance.* The City of Willmar Subdivision Ordinance (regulations for the subdivision and platting of lands within the City of Willmar).

114. *Supper club.* A building with facilities for the preparation and serving of meals, and where intoxicating liquors may be sold on-sale, and live entertainment and dancing may be permitted.
115. *Townhouse.* A residential building containing two (2) or more dwelling units of not more than two (2) stories each with at least one (1) common wall, each unit so oriented as to have all exterior exits separate.
116. *Transition area.* An area which is located in the vicinity of the boundary area between two districts permitting different kinds of uses.
117. *Use.* The purpose or activity for which the land or building thereon is designated, arranged, or intended, or for which it is occupied, utilized, or maintained, and shall include the performance of such activity as defined by the standards of this Ordinance or by conditions imposed on particular uses.
118. *Useable open space.* A required ground area or terrace area on a lot which is graded, developed, landscaped, and equipped and intended and maintained for either active or passive recreation or both, available and accessible to and useable by only persons occupying a dwelling unit or rooming unit on the lot and their guests. Such areas shall be grassed and landscaped or covered only for a recreational purpose. Roofs, driveways, and parking areas shall not constitute useable open space.
119. *Variance.* The waiving, by Board of Zoning Appeals action, of the literal provisions of the Zoning Ordinance in instances where their strict enforcement would cause hardship because of physical circumstances reasonably unique to the individual property under consideration.
120. *Warehousing.* The storage of materials or equipment within an enclosed building as a principal use.
121. *Yard.* An open space on the lot which is unoccupied and unobstructed from its lowest level to the sky. A yard extends along a lot line at right angles to such lot line to a depth or width specified in the yard regulations for the zoning district in which such lot is located.
122. *Zoning Administrator.* The Zoning Administrator of the City of Willmar.
123. *Zoning District.* An area or areas within the City in which the regulations and requirements of this Ordinance are uniform.

124. *Zoning Map (official)*. The Zoning Map of the City of Willmar, adopted as part of this Ordinance.
125. *Zoning Ordinance*. The Zoning Ordinance of the City of Willmar, also referred to as "this Ordinance."

SECTION 3: GENERAL PROVISIONS

A. SEWER AND WATER.

1. General. City sanitary sewer and water facilities shall be utilized whenever such facilities are available or can be made available by extensions which prove to be both feasible, economical, and in the best interests of the City. Where public facilities are unavailable, a proper system of sewage treatment, disposal, and water supply conforming to the standards and requirements of the City Engineer, Minnesota Pollution Control Agency, and the Minnesota State Department of Health shall be employed.
2. Compliance. Site plans shall show the proposed sewage disposal system and well location. A Certificate of Compliance shall not be granted until on-site sewage treatment and disposal facilities are installed and functioning properly as approved by the Zoning Administrator. Residential lot areas shall be a minimum of one acre when private sewer or water systems are utilized.

B. LOTS.

1. Buildings. Except for R-1 and R-2 Districts, more than one (1) principal building may be permitted on a single lot if area, setback, and density requirements are met.
2. Minimum Size. Every lot created after the effective date of this Ordinance shall meet the lot size requirements of the zoning district in which it is located.
3. Lots of Record. Lots of record in R-1, R-2, and R-3 Districts not meeting district area requirements shall be issued a building permit provided:
  - a. The proposed dwelling structure is single family.
  - b. Lot area and width are at least seventy (70) percent and sixty (60) percent of district requirements for area and width.
  - c. Parking and setback requirements are met.

4. Lakeshore Lots. All lots having frontage on a lake are subject to the provisions of the City of Willmar Shoreland Management Ordinance, as well as the provisions of this Ordinance. The jurisdiction of the Shoreland Management Ordinance may extend to all lands within one-thousand feet of the ordinary high water mark of a public lake.
5. Reduction. No lot shall be reduced in area or dimension so as to make it less than the minimum required by this Ordinance. If the lot size is less than the minimum required, it shall not be further reduced.

C. YARDS.

1. Reduction. No yard area shall be reduced in area or dimension so as to make it less than the minimum required by this Ordinance. If the yard is less than the minimum required, it shall not be further reduced.
2. Transitional Yards. Transitional yards shall be provided between either business/industrial properties or uses and residential properties or uses by the business/industrial property or use. Side and rear yard landscaping and screening shall also be required of the business/industrial property or use. Side and rear yard screening as required by this Ordinance shall be either a fence up to seven (7) feet in height and at least seventy-five (75) percent opaque, or a dense planting of sufficient width and density to provide an effective screen. Such screening shall be kept in good repair, painted, neatly trimmed, or otherwise appropriately maintained.
3. Encroachments. The following are permitted encroachments into the minimum required areas for front or side yards:
  - a. Roof eaves-three (3) feet, and decks-five(5) feet.
  - b. Gutters, awnings, open terraces, steps, chimneys, flagpoles, landscaping, open fire escapes, fences, exposed wheel chair ramps, air conditioning equipment, and gas station pump canopies (supports to be set back a minimum of ten (10) feet from the front and side lot lines).

- c. No evergreen type of tree, solid fence, berm, shrub, dense planting, or hedge (over two (2) feet in height above curb elevation) shall be placed or allowed to grow that might block or impede vision for street traffic. The area where such encroachment is prohibited is the triangular area in the yards adjacent to the streets (or alleys) measured fifty (50) feet from each curb or edge of street and then diagonally connecting those two points.

D. HEIGHT.

- 1. Limitations. If the height of any structure exceeds the following limits, it shall require a conditional use permit:

Residential Districts (R-1, R-2, R-3)	2 stories or 35 feet
Agricultural & Multiple Family Districts (A, R-4, R-5)	3 stories or 45 feet
Business & Industrial Districts (LB, GB, CB, SC, I-1, I-2)	4 stories or 55 feet

- 2. Exempt. Height limitations shall not apply to belfries, church spires, cupolas and domes, monuments, public utility facilities, transmission towers of commercial and private radio broadcasting stations, television antennae, roof top structures (such as mechanical equipment, elevator shaft and equipment enclosures), silos, barns, chimneys and smokestacks, and flagpoles.
- 3. Airport. In all cases, no structure shall violate the limits and provisions of the Airport Master Plan or Airport Zoning Map of the City of Willmar.

E. ACCESSORY BUILDINGS/STRUCTURES.

- 1. Permit. No accessory building/structure shall be constructed on a lot prior to the time of construction of the principal building. *120 sq. ft. or more permit required*
- 2. Setbacks. Accessory buildings/structures in the rear yard of a residential lot shall be located no closer than five (5) feet from the side or rear lot line.
- 3. Height. No accessory building in a residential district shall exceed two (2) stories.

4. Location. No detached garages or other accessory building/structure shall be located nearer the front lot line than the principal building in residential zones, except where the principal building is at least one-hundred (100) feet from the front line and meets all other setback regulations.
5. Number. No residential lot shall contain more than two (2) detached accessory buildings unless the lot exceeds one (1) acre in size. Detached accessory buildings shall not be used for commercial purposes except for home occupations.
6. Garages. Only one (1) detached garage with a maximum gross area of one thousand (1,000) square feet shall be permitted in residential districts. No door or other access opening shall exceed ten (10) feet in height. The exterior color, design, and materials shall be similar to the principal structure. If not constructed at time of the principal structure, the future garage plans shall be indicated on the general site plan.
7. Non-residential. "Accessory" buildings in the Business and Industrial districts may be located any place to the rear or side of the principal building, subject to a rear and side yard lot line setback of ten (10) feet.

F. DWELLING UNITS.

1. House Moves. A house may be moved into the City or from one tract to another within the City providing the structure shall meet all building, plumbing, heating, and electrical codes of the City. This may require completely new systems for the building. The owner may also be required to post a Performance Bond or other security as may be determined by the Planning Commission. The Bond or security would insure that all code requirements would be met and that necessary exterior construction/work would be completed as proposed. Such relocated houses shall require plan approval by the Planning Commission before a building permit is issued. The Zoning Administrator shall give or cause to be given written notice to all abutting property owners of the date, time, and place of the Planning Commission meeting at which plans for relocation of the house will be considered. Such notice shall be mailed at least ten (10) days prior to the meeting date to the persons shown as owners of the abutting real estate by the records in the office of the City of Willmar Assessor.

2. Prohibited. No garage, accessory building, recreational vehicle, tent, trailer, or basement of an unfinished dwelling may be used as a dwelling unit. The basement of a house under construction may be used by the owner as a dwelling unit for his family during the construction of the house for a period not to exceed two (2) years.

3. Business Districts. Residences or apartments shall be permitted in all Business districts, provided the necessary fire separation between commercial and residential occupancies is maintained, and all Building and Fire Code requirements are met. Parking shall be provided in accordance with the Ordinance (not required in the Central Business District), and setbacks and areas shall be as required in the Business districts and not as required in the Residential districts.

Existing homes in Business or Industrial districts shall be given the same consideration as residential uses in transitional zone situations.

4. Industrial Districts. No new residences of any kind shall be permitted in the Industrial districts.

#### G. HOME OCCUPATIONS.

1. Permitted. A home occupation shall be permitted by conditional use only if it meets the following standards:

- a. Only members of the family are employed or work in the home occupation.
- b. The home occupation takes place in either part of the house or the garage.
- c. Adequate and convenient off-street parking is available.
- d. No outside storage of items to be sold, manufactured, or repaired shall be permitted.

2. Prohibited. A home occupation shall not be permitted where the following condition or conditions are present:

- a. Persons other than members of the family are employed.
- b. Retail sales of products normally sold in commercial areas is the sole activity, with the products being made or manufactured elsewhere.
- c. Adequate off-street parking is not provided.

- d. Outside storage, display, or work areas are used for the home occupation.
3. Examples. Examples of typical home occupations include: beauty operator, small appliance repair, sharpening service, insurance agent, music instructor, etc.

H. RECREATIONAL VEHICLES.

- 1. Permitted. Recreational vehicles, including mobile integral truck mounted units, pull-type trailers, buses, or modified trucks are permitted:
  - a. As recreational equipment in any district.
  - b. If stored in fenced or screened areas in any Business or Industrial districts.
  - c. If stored in the rear yard in Residential districts (one (1) unit per yard).
  - d. In any commercial vehicle storage area.
  - e. In a recreational vehicle park.
  - f. As a temporary sleeping or living unit on a construction site during construction, provided sewer and water facilities are available as approved by the City Engineer.
- 2. Prohibited. Recreational vehicles are prohibited as permanent living quarters in any district.

I. RECREATIONAL VEHICLE PARKS AND CAMPGROUNDS.

- 1. Application. The application for a conditional use permit for the development of recreational vehicle parks and campgrounds shall indicate the name and address of the owner or developer, the legal description and post office address of the property, and a general description of the construction schedule; it shall be accompanied by plans which show the following:
  - a. Location and size of the proposed recreational vehicle park or campground.
  - b. Location and size of all vehicle and trailer lots, camping areas, storage areas, recreation areas, utility buildings, parking spaces and sites, and all setback dimensions.
  - c. Landscaping plans and specifications.

- d. Grading plan with two (2) foot contour intervals.
  - e. Plans for streets, sanitary sewage disposal, solid waste disposal, surface drainage, water systems, electrical service, gas service, and utility buildings.
  - f. Plans for a street lighting system.
  - g. Location and width of all streets abutting the trailer park.
  - h. Such other information as may be required or requested by the Zoning Administrator or Planning Commission.
2. Designation of Uses. The plans submitted shall designate specific areas for primitive tent camping, recreational vehicles, trailers, and all other uses.
  3. Design Standards. The following design standards shall govern the design and development of recreational vehicle parks and campgrounds.
    - a. All utilities, such as sewer, water, fuel, electricity, and telephone shall be underground. Plans for the disposal of surface storm water shall be approved by the City Engineer.
    - b. All land area shall be adequately drained and properly maintained free of dust, refuse, garbage, rubbish, or debris. The proposed method of garbage, waste, and trash disposal must be approved by the Zoning Administrator.
    - c. A forty (40) foot wide boundary landscaped area shall be provided around each park. No trailer or building shall be located within this forty (40) foot exterior boundary area.
    - d. Each park shall contain at least six (6) fully developed recreational vehicle lots.
    - e. Facilities for potable water, the collection/treatment/disposal of sewage, and bathing shall be in accordance with the regulations of Kandiyohi County and Minnesota Department of Health Rules. Such facilities must be approved by the City Engineer prior to occupancy.

- f. Each park shall have a building for use by the operator as an office, and such building/office shall be clearly identified. A map of the park shall be displayed at the office.
- g. Each campsite shall contain at least four thousand (4000) square feet, and shall have a minimum width of forty (40) feet. Recreational vehicles/camping trailers shall be set back a minimum of twenty (20) feet from the access road.
- h. Streets and parking areas for cars at each campsite and the parking area for recreational vehicles/camping trailers shall be paved or of a dust-free material approved by the City Engineer. Streets shall be at least eighteen (18) feet wide for one-way traffic and twenty-four (24) feet wide for two-way traffic. Streets shall be constructed to the minimum specifications determined by the City Engineer.
- i. Recreational vehicle campgrounds shall conform to all other applicable local, state, and federal laws, ordinances, rules, and regulations.

J. MOBILE (MANUFACTURED) HOMES.

- 1. Permitted. Mobile homes are permitted uses only in the following areas:
  - a. Agricultural districts and R-3 & R-4 districts. If sited in an Agricultural, R-3, or R-4 Zoning District (except in an approved mobile home park), the Design Standards in Section 3.J.3 must be met.
  - b. Mobile home parks in R-4 Zoning Districts. (See Sections 3.J.3.e. and 3.K.)
  - c. Temporary offices, storage, or living quarters during construction of permanent facilities.
- 2. Conditions. Use of a mobile home for a temporary facility (under 1.c., above) requires connection to City sewer and watermains or an alternative system approved by the City Engineer.

3. Manufactured Home Design Standards (for homes not erected in mobile home parks).
  - a. Foundations. Required. Permanent concrete, block, or treated wood to a depth of forty-two (42) inches below finished grade. Homes to be securely fastened to foundation.
  - b. Basements. Not required. Homes to be securely fastened to basement walls, if selected as the required foundation.
  - c. Roof Line. Minimum of 3/12 pitch (no flat, metal, corrugated, or shed type roofs permitted). Roof overhang to be a minimum of fifteen (15) inches.
  - d. Location. Locate same as conventional home with longest dimension of the home parallel to the street and located within and between the narrowest dimension of the lot.
  - e. Minimum Width. Twenty-four (24) feet overall dimension; Twelve (12) feet overall dimension in mobile home parks.
  - f. Siding. Shall have horizontal lapped edges, no wider than twelve (12) inches. Flat sheet metal siding shall not be permitted. Other conventional housing siding allowed at the discretion of the Zoning Administrator.
  - g. Utilities. Shall be connected to all City utilities (sewer, water, electric power). No exterior above-grade fuel tanks shall be allowed.
  - h. Other Laws. Manufactured homes shall also comply with all state and federal laws and regulations.

K. MOBILE HOME PARKS.

1. Permitted. Mobile Home Parks (MHP) shall be permitted in R-4 Residential Districts subject to the granting of a conditional use permit.
2. Application. The application for a conditional use permit for the development of a manufactured or mobile home park, or addition to an existing park, shall include the name and address of the developer, the legal description and post office address of the property, and a general description of the construction schedule, and shall be accompanied by plans which show the following:

- a. Location and size of the park.
  - b. Location and size of all lots, storage areas, recreation areas, central laundry areas, central refuse disposal, roadways, parking spaces, and all setback dimensions.
  - c. Detailed landscaping plans.
  - d. Location and width of sidewalks, if required by the City Engineer or Planning Commission.
  - e. Plans for sanitary sewage disposal, surface drainage, water systems, electrical service, telephone service, gas service, street lighting, sidewalks, streets, entrances and access to existing streets.
  - f. The method of disposing of garbage and refuse.
  - g. Description of maintenance procedures and grounds supervision.
  - h. Such other information as may be required or requested by the Zoning Administrator or Planning Commission.
3. Design Standards-Mobile Home Parks. The following design standards shall govern the design and development of mobile home parks.
- a. A park shall be capable of providing at least one-hundred (100) fully developed lots. Existing parks are exempt from this provision.
  - b. All homes shall be connected to City sewer and water through a central water supply and sanitary sewer distribution system. All water and sewer systems shall be constructed in accordance with plans and specifications approved by the City Engineer. All water systems shall provide an adequate water supply and number of hydrants for firefighting as per the Uniform Fire Code.
  - c. All streets and lots shall be numbered in accordance with the City standard numbering policy as approved by the Building Inspector. The house or lot numbers for each home shall be clearly marked for ease of visibility from the street or roadway.

- d. All parks shall be required to have one (1) or more recreational areas which shall be easily accessible to all park residents. Recreational areas shall be so located as to be free of traffic hazards and shall, where the topography permits, be centrally located. These recreational areas shall be subject to approval by the Planning Commission. All equipment installed in such an area shall be owned and maintained by the owner or operator at his own expense.
- e. All utilities shall be underground. Plans for the disposal of surface storm water shall be approved by the City Engineer; such water shall be retained on the site, if possible. If a connection is made to an in-place City system, a connection fee or assessment may be charged for this service.
- f. Park exterior boundary lines shall be screened by trees, shrubs, or fences. Such boundary areas shall be at least twenty (20) feet wide. Existing parks are exempt from these provisions.
- g. Any home sites adjacent to a City street shall be subject to the same setbacks and requirements as a standard residential unit for that district.
- h. The area beneath all homes shall be skirted with a material that is generally uniform throughout the mobile home park. Such skirting shall be so constructed that the underside of the home is subject to reasonable inspection.
- i. Each home lot shall be served by a central fuel supply system such as natural gas or a central LP system, or the City's hot water system. No separate private fuel containers, such as fuel oil tanks or LP cylinders, shall be allowed in any park.
- j. Adequate sized, screened areas shall be set aside for storage of boats, boat trailers, hauling trailers, recreational vehicles, and all other equipment tenants may have need to store. Such equipment shall not be stored upon individual home lots nor upon the streets within the park.
- k. Each home lot within a park shall abut on and have access directly to a street. Streets shall be paved with concrete or bituminous, and be of similar construction to other City residential streets. The paved surface with concrete curb and

gutter shall be at least thirty (30) feet in width from curb to curb. Access drives from streets to all parking spaces and home sites shall be paved. Parking on one side only shall be permitted on thirty (30) foot wide streets; parking on both sides would be permitted if the street width is increased to forty (40) feet. All streets shall have curves/turns with adequate radii to accommodate emergency vehicles. Fire lanes shall be clearly indicated. Existing parks are exempt from the curb and gutter requirement. The minimum allowable width for streets within existing parks shall be twenty-two (22) feet.

4. Design Standards-Lots. The following design standards shall govern the design and development of mobile home park lots.
  - a. Each home site shall contain at least six thousand (6000) square feet [4200 for existing parks] of land area for the exclusive use of the occupant and shall be at least fifty (50) feet [35 feet for existing parks] wide.
  - b. Homes shall be placed upon lots so that there shall be at least a twenty (20) foot [fourteen (14) feet for existing parks] clearance between homes, twenty-five (25) feet [eighteen (18) feet for existing parks] between the front of the home and the street curb, and fifteen (15) feet [eleven (11) feet for existing parks] between the rear of the home and the rear lot line. Homes shall be parked no closer than ten (10) feet [seven (7) feet for existing parks] to a side lot line.
  - c. The yards shall be landscaped. Landscaping shall include trees, hedges, grass, fences, windbreaks, and/or similar features. Temporary storage shall not be allowed in the front yard setback area.
  - d. Each home lot shall have paved off-street parking space for at least two (2) automobiles. Each space shall be ten (10) feet by twenty (20) feet minimum.
  - e. The corners of each home lot shall be clearly marked and each site shall be numbered.
5. Implementation. Except where specifically exempted, existing mobile home parks shall comply with the provisions of Section 3.K.

L. PLANNED UNIT DEVELOPMENTS (PUD's).

1. Purpose. The purpose of a Planned Unit Development (PUD) is to allow more creative, suitable, and practical uses of land not possible under individual zoning district regulations. It allows the Planning Commission flexibility in determining development standards, setbacks, and density for PUD's proposed by developers.
2. Permitted. Residential Planned Unit Developments are permitted in all but R-1 Residential Districts, subject to the granting of a conditional use permit. Commercial Planned Unit Developments are permitted in the Limited Business and General Business Districts, subject to the granting of a conditional use permit.
3. Application. An application for a PUD shall be on a conditional use permit application submitted to the Zoning Administrator. Application information shall include:
  - a. Location, description, and size of development area.
  - b. A layout plan of lots, streets, sewer, water, and all other utilities.
  - c. Plans for buildings, accessory buildings and uses, parking areas, garages, drainage, and landscaping.
  - d. Location of open areas, recreation areas, and open space for the complex.
4. Design Standards. The following design standards shall govern the design and development of any PUD:
  - a. Plat. The area shall be platted.
  - b. Streets. Both public and private streets in the PUD shall be constructed in accordance with current City standards for similar streets. Streets may be constructed and maintained by the developer as private streets.
  - c. Sewer and Water. City sewer and water shall be utilized. All mains and service lines within the PUD shall be considered private.
  - d. Parking Areas. Parking shall meet the requirements of Section 4 of this Ordinance. Parking areas shall be paved, landscaped, and partially screened by berms if possible.

- e. Setbacks. The Planning Commission shall not deviate from the setbacks as set forth in this Ordinance regarding the outside boundary lines of the development. Interior building separation distances or setbacks from an interior private street system may be as determined by the Planning Commission.
- f. Density. The developer may place more than one (1) principal building within the development. Densities may be increased by the Planning Commission, but shall not exceed two (2) times the usual permitted density of the district in which the PUD is located.
- g. Landscaping. The Planning Commission may require landscaping, open areas, green areas, fencing, berms, or other amenities it considers appropriate and necessary for the development.
- h. Design. The streets, sidewalks, and utilities shall be subject to the approval of the City Engineering Department.
- i. Drainage. Storm water shall be retained on the site, if possible. The drainage plan for the area, including possible connection to an in-place City storm sewer system, shall be subject to the approval of the City Engineer.
- j. Other. Because of the uniqueness of the total PUD concept, the Planning Commission reserves the right to impose whatever conditions it feels necessary and proper to insure compatibility and conformance of the PUD with the intent and purposes of this Zoning Ordinance and the surrounding neighborhood.

M. FENCES AND HEDGES.

- 1. General. Fences and hedges may be allowed in any zoning district. All fences shall be kept in good repair, painted, trimmed, and well maintained. That side of the fence considered to be the face (finished side as opposed to structural supports) shall face the street or abutting property. No private fences or hedges shall be permitted on public right-of-way. Fences or hedges placed within utility easements are subject to removal at the expense of the property owner if required for the maintenance or improvement of the utility.

2. Commercial/Industrial. Fences in Business or Industrial districts may be erected to a height of seven (7) feet above finished grade. Barbed wire may be installed at the top. Such fences shall not be permitted in the front yard unless approved by the Planning Commission.
3. Residential. Fences in the rear or side yards in residential districts may be constructed to a height of seven (7) feet above finished grade. Fences or hedges erected along a rear or interior side lot line may be constructed right up to the property line, although the City recommends a two (2)-foot setback to allow for fence maintenance. On a corner lot, the rear yard fence shall be set back at least three (3) feet from the right-of-way line on the street side of the lot, and shall be constructed on or behind the existing rear building line. Fences or hedges in the front yard of a principal structure may be no higher than three and one-half feet (3 1/2). In the event a fence or hedge is adjacent to and parallel with the front line (or side lot line on the street side of a corner lot), such fence shall be set back at least one (1) foot from the right-of-way line. Barbed wire fences shall not be permitted in any Residential district.
4. Rear Yard Defined. For the purpose of interpreting these fence regulations, rear yard shall be defined as that yard which is on the opposite side of the house from the main entrance (identifiable by the address).

N. SETBACKS.

1. Predominate. Front yard setbacks shall be according to each district. In older established areas, however, where a predominate setback has already been established at something other than that required by this Ordinance, the Zoning Administrator may allow the predominate setback to control.
2. State Highways. All front yard setbacks along State Highways in the City of Willmar shall be a minimum of fifty (50) feet, except for T.H. 12 between 11th Street SW and Robert Street SE. Where properties are served by a service road, this requirement shall not apply.

O. EXTERIOR STORAGE.

1. Residential. In residential districts, all materials, machinery, vehicles, and equipment shall be stored within a building or be fully screened so as not to be visible from adjoining or adjacent lands and the street, except for the following:

- a. Agricultural and landscaping equipment/materials in current use on the premises.
  - b. Construction materials/equipment in current use on the premises.
  - c. Automobiles, pickup trucks, motorcycles, recreational vehicles (as per Section 3.H.), boats, snowmobiles, all-terrain vehicles, and other recreational equipment with current licenses in the driveway or back yard.
  - d. Firewood, neatly stacked, intended for use on the premises.
  - e. Lawn furniture and play equipment.
  - f. Dog kennels in the rear or side yard.
  - g. Covered, rigid garbage containers in the rear yard, or side yard when fully screened.
2. Commercial. In Limited/General Business and Shopping Center Districts, all materials, machinery, vehicles, and equipment shall be stored within a building or be fully screened so as not to be visible from adjoining or adjacent lands and the street, except for the following:
- a. Landscaping materials/equipment in current use on the premises.
  - b. Construction materials/equipment in current use on the premises.
  - c. Motor vehicles with current licenses, provided the vehicles are necessary for the operation of the business.
  - d. Licensed/unlicensed motor vehicles for sale by authorized dealers.
  - e. Items/materials which, by their nature, require exterior storage and are offered for sale on the premises.
  - f. Covered, rigid garbage containers in the rear yard, or side yard when fully screened.
  - g. Other items, materials, machinery, and equipment as approved by the Planning Commission and Zoning Administrator.

ORDINANCE NO. 1208

AN ORDINANCE AMENDING ORDINANCE NO. 1060  
KNOWN AS THE WILLMAR ZONING ORDINANCE  
BY ADDING SECTION 3.O.4 RELATING TO  
INDUSTRIAL EXTERIOR STORAGE

The City Council of City of Willmar does ordain as follows:

SECTION 3. Ordinance 1060 is hereby amended by adding a new SECTION 3.O.4 so as to read as follows:

4. Industrial. In Industrial Districts that abut residential areas, all materials, machinery, vehicles, and equipment shall be stored within a building or be fully screened so as not to be visible from adjoining or adjacent lands and the street, except for the following:
  - a. Landscaping materials/equipment in current use on the premises or being displayed for sale/business product purposes.
  - b. Construction materials/equipment in current use on the premises or being displayed for sale/business product purposes.
  - c. Motor vehicles with current licenses, provided the vehicles are necessary for the operation of the business and are operable.
  - d. Licensed/unlicensed motor vehicles for sale by *licensed* dealers.
  - e. Items/materials which, by their nature, require exterior storage and/or are offered for sale on the premises.
  - f. Covered, rigid garbage containers and dumpsters in the rear, or side yard when fully screened or dumpsters in the rear or side yard.
  - g. Other items, materials, machinery, and equipment as approved by the Planning Commission and Zoning Administrator.

EFFECTIVE DATE. This Ordinance shall be effective from and after its adoption and second publication.

This Ordinance introduced by Council Member: Dokken

This Ordinance introduced on: September 20, 2004

This Ordinance published on: September 24, 2004

This Ordinance given a hearing on: October 4, 2004

This Ordinance adopted on: October 4, 2004

This Ordinance published on: October 8, 2004

3. Fully Screened Defined. For purposes of this Ordinance, fully screened shall be defined to mean screened by a fence of at least seventy-five (75) percent opacity, or by a dense planting of sufficient width and density to provide an effective screen.

P. LANDSCAPING.

1. General. Landscaping of the premises shall be required for commercial, industrial, and multi-family residential development projects (new or significant expansion). The required landscaping may include berms, sodding or seeding, and shrub/tree/flower plantings. Plans for project landscaping shall require approval by City staff, or by the Planning Commission when made a condition of Commission approval.
2. Parking areas. Off-street parking areas accessory to the aforementioned land uses shall also require landscaping. This landscaping shall serve to break up the barren effect of the hard-surface parking area and improve the visual aesthetics of the associated land use. Such landscaping may include landscape islands (which also serve to direct vehicle flow and parking alignment), sodding or seeding, and shrub/tree/flower plantings. Plan approval for parking area landscaping shall be as set forth in #1. above.

- Q. ADULT ENTERTAINMENT USES. No adult entertainment use shall be located less than seven hundred fifty (750) feet from any residential zoning district boundary or site used for residential purposes and less than one thousand (1,000) feet from any church site, from any school site, or from any youth facility site. In addition, no adult entertainment use may be located within one thousand (1,000) feet of another adult entertainment use. For purposes of this Ordinance, this distance shall be a horizontal measurement from the nearest existing residential district boundary or site used for residential purposes, church site, school site, youth facility site, or another adult entertainment use site to the nearest point of the proposed adult entertainment use site.

- R. ANNEXATION. Ordinances or resolutions annexing lands to the City may include a determination as to how the annexed lands are to be zoned. In the absence of such determination, the lands shall be zoned A-Agriculture as a means of creating a "holding" zone until the proper zoning can be determined.

- S. DRIVEWAY ACCESS PERMIT/APPROVAL. A driveway access permit or approval for connection to a public road/street shall be obtained from the City Engineer or governmental agency having jurisdiction for said road/street before a Building Permit is issued.
- T. BUILDING PERMIT/APPROVAL.
1. Permit. No construction or alteration of a building/structure requiring a building permit under City policy shall begin until such time as the required permit has been obtained from the Building Inspector.
  2. Compliance. At such time as the Building Inspector has conducted and signed off on the final inspection, the structure shall be deemed to be in compliance with applicable codes, standards, and ordinances. Certificates of Compliance for Building Code or Zoning Ordinance compliance will be made available at the request of the affected property owner.
- U. FEES. The City Council shall establish by resolution, from time to time, such fees as it shall determine for applications made and/or permits issued pursuant to this Ordinance.

