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## **Section 1 - TITLE**

This Ordinance from the date of its passage shall be entitled "The City of Upsala Zoning Ordinance" and will be referred to herein as "this Ordinance."

### **1.1 Intent and Purpose**

Pursuant to the authority conferred by the state of Minnesota in Section 462.357, as amended, and for the purpose of:

- A. Promoting and protecting the public health, safety, and general welfare of the residents of the incorporated area of the City of Upsala, Minnesota;
- B. Protecting and preserving the physical character, social, and economic stability of residential, commercial, industrial and other use areas;
- C. Securing the most appropriate use of land;
- D. Preventing the overcrowding of the land and undue congestion of population;
- E. Providing adequate light, air and reasonable access;
- F. Facilitating adequate and economical provision of community infrastructure including, but not limited to transportation infrastructure, water supply and sewage disposal;
- G. Planning for location of public facilities such as schools, recreation facilities and other facilities;
- H. Providing for the protection of access to direct sunlight for solar systems.

### **1.2 Jurisdiction**

The jurisdiction of this Ordinance shall apply to all of the area within the corporate limits of the City of Upsala, Minnesota.

### **1.3 Application and Interpretation**

- A. In their application and interpretation, the provisions of this Ordinance shall be held to the minimum requirements for the promotion of the public health, safety and welfare.
- B. Where the conditions imposed by any provision of this Ordinance are either more or less restrictive than comparable conditions imposed by any law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

### **1.4 Separability**

- A. If any court of competent jurisdiction shall judge any provision of this Ordinance to be invalid, such judgment shall not affect any other provision of this Ordinance not specifically included in said judgment.
- B. If any court of competent jurisdiction shall judge invalid the application of any provision of this Ordinance to a particular property, building or other structure, such judgment shall

not affect the application of said provision to any other property, building or structure not specifically included in said judgment.

### **1.5 Lots of Record**

All lots which are a part of a subdivision legally recorded with the Morrison County Recorder, and a lot or lots described by metes and bounds, the deed to which has been recorded in the office of the County Recorder prior to the passage of this Ordinance shall be considered to be Lots of Record.

## **SECTION 2 - RULES AND DEFINITIONS**

### **2.1 Rules and Construction of Words**

For purposes of this Ordinance, words used in the singular number includes the plural, and the plural the singular, the present tense includes the past and the future tenses and the future the present, the word "shall" is mandatory and the word "may" is permissive, all measure distances shall be to the nearest integral foot, whenever a word or term defined herein after appears in the text of this Ordinance, its meaning shall be construed as set in such definition thereof.

### **2.2 Definitions**

For the purpose of this Ordinance, certain words and terms are herein defined:

**Abandoned Motor Vehicle.** An abandoned motor vehicle as defined in Minnesota Statutes.

**Abandoned Structure.** A structure as defined hereinafter on public or private property, which no longer serves a practical use and, due to its location or structural condition, is considered a safety hazard.

**Abutting.** Making direct contact with or immediately bordering.

**Accessory Structure.** A building or other structure that is supportive, secondary, and subordinate in use and/or size to the principal structure on the same parcel or lot which, because of the nature of its use, can reasonably be located at or greater than minimum structure setbacks. Includes all structures not considered the principal structure including, but not limited to, T.V. towers antennas, dish antennas, outdoor swimming pools, outdoor hot-tubs, detached garages, sheds, guest quarters and boathouses.

**Accessory Storage Container.** A sealed metal box receptacle of size and type commonly used for shipping items via railroad or water vessels. A storage container must be free of visible rust and in overall good repair to be used as an accessory structure.

**Accessory Use.** A use naturally and normally incident and subordinate to the main use of the premises.

**Addition.** A physical enlargement of an existing structure.

**Adjacent.** In close proximity to or neighboring, not necessarily abutting.

**Adult Book and/or Media Store.** An establishment which has a substantial portion (25% of utilized floor area) of its stock in trade or stock on display books, magazines, films, videotapes, or other media which are characterized by their emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.

**Adult Cabaret.** An establishment which provides dancing or other live entertainment, and if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

**Adult Establishment.** Any business which offers its patrons services, entertainment, or the sale of merchandise 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 book and media stores, adult cabarets, adult hotels or motels, adult mini-motion picture theaters, adult modeling studios, adult motion picture arcades, adult motion picture theaters, adult novelty businesses, and other adult establishments.

**Adult Hotel or Motel.** Adult Hotel or Motel means a hotel or motel wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.

**Adult Mini-Motion Picture Theater.**

A theater in an enclosed building, with a capacity for less than 50 persons used for presenting motion pictures, including but not limited to film and videotape, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.

Any business which presents motion pictures, including films and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas, for viewing on the premises, including but not limited to private booths, viewing by means of coin operated or other mechanical devices, and the viewing of excerpt of motion pictures offered for sale or rent.

**Adult Modeling Studio.** An establishment whose major business is the provision, to customers, or figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in Specified Sexual

Activities or display Specified Anatomical Areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

**Adult Motion Picture Arcade.** Any place wherein coins or token operated or electronically, electrically, or mechanically controlled or operated still or motor picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by fill emphasis on depicting or describing Specified Sexual Activities or Specified Anatomical Areas.

**Adult Motion Picture Theater.** A theater in an enclosed building with a capacity of 50 or more persons used regularly and routinely for presenting live entertainment or motion pictures, including but not limited to film and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas for observation by patrons therein.

**Adult Novelty Business.** A business which sells, offers to sell, or displays devices which stimulate human genitals or devices which are designed for sexual stimulation.

**Adult Use.** Any of the adult activities and businesses described in the Section constitute "Adult Oriented Businesses" which are subject to the regulation of this Ordinance. Any adult use or related business shall not be located within one thousand feet of any school, six hundred feet of any churches or Public Use Overlay Districts.

**Agent.** Any person acting on behalf of a landowner in dealing with activities under the jurisdiction of the Ordinance, including but not limited to realtors, contractors or attorneys.

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

**Allowed Use.** A use that is allowed by this Ordinance and does not require a permit.

**Alteration.** A change or rearrangement of structural or non-structural parts of an existing structure within the previously permitted footprint.

**Animals, Domestic.** Common household pets, such as dogs and cats, kept for amusement, companionship, decoration or interest.

**Animals, Food.** Fish, fowl, cattle, swine, sheep and others raised for the purposes of food consumption.

**Animals, Wild.** Animals, such as wolves, tigers, lions and snakes, that are not normally a domestic animal or farm animal and would ordinarily be confined in a zoo or found in the wild.

**Animal Boarding Facility.** An establishment that houses animals, other than those belonging to the occupant, overnight or over an extended period of time.

**Animal Grooming Establishment.** An establishment principally engaged in grooming animals in which overnight boarding is prohibited.

**Animal Husbandry.** The care or breeding of domestic animals such as cattle, hogs, sheep, horses, poultry, dogs (more than two) or cats (more than three) for the occupants of a property.

**Animal Unit.** A unit of measure based on the approximate production of wastes from 1000 pounds of live weight of poultry or animals.

Animal Units	
One (1) slaughter weight steer or heifer	1
One (1) mature dairy cow or horse	1.4
One (1) swine over 500 pounds	0.4
One (1) sheep	0.1
One (1) goose	0.1
One (1) duck	0.05
One (1) turkey	0.18
One (1) chicken	0.1
One (1) dog	0.1
One (1) cat	0.05

**Antenna.** A metallic apparatus for sending or receiving electromagnetic waves.

**Apartment.** A room or suite of rooms that is designed for, intended for, or occupied as a dwelling unit by a family or individual, and is equipped with sanitary facilities.

**Appeal.** An application for the review of an order, requirement, decision, determination or interpretation of this Ordinance made by an administrative officer in the application and/or enforcement of this Ordinance.

**Architectural Projection.** A non-functional or ornamental feature on a building or other structure that does not extend to, or from, the ground.

**Artist's Studio.** A fine arts workshop of a painter, sculptor, potter, weaver, carver, jeweler, photographer, or other similar art that requires artistic skill, where the public is received or where the artist is engaging in retail sales. Not generally utilitarian, related to personal hygiene or adornment.

**Attached.** Two buildings or structures that combine to form one building or structure through the use of at least one common wall, not including a breezeway.

**Auto Salvage Yard.** A lot or yard where four or more motor vehicles are stored while parts are removed, where crushing occurs or where storage pending crushing may occur.

**Bathroom.** A room containing a shower or bathtub or a sink and toilet.

**Basement.** The space below the first story of a structure which is greater than four (4) feet in height.

**Bed and Breakfast Dwelling.** An owner-Occupied residence where, for compensation, lodging and certain meals are provided to overnight guests.

**Bedroom.** A portion of a dwelling unit intended to be used for sleeping purposes, which contains a closet.

**Billboards.** A commercial sign which directs attention to a business, activity, service, entertainment, or a product not exclusively related to the premises or property where such sign is located.

**Auto Trip.** Transport in a vehicle that includes both an arrival and a departure from a location.

**Balcony.** Same as a deck.

**Banner.** A temporary sign constructed out of paper, plastic, cloth, cardboard or some other non-permanent material and affixed to poles or the side of a building in a manner than can be easily moved, modified or rearranged.

**Block.** That property abutting 01 one side of a street and lying between the two nearest intersecting or intercepting streets and unsubdivided acreage and/or bodies of water.

**Boarding House.** Same as Bed and Breakfast dwelling.

**Board of Adjustment.** The Board, appointed by the City Council, to hear appeals from actions of the Zoning Administrator, and variance requests.

**Breezeway.** A covered or enclosed walkway that physically connects two or more buildings or structures. Shall not materially connect the two or more buildings or structures.



**Buffer Area.** Area set aside in its natural state, enhanced by screening, or containing topographical features designed to buffer the impacts of a more intense land use on a less intense use such as between Commercial and Residential uses.

**Buildable Area.** Any site, lot, parcel or any portion thereof that does not contain designated flood plain which has experienced flooding activity within the previous twenty-years, wetlands or areas in excess of twenty- five (25) percent slope.

**Building.** Any structure used or intended for storage, shelter or occupancy.

**Building Envelope.** The buildable area on a lot that is outside of the setbacks.

**Building Height.** The vertical distance between the highest adjoining ground level at the building or ten (10) feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height between the eaves and the highest ridge of gable, hip or gambrel roofs or ten feet below the peak, whichever is higher.

**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.

**Land Use Permit.** A permit authorizing an Applicant under this Code to undertake construction or other development activity.

**Campground.** Any area, whether publicly or privately owned, consisting of designated campsites with appropriate facilities and management services designed for temporary occupation by tents or recreational vehicles.

**Campground Memberships.** A land use under single ownership consisting of designated campsite with appropriate facilities designed for temporary occupation by members in tents or recreational vehicles with management services and with site rentals by members. See also Recreational Camping Area.

**Camping.** Habitation of a temporary structure.

**Campsite.** A parcel within a resort or campground designated for the occupancy of one family on a periodic basis in a tent or recreational vehicle.

**Cannabis Cultivation:** A cannabis business licensed to grow cannabis plants within the approved amount of space from seed or immature plant to mature plant. Harvest cannabis flower from mature plant, package and label immature plants and seedlings and cannabis flower for sale to other cannabis businesses, transport cannabis flower to a cannabis manufacturer located on the same premises, and perform other actions approved by the office.

**Cannabis Manufacturer:** A business licensed to conduct the activities to turn raw, dried cannabis and cannabis parts into other types of cannabis products, including but not limited to edibles, topicals, vaporizers, etc.

**Cannabis Retail Businesses:** A licensed person or entity that purchases or otherwise obtains usable cannabis from cannabis cultivators, processors, or manufacturers, and sells these from a retail store, but excludes the sale of cannabis for exclusively medical purposes or medical marijuana enactments and regulations and Lower-Potency Hemp Edible Retailers.

**Cannabis Wholesale:** The operation to purchase from a business growing or manufacturing cannabis or cannabis products and sell to a cannabis business engaged in retail.

**Cannabis Retailer:** Any person, partnership, firm, corporation, or association, foreign or domestic, selling cannabis product to a consumer and not for the purpose of resale in any form.

**Cemetery.** A place for burying the dead, A graveyard.

**Cemetery, Unplatted.** Any human remains or burials found outside of platted, recorded or identified cemeteries pursuant to Minnesota Statutes, Chapter 307.08.

**Certified Home Inspection.** An inspection completed by a licensed building inspector and signed off by the same.

**Chairperson.** The individual elected by the Planning Commission to chair their meetings.

**Childcare, Center.** A facility that is maintained, for the whole or part of the day, for the care of five or more children who are eighteen (18) years of age or younger and who are not related to the owner, operator or manager thereof, whether such facility is operated with or without compensation for such care and with or without stated educational purposes. The term shall not include any facility licensed as a foster care home or any facility defined as a Childcare, Family Home.

**Childcare, Family Home.** A primary residence where, for the whole or part of the day, an owner of the residence, licensed as a childcare provider, cares for five or more children who are eighteen (18) years of age or younger and who are not related to the owner, whether such facility is operated with or without compensation for such care.

**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 and related community activities.

**City Clerk.** The appointed person responsible for administration of the city affairs.

**City Council.** The duly elected governing body of the city.

**City Sewer or Water System.** A system of municipally maintained utilities, approved by the State, and serving more than one building or property.

**Clear Cutting.** See Vegetation Removal, Clear Cutting.

**Commercial Use.** The principle use of land or buildings for the sale, lease, rental, trade of products, goods or services.

**Commercial Storage Buildings.** Real property designed and used for the purpose of owning, renting, or leasing individual storage spaces to occupants who are to have access for the purpose of storing and removing personal property.

**Commissioner.** The Commissioner of the Department of Natural Resources.

**Community Park.** A park designed to provide recreational opportunities to serve the entire community.

**Comprehensive Plan.** Also referred to as Community Plan. A compilation of policy statements, goals, standards, and maps for guiding the physical, social and economic development, both private and public, of the City and its environs and may include, but is not limited to, the following items: statements of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan and recommendations for plan execution.

**Conditional Use.** A land use or development as defined by the Ordinance that would not be appropriate without restriction, but may specifically be allowed without restrictions of conditions as determined by the Planning Commission and the Council upon a finding that (a) the use or development is an appropriate conditional land use in the land use zone, (b) the use or development, with conditions, conforms to the comprehensive land use plan, (c) the use, with conditions, is compatible with the existing neighborhood and (d) the use, with conditions, would not be injurious to the public health, safety, welfare, morals, order, comfort, convenience, appearance or prosperity of the City,

**Condominium Ownership or Common Interest Community.** A form of ownership within a multi-owner building or complex wherein the boundaries are defined by a condominium plan or common interest community in accordance with Minnesota Statutes 1980, Chapter 515A or 515B or subsequent revisions.

**Contiguous.** The sharing of a common border at more than a single point. Lots, parcels or boundaries may be considered contiguous where separated by rights-of-way, rivers or streams,

**Council.** The City Council, as established by State Law.

**Court.** An open, unoccupied space bounded on two or more sides by the exterior walls of a building or buildings on the same lot.

