

**LAUDERDALE CITY COUNCIL WORKSESSION AGENDA**  
**5:00 P.M. MONDAY, JULY 15, 2024**  
**LAUDERDALE CITY HALL, 1891 WALNUT STREET**

The City Council is meeting as a legislative body to conduct the business of the City according to Robert's Rules of Order and the Standing Rules of Order and Business of the City Council. Unless so ordered by the Mayor, citizen participation is limited to the times indicated and always within the prescribed rules of conduct for public input at meetings.

1. **CALL TO ORDER THE LAUDERDALE CITY COUNCIL WORKSESSION**
2. **ROLL CALL**
3. **APPROVALS**
  - a. Agenda
4. **CONSENT**
5. **SPECIAL ORDER OF BUSINESS/RECOGNITIONS/PROCLAMATIONS**
6. **INFORMATIONAL PRESENTATIONS / REPORTS**
7. **PUBLIC HEARINGS**

Public hearings are conducted so that the public affected by a proposal may have input into the decision. During hearings all affected residents will be given an opportunity to speak pursuant to the Robert's Rules of Order and the standing rules of order and business of the City Council.
8. **DISCUSSION / ACTION ITEM**
9. **ITEMS REMOVED FROM THE CONSENT AGENDA**
10. **ADDITIONAL ITEMS**
11. **SET AGENDA FOR NEXT MEETING**
12. **WORK SESSION**
  - a. Mayor Gaasch will Review Council Meeting Agendas and Protocols
  - b. Review Draft Zoning Ordinance Chapters One through Four Prepared by the City's Planning Consultant
  - c. Discuss Future Use of 2430 Larpenteur Avenue West
13. **ADJOURNMENT**

**LAUDERDALE COUNCIL  
ACTION FORM**

<b>Action Requested</b>	
Consent	_____
Public Hearing	_____
Discussion	_____
Action	_____
Resolution	_____
Work Session	___X___

Meeting Date	July 15, 2024
ITEM NUMBER	<u>Zoning Ordinance Update</u>
STAFF INITIAL	___HB___
APPROVED BY ADMINISTRATOR	

**DESCRIPTION OF ISSUE AND PAST COUNCIL ACTION:**

Jennifer Haskamp, the City’s consulting planner, will be at the meeting to walk through the first four chapters of the draft zoning ordinance. The chapters are attached. I suspect it may be difficult to get through this much material in one sitting. We discussed finishing up the remaining chapter during city council meetings.

**OPTIONS:**

**STAFF RECOMMENDATION:**

## CHAPTER 1: TITLE, PURPOSE, AND AUTHORITY

### SECTION:

- 10-1-1: Title
- 10-1-2: Policy and Purpose
- 10-1-3: Authority
- 10-1-4: Standard; Requirement
- 10-1-5: Compliance
- 10-1-6: Amendment; Comprehensive

#### **10-1-1 Title**

- A. This Title may be cited as the *LAUDERDALE ZONING ORDINANCE* and will be referred to herein as "this Title".

#### **10-1-2 Policy and Purpose**

- A. The objective of this Title is to regulate the location, height, bulk, size of structures, the size of yards and other open spaces, the density of population and the use of land and buildings for residence, trade, industry, recreation and other activities by establishing standards and procedures regulating such uses to help promote the public health, safety and general welfare of the City.

#### **10-1-3 Authority**

- A. This Title is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, sections 462.351 to 462.363.

#### **10-1-4 Standard; Requirement**

- A. Where the conditions imposed by any provisions of this Title are either more or less restrictive than comparable conditions imposed by any other ordinance, rule or regulation of the City, the ordinance, rule or regulation which imposes the more restrictive condition, standard or requirement shall prevail.

#### **10-1-5 Compliance**

- A. No structure or building shall be located, erected, constructed, reconstructed, moved, altered, converted, or enlarged, nor shall any structure, building or land be used or be designed to be used, except in compliance with the provisions of this Title and after the issuance of all permits and certificates required by this Title and other applicable ordinances of the City.

#### **10-1-6 Amendment; Comprehensive**

- A. The Council intends this Title to be a comprehensive amendment to the Ordinance codified in this Title. Except as otherwise provided herein, the provisions of this Title are not intended to alter, diminish, or increase or otherwise modify any rights or liabilities existing on its effective date. Any act done, offense committed, or rights accruing or accrued, or liability, penalty incurred or imposed prior to the effective date of the Ordinance codified in this Title is not affected by its enactment.

## CHAPTER 2: ZONING DISTRICTS

### SECTION:

- 10-2-1. Summary
- 10-2-2. Base Zoning Districts Established
- 10-2-3. Boundaries of Zoning Districts and Official Map
- 10-2-4. Minimum Requirements for All Districts
- 10-2-7. Nonresidential Districts
- 10-2-8. Nonconforming Lots

#### 10-2-1 Purpose and Summary

The purpose of this Chapter is to define the Base Zoning Districts and their corresponding dimensional standards and regulations in the City. Each parcel or lot in the City is assigned a Base Zoning District designation and is subject to the regulations as established herein. Defined terms are generally identified by capitalization and are provided in Chapter 8 of this Zoning Ordinance.

#### 10-2-2 Base Zoning Districts Established

All buildings and uses in each Base Zoning District shall be subject to the requirements established within this Chapter. A lot, parcel or area may also be designated within an Overlay District as identified on the Official Zoning Map. In such cases, the standards and requirements established in Chapter 3 Overlay Districts shall be considered in conjunction with standards established by the Base Zoning District. If a Planned Unit Development Overlay District approves standards that differ from the Base Zoning District the standards established by the Planned Unit Development shall apply.

*Table [10-2-2.1]. Zoning Districts [NEW]*

Residential Districts	Abbreviation	Nonresidential Districts	Abbreviation
Traditional Neighborhood – 1	TN-1	General Business	GB
Traditional Neighborhood – 2	TN-2	Industrial	I
Traditional Neighborhood – 3	TN-3	Park	P

#### 10-2-3 Boundaries of Zoning Districts and Official Map

- A. Map. The boundaries of the Base Zoning Districts identified in Table [10-2-2.1] are established geographically as shown on the map entitled, "Zoning Map, City of Lauderdale," which has been officially adopted and approved by the City Council and is on file in the Office of the City Clerk. Hereinafter the official map shall be referred to as "Zoning Map." The map and all of the notations, references and other information shown thereon shall have the same force and effect as if stated in this chapter and are hereby incorporated by reference.
- B. Boundaries. District boundary lines as indicated on the zoning map are described as the following:
  - I. To the lot line.
  - II. To the centerline of streets or alleys.
  - III. To the centerline of streets or alleys projected, and
  - IV. To corporate limit lines, all as they exist upon the effective date of this chapter.
  - V. If the Base Zoning District lines do not follow any of the above-described lines, the district boundaries are established as drawn on the zoning map.

- C. Appeals to Zoning Administrator Boundary Determination. Any appeal of a Zoning Administrator decision as to the location of the boundary line shall be heard by the City Council.
- D. Whenever any street, alley or other public way is vacated by official action of the city, the Base Zoning District abutting the centerline of the alley or public way shall not be affected by the preceding.

**10-2-4 Base Zoning District Dimensional Requirements and Standards**

- A. The Base Zoning District dimensional requirements and standards are established in Table [10-4-2.1] and Table [10-4.2-2].

**Table [10-2-4.1]. Traditional Neighborhood Base Zoning District Dimensional Standards**

Dimensional Standards	Traditional Neighborhood-1 (TN1)	Traditional Neighborhood-2 (TN2)	Traditional Neighborhood-3 (TN3)	Park (P)
<b>Lot Size and Density</b>				
Lot Area (min.)	5,000 SF	4,000 SF	10,000 SF	NA
Frontage (min.)	40'	40'	40'	NA
Lot Area Per Dwelling Unit (min)	5,000 SF/DU	3,000 SF/DU	1,000 SF/DU	NA
<b>Principal Building - Yard Setback</b>				
Front (min)	Build-to average setback of adjacent lots (20')	Build-to average setback of adjacent lots (20')	10'	20'
Rear	20'	20'	10'	20'
Side	5'	5'	5'	5'
<b>Detached Accessory Building – Yard Setback</b>				
Front	Behind Principal Building	Behind Principal Building	Behind Principal Building	10'
Rear:	5'	5'	5'	5'
Side	5'	5'	5'	5'
Setback from Principal Building	6'	6'	6'	6'
<b>Maximum Height (ft.)</b>				
Principal Structure	25'	35'	35'	25'
Accessory Structure (Detached)	25'	25'	25'	25'
<b>Maximum Coverage Requirements</b>				
Building Coverage	35%	35%	50%	25%
Impervious Surface Coverage	50%	50%	70%	NA

**Table [10-2-4.2]. Nonresidential Base Zoning District Dimensional Standards**

Dimensional Standards	General Business (GB)	Industrial (I)
<b>Lot Size and Density</b>		
Lot Area (min)	5,000 SF	20,000 SF
Frontage on Public Street (ft.)	50'	150'
Lot Area Per Dwelling Unit (min)	1,000 SF/DU	NA
<b>Yard Setback (ft.)</b>		
Front	0'	30'
Rear	15'	30'

Side	0'	20'
<b>Maximum Height (ft.)</b>		
Principal Structure	35'	35'
Accessory Structure	25'	15'
<b>Maximum Coverage Requirements</b>		
Building Coverage	50%	75%
Impervious Surface Coverage	75%	90%

B. Exceptions to Base Zoning District Dimensional Standards.

I. Exceptions to Maximum Height

- i. Structures that described as, or are similar to any of the following are permitted up to 40-feet:
- II. Television and radio towers, church spires, belfries, monuments, tanks, water and fire towers, grain elevators, stage towers and scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smokestacks, conveyors, flagpoles, silos, air conditioning and heating units and windmills.
- III. A variance to the height regulations in any district may only be approved if, in addition to the other findings, it meets the following requirements:
  - i. All front, side, and rear yard depths of buildings are increased one foot (1') for each additional one foot (1') of height; or

C. Exceptions to Yard Setback Standards.

- I. When two or more parcels have been officially consolidated according to the requirements of Title 11, Chapter 2 of the City Code the side yard setback shall be measured from the outermost boundary abutting an adjacent parcel or right-of-way. No setback from the interior common property line shall be applicable.

D. Measurement of Setbacks.

I. All Yards.

- i. The required yard setback shall be measured as the horizontal distance from the property line to the closest edge of the structure.
- ii. All structures, whether attached to the principal structure or not, and whether open or enclosed, including, but not limited to, porches, decks, carports, balconies, roof overhangs, or platforms above normal grade level, shall not project into any yard setback as established in Table [10-2-4.1] and Table [10-2-4.2].
- iii. No building may be constructed within an easement area.
- II. Front Yards.
  - i. All front yard setbacks shall be measured from the property line abutting the public right of way.
  - ii. Where principal structures exist on adjacent lots as of the effective date of this Ordinance, the required front yard setback shall be established as the average setback distance, but in no case shall be closer than 15-feet from the property line.
- III. Side Yards.
  - i. Corner Lot. When a side yard abuts a street, the required side yard setback shall be measured from the property line abutting the public right of way and the required setback shall be the same as the front.

