



Model Ordinances for the HUD/Region 5 Resilient Region Sustainability Project

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Chapter One: Introduction and Vision Statement

The purpose of this document is to propose model ordinances for the implementation of the Resilient Region Sustainability Plan for Region 5. Adoption of these model ordinances will enable local jurisdictions with land use authority to implement and enforce the goals and livability principles identified in the Resilient Region Project.

This document was created from research conducted during the planning process, existing ordinances in Region Five and state and national models, the HUD/DOT/EPA Livability Principles embedded in the Project, Region Five's Guiding Principles, and the final Model Comprehensive Plan Policies and Model Ordinances to Implement the Livability Principles written by Chris Evans and Margaret Stinchcomb, Student Attorneys, University of Minnesota School of Law, Environmental Sustainability Policy Clinic (June 2012). A list of resources is at the end of this document.

HUD/DOT/EPA Livability Principles

- Provide more transportation choices.
- Promote equitable, affordable housing.
- Enhance economic competitiveness.
- Support existing communities.
- Coordinate policies and leverage investments.
- Value communities and neighborhoods

Region Five's Guiding Principles

- Think regionally and inclusively.
- Consolidation of effective data.
- Capitalize on assets, current plans and work in progress.
- Balance redevelopment / development preservation opportunities through effective land-use planning.
- Consider regionalization of services (BMPs or our region, drive opportunities)
- Connect more people to:
 - Well-paying jobs
 - Active living opportunities
 - Broadband technology.

For more information about the Resilient Region Project and related documents visit the Project website at www.resilientregion.org

Chapter Two: Authority, Terms and Components

Local governments are critical to long-term, successful sustainability efforts. Enacting and enforcing land use ordinances can limit harmful and degrading uses, and can encourage stewardship and mindful development.

Over the course of two years the Resilient Region Project in Region Five (the “Project”) researched, identified, and developed goals for a sustainable region. The product of this work is embodied in a document entitled “Creating a Resilient Region: The Central Minnesota Sustainable Development Plan” which is available at www.resilientregion.org. The Plan includes Vision and Values, Livability Principles, Regional Guiding Principles, Issues, Goals, Recommendations, and Action Steps organized across 11 themes.

The Project work also includes research by law students at William Mitchell College of Law and the University of Minnesota. These students looked at model ordinances to support sustainability and drafted research memos, model comprehensive plan policies, and model ordinances to implement the livability principles.

The model ordinances are clustered into three chapters: Zoning Districts to Support a Resilient Region, Overlay Districts to Support a Resilient Region and Miscellaneous Ordinances to Support a Resilient Region. The chapter begins with an overview and an explanation of how the chapter fits within the HUD/DOT/EPA Livability Principles, the Region Five Guiding Principles and the Resilient Region Plan.

Authority

Generally, Minnesota counties, townships and municipalities have the authority to regulate land use within their jurisdiction through the adoption of ordinances and other tools. However, if an ordinance conflicts with the United States Constitution, the Minnesota constitution, state statutes, or charters or other acts under which the local government operates, its provisions may be pre-empted or negated.

Ordinances must also adhere to the drafting requirements set out in local charters and ordinances. Requirements can include form, style and required components. Also, each locality may have certain procedural requirements for passage, proper administration, and public notice of any proposed or newly enacted ordinance. It is important that all pertinent authorities and requirements are met.

An ordinance must identify the governing body that is enacting the ordinance, how the ordinance will be applied and who will be responsible for its enforcement. The adopting jurisdiction should check the administrative provisions of its Zoning Code and the specific ordinances being adopted to be sure these issues are addressed.

Changing ordinances will greatly impact new construction, and new rules can sometimes affect existing structures. When this happens, nonconforming structures may be created. These are often defined as dwellings or other buildings that existed lawfully before the current zoning ordinance was enacted or amended, but now, they no longer conform with one or more of the

current development regulations such as setback, height, lot coverage, impervious surface area, etc. Most communities, when crafting new ordinances, will look at the potential for creating nonconformities. Specific ordinance language can be fine-tuned so as not to create a large number of nonconformities. That said, in almost all communities, nonconforming structures can remain legal and may continue including through repair, restoration, maintenance and improvement. Any additions or expansions to a nonconforming structure, however, must comply with current development regulations. In other words, one cannot make a nonconforming structure more nonconforming. For example, a cabin that is nonconforming for being too close to the lake may not expand any closer to the lake. A property owner always has the option of requesting a variance when they want to do something that is not allowed in the current zoning ordinance.

Terms

These ordinances are created for a variety of jurisdictions within Region 5: counties, cities and townships. Each jurisdiction has its own set of departments, commissions and agencies with varying titles. Throughout this document the term < Jurisdiction > is used in place of a specific entity, department, commission or agency. It may refer to a governmental entity such as specific city, township or county, or it may refer to an agency or authority within the governmental entity such as a city council, planning commission or building official charged with decision making or enforcement. Before inserting the applicable term, the adopting jurisdiction must examine its Code of Ordinances for the applicable term.

Terms used throughout these ordinances are as defined in this Chapter. Terms applicable to a specific ordinance are defined at the beginning of that ordinance.

- **Accessory Structure:** A building or other structure that is supportive, secondary, and subordinate in use and/or size to the Principal Structure on the same parcel or lot which, because of the nature of its use, can reasonably be located at, or greater than, minimum structure setbacks. Includes all structures not considered the Principal Structure including, but not limited to, T.V. towers antennas, dish antennas, outdoor swimming pools, outdoor hot-tubs, detached garages, sheds, Guest Quarters, and boathouses.
- **Berm:** A narrow shelf, path, or ledge at the top or bottom of a slope or on the shoulder of a road.
- **Bicycle Lane:** a portion of a roadway or shoulder designed for exclusive or preferential use by persons using bicycles. Bicycle lanes are to be distinguished from the portion of the roadway or shoulder used for motor vehicle traffic by physical barrier, striping, marking, or other similar device.
- **Bicycle Path:** a bicycle facility designed for exclusive or preferential use by persons using bicycles and constructed or developed separately from the roadway or shoulder
- **Bicycle Route:** roadway or shoulder signed to encourage bicycle use
- **Bicycle Trail:** bicycle route or bicycle path developed by the commissioner of natural resources
- **Bikeway:** bicycle lane, bicycle path, or bicycle route, regardless of whether it is designed for the exclusive use of bicycles or is to be shared with other transportation modes

- **Buildable Lot Area:** A lot having sufficient size to meet the minimum square footage requirements after all public road rights of way, road easements, setbacks, bluffs, areas with slopes greater than 25%, wetlands and flood plains are subtracted. In the shoreland district, all land below the Ordinary High Water Level (OHWL) of public waters shall be subtracted.
- **Building Height:** The vertical distance between the highest adjoining ground level at the building or ten (10) feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height between the eaves and the highest ridge of gable, hip or gambrel roofs or ten feet below the peak, whichever is greater.
- **Building:** Any structure used or intended for storage, shelter or occupancy.
- **City:** A statutory or home rule charter city.
- **Commercial Use:** the land or building is principally used for the sale, lease, rental, or trade of products, goods, and services.
- **Conditional Use:** A land use that would not be appropriate generally in a land use district, but may be allowed with appropriate restrictions as provided by official controls upon a finding that: A) Certain conditions as detailed in the ordinance exist, B) The use or development conforms to the comprehensive land use plan, and C) Is compatible with the existing neighborhood.
- **Corner Lot:** A lot situated at the junction of and abutting on two or more intersecting streets or at the point of deflection in alignment of one street with the internal angle less than 135 degrees.
- **Curb cut:** The sloped transition between sidewalk and street level, with usage geared towards pedestrians, cyclists, with heavy emphasis placed on wheelchair users.
- **Downtown:** of, in, or characteristic of the central area or main business and commercial area of a town or city
- **Dwelling Unit:** any Structure or portion of a Structure, or other shelter designed as short or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.
- **Fence:** A constructed barrier, including berms, intended to prevent escape or intrusion, or to mark a boundary, or to shield or screen view, or to perform any similar function.
- **Grade:** Also called slope, incline, gradient, pitch or rise, it is the degree of inclination of a slope, road or other surface.
- **Impervious Coverage or Surface:** The horizontal area of buildings, patios, walks, driveways, accessory structures and other surfaces generally impervious to the penetration of stormwater, including gravel drives and parking.
- **Lot Area:** Square footage or acreage included with the boundaries of a parcel or platted lot.
- **Lot Line:** The property lines bounding a lot except that where the description extends into a public right of way, the right of way line shall be considered the lot line.
- **Lot Width (non-riparian):** The shortest distance between side lot lines as measured at the midpoint of the longest axis of the lot.
- **Lot Width (riparian):** The minimum distance between side lot lines at the Ordinary High Water Level (OHWL).
- **Lot:** Land described by metes and bounds, registered land survey, auditor's plat, or subdivision plat and separated from other parcels or portions of land by said description for purposes of sale, lease, mortgage, building or separation.
- **Mixed-Use:** Two or more residential, commercial, cultural, institutional, or industrial

uses contained within a **single building** or **within a specified area of a community**. **Mixed-use districts support a variety of different living activities (live, work, shop and play) and are pedestrian-friendly.**