**Crawl Space.** The space below the first story of a structure not more than four feet high and not intended for human habitation.

**Cul-de-sac.** A vehicular turnaround.

**Daycare:** A location licensed with the Minnesota Department of Human Services to provide the care of a child in a residence outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.

**DBI-I. Diameter at Breast Height.** The width of a tree or shrub as measured at 4.5 feet above the ground surface.

**Deck.** An above grade, uncovered, unscreened structure not including walks four (4) feet wide or less.

**Duplex, Triplex or Quad.** A structure on a single lot having two, three or four dwelling units respectively being attached by common walls, and each being equipped with separate sleeping, cooking, eating, living and sanitation facilities.

**Dwelling, Guest Quarters.** A structure, not for sale or lease, used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling on the lot. Any accessory structure with kitchen or bathroom facilities shall be considered a dwelling, guest quarters.

**Dwelling, Multi-Family.** Two or more dwelling units attached together by any point including duplexes, triplexes, townhouses and multi-level units regardless of type of ownership.

**Dwelling, Single Family.** A dwelling unit totally separated from any other dwelling unit.

**Dwelling, Townhouse.** A type of multi-family housing consisting of dwelling units attached by common party walls. Ownership may be defined by Plat or Condominium Plan.

**Dwelling Unit.** A structure or portion of a structure or other shelter designed as a short or long-term living quarters for one or more persons, including rental or time share accommodations such as a motel, hotel resort rooms, resort cabins and apartments.

**Dwelling Width.** The smallest horizontal dimension of the major portion of a dwelling.

**Earth Tone.** A shade of color that, when viewed from a distance, blends with the colors of the surrounding landscape.

**EAW.** An environmental assessment worksheet as defined by State Statutes Chapter 116.

**EIS.** An environmental impact statement as defined by State Statutes Chapter 116.

**Essential Services.** The phrase "essential services" means the erection, construction, alteration or maintenance by public utilities or municipal departments of commissions, of underground or overhead gas, electrical, communication, steam or water transmissions or

distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers and other similar equipment and accessories in connection there with (but not including buildings) reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions for the public health, safety or general welfare.

**Exterior Storage.** Storage of goods, materials, equipment, manufactured products outside a fully enclosed building.

**Extractive Use.** The use of land for removal of sand, gravel, rock, industrial minerals, other non-metallic minerals or peat not regulated under Minnesota Statutes Sections 93.44 to 93.51.

**Facility.** A structure, building or appurtenance that allows an activity, i.e. parking facility.

**Family.** An individual, or two or more persons related by blood, marriage, adoption, or a relationship legally recognized in Minnesota, or not more than five unrelated persons maintaining a common household.

**Feedlot.** A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. Open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots.

**Fee Schedule.** The official schedule of land use related fees and penalties adopted by the City Council.

**Fence.** A constructed barrier intended to prevent escape or intrusion, or to mark a boundary, to shield or screen view, or to perform any similar function.

**Filling.** The act of depositing any earthen material.

**Final Floor Plan.** A drawing prepared by a Registered Architect, Registered Engineer, or Registered Land Surveyor depicting the condominium subdivision of real estate and related information conforming to the requirements of Minnesota Statutes 1980, Section 515A.2-110.

**Final Condominium Plat.** A drawing prepared by a Registered Architect, Registered Engineer or Registered Land Surveyor depicting the condominium subdivision of real estate and related information conforming to the requirements of Minnesota Statutes 1980, Section 515A.2-110.

**Final Plat.** A drawing, in final form, showing a proposed subdivision containing all information and detail required by state statutes and by the Subdivision Ordinance to be presented to the Planning Commission and the City Council for approval, and which, if approved, may be duly filed with the County Recorder.

**Floodplain.** The areas adjoining a water course, intermittent or permanently flowing, which have been or will be covered by the runoff waters of a storm with a 1% chance of occurrence any year (100-year storm).

**Floodway.** The channel of the water course and those portions of the adjoining floodplain which are reasonably required to carry and discharge the regional flood (100 year chance of occurrence.)

**Footprint.** The horizontal extent to which a structure covers the ground plane as represented in a plan view including cantilevered building elements but excluding eaves and similar architectural projections of the roof plane.

**Forb.** A broad leafed, non-woody plant other than grass, sedge or rush. Forbs include native herbs, ephemerals and wildflowers.

**Forest Land Conversion.** The clear cutting of forested lands to prepare for a new land use other than the re-establishment of a subsequent forest stand.

**Foundation.** A concrete, concrete and concrete block, or treated wood portion of a structure that supports the bearing loads of the superstructure and penetrates the ground providing frost protection. Must meet the provisions of the building code adopted by the State of Minnesota. Concrete pillars may be used as a foundation for manufactured homes so long as the installation is done to the manufacturer's specifications and skirting is provided around the perimeter to provide the look of a completely enclosed foundation.

**Frontage.** The uninterrupted front boundary line of a lot, or the length of such line, that abuts on a street or protected water.

**Garage, Attached.** A part of the principal structure designed for the storage of motor vehicles.

**Garage, Detached.** An accessory structure not attached to the principal structure on the property designed and used for storage.

**Garage Sale.** A sale of used household belongings typically held outdoors or in a garage at the home of the seller.

**Gazebo.** A freestanding accessory structure with no kitchen, sleeping, sanitary facilities or pressurized water intended as weather and insect protection for such activities as picnicking and lake viewing.

**Gradient.** The degree of an incline, or rate of ascent or descent.

**Grading.** The movement of dirt, by mechanical means, so as to alter the existing topography of a property.

**Green Space.** Privately owned property permanently dedicated by covenant or deed restriction to vegetate ground coverage with allowance for use as recreational facilities, tree coverage, water course, sewage disposal or similar uses. Public property permanently dedicated to park, vegetative buffer, tree coverage or water courses.

**Group Care Facilities.** A facility which provides residential services for individuals that are handicapped, aged, disabled or undergoing rehabilitation. This includes uses such as homes for the physically handicapped, mentally retarded, chemically dependent, foster children, maternity shelters and half-way houses. The facility is indistinguishable in outward appearance from a residential dwelling. The owner lives on the premises.

**Home Occupation.** A use of commercial nature conducted by an occupant entirely within the dwelling or accessory buildings which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the residential character thereof.

**Home Occupation, Type I.** A home occupation, the commercial nature of which involves providing a service to a limited number of people who are predominantly acquaintances. Generates less than ten auto trips per week. No employees beyond owner. No signage or other advertising done either on or off-site. Would include businesses that are similar in nature to tutoring or music lessons performed on an individual basis.

**Home Occupation, Type II.** A home occupation, the commercial nature of which involves providing a service to people or organizations that do not receive the service at the property from which it is being provided. Generates less than twenty-five auto trips per week, including deliveries and employees. No more than two employees, in addition to the owner, working on site. No signage done either on or off-site. Would include businesses that are similar in nature to telephone sales, consulting, or web design.

**Home Occupation, Type III.** A home occupation, the commercial nature of which involves providing a service or product to people or organizations within the home. Generates less than sixty auto trips per week, including deliveries. No more than two employees, in addition to the owner working on site. May include on-site signage. May include retail sales of items manufactured on-site. Would include businesses that are similar in nature to chiropractic service, artist studio or craft shop.

**Home Occupation, Type IV.** A home occupation, the commercial nature of which involves providing a service or product to people or organizations off site. Generates less than sixty auto trips per week, including deliveries. All employees do the majority of their work off-site. May include on-site storage or warehousing of work-related materials.

**Hotel.** A building containing three (3) or more individual rooms, used for overnight lodging by the general public on a short-term basis for a fee, with or without meals, and which has common reservation and cleaning services, combined utilities, and on-site management and. reception services.

**House of Worship.** Same as church.

**Impervious Surface.** The horizontal area of buildings, patios, walks, driveways, accessory structures and other surfaces generally impervious to the penetration of stormwater, including gravel drives and parking.

**Industrial Use.** The use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities or other wholesale items.

**Intensive Vegetation Clearing.** The complete removal of trees or shrubs in a continuous path, strip row or block.

**Interim Use.**<sup>1</sup> A temporary use of property until a particular date, until the occurrence of a particular event, or until land use regulations no longer permits that use.

**ISTS.** Individual sewage treatment system.

**Junk Vehicle.** A vehicle that; is extensively damaged, with the damage including such things as broken or missing wheels, motor, drive train, or transmission; is apparently inoperable; does not have a valid, current registration plate; and has an approximate fair market value equal only to the approximate value of the scrap in it.

**Junk Yard.** An area where used waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleared, parked, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber products, bottles, and used building materials. Storage of materials in conjunction with the construction of a manufacturing process shall not be included. Three or more automobiles without current licenses constitute a junk yard. Such use shall not include putrid wastes such as garbage.

**Landscaping.** Plantings and placements such as trees, grass, shrubs, and decorative timbers, arbors, rocks and. water displays.

**Licensed Engineer.** A person licensed as a professional engineer by the State of Minnesota.

**Licensed.** Sewage Treatment Inspector. A person licensed by the State of Minnesota to inspect sewage treatment systems.

**Licensed Surveyor.** A person licensed as a professional surveyor by the State of Minnesota.

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<sup>1</sup> 12/12/2024



**Light Industrial.** An industry using equipment similar to that which could reasonably be found in an individual's garage or home workshop.

**Light Manufacturing.** A manufacturing operation which uses small equipment in its process, similar to equipment which might be found in an individual's home or garage.

**Litter.** Waste materials including but not limited to, cans, bottles, plastic and paper wrappings or containers.

**Lot.** A parcel, piece or portion of land described by metes and bounds, registered land survey, auditor's plat, or subdivision plat and separated from other parcels or portions of land by said description for purposes of sale, lease, mortgage, building or separation.

**Lot Area.** The horizontal area of a lot bounded by the lot lines and the ordinary high-water line if bounded by water.

**Lot, Corner.** A lot situated at the junction of and abutting on two or more intersecting streets or a lot at the point of deflection in alignment of one street with the internal angle less than 135 degrees.

**Lot, Front.** The boundary of a lot which abuts on a public right of way, or if a corner lot, the shortest of the two boundaries. If the lot abuts public water, the lake side shall be considered the lot front.

**Lot Line.** The property lines bounding a lot except that where the description extends into a public right of way, the right of way line shall be considered the lot line.

**Lot, Pre-existing.** A lot which is one unit of a subdivision plat heretofore duly approved and filed or one unit of an auditor's subdivision, or registered land survey, or a lot created by metes and bounds that has been recorded in the office of the County Recorder prior to the effective date of this Ordinance.

**Lot Tier Depth.** The lot depth of a normal lot conforming to the requirements of this Ordinance.

**Lot Tiers.** Successive strips of land parallel with the ordinary high-water line, each one tier depth wide, and extending across the parcel.

**Lot Width.** The shortest distance between lot lines measured at the midpoint of the building line.

**Lower-potency Hemp Edible:** As defined under Minn. Stat. 342.01 subd. 50.

**Maintenance.** The normal upkeep of a structure, including the replacement of windows, siding, roofs, nonbearing walls, or interior remodeling that does not expand the footprint of

the existing structure, add volume to the usable living space, or intensify a nonconforming use.

**Manufactured Home.** Means a structure transportable in one or more sections, which when erected on site measures eight (8) body feet or more in width and designed to be used as a dwelling, with or without permanent foundation, when collected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein, and bears the appropriate Federal Department of Housing and Urban Development inspection label. Certifying that the manufactured home meets Federal Manufactured Home Construction and Safety Standards.

**Metes and Bounds.** A method of property description utilizing directions and distances commencing from and terminating at an identifiable point.

**Mobile Home.** See definition of Manufactured Home.

**Mobile Home Park.** A form of planned unit development designed for mobile homes including two possible types of ownership: single ownership with site rentals or individual site ownership with a homeowner's association owning common property.

**Motel.** A building containing guest rooms or units, each of which has a separate entrance directly from the outside of the building, or corridor, with parking space reserved for each unit, and which is designed, used, or intended to be used primarily for the accommodation of transient guests.

**Natural Drainage way.** All land surface areas which, by nature of their contour or configuration, collect, store and channel surface or runoff water.

**Neighborhood.** The area adjacent to or surrounding existing or proposed development characterized by common use or uses, density, style and age of structures and environmental characteristics.

**Non-conforming Structure.** The building, structure or land lawfully existing prior to and not in conformance with the provisions of this ordinance.

**Non-conforming use.** A use lawfully in existence on the effective date of this Ordinance and not conforming to the regulations for the district in which it is situated, except that such a use is non-conforming if it would be authorized under special use permit where located.

**Nuisance.** By authority and direction of Minnesota Statute, 1980, Section 412.221, Subdivision 23 and 24; and Section 429.31, nuisance is anything that interferes with the use or enjoyment of property, endangers personal health or public safety, or is offensive to the senses such as excessive smoke, odor, noise, heat, vibration, glare, traffic generation, visual impact and other similar interferences or offenses.

**Nursery.** A business growing and selling trees, flowering or decorative plants and shrubs.

**Nursing Home.** Any institution or facility required to be licensed as such under Minnesota Statutes, Sections 144.50 to 144.56 by the State Board of Health.

**Off-street parking.** A designated space or area of land with a paved or all-weather surface not within a public street or right-of-way and used for the parking of vehicles.

**Office of Cannabis Management.** Minnesota Office of Cannabis Management, referred to as “OCM” in this ordinance.

**Open Space.** Space designated as reserved from development.

**Open Storage.** Storage of material outside of a building.

**Ordinary High-Water Mark (OHW).** The boundary of public waters and wetlands consisting of an elevation delineating the highest water level which has been maintained for sufficient period of time to leave evidence on the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For water courses the ordinary high-water level is the elevation of the top of the bank of the channel, for reservoir and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

**Overlay Map.** An official map of the City that describes the location of an overlay zone.

**Owner.** An individual, firm, association, syndicate, partnership, corporation, trust or any other legal entity having proprietary interest in the land and/or building.

**Parking Space.** A 10 foot by 20-foot site off public right of way, maintained and sized to accommodate the parking of one automobile.

**Park Model Trailer.** See definition of Recreational Vehicle.

**Party Wall or Floor.** A common wall which divides two independent dwelling units or businesses.

**Patio.** An uncovered, unscreened platform (without railings) of wood or cement which is no more than one step (16" maximum) above grade at its highest point. It may adjoin a dwelling or may be unattached and free standing.

**Permitted Use.** A land use conforming to the character of a zoning district which is allowed by ordinance requiring only a zoning permit issued by the Zoning Administrator.

**Pet.** An animal commonly associated with human habitation, not considered under animal units and not raised for production of income.

**Planned Unit Development (P.U.D.).** A land use 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 green space, density increases, and mix of structure types and land uses. Does not include a duplex where specifically allowed in a zoning district on a single parcel of land.

**Planned Unit Developments, Commercial.** Uses that provide transient, short-term lodging spaces, rooms, or parcels and their operation are essentially service orientated. These shall include but not be limited to hotel/motel accommodations, resorts, recreational vehicle and camping parks and other primarily service-oriented activities.

