

Section 510 – Zoning: Title, Purpose and Definitions

(Ord. No. 88, dated December 26, 1979

deleted in its entirety)

(Replaced by Ord. 2005-05)

510.01. Title. Sections 510 through 545 of this code are known as the "Independence zoning code."

510.03. Intent and purpose. This zoning code is adopted without limitation, for the following purposes:

- (a) To implement the policies of the city's land use plan;
- (b) To provide at appropriate locations, rural residential and agricultural living environments while preserving prime agricultural land and protecting marshes, water ways, lakes, trees, and other natural features and systems;
- (c) To limit development to areas that can economically be served by public services and to obtain maximum usage of such services before expansion;
- (d) To provide limited retail, commercial service, and industrial development;
- (e) To provide housing that will accommodate residents from all income levels;
- (f) To provide a framework within which public and private agencies and individuals can plan their development and expansion;
- (g) To protect the public health, safety, morals, comfort, convenience, and general welfare by guiding the future development of land;
- (h) To preserve the value of the existing and future dwellings by setting minimum standards for housing design and maintenance that will promote and maintain compatibility among widely varying housing choices;
- (i) To provide adequate habitable space and to provide adequate ingress, egress and a suitable shelter in the event of fire, storm, or other emergency.

510.05. Definitions. Subdivision 1. The following words and terms, and their derivations have the meanings given in this zoning code.

Subd. 2. "Accessory Dwelling Unit." A secondary dwelling unit that is: (Amended, Ord. 2011-09)

- (a) Physically attached to or within a single family dwelling unit or within a detached^a accessory building that has a principal structure on the parcel; and
- (b) Subordinate in size to the single family dwelling unit; and
- (c) Fully separated from the single family dwelling unit by means of a wall or floor, with or without a door; and
- (d) Architecturally compatible with the principal structure (using similar materials, finishes, style and colors similar to the principal structure); and
- (e) The lesser of 33% of the above ground living area of the principal structure or 1,200 square feet, and no less than 400 square feet; and
- (f) Not in excess of the maximum square footage for accessory structures as permitted in this code; and
- (g) Has permanent provisions for cooking, living and sanitation; and
- (h) Has no more than 2 bedrooms; and
- (i) Limited to relatives of the homesteaded owner occupants or the homesteaded owners of the principal structure. The total number of individuals that reside in both the principal dwelling unit and accessory dwelling unit may not exceed the number that is allowed by the building code; and
- (j) Uses the existing on-site septic system^b or an approved holding tank; and

^a On lots less than 2.5 acres, the accessory dwelling unit must be attached to the principal dwelling unit or located/constructed within an existing detached accessory structure that meets all criteria of this section.

^b The existing on-site septic system will be required to be inspected by the City to ensure compliance with all applicable standards. Any system that does not meet all applicable standards shall be brought into compliance as a part of the approval of the accessory dwelling unit.

- (k) Respectful of the future subdivision of the property and the primary and secondary septic sites. The City may require a sketch of the proposed future subdivision of a property; and
- (l) In compliance with the adopted building code relating to all aspects of the dwelling unit.

Subd. 3. "Agriculture." The use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income including but not limited to the following:

- (a) Field crops, including: barley, soybeans, corn, hay, oats, potatoes, rye, sorghum and sunflowers.
- (b) Livestock as defined in subsection 510.05, subdivision 44.
- (c) Livestock products, including: milk, butter, cheese, eggs, meat, fur and honey.

Subd. 4. "Animal assisted therapy" or "AAT." A use of land and associated structures for the delivery of therapy to improve human physical, social, emotional, and/or cognitive functioning, in which animals that meet specific criteria are an integral part of the treatment process. AAT is goal-directed and is delivered by a health/human service professional with specialized expertise. AAT may be provided in a group or individual setting.

Subd. 5. "Animal unit." A unit of measure comparing the size of domestic farm animals as follows:

| | <u>Animal</u> | <u>Animal Unit</u> |
|-----|---|--------------------|
| (a) | One mature dairy cow | 1.4 |
| (b) | One slaughter steer or heifer | 1.0 |
| (c) | One mature horse | 1.0 |
| (d) | One mature hog, sheep, llama, or goat | .5 |
| (e) | One mature domestic fowl | .01 |
| (f) | Other: the average weight of the animal divided by 1,000 pounds | |

Subd. 6. "Application." The documents and written material by which a property owner justifies a request for a building permit, a zoning amendment, a conditional use permit, a variance, an appeal, or other request for approval, relief or consideration, which must include all information on any application form approved by the city administrator-clerk.

Subd. 7. "Berm." An earthen mound or series of mounds used as a buffer between two uses of land.

Subd. 8. "Buildable acres." Land that is not classified as floodplain or wetland, that is contiguous and not separated by streams, wetlands, slopes in excess of 10% or other physical impediments.

Subd. 9. "Building." A structure having a roof supported by columns or walls.

Subd. 10. "Building height." The vertical distance from the finished first floor grade to the coping of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch-type roof or to the midpoint of the highest gable on a pitched or hip roof.

Subd. 11. "Bunkhouse." A building accessory to a principal use that contains sleeping quarters for one or more persons who are employed in connection with the principal use of the premises.

Subd. 12. "City." The city of Independence, Hennepin County, Minnesota.

Subd. 13. "City council." The governing body of the city of Independence.

Subd. 14. "Church." A building or use of land in which persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to promote religious worship.

Subd. 15. "Conditional use." A use permitted in a particular zoning district only upon showing that the use in a specified location will comply with all standards herein for the location or operation of the use. The city may impose additional conditions in specific instances to protect the public health, safety or welfare.

Subd 16. "Contractor's office." A building, with accessory outdoor storage, that serves as the headquarters for contractors involved in specialized activities such as plumbing, painting, plastering, masonry, carpentry, roofing, well drilling, landscaping and the like, where office activities take place and where tools, equipment and materials used in the business are stored.

Subd. 17. "Division." The division of a parcel of land into two or more lots.

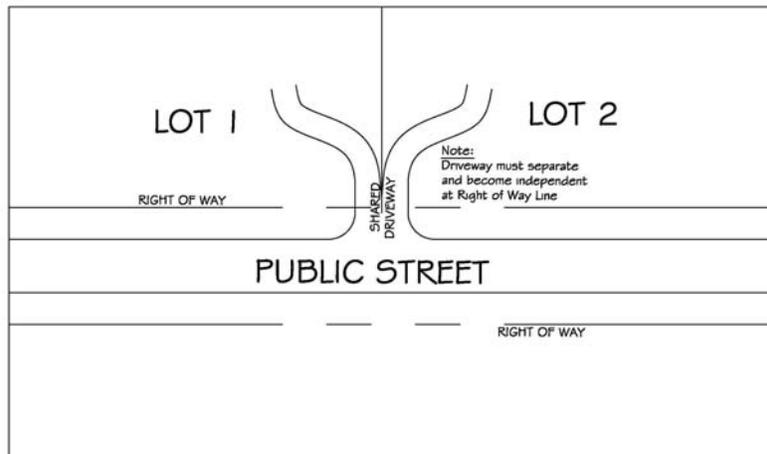
Subd. 18. "Drainage system." Any natural or artificial feature or structure used for the conveyance, drainage, or storage of surface and/or underground water, including, but not limited to, streams, rivers, creeks, ditches, channels, conduits, gullies, ravines, washes, lakes or ponds and structures such as culverts, drainage tile, dams, bridges and water storage basins.

Subd. 19. "Driveway." A private path for vehicular access to a public road, which is wholly located on the lot that is afforded access.

Subd. 20. "Driveway, common." An easement encumbered by a common driveway agreement that provides for access, construction, maintenance and financing of private vehicular and pedestrian access to not more than three lots. A common driveway shall be considered if evidence of the following standards is met: (Added, Ord. 2010-06)

- (a) Extension of a public street is not physically feasible as determined by the city. If the city determines that there is need for such extension, this provision shall not apply, and the right-of-way for a public street shall be provided by dedication in the plat; or (Added, Ord. 2010-06)
- (b) The city determines that a public road extension would adversely impact natural amenities, including wetlands or stands of mature trees containing deciduous trees greater than 12 inches in diameter or coniferous trees greater than 25 feet in height; or (Added, Ord. 2010-06)
- (c) There is no feasible present or future means of extending right-of-way from other directions; and (Added, Ord. 2010-06)
- (d) Covenants which assign driveway installation and future maintenance responsibility are submitted and recorded with the titles of the parcels which are benefitted. The city will not provide maintenance or snow plowing for common or shared access driveways; and (Added, Ord. 2010-06)
- (e) Common driveways shall be constructed in accordance with the provisions established in the City of Independence Manual of Standards. (Added, Ord. 2010-06)

Subd. 21. "Driveway, shared access." Means a shared entry off of a public street serving two lots which meets the city's shared driveway configuration standards. (Added, Ord. 2010-06)



Subd. 22. "Dwelling unit." A single residential accommodation that is arranged, designed, used or intended for use, as the living quarters for one family.

Subd. 23. "Dwelling, single family." A building containing no more than one dwelling unit.

Subd. 24. "Easement." A grant by a landowner for a specific use of land by the grantee.

Subd. 25. "Essential services." Public conduits, including their appurtenant structures, used to provide sewage removal, water supply, power fuel, communications, and any other public convenience or necessity.

Subd. 26. "Extraction." The removal of more than 100 cubic yards of sand, gravel, soil, peat, or other earthen deposits from a lot, except when such removal is part of construction under an approved building permit or conditional use permit.

Subd. 27. "Family." Family is any of the following:

- (a) An individual;
- (b) Two or more persons related by blood, marriage or adoption and maintaining a common household;
- (c) A group of not more than five unrelated persons maintaining a common household.

Subd. 28. "Farm." A lot, the principal use of which is agriculture.

Subd. 29. "Farm building." Any accessory building or accessory structure, other than a single-family dwelling, which is used in a farming operation, including but not limited to a barn, granary, silo, farm implement storage building or milk house.

Subd. 30. "Farriery." The establishment or the occupation of the shoeing of horses.

Subd. 31. "Feedlot." A building or use of land intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of the zoning code, open lots used for the feeding and rearing of poultry (poultry ranges) are considered to be feedlots. Pastures are not considered feedlots under this zoning code.

Subd. 32. "Fence." A partition intended as a dividing marker, a barrier, or an enclosure.

Subd. 33. "Floor area." The sum of the gross horizontal areas of the several floors of a building, measured from the exterior faces of the exterior walls.

Subd. 34. "Forestry." The cultivation and management of forests or woods located on the premises, including: felling and trimming of timber; transportation of timber and timber logs, pulpwood, cordwood and similar products; sawing of logs into lumber and similar operations.

Subd. 35. "Forestry products processing." The storage and processing of trees and tree products (excluding seeds and fruits), including sawmills and chipping operations but excluding the importing, storage or resale of manufactured lumber products or firewood.

Subd. 36. "Frontage." The distance between the side lot lines of a lot measured along the boundary of the right-of-way designated by the city council to serve the lot.

Subd. 37. "Garage, private." An accessory building or accessory portion of the principal building that is intended for storage of the private passenger vehicles of the family residing upon the lot.

Subd. 38. "Glare." A light source that is located, directed or controlled such that the light source itself is visible from a point four feet above the ground or higher at any point off the lot on which the light source is located.

Subd. 39. "Guest house." A separate building constructed on an existing undivided lot for the sole use of the homesteaded owner occupants of the principal building or their non-paying guests, and consisting only of one or more sleeping rooms with or without bathrooms.

Subd. 40. "Historical site." A structure or area of land or water of historic, archeological, paleontological or architectural value that has been designated as a historic site in the federal register of historical landmarks, the Minnesota historical society, or by a local governmental unit.

Subd. 41. "Home occupation." Any occupation, business, or profession carried on within or from a dwelling unit by a person who occupies the dwelling unit as a principal residence which use is clearly secondary to the principal use of the lot as a dwelling unit.

Subd. 42. "Horticulture." The use of land for the growing or production of fruits, vegetables, flowers, cultured sod and nursery stock, including ornamental plants and trees, for the production of income.

Subd. 43. "Interim use." A temporary use of property until a particular date, or until the occurrence of a particular event.

Subd. 44. "Irrigation system." Any structure or equipment, mechanized or otherwise, used to supply water for agriculture or horticulture, including but not limited to wells, pumps, motors, pipes, culverts, gates, dams, ditches, tanks, ponds, and reservoirs.

Subd. 45. "Kennel." Any structure or premises on which four or more dogs over six months of age are kept.

Subd. 46. "Livestock." Cattle, hogs, horses, bees, sheep, goats, llamas, chickens and other animals and fowl commonly kept for food production.

Subd. 47. "Local government buildings." Public structures housing public facilities or services including but not limited to city halls, police stations, fire stations, libraries and highway maintenance facilities, but excluding schools.

Subd. 48. "Lot." A parcel of land separated from other parcels by legal description.

Subd. 49. "Lot area." The contiguous horizontal plane bounded by the lot lines.

Subd. 50. "Lot, corner." A lot bounded by the intersecting boundaries of two or more roads.

Subd. 51. "Lot depth." The average horizontal distance between the front lot line and the rear lot line.

Subd. 52. "Lot line." A line defining the horizontal plane of a lot.

Subd. 53. "Lot line, front." The line connecting the side lot lines of a lot measured along the boundary of the right-of-way designated by the city council to serve the lot.

Subd. 54. "Lot line, rear." The lot line that is opposite the front lot line. If the rear line is less than ten feet in length or if the lot forms a point at the rear, the rear lot line is a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Subd. 55. "Lot line, side." Any lot line that is not a front lot line or a rear lot line.

Subd. 56. "Lot of record." A lot that satisfied the physical standards for width, depth, density, area and right-of-way frontage established by law, either:

- (a) On the date the lot was first subject to a written, verified and recordable contract for deed; or
- (b) On the date the lot was recorded with the Hennepin county recorder, after approval by the city council as a division or subdivision.

Subd. 57. "Lot width." The maximum horizontal distance between the side lot lines measured parallel to and 50 feet from the front lot line.

Subd. 58. "Mobile home." A dwelling unit bearing the seal of the state building inspector classifying it as a mobile home.

Subd. 59. "Non-rental guest apartment." An apartment within the principal residence structure or its garage on an existing undivided lot for the sole use of the homesteaded owner occupants of the principal residence, including their fulltime domestic employees or non-paying guests.

Subd. 60. "Open space use." A use oriented to and utilizing the outdoors, including an area having an unimproved natural character or an area including parks, trails, waysides, and general recreation uses.

Subd. 61. "Ordinary high water mark." A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. In areas where the ordinary high water mark is not evident, setbacks must be measured from the stream bank of the following water bodies that have permanent flow or open water; the main channel, adjoining side channels, backwaters, and sloughs.

Subd. 62. "Poultry facility." A fenced area or structure used intensively for raising, feeding, breeding or holding chickens, turkeys or other poultry for eventual sale.

Subd. 63. "Principal structure or use." The predominant purpose or activity for which the land, structure or building thereon is designed, arranged, or intended or for which it is occupied or maintained.

Subd. 64. "Property line." The legal boundaries of a lot.

Subd. 65. "Recreation, commercial." A privately owned business or lot offering recreational uses, services, or equipment for a fee.

Subd. 66. "Recreation, public." A recreation use, facility, service, or equipment owned and operated by a governmental unit.