- **OHW [Ordinary High Water] Setback:** The boundary of public waters and wetlands consisting of an elevation delineating the highest water level which has been maintained for sufficient period of time to leave evidence on the landscape, commonly that point where the courses the ordinary high water level is the elevation of the top of the bank of the channel, for reservoir and flowages, the ordinary high water level is the operating elevation of the normal summer pool.
- **Outside Storage:** Storage of goods, materials, equipment, manufactured products outside a fully enclosed building.
- **Overlay District:** a zoning district containing regulations superimposed upon other zoning district regulations and superseding the underlying zoning district use regulations.
- **Permitted Use.** A land use conforming to the character of a zoning district which is permitted by ordinance requiring only a zoning permit issued by the Zoning Administrator.
- **Pitched Roof:** a roof with a sloping surface or surfaces.
- **Planned Unit Developments (PUDs):** **A land use characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common green space, density increases, and mix of structure types and land uses. Does not include a duplex where specifically allowed in a zoning district on a single parcel of land.**
- **Principal Structure:** **The primary structure or use on a lot, as distinguished from accessory uses or structures. To be considered a principal structure, the structure must be at least 400 square feet in area and must be utilized for the purpose of the principal use of the property.**
- **Principal Use:** The primary purpose for which land or a building is arranged, designed, intended, or used. **In mixed-use development, there may be multiple uses within a district or on a single lot.**
- **Public Space:** Open Space and other space dedicated for use by the public, including parks, trails, greenways and natural areas, street rights-of-way, and Lots reserved for civic uses.
- **Recreational Vehicle:** Vehicles for recreational use that can be driven, towed or hauled. These vehicles are designed to be temporary living space for camping or travel use. RVs shall include travel trailers, camper trailers, truck campers, self-propelled motor homes and other similar vehicles.
- **Residential:** An area primarily used for housing. **Housing may include things like single-family housing units, multi-family housing units such as apartments, townhomes and condominiums, and mobile homes.**
- **Right-of-Way:** A parcel of property dedicated to the public, connecting to other public right of ways, which affords primary access by pedestrians and vehicles to abutting properties.
- **River:** a large natural stream of water flowing in a channel to the sea, a lake, or another such stream.
- **Setback:** The minimum horizontal distance between a structure, sewage treatment system, **feedlot, manure storage structure** or other facility and road, highway, property

line or natural feature such as the Ordinary High Water Level (OHWL), bluff or wetland. Setbacks from a structure to property lines are sometimes designated “front setback,” “back setback” and “side setback.”

- **Sidewalk:** A pavement, footpath, footway or platform that serves as a path along the side of a road for pedestrian or other light uses and meets the design requirements of the Americans with Disabilities Act, Minn. Stat. Chap. 363A and other laws and regulations detailing accessibility requirements.
- **Streetscape:** The sum of the man-made and planted features within and adjacent to the street right-of-way that create the character of the public space. The Streetscape often includes sidewalks, street trees and plantings, street furniture such as benches, street lights, signs, trash receptacles, railings and fences, fountains, planters, banners and flags, public art and similar publicly visible features.
- **Street, Arterial:** A high-capacity urban road that delivers traffic from collector roads to highways or freeways.
- **Street, Collector:** A low-to-moderate capacity road that moves traffic from local streets to arterial streets.
- **Street, Local:** A street designed to provide localized access to individual parcels. Does not normally carry through traffic. Traffic volumes and traffic speeds are expected to be low.
- **Street:** A public right-of-way that provides primary vehicular access to abutting property and shall include avenue, road or highway. Street classifications are defined in the Comprehensive Plan unless defined in a roadway classification plan or other similar road specific plan.
- **Structure:** Anything constructed, placed or erected by humans, including but not limited to homes, garages, accessory buildings, manufactured housing, recreational vehicles left on a site for 14 consecutive days, signs, storage buildings, decks, fences and fish houses. For E911 purposes a structure can also include a physical point (i.e. bridge, telephone booth, tower, etc.) which is addressed for the purpose of location in emergency situations.
- **Subdivision:** the act of dividing land into smaller parcels for sale or development.
- **Topography:** the arrangement of the natural and artificial physical features of an area
- **Township:** A governmental entity organized under Minn. Stat. Chaps. 365-468
- **Underutilized Lots:** Land that has not reached its build-out potential based on its present land use classification.
- **Urban:** In, relating to, or characteristic of a city or town that is characterized by higher population density.
- **Wetland:** Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For the purposes of this definition, wetlands must have the following three attributes: have a predominance of hydric soils, are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions, and under normal circumstances support a prevalence of such vegetation.

Components

These model ordinances are structured in the same way: name, definitions, purpose and preamble, statement of the law, procedural requirements, if any, and exemptions, if any. The

adopting jurisdiction should be sure its Code of Ordinances contains the procedures for the granting of a conditional use permit, and contains provisions for interpretation in the event of a conflict with federal, state or local laws or regulations. These provisions typically include a severability clause which “severs” the invalid clause from the rest of the ordinance, allowing the remaining parts of the ordinance to remain valid, and a conflict clause that determines the applicable rule in the event of a conflict with another ordinance, law or regulation. The adopting jurisdiction must also comply with the procedures outlined in its Code for the adoption of new ordinances. All adopted ordinances should have an effective date.

Name: The name identifies the subject matter of the ordinance. It is hoped that the adopting jurisdictions will adopt this name for the sake of uniformity in the region, but the jurisdiction should review its own requirements for names or titles.

Definitions: Sometimes terms or words used in an ordinance will have a specific meaning or are specific references. These terms and words are defined in this section, and are listed in alphabetical order.

Purpose and Preamble: This section is a contextual statement that explains the facts or the reasons why this ordinance is being created.

Statement of Law: This is the substantive portion of the ordinance. Procedural steps or exemptions specific to an ordinance are also set forth.

Chapter Three: Zoning Districts to Support a Resilient Region

This chapter contains three new zoning districts to support a Resilient Region through mixed use and smart development. These districts support all six of the Livability Principles:

Livability Principle I: Provide more transportation choices

Livability Principle II: Promote equitable and affordable housing

Livability Principle III: Enhance economic competitiveness.

Livability Principle IV: Support existing communities.

Livability Principle V: Coordinate policies and leverage investments.

Livability Principle VI: Value communities and neighborhoods.

Downtown Mixed Use District and Urban Residential District

It is important to encourage mixed use development to reduce commuter travel times and create a greater sense of community. Two often overlooked aspects of affordable housing policy are housing-related transportation costs and quality of life. Both of these elements can be addressed through use of mixed-use districts in a community's zoning code. Such districts combine residential and commercial uses, providing pedestrian or bicycle access from residents' homes to employment and retail opportunities. These districts also have denser development patterns than primarily residential zones and are therefore ideal locations for multi-family housing. Finally, the close vicinity of public services and jobs enables developers to utilize many state and federal affordable housing funding sources that consider these factors in their funding processes.