E. Projections

- I. All structures, whether attached to the principal structure or not, and whether open or enclosed, including porches, decks, carports, balconies, roof overhangs, or platforms above normal grade level, shall not project into any yard setback as established in Table 10-2-4.1 and Table 10-2-4.2.
  - i. Overhang. The definition of an overhang shall follow the Uniform Building Code (UBC) Section 503.2.1(1), or as may be amended, which states that projections shall not extend beyond "a point one third the distance to the property line from an assumed vertical plane located where fire-resistive protection of openings is first required due to location on property."

**10-2-5 Nonconforming Lots**

Any lot of record existing on the effective date of the Ordinance codified in this Title may be used for the erection of a building or structure conforming to the use regulations of the district in which it is located, even though its area and width are less than the minimum requirements of this Chapter provided all other dimensional standards are met.

This requirement is not in effect for those parcels of land which have been consolidated according to the requirements of Title 11, chapter 2 of the City Code.

- A. Nonconforming Front Yard Setback. Where structures on adjacent lots existing on the effective date of this Ordinance have front yard setbacks that are different than those established by the Base Zoning District, the minimum front yard setback shall be the average of the existing structures and such setback shall be established as legally nonconforming to this ordinance.
- B. Consolidated Lots. If two or more parcels have been consolidated per the requirements of Title 11 Chapter 2 of the City Code the provisions of this section are not applicable, unless such consolidation has continued to result in a substandard lot area or width.

Codification References

- 9-7-1: (Ord. 82, 7-17-1984)
- 9-7-2: (Ord. 82, 7-17-1984)
- 9-7-3: (Ord. 82, 7-17-1984)
- 9-7-4-F-5: (Ord. 82, 7-17-1984)
- 9-7-5: (Ord. 82, 7-17-1984)
- 9-7-6: (Ord. 82, 7-17-1984; 1996 Code)

Amendments

- 6/24/97:
  - 3/10/98: 10-8-8: Setback Requirements in R-1 (Table)
  - 3/10/98: 10-8-8: Height Requirements in R-1 (Table)
  - 11/25/03:
  - 12/9/08: Retaining walls permits and setbacks added
- City of Lauderdale

## CHAPTER 3: OVERLAY DISTRICTS

### SECTION

10-3-1. Purpose of Overlay Districts

10-3-2. Applicability

10-3-3. Mixed Use District

10-3-4. High Density Residential Conservation District

10-3-5. Planned Unit Development District PUD Summary

#### 10-3-1 Purpose of Overlay Districts.

- A. Purpose. The purpose of the Overlay Districts is to set standards and establish certain flexibility in areas of the city that have unique characteristics due to location, proximity to transit and thoroughfares, or presence of natural features.

#### 10-3-2 Mixed-Use Overlay District (MXD-O)

- A. Purpose of Mixed-Use District. The purpose of the Mixed-Use Overlay District is to provide opportunities for greater intensity of development or redevelopment if a mix of uses that includes residential development is proposed and such development is consistent with the City's adopted Comprehensive Plan.
- B. Applicability. The Mixed-Use Overlay District shall apply only to properties designated as Mixed-Use North or Mixed-Use South in the city's adopted Comprehensive Plan. For a project or redevelopment to qualify for the flexibility granted by the Mixed-Use Overlay District the following criteria must be used:
- I. The project must include a residential use.
  - II. The project must include a minimum of two uses.
  - III. The project must provide pedestrian connections to the surrounding area.
  - IV. If the criteria established herein is not met, the Base Zoning District standards shall apply.
- C. Flexibility from Dimensional and Use Standards. The flexibility granted by this Section shall be calculated using the Base Zoning District of the development parcels. The Base Zoning District standards are provided in Chapter 2, Table [10-2-4.1] and Table [10-2-4.2]. The following flexibility is established:
- I. Maximum Height. 75% of the Base Zoning District Standard.
  - II. Setback Requirements. Flexibility from the required yard setbacks may be approved through the PUD process, but in no case may a building extend into an easement area or onto an adjacent property that is not a part of the development parcels.
  - III. Additional Uses. Permitted uses are provided on Table [10-X-X.1]. The permitted uses are established by the Base Zoning District of the subject property and the MXD-O.
- D. Building and Site Design Standards.
- I. Any new building or structure must be designed so that the front façade abutting a public right-of-way has a clear and accessible front entrance. Such entrance must be clearly delineated which may be accomplished by characteristics such as an awning, transom, projection, or other means.
  - II. The building façade shall be designed to incorporate architectural details such as cornices, brickwork, transom and display windows, porticos and awnings.
  - III. *Ground Level.* The ground level of a multi-story building must be visually distinct from the upper stories. Examples of how to accomplish this include windows or fenestration



- patterns, change in building materials, use of awnings, etc. All ground level equipment must be 100% screened using vegetation or fencing, or some combination of both.
- IV. Buildings are encouraged to be setback no more than 15-feet from the front yard property line and may be set closer provided pedestrian connections are maintained. The setback area shall be used for vegetation, public art, outdoor seating, gathering areas or similar.
  - V. *Building Width*. Buildings with more than 30-feet in width facing the public right-of-way must be divided into smaller increments through the articulation of the façade. The façade may be articulated through a variety of ways, examples include:
    - i. Stepping back or extending forward a portion of the façade.
    - ii. Vertical divisions using different textures or materials.
    - iii. Division into shopfronts with separate display windows or entrances.
    - iv. Variations of rooflines by including dormers, stepped roofs, gables, etc.
    - v. Incorporating details such as light fixtures, trellis, trees and other landscape features.
- E. Parking shall be placed behind the structure or in a side yard. Flexibility from the parking standards may be granted if it is demonstrated that the proposed parking ratio of a project will meet the demands of the use.
  - F. Application and Process.
    - I. If a project is proposed to utilize the Mixed-Use Overlay District standards, the Applicant shall follow the Planned Unit Development (PUD) process established in Section [10-5-4].

**10-3-3 High Density Residential – Conservation Overlay District (HDR-CO)**

- A. Purpose; Conservation Objectives. The purpose of the HDR-C District is to allow for the reasonable development of land while protecting, preserving, restoring and enhancing the City's ecological resources, and promoting resilient and sustainable building and site planning practices. Development within this District shall be consistent with the goals and objectives stated within the City's Comprehensive Plan and the stated Conservation Objectives. Each site will be individually evaluated during the Concept Plan stage of the Planned Unit Development ("PUD") process, which shall be required for all HDR-C rezoning requests, as described in Title 10, Chapter 7, Section 10-7-7. The Concept Plan stage is required so that the priority and relevance of the following stated Conservation Objectives for each site can be established:
  - I. Protect and enhance the ecological function of native woodlands, wetlands, and surface water management areas;
  - II. Enhance and create opportunities to restore ecological connections between parks, the City's nature area, and other protected lands with ecological significance;
  - III. Create public trails and connections for the City's residents that provide access to enjoy the City's open space and natural resources;
  - IV. Create public open space and natural resource areas for the City's residents to access and enjoy; and
  - V. Incorporate Innovative Site Design and Green Building Standards into new development or redevelopment that contribute to the City's long-term sustainability and resiliency.
- B. Applicability. The HDR-C District shall be available only for properties that meet the minimum standards and regulations as stated herein and that are guided as High Density Residential, High Density Residential Conservation, Mixed-Use South, and Mixed-Use North within the City's Comprehensive Plan. Property owners are encouraged to consider utilizing the HDR-C District to enhance, protect, and achieve the Conservation Objectives for residential development

- I. Definitions. For the purposes of this section 10-5-4, the terms defined below shall have the meanings given them.
  - II. Base Density. The permitted number of units or lots in the HDR-C District absent any flexibility provided through a PUD and equal to the established minimum density identified within the City's Comprehensive Plan for the guided land use designation.
  - III. Conservation Area. Designated land within an HDR-C Subdivision that contributes towards the achievement of one or more of the Conservation Objectives. A Conservation Easement shall be recorded to protect the Conservation Area in perpetuity. Conservation Areas may be used for preservation of ecological resources; enhancement, creation and/or restoration of ecological resources, passive recreation, and/or innovative site design characteristics that support ecological sustainability.
  - IV. Conservation Easement. A non-possessory perpetual interest of a holder in real property imposing limitations or affirmative obligations, the purpose of which may include retaining, restoring or protecting natural, scenic, or open space values of real property, assuring its availability for forest, recreational or open-space use, protecting natural resources, maintaining or enhancing air or water quality, and preserving and/or promoting the historical, architectural, archaeological, or cultural aspects of real property.
  - V. Conservation Objectives. Those objectives specified in Section 10-5-4, subd. 1 of this ordinance.
  - VI. Green Building Standards. New development or redevelopment that achieves LEED Certification or incorporates LEED standards or other industry-recognized energy and/or environmental building characteristics. The plan set shall include architectural plans, LEED checklists, or other supporting documentation.
  - VII. HDR-C Subdivision. Any development or redevelopment that incorporates the concepts of designated Conservation Areas or Innovative Site Design and Green Building Standards, as defined herein.
  - VIII. Holder. The party holding the Conservation Easement in accordance with Minnesota Statutes, Chapter 84C.
  - IX. Homeowners Association or Management Company. A formally constituted non-profit association or corporation made up of the property owner(s) and/or residents of an HDR-C Subdivision for the purpose of owning, operating, and maintaining Conservation Areas and/or other commonly owned facilities and Open Space.
  - X. Innovative Site Design. New development or redevelopment that incorporates resiliency, sustainability, energy efficiency, or other alternative site design considerations. Such elements must be clearly demonstrated through the plan review process and may be graphically shown through site plans, shade/solar studies, landscape plans, or other submissions deemed acceptable by the City.
  - XI. Net Land Area. The total land area in a proposed HDR-C Subdivision excluding wetlands, required wetland buffers, protected easement areas, right-of-way, and land that slopes greater than 18%.
  - XII. Open Space. Land not designated as a Conservation Area that is used for parks, innovative site design characteristics, trails, or other recreational uses. Open Space may be owned and managed by the City, a Homeowner's Association, or other entity.
- C. Planned Unit Development Process. The City intends to evaluate the Conservation Objectives of the HDR-C Subdivision through using the City's planned unit development (PUD) process. The Conservation Objectives, as stated within this ordinance, are not necessarily listed in order of priority.

The applicability or priority of the stated Conservation Objectives to a specific site or project will be established as part of the PUD process as outlined in this Ordinance. The property owner or developer will be required to demonstrate how, and to what extent, they meet the identified and applicable Conservation Objectives. In exchange for achieving the applicable Conservation Objectives, the City will consider and allow design flexibility and increased density. The City intends to work collaboratively with the property owner or developer through the Concept Plan stage of the PUD process to appropriately identify the applicable Conservation Objectives and any flexibility or increase in Base Density to be allowed.