Subd. 67. "Recreation use." Recreational facilities, services, equipment, or uses which may include water bodies and accessory buildings maintained for active or passive recreation including, without limitation, parks, playgrounds, golf courses, hunting preserves, equestrian facilities, nature trails, bridle paths, ski trails, picnic grounds, wildlife and nature areas.

Subd. 68. "Relative." A father, mother, brother, sister, son, daughter, son-in-law or daughter-in-law, grandparent or grandchild.

Subd. 69. "Riding stable, commercial." Stables, barns, and facilities for the keeping and riding of horses, both indoor and outdoor, operated as a livery or boarding stable, or other commercial recreational use.

Subd. 70. "Right-of-way." Land designated by the city council for public vehicular and pedestrian traffic by easement, dedication, statutory user, common law dedication, or other instrument or legal right.

Subd. 71. "Road, private." An easement encumbered by a private road agreement that provides for access, construction, maintenance and financing of private vehicular and pedestrian access to one or more lots.

Subd. 72. "Schools." Includes public and private nursery, elementary, secondary and college institutions.

Subd. 73. "Setback area." The area of a lot between the lot line and the building setback line in which buildings and structures are prohibited by this zoning code.

Subd. 74. "Setback, building." A line within a lot that establishes the minimum distance between the lot line and the nearest portion of a structure.

Subd. 75. "Setback area, front yard." The setback area between the building setback line and the right-of-way.

Subd. 76. "Setback area, rear yard." The setback area between the building setback line and the rear lot line.

Subd. 77. "Setback area, side yard." The setback area between the building setback line and the side lot line.

Subd. 78. "Sign." Any publicly displayed message-bearing device or attention attracting device used for visual communication the primary purpose of which is to bring the subject thereof to the attention of the public, including any banner, pennant, symbol, valance, or similar display. See section 550, Signs, for additional definitions.

Subd. 79. "Storage barn." A barn constructed for agricultural purposes and used for the storage of materials that are not held for rental or resale to the public.

Subd. 80. "Street" means a right-of-way improved for vehicular and pedestrian traffic in accordance with the city's adopted road specification standards, and accepted by the city for maintenance and public travel. (Added, Ord. 2010-06)

Subd. 81. "Street, private" means a street serving as vehicular access for more than three parcels of land in which the right-of-way underlying the street is not dedicated to the public, but is owned by one or more private parties. The construction and maintenance provisions of said private street shall be set forth in writing by the city council and recorded in the office of the Hennepin county recorder. Private roads are strongly discouraged. Private roads may be considered by the city if extenuating circumstances prohibit a public road from being constructed. (Added. Ord. 2010-06)

Subd. 82. "Structure." Any construction consisting of one or more parts jointed or erected in a definite form and having a temporary or permanent location on the ground.

Subd. 83. "Use, nonconforming." Any structure or use lawfully existing upon the effective date of this zoning code or an amendment hereto that does not conform to the provisions of this zoning code or amendment. Unless otherwise expressly provided by this zoning code or amendment, a nonconforming use may be continued subject to the conditions in subsection 515.07.

Subd. 84. "Use, permitted." A use that may be lawfully established in a particular zoning district if it conforms to all requirements, regulations and performance standards in that zoning district.

Subd. 85. "Variance." Any deviation from the regulations of this zoning code, except deviations from the uses permitted in a zoning district, that is approved by the city council in accordance with subsections 520.15, 520.17 and 520.19.

Subd. 86. "Wind energy conversion systems (WECS)." A device that converts wind energy into a usable form of power; also known as a wind turbine or windmill. The mechanism may include a rotor, shaft or gearing, generator or alternator, supporting structure, foundation and guy wires.

Section 515 – Zoning: General Provisions

515.01. Rules of construction. The following rules of construction apply to this zoning code:

- (a) Words and phrases are construed according to rules of grammar and according to their common and approved usage; technical phrases and other words that have acquired a special meaning, or are defined in this zoning code, are construed according to that special meaning or definition;
- (b) The singular includes the plural, and the plural, the singular, the present tense includes the past and future tenses and the future includes the present;
- (c) Where a general provision conflicts with a more particular provision, the two must be construed, if possible, so as to give effect to both; if the conflict is irreconcilable, the particular provision prevails unless the general provision was enacted later in time, in which case the general provision prevails;
- (d) The council does not intend a result that is absurd, unreasonable, or impossible of execution, and intends to favor the public interest over any private interest;
- (e) The council intends all provisions of this zoning code to be effective but does not intend to violate the constitution or laws of the United States or the state of Minnesota;
- (f) No provision of this zoning code may be deemed ineffective by failure to use or enforce it;
- (g) All measured distances expressed in feet must be rounded to the nearest tenth of a foot.

515.03. Application. This zoning code must be applied and enforced as follows:

- (a) In their interpretation and application, the provisions of this zoning code must be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare;
- (b) Where the conditions imposed by any provision of this zoning code are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution or regulation of any kind, the regulations that are more restrictive or that impose higher standards or requirements prevail;

- (c) This zoning code is not intended to abrogate any easements, restrictions or covenants relating to the use of land or imposed on lands within the city by private declaration or agreement, but where the provisions of this zoning code are more restrictive than any easement, restriction or covenant, or the provision of any private agreement, the provisions of this zoning code prevail;
- (d) Except as this zoning code specifically provides, no structure may be erected, moved in, converted, enlarged, reconstructed or altered, and no structure or land may be used for any purpose or in any manner that is not in conformity within this zoning code;
- (e) Whenever in any zoning district a use is neither specifically permitted nor specifically prohibited, the use shall be considered prohibited unless the city council determines that the use is sufficiently similar to a permitted use such that the use should be deemed to be permitted;
- (f) No more than one principal use or structure is permitted on any lot in any zoning district. No accessory structure is permitted prior to the construction of the principal structure. No accessory use is permitted prior to the establishment of the principal use;
- (g) The physical standards of this zoning code relative to the width, depth, area, right-of-way frontage, and density may not prevent a lot of record, as defined herein, from being used for a permitted use within the zoning district.

515.05. Separability. Every section, provision or part of this zoning code or any permit issued pursuant to this zoning code is declared separable from every other section, provision or part thereof in accordance with the following:

- (a) If any court of competent jurisdiction adjudges any provisions of this zoning code to be invalid, the judgment will not affect any other provision of this zoning code not specifically included in the judgment.
- (b) If any court of competent jurisdiction adjudges invalid the application of any provision of this zoning code to a particular property, building, or structure, the judgment will not affect other property, buildings, or structures.

515.07. Nonconforming uses. Any structure or use lawfully existing upon the effective date of this zoning code or an amendment hereto that does not conform to the provisions of this zoning code or amendment is a nonconforming use. Unless otherwise expressly provided by this zoning code or amendment, a nonconforming use may be continued subject to the following conditions:

- (a) No nonconforming use may be expanded or enlarged without bringing the entire nonconforming use into conformity with the provisions of this zoning code, except as follows: (Amended Ordinance No. 2011-07)
 - (1) There may be no expansion, enlargement, or intensification, of any use or any site element of any non-conforming use except to make it a permitted use or except as otherwise provided in this subdivision. Expansion, enlargement or intensification of conforming aspects of a non-conforming development are excepted from this requirement. For example, if a structure has a non-conforming setback, it may be expanded as long as the expansion itself meets ordinance requirements.
 - (2) A variance, pursuant to 520.19 of this section, is required if the expansion will intrude into one or more setback areas beyond the distance of the existing structure or will exceed the height or size limitations in this section by a distance or amount greater than the existing structure. For example, if the building currently has a front setback of 30 feet when 35 feet is required, and the expansion would reduce the setback to 25 feet, then a variance is required.
- (b) If a nonconforming use is discontinued for a period of one year, further use of the structures or lot must conform to this zoning code;
- (c) If a nonconforming use is replaced by another use, the new use must conform to this zoning code;
- (d) If a nonconforming structure is destroyed by any cause to an extent exceeding 50% of its fair market value, **and** no building permit has been applied for within 180 days of when the property is damaged subject to reasonable conditions on the building permit to mitigate any newly created impact on adjacent property, the nonconforming structure may not be rebuilt or repaired unless the structure is brought into conformity with this zoning code. If the property is less than 50 percent destroyed, then the nonconforming use may be continued, irrespective of the 180 day rule so long as the discontinued use or occupancy is not greater than one year; (Amended Ordinance No. 2011-07)
- (e) Normal maintenance of a building or other structure containing or related to a lawful nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations that do not extend or intensify the nonconforming use.

515.09. Home occupations. Subdivision 1. Purposes. The purposes of this subsection are to: (a) allow for home occupations that are appropriate for residential settings; and (b) protect the property rights of neighbors.

Subd. 2. Compliance required. A home occupation may be established and conducted only in accordance with this subsection.

Subd. 3. Subordinate use. A home occupation is an accessory use to a residential dwelling unit. The home occupation use must be clearly subordinate to the residential use of the property and must be conducted by a person or persons who reside in the dwelling.

Subd. 4. Requirements. A home occupation must comply with the following requirements:

- (a) the home occupation must occur entirely within the principal dwelling unit;
- (b) no more than one person not residing in the dwelling unit may be employed or otherwise engaged in the home occupation on the site or report to the site in connection with performing the home occupation;
- (c) no over-the-counter retail sales may occur on-site but a limited number of customers, clients, patients or students may visit the site in connection with the home occupation;
- (d) no outdoor storage of equipment or materials shall be permitted;
- (e) all vehicles used in connection with the home occupation or making deliveries to or pick-ups from the site in connection with the home occupation must comply with all applicable weight restrictions on public roadways within the city;
- (f) no materials, equipment or parts used in the home occupation may be stored on the premises other than within the dwelling unit;
- (g) no signs relating to the home occupation may be visible from the exterior of the dwelling unit or accessory structure except signs that are permitted under subsection 550.09, subdivision 2 of this zoning code;
- (h) no exterior alterations may be made to the dwelling unit to accommodate the home occupation except those alterations customarily found with dwelling units on lots of similar size within the district;

- (i) no light, glare, noise, vibration, dust, smell or other evidence of the home occupation may be perceptible beyond the boundaries of the lot except such as are customarily associated with residential use;
- (j) no traffic shall be generated by the home occupation beyond that which is reasonable and normal for the area in which it is located;
- (k) there must be adequate off-street parking for the anticipated number of persons on the site in connection with the home occupation at any one time;
- (l) the hours and days during which the home occupation conducts business on the premises must be limited so as not to unreasonably interfere with the residential character of the surrounding area;
- (m) the home occupation must be operated in compliance with all other applicable federal, state and local statutes, ordinances, codes and regulations; and
- (n) (Deleted, Ord. 2005-11)

515.11. Minimum size for residential dwellings. All residential dwellings must be a minimum of 24 feet in width and 30 feet in length, and must contain a minimum of 720 square feet of habitable floor space. Length and width must be measured from the outside of the exterior siding or facia and habitable floor space must be measured from the inside of the interior wall surface. Interior partitions must not be considered.

Section 520 – Zoning: Administration

520.01. Planning commission established and continued. Subdivision 1. The city council hereby establishes and continues a planning commission consisting of five members, each of whom must be a resident of the city. Planning commissioners are appointed by majority vote of the city council and serve for a term of three years and until a successor has been appointed and qualified. A planning commissioner may be removed by an affirmative vote of two-thirds of all of the members of the city council.

Subd. 2. "Planning commission organization." At its first meeting in January of each year, the planning commission must elect a chairman by majority vote and may adopt reasonable rules of procedure for the conduct of its meetings.

Subd. 3. "Officers." The city council must appoint a zoning administrator. The zoning administrator creates and maintains files and records on each application that comes before the planning commission and formally presents applications to the planning commission. The city council must appoint a planning commission recording secretary, who may not be a member of the city council or planning commission, and who prepares, maintains and forwards to the city administrator-clerk, minutes of all planning commission meetings. The secretary and the zoning administrator have those additional duties as may be assigned by the city council or by the provisions of this zoning code. The planning commission may elect a vice-chairperson and other officers and committees as it deems necessary.

520.03. Duties. Subdivision 1. The planning commission has the following duties:

Subd. 2. The planning commission may, upon its own motion or upon direction of the city council, review the city's comprehensive plan and its zoning code and recommend any appropriate amendments and changes to the city council.

Subd. 3. The planning commission must review all applications for conditional use permits and for zoning amendments, conduct all appropriate public hearings thereon and make recommendations on the applications to the city council.

Subd. 4. The planning commission acts as the board of appeals and reviews applications where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning code and makes recommendations to the city council on the appeals.

Subd. 5. The planning commission acts as the board of adjustment and reviews all applications for a variance from the regulations of the zoning code, conducts all appropriate public hearings thereon and makes recommendations on the applications to the city council.

Subd. 6. Whether acting as the planning commission, the board of appeals, or the board of adjustment, the planning commission must keep minutes of its proceedings and make a specific recommendation on each application that comes before it. The planning commission is encouraged to make specific findings of fact on material disputed issues. A copy of its findings and its recommendations will be served on the applicant by first class mail and will be forwarded to the city council for a final decision. Failure to provide a copy of the findings and recommendations to the applicant does not invalidate any subsequent action by the city council.

520.05. Procedure on zoning amendments. Subdivision 1. An amendment to the text of the zoning code or the zoning map may be initiated by the city council, the planning commission, or by application of a property owner. Individuals wishing to initiate an amendment to the zoning map must complete and submit to the city administrator-clerk an application for a zoning amendment together with a fee established by city council resolution. In addition to said fee, the applicant shall sign an agreement, on forms provided by the city, to pay the cost of all engineering, planning, legal and inspection expenses incurred by the city in processing the application.

Subd. 2. An application for an amendment to the zoning map must include a general development plan. The general development plan must be drawn to scale showing topography with a contour interval not greater than ten feet and must include the following:

- (a) The proposed site with reference to existing development on adjacent properties;
- (b) Proposed public and private road arrangements, walkways, and recreation and open space and other public areas;
- (c) General location of proposed structures;
- (d) General location of parking areas;
- (e) Soil classifications and ground water elevation;
- (f) General locations of wells and on-site sewage treatment systems;
- (g) General drainage pattern;
- (h) Plans and proposals generally describing the applicant's future expansion plans and intentions.

Subd. 3. The city administrator-clerk must refer the application to the zoning administrator, who must determine that all information required by subsection 520.05, subdivisions 1 and 2 has been provided, before presenting the application to the planning commission. The request shall be considered as being officially submitted when all the information requirements are complied with.

Subd. 4. The planning commission must hold a public hearing on the proposed zoning amendment. Notice of the time, place, and subject matter of the proposed zoning amendment must be published in the official newspaper of the city. The city administrator-clerk must mail to property owners within 350 feet of the subject property a copy of the notice by first class mail. The notices must be published and/or mailed at least ten days before the public hearing. Except as otherwise provided by law, failure to give the mailed notice does not invalidate the proceedings.

Subd. 5. The planning commission is encouraged to make written findings and recommendations on the proposed zoning amendment to the city council.

Subd. 6. Following referral by the planning commission, the city council must approve or deny the requested zoning amendment within 60 days of the filing of a completed application. The city council may extend the review period up to an additional 60 days upon written notification to the landowner of the reason for the extension and the anticipated length of the extension.

Subd. 7. No application of a property owner for an amendment to the text of the zoning code or the zoning map may be considered by the planning commission within a one-year period following a denial of the same or similar request, except the planning commission may proceed on its own motion if the planning commission finds new evidence or a change of circumstances warrant it.