To implement a mixed-use development policy, these two complementary model ordinances create adjacent zoning districts. Together these districts allow greater density for multi-family housing and a mix of commercial and residential uses. The Downtown Mixed-Use District (DMU) has smaller minimum lot size, building width, and setback requirements than most residential zones in the region and substantially increases the maximum density allowed for development. The Urban Residential District creates a higher-density residential area that is adjacent to the downtown mixed-use zone. The goal is to create housing within walking or biking distance of jobs and retail in < Jurisdiction's > downtown area.

Both of these districts are based on similar districts in the City of Pequot Lakes Zoning Ordinance. The setback, height, and density requirements in the Urban Residential district have been slightly modified to allow for greater flexibility for multi-family housing. It should be noted that while Pequot Lakes chose the label "Urban Residential," other communities may wish to use a label that does not include the word "urban." Regardless, this higher-density residential neighborhood is useful for any size city or township create a buffer between the downtown district and less densely developed residential zones.

Highway Commercial District

Local planners should take a regional view toward economic development. Economic nodes tend to be regionally competitive: for example, Big Box retailers compete against nearby smaller businesses. Planners should think about uses and designs in different districts that complement

nearby districts rather than compete with them. To that end, the Highway Commercial District (HCD) has been developed to enhance regional economic competitiveness.

The HCD is modeled after CR Planning's model Sustainable Development Ordinances. The HCD should be located along major commercial thoroughfares. The model ordinance limits the uses in the HCD to mostly commercial, although some conditional civic and residential uses may be included. The ordinance contains design standards intended to encourage styles reminiscent of any nearby downtown districts. By distinguishing uses between the HCD and a DMU, while maintaining a continuity of styles between the areas, a locality can draw consumers from the highway through the HCD to the DMU. There will also exist synergies between the HCD and the Adequate Public Facilities Ordinance.

The permitted uses in this district are mostly commercial, although some conditional civic uses may be permitted.

Downtown Mixed Use District

An Ordinance that is complementary to the Urban Residential District to expand location and energy-efficient housing choices for people of all ages, incomes, and family sizes to increase mobility and lower the combined cost of housing and transportation in _____, Minnesota.

Section 1. Name. This Ordinance shall be known as Downtown Mixed-Use District Ordinance.

Section 2. Definitions.

- A. **Buffer Zone:** An area in between two zones that provides a transition between those two zones.
- B. **Urban Residential District:** A higher-density residential area that is adjacent to the Downtown Mixed Use District, and which acts as a buffer zone between the DMU and lower-density residential zones.

Section 3. Purpose and Preamble. To provide a zoning district that mixes higher-density residential and commercial uses. The district is designed to enhance the economic vitality of the city or town center, provide convenient pedestrian or bike access to retail and service employment, and act as a community-gathering place. Infrastructure and equipment must be in place or planned to provide sidewalks, bicycle lanes and ways, and connection to municipal water and sanitary sewer utilities, as well as off-street and on-street parking for vehicles and secure parking for bicycles.

The goal of the Downtown Mixed-Use District, in conjunction with the Urban Residential District, is to lower transportation costs and maintain quality of life by implementing these mixed-use districts into the city zoning code. Such mixed-use districts combine residential and commercial uses, providing pedestrian or bicycle access from residents' homes to employment and retail opportunities. The denser development patterns in these districts make them ideal locations for multi-family housing without sacrificing community, while also providing residents with closer proximity to jobs, retail, alternative transportation routes, and public services. Additionally, the close vicinity of public services and jobs enables developers to utilize many state and federal affordable housing funding sources that consider these factors in their funding processes.

Section 4. Compatibility. The Downtown Mixed-Use District is compatible with the Urban Residential District, and it is recommended that it be established adjacent to the Urban Residential District.

Section 5. Statement of Law. The standards in this Ordinance apply to all new development and redevelopment within the Downtown Mixed-Use District:

Section 5.1. Lot and Density Requirements:

Lot Width – feet, minimum	25
Buildable Lot Area – square feet, minimum	2,250
Maximum Density (units per acre)	20
Setback, right-of-way, City road – feet, minimum	1
Setback, right-of-way, County or State road – feet, minimum	10
Setback, side yard – feet, minimum	0
Setback, rear – feet, minimum	10
Setback, sign – feet, minimum	1
Setback, parking from building or lot line – feet, minimum	0
Setback, wetland – feet, minimum	50
Impervious Coverage with storm sewer available	90%
Impervious Coverage without storm sewer available	50%
Building Height – feet, maximum	25
Building above highest groundwater level – feet, minimum	3

[The lot and density requirements are merely suggestions. The Resilient Region Project should look at what these numbers would reflect and tailor them to what would be best suited for the Region and its residents. The Project may also wish to state maximum square footages for commercial uses. However, lot and density requirements should be uniform across the Region to minimize costs to developers.]

Section 5.2. Use Regulations. The following table indicates allowed land uses with the following abbreviations: P for Permitted Use, C for Conditional Use, N for Not Permitted.

DOWNTOWN MIXED-USE DISTRICT	
Residential Uses	
Single-family dwelling	N
Multiple family dwellings of 2 or 3 units	C
Multiple family dwellings of 4 units	C
Multiple family dwellings of 5 or more units	P
Townhouse, rowhouse	P
Dwelling unit located at ground floor	C
Dwelling unit located above ground floor	P
Secondary dwelling	N
Accessory Dwelling Unit	N
Community residential facility	P
Live-work space	P
Nursing Homes, Assisted living and other housing types with supportive services	C
Civic and Semi-Public Uses	
Libraries, museums, community centers	P
Colleges and universities, commercial schools and professional training facilities	P
Religious assemblies	P

Schools, public and private	P
Day care centers	P
Parks and recreation facilities	P
Hospitals, clinics	P
Continuing Care Facility	P
Congregate care housing for senior citizens or the disabled	P
Transit stations and related parking facilities	P
Commercial Uses	
Retail sales and service establishments, multi-tenant shopping centers, and personal service establishments	P
Services such as beauty shops, barbershops, and dry-cleaning establishments. No drive-through service windows permitted.	P
Professional business and general offices such as banks, offices, clinics, medical, dental and doctor's offices, government and public utility office buildings, post offices, opticians' offices and similar uses	P
Hotels, motels, inns, bed and breakfasts	P
Convention centers and halls, conference centers, exhibition halls	C
Theaters, indoor entertainment facilities, fitness centers, health clubs	C
Sports facilities, arenas, stadium	C
Structured parking facilities when part of a mixed-use development	P
Restaurants including open air or sidewalk cafes	P
Food and beverage sales	P
Taverns, lodges or private clubs	P
Art and craft galleries and studios	P
Farmers' markets	P
Drive-through facilities in conjunction with a permitted use	C
Automotive service stations, including convenience stores with fuel sales	N
Automobile sales and service	N
Outdoor sales and storage in conjunction with a permitted use	C

[The use regulations listed here are suggestions. The Resilient Region Project should consider adding more detailed or less specific use regulations as it sees fit. It is important to look at what these uses would reflect for Region Five, and tailor them to what would be best suited for the region and its residents, while keeping in mind the long-term goals of the Resilient Region Project.]

Section 5.3. Conditional Use Permits.

Section 5.3.1 Factors Considered. In addition to existing conditional use permit procedures, <Jurisdiction> shall consider the following factors in approving or denying conditional use permits:

- A. Whether the use is substantially consistent with < Jurisdiction's > Comprehensive Plan, if any;

- B. Whether the use is substantially compatible with the purpose of the Downtown Mixed Use District;
- C. Whether the use will expand the location of housing choices for people of all ages, incomes and family sizes;
- D. Whether the use will expand the energy-efficient housing choices for people of all ages, incomes and family sizes;
- E. Whether the use will lower the combined cost of housing and transportation for people of all ages, incomes and family sizes;
- F. Whether the design will minimize the potential for traffic and/or parking congestion caused by the proposed use;
- G. How the design contributes to an orderly development of the Downtown Mixed-Use District;
- H. Whether the extent, location and intensity of the use fits with the purpose of this Ordinance; and
- I. Whether the use is detrimental to the existing character of the Downtown Mixed-Use District

Section 5.3.2. Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this Ordinance, < Jurisdiction > may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

- A. Orientation of the buildings that promotes passive solar heating;
- B. A landscaping plan that includes appropriate ground cover and landscape materials that minimize storm water runoff and promote passive solar heating;
- C. A lighting plan that minimizes lighting that extends beyond the property boundaries or is visible from adjacent land in residential use;
- D. A plan for vehicular access points and off-street parking that serves the proposed use(s) and minimizes traffic congestion, parking problems, and conflict with through traffic movement;
- E. A plan for pedestrian and bicycle movement that provides connection to adjacent residential areas and provides the infrastructure and equipment to enable secure and convenient parking of bicycles; and

- F. Other specific conditions deemed necessary to protect the public health, safety and general welfare and meet the purpose of this Ordinance.