- I. The provisions and procedures of the City's PUD ordinance shall apply, except as modified and explicitly stated within this section which includes the required Concept Plan Stage. Prior to submitting application materials for the Concept Plan, the City requires applicants to engage in a meeting with city staff to establish and identify the goals for a specific site, and to identify and prioritize which Conservation Objectives are applicable to a site and its development. The Development Stage PUD plans shall clearly demonstrate how the proposed project meets the Conservation Objectives identified during the Concept Plan stage. If a final PUD plan is approved by the City, the property shall be rezoned to HDR-C PUD. The permitted uses, regulations and flexibility shall be stated and documented within the approved plans and resolution and in a HDR-C PUD development agreement to be executed by the City and the applicant. The provisions in this section are requirements for all HDR-C Subdivisions, unless the City Council allows and approves any exceptions as part of the PUD process.
- D. Uses. All permitted, conditional, and accessory uses allowed within the R-1, R-2, and R-3 zoning districts shall be allowed in the HDR-C District.
- E. General Performance Standards. The City Council may, in its sole discretion, grant flexibility from the requirements of the existing zoning district, or other requirements of this code if the proposed HDR-C Subdivision meets the applicable Conservation Objectives. In considering how much flexibility, if any, is warranted, the City will evaluate the amount and quality of Conservation Areas protected or created, the public access to or enjoyment thereof, and if Green Building Standards or Innovative Site Design standards have been incorporated into the development plan.
  - I. *Conservation Objectives and Determining Flexibility.* Conservation Area(s) shall be designated and located within a HDR-C Subdivision to maximize achievement of the Conservation Objectives. All Green Building and Innovative Site Design standards utilized must be documented and demonstrated at time of application. The opportunity to achieve the Conservation Objectives will be site specific, and each project will be evaluated independently to determine the extent to which the Conservation Objectives are met.
  - II. *Density Flexibility.* Each site shall be entitled to the Base Density calculated using the Net Land Area, which equals the minimum stated value of the density range for the land use designation identified within the City's Comprehensive Plan. Any increased density above the Base Density shall be calculated from the Net Land Area, and any increased density shall be at the discretion of the City Council. The City Council shall base its decision regarding density flexibility on 1) how effectively the proposed project meets the prioritized and applicable Conservation Objectives established as part of the Concept Plan stage; and 2) the extent to which the project will support the Conservation Objectives long-term. The City will permit increased densities up to the maximum stated value of the density range for the land use designation in the City's Comprehensive Plan only if the project demonstrates long-term support of the applicable Conservation Objectives.

- III. *Other Areas of Flexibility.* In addition to increased density, other areas of flexibility may be requested to support the applicable Conservation Objectives, including, but not limited to the following: (i) lot size, lot width, setbacks; (ii) housing types; (iii) landscaping; (iv) screening; and (v) park dedication.
- F. Conservation Area Ownership. Any areas designated as Conservation Areas in an HDR-C Subdivision shall be established, protected, and owned in accordance with the following requirements:
- I. Designated Conservation Areas shall be surveyed and subdivided as separate outlots and legally described on the final plat.
  - II. Designated Conservation Areas must be protected in perpetuity in accordance with the Conservation Easement conveyed to a Holder pursuant to Minnesota Statutes, Chapter 84C and must run with the land. The Conservation Easement must be approved by the City attorney and must explicitly define the permitted uses within the Conservation Area.
  - III. The permanent Conservation Easement may be held by any combination of the entities defined by Minnesota Statute Chapter 84C, but in no case may the holder of the Conservation Easement be the same as the owner of the underlying fee title.
  - IV. The City shall have a third-party right of enforcement with regard to the Conservation Easement.
  - V. The permanent Conservation Easement shall be recorded with Ramsey County and must specify, at a minimum, the following:
    - i. The entity that will maintain the designated Conservation Area;
    - ii. The purpose of the Conservation Easement, that the easement is permanent, and the conservation values of the property;
    - iii. The legal description of the land under the easement;
    - iv. The restrictions on the use of the land, and restrictions from future development;
    - v. To what standards the Conservation Areas will be maintained, and the responsible party(ies) for such maintenance and/or restoration; and  
Who will have access to the Conservation Area.
  - VI. The underlying fee of each designated Conservation Area parcel may be held/owned by any combination of the following entities:
    - i. A common ownership association, subject to the provision in the HDR-C PUD District;
    - ii. An individual who will use the land consistent with the permanent Conservation Easement;
    - iii. A private nonprofit organization, specializing in land conservation and stewardship, that has been designated by the Internal Revenue Service as qualifying under section 501(c)(3) of the Internal Revenue Code or successor sections; or
    - iv. The City of Lauderdale, at its discretion, and if determined there are no other viable options.
    - v. Open Space areas that are not a part of the Conservation Areas may be established within the HDR-C Subdivision without protection of a Conservation Easement, and consideration of how, or if, such areas contribute to the Conservation Objectives will be determined at the discretion of the City Council.
    - vi. Innovative Site Design and Green Building Standards may or may not be a part of a designated Conservation Area, and those that are a part of the Conservation Easement must be expressly permitted uses within the Conservation Easement. Those characteristics or building that are used in granting design flexibility or

increased density that are not a part of a Conservation Easement must be detailed within a restrictive covenant or homeowner's association covenants that is recorded against the property.

- G. Conservation Area Management and Maintenance Plan ("Plan"):
- I. *Plan Content Requirements.* For any designated Conservation Area, a Plan for the restoration (if applicable), development, maintenance, and insurance of the Conservation Area must be identified and approved as part of any HDR-C Subdivision. The Plan must address, if applicable:
    - i. Define the ownership of the Conservation Area;
    - ii. Describe the method of land protection;
    - iii. Specify restoration (if applicable), regular and periodic operation, maintenance, and responsibility; and
    - iv. Provide insurance requirements, and other associated costs with the maintenance and management of the Conservation Area and how the necessary fees will be obtained (through a homeowner's association, rents, or other funding mechanism).
  - II. *Plan Submittal Requirements.* As part of the initial application for an HDR-C Subdivision and along with any other PUD requirements, the applicant must submit a narrative and maps that describe the following:
    - i. Existing Conditions which identifies each applicable Conservation Objective addressed within the Conservation Area, including all natural, cultural, historic, and scenic elements in the landscape;
    - ii. If protection of an existing natural area/natural resource is proposed, a natural resource inventory prepared by an ecologist, or similarly designated professional, shall be prepared and submitted as part of the Plan;
    - iii. Objectives for the Conservation Area, including, but not limited to, the proposed permanent maintained landscape condition for each area, any restoration or enhancement of natural features, and a maintenance plan describing the activities to be performed for any restoration and post-restoration activities.
  - III. *Funding of Operation and Maintenance.* The City may require an applicant to escrow sufficient funds for the maintenance operation costs of Conservation Areas depending on the restoration measures identified within the Plan. The amount and duration shall be at the discretion of the City Council, but shall be proportional to the effort proposed.
  - IV. *Enforcement.* In the event that the fee owner of the Conservation Area fails to properly maintain all or any portion of the Conservation Area, the City in coordination with the Holder of the easement may serve written notice upon such fee owner setting forth the manner in which the fee owner has failed to maintain the Conservation Area. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the fee owner, or any successor organization, shall be considered in violation of this ordinance and the Holder may take any action authorized under the law to enforce the Conservation Easement. The City may exercise its rights under third party rights of enforcement.
- H. Site Design Process. In addition to all other requirements, the applicant shall include the following with its application:
- I. Graphics and supporting information that identifies how the proposed Conservation Areas were identified. This should include, at a minimum, the following:
    - i. Unbuildable areas that include slopes greater than 18%, wetlands, wetland buffers,

- streams, right-of-ways, and protected easement areas;
- ii. Areas designated as Conservation Area;
- iii. A natural resource inventory of the site, including without limitation, an identification of the land cover and existing vegetation;
- iv. A wetland delineation, if applicable; and
- v. A list of any known protected species, plants and/or animals, as obtained from the Minnesota Department of Natural Resources;
- II. A survey identifying the Net Land Area;
- III. The proposed location of new structures outside and within, if applicable, the proposed Conservation Area;
- IV. A description of how buildings were sited, and if such siting meets criteria established within this section;
- V. The design and location of streets and trails which demonstrate all vehicular and pedestrian connections; and
- VI. A survey showing all proposed lot lines, including Conservation Area outlots.
- I. General Conservation Design Standards. The following design standards shall be considered in designing the HDR-C Subdivision:
  - I. Conservation Areas should be adjacent to or incorporate existing natural features of the site when possible to accomplish a larger interconnected and contiguous network of open spaces;
  - II. The quantity of land protected and the extent to which contiguous areas are designated;
  - III. Incorporate public and private trails that connect to the City's existing sidewalks and other natural/park areas;
  - IV. Stormwater management facilities should consider innovative solutions and should be designed to feel natural and support the open space network; and
  - V. Stormwater management facilities may be located within a Conservation Area but may not be used as part of the justification for increased density, unless such design incorporates innovative and low-impact development characteristics not required as part of a standard permitting process.
- J. Landscape Design Standards in HDR-C. The following landscape design standards in an HDR-C Subdivision should be considered:
  - I. The selection of vegetation should be guided by natural vegetative community types found in the Minnesota Land Cover Classification System and the Minnesota Department of Natural Resources' pre-settlement vegetation mapping information for the area;
  - II. Reduction or eradication of invasive species from a site;
  - III. Creation of a natural design plan for surface water management features should be incorporated, and native species prioritized where possible;
  - IV. Integration of nature trails and foot paths should be explored and should connect to the City's existing parks, nature areas, trails and open spaces, when possible; and
  - V. Better Site Design/Low Impact Development practices as identified in the Minnesota Stormwater Manual published by the Minnesota Pollution Control Agency shall be used to design sites and meet the performance standards.
- K. Innovative Site Design and Green Building Standards. The following Innovative Site Design and Green Building Standards, among others, should be considered in designing the HDR-C Subdivision:
  - I. LEED certification on new buildings;
  - II. Include energy-efficient appliances and other efficiency measures within new buildings;

- III. Explore incorporating alternative energy sources in new building designs (e.g. solar, geothermal);
- IV. Site new buildings to respond to existing climate conditions to minimize energy use (e.g. solar/shade positioning, wind); and
- V. Consider material choices that are renewable, and/or designed to create a more energy efficient building.

**10-3-4 Planned Unit Development (PUD) General Provisions**

A planned unit development (PUD) is a zoning district, which may include single or mixed uses, one or more lots or parcels, intended to create a more flexible, creative, and efficient approach to the use of land and subject to the procedures, standards, and regulations contained in this title. The provisions of these planned unit development regulations shall prevail over conflicting requirements listed elsewhere within this Title (Zoning) or in Title 11 (Subdivisions) of this Code.