520.07. Criteria on zoning amendments. Subdivision 1. The planning commission and the city council may consider, without limitation, the following criteria in approving or denying zoning amendments.

Subd. 2. Zoning amendments must conform to the Independence city comprehensive plan.

Subd. 3. The zoning amendment application must demonstrate that a broad public purpose or benefit will be served by the amendment.

Subd. 4. The zoning amendment application must demonstrate that the proposed zoning is consistent with and compatible with surrounding land uses and surrounding zoning districts.

Subd. 5. The zoning amendment application must demonstrate that the subject property is generally unsuited for the uses permitted in the present zoning district and that substantial changes have occurred in the area since the subject property was previously zoned.

Subd. 6. The zoning amendment application must demonstrate merit beyond the private interests of the property owner.

520.09. Procedure for conditional use permits. Subdivision 1. The applicant for a conditional use permit must complete and submit to the city administrator-clerk an application for a conditional permit together with a fee established by city council resolution. In addition to said fee, the applicant shall sign an agreement, on forms provided by the city, to pay the cost of all engineering, planning, legal and inspection expenses incurred by the city in processing the application

Subd. 2. The zoning administrator may require that the application for a conditional use permit include a site plan. The site plan must be drawn to scale showing topography with a contour interval of not greater than two feet and must include the following information, unless determined inapplicable by the zoning administrator:

- (a) Complete details of the proposed site development including identification signs, location of buildings, roads, driveways, parking spaces, locations of wells, and on-site sewage treatment systems, dimensions of the lot, lot area, yard dimensions and elevations.
- (b) Complete landscaping plans including species showing planting size and mature size of trees and shrubs proposed, together with an affirmative plan showing that existing trees will be protected and that due consideration has been given for other ecological and environmental concerns such as erosion control, silt accumulation, destruction of wildlife habitat, and similar considerations.
- (c) Plans and specifications for fences, walls, and other buffers as required.
- (d) Complete plans for proposed sidewalks or walkways to service parking, recreation and service areas within the proposed development.
- (e) A detailed soil survey including the particulate makeup, permeability, slope, and other morphological soil characteristics, together with classification and boundaries of all soils within the proposed development. This data must be prepared by a soil scientist with four years of academic training or the equivalent in field experience, by a geologist, or by a registered professional engineer experienced in the field of soils engineering.
- (f) Complete plans for storm water drainage systems consistent with the requirements of section 508 of this code.
- (g) An on-site sewage system design with accompanying soil boring and percolation test information consistent with the requirements of section 710 of this code.
- (h) Complete plans and specifications, including exterior wall finishes, for all proposed principal and accessory buildings.

- (i) Complete plans for storage areas for equipment, materials, waste and garbage.

Subd. 3. The city administrator-clerk must refer the application to the zoning administrator, who must determine that all information required by subsections 520.09, subdivisions 1 and 2, has been provided, before presenting the application to the planning commission. The request shall be considered as being officially submitted when all the information requirements are complied with.

Subd. 4. The planning commission must hold a public hearing on the proposed conditional use permit. Notice of the time, place, and subject matter of the proposed conditional use permit must be published in the official newspaper of the city. The city administrator-clerk must mail to property owners within 350 feet of the subject property a copy of the notice by first class mail. The notices must be published and/or mailed at least ten days before the public hearing. Except as otherwise provided by law, failure to give the mailed notice does not invalidate the proceedings.

Subd. 5. The planning commission is encouraged to make written findings and recommendations on the proposed conditional use permit to the city council.

Subd. 6. Following referral by the planning commission, the city council shall approve or deny the requested zoning amendment within 60 days of the filing of a completed application. The city council may extend the review period up to an additional 60 days upon written notification to the landowner of the reason for the extension and the anticipated length of the extension.

Subd. 7. No application for a conditional use permit may be resubmitted for a period of one year after denial by the city council.

Subd. 8. If a conditional use permit holder wishes to alter or extend the operation or to change the conditions of the permit, the city will evaluate the permit holder's compliance with the existing permit conditions. Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued requires an amended conditional use permit. An amended conditional use permit application must be administered in a manner similar to that required for a new conditional use permit.

Subd. 9. If the applicant violates any of the conditions set forth in the conditional use permit, the city council may revoke the conditional use permit.

Subd. 10. A conditional use permit lapses if construction does not proceed within one year of approval.

520.11. Criteria for granting a conditional use permit. Subdivision 1. An applicant for a conditional use permit must demonstrate that the proposed use meets all of the following criteria:

- (a) The conditional use will not adversely affect the health, safety, morals, and general welfare of occupants of surrounding lands.
- (b) The proposed use will not have a detrimental effect on the use and enjoyment of other property in the immediate vicinity for the purposes already permitted or on the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
- (c) Existing roads and proposed access roads will be adequate to accommodate anticipated traffic.
- (d) Sufficient off-street parking and loading space will be provided to serve the proposed use.
- (e) The proposed conditional use can be adequately serviced by public utilities or on-site sewage treatment, and a sufficient area of suitable soils for on-site sewage treatment is available to protect the city from pollution hazards.
- (f) The proposal includes adequate provision for protection of natural drainage systems, natural topography, tree growth, water courses, wetlands, historic sites and similar ecological and environmental features.
- (g) The proposal includes adequate measures to prevent or control offensive odor, fumes, dust, noise, or vibration so that none of these will constitute a nuisance.
- (h) The proposed conditional use is consistent with the comprehensive plan of the city of Independence.
- (i) The proposed use will not stimulate growth incompatible with prevailing density standards.

520.13. Conditions and restrictions. Subdivision 1. In permitting a new conditional use or the alteration of an existing conditional use, the city council may impose, in addition to standards and requirements expressly specified by this zoning code, additional conditions it considers necessary to protect the best interests of the surrounding area or the community as a whole. These conditions may include but are not limited to the following:

- (a) Increasing the required lot size or yard dimensions;
- (b) Limiting the height, size, or location of buildings;
- (c) Controlling the location and number of vehicle access points;

- (d) Increasing the road width;
- (e) Increasing the number of required off-street parking spaces;
- (f) Limiting the number, size, location, or lighting of signs;
- (g) Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property;
- (h) Designating sites for open space;
- (i) Increasing on-site sewage system requirements;
- (j) Requiring provision of urban services including central sewer.

520.15. Procedure for interim use permits. Subdivision 1. The purpose of an interim use permit is to allow for uses not specifically permitted in a zoning district, on a temporary basis.

Subd. 2. Site Plan. The zoning administrator may require that the application for an interim use permit include a site plan. The site plan must be drawn to scale showing topography with a contour interval of not greater than two feet and must include the following information, unless determined inapplicable by the zoning administrator:

- (a) Complete details of the proposed site development including identification signs, location of buildings, roads, driveways, parking spaces, locations of wells, and on-site sewage treatment systems, dimensions of the lot, lot area, yard dimensions and elevations.
- (b) An affirmative plan showing that existing trees will be protected and that due consideration has been given for other ecological and environmental concerns such as erosion control, silt accumulation, destruction of wildlife habitat, and similar considerations.
- (c) Plans and specifications for fences, walls, and other buffers as required.
- (d) Information from the county soil survey regarding the soil type, permeability, slope, and other characteristics, as deemed applicable.
- (e) Complete plans for storm water drainage systems consistent with the requirements of section 508 of this code.

- (f) An on-site sewage system design with accompanying soil boring and percolation test information consistent with the requirements of section 710 of this code.
- (g) Complete plans and specifications, including exterior wall finishes, for all proposed principal and accessory buildings.
- (h) Complete plans for storage areas for equipment, materials, waste and garbage.

Subd. 3. The city administrator-clerk must refer the application to the zoning administrator, who must determine that all information required by subsections 520.15, subdivisions 1 and 2, has been provided, before presenting the application to the planning commission. The request shall be considered as being officially submitted when all the information requirements are complied with.

Subd. 4. The planning commission must hold a public hearing on the proposed interim use permit. Notice of the time, place, and subject matter of the proposed interim use permit must be published in the official newspaper of the city. The city administrator-clerk must mail to property owners within 350 feet of the subject property a copy of the notice by first class mail. The notices must be published and/or mailed at least ten days before the public hearing. Except as otherwise provided by law, failure to give the mailed notice does not invalidate the proceedings.

Subd. 5. The planning commission is encouraged to make written findings and recommendations on the proposed interim use permit to the city council.

Subd. 6. Following referral by the planning commission, the city council shall approve or deny the requested zoning amendment within 60 days of the filing of a completed application. The city council may extend the review period up to an additional 60 days upon written notification to the landowner of the reason for the extension and the anticipated length of the extension.

Subd. 7. No application for an interim use permit may be resubmitted for a period of one year after denial by the city council.

Subd. 8. If an interim use permit holder wishes to alter or extend the operation or to change the conditions of the permit, the city will evaluate the permit holder's compliance with the existing permit conditions. Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the interim use permit issued requires an amended interim use permit. An amended interim use permit application must be administered in a manner similar to that required for a new interim use permit.

Subd. 9. If the applicant violates any of the conditions set forth in the interim use permit, the city council may revoke the interim use permit.

Subd. 10. An interim use permit lapses if construction does not proceed within one year of approval.

Subd. 11. Any interim use permit permitted hereunder shall terminate upon the earlier of a specified date, or upon the occurrence of a particular event, which is specified in the permit.

520.17. Criteria for granting an interim use permit. Subdivision 1. The city council may issue interim use permits for an interim use of property provided the proposed use meets all of the following criteria:

- (a) The use is deemed to be temporary and the use conforms to the development and performance standards of the zoning regulations herein;
- (b) The date or event that will terminate the use can be identified with certainty;
- (c) Allowing the use will not impose additional costs on the public if it is necessary for the public to take the property in the future;
- (d) The user agrees to any conditions that the city council deems appropriate for allowing the use; and
- (e) The use meets the standards set forth in subsection 520.11 governing conditional use permits.

520.19. Procedures on variances. Subdivision 1. The applicant for a variance must complete and submit to the city administrator-clerk an application for a variance and required documentation, together with a fee established by city council resolution. In addition to said fee, the applicant shall sign an agreement, on forms provided by the city, to pay the cost of all engineering, planning, legal and inspection expenses incurred by the city in processing the application.

Subd. 2. The city administrator-clerk must refer the application to the zoning administrator, who must review the application before presenting the application to the board of adjustment. The request shall be considered as being officially submitted when all the information requirements are complied with.

Subd. 3. The board of adjustment must hold a hearing on the proposed variance. Notice of the time, place, and subject matter of the proposed variance must be posted at the city hall. The city must mail to the property owners within 350 feet of the subject property a copy of the notice by first class mail. The notices must be posted and/or mailed at least ten days before the hearing. Failure to give the required notice does not invalidate the proceedings.

Subd. 4. The board of adjustment is encouraged to make written findings and recommendations on the proposed variance to the city council.

Subd. 5. Following referral by the board of adjustments, the city council must approve or deny the proposed variance within 60 days of the filing of a completed application. The city council may extend the review period up to an additional 60 days upon written notification to the landowner of the reason for the extension and the anticipated length of the extension.

520.21. Standards for granting variances. Subdivision 1. The City Council may grant a variance from the terms of this zoning code, including restrictions placed on nonconformities, in cases where: 1) the variance is in harmony with the general purposes and intent of this zoning code; 2) the variance is consistent with the comprehensive plan; and 3) the applicant establishes that there are practical difficulties in complying with the zoning code (Amended, Ord. 2011-08)

Subd. 2. An applicant for a variance must demonstrate that there are practical difficulties in complying with the zoning code. For such purposes, “practical difficulties” means:

- (a) The property owner proposes to use the property in a reasonable manner not permitted by the zoning code;
- (b) the plight of the property owner is due to circumstances unique to the property not created by the landowner;
- (c) the variance, if granted, will not alter the essential character of the locality.

Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. (Amended, Ord. 2011-08)

Subd. 3. The City Council shall not grant a variance to permit a use that is not allowed under the zoning code based on the zoning classification of the affected property. (Amended, Ord. 2011-08)

520.23. Conditions and restrictions. The board of adjustments may recommend and the City Council may impose conditions on a variance. Conditions must be directly related to and must bear a rough proportionality to the impact created by the variance. (Amended, Ord. 2011-08)

520.25. Site plan approval procedure. Subdivision 1. Policy statement. It is the city's policy to preserve and promote attractive environments for its citizens through encouraging well-conceived, high quality developments. The following rules govern applications for site plan approval.

Subd. 2. Application. The property owner or an authorized agent must submit a site plan approval application to the zoning administrator on a form provided by the city, together with a fee in an amount established by city council resolution.

Subd. 3. Exhibits. The application must be accompanied by the following exhibits:

- (a) A survey drawing by a registered engineer or land surveyor showing pertinent existing conditions accurately dimensioned.
- (b) A complete set of preliminary drawings prepared by a registered civil engineer or landscape architect showing:
 - (1) An accurately scaled and dimensioned site plan indicating parking layout, including access provisions, location of structures, landscaping, including trees and shrubbery with indication of species, planting, size and location;
 - (2) Fences or walls or other screening, including height and type of material;
 - (3) Lighting provisions, including type and location;
 - (4) Curbs.
- (c) Any other information deemed applicable by the zoning administrator.

Subd. 4. Decision. The zoning administrator shall review the sketch and determine if it complies with the applicable site development standards in subsection 530.15. The zoning administrator shall have the prerogative and authority to refer the sketch to the planning commission and/or city council for discussion, review and comment. Deviations from the standards in subsection 530.15 may be granted through a formal variance review process.

Subd. 5. Expiration of site plan approval. An approved site plan expires and becomes null and void one year following the date on which the application was approved, unless prior to the expiration of the year, a building permit is issued and construction is commenced. The city council may extend the period of site plan approval for one year, and the extension may be granted before or after the expiration of the initial one-year period.

520.27. Appeals procedure. Subdivision 1. Any person wishing to appeal an order, requirement, decision, or determination made by an administrative officer in enforcement of the zoning code must complete and submit to the city administrator-clerk an application for appeal within 30 days after the date of the order or decision in question. The application for appeal must contain a complete statement of the order, requirement, decision or determination, the name of the administrative officer involved, and a concise statement of the alleged error committed.

Subd. 2. The city administrator-clerk must refer the application to the zoning administrator, who must review the application before presenting the application to the board of appeals.

Subd. 3. The board of appeals must review the application and is encouraged to make written findings and recommendations to the city council.

Subd. 4. The city council must grant or deny the appeal request after receiving the recommendation of the board of appeals.

520.29. City administrator-clerk duties. Subdivision 1. The city administrator-clerk performs or directs others to perform the following duties with respect to the zoning code:

- (a) Maintain permanent and current records of this zoning code, including but not limited to maps, permits, appeals, amendments, conditional uses, and variances;
- (b) Receive, file, and forward all applications for permits, appeals, amendments, conditional uses and variances or other matters required by law;
- (c) Publish and mail out hearing notifications as required;

520.31. City building inspector duties. Subdivision 1. The city building inspector performs or directs others to perform the following duties with respect to the zoning code:

- (a) Provide instruction and assistance to applicants for building permits;
- (b) Conduct a final review of building permit applications to verify compliance with the state building code and provisions of this zoning code;
- (c) Conduct inspections of buildings, structures, and on-site septic systems to determine compliance with the terms of this zoning code;

520.33. City zoning administrator. Subdivision 1. The city council must appoint a zoning administrator to perform the following duties with respect to the zoning code:

- (a) Provide instruction and assistance to applicants for conditional use permits, variances and zoning amendments;
- (b) Review applications for completeness and conformance with this zoning code prior to presentation to the planning commission or board of adjustment;
- (c) Conduct field inspections to determine compliance with the terms of this zoning code;
- (d) Make presentations of applications before the planning commission;

- (e) Prepare written reports of planning commission findings and recommendations and submit the reports to the city council.