## SECTION 4: OFF-STREET PARKING AND LOADING

### A. OFF-STREET PARKING.

1. General. The off-street parking requirements of this Ordinance shall apply to all buildings, structures, and uses of land constructed, established, or authorized after the adoption of the Ordinance.
2. Exempt. The following areas in the Central Business District (CBD) are exempt from parking and loading regulations:
  - Area 1: The area bounded by the T.H. 12 By-Pass on the north; 2nd Street SW on the east; Trott Avenue on the south; and 6th Street SW on the west; and
  - Area 2: The area bounded by the T.H. 12 By-Pass on the south and east; the BN RR on the north; and 7th Street SW on the west.
3. Surfacing and Drainage. Off-street parking areas for all commercial, industrial, and multi-family residential developments shall be paved with a permanent concrete, bituminous, or reasonable substitute surface, subject to approval by the Zoning Administrator and City Engineer. Such areas shall be graded and drained to dispose of all surface water accumulation within the parking area by storm sewer, if available.
4. Landscaping. Commercial, industrial, institutional, and multi-family residential developments which include off-street parking as a part of the overall project shall provide landscaping within or adjacent to the parking area in accordance with Section 3.P. of this Ordinance.
5. Location. All accessory off-street parking facilities required by this Ordinance shall be subject to the following regulations:
  - a. Parking spaces required by this Ordinance shall be located on the same property as the principal use served.
  - b. There shall be no off-street parking areas within fifteen (15) feet of any street right-of-way.

- c. No off-street parking or drives shall be permitted within the building front yard setback area immediately in front of the principal building width only. This restriction shall not apply to residential driveways situated between the right-of-way and a garage which is attached, or accessory to, a one (1)- to four (4)-family dwelling.
  - d. Residential lots (R-2 to R-5) or parcels adjacent to Limited or General Business Districts may be used for off-street parking for the adjacent Limited or General Business use, subject to plan approval by the Zoning Administrator. Such parking shall adhere to all setback requirements and shall be screened from adjacent residential districts or uses.
  - e. No driveway or off-street parking area shall be located closer than five (5) feet from an adjacent side or rear lot line in residential areas, or ten (10) feet in multi-family residential, commercial, or industrial districts. In R-1 and R-2 districts where older and narrower (fifty [50] foot) lots still exist and such setbacks are impractical, this requirement will not apply. In any instance where the five (5) foot setback is not maintained, the driveway/parking area shall be constructed so as to direct runoff away from the side or rear lot lines.
  - f. No direct access by rows of parking spaces onto public streets or alleys shall be permitted. Internal isles shall be provided.
6. Existing. Such spaces existing on the effective date of this Ordinance shall not be reduced in number unless said number exceeds the requirements set forth herein.
7. Standards and Design.
- a. Approval. All parking lot layouts shall be subject to the final approval of the City Engineer and the Zoning Administrator.
  - b. Design. The design of off-street parking areas shall be based on sound and accepted engineering design principles, and shall be safe, practical, and logical layouts.

- c. Lighting. All parking lots accessory to the following uses shall be lighted:
    - \*All business and industrial uses.
    - \*Multi-family dwellings of eight (8) or more units in R-4 and R-5 districts.
  - d. Screening. Off-street parking areas for commercial, industrial, and multi-family residential uses shall be screened from adjacent residential uses. Such screening shall be included as part of the landscaping required in Sections 3.P. and 4.A.4. of this Ordinance.
8. Requirements. The following minimum number of off-street parking spaces shall be provided and maintained by ownership, easement, and/or lease for and during the life of the respective uses hereinafter set forth. Parking requirements for uses not specifically noted shall be determined by the Planning Commission.
- a. Residential Uses.
    - (1) Single Family, Two Family, and Townhouse Units. Two (2) spaces per unit.
    - (2) Multiple-Family Dwellings. Two (2) spaces per unit.
    - (3) Elderly (Senior Citizen) Housing. Reservation of area equal to one (1) parking space per unit. Initial development is, however, required of only one-half (1/2) space per unit and said number of spaces can continue until such time as the Planning Commission determines a need for additional parking spaces has been demonstrated.
    - (4) Boarding Houses. At least two (2) parking spaces for each three (3) persons for whom accommodations are provided for sleeping.
  - b. Institutional, Recreational, and Cultural Uses.
    - (1) Schools, Elementary through Junior High. Three (3) spaces for each classroom.
    - (2) Schools, High School through College. One (1) space for each four (4) students plus three (3) spaces for each classroom.

- (3) Community Centers, Physical Culture Studios, Libraries, Post Offices, Private Clubs, Lodges, Museums, Art Galleries. Ten (10) spaces plus one (1) for each one hundred fifty (150) square feet in excess of two thousand (2,000) square feet of floor area in the principal structure.
- (4) Baseball Fields, Stadiums. At least one (1) parking space for each eight (8) seats of design capacity.
- (5) Public Parks, Playgrounds, Play Fields. At least five (5) parking spaces for each acre of park over one (1) acre, two (2) parking spaces per acre for playgrounds, ten (10) spaces for each acre of play field. When a public recreation site has more than one use designation, the areas must be divided for determining the required parking spaces.
- (6) Hospitals. One (1) space for each three (3) beds plus one (1) space for each three (3) employees.
- (7) Sanitariums, Convalescent Homes, Rest Homes, Nursing Homes. Four (4) spaces, plus one (1) for each three (3) beds for which accommodations are offered.

*8. Churches - 1 space  
for each 3 seats.*

c. Business and Commercial Uses.

- (1) Motels, Motor Hotels, Hotels. One (1) space per each rental unit plus one (1) space for each ten (10) units, and one (1) space for each employee on any shift.
- (2) Drive-In Establishments and Convenience Food.
  - (a) Drive-in Establishments: At least one (1) parking space for each twenty-five (25) square feet of gross floor area, but not less than ten (10) spaces.
  - (b) Convenience Food Establishments with Indoor Seating: At least one (1) space for each forty (40) square feet of gross floor area of dining area, and one (1) space for each eighty (80) square feet of kitchen area.

- (3) Restaurants, Cafes, Private Clubs Serving Food and/or Drinks, Bars, Taverns, Nightclubs. At least one (1) space for each forty (40) square feet of gross floor area of dining and bar area, and one (1) space for each eighty (80) square feet of kitchen area.
- (4) Retail Stores, Service Establishments. At least one (1) off-street parking space for each one hundred seventy-five (175) square feet of floor area.
- (5) Retail Sales or Service Businesses with Thirty (30) Percent or More of Gross Floor Area Devoted to Storage. At least eight (8) spaces, or one (1) space for each one hundred seventy-five (175) square feet devoted to public sales or service, plus one (1) space for each five hundred (500) square feet of storage area.
- (6) Bowling Alleys. At least five (5) parking spaces for each alley, plus additional spaces as may be required for related uses contained within the principal structure.
- (7) Skating Rinks, Dance Halls, or Public Auction Houses. Twenty (20) off-street parking spaces, plus one (1) additional off-street parking space for each two hundred (200) square feet of floor space over two thousand (2,000) square feet.
- (8) Golf Driving Ranges, Miniature Golf, Archery Ranges. Ten (10) off-street parking spaces, plus one (1) for each two hundred (200) square feet of floor area.
- (9) Motor Fuel Stations. At least four (4) off-street parking spaces, plus two (2) off-street spaces for each service stall. Those facilities designed for sale of other items than strictly automotive products, parts, or service shall be required to provide additional parking in compliance with other applicable Sections of this Ordinance.
- (10) Fuel Pumps Associated with Other Uses. Two (2) spaces in addition to those required by other use.

- (11) Auto Sales/Repair. Eight (8) off-street parking spaces, plus one (1) additional space for each eight hundred (800) square feet of floor area over one thousand (1,000) square feet.
- (12) Boats and Marine Sales/Repair. Eight (8) off-street parking spaces, plus one (1) additional space for each eight hundred (800) square feet of floor area over one thousand (1,000) square feet.
- (13) Malls. At least one (1) off-street parking space for each two hundred (200) square feet of leasable floor area.

d. Office Uses.

- (1) Office Buildings, Financial Institutions, Professional Offices, Medical and Dental Clinics. Two (2) spaces, plus at least one (1) space for each two hundred (200) square feet of floor area.

e. Industrial Uses.

- (1) Manufacturing, Fabricating, or Processing of a Product or Material; Warehousing, Storage, Handling of Bulk Goods. At least eight (8) spaces, plus one (1) space for each two (2) employees on each shift based on maximum planned employment, or at least eight (8) spaces plus one (1) space for each eight hundred (800) square feet of floor area, whichever is greater.

9. Joint Parking Facility. The Planning Commission may, after receiving a recommendation from Staff, give approval for one (1) or more businesses to provide the required off-street parking facilities by joint use of one (1) or more sites where the total number of spaces provided are less than the sum of the total required for each business, should they provide them separately. When considering a request for such approval, Staff shall not recommend that such approval be granted nor the Planning Commission approve such a request except when the following conditions are found to exist:

- 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 (300) feet of such parking facilities.
- b. The applicant shall show that there is no substantial conflict in the principal operating hours of the two 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.

B. OFF-STREET LOADING.

1. General. Adequate off-street loading space shall be provided in connection with any structure which requires receipt or distribution of materials by vehicles.
2. Number of Loading Berths Required. The number of required off-street loading berths shall be as follows:
  - a. Manufacturing, Fabrication, Processing, Warehousing, Storage, Retail Sales, Schools, Hotels. For such a building between five thousand (5,000) and fifty thousand (50,000) square feet of floor area, one (1) loading berth is required; for a building fifty thousand and one (50,001) to one hundred thousand (100,000) square feet in area, two (2) loading berths are required. One (1) loading berth shall be provided for each additional thirty-five thousand (35,000) square feet of floor area or fraction thereof in excess of one hundred thousand (100,000) square feet.
  - b. Manufacturing and Retail Sales Under Five Thousand (5,000) Square Feet. Adequate off-street loading and service entrances shall be provided subject to the approval of the Zoning Administrator.
  - c. Auditoriums, Convention Halls, Exhibition Halls, Sports Arenas, Stadiums. Ten thousand (10,000) to one hundred thousand (100,000) square feet of floor area, one (1) loading berth; for each additional one hundred thousand (100,000) square feet of floor area or fraction thereof, one (1) additional loading berth.

- d. Public or Semi-Public Recreational Buildings, Community Centers, Private and Public Educational Institutions, Religious Institutions, Hospitals, Clinics, Professional or Commercial Offices, Nursing Homes or Similar Group Housing, Senior Citizen Housing. Adequate off-street loading and service entrances shall be provided subject to approval of the Zoning Administrator.
3. Location.
    - a. All required loading berths and facilities shall be off-street and located on the same lots as the building or use to be served.
    - b. All loading berth curb cuts shall be located a minimum of fifty (50) feet from the intersection of two (2) or more street rights-of-way. This distance shall be measured from the property line.
    - c. No loading berth shall be located closer than Thirty (30) feet from a residential district unless within a structure.
    - d. Loading berths shall not occupy the front yard setback area.
    - e. Loading berths shall not conflict with pedestrian movement.
    - f. Loading berths shall not obstruct the view of the public right-of-way from off-street parking access.
    - g. Each loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner which will cause the least interference with traffic.
  4. Surfacing and Drainage. All loading berths and driveways having access onto a concrete or asphalt surfaced street or public right-of-way shall be surfaced with asphalt, concrete, or a reasonable substitute surface, subject to approval by the Zoning Administrator and City Engineer. Drainage of loading areas is subject to approval by the City Engineer.
  5. Accessory Use, Parking, and Storage. Any space allocated as a required loading berth or access drive so as to comply with the terms of these zoning regulations shall not be used for the storage of goods, inoperable vehicles, or snow, and shall not be included as part of the area used to meet off-street parking requirements.

6. Size. Unless otherwise specified in this Ordinance, the first loading berth shall be not less than fifty-five (55) feet in length, and additional berths required shall be not less than thirty (30) feet in length. All loading berths shall be not less than ten (10) feet in width and fourteen (14) feet in height, exclusive of aisle and maneuvering space.
7. Landscaping. Commercial, industrial, institutional, and multi-family residential developments which include off-street loading as a part of the overall project shall provide landscaping within or adjacent to the loading area in accordance with the requirements for parking areas found in Section 3.P. of this Ordinance.

SECTION 5: SIGNS

A. PURPOSE. The purpose of this Section is to coordinate and regulate the type, placement, and physical dimensions of signs within the City's various zoning districts. To this end, the City Council finds:

1. That private and public monies have been invested in the City for the beautification of both public and private properties.
2. That there are different commercial communication requirements of various districts in the business community.
3. That aesthetics contribute to the quality of life in the community and to the enhancement of property values.
4. That attractively designed, appropriately placed, soundly constructed, and well maintained signs enhance both public and private investments and increase property values.
5. That proper regulation of signs encourages the innovative use of design, promotes both renovation and proper maintenance, allows for special circumstances, and guarantees equal treatment under the law through accurate record-keeping and consistent enforcement.

The City Council considers the standards and regulations in this Section to be reasonable and necessary to attain the purposes listed herein, and adopts this Section to ensure:

6. That such public and private investments in improving the quality of life are protected.
7. That the economic vitality of the community is maintained.
8. That the integrity of residential areas and the dignity of public facilities and open areas are preserved.
9. That the general appearance of the City and the business environment is improved.

- B. SCOPE. This Section is not intended to regulate official traffic signs and signals, government signs the City Council has no jurisdiction to regulate, the copy or message of signs, signs not intended to be viewed by pedestrians or the occupants of motor vehicles on the public streets, thoroughfares or alleys, product dispensers, point of purchase displays, scoreboards on athletic fields, flags of any state, nation international organization, or non-commercial organization, religious symbols, commemorative plaques, holiday decorations, display of street numbers, or any display or construction not defined herein as a sign. This Section shall not apply to building design unless said design incorporates a sign as defined in this Section, in which case that part of such design which is a sign shall be subject to the provisions of this Section.
- C. DEFINITIONS. The following definition of terms and phases used in this Section shall govern:
1. *Abandoned Sign.* A sign which no longer identifies or advertises a bona fide business, owner, lessor, lessee, service, product, or activity, or for which no legal owner can be found, or, if found, disclaims any interest in the sign.
  2. *Animated Sign.* A sign depicting motion by virtue of moving, flashing, revolving, flickering lights, or change of color in lights or lighting effects, or by mechanical means which tend to depict motion.
  3. *Awning.* A shelter, of canvas or similar material, projecting from and supported by the exterior wall of a building, constructed on a supporting framework.
  4. *Awning Sign.* A sign painted on, printed on, constructed as an integral part of, or attached flat against the surface of, an awning.
  5. *Banner.* A sign made of fabric or any nonrigid material with no enclosing framework.
  6. *Billboard.* An off-premise, outdoor advertising structure designed to carry changeable, temporary posters, copy, or painted or designed messages, symbols, or pictures, and the sign area of which exceeds one hundred twenty-eight (128) square feet.
  7. *Building Frontage.* That part of the lot length or width projected from and equal to the length or width of the building fronting on one (1) or more streets.

8. *Canopy*. An ornamental, roof-like structure, which may be attached to a building or another structure, or may stand independently, and which is not a marquee.
9. *Canopy sign*. Any sign which is suspended from or which forms part of a canopy and which does not extend horizontally beyond the limits of such canopy.
10. *Changeable Copy Sign*. A sign upon which message copy can be changed through the use of detachable letters or numerals, panels, or electrical or electronic controls, lamps, or illuminated tubes.
11. *City*. The City of Willmar, Minnesota.
12. *Clearance*. The shortest vertical distance between the grade of the street, curb, or sidewalk immediately beneath a sign and the lowest point of the sign, including framework and embellishments, extending over such grade.
13. *Construction Sign*. A temporary sign identifying an architect, contractor, subcontractor, developer, financier, supplier of materials, or other like information with respect to construction on the property on which the sign is located.
14. *Development Sign*. A sign identifying a particular subdivision or residential development or area or a particular commercial or industrial complex, located at the entrance or entrances to such development or complex.
15. *Directional Sign*. An on-premise sign giving directions, instructions, or facility information and which may contain the name or logo of an establishment but no advertising copy, such as parking, entrance, or exit signs.
16. *Double-faced Sign*. A sign with two (2) faces.
17. *Facade*. The entire building front including the parapet.
18. *Face of Sign*. The area of a sign on which the copy is placed.
19. *Festoon*. A string or garland of leaves, flowers, ribbons, tinsel, small flags, pinwheels, ornamental windsocks, or other like ornaments.
20. *Flashing Sign*. A sign which contains an intermittent or sequential light source used primarily to attract attention.

21. *Freestanding Sign.* A sign permanently fixed to the ground by one (1) or more uprights, posts, columns, or pylons, and not attached to any building.
22. *Frontage.* The length of the property line of any one premise along a right-of-way on which it borders.
23. *Government Sign.* A sign erected and maintained by the city, county, state, or federal government for traffic direction, or for the designation of or direction to any school, hospital, historical site, or public service, property, or facility.
24. *Hazardous Sign.* Any sign determined by the Zoning Administrator to be structurally unsafe or in disrepair to the point of being unsafe.
25. *Height.* The vertical distance measured from the highest point of the sign to the grade of the adjacent street or the surface grade beneath the sign, whichever is less.
26. *Identification Sign.* A sign with copy which is limited to the name and address of a building, institution, or person, and to the activity or occupation being identified.
27. *Illuminated Sign.* A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.
28. *Incidental Sign.* A small sign, emblem, or decal informing the public of goods, facilities, or services available on the premises, such as a credit card sign or a sign indicating hours of business.
29. *Maintenance.* The cleaning, painting, or repair of a sign, or the replacement of defective parts thereof, in a manner that does not alter the basic copy, design, or structure of the sign.
30. *Mansard.* A lower, almost vertical slope of a mansard roof, including a roof-like facade architecturally comparable to a building wall.
31. *Marquee.* A permanent, roof-like structure of rigid materials supported by and extending from the facade of a building and projecting over its entrance.
32. *Marquee Sign.* A sign attached to or supported by a marquee.

33. *Multi-Business Sign.* A sign for a building or structure where more than one (1) business is located, including building directories and signs for entrance identification.
34. *Nameplate.* A non-electric on-premises identification sign limited to the name, address, and occupation of an occupancy or group of occupancies.
35. *Obsolete Sign.* A sign which advertises or identifies neither the person involved nor the business or activity presently carried on on the premises, or which identifies a name no longer used by the activity carried on on the premises.
36. *Occupancy.* The state of being in legal possession of a building or portion of a building or a premise or portion of a premise, either as owner, lessee, or tenant, or other claim of right, and for a given use.
37. *Off-Premise Sign.* A sign, other than a billboard as herein defined, advertising an establishment, merchandise, service, or entertainment which is not sold, produced, manufactured, or furnished on the property on which the sign is located.
38. *On-Premise Sign.* A sign which advertises or identifies the use, the business transacted, the services rendered, the goods sold or produced, the name of the business, or the name of the person, or a combination of such categories, on the premises on which the sign is located.
39. *Other Street Frontage.* Business frontage on a street or streets other than the principal street frontage.
40. *Owner.* A person in whom is vested the dominion, title, or proprietary right in property affected by this Section. For purposes of this Section, the owner of real estate on which a sign is located is presumed to be the owner of the sign unless the contrary appears on the application for a permit under this Section or by any other writing filed with the Zoning Administrator.
41. *Parapet.* The extension of a false front or wall above the roofline.
42. *Person.* An individual, corporation, firm, partnership, or similar association.
43. *Point of Purchase Display.* Advertising of a retail item accompanying its display, such as an advertisement on a dispenser.

44. *Political Sign.* A temporary sign used in connection with a local, state, or national election or referendum.
45. *Portable Sign.* A sign designed to be moved easily and not permanently affixed to the ground or to a structure or building.
46. *Premises.* A parcel of land with its appurtenances and buildings composing a unit as to a use to which a sign or signs are directed.
47. *Principal Street Frontage.* The frontage on the street which the principal entrance of the building on the premises faces, or, in instances permitted by this Section, that street which the owner elects to have considered as the principal street frontage.
48. *Projecting Sign.* A sign, other than a flat wall sign, which is attached to and projects from a building wall or other structure not specifically designed to support the sign.
49. *Property Line.* The boundary line between premises owned by different persons, or between the outer limits of the easement of a street, thoroughfare, or road, either dedicated or obtained by a public authority by purchase or condemnation, and the property abutting such street, thoroughfare, or road.
50. *Real Estate Sign.* A temporary sign advertising the premises upon which the sign is located as being for rent, lease, or sale.
51. *Right-of-Way Line.* The outer limits of the dedicated area of a street, road, or thoroughfare, or, in the case of an easement or title obtained through purchase or condemnation by a public authority, the outer limits of such acquired area.
52. *Roofline.* The top edge of the roof of a building, or the parapet, whichever is higher, excluding any cupola, pylon, chimney, or minor projection.
53. *Roof Sign.* A sign erected on the roof or projecting above the roof line of a building but does not include a sign erected on a mansard.
54. *Rotating Sign.* A sign in which the sign itself or any portion thereof moves in a revolving or similar manner but does not include methods of changing copy.

55. *Setback.* The distance between a property line or right-of-way line, measured perpendicular to such line, and the part of a sign which is closest to such property line or right-of-way line.
56. *Sign.* Any device, structure, fixture, or placard using graphics, symbols, pictures, illustrations or written or printed copy, or any combination of them, designed specifically for the purpose of advertising or identifying any person, institution, facility, product, goods, or services, or any combination thereof.
57. *Sign Area.* The physical dimensions of a sign face.
- a. Projecting and Freestanding Signs. In calculating the area of a single freestanding or projecting sign, only the largest face of any double-faced sign shall be counted.
  - b. Multiple Use Freestanding Signs. The sign area shall be determined by calculating the area enclosed by the perimeter of each sign and totaling such areas. Total sign area does not include protective devices, pole covers, structure covers, framing, or embellishments, as long as such devices or embellishments do not contain advertising or identification.
  - c. Single Box Signs, Wall Cabinet Signs, or Signs on Boards or Other Material. The sign area shall be the area enclosed by the perimeter of the box, cabinet, or board or board structure, or similar structure to which the sign is attached or on which it is painted. In cases where there is additional background such as plain boards, painted boards, art work, figures, designs, or logos, the additional background is to be included in the total area of the sign face.
  - d. Wall Signs Composed of Letters, etc. The sign area of wall signs composed of individual letters or numbers or combinations of both, using the wall as background with no added decoration, shall be determined by measuring the perimeter or perimeters of each line of letters or numbers or combinations thereof within parallel lines enclosing all letters and numbers in the line. Where more than one (1) line is used, the sign areas for all the lines shall be totaled to determine the total sign area of the sign.

58. *Single Face Sign.* A sign with copy on one (1) face only and which may be seen from one (1) direction only.
59. *Subdivision Identification Sign.* A development sign identifying a recognized subdivision, condominium complex, residential development, or commercial or industrial complex.
60. *Temporary Sign.* A sign or banner constructed of cloth, canvas, cardboard, wallboard, or other similar material, or of any material where the intent is that the sign be used for only a short period of time in a single location.
61. *Under-Canopy Sign.* A sign suspended from or otherwise hung or attached under a canopy and not extending horizontally beyond the canopy structure nor above the canopy.
62. *Use.* The application or employment of a premise, a facility, a building, a sign, or any other property for a particular purpose.
63. *Wall Sign.* A sign attached parallel with and extending not more than twelve (12) inches from the wall or mansard of a building, including painted, individual letters and cabinet signs.
64. *Window Sign.* A sign installed inside a window and intended to be viewed from the outside.
65. *Zoning Administrator.* The Zoning Administrator of the City of Willmar.

D. GENERAL SIGN PROVISIONS.

1. Signs to Conform to this Section. It shall hereafter be unlawful, and a violation of this Ordinance, to erect, place, or maintain a sign in the City of Willmar except in accordance with the provisions of this Section.
2. Signs Requiring Permits. Unless specifically exempted by a provision of this Section, or in instances where a Special Sign Permit is provided for, each sign shall require a Sign Permit, for which application shall be made on forms prepared by the Zoning Administrator and issued upon the fulfillment of all conditions for such Permit and upon the payment of the fees therefore prescribed by this Section.

E. PROHIBITED SIGNS.

1. The following signs are prohibited:

- a. Abandoned signs.
- b. Animated signs.
- c. Billboards.
- d. Flashing signs.
- e. Hazardous signs.
- ~~f. Roof signs not in place on July 13, 1982.~~
- g. Signs imitating or resembling traffic signs or signals or government signs.
- h. Signs attached to trees, telephone or utility poles, public benches, or streetlights, or placed on any public property or street or highway right-of-way by any person other than one having authority from a government to place such sign.
- i. Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said sign.
- j. Signs which obstruct access to fire escapes, exits, doors, standpipes, or ventilating systems, or which interfere with the view of traffic signs or signals by those to whom such signs or signals are directed.
- k. Signs for which a permit is required under this Section, which were constructed before such permit was issued, and as to which no procedures provided by this Section have been initiated to bring such signs into compliance with the provisions of this Section.

F. SPECIAL SIGNS.

1. The following signs are prohibited unless a Special Sign Permit is issued by the Zoning Administrator under the regulations herein set forth:

- a. Off-premise directional signs.
- b. Off-premise advertising signs.
- c. Portable signs.
- d. Temporary signs in place more than three (3) days.
- ~~e. Roof signs, in place and holding a valid permit on July 13, 1982.~~
- f. Banners, festoons, and pennants in place more than three (3) days; and searchlights.
- g. Any other signs not included under Section 5.E. of this Ordinance.
- h. Bus Signs

2. General Conditions for Obtaining Special Sign Permits. Any sign in Section 5.F.3. shall be generally prohibited, but may be permitted through the issuance of a Special Sign Permit by the Zoning Administrator upon the sign meeting the standards and rules set forth for one of the types of signs listed, and meeting one (1) of the following criteria:
  - a. The sign is necessary for the preservation of substantial property rights in the property to which the sign is directed;
  - b. There is no provision in this Section for the type of sign for which a Special Sign Permit is required; or
  - c. The sign may be beneficial to a substantial number of people.
3. Standards and Rules for Specific Types of Signs.
  - a. Off-Premise Directional Signs. Such signs shall be permitted only in those instances where the Zoning Administrator finds the sign necessary or convenient for a substantial number of people attending or seeking to attend or visiting or seeking to visit a facility which, because of its nature, tends to attract a large number of people. The primary purpose of such sign shall be to assist visitors to a facility, or to find it once they are in the area. The sign area on such signs shall not exceed twenty (20) square feet. Such signs shall not be permitted in any residential district, nor in the CD-Central Business District, and shall not carry any advertising.
  - b. Off-Premise Advertising Signs. Such signs shall be permitted only in the instances where they will benefit the traveling public, or where a business is not visible from any street or highway. They shall be limited, with respect to the instance that they are permitted for the benefit of the traveling public, to advertising public accommodations not located on the thoroughfare along which the sign is placed, and shall conform to the regulations pertaining to on-premise signs in the district in which they are placed. Such signs shall not be permitted in any residential district.

ORDINANCE NO. 1304

AN ORDINANCE AMENDING ORDINANCE NO 1060  
KNOWN AS THE WILLMAR ZONING ORDINANCE  
BY AMENDING SECTION 5.E.1.a. RELATED TO  
ELECTRONIC SIGNS

The City Council of City of Willmar does ordain as follows:

SECTION 5. Ordinance 1060 is hereby amended by amending Section 5.E.1.a. as follows:

b. ~~Animated signs.~~

SECTION 5. Ordinance 1060 is hereby amended by adding Section 5.H.3.k. as follows:

k. Electronic reader boards are permitted and shall follow the sign area requirements for wall or freestanding signs. Electronic reader boards can be animated or scroll, but they shall not flash or display rapid animation so as not to distract, or mimic any emergency vehicles.

SECTION 5. Ordinance 1060 is hereby amended by adding Section 5.H.4.q. as follows:

q. Electronic reader boards are permitted and shall follow the sign area requirements for wall or freestanding signs. Electronic reader boards can be animated or scroll, but they shall not flash or display rapid animation so as not to distract, or mimic any emergency vehicles.

SECTION 5. Ordinance 1060 is hereby amended by adding Section 5.H.5.k. as follows:

k. Electronic reader boards are permitted and shall follow the sign area requirements for wall or freestanding signs. Electronic reader boards can be animated or scroll, but they shall not flash or display rapid animation so as not to distract, or mimic any emergency vehicles.

SECTION 5. Ordinance 1060 is hereby amended by adding Section 5.H.6.n. as follows:

n. Electronic reader boards are permitted and shall follow the sign area requirements for wall or freestanding signs. Electronic reader boards can be animated or scroll, but they shall not flash or display rapid animation so as not to distract, or mimic any emergency vehicles.

ORDINANCE NO. 1209

AN ORDINANCE AMENDING NO. 1060  
KNOWN AS THE WILLMAR ZONING ORDINANCE  
BY AMENDING SECTION 5.F.3.c. RELATING TO  
PORTABLE SIGNS

The City Council of City of Willmar does ordain as follows:

SECTION 5. Ordinance 1060 is hereby amended by amending SECTION 5.F.3.c. so as to read as follows:

- c. Portable Signs. Such signs may be used only for special attractions, occasions, or events where their use will assist the public in the location of the event, attraction, or occasion, or the facility in which it is held. No such sign shall be permitted in any residential district. They shall be directional in character and may contain no product advertising. They shall be of such size and form as the Zoning Administrator in his discretion shall determine. They shall be placed no earlier than five (5) days before the event or attraction and shall be removed promptly upon the termination of the event or conclusion of the attraction (not to exceed a total of twenty-eight {28} consecutive days per quarter year period beginning on day permit is issued). For persons or institutions having recurring events, the Zoning Administrator may in his discretion set forth in one Special Sign Permit for such person or institution the recurring events to be covered by the Permit without the re-issuance of a Permit for such sign.

EFFECTIVE DATE. This Ordinance shall be effective from and after its adoption and second publication.

This Ordinance introduced by Council Member: Christianson

This Ordinance introduced on: October 4, 2004

This Ordinance published on: October 8, 2004

This Ordinance given a hearing on: October 18, 2004

This Ordinance adopted on: October 18, 2004

This Ordinance published on: October 22, 2004

- c. Portable Signs. Such signs may be used only for special attractions, occasions, or events where their use will assist the public in the location of the event, attraction, or occasion, or the facility in which it is held. No such sign shall be permitted in any Residential district. They shall be directional in character and may contain no product advertising. They shall be of such size and form as the Zoning Administrator in his discretion shall determine. They shall be placed no earlier than five (5) days before the event or attraction and shall be removed promptly upon the termination of the event or conclusion of the attraction (not to exceed a total of twenty-eight [28] days). For persons or institutions having recurring events, the Zoning Administrator may in his discretion set forth in one Special Sign Permit for such person or institution the recurring events to be covered by the Permit without the re-issuance of a Permit for such sign.
- d. Temporary Signs in Place More Than Three (3) Days. No such sign shall be permitted in any Residential district. The Zoning Administrator shall determine the conditions under which a Special Sign Permit is issued for such signs in the other districts and shall specify the length of time the sign may be maintained, which in any event shall not exceed 30 days.
- e. Roof Signs. The City Council finds that, because of their increased exposure to high winds and storms and the difficulty of providing proper anchorage for them, roof signs tend to present conditions that are more hazardous to the public than other types of signs. It, therefore, in the interest of public safety, adopts the following special regulations for such signs as reasonable and necessary:
- (1) Roof signs shall be allowed only in General Business districts.
  - (2) Sign area shall not exceed .75 square feet/lineal foot of roof or twenty (20) square feet, whichever is larger.
  - (3) Sign shall not exceed four (4) feet in height.
  - (4) The sign shall not extend higher than the roof peak.
  - (5) No wall signs will be allowed on the side of a building to which a roof sign is oriented.
  - (6) Signs shall not project horizontally beyond the edge of the roof upon which they are erected.