**Planned Unit Development, Mixed Use.** Planned Unit Development encompassing both commercial and residential uses.

**Planned Unit Development, Residential.** Residential Planned Unit Development means a use where the nature of residency is non-transient, and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, townhouses, cooperatives, and full fee ownership residences would be considered as Residential Planned Unit Developments. Includes time share condominiums not part of a resort.

**Planning Commission.** The body duly appointed by the City Council to determine the development of the City and make recommendations to the City Council on comprehensive plans, zoning district boundaries, conditional use permits, subdivision of land and capital improvements.

**Porch.** A covered platform attached to a structure.

**Portable.** Capable of being transferred or moved from one place to another.

**Practical difficulties.** The property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include but are not limited to, inadequate access to direct sunlight for solar energy systems.

**Pre-Built Home.** Same as Manufactured Home.

**Preliminary Plat or Plan.** A plan prepared in accordance with the Subdivision Ordinance depicting the proposed subdivision of property by Final Plat or Final Floor Plan.

**Principal Structure or Use.** The single primary structure or use on a lot, as distinguished from accessory uses or structure. To be considered a principal structure, the structure must be at least 400 square feet.

**Protective Covenants.** Restrictions placed on the property by the owner and duly filed with the County Recorder. These may also be used in planned unit developments to establish

homeowners' associations, restrict shoreline development and provide for common facilities.

**Public Place.** A public park or trail, public street or sidewalk; any enclosed, indoor area used by the general public, including, but not limited to, restaurants; bars; any other food or liquor establishment; hospitals; nursing homes; auditoriums; arenas; gyms; meeting rooms; common areas of rental apartment buildings, and other places of public accommodation.

**Public Waters.** Any waters as defined in Minnesota Statutes Sec. 105.37, Subd. 14 & 15. However, no lake, pond or flowage of less than 10 acres in size in municipalities need be regulated for the purposes of the shoreland management rule. A body of water created by a private user where there was no previous shoreline may, at the discretion of the local government, be exempted from the shoreland management. The official determination of the size and physical limits of drainage areas of rivers and streams should be made by the DNR Commissioner.

**Recorder.** The County Recorder of Morrison County.

**Recreational Center.** A structure or other facility designed for the purpose of recreation, such as a movie theater, bowling center, meeting hall, teen center or community center.

**Recreational Vehicle.** Vehicles for recreational use that can be driven, towed or hauled. These vehicles are designed to be temporary living space for camping or travel use. RV's shall include travel trailers, camper trailers, truck campers, self-propelled motor homes and other similar vehicles.

**Resort.** Any buildings, structures or enclosures kept, used, maintained or advertised as, or held out to the public to be an enclosure where sleeping accommodations are furnished to the public and primarily to those seeking recreations, for periods of one day, one week or longer, and having for rent three or more cottages, rooms or enclosures along with any related facilities such as restaurants, bars, golf courses or other recreational amenities.

**Restaurant.** An establishment where the principal business is the preparation, service and sale of food and beverages to be consumed by customers at tables or counters located within the building on the premises.

**Retail Registration.** An approved registration issued by Morrison County to a state-licensed cannabis retail business.

**Right-of Way.** A parcel of property dedicated to the public, connecting to other public right of ways, which affords primary access by pedestrians and vehicles to abutting properties.

**Satellite Dish.** A dish antenna used to receive and transmit signals relayed by satellite.

**Screening.** Fencing, an earthen berm or vegetative growth that visually separates one object from another.

**Semi Public Use.** The use of land by private non-profit organizations to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

**Sensitive Resource Management.** The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over ground water or bedrock, highly erosive or expansive soils, steep slopes, acceptability to flooding or occurrence flora or fauna in need of special protection.

**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 bluff, road, highway, property line or other facility. Three (3) feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over 4 feet wide may protrude into the setback.

**Setback, Road.** The closest horizontal distance between the road right-of- way line and the foundation or wall of a structure. Three (3) feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over 4 feet wide may protrude into the setback.

**Setback, Waterfront.** The closest horizontal distance between the ordinary high water mark and the foundation or wall or edge of a structure. Three feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over 4 feet wide may protrude into the setback.

**Sewage Treatment System.** A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Chapter 7080 of the State Rules and Regulations.

**Sewer System.** Pipelines or conduits, pumping stations and force main and all other constructions, devices, appliances or appurtenances used for conducting sewage or industrial waste or other waste to a point of ultimate disposal.

**Shoreland.** Land located within the following distances from public water: 1,000 feet from the ordinary high-water level of a lake, pond or flowage; and 300 feet from a river or stream, or landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the water for lesser distances and when approved by the DNR Commissioner.

**Shoreline Property.** A lot directly abutting a public water, generally located in the first lot tier adjoining the public water.

**Signs.** A name, identification, description, display, illustration, advertisement, or device which is displayed for the purpose of attracting attention to a person, product, place, activity, institution or business.

**Signs, Directory.** A sign erected at an intersection that lists the residences or businesses that reside along the intersecting roadway.

**Signs, Offsite.** Any sign not located on the contiguously owned property with the use which is advertised.

**Signs, Onsite.** Any sign located on the contiguously owned property with the use which is advertised.

**Signs, Portable.** A sign that is intrinsically designed to be moved or a sign that is not permanently affixed to the ground or a building.

**Significant Historical Site.** Any archeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historical Places, or is listed in the State Register of Historical Sites or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes Sec. 307.08. A Historical 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 Archeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be a significant historical sites.

**Sketch plan.** A plan drawn to scale used for planning and discussion purposes only.

**Solar Energy System.** A set of devices whose primary purpose is to collect solar energy and convert and store it for useful purposes including heating and cooling of buildings and other energy using processes, or to produce generated power by means of any combination of collecting, transferring or converting solar generated energy.

**Solar Energy System, Ground Mounted.** A solar energy system that is installed onto the ground directly or by the means of brackets or poles.

**Solar Energy System, Roof Mounted.** A solar energy system mounted to the roof of a dwelling or other building.

**Specified Anatomical Areas (Adult Use)** include any less than completely and opaquely covered human genitals, pubic region, or pubic hair, buttocks and female breast below a point immediately above the top of the areola; and male genitals in a discernible turgid state, even if opaquely covered.

**Specified Sexual Activities (Adult Use)** are any of the following conditions:

An act of sexual intercourse, normal or perverted, actual, or simulated, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and an animal.

Sadomasochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing costume or the condition of being fettered, bound, or otherwise physically restricted on the part of one so clothed.

Masturbation or lewd exhibitions of the genitals including any explicit, close-up presentation of a human genital organ clothed or unclothed.

Physical contact or simulated physical contact with the clothed or unclothed pubic area or buttocks of a human male or female, or the breasts of a female, whether alone or between numbers of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

**Steep Slope.** Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness due to the site's soil characteristics as mapped and described in available County Soils Surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of these regulations. Where specific information is not available, steep slopes are lands having average slopes over 12% as measured over horizontal distances of 50 feet or more, but which are not bluffs.

**Stoop.** An entry platform into a structure.

**Storage Container.** The use of semitrailers, shipping containers, and other similar structures or containers for storage. prohibition shall not apply to construction storage trailers used on site during a construction project provided all required permits are obtained for the project, the project remains in compliance, and the trailer is removed from the lot upon completion of the project.

**Storage Shed.** Refer to Accessory Structure.

**Street.** A public right-of-way that provides primary vehicular access to abutting property and shall include avenue, road or highway. Street classifications are defined in the Comprehensive Plan unless defined in a roadway classification plan or other similar road specific plan.

**Street, Arterial.** A street that has the primary function of rapidly move traffic to or through the city. May provide access to abutting land.

Arterial streets are, in general, county or state highways that begin and terminate outside of the city limits or connect to other arterial streets within the City.



**Street, Collector.** A street that has the primary function of receiving and distributing traffic to and from local streets and providing distribution of traffic within. May provide access to abutting lots. In general, collector streets begin and terminate at arterial streets or other collector streets.

**Street, Local.** A street, the function of which is to provide localized access to individual parcels. Does not normally carry through traffic. Traffic volumes and traffic speeds are expected to be low.

**Story.** That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

**Structure.** Any building, appurtenance including decks or other facility constructed, placed or erected by man except aerial or underground utility lines such as sewer, electric, telephone, telegraph, gas lines and except walks or steps on grade not more than 4 feet wide outside of the shore impact zone, stoops not exceeding 30 square feet, temporary furniture, planter, or decorative material and retaining walls consisting of wood or decorative block.

**Subdivider.** The owner, agent, person, corporation, partnership or legal entity proposing to subdivide property under his control.

**Subdivision.** The division of real estate into two or more parcels for the purpose of sale, rent or lease, including planned unit development.

**Subdivision by Plat.** The subdivision into two or more parcels of any size by the authority of Minnesota Statutes, Chapter 505, with documents prepared by a Registered Land Surveyor and only approved by the Planning Commission and Council.

**Subdivision by Condominium Plan.** The subdivision of a building or the subdivision of real estate into two or more spaces or parcels of any size by the authority of Minnesota Statutes, Chapter 515A, with documents prepared by a Registered Land Surveyor and duly approved by the Planning Commission and Council.

**Subdivision by metes and bounds.** Any division of real estate resulting in two or more parcels which are not platted but divided by description prepared and signed by a Registered Land Surveyor.

**Substandard Lot.** A lot that is non-conforming.

**Substandard Use.** A use that does not conform to this ordinance. Temporary. A use or structure that lasts longer than three days and is discontinued within 14 days. Any use or structure existing longer than 14 days, except where specifically provided for in this Ordinance, shall be considered permanent unless a specific date of discontinuation,

agreeable to the Planning and Zoning Administrator to be reviewed by the Planning Commission, has been submitted, in writing, to the City.

**Telecommunication Tower.** A structure 35 feet or more in height that may include a tower, antenna(s), equipment building(s), anchor points and other related equipment used by broadcast services and/or wireless telecommunications services.

**TEMPORARY STRUCTURE.** The placement of a structure that is limited to 14 days in a calendar year and that complies with setbacks and other regulations of the land use district in which the lot is located.

**Townhouse Dwelling.** See Dwelling, Multi Family.

**Travel Trailer.** Refer to Recreational Vehicle.

**Tree.** A woody plant 4 inches or more in diameter or 8 feet or more in height.

**Use:** The purpose for which land or premises or a building thereon is designed, arranged or intended or for which it is or may be occupied or maintained.

**Variance.** A legally permitted deviation from the provisions of this ordinance as deemed necessary by the Board of Adjustment after a property owner proposed to use a property in a reasonable manner not permitted by an official control.

**Vegetation Removal, Clear Cutting.** The removal of more than 75% and up to 100% of a stand of trees and brush over 10 feet in height on a lot or parcel of land up to 40 acres.

**Vegetation Removal, Open Cutting.** The removal of more than 25% and up to 75% of a stand of trees and brush over 10 feet in height on a lot of parcels of land up to 40 acres.

**Vegetation Removal, Select Cutting.** Removal of dead, diseased or damaged trees or shrubs, removal of trees for placement of structures and drives, and further removal of only individual trees to uniformly thin up to 25% of a stand, on a lot or parcel of land up to 40 acres. Complete brush removal is allowable including trees under 10 feet in height.

**Vegetation Removal, Steep Slopes.** Removal of dead, diseased or damaged trees or shrubs and further removal of only individual trees to uniformly thin up to 25% of a stand, on a lot or parcel of land with a bluff. Brush removal is only allowable where required to accommodate stairways, lifts, and landings.

**Warehousing.** The principal use is the storage of materials or equipment within an enclosed building.

**Warehousing, Commercial.** The rental or sale of warehousing space.

**Wetland.** Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For the purposes of this definition, wetlands must have the following three attributes:

has a predominance of hydric soils,

are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions, and

under normal circumstances support a prevalence of such vegetation.

**Yard.** A required green space occupied and unobstructed by a structure or portion of a structure provided that fences, signs, utility poles, lawn lights, antenna and related minor equipment may be permitted in any yard provided that they do not create a safety hazard or constitute a nuisance.

**Yard, Front.** A yard extending across the front of the lot between the inner side yard lines and lying between the front line of the lot and the nearest line of the building.

**Yard, Rear.** A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.

**Yard Sale.** Same as Garage Sale.

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

**Zoning Administrator.** The duly appointed person responsible for the enforcement and administration of this Ordinance.

**Zoning District.** An area of the City of Emily defined on the zoning map, having uniform zoning provisions.

**Zoning District Overlay.** A zoning district containing regulations superimposed upon other zoning district regulations and superseding the underlying zoning district regulations.

**Zoning Map.** The map of the City of Upsala, amended from time to time, which defines the boundaries of the zoning districts.

**Zoning Permit.** A permit issued by the Zoning Administrator to allow the construction of a structure or to allow a land use when the provisions of this ordinance have been met, when approval of any conditional use permits or variances have been granted and when the fees are paid. A zoning permit may have administrative conditions specific to the subject site when called for by the Ordinance.

## **SECTION 3 - ESTABLISHMENT OF DISTRICTS**

For the purpose of this Ordinance the City of Upsala is divided into use districts as shown on the accompanying map entitled "The Official Zoning Map of the City of Upsala, Minnesota," which map is hereby made a part of this Ordinance. Any land annexed to the City in the future shall be placed in the Agricultural District until placed in another district by action of the City Council.

### **3.1 General Provisions of Zoning Districts**

Except as provided in section 8.6 of this Ordinance, in each district land and structures shall be used only for purposes listed by this Ordinance as permitted in the district. In each district every building hereafter erected or structurally altered shall be provided with the yards specified, shall be on a lot of the area and width specified, and shall not exceed the height specified in this Ordinance for the district. No open space or lot required for a building shall during its existence be occupied by or counted as open space for another building.

### **3.2 District Classifications**

Certain districts are hereby created which shall be shown upon the Official Zoning District Map, adopted by the City. The primary purpose of this zoning classification is to promote orderly development, protect property values, preserve the character of neighborhoods, and ensure the health, safety, and welfare of residents.

#### *Current Zoning Districts:*

AG	Agricultural District
RI	Single-Family Residential District
R2	Multi-Family Residential District
COM	Commercial District
ID	Industrial District
SD	Shoreland Overlay District
PU	Public District

## **SECTION 4 - ZONING DISTRICTS**

### **4.1 Agricultural District (AG)**

- A. Purpose: To establish and maintain a low-density residential district that is rural in character. Uses generally include one and two-family dwellings and all uses commonly classified as agricultural.

- B. Permitted Uses: All uses indicated as "permitted" (P) within section 4.8 of this Ordinance.
- C. Conditional Uses: All uses indicated as "conditionally permitted" (CUP) within section 4.8 of this Ordinance,
- D. Accessory Uses: Uses incidental and accessory to the principal uses including sheds, garages, decks, agricultural accessory buildings, and similar accessory structures are allowed, however may be subject to other provisions of this ordinance.