[It is presumed that the adopting jurisdiction already has a procedure in place for the consideration of applications for a Conditional Use Permit.]

Section 5.4. Performance Standards. The following performance standards apply to all development in this zone:

Section 5.4.1. Parking. Commercial developments within the DMU District are exempt from the parking standards contained in other sections of the zoning code, but must comply with the required parking ration except as otherwise provided by this Ordinance. Developments must minimize the appearance of parking areas.

- A. Location: Parking and vehicle drives must be located away from building entrances and street corners, and not between a building entrance and the street. Surface parking must be located behind or to the side of a building when possible;
- B. Landscape Buffering: Suitable trees and shrubs must be planted between parking lots and all adjacent sidewalks and buildings;
- C. Maximum Parking Ratio: Surface parking shall not exceed 125% of the minimum parking requirement for the subject land use(s);and
- D. Bicycle Parking: Adequate parking for bicycles shall be provided and needs to be visible, accessible, easy to use, and convenient.

Section 5.4.2. Pedestrian Amenities. Proposed developments shall provide for safe and accommodating sidewalks, paths, bicycle lanes and paths, *[also consider Bicycle Routes, Bicycle Trails, and Bikeways]*, curb cuts, and resting areas for pedestrians. All pedestrian pathways shall comply with the requirements of the most recent Americans with Disabilities Act standards, which include requirements for sidewalk width, grades, locations, markings, surface treatments, and curb ramps. Sidewalks and paths must connect the development to adjacent land uses and provide connections through the development to the public street right-of-way.

Section 5.4.3. Lighting. All building entrances, pathways and other pedestrian areas must include pedestrian-scale lighting such as wall mounted lights, sidewalk lamps, bollards, or landscape lighting.

Section 5.4.4. Fences. Fences that exceed 72 inches in height may not be constructed. Fencing shall only be constructed closer than 10 feet from the surface of a public road with the permission of the Planning Commission and in all cases not within the public right-of-way. Fences shall be built with usual

fencing materials such as metal, wood, concrete, brick or smooth wire. The use of sustainable fencing materials is encouraged. Barbed or electrified wire is prohibited.

Urban Residential District

An Ordinance to provide a higher-density residential area that serves as a Buffer Zone between the Downtown Mixed-Use District and areas of lower-density to provide energy-efficient housing choices for people of all ages, incomes, and family sizes and to increase mobility and lower the costs of transportation and housing in _____, Minnesota.

Section 1. Name. This Ordinance shall be known as “Urban Residential District Ordinance”.

Section 2. Definitions.

- A. **Buffer Zone:** An area in between two zones that provides a transition between those two zones.
- B. **Buildable Area:** Land that does not contain designated flood plain, wetlands or areas in excess of twenty-five (25) percent slope.
- C. **Downtown:** Of, in, or characteristic of the central area or main business or commercial area of a town or city.
- D. **Downtown Mixed-Use District:** A district with smaller minimum lot size, building width, and setback requirements than most residential zones in the region and substantially increases the maximum density allowed for development.
- E. **Fish House:** A structure 160 square feet or less which is placed on water during the winter for use in recreational fishing, is moveable, and has a current license issued by < Jurisdiction >.
- F. **Guest Quarters:** A structure, not for sale or lease, used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling on the lot. Any accessory structure with kitchen or bathroom facilities shall be considered a dwelling, guest quarters.

Section 3. Purpose and Preamble. To provide residential zoning for a variety of income levels and serve as a buffer zone within walking distance of the Downtown Mixed-Use District. This area creates a higher-density residential area that provides housing within walking or biking distance of jobs and retail in < Jurisdiction’s > Downtown area.

The goal of the Urban Residential District, in conjunction with the Downtown Mixed-Use District, is to lower transportation costs and maintain quality of life by implementing these mixed-use districts into < Jurisdiction’s > zoning code. Such mixed-use districts combine residential and commercial uses, providing non-motorized vehicle access from residents’ homes to employment and retail opportunities. The denser development patterns in these districts make them ideal locations for multi-family housing without sacrificing community, while also providing residents with closer proximity to jobs, retail, alternative transportation routes, and public services. Additionally, the close vicinity of public services and jobs enables developers to

utilize many state and federal affordable housing funding sources that consider these factors in their funding processes.

Section 4. Compatibility. The Urban Residential District is compatible with the Downtown Mixed-Use District, and it is recommended that it be established adjacent to the Downtown Mixed-Use District.

Section 5. Statement of Law. The standards in this Ordinance apply to all new development and redevelopment within the designated Urban Residential Districts.

Section 5.1. Lot and Density Requirements.

Lot Width - feet, minimum	50
Buildable Lot Area, minimum	5000
Residential PUD Maximum Density	1 unit per 1,000 square feet
Setback, right-of-way, local streets - feet, minimum	20
Setback, right-of-way, collector and arterial streets - feet, minimum	30
Setback, side - feet, minimum	10
Setback, corner side - feet, minimum	15
Maximum impervious coverage	40%
Maximum building height	Five stories or 50 feet, whichever is greater
Accessory Structure Size - square feet, max, cumulative	1,280

[The lot and density requirements are merely suggestions. The Resilient Region Project should look at what these numbers would reflect and tailor them to what would be best suited for the Region and its residents. It is hoped that the requirements would be uniform across the Region to minimize costs to developers.]

Section 5.2. Use Regulations. The following table indicates allowed land uses with the following abbreviations: P for Permitted Use and C for Conditional Use. Any use not listed is not permitted. All Commercial Uses must be contained in a mixed-use building that includes residential uses.

URBAN RESIDENTIAL DISTRICT	
Residential Uses	
Single-family dwelling	P
Two-family dwelling	P
Townhouse, row house	P
Multiple -family dwellings of 2 or 3 units	P
Multiple-family dwellings of 4 units	P
Multiple-family dwellings of 5 or more units	P

Common Interest Communities if processed as part of a planned unit development	P
Common Interest Communities	P
Dwelling unit located at ground floor	P
Dwelling unit located above ground floor	P
Secondary dwelling	P
Community residential facility	P
Live-work space	P
Accessory Dwelling Units	C
Nursing Homes, Assisted Living and other housing types with supportive services	C
Civic and Semi-Public Uses	
Schools for grades K to 8, public and private	C
Family day care facilities	C
Public parks and playgrounds	C
Commercial Uses	
Resident serving retail sales and service establishments such as beauty shops, barbershops, fitness centers, health clubs, small theaters, dry cleaning, professional services, opticians' offices.	C
Structured parking facilities that primarily serves residents	C
Coffee shops and restaurants including open air or sidewalk cafes	C
Art and craft galleries and studios	C
Farmers' markets	C

[The use regulations listed here are merely suggestions. The Resilient Region Project should consider adding more detailed or less specific use regulations as it sees fit. It is important to look at what these uses would reflect for Region Five, and tailor them to what would be best suited for Region Five and its residents, while keeping the Project's long-term goals in mind.]

Section 5.3. Conditional Use Permits.