520.35. Planning commission recording secretary. The city administrator-clerk may appoint a planning commission recording secretary to prepare and maintain minutes of planning commission meetings and assist the zoning administrator in preparing written reports of planning commission findings and recommendations.

520.37. Enforcement. Subdivision 1. Any person, firm, or corporation who violates or fails to comply with any of the provisions of this zoning code or the provisions of any permit issued pursuant to this zoning code or who makes any false statement in any document required under the provisions hereof is guilty of a misdemeanor. Unless otherwise provided, each act of violation and every day on which a violation occurs or continues constitutes a separate offense. The failure of any officer or employee of the city to perform any official duty imposed by this zoning code will not subject the officer or employee to a penalty imposed for violation.

Subd. 2. In the event of a violation or the threatened violation of any provisions or condition of a permit issued pursuant to this zoning code, the city council, in addition to other remedies, may request that the city attorney institute appropriate actions or proceedings to prevent, restrain, correct, or abate the violations or threatened violations. Such proceedings may include, but are not limited to, administrative enforcement proceedings providing notice and an opportunity to be heard regarding alleged violations. Such proceedings may result in the imposition of monetary fines or penalties to the extent permitted by law.

Subd. 3. Neither the issuance of a permit nor compliance with the conditions thereof or with the provisions of this zoning code relieves any person from any responsibility otherwise imposed by law for damage to persons or property, nor may the issuance of any permit hereunder serve to impose any liability on the city or its officers or employees for injury or damage to persons or property. A permit issued pursuant to the code does not relieve the permittee of responsibility for securing and complying with any other permit that may be required by any other law, ordinance, or regulation.

Section 525 – Zoning: Official Zoning Map

525.01. Land use districts. The city of Independence is hereby divided into land use districts identified by the following name and symbol:

Agricultural (AG);
Rural Residential (RR);
Urban Residential (UR)
Commercial-Light Industrial (CLI)
Urban Commercial (UC)

(Amended, Ord. No. 2012-01, Sec. 1)

525.03. District boundaries established. The boundaries of the land use districts defined in this zoning code are hereby established as indicated on a map entitled “official zoning map, city of Independence,” as amended from time to time by ordinance of the city council and kept on file in the office of the city administrator-clerk. The official zoning map is made a part of this zoning code by reference.

Section 530 – Zoning: District Provisions

530.01. Agricultural district established. Subdivision 1. The agricultural district is established for the purpose of promoting continued farming of agricultural lands.

Subd. 2. Permitted uses. The following uses are permitted in the agricultural district:

- (a) agriculture and horticulture;
- (b) feedlots and poultry facilities;
- (c) farm drainage and irrigation systems;
- (d) forestry;
- (e) public recreation;
- (f) single family dwellings

Subd. 3. Accessory uses. The following accessory uses are permitted in the agricultural district:

- (a) private garages for single family dwellings,
- (b) home occupations operated in accordance with subsection 515.09 of this zoning code;
- (c) fences;
- (d) detached agricultural storage buildings, barns, or other structures, accessory to an existing single family dwelling, the total square footage of which may not exceed the following standard:

| <u>Lots of record</u> | | |
|-----------------------|--|------------------|
| (1) | One acre or less | 1600 square feet |
| (2) | Greater than one acre but less than two and one-half acres | 1850 square feet |
| (3) | Two and one-half acres but less than five acres | 2100 square feet |
| (4) | Five acres but less than ten acres | 2600 square feet |

- (5) Ten or more acres No requirement

* Accessory buildings or structures of 120 square feet or less are exempt from the total square footage requirement.

(e) retail sales, on a seasonal basis of agricultural and horticultural products grown on the premises by a person who occupies the premises as a principal residence, provided that the applicant apply for and receive an administrative permit from the city prior to commencing any sales of products. All applications shall meet and comply with all of the following standards: (Added, Ord. 2010-04)

- (1) adequate off-street parking is provided for the number of persons reasonably anticipated to be on the site at any one time; (Added, Ord. 2010-04)
- (2) the hours of operation must be limited so as not to unreasonably interfere with the character of the surrounding area and the neighboring property owners' peaceful enjoyment of their properties; (Added, Ord. 2010-04)
- (3) the following signs may be permitted: one permanent on-site sign of no greater than 32 square feet in area per surface and having no greater than two surfaces, two temporary off-site signs of no greater than eight square feet in area per surface and having no greater than two surfaces and such other signs as city may reasonably determine to not interfere with public safety or the character of the surrounding area; (Added, Ord. 2010-04)
- (4) any new accessory structure constructed for the purpose of such sales and any adjacent parking area must satisfy those requirements as to setback, size, appearance and screening as the city may reasonably determine for purposes of protecting public safety and the character of the surrounding area; (Added, Ord. 2010-04)
- (5) greenhouses may not be artificially lit between the hours of 9:00 p.m. and 7:00 a.m. unless shielded so as to prevent any light from escaping in any direction; (Added, Ord. 2010-04)
- (6) such requirements, including application of dust control materials and grading of roadways, as the city reasonably determine are necessary in order to minimize the impact of any increase in traffic on city roadways as a result of such sales being conducted on the premises; (Added, Ord. 2010-04)
- (7) all applicable federal, state and local statutes, ordinances, codes and regulations, including but without limitation all applicable health and safety regulations, must be complied with. (Added, Ord. 2010-04)

Subd. 4. Conditional uses. The following conditional uses may be permitted in the agricultural district, by action of the city council pursuant to subsections 520.09, 520.11 and 520.13.

- (a) accessory dwelling units; (Added, Ordinance 2011-09)
- (b) riding stables;
- (c) bunkhouses;
- (d) farrieries;
- (e) detached agricultural storage buildings, barns, or other accessory structures that exceed the size limitations of subdivision 3(d) of this subsection; (Amended, Ord. 2005-11)
- (f) kennels; (Amended, Ord. 2005-11)
- (g) local government buildings; (Amended, Ord. 2005-11)
- (h) churches; (Amended, Ord. 2005-11)
- (i) cemeteries; (Amended, Ord. 2005-11)
- (j) extraction; (Amended, Ord. 2005-11)
- (k) essential services; (Amended, Ord. 2005-11)
- (l) temporary use of a mobile home or camper as a dwelling unit during construction of a permanent dwelling for a period not to exceed six calendar months; (Amended, Ord. 2005-11)
- (m) wind energy conversion systems (WECS); (Amended, Ord. 2005-11)

- (n) commercial indoor storage in existing farm buildings, provided: (Amended, Ord. 2005-11)
 - (1) the applicant establishes that the building has been in continuous use for agricultural purposes for at least ten years preceding the application for the conditional use permit;
 - (2) the building is located on property that is owner-occupied; and
 - (3) the applicant establishes that the structure cannot be economically used for agricultural purposes.
- (o) guest houses and non-rental guest apartments; (Amended, Ord. 2005-11)
- (p) commercial golf courses; (Amended, Ord. 2005-11; Ord. 2010-04)
- (q) telecommunications towers approved pursuant to section 540 of this code; (Amended, Ord. 2005-11; Ord. 2010-04)
- (r) forestry products processing, provided that: (Amended, Ord. 2005-11; Ord. 2010-04)
 - (1) The operation of the conditional use must be on a lot that is being used as an occupied single family dwelling;
 - (2) The lot upon which the conditional use is operated must be not less than ten acres in area;
 - (3) The area devoted to the conditional use, including buildings, parking, storage area, and all related uses may not exceed 15,000 square feet or 12% of the size of the lot, whichever is smaller, subject to existing accessory building standards.
- (s) polo grounds. (Added, Ord. 2007-01; Ord. 2010-04)

- (t) catering business provided that: (Added, Ord. 2011-15)
 - (1) the business is subordinate to the principal use of the property as a residence;
 - (2) no materials, equipment or parts used in the business may be stored on the premises other than within the dwelling unit or accessory structure;
 - (3) no signs relating to the business may be visible from the exterior of the dwelling unit or accessory structure except signs that are permitted under subsection 550.09, subdivision 2 of this zoning ordinance;
 - (4) no exterior alterations may be made to the dwelling unit to accommodate the business except those alterations customarily found with the dwelling units on lots of similar size within the district;
 - (5) no traffic shall be generated by the business beyond what is reasonable and normal for the area in which it is located;
 - (6) the hours and days during which the business is conducted on the premises is limited so as not to unreasonably interfere with the residential character of the surrounding areas;
 - (7) no over the counter retail sales may occur on-site.

Subd. 5. Animal assisted therapy operation. ATT may be permitted as a conditional use by action of the city council pursuant to subsections 520.09, 520.11 and 520.13 of the zoning ordinance, subject to the following additional conditions:

- (a) The applicant shall provide proof of insurance in an amount and with such coverage as the city attorney deems reasonable, and shall thereafter maintain such insurance.
- (b) The applicant shall provide proof of licensing or appropriate educational attainment and training in ATT for all therapists delivering services at the site. This requirement shall be continuing and the city may request such proof on a periodic basis for all therapists then delivering services.
- (c) The applicant shall provide documentation and a site plan describing the AAT program(s) to be delivered. Such documentation shall include a description of the goal-directed process and criteria for evaluating the effectiveness of the program(s).

- (d) The applicant shall identify all species of animals that will be present at the site and used in delivering AAT. No other species of animals shall be allowed with the city's approval.
- (e) For parcels of less than ten acres, the maximum density of animal units is two acres for the first animal unit and one additional acres for each additional animal unit.
- (f) Other than the delivery of AAT, no commercial or business activities may be conducted on the site except the production of agricultural products in de minimis amounts as a result of the delivery of AAT.
- (g) The city may periodically inspect the site without notice.

530.03. Physical Standards. Subdivision 1. Subdivisions within the agricultural district shall be limited to lot line rearrangements and creation of rural view lots, according to the standards and procedures of subsection 500.09, subdivision ordinance.

Subdivision 2. Rural view lot density. A lot of record as of November 9, 1999 may be subdivided into the following maximum number of rural view lots, in addition to the original dwelling or dwelling site on the lot of record:

| <u>Area of Lot of Record</u> | <u>Maximum Number of Rural View Lots Permitted</u> |
|--|--|
| 39.99 ^b acres or less | Zero |
| 40.0 ^b – 79.99 acres ^a | One |
| 80.0 acres | Two, plus one additional lot for every 40 acres of additional land |

(Amended, Ord. 2010-01)

^a The city council may consider a density transfer option for non-contiguous 40 acre tracts that are under single ownership. (For example, a non-contiguous 40-acre lot and an undeveloped 40-acre lot could be combined to yield two new rural view lots plus the original parcel for a combined total of three lots.) (Amended, Ord. 2010-01)

^b For the purpose of determining the number of rural view lots that can be created, the area of a lot of record shall be measured to the center of bounding road right-of-ways. Furthermore, a lot of record that was originally subdivided into a quarter-quarter section and has not been further subdivided shall be deemed a 40 acre parcel for purposes of determining rural view lot eligibility. For properties within the jurisdiction of the Shoreline Ordinance (Section 505), submerged lands within the boundaries of any water front parcel that are located waterward of the ordinary high water mark shall not be used to compute the area of the lot. (Added, Ord. 2010-01)

Subd. 3. Physical standards. All lots and construction thereon must meet the following physical standards:

- (a) Minimum lot area ^a 2.50 acres buildable land
- (b) Maximum lot area 10 acres
- (c) Minimum lot frontage on an improved public road or street:

| <u>Lot area</u> | <u>Minimum frontage</u> |
|--------------------|-------------------------|
| 2.50 – 3.49 acres | ^b 200 feet |
| 3.50 – 4.99 acres | ^b 250 feet |
| 5.00 – 10.00 acres | ^b 300 feet |
- (d) Height. The maximum height of all buildings must not exceed the lesser of two and one-half stories or 35 feet. This height limitation does not apply to farm buildings, grain elevators, silos, windmills, elevator legs, cooling towers, water towers, chimneys and smokestacks, church spires, or electric transmission lines.
- (e) Lot depth. The ratio of lot frontage to lot depth must be no more than 1:4.

^a A lot must be a minimum of 2.50 acres buildable land with a demonstrated capability to accommodate two on-site waste disposal systems. Buildable land must be contiguous and not separated by streams, wetlands, slopes in excess of 10% or other physical impediments.

^b A waiver to permit lots with reduced frontage on a public right-of-way, neck lots or lots with no frontage on a public right-of-way but with frontage on a common driveway may be considered and granted or not granted. If granted, evidence must be provided that all standards established and defined in Section 510.05, Subdivision 20 of this zoning code are met: (Amended, Ord. 2010-06)

Subd. 4. Setbacks. All buildings and structures, including houses with attached garages or decks, must meet or exceed the following setbacks:

- | | | |
|-----|---|--|
| (a) | Front yard setback | ^a 85 ft. from centerline of road |
| (b) | Side yard setback | ^{a b} 30 ft. from side lot line |
| (c) | Rear yard setback | ^a 40 ft. from rear lot line |
| (d) | Setback from lakes, rivers and streams | 100 ft. from ordinary high mark |
| (e) | Setback from wetlands | 10 ft. from the outside edge of the required wetland buffer |
- (Amended, Ord. No. 2012-08, Sec. 1)
- (f) Fences, trees, shrubs, or other appurtenances are not allowed within any road right-of-way.

(^a Except buildings housing livestock, which may not be located closer than 150 feet from an existing residential structure on all adjacent property.)

(^b Except detached garages and other accessory buildings, which may be 15 feet from the side lot line.)

Subd. 5. Animal unit density. Livestock is permitted in the agricultural district on parcels less than ten acres at a maximum density of two acres for the first animal unit and one additional acre for each additional animal unit.

530.05. Rural residential district established. Subdivision 1. The rural residential district is established for the purpose of providing for residential development affording enjoyment of the rural life style.

Subd. 2. Permitted uses. The following uses are permitted in the rural residential district:

- (a) single family dwellings;
- (b) commercial agriculture;
- (c) public recreation;

- (d) horticulture;
- (e) forestry.

Subd. 3. Accessory uses. The following accessory uses are permitted in the rural residential district:

- (a) private fences, gardening and landscaping;
- (b) recreation equipment;
- (c) home occupations operated in accordance with subsection 515.09 of this zoning code;
- (d) non-commercial greenhouses;
- (e) private garage, additional storage buildings, barns or other structures, the total square footage of which does not exceed the following standard:

Lots of record

| | | |
|-----|--|-------------------|
| (1) | One acre or less | 1,600 square feet |
| (2) | Greater than one acre but less than two and one-half acres | 1,850 square feet |
| (3) | Two and one-half acres but less than five acres | 2,100 square feet |
| (4) | Five acres but less than ten acres | 2,600 square feet |
| (5) | Ten or more acres | No Requirement |

Accessory buildings or structures of 120 square feet or less are exempt from the total square footage.