E. Lot Requirements:

Buildable Lot Area acres, minimum.....	5
Lot Width - feet, minimum.....	150
Setback, right-of-way, local streets - feet, minimum.....	35
Setback, right-of-way, county or state hwy – feet, minimum...	50
Setback, side and rear - feet, minimum.....	30
Setback, sign - feet, minimum.....	1
Maximum impervious coverage.....	15%
Building Height – feet.....	50
Maximum Principal Structure Density	1 unit/5-acre
Maximum animal unit per acre—	<u>*Please see Upsala Ordinance #61.</u>

Within the Agricultural district the animal unit requirement may be extended to include 1 slaughter weight steer or heifer, or 1 mature dairy cow or horse per one acre.

#### 4.2 Single-Family Residential District (RI)

- A. Purpose: To establish and maintain a general residential use district. Uses generally include single and two-family dwellings.
- B. Permitted Uses: All uses indicated as "permitted" (P) within section 4.8 of this Ordinance.
- C. Conditional Uses: All uses indicated as "conditionally permitted" (CUP) within section 4.8 of this Ordinance.

D. Accessory Uses: Uses incidental and accessory to the principal uses including sheds, garages, decks, and similar accessory structures are allowed, however may be subject to other provisions of this ordinance.

E. Lot Requirements:

Buildable Lot Area —sqft, minimum.....10,000 (Single-Family)  
..... 15,000 (Two-Family)

Lot Width, feet, minimum.....75

Setback, right-of-way, local streets - feet, minimum.....30

Setback, right-of-way, County and State highway, feet, minimum.....30

Setback, side and rear - feet, minimum.....5

Setback, sign - feet, minimum.....1

Maximum impervious coverage.....30%

Building Height – feet..... 30

Maximum Density 1 unit up to 10,000 Square Feet..... 1 additional unit each additional 5,000 sq. ft.

Maximum animal unit per acre \*Please see Upsala Ordinance #61

F. Performance Standards:

1. Impervious coverage: Impervious coverage may be increased by 5% through a conditional use permit if the following is provided:

a. A storm water retention plan is showing containment of the 5-year, 24-hour rain event on the parcel.

b. Direct runoff of storm water to adjacent water bodies, including wetlands and adjacent parcels, shall be eliminated through the use of berms or other permanent means.

2. Setback from Right-of-way: If a structure exists on either side of a proposed structure, the setback from right-of-way shall be altered without variance to conform to the setbacks of the structures located on the adjacent lots using a line drawn from the point of the structure located closest to the road right-of-way to the point of the other adjacent structure located closest to the road right-of-way. In no case shall the setback from the road right-of-way be less than ten feet (10').

#### 4.3 Multi-Family Residential District (R2)

- A. Purpose: To establish and maintain a district with a multiple-family dwelling character. Uses generally include Single and multi-family dwellings, apartments, condominiums, mobile home parks, and similar uses.
- B. Permitted Uses: All uses indicated as "permitted" (P) within section 4.98 of this Ordinance.
- C. Conditional Uses: All uses indicated as "conditionally permitted" (CUP) within section 4.8 of this Ordinance.
- D. Accessory Uses: Uses incidental and accessory to the principal uses including sheds, garages, decks, and similar accessory structures are allowed, however may be subject to other provisions of this ordinance.

E. Lot Requirements:

Lot Width, feet, minimum	50
Buildable Lot Area - Square feet, minimum	7,500
Setback, right-of-way, local streets - feet, minimum	30
Setback, right-of-way, County and state Highway	
feet, minimum	30
Setback, side and rear - feet, minimum	10
Setback, sign - feet, minimum	1
Maximum impervious coverage	50%
Building Height - feet	30
Maximum Density	12 unit/7,500 s.f
Maximum animal unit per	*Please see Upsala Ordinance #61.

F. Performance Standard

- 1. Impervious coverage: Impervious coverage may be increased by 5% through a conditional use permit if the following is provided:
  - a. A storm water retention plan is showing containment of the 5-year, 24-hour rain event on the parcel.
  - b. Direct runoff of storm water to adjacent water bodies, including wetlands and adjacent parcels, shall be eliminated through the use of berms or other permanent means.

2. Setback from Right-of-way: If a structure exists on either side of a proposed structure, the setback from right-of-way shall be altered without variance to conform to the setbacks of the structures located on the adjacent lots using a line drawn from the point of the structure located closest to the road right-of-way to the point of the other adjacent structure located closest to the road right-of-way. In no case shall the setback from the road right-of-way be less than ten feet (10').

#### **4.4 Commercial District (COM)**

- A. Purpose: To establish and maintain a district to provide for commercial business activities of a low-impact nature.
- B. Permitted Uses: All uses indicated as "permitted" (P) within section 4.8 of this Ordinance.
- C. Conditional Uses: All uses indicated as "conditionally permitted" (CUP) within section 4.8 of this Ordinance.
- D. Accessory Uses: Uses incidental and accessory to the principal commercial uses are allowed.
- E. Lot Requirements:
 

i.	Lot Width, feet, minimum	75
ii.	Buildable Lot Area - square feet, minimum	10,000
iii.	Setback, right-of-way, local streets feet, minimum	30
iv.	Setback, County and State Highway- feet, minimum	30
v.	Setback, side and rear - feet, minimum	None
vii.	Setback, sign feet, minimum	1
viii.	Maximum impervious coverage	75%
ix.	Building Height, feet	30
x.	Maximum Density	1 unit/10,000 sq.ft
xii.	Maximum animal unit per	*Please see Upsala Ordinance #61
- F. Performance Standards:
  1. Impervious coverage: Impervious coverage may be increased by 5% through a conditional use permit if the following is provided:



- a. A storm water retention plan is showing containment of the 5-year, 24-hour rain event on the parcel.
  - b. Direct runoff of storm water to adjacent water bodies, including wetlands and adjacent parcels, shall be eliminated through the use of berms or other permanent means.
- 2. Setback from Right-of-way: If a structure exists on either side of a proposed structure, the setback from right-of-way shall be altered without variance to conform to the setbacks of the structures located on the adjacent lots using a line drawn from the point of the structure located closest to the road right-of-way to the point of the other adjacent structure located closest to the road right-of-way. In no case shall the setback from the road right-of-way be less than five feet (5').

#### **4.5 Industrial District (ID)**

- A. Purpose: To establish and maintain a district to provide for industrial business activities of a higher-impact nature.
- B. Permitted Uses: All uses indicated as "permitted" (P) within section 4.8 of this Ordinance.
- C. Conditional Uses: All uses indicated as "conditionally permitted" (CUP) within section 4.8 of this Ordinance.
- D. Accessory Uses: Uses incidental and accessory to the principal industrial uses are allowed.

E. Lot Requirements:

Lot Width, feet, minimum	100
Buildable Lot Area - square feet, minimum	20,000
Setback, right-of-way, local streets - feet, minimum	30
Setback, right-of-way, County and State Highway, 1 minimum	30
Setback, side and rear - feet, minimum	30
Setback, sign feet, minimum	1
Maximum impervious coverage	50%

Stormwater may be increased by 25% through a conditional use permit if the following is provided:

- a. A storm water retention plan is showing containment of the 5-year, 24-hour rain event on the parcel.
- b. Direct runoff of storm water to adjacent water bodies, including wetlands and adjacent parcels, shall be eliminated through the use of berms or other permanent means.

Building Height, feet	30
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Maximum animal unit per acre \*Please see Upsala Ordinance #61.

#### **4.6 Shoreland Overlay District (SD)**

- A. All land located within the Shoreland as defined by this ordinance shall be regulated by the controls contained the City of Upsala Shoreland Management Ordinance.

#### **4.7 Public District**

- A. Purpose: To provide for the placement of public facilities such as facilities necessary to provide infrastructure or services and parks and recreation facilities.
- B. Permitted Uses: All uses indicated as "permitted" (P) within section 4.8 of this Ordinance.
- C. Conditional Uses: All uses indicated as "conditionally permitted" (CUP) within section 4.8 of this Ordinance.
- D. Accessory Uses: Uses incidental and accessory to the principal uses are allowed.
- E. Lot Requirements:

Lot Width, feet, minimum	50
Buildable Lot Area - square feet, minimum	10,000
Setback, right-of-way, local streets - feet, minimum	30
Setback, right-of-way, collector, and arterial streets feet, 1 minimum	30
Setback, side - feet, minimum	20
Setback, corner side - feet, minimum	30
Setback, sign feet, minimum	1
Maximum impervious coverage	75%

#### **4.8 Table of District Uses**

For the purposes of this ordinance the following symbols shall be assigned the following meanings:

"P" shall indicate a permitted use.

"I" shall indicate an Interim Use and shall require an Interim use permit.<sup>2</sup>

"C" shall indicate a conditional use which shall require a conditional use permit If blank, the use is not permitted within the zoning district.

<b>A - Allowed w/o a permit, P – permitted, C- conditional use, I- interim use, Empty- Excluded</b>						
<b>USE</b>	<b>AG</b>	<b>R1</b>	<b>R2</b>	<b>COM</b>	<b>ID</b>	<b>P</b>
Accessory Storage Container	P				P	
Accessory Structure	P	P	P	P	P	P
Adult Use					C	
Agricultural Use	P					
Horse and boarding stables	C					
Animals, Domestic	A	A	A	A	A	
Animal Boarding Facility	P	I		C		
Animal Grooming establishment	P	I		C		
Animal Husbandry	P	I				
Antenna	P	P			P	
Auto body shop				C	C	
Auto Repair				C	C	
Auto Salvage Yard				C	C	
Auto sales / Rental				C	C	
Beauty shop / Barber shop				P		
Bank or financial Institution				P		
Boat Marine Sales / Repair				P		
Business Office				P	P	
Church				P		P
Bed and Breakfast		C	C			
Bowling lanes				P		
Brewery/ Tap Room				C		
Residential Quarters adjacent to commercial use.				P		
Campground	C					
Car Wash				C		
Cannabis Cultivation (Commercial)					I	
Cannabis Manufacturer					I	
Cannabis Retail				C		
Cannabis Wholesale					I	
Cemetery	C			C	C	C
Child Care, Center	P	P	P	P		
Child Care, Family Home	A	A	A		A	

Commercial Storage buildings	C					
Community Park						P
<b>A – Allowed w/o a permit, P – Permitted, C- conditional use, I- interim use, Empty- Excluded</b>						
<b><u>USE</u></b>	<b><u>AG</u></b>	<b><u>R1</u></b>	<b><u>R2</u></b>	<b><u>COM</u></b>	<b><u>ID</u></b>	<b><u>P</u></b>
Restaurant				C		
Gas Stations / Service Stations				C		
Event Center	C			C		
Extractive Use	I				I	
Fabrication					P	
Feedlot	A					
Fence	A	P	P	P	P	P
Funeral Home				P		
Golf Courses / Country Clubs	C					C
Government Building						P
Grocery Store				C		
Home Occupation, Type I	A	A	A			
Home Occupation, Type II	A	A	A			
Home Occupation, Type III	C	C	C			
Home Occupation, Type IV	C	C	C			
Hotel / Motel				C		
Industrial Use					C	
Junk Yard					C	
Landfill					C	
Laundromat				P		
Liquor Store, Off Sale				P		
Logging	A					
Lumber Yard	C				C	
Medical Facility				C		
Museums / Art Galleries				P		
Nursery	C			C		
Nursing Home				P		
Outside Storage / Display of Goods	A			A		
Resort				C		
Restaurant & Lounge				C		
Retail Sales				C		
School						A
Solar Energy System, Ground Mounted.	P	P	P	P	P	

Solar Collector System, Roof Mounted.	A	A	A	A	A	
Theaters				C		
Telecommunication Tower	C					
<b>A- Allowed w/o a permit, P- permitted, C- conditional use, I- interim use, Empty - Excluded</b>						
<b><u>USE</u></b>	<b><u>AG</u></b>	<b><u>R-1</u></b>	<b><u>R-2</u></b>	<b><u>COM</u></b>	<b><u>ID</u></b>	<b><u>P</u></b>
Warehouse and Wholesaling				C	P	
<b>RESIDENTIAL HOUSING</b>						
Single Family Dwelling	P	P	P			
Two-Family Dwelling	P	P	P			
Multi-family dwelling (Three or more attached units)		P	P			
Dwelling, Guest Quarters	P	P	P			

## **SECTION 5 - PLANNED DEVELOPMENT**

### **5.1 Purpose**

The purpose of the Planned Unit Development provision of this Ordinance is to provide for the grouping of land parcels for development as an integrated, coordinated unit in a manner which emphasizes flexibility of design of land under single or unified ownership, developed with community or public sewer and water systems, and through clustering of buildings and activities. It is further intended that Planned Unit Developments are to be characterized by central management, integrated planning, and architecture, joint or common use of land, maintenance of open space, and other similar facilities, and a harmonious selection and efficient distribution of uses. Planned unit developments regulated under this section may be applied to residential uses when in keeping with the regulations provided within this Ordinance.

### **5.2 General Provisions and Regulations of PUD**

- A. The minimum area of land to be included in a Planned Unit Development shall be two (2) acres.
- B. As a result of a Planned Unit Developments integrated character, the number of dwelling units allowed within the respective zoning district may be increased by five (5) percent. The development shall provide that. Twenty-five (25) percent of the land, specifically lake shore or river area, be reserved for use of the entire development and that the remainder of any shoreline shall be left in a natural state. The parking and similar requirements of these extra units shall be observed in compliance with this Ordinance.
- C. It is the intent of this section to require subdivision of property simultaneous with an application for a Conditional Use Permit. The subdivision of land as a Planned Unit Development shall be the same as imposed in the respective district.
- D. Private roadways within the project shall have an improved surface to twenty (20) feet or more in width. No portion of the required twenty (20) feet road system may be used in calculating required off-street parking space.

### **5.3 Administrative Procedure**

The administrative procedure for the approval of any Planned Unit Development shall be the same as the administrative procedure required under the subdivision provision of this Ordinance.

### **5.4 Property Control**

- A. In order that the purposes of this subdivision may be achieved, the property shall be in single ownership or under the management and supervision of a central

authority or otherwise subject to such supervisory lease or ownership control as may be necessary to carry out the provisions of this Ordinance.

- B. Prior to the use or occupancy or sale or the execution of contracts for sale of an individual building unit, parcel, tract, townhouse, apartment or common area, a declaration of covenants, conditions and restrictions or any equivalent document shall be filed with the City Clerk for approval as part of the administrative procedure, prior to filings of said declaration or document with the recording offices of Morrison County.
- C. The declaration of covenants, conditions and restrictions or equivalent document shall specify that deeds, leases, or documents of conveyance affecting buildings, units, parcels, tracts, townhouses, or apartments shall subject said properties to the terms of said declaration.
- D. The declaration of covenants, conditions and restrictions shall provide that a owners' association or corporation shall be formed and that all owners shall be members of said association or corporation which shall maintain all properties and common areas in good repair, and which shall assess individual property owners' proportionate shares of joint or common costs. This declaration shall be subject to the review and approval of the City Attorney. The intent of this requirement is to protect the property values of the individual owners through establishing effective private control.
- E. The declaration shall additionally, amongst things, provide that in the event the association or corporation fails to pay taxes or assessments on properties as they become due, then the City shall have the right to assess each property its pro-rata share of said expenses. Such assessment together with interest thereon and costs of collection, shall be a lien on each property against which each such assessment is made and, in addition, each such assessment, together with such interest thereon and such cost of collection thereof, shall also be a personal obligation of the person who was the owner of such property at the time when the assessment became payable.