**ORDINANCE NO. 1233**

**AN ORDINANCE AMENDING NO. 1060  
KNOWN AS THE WILLMAR ZONING ORDINANCE  
BY AMENDING SECTION 5 RELATING TO  
PORTABLE AND TEMPORARY SIGNS**

The City Council of City of Willmar does ordain as follows:

SECTION 5. Ordinance 1060 is hereby amended by amending SECTION F.1.d. so as to read as follows:

- d. Temporary signs ~~in place more than three (3) days.~~

SECTION 5. Ordinance 1060 is hereby amended by adding to SECTION 5.F.3.b. so as to read as follows:

- b. Off-Premise Advertising Signs. Such signs shall be permitted only in instances where they will benefit the traveling public, or where a business is not visible from any street or highway. They shall be limited, with respect to the instance that they are permitted for the benefit of the traveling public advertising public accommodations not located on the thoroughfare along which the sign is placed, advertising community events or those sponsored by nonprofit, civic, philanthropic education or religious organizations, or where a business is not visible from any street or highway (via portable not permanent signage), and shall conform to the regulations pertaining to on-premise signs in the district in which they are placed. Such signs shall not be permitted in any residential district.

SECTION 5. Ordinance 1060 is hereby amended by adding to SECTION 5.F.3.c. so as to read as follows:

- c. Portable Signs. Such signs may be used only for special attractions, occasions, or events where their use will assist the public in the location of the event, attraction, or occasion, or the facility in which it is held. No such sign shall be permitted in any residential district. They shall be of such size and form as the Zoning Administrator in his discretion shall determine. They shall be placed no earlier than five (5) days before the event or attraction and shall be removed promptly upon the termination of the event or conclusion of the attraction (not to exceed a total of twenty-eight {28} consecutive days per quarter year period beginning on day permit is issued). For persons or institutions having recurring events, the Zoning Administrator may in his discretion set forth in one Special Sign Permit for such person or institution the recurring events to be covered by the Permit without the re-issuance of a Permit for such sign.

A \$100 deposit for portable signs (amount to be determined by City Ordinance) is required and will be returned only if the sign is removed by the date stated on the permit. The applicant must reclaim the deposit when the sign is removed. If the sign remains after the date specified on the permit, the City will utilize the deposit to remove the sign.

SECTION 5. Ordinance 1060 is hereby amended by amending SECTION 5.F.3.d. so as to read as follows:

- d. ~~Temporary Signs in Place More Than Three (3) days.~~ No such sign shall be permitted in any Residential district. ~~The Zoning Administrator shall determine the conditions under which a Special Sign Permit is issued for such signs in the other districts and shall specify the length of time the sign may be maintained, which in any event shall not exceed 30 days.~~ Temporary signs located in commercial or industrial zoned districts may not exceed twelve (12) square feet in area provided that said signs are limited to two (2) signs per business. Temporary signs shall be allowed by special sign permit only. Permits shall not exceed a total of seven (7) consecutive days per quarter year beginning on day permit is issued.

SECTION 5. Ordinance 1060 is hereby amended by amending SECTION G.1.b. so as to read as follows:

- b. ~~Temporary signs not in place more than three (3) days.~~

SECTION 5. Ordinance 1060 is hereby amended by adding to SECTION 5.I.2.d. so as to read as to read as follows:

- d. As to any illegal sign not removed by the owner, the Zoning Administrator shall institute removal proceedings in the following manner: He/She shall serve upon the owner of the sign, with a copy to the owner of the tract which the sign is located, by delivery personally or by certified mail, a Notice of Removal, stating that if the said sign is not removed, it will be removed by the City within a period of ten (10) days after the delivery or mailing of the notice for permanent signs and three (3) days for portable signs. The notice shall also specify that the costs of such removal shall be charged to the owner of the sign and that, where the sign is placed or maintained on real estate by an owner who is also the owner of the sign, if the same is not paid before the time set by law for the Clerk-Treasurer to certify to the County Auditor special assessments levied by the City Council, the Clerk-Treasurer will certify such costs as a special assessment on the real estate tract on which the sign is located. Failure of the owner of the sign to pay the said charges upon notification there of the Zoning Administrator shall also constitute a violation of this Ordinance.

EFFECTIVE DATE. This Ordinance shall be effective from and after its adoption and second publication.

This Ordinance introduced by Council Member: DeBlieck

This Ordinance introduced on: March 6, 2006

This Ordinance published on: March 10, 2006

This Ordinance given a hearing on: March 20, 2006

This Ordinance adopted on: March 20, 2006

This Ordinance published on: March 25, 2006

(7) Signs shall be structurally sound, properly anchored, and provide drainage around the sign structure.

f. Festoons, Pennants, and Searchlights.

Festoons, pennants, and searchlights are prohibited in all residential districts.

In business and industrial districts, such signs in place for more than three (3) days must have a Special Sign Permit, except a searchlight must have a Permit for any period it is used. Such signs are permitted only on the premises where the event is held.

Such signs may be placed for only the following occasions and only for the period specified in each, as follows:

Special events -- Fourteen (14) days.

Holiday observances -- Forty (40) days.

Grand Openings -- Fourteen (14) days.

Closing out, or going out, of business sales -- Fifty (50) days.

g. Banners.

Banners are prohibited in all residential districts.

In business and industrial districts, banners shall be regulated as follows:

General Business, Shopping Center, and Industrial Districts. Two (2) banners allowed per property without a permit; not to exceed thirty (30) square feet each; for not more than thirty (30) days per banner.

Central Business and Limited Business Districts. One (1) banner allowed per property without a permit; not to exceed thirty (30) square feet; for not more than thirty (30) days.

The thirty (30)-day time period may be extended upon the granting of a Special Sign Permit, but shall not exceed the maximum period specified as follows:

Product advertisement -- Sixty (60) days  
Holiday observances -- Sixty (60) days  
Closing/Going-out-of-business -- Ninety (90) days

All banners shall be securely mounted/hung, preferably flat against a wall or fence.

Banners advertising special events may be erected within a public right-of-way by a governmental unit or non-profit organization upon the granting of a Special Sign Permit and subject to the following conditions:

Size -- Not to exceed thirty (30) inches by thirty (30) feet.

Height -- Minimum of fifteen (15) feet above street grade.

Placement -- To be placed only by Willmar Municipal Utilities, or others as approved by the City Engineer.

Maintenance -- Banner shall contain air relief, and shall be removed if torn.

G. SIGNS NOT REQUIRING PERMITS.

1. No permit shall be required for the following types of signs, provided that such signs shall be subject to all other applicable provisions of this Section.
  - a. Signs advertising garage, rummage, or household auction sales, and placed on the premises where the sale is held.
  - b. Temporary signs not in place more than three (3) days.
  - c. Real estate signs.
  - d. Construction signs of thirty-two (32) square feet or less.
  - e. Directional signs of two (2) square feet or less.
  - f. Nameplates of one-half (1/2) square foot or less.
  - g. Political signs.

- h. Public signs or notices placed by any agency of government.
- i. Emergency signs, or signs warning of hazards, whether placed by public or private persons or agencies.
- j. Window signs.
- k. Incidental signs.
- l. Banners, festoons, and pennants in place for three (3) days or less.

H. REGULATION OF ON-PREMISE SIGNS BY ZONING DISTRICT.

1. Signs Permitted in All Districts.

- a. Signs not requiring permits under the provisions of Section 5.G.1. are permitted in all zoning districts, provided that such signs shall not advertise a use in any district not permitted under this Ordinance, either directly or as a nonconforming use under Section 7 of this Ordinance.
- b. There shall be permitted, in lieu of the construction sign permitted as a sign not requiring a permit, one (1) additional construction sign for each street frontage of a project, not to exceed thirty-two (32) square feet in sign area. Such signs may be erected thirty (30) days prior to beginning of construction and shall be removed fourteen (14) days following completion of construction.
- c. There shall be permitted one (1) non-illuminated real estate sign for each property to be sold, rented, or leased, not to exceed six (6) square feet in sign area in residential districts and the Central Business District, and thirty-two (32) square feet in all other districts. Such signs must be removed within ten (10) days of sale, rental, or lease.
- d. Each occupancy shall be permitted one (1) attached nameplate, not to exceed two (2) square feet in sign area.

- e. Political signs, in such number as permitted by the owner of the premise, each not to exceed six (6) square feet in sign area in all districts except industrial districts, where signs thirty-two (32) square feet in sign area may be permitted, may be erected on private property not more than thirty (30) days prior to the election or referendum to be voted upon and shall be removed within seven (7) days following the election or referendum. In a general election year, the size regulations for political signs will not be enforced during the period beginning August 1 and ending ten (10) days following the state general election.
- f. There shall be permitted two (2) directional signs for each property not to exceed ten (10) square feet in sign area in the aggregate and each sign not to exceed four (4) feet in height.

2. Signs Permitted in All Residential Districts.

- a. Signs not requiring permits under the provisions of Section 5.G.1. are permitted in all residential zoning districts, provided that such signs shall not advertise a use in any district not permitted under this Ordinance either directly or as a non-conforming use under Section 7 of this Ordinance.
- b. There shall be permitted in all residential districts containing one (1) or more neighborhood subdivisions, one (1) or two (2) subdivision identification signs for each such subdivision, at the discretion of the person having control of the subdivision, not to exceed eighty (80) square feet in aggregate sign area for each subdivision.
- c. There shall be permitted in residential districts containing one (1) or more apartment or condominium complexes, one (1) or two (2) identification signs for each such complex, at the discretion of the person having control of the complex, not to exceed forty (40) square feet in aggregate sign area.
- d. Each church, synagogue, and school shall be permitted one (1) freestanding sign, not to exceed sixty-four (64) square feet in sign area, and wall signs not to exceed forty (40) square feet in aggregate sign area.

- e. Each home occupation occupancy shall be permitted to erect and maintain one (1) freestanding sign, not to exceed two (2) square feet in sign area. Each occupancy holding the right as a nonconforming business or industrial use shall be permitted to erect and maintain one (1) freestanding or wall sign, not to exceed eight (8) square feet in sign area.
- f. The maximum height of all permitted freestanding signs shall be six (6) feet, and all signs shall have a minimum setback of ten (10) feet from any property line.

3. Signs Permitted in LB-Limited Business Districts.

- a. There shall be permitted in the LB-Limited Business Districts, signs as permitted under Sections 5.H.1. and 5.H.2., subject to restrictions as to use provided in this Ordinance, in addition to the signs permitted in this Subsection.
- b. There shall be permitted for each premise one (1) freestanding sign, not to exceed one (1) square foot in sign area for each linear foot of principal street frontage up to a maximum of sixty-four (64) square feet in sign area. Such signs shall not exceed a height of eight (8) feet where the sign faces a residential district and sixteen (16) feet in all other placements.
- c. Freestanding signs shall have a minimum setback of ten (10) feet from any property line and a minimum clearance of eight (8) feet over any vehicular use area and seven and one-half (7 1/2) feet over any pedestrian use area.
- d. Up to six (6) percent of any wall area, computed by taking the width or length of the building times its height, or sixteen (16) feet, whichever is less, may be devoted to wall signs, provided that each wall sign must be located on the wall as to which its sign area is measured, and that each wall shall be entitled to a minimum sign area of forty (40) square feet, regardless of wall size.
- e. Allocation of sign area for wall signs on multiple occupancy buildings shall be controlled by the building owner, who shall be directly responsible for obtaining the necessary permits for all signs, or for seeing that they are obtained, and for compliance with this Section.

- f. Each premise, in lieu of a wall sign as herein permitted, shall be permitted to have one (1) projecting sign, provided that such sign shall not exceed twenty (20) square feet in sign area, shall not project more than three (3) feet from the building to which it is attached, and shall not project over any property line.
  - g. Each occupancy having a canopy shall be permitted to maintain one (1) under-canopy sign, not to exceed five (5) square feet in sign area and to have a minimum clearance of seven and one-half (7 1/2) feet.
  - h. Each occupancy having an awning shall be permitted to maintain one (1) awning sign, not to exceed one (1) square foot in sign area per one (1) linear foot of awning.
  - i. Each occupancy having a marquee, or the building owner if the marquee is located so that it is shared by two (2) or more occupancies, shall be permitted to maintain a marquee sign on the front and each side of the marquee, the sign area in each case limited to one-half (1/2) square foot of sign area for each linear foot of marquee frontage or marquee extension on each respective side.
  - j. Each occupancy shall be permitted to have a maximum of two (2) incidental signs, not to exceed four (4) square feet in aggregate sign area.
4. Signs Permitted in GB - General Business, I-1 - Limited Industry, and I-2 - General Industry Districts.
- a. There shall be permitted in the GB - General Business, I-1 - Limited Industry, and I-2 - General Industry Districts, signs as permitted under Sections 5.H.1. and 5.H.2., subject to restrictions as to use provided in this Ordinance, in addition to the signs permitted under this Subsection.
  - b. There shall be permitted one (1) freestanding sign for each premise, provided that, where a premise has in excess of one hundred fifty (150) linear feet of principal street frontage, one (1) additional freestanding sign for each additional one hundred (100) linear feet or major fraction thereof shall be permitted. The sign area hereinbelow provided for freestanding signs shall be the aggregate sign area for the freestanding signs on the premise and, in the event more than one (1)

freestanding sign is erected on the premise, the sign area shall be allocated to the signs as determined by the owner. If more than one (1) freestanding sign is located on the premises, they shall be placed at least seventy-five (75) feet apart. No sign shall be located closer to any property line than eight (8) feet.

- c.  On the following streets, a setback of at least two (2) feet from the right-of-way shall be required rather than a setback of eight (8) feet: First Street SW from Willmar Avenue to Litchfield Avenue, and Litchfield Avenue SW from First Street to Second Street and from Seventh Street to Eleventh Street.
- d. The principal frontage street shall be, in the case of premises bounded by more than one street, that street which the owner elects to have considered as the principal frontage street, provided that the freestanding sign or signs must be erected with reference to such street and in conformity with the setback requirements herein provided with respect to the other street or streets.
- e. The maximum sign area for freestanding signs shall not exceed eight tenths (8/10) square foot for each linear foot of principal street frontage up to a maximum of two hundred (200) square feet with a minimum setback of eight (8) feet, nine tenths (9/10) square foot for each linear foot of principal street frontage up to a maximum of two hundred twenty-five (225) square feet with a minimum setback of fifteen (15) feet, or one (1) square foot for each linear foot of principal street frontage up to a maximum of two hundred fifty (250) square feet with a minimum setback of twenty (20) feet. Such signs shall not exceed a height of eight (8) feet where the sign faces a residential district.
- f. The maximum height of freestanding signs shall be twenty (20) feet, provided that signs erected at a setback of twenty (20) feet or more shall be permitted to be erected and maintained to a height of twenty-five (25) feet.

- g. Up to eight (8) percent of any wall area, computed by taking the width or length of the building times its height, or sixteen (16) feet, whichever is less, may be devoted to wall signs, provided that each wall sign must be located on the wall as to which its sign area is measured, and that each wall shall be entitled to a minimum sign area of sixty (60) square feet, regardless of wall size.
- h. Allocation of sign area for wall signs on multiple occupancy buildings shall be controlled by the building owner, who shall be directly responsible for obtaining the necessary permits for all signs, or for seeing that they are obtained, and for compliance with this Section.
- i. Each premise shall be permitted, in lieu of a wall sign as herein permitted, to have one (1) projecting sign, provided that such sign shall not exceed thirty (30) square feet in sign area, shall not project more than four (4) feet from the building to which it is attached when located in the GB - General Business District, nor more than six (6) feet from the building to which it is attached when located in an I - Industrial District, and shall not project over any property line.
- j. Each occupancy having a canopy shall be permitted to maintain one (1) under-canopy sign, not to exceed six (6) square feet in sign area and to have a minimum clearance of seven and one-half (7 1/2) feet.
- k. Each occupancy having a canopy shall be permitted to maintain, in addition to the under-canopy sign herein permitted, one (1) canopy sign for each of the front, back, and sides of the canopy, the sign area of each sign not to exceed one-half (1/2) square foot of sign area for each linear foot of front, back, and sides, and to be limited by the linear feet on the respective front, back, or side on which the sign is placed.
- l. Each occupancy having an awning shall be permitted to maintain one (1) awning sign, not to exceed one (1) square foot in sign area per one (1) linear foot of awning.

For building walls which are more than two hundred fifty (250) feet from the principal street right-of-way, a maximum wall height of twenty (20) feet shall be used for the purpose of computing the maximum allowable wall sign area.

- m. Each occupancy having a marquee, or the building owner if the marquee is located so that it is shared by two (2) or more occupancies, shall be permitted to maintain a marquee sign on the front and each side of the marquee, the sign area in each case limited to one-half (1/2) square foot of sign area for each linear foot of marquee or marquee extension on each respective side.
- n. Each occupancy shall be permitted to maintain a maximum of two (2) incidental signs, not to exceed six (6) square feet in aggregate sign area.
- o. All freestanding, projecting, awning, canopy, and marquee signs shall have a minimum setback of two (2) feet from any vehicle use area, a minimum clearance of fifteen (15) feet over any vehicle use area, and a minimum clearance of seven and one-half (7 1/2) feet over any pedestrian use area.

5. Signs Permitted in the CB - Central Business District.

- a. There shall be permitted in the CB - Central Business District, signs as permitted under Sections 5.H.1. and 5.H.2., subject to restrictions as to use provided in this Ordinance, in addition to the signs permitted under this Subsection.
- b. There shall be permitted for each street frontage for each apartment building and for each condominium building one (1) identification sign, each sign not to exceed eight (8) square feet in sign area.
- c. Churches, synagogues, and non-profit organizations shall be permitted to maintain one (1) freestanding sign, not to exceed thirty (30) feet in sign area, and one (1) wall sign for each wall, each sign not to exceed forty (40) square feet in sign area.
- d. Each business or professional occupancy shall be permitted to maintain one (1) freestanding sign, not to exceed fifty (50) square feet in sign area, not to exceed twenty (20) feet in height, and with a minimum setback of four (4) feet.
- e. Wall signs for each building wall fronting on a street or alley shall be permitted with a sign area on each wall not to exceed one and one-half (1 1/2) square feet of sign area for each linear foot of the building's length or width, whichever may apply, or forty (40) square feet, whichever is

- p. Each premise in a General Business District shall be permitted, in lieu of a wall sign as herein permitted, to have one (1) roof sign as regulated in Section 5.F.3., as amended, of this Ordinance.

greater, provided, that if individual or script cut-out letters are used with the walls as the background, the sign area for each wall shall not exceed three (3) square feet of sign area for each linear foot of length or width of the building, whichever applies, or sixty (60) square feet, whichever is greater.

- f. Each premise shall be permitted, in lieu of a wall sign as herein permitted, to have one (1) projecting sign, provided that such sign shall not exceed twenty (20) square feet in sign area, shall not project more than two (2) feet from the building to which it is attached, shall not project more than two (2) feet over any right-of-way, and shall not project over any property line which is a boundary line between separately owned properties.
- g. Each occupancy having a canopy shall be permitted to maintain one (1) under-canopy sign per street frontage, each sign not to exceed five (5) square feet in sign area and to have a minimum clearance of seven and one-half (7 1/2) feet.
- h. Each occupancy having an awning shall be permitted to maintain one (1) awning sign, not to exceed one (1) square foot in sign area per linear foot of awning.
- i. Each occupancy having a marquee, or the building owner if the marquee is located so that it is shared by two (2) or more occupancies, shall be permitted to maintain a marquee sign on the front and each side of the marquee, the sign area in each case limited to one-half (1/2) square foot of sign area for each linear foot of marquee frontage or marquee extension on each respective side.
- j. Each occupancy shall be permitted to have a maximum of two (2) incidental signs, not to exceed two (2) square feet in aggregate sign area.

6. Signs Permitted in Shopping Center Districts.

- a. There shall be permitted in the SC - Shopping Center Districts, signs as permitted in Section 5.H.1., subject to restrictions as to use provided in this Ordinance, in addition to the signs permitted under this subsection.

- b. One (1) freestanding sign shall be permitted for each shopping center property. There shall be permitted on such freestanding sign structure a sign identifying the property, and additional signs identifying major tenants. The aggregate sign area of such freestanding sign structure shall not exceed three hundred fifty (350) square feet, and shall not exceed thirty-five (35) feet in height.
- c. Where a premise has in excess of one hundred fifty (150) feet of principal street frontage, one (1) additional freestanding sign for each one hundred (100) linear feet or major fraction thereof shall be permitted, provided that no matter how many freestanding signs are permitted under this formula the aggregate sign area of all signs shall not exceed five hundred fifty (550) square feet, and provided, further, if the linear front footage on such principal street frontage is less than three hundred fifty (350) feet, an aggregate sign area of three hundred fifty (350) square feet shall be permitted.
- d. If a shopping center premise has frontage abutting a street other than the principal frontage street, one (1) additional freestanding sign shall be permitted on the other street frontage. The aggregate sign area of such sign shall not exceed one (1) square foot of sign area for each linear foot of other street frontage, and no such sign shall have a sign area in excess of one hundred fifty (150) square feet.
- e. All freestanding signs shall have a minimum setback of eight (8) feet, may not be located closer than eight (8) feet to any property line, and may not be closer to another freestanding sign than seventy-five (75) feet.
- f. Freestanding signs on the principal street frontage other than the sign authorized in Section 5.H.6.b. shall have a maximum height of twenty (20) feet with a setback of less than twenty (20) feet. Signs with a setback of twenty (20) feet or more shall be permitted to be erected and maintained to a height of twenty-five (25) feet. Freestanding signs on other street frontage shall not exceed twenty (20) feet in height. Any freestanding sign on other street frontage that faces a residential district shall not exceed ten (10) feet in height and shall not have a sign area in excess of sixty-four (64) square feet.

- g. Up to eight (8) percent of any wall area, computed by taking the width of the occupancy times the height of the building to a maximum of twenty (20) feet, whichever is less, may be devoted to wall signs. Allocation of area for wall signs on shopping center premises shall be controlled by the owner of the premises, who shall be directly responsible for obtaining necessary permits for all signs, or for seeing that they are obtained, and for compliance with this Section.
- h. There shall be permitted one (1) entrance canopy sign not to exceed in sign area one (1) square foot for each linear foot of entrance canopy, provided that applications for entrance canopy signs are accompanied by written permission of the owner of the property.
- i. Under-canopy signs shall be permitted under such rules as the owner of the premises may determine, provided that such signs may not exceed four (4) square feet in sign area and shall have a minimum clearance of seven and one-half (7 1/2) feet.
- j. Each occupancy having an awning shall be permitted to maintain one (1) awning sign for each awning, each awning sign not to exceed one (1) square foot of sign area for each linear foot of awning.
- k. Each occupancy having a marquee, or the building owner if the marquee is located so that it is shared by two (2) or more occupancies, shall be permitted to maintain a marquee sign or signs, the sign area of which shall not exceed in the aggregate one-half (1/2) square foot of sign area for each linear foot of marquee frontage and each linear foot on each side of marquee extension from the facade of the building to which it is attached, provided that no sign shall be constructed on the frontage or the sides of the marquee in sign area larger than what would be permitted measuring the front or the side on each side, as the case may be.
- l. Incidental signs not to exceed two (2) square feet in aggregate sign area shall be permitted for each occupancy or each entrance for such occupancy.

- m. Freestanding, awning, marquee, canopy, and under-canopy signs shall have a minimum setback of two (2) feet from any vehicular use area, a minimum clearance of fifteen (15) feet over any vehicular use area, and a minimum clearance of seven and one-half (7 1/2) feet over any pedestrian use area.
7. Signs Permitted in P - Park, G - Government/Institutional, and A - Agriculture Districts.
- a. There shall be permitted in the P - Park, G - Government/Institutional, and A - Agriculture Districts, signs as permitted in Section 5.H.1., subject to restrictions as to use provided in this Ordinance, in addition to the signs permitted under this Subsection.
  - b. There shall be permitted on each premise in these districts one (1) freestanding identification sign with a maximum sign area of twenty (20) square feet, a minimum setback of ten (10) feet, and a maximum height of eight (8) feet.
  - c. Other signs not meeting these requirements must have Planning Commission approval.

I. ILLEGAL SIGNS

1. Signs Deemed Illegal Signs. The following signs are illegal signs:
- a. Any sign placed or maintained without a permit from and after the effective date of this Ordinance.
  - b. Any sign maintained in the City as to which the nonconforming use period has expired or has terminated as provided in this Ordinance.
  - c. Any sign as to which limitations as to period of maintaining said sign, either as set forth in this Ordinance or in the permit issued therefore, has expired.
  - d. Any sign which is constructed or maintained in violation of any code or codes applicable to it or which violates any applicable law.
  - e. Any sign which in its construction, maintenance, repair, or relocation violates any provision of this Ordinance or which violates any condition in an issued permit or in any determination granting a variance with conditions attached.

2. Violations; Penalties.

- a. The placement or maintenance of an illegal sign shall constitute a violation of this Ordinance and be subject to the penalties therein described. The City may employ any or all of the remedies set forth in Section 1. of this Ordinance in order to prevent or terminate the placement or maintenance of such illegal sign and to impose all the sanctions available to the City to enforce the provisions hereof.
- b. Any sign placed after the effective date of this Ordinance before the required permit for such sign has been applied for shall be subject to immediate removal unless the owner thereof shall within five (5) days of notice by the Zoning Administrator make application for the required permit and pay the fee therefore. In such case, the fee shall be double that set out in the resolution of the Council and shall be paid in full upon the filing of the application.
- c. The City shall have the power to remove any sign not removed by the owner, and to charge and collect the costs of such removal under all remedies available to it under the law from the owner of such sign, including the power to assess the costs of removal against the real estate on which the sign is placed where the owner of the sign is also the owner of such real estate, using the procedures hereinafter set forth.
- d. As to any illegal sign not removed by the owner, the Zoning Administrator shall institute removal proceedings in the following manner: He shall serve upon the owner of the sign, with a copy to the owner of the tract on which the sign is located, by delivery personally or by certified mail, a Notice of Removal, stating that if the said sign is not removed, it will be removed by the City within a period of ten (10) days after the delivery or mailing of the notice. The notice shall also specify that the costs of such removal shall be charged to the owner of the sign and that, where the sign is placed or maintained on real estate by an owner who is also the owner of the sign, if the same is not paid before the time set by law for the Clerk-Treasurer to certify to the County Auditor special assessments levied by the City Council, the Clerk-Treasurer will certify such costs as a special assessment on the real estate tract on which

the sign is located. Failure of the owner of the sign to pay the said charges upon notification thereof by the Zoning Administrator shall also constitute a violation of this Ordinance.

- e. Any person whose sign is in violation of this Ordinance shall not be entitled to a sign permit for any other sign until the sign in violation has either been removed and all charges therefore incurred by the City paid or made to conform to the provisions of this Ordinance.

J. NONCONFORMING SIGNS.

1. Definition; Status; Continuation.

- a. Any sign in place at the effective date of this Ordinance which does not conform to the provisions of this Ordinance with respect to location, setback, height, clearance, type of sign, sign area, or number of signs permitted is a nonconforming sign.
- b. Nonconforming signs shall be considered lawful signs if they do not violate any provision of this Ordinance dealing with permits, any applicable law or code, or condition in any variance or permit pertaining thereto, and may be continued for the applicable period pertaining to such sign provided the provisions of this Section 5.J. are observed.
- c. The nonconforming status of such signs may be maintained if the following provisions are observed:
  - (1) The sign is maintained at all times in conformity with the provisions of this Ordinance as to maintenance, and with the provisions of this Ordinance and other laws and codes providing for the safety of the public.
  - (2) The sign identifies or advertises the owner, the facility, the product, or services provided on the premises to which it relates.
  - (3) The period of nonconforming use as herein provided has not terminated.

2. Nonconforming Use Period.

a. Standards For Determining Nonconforming Use Period. It is the intent of this Ordinance that all nonconforming signs shall either be made to conform or be removed as soon as practicable, commensurate with the preservation of property values inherent in the sign. The following criteria shall govern the determination of a nonconforming use period:

- (1) (a) Whether or not a permit was obtained for the sign, or approval was granted by virtue of including the sign on a development plan/site plan receiving a positive review by the Zoning Administrator or Planning Commission. It shall be the responsibility of the sign owner to demonstrate to the Zoning Administrator that a nonconforming sign has a permit or was likewise approved at the time of its erection.
- (b) The nonconforming use period for such permitted/approved signs shall not exceed ten (10) years from the date of verification of the nonconforming status of the sign by the Zoning Administrator.
- (c) For signs without permits/plan approval, the nonconforming use period shall not exceed five (5) years from the date of verification of the nonconforming status of the sign by the Zoning Administrator.
- (d) This criterium shall not apply to signs allowed by a variance, as a variance is permanent in nature unless conditioned otherwise.
- (2) (a) Location of the sign with respect to public road right-of-way.
- (b) To minimize potential liability to the City created by a sign erected in, or projecting into, a public road right-of-way, the nonconforming use period for such signs shall not exceed two (2) years from the date of verification of the nonconforming status of the sign by the Zoning Administrator.