Subd. 4. Conditional uses. The following conditional uses may be permitted in the rural residential district by action of the city council pursuant to subsections 520.09, 520.11, and 520.13 of this code:

- (a) cluster development meeting the standards of subdivision 6 of this section;
- (b) kennels;
- (c) nurseries;

- (d) commercial recreation;
- (e) local government buildings; (Amended, Ord. 2005-11)
- (f) churches; (Amended, Ord. 2005-11)
- (g) cemeteries; (Amended, Ord. 2005-11)
- (h) essential services; (Amended, Ord. 2005-11)
- (i) temporary use of a mobile home as a dwelling unit during construction of a permanent dwelling for a period not to exceed six calendar months; (Amended, Ord. 2005-11)
- (j) guest houses and non-rental guest apartments; (Amended, Ord. 2005-11)
- (k) telecommunications towers approved pursuant to section 540 of this code; and (Amended, Ord. 2005-11)

530.07. Physical standards. Subdivision 1. All construction in the rural residential district must meet the following physical standards: (Added, Ord. 2010-01)

- (a) Minimum lot area ^a 2.50 acres buildable land.
(Added, Ord. 2010-01)
- (b) Minimum lot frontage on an improved public road or street:

| <u>Lot area</u> | <u>Minimum frontage</u> |
|--------------------|-------------------------|
| 2.50 – 3.49 acres | ^b 200 feet |
| 3.50 – 4.99 acres | ^b 250 feet |
| 5.00 – 10.00 acres | ^b 300 feet |

(Added, Ord. 2010-01)

^a A lot must be a minimum of 2.50 acres buildable land with a demonstrated capability to accommodate two on-site waste disposal systems. Buildable land must be contiguous and not separated by streams, wetlands, slopes in excess of 10% or other physical impediments. (Added, Ord. 2010-01)

^b Lots must have no less than the specified minimum frontage respectively on a right-of-way, provided that the city council may waive the requirement if the following conditions are met: (Added, Ord. 2010-01)

- (1) The applicant submits and the city council approves a development plan encompassing all land under the control of the applicant. (Added, Ord. 2010-01)
- (2) The development plan must demonstrate that vehicular and pedestrian access, as well as emergency and public vehicular access can be provided to each lot in the development plan. (Added, Ord. 2010-01)
- (3) The applicant must enter into a private road agreement that meets the criteria of subsection 510.05, subdivision 70 of this code as well as additional conditions deemed necessary by the city council to protect the health, safety and welfare of the occupants of the lots within the development plan. (Added, Ord. 2010-01)
- (c) The ratio of lot frontage to lot depth must be no more than 1:4. (Added, Ord. 2010-01)
- (d) Height. The maximum height of all buildings must not exceed the lesser of two and one-half stories or 35 feet. This height limitation does not apply to farm buildings, grain elevators, silos, windmills, elevator legs, cooling towers, water towers, chimneys and smoke-stacks, church spires, or electric transmission lines. (Amended, Ord. 2010-01)

Subd. 2. Setbacks. All buildings and structures, including houses with attached garages or decks, must meet or exceed the following setbacks:

- (a) Front yard setback ^a 85 ft. from centerline of road
- (b) Side yard setback ^{a b} 30 ft. from side lot line
- (c) Rear yard setback ^a 40 ft. from rear lot line
- (d) Setback from lakes, rivers and streams 100 ft. from ordinary high mark
- (e) Setback from wetlands 10 ft. from the outside edge of the required wetland buffer

(Amended, Ord. No. 2012-08, Sec. 1)

- (f) Fences, trees, shrubs, or other appurtenances are not allowed within any road right-of-way.

(^a Except buildings housing livestock, which may not be located closer than 150 feet from an existing residential structure on all adjacent property.)

(^b Except detached garages and other accessory buildings, which may be 15 feet from the side lot line.)

Subd. 3. Density. Lots of record in the rural residential district may be divided or subdivided into the following maximum number of lots, said maximum number to include the lot for any existing dwelling unit or other principal use: (Amended, Ord. 2010-01)

| <u>Area of Lot of Record</u> | <u>Maximum Number of Lots Permitted</u> |
|----------------------------------|---|
| 7.5 acres or less | One |
| 7.6 through 12.5 acres | Two |
| 12.6 through 17.5 acres | Three |
| 17.6 through 22.5 acres | Four |
| 22.6 through 27.5 acres | Five |
| 27.6 through 32.5 acres | Six |
| 32.6 through 37.5 acres | Seven |
| 37.6 through 42.5 acres | Eight |
| 42.6 through 47.5 acres | Nine, plus one addn. lot for every five addn. acres of land. |

- (a) Animal unit density. Livestock are permitted in the rural residential district at a maximum density of two acres for the first animal unit and one additional acre for each additional animal unit.

Subd. 4. Cluster development conditional use permit. Cluster development is a conditional use in the rural residential district, subject to the provisions of subsections 520.09, 520.11 and 520.13 of this code. (Amended, Ord. 2010-01)

- (a) Purpose. The purpose of the cluster development conditional use permit is to promote the creative and efficient use of land. The provisions of this subdivision are intended to:
 - (1) Protect natural features in common open space.
 - (2) Improve the arrangement of structures, facilities and amenities on a site.

- (3) Preserve the rural character of the community.
- (b) Criteria. A cluster development is a residential development in which a number of single family dwelling units are grouped on smaller lots than in conventional developments, while the remainder of the tract is preserved as open space. If the following standards are complied with, density of one unit per four acres is permitted.
- (1) The development parcel must be 40 or more acres in size;
 - (2) A minimum of 50% of the development must be preserved as open space, recreational space or agricultural use;
 - (3) A minimum of 50% of the preserved open space, recreational space or agricultural use land must be useable. Wetlands, streams, lakes, ponds and lands within the 100 year flood plain elevation are not considered to be useable for the purpose of this subsection;
 - (4) Woodland, wetlands and topography must be preserved in a natural state, with modification allowed when no reasonable alternative exists; or, if the site lacks unique features such as woodlands and wetlands, the site must be designed and constructed in such a manner that residential building sites are integrated into a created natural environment including reforestation, wetlands enhancement, and vegetative screening of structures;
 - (5) The preliminary plat must show a primary and secondary individual sewage treatment site for each dwelling unit and must be supported with soil test reports indicating the adequacy of each proposed location; provided, that shared treatment systems within a development may be acceptable if the plat identifies two or more suitable sites for the shared system and the city council approves the proposal;
 - (6) Lots within the development must have a minimum lot size of 1.5 contiguous buildable acres. Buildable acreage must not be separated by streams, wetlands, slopes in excess of 10% or other physical impediments;
 - (7) Open space must be designated in the development as one or more outlots and must be owned either by a homeowners' association consisting of the owners of all of the residential lots in the development or by the owners of the residential lots, as tenants in common;

- (8) The developer must record against the development a declaration of covenants that places responsibility for management of the open space in a homeowners association and provides for the assessment of management costs to the association members;
- (9) All utilities must be placed underground;
- (10) All residential streets within the cluster development must be paved with a bituminous surface according to the city street standards in effect at the time of the development;
- (11) A development agreement must be entered into with the city.

530.09. Urban Residential district established. Subdivision 1. The urban residential district is established for the purpose of promoting sustainable continuum of housing development in the City. The district is intended to provide for the development of residential scale, high quality medium density housing which is integrated into the surrounding residential and commercial development. It shall strive to create a sustainable pattern of land uses that diversifies the City's housing opportunities. (Added, Ord. 2012-01, Sec. 2)

Subd. 2. Permitted uses. All uses are conditional, subject to the approval of the City Council. No uses are permitted by right. In general, uses shall be consistent with the intent of the Comprehensive Plan. (Added, Ord. 2012-01, Sec. 2)

Subd. 3. Conditional uses. The following conditional uses may be permitted in the urban residential district, by action of the city council pursuant to subsections 520.09, 520.11 and 520.13.

- (a) Planned Development, subject to the following additional conditions.

The use of a planned development for development in the urban residential district should result in a reasonable and verifiable advancement of the intent and goals for such district as expressed in the Comprehensive Plan. The urban residential district is a residential district intended to accommodate medium density residential development that serves the local and regional market. The emphasis should be on providing sustainable, high quality, well planned, attractive and walkable housing opportunities. Uses within this district should complement existing residential neighborhoods and the downtown commercial development within the community and adjacent communities.

Residential development in this area shall be planned and organized so as to accommodate a sensitive transition between existing, lower density residential and higher density downtown development. Such development shall be designed with high quality building materials, complimentary architectural style and a coordinated landscaping theme, but shall avoid monotony in design and visual appearance. Vehicle and pedestrian access is coordinated and logically linked to provide a comprehensive circulation system. All development in this area shall incorporate the walkable community standards adopted by the City.

(Added, Ord. 2012-01, Sec. 2)

530.11. Subd. 1. Physical standards. All lots and construction thereon must meet the following physical standards:

- | | | |
|-----|--|--|
| (a) | Minimum lot area | 10 acres buildable land |
| (b) | Maximum and minimum density | <ol style="list-style-type: none"> 1. 4.3 units per acre minimum 2. 7 units per acre maximum |
| (c) | Minimum lot frontage on an improved public road or street: | |
| | <u>Lot area</u> | <u>Minimum frontage</u> |
| | 10.00 acres | 300 feet |
| (d) | Open Space | 30% (gross area) |

(Added, Ord. 2012-01, Sec. 2)

Subd. 2. Origination of Proposal. Any applicant may propose a planned development in accordance with the procedures set forth by the City. Further, any applicant making an application must intend to act as the developer or sponsor of the development. A parcel or site proposed for a planned development does not need to be under single ownership. However, if the parcel is not under single ownership, the applicant must have a contractual agreement with the owners of all property to be considered in order to develop the land in accordance with a single, unified plan. (Added, Ord. 2012-01, Sec. 2)

Subd. 3. Drafting of Planned Development Agreement. A planned development agreement must be approved and executed by the City. The general intent of the zoning and subdivision ordinance shall be used for the foundation of the terms and conditions of the planned development agreement. Development standards that ensure public health and safety shall be included. (Added, Ord. 2012-01, Sec. 2)

Subd. 4. Design Considerations. The applicant must demonstrate that the following design considerations have been incorporated into the planned development.

- (a) Adequate Public Facilities. The applicant must demonstrate that public facilities and services needed to support new development shall be available concurrently with the impacts of such new developments. In meeting this purpose, public facility and service availability shall be deemed sufficient if the public facilities and services for new development are phased, or the new development is phased, so that the public facilities and those related services which are deemed necessary by the local government to operate the facilities necessitated by that new development, are available concurrently with the impacts of the new development. All costs associated with the investigation, design and construction of public facilities needed to serve a development shall be the responsibility of the applicant. Adequate public facilities shall include, but not be limited to the following:

1. Roads – existing and proposed
 2. Traffic – traffic patterns, controls
 3. Sewage disposal systems
 4. Water supply and distribution systems
 5. Fire protection – fire protection services
 6. Weather warning
- (b) Protection and preservation of natural features. The applicant must demonstrate that the flexibility provided by the PD is used to protect and preserve natural features such as tree stands, wetlands, ponds and scenic views. These areas are to be permanently protected as public or private tracts or protected by permanently recorded easements.
- (c) Storm Water Management. Due to the sensitive nature of the natural resources in Independence, the applicant shall place an emphasis on meeting all applicable storm water management rules and regulations pertaining to the proposed planned development. Incorporation of best management practices and innovative solutions to storm water management will be encouraged.
- (d) Landscape Standards. The PD should be developed with a focus on providing a high level of integrated landscape standards. In place of mass grading for building pads and roads, stone or decorative blocks retaining walls shall be employed as required to preserve mature trees and the site's natural topography.
- (e) Architectural standards. The applicant should demonstrate that the PUD will provide for a high level of architectural design and building materials. While this requirement is not intended to minimize design flexibility, a set of architectural standards should be prepared for city approval. The primary purpose is to assure the city that high quality design will be employed throughout the development.

(Added, Ord. 2012-01, Sec. 2)

530.13. Commercial-light industrial district established. Subdivision 1. The commercial-light industrial district is established for the restricted purpose of providing for commercial-light industrial development compatible with the rural character of the city.

Subd. 2. Permitted uses. The following uses are permitted in the commercial-light industrial district. All permitted uses must be operated from, or in association with, a primary building.

- (a) farm equipment sales;
- (b) retail sales;
- (c) commercial recreation;
- (d) device or office uses;
- (e) storage and warehousing, excluding the storage or warehousing of toxic, explosive, hazardous or highly flammable products;
- (f) wholesale businesses;
- (g) building material sales and storage, within enclosed buildings;
- (h) contractors' offices;
- (i) adult establishments licensed under section 1120 of this code;
- (j) any other use determined by the city council to be similar in character to a permitted use.

Subd. 3. Accessory uses. The following accessory uses are permitted in the commercial-light industrial district: buildings, structures, or uses necessary for the conduct of permitted uses, including parking and outdoor storage in conjunction with a building.

Subd. 4. Conditional uses. The following conditional uses may be permitted by action of the city council pursuant to subsections 520.09, 520.11 and 520.13:

- (a) telecommunications towers approved pursuant to section 540 of this code;
- (b) eating and drinking establishments;
- (c) automobile service stations; and
- (d) any other use determined by the city council to be similar in character to a permitted use, but potentially requiring special conditions to ensure compatibility.

530.15. Site plan review. Subdivision 1. All new development or construction in the C-I zoning district shall be subject to site plan review as described in subsection 520.25.

530.17. Site development standards. Subdivision 1. Physical standards. All construction in the commercial light industrial district must meet the following physical standards.

Subd. 2. Lot area, dimensions, and restrictions.

- (a) Lot area must be adequate to provide for all expected improvements and for the installation of two on-site sewage treatment systems, but in no case may lot area be less than two and one-half buildable acres, unless public sewer service is available.
- (b) All lots must have no less than 200 feet of frontage on a right-of-way, and the ratio of lot frontage to lot depth must be no more than 1:4.

Subd. 3. Setbacks. All buildings and structures must meet or exceed the following setbacks:

- (a) Front yard setback 100 feet from centerline of road
- (b) Side yard setback 20 feet from side lot line

- (c) Rear yard setback 20 feet from rear lot line
- (d) Setback from boundary of agricultural or rural residential district 100 feet
- (e) Adult establishments licensed under section 1120 of this code must comply with the setback requirements of subsection 1120.05 of this code rather than the setback requirements of subsection 510.65, subdivision 3(d) of the Independence zoning ordinance.
- (f) Fences, trees, shrubs, or other appurtenances are not allowed within any road right-of-way.

Subd. 4. Off-street parking and loading requirements. Off-street parking and loading space must be provided in the commercial-light industrial district in accordance with requirements of this subsection.