## **SECTION 6     PERFORMANCE STANDARDS**

### **6.1     Intent**

The intent of this section of the Zoning Ordinance is to establish general development performance standards, the regulations provided herein shall apply equally to all districts except where special provisions provide otherwise.



## **6.2 Parking & Loading Requirements**

In all zoning districts, with the exception of permitted uses in "COM" District, off-street parking facilities for the storage of motor vehicles for the use of occupants, employees and patrons of the buildings or structures hereafter erected, altered or extended after the effective date of this Ordinance shall be provided and maintained as herein prescribed:

- A. Loading space shall not be construed as supplying off-street parking space.
- B. When units or measurements used in determining the number of required parking spaces result in requirement of a fractional space, any fraction up to and including one-half (1/2) shall be disregarded and fractions over one-half (1/2) shall require one (1) parking space.
- C. Whenever a use requiring off-street parking is increased in floor area, and such use is located in a building existing on or before the effective date of this Ordinance, additional parking space for the additional floor area shall be provided and maintained in amounts hereafter specified for that use.
- D. Off-street parking facilities for dwellings shall be provided and located on the same lot or parcel of land as the building they are intended to serve.
- E. The location of required off-street parking facilities for other than dwellings shall be within three hundred (300) feet of the building they are intended to serve, measured from the nearest point of the off-street parking facilities and the nearest point of the building or structure.
- F. Parking of automobiles and other motor vehicles is permitted in the front and side yards in COM or ID districts if screened by a boulevard eight (8) feet in width.
- G. Where a use is not specifically mentioned, off-street parking requirements shall be the same as for similar uses.
- H. Nothing in this section shall be construed to prevent collective provisions of off-street parking facilities for two (2) or more buildings or uses provided, collectively, such facilities shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with this Ordinance.
- I. Nothing in this section shall prevent the extension of, or an addition to a building or structure into an existing parking area which is required for the original building or structure when the same amount of space taken by the extension or addition is provided by an enlargement of the existing parking area, or an additional area within three hundred (300) feet of such building.

- J. The amount of required off-street parking space for new uses or buildings, additions thereto and additions to existing buildings as specified above, shall be determined in accordance with the following table, and the spaces so required and shall be irrevocably reserved for such use.
1. Single-family, two-family and townhouse units - One (1) space per unit.
  2. Multiple family dwellings - Two (2) spaces per unit located on the same premises as the dwelling, one of which shall be an enclosed garage space. Any garage shall be of the same architectural treatment as the dwelling.
  3. Boarding houses. Hotels- motels and dormitories - One (1) parking space for each-dwelling for whom sleeping accommodations are provided.
  4. Places of Assembly - One (1) parking space shall be provided for each four (4) units of seating capacity in churches, theaters, gymnasiums, auditoriums, stadiums or arenas, and for schools (public or private), in schools (public or private) in the alternative, one parking space shall be provided for each four (4) units of seating capacity in classrooms or in the assembly, auditorium, gymnasium or stadium, whichever is greater.
  5. Places of medical treatment - One (1) parking space shall be provided for each two (2) employees plus one (1) for each four (4) beds in hospitals, rest homes and nursing homes, one (1) parking space shall be provided for each two (2) employees plus one (1) for each doctor plus one (1) per one hundred (100) square feet of floor area in clinics (medical or dental).
  6. Offices. One (1) parking space shall be provided for each two- hundred fifty (250) square feet of floor space.
  7. Bowling Alley. At least five (5) parking spaces for each alley, plus additional spaces as may be required herein for related use contained within the principal structure.
  8. At Motor fuel station. Least four (4) off-street parking spaces plus two (2) off-street parking spaces for each service stall. Those facilities designed for sale of other items that are strictly automotive products, parts and/or service shall be required to provide additional parking in compliance with other applicable sections of this Ordinance.
  9. Retail store and service establishment. At least one (1) off-street parking space for each two hundred fifty (250) square feet of floor area.
  10. Retail sales and service business with fifty (50) percent of gross. Floor area devoted to storage, warehouses and/or industry. One (1) space for each two hundred fifty (250) square feet devoted to public sales and/or

service plus one (1) space for each five hundred (500) square feet of storage area or one (1) space for each employee on the maximum shift whichever is appropriate.

11. Restaurants, nightclubs, taverns or cafes, One (1) parking space for each four (4) seats, but not less than fifteen (15) spaces.
  12. Manufacturing, fabrication or processing of a product or material warehouse, storage, handling of bulk goods, post offices. One (1) parking space for each two (2) employees based on the maximum planned employment on each shift or one (1) space for each four hundred (400) square feet of floor area, whichever is greater.
- K. In all districts where off-street parking lots are permitted or required such off-street parking lots shall be constructed and maintained subject to the following regulations:
- I. Adequate ingress and egress shall be provided.
  - II. Such parking lots shall be maintained in a usable dust-proof condition and shall be kept graded and drained to dispose of surface water.
  - III. Whenever such parking lot boundary adjoins property zoned for residential use, a setback of three (3) feet from said lot line shall be required.
  - IV. Necessary curbs or other protections against damage to adjoining properties, streets and sidewalks shall be provided and maintained.

### **6.3 Off-Street Parking**

- A. In Commercial and Industrial Zoning Districts, truck berths for loading and unloading of goods or wares shall be provided on the same lot for each building designed to be used for these purposes. Where truck berths are provided inside the building, such area shall not be included in the total floor area used for determining the required number of such berths, nor for parking space requirements.
- B. Retail stores, shopping centers or shops shall provide one (1) truck berth for each two (2) business places or one (1) for each twenty thousand (20,000) square feet of floor area, whichever is greater.
- C. Industrial and manufacturing uses shall provide one (1) truck berth for each twenty thousand (20,000) square feet of floor area.

## 6.4 Fence Requirements

**Permit Requirement:** All new fence constructions require a permit obtained from the city's zoning department prior to installation. This includes repairs or alterations that exceed 50% of the original fence's length or height.

### **Fence Specifications:**

**Height:** Fences may not exceed six (6) feet in height above ground level, except in cases where specific zoning exceptions have been granted. Fences on corner lots shall be limited in height to three (3) feet when solid and four (4) feet when chain link.

**Materials:** Acceptable materials for fences include wood, vinyl, chain link, wrought iron, or similar materials approved by the city. Barbed wire and electric fencing are prohibited within residential areas.

**Visibility:** Fences must not obstruct the view of vehicular or pedestrian traffic, especially at intersections.

**Setbacks:** 2 feet from the property line. All fences along property boundary lines shall be located entirely upon the property of the person constructing or causing the construction of the fence. The property owner shall maintain both sides of the fence. Fences shall be installed with the finished side(s) facing the neighboring property or properties. No fence shall be installed so that it obstructs the view of vehicular or pedestrian traffic on adjacent streets or public ways. All fences shall be installed in a manner that allows necessary maintenance to be performed without trespass on a neighboring property. All fences shall be placed, a minimum of 10 feet from the ordinary high water mark of a lake, two (2) feet from an alley lot line unless the fence can be maintained entirely from the non-alley side, and 10 feet from any city, county or state road surface or out of the road right-of-way, whichever is more restrictive.

**Maintenance:** Property owners are responsible for maintaining their fences in a safe and aesthetically pleasing condition. This includes regular inspections for damage, repair of any defects, and periodic painting or staining as necessary.

**Exceptions:** Special Considerations: The city may grant exceptions to these regulations on a case-by-case basis, considering factors such as topography, historical significance, or other unique circumstances.

**Enforcement:** Violations of this regulation may result in fines, removal orders, or other enforcement actions as determined by the city's code enforcement authorities.

## **6.5 Deck Requirement**

- A. Land Use Permit Required: No deck shall be constructed within the City of Upsala without the issuance of a land use permit. All decks constructed within the City shall conform to the Minnesota State Building Code, et. seq.
- B. Setback Restrictions: Any deck constructed within the City of Upsala shall conform to the setback rules provided within Section 4.8 of this ordinance.

## **6.6 Landscaping Requirements**

In all zoning districts the lot area remaining after providing for parking, driveways, loading, sidewalks or other requirements shall be permitted and maintained in grass, sod, shrubs or other acceptable vegetation or landscaping techniques. In the event any project in which a land use permit is issued results in the disturbance and open exposure of soils, landscaping shall be installed within six (6) months of the expiration of the land use permit issued for the project.

## **6.7 Signage Requirements**

- A. Purpose:

To protect the general health, safety, comfort, and welfare of the people of the City through the provision of official controls regulating the use of signs within the City. The regulation provided by this ordinance will also provide for the aesthetic quality of the City as well as provide for adequate property identification and advertising of commercial businesses.
- B. General Sign Provisions:
  - 1. All signs are considered structures and require a zoning permit.
  - 2. Signs for discontinued business may be removed after notification by the Zoning Administrator.
  - 3. Conditional Use Permits and Zoning Permits shall consider protecting the sight distance at intersections, driveways, and curves.
  - 4. All flashing, revolving, and intermittently lighted signs are expressly prohibited.
  - 5. Residential and commercial signs may not contain elements commonly used by highway departments to alert, direct, or caution traffic including, but not limited to octagonal STOP signs, speed limit signs, advisory speed limit signs, community recognition sign panels, or other similar regulatory or identification signs.

6. All Public Signs and Name Directory signs placed by the City, County, businesses, or residents to relate to the laws or ordinances, or to provide direction shall be exempt from the provisions of Section 6.7.
7. A non-conforming sign may be refaced, removed, and replaced for maintenance purposes; however, the sign shall not be increased in size, the support system shall not be improved, and the sign shall be entirely removed upon the determination by the Zoning Administrator and Planning Commission that the sign is in disrepair or the support system is failing.

C. Residential Districts:

No billboards or signs shall be erected in the residential districts except as follows:

1. Signs displaying the name only of the property on the premises upon which displayed or the owner or lessee thereof. Such signs shall not exceed four (4) square feet in area.
2. Signs not exceeding eight (8) square feet in area pertaining only to the sale, rental, or construction of the premises upon which displayed. Such signs shall be considered temporary and removed within 30 days of the sale, rental, or construction of the premises upon which the sign is displayed.
3. Signs for home occupations affixed immediately to the structure by which the use is taking place shall not exceed eight (8) square feet in area. Signs for home occupations may be placed anywhere within the front yard setback area, however when not affixed to the structure by which the use is taking place the total sign area shall be limited to four (4) square feet.

D. Commercial and Industrial Districts:

The following provisions apply to signs within the Commercial and Industrial Districts:

1. The total of the area of all signs measured in square feet shall not exceed the sum of fifty percent (50%) of the number of lineal feet of each street frontage of each zoning lot. In the event a sign shall serve more than one leased commercial or industrial unit upon a common lot, the total area of the sign shall not exceed the sum of two hundred percent (200%) the sum of the number of lineal feet of the common lot.
2. No sign shall overhang public ways or property.

3. The gross square foot surface of all illuminated signs shall not exceed the number of lineal feet of frontage of such zoning lot.

E. General Onsite Signs

Upon the enactment of this ordinance, the following provisions apply:

1. Present non-conforming onsite signs are considered permissible non-conforming uses except as provided by this ordinance
2. No sign erected prior to the adoption of this ordinance shall be rebuilt, altered, or moved to a new location on the property without being brought into compliance with the provisions of Section 6.7 of this ordinance.

F. Off-Site Signs

The use of Logo Signs as specified by Minnesota Statutes 160.80 is permitted along Trunk Highways.

G. Temporary Signs

1. There shall be no more than one temporary sign on any lot, and such sign shall not exceed thirty-two (32) square feet in size for commercial districts and sixteen (16) square feet for residential districts.
2. Temporary signs shall require a permit that can only be renewed three (3) times annually.
3. The duration of a temporary sign permit shall not exceed thirty (30) days except as described in this section.
4. The zoning administrator may document the duration of any temporary sign and require its removal if it is displayed for more than its permitted duration unless it meets all standards for permanent signs. For the purposes of this subsection 7, the zoning administrator can ignore intermittent removal of said temporary signs if the clear intent of the owner is to display this sign for more than the permitted duration.

H. Other Signs

1. All political posters or signs in accordance with applicable Minnesota Statutes are considered temporary and allowed without permit provided they are removed within ten (10) days following the election for which they are intended.
2. Private signs are prohibited within public right-of-way (ROW) easements.

## **6.8 Non-conforming Lots & Uses**

- A. The lawful use of a building or structure existing at the time of the adoption of this Ordinance may be continued although such use does not conform to the district provisions herein.
- B. Additions to structures within the Commercial (COM) Zoning District may be made without Variance, provided the circumstance which cause the structure or lot to be non-conforming is limited to setback provisions or lot area, or a combination thereof.
- C. A non-conforming use may be extended throughout the building or structure, provided no structural alterations or changes are made therein, except those required by law or ordinance or such as may be required for safety, or such as may be necessary to secure or insure the continued advantageous use of the building during its natural life.
- D. Any non-conforming building or structure damaged more than fifty (50) percent of its current appraised value, exclusive of foundations at the time of damage by fire, collapse, explosion or acts of God or public enemy, shall not be restored or reconstructed and used as before such happening, but, if less than fifty (50) percent damaged above the foundation, it may be restored, reconstructed or used as before provided that it is done within twelve (12) months of such happening and that it be built of like or similar materials, or the architectural design and building materials are approved by the Planning Commission.

## **6.9 Nuisance Standards**

- A. Sewage Connection Required: All sewage facilities shall be connected to community sewer facilities when available. This provision shall not apply to temporary construction sites, or portable units.
- B. Lighting; 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 zone or from the public streets, Direct or sky- reflecting glare, where 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 some 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.
- C. Smoke: The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards and as subsequently expanded, modified or amended.



The Purpose of this subdivision is to establish minimum standards for the placement and safe use of outdoor boilers. Outdoor boilers are defined as a Structure or appliance:

- (1) Designed to burn wood or other approved solid fuels.
- (2) Specified by the manufacturer for outdoor installation or installation in structures not normally occupied by humans; and
- (3) Designed to heat building space and/or water via the distribution, typically through pipes of a fluid heated in the device, typically water or a water/antifreeze mixture.