- (c) Signs erected in, or projecting into, a public right-of-way for which a permit was obtained or approval granted, shall have a nonconforming use period not to exceed ten (10) years as specified above.
  - (3) If the sign is nonconforming because it, with another or other signs, exceeds the number of signs permitted under this Ordinance, the owner of the signs shall determine which sign or signs shall remain as the permitted sign or signs and the nonconforming use period of the other sign or signs shall be six (6) months.
  - (4) The nonconforming use period of any sign shall not exceed the periods herein established, unless a longer period is granted under the appeals procedures hereinafter provided for.
  - (5) Signs which were determined to be nonconforming under the terms of Ordinance No. 871, adopted in 1986, shall not have their nonconforming use period extended by this Ordinance.
- b. Procedures for Determination of Nonconforming Use Period. It is the intent of this Ordinance that the period of nonconforming use of each nonconforming sign shall be determined in order that both the City officials and the owner of the sign might program the disposition of the sign. To that end, the following procedure for determining the nonconforming use period for each sign shall be followed:
- (1) From time to time as shall be deemed necessary, the Zoning Administrator shall make an inventory and set up a record for nonconforming signs in the City, and shall maintain said record until the nonconforming signs are removed.
  - (2) The Zoning Administrator shall thereupon, using the criteria herein set forth, make a determination of the nonconforming use period for each nonconforming sign.
  - (3) Upon such determination being made, the Zoning Administrator shall serve a notice upon the owner of such sign setting out his determination of the nonconforming use period of the sign and a copy of Section 5.J. of this Ordinance. If the owner of the property on which the sign is located is different than the own-

er of the sign, a copy of the notice and of the said Section shall also be served on the owner of the property. The notice shall state that the owner has a period of thirty (30) days from receipt of the notice to file objections with the Zoning Administrator, and, failing the filing of such objections, the determination of the Zoning Administrator shall be final and conclusive. It shall also give the mailing address of the Zoning Administrator. The notice shall be served either by personal delivery or by certified mail with return receipt requested.

- (4) In filing an objection to the Zoning Administrator's determination of nonconforming use period, the owner of the sign shall have the following options available:
  - (a) Owners of signs determined to have a ten-year period of nonconforming use--appeal to the Board of Zoning Appeals.
  - (b) Owners of signs determined to have less than a ten (10)-year period of nonconforming use--demonstrate that the sign was officially permitted or approved, and/or appeal to the Board of Zoning Appeals.
  - (c) Owners of any nonconforming signs--demonstrate that the sign was allowed by a variance.
- (5) If the owner does not file an objection to the determination of the Zoning Administrator within a period of thirty (30) days from his receipt of the notice, the determination of the Zoning Administrator shall be final and conclusive.
- (6) Following the thirty (30)-day objection period, the owner of a sign having filed a timely objection shall have an additional thirty (30) days to either demonstrate that the sign was officially permitted or approved, and/or file an appeal to the Board of Zoning Appeals.

- (7) If the owner of the sign does not file an appeal to the Board of Zoning Appeals within the aforementioned sixty (60)-day time period, the determination of the Zoning Administrator shall be final and conclusive.
- (8) In the event of an appeal, the procedure to be followed shall be that set forth in Section 9.C. of this Ordinance.
- (9) In lieu of an appeal, the owner of the sign, at the owner's expense, may submit the matter to arbitration, in which event the procedure and rights of the parties shall be determined by the provisions of the Minnesota Arbitration Act.

3. Maintenance/Repair/Alteration of Nonconforming Signs.

- a. Maintenance. A nonconforming sign shall be properly maintained during the established period of nonconforming use in accordance with Section 5.K. of this Ordinance.
- b. Repairs. If any nonconforming sign is damaged by any means to the extent of fifty (50) percent or more of its value, it shall not be repaired except as to bring the sign into complete compliance with all the provisions of this Ordinance.
- c. Alterations. A nonconforming sign may be altered with respect to the face only. No structural alterations shall be permitted, nor shall any alteration of sign faces be permitted which increases the area, height, or setback nonconformity of the sign.
- d. Variances Prohibited. No variance may be granted for any increase in the nonconformity of a sign.

4. Disposition After Expiration of Nonconforming Use Period.

- a. Any sign as to which the nonconforming use period, as herein determined, has expired, and which is not removed or rehabilitated to make it a conforming sign on or before the expiration of such period, shall thereupon become an illegal sign and be subject to the penalty provisions of Section 5.I. of this Ordinance.

5. Annexations.

- a. Any signs on property which is hereafter annexed to the City shall be subject to the provisions of this Ordinance, the same as if the tract annexed were a part of the City on the effective date of this Ordinance, effective as of the date the annexation becomes final. Upon annexation of any tract, the Zoning Administrator shall examine the same to determine that all signs conform and permits required are obtained as herein provided.

K. GENERAL REGULATORY PROVISIONS.

1. Maintenance. All signs shall be maintained so that exposed surfaces are clean and painted if painting is required, defective parts are replaced, and broken or non-functioning parts are repaired or removed.
2. Lighting. Unless otherwise provided by this Ordinance, all signs may be illuminated, provided that no sign may utilize an exposed incandescent lamp with an external reflector without a sunscreen or comparable diffusion, any lamp throwing light on the sign in which the direct light from the lamp is visible from any public street or public sidewalk, or any revolving beacon light.
3. Changeable Copy. Unless otherwise provided by this Ordinance, any sign permitted by this Ordinance may use changeable copy, changed either manually or electronically.
4. Compliance With Codes. All signs shall comply with the provisions of the Building Code and the Electrical Code adopted by the City Council of the City of Willmar, now or hereafter in effect, where applicable.
5. Standards. The standards of construction for all signs shall be those as to which Code provisions are in effect specifically, or if there are no such specific provisions, the nearest reasonable regulations pertaining to items such as type of material used, anchoring, wind loading, and other safety factors as are in effect in the City. Any violation of any such Code provision shall be deemed a violation of the provisions of this Ordinance.
6. Anchoring.
  - a. No sign shall be suspended by nonrigid attachments that will allow the sign to swing in a wind. Banners as regulated in Section 5.F.3.g. are exempt from the provision.

- b. All freestanding signs shall have self-supporting structures erected on or permanently attached to concrete foundations.
- c. All portable signs on display shall be braced or secured to prevent motion.

L. ADMINISTRATIVE PROVISIONS.

1. General Administration.

- a. Administrator. These sign regulations shall be administered by the Zoning Administrator or his designee, with all the powers and subject to the provisions set forth with respect to said office in this Ordinance.

2. Forms; Permits; Fees; Denials.

- a. Forms. The Zoning Administrator shall prepare forms for Sign Permits, Special Sign Permits, applications, notices, and all other forms which may be required for the administration and the enforcement of the provisions of this Section. Such forms shall incorporate all provisions required with respect thereto by this Section and this Ordinance and data and requests for data as shall enable the Zoning Administrator, and, if necessary, the Board of Zoning Appeals, or a board of arbitration, or the courts, to make a determination based on all available facts. Forms for determinations adverse to the owner shall clearly state the rights of the owner with respect to appeal or other remedy available to him by the provisions of this Section and this Ordinance.
- b. Permits. To be effective, Sign Permits and Special Sign Permits must be in writing, be legibly set forth, and be dated and signed by the Zoning Administrator. A copy of all Permits and determinations issued or made shall be kept permanently by the Zoning Administrator.
- c. Fees. Any fee provided for in this Section shall be that amount which the Council in its Resolution on fees determines. If any sign is placed before a Permit is issued, the fee shall be doubled.

- d. Denials. If an application for a Sign Permit is denied by the Zoning Administrator, he shall, upon request, set forth his reasons for such denial in writing with references to applicable provisions of this Section.

**SECTION 6. ZONING DISTRICTS AND DISTRICT REGULATIONS**

A. **DISTRICT SUMMARY.** For purposes of this Ordinance, the City of Willmar is hereby divided into zoning districts which shall be designated as follows:

1. Residential Districts.

- a. R-1, One-Family Residential District.
- b. R-2, One- and Two-Family Residential District.
- c. R-3, Low Density Multiple Family Residential District.
- d. R-4, Medium Density Multiple Family Residential District.
- e. R-5, High Density Multiple Family Residential District.

2. Business Districts.

- a. LB, Limited Business District.
- b. GB, General Business District.
- c. CB, Central Business District.
- d. SC, Shopping Center District.

3. Industrial Districts.

- a. I-1, Limited Industry District.
- b. I-2, General Industry District.

4. Shoreland Districts.

- a. Shoreland Districts exist as overlay districts adjacent to the public waters in the City of Willmar. These districts have greater restrictions relative to use and bulk/density of development, and are regulated by the City of Willmar Shoreland Management Ordinance.

5. Other Districts.

- a. P, Park District.
- b. G, Government/Institutional District.
- c. A, Agriculture District.

B. **PERMITTED IN ALL DISTRICTS.** The following uses are deemed appropriate for all zoning districts:

- 1. Signs as regulated by Section 5.
- 2. Parking as regulated by Section 4.

3. Buildings temporarily located for construction purposes.
4. Decorative landscape features and fences as regulated by Section 3.
5. Satellite dishes/antennae as an accessory structure as regulated by Section 3.

C. R-1, ONE-FAMILY RESIDENTIAL DISTRICT.

1. Permitted Uses. Only the following uses shall be permitted outright:
  - a. One-family detached dwellings.
  - b. Agricultural uses, not including livestock raising or feeding.
2. Permitted Uses With Plan Review. The following uses are permitted provided plans are submitted to and approved by the Zoning Administrator and Planning Commission, subject to such conditions as they may attach thereto:
  - a. City parks.
  - b. Licensed residential facilities with six (6) or fewer residents.
  - c. Room and board for up to four (4) persons.
  - d. Essential services and public uses.
3. Conditional Uses. The following additional uses are permitted upon the granting of a conditional use permit by the Planning Commission, subject to such conditions as they may attach thereto:
  - a. Churches and cemeteries.
  - b. Commercial day nurseries and schools.
  - c. Golf courses, tennis clubs.
  - d. Home occupations.
  - e. Private and public schools.
  - f. Structures over two (2) stories or thirty-five (35) feet high.
4. Permitted Accessory Uses. The following accessory structures or uses of land shall be permitted:
  - a. Garages, carports, and parking space.
  - b. Keeping of domestic pets; does not include kennels.
  - c. Residential waterfront uses and recreational equipment.
  - d. Swimming pools and tennis courts.
  - e. Detached garage storage or storage buildings.

5. Lot Area, Width, and Setback Requirements. The following standards shall be the minimum requirements for development in the "R-1" District:

- a. Lot Area = 10,000 SF
- b. Lot Width = 80 feet
- c. Setbacks --
  - Front (r/w) = 30 feet
  - Rear = 30 feet
  - Side, interior = 10 feet
  - Side, street (r/w) = 30 feet

D. R-2, ONE- AND TWO-FAMILY RESIDENTIAL DISTRICT.

- 1. Permitted Uses. Only the following uses shall be permitted outright:
  - a. One-family detached dwellings.
  - b. Two-family (duplex) detached dwellings, including twin-homes.
  - c. Agricultural uses, not including livestock raising or feeding.
- 2. Permitted Uses With Plan Review. The following uses are permitted provided plans are submitted to and approved by the Zoning Administrator and the Planning Commission, subject to such conditions as they may attach thereto:
  - a. City parks.
  - b. Licensed residential facilities with six (6) or fewer residents.
  - c. Parking for adjacent LB or GB use.
  - d. Room and board for up to four (4) persons.
  - e. Essential services and public uses.
- 3. Conditional Uses. The following additional uses are permitted upon the granting of a conditional use permit by the Planning Commission, subject to such conditions as they may attach thereto:
  - a. Churches and cemeteries.
  - b. Commercial day nurseries and schools.
  - c. Golf courses, tennis clubs.
  - d. Home occupations.
  - e. Neighborhood service stores.
  - f. Nursing, rest, or retirement homes.
  - g. Planned unit developments.
  - h. Private and public schools.
  - i. Structures over two (2) stories or thirty-five (35) feet high.
  - j. Bed and breakfast establishments.

4. Permitted Accessory Uses. The following accessory structures or uses of land shall be permitted:
  - a. Garages, carports, and parking space.
  - b. Keeping of domestic pets; does not include kennels.
  - c. Residential waterfront uses and recreational equipment.
  - d. Swimming pools and tennis courts.
  - e. Detached garage storage or storage buildings.
  
5. Lot Area, Width, and Setback Requirements. The following standards shall be the minimum requirements for development in the "R-2" District:
  - a. Lot Area = 8,500 SF for single-family dwelling  
= 12,000 SF for two-family dwelling
  - b. Lot Width = 75 feet for single-family dwelling  
= 85 feet for two-family dwelling
  - c. Setbacks --
 

Front (r/w)	= 30 feet
Rear	= 30 feet
Side, interior	= 10 feet
Side, street (r/w)	= 30 feet

E. R-3, LOW DENSITY MULTI-FAMILY RESIDENTIAL DISTRICT.

1. Permitted Uses. Only the following uses shall be permitted outright:
  - a. One-family detached dwellings.
  - b. Two-family (duplex) detached dwellings, including twin-homes.
  - c. Three- and four-plex multi-dwellings, and town-houses up to four units.
  - d. Agricultural uses, not including livestock raising or feeding.
  
2. Permitted Uses With Plan Review. The following uses are permitted provided plans are submitted to and approved by the Zoning Administrator and the Planning Commission, subject to such conditions as they may attach thereto:
  - a. City parks.
  - b. Licensed residential facilities with six (6) or fewer residents.
  - c. Manufactured homes.
  - d. Parking for adjacent LB or GB use.
  - e. Room and board for up to four (4) persons.
  - f. Essential services and public uses.
  - g. Bed and breakfast establishments.

3. Conditional Uses. The following additional uses are permitted upon the granting of a conditional use permit by the Planning Commission:

- a. Churches and cemeteries.
- b. Commercial day nurseries and schools.
- c. Home occupations.
- d. Licensed residential facilities with seven (7) to sixteen (16) residents.
- e. Neighborhood service stores.
- f. Nursing, rest, or retirement homes.
- g. Planned unit developments.
- h. Private and public schools.
- i. Structures over two (2) stories or thirty-five (35) feet high.

4. Permitted Accessory Uses. The following accessory structures or uses of land shall be permitted:

- a. Garages, carports, and parking space.
- b. Keeping of domestic pets; does not include kennels.
- c. Residential waterfront uses and recreational equipment.
- d. Swimming pools and tennis courts.
- e. Detached garage storage or storage buildings.

5. Lot Area, Width, and Setback requirements. The following standards shall be the minimum requirements for development in the "R-3" District:

	<u>1-Family</u>	<u>2-Family</u>	<u>3-Plex</u>	<u>4-Plex</u>
a. Lot Area =	8,500 SF	12,000 SF	15,000 SF	18,000 SF
b. Lot Width=	70 feet	80 feet	90 feet	100 feet
c. Setbacks --				
Front(r/w)	30 feet	30 feet	30 feet	30 feet
Rear	30 feet	30 feet	30 feet	35 feet
Side,int.	10 feet	10 feet	10 feet	15 feet
Side,street				
(r/w)	30 feet	30 feet	30 feet	30 feet

F. R-4, MEDIUM DENSITY MULTI-FAMILY RESIDENTIAL DISTRICT.

1. Permitted Uses. Only the following uses shall be permitted outright:
  - a. Two-family (duplex) detached dwellings, including twin-homes.
  - b. Three- and four-plex multi-dwellings, and townhouses up to four units.
  - c. Agricultural uses, not including livestock raising or feeding.
  
2. Permitted Uses With Plan Review. The following uses are permitted provided plans are submitted to and approved by the Zoning Administrator and the Planning Commission, subject to such conditions as they may attach thereto:
  - a. City parks.
  - b. Licensed residential facilities with six (6) or fewer residents.
  - c. Manufactured homes.
  - d. Multi-dwellings up to twelve (12) units/building, including apartments and townhouses.
  - e. Neighborhood service stores.
  - f. Parking for adjacent LB or GB use.
  - g. Room and board for up to four (4) persons.
  - h. Structures over three (3) stories or forty-five (45) feet high.
  - i. Essential services and public uses.
  
3. Conditional Uses. The following uses are permitted upon the granting of a conditional use permit by the Planning Commission, subject to such conditions as they may attach thereto:
  - a. Churches and cemeteries.
  - b. Commercial day nurseries and schools.
  - c. Licensed residential facilities with seven (7) to sixteen (16) residents.
  - d. Mobile home parks, subject to Section 3.K.
  - e. Multi-dwellings of thirteen (13) to twenty-four (24) units/building.
  - f. Nursing, rest, or retirement homes.
  - g. Planned unit developments.
  - h. Private and public schools.

4. Permitted Accessory Uses. The following accessory structures or uses of land shall be permitted:
- Garages, carports, and parking space.
  - Keeping of domestic pets; does not include kennels.
  - Residential waterfront uses and recreational equipment.
  - Swimming pools and tennis courts.
  - Detached garage storage or storage buildings.
5. Lot Area, Width, and Setback Requirements. The following standards shall be the minimum requirements for development in the "R-4" District:

	<u>2-Family</u>	<u>3-Plex</u>	<u>4-Plex</u>
a. Lot Area =	10,000 SF	13,000 SF	15,000 SF
b. Lot Width =	80 feet	90 feet	100 feet
c. Setbacks --			
Front (r/w)	30 feet	30 feet	30 feet
Rear	30 feet	30 feet	35 feet
Side, interior	10 feet	10 feet	15 feet
Side, street (r/w)	30 feet	30 feet	30 feet

Continued:

	<u>Units 5-12</u>	<u>Units 13-24</u>
a. Lot Area =	add 3,500 SF per unit	add 3,000 SF per unit
b. Lot Width =	add 5 feet per unit	add 5 feet per unit
c. Setbacks --		
Front (r/w)	30 feet	30 feet
Rear	40 feet	40 feet
Side, interior	20 feet	20 feet
Side, street (r/w)	30 feet	30 feet

G. R-5, HIGH DENSITY MULTI-FAMILY RESIDENTIAL DISTRICT.

- Permitted Uses. Only the following uses shall be permitted outright:
  - Multi-dwellings, four (4) to twelve (12) units/building, including apartments and townhouses.

2. Permitted Uses With Plan Review. The following uses are permitted provided plans are submitted to and approved by the Zoning Administrator and the Planning Commission, subject to such conditions as they may attach thereto:
  - a. City parks.
  - b. Licensed residential facilities with sixteen (16) or fewer residents.
  - c. Multi-dwellings of thirteen (13) to twenty-four (24) units/building.
  - d. Neighborhood service stores.
  - e. Parking for adjacent LB or GB use.
  - f. Structures over three (3) stories or forty-five (45) feet high.
  - g. Essential services and public uses.
  
3. Conditional Uses. The following uses are permitted upon the granting of a conditional use permit by the Planning Commission, subject to such conditions as they may attach thereto:
  - a. Multi-dwellings of twenty-five (25) to forty-eight (48) units/building.
  - b. Nursing, rest, or retirement homes.
  - c. Planned Unit developments.
  
4. Permitted Accessory Uses. The following accessory structures or uses of land shall be permitted:
  - a. Garages, carports, and parking space.
  - b. Keeping of domestic pets; does not include kennels.
  - c. Residential waterfront uses and recreational equipment.
  - d. Swimming pools and tennis courts.
  - e. Detached garage storage or storage buildings.
  
5. Lot Area, Width, and Setback Requirements. The following standards shall be the minimum requirements for development in the "R-5" District:

	<u>4-Plex</u>	<u>Units 5 and above</u>
a. Lot Area =	12,000 SF	add 2,000 SF per unit
b. Lot Width =	100 feet	add 2 feet per unit
c. Setbacks --		
Front (r/w)	30 feet	30 feet
Rear	35 feet	40 feet
Side, interior	15 feet	20 feet
Side, street (r/w)	30 feet	30 feet

H. LB, LIMITED BUSINESS DISTRICT.

1. Permitted Uses With Plan Review. The following uses are permitted provided plans are submitted to and approved by the Zoning Administrator and the Planning Commission, subject to such conditions as they may attach thereto:

- a. Alterations/tailler shops.
- b. Art studio, prints and supplies.
- c. Banks/financial institutions.
- d. Bed and breakfast establishments.
- e. Broadcasting studios (w/o transmission tower).
- f. Churches.
- g. Commercial day nurseries or schools.
- h. Fraternal/service clubs.
- i. Funeral homes/crematoriums.
- j. Medical/dental clinics.
- k. Nurseries/greenhouses (sales only, no heavy equipment).
- l. Offices, business and professional.
- m. Parking.
- n. Photo studios, including the sale of photographic supplies.
- o. Essential services and public uses.
- p. *Hair care (barbers, beauty shops, salons, etc.)*

2. Conditional Uses. The following uses are permitted upon the granting of a conditional use permit by the Planning Commission, subject to such conditions as they may attach thereto:

- a. Businesses w/drive-up facilities (if use permitted).
- b. Hotels/motels.\*
- c. Multiple-family dwelling units as a secondary use in a business structure.
- d. Museums.
- e. Nursing homes, residential care facilities.
- f. Planned unit developments.
- g. Structures exceeding forty-five (45) feet in height (if use permitted).

\* only in an LB District contiguous to the CBD.

3. Permitted Accessory Uses. The following accessory structures or uses of land shall be permitted:

- a. Detached storage or accessory buildings.

- h. Convenience Stores w/gasoline sales. Ord 1087
- i. Restaurants (excluding fast food, drive-ins, <sup>12/96</sup> or drive-throughs)
- j. Mini storage businesses.
- k. Athletic/recreation facilities.

4. Lot Area, Width, and Setback Requirements. The following standards shall be the minimum requirements for development in the "LB" District:

- a. Lot Area = 15,000 SF
- b. Lot Width = 100 feet
- c. Setbacks --
  - Front (r/w) = 25 feet; 15 feet, if District is adjacent to CBD
  - Rear = 10 feet
  - Side, interior = 10 feet
  - Side, street (r/w) = 25 feet; 15 feet, if District is adjacent to CBD

I. GB, GENERAL BUSINESS DISTRICT.

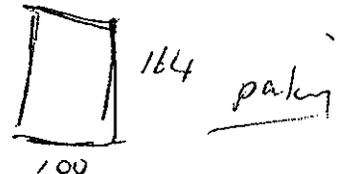
1. Permitted Uses. Only the following uses shall be permitted outright:

- a. Alterations/tailor shops.
- b. Appliance sales and service.
- c. Art studios, including sale of prints and supplies.
- d. Athletic/recreation facilities.
- e. Automobile/light truck sales and service.
- f. Automobile/truck parts and supplies sales.
- g. Bait and tackle stores.
- h. Bakeries.
- i. Banks/financial institutions.
- j. Bicycle sales and service.
- k. Broadcasting studios.
- l. Carpet/floor covering stores.
- m. Churches.
- n. Clothing stores.
- o. Commercial day nurseries or schools.
- p. Computer/electronic equipment sales and service.
- q. Drug stores/pharmacies.
- r. Dry cleaners.
- s. Employment agencies.
- t. Fabric stores.
- u. Farm supplies sales.
- v. Flower shops.
- w. Funeral homes/crematoriums.
- x. Furniture stores.
- y. Glass sales/service.
- z. Hair care (barbers, beauty shops, salons, etc.)
- aa. Hardware stores.
- bb. Laundromats.
- cc. Liquor sales, on and off.
- dd. Medical/dental clinics.
- ee. Motorcycle/snowmobile/boat sales and service.
- ff. Museums.
- gg. Music stores.

- hh. Office supplies stores.
- ii. Offices, business and professional.
- jj. Parking.
- kk. Pet stores.
- ll. Photo processing business.
- mm. Photo studios, including the sale of photographic supplies.
- nn. Printing shops.
- oo. Schools and colleges.
- pp. Shoe stores.
- qq. Small engines sales and service.
- rr. Sporting goods stores.
- ss. Tanning parlors.
- tt. Theaters.
- uu. Tire sales and service.
- vv. Toy stores.
- ww. Veterinary clinics.
- xx. Video stores.
- yy. Welding supply stores.
- zz. Essential services and public uses.

2. Permitted Uses With Plan Review. The following uses are permitted provided plans are submitted to and approved by the Zoning Administrator and the Planning Commission, subject to such conditions as they may attach thereto:

- a. Armories, convention halls, auditoriums.
- b. Building contractor shops.
- c. Bus terminals.
- d. Businesses w/drive-up facilities (if use permitted).
- e. Car washes.
- f. Department stores.
- g. Discount stores.
- h. Electrical contractors shops.
- i. Fertilizer sales.
- j. Fraternal/service clubs.
- k. Hotels/motels.
- l. Livestock feed sales.
- m. Lumber yards (including misc. building materials).
- n. Mini-storage businesses.
- o. Multi-business buildings and complexes (if uses permitted).
- p. Multiple-family dwelling units as a secondary use in a business structure.
- q. Nurseries, greenhouses.
- r. Plastering/drywall contractors shops.
- s. Plumbing/heating/air conditioning/refrigeration/ventilation contractors shops.
- t. Restaurants (including night clubs and fast foods).
- u. Roofing contractors shops.
- v. Seasonal businesses.
- w. Sheet metal contractors shops.



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paley

- x. Sign contractors shops.
  - y. Structures exceeding forty-five (45) feet in height (if use permitted).
  - z. Supermarkets/grocery stores (including convenience stores w/o gas sales).
  - aa. Truck sales and service.
  - bb. Water conditioning contractors shops.
  - cc. Welding shops.
3. Conditional Uses. The following uses are permitted upon the granting of a conditional use permit by the Planning Commission, subject to such conditions as they may attach thereto:
- a. Adult entertainment uses, as regulated in Section 3.Q.
  - b. Flammable gas/liquid sales and storage (including gas stations and convenience stores w/gas sales).
  - c. Planned unit developments.
  - d. Recycling transfer stations.
4. Permitted Accessory Uses. The following accessory structures or uses of land shall be permitted:
- a. Detached storage or accessory buildings.
5. Lot Area, Width, and Setback Requirements. The following standards shall be the minimum requirements for development in the "GB" District:
- a. Lot Area = 15,000 SF
  - b. Lot Width = 100 feet
  - c. Setbacks --
    - Front (r/w) = 25 feet\*
    - Rear = 10 feet
    - Side, interior = 10 feet
    - Side, street (r/w) = 25 feet\*

\* All front or street setbacks along state/federal highways shall be a minimum of fifty (50) feet except for T.H.12 between 11th Street Southwest and Lakeland Drive.

J. CB, CENTRAL BUSINESS DISTRICT.

1. Permitted Uses. Only the following uses shall be permitted outright:
- a. Alterations/tailor shops.
  - b. Appliance sales and repair.
  - c. Art studios, including the sale of prints and supplies.
  - d. Athletic/recreation facilities.

- e. Automobile/light truck sales and service.
- f. Bakeries.
- g. Banks/financial institutions.
- h. Bicycle sales and service.
- i. Broadcasting studio (without transmission towers).
- j. Carpet/floor covering stores.
- k. Churches.
- l. Clothing stores.
- m. Commercial day nurseries and schools.
- n. Computer/electronic equipment sales and service.
- o. Drug stores/pharmacies.
- p. Dry cleaners.
- q. Employment agencies.
- r. Fabric stores.
- s. Flower shops.
- t. Fraternal/service clubs.
- u. Funeral homes/crematoriums.
- v. Furniture stores.
- w. Haircare (barbers, beauty shops, salons, etc.).
- x. Hardware stores.
- y. Hospitals.
- a. Interior design stores.
- aa. Laundromats.
- bb. Liquor sales, on and off.
- cc. Medical/dental clinics.
- dd. Office supplies stores.
- ee. Offices, business and professional.
- ff. Paint stores.
- gg. Pawn shops.
- hh. Pet stores.
- ii. Photo processing businesses.
- jj. Photo studios, including the sale of photographic supplies.
- kk. Printing shops.
- ll. Restaurants (including night clubs and fast food).
- mm. Schools and colleges.
- nn. Shoe stores.
- oo. Sporting goods stores.
- pp. Tanning parlors.
- qq. Tattoo parlors.
- rr. Theaters.
- ss. Tire sales.
- tt. Toy stores.
- uu. Video stores.
- vv. Wholesale sales.
- ww. Essential services and public uses.

2. Permitted Uses With Plan Review. The following uses are permitted provided plans are submitted to and approved by the Zoning Administrator and the Planning Commission, subject to such conditions as they may attach thereto:
  - a. Armories, auditoriums, or convention halls.
  - b. Bus terminals.
  - c. Businesses with drive-up facilities (if use permitted).
  - d. Department stores.
  - e. Discount stores.
  - f. Multiple-family dwelling units as a secondary use in a business structure.
  - g. Parking facilities.
  - h. Specialty food stores.
  - i. Structures exceeding forty-five (45) feet in height.
  - j. Taxi/mass transit businesses.
3. Conditional Uses. The following uses are permitted upon the granting of a conditional use permit by the Planning Commission, subject to such conditions as they may attach thereto:
  - a. Hotels and motels.
  - b. Supermarkets/grocery stores (including convenience stores without gas sales).
4. Permitted Accessory Uses. The following accessory structures or uses of land shall be permitted:
  - a. Detached storage or accessory buildings.
5. Lot Area, Width, and Setback Requirements. The following standards shall be the minimum requirements for development in the "CBD" District:
  - a. Lot Area = 2,000 SF
  - b. Lot Width = 25 feet
  - c. Setbacks (all) = Not applicable.
6. Encroachment. Encroachments into right-of-way by marquees, roof overhangs, or awnings in the CBD will be limited to a distance of six (6) feet or one-half the width of sidewalk, whichever is less. All such encroachments must provide seven and one-half (7 1/2) feet vertical clearance to the sidewalk.

K. SC, SHOPPING CENTER DISTRICT.

1. Definition. The Shopping Center District is defined as any grouping of ten (10) or more retail uses in one or more principal structures under single control, with off-street parking and a minimum of fifty thousand (50,000) SF in building area.
2. Permitted Uses. Only the following uses shall be permitted outright:
  - a. Athletic/recreation facilities.
  - b. Automobile/light truck parts sales and service.
  - c. Banks/financial institutions.
  - d. Broadcast studios (without transmission towers).
  - e. Computer/electronic equipment sales and service.
  - f. Department stores.
  - g. Discount stores.
  - h. Flower shops.
  - i. Haircare (barbers, beauty shops, salons, etc.).
  - j. Hardware stores.
  - k. Liquor sales, on and off.
  - l. Medical/dental clinics.
  - m. Offices, business and professional.
  - n. Photo processing businesses.
  - o. Printing shops.
  - p. Restaurants (including night clubs and fast food).
  - q. Retail stores.
  - r. Seasonal businesses.
  - s. Supermarkets/grocery stores (including convenience stores without gas sales).
  - t. Theaters.
  - u. Tire sales.
3. Permitted Uses With Plan Review. The following uses are permitted provided plans are submitted to and approved by the Zoning Administrator and the Planning Commission, subject to such conditions as they may attach thereto:
  - a. Any permitted use in Section 6.K.2. above where the business is free-standing and not connected to the main complex.
  - b. Detached accessory buildings.
  - c. Parking.
  - d. Structures over forty-five (45) feet in height.
  - e. Convenience stores with gasoline sales.