Section 5.3.1. Factors Considered. In addition to existing conditional use permit procedures, <Jurisdiction> shall consider the following factors in approving or denying conditional use permits:

- A. Whether the use is substantially consistent with < Jurisdiction's > Comprehensive Plan, if any;
- B. Whether the use is substantially compatible with the purposes of the Urban Residential District;

- C. Whether the use will expand the location of housing choices for people of all ages, incomes and family sizes;
- D. Whether the use will expand the energy-efficient housing choices for people of all ages, incomes and family sizes;
- E. Whether the use will lower the combined cost of housing and transportation for people of all ages, incomes and family sizes;
- F. Whether the design will minimize the potential for traffic and/or parking congestion caused by the proposed use;
- G. Whether the design contributes to an orderly development of the Urban Residential District;
- H. Whether the extent, location and intensity of the use complies with the purpose of this Ordinance; and
- I. Whether the use is detrimental to the existing character of the Urban Residential District.

Section 5.3.2. Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this Ordinance, < Jurisdiction > shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

- A. Orientation of the buildings that promotes passive solar heating;
- B. A landscaping plan that includes appropriate ground cover and landscape materials that minimize storm water runoff and promote passive solar heating;
- C. A lighting plan that minimizes lighting extending beyond the property boundaries or is visible from adjacent land in residential use;
- D. A plan for vehicular access points and off-street parking that serves the proposed use(s) and minimizes traffic congestion, parking problems, and conflict with through traffic movement;
- E. A plan for pedestrian and bicycle movement that provides connection to adjacent residential areas and provides the infrastructure and equipment to enable secure and convenient parking of bicycles; and
- F. Approval of other specific conditions deemed necessary to protect the public health, safety and general welfare and meet the purpose of this Ordinance.

[It is presumed that the adopting jurisdiction already has a procedure in place for the consideration of applications for a Conditional Use Permit.]

Section 5.4. Performance Standards. The following performance standards apply to all development in this zone:

Section 5.4.1. Dwelling, Guest Quarters. Guest Quarters must meet the following restrictions:

- A. Shall be located along with the principal structure on a lot that is compliant with the above regulations; and
- B. Shall be a maximum of 600 square feet and shall not exceed 25 feet in height.

Section 5.4.2. Outside Storage. Storage of a Fish House and/or a recreational vehicle is allowed if it is stored at least 10 feet distance from any property line and it is not within the Ordinary High Water (OHW) setback.

Section 5.4.3. Fences. Fences that do not exceed 60 inches in height may be constructed except within the OHW setback area. In the OHW setback area, fences that do not exceed 36 inches may be constructed, but the fencing shall be transparent. Under no circumstances shall fences be constructed closer than 10 feet from the surface of a public road and shall not be within the public right of way. Fences shall be built with usual fencing materials, such as metal, wood, concrete, brick, or smooth wire. Barbed or electrified wire is prohibited.

Section 5.4.4. Impervious Coverage. Impervious Coverage may be increased by 20% through a Conditional Use permit if the following is provided:

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

Section 5.4.5. Sidewalks. Properties shall accommodate safe and comfortable Sidewalks, paths, and resting areas for pedestrians. Sidewalks or paths must connect adjacent lots within the district and must connect the district to adjacent zoning districts.

Section 5.4.6. Parking. Landscape Buffering: Suitable trees and shrubs must be planted between parking lots and all adjacent sidewalks and buildings.

Highway Commercial District

An Ordinance to Enhance Economic Competitiveness in _____, Minnesota.

Section 1. Name. This Ordinance shall be known as Highway Commercial District Ordinance.

Section 2. Definitions.

None.

Section 3. Purpose and Preamble. To improve economic competitiveness through reliable and timely access to employment centers, educational opportunities, services and other basic needs by workers as well as expanded business access to markets.

The Highway Commercial District (HCD) is intended for use in locations along <Jurisdiction's> primary commercial corridors where automobile-oriented businesses are already present or are planned. Allowed businesses include those that typically benefit from access and visibility from major highway corridors. Businesses that involve outdoor display, storage and/or sales, motor vehicle repair, and other intensive or outdoor uses are allowed with appropriate screening. The HCD regulations specifically implement the following goals from the Comprehensive Plan:

- A. Create more walkable and attractive commercial corridors by scaling streets, blocks and buildings to the needs of pedestrians;
- B. Encourage buildings with a human scale, which evoke traditional buildings without imitating them, and to create a pedestrian-friendly internal site layout and Streetscape.
- C. Encourage transit use by locating commercial uses so that they are directly visible and accessible from an existing or planned transit route;
- D. Preserve the functionality of major thoroughfares by controlling access to such streets and incorporating shared internal circulation;
- E. Minimize the potential for increased traffic congestion, noise, glare, and other negative impacts that may result from commercial development;
- F. For [County Road or Highway X], project the image and character of an attractive and distinctive gateway into <Jurisdiction>; and,
- G. Direct commercial development to existing commercial nodes and areas with adequate transportation, sewer and water infrastructure.

Section 4. Statement of Law.

Section 4.1. Use Regulations. The Highway Commercial Zone is oriented for vehicle and pedestrian accessible uses. Therefore, any residential uses are not permitted except for those uses already existing. Existing residential uses will not be allowed to increase in density.

Section 4.2. Table of Uses. The following table indicates allowed land uses with the following abbreviations: P for Permitted Use; C for Conditional Use; and N for Not Permitted.

HIGHWAY COMMERCIAL DISTRICT	
Civic and Semi-Public Uses	
Libraries, museums, community centers	C
Colleges and universities, commercial schools and professional training facilities	C
Religious assemblies	C
Schools, public and private	C
Day care centers	C
Parks and recreation facilities	P
Hospitals and clinics	P
Transit stations and related parking facilities	P
Commercial Uses	
Retail sales and service establishments, multi-tenant shopping centers, and personal service establishments	P
Services such as beauty shops, barbershops, and dry-cleaning establishments.	P
Professional business and general offices such as banks, offices, clinics, medical, dental and doctor's offices, government and public utility office buildings, post offices, opticians' offices and similar uses.	P
Hotels, motels, inns, bed and breakfasts	P
Convention centers and halls, conference centers, exhibition halls	P
Theaters, indoor entertainment facilities, fitness centers, health clubs	P
Sports facilities, arenas, stadium	P
Structured parking facilities	P
Restaurants including open air or sidewalk cafes	P
Food and beverage sales	P
Taverns, lodges, or private clubs	P
Art and craft galleries and studios	P
Farmers' markets	P
Mixed-use developments or multi-use developments	P
Drive-through facilities in conjunction with a permitted use	P
Office-showrooms and office-warehouses	P

Agricultural implement sales and service	P
Lumberyards and construction material sales	P
Garden and landscaping sales and service	P
Automotive service stations, including convenience stores with fuel sales	P
Motor vehicle sales and service	P
Recreational vehicles and equipment sales and service	P
Outdoor sales and storage in conjunction with a permitted use	P

[The use regulations listed here are merely suggestions. The Resilient Region Project should consider adding more detailed or less specific use regulations as it sees fit. It is important to look at what these uses would reflect for Region Five, and tailor them to what would be best suited for Region Five and its residents, while keeping the Project's long-term goals in mind.]

Section 4.3. Dimensional Standards.

	Min. Lot Area, sq. ft.	Min. Lot Width, feet	Min. Front Yard, feet	Min. Side Yard, feet	Min. Rear Yard, feet
Commercial or Mixed- Use Building	20,000	66	20 from right-of-way	10, corner 20	20
Other Building Type	To be determined through Conditional Use process				

[The dimensional standards listed here are merely suggestions. The Resilient Region Project should consider adding more detailed or less specific standards as it sees fit. It is important to look at what these standards would reflect for Region Five, and tailor them to what would be best suited for Region Five and its residents, while keeping the Project's long-term goals in mind.]

Section 4.4. Density and Height Standards.

Minimum FAR	0.3 [1]
Minimum Height	1.5 stories
Maximum Height	4 stories/50 feet
Maximum Building Footprint	75,000 square feet [2]

[1] Public gathering spaces, landscaped areas, public art, and outdoor seating areas may be counted toward building square footage in calculating the FAR.

[2] Larger building footprints may be allowed through the approval of a conditional use.

[These standards are merely suggestions. The Resilient Region Project should consider adding more detailed or less specific standards as it sees fit. It is important to look at what these standards would reflect for Region Five, and tailor them to what would be best suited for Region Five and its residents, while keeping the Project's long-term goals in mind.]