Outdoor boilers do not include fire pits, wood-fired barbeques, or grills. Outdoor boilers are permitted within the city of Upsala with the following restrictions:

- i. Boilers not allowed in commercial zones.
  - ii. Boilers must be set back from the nearest Property line by at least two hundred (200) feet.
  - iii. Boilers must burn fuels listed as recommended by the manufacturer. The following are prohibited: trash, plastics, gasoline, rubber, naphtha, household garbage, treated lumber, leaves and paper products.
  - iv. Boilers may only be operated between the days of September 1<sup>st</sup> and May 1<sup>st</sup>.
  - v. Boilers must be equipped with a properly functioning spark arrestor.
  - vi. Boiler stacks shall be a minimum of at least fifteen (15) feet above ground surface. however, they shall also be at least as high as the height of the eave lines of residents within five hundred (500) feet.
  - vii. All outdoor boilers require a land use permit. Applications will be reviewed by the Planning Commission.
  - viii. All outdoor boilers existing before the passing of this ordinance are grandfathered in but must meet the stack requirements in this ordinance.
- D. Dust and other particulate matter: The emission of dust, fly ash or other particulate matter by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards and as subsequently expanded, modified, or amended.
- E Odors: The emission of odorous matter in such quantity as to be offensive shall not be permitted. The emission of odor by any use shall be in compliance with

and regulated by the State of Minnesota Pollution Control Standards and as subsequently expanded.

- F. Noise: 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 minimum standards established by the State of Minnesota.
- G. Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not extend or intensify the non-conforming use.
- H. Any proposed structure which will under this Ordinance, become non-conforming but for which a land use permit has been lawfully granted prior to the effective date of this Ordinance, may be completed in accordance with the approved plans, provided construction is started within sixty (60) days of the effective date of this Ordinance, is not abandoned for a period of more than one hundred twenty (120) days and continues to completion within two (2) years. Such structure and use shall thereafter be a legally non-conforming structure and use.

#### **6.10 Bond Requirement**

Prior to the commencement of any construction or improvements maintained by the City, the developer shall, at the option of the City, deposit cash in escrow, furnish a performance bond, or file an irrevocable letter of credit in the amount of one hundred and twenty five percent (125%) of the total cost of any water, sanitary sewer, storm sewer, sewage disposal, and street construction based on an estimate provided by an Engineer agreeable to both the City Council and the developer. The City shall use the bond or financial security to remove or complete construction of common items that are included in the estimate provided and agreed upon by the City and the developer in the event the developer defaults on the development plans. Upon completion of the work and termination of all developer liabilities as agreed upon in the development agreement, the cash remaining in escrow and all interest earnings shall be returned to the developer, and remaining amounts of any bond or letter of credit shall be terminated.

#### **6.11 Solar Energy Systems**

- A. Height. Solar energy systems must meet the following height requirements:
  - a. Roof-mounted solar energy systems shall not exceed the maximum allowed height in any zoning district.
  - b. Ground-mounted solar energy systems shall not exceed 20 feet in height when oriented at maximum tilt.

- B. Solar location and setbacks. Solar energy system must meet the accessory structure setback for the zoning district on which the system is located.
- a. Roof-Mounted Solar Energy Systems. In addition to the building setback, the collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.
  - b. Ground-Mounted Solar Energy Systems. Ground-mounted solar energy systems may only be allowed on parcels five acres in size and greater and may not extend into the side-yard or rear setback when oriented at minimum design tilt.
- C. Visibility. Solar energy systems shall be designed to blend into the architecture of the building or be screened from routine view from public right-of-ways other than alleys.
- D. Decommissioning plan. A decommissioning plan may be required for large solar energy systems to ensure that facilities are properly removed after their useful life. Decommissioning of solar panels must occur in the event they are not in use for twelve (12) consecutive months. The plan shall include provisions for removal of all structures and foundations, restoration of soil and vegetation and a plan describing the financial resources that will be available to fully decommission the site. The city may require the posting of a bond, letter of credit or the establishment of an escrow to ensure proper decommissioning.
- E. Other standards and codes. All solar energy systems shall be in compliance with any applicable local, state and federal regulatory standards, including the State of Minnesota Uniform Building Code, as amended; and the National Electrical Code, as amended.

## **6.12 Telecommunication Towers**

- A. Applicability. It shall be unlawful for any person, firms, or corporation to erect, construct in place, or place any tower facility without first receiving permit(s) from the City. Nor may any person, firm, or corporation alter, modify, transform, add to or change in any way an existing tower facility except in compliance with the standards in this Section. The regulation of the placement, construction, and

modification of personal wireless service facilities shall not prohibit or have the effect of prohibiting the provision of personal wireless services.

B. Tower Facilities Generally Allowed

The following tower facilities will be generally allowed within the City without permits or meeting the general standards of this article:

- a) Antenna(s) incidental to residential use;
- b) Routine maintenance of existing tower facilities or modification of lighting to meet the standards; and,
- c) Any collocation, removal, or replacement of transmission equipment on an existing wireless tower or base station, provided this action does not substantially change the physical dimensions of the tower or base station.

C. Land Use Permits Required

The following tower facilities require a land use permit from the City after completing the application requirements and meeting the standards of this section:

- a) Tower facilities that are located outside the Residential land use districts and the shoreland area, unlit, camouflaged, monopole tower, and do not extend more than 10 feet above the average height of the tree canopy or 99 feet above the average ground level;
- b) The addition of antenna(s) on existing structures such as but not limited to buildings, flagpoles, church steeples, cupolas, ball field lights, power line support devices that does not require modification to the structure; and
- c) Modifications to existing towers which substantially change the physical dimensions of a tower or base station including:
  - 1. The mounting of a proposed antenna on a tower would increase the existing height of the tower by more than 10%, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; or,
  - 2. The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or

3. The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or
4. The mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

#### D. Conditional Use Permits Required

The following tower facilities require a conditional use permit approved by the Planning Commission/Board of Adjustment after completing the application requirements, having conditions placed on the tower facility, and findings of fact that support approval of the tower facility:

- a) Tower facilities that are located inside the Residential land use districts and shoreland area, unlit, camouflaged, monopole tower, and do not extend more than 10 feet above the average tree height of the tree canopy or 99 feet above the average ground level, whichever is less;
- b) Tower facilities that are located outside the residential land use districts and shoreland area, unlit, from 100 feet to 199 feet in height and are designed to accommodate collocated antennas.

#### E. General Standards—Tower Site

- a) Setback. The tower facility shall have a minimum distance to the parcel and or recorded easement boundary, equal to the height of the tower plus 10 feet.
- b) Fencing. The tower facility shall be protected by a security fence a minimum of six feet in height to prohibit access by unauthorized persons.

- c) Signage. The owner's name, telephone number and site ID number shall be posted on the gate of a perimeter fence. No other advertising or identification sign on any kind is allowed on the tower facility, except applicable warning and equipment information as required by the manufacturer or by Federal, State, or local authorities.
- d) Security Lighting. The light source for any necessary security lighting shall feature down-directed, sharp cut-off luminaries that ensure there is no spillage of illumination off the parcel or easement boundary.

#### F. Permit Application Requirements

- a) The City may contract with an independent technical expert to review technical materials submitted by the applicant, and/or to determine if additional information is necessary. The tower facility applicant shall pay the cost of such review and/or independent analysis, as well as all legal fees incurred by the City in processing a tower facility permit application.
- b) Name and address of the tower facility owner, landowner of record for the parcel where the tower facility is proposed to be located and any duly appointed agents of the parties.
- c) A visual study depicting where within a one mile radius any portion of the proposed tower facility will be visible.
- d) Site plan(s) drawn to a scale of one inch equals 20 feet or less, specifying the location of tower facility, support structures, transmission buildings and/or other accessory uses, access, parking, fences, signs, lighting, and all adjacent land uses within 1000 -feet of the base.
- e) Elevation drawings of "before" and "after" simulating and specifying ground levels, the location and height of antenna(s), support structures, equipment buildings and/or accessory uses, fences and signs of the tower facility.
- f) Map showing the search radius for the antenna location and the proposed broadcast coverage obtained by the tower facility, including a narrative describing a search radius of not less than one mile for the requested site, clearly explaining why the site was selected, identifying and locating landing and takeoff areas of aircraft within the search radius, locating all existing tower facilities, and identifying all other structures that may be potential

collocation sites. In addition, the applicant must demonstrate that the selected site will meet gaps in service that cannot be addressed by existing sites and that the service gaps exist due to unique topographic, land ownership or other environmental issues that can only be resolved by construction of a higher tower. In addition, the applicant shall demonstrate whether there will be a reduction of the number of towers required to gap service if a higher tower is approved.

- g) The documentation provided by the applicant must state whether any collocation or modification is a substantial change.
- h) A letter that requires the tower facility owner and successors to allow collocation of antenna on the tower facility if an additional user(s) agrees in writing to meet reasonable industry terms and conditions for shared use.
- i) A copy of the Federal Aviation Administration (FAA) determination or a signed statement that the proposed tower facility has not been found to be a hazard to air navigation under Part 77, Federal Aviation Regulations, or that no compliance with Part 77 is required, and the reasons therefore.
- j) A copy of the Federal Communication Commission (FCC) license or a signed statement from the proposed operator of the tower facility attesting to the fact that the tower facility complies with current FCC regulations, including compliance with the regulations of the FCC with regard to maximum radio frequency and electromagnetic frequency emission, or a statement from the applicant that no such compliance is necessary, and the reasons therefore. Must comply with FCC Office of Engineering and Technology's FCC OET Bulletin 65 guideline for maximum permissible exposure to radiofrequency electromagnetic fields.
- k) Tower design and their antennas shall be certified by a licensed professional engineer to ensure that they conform to applicable state structural building standards.
- l) The applicant shall submit proof, in the form of a signed affidavit, demonstrating a good faith effort to lease or purchase space on an adjacent existing tower facility. The affidavit shall state why space is not available such as:
  - 1. The planned tower facility would exceed the structural capacity of the tower facility and the structural capacity cannot reasonably be increased:

- 2. The planned tower facility would cause interference with the usability of other existing or planned equipment at the tower facility; and/or,
- 3. Existing tower facility cannot accommodate the planned antenna at a height necessary to function reasonably.
- m) The owner of the tower facility shall provide performance security in accordance with Section 3.16 the cost to remove the tower facility and restore the site. This amount shall be determined by the City Planning Commission/Board of Adjustment based on input from an independent technical expert.
- n) All wetlands within 50 feet of the proposed infrastructure related to tower construction and access shall be delineated. A delineation report shall be submitted to City by a professional wetland delineator describing the presence or absence of wetlands.

G. Factors Considered for a Conditional Use Permit

The Planning Commission/Board of Adjustment shall consider the following factors in determining whether to issue a Conditional Use Permit:

- a) Height of the proposed tower facility;
- b) Capacity of the tower structure for additional antenna equipment to accommodate expansion or to allow for collocation of another provider's equipment;
- c) Proximity of the tower to residential structures and residential land use district boundaries;
- d) Nature of use on adjacent and nearby properties;
- e) Surrounding topography;
- f) Surrounding tree coverage and foliage;
- g) Design and siting of the tower with particular reference to design characteristics and location that have the effect of reducing or eliminating visual obtrusiveness;
- h) Proposed ingress and egress;
- i) Availability of suitable existing towers and other structures as discussed in Section 9.16.07 ,f;



- j) Impact to the existing aesthetics and character of the surrounding area;
- k) Level of adherence to the provisions set forth in Section 9.16.01 of this article.

H. Permit and Conditional Use Permit Approvals

- a) The Zoning Administrator shall check all applications for completeness.
- b) The review timeline for tower facility applications shall comply with Section 3.12 of this ordinance.
- c) The City shall approve any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of a tower or base station.
- d) Decisions shall not be based on environmental effects of radio frequency emissions to the extent that such facilities comply with the [FCC]'s regulations.

I. Existing Tower Facilities. Existing tower facilities may continue including:

- a) Existing use,
- b) Routine maintenance for the existing use.
- c) Any collocation, removal, or replacement of transmission equipment on an existing wireless tower or base station, provided this action does not substantially change the physical dimensions of the tower or base station.

J. Routine Maintenance

All tower facilities shall be maintained in a safe and clean manner. The tower facility owner shall be responsible for maintaining a graffiti, debris and litter free site. Landscaping shall be maintained for the life of the tower facility. All tower facilities shall be subject to periodic inspection to ensure continuing compliance with all conditions of the application submitted and approval required.

K. Time Limit on Tower Facility Construction

Construction of an approved tower facility must be completed within two years following the date of the approval. Landscaping must be installed within the first growing season immediately following construction.

L. Abandonment and Removal

The tower facility owner shall give written notice to the City within 180 days when the use of a tower facility has been discontinued and is to be abandoned. Abandoned tower facilities shall be removed within 180 days of such notice. Removal includes the complete tower facility including related infrastructures, footings and other underground improvements to a depth of 36 inches below existing grade, and restoration to pre-existing vegetative cover. Failure to remove the tower facility shall constitute a violation of this ordinance.

M. Lighting Standards for Tower Facilities

- a) The tower facility owner shall provide a lighting plan and photometric study indicating the size, height, location and wattage of all tower facility lighting sources. This study must also include a graphic indicating the spread and degree/intensity of light from each source/fixture.
- b) Tower facility owner shall reduce visual impact by the use of techniques, such as, but not limited to, directional lighting, tilting, shields, etc. Maximum intensity of lighting, if necessary, shall be the minimum required by FAA and/or FCC Lighting Standards in order of preference, a tower facility shall have:
  - 1. Only incandescent and or light emitting diode (LED) red lighting at night, both side and beacon lights;
  - 2. Minimum required intensity white strobe lighting daytime; red incandescent and/or LED nighttime lighting;
  - 3. Minimum required intensity white strobe lighting daytime; minimum required intensity red strobe nighttime lighting; then,
  - 4. Minimum required intensity white strobe daytime lighting; minimum required intensity white strobe nighttime lighting.

- c) The light source for any necessary security lighting shall feature down-directional, sharp cut-off luminaires to direct, control, screen or shade in such a manner as to ensure that there is no spillage of illumination off-site.

### **6.13 Bed and Breakfasts**

- A. In districts where permitted or allowed by conditional use, a bed and breakfast inn shall comply with the following standards:
  - a. The bed and breakfast inn shall be part of an owner-occupied residential structure and owner-operated.
  - b. The use shall comply with applicable Federal, State, County, and City rules and regulations.
  - c. The exterior appearance of the structure shall not be altered from its single-family character.
  - d. All guestrooms, and access to guestrooms, shall be located within the principal residential structure.
  - e. The total number of units shall be limited to four (4), not including the owner.
  - f. The property must meet all density requirements of the ordinance as a single-family dwelling.
  - g. Guests are limited to a stay of at most 14 consecutive days.
  - h. No food preparation or cooking facilities shall be conducted in the guestrooms.
  - i. All requirements of the zoning district must be followed.
  - j. The owner shall provide licensure information to the City before operation shall begin.
  - k. No property may be leased or rented to several individuals greater than the structure's bedroom and/or septic capacity.

## **SECTION 7 - SUBDIVISION**

### **7.1 Purpose and Compliance**

#### **A. Purpose**

This section is hereby created pursuant to Minnesota Statutes 462.358 and Minnesota Statutes Chapter 505 for the following purposes:

- (1) To maintain consistency of development patterns and subdivision of land.

- (2) To provide for the protection of public waters and lands.
- (3) To maintain consistent and accurate land records by establishing standards for surveys and plats.
- (4) To assure that public improvements are constructed to standards satisfactory to the community and assess those improvements to those benefiting from them.
- (5) To provide for a symbiotic relationship between municipal officials and prospective land subdividers.