4. Lot Area, Width, Setback and Miscellaneous Requirements. The following standards shall be the minimum requirements for development in the "SC" District:

	<u>Main Complex</u>	<u>Additional Free- Standing Facilities</u>
a. Lot Area =	140,000 SF	10,000 SF
b. Lot Width =	400 feet	100 feet
c. Setbacks --		
Front (r/w)	100 feet	50 feet
Rear	100 feet	50 feet
Side, interior	50 feet	20 feet
Side, street (r/w)	100 feet	50 feet
d. Landscaping, minimum % of site	10%	10%
e. Minimum sidewalk and/or landscaped area adjacent to building	10 feet	10 feet
f. Required traffic island at main entrance		
	10 feet wide	NA
	50 feet long	

L. I-1, LIMITED INDUSTRY DISTRICT.

1. Permitted Uses With Plan Review. The following uses shall be permitted provided plans are submitted to and approved by the Zoning Administrator and the Planning Commission, subject to such conditions as they may attach thereto:
- a. Agricultural uses, not including livestock raising or feeding.
  - b. Agri-business, not including agricultural product processing.
  - c. Automobile/truck sales, repair, and service.
  - d. Commercial dog kennels.
  - e. Contractors shops.
  - f. Creameries.
  - g. Equipment rental businesses.
  - h. Greenhouses and nurseries.
  - i. Manufacturing businesses.
  - j. Metal fabrication businesses.
  - k. Motor freight terminals.
  - l. Poultry processing.
  - m. Printing shops.
  - n. Research and development businesses.
  - o. Restaurants.
  - p. Storage facilities, including mini-storage.
  - q. Transportation facilities/businesses.

- r. Veterinary clinics.
  - s. Wholesale sales.
  - t. Essential services and public uses.
2. Conditional Uses. The following uses are permitted upon the granting of a conditional use permit by the Planning Commission, subject to such conditions as they may attach thereto:
- a. Adult entertainment uses, as regulated in Section 3.Q.
  - b. Gas bulk plants.
  - c. Manufacturing of explosive or toxic materials.
  - d. Solid waste collection and recycling facilities for metals, glass, paper, wood, etc. (not including household garbage).
  - e. Storage and/or sale of flammable liquids and gases.
3. Permitted Accessory Uses. The following accessory structures or uses of land shall be permitted:
- a. Detached storage or accessory buildings.
  - b. An apartment for on-site security personnel, included within the business structure.
4. Lot Area, Width, Setback and Miscellaneous Requirements. The following standards shall be the minimum requirements for development in the "I-1" District:
- a. Lot Area = 20,000 SF
  - b. Lot Width = 100 feet
  - c. Setbacks --
    - Front (r/w) = 40 feet
    - Rear = 30 feet
    - Side, interior = 20 feet
    - Side, street(r/w) = 40 feet
  - d. Open, landscaped area = 20%
  - e. Building/lot coverage = 50% maximum

M. I-2, GENERAL INDUSTRY DISTRICT.

1. Permitted Uses With Plan Review. The following uses shall be permitted provided plans are submitted to and approved by the Zoning Administrator and the Planning Commission, subject to such conditions as they may attach thereto:
- a. Agri-business, not including agricultural product processing.
  - b. Agricultural uses, not including livestock raising or feeding.
  - c. Automobile salvage/reduction yard.

- d. Automobile/truck sales, repair, and service.
  - e. Commercial dog kennels.
  - f. Contractors shops.
  - g. Creameries.
  - h. Equipment rental businesses.
  - i. Farm implement sales, repair, and service.
  - j. Farm product sales.
  - k. Greenhouses and nurseries.
  - l. Lumber/wood production and treatment.
  - m. Manufacturing businesses.
  - n. Metal fabrication businesses.
  - o. Motor freight terminals.
  - p. Poultry processing.
  - q. Printing shops.
  - r. Research and development businesses.
  - s. Storage facilities, including mini-storage.
  - t. Transportation facilities/businesses.
  - u. Veterinary clinics.
  - v. Wholesale sales.
  - w. Essential services and public uses.
  - x. *Lumber yards (including miscellaneous building materials).*
2. Conditional Uses. The following uses are permitted upon the granting of a conditional use permit by the Planning Commission, subject to such conditions as they may attach thereto:
- a. Agricultural product processing plants.
  - b. Gas bulk plants.
  - c. Manufacturing of explosive or toxic materials.
  - d. Meat packing/rendering plants.
  - e. Power plants.
  - f. Solid waste collection and recycling facilities for metals, glass, paper, wood, etc. (not including household garbage).
  - g. Storage and/or sale of flammable liquids and gases.
  - h. Concrete, bituminous, or gravel production businesses.\*
- \* Applies to permanent installation only. Temporary seasonal operations for public works improvement projects are permitted as an essential service or public use.
3. Permitted Accessory Uses. The following accessory structures or uses of land shall be permitted:
- a. Detached storage or accessory buildings.
  - b. An apartment for on-site security personnel, included within the business structure.

4. Lot Area, Width, Setback and Miscellaneous Requirements. The following standards shall be the minimum requirements for development in the "I-2" District:

- a. Lot Area = 15,000 SF
- b. Lot Width = 100 feet
- c. Setbacks --
  - Front (r/w) = 30 feet
  - Rear = 20 feet
  - Side, interior = 15 feet
  - Side, street (r/w) = 30 feet
- d. Open, landscaped area = 10%
- e. Building/lot coverage = 75% maximum

N. P. PARK/OPEN SPACE DISTRICT.

1. Permitted Uses. Only the following uses shall be permitted outright:
  - a. Agricultural uses, not including livestock raising or feeding.
  - b. Wildlife/nature areas.
  - c. Essential services and public uses.
2. Permitted Uses With Plan Review. The following uses shall be permitted provided plans are submitted to and approved by the Zoning Administrator and the Planning Commission, subject to such conditions as they may attach thereto:
  - a. Archery and firearms ranges.
  - b. City or County parks and recreation areas.
  - c. Golf courses.
  - d. Swimming pools.
3. Conditional Uses. The following uses are permitted upon the granting of a conditional use permit by the Planning Commission, subject to such conditions as they may attach thereto:
  - a. Recreational vehicle parks and campgrounds.
4. Permitted Accessory Uses. The following accessory structures or uses of land shall be permitted:
  - a. Detached storage or accessory buildings.

5. Lot Area, Width, and Setback Requirements. The following standards shall be the minimum requirements for development in the "P" District:

- a. Lot Area = No minimum area\*
- b. Lot Width = No minimum width\*
- c. Setback to any property line = 50 feet

\* As recommended by the Zoning Administrator and approved by the Planning Commission.

O. G. GOVERNMENT/INSTITUTIONAL DISTRICT.

1. Permitted Uses With Plan Review. The following uses shall be permitted provided plans are submitted to and approved by the Zoning Administrator and the Planning Commission, subject to such conditions as they may attach thereto:

- a. City offices/buildings/facilities.
- b. County offices/buildings/facilities.
- c. Community colleges.
- d. Municipal utilities offices/buildings/facilities/well fields.
- e. Public airports.
- f. Public hospitals/treatment centers.
- g. Public parking lots/facilities.
- h. Public schools.
- i. State and federal offices/buildings/facilities.
- j. Technical colleges.
- k. Vacant public lands.

2. Permitted Accessory Uses. The following accessory structures or uses of land shall be permitted:

- a. Detached storage or accessory buildings.

ORDINANCE NO. 1261

AN ORDINANCE AMENDING NO. 1060  
KNOWN AS THE WILLMAR ZONING ORDINANCE  
BY AMENDING SECTION 6 RELATING TO  
PERMITTED USES IN THE INDUSTRIAL DISTRICTS

The City Council of City of Willmar does ordain as follows:

SECTION 6. Ordinance 1060 is hereby amended by adding to SECTION 6.L.2. so as to read as follows:

- f. *Agricultural product processing plants.*

SECTION 6. Ordinance 1060 is hereby amended by amending SECTION 6.M.1.c. so as to read as follows:

- c. ~~Automobile salvage/reduction yard.~~

SECTION 6. Ordinance 1060 is hereby amended by adding to SECTION 6.M.2.i. so as to read as follows:

- i. *Automobile salvage/reduction yard.*

EFFECTIVE DATE. This Ordinance shall be effective from and after its adoption and second publication.

This Ordinance introduced by Council Member: Anderson

This Ordinance introduced on: May 7, 2007

This Ordinance published on: May 11, 2007

This Ordinance given a hearing on: May 21, 2007

This Ordinance adopted on: May 21, 2007

This Ordinance published on: May 26, 2007

3. Lot Area, Width, and Setback Requirements. The following standards shall be the minimum requirements for development in the "G/I" District:

- a. Lot Area = No minimum area\*
- b. Lot Width = No minimum width\*
- c. Setback to any property line = As recommended by the Zoning Administrator and approved by the Planning Commission, taking into consideration the zoning and district requirements governing the surrounding area. In no case, however, shall the setbacks be less than thirty (30) feet for the front (street r/w) or rear, and fifteen (15) feet for the sides, except where a use abuts a railroad line and zero (0) setback is necessary for access and loading purposes.

\* As recommended by the Zoning Administrator and approved by the Planning Commission.

P. A. AGRICULTURE DISTRICT.

1. Permitted Uses. Only the following uses shall be permitted outright:

- a. Agricultural uses, not including livestock raising or feeding.
- b. Commercial kennels.
- c. Nurseries/greenhouses.
- d. Parks.
- e. Riding stables.
- f. Seasonal roadside sales of flowers, produce, or other agricultural products.
- g. Wildlife/nature areas.

2. Permitted Uses With Plan Review. The following uses shall be permitted provided plans are submitted to and approved by the Zoning Administrator and the Planning Commission, subject to such conditions as they may attach thereto:

- a. Archery and firearms ranges.
- b. Fairgrounds.
- c. Golf courses.
- d. Lumber processing.
- e. Single-family detached dwellings (one [1] acre minimum lot size, must have municipal sewer and water).

3. Conditional Uses. The following uses are permitted upon the granting of a conditional use permit by the Planning Commission, subject to such conditions as they may attach thereto:
  - a. Agricultural product processing.
  - b. Contractors shops/yards.
  - c. Race tracks.
  - d. Recreational vehicle parks and campgrounds.
  - e. Solid waste collection and storage facilities for metals, glass, wood, paper, etc. (not including household garbage; no processing of wastes).
  
4. Permitted Accessory Uses. The following accessory structures or uses of land shall be permitted:
  - a. Detached storage or accessory building.
  
5. Lot Area, Width, and Setback Requirements. The following standards shall be the minimum requirements for development in the "A" District:
  - a. Lot Area = No minimum area\*
  - b. Lot Width = No minimum width\*
  - c. Setbacks --
 

Front (r/w)	=	100 feet
Rear	=	50 feet
Side, interior	=	50 feet
Side, street (r/w)	=	100 feet

\* As recommended by the Zoning Administrator and approved by the Planning Commission.

ORDINANCE NO. 1230

AN ORDINANCE AMENDING ORDINANCE NO. 1060  
KNOWN AS THE WILLMAR ZONING ORDINANCE  
BY ADDING SECTION 6.Q. TECHNOLOGY DISTRICT

The City of Willmar does ordain as follows:

SECTION: 1. Section 6.Q. of Ordinance No. 1060 is amended to include the following Zoning District:

Q. TECHNOLOGY DISTRICT.

1. Permitted Uses with Plan Review. The following uses shall be permitted provided plans are submitted to and approved by the Zoning Administrator and the Planning Commission, subject to such conditions as they may attach thereto:

- a. Animal health products/services.
- b. Athletic/recreation facilities.
- c. Bio-Technology businesses.
- d. Business/technology incubator.
- e. Commercial day nurseries and schools.
- f. Component assembly.
- g. Computer Science/information technology business.
- h. Education uses/businesses.
- i. Engineering businesses \*.
- j. Essential services and public uses.
- k. Food and other services (complimentary to the technology district).
- l. Governmental/institutional offices/buildings/facilities.
- m. Limited production.
- n. Medical/dental clinics.
- o. Offices, business and professional.
- p. Parking.
- q. Prototyping.
- r. Research and development businesses.

\* Including biological, chemical, computer, electrical, engineering, and mechanical.

2. Permitted Accessory Uses. The following accessory structures or uses of land shall be permitted:

- a. Detached storage or accessory buildings.
- b. Residences for on-site maintenance or security (no new homes).

3. Lot Area, Width, Setback and Miscellaneous Requirements. The following standards shall be the minimum requirements for development in the "T" District:

- a. Lot Area = 15,000 SF
- b. Lot Width = 100 feet
- c. Setbacks –
  - Front (r/w) = 25 feet
  - Rear = 25 feet
  - Side, interior = 15 feet
  - Side, street (r/w) = 25 feet
  - Access lot/outlot = 15 feet
- d. Open, landscaped area = 20%
- e. Building/lot coverage = 50%

EFFECTIVE DATE. This Ordinance shall be effective from and after its adoption and second publication.

This Ordinance introduced by Council Member: Reese

This Ordinance introduced on: January 9, 2006

This Ordinance published on: January 13, 2006

This Ordinance given a hearing on: January 23, 2006

This Ordinance adopted on: January 23, 2006

This Ordinance published on: January 28, 2006

**SECTION 7. NONCONFORMING STRUCTURES/USES**

- A. PUBLIC POLICY. Nonconforming structures/uses, in many cases, represent a substantial financial investment on the part of the owner. For the most part, these structures/uses were legally established and became nonconforming due to action by or for the City, and due to no fault of the owner. Although this Section provides for the continuation of nonconforming structures/uses, it shall be the policy of the City of Willmar that most nonconforming structures/uses be eliminated as soon as practicable in order that the intent and purpose of this Ordinance might be served.
- B. SIGNS. The provisions of this Section shall not apply to signs (refer to Section 5).
- C. UNLAWFUL USES. An unlawful use shall not be construed to be a nonconforming use.
- D. CONTINUATION. The lawful use of nonconforming land uses and structures may be continued, subject to the terms and provisions of this Ordinance.
- E. CHANGE FROM NONCONFORMING USE. A nonconforming use may be changed to a conforming (permitted) use, but once it has become conforming it cannot revert to a nonconforming use. A nonconforming use may be changed to a more restrictive nonconforming use, provided no structural changes are made to the structures involved. A nonconforming use shall not be changed to a less restrictive nonconforming use.
- F. ABANDONMENT. When any nonconforming structure/use is abandoned for a period of six (6) months or more, such structure shall not be used, or use established, in any manner which would constitute nonconformity with the provisions of this Ordinance. Such structures/uses shall be considered abandoned, and the City may proceed to cause the structure to be removed or the use barred from re-establishment.
- G. DAMAGE OR DESTRUCTION. If any nonconforming structure, or structure used as part of a nonconforming use, is damaged to the extent of fifty (50) percent or more of its estimated market value, it shall not be restored unless the structure or use can be brought into conformity with this Ordinance. Any damaged structures which are not repaired or brought into compliance within a period of six (6) months from the date the damage was incurred shall be removed from the premises by the owner upon order of the City.

- H. REPAIR, MAINTENANCE, AND ALTERATION. Repairs to and maintenance of a nonconforming structure to keep it in a state of repair and maintenance required by this Ordinance shall be permitted. Alterations that are required by law or regulation shall be permitted. Repairs, maintenance, or alterations may be made at any time if the purpose is to make the structure conform to the standards of the zoning district in which it is located.
- I. ENLARGEMENT OR ADDITIONS. A nonconforming structure may be enlarged or added to, subject to the following conditions:
- 1) The enlargement shall not increase any existing non-conformity.
  - 2) The enlargement shall not create any new non-conformity.
  - 3) A variance may not be granted to allow any additional non-conformities.
  - 4) The main floor area of the enlargement/addition shall not exceed thirty-three (33) percent of the existing main floor area.
  - 5) A conditional use permit shall be applied for, and approved, prior to issuing a building permit for the requested enlargement or addition.
- J. RELOCATION OF STRUCTURES/USES. No nonconforming structure or use shall be moved to another lot or to any other part of the parcel of land upon which it was constructed or conducted at the time of this Ordinance adoption, unless such movement shall bring the nonconforming structure/use into compliance with the provisions of this Ordinance.
- K. VARIANCES PROHIBITED. No variance may be granted for any enlargement or addition to any nonconforming structure/use except as provided for in Section 7.I. A variance shall not be used to make lawful a nonconforming use; use variances are expressly prohibited.

## SECTION 8: PERFORMANCE STANDARDS

- A. 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 may be specifically permitted by the City Council.
- B. 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 point of any equipment other than that of the creator of such disturbance.
- C. LIGHTING AND GLARE. Any lighting used to illuminate an off-street parking area, sign, or other structure shall be arranged as to deflect light away from any adjoining residential use or from the public streets. Direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in a manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way.

Except for street lighting provided by the Willmar Municipal Utilities, any light or combination of lights which cast light on a public street shall not exceed one foot candle (meter reading) as measured from the center line of said street. Any light or combination of lights which cast light on residential property shall not exceed four-tenths (4/10) foot candles (meter reading) as measured from any property line.

- D. SMOKE. The emission of smoke by any use shall be in compliance with, and be regulated by, the State of Minnesota Pollution Control Agency.
- E. DUST AND OTHER PARTICULATE MATTER. The emission of dust, fly ash, or other particulate matter by any use shall be in compliance with, and be regulated by, the State of Minnesota Pollution Control Agency.
- F. ODOR. The emission of odor by any use shall be in compliance with, and be regulated by, the State of Minnesota Pollution Control Agency.

G. NOISE.

1. All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency, or shrillness, and as measured at any property line, shall not exceed the following intensity in relation to sound frequency:

Sound Levels in Decibels

<u>Octave Band, Hertz</u>	<u>"R-1" "R-2" "R-3" "R-4" "R-5" "LB" "CB" and "P" Zoning Districts</u>	<u>"GB" "SC" "G/I" "I-1" "I-2" and "A" Zoning Districts</u>
37.5 to 75	63	78
75 to 150	59	74
150 to 300	55	69
300 to 600	51	66
600 to 1200	45	60
1200 to 2400	38	53
2400 to 4800	31	46
Over 4800	25	40

2. Exceptions to standards established in Section 8.G.:
  - a. Noises not directly under the control of the property owner.
  - b. Noises emanating from construction and maintenance activities between 7 a.m. and 9 p.m.
  - c. The noise of safety signals, warning devices, and emergency pressure relief valves.
  - d. Transient noises of moving sources such as automobiles, trucks, airplanes, and railroads.
  - e. The levels specified in Section 8.G.1. may be exceeded by ten (10) decibels for a single period, not longer than fifteen (15) minutes in length, for any one day.
  
3. In instances where it is determined that a proposed land use may generate a level of noise or vibration that will impact on surrounding land uses, the Planning Commission and/or City Council may require that efforts to reduce the potential noise or vibration impact be undertaken. These efforts may include screening, landscaping, site planning techniques, and restrictions on operating hours.

H. DRAINAGE. Upon request, a drainage plan for any proposed development shall be submitted to the City Engineer for review and approval.

SECTION 9: ADMINISTRATIVE PROVISIONS

A. ADMINISTRATIVE OFFICER.

1. Zoning Administrator. This Ordinance shall be administered and enforced by the Zoning Administrator who shall be appointed by the City Council.
2. Duties of the Zoning Administrator. The Zoning Administrator shall enforce this Ordinance through the proper legal channels and, in addition and in furtherance of said authority, he<sup>she</sup> shall:
  - a. Administer and enforce the provisions of this Ordinance in cooperation with the City Attorney, and refer to the City Attorney all violations of this Ordinance which cannot be handled administratively.
  - b. Receive, file, and forward to the respective official bodies applications for variances, appeals, plan reviews, conditional use permits, and amendments.
  - c. Publish and process all notices required under the provisions of this Ordinance, and file affidavits of publication.
  - d. Maintain records of all permits issued, appeals, variances, plan reviews, conditional use permits, and amendments.
  - e. Maintain a permanent record of this Ordinance, the Zoning Map, and the Comprehensive Land Use Plan of the City; record all amendments; provide for public inspection at all times; and provide for the distribution or sale of each as directed by the Council.
  - f. Assist the Building Inspector in determining that building permits comply with the terms of this Ordinance.
  - g. Issue house numbers, certificates, and such other permits as are required by the Ordinance.
  - h. Act as advisor to the Planning Commission and as secretary of the Board of Zoning Appeals.
  - i. Perform such other related administrative duties as may be delegated by the Council.

B. BOARD OF ZONING APPEALS.

1. Establishment. There is hereby established a Board of Zoning Appeals for the City of Willmar, which shall consist of seven members appointed by the Mayor with the approval of the City Council.
2. Powers and Duties of the Board. The Board shall have the power and duty of hearing and deciding, subject to appeal to the District Court of Kandiyohi County, appeals or requests in the following cases:
  - a. Appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Ordinance.
  - b. Requests for variances from the literal provisions of this Ordinance in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration.

C. APPEALS.

1. Authority. The Board of Zoning Appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Ordinance.
2. Procedure.
  - a. An appeal may be taken to the Board of Zoning Appeals by any person or by any Officer, Department, Board, or Commission of the City affected by a decision of the Zoning Administrator. Such appeal shall be taken within thirty (30) days of the decision by filing with the Zoning Administrator a notice of appeal, specifying the grounds for submitting the appeal. A non-refundable filing fee shall accompany the filing of the appeal. The Zoning Administrator shall transmit to the Board of Zoning Appeals all of the papers constituting the record which the action appealed from was taken.
  - b. An appeal shall stay all proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Zoning Appeals after the notice of appeal has been filed with him<sup>n<sub>e</sub>t</sup> that by reasons of facts stated in the certificate, a stay would, in his<sup>n<sub>e</sub>t</sup> opinion, cause imminent peril to life or property, in which case

the proceedings shall not be stayed other than by a restraining order, which may be granted by the Board of Zoning Appeals or by a court of record upon notice to the Zoning Administrator and on showing of due cause.

- c. A public hearing shall be set, advertised, and conducted by the Board of Zoning Appeals in accordance with Section 9.H. of this Ordinance.
- d. Within thirty days following the close of the public hearing, the Board of Zoning Appeals shall render a decision on the appeal.
- e. The decision of the Board of Zoning Appeals shall be the final decision of the City, and any appeal therefrom shall be to the District Court of Kandiyohi County. Any such appeal shall be made by any aggrieved person within a period of thirty (30) days from the mailing of the notice to such person, or, if no such notice is mailed, within thirty (30) days of consideration of the Board minutes by the City Council.

D. VARIANCES.

1. Authority. Except as otherwise expressly provided in Section 9.B., the Board of Zoning Appeals may authorize such variances from the provisions of this Ordinance as will not be contrary to the public interest. Variances may be authorized only in those specific instances enumerated in this Section, and then only when the Board of Zoning Appeals has made findings of fact as hereinafter required.

2. Procedure.

- a. An application for a variance shall be submitted to the Zoning Administrator. A non-refundable application fee shall accompany each application.

The application shall contain the legal description of the property, the zoning district in which it is located, a brief statement of the reasons the variance is request, and a statement of the applicant's interest in the property.

- b. A public hearing shall be set, advertised, and conducted by the Board of Zoning Appeals in accordance with Section 9.H. of this Ordinance.

- c. Within thirty (30) days following the close of the public hearing, the Board of Zoning Appeals shall render its decision granting or denying the variance. Such decision shall be accompanied by findings of fact, shall refer to any exhibits containing plans and specifications, and shall remain a part of the permanent records of the Zoning Administrator. The findings of fact shall specify the reason or reasons for granting or denying the variance. The terms of relief granted shall be specifically set forth.
- d. The decision of the Board of Zoning Appeals shall be the final decision of the City, and any appeal therefrom shall be to the District Court of Kandiyohi County. Any such appeal shall be made by any aggrieved person within a period of thirty (30) days from the mailing of the notice to such person, or, if no such notice is mailed, within thirty (30) days of consideration of the Board Minutes by the City Council.

3. Standards for Variances.

- a. A variance shall be granted only if it is established that it is in harmony with the general purpose and intent of this Ordinance, and that there are practical difficulties or particular hardships in carrying out the strict letter of the provisions of this Ordinance. In its consideration of the standards of practical difficulties or particular hardship, the Board of Zoning Appeals shall make the following affirmative findings:
  - 1. The property in question cannot be put to reasonable use if used under the conditions required by the regulations governing the district in which it is located.
  - 2. The plight of the owner is due to unique circumstances not applicable to adjacent landholdings within the same district.
  - 3. The variance, if granted, will not alter the essential character of the locality.
  - 4. The variance, if granted, will not be detrimental to nor endanger the public welfare.
- b. Economic considerations alone shall not constitute an undue hardship if a reasonable use of the property exists under the terms of this Ordinance.

- c. Variances from the provisions of this Ordinance shall be granted by the Board of Zoning Appeals only in accordance with the preceding provisions, and may be granted only in the following instances:
1. To vary the applicable lot area, lot width, and lot depth requirements.
  2. To vary the applicable bulk regulations, including maximum height, lot coverage, floor area ratio, and minimum yard requirements.
  3. To vary the applicable off-street parking and loading requirements.
  4. To vary the regulations relating to restoration of damaged or destroyed nonconforming structures.
- d. Specific conditions and safeguards may be imposed upon the premises benefitted by a variance as considered necessary to prevent injurious effects upon other property in the neighborhood or upon public facilities and services. Violations of such conditions and safeguards shall be a violation of this Ordinance.



No variance permitting the erection or alteration of a building shall be valid for a period longer than one (1) year, unless a building permit for such erection or alteration is issued and construction is actually begun within that period and is thereafter diligently pursued to completion. The applicant may petition the Board of Zoning Appeals for an extension of time. Such extensions shall be requested in writing and be filed with the Zoning Administrator at least thirty (30) days before the expiration of the original variance. There shall be no charge for the filing of such petition. Such petition shall be presented to the Board for their review and decision. An extension shall be valid for not more than an additional six (6) months.

Note!  
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4. Recording. A copy of the variance decision shall be filed with the Kandiyohi County Recorder.

E. CONDITIONAL USE PERMITS.

1. Application. An application for a conditional use permit shall be submitted to the Zoning Administrator. A non-refundable application fee, as established from time to time by the City Council to cover administrative costs and costs of the hearing, shall accompany each application.
2. Purpose. The purpose of a conditional use permit is to provide the City of Willmar with a reasonable degree of discretion in determining the suitability of certain designated uses in relation to the general welfare, public health, and safety.

Conditional use permits may be considered and issued by the Planning Commission in the following instances:

- a. Where provided for in this Ordinance.
  - b. Where a particular use sought or requested is not provided for or included in any district as set forth in this Ordinance.
  - c. For government uses or other uses traditionally associated with a public use (e.g. schools, churches, etc.).
  - d. For a temporary use not otherwise provided for in this Ordinance and which would be inappropriate or detrimental if permitted as a permanent use.
3. Standards for Conditional Use Permits.
    - a. A conditional use permit shall be granted only if the Planning Commission makes, where applicable, the following affirmative findings:
      1. That the conditional use, with such conditions as the Commission shall determine and attach, conforms to the purpose and intent of this Ordinance, and is in conformity with the Comprehensive Land Use Plan of the City.
      2. That the conditional use will not substantially diminish or impair property values within the neighborhood.
      3. That the conditional use will not impede the normal and orderly development and improvement of other property in the neighborhood.

ORDINANCE NO. 1280

AN ORDINANCE AMENDING NO. 1060  
KNOWN AS THE WILLMAR ZONING ORDINANCE  
BY AMENDING SECTION 9 RELATING TO  
STANDARDS FOR CONDITIONAL USE PERMITS

The City Council of the City of Willmar does ordain as follows:

SECTION 9. Ordinance 1060 is hereby amended by amending SECTION 9.E.3.a.1-7. so as to read as follows:

1. That the conditional use, with such conditions as the Commission shall determine and attach, conforms to the purpose and intent of this Ordinance, and is in conformity with the Comprehensive Land Use Plan of the City.
2. That there was no factual demonstration of a substantial/appreciable negative impact on values to properties in the neighborhood from the proposed conditional use.
3. The conditional use will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance to the community.
4. That the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district as zoned.
5. That adequate utilities, access roads, stormwater management, and other necessary facilities have been, or are being, provided.
6. That adequate measures have been, or will be, taken to provide ingress and egress in such a manner as to minimize traffic congestion and maximize public safety in the public streets.
7. The conditional use will be designed, constructed, operated, and maintained in a manner that is compatible in appearance with the existing or intended character of the surrounding area/neighborhood.

EFFECTIVE DATE. This Ordinance shall be effective from and after its adoption and second publication.

This Ordinance introduced by Council Member: Reese

This Ordinance introduced on: August 18, 2008

This Ordinance published on: August 22, 2008

This Ordinance given a hearing on: September 2, 2008

This Ordinance adopted on: September 2, 2008

This Ordinance published on: September 6, 2008

4. That adequate utilities, access roads, drainage, and other necessary facilities have been, or are being, provided.
5. That adequate measures have been, or will be, taken to provide ingress and egress in such a manner as to minimize traffic congestion and maximize public safety in the public streets.
6. That the use conforms, or is complimentary, to neighborhood characteristics of the district in which it is located.
7. That the exterior architectural appearance and functional plan of the proposed improvement are compatible in terms of quality and character with the existing architectural appearance and functional plans of other uses in the vicinity.

4. Conditions.

- a. The Planning Commission may impose conditions upon the conditional use if, in its opinion, specific circumstances of a request justify those additional controls to protect the health, safety, and welfare of the neighborhood and general public.
  - b. The Planning Commission shall impose a condition that the use at all times conforms to all applicable local, state, and federal laws and regulations.
  - c. The City Engineer shall approve any off-street parking lots and ingress and egress to the site prior to the issuance of a building permit.
5. Reconsideration. Whenever an application for a conditional use permit has been considered and denied, a similar application for a conditional use permit affecting substantially the same property shall not be considered again by the Planning Commission for a period of six (6) months from the date of the denial unless a decision to reconsider such matter is made by not less than six-eighths (6/8) vote of the City Council.
6. Lapse of Conditional Use Permit by Non-use. If, within one year after granting a conditional use permit, the work has not been substantially completed, then such permit shall become null and void unless a petition for an extension of time in which to complete the work has been granted by the Planning Commission. Such extensions shall be requested in writing and filed with the Zoning

Administrator at least thirty (30) days before the expiration of the original conditional use permit. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to complete the work permitted in the conditional use permit. Such petition shall be presented to the Commission for their review and decision.