- (a) All outside, off-street parking and loading areas must be paved and curbed with B-6-12 or better concrete curbing.
- (b) Curbed islands must be placed at the end of every 20 parking spaces.
- (c) Off-street parking and drive aisle setback standards:

| | |
|---------------------------------|---------------------------|
| Front yard | 20 feet from right-of-way |
| Side yard | 10 feet |
| Rear yard | 10 feet |
| Side corner yard | 20 feet |
| Side yard abutting "R" district | 20 feet |
| Rear yard abutting "R" district | 20 feet |
- (d) The following minimum parking standards are hereby established in the commercial-light industrial district:

| <u>Angle</u> | <u>Type</u> | <u>Space Width</u> | <u>Space Length</u> | <u>Aisle Width</u> |
|--------------|-------------|--------------------|---------------------|--------------------|
| 90 deg. | 2-way | 9.0' | 19' | 25' |
| 60 deg. | 1-way | 9.0' | 21' | 18' |
| 45 deg. | 1-way | 9.0' | 20' | 13' |
| 30 deg. | 1-way | 9.0' | 17' | 11' |
| 0 deg. | Parallel | 8.0' | 23' | 20' |

- (e) An accurate, dimensioned parking layout that complies with the foregoing must be submitted for approval with a site plan, and parking arrangements must thereafter comply with the approved layout. Parking spaces must be clearly designated by lines painted upon the surface of the parking area.
- (f) Each commercial-light industrial use must provide the following parking spaces:
 - (1) Eating and drinking establishments: one space for each two seats plus one per employee.
 - (2) Automobile service stations: three spaces for each enclosed bay plus one per employee.
 - (3) Office buildings and non-retail commercial uses: one space for each 250 square feet of gross floor area.
 - (4) Retail sales: one space for each 250 square feet of gross floor area.
 - (5) Wholesale and warehousing: one space for each 2,000 square feet of gross floor area.
 - (6) Industry and manufacturing one space for each 350 square feet of gross floor area.
 - (7) Other uses: parking requirements for other uses not set forth herein must be established by the city council, upon recommendation of the city engineer and planning commission.
- (g) Off-street loading space required. Adequate off-street loading space is required for each commercial-light industrial use in the commercial-light industrial district, subject to the following:
 - (1) One loading space shall be provided for each building, unless the zoning administrator determines that this requirements may be waived or modified.
 - (2) Loading spaces must not be located on the side of a building fronting on a public street.
 - (3) Loading spaces must be no less than 15 feet in width and 25 feet in length.
 - (4) Loading spaces in all other respects must conform to the requirements for parking spaces.

Subd. 5. Landscape standards.

- (a) Setback areas must be landscaped and maintained as a protective buffer and may not be used for parking, internal driveways, off-street loading, storage; nor may any structure or building be placed thereon, other than a fence.
- (b) Minimum landscape requirements in the protective buffer must include one tree (at least 2.5-inch caliper deciduous tree or six-foot-high conifer tree) for each 40 feet of property line. The protective buffer must also contain grass, ground cover or shrubs. No impervious surfaces such as concrete or asphalt may be placed in the protective buffer.
- (c) Minimum landscape requirements for each curbed island must include one tree (at least 2.5-inch caliper deciduous tree or six-foot-high conifer tree). The curbed island must also contain grass, ground cover or shrubs. No impervious surfaces such as concrete or asphalt may be placed in a curbed island.
- (d) When a commercial or industrial development is located adjacent to any "R" zone, an eight-foot opaque fence or wall must be erected to provide screening of the commercial or industrial use.

Subd. 6. Lot screening. All commercial-light industrial uses must be screened from adjacent residential properties with berms, fencing, hedges, or other landscape materials. Earth berms shall not exceed a slope of 3:1. The screen shall be designed to provide an effective visual barrier during all seasons. Height of plantings shall be measured at the time of installation.

Subd. 7. Lot coverage. Impervious lot coverage shall not exceed 30% of the lot area. Lot coverage of up to 75% may be allowed by conditional use permit provided storm water run-off and surface drainage is no greater than pre-development rates for one-, ten- and 100- year storm events. Stormwater treatment ponding is required for all developments.

Subd. 8. Storage and display. All storage, display, service, repair, or processing must be conducted wholly within an enclosed building or behind an opaque fence or wall not less than six feet high, provided that materials stored shall not exceed the height of the fence. Outdoor storage is permitted only in conjunction with a principal building on the same property.

Subd. 9. Solid waste. Incineration of solid waste materials must be conducted in equipment approved by the Minnesota pollution control agency regulations.

Subd. 10. Access streets. Streets servicing a commercial-light industrial area must have direct access to a collector street or higher-capacity street. No street servicing commercial-light industrial establishments may have access to local residential streets nor may business-oriented traffic be routed or directed to local residential streets.

530.19. Urban Commercial district established. Subdivision 1. The urban commercial district is established for the purpose of promoting urban commercial development. The district is intended to provide for the development of community scale integrated retail, office, business services and personal services. It shall strive to create a sustainable pattern of land uses with cultural, employment, entertainment, shopping and social components. (Added, Ord. 2012-01, Sec.3)

Subd. 2. Permitted uses. All uses are conditional, subject to the approval of the City Council. No uses are permitted by right. In general, uses shall be consistent with the intent of the Comprehensive Plan. Added, Ord. 2012-01, Sec.3)

Subd. 3. Conditional uses. The following conditional uses may be permitted in the urban commercial district, by action of the city council pursuant to subsections 520.09, 520.11 and 520.13.

(a) Planned Development, subject to the following:

The use of a planned development for development in the urban commercial district should result in a reasonable and verifiable advancement of the intent and goals for such district as expressed in the Comprehensive Plan. The urban commercial district is a commercial district with retail and service uses of a scale and function that serves the local and regional market. The emphasis should be on providing an attractive, comfortable experience for shoppers and visitors. It shall be designed to serve pedestrian users as well as automobile traffic. Uses within this district should be first class retail commercial uses.

Development in this district shall be planned as a group of organized uses and structures to accommodate a sensitive transition between commercial activities such as loading, parking of automobiles, lighting and trash collection and surrounding residential uses. Such development shall be designed with one theme, with complimentary architectural style, high quality exterior building materials, and a coordinated landscaping theme, but shall avoid monotony in design and visual appearance. Vehicle and pedestrian access shall be coordinated and logically linked to provide a comprehensive circulation system.

(Added, Ord. 2012-01, Sec. 3)

530.21. Subd. 1. Physical standards. All lots and construction thereon must meet the following physical standards:

- (a) Minimum lot area 10 acres buildable land
- (b) Minimum lot frontage on an improved public road or street:

| | |
|-----------------|-------------------------|
| <u>Lot area</u> | <u>Minimum frontage</u> |
| 10.00 acres | ^b 300 feet |
- (c) Open Space 15% (gross area)

(Added, Ord. 2012-01, Sec.3)

Subd. 2. Origination of Proposal. Any applicant may propose a planned development in accordance with the procedures set forth by the City. Further, any applicant making an application must intend to act as the developer or sponsor of the development. A parcel or site proposed for a planned development does not need to be under single ownership. However, if the parcel is not under single ownership, the applicant must have a contractual agreement with the owners to develop the land in accordance with a single, unified plan. Added, Ord. 2012-01, Sec.3)

Subd. 3. Drafting of Planned Development Agreement. A planned development agreement must be approved and executed by the City. The general intent of the zoning and subdivision ordinance shall be used for the foundation of the terms and conditions of the planned development agreement. Development standards that ensure public health and safety shall be included. (Added, Ord. 2012-01, Sec.3)

Subd. 4. Design Considerations. The applicant must demonstrate that the following design considerations have been incorporated into the planned development.

- (a) Adequate Public Facilities. The applicant must demonstrate that public facilities and services needed to support new development shall be available concurrently with the impacts of such new developments. In meeting this purpose, public facility and service availability shall be deemed sufficient if the public facilities and services for new development are phased, or the new development is phased, so that the public facilities and those related services which are deemed necessary by the local government to operate the facilities necessitated by that new development, are available concurrently with the impacts of the new development. All costs associated with the investigation, design and construction of public facilities needed to serve a development shall be the responsibility of the applicant. Adequate public facilities shall include, but not be limited to the following:

1. Roads – existing and proposed
 2. Traffic – traffic patterns, controls
 3. Sewage disposal systems
 4. Water supply and distribution systems
 5. Fire protection – fire protection services
 6. Weather warning
- (b) Protection and preservation of natural features. The applicant must demonstrate that the flexibility provided by the PD is used to protect and preserve natural features such as tree stands, wetlands, ponds and scenic views. These areas are to be permanently protected as public or private tracts or protected by permanently recorded easements.
- (c) Storm Water Management. Due to the sensitive nature of the natural resources in Independence, the applicant shall place an emphasis on meeting all applicable storm water management rules and regulations pertaining to the proposed planned development. Incorporation of best management practices and innovative solutions to storm water management will be encouraged.
- (d) Landscape Standards. The PD should be developed with a focus on providing a high level of integrated landscape standards. In place of mass grading for building pads and roads, stone or decorative blocks retaining walls shall be employed as required to preserve mature trees and the site's natural topography.
- (e) Architectural standards. The applicant should demonstrate that the PUD will provide for a high level of architectural design and building materials. While this requirement is not intended to minimize design flexibility, a set of architectural standards should be prepared for city approval. The primary purpose is to assure the city that high quality design will be employed throughout the development.

(Added, Ord. 2012-01, Sec. 3)

530.23. Building design requirements. Subdivision 1. Building design standards are hereby established to ensure commercial and industrial buildings meet acceptable aesthetic standards. (Amended, Ord. No. 2006-09)

Subd. 2. Applicability. The design standards in this section shall apply to the following:

- (a) All facades of new principal buildings;
- (b) All facades of new accessory buildings;
- (c) Remodeling of existing buildings that result in “refacing” more than one side of an existing building, or refacing of the wall oriented towards the nearest public road.
- (d) Additions to buildings that increase the gross floor area by more than 15% for commercial or retail buildings, or 25% for industrial buildings. Additions not exceeding these thresholds may be constructed using exterior materials that match or are compatible with the existing building materials. (Added, Ord. No. 2006-09)

Subd. 3. Design standards.

- (a) Height. The maximum height of all buildings must not exceed the lesser of two and one-half stories or 35 feet. This height limitation does not apply to farm buildings, grain elevators, silos, windmills, elevator legs, cooling towers, water towers, chimneys and smokestacks, church spires, or electric transmission lines.
- (b) Allowed materials for principal buildings. Principal commercial or industrial buildings in the commercial/industrial zoning district shall use the following materials on their exterior facades:
 - (1) Brick;
 - (2) Natural stone or stone veneers;
 - (3) Decorative concrete block (color impregnated with a split faced, robbed, or textured surface);
 - (4) Glass curtain wall panels;
 - (5) Stucco or synthetic stucco;
 - (6) Exterior insulation and finish systems (EIFS);

- (c) All exterior vertical surfaces must be treated as a front and have an equally attractive or same fascia on all sides of the structure.
- (d) Mechanical protrusions. All necessary mechanical protrusions visible to the exterior must be screened or painted in a manner so they are not visually obvious and are compatible with the surrounding development. Satisfaction of this requirement must be demonstrated by the screening of the equipment in such a manner that it is not visible from a point six feet above any common property line or street right-of-way. Screening must consist of either a parapet wall along the roof's edge or by an opaque screen constructed of the same material as the building's primary vertical exposed exterior finish. The zoning administrator may determine that the equipment may be painted a neutral earth tone color, or color deemed similar by the zoning administrator or must be designed to be compatible with the architectural treatment of the principal building, which will satisfy the screening requirement. All mechanical protrusions must be highlighted on the site plan. (Added, Ord. No. 2006-09)

Subd. 4. New materials. The city recognizes that technologies change and new products are continually available which may not be listed as allowed under these building design requirements. If an applicant wishes to utilize a non-listed material, an application to amend the zoning code text must be submitted per the requirements of city code. In reviewing such an application to consider including a new material to the list of allowed materials in subdivision 3(b), the city will consider the following:

- (a) Is the proposed material of sufficient quality to ensure on-going maintenance will not be of concern (applicant should provide detailed information on the proposed product and its history of use);
- (b) Will the style, color, and appearance of the proposed product integrate with adjacent commercial/industrial properties and other materials currently allowed within the commercial/industrial zoning district;
- (c) Will the style, color, and appearance of the proposed product be acceptable in cases when visible from residential units on adjacent properties. (Amended, Ord. No. 2006-09)

530.25. Performance standards. The following standards apply to all uses in the commercial and industrial district.

- (a) Explosives. Activities involving the storage, manufacture, or use of explosives, highly toxic, or extremely flammable materials are not permitted.
- (b) Solid waste. Incineration of solid waste must be conducted in equipment approved by the Minnesota pollution control agency.
- (c) Noise. Noise must not exceed 55 decibels on any octave band frequency measured at any point along the property line.
- (d) Vibration. No activity or operation may cause earth vibration perceptible beyond the boundaries of the lot on which the commercial-light industrial use is approved.
- (e) Odor. No commercial-light industrial use may discharge, beyond the boundaries of the lot on which it is approved, toxic or noxious odors or particulate matter.
- (f) Glare and heat. Glare and heat must be shielded to prevent light or heat rays to project beyond the boundaries of the lot on which the commercial-light industrial use is permitted.
- (g) Storage of waste. All solid waste, debris, refuse, or garbage not disposed of by incineration or by on-site sewage disposal must be stored in a completely enclosed building or in a closed container that is enclosed within a six foot high opaque fence or wall.
- (h) Fuel storage. All storage tanks and containers for flammable and combustible liquids and liquefied gases must be constructed and located in accordance with regulations of the Minnesota uniform building code, Minnesota uniform fire codes, and the national fire protection association codes including NFPA-30 for flammable and combustible liquids and NFPA-58 for liquefied gases.

Section 535 – Zoning: Lighting Standards

535.01. Lighting regulations. Subsections 535.03 through 535.15 constitute the lighting regulations for the city.

535.03. Definitions. Subdivision 1. For purposes of the lighting regulations, the following words and terms, and their derivatives, shall have the meanings assigned to them in this subsection unless the context specifically indicates otherwise.

Subd. 2. Glare. A light source that is located, directed or controlled such that the light source itself is visible from a point four feet above the ground or higher at any point off the lot on which the light source is located.

Subd. 3. Shield or shielding. A cover, shroud or protector placed over and around a light source to eliminate the glare and trespass light prohibited by this section.

Subd. 4. Trespass light. The presence of light from a light source on a lot other than the lot upon which the light source is located.

535.03. Purpose. The intent of the lighting regulations is to establish standards for the installation and permitted use of outdoor lighting, in order to insure both adequate lighting for public and user safety and to minimize glare and trespass light upon lots other than the lot upon which the light source is located.

535.05. Applicability. The lighting regulations apply to all outdoor light sources in all zoning districts, regardless of use of application, unless specifically excluded by the regulations. The light sources to which this section applies includes but are not limited to searchlights, spotlights, floodlights, area lights, building lights, advertising signs and displays, lamps, and luminous tube lighting. The lighting applications to which the lighting regulations apply include but are not limited to buildings, structures, recreational and sports facilities, parking lots, private roads, driveways, landscaping, lots, and areas.

535.07. General application. Subdivision 1. All light sources must be installed and shielded to prevent glare and trespass light. All light sources must be installed and shielded in accordance with the requirements of subsection 535.11 of this code.

Subd. 2. Glare is prohibited in all districts.

Subd. 3. Trespass light must not exceed five-tenths foot candles, as measured on the property line when abutting any residential lot, and one foot candle on any abutting commercial or industrial lot, between the hours of sunset and sunrise.

Subd. 4. No light source may be mounted or installed at a height above the ground exceeding 35 feet.

Subd. 5. Blinking, flashing, or changing intensity lights are not permitted, except as authorized by subsection 550.07, subdivision 1 of this code.

Subd. 6. It is the responsibility of every installer of lighting and every owner or occupant of property on which a light source is located to comply with the provisions of these lighting regulations.