B. Compliance

Hereafter, all subdivision of lands within the corporate limits of the City of Upsala shall comply fully with the regulations set forth herein. Plans for COM or ID development upon lots intended to be recorded with Morrison County after the effectuation of this ordinance shall be presented in the same manner as a subdivision.

## **7.2 Subdivision Platting Requirements and Procedures**

A. Application for Approval

An application for approval of a proposed subdivision in accordance with the provisions set forth herein must be completed prior to any contract for sale or offer to sell any lots within the proposed subdivision is made, and prior to any land use permits issued. The subdivider, or duly authorized agent or representative, shall apply in writing for approval any proposed subdivision in accordance with the procedures set forth within this chapter.

B. Pre-Application and Sketch Plan

- (1) All subdividers are required to meet informally with the Planning Commission to learn of the requirements and minimum standards set forth herein, and the limitations or restrictions imposed by any other city plans or ordinances.
- (2) Through the above mentioned or subsequent informal meetings a sketch plan shall be presented containing the following data and information:

Existing Conditions

- a. The approximate exterior boundary showing the northerly direction drawn to scale of not less than 1" = 100'.
- b. Indication of all floodplains, wetlands, slopes over 12%, tree cover and ordinary high-water mark.

- c. Use of adjoining properties including existing street locations, structure locations, electrical, water, and sewer infrastructure locations, and property lines.
- d. Significant historical sites.

#### Proposed Development

- a. Proposed lots with building setbacks.
  - b. Proposed roadways and walkways.
  - c. Proposed City sewer and water system connections.
  - d. Open space or green space areas.
- (3) The subdivider is urged to follow the advice and assistance provided by city staff and/or the Planning Commission to provide for a more efficient facilitation of the preliminary plat.

#### C. Preliminary Plat

- (1) A preliminary plat shall be prepared by a registered land surveyor and shall conform to all state statutes and local requirements.
- (2) The land subdivider shall submit ten (10) copies of the preliminary plat to the city clerk at least twenty (20) days prior to the next regularly scheduled Planning Commission meeting to be placed on the next regularly scheduled meeting agenda. The subdivider shall pay all required fees to the City of Upsala at the time of submission of the preliminary plat.
- (3) Prior to the public hearing the city clerk shall refer copies of the preliminary plat to affected local agencies, appropriate utility companies, county, state, and other public jurisdictions for review and comment. All copies of plats within shoreland areas shall be submitted to the commissioner of the Department of Natural Resources at least 10 days prior to the public hearing.
- (4) Public hearing shall be held within forty-five (45) days of the filing. The public hearing shall be noticed in the official publication of the city at least 10 days prior to the public hearing date. The city shall also send notice to all landowners within three hundred fifty feet (350') of the boundary lines of the proposed plat. If the proposed subdivision abuts the incorporated limits of the city, the adjoining county, city, or township shall be sent notice at least 10 days prior to the hearing date.

- (5) Provided all the legal requirements pertaining to the public hearing are met, the Planning Commission meeting may serve as the public hearing.
- (6) The subdivider or a duly authorized representative or agent shall be present at the public hearing in which his preliminary plat is considered.
- (7) The Planning Commission shall consider the conformity of the proposed subdivision with city plans and regulations and, if necessary require additional technical information. The subdivider shall pay all fees for such technical services.
- (8) All persons in attendance of the public hearing shall be heard and the Planning Commission shall, within forty-five (45) days of the public hearing either approve, conditionally approve, or disapprove of the preliminary plat. The Planning Commission shall then submit its findings and recommendations to the city council.
- (9) The city council shall have sixty (60) days to either approve, conditionally approve, or disapprove of the preliminary plat. Failure of the city council to act upon the preliminary plat shall be deemed approval. If the preliminary plat is disapproved, the city council shall advise the applicant of necessary changes prior to approval. Conditional approval may be granted as deemed appropriate by the city council. Approval of the preliminary plat shall not constitute approval of the subdivision, but approval to proceed in the preparation of the final plat.
- (10) The subdivider shall submit the final plat within one year of the approval of the preliminary plat. Failure to submit the final plat within one year shall nullify and void the approval of the preliminary plat. The subdivider may receive an extension of the said one year time period provided the request is made in writing and approved by the city council prior to the one-year date.
- (11) Should the subdivider amend the preliminary plat as approved, the subdivider shall resubmit the preliminary plat following the original procedures set forth. Unless the Planning Commission determines that the changes to the original preliminary plat constitute a new plat, requirements for a public hearing and payment of fees shall be waived.
- (12) Requirements for Preliminary Plat, Preliminary Condominium Plat and Metes and Bounds Subdivision resulting in at least one parcel under 10 acres: A preliminary plat, preliminary condominium plat and metes and bounds subdivision resulting in at least one parcel under 10 acres shall contain the following data and information (except as waived by the Planning Commission):
  - a. Evidence of fee ownership of parcel or written concurrence of fee owners showing authority to subdivide the subject parcel.

- b. Existing Conditions
  - i. Boundary line lengths and bearings drawn to exact scale of not less than 1" = 100' taken by a boundary survey by a Registered Land Surveyor with the legal description of the property including north arrow and scale, total acreage, name of fee owner, developer, and surveyor.
  - ii. Existing streets, wetlands, structures and property lines located within 300 feet of the proposed parcel.
  - iii. Topography depicting at not more than 2-foot intervals, or 10-foot intervals taken from USGS mapping information if a field observation is conducted and spot elevations are indicated and any drainageways, 100-year floodplains, wetlands, slopes, and ordinary high water marks are defined.
  - iv. Soils as determined by hand borings on a random basis to show elevation to groundwater. At least one boring shall be conducted unless otherwise waived by the Planning Commission.
  - v. All significant historical sites.
  - vi. Date of boundary survey, topography, and proposed plat. Existing zoning of subject area.
  - vii. Existing zone of subject area.
- c. Proposed Design
  - i. Layout of proposed streets, walkways, blocks, lots, and buildings (if known) drawn to not less than 1" = 100' scale.
  - ii. Street widths, lot lines, easement widths, and shoreland areas all drawn to nearest 5' scale.
  - iii. Areas of proposed lots.
  - iv. Building setbacks from lot lines, ordinary high-water mark, and streets.
  - v. Proposed open space or green space areas.
  - vi. Proposed areas other than streets or walkways, to be dedicated for public purpose.

- vii. proposed city, sewer and water system connections and extensions; or a primary and alternate septic system site.
- viii. Proposed storm drainage system and erosion control measures during construction and post-construction.
- ix. Proposed street standards and profiles.
- x. Potential locations and elevations of principle and accessory structures.
- xi. Any alterations to vegetation or topography.
- xii. Proposed covenants, if any.
- xiii. Name of Subdivision and proposed street names,
- xiv. Stages of proposed development.
- xv. Proposed zoning of subject area.

D. Final Plat

- i. The final plat shall be prepared by a registered land surveyor and shall comply with all state and local regulations and requirements.
- ii. The subdivider shall submit ten (10) copies of the final plat to the city clerk within fourteen days (14) prior to the next regularly scheduled Planning Commission meeting. The final plat shall comply with all regulations set forth in subsection 9 of this section.
- iii. The subdivider shall provide a title opinion showing clear title to the subject property upon the request of the city council.
- iv. The Planning Commission shall approve, conditionally approve, or disapprove of the final plat within fifteen (15) days of the filing of requested documents.
- v. The City Council shall approve, conditionally approve, or disapprove of the final plat by resolution within thirty (30) days of Planning Commission action. The city clerk shall then notify the subdivider, in writing, of the decision made by the City Council.
- vi. After approval of the final plat by the City Council, and signatures of the Mayor, Clerk, and all other signatures are provided as required by Minnesota Statutes, the final plat may be filed with the Morrison County Recorder's office. If the final plat is not so recorded after ninety (90) days after the final plat is approved, such plat shall become null and void. The



City Council may grant the applicant a one hundred and eighty (180) day extension on this requirement provided the applicant provides sufficient reason to warrant such action.

- vii. The subdivider shall submit one (1) reproducible mylar copy of the recorded final plat showing evidence of recording, and make payment of all costs, if any, accrued in verifying final plat materials.
- viii. No changes, revisions, or erasures shall be made in any final plat after final approval of the final plat has been granted by the City Council. All changes, revisions, or erasures to the final plat made after final approval of the plat by the City Council shall be resubmitted to the City Council for approval. Any final plat recorded without complying with this requirement shall be considered null and void and the City Council shall institute proceedings to have the plat stricken from the records of the county.
- ix. Final Plat Requirements
  - a. The scale shall be the same as for the preliminary plat.
  - b. Identification shall be the same as for the preliminary plat.
  - c. Property boundaries, the lines and width of all proposed streets and alleys, and any other areas intended for public use.
  - d. Lines of adjoining streets and alleys with width and names indicated.
  - e. All lot lines and easements with dimensions indicated.
  - f. An identification system for all lots and blocks.
  - g. All data required by Minnesota Statutes including accurate linear and angular dimensions for all lines, lot areas, angles and curvatures used to describe boundaries, streets, easements, and other features.
  - h. Any information required by the City Council including, but not limited to plans for water supply, sewage disposal, drainage, and flood control as backup data to the final plat.
  - i. Certification by a registered land surveyor indicating that the land survey was made by registered land surveyor and that all monuments and markers exist, and all dimensions and geodetic details are correct and true.

- j. Certification by the owner, or all parties with legal fee ownership, of the adoption of the plat and the dedication of street and other public areas. Such certification shall be notarized.
- k. Certification showing all taxes currently due on the property have been paid in full.

### 7.3 Design Standards

#### A. General Standards

The design standards within this section shall be considered acceptable minimum requirements in the review of any proposed subdivision by the City Council, Planning Commission, except as waived by variance approved by the Board of Adjustment.

#### B. Street Design Standards

1. The general design of roadways shall be considered in relation to the proposed uses of the area to be served, to topographic conditions, to reasonable circulation of traffic, and in relation to existing and planned roadways.
2. In areas adjoining unsubdivided land, the arrangement of streets shall make for proper projection of streets and when the adjoining unsubdivided land is susceptible to future subdivision, roadways shall be carried to the boundaries of the unsubdivided land.
3. New streets extending to existing adjoining streets shall project at the same or greater width than the minimum required width.
4. The following street widths and grades shall be observed by the subdivider:

Street Classification	Minimum Width (ROW)	Minimum Pavement Width	Minimum Maximum Gradient
Arterials	As determined by the MN Department of Transportation	As determined by the MN Department of Transportation	As determined by the MN Department of Transportation
Collectors - All Types	66 Feet or as determined by Morrison County	36 Feet(a) or as determined by Morrison County	Not to exceed 10% unless otherwise determined by Morrison County
Local	66 Feet	24 Feet or 36 Feet with on-street parking permitted	Not to exceed 10%

Cul-de-sac (Radius)	60 Feet	24 Feet or 36 Feet with on-street parking permitted	Not to exceed 10%
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5. Local Street and Roads

- a. Streets: Local streets shall be so aligned that their use by through traffic shall be discouraged.
- b. Services drives and frontage roads: In the case that a proposed plat is adjacent to a thoroughfare, the City Council may require the subdivider to provide local service drives, or frontage roads along the right of way of the thoroughfare. The City Council may also require the lots within the proposed plat to back along the thoroughfare, which would allow for no access between lots and thoroughfares by pedestrians or vehicles.

6. Street Jogs: Street jogs shall be no less than two hundred feet (200') from center line to center line.
7. Street Intersections: Streets shall intersect at right angles, unless otherwise practical, and no intersection shall be at an angle of less than seventy five degrees (75°)
8. Half Streets: No half streets or connections to partial streets shall be permitted without securing the full required right of way.
9. Street Names: All proposed streets aligning with existing named streets shall bear the same name as the existing street. No proposed street name shall duplicate any existing street name phonetically, in spelling, etc.
10. Private Streets and Roads: In no event shall a private street or road be approved for improvement by the city.
11. Sidewalks: In the event the City Council deems sidewalks appropriate and necessary, sidewalks of not less than four feet (4') in width shall be provided, and provisions made for disabled persons.

C. Easements

Easements shall be provided for public utilities, drainage, or otherwise determined necessary by the Planning Commission shall be of the following minimum widths; ten feet (10') for utilities where necessary; twenty feet (20') for storm or sanitary sewers; ten feet (10') for drainageways. Temporary construction easements may be required where installation depths are greater than

ten feet(!0'). Utility easements shall be kept free of vegetation of structures which could impede future construction, maintenance, or other improvements within easement areas.

D. Blocks

- i. Length: Block lengths shall not exceed one thousand three hundred and twenty feet (1,320') and shall be a minimum length of three hundred and thirty feet (330') unless deemed impractical due to existing property division or topography by the Planning Commission.
- ii. Pedestrian ways: In the event a block exceeds six hundred feet (600') a pedestrian walkway may be required near the center of the block. Additional walkways providing access to schools, parks, or other areas may be required by the planning at the time of preliminary plat review.

E. Lots

- i. Lot Size and Dimensions: All lot size and dimension requirements shall conform to the zoning ordinance without variance,
- ii. Layout: All lot layouts shall be consistent and compatible with the existing layouts of adjoining properties.
- iii. Natural Features: In the proposed subdivision of land, any alteration of natural features, topography, and similar characteristics shall be minimal.
- iv. Lot Remnants: Any lots, or portions thereof, not in compliance with the minimum requirements set forth in this ordinance shall be added to adjacent lots unless the owner can show plans for conforming future use of such lot remnant.

## **7.4 Required Improvements and Standards**

A. Survey Requirements

Survey standards shall be the same as those required by Minnesota Statutes including the placement of all monuments including block corners, lot corners, and curve points. Such survey and installation shall be the responsibility and at expense of the subdivider or developer. U.S., State, County, or other official benchmarks, monuments, or triangulation points in or adjacent to the proposed subdivision shall be preserved in precise position.

B. Street Improvements

1. All streets proposed within the subdivision shall be constructed by the subdivider or developer, or otherwise provided for in a contract between

the subdivider or developer with all expenses borne by the subdivider or developer.

2. All streets constructed shall comply with the established minimum standards presented in Section 7.3 of this ordinance.
3. Storm sewers, culverts, storm water inlets, and other drainage facilities shall be required where necessary to ensure adequate drainage of storm water for the subdivision.
4. Street signs of the design approved by the City Council shall be installed at each street intersection.
5. Street lighting shall be installed as required by the City Council.

**C. Public Utilities**

Within any new subdivision, all Cable TV, telephone, electric, gas service, or similar utility lines shall be placed underground in accordance with all applicable City ordinances.

**D. Sanitary Sewer and Water Distribution Improvements**

1. Sanitary sewer and water facilities shall be installed in accordance with the specifications approved by the City Council upon concurrence with the designated City Engineer.
2. Where City sewer and water facilities are not yet available for extension into proposed subdivision, the City Council may permit the use of individual water and sewer systems in accordance with all appropriate state and local regulations.