A. Purpose

The purpose of this chapter is to encourage a more creative and efficient development of land and its improvements and amenities than is possible under the more restrictive application of conventional zoning requirements. This chapter may allow modifications such as non-standard lot sizes; private driveways; reduced rights-of-way, street widths, and parking spaces; housing types; zero lot lines; alternative screening; and building setbacks. These changes must meet the standards and purposes of the comprehensive plan while preserving the health, safety, and welfare of the citizens of the city. In addition, the PUD may be used to encourage some of the following specific purposes:

- I. To allow for the potential mixture of uses in an integrated and well planned area when such mixing of land uses could not otherwise be accomplished under this chapter;
- II. To ensure concentration of open space into more usable areas, and a preservation of the natural resources of the site;
- III. To protect natural features in private, common, and public open space;
- IV. To facilitate the economical provision of streets and public utilities;
- V. To facilitate mixed use developments, and/or affordable housing; or
- VI. To address complexities of infill development.

B. Allowed Uses

Uses within the PUD may include only those uses generally considered associated with the general land use category shown for the area on the official comprehensive land use plan unless otherwise approved in the development plan. Specific allowed uses and performance standards for each PUD shall be delineated in an ordinance and accompanying development plan. The PUD development ordinance shall identify all of the proposed land uses and those uses shall become permitted uses with the approval of the development plan. Any change in the list of uses presented in the development plan will be considered an amendment to the PUD and will follow the procedures specified in section [10-7-11] of this chapter.

C. General Standards for Approval

A rezoning will be required for all planned unit developments. The rezoning will be applied as an overlay to the underlying zoning district and reflected as such on the official zoning map. The city may approve the planned unit development only if it finds that the development satisfies all of the following standards:

- I. The planned unit development is consistent with the comprehensive plan of the city;

- II. The planned unit development is an effective and unified treatment of the development possibilities on the project site;
- III. The development plan will not have a detrimental effect upon the neighborhood in which it is proposed to be located;
- IV. The planned unit development provides transitions in land use in keeping with the character of adjacent land uses;
- V. The proposal better adapts itself to the physical and aesthetic setting of the site and with the surrounding land uses than could be developed using strict standards and land uses allowed within the underlying zoning district;
- VI. The proposal would benefit the area surrounding the project to a greater degree than development allowed within the underlying zoning district(s);
- VII. The proposal would achieve higher quality development than would otherwise occur in the underlying zoning district; and
- VIII. The PUD will not create an excessive burden on parks, schools, streets, or other facilities and utilities that serve or are proposed to serve the PUD.

D. Coordination with Subdivision Regulations

Subdivision review under the City's subdivision regulations shall be carried out simultaneously with the review of the PUD, if required by the City. The plans required under this chapter shall be submitted in a form which will satisfy the requirements of the subdivision regulations for the preliminary and final plat.

E. Preapplication Conference

Prior to filing an application for PUD, the applicant shall attend a conference with the City. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance on the general merits of the proposal and its conformity to the provisions of this chapter before incurring substantial expense.

F. General Concept Plan

In order to receive guidance in the design of a PUD prior to submission of a formal application, the applicant may submit a concept plan for review and comment by the City Council. Submission of a concept plan is optional but is highly recommended for PUDs. In order for the review to be of most help to the applicant, the concept plan should contain such specific information as is suggested by the City. Generally, this information should include the following information appropriate to the type of development, e.g., commercial, industrial or residential:

- I. Approximate building areas, pedestrian ways, and road locations;
  - II. Height, bulk, and square footage of buildings;
  - III. Type, number or square footage or intensities of specific land uses;
  - IV. Number of dwelling units;
  - V. Generalized development plan showing areas to be developed or preserved; and
  - VI. Staging and timing of the development.
- VII. The tentative written consent of all property owners within the proposed PUD shall be filed with the City before the staff commences review.
- VIII. The Concept Plan is subject to the following procedures:
- i. The applicant must meet with the city staff to discuss the proposed development.



- ii. The applicant must file the concept plan application together with all supporting data.
- iii. The City Council will review the concept plan application and provide feedback to the applicant regarding the suitability of the request and any suggestions for modification prior to development state approvals. No formal approval of the concept plan by the City Council is required. Any motions or resolutions by the City Council to approve any part of the concept plan are advisory in nature only and shall not obligate the City to approve the development stage plan or any part thereof or to rezone the property to a planned unit development district.

G. Development Stage PUD Approval

Following general concept approval of a PUD, the applicant shall submit the development stage application, preliminary plat (if applicable), and fee. If appropriate because of the limited scale of the proposal, the concept stage and development stages may proceed simultaneously. The applicant shall file the development plans and preliminary plat (if required), together with all supporting data.

The City Council shall conduct a hearing on the preliminary plat (if applicable) and the PUD rezoning prior to taking action. Notification requirements shall follow the requirements for other zoning amendments, in accordance with Section 10-3-5.

The development stage plan shall include, but not be limited to:

- I. A preliminary plat and information required by chapter 11 (if applicable);
- II. An approved development plan drawn to a scale of not less than one inch equals 100 feet containing at least the following information:
  - i. Proposed name of the development;
  - ii. Property boundary lines and dimensions of the property and any significant topographical or physical features of the property;
  - iii. The location, size, use, and arrangement including height in stories and feet and total square feet of ground area coverage and floor area of proposed buildings, and existing buildings which will remain, if any;
  - iv. Location, dimensions of all driveways, entrances, curb cuts, parking stalls, loading spaces, and access aisles, and all other circulation elements, including bike and pedestrian, and the total site coverage of all circulation elements;
  - v. The location, designation, and total area proposed to be conveyed or dedicated for private and public open space, including parks, playgrounds, school sites, and recreational facilities;
  - vi. The location, use, and size of structures and other land uses located within 100 feet of the property boundary;
  - vii. A proposed landscaping plan, including location of existing plants, identification of species, caliper size, and acreage;
  - viii. The location, type, and size of all graphics and signage; and
  - ix. Any other information that may have been required by the City Council in conjunction with the approval of the general concept plan.
  - x. If the City Council determines that it is necessary, in its sole discretion, a natural resource analysis may be required. This analysis will identify existing vegetation areas consisting of forest and wood lots as well as wetlands and wetlands vegetation; the geology, slope, soil, and groundwater characteristics of the site;

- existing lakes, streams, ponds, drainage swales, runoff settling areas, and floodplains must be identified; analysis of the relationship of the proposed use of the existing natural conditions listed above;
- xi. An accurate legal description of the entire area within the PUD for which final development plan approval is sought;
  - xii. A tabulation indicating the number of residential dwelling units and expected population, if applicable;
  - xiii. A tabulation indicating the gross square footage, if any, of commercial and industrial floor space by type of activity;
  - xiv. Preliminary architectural "typical" plans indicating use, floor plan, elevations, and exterior wall finishes of proposed building, including manufactured buildings;
  - xv. Preliminary grading and site alteration plan illustrating changes to existing topography and natural site vegetation. The plan should clearly reflect the site treatment and its conformance with the approved concept plan;
  - xvi. A soil erosion control plan acceptable to watershed districts, state department of natural resources, soil conservation service, or any other agency with review authority clearly illustrating erosion control measures to be used during construction and as permanent measures; and
  - xvii. Protective covenants and homeowners' association bylaws (if applicable).
- III. The city may request additional information from the applicant as needed, including, but not limited to, operational factors or retain expert testimony at the expense of the applicant concerning operational factors. Operational factors could include, but not be limited to, traffic, sound, structural integrity, stormwater conveyance or treatment, and utility availability.
- IV. In addition to criteria and standards set forth in Subdivision 10-3-5 of this chapter for granting of a rezoning, the following additional findings shall be made by the City Council before the approval of a development stage PUD plan:
- i. The proposed development stage PUD is in conformance with the comprehensive plan;
  - ii. The uses proposed will not have an undue or adverse impact on the reasonable enjoyment of neighboring property or will not be detrimental to potential surrounding uses;
  - iii. Each phase of the proposed development, as it is proposed to be completed, is of sufficient size, composition, and arrangement that its construction, marketing, and operation are feasible as a complete unit, and that provision and construction of dwelling units and common open space are balanced and coordinated;
  - iv. The PUD will not create an excessive burden on parks, schools, streets, and other public facilities and utilities, which serve or are proposed, to serve the area; and
  - v. The proposed total development is designed in such a manner as to form a desirable and unified environment within its own boundaries.

#### H. Final PUD Approval

Following preliminary plat approval (if applicable), the applicant for PUD shall prepare and submit the final plat and execute the development contract prepared by the City. The City Council shall then consider the submission for final approval and rezoning to PUD. City Council approval shall require a

simple majority vote of the City Council, except for proposals requiring comprehensive plan changes or where the underlying zoning is changing from residential to a commercial or industrial use which shall require a four-fifths vote of the entire City Council.

I. Conveyance and Maintenance of Common Open Space

All land shown on the final development plan as common open space must be conveyed to the homeowners' association or similar organization provided in an indenture establishing an association or similar organization for the maintenance of the planned development. The common open space must be conveyed to the homeowners' association or similar organization subject to covenants which restrict the common open space to the uses specified on the final development plan and provide for the maintenance of the common open space in a manner that assures its continuing use for its intended purpose. These provisions may not be amended or deleted without the prior written approval of the City.

If a homeowners' association is created, the applicant must submit any required homeowners' association documents at the time of the final plat to the city attorney and city staff which include:

- i. Ownership and membership requirements;
- ii. Articles of incorporation and bylaws;
- iii. Time at which the developer will turn the association over to the homeowners;
- iv. Approximate monthly or yearly association fees for homeowners; and
- v. A specific listing of all items owned by the homeowners' association including such items as drives, recreation facilities, parking, common open space grounds, and utilities.
- vi. The homeowners' association documents are subject to the review and approval of the city attorney and city staff.

I. Review and Amendments

- I. From time to time the zoning administrator may review PUDs within the city and may make a report to the City Council on the status of noncompliance for a particular PUD either during construction or after the construction has been completed. If the zoning administrator finds that the development has not commenced within one year after the original approval of rezoning for the PUD, the zoning administrator may recommend that the City Council extend the time or revoke the PUD approval and rezone the property to remove the PUD zoning. Prior to this action, the City Council shall hold a public hearing at which time all interested parties will be given an opportunity to be heard.
- II. For additional phases of the PUD, if within five years the project has not progressed, the zoning administrator may recommend that the City Council determine what action will be taken with the remainder of the project, up to and including rezoning the property to revoke the PUD zoning. Prior to determining the outcome of the PUD, the City Council shall hold a public hearing at which time all interested parties will be given an opportunity to be heard.
- III. Minor changes in the location, placement, and heights of the buildings or structures may be authorized by the zoning administrator or building official if required by engineering or other circumstances not foreseen at the time the final plan was approved.

- IV. Approval of the City Council shall be required for other changes such as rearrangement of lots, blocks, and building tracts. These changes shall be consistent with the purpose and intent of the approved final PUD development plan.
- V. Any amendment to the PUD shall require the same procedures as for the application for a PUD as set forth in this chapter.