7. Termination. The violation of any condition imposed upon the conditional use shall be cause for termination of the use. In the event of termination, the Zoning Administrator shall notify the property owner of the decision to terminate. The owner shall have the right of appeal as provided for in Section 9.C. of this Ordinance.
8. Procedure.
  - a. A public hearing shall be set, advertised, and conducted by the Planning Commission in accordance with Section 9.H. of this Ordinance.
  - b. Within thirty (30) days following the close of the public hearing, the Planning Commission shall render its decision and transmit it to the City Council. The decision of the Commission shall be final, unless an appeal is taken to the Board of Zoning Appeals as provided for in Section 9.C. of this Ordinance.
9. Recording. A copy of the conditional use permit decision shall be filed with the Kandiyohi County Recorder.

F. PLAN REVIEWS.

1. Applicability. Certain uses do not require a conditional use permit, but do require review and approval of plans by the Planning Commission.
2. Standards. The standards to be met are the same as those required for conditional use permits in Section 9.E.3. of this Ordinance.
3. Conditions. The Planning Commission may impose the same conditions as stated in Section 9.E.4. of this Ordinance.

G. AMENDMENTS.

1. Authority. The text of this Ordinance and the Zoning Map may be amended from time to time by Ordinance duly enacted by the City Council, provided, however, that no such amendment shall be enacted except in accordance with the procedures of this Section, and in compliance with the City Charter.

In reviewing a proposal to amend the Zoning Ordinance or Zoning Map, the relationship between the proposed amendment and the Comprehensive Municipal Plan shall be considered.

2. Initiation. Proposed changes or amendments may be initiated by the City Council, by the Board of Zoning Appeals, by the Planning Commission, or by any one or more owners of real estate in the City so as to affect the real estate of such owner(s).
3. Procedure.
  - a. When any proposed change or amendment is initiated by the City Council or by the Board of Zoning Appeals, such body shall transmit its proposal to the Planning Commission for a public hearing and report thereon.
  - b. When any proposed change or amendment is initiated by an owner or owners of real estate in the City, an application for such amendment shall be filed with the Zoning Administrator. A non-refundable application fee shall accompany each application.
  - c. A public hearing shall be set, advertised, and conducted by the Planning Commission in accordance with Section 9.H. of this Ordinance.
  - d. Within thirty (30) days following the conclusion of the public hearing, the Planning Commission shall transmit to the City Council its recommendation regarding the proposed amendment.
  - e. Within forty-five (45) days of the receipt of the recommendation of the Planning Commission, the City Council shall refuse, or by Ordinance adopt, the proposed amendment.

H. PUBLIC HEARINGS.

1. Setting of Hearing. For all requests brought before the Planning Commission or Board of Zoning Appeals for which a public hearing is required by this Ordinance, the Zoning Administrator, in cooperation with the Chairperson of the respective Commission/Board, shall select a reasonable time and place for the public hearing on the request.
2. Notice of Hearings.
  - a. Published. Notice of public hearings shall be given not more than thirty (30) days and not less than ten (10) days before the hearing by publication at least once in the official newspaper of the City of Willmar. Such notice shall include the time and place of the hearing, a description of the contents of the request to be heard, and the address or location of the property to which the request applies.
  - b. Mailed. For variances, conditional use permits, and amendments, in addition to the general notice to the public that is published, separate notice by letter shall be mailed at least ten (10) days before the hearing to all property owners residing within three hundred and fifty (350) feet of the subject property. Such notices shall be sent by the Zoning Administrator, and addresses taken from current City records shall be deemed sufficient for such notification.
3. Conduct of Hearing. Any person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney.

ORDINANCE NO. 1142

AN ORDINANCE AMENDING ORDINANCE NO. 1060  
KNOWN AS THE WILLMAR ZONING ORDINANCE BY  
ADDING SECTION 10 RELATING TO WIRELESS  
COMMUNICATION TOWERS AND ANTENNAS

The City Council of City of Willmar does ordain as follows:

SECTION 1. Ordinance No. 1060 is hereby amended by adding a new SECTION 10 so as to read as follows:

**SECTION 10. WIRELESS COMMUNICATION TOWERS AND ANTENNAS.**

- A. **PURPOSE AND INTENT.** In order to accommodate the communication needs of residents and business while protecting the public health, safety, and general welfare of the community, the City Council finds that these regulations are necessary in order to:
1. Facilitate the provision of wireless telecommunication services to the residents and businesses of the City;
  2. Minimize adverse visual effects of towers through careful design and siting standards;
  3. Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements;
  4. Maximize the use of existing and approved towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community; and
  5. Encourage intergovernmental and community cooperation in co-location and site sharing.
- B. **DEFINITIONS.** The following definitions of terms and phrases used in this Section shall govern:
1. **Antenna.** Any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves when such system is either external to or attached to the exterior of a structure.

- a. Antenna – Building Mounted. Any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building, tank, tower, building mounted mast less than 10' tall, or structure other than a telecommunication tower.
  - b. Antenna – Ground Mounted. Any antenna with its base, single or multiple posts, placed directly on the ground or a mast less than ten feet (10') tall and 6 inches (6") in diameter.
2. Antenna Array. An antenna array is one or more rods, panels, discs or similar devices used for the transmission or reception of radio frequency signals, which may include omni-directional antenna (rod), directional antenna (panel) and parabolic antenna (disc). The antenna array does not include the support structure.
3. Certified Engineer. A licensed professional engineer who is registered to practice in the State of Minnesota.
4. Co-location/Site Sharing. Co-location/site sharing shall mean use of a common site by two or more wireless license holders or by one wireless license holder for more than one type of communications technology and/or placement of a tower on a structure owned or operated by a utility or other public entity.
5. Commercial Wireless Telecommunication Services. Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.
6. Equipment Building/Cabinet. A cabinet or building used by telecommunication providers to house equipment at a facility.
7. Exempt Telecommunication Facility. Includes, but is not limited to, the following:
  - a. A single ground or building mounted receive-only radio or television antenna including any mast, for the sole use of the resident occupying a residential parcel on which the radio or television antenna is located, with an antenna height not exceeding forty feet (40');
  - b. A ground or building mounted receive-only radio or television satellite dish antenna (TVRO) provided the dish is not located in the front yard of the parcel on which it is located and provided the height of said dish does not exceed the height of the ridgeline of the primary structure on said parcel;

- c. All citizens band radio antenna or antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service which existed at the time of the adoption of this Ordinance, or for which the height (post and antenna) does not exceed sixty-five (65) feet.
  - d. Mobile services providing public information coverage of news events of a temporary nature;
  - e. Hand held devices such as cell phones, business-band mobile radios, walkie-talkies, cordless telephones, garage door openers and similar devices as determined by the Zoning Administrator; and
  - f. City government owned and operated towers supporting receive and/or transmit antennas, including supporting structures, for all public safety and service purposes, which existed at the time of the adoption of this Ordinance.
8. Lattice Tower. A self supporting support structure, erected on the ground, which consists of metal crossed strips or bars to support antennas and related equipment.
  9. Monopole. A wireless communication facility which consists of a single-pole structure, erected on the ground to support wireless communication antennas and connecting appurtenances.
  10. Public Utility. Persons, corporations, or governments supplying gas, electric, transportation, water, sewer, or land line telephone service to the general public. For the purpose of this Ordinance, commercial wireless telecommunication service facilities shall not be considered public utility uses, and are defined separately.
  11. Telecommunication Facility. A facility that transmits and/or receives electromagnetic signals. It includes antennas, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals, telecommunication towers or similar structures supporting said equipment, equipment buildings, parking areas, other accessory development and related equipment.
  12. Telecommunication Tower. A mast, pole, monopole, guyed tower, lattice tower, free-standing tower, or other structure designed and primarily used to support antennas. A ground or building mounted mast supporting one or more antennas, dishes, arrays, etc. shall be considered a telecommunication tower if the total height exceeds ten (10) feet.
  13. Tower, Multi-User. A tower to which are attached the antenna of more than one commercial wireless communications service provider or governmental entity.

14. Tower, Single-User. A tower to which is attached only the antenna of a single user, although the tower may be designed to accommodate the antennas of multiple users as required in this Ordinance.
15. Tower Height. The vertical distance from a tower's point of contact with the ground to the highest point of the tower, including all antennas and other attachments. When a tower is mounted on another structure, "height" shall be the combined height of the structure and tower, including all antennas and attachments.

C. EXISTING ANTENNAS AND TOWERS. Antennas and towers and accessory structures in existence at the time of adoption of this Ordinance, which do not conform to or comply with this Ordinance, are subject to the following provisions:

1. Towers may continue in use for the purpose now used and as now existing but may not be replaced or structurally altered without complying in all respects with this Ordinance.
2. If such towers are damaged or destroyed due to any reason or cause, except for owner neglect, the tower may be repaired and restored to its former use, location and physical dimensions upon obtaining a building permit therefor, but without otherwise complying with this Ordinance.

D. SITING PRIORITIES. The following establishes the order of priority for telecommunications facilities. A proposal for such facilities shall not be approved on any of the following locations unless the applicant shows and the City finds that the applicant is unable to locate the facilities on any location which has a higher priority.

1. Place antennas on appropriate existing structures such as buildings, communications towers, water towers and smokestacks.
2. Place antennas and towers on sites where other public facilities are located or planned.
3. Place antennas on new towers on other private property in this order: industrial districts, commercial districts, multi-family residential districts, and single-family residential districts.

E. CO-LOCATION/SITE SHARING. All commercial wireless telecommunication towers erected, constructed, or located within the City shall comply with the following co-location/site sharing regulations:

1. A proposal for a new commercial wireless telecommunication service tower shall not be approved unless the City finds that the telecommunication equipment planned for the proposed tower cannot be accommodated on an existing or approved tower within a one mile search radius (one-half mile for towers under 150 feet in height; one quarter mile for towers under 80 feet in height) of the proposed tower due to one or more of the following reasons:
  - a. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
  - b. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.
  - c. Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer (to serve commercial and residential needs in corporate boundaries).
  - d. Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing tower or building.
2. Any proposed commercial wireless telecommunication service tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is at least 140 feet in height, or for at least one additional user if the tower is between 100 and 140 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.
3. It shall be the responsibility of the applicant to provide to the City, at no cost to the City, an inventory of available structures in the subject area.
4. The applicant is encouraged to allow the City access to the tower for City government owned and operated receive and/or transmit antennas for all public safety and service purposes to enhance communications for such purposes, provided that any attached communication equipment does not interfere with applicant's equipment.
5. As a condition of approval, the applicant shall make available unutilized space for co-location of other telecommunication facilities, including space for these entities providing similar competing services. A good faith effort in achieving co-location shall be required of the host entity.

- a. Co-location will not be required in cases where the addition of the new service or facilities would cause quality of service impairment to the existing facility or if it becomes necessary for the host to go off line for a significant period of time.
- b. The host is entitled to reasonable compensation from any co-locator for the use of its facility. Such compensation would include reimbursement for the cost of constructing the facility as it relates to any co-locator as well as a proportionate share of any rents paid by the host.
- c. The failure of any applicant to make a good faith effort to allow for co-location shall constitute a breach of its agreement with the City. In the event of such a breach, the City shall provide at least sixty (60) days prior written notice to allow a cure of such breach. In the event the said breach is not cured within said period, the City shall be authorized to disassemble the subject tower at the applicant's cost.

F. ZONING DISTRICT ALLOWANCES. Commercial towers and antennas shall be allowed as follows:

1. City government owned and operated towers supporting receive and/or transmit antennas for all public safety and government service purposes shall be a permitted use in all zoning districts subject to the following requirements:
  - a. Such towers shall conform to the accessory structure setback for the zoning district in which they are located. Guy wires shall be set back no less than one foot (1') from property lines.
  - b. Such towers shall be installed in accordance with the instructions furnished by the manufacturer of the tower model. Antennas mounted on a tower may be modified and changed at any time so long as the published allowable load on the tower is not exceeded and the structure of the tower remains in accordance with the manufacturer's specifications.
2. Towers in Residential, Government/Institutional, Park, and Agricultural Zoning Districts are prohibited except as follows:
  - a. Towers supporting commercial antennas and conforming to all applicable provisions of the Zoning Ordinance shall be allowed as a conditional use, and only in the following locations:
    1. Church sites, when camouflaged as steeples or bell towers. Antennas and all other associated structures shall also be camouflaged.
    2. Park sites, when compatible with the nature of the park.

3. Government, school, utility and institutional sites.
3. Towers in Commercial Zoning Districts.
  - a. Towers supporting commercial antennas and conforming to all applicable provisions of the Zoning Ordinance shall be allowed as a conditional use in the Central Business Zoning District only in the following locations:
    1. Church sites, when camouflaged as steeples or bell towers. Antennas and all other associated structures shall also be camouflaged.
    2. Government, school, utility and institutional sites.
  - b. Towers supporting commercial antennas and conforming to all applicable provisions of the Zoning Ordinance shall be allowed as a conditional use in the Limited Business and General Business Zoning Districts.
4. Towers in Industrial Zoning Districts.
  - a. Towers supporting commercial antennas and conforming to all applicable provisions of the Zoning Ordinance shall be allowed as a permitted use with plan review in the Limited Industry and General Industry Zoning Districts.

G. TOWER PLACEMENT, SETBACKS AND HEIGHT.

1. Towers in Residential, Government/Institutional, Park, and Agricultural Zoning Districts.
  - a. Placement. Telecommunication towers shall be located in the rear yard or side yard without encroaching on the front yard area.
  - b. Setbacks. The minimum setback from any property line shall be not less than 50% of the tower height. However, the minimum setback from any property line abutting non-residential zoned property shall be not less than 25% of the tower height. The minimum setback from any residence shall be not less than 100% of the tower height. Equipment buildings or cabinets shall comply with the accessory building setbacks for the zoning district in which it is located.
  - c. Height. The maximum height for telecommunication towers (including antennas and other attachments) in Residential Zoning Districts shall not exceed 150 feet. The maximum height in Government/Institutional, Park, and Agricultural Zoning Districts shall not exceed 175 feet.

2. Towers in Commercial Zoning Districts.
  - a. Placement. Telecommunication towers shall be located in the rear yard or side yard, without encroaching on the front yard area.
  - b. Setbacks. The minimum setback from any property line shall be not less than 25% of the tower height, or 20 feet, whichever is greater. The minimum setback from any residence shall be not less than 50% of the tower height. Equipment buildings or cabinets shall comply with the principal building setbacks for the commercial zoning district in which it is located.
  - c. Height. The maximum height for telecommunication towers (including antennas and other attachments) shall not exceed 175 feet.
3. Towers in Industrial Zoning Districts.
  - a. Placement. Telecommunication towers shall be located in the rear yard or side yard, without encroaching on the front yard area.
  - b. Setbacks. The minimum setback from any property line shall be not less than 25% of the tower height, or 20 feet, whichever is greater. The minimum setback from any residence shall be not less than 50% of the tower height. Equipment buildings or cabinets shall comply with the principal building setbacks for the industrial zoning district in which it is located.
  - c. Height. The maximum height for telecommunication towers (including antennas and other attachments) shall be 200 feet.
4. Miscellaneous Placement Provisions.
  - a. Towers shall not encroach upon any easements.
  - b. Towers shall be set back from public rights-of way and from planned rights-of-way shown in the Comprehensive Plan of the City.
  - c. Towers shall not be located between a principal structure and a public street, with the following exceptions:
    1. In industrial zoning districts, towers may be placed within a side yard abutting an internal industrial street.
    2. On sites adjacent to public streets on all sides, towers may be placed within a side yard abutting a local street.
  - d. Setbacks shall be measured between the base of the tower located nearest the property line and actual property line.

- e. A tower's setback may be reduced or its location in relation to a public street varied, at the sole discretion of the City, to allow the integration of a tower into an existing or proposed structure such as a church steeple light standard, power line support device, or similar structure.

H. GENERAL REQUIREMENTS. All new towers/antennas erected after the effective date of this Ordinance shall comply with the following provisions.

1. Building Permits. All communications towers shall require a building permit and be anchored in a stationary position. Manufacturer's specifications for the antenna and supporting structure shall be attached to the building permit application.
2. Structural Standards and Wind Loading.
  - a. Each tower shall be designed and built to withstand an 80 mph baseline wind speed with a minimum of one-half inch radial ice. If industry standards increase these requirements, all new or rebuilt towers shall conform to the new standards.
  - b. Tower designs shall be certified by a licensed professional engineer to conform to the latest structural standards and wind loading requirements of the Uniform Building Code/Minnesota State Building Code and its Electronics Industry Association.
  - c. Towers and antennas shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.
  - d. All towers shall be constructed to conform with the requirements of the Occupational Safety and Health Administration.
  - e. Towers must be self-supporting without the use of wires, cables, beams or other means. No guy wires shall be used without a Conditional Use Permit. The design should utilize an open framework or monopole configuration. Permanent platforms or structures exclusive of antennas that serve to increase off-site visibility are prohibited.
  - f. Support structures shall be grounded, following manufacturer's specifications for grounding.
  - g. The base of the tower shall occupy no more than 200 square feet and the top of the tower shall be no larger than 50 square feet.
  - h. Metal towers shall be constructed of, or treated with corrosive resistant material. Wood poles shall be impregnated with rot resistant substances.

- i. No part of any antenna or tower shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk or property line.
    - j. No ladder rungs shall be allowed within 15 feet of the ground.
3. **Antennas Mounted on Roofs, Walls and Existing Towers.** The placement of commercial wireless telecommunication antennas on roofs, walls, and existing towers and other structures may be approved by the Zoning Administrator subject to the following provisions:
  - a. The antenna must meet the requirements set forth in this Ordinance.
  - b. The existing structure upon which placement of an antenna is proposed must be conforming to all applicable provisions of the Zoning Ordinance.
  - c. A site and building plan as required by the City must be submitted.
  - d. A report prepared by a qualified and licensed professional engineer approved by the City indicating the existing structure or tower's suitability to accept the antenna, and the proposed method of affixing the antenna to the structure, is submitted and approved by the City. Complete details of all fixtures and couplings and the precise point of attachment shall be indicated.
4. **Visual Compatibility.** All telecommunication facilities, except exempt facilities as defined in Section 10.B.7., shall be constructed and sited so as to minimize the visual effect of such facilities on the surrounding area. To that end, the following measures shall be implemented:
  - a. Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging treatment, except in cases where the color is dictated by federal or state authorities. Materials employed shall not be unnecessarily bright, shiny, or reflective and shall be of a color or type which blend with the surroundings to the greatest extent possible.
  - b. No commercial telecommunication facility shall be installed at a public trail, public park or other outdoor recreation area, or on property designated as Park or Open Space, unless it blends with the surrounding existing natural and man-made environment in such a manner as to be effectively unnoticeable and a finding is made that no other location is technically feasible.

- c. No commercial telecommunication facility that is readily visible from off-site shall be installed closer than one-half mile from another readily visible uncamouflaged or unscreened telecommunication facility unless it is a co-located facility, situated on a multiple-user site, or blends with the surrounding existing natural and man-made environment in such a manner as to be effectively unnoticeable; or technical evidence acceptable to the City is submitted showing a clear need for the facility and the infeasibility of co-locating it on one of the existing sites.
  - d. Facility structures and equipment shall be located, designed and screened to blend with the existing natural or built surroundings so as to reduce visual impacts to the extent feasible considering the technological requirements of the proposed telecommunication service and the need to be compatible with neighboring residences and the character of the community.
  - e. The facility shall be designed to blend with any existing supporting structure and shall not substantially alter the character of the structure or local area.
  - f. A visual analysis, which may include photo montage, field mock up, or other techniques shall be prepared and submitted by or on behalf of the applicant in conjunction with an application for a conditional use permit or a building permit, which identifies the potential visual impacts, at design capacity, of the proposed facility. Consideration shall be given to views from public areas as well as from private residences. The analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable telecommunication facilities in the area, and shall identify and include all feasible mitigation measures consistent with the technological requirements of the proposed telecommunication service. All costs for the visual analysis, and applicable administrative costs, shall be borne by the applicant.
5. **Lighting.** Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for the particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.
6. **Signs/Advertising.** The use of any portion of a tower for signs other than warning or equipment information signs is prohibited. No advertising messages or identification visible off-site shall be placed on the tower, antennas, or other attachments.

7. Accessory Buildings/Cabinets.
  - a. Accessory buildings/cabinets shall enclose transmission equipment power equipment or any equipment located on the ground near the tower.
  - b. All utility buildings/cabinets accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setbacks established by this Ordinance.
8. Screening and Landscaping.
  - a. Tower locations should provide the maximum amount of screening possible for off-site views of the facility.
  - b. Existing on-site vegetation shall be preserved to the maximum extent practicable.
  - c. Accessory buildings/cabinets and ground mounted equipment shall be screened from view from abutting public rights-of-way and from abutting residentially zoned property by suitable vegetation, at least 5 feet in height, except where the use of non-vegetative screening better reflects and complements the architectural character of the surrounding area.
  - d. Security fencing at least 6 feet in height shall enclose the area on which the commercial use antenna tower is located.

I. ADDITIONAL SUBMITTAL REQUIREMENTS. In addition to the information required elsewhere in this Ordinance, applications for towers/antennas shall include the following supplemental information.

1. Engineering Report. A report from a licensed professional engineer shall be required and shall at a minimum:
  - a. Describe the tower height and design including scaled drawings of cross section, elevation, site plan and landscape plan.
  - b. Document the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas.
  - c. Describe the tower's capacity, including the number and type of antennas that it can accommodate, and where such antenna may be mounted and assure that ANSI Standards are met,
  - d. Document what steps the applicant will take to avoid interference with established public safety telecommunications,

- e. Include an engineer's stamp, signature and Minnesota registration number,
  - f. Include proof of ownership of the proposed site or authorization to utilize it,
2. Letter of Intent. For all commercial wireless telecommunications service towers, a letter of intent shall be required committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.

J. ABANDONED OR UNUSED TOWERS OR PORTIONS OF TOWERS.  
Abandoned or unused towers or portions of towers shall be removed as follows:

1. All abandoned or unused towers or portions of towers and accompanying accessory facilities shall be removed within six months of the cessation of operations unless a time extension is approved by the City. If a time extension is not approved, the tower may be deemed hazardous, substandard and/or a nuisance pursuant to Minnesota Statutes 463.15-463.261, 561.01-561.03, 429.101 and applicable City ordinances. In the event a tower is determined to be a nuisance, the City may act to abate such nuisance and require removal of the tower at the property owner's expense.
2. The owner shall provide the City with a copy of the notice of the Federal Communication Commission intent to cease operations and shall be given six months from the date of ceasing operations to remove the abandoned or unused tower and all accessory structures. In the case of multiple operators sharing the use of a single tower, this provision shall not become effective until all users cease operations for a period of six months. The equipment on the ground is not to be removed until the tower structure has first been dismantled. After the facilities are removed, the site shall be restored to its original or to an improved condition.

K. INTERPERTATION. It is not the intention of this Ordinance to interfere with, abrogate, or annul any covenant or other agreement between parties, provided, however where this Ordinance imposes greater restriction upon the use of premises for antennas or towers than are imposed or required by other ordinances, rules, regulations or permits, or by covenants or agreement, the provisions of this Ordinance shall govern.

L. INSPECTIONS AND VIOLATIONS. All towers, monopoles, antennas and the like must obtain a building permit and are subject to inspection by the City Building Official to determine compliance with UBC construction standards. Deviation from the original construction for which a permit is obtained is a misdemeanor.

M-O. RESERVED.

P. EFFECTIVE DATE. This Ordinance shall be effective from and after its adoption and second publication.

This Ordinance introduced by Council Member: Reese

This Ordinance introduced on: December 6, 2000

This Ordinance published on: December 12, 2000

This Ordinance given a hearing on: December 20, 2000

This Ordinance adopted on: December 20, 2000

This Ordinance published on: December 26, 2000

<sup>11</sup>  
SECTIONS 10. through 12.: RESERVED

***CITY OF WILLMAR***  
***SHORELAND***  
***MANAGEMENT***  
***ORDINANCE***

*March, 1992*

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ORDINANCE NO. 1022

AN ORDINANCE REGULATING THE SUBDIVISION, USE, AND  
DEVELOPMENT OF SHORELAND AREAS WITHIN THE  
CITY OF WILLMAR; AND REPEALING  
ORDINANCE NO. 849

SECTION I: GENERAL PROVISIONS

- A. Statutory Authorization. This Shoreland Ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103.F., Minnesota Regulations, Parts 6120.2500-6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.
- B. Policy. The uncontrolled use of shorelands of Willmar, Minnesota, affects the public health, safety, and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety, and welfare to provide for the wise subdivision, use, and development of shorelands of public waters. The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use, and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by the City of Willmar.
- C. Jurisdiction. The provisions of this Ordinance shall apply to the shorelands of the public water bodies as classified in Section III. of this Ordinance, Pursuant to Minnesota Regulations, Parts 6120.2500-6120.3900; no lake, pond, or flowage less than 10 acres in size in municipalities or 25 acres in size in unincorporated areas need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this Ordinance.
- D. Compliance. The use of any shoreland of public waters; the size and shape of lots; the use, size, type, and location of structures on lots; the installation and maintenance of water supply and waste treatment systems; the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this Ordinance and other applicable regulations.

- E. Enforcement. The Zoning Administrator is responsible for the administration and enforcement of this Ordinance. Any violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional use permits) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this Ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to Section II.A.1. of this Ordinance.
- F. Interpretation. In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of public health, safety, and welfare.
- G. Separability. If any Section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.
- H. Abrogation/Greater Restrictions. It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.
- I. Definitions. Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application. For the purpose of this Ordinance, the words "must" and "shall" are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.
1. Accessory structure/facility. Any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at greater than normal structure setbacks.
  2. Bluff. A topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff):
    - a. Part or all of the feature is located in a shoreland area.
    - b. The slope rises at least 25 feet above the ordinary high water level of the waterbody.

- c. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater.
  - d. The slope shall drain toward the waterbody.
3. *Bluff impact zone.* A bluff and land located within 20 feet from the top of the bluff.
  4. *Boathouse.* A structure designed and used solely for the storage of boats or boating equipment.
  5. *Building line.* A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.
  6. *Commercial use.* The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.
  7. *Commissioner.* The Commissioner of the Minnesota Department of Natural Resources.
  8. *Conditional use.* An activity or use of the land which, because of special problems of control intrinsic in the use, requires reasonable but special, unusual, and extraordinary limitations for the protection of the public welfare and the integrity of the Comprehensive Land Use Plan.
  9. *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 and at any point extending more than three feet above ground.
  10. *Duplex, triplex, and quad.* A dwelling structure on a single lot, having two, three, and four units respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.
  11. *Dwelling site.* A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.
  12. *Dwelling unit.* Any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.

13. *Extractive use.* The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.
14. *Hardship.* That term as defined in Minnesota Statutes, Chapter 462.
15. *Height of building.* The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.
16. *Industrial use.* The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.
17. *Intensive vegetation clearing.* The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.
18. *Lot.* A parcel of land described by metes and bounds, registered land survey, or plot.
19. *Lot width.* The horizontal distance between the side lot lines of a lot measured at the front and rear setback lines, and if they are different, the average of them.
20. *Non-conforming structure or use.* Any structure or use which on the effective date of this Ordinance does not, even though lawfully established, conform to the applicable provisions if the structure or use was to be erected under the guidance of this Ordinance.
21. *Ordinary high water level.* The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.
22. *Planned unit development.* A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be

organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

23. *Planned unit development (commercial)*. Uses that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.
24. *Planned unit development (residential)*. A use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development shall contain at least five dwelling units or sites.
25. *Public waters*. Any waters as defined in Minnesota Statutes, Chapter 103.G., Section 103.G.005, subdivisions 15 and 18.
26. *Semi-public use*. The use of land by a private, non-profit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.
27. *Sensitive resource management*. The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.
28. *Setback*. The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.
29. *Sewage treatment system*. A septic tank and soil absorption system or other individual or cluster type

sewage treatment system as described and regulated in Section IV.H. of this Ordinance.

30. *Sewer system.* Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.
31. *Shore impact zone.* Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.
32. *Shoreland.* Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.
33. *Significant historic site.* Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.
34. *Steep slope.* Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Ordinance. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.
35. *Structure.* Any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

36. *Subdivision.* A described tract of land which is to be, or has been, divided or subdivided into two or more lots or parcels for the purpose of transfer of ownership, building development or for tax assessment purposes.
37. *Surface water-oriented commercial use.* The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants, with transient docking facilities are examples of such use.
38. *Toe of the bluff.* The lower point of a 50-foot segment with an average slope exceeding 18 percent.
39. *Top of the bluff.* The higher point of a 50-foot segment with an average slope exceeding 18 percent.
40. *Variance.* The waiving by Board of Zoning Appeals action of the literal provisions of this Ordinance in instances where their strict enforcement would cause hardship because of physical circumstances reasonably unique to the individual property under consideration.
41. *Water-oriented accessory structure or facility.* A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.
42. *Wetland.* A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 Edition).

## SECTION II: ADMINISTRATION

### A. Permits.

1. Required. In addition to the permits required by the City of Willmar Zoning Ordinance for the construction or alteration of a building/structure, permits shall be required for installation and/or alteration of sewage treatment systems, and those grading and filling activities not specifically exempted by this Ordinance. Application for a sewage treatment or shoreland alteration permit shall be made to the Zoning Administrator, on the forms provided. The application shall include the necessary information so that the Zoning Administrator can determine the site suitability for the intended use and that a compliant sewage treatment system will be provided.

A building permit authorizing an addition to an existing structure shall stipulate that an identified non-conforming sewage treatment system shall be reconstructed or replaced in accordance with the provisions of this Ordinance.

2. Compliance. The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified previously. This certificate will specify that the use of land conforms to the requirements of this Ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this Ordinance and shall be punishable as provided in Section I.E.

- B. Variances. Variances may be granted in accordance with Minnesota Statutes Chapter 462. The administrative procedures for the reviewal of a variance request shall be as specified in the Willmar Zoning Ordinance. A variance shall not circumvent the general purposes and intent of this Ordinance. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Section II.F. shall include the Board of Zoning Appeals' summary of the public record/testimony and the findings of fact and conclusions which supported the issuance of the variance.

For existing developments, the application for variance shall clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, shall require reconstruction of a nonconforming sewage treatment system.

- C. Conditional Use Permits. The administrative procedures for the review of a conditional use permit request shall be as specified in the Willmar Zoning Ordinance and applicable statutes. The following additional evaluation criteria and conditions apply within shoreland areas:
1. Evaluation Criteria. A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site shall be made to ensure:
    - a. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.
    - b. The visibility of structures and other facilities as viewed from public waters is limited.
    - c. The site is adequate for water supply and on-site sewage treatment.
    - d. The types, uses, and numbers of watercraft that the project will generate are compatible with the suitability of public waters to safely accommodate these watercraft.
  2. Conditions. The Willmar Planning Commission, upon consideration of the stated evaluation criteria and the purposes of this Ordinance, shall attach such conditions to the issuance of a conditional use permit as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:
    - a. Increased setbacks from the ordinary high water level.
    - b. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted.
    - c. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.
- D. Subdivisions/Plats. The administrative procedures for subdivision/plat review shall be as specified in the Willmar Subdivision Ordinance and applicable statutes.
- E. Zoning/Text Amendments. The administrative procedures for the review of zoning/text amendment requests shall be as specified in the Willmar Zoning Ordinance and applicable statutes.