535.09. Shielding requirements. All light sources must be installed and shielded in accordance with the provisions of the following table:

| <u>Fixture Lamp Type</u> | <u>Commercial Shielded</u> | <u>Residential Shielded</u> |
|---|----------------------------|--------------------------------|
| Low Pressure Sodium | Fully | Fully |
| High Pressure Sodium | Fully | Fully |
| Metal Halide | Fully | Fully |
| Fluorescent | Fully | Fully |
| Quartz | Fully | Fully |
| Incandescent (100 Watts or Less) | None | None |
| Incandescent | Fully | Fully (Greater than 100 Watts) |
| Any Light Source of 30 Watts or Less | None | None |

All other light sources not listed on this table must receive prior approval from the city building official and be shielded in accordance with the conditions or approval thereupon.

535.11. Exemptions. Subdivision 1. The provisions of these lighting regulations do not apply to:

Subd. 2. Lighting caused to be installed by city, county, state or federal government agencies to light streets, roadways, or places of public use and benefit.

Subd. 3. Traditional holiday displays and decorations.

Subd. 4. Lighting required by law for public safety reasons.

535.15. Penalties. Any person who violates any provisions of these lighting regulations, upon conviction thereof, may be punished by a fine not to exceed \$700.00 or by imprisonment not to exceed 90 days or both. Each day that a violation continues is a separate punishable offense.

Section 540 – Zoning: Telecommunications Towers and Facilities

540.01. Findings. The city council finds: Subdivision 1. The Federal Communications Act of 1934 as amended by the Telecommunications Act of 1996 (the "Act") grants the federal communications commission exclusive jurisdiction over the regulation of the environmental effects of radio frequency emissions from telecommunications facilities and the regulation of radio signal interference among users of the radio frequency spectrum.

Subd. 2. Consistent with the Act, the regulation of towers and telecommunications facilities in the city will not have the effect of prohibiting any person from providing wireless telecommunications services. The general purpose of this subsection is to regulate the placement, construction and modification of telecommunication towers and facilities in order to protect the health, safety and welfare of the public, while not unreasonably interfering with the development of the competitive wireless telecommunications market place in the city. Specifically, the purposes of this chapter are:

- (a) to regulate the location of telecommunication towers and facilities;
- (b) to protect residential areas and land uses from potential adverse impacts of telecommunication towers and facilities;
- (c) to minimize adverse visual impacts of telecommunication towers and facilities through design, siting, landscaping, and innovative camouflaging techniques;
- (d) to promote and encourage shared use and co-location of telecommunication towers and antenna support structures;
- (e) to avoid damage to adjacent properties caused by telecommunication towers and facilities by ensuring that those structures are soundly and carefully designed, constructed, modified, maintained and promptly removed when no longer used or when determined to be structurally unsound;
- (f) to ensure that telecommunication towers and facilities are compatible with surrounding land uses;
- (g) to facilitate the provision of wireless telecommunications services to the residents and businesses of the city in an orderly fashion.

540.03. Definitions. Subdivision 1. For purposes of this chapter the following terms have the meanings given them, except where the context clearly indicates a different meaning:

Subd. 2. "Antenna support structure" means a building, athletic field lighting, water tower, or other structure, other than a tower, that can be used for location of telecommunications facilities.

Subd. 3. "Applicant" means a person who applies for a permit to develop, construct, build modify or erect a tower under this chapter.

Subd. 4. "Application" means the process by which the owner of a plot of land within the city submits a request to develop, construct, build, modify or erect a tower upon that land.

Subd. 5. "Engineer" means an engineer licensed by the state of Minnesota.

Subd. 6. "Person" means any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or not for profit.

Subd. 7. "Stealth" means designed to blend into the surrounding environment; examples of stealth facilities include, without limitation, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and telecommunications towers designed to appear other than as a tower, such as light poles, power poles, and trees.

Subd. 8. "Telecommunications facilities" means cables, wires, lines, wave guides, antennas or any other equipment or facilities associated with the transmission or reception of communications located or installed on or near a tower or antenna support structure; the term does not include:

- (a) A satellite earth station antenna two meters in diameter or less located in an industrial or commercial district;
- (b) A satellite earth station antenna one meter or less in diameter, wherever located.

Subd. 9. "Telecommunications tower" or "tower" means a self-supporting lattice, guyed, or monopole structure constructed from grade that supports telecommunications facilities.

540.05. Development of towers; approvals required. Subdivision 1. Conditional use. A tower is a conditional use in all zoning districts within the city. A tower may not be constructed in any district unless a conditional use permit has been issued by, and site plan approval obtained from, the city council, and a building permit has been issued by the building official.

Subd. 2. City property. The city may authorize the use of city property for towers in accordance with the procedures of this code. The city has no obligation to allow the use of city property for this purpose.

540.07. Application process. Subdivision 1. A person desiring to construct a tower must submit an application for site plan approval and, if applicable, for a conditional use permit, to the city administrator-clerk.

Subd. 2. An application to develop a tower must include:

- (a) name, address and telephone number of the applicant;
- (b) name, address and telephone numbers of the owners of the property on which the tower is proposed to be located;
- (c) legal description of the parcel on which the tower is proposed to be located;
- (d) written consent of the property owner(s) to the application;
- (e) a scaled site plan depicting the parcel and proposed tower, including the proposed landscaping, camouflage, lighting and fencing;
- (f) written evidence from an engineer that the proposed structure meets the structural requirements of this code;
- (g) written information demonstrating the need for the tower at the proposed site in light of the existing and proposed wireless telecommunications network(s) to be operated by persons intending to place telecommunications facilities on the tower;
- (h) a copy of relevant portions of a lease signed by the applicant and property owner(s), requiring the applicant to remove the tower and associated telecommunications facilities upon cessation of operations on the leased site, or, if a lease does not yet exist, a written agreement to include such a provision in the lease to be signed;
- (i) such other information as the zoning administrator reasonably requests; and
- (j) an application fee established from time to time by resolution of the city council.

Subd. 3. Council action. Requests for site plan approval and conditional use permit approval will be processed contemporaneously, according to the provisions of subsections 520.09, 520.11 and 520.13 of this zoning code. The council may attach conditions to the approval of the site plan and conditional use permit as the council determines to be reasonably necessary.

540.09. Performance standards. Subdivision 1. Co-location capability. Unless the applicant presents clear and convincing evidence to the city council that co-location is not feasible, a new tower may not be built, constructed or erected in the city unless the tower is capable of supporting at least two telecommunications facilities comparable in weight, size, and surface area to each other.

Subd. 2. Setback requirements. A tower must comply with the following setback requirements:

- (a) A tower must be located on a single parcel having a dimension equal to the height of the tower, as measured between the base of the tower located nearest the property line and the actual property line, unless an engineer specifies in writing that the collapse of the tower will occur within a lesser distance under reasonably foreseeable circumstances.
- (b) Setback requirements for towers are measured from the base of the tower to the property line of the parcel on which it is located.

Subd. 3. Engineer certification. Towers must be designed and certified by an engineer to be structurally sound and in conformance with the Uniform Building Code, and any other standards set forth in this code.

Subd. 4. Height restriction. A tower may not exceed the lesser of 185 feet in height or a height equivalent to ten feet more than the distance from the base of the tower to the nearest point of any property line. Measurement of tower height must include the tower structure itself, the base pad, and any other telecommunications facilities attached thereto. Tower height is measured from grade.

Subd. 5. Lighting. Towers may not be artificially lighted except as required by the Federal Aviation Administration. At time of construction of a tower, in cases where there are residential uses located within a distance that is three times the height of the tower from the tower, dual mode lighting must be requested from the Federal Aviation Administration. Notwithstanding this provision, the city may approve the placement of an antennae on an existing or proposed lighting standard, provided that the antennae is integrated with the lighting standard.

Subd. 6. Exterior finish. Towers not requiring Federal Aviation Administration painting or marking must have an exterior finish as approved in the site plan.

Subd. 7. Fencing. Fences constructed around or upon parcels containing towers, antenna support structures, or telecommunications facilities must be constructed in accordance with the applicable fencing requirements in the zoning district where the tower or antenna support structure is located, unless more stringent fencing requirements are required by Federal Communications Commission regulations.

Subd. 8. Landscaping. Landscaping on parcels containing towers, antenna support structures or telecommunications facilities must be in accordance with landscaping requirements as approved in the site plan. Utility buildings and structures accessory to a tower must be architecturally designed to blend in with the surrounding environment and to meet setback requirements that are compatible with the actual placement of the tower. Ground mounted equipment must be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the character of the surrounding neighborhood.

Subd. 9. Accessory buildings and equipment. No more than one accessory building is permitted per tower. Accessory buildings may be no more than 300 square feet in size. Telecommunications facilities not located on a tower or in an accessory building must be of stealth design. (Amended, Ord. 2008-07)

Subd. 10. Security. Towers must be reasonably posted and secured to protect against trespass. All signs must comply with applicable sign regulations.

Subd. 11. Design. Towers must be of stealth design as approved in the site plan unless the city determines that such design is infeasible due to the lack of comparable vertical structures in the vicinity of the proposed site.

Subd. 12. Non-tower facilities. Telecommunications facilities not attached to a tower may be permitted as an accessory use to any antenna support structure at least 75 feet in height (except residential occupancies of three stories or less), or any existing tower, regardless of any other provision of this code, provided that the owner of the telecommunications facility, by written certification to the building official, establishes the following facts at the time plans are submitted for a building permit:

- (a) that the height from grade of the telecommunications facilities and antennae support structure does not exceed the maximum height from grade of the antenna support structure by more than 20 feet;
- (b) that the antenna support structure and telecommunications facilities comply with the Uniform Building Code;
- (c) that the telecommunications facilities located above the primary roof of an antenna support structure are set back one foot from the edge of the primary roof for each one foot in height above the primary roof of the telecommunications facilities. This setback requirement does not apply to antennas that are mounted to the exterior of antenna support structures below the primary roof, but that do not protrude more than six inches from the side of the antenna support structure.

Subd. 13. Removal of Towers. Abandoned or unused towers and associated above-ground facilities must be removed within twelve months of the cessation of operations of the telecommunications facility at the site unless an extension is approved by the city council. Any tower and associated telecommunications facilities that are not removed within 12 months of the cessation of operations at a site are declared to be public nuisances and may be removed by the city and the costs of removal assessed against the property pursuant to section 2010 of the city code.

540.11. Additional requirements. Subdivision 1. Inspections. The city may conduct inspections at any time, upon reasonable notice to the property owner and the tower owner to inspect the tower for the purpose of determining if it complies with the Uniform Building Code and other construction standards provided by the city code, federal and state law. The expense related to the inspections will be borne by the property owner. Based upon the results of an inspection, the building official may require repair or removal of a tower.

Subd. 2. Maintenance. Towers must be maintained in accordance with the following provisions:

- (a) Tower owners must employ ordinary and reasonable care in construction and use commonly accepted methods and devices for preventing failures and accidents that are likely to cause damage, injuries, or nuisances to the public.
- (b) Tower owners must install and maintain towers, telecommunications facilities, wires, cables, fixtures and other equipment in compliance with the requirements of the National Electric Safety Code and all Federal Communications Commission, state, and local regulations, and in such a manner that they will not interfere with the use of other property.
- (c) Towers, telecommunications facilities, and antenna support structures must be kept and maintained in good condition, order, and repair.
- (d) Maintenance or construction on a tower, telecommunications facilities or antenna support structure must be performed by qualified maintenance and construction personnel.
- (e) Towers must comply with radio frequency emissions standards of the Federal Communications Commission.
- (f) If the use of a tower is discontinued by the tower owner, the tower owner must provide written notice to the city of its intent to discontinue use and the date when the use will be discontinued.

540.13. Variances. An applicant may request a variance to the setback, separation, buffer requirements, or maximum height provisions of this section 540 according to the procedures set forth in subsection 520.15 of this code. The city council may grant the requested variance if the applicant demonstrates with written or other satisfactory evidence that:

- (a) The location, shape, appearance or nature of use of the proposed tower will not substantially detract from the aesthetics of the area nor change the character of the neighborhood in which the tower is proposed to be located;
- (b) The variance will not create a threat to the public health, safety or welfare;
- (c) In the case of a requested modification to the setback requirement, that the size of parcel upon which the tower is proposed to be located makes compliance impossible, and the only alternative for the applicant is to locate the tower at another site that poses a greater threat to the public health, safety or welfare or is closer in proximity to a residentially zoned land;
- (d) In the case of a request for modification of separation requirements, if the person provides written technical evidence from an engineer that the proposed tower and telecommunications facilities must be located at the proposed site in order to meet the coverage needs of the applicant's wireless communications system and if the person agrees to create approved landscaping and other buffers to screen the tower from being visible to the residential area;
- (e) In the case of a request for modification of the maximum height limit, that the modification is necessary to:
 - (1) facilitates co-location of telecommunications facilities in order to avoid construction of a new tower; or
 - (2) to meet the coverage requirements of the applicant's wireless communications system, which requirements must be documented with written, technical evidence from an engineer;
- (f) The requested variance satisfies the criteria set forth in subsection 520.17 of this zoning code.

Section 550 - Sign Regulations

550.01. Purpose. This section 550 regulates the type, number, size, structure, height, lighting, erection, repair, location and maintenance of all outdoor signs within the city of Independence, provides for the issuance of permits and the charging of fees therefore, and provides penalties for non-compliance and violation thereof.

550.03. Definitions. Subdivision 1. The following words and phrases have the meanings assigned to them.

Subd. 2. Sign. A sign as defined in subsection 510.05, subdivision 77 of the Independence zoning code and that is displayed outdoors.

Subd. 3. Sign, accessory. A business sign relating to the business activity or service conducted on the premises upon which the sign is placed.

Subd. 4. Sign, administrator. The officer or other person charged with the administration and enforcement of this section, and any duly authorized deputy.

Subd. 5. Sign, address. A postal identification number only, whether written or in numeric form.

Subd. 6. Sign, area. That area within the marginal lines of the surface which bears the advertisement or in the case of messages, figures, or symbols attached directly to any part of a building, that area which is included in the smallest rectangle that can be made to circumscribe the message, figures, or symbol displayed thereon. The maximum sign area for a free standing or pylon sign refers to a single surface.

Subd. 7. Sign, billboard. A sign displaying products, services, commodities, entertainment or other activity not offered on the premises upon which the sign is located.

Subd. 8. Sign, campaign. A sign erected by a bona fide candidate for public office or by a person or group promoting a candidate for public office or a political issue.

Subd. 9. Sign, directional. A sign to direct patrons to an event business use or service located within the corporate limits of the city of Independence and not carried out on the premises where the sign is located.

Subd. 10. Sign, farm. A sign advertising farm products that are produced by the owner or occupant of the premises upon which the sign is displayed.

Subd. 11. Sign, flashing. An illuminated sign on which the illumination is not kept stationary or constant in intensity.

Subd. 12. Sign, free standing. A sign that is placed in the ground and not affixed to any part of any structure.

Subd. 13. Sign, governmental. A sign that is erected by a governmental unit for the purpose of directing or guiding the public.

Subd. 14. Sign, illuminated. A sign that is erected by a governmental unit for the purpose of directing or guiding the public.