## CHAPTER 4: USES

### SECTION

- 10-4-1. Purpose and Summary
- 10-4-2. Permitted, Conditional, and Undesignated Uses
- 10-4-3. Nonconforming Uses
- 10-4-4. Accessory and Secondary Uses
- 10-4-5. Adult Uses
- 10-4-6. Telecommunications
- 10-4-7. Temporary Family Health Care Dwellings
- 10-4-8. Nonconforming Uses

#### 10-4-1 Purpose and Summary

- A. Purpose. This Chapter is intended to describe the land uses that are permitted, permitted provided certain regulations or requirements are met, permitted with a conditional use permit, or that are prohibited within the City.
- B. Uses within the Base Zoning District. This chapter is organized to establish the allowed and prohibited uses by Base Zoning District. All properties and land within the City have been assigned a Base Zoning District that shall regulate the uses contained within this Chapter.
- C. Uses within an Overlay District or PUD Overlay District. Properties fully or partially contained within an Overlay District may be subject to additional standards, requirements, restrictions or prohibitions regarding use. Established uses are categorized by the Base Zoning District, with additional restrictions, regulations or prohibitions provided in the applicable Overlay District.
- D. Required Permits and Process. If a use requires an Administrative, Conditional, or Administrative Permit the process shall be followed as described in Chapter [X] of this Zoning Ordinance.

#### 10-4-2 Uses Not Identified in this Zoning Ordinance.

- A. Uses not identified in this Chapter. If a proposed use is not specifically identified, permitted or prohibited in any Base Zoning District, the use shall be considered prohibited. In such case, the following steps may be taken to consider a Text Amendment to this Chapter:
  - I. The City Council, on their own initiative, may conduct a study to determine if the use is acceptable, and if so, initiate a Text Amendment.
  - II. The Applicant, and the Fee Owner of the property if different, may make an application to the City to consider an amendment to this Chapter.
  - III. When a valid request, as established by subsection 1 or 2, is made for a Text Amendment the City shall initiate a study to determine if the use is appropriate, and if so, what Base Zoning District is most appropriate. The study shall also include any conditions and standards relating to the use.
  - IV. The Zoning Text Amendment Process shall follow the process as established in Section [X.X] of this Zoning Ordinance.

#### 10-4-3 General Standards Applicable for Uses

- A. Other Agencies with Jurisdiction of Uses in the City. In addition to the standards and regulations established by the City contained within this Chapter, any use of property must comply with the standards established by other regulatory agencies and authorities that may have jurisdiction over the use. It is the Applicant or Property Owner's responsibility to comply with any required regulations,

standards, permitting of other agencies.

**10-4-4 Permitted and Prohibited Uses.**

- A. Table of Uses. The following Table [10-4-4.1] and Table [10-4-4.2] Table of Uses is organized by Use Type/Classification and Base Zoning District. The Table of Uses classifies the identified use as either permitted, permitted through regulation or requirement, permit or prohibited.
- B. Establishing Principal Use. The Table of Uses generally identifies the allowed principal uses of property except the subsection that explicitly defines and describes accessory uses. Each property must establish a Principal Use, however, more than one of a property may exist. In all cases the proper permits must be obtained for any principal and accessory uses of property. It should be noted that if a mix of uses is present on a property the property may be subject to a Planned Unit Development with specific standards noted in the PUD agreement.
- C. Undesignated Uses. A use not specifically designated as a permitted or conditional use anywhere in the City is considered prohibited. In such a case the Council, the Commission or a property owner may request a study by the City to determine if the use is acceptable and if so, what zoning district would be most appropriate for the use and what conditions and standards if any, should be attached to the development of the use. If found acceptable, an amendment to this Title may be initiated by the Council or Commission permitting the use. (Zoning Ord. as amd.)

**Table [10-4-4.1].** Table of Uses – Base Residential Districts

Table Key					
P	Permitted Use; no Zoning Approval or Permit Required				
C	Conditional Use; Conditional Use Permit Required				
AP	Administrative Permit Required				
	"Blank" Not Permitted				
Residential Zoning Districts					
Land Use	TN-1	TN-2	TN-3	HDR-CO	Reference Section
Accessory Structures	AP	AP	AP	AP	A
Accessory Dwelling Unit (ADU)					See Chapter [X] Definitions
Adult Uses					B
Alternative Energy Systems – Ground Mounted	AP	AP	AP	AP	
Alternative Energy Systems – Roof Mounted	P	P	P	P	
Amateur Radio Antennas	P				
Antennas	C	C	C	C	
Charitable Institutions	C	C	C	C	
Churches	C	C	P	C	
Day Care – Nursery Schools	C	C			
Home Occupations					
Hospitals and Clinics	C	C	C	C	
Multi-Family Dwellings		C	P	C	
Massage Therapy, or similar		C	P		
Nurseries and Greenhouses	C			C	

Nursing Homes			C	C
Parochial Schools	C	C	P	C
Private Clubs and Schools	C	C	C	C
Public Buildings	C	C	C	C
Public Parks, Open Space and Playgrounds	P	P	P	P
Public Schools	P	P	P	C
Public Utility Buildings	C	C	C	C
Single Family Dwellings	P	P	C	C
Telecommunications Towers	C	C	C	C
Temporary Family Health Care Dwellings				
Townhouses	C	P	P	P
Two Family Dwellings	P	P	C	C

**Table [10-4-4.2].** Table of Uses – Base Commercial, Industrial and Mixed-Use Districts

Land Use	Commercial/Industrial Zoning Districts			Reference Section
	GB	I	MX-O	
Adult Uses		C		
Animal Clinics	C	C	C	
Antennas	C	C	C	
Auto Reductions and Junk Yards		C		
Auto Sales, Service, and Repair	C	C	C	
Cannabis Uses – cultivation, manufacture, wholesale	C	P		
Cannabis Uses - Retail/dispensary	P	C	P	
Commercial Recreation	C	C	C	
Commercial Schools	P			
Construction Equipment Rental Leasing, and Sales		C		
Crematorium		C		
Day Care Centers	C		C	
Distillery, Brewery	P	C	P	
Drive-thru/Drive-In Business	C		C	
Eating and Drinking Places	P	C	C	
Funeral Homes	C	P		
Hospitals and Clinics	C			
Hotels and Motels	C		C	

Light Manufacturing		P	C
Manufacturing		C	
Massage Therapy, or similar	C	C	C
Motor Fuel Stations or Convenience Store	P	P	C
Multiple Family Dwellings	C		P
Nurseries and Greenhouses	C		
Offices and Banks	P	C	P
Parking Lots	C	P	C
Parochial School	C	C	C
Personal and Professional Services	P	C	P
Public Buildings	P	P	P
Public Parks, Open Space and Playgrounds			P
Public School	C	C	C
Public Utility Buildings	C	C	C
Research Laboratories	C	P	
Retail Businesses	P	C	P
Supply Yards		C	
Telecommunications Towers	C	C	C
Temporary Family Health Care Dwellings			
Testing Laboratories	C	P	C
Truck Terminals		C	
Warehousing		P	
Wholesale Business	C	C	

**10-4-5 Use Specific Regulations**

A. Accessory Structures

- I. *General.* Accessory Structures must be used for personal use by the occupants of the property on which the structure is located. Accessory Structures may be used for:
  - i. Storage of personal property.
  - ii. Storage of personal vehicles.
  - iii. Finished space for personal use provided the space is not habitable by full time occupancy as described below.
- II. *Applicability.* Accessory Structures must be incidental and clearly accessory to a principal structure. Accessory Structures shall include:
  - i. Private Garages for the storage of personal property and vehicles.
  - ii. Private Garages with finished space for an office, TV room, or similar provided such use does not include a full or partial bathroom that contains and shower or tub.
  - iii. Storage Buildings or sheds for the storage of personal property.
  - iv. Sheds
- III. *Prohibitions.* The following uses are prohibited in an accessory structure:
  - i. Habitable space for full time occupancy.



- ii. Use as a home occupation not meeting the criteria established in Subsection [x].
  - iii. Commercial space or use.
- IV. *Standards.* Dimensional, setback and size standards must comply with the Base Zoning District standards and Section [5.X.X] of this Zoning Ordinance.

B. Adult Uses

- I. *Purpose.* It is found and determined that Adult Use business activity may adversely impact the health, safety and general welfare of the community. The nuisance potential of these enterprises requires that they be regulated, through zoning, differently than other commercial businesses that are regulated by the City. (Zoning Ord. as amd.)
- II. The term "Adult Use" shall include, but not limited to the following uses:
  - i. Sauna parlors;
  - ii. Massage parlors;
  - iii. Escort services;
  - iv. Modeling studios;
  - v. Photography modeling studios;
  - vi. Rap parlors;
  - vii. Sensitivity centers;
  - viii. Adult bookstores;
  - ix. Adult motion picture theaters;
  - x. Adult mini-motion picture theaters; and
  - xi. Any similar activity. (Zoning Ord. as amd.)
- III. *Proximity To Residential District:* An Adult Use may not be located within five hundred feet (500') of any Base Residential Zoning District. This provision may, in the discretion of the Council, be waived if a petition, signed by at least fifty one percent (51%) of those persons residing within or operating a business within five hundred feet (500') of the proposed location and requesting such waiver, is received and verified by the City Council.
- IV. *Proximity to other Adult Use:* The proposed Adult Use may not be located within a one thousand foot (1,000') radius of any other Adult Use.
- V. *Proximity to Church, School, Park or Playground:* The proposed Adult Use may not be within a five hundred foot (500') radius of any church, school, public park or playground. (Zoning Ord. as amd.)

C. Alternative Energy Systems

- I. Solar Energy Systems are allowed with the appropriate permit in all zoning districts subject to the following regulations.
  - i. *Building Permit.* No solar energy system shall be erected, altered, improved, reconstructed, maintained or moved without obtaining a building permit.
  - ii. *Exemptions:*
    - a. Building integrated solar systems.
    - b. Passive solar energy systems.
  - iii. *Roof Mounted Systems:*
    - a. *Height:* The maximum height of the system shall not exceed the structure height requirements in the applicable Base Zoning District.
    - b. *Setbacks:* The system must comply with all building setback requirements in the applicable Base Zoning District and may not extend beyond the exterior

- perimeter of the building on which the system is mounted.
- c. **Mounting:** The system must be flush mounted on pitched roofs and may be bracket mounted on flat roofs. Bracket mounted collectors are only permitted when a determination is provided by a licensed professional qualified to certify that the underlying roof structure will support loading requirements and all applicable building standards are satisfied.
- d. **Maximum Area:** The system may not cover more than eighty percent (80%) of the roof section upon which the panels are mounted.
- iv. **Ground Mounted Systems:**
  - a. **Height:** The maximum height of the system may not exceed fifteen (15) feet in height from the average natural grade of the base of the system.
  - b. **Setbacks:** The systems must be setback a minimum of fifteen (15) feet from all property lines and thirty (30) feet from all dwellings located on adjacent lots.
  - c. **Location:** The system must be behind the principal structure (rear yard).
  - d. **Maximum Area:**
    - 1. **Residential Districts:** The system may not exceed 144 square feet.
    - 2. **Business and Industrial Districts:** The system may not exceed 25% of the rear or side yard in which the system is located.
  - e. **Decommissioning and Reclamation.** Upon abandonment the system must be decommissioned, and the system removed. The disturbed area must be restored to an appearance that is compatible with the surrounding yard area.
- v. **Screening.** Solar energy systems must be screened from view to the extent possible without impacting their function. Systems located within the business and industrial zoning districts may be exempt if such systems are not visible from a public right-of-way.
- vi. **Color:** Solar energy systems must use colors that are not visually incompatible with the color of the roof material on which the system is mounted or with any other structures on the lot.
- vii. **Glare:** Reflection angles from collector surfaces must be oriented away from neighboring windows and minimize glare toward vehicular traffic and adjacent properties. Where necessary, the city may require additional screening to address glare.
- viii. **Utility Connection:**
  - a. All utilities must be installed underground.
  - b. An exterior utility disconnect switch must be installed at the electric meter serving the property.
  - c. Solar energy systems must be grounded to protect against natural lightning strikes in conformance with the national electrical code.
  - d. No solar energy system may be interconnected with a local electrical utility company until the company has provided the appropriate authorization to the city, in compliance with the national electrical code.
- ix. **Safety:**
  - a. **Standards:** Solar energy systems must meet the minimum standards outlined by the International Electrical Code and any other applicable standards as determined by the Building Official.

x. *Easements:*

- a. Solar Energy Systems may not be placed or encroach by overhang into any public drainage, utility, or roadway easement.