## **SECTION 8 ADMINISTRATION**

### **8.1 Zoning Administrator**

- A. Appointment: This Ordinance shall be administered and enforced by a Zoning Administrator appointed by the City Council. In the absence of the appointment of a Zoning Administrator by the City Council, the City Clerk shall assume the powers and duties of the Zoning Administrator under this Ordinance.
- B. Powers and Duties: Powers and duties of the Zoning Administrator shall include the following:
  1. Determine if applications comply with the terms of this Ordinance. Conduct inspections of buildings and land use as necessary to determine compliance with this Ordinance.

2. Maintain permanent records of this Ordinance including, but not limited to maps, amendments, conditional uses, variances, appeals, and applications.
3. Receive, file and forward all applications for appeals, variances, conditional use permits, and amendments to designated officials.
4. Institute Actions or Proceedings: The Zoning Administrator shall notify, in writing, any persons in violation of this ordinance, indicating the nature of the violation, action necessary to correct the violation, or proceedings against a violator.
5. Provide staff support to the Planning Commission and provide any research and/or recommendations to the Planning Commission.
6. To communicate with the Minnesota Department of Natural Resources as required by this ordinance.

## **8.2 Planning Commission**

### **A. Membership:**

1. The Planning Commission shall consist of five members appointed by the City Council. The City Council may appoint up to two (2) members of the Council to serve on the Planning Commission.
2. Appointment: Each member shall be appointed to a three year (3) term with no more than two (2) terms expiring each year. City Council members appointed to the Planning Commission shall be appointed annually by the City Council. All vacancies shall be filled for the remainder of the term by an appointee of the Mayor, approved by the City Council.
3. Residency: All members shall be residents of the City of Upsala.
4. Officers: The Commission shall elect a chairperson, vice chairperson, and secretary from its membership annually. The City may provide staff support to fulfill the administrative duties of the Commission.
5. Quorum: Attendance of at least fifty one percent of membership (51%) shall constitute a quorum. All action by the Planning Commission requires the affirmative vote of a quorum.

### **B. Rules of Order: Meetings of the Planning Commission shall be conducted according to the latest edition of Robert's Rules of Order.**

### **C. Duties:**

1. Provide recommendations to the City Council on matters related to the development of the City of Upsala Zoning and Subdivision Ordinances.
2. Provide recommendations to the City Council on all matters related to land use, zoning, and development.

### **8.3 Board of Appeals and Adjustments**

- A. Composition and Organization: The City Council shall serve as the Board of Appeals, and Adjustments to perform duties under subsections 8.3(B) of this ordinance.
- B. Duties
  1. Appeals: The Board of Appeals and Adjustments may reserve or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in its opinion ought to be made. If the matter includes interpretation of this ordinance, the planning and zoning commission shall be asked to review the appeal and give its recommendation regarding such interpretation. The reasons for the commission's decision shall be stated in writing and made part of the official record. The decision of the commission shall not be final and any person having an interest affected by the decision shall have the right to appeal to the district court.
  2. Variances: The Board of Appeals and Adjustments shall approve, conditionally approve, or deny all requests for a variance under this ordinance.

### **8.4 Fees**

- A. Fees Established: Fees for land use permits, rezoning, variance, conditional use permit, or amendment shall be established by the City Council. The City Council may review and revise the schedule of fees periodically.
- B. Payment Required:
  1. No permit shall be issued, or rezoning, variance, conditional use permit, subdivision or amendment request shall be considered until all fees are paid in full. All fees are payable to the City Clerk at the time of submission of required application materials to the City. The City shall not accept applications made by an applicant having any past due fees or charges due until the account is made current.
  2. All costs to the City exceeding the original fees in processing or reviewing an application shall be born by the applicant. Such costs may include, but are not limited to additional City staff time,

mailing costs, consultant fees, or any other professional services the City deems necessary to provide sufficient review of application materials. All such additional fees shall be paid prior to the issuance of any permit, rezoning, variance, conditional use permit, or amendment.

3. All applications made after any construction or improvements are began shall pay two (2) times the original application fees as prescribed by the schedule of fees adopted by the City Council.
- C. Exemption: Municipal corporations and governmental agencies shall be exempt from the fee requirements as prescribed by this ordinance.
- D. Refund: All fees filed with the City Clerk are not refundable unless application is withdrawn prior to the date of the first regular Planning Commission meeting in which the application is considered. In such case, all application fees shall be refunded less any costs incurred by the City in the review of the application.

## **8.5 Land Use Permits**

It shall be unlawful to proceed with construction, alteration, repair, remodeling, enlargement, demolition, removal, or placement prior to obtaining a land use permit.

- A. Application and General Requirements
  1. Where a proposed use requires action by the Planning Commission, Board of Adjustments and Appeals, or the City Council or posting of a financial security, said action shall occur, and the conditional use permit, variance, final plat plan, zoning district change shall be approved, or security posted, prior to the issuance of a land use permit.
  2. Requests for a land use permit shall be made to the Zoning Administrator.
  3. Each application shall contain a site plan drawn to scale showing structures to be erected or moved onto the lot shall be indicated on the site plan. Emergency 911 addressing numbers shall also be indicated on the site plan.
  4. Failure of the applicant to act upon the land use permit within one (1) year of the date of issue shall cause the building to become void unless otherwise determined by the Zoning Administrator.
  5. No land use permit shall be issued to any applicant having past due fees or charges to the City until the account is paid in full.
  6. Violation of a land use permit or any section of this ordinance shall cause a land use permit to become void.



7. All land use permits, including any conditional use permits or variances, shall be posted upon the site of the property by which the permit was issued, as to be visible from the nearest public roadway.

## **8.6 Conditional Use/Interim Use Permits**

- (1) Procedure. Uses defined as interim uses in Section 2 are allowed by the City pursuant to governing law contained in Minnesota Statutes, Section 462.3597 after appropriate review and approval in accordance with the criteria, standards and procedures for a Conditional Use Permit contained in Section 8.6 and the below requirements contained in this Section. An interim use will be reviewed in the same manner as a Conditional Use Permit except as otherwise provided in this Section. All submittal requirements in Section 8.5 shall be required for interim use permits.
- (2) Additional Standards. In addition to the forgoing, interim uses shall comply with all of the following standards:
  - a. The use is allowed in and conforms to the applicable zoning regulations for the respective zoning district, including applicable performance standards;
  - b. The date or event that will terminate the use is identified with certainty and is included in writing within the approved interim use permit;
  - c. The use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future;
  - d. There is adequate assurance that the property will be left in suitable condition after the interim use is terminated. The City Council may require a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and interim structures upon the expiration of the interim use permit; and
  - e. The user agrees to any conditions deemed appropriate by the City Council for the permission of the interim use. Such conditions shall be included in writing in the issued interim use permit or alternatively in a written agreement with the user attached to the approved interim use permit.
- (3) Termination. An interim use permit shall terminate on the happening of any of the following events, whichever occurs first:
  - a. The occurrence of the date stated in the interim use permit, or;

- b. The occurrence of the event stated in the interim use permit, or;
- c. Upon violation of conditions under which the permit was issued, or;
- d. Upon change in the City's zoning regulations which renders the use nonconforming.

A. Application

- 1. A complete application for conditional use permit approved by the City Council shall be made for issuance of a conditional use permit to the Planning Commission at least thirty (30) days prior to the scheduled public hearing date. No application shall be considered by the City to be complete until all past due fees or charges are paid in full by the applicant.
- 2. All applications for a conditional use permit shall include a certificate of survey unless waived by the Zoning Administrator or Planning Commission, and a detailed proposal with accurate legal description. The application shall not be considered complete until all applicable fees are paid and the application is signed by the fee or contract owner of the property.
- 3. All property owners of record within three hundred and fifty feet (350') shall be notified of the public hearing and public notice of the hearing placed in the official newspaper of the City not less than 10 days before the public hearing date. In the event a conditional use permit is requested within a shoreland/floodplain area the Commissioner of Natural Resources shall be given same notice of the scheduled public hearing not less than 10 days before the public hearing date.

B. Review: The following shall be considered in review applications for conditional use permit:

- 1. The conditional use is consistent with the uses prescribed within the zoning districts in this ordinance.
- 2. The conditional use, including any conditions, conforms to the comprehensive plan
- 3. The use is compatible within the general vicinity of the property.

C. Consideration should also be given to the following:

1. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes permitted, nor substantially diminish or impair property values within the immediate vicinity.
  2. The conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
  3. The conditional use will not impede or congest traffic along adjacent roadways and provide for sufficient off-street parking and loading space to serve the proposed use.
  4. Adequate measures have been taken to mitigate offensive odors, fumes, dust, noise, vibration, lighting, and other potential nuisances to ensure compliance with section 5.03 of this ordinance.
- D. Conditions: In providing for review of the conditional use permit the Planning Commission may impose, in addition to the standards and requirements of this ordinance, additional conditions that the Planning Commission considers to be necessary to protect the best interest of the general vicinity of which the conditional use is proposed and the entire City. These conditions may include, but are not limited to the following:
1. Increasing the required lot size or yard dimension.
  2. Limiting the height, size, or location of buildings.
  3. Controlling the location and number of vehicle access points, increasing street width, or increasing or decreasing the number of off-street parking spaces.
  4. Limiting the number, location, size, or lighting of signs.
  5. Requiring landscaping, open space, screening or other facilities to protect adjacent properties or properties within the general vicinity of the proposed conditional use.
- E. General Requirements and Restrictions
1. A violation of any condition set forth in a conditional use permit shall be a violation of this ordinance and thereby terminates the conditional use permit.
  2. Conditional use permits may be transferable where requested by the applicant and approved by the City Council.

3. Failure by a landowner to act upon a conditional use permit within one (1) year of the issuance shall void the conditional use permit unless extended by the Board of Adjustments and Appeals or the Planning Commission.
4. If the use by which the conditional use permit was granted is discontinued for a period of ninety (90) days or longer, the conditional use permit shall become void unless otherwise determined by the Planning Commission and the City Council.

## **8.7 Variances**

1. Variances shall not create a use not provided for in a zoning district.
2. Variances shall be issued to the property and are not transferable.
3. Variances shall be issued to the property for structures or other specified uses only after a public hearing and approval by the Board of Adjustment. All applications for a Variance shall be submitted to the Zoning Administrator **30** days ahead of the hearing date, accompanied by a certificate of survey (unless waived by the Zoning Administrator) showing the details of the proposal and an accurate legal description, along with the appropriate fee. The fee or contract owner of the property shall sign the application. The Zoning Administrator shall notify all property owners within a minimum of 350 feet by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least 10 days ahead of the public hearing. The Zoning Administrator shall send the same notice 10 days in advance of this hearing to the DNR if the proposed is in shoreland. At the applicant's option, the applicant may request a sketch plan review with no action by the Planning Commission and with no fee by giving 14 days notice thereof to the Zoning Administrator, meeting time permitted.
4. Submissions for Variances. The applicant shall complete the Variance application approved by the City Council. The application shall contain submittal requirements, criteria for approval, procedure for consideration and City contact information. The City shall not accept applications where the applicant has past due fees or charges due to the City until the account is made current.
5. Variances shall be decided within the required time frame with consideration for the following:
  - A. The applicant establishes that there are practical difficulties, as defined in this ordinance, in complying with the official control, and

- B. The plight of the landowner is due to circumstances unique to the property not created by the landowner, and
  - C. The deviation from the Ordinance with any attached conditions will still be in harmony with the general purposed and intent of the Ordinance and the Comprehensive Plan, and
  - D. The variance will not create a land use not permitted in the zone, and
  - E. The variance will not alter the essential character of the locality, and
  - F. The variance is not for economic reasons alone, but reasonable use of the property does not exist under the ordinance.
6. The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.
7. When costs to the City involved in processing and reviewing an application exceeds the original application fees, the applicant shall reimburse the City for any additional costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the City may need to retain in reviewing permits.
8. Failure by the owner to act within 6 months on a Variance unless extended by the Board of Adjustment shall void the Variance. A second extension shall require a new public hearing. This provision shall apply to any Variance outstanding at the time of the Ordinance adoption.
9. Appeals from the action of the City Council shall be filed with the District Court within 30 days after Council action.
10. The Variance shall be filed with the County Recorder within 45 days

## **8.8 Appeals**

- A. Appeal of Planning Commission Decision: Any property owner may appeal any decision made by Planning Commission under this ordinance to the City Council within sixty (60) days of the filing of the decision of the Planning Commission with the Zoning Administrator.

- B. Appeal of City Council Decision: Any property owner may appeal a decision made under this ordinance to the District Court of Morrison County, MN.

## **8.9 Effectuation**

This ordinance shall be in force and effect upon the due passage by the City Council and subsequent publication.

## **SECTION 9 AMENDMENTS**

### **9.1 Amendments and Initiation**

The regulations, restrictions and boundaries set forth in this ordinance may be amended, supplemented, or repealed in accordance with the provisions of this section. Amendments to change the boundary of any zoning district shall require a 4/5 affirmative vote by the City Council. All other amendments shall require a majority vote of the City Council.

#### **A. Types of Amendments**

1. A change in zoning district boundary or official zoning map.
2. A change in zoning district regulation
3. A change in any other provision of this title.
4. A change in the comprehensive plan.

#### **B. Initiation of Proceedings: Proceedings for amending this ordinance shall be initiated by at least one of the following three (3) methods:**

1. By petition by a property owner to rezone their property.
2. By recommendation of the Planning Commission.
3. By action of the City Council.

### **9.2 Procedure**

- A. Application by Property Owner: An application for amendment stating the nature of the amendment shall be submitted to the Zoning Administrator. The application may include maps, surveys, general development plans, or any other information pertaining to the application for amendment.
- B. Referral to Planning Commission: An amendment not initiated by the Planning Commission shall be referred to the Planning Commission for study and report and may not be acted upon by the City Council until recommendation is made by the Planning Commission or until sixty (60) days have elapsed,

- C. Hearing and Notice Required: The Planning Commission shall hold a public hearing for all initiated amendments. A notice of the time, place, and purpose of the hearing shall be noticed within the official newspaper of the City not less than ten (10) days prior to the public hearing date. Notice of the hearing shall also be sent by regular mail to all property owners of record within three hundred and fifty feet (350') of the subject property. A copy of the notice and a list of all property owners sent notice shall become a part of the public record. Failure to mail the notice or failure of property owners to receive notice shall not invalidate the public hearing.
- D. Notice by Publication Sufficient: For amendments related to this ordinance or the comprehensive plan, notice published in the official newspaper of the City not less than ten (10) days prior to the scheduled public hearing shall be sufficient notice.
- E. Reconsideration of Amendments: No amendment denied by the City Council shall be considered by the Planning Commission for a period of one year after the date of denial unless the Planning Commission or City Council determines new evidence, or a change of circumstances warrant such action.

## **SECTION 10 APPROVAL AND EFFECTIVE DATE**

This ordinance shall take effect and be in force at the time of its publication after its adoption by the City Council.

Adopted by Upsala City Council: \_\_\_\_\_

Published in the official newspaper on: \_\_\_\_\_

\_\_\_\_\_

Mayor

Attest: \_\_\_\_\_

City Clerk