Section 4.5. Design Standards.

[The building façade standards in this section are rapidly becoming common practice in the design of contemporary shopping centers. The internal circulation guidelines are also being used in more locations to create more pedestrian-friendly (while still auto-oriented) environments. Not all standards will be appropriate in all locations.]

Section 4.5.1. Intent of this Section. The intent of this section is to encourage buildings with a human scale, which evoke traditional buildings similar to those buildings in the Downtown Mixed Use District so as to act as a gateway to the Downtown area of <Jurisdiction>, and to create a pedestrian-friendly internal site layout and Streetscape.

Section 4.5.2. Building Placement. In order to encourage pedestrian circulation and shared parking among uses:

- A. Distances between principal buildings, or between the most distant entrances of a single building, should not exceed 300 feet. This standard can be achieved through the arrangement of freestanding buildings in compact groups, the design of single buildings in an "L" or "T" shape, or similar strategies; and,
- B. Building entrances should be located as close to abutting streets as possible, and no further than 85 feet from the street right-of-way. This standard may be achieved through the creation of one or more public or private internal streets within a large site. Use of frontage road access areas on major highway routes is encouraged.

Section 4.5.3. Architectural Style. No single architectural style or styles is required. The contemporary adaptation of elements of historic commercial architectural styles found in Downtown <Jurisdiction>, including [Italianate, Neoclassical and Early Twentieth Century Commercial], is encouraged. If a particular style is used, it should be used consistently. The combination of elements of a variety of styles in one building is discouraged.

[This section should be modified depending on the nature of the architecture in < Jurisdiction's > Downtown or Main Street area.]

Section 4.5.4. Building Width and Facade Articulation. Buildings of more than 40 feet in width shall be divided into smaller increments through articulation of the facade. This can be achieved through combinations of the following techniques, and others that may meet the objective:

- A. Facade Modulation: Stepping back or extending forward a portion of the facade;
- B. Vertical divisions using different textures or materials (although materials should be drawn from a common or complimentary palette);
- C. Division into storefronts, with separate display windows and entrances;
- D. Variation in roof lines by alternating dormers, stepped roofs, gables, or other roof elements to reinforce the modulation or articulation interval;
- E. Arcades, awnings, window bays, arched windows and balconies at intervals equal to the articulation interval; and/or,
- F. Providing a lighting fixture, trellis, tree, or other landscape feature with each interval.

Section 4.5.5. Scale, Proportion, and Placement. In general building elements such as windows, doors, arcades, towers, etc. should be arranged symmetrically across the façade, in a regular and logical manner. Window and door openings should be proportional to façade length and height. Large elements (i.e. clock tower) may be appropriate, but there should be an emphasis on maintaining a human scale at the ground level.

Section 4.5.6. Building Height and Roof Design. In order to improve the appearance of uninterrupted facades:

- A. Buildings over 100 feet in length shall be no more than 1-1/2 stories in height for at least 30% of their length;
- B. Roofs shall be designed with one or more of the following:
 - i. Sloping roofs with a minimum roof pitch of at least 1 foot of rise to 4 feet of run;
 - ii. Flat roofs with a decorative parapet concealing rooftop equipment. Average parapet height shall not exceed 15 percent of the height of the supporting wall and maximum parapet height at any point shall not exceed one-third the height of the supporting wall; and/or,
 - iii. Overhanging eaves, extending no less than 18 inches past the surrounding walls.

Section 4.5.6. Ground-Floor Windows. In order to allow views into and out of buildings, enliven the Streetscape, increase a sense of security, and allow opportunities for display of merchandise:

- A. The primary street level façade of large retail or office establishments (over 25,000 square feet) that faces a public street or walkway shall be transparent between the height of 3 and 8 feet above sidewalk grade for at least 40 percent of the horizontal length of the building façade; and,
- B. The primary street level façade of smaller retail or office establishments (25,000 square feet or less) shall be transparent for at least 50 percent of the horizontal length of the building façade, between the height of 3 and 8 feet above sidewalk grade, at minimum.

Section 4.5.7. Entries. In order to ensure that entries contribute to the visual attractiveness of the building and are readily visible to the customer, entries to principal buildings shall include any of the following features:

- A. Canopy, portico, overhang, arcade, or arch above the entrance;
- B. Recesses or projections in the building façade surrounding the entrance;
- C. Peaked roof or raised parapet over the door;
- D. Display windows surrounding the entrance;
- E. Architectural detailing such as tile work or ornamental moldings;
- F. Permanent planters or window boxes for landscaping; or,
- G. Primary building entrances shall face the primary abutting public street, not a side or rear parking area.

Section 4.5.8. Number of Entrances. In order to reduce walking distance from parking areas, adjoining streets and adjacent buildings, and to avoid the appearance of unbroken walls:

- A. A retail building accessible by more than one public street shall provide customer entrances on at least two of the street frontages, where possible. The entrance facing the secondary street may be clearly distinguished using the methods listed above under “Entries”; and,
- B. Each additional retail store within a principal building (strip malls or shopping centers) shall provide at least one exterior customer entrance clearly distinguished using at least one of the methods listed above.

Section 4.5.9. Building Materials. In order to ensure that high-quality, authentic materials that evoke traditional downtown or main street settings are used in new commercial development, buildings shall be constructed of high-quality materials such as brick (stone or textured), cast stone or tinted masonry units.

Section 4.5.10. Prohibited Materials. The following materials are prohibited:

- A. Unadorned plain or painted concrete block;
- B. Tilt-up concrete panels;
- C. Pre-fabricated steel or sheet metal panels;
- D. Reflective glass;
- E. Aluminum, vinyl, fiberglass, asphalt or fiberboard siding;
- F. Wood siding; and,
- G. Accent materials may be used on up to 15% of the building's façade. These may include metal, glass block, spandrel glass or similar materials as approved by the Planning Commission.

Section 4.5.11. Side and Rear Treatments. In order to ensure continuity of materials and façade treatments on all visible facades, all building facades visible from a public street or walkway shall employ materials and design features similar to those of the front façade.

Section 4.5.12. Building Colors. In order to ensure that building colors are aesthetically pleasing and compatible with surrounding buildings, building colors shall consist of subtle, neutral or muted colors, with low reflectance. Recommended colors include browns, grays, tans, beiges, and dark or muted greens, blues and reds. No more than two principal colors may be used on a façade. Bright white or primary colors should be used only as accents, occupying a maximum of 10 percent of building façades.

Section 4.5.13. Parking. In order to improve the appearance and convenience of parking lot circulation for vehicles and pedestrians, parking areas shall be distributed around large buildings in order to shorten the distance to other buildings and reduce the overall scale of the paved surface. The following criteria shall be followed:

- A. No more than 50% of the off-street parking area for the entire site shall be located between the front façade of the principal building and the primary abutting street;
- B. Alternatively, one or more internal access ways that are similar to streets may be used to divide the site into parking areas no greater than 55,000 square feet; and,
- C. Internal access ways must have at least one auto travel lane, curbs, and sidewalks of at least six (6) feet on both sides. Access ways must be landscaped along their entire length with trees, shrubs and/or planting beds.

Section 4.5.14. Parking Lot Landscaping. In order to soften and improve the appearance of parking lots when viewed from an abutting street or sidewalk, all parking and loading areas (including drive-through facilities, pump island service

areas and stacking spaces) fronting public streets or sidewalks, and all parking and loading areas abutting residential districts or uses, shall provide:

- A. A landscaped yard at least 5 feet deep along the public street or sidewalk. If a parking area contains more than 100 spaces, the minimum required yard shall be increased to 8 feet deep.
- B. Screening consisting of either a masonry wall, fence, berm, or hedge or combination that forms a screen a minimum of 3 feet in height, a maximum of 4-1/2 feet in height, and not less than 50% opaque; and,
- C. The landscaped yard shall include at least one tree for each 25 linear feet of parking lot frontage on a public street or access way.

Section 4.5.15. Interior Parking Lot Landscaping.