D. Cannabis Uses – Cultivation, Manufacture, Wholesale

- I. General. Cannabis operators of cultivation, manufacture or wholesale activities must follow all applicable State Rules and procedures as established and governed by the Office of Cannabis Management.
- II. Performance Standards:
  - i. Evidence of a state license for the business use must be provided.
  - ii. A dispensary must obtain a business registration from the city, which must be filed annually so long as the use is in operation.
  - iii. A site and building security plan that meets State Rules must be submitted to the city for record keeping.

E. Cannabis Uses – Retail/Dispensary

- I. General. Cannabis Dispensaries must follow all applicable State Rules and procedures as established and governed by the Office of Cannabis Management.
- II. Performance Standards:
  - i. Evidence of a state license for the retail dispensary use must be provided.
  - ii. A dispensary must obtain a business registration from the city, which must be filed annually so long as the use is in operation.
  - iii. A site and building security plan that meets State Rules must be submitted to the city for record keeping.
  - iv. Hours of Operation: 10:00 AM to no later than 10:00 PM

F. Drive-thru/Drive-In Business

- I. *Site Requirements.*
  - i. *Access.* The facility shall be located on a site having direct access to a minor arterial street, collector or service road.
  - ii. *Lot Area.* 7,500 square feet.
  - iii. *Parking, Driveways and Drive through facilities.*
    - a. *Setbacks.* All portions of the drive through facilities including, but not limited to, service windows, ordering stations and stacking spaces, shall be set back at least 50-feet from any property zoned or guided for residential uses; unless screened by an intervening building or located across an arterial or major collector street.
    - b. Parking and driveway areas shall be at least 10-feet from any exterior property line.
    - c. There shall be required one parking space for each employee per shift in addition to at least one parking space for each 100 square feet of gross floor area in the building.
    - d. *Required Stacking Spaces.*
      - 1. Businesses with one drive through lane must provide stacking space for at least three vehicles, and businesses with two or more drive

through lanes must provide stacking space for at least six vehicles total as measured from the pick-up station. Stacking spaces must not interfere with parking spaces or traffic circulation.

- II. *Landscaping And Lighting.* A landscaping and lighting plan shall be submitted for approval.
- III. *Screening And Fencing.* If the drive through facilities about a Residential Base Zoning District, a landscaping screen or fence must be constructed to screen all elements of the drive through service area. If a fence is installed it must be six feet (6') tall and must be constructed to a minimum of 75-percent opacity. A fence is not required in the front yard.
- IV. *Exterior Materials of Structures.* All structures must be finished, and the materials must be compatible and visually consistent, to create a cohesive appearance.

G. Home Occupation

I. *General.* A home occupation means any gainful occupation or profession engaged in by an occupant of a dwelling unit that is 1) in residential use, 2) that is clearly incidental to the use of the dwelling unit for residential purposes, and 3) fully conducted on the premises. The criteria in subsection [x] must be met, or the proposed use must be established as a conditional use in the Base or Overlay Zoning District in which the property is located.

II. *Criteria.*

i. All Home Occupations must meet the following criteria:

- a. The use of the Dwelling Unit must be clearly incidental and subordinate to its use for residential purposes by its occupants and may not comprise more than 35% of floor area of the Dwelling Unit to conduct the business.
- b. There shall be no change in the outside appearance of the Principal Building or Premises, or other visible evidence of the conduct of such Home Occupation other than any signage permitted by the City's ordinances.
- c. No equipment, activity, or process shall be used in such Home occupation which creates, noise, vibration, glare, fumes detectable to the normal senses off the Lot.
- d. No outdoor storage or display of materials is permitted.
- e. No traffic may be generated that is in greater volume than would normally be expected to a residence in a residential neighborhood.
- f. Off-street parking must be provided for patrons of the home occupation which is in character with the surrounding residential neighborhood. No more than two stalls are permitted for purposes of supporting the home occupation.
- g. Employment of more than one person, employed but not residing on the premises is not permitted.
- h. Storage of commercial vehicles must comply with subsection [X] of this Code.

III. *Application for Administrative Permit*

- i. An applicant for a home occupation permit shall provide the following information to the Zoning Administrator:
  - a. Nature of business;
  - b. Number, type, and frequency of visitors to the business;
  - c. Number and type of suppliers, frequency of deliveries;
  - d. Access plan to the occupation;
  - e. Working hours;
  - f. Site plan depicting parking availability; and

g. Number and type of vehicles used in conjunction with the business.

IV. *Decision; Appeal*

- i. *Denial; Approval:* The Zoning Administrator shall deny or accept the application based upon a statement of findings relative to the above standards.
- ii. *Notice to Property Owners:* If the decision is to accept, a notice of intent shall be sent to all neighbors within one hundred fifty feet (150') from the perimeter of the property. Written comments will be requested within ten (10) days, reviewed and a final determination made by the Zoning Administrator.
- iii. *Appeal:* The applicant or other aggrieved party may appeal the decision within ten (10) days to the City Council which shall make the final determination.
- iv. *Failure To Notify; Defective Notice:* Failure to give mailed notice or defects in the notice shall not invalidate the proceedings provided a bona fide attempt has been made to contact the neighbors.

V. *Additional Conditions*

- i. The City has the right to attach conditions when approving a home occupation permit.

VI. *Revocation*

- i. The City Council may revoke a home occupation permit if the criteria and conditions under which the permit was granted are violated.

H. Massage Therapy Business

- I. Massage Therapist License Required: Except as provided for by Minnesota Statutes 471.709, as may be amended, it is unlawful for any person to practice therapeutic massage therapy or provide or offer to provide therapeutic massage therapy within the city without a license issued by the city.
- II. Do we want license renewal?

I. Motor Fuel Stations or Convenience Stores

- I. Compliance with state regulations; flammable liquids.
  - i. Any building used as a motor fuel station or convenience store shall be constructed and maintained as required by the rules and regulations relating to the state fire marshal governing the handling, storage and transportation of flammable liquids.
  - ii. Every facility, whether underground or aboveground and whether indoors or out of doors, for the handling, storage, and movement of flammable liquids shall be constructed and maintained in accordance with the rules and regulations of the state fire marshal.
- II. Yards and Setbacks.
  - i. The following minimum lot size, yard and setback requirements are established for any motor fuel station or convenience store that sells or handles motor fuel/flammable liquids:
    - a. Minimum Lot Size: 15,000 square feet
    - b. Minimum Lot Width: 100 feet
    - c. Front Yard Setback: 30 feet
    - d. Side Yard Setback (Interior): 15 feet
    - e. Side Yard Setback (adjacent to a street): 30 feet
    - f. Pump Setback: 30 feet

- g. Overhead Pump Canopy Setback: 10 feet from property line, or 15 feet from street edge, whichever is greater

III. Maximum Height

- i. Maximum Height of the Convenience or Retail store: Base Zoning District.
- ii. Maximum Height of Pump Canopy: 20 feet

IV. Outside storage and sale of vehicles and products:

- i. Service station premises shall not be used as a place of storage for wrecked, abandoned or junked automobiles. No motor vehicle in need of repair may be stored on the premises of a service station for a continuous period of more than seven (7) days, except when so stored pursuant to a police directive.
- ii. All goods for sale by the motor fuel station or convenience store must be displayed within the principal structure, unless such display is placed fully under the building eaves or the canopy, and any walkway is not obstructed.

V. Architecture, lighting and landscaping.

- i. The motor fuel station must be designed to be compatible with the general architectural intent and purpose of the Base or Overlay Zoning District in which the property is located.
- ii. Lighting: All outdoor lighting must be provided with lenses, reflectors or shades that are downward pointing or hooded to direct light onto the premises. Site lighting may not exceed:
  - a. 0.2 footcandles at the property line of any commercial, industrial property line or right-of-way line.
  - b. 0.0 footcandles at any shared property line with a residential use.
- iii. Whenever a motor fuel station abuts a residential district or use, a fence or compact evergreen hedge not less than 75% opaque a minimum of six (6) feet tall must be constructed along the shared property line.

J. Temporary Family Health Care Dwellings

- I. Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of Lauderdale opts-out of the requirements of Minn. Stat. §462.3593, which defines and regulates Temporary Family Health Care Dwellings.  
(Adopted by the Lauderdale City Council the 28<sup>th</sup> day of June, 2016.)

K. Telecommunications

I. *Performance Standards for Towers*

- i. *Purpose:* In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the City Council finds that these regulations are necessary in order to:
  - a. Facilitate the provision of personal wireless services to the residents and businesses of the City;
  - b. Minimize adverse visual effects of towers through careful design and siting standards;
  - c. Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and
  - d. Maximize the use of existing and approved towers and buildings to accommodate new antennas in order to reduce the number of towers needed

to serve the community.

ii. *Towers In Residential Zoning Districts:* Only the following towers shall be allowed in residentially zoned areas:

- a. Towers supporting amateur radio antennas and conforming to all applicable provisions of this Code shall be allowed only in the rear yard of residentially zoned parcels.
- b. Towers supporting antennas and conforming to all applicable provisions of this Code shall be allowed only in the following residentially zoned locations:
  1. Church sites, when camouflaged as steeples or bell towers;
  2. Park sites, when compatible with the nature of the park; and
  3. Government, utility, and institutional sites.

iii. *Co-Location Requirements:* All towers erected, constructed, or located within the City shall comply with the following requirements:

- a. A proposal for a new tower shall not be approved unless the City Council finds that the personal wireless service facilities planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the City due to one or more of the following reasons:
  4. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified professional engineer acceptable to the City, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
  5. The planned equipment would cause interference materially impacting the usability of other existing equipment at the tower or building as documented by a qualified professional engineer acceptable to the City and the interference cannot be prevented at a reasonable cost.
  6. Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified professional engineer acceptable to the City.
  7. Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.
- b. Any proposed tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two (2) additional users if the tower is over one hundred feet (100') in height or for at least one additional user if the tower is over sixty feet (60') in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

II. *Tower Construction Requirements:* All towers erected, constructed, or located within the City, and all wiring therefore, shall comply with the requirements set forth in Section 10-15-4 of this Chapter.