- F. Notification. Copies of all notices of any public hearings to consider variances, subdivision plats, amendments, or conditional uses under local shoreland management controls shall be sent to the Commissioner or the Commissioner's designated representative and be postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats shall include copies of the subdivision/plat.

A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls shall be sent to the Commissioner or the Commissioner's designated representative and be postmarked within ten days of final action.

**SECTION III: SHORELAND CLASSIFICATION SYSTEM AND LAND USE DISTRICTS**

A. Shoreland Classification System. The public waters of the City of Willmar have been classified consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Kandiyohi County. The shoreland areas for the lakes listed in this Section shall be as defined in Section I.I.32. and as noted on the Willmar Zoning Map.

<u>General Development Lakes</u>	<u>Protected Waters Inventory I.D.</u>
1. Willmar	34-180
2. Foot	34-181
3. Swan	34-186

B. Land Use Districts. The land use districts in this Section, and the delineation of these districts' boundaries on the Willmar Zoning Map, shall be consistent with the goals, objectives, and policies of the Willmar Comprehensive Land Use Plan and the following criteria and considerations.

1. Criteria and Considerations for all Land Uses:
  - a. Preservation of natural areas.
  - b. Present ownership and development of shoreland areas.
  - c. Shoreland soil types and their engineering capabilities.
  - d. Topographic characteristics.
  - e. Vegetative cover.
  - f. In-water physical characteristics, values, and constraints.
  - g. Recreational use of the surface water.
  - h. Road and service center accessibility.
  - i. Socioeconomic development needs and plans as they involve water and related land resources.
  - j. The land requirements of industry which, by its nature, requires location in shoreland areas.
  - k. The necessity to preserve and restore certain areas having significant historical or ecological value.
2. Criteria and Considerations for Planned Unit Development:
  - a. Existing recreational use of the surface waters and likely increases in use associated with planned unit developments.
  - b. Physical and aesthetic impacts of increased density.
  - c. Suitability of lands for the planned unit development approach.
  - d. Level of current development in the area.
  - e. Amounts and types of ownership of undeveloped lands.

- C. Land Use District Descriptions. The land use districts established herein are noted on the Willmar Zoning Map. The districts are mapped without the "/s" suffix, which identifies the district as a shoreland district and relates to that portion of the zoning district which is located within the shoreland area as defined in Section I.I.32. These land use districts are in conformance with the criteria specified in Minnesota Regulation, Part 6120.3200. Subp.3.
1. A/S, Agriculture District.
    - a. Permitted Uses. Only the following uses shall be permitted in the A/S, Agriculture District:
      - Agricultural cropland and associated structures.
      - Wildlife and nature areas, and woodlands.
      - Seasonal roadside sales of farm produce.
    - b. Conditional Uses. Only the following uses shall be allowed as a conditional use:
      - Parks.
      - Riding stables, dog kennels.
      - Nurseries.
      - Fairgrounds.
      - Single family residences on one acre minimum lot size.
  2. P/S, Park District.
    - a. Permitted Uses. Only the following uses shall be permitted in the P/S, Park District:
      - Agricultural cropland.
      - Wildlife and nature areas, and woodlands.
    - b. Conditional Uses. Only the following uses shall be allowed as a conditional use:
      - Public or city uses; and essential services.
      - Golf courses.
      - City or county parks, recreational facilities, and campgrounds.
      - Riding stables.
      - Swimming pools.
  3. G/S, Government-Institutional District.
    - a. Permitted Uses. Only the following uses shall be permitted in the G/S, Government-Institutional District:
      - Governmentally-owned lands (vacant).
      - Public utilities wellfields and water storage facilities.
      - Public or city uses; and essential services.
    - b. Conditional Uses. Only the following uses shall be allowed as a conditional use:
      - Technical colleges.
      - Community colleges.
      - Public schools.

4. R-1/S, One Family Residential District.
  - a. Permitted Uses. Only the following uses shall be permitted in the R-1/S, One Family Residential District:
    - Agricultural cropland.
    - One family detached dwellings.
    - Public or city uses; and essential services.
  - b. Conditional Uses. Only the following uses shall be allowed as a conditional use:
    - Utility buildings/structures (above ground).
    - Schools or churches.
    - Commercial day nurseries or pre-schools.
    - Home occupations.
  
5. R-2/S, One and Two Family Residential District.
  - a. Permitted Uses. Only the following uses shall be permitted in the R-2/S, One and Two Family Residential District:
    - Agricultural cropland.
    - One family detached dwellings.
    - Two family (duplex) dwellings, including twin homes.
    - Public or city uses; essential services.
  - b. Conditional Uses. Only the following uses shall be allowed as a conditional use:
    - Room and board for up to four persons.
    - Parking for an adjacent business use.
    - Home occupations.
    - Utility buildings/structures (above ground).
    - Schools or churches.
    - Cemeteries.
    - Commercial day nurseries or pre-schools.
    - Nursing homes, residential care facilities.
    - Residential Planned Unit Developments*
  
6. R-3/S, Low Density Multiple Residential District.
  - a. Permitted Uses. Only the following uses shall be permitted in the R-3/S, Low Density Multiple Residential District:
    - Agricultural cropland.
    - One family detached dwellings.
    - Two family (duplex) dwellings, including twin homes.
    - Three family (triplex) and four family (quad) dwellings.
    - Public or city uses; essential services.
  - b. Conditional Uses. Only the following uses shall be allowed as a conditional use:
    - Room and board for up to four persons.
    - Bed and breakfast.
    - Parking for an adjacent business use.
    - Home occupations.
    - Utility buildings/structures (above ground).

- Schools or churches.
- Cemeteries.
- Commercial day nurseries or pre-schools.
- Nursing homes, residential care facilities.

7. R-4/S, Medium Density Multiple Residential District.
  - a. Permitted Uses. Only the following uses shall be permitted in the R-4/S, Medium Density Multiple Residential District:
    - Agricultural cropland.
    - Two family (duplex) dwellings, including twin homes.
    - Three family (triplex) and four family (quad) dwellings.
    - Public or city uses; essential services.
    - Parking for an adjacent business use.
    - Room and board for up to four persons.
  - b. Conditional Uses. Only the following uses shall be allowed as a conditional use:
    - Multiple dwellings up to 24 units/building.
    - Utility buildings/structures (above ground).
    - Home occupations.
    - Schools or churches.
    - Cemeteries.
    - Residential planned unit developments.
    - Commercial day nurseries or pre-schools.
    - Nursing homes, residential care facilities.
  
8. LB/S, Limited Business District.
  - a. Permitted Uses. Only the following uses shall be permitted in the LB/S, Limited Business District, provided plans are submitted to the City for review by staff and the Planning Commission, subject to such conditions as may be attached:
    - Public or city uses; essential services.
    - Art studio, prints and supplies.
    - Photographic studio and supplies.
    - Banks/financial institutions.
    - Bed and breakfast.
    - Offices, business and professional.
    - Parking.
    - Medical/dental clinics.
    - Nurseries/greenhouses.
    - Broadcasting studios.
    - Churches.
    - Commercial day nurseries or pre-schools.
    - Fraternal/service clubs.
  - b. Conditional Uses. Only the following uses shall be allowed as a conditional use:
    - Multiple dwellings.
    - Businesses with drive-up facilities (if use is allowed).

- Museums.
- Residential planned unit developments.
- Commercial planned unit developments.
- Nursing homes, residential care facilities.

9. GB/S, General Business District.

- a. Permitted Uses. Only the following uses shall be permitted in the GB/S, General Business District, provided plans are submitted to the City for review by staff and the Planning Commission, subject to such conditions as may be attached:
- Public or city uses; essential services.
  - Art studio, prints and supplies.
  - Photographic studio and supplies.
  - Photo processing.
  - Athletic/recreation facilities.
  - Bait and tackle stores.
  - Automobile/light truck sales, service and parts.
  - Bakeries.
  - Churches.
  - Department stores.
  - Drug stores/pharmacies.
  - Commercial day nurseries or pre-schools.
  - Appliance sales and service.
  - Banks/financial institutions.
  - Bicycle sales and service.
  - Broadcasting studio.
  - Printing shops.
  - Motorcycle/snowmobile/boat sales and service.
  - Medical/dental clinics.
  - Offices, business and professional.
  - Bed and breakfast.
  - Liquor sales, on and off.
  - Farm supplies sales.
  - Nurseries/greenhouses.
  - Fraternal/service clubs.
  - Parking.
  - Museums.
  - Hardware stores.
  - Laundromats.
  - Flower shops.
  - Dry cleaners.
  - Sporting goods stores.
  - Small engine sales and service.
  - Theaters.
  - Tanning salons.
  - Tire sales and service.
  - Video stores.
- b. Conditional Uses. Only the following uses shall be allowed as a conditional use:
- Multiple dwellings.

11 - Multiple Dwellings

- 15 - Utility buildings/structures (above ground).
- 14 - Supermarkets/grocery stores (including convenience stores w/o gas sales).
- 12 - Residential planned unit developments.
- 13 - Restaurants (including night clubs and fast foods).
- 2 - Businesses with drive-up facilities (if use is allowed).
- 1 - Armories, convention halls, auditoriums.
- 6 - Contractor shops.
- 3 - Bus terminals.
- 4 - Car washes.
- 8 - Hotels/motels.
- 10 - Multi-business buildings and complexes (if uses are allowed).
- 9 - Mini storage.
- 5 - Commercial planned unit developments.
- 7 - Flammable gas/liquid sales and storage (including gas stations and convenience stores w/gas sales).

10. I-2/S, General Industry District.

- a. Permitted Uses. Only the following uses shall be permitted in the I-2/S, General Industry District, provided plans are submitted to the City for review by Staff and the Planning Commission, subject to such conditions as may be attached:
- 9 - Public or city uses; essential services.
  - 7 - Offices, business or professional.
  - 1 - Automobile/truck sales, service and parts.
  - 10 - Restaurants.
  - 2 - Contractor shops.
  - 11 - Storage garages or warehouses.
  - 6 - Motor freight terminal.
  - 5 - Metal fabrication.
  - 12 - Transportation facilities.
  - 8 - Printing shops.
  - 4 - Exterior storage (enclosed by screening).
  - 3 - Equipment rental.
- b. Conditional Uses. Only the following uses shall be allowed as a conditional use:
- 8 - Utility buildings/structures (above ground).
  - 5 - Manufacturing/processing.
  - 4 - Gas bulk plants.
  - 7 - Storage and sales of flammable gases and liquids.
  - 9 - Wholesaling.
  - 1 - Agricultural processing.
  - 2 - Commercial planned unit developments.
  - 6 - Solid waste recycling facility (no exterior storage).
  - 3 - Concrete, bituminous or gravel production.

- D. Consistency of Land Use Districts to State Standards. The City of Willmar Comprehensive Land Use Plan promotes a development philosophy which is consistent with that found within the State Shoreland Management Standards. Zoning district designations created by the City, and made the focal point of the Zoning and Shoreland Ordinances/Maps, reflect this philosophy and provide the necessary framework to control land uses within the various shoreland areas. Although the City's existing zoning districts were adopted for use in this Shoreland Ordinance, the uses allowed within each district have been restricted to achieve compliance with the intent of the Comprehensive Plan and State standards.

**SECTION IV: ZONING AND WATER SUPPLY/SANITARY PROVISIONS**

A. Lot Area and Width Standards. The lot area (in square feet) and lot width (in feet) standards for single, duplex, triplex, and quad residential lots created after the date of enactment of this Ordinance for lakes within the City of Willmar shall be:

1. Unsewered Lakes (Areas).
  - a. General Development Lakes.

	<u>Riparian Lots</u>		<u>Nonriparian Lots</u>	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	20,000	100	40,000	150
Duplex	40,000	180	80,000	265
Triplex	60,000	260	120,000	375
Quad	80,000	340	160,000	490

2. Sewered Lakes (Areas).
  - a. General Development Lakes.

	<u>Riparian Lots</u>		<u>Nonriparian Lots</u>	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	15,000	75	10,000	75
Duplex	26,000	135	17,500	135
Triplex	38,000	195	25,000	190
Quad	49,000	255	32,500	245

B. Additional Lot Area and Width Provisions. Residential subdivisions with dwelling unit densities exceeding those in the tables in Section IV.A. can be allowed only if designed and approved as residential planned unit developments under Section VII. of this Ordinance. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards shall be met at both the ordinary high water level and at the building line. The lot area dimensions for sewered lakes in Section IV.A.2. can be used only if publicly owned sewer system service is available to the property.

1. Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and shall meet or exceed the following standards:
  - a. They shall meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.
  - b. If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) shall be increased by

the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

<u>Ratio of lake size to shore length (acres/mile)</u>	<u>Required increase in frontage (percent)</u>
Less than 100	25
100-200	20
201-300	15
301-400	10
Greater than 400	5

- c. They shall be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot.
- d. Covenants or other equally effective legal instruments shall be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They shall also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the nonsignificant conflict activities include swimming, sunbathing, or picnicking. The covenants shall limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and shall require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They shall also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

C. Placement, Design, and Height of Structures. When more than one setback applies to a site, structures and facilities shall be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures

shall be located as follows:

1. Structure and On-Site Sewage System Setbacks (in feet) from the Ordinary High Water Level.\*

<u>Class of Public Waters</u>	<u>Setbacks*</u>		<u>Sewage Treatment System</u>
	<u>Unsewered</u>	<u>Sewered</u>	
General Development Lakes	75	50	50

\*One water-oriented accessory structure designed in accordance with Section IV.C.5. of this Ordinance may be set back a minimum distance of ten (10) feet from the ordinary high water level.

2. Additional Structure Setbacks. The following additional structure setbacks apply:

<u>Setback From:</u>	<u>Setback (in feet)</u>
Top of bluff	30
Unplatted cemetery	50
Right-of-way line of federal, state, or county highway	50
Right-of-way line of town road, public street, or other roads or streets not classified	30

3. Bluff Impact Zones. Structures and accessory facilities, except stairways and landings, shall not be placed within bluff impact zones.
4. Uses Without Water-Oriented Needs. Uses without water-oriented needs shall be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, shall either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.
5. Design Criteria for Structures. The following design criteria shall apply to structures within all shoreland areas:

- a. High Water Elevations. Structures shall be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed shall be determined as follows:

-For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher.

-Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

- b. Water-oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Section IV.C.1. of this Ordinance if this water-oriented accessory structure complies with the following provisions:

-The structure or facility shall not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks shall not exceed eight feet above grade at any point.

-The setback of the structure or facility from the ordinary high water level shall be at least ten feet.

-The structure or facility shall be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.

-The roof may be used as a deck with safety rails, but shall not be enclosed or used as a storage area.

-The structure or facility shall not be designed or used for human habitation and shall not contain water supply or sewage treatment facilities.

-As an alternative for general development water-bodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

c. Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts shall meet the following design requirements:

-Stairways and lifts shall not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments.

-Landings for stairways and lifts on residential lots shall not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties, and planned unit developments.

-Canopies or roofs are not allowed on stairways, lifts, or landings.

-Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.

-Stairways, lifts, and landings shall be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.

-Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standard for these facilities are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.

- d. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the value of the site unless adequate information about the site has been removed and documented in a public repository.
  - e. Steep Slopes. The Zoning Administrator shall evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions shall be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on conditions.
6. Height of Structures. All structures in residential districts, except churches and nonresidential agricultural structures, shall not exceed 25 feet in height.
- D. Shoreland Alterations. Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.
- 1. Vegetation Alterations. The following provisions apply to the alteration of vegetation in shoreland areas:
    - a. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section IV.E. of this Ordinance are exempt from the vegetation alteration standards that follow.
    - b. Removal or alteration of vegetation, except for agricultural uses as regulated in Section IV.G., is allowed subject to the following standards:

-Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.

-In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced.

c. The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

2. Topographic Alterations/Grading and Filling. The following provisions apply to topographic alterations/grading and filling in shoreland areas:

a. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Section shall be incorporated into the issuance of permits for construction of structures, sewage, treatment systems, and driveways.

b. Public roads and parking areas are regulated by Section IV.E. of this Ordinance.

c. Notwithstanding items a. and b. above, a grading and filling permit will be required for:

-The movement of more than ten cubic yards of material on steep slopes or within shore or bluff impact zones.

-The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

- d. The following considerations and conditions shall be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances, and subdivision approvals:

-Grading or filling in any type 2,3,4,5,6,7, or 8 wetland shall be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland.

Sediment and pollutant trapping and retention.

Storage of surface runoff to prevent or reduce flood damage.

Fish and wildlife habitat.

Recreational use.

Shoreline or bank stabilization.

Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

-This evaluation shall also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised.

-Alterations shall be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.

-Mulches or similar materials shall be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover shall be established as soon as possible.

-Methods to minimize soil erosion and to trap

sediments before they reach any surface water feature shall be used.

-Altered areas shall be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service.

-Fill or excavated material shall not be placed in a manner that creates an unstable slope.

-Plans to place fill or excavated material on steep slopes shall be reviewed by qualified professionals for continued slope stability and shall not create finished slopes of 30 percent or greater.

-Fill or excavated material shall not be placed in bluff impact zones.

-Any alterations below the ordinary high water level of public waters shall first be authorized by the Commissioner under Minnesota Statutes, Section 103.G.245.

-Alterations of topography shall only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.

-Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.

- e. Connections to public water. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, shall be controlled by local shoreland controls. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

E. Design and Placement of Roads, Driveways, and Parking Areas. The following provisions apply to the design and placement of roads, driveways, and parking areas in shoreland areas:

1. Design. Public and private roads and parking areas shall be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials, shall be provided by a qualified individual.
2. Placement. Roads, driveways, and parking areas shall meet structure setbacks and shall not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and shall be designed to minimize adverse impacts. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Sections IV.D. of this Ordinance shall be met.

F. Stormwater Management. The following general and specific provisions apply to the management of stormwater runoff in shoreland areas:

1. General Standards.
  - a. When possible, existing natural drainageways, wetlands, and vegetated soil surfaces shall be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
  - b. Development shall be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential; and reduce and delay runoff volumes. Disturbed areas shall be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
  - c. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling

basins, skimming devices, dikes, waterways, and ponds may be used. Preference shall be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.

2. Specific Standards.

- a. Impervious surface coverage of lots shall not exceed 25 percent of the lot area.
- b. When constructed facilities are used for stormwater management, documentation shall be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
- c. Newly constructed stormwater outfalls to public waters shall provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

G. Special Provisions for Commercial, Industrial, Public/Semi-Public and Agricultural Uses. The following provisions apply to the establishment and maintenance of commercial, industrial, public/semi-public, and agricultural uses in shoreland areas:

1. Standards for Commercial, Industrial, Public and Semi-Public Uses. Surface water-oriented commercial uses and industrial, public, or semi-public uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs shall meet the following standards:
  - a. In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this Ordinance, the uses shall be designed to incorporate topographic and vegetative screening of parking areas and structures.
  - b. Uses that require short-term watercraft mooring for patrons shall centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.
  - c. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the sign

regulations included as part of the Willmar Zoning Ordinance.

Uses without water-oriented need shall be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, shall either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

2. Standards for Agricultural Uses. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guide of the local soil and water conservation district or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

H. Water Supply and Sewage Treatment Facilities. The following provisions apply to water supply and sewage treatment facilities in shoreland areas:

1. Water Supply. Any public or private supply of water for domestic purposes shall meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.
  - a. The municipal water supply system shall be utilized whenever such system is available or can be made available by extensions which are feasible, cost-effective, and in the best interests of the City.
2. Sewage Treatment. Any premises used for human occupancy shall be provided with an adequate method of sewage treatment, as follows:
  - a. The municipal sanitary sewer system shall be utilized whenever such system is available or can be made available by extensions which are feasible, cost-effective, and in the best interests of the City.
  - b. All private sewage treatment systems shall meet or exceed the Minnesota Pollution Control Agency's 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 by reference and declared to be a part of this Ordinance.

- c. On-site sewage treatment systems shall be set back from the ordinary high water level in accordance with the setbacks contained in Section IV.C. of this Ordinance.
- d. All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in the following subitems. If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.

Evaluation criteria:

- Depth to the highest known or calculated ground water table or bedrock.
  - Soil conditions, properties, and permeability.
  - Slope.
  - The existence of lowlands, local surface depressions, and rock outcrops.
- e. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Section V. of this Ordinance.

## SECTION V: NONCONFORMITIES

- A. General. All legally established nonconformities as of the date of this Ordinance may continue, but they will be managed according to applicable state statutes and Willmar Zoning Ordinance provisions for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in shoreland areas:
1. Nonconforming Lots of Record.
    - a. Lots of record in the office of the county recorder on the date of enactment of this Ordinance that do not meet the requirements of Section IV.A. may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this Ordinance are met.
    - b. A variance from setback requirements shall be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Board of Zoning Appeals shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
    - c. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section IV.A. of this Ordinance, the lot shall not be considered as a separate parcel of land for the purposes of sale or development. The lot shall be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of Section IV.A. of this Ordinance as much as possible.
  2. Additions to/Expansions of Nonconforming Structures.
    - a. A nonconforming structure may be added to or expanded subject to the provisions of the Willmar Zoning Ordinance for enlargement of, or additions to, nonconforming structures.

- b. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all the following criteria and standards are met:

-The structure existed on the date the structure setbacks were established.

-A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure.

-The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive.

-The deck is constructed primarily of wood and is not roofed or screened.

3. Nonconforming Sewage Treatment Systems.

- a. A sewage treatment system not meeting the requirements of Section IV.H. of this Ordinance shall be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.
- b. The City Council of the City of Willmar has by formal resolution notified the Commissioner of its programs to identify nonconforming sewage treatment systems by a combination of review of existing records and systematic on-site inspections. Reconstruction, replacement, or other upgrading of nonconforming systems shall be required when appropriate or practicable, and shall be accomplished within a reasonable period of time which shall not exceed two years.
- c. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, Section 103.F.201, in effect at the time of installation

may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.

**SECTION VI: SUBDIVISION/PLATTING PROVISIONS**

- A. Suitability. Each lot created through subdivision, including planned unit developments authorized under Section VII. of this Ordinance, shall be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by City staff or the Planning Commission shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.
1. Information Requirements. Sufficient information shall be submitted by the applicant for staff or the Planning Commission to make a determination of land suitability. The information shall include at least the following:
    - a. Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics.
    - b. The surface water features required in Minnesota Statutes, Section 505.02, subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources.
    - c. Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods.
    - d. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities.
    - e. Location of 100-year flood plain areas and floodway districts from existing adopted maps or data, if applicable.

- f. A line or contour representing the ordinary high water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake.
- B. Consistency With Other Controls. Subdivisions shall conform to all official controls of this community. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with Sections IV.C. and IV.H. can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section IV.A., including at least a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of two standard sewage treatment systems. Lots that would require use of holding tanks shall not be approved.
- C. Dedications. When a land or easement dedication is a condition of subdivision approval, the approval shall provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.
- D. Platting. All subdivisions that create two or more lots or parcels which are 2 1/2 acres or less in area or 150 feet or less in width shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505, and the Willmar Subdivision Ordinance. No permits for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.
- E. Controlled Access for Recreational Lots. Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision shall meet or exceed the sizing criteria in Section IV.A. of this Ordinance.

**SECTION VII: PLANNED UNIT DEVELOPMENTS**

- A. Types of PUD's Allowed. Planned unit developments (PUD's) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The land use districts in which they are an allowable use are identified in the land use district description in Section III.D. of this Ordinance and on the official zoning map.
- B. Conditional/Permitted Use Status. Any planned unit development shall be processed as a conditional use, except that an expansion to an existing commercial PUD involving six or less new dwelling units or sites since the date this Ordinance was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in Section VII.E. Approval cannot occur until the environmental review process (EAW/EIS) is complete.
- C. Application for a PUD. The applicant for a PUD shall submit the following documents/information/data prior to final action being taken on the application request:
1. A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographic contours at ten-foot intervals or less. When a PUD is a combined commercial and residential development, the site plan and/or plat shall indicate and distinguish which buildings and portions of the project are residential, commercial, or a combination of the two.
  2. A property owners association agreement (for residential PUD's) with mandatory membership, and all in accordance with the requirements of Section VII.F. of this Ordinance.
  3. Deed restrictions, covenants, permanent easements or other instruments that: 1) properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUD's; and 2) ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section VII.F. of this Ordinance.
  4. When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures

to be occupied.

5. Any other documents/data/information as requested by the Willmar Planning Commission that is necessary to explain the design and function of the PUD.

D. Site "Suitable Area" Evaluation. Proposed new, or expansions to existing, planned unit developments shall be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in Section VII.E.

1. The project parcel shall be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

Shoreland Tier Dimensions

	Unsewered (feet)	Sewered (feet)
General development lakes- first tier	200	200
General development lakes- second and additional tiers	267	200

2. The suitable area within each tier is calculated by excluding from the tier area all wetlands, bluffs, or land below the ordinary high water level of public waters. This suitable area and the proposed project are then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

E. Residential and Commercial PUD Density Evaluation. The procedures for determining the "base" density of a PUD and density increase multipliers are as follows. Allowable densities may be transferred from any tier further from the waterbody, but shall not be transferred to any other tier closer.

1. Residential PUD "Base" Density Evaluation.

- a. The suitable area within each tier is divided by the single residential lot size standard for lakes. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analyses herein and the design criteria in Section VII.F.

2. Commercial PUD "Base" Density Evaluation.

- a. Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.
- b. Select the appropriate floor area ratio from the following table:

Commercial Planned Unit Development  
Floor Area Ratios\*

*Average unit floor area (sq. ft.)	Public Waters Classes	
	Sewered general development lakes; first tier on unsewered general development lakes.	Second and additional tiers on unsewered general de- velopment lakes.
200	.040	.020
300	.048	.024
400	.056	.028
500	.065	.032
600	.072	.038
700	.082	.042
800	.091	.046
900	.099	.050
1,000	.108	.054
1,100	.116	.058
1,200	.125	.064
1,300	.133	.068
1,400	.142	.072
1,500	.150	.075

\*For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 feet. For recreational camping areas, use the ratios listed at 400 square feet.

- c. Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.

- d. Divide the total floor area by tier computed in Item c. above by the average inside living area size determined in Item a. above. This yields a base number of dwelling units and sites for each tier.
- e. Proposed locations and numbers of dwelling units or sites for the commercial planned unit development are then compared with the tier, density, and suitability analyses herein and the design criteria in Section VII.F.

F. Density Increase Multipliers.

- 1. Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in Section IV. are met or exceeded and the design criteria in Section VII.F. are satisfied. The allowable density increases in Item 2. below will only be allowed if structure setbacks from the ordinary high water level are increased to at least 50 percent greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least 25 percent greater than the minimum setback.
- 2. Allowable Dwelling Unit or Dwelling Site Density Increases for Residential Planned Unit Developments:

Density evaluation tiers	Maximum density increase within each tier (percent)
First	50
Second	100
Third	150
Fourth	150
Fifth	150

G. Maintenance and Design Criteria. The following maintenance and design criteria shall be met by planned unit developments established in shoreland areas.

- 1. Maintenance and Administrative Requirements. Planned unit developments shall be maintained and administered consistent with the following provisions:
  - a. Before final approval of a planned unit development, adequate provisions shall be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and

functioning of the development.

- b. Open space preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means shall be provided to ensure long-term preservation and maintenance of open space. The instruments shall include all of the following protections:

-Commercial uses prohibited (for residential PUD's).

-Vegetation and topographic alterations other than routine maintenance prohibited.

-Construction of additional buildings or storage of vehicles and other materials prohibited.

-Uncontrolled beaching of watercraft prohibited.

- c. When applicable, a residential planned unit development shall use an owners association with the following features:

-Membership shall be mandatory for each dwelling unit or site purchaser and any successive purchasers.

-Each member shall pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites.

-Assessments shall be adjustable to accommodate changing conditions.

-The association shall be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

2. Open Space Requirements. Planned unit developments shall contain open space meeting the following criteria:

- a. At least 50 percent of the total project area shall be preserved as open space.

- b. Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and

shall not be included in the computation of minimum open space.

- c. Open space shall include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries.
  - d. Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public.
  - e. Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.
  - f. Open space shall not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities.
  - g. The appearance of open space areas, including topography, vegetation, and allowable uses, shall be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means.
  - h. The shore impact zone, based on normal structure setbacks, shall be included as open space. For residential PUD's, at least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the shore impact zone area of new developments shall be preserved in its natural or existing state. For commercial PUD's, at least 50 percent of the shore impact zone shall be preserved in its natural state.
3. Erosion Control and Stormwater Management. Erosion control and stormwater management plans shall be developed and the planned unit development shall:
- a. Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This shall be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques shall be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water

conservation district may be required if project size and site physical characteristics warrant.

- b. Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier shall not exceed 25 percent of the tier area, except that for commercial PUD's 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with Section IV.D.
4. Centralization and Design of Facilities. Centralization and design of facilities and structures shall be done according to the following standards:
- a. Planned unit developments shall be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems shall be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Sections IV.C. and IV.H. of this Ordinance. On-site sewage treatment systems shall be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors shall be provided for a replacement soil treatment system for each sewage system.
  - b. Dwelling units or sites shall be clustered into one of more groups and located on suitable areas of the development. They shall be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level shall be increased in accordance with Section VII.E. of this Ordinance for developments with density increases.
  - c. Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, shall be centralized and located in areas suitable for them. Evaluation of suitability shall include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring,

or docking of watercraft shall not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

- d. Structures, parking areas, and other facilities shall be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening shall be preserved, if existing, or may be required to be provided.
- e. Accessory structures and facilities, except water-oriented accessory structures, shall meet the required principal structure setback and shall be centralized.
- f. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section IV.C. of this Ordinance and are centralized.

H. Conversions. The City may allow existing land uses and facilities to be converted to a residential planned unit development provided all of the following standards are met.