- A. The corners of parking lots and all other areas not used for parking or vehicular circulation shall be landscaped with turf grass, native grasses or other perennial flowering plants, vines, shrubs and trees. Such spaces may include architectural features such as benches, kiosks or bicycle parking; and,
- B. In parking lots containing more than 100 spaces, an additional landscaped area of at least 300 square feet shall be provided for each 12 spaces or fraction thereof, containing one deciduous shade tree. The remainder shall be covered with turf grass, native grasses, perennial flowering plants, vines or shrubs.

Section 4.5.16. Placement and Screening of Service, Loading, and Storage Areas.

- A. Any outdoor storage, service or loading area that faces adjacent residential uses or a public street or walkway shall be screened by a decorative fence, wall, or screen of plant material at least 6 feet in height, or a planting screen shall be provided parallel to the property line, street, or walkway;
- B. Loading docks, truck parking, HVAC equipment, trash collection, and other service functions shall be incorporated into the design of the building so that the visual and noise impacts of these functions are fully contained and not visible/audible from adjacent properties and public streets. Areas for the outdoor storage and sale of merchandise, where permitted, shall be permanently defined and screened with walls or fences, with materials compatible with and of similar quality to primary building materials.

Section 4.5.17. Lighting. Exterior lighting shall be the minimum necessary for safety and security. Lighting shall be designed to coordinate with building architecture and landscaping. Building-mounted fixtures shall be compatible with the building facades. Overall lighting levels should be consistent with the character and intensity of the surrounding area. All light fixtures shall be shielded

or otherwise directed to ensure that light is not directed onto adjacent properties or into adjacent residential areas.

Section 4.5.18. Pedestrian and Bicycle Access. Sidewalks shall be required along public streets that abut the proposed development in order to provide pedestrian connections from all adjacent neighborhoods and activity centers with the following;

- A. A well-defined pedestrian path shall be provided from the sidewalk to each principal customer entrance of a building. Walkways shall be located so that the distance between street and entrance is minimized. Walkways shall be at least 5 feet in width, and shall be distinguished through pavement material from the surrounding parking lot. Walkways shall be landscaped for at least 50 percent of their length with trees, shrubs, and planting beds;
- B. Sidewalks of at least 8 feet in width shall be provided along all front building facades that abut public parking areas;
- C. Walkways and sidewalks should be defined by design features such as towers, arcades, porticoes, pedestrian-scale light fixtures, planters, and other architectural elements; and,
- D. Bicycle parking shall be provided in a convenient and visible location no farther from the principal entrance than the closest automobile parking space, at a ratio of 1 space per 25 automobile parking spaces. Bicycle parking shall consist of a bike rack designed so that the bicycle frame can be locked to the rack.

Section 4.5.19. Community Amenities. Each retail development of over 75,000 square feet in floor area may provide one or more patios or outdoor seating areas, which may also provide outdoor cafes or dining areas. The outdoor areas shall include seating and a water feature, clock tower or other central focal point.

[The design standards are suggestions. The Resilient Region Project should consider adding more detailed or less specific design standards as it sees fit. It is important to look at what these standards would reflect for Region Five, and tailor them to what would be best suited for the Region and its residents, while keeping in mind the long-term goals of the Resilient Region Project.]

Section 5. Conditional Use Permits.

Section 5.1. Factors Considered. In passing upon conditional use applications, < Jurisdiction > shall consider the following factors in addition to all relevant factors specified in other sections of this Ordinance:

- A. Whether the use is substantially consistent with < Jurisdiction's > Comprehensive Plan, if any;
- B. Whether the use is substantially compatible with the purpose of the Highway Commercial District to enhance regional economic competitiveness;
- C. How the use and the project design complements nearby districts;
- D. Whether there is adequate transportation, sewer and water infrastructure available for the use;
- E. Whether the design will minimize the potential for traffic and/or parking congestion caused by the proposed use;
- F. Whether the design creates a pedestrian-friendly internal site layout and Streetscape;
- G. Whether the project is accessible from an existing or planned transit route;
- H. How the design contributes to an orderly development of the Highway Commercial District;
- I. The extent, location and intensity of the use;
- J. How the use will benefit from access and visibility from major highway corridors while minimizing the potential for increased traffic congestion, noise, glare and other negative impacts that may result from commercial development; and,
- K. Whether the use is detrimental to the existing character of the Highway Commercial District.

Section 5.2. Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this Ordinance, < Jurisdiction > shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

- A. Orientation of the buildings that promotes passive solar heating;
- B. A landscaping plan that includes appropriate ground cover and landscape materials that minimizes storm water runoff and promotes passive solar heating; for businesses that involve outdoor displays, storage and/or sales, motor vehicle repair and other intensive or outdoor uses, the landscaping plan must include provisions for appropriate screening;

- C. A lighting plan that minimizes lighting that extends beyond the property boundaries or is visible from adjacent land in residential use;
- D. A plan for vehicular access points and off-street parking that serves the proposed use(s) and minimizes traffic congestion, parking problems, and conflict with through traffic movement;
- E. A plan for pedestrian and bicycle movement through the project that provides connection to adjacent parcels and provides the infrastructure and equipment to enable secure and convenient parking of bicycles;
- F. A design plan that creates a pedestrian-friendly internal site layout and Streetscape, and that incorporates buildings with a human scale; and,
- G. Other specific conditions deemed necessary to protect the public health, safety and general welfare and meet the purpose of this Ordinance

[It is presumed that the < Jurisdiction> already has a procedure in place for the consideration of applications for a Conditional Use Permit.]

Section 6. Exemptions.

[Jurisdictions desiring to attract large commercial enterprises such as discount retail stores, lumber/hardware/home improvement stores, furniture/home goods warehouse stores, etc. should use this section to make such exemptions as it sees appropriate. Exemptions could address the number and design of entrances, the size and location of parking lots, building design standards, and standards for sidewalks, driveways and connecting trails.]

Chapter Four: Overlay Districts to Support a Resilient Region

This chapter contains four new overlay districts:

- Historic Overlay District
- Traditional Neighborhood Zone Overlay District
- Pedestrian Overlay District
- Infill Residential Overlay District

An overlay district is a designation that permits or requires additional zoning requirements. “Overlay districts may be developed with a specific land area in mind or they may be developed to ‘float’ until they are anchored to a suitable development proposal.” (Zoning Guide for Cities, League of Minnesota Cities, 2012)

These proposed overlay districts support all six of the Livability Principles, in particular Livability Principles I and IV.

Livability Principle I: Provide More Transportation Choices

Provide safe and reliable options for pedestrians and bicyclists where possible and encourage development that minimizes the number and length of car trips. Region 5 does not have significant public transportation options, but does have the capacity to encourage other transportation choices. The above goal was adopted to highlight the region’s best options for implementing this livability principle—encouraging walking and biking and minimizing car trips.

Livability Principle VI: Value communities and neighborhoods

Valuing communities and neighborhoods requires planners to respect their locale’s history as well as promote pedestrian friendly development and encourage community design that centralizes community centers to minimize the number and length of car trips. It also demands a people-centric approach to planning, one that emphasizes the social aspect of sustainability.

General Provisions for All Overlay Districts

This section explains the purpose and mechanics for an overlay district. A jurisdiction should adopt the “General Provisions” section in addition to the specific overlay districts

Historic Overlay District and Traditional Neighborhood Zone Overlay District.

To ensure that high quality developments are well planned and connected to existing development through the efficient use of streets, utilities and infrastructure it is important to embrace older neighborhoods. Older neighborhoods can readily adopt sustainable practices because they are likely based on pre-Euclidean zoning layouts amenable to mixed-use development and walkability.

Based on this perspective, two ordinances for Large Cities are recommended: the Historic Overlay District (HOD) and Traditional Neighborhood Zone (TNZ) Overlay District. The HOD establishes guidelines for the preservation of a community's inventory of historic structures. The TNZ calls for new developments to evoke the character of a traditional neighborhood.

Pedestrian Overlay District

Part of displaying value in communities is to provide safe and reliable options for pedestrians and bicyclists where possible and encourage development that minimizes the number and length of car trips.

Region Five does not have significant public transportation options, but it does have the capacity to encourage other transportation choices. Region Five should adopt this Ordinance to highlight the region's best options for implementing this livability principle—encouraging walking and biking and minimizing car trips.

The Region's jurisdictions tend to have established downtown areas and other neighborhood zones with the density needed for practical pedestrian and bicycle use. To implement this policy, communities should commit to including pedestrian and bicycle elements in their transportation infrastructure, especially within downtown, residential, commercial, and mixed use zones. These may include, but are not limited to, sidewalks, bike lanes, crosswalks, and traffic calming elements. This ordinance is meant to serve as a land use supplement to a broader transportation plan that establishes pedestrian and bicycle infrastructure.

Given the geography and population of the region, cars are currently and will continue to be the primary source of transportation for the foreseeable future. The environmental impact of cars can be greatly reduced if community members seek to minimize both the length and number of car trips. This is possible if local governments incentivize growth and development around existing community centers. Reducing sprawling development reduces miles traveled to work and for shopping, and allows some residents to both live and work in the same neighborhood. While the most concentrated population centers tend to be in municipalities, counties must also play a role in encouraging growth in areas that already contain development.

This model ordinance establishes an overlay district for areas of the community with densities and transportation infrastructure conducive to pedestrian and bicycle use, such as downtown districts. Within the overlay district, buildings are designed to be more accessible and appealing on a human-scale, rather than being built primarily for "stop and go" traffic. These design standards not only encourage increased walking and biking, but also minimize car trips. This model ordinance is intended to provide a number of design requirements that meet the purposes of a pedestrian overlay district. Jurisdictions may wish to incorporate any number of these requirements.

Infill Residential Overlay District

This model ordinance establishes an overlay district for developed areas with underutilized lots and provides regulatory and financial incentives for their full development. Because the

ordinance involves the apportionment of costs for local improvements, jurisdictions should refer to Minn. Stat. 429.051 to ensure compliance. This model ordinance applies only to residential development, but may be adapted for commercial uses as well.

General Provisions for All Overlay Districts

Establishment of overlay districts:

Overlay district boundaries shall be as established in the individual overlay district regulations. The overlay district designation shall be shown on the zoning map in addition to the primary zoning district designation. < Jurisdiction > may designate areas outside of the established boundaries in the manner provided for zoning amendments. In addition, persons having a legal or equitable interest in property located within the eligible areas, as specified in the individual overlay district regulations, but outside of the established boundaries, may file a petition to request the addition of an overlay district classification to their property in the manner provided for zoning amendments.

[In adopting an overlay district, the Jurisdiction should specify the boundaries of the district.]

Relationship to other applicable regulations:

Property located within an overlay district shall be subject to the provisions of both the primary zoning district and the overlay district. Because overlay district regulations may be more or less restrictive than the primary zoning district, where the provisions of the overlay and primary zoning districts are in conflict, the provisions of the overlay district shall govern.

Historic Overlay District

An Ordinance to establish an Historic Overlay District in _____, Minnesota.

Section 1. Name. This Ordinance shall be known as the Historic Overlay District.

Section 2. Definitions.

- A. **Historic District(s) (or Historic Preservation District):** Structures, sites, and open spaces within a defined area that are of historical and/or architectural significance and which combine to give the area historic significance for < Jurisdiction > and State of Minnesota.
- B. **Heritage Preservation Commission:** An advisory board to < Jurisdiction > that helps promote comprehensive historic preservation programs and educate and enrich the citizens and visitors of the State, County, City or Township.
- C. **Historic Landmark, Site, or Structure:** A landmark, site, building, or other structure that has been designated by the Historic Preservation Commission or is located within a designated Historic District.

Section 3. Purpose and Preamble. The purpose of this Ordinance is to preserve, protect and promote historic districts and historic landmarks, sites and structures. The Historic Overlay District (HOD) designation:

- A. Safeguards the heritage of the community by preserving properties that reflect elements of < Jurisdiction's > cultural, social, economic, political, engineering, visual or architectural history;
- B. Protects and enhances < Jurisdiction's > appeal and attraction to residents, visitors and tourists, while enhancing its economic viability through the protection and promotion of its unique character as related to its history and heritage;
- C. Enhances the visual and aesthetic character, diversity and interest of < Jurisdiction >;
- D. Fosters civic pride in the beauty and notable accomplishments of the past; and
- E. Promotes the preservation and continued use of historic properties for the education and general welfare of the people of < Jurisdiction >.

[This Ordinance is drafted under the authority of the Minnesota Historic Districts Act (Minn. Stat. § 471.193) and another statute governing the control and maintenance of historic districts (Minn. Stat. § 138.74). These statutes grant counties and cities the authority to create special zoning conditions and control the types of buildings that are included in the historic district. Depending on the primary goals of the jurisdiction,

historic districts are a good way to enrich the community and create a predictable, sustainable environment.

[Some jurisdictions may feel that these requirements impose burdensome implications for developers. Jurisdictions that are interested in preserving an historic area of their community outside the requirements of these statutes may want to use a different name for the overlay district, such as a "Main Street Overlay District" and include only the design, preservation and other elements the jurisdiction wants to impose.]

Section 4. Statement of Law.

Section 4.1. Designation of an Historic Overlay District.

Section 4.1.1. < Jurisdiction's > Heritage Preservation Commission shall, from time to time, recommend to < Jurisdiction > historic areas that should be designated a Historic Overlay District and which buildings in the area should be designated historic or architecturally significant structures.

[If the jurisdiction does not have a Commission, it should create one. See Minn. Stat. § 471.193]

Section 4.1.2. Upon the recommendation of the Heritage Preservation Commission, <Jurisdiction> may designate areas for an Historic Overlay District and those buildings within that District that are designated historic or architecturally significant.

[The jurisdiction should follow its administrative code for applying the overlay district.]

Section 4.1.3. In making these recommendations or designations, the Heritage Preservation Commission and < Jurisdiction > shall consider areas, landmarks, sites and structures that have one or more of the following criteria:

- A. Has a significant character, interest, or value as part of the development, heritage, or cultural characteristics of the County, State, or Nation;
- B. Was the site of a significant historical event;
- C. Is identified with a person or group of persons who influenced society;
- D. Exemplifies the cultural, economic, social, political, or historic heritage of < Jurisdiction > or its communities;
- E. Embodies the distinctive characteristics of a type, period, or method of design or construction;
- F. Represents the work of a master craftsman, architect, designer, or builder;

- G. Possesses high artistic values;
- H. Represents a significant and distinguishable entity whose components may lack individual distinction;
- I. Represents an established and familiar visual feature of the neighborhood, community, or County due to its singular man-made or natural characteristics or features; and
- J. Has yielded, or may be likely to yield, archaeological information important in history or prehistory.

Section 4.2. Development Activity in an Historic Overlay District.

This Section applies to the following activities in an Historic Overlay District:

- A. All new construction projects, including parking facilities;
- B. The remodel, repair or any alteration of the exterior of buildings that have been designated historic or architecturally significant or of the landscape features of those buildings;
- C. The relocation of a building; and
- D. The demolition in whole or in part of buildings that have been designated historic or architecturally significant.

Section 4.2.1. New Development. Notwithstanding the underlying zoning, all proposed uses in the Historic Overlay District are conditional uses subject to the conditional use permit process. < Jurisdiction > may attach such conditions to the granting of a conditional use permit as it deems necessary to fulfill the purposes of this Ordinance and to insure that the development relates to and complements the existing buildings in the district, particularly those adjacent to the site, in scale and design by maintaining similar height, mass, setbacks, facade divisions, roof lines, rhythm and proportions of openings, building materials and colors. Historic architectural styles need not be replicated.

Section 4.2.2. Renovation of Existing Buildings. The Secretary of the Interior's Standards for Rehabilitation of Historic Buildings shall be used as the criteria for renovating buildings in the Historic Overlay District that have been designated historic or architecturally significant.

Rehabilitation and preservation efforts should provide for the upgrading and maintenance of the safety features of buildings designated historic or architecturally significant to provide a practical level of safety to the public and surrounding properties, as well as the upgrading these buildings to current environmental and accessibility standards.

Nothing in this Section shall be construed to prevent the ordinary maintenance or repair that does not alter the exterior elements of buildings designated historic or architecturally significant.