III. *Tower And Antenna Design Requirements:* Proposed or modified towers and antennas shall meet the following design requirements:

- i. Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by Federal or State authorities such as the Federal Aviation Administration.
  - ii. Towers shall be of a monopole design unless the City Council determines that an alternative design would better blend into the surrounding environment.
- IV. *Tower Setbacks*: Towers shall conform with each of the following minimum setback requirements:
  - i. Towers shall meet the setbacks of the underlying zoning district with the exception of industrial zoning districts, where towers may encroach into the rear setback area to the extent permitted by this Chapter, provided that the rear property line abuts another industrially zoned property and the tower does not encroach upon any easements.
  - ii. Towers shall be set back from the public rights of way as shown on the most recently adopted street plan of the City by a minimum distance equal to one-half (1/2) of the height of the tower including all antennas and attachments.
  - iii. Towers shall not be located between a principal structure and a public street, with the following exceptions:
  - iv. In industrial zoning districts, towers may be placed within a side yard abutting an internal industrial street.
  - v. On sites adjacent to public streets on all sides, towers may be placed within a side yard abutting a local street.
  - vi. A tower's setback may be reduced or its location in relation to a public street varied, at the sole discretion of the City Council, to allow the integration of a tower into an existing or proposed structure such as a church steeple, light standard, power line support device, or similar structure.
  - vii. Towers erected on any protected residential parcel as defined in Section [10-15-3] of this Chapter are also subject to the setback provisions of subsection [10-15-4C8] of this Chapter.
- V. *Tower Height*: All proposed towers shall meet the height restrictions set forth in Section [10-15-3] of this Chapter.
- VI. *Tower Lighting*: Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other Federal or State authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate parking lots or similar areas may be attached to the tower.
- VII. *Signs And Advertising*: The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.
- VIII. *Accessory Utility Buildings*: All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. Ground-mounted equipment shall be screened from view by suitable vegetation, except where a design of nonvegetative screening better reflects and complements the architectural character of the surrounding neighborhood.
- IX. *Abandoned Or Unused Towers or Portions of Towers*: Abandoned or unused towers or portions of towers shall be removed as follows:



- i. All abandoned or unused towers and associated facilities shall be removed within twelve (12) months of the cessation of operations at the site unless a time extension is approved by the City Council. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associated facilities upon cessation of operations at the site shall be submitted at the time of application. In the event that a tower is not removed within twelve (12) months of the cessation of operations at a site, the tower and associated facilities may be removed by the City and the costs of removal assessed against the property.
  - ii. Unused portions of towers above a manufactured connection shall be removed within twelve (12) months of the time of antenna relocation. The replacement of portions of a tower previously removed requires the issuance of a new conditional use permit.
- X. *Antennas Mounted on Roofs, Walls, and Existing Towers:* The placement of antennas on roofs, walls, and existing towers may be approved by the City Council, provided the antennas meet the requirements of this Code, after submittal of: 1) a final site and building plan as specified by this Code, and 2) a report prepared by a qualified professional engineer acceptable to the City indicating the existing structure or tower's suitability to support the antenna, and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings, and the precise point of attachment shall be indicated.
- XI. *Interference with Public Safety Telecommunications:* No new or existing personal wireless services shall interfere with public safety telecommunications. All applications for new service shall be accompanied by an intermodulation study completed by a qualified professional engineer acceptable to the City which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of new service or changes in existing service, personal wireless services shall notify the City at least ten (10) calendar days in advance of such changes and allow the City to monitor interference levels during the testing process.
- XII. *Additional Submittal Requirements:* In addition to the information required elsewhere in this Code, development applications for towers shall include the following supplemental information:
  - i. A report from a qualified professional engineer acceptable to the City which:
  - ii. Describes the tower height and design including a cross-section and elevation;
  - iii. Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;
  - iv. Describes the tower's capacity, including the number and type of antennas that it can accommodate;
  - v. Documents what steps the applicant will take to avoid interference with established public safety telecommunications;
  - vi. Includes an engineer's stamp and registration number; and
  - vii. Includes other information necessary to evaluate the request.
  - viii. For all towers, a letter of intent committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
  - ix. Before the issuance of a building permit, the following supplemental information shall be submitted:

- a. Proof that the proposed tower complies with regulations administered by the Federal Aviation Administration; and
- b. A report from a qualified professional engineer acceptable to the City which demonstrates the tower's compliance with the aforementioned structural and electrical standards, as well as with the aforementioned interference requirements.

XIII. *Violations:* Any person who shall violate any of the provisions of this Section shall be guilty of a misdemeanor. (Ord., 3-25-1997)

XIV. *District Regulations; Height:* The purpose of this Section is to regulate the height of structures in order to maintain the character and scale of the predominant single family residential development in the City.

- i. Protected residential property: Any property within the City that meets all of the following requirements:
  - a. The property is zoned R-1, R-2, or R-3 and the property may or may not also have a Planned Unit Development (PUD) Overlay classification;
  - b. The property is designated on the Comprehensive Plan as single family, townhome/condo, duplex/triplex or apartments; and
  - c. The property is used or subdivided for use as residential.
- ii. Structure height:
  - a. Buildings: The height of buildings shall be determined using two (2) methods and both methods must comply with the restrictions of subsection C of this Section.
  - b. The number of stories shall be determined by counting the total number of above-grade, habitable floors in the building and shall not include walk-out basements, attics, or underground parking;
  - c. The height of buildings shall be determined by measuring the vertical distance from the average level of the highest and lowest point of that point of a lot covered by a building, to the highest point for flat roofs; to the deck line of mansard roofs; and to the mean height between eaves and ridge for gable, hip and gambrel roofs.
  - d. Parking Structures: The height of parking structures shall be determined by measuring the vertical distance from the lowest exterior grade of the parking structure to the highest point of the permanent structure.
  - e. Towers: The height of towers shall be determined by measuring the vertical distance from the tower's point of contact with the ground or rooftop to the highest point of the tower, including all antennas or other attachments. When towers are mounted upon other structures, the combined height of the structure and tower must meet the height restrictions of this Section, except when an existing building is thirty feet (30') in height or higher, the height of the tower and antenna shall not exceed ten feet (10') in height.
  - f. Other Structures: The height of all other structures shall be determined by measuring the vertical distance from the lowest exterior grade of the structure to the highest point of any part of the structure.
  - g. Final Height Determination: The final determination of height shall be made by the City Council in accordance with the guidelines of this Section.

*XV. Height Limitations:*

- i. Towers:
  - a. In all protected residential property the maximum height of any tower, including all antennas and other attachments, shall be thirty feet (30'); if no existing structure that meets the height requirements for the antenna is available for mounting the antenna, such antenna may be mounted on a monopole not to exceed seventy five feet (75') in height. The monopole shall be located a distance of at least the height of the monopole from the nearest residential structure, unless a qualified engineer acceptable to the City specifies in writing that any collapse of the pole will occur within a lesser distance under all foreseeable circumstances and if the City Council approves a lesser setback.
  - b. In all nonresidential zoning districts, the maximum height of any tower, including all antennas and other attachments, shall not exceed one foot (1') for each two feet (2') the tower is set back from protected residential property up to a maximum height of one hundred fifty feet (150').

XVI. *Applicability:*

- i. Exceptions: The requirements of this Section shall apply to all towers otherwise permitted under this Code except:
  - a. Planned unit developments, when approved as a part of a preliminary and final development plan pursuant to this Code.
  - b. Public utility structures including, but not limited to, antennas, lights and signals, power and telephone poles, and poles supporting emergency warning devices.
  - c. Church sanctuaries, steeples and bell towers.
- ii. In accordance with the Federal Communications Commission's preemptive ruling PRB1, towers erected for the primary purpose of supporting amateur radio antennas may exceed thirty feet (30') in height provided that a determination is made by the City Council that the proposed tower height is technically necessary to successfully engage in amateur radio communications.
- iii. Noncompliance: Noncompliance of characteristics of structures and site development created by the application of this Section shall not in any manner limit the legal use of the property, nor prevent the repair, maintenance, or reconstruction of a noncomplying characteristic or feature; however, in the event the cost of performing such repair, maintenance, or reconstruction of a structure exceeds ten percent (10%) of the cost of a new structure of like kind and quality, then the structure may not be repaired, maintained, or reconstructed except in full compliance with this Section. In no instance shall the degree of noncompliance be increased except as otherwise permitted by this Code. (Ord., 3-25-1997)

XVII. Building Code Provisions; Construction and Maintenance of Antennas and Supporting Towers

*i. Permits:*

- a. It shall be unlawful for any person, firm, or corporation to erect, construct in place, place or re-erect, replace, or repair any tower without first making application to the City Building Inspector and securing a building permit therefor as hereinafter provided.

- b. The applicant shall provide, at the time of application, sufficient information to indicate that construction, installation, and maintenance of the antenna and tower will not create a safety hazard or damage to the property of other persons.
  - c. Building permits are not required for:
  - d. Adjustment or replacement of the elements of an antenna array affixed to a tower or antenna, provided that replacement does not reduce the safety factor.
  - e. Antennas and/or towers erected temporarily for test purposes, for emergency communication, or for broadcast remote pick-up operations, provided that all requirements of subsection C of this Section are met. Temporary antennas shall be removed within seventy two (72) hours following installation.
- ii. *Fee:* The fee to be paid is that prescribed from time to time by the City Council according to the Uniform Building Code fee schedule.
  - iii. *Construction Requirements:* All antennas and towers erected, constructed, or within the City, and all wiring therefor, shall comply with the following requirements:
  - iv. *Applicable Provisions:* All applicable provisions of this Code.
- XVIII. *Structural Certification:* Towers shall be certified by a qualified professional engineer acceptable to the City to conform to the latest structural standards and wind loading requirements of the Uniform Building Code and the Electronics Industry Association.
- XIX. *Extensions Over Public Ways And Properties:* With the exception of necessary electric and telephone service and connection lines approved by the City Building Inspector, no part of any antenna or tower nor any lines, cable, equipment or wires or braces in connection with either shall at any time extend across or over any part of the right of way, public street, highway, sidewalk, or property line.
- XX. *Electrical Standards:* Towers and associated antennas shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.
- XXI. *Height Of Conductors:* All signal and remote control conductors of low energy extending substantially horizontally above the ground between a tower or antenna and a structure, or between towers, shall be at least eight feet (8') above the ground at all points, unless buried under ground.
- XXII. *Anti-Climbing Provisions:* Every tower affixed to the ground shall be protected to discourage climbing of the tower by unauthorized persons.
- XXIII. *Construction Requirements:* All towers shall be constructed to conform with the requirements of the Occupational Safety and Health Administration.
- XXIV. *Residential Areas Protected:* Antennas and towers shall not be erected in any protected residential parcel as defined in Section [10-15-3] of this Chapter in violation of the following restrictions:
- i. Notwithstanding the provisions of Section [10-15-3] of this Chapter, the required setback for antenna and tower not rigidly attached to a building shall be equal to the height of the antenna and tower. Those antennas and towers rigidly attached to a building, and whose bases are on the ground, may exceed this required setback by the amount equal to the distance from the point of attachment to the ground.
    - a. No tower shall be in excess of a height equal to the distance from the base of the antenna and tower to the nearest overhead electrical power line which