- 1. Proposed conversions shall be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards shall be identified.
- 2. Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities shall be corrected as part of the conversion or as specified in the conditional use permit.
- 3. Shore and bluff impact zone deficiencies shall be evaluated and reasonable improvements made as part of the conversion. These improvements shall include, where applicable, the following:

- a. Removal of extraneous buildings, docks, or other facilities, that no longer need to be located in shore or bluff impact zones.
  - b. Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water.
  - c. If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions shall also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.
4. Existing dwelling unit or dwelling site densities that exceed the standards in Section VII.E. may be allowed to continue but shall not be allowed to be increased, either at the time of conversion or in the future. Efforts shall be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

**SECTION VIII: REPEALER**

- A. Ordinance No. 849. City of Willmar Ordinance No. 849, an Ordinance Adopting a Shoreland Management Program, dated April 3, 1985, is hereby repealed in its entirety.

**SECTION IX: EFFECTIVE DATE**

- A. Effective Date. This Ordinance shall be effective from and after its adoption and second publication.

This Ordinance introduced by Councilman: Ahmann

This Ordinance introduced on: April 1, 1992

This Ordinance published on: April 4, 1992

This Ordinance given a hearing on: April 15, 1992

This Ordinance adopted on: April 15, 1992

This Ordinance published on: April 21, 1992

**ORDINANCE NO. 1202**

**AN ORDINANCE AMENDING ORDINANCE NO. 1060  
KNOWN AS THE WILLMAR ZONING ORDINANCE  
BY AMENDING SECTION 3.Q. RELATING TO  
ADULT ORIENTED BUSINESSES**

**SECTION 1. ADOPT ORDINANCE**

The City of Willmar does hereby adopt by summary an Ordinance whereby the City of Willmar amends the Willmar Zoning Ordinance by amending Section 3.Q, Adult Oriented Businesses.

It is the purpose of this Ordinance to regulate adult oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to:

- A. Limiting locations where adult oriented businesses can be located;
- B. Requiring adult oriented businesses to be licensed and establishing license conditions and restrictions;
- C. Establishing a license fee and declaring those persons ineligible to be licensed;
- D. Establishing grounds for suspension and revocation of licenses.

**SECTION 2. COPIES AVAILABLE**

Copies of the full text of the Ordinance are available without charge at the Office of the City Clerk to any citizen of the City of Willmar.

**SECTION 3. EFFECTIVE DATE**

This Ordinance shall be effective after its adoption and second publication.

This Ordinance introduced by Councilman: Reese  
This Ordinance introduced on: May 3, 2004  
This Ordinance published on: May 7, 2004  
This Ordinance given a hearing on: May 17, 2004  
This Ordinance adopted on: May 17, 2004  
This Ordinance published on: May 21, 2004

**ORDINANCE NO. 1202**

**AN ORDINANCE AMENDING ORDINANCE NO. 1060  
KNOWN AS THE WILLMAR ZONING ORDINANCE BY  
AMENDING SECTION 3. Q. RELATING TO  
ADULT ORIENTED BUSINESSES**

The City Council of City of Willmar does ordain as follows:

SECTION 3. Ordinance No. 1060 is hereby amended by deleting the existing text and adding new text to SECTION 3 Q so as to read as follows:

Q. Adult Oriented Businesses

1. PURPOSE. In order to protect the City's community image, property values, public health, safety, welfare, and business environment, the City has found it necessary, in light of the harmful and unwanted secondary effects that certain businesses generate, to restrict where such businesses may locate within the City and to regulate those businesses. Only those businesses with secondary effects on neighboring properties and on the City are intended to be regulated. This section is not intended to restrict art.

It is the purpose of this Ordinance to regulate Adult Oriented Businesses to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to:

- a. Prevent additional criminal activity within the City;
- b. Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood;
- c. To locate Adult Oriented Business away from residential areas, schools, churches, parks and playgrounds;
- d. Prevent concentration of Adult Oriented Businesses within certain areas of the City.

2. FINDINGS OF THE CITY COUNCIL.

The City Council of the City of Willmar makes the following findings regarding the need to license adult oriented businesses. The findings are based upon the experiences of other cities where such businesses have located, as studied by City staff.

- a. Adult oriented businesses can exert a dehumanizing influence on persons attending places of worship, children attending state licensed family daycare homes, state licensed group family day care homes, and state licensed child care centers; students attending school; and people using public parks and libraries.

- b. Adult oriented businesses can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the proper management and operation of such businesses can, however, minimize this risk, provided the owners and operators of such facilities are regulated by licensing or other procedures.
- c. Adult oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can impair the character and quality of the residential housing in the area in which such businesses are located, thereby exacerbating the shortage of affordable and habitable housing for City residents;
- d. The concentration of sexually-oriented businesses in one area can have a substantially detrimental effect on the area in which such businesses are concentrated and on the overall quality of life in the community. A cycle of decay can result from the influx and concentration of adult oriented businesses. The presence of such businesses is often perceived by others as an indication that the community or area is deteriorating and the result can be devastating to other businesses that may be required to move out of the vicinity and which could influence residents to relocate from the area. It has been noted that the presence of such businesses can have the overall effect of causing declining real estate values, which result can be exacerbated by the concentration of such business, which can erode the City's tax base and contribute to overall community blight.
- e. Adult oriented businesses can increase the risk of exposure to communicable diseases including but not limited to Acquired Immune Deficiency Syndrome (AIDS) for which currently there is no cure. The experiences of other cities indicate that such businesses can facilitate a spread of communicable diseases by virtue of the design of the premises, thereby endangering not only the patrons of such establishments but also the general public.
- f. Adult oriented businesses can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.
- g. Sexually-oriented businesses can contribute to an increase in criminal activity in the area in which such businesses are located, taxing city crime-prevention programs and law enforcement services.
- h. Sexually-oriented businesses can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.
- i. The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed herein.

3. DEFINITIONS. For purposes of this section the terms defined in this section have the meanings given them.

- a. *Adult Oriented Business.* Any of the uses and businesses described in this section “Adult Oriented Businesses” which are subject to the regulation of this Ordinance.
- b. *Adult Body Painting Studio.* An establishment or business which provides the service of applying paint or other substances, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of specified anatomical area as defined herein.
- c. *Adult Book Store.* An establishment that has forty percent (40%) or greater of its current store stock, by numbers of items, in merchandise, videos, books, magazines, and/or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined.
- d. *Adult Companionship Establishment.* A business or commercial enterprise that provides the service of engaging in or listening to conversation, talk, or discussion between an owner, employee, or agent of the enterprise and a customer, if such service is distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.
- e. *Adult Conversation/Rap Parlor.* A business or commercial enterprise that provides the service of engaging in or listening to conversation, talk, or discussion, from which minors are excluded by reason of age or where such service is distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.
- f. *Adult Entertainment Facility.* A building or space wherein an admission is charged at the entrance, or food or alcoholic and nonalcoholic beverages are sold or intended for consumption and wherein may be observed live presentations of entertainment including nude dancing, modeling or nudity, or which include other activities distinguished or characterized by an emphasis on matters depicting, describing, or referring to specified sexual activities or specific anatomical areas as defined herein.
- g. *Adult Gift or Novelty Business.* A business or commercial enterprise that has as a principal activity the sale of devices, implements, equipment, or novelties that are designed, marketed, used, or sold for the primary purpose of stimulating human genitals otherwise providing sexual stimulation.
- h. *Adult Health Club or Adult Sports Club.* A business or commercial enterprise that is named, signed, advertised, or promoted as a facility or club providing health- or sports-related goods, services, or equipment, that is distinguished or

characterized by an emphasis on specified anatomical areas or specified sexual activities.

- i. *Adult Hotel or Motel.* A business or commercial enterprise that provides rooms, facilities, or lodging on a short-term basis and wherein material or entertainment is presented, displayed, provided, or otherwise made available that is distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.
- j. *Adult Massage Parlor.* A massage parlor or health club which provides the services of massage, if such service is distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.
- k. *Adult Modeling Studio.* A business or commercial enterprise the primary or dominant activity of which is to provide for its customers to observe, paint, paint upon, sketch, draw, sculpt, photograph, videotape, or otherwise depict or portray, with the intent of providing sexual stimulation or sexual gratification to such customers, specified anatomical areas or one or more models or subjects who are engaging in specified sexual activities.
- l. *Adult Motion Picture Arcade.* Any place to which the public is permitted or invited wherein coin-, token-, electronically-, or mechanically-controlled or operated still or motion picture machines, projectors, or other image-producing devices are provided or maintained to show images to no more than one person per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities, and the individual viewing areas are not screened, including but not limited to doors and curtains, in any way to obstruct the viewing areas from monitoring.
- m. *Adult Motion Picture Theater.* A building or space with a capacity of fifty (50) or more persons used for representing material distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined, for observations by patrons therein. The phrase "used for" in the definition shall mean a regular and substantial course of conduct and not a one-time presentation of such material.
- n. *Adult Mini-Motion Picture Theater.* A building or space with a capacity for fewer than fifty (50) persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as herein defined, for observation by patrons therein. The phrase "used for" in this definition shall mean a regular and substantial course of conduct and not a one-time presentation of such material.

- o. *Adult Oriented Cabaret.* A business or commercial enterprise that provides dancing or other live entertainment, from which minors are excluded by reason of age or where such entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction, or description of specified anatomical areas or specified sexual activities.
- p. *Adult Sauna, Steam Room, or Bathhouse Facility.* A business or commercial enterprise that provides one or more steam or heat bathing rooms or sauna or steam room facilities, where the services provided are distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities, or from which minors are excluded by reason of age.
- q. *Adult Use Other.* Any place to which the public is permitted, a business or commercial enterprise that is distinguished or characterized by an emphasis on specified anatomical areas or specified sexual activities.
- r. *Specified Sexual Activities.* Are any of the following conditions:
  1. Human genitals in a discernible state of sexual stimulation or arousal; or
  2. Acts of human masturbation, sexual intercourse, sadomasochistic behavior or sodomy; or
  3. Fondling of or other erotic touching of human genitals, the pubic region or pubic hair, buttock, or female breast or breasts; or
  4. Any combination of the foregoing.
- s. *Specified Anatomical Areas.* For the purposes of this Ordinance, this means;
  1. Less than completely or opaquely covered:
    1. Human genitals, pubic region or pubic hair; or
    2. Buttock; or
    3. Female breast or breasts below a point immediately above the top of the areola; and
  2. Human male genitals in a discernibly turgid state even if completely or opaquely covered.

#### 4. ZONING REGULATIONS.

- a. Adult oriented businesses shall be prohibited in all of the City's zoning districts except in the following districts: I-1(Limited Industry District), I-2 (General Industry District), and GB (General Business District).
- b. Liquor licenses shall not be issued to adult oriented businesses.
- c. No adult oriented business shall be located less than seven hundred fifty (750) feet from any residential zoning district boundary or site used for residential purposes and/or less than one thousand (1,000) feet from any church site, from any school site, from any park, or from any youth facility site. In addition, no adult entertainment use may be located within one thousand (1,000) feet of

another adult entertainment use. For purposes of this Ordinance, this distance shall be horizontal measurement from the nearest existing residential district boundary or site property line used for residential purposes, church site, school site, park, youth facility site, or another adult entertainment use site to the nearest point of the proposed adult entertainment use site property line.

d. Signage. Signs for Adult Oriented Businesses shall comply with the City's Ordinance for signs addressed in Section 5 of the City's Zoning Ordinance as well as the following:

1. No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk in front of the building.
2. Window areas shall not be covered or made opaque in any way. No signs shall be placed in any window. A one-square foot sign shall be placed on the door to state hours of operation and admittance is restricted to adults only.

5. LICENSING REGULATIONS. No person shall own or operate a sexually-oriented business within the City unless such person is currently licensed under this Ordinance.

a. All Applicants. For all applicants, whether a natural person, corporation, partnership, or other form of organization the following information shall be provided to the City Clerk:

1. The legal description of the premises to be licensed, along with a floor plan of the premises. The floor plan of the premises shall detail all internal operations and activities, including a statement of the total floor space occupied by the business. The floor plan need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimension of the interior of the premises to an accuracy of plus or minus six (6) inches.
2. If the site of the business is being leased, the property owner as well as the lessee shall follow Section Q. 5. a-e. of this Ordinance, as well as supply a copy of the signed lease agreement.
3. The name and street address of the business. If the business is to be conducted under a designated name, or style other than the name of the applicant, a certified copy of the certificate required by Minnesota Statutes, Section 333.01 shall be submitted.

b. Applicants Who are Natural Persons. Applicants who are natural persons shall provide the following information to the City Clerk:

1. The name, place, and date of birth, street and city address, and phone number of the applicant.
2. Where the applicant has ever used or has been known by a name other than the applicant's name, and if so, the name or names used and information concerning dates and places where used.
3. The street and city addresses at which the Applicant has lived during the preceding two (2) years.
4. The type, name, and location of every business or occupation in which the applicant has been engaged during the preceding two (2) years and name(s) and address(es) of the applicant's employer(s) and partner(s), if any, for the preceding two (2) years.
5. Whether the applicant has ever been convicted of a felony, gross misdemeanor, misdemeanor, or violation of any ordinance other than a petty misdemeanor traffic ordinance. If so, the applicant shall furnish information as to the date, place, and offense for which convictions were had.

c. Applicants That Are Partnerships. Applicants who are part of a partnership shall provide the following information to the City Clerk:

1. The names(s) and address(es) of all general partners and all of the information concerning each general partner that is required of applicants in subpart (b) of this Section.
2. The name(s) of the managing partner(s) and the interest of each partner in the business.
3. A true copy of the partnership agreement shall be submitted with the application. If the partnership is required to file a certificate as to a trade name pursuant to Minnesota Statutes, Section 333.01, a certified copy of such certificate shall be attached to the application.

d. Corporate or Other Applicants. Applicants who are part of a corporation or other organization shall provide the following information to the City Clerk:

1. The name of the corporation or business form, and if incorporated, the state of incorporation.
2. A true copy of the Certificate of Incorporation, Articles of Incorporation or Association Agreement and By-laws shall be attached to the application. If the applicant is a foreign corporation, a Certificate of

Authority as required by Minnesota Statutes, Section 303.06, shall be attached.

3. The name of the manager(s), proprietor(s), or other agent(s) in charge of the business and all of the information concerning each manager, proprietor or agent that is required of the applicants in subpart (b) of this Section.

e. License Fees. Application and Investigation Fee.

1. The license application fee shall be Five Hundred Dollars (\$500.00) annually, prorated if applied for in mid-year.
2. The application license fee shall be paid in full before the application for a license is considered. All fees shall be paid to the Issuing Authority for deposit into the general fund of the City. Upon rejection of any application for a license or upon withdrawal of application before approval of the Issuing Authority the license fee shall be refunded to the applicant.
3. When the license is for premises where the building is not ready for occupancy, the time fixed for computation of the license fee of the initial license period shall be ninety (90) days after approval of the license by the Issuing Authority or upon the date an occupancy permit is issued for the building.
4. Investigation Fee. An applicant for any license under this Division shall deposit with the Issuing Authority, at the time an original application is submitted, One Thousand Dollars (\$1,000.00) to cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this Division. The investigation fee shall be nonrefundable.

6. PERSONS INELIGIBLE FOR A LICENSE. The Issuing Authority shall issue a license under this division to an applicant unless one (1) or more of the following conditions exists:

- a. The applicant is not eighteen (18) years of age or older on the date the application is submitted to the Issuing Authority;
- b. The applicant has had a conviction of a felony or gross misdemeanor or misdemeanor relating to sex offenses, obscenity offenses, or adult uses in the past five (5) years;
- c. The applicant failed to supply all of the information requested on the license application;

- d. The applicant gave false, fraudulent, or untruthful information on the license application;
- e. The applicant has had an adult oriented business license revoked from the City or any other jurisdiction within a one (1) year period immediately preceding the date the application was submitted;
- f. The sexually-oriented business does not meet the zoning requirements prescribed in this Ordinance;
- g. The premise to be licensed as an adult oriented business is currently licensed by the City as an establishment licensed to sell alcoholic beverages.
- h. The applicant has not paid the license and investigation fees required in section 5e.

7. LICENSE RESTRICTIONS.

- a. The operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business may not occur within one thousand (1,000) feet of another sexually oriented business. In addition, there shall not be more than one sexually oriented business within a block front even if said block is greater than one thousand (1,000) feet in length.
- b. The operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business, is prohibited.
- c. Adult oriented businesses shall not be allowed as an accessory use to any principal use.
- d. No customer, spectator, or patron of a licensed facility shall directly pay or give any gratuity to any dancer or performer and no dancer or performer shall solicit any pay or gratuity from any customer, spectator, or patron.
- e. All performers, dancers, and persons providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas in the licensed facility or in areas adjoining the licensed facility shall remain at all times a minimum distance of ten (10) feet from all patrons, customers, or spectators and shall dance or provide such entertainment on a platform intended for that purpose, which shall be raised at least two (2) feet from the level of the floor on which patrons or spectators are located.

- f. No dancer, performer, or person providing live entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas in the licensed facility or in areas adjoining the licensed facility where the entertainment can be seen by patrons of the licensed facility shall fondle or caress any spectator or patron.
- g. No Adult Oriented Business site shall be open to the public from the hours of 11:00 p.m. to 9:00 a.m.

8. INSPECTION AND EXPIRATION/RENEWAL.

- a. An applicant or licensee shall permit health officials, representatives of the police department, fire chief, and planning and development services department, to inspect the premises of an Adult Oriented Business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.
- b. Each license shall expire at the end of the calendar year and may be renewed only by re-applying. Application renewal must be made at least sixty (60) days before the expiration date, and when made less than sixty (60) days before expiration date, the expiration of the license will not be affected.
- c. A licensee shall not transfer this license to another, nor shall a licensee operate an Adult Oriented Business under the authority of a license at any place other than the address designated in the application.

9. SUSPENSION. The City may suspend a license for a period not to exceed thirty (30) days if it determines that licensee or an employee of a licensee has:

- a. Violated or is not in compliance with any provision of this chapter.
- b. Engaged in the use of alcoholic beverages while on the Adult Oriented Business premises other than at an Adult Hotel or Motel.
- c. Refused to allow an inspection of the Adult Oriented Business premises as authorized by this chapter.
- d. Knowingly permitted gambling by any person on the Adult Oriented Business premise.
- e. Demonstrated inability to operate or manage an Adult Oriented Business in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

A suspension by the City shall be preceded by written notice of the licensee and a public hearing. The notice shall give at least 10 days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served

upon the licensee personally, or by leaving the same at the licensed business premises with the person in charge thereof.

10. REVOCATION. The City may revoke a license if a cause of suspension occurs and the license has been suspended within the preceding twelve (12) months.

a. The City shall revoke a license if it determines that:

1. A licensee gave false or misleading information in the material submitted to the City during the application process;
2. A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
3. A licensee or an employee has knowingly allowed prostitution on the premises;
4. A licensee or an employee knowingly operated the Adult Oriented Business during a period of time when the licensee's license was suspended;
5. A licensee has been convicted of an offense in Section 6 b, for which the time period required in Section 6 b, has not elapsed;
6. On two or more occasions within a twelve (12)-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in Section 6 b, for which a conviction has been obtained, and the person or persons were employees of the Adult Oriented Business at the time the offenses were committed.
7. A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.

b. Appeals. The fact that a revocation is being appealed shall have no effect on the revocation of the license.

c. Exceptions. Section 10 a (3), does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.

d. Granting a License after Revocation. When the City revokes a license, the revocation shall continue for one year and the licensee shall not be issued an Adult Oriented Business license for one year from the date revocation became effective. If, subsequent to revocation, the City finds that the basis for the revocation has been

corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license was revoked under Section 10 a (5), an applicant may not be granted another license until the appropriate number of years required under Section 6 b has elapsed.

- e. Notice. A revocation by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten (10) days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof.

- 11. SEVERABILITY. Every section, provision, or part of this ordinance is declared severable from every other section, provision, or part thereof; to the extent that if any section, provision, or part of this ordinance shall be held invalid by a court of competent jurisdiction it shall not invalidate any other section, provision, or part thereof.

Every permit issued under this ordinance is severable from any other permit, and if one permit is held to be invalid it shall not invalidate any other permit.

- 12. EFFECTIVE DATE. This Ordinance shall be effective from and after its adoption and second publication.

This Ordinance introduced by Council Member: Reese

This Ordinance introduced on: May 3, 2004

This Ordinance published on: May 7, 2004

This Ordinance given a hearing on: May 17, 2004

This Ordinance adopted on: May 17, 2004

This Ordinance published on: May 21, 2004

ORDINANCE NO. 1198

AN ORDINANCE REGULATING  
THE EXTERIOR CONDITION OF  
RESIDENTIAL STRUCTURES

The City of Willmar does ordain as follows:

Section 1. Purpose. The purpose of this Ordinance is to protect, preserve, and promote neighborhood aesthetics and the public health, safety and the general welfare of the people of the City, to prevent exterior building conditions that adversely affect or are likely to adversely affect the life, safety, general welfare and health of persons occupying buildings within the City, to provide for the administration and enforcement thereof.

Section 2. Discrimination and Privacy. This section shall be enforced in a non-discriminatory manner and exclusively for the purpose of promoting public, as opposed to private, welfare. Except as may be specifically provided herein or incidental to the enforcement thereof, this Ordinance is not intended to interfere with personal privacy or with private legal rights and liabilities, including without limitation landlord/tenant and lessor/lessee relationships, and in enacting and enforcing this Ordinance, the City neither expressly nor by implication assumes any obligations or liabilities respecting such private rights or disputes, including those which involve or arise out of the non-conformity of any premises in the City to the provisions of this Section.

Section 3. Applicability. Every building and its premises used in whole or in part as a residence, whether occupied or not, or as an accessory structure thereof, for a single family or person, and every building used in whole or in part as a residence of two or more persons or families living in separate units, except rest homes, convalescent homes, nursing homes, hotels and motels, shall conform to the requirements of this Ordinance, irrespective of when such building may have been or may be constructed, altered, or repaired. This Ordinance establishes minimum exterior standards for buildings, accessory structures, and related premises.

Section 4. Responsibility of Owners. The owner(s) of buildings shall be responsible for the maintenance of that structure and for meeting the provisions of the building maintenance regulations.

Section 5. Exterior Maintenance Standards.

A. Foundations, Exterior Walls, and Roofs. The foundation, exterior walls, and exterior roof shall be water tight, rodent-proof, and shall be kept in sound condition and repair. The foundation shall adequately support the building at all points. Exterior walls shall be maintained and kept free from dilapidation by cracks, tears, or breaks or from deteriorated plaster, stucco, brick, wood, or other

material that is extensive and gives evidence of long neglect. The protective surface on exterior walls of a building above the ground level shall be maintained in good repair so as to provide a sufficient covering and protection of the structural surface underneath against its deterioration. Without limiting the generality of this Section, a protective surface of a building shall be deemed to be out of repair if:

1. The protective surface is paint which is blistered to an extent of more than twenty-five percent (25%) of the area of any plane or wall or other area including window trim, cornice members, porch railings and other such areas;
2. More than ten percent (10%) of the pointing of any chimney or twenty-five percent (25%) of the pointing of any brick or stone wall is loose or has fallen out;
3. More than twenty-five percent (25%) of the finish coat of stucco wall is worn through or chipped away.
4. Any exterior surface or plane required to be repaired under the provisions of this Section shall be repaired in its entirety. If a weather resistant surface such as brick, plaster or metal is covered with paint that is more than twenty-five percent (25%) blistered, it shall be repainted unless the defective paint covering is removed in its entirety.

B. Fence Maintenance. Fences shall be maintained in good condition both in appearance and in structure. Wood material, other than decay resistant varieties, shall be protected against decay by use of paint or other preservatives. If twenty-five percent (25%) or more of the painted surface of the fence is determined by the Zoning Administrator to be paint blistered, the surface shall be properly scraped and repainted.

C. Gutters and Downspouts. Existing gutter, leaders and downspouts shall be maintained in good working condition as to provide drainage of storm water. In no case shall storm water be channeled into the sanitary sewer system. Neither shall storm water, ice or snow be directed onto, or channeled across walkways, streets where it is likely to be a hazard to life or health.

Section 6. Enforcement and Inspection. The Zoning Administrator shall administer and enforce the provisions of this Ordinance and is hereby authorized to cause inspections of property when reasons exist to believe that a violation of the Ordinance exists, has been, or is being committed.

Section 7. Compliance Order. Whenever the Zoning Administrator determines that any dwelling, dwelling unit, or rooming unit, or the premises surrounding any of these, fails to meet the provisions of this Ordinance, the administrator may issue a Compliance Order setting forth the violations of the Ordinance ordering the owner,

occupant, operator, or agent to correct such violation. This Compliance Order shall be in writing, describe the location and nature of the violations of this Ordinance, and establish a time for the correction of such violations.

Section 8. Appeals. There is hereby created a two-tiered appeals process. All appeals decisions and findings shall be made part of the public record.

- A. Step 1. Any person aggrieved by a notice of the Zoning Administrator issued in connection with an alleged violation of this Ordinance or any applicable rule or regulation issued pursuant thereto, or by any order requiring repair or demolition, may apply to the Zoning Administrator for an administrative conference with the Director of Planning and Development Services for reconsideration of such notice or order provided such application is made within fourteen (14) days after the date the notice or order was issued. Upon conclusions of an administrative conference for reconsideration of notice or order, the Zoning Administrator shall prepare a summary of the conference and shall state the decision reached. Such summary and statement shall become a part of public record.
- B. Step 2. If the appeal is not settled in Step 1 of the process, any person aggrieved by a notice of the Zoning Administrator issued in connection with any alleged violation of this Ordinance, or of any applicable rule or regulation issued pursuant thereto, or by any order requiring repair or demolition, may apply to the Community Development Committee of the City Council for reconsideration of such notice or order provided such application is made within fourteen (14) days after the date of the decision reached in Step 1.
- C. The Community Development Committee of the City Council, upon receipt of an appeal, shall set a time and place for a hearing and shall advise the applicant in writing by mail, postage prepaid to address of applicant, of such time and place, at least seven (7) days prior to the date of the hearing. At such a hearing the appellant shall be given an opportunity to be heard and to show cause why such notice or order should be modified, extended, withdrawn, or a variance granted.
- D. The Community Development Committee shall recommend to the City Council that the Council sustain, modify, or withdraw the notice or order. In recommending an extension or variance of any notice or order, the Committee shall observe the following conditions:
  1. The Community Development Committee may recommend an extension of time for the compliance of any order or notice for not more than twelve (12) months subject to appropriate conditions and provided that the Committee/City Council make specific findings of fact based on evidence related to the following:
    - a. That there are practical difficulties or unnecessary hardships in carrying out the strict letter of any notice or order; and

- b. That such an extension is in harmony with the general purpose and intent of this Ordinance in securing the public health, safety, and general welfare.
- 2. The Community Development Committee may recommend a variance in a specific case and from a specific provision of this Ordinance subject to appropriate conditions and provided the Committee/City Council make specific findings of fact based on evidence related to the following:
  - a. That there are practical difficulties or unnecessary hardships in carrying out the strict letter of any notice or order; and
  - b. That the effect of the application of the provisions would be arbitrary in the specific case; and
  - c. That an extension would not constitute an appropriate remedy for these practical difficulties or unnecessary hardships; and
  - d. That such variance is in harmony with the general purpose and intent of this Ordinance in securing the public health, safety, and general welfare.

Section 9. Effective Date. This Ordinance shall take effect and be in full force and effect from and after its adoption and publication.

Section 10. Violations and Penalties. Any person who violates any of the provisions of this Ordinance shall, upon conviction thereof, be guilty of a misdemeanor and shall be punished as provided for in the laws of the State of Minnesota. Each day that a violation is permitted to exist shall constitute a separate offense.

This Ordinance introduced by Councilmember: DeBlicek .

This Ordinance introduced on: April 5, 2004 .

This Ordinance published on: April 9, 2004 .

This Ordinance given a hearing on: April 19, 2004 .

This Ordinance adopted on: April 19, 2004 .

This Ordinance published on: April 23, 2004 .

ORDINANCE NO. 1288

AN ORDINANCE AMENDING NO. 1060  
KNOWN AS THE WILLMAR ZONING ORDINANCE  
BY AMENDING SECTION 3 RELATING TO  
EXTERIOR STORAGE AND SECTION 4 RELATED  
TO OFF-STREET PARKING

The City Council of City of Willmar does ordain as follows:

SECTION 6. Ordinance 1060 is hereby amended by adding to SECTION 3.O.1.c. so as to read as follows:

- c. *Automobiles, pickup trucks, motorcycles, recreational vehicles (as per Section 3.H.), boats, snowmobiles, all-terrain vehicles, trailers (less than 24 ft. long), and other recreational equipment with current licenses in the driveway or back yard. The above mentioned vehicles shall be limited to seven units per residential property (each license shall constitute one unit). Trailers shall be limited to three per residential property. No more than four licensed and operable motor vehicles per lawful dwelling unit may be parked or stored anywhere outside on R-1 and R-2 zoned property, excluding vehicles of occasional guests who do not reside on the property.*

SECTION 4. Ordinance 1060 is hereby amended by amending SECTION 4.A.5.c. so as to read as follows:

- c. ~~No off-street parking or drives shall be permitted within the building front yard setback area immediately in front of the principal building width only. This restriction shall not apply to residential driveways situated between the right of way and a garage which is attached, or accessory to, a one (1) to four (4) family dwelling. In R-1 and R-2 Districts, no off-street parking shall be permitted, except upon such driveways as conform with Section 4.A.5.g.~~

SECTION 4. Ordinance 1060 is hereby amended by adding to SECTION 4.A.5.g. so as to read as follows:

- g. *All driveways and parking areas in residential districts shall be paved with a permanent concrete, bituminous or reasonable substitute surface, subject to approval of the Zoning Administrator and City Engineer, with the drainage from such surfaces directed towards the storm sewers and/or (preferably) the property's green space, but so as to not negatively impact neighboring homes or properties. Driveways shall not occupy more than 30% of the area within the minimum building setbacks from the street(s), nor shall they, within those*

*setbacks, lie between the residence or residence portion of the structure and the street, except for a maximum of 3' width extension for service as a sidewalk.*

SECTION 2. Ordinance 1060 is hereby amended by adding to SECTION 2.B.126. so as to read as follows:

126. *Junk Motor Vehicle. A motor vehicle that: (1) is three years old or older; (2) is extensively damaged, with the damage including such things as broken or missing wheels, engine, drive-train, or transmission; (3) is apparently inoperable; (4) does not have a valid, current registration plate; and; (5) has an approximate fair market value equal only to the approximate value of the scrap in it. (SS 168B.011)*

EFFECTIVE DATE. This Ordinance shall be effective from and after its adoption and second publication.

This Ordinance introduced by Council Member: DeBlicek

This Ordinance introduced on: February 2, 2009

This Ordinance published on: February 7, 2009

This Ordinance given a hearing on: February 17, 2009

This Ordinance adopted on: February 17, 2009

This Ordinance published on: February 21, 2009