Subd. 15. Sign, institutional directional. A sign that bears the address and/or name of a church, school, library, hospital, recreational area, non-profit service organization or similar use and directs traffic or pedestrians to the institution. (Amended, Ord. 2011-04)

Subd. 16. Sign, institutional. A sign that bears the address and/or name of a church, school, library, hospital, recreational area, non-profit service organization or similar use and is located on the site of the institutional use. (Amended, Ord. 2011-04)

Subd. 17. Sign, temporary institutional. A temporary sign that provides information, directions, dates and times or other similar information pertaining to a festival event, or seasonal event for a church, school, library, hospital, non-profit service organization or similar use. (Added, Ord. 2010-03; Amended, Ord. 2011-04)

Subd. 18. Sign, motion. A sign that revolves, rotates, or has any moving parts that attract attention.

Subd. 19. Sign, nameplate, farm. A sign that bears the family name and address of an owner or occupant of the farm upon which it is located, the farm name, or an affiliation with an agricultural organization.

Subd. 20. Sign, name plate, residential and institutional. A sign that bears the name and address of the business owner, or the occupants of premises.

Subd. 21. Sign, non-conforming. A sign that lawfully existed prior to adoption of this section but does not conform to the newly enacted requirements of this section.

Subd. 22. Sign, portable. A type of temporary sign so designed as to be movable from one location to another and that is not permanently attached to the ground or any structure.

Subd. 23. Sign, projecting. A sign, all or any part of which extends laterally from the building more than 12 inches.

Subd. 24. Sign, pylon. A free standing structure that is in excess of 20 feet in height with a sign mounted thereon.

Subd. 25. Sign, roof. A sign erected upon the roof of a structure to which it is affixed.

Subd. 26. Sign, temporary. A sign that is erected or displayed for a limited period of time.

Subd. 27. Sign, traffic directional. A sign that is erected on the premise by the owner or occupant of the premise for the purpose of guiding vehicles and pedestrian traffic in finding locations such as parking, shipping and receiving.

Subd. 28. Sign, wall. A sign affixed to the wall of a building.

Subd. 29. Sign, warning. A sign that prohibits specified activities or informs of danger, hazard or restrictions such as "No Hunting, No Trespassing, Beware of Dog, Keep Off," and similar material.

Subd. 30. Occasional sale. The sale of any items not held in the ordinary course of a business by the owner of the items, upon the premises owned or occupied by the owner of the items.

Subd. 31. Premise of premises. A single lot, as defined in the Independence zoning code, or a combination of lots that comprise a single use, or that comprise a single enterprise.

550.05. General application. Subdivision 1. It is unlawful for any sign to be erected, altered, repaired, removed, equipped or maintained in the city of Independence that does not conform to this section.

Subd. 2. Construction and maintenance. All signs must be constructed in such manner and of such material that they are safe and substantial, must be properly secured, supported, and braced, must be kept in good repair, and must be maintained in a neat, clean and attractive condition.

Subd. 3. Offensive material. No sign may contain any indecent, obscene or offensive pictures, symbols or written matter.

Subd. 4. Location. No sign other than a governmental sign, warning sign, or a sign advertising an occasional sale may be erected or temporarily placed within any street right-of-way or upon any public easement.

Subd. 5. Interference with traffic. A permit for any sign to be located within 50 feet of any street or official traffic sign or signal or within 50 feet of any intersection, driveway, or crosswalk will be issued only:

- (a) If the sign will not interfere with the ability of drivers and pedestrians to see the traffic sign or signal or the intersection, driveway or crosswalk, and

- (b) If the sign will not distract drivers nor cause any interference with an official traffic sign or signal.

Subd. 6. Illumination. Illuminated signs must comply with the electrical requirements of the state electrical code of the state of Minnesota.

- (a) Illuminated signs must be shielded to prevent any light from being directed at oncoming traffic in such brilliance as to impair the vision of any driver. Where the sign is illuminated the source of light must not be directed upon any part of a residence or into any area zoned for residential use. The illumination must be indirect or diffused.

550.07. Prohibited signs. Subdivision 1. Flashing signs. Flashing signs and motion signs are prohibited in all districts, except that informational signs giving time, date and temperature are permitted in commercial/light industrial districts.

Subd. 2. Billboards. Billboards (off-premises signs) are prohibited in all districts except as provided for in subsection 550.11, subdivision 8 of the Independence zoning code. (Amended, Ord. No. 2010-03; Ord. 2011-04)

Subd. 3. Wall signs. Wall signs painted directly on walls of buildings are prohibited in all residential districts.

Subd. 4. Roof signs. Roof signs erected on the roof, or in the air space over the roof of any structure are prohibited in all districts.

550.09. District regulations. Subdivision 1. The following signs are permitted in the district indicated.

Subd. 2. Rural residential districts. One nameplate is permitted for each single family dwelling unit provided that it may be no greater than two square feet in area per surface and may have no more than two surfaces. The signs may include the names of home occupations approved under subsection 515.09 of the zoning code, but may not contain further advertising.

Subd. 3. Agricultural districts. One farm nameplate is permitted for each farm, provided that it may be no greater than 12 square feet in area per surface and may have no more than two surfaces.

Subd. 4. Subdivisions, all districts. One name plate is permitted for each development area of five or more lots, provided that it may be no more than 32 square feet in area per surface, may have no more than two surfaces, and must contain the name and address of the development area only.

Subd. 5. Institutional signs, all districts. An institutional sign is permitted for each institutional building occupying a single premise, provided that no sign may exceed 32 square feet per surface, and may have no more than two surfaces. Two signs are permitted for institutional buildings occupying corner lots, one sign facing each street, provided that the total sign area does not exceed 32 square feet.

Subd. 6. Directional signs, permitted business and institutions, all applicable districts. Three directional signs or the number which in the discretion of zoning administrator is necessary to direct patrons, whichever is less, are permitted for each business or institutional premise, provided that each sign may be no greater than four square feet in area per surface, and may have no more than two surfaces.

Subd. 7. Commercial/light industrial districts. The following regulations apply in commercial/light industrial districts:

- (a) Previous regulations applicable. The regulations for residential, institutional and business uses set forth in subsection 550.09, subdivisions 2 through subdivision 5 apply to those uses if established in the commercial/light industrial district, except that directional signs may have up to 20 square feet per surface.
- (b) Total area, business signs. A total of four square feet of signage for each lineal foot of building frontage is permitted for each premise which is used for business purposes. The building frontage for sign area purposes is the single principal frontage of a building facing a public right-of-way. No sign may have more than two surfaces. Signs on multiple-use buildings or premises must be coordinated in the use of colors, materials and shapes.
- (c) Wall signs. The total area of any wall sign affixed to a building wall may not exceed 15% of the total area of the wall it occupies, up to a maximum of 100 square feet. No wall sign may extend more than two feet above the highest outside wall at the same location.
- (d) Free standing signs. No more than one free standing sign is permitted for each premise which is used for business purposes, provided that the free standing sign may be no more than 80 square feet in area per surface, may contain no more than two surfaces, must not exceed a maximum height of 20 feet, and must have a minimum set-back from the public right-of-way of ten feet.
- (e) Projecting signs. No projecting signs may exceed ten square feet in area per surface.
- (f) All districts. Warning signs are permitted in all districts without a permit, provided that the sign does not exceed two square feet in area.

550.11. Temporary signs. Subdivision 1. Temporary signs and temporary institutional signs may not be illuminated, must be limited to the following uses, and are regulated as follows. Temporary signs and temporary institutional signs, except for those listed under subsection 550.13, subdivision 4, must receive an administrative permit, as specified in subsection 550.17. (Amended, Ord. 2011-04)

Subd. 2. Sale of individual parcels. Signs for the purpose of selling or leasing individual lots or homes, provided the signs may not exceed four square feet per surface and must be removed within seven days following the lease or sale.

Subd. 3. Sale of acreage or tract. One temporary real estate sign is permitted for the purpose of selling an acreage, promoting a residential project of five or more dwelling units or promoting any non-residential project, provided that the sign may not exceed 32 square feet in area per surface, and must be limited to a single surface, and is located no less than 100 feet from any pre-existing residence. The sign must be removed upon completion, sale, lease or other disposition of the project. One additional temporary real estate sign is permitted for each additional street upon which the property abuts. Signs advertising the sale of building lots are not permitted unless the lots in question already exist or have received final subdivision approval.

Subd. 4. Construction signs. One temporary identification sign is permitted upon a construction site in any district, said sign may not exceed 32 square feet in area per surface, is limited to a single surface, must be located upon the subject construction site, and must be removed upon completion of the project.

Subd. 5. Campaign signs. Campaign signs are permitted in residential districts, provided the signs do not exceed four square feet in area per surface, and may be placed in other districts provided the signs do not exceed eight square feet in area. Campaign signs are subject to the following additional regulations:

- (a) Campaign signs may not be posted on any public right-of-way or public property.
- (b) Campaign signs may not be attached to a tree or utility pole, whether on private property or public.
- (c) No person may post or attempt to post a campaign sign on private property without the express consent of the owner or occupant of the property.
- (d) All campaign signs must be removed within 14 days after the election.

Subd. 6. Farm signs. One farm sign, not to exceed 32 square feet in area per surface and having no more than two surfaces, is permitted on each farm to advertise the seasonal sales of farm products.

Subd. 7. Occasional sales. A temporary sign is permitted for each occasional sale, provided the sign does not exceed 16 square feet in area per surface and has no more than two surfaces, and further provided that the sign be removed within three days after the sale.

Subd. 8. Temporary institutional festival/event. A temporary institutional sign, as defined in subsection 550.03, subdivision 17, is permitted, either on or off-site, to announce festivals and events for institutional organizations. Said signage must be put in place, with property owner permission, no sooner than 14 days before the event is advertised, and must be removed within five business days after the last scheduled date of the event. No more than three events can be advertised during any 12 month period. Said signage is limited to one sign no larger than 32 square feet per side and cannot have more than two surfaces. Temporary institutional signs will not be permitted for festivals and events already advertised on a temporary institutional sign for a temporary seasonal event. (Added, Ord. 2010-03; Amended, Ord. 2011-03; Ord. 2011-04)

Subd. 9. Temporary institutional seasonal. A temporary institutional sign, as defined in subsection 550.03, subdivision 17, is permitted, either on or off-site, to advertise a seasonal event for institutional organizations. Said signage must be put in place, with property owner permission, no sooner than 14 days before the seasonal event is advertised, and must be removed within five business days after the last scheduled date of the seasonal event. The maximum length a temporary institutional sign for a seasonal event can be put in place is three months or the length of event, whichever is less. No more than one seasonal event can be advertised by the same institution during any 12 month period. Said signage is limited to one sign no larger than 32 square feet per side and cannot have more than two surfaces. (Added, Ord. 2010-03; Amended, Ord. 2011-03; Ord. 2011-04)

550.13. Administration and enforcement. Subdivision 1. Permits required. The owner or occupant of the premises on which a sign is to be erected, or the owner or installer of the sign, must file application with the city administrator-clerk for a permit to erect the sign. Permits must be acquired for all new, relocated, modified, or redesigned signs except those specifically excepted below. The applicant must submit with the application a complete description of the sign and a scale drawing showing its size, location, manner of construction and such other information as required by the zoning administrator. If a sign authorized by permit has not been installed within three months after the date of issuance of the permit, the permit becomes null and void.

Subd. 2. Issuance of permits. All residential, business or industrial plats, conditional use permit applications, or development projects of every kind, which require approval by the city council, must be accompanied by a site plan showing the size, type and location of proposed signs. Project approval must include approval of the general location, size and type of proposed signs, provided, however that the specific provisions of this section are controlling. Any major change in location, size, or type of such the proposed signs requires the approval of the city council, provided that the specific provisions of this section are controlling. All other sign permits may be approved and issued by the zoning administrator, provided the signs meet all applicable provisions of this ordinance.

Subd. 3. Fees. For any sign for which a permit is required, a fee in an amount set by city council resolution must be paid to the city clerk at the time application is made.

- (a) Reimbursement for costs. In addition to the fee described in subsection 550.13, subdivision 3, the applicant must sign an agreement, on forms provided by the city, to pay the cost of all engineering, planning, legal and inspection expenses incurred by the city in processing the application.

Subd. 4. Exceptions. The exceptions permitted by this section apply only to the requirement of a permit and are not to be construed as excusing the installer of the sign or the owner of the property upon which the sign is located from conforming with the other provisions of this section. No permit is required under this section for the following:

- (a) Signs having an area of four square feet or less.
- (b) Signs erected by a governmental unit, public school or church.
- (c) Campaign signs listed in subsection 550.11, subdivision 5.
- (d) Memorial signs or tablets containing the name of the building, its use, and date of erection when cut or built into the walls of the building and constructed of bronze, brass, stone, marble or similar material.

Subd. 5. Variances. The planning commission may recommend and the city council may grant variances from the literal provisions of this section in instances where the applicant for a variance has demonstrated that all of the following standards have been met:

- (a) Because of the physical surroundings, shape, topography or condition of the land involved, a hardship to the applicant would result if the strict letter of the section were carried out;
- (b) The conditions upon which the variance is based are unique to the applicant's land and not generally applicable to other property within the same zoning classification;
- (c) The hardship arises from the requirements of this section and has not been created by persons presently or formerly having any interest in the property;
- (d) A granting of the variance will not be detrimental to the public welfare or injurious to other land or improvements in the neighborhood in which the land is located.

Subd. 6. Conditions and restrictions. Upon the granting of a variance the city council may impose conditions and restrictions with the spirit and intent of this section.

550.15. Nonconforming signs. Subdivision 1. Continuation; limit on rebuilding or alteration. Nonconforming signs that were lawfully existing at the time of adoption of this section or amendment to this section may continue in use, but may not be altered other than to change the message, or relocated without being brought into compliance with the requirements of this section. A nonconforming sign that is damaged by fire or other peril to the extent of greater than 50% of its market value, as determined by the city building inspector or licensed appraiser retained by the city, may not be rebuilt or repaired except in compliance with this section. After a nonconforming sign has been removed, it may not be replaced by another nonconforming sign.

Subd. 2. Discontinued use of nonconforming signs. Whenever use of a nonconforming sign has been discontinued for a period of one year, the use may not thereafter be resumed unless in conformance with the provisions of this section.

Subd. 3. Dilapidated signs. A nonconforming sign or sign structure must be removed within ten days after notice in writing to the owner that the sign or sign structure is unsound, damaged, in disrepair or hazardous. Failure of notification on the part of the city does not place any liability on the part of the city nor absolve or mitigate any liability on the part of the owner of the sign or sign structure.

550.17. Administrative permits. Subdivision 1. Administrative permits may be issued for the following purposes and subject to the following provisions:

Subd. 2. Purposes. Administrative permits may be issued for temporary signs.

Subd. 3. Duration and number. Administrative permits are valid for a reasonable period not to exceed 120 hours and no more than three administrative permits may be issued for a premise during any period of 12 consecutive months.

Subd. 4. Limitation. Signs approved by administrative permit must conform to the requirements of this section except that the sign area is in addition to all other legal sign area on the premise.

550.19. Severability clause. If any section, clause, provision or portion thereof of this section is found to be invalid or unconstitutional by any court of competent jurisdiction, the decision will not affect any other section, clause, provision or portion thereof.

550.21. Supremacy clause. When any condition imposed by any provision of this section is in conflict with or more restrictive than similar conditions imposed by provisions of other city ordinances, or Minnesota state statutes, the provision of this section controls to the extent allowable by law.

550.23. Penalty clause. It is unlawful for any person, firm or corporation to erect, alter, repair, remove, equip, maintain, or permit any sign or sign structure or cause or permit the same to be done in violation of any of the provisions of this section. Whoever does any act or omits to do any act that constitutes a breach of any provision of this section is guilty of a misdemeanor.