- serves more than one dwelling or place of business, less five feet (5').
- b. Metal towers shall be constructed of, or treated with, corrosive-resistant material. Wood poles shall be impregnated with rot-resistant substances.
- XXV. *Performance Standards:* All towers erected within the City must conform to the applicable performance standards in Section 10-15-2 of this Chapter.
- XXVI. *Support Of Public Warning Systems:* Telecommunications operators that utilize towers that are erected after the effective date of this Ordinance shall participate in the Emergency Alert System (EAS), as defined by FCC Rules and Regulations, part 11, by broadcasting warnings of severe weather and other life-threatening emergencies to users of personal equipment served by the tower. Telecommunication operators may be exempt from these requirements under the following circumstances:
- i. The telecommunications operator demonstrates that participation in EAS is not technologically feasible;
  - ii. The telecommunications operator is unable to acquire any FCC waivers or exemption from licensing or other regulations that would prohibit participation in EAS; or
  - iii. The State or regional EAS planning committees determine that participation in EAS by the telecommunication operator is not necessary.
- XXVII. *Health-Related Standards:* Antennas placed upon a tower shall be subject to State and Federal regulations pertaining to non-ionizing radiation and other health hazards related to such facilities. If new, more restrictive standards are adopted, the antennas shall be made to comply or continued operations may be restricted by the City. The cost of verification of compliance shall be borne by the owner and operator of the tower.
- XXVIII. *Guyed Towers:* The use of guyed towers is prohibited. Towers must be self-supporting without the use of wires, cables, beams or other means.
- XXIX. *Proof Of Noninterference:* Each application for a conditional use permit shall include a preliminary or certified statement that the construction of the tower, including reception and transmission functions, will not interfere with the radio, television, telephone, facsimile machine, computer modems, telephone answering machines, and the like that are services enjoyed by residential and nonresidential properties. The statement shall be prepared by a qualified professional engineer acceptable to the City.
- XXX. *Existing Antennas And Towers:* Antennas and towers in residential districts and in existence as of April 15, 1974, which do not conform to or comply with this Section are subject to the following provisions:
- i. Towers may continue in use for the purpose now used and as now existing but may not be replaced or structurally altered without complying in all respects with this Section.
  - ii. If such towers are hereafter damaged or destroyed due to any reason or cause whatsoever, the tower may be repaired and restored to its former use, location, and physical dimensions upon obtaining a building permit therefor, but without otherwise complying with this Section, provided, however, that if the cost of repairing the tower to the former use, physical dimensions, and location would be ten percent (10%) or more of the cost of a new tower of like kind and quality, then the tower may not be repaired or restored except in full compliance with this Section.
- XXXI. *Lights And Other Attachments:* No antenna or tower in any protected residential parcel as defined in Section 10-15-3 of this Chapter shall have affixed or attached to it in

any way except during time of repair or installation, any lights, reflectors, flashers, or other illuminating device, except as required by the Federal Aviation Agency or the Federal Communications Commission, nor shall any tower have constructed thereon, or attached thereto, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair.

XXXII. *Number Of Towers And Antennas:* Only one tower shall exist at any one time on any one protected residential parcel as defined in Section 10-15-3 of this Chapter.

XXXIII. *Inspections:* All towers may be inspected at least once each year by the City Building Inspector to determine compliance with original construction standards. Deviation from original construction for which a permit is obtained constitutes a violation of this Section.

- i. Notice of violations will be sent by registered mail to the owner and they will have thirty (30) days from the date the notification is issued to make repairs. The owner will notify the City Building Inspector that the repairs have been made, and as soon as possible thereafter, another inspection will be made and the owner notified of the results.

XXXIV. *Violations:* Any person who shall violate any of the provisions of this Section shall be guilty of a misdemeanor.

XXXV. *Interpretation:* It is not the intention of this Section to interfere with, abrogate, or annul any covenant or other agreement between parties; provided, however, where this Section imposes a greater restriction upon the use or premises for antennas or towers than are imposed or required by other ordinances, rules, regulations, or permits, or by covenants or agreements, the provisions of this Section shall govern. (Ord., 3-25-1997)

XXXVI. Antenna Towers on City-Owned Property

- i. *Introduction:* The City has received requests from personal wireless services to place antennas and towers on City-owned property. The City Council has determined that a uniform policy for reviewing these requests is desirable.
- ii. *Priority Of Users:* Priority for the use of City-owned land for antennas and towers will be given to the following entities in descending order:
  - a. City of Lauderdale;
  - b. Public safety agencies, including law enforcement, fire, and ambulance services, which are and/or are not part of the City and private entities with and/or without a public safety agreement with the City;
  - c. Other governmental agencies, for uses which are not related to public safety; and
  - d. Entities providing licensed personal wireless services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.
- iii. *Minimum Requirements:* The placement of antennas or towers on City-owned property must comply with the following requirements:
  - a. The antennas or towers will not interfere with the purpose for which the City-owned property is intended;
  - b. The applicant is willing to obtain adequate liability insurance and commit to a lease agreement which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The fees shall be

- established by the City Council after considering comparable rates in other cities, potential expenses, risks to the City, and other appropriate factors;
- c. The applicant will submit a letter of credit, performance bond, or other security acceptable to the City to cover the costs of the antenna or tower's removal;
  - d. The antennas or towers will not interfere with other users who have a higher priority as discussed in subsection B of this Section;
  - e. Upon reasonable notice, the antennas or towers may be required to be removed at the user's expense;
  - f. The applicant must reimburse the City for any costs which it incurs because of the presence of the applicant's antennas or towers; and
  - g. The user must obtain all necessary land use approvals.
- iv. *Special Requirements:* The use of certain City-owned property, such as the Community Park, for antennas or towers brings with it special concerns due to the unique nature of these sites. The placement of antennas or towers on these special City-owned sites will be allowed only when the following additional requirements are met:
- v. *Community Park And Lauderdale Nature Area:* The presence of certain antennas or towers represents a potential conflict with the purpose of the City-owned park and nature area. In no case shall towers be allowed in land designated as the Lauderdale Nature Area. Antennas or towers will be considered only in the Community Park after the approval of the City Council.
- vi. *Application Process:* All applicants who wish to locate an antenna or tower on City-owned property must submit to the City Zoning Administrator a completed application and detailed plan that complies with the submittal requirements of the Zoning Ordinance along with other pertinent information requested by the City.
- vii. *Termination:* The City Council may terminate any lease if it determines that any one of the following conditions exists:
- a. A potential user with a higher priority cannot find another adequate location and the potential use would be incompatible with the existing use;
  - b. A user's frequency broadcast unreasonably interferes with other users of a higher priority, regardless of whether or not this interference was adequately predicted in the technical analysis; or
  - c. A user violates any of the standards in this policy or the conditions attached to the City's permission.
  - d. Before taking action, the City will provide notice to the user of the intended termination and the reasons for it, and provide an opportunity for the user to address the City Council regarding the proposed action. This procedure need not be followed in emergency situations.
- viii. *Reservation Of Right:* Notwithstanding the above, the City Council reserves the right to deny, for any reason, the use of any or all City-owned property by any one or all applicants.
- ix. *Use Of Revenue:* All revenue generated through the lease of City-owned property for towers and antennas shall be made payable to the City of Lauderdale. Revenue shall be credited as follows:
- a. To the specific operating activity using the land upon which the towers and

- antennas are located (for example, Sewer Utility Fund when located on lift station property);
- b. To the Park Improvement Fund if located on park property;
- c. To the General Fund operating activity when the towers and antennas are located on City property serving a General Fund operating program (such as City Hall and the City Garage), and
- d. Any revenues not meeting the above criteria shall be applied as general revenues of the General Fund. (Ord., 3-25-1997)

**10-4-2 Nonconforming Uses**

- A. A lawful nonconforming use, existing on the effective date of the Ordinance codified in this Title may be continued but may not be extended, expanded, or changed unless to a conforming use, except as permitted by the Board in accordance with the provisions of this Title. (Zoning Ord. as amd.)
  - I. Application. The provisions of this Section shall apply to any nonconforming use established prior to the adoption of this Ordinance. (Zoning Ord. as amd.)
  - II. Permit Issued. Any proposed structure which will, after the effective date of the Ordinance codified in this Title become nonconforming, but for which a building permit has been issued, may be completed in accordance with the approved plans provided construction is started within sixty (60) days of the effective date of the Ordinance codified in this Title, is not abandoned for more than one hundred twenty (120) days and continues to completion within two (2) years. (Zoning Ord. as amd.)
  - III. Damage. Any nonconforming structure damaged by fire, flood, explosion, or other casualty may be reconstructed and used as before if such reconstruction is performed within twelve (12) months of such casualty, and if the restored structure has no greater coverage and contains no greater cubic content than before such casualty. (Zoning Ord. as amd.)
  - IV. Cessation of Use. In the event that any nonconforming use, conducted in a structure or otherwise, ceases, for whatever reason, for a period of one year, such nonconforming use shall not be resumed. (Zoning Ord. as amd.)
  - V. Maintenance. Normal maintenance of a nonconforming structure is acceptable including structural repairs and maintenance. (Zoning Ord. as amd.)



**LAUDERDALE COUNCIL  
ACTION FORM**

<b>Action Requested</b>	
Consent	_____
Public Hearing	_____
Discussion	_____
Action	_____
Resolution	_____
Work Session	___X___

Meeting Date	July 15, 2024
ITEM NUMBER	<u>2430 Larpenteur Avenue</u>
STAFF INITIAL	<u>HB</u>
APPROVED BY ADMINISTRATOR	

**DESCRIPTION OF ISSUE AND PAST COUNCIL ACTION:**

Recently, the owners of SuperUSA and Finn Sisu have expressed interest in purchasing 2430 Larpenteur Avenue to expand their businesses. SuperUSA would use the extra space for parking. Finn Sisu is interested in more storage space. Staff's suggestion to all is to wait until the zoning ordinance is finalized before making any decisions. The new zoning will be the regulations in effect when plans are reviewed for zoning and building code compliance. The current zoning is more restrictive which hampers market viability. The proposed zoning allows for an intensification of use on the property on the south side of Larpenteur Avenue. The goal of allowing for mixed use retail in the area is done with the goal of encouraging rebuilding and reuse on the parcels.

Council members have expressed interest in determining whether the City should follow the suit of many other cities and consider a municipal cannabis store as a means to generate revenue. As local government aid amounts are flat year-over-year, the City relies on property taxes to fund the increasing costs to operate city services. Jennifer Haskamp, the City's planning consultant, has been actively working in this area. Having her at the meeting will allow the Council to begin weighing the pros and cons of municipal cannabis versus selling to either of the neighbors.

**OPTIONS:**

**STAFF RECOMMENDATION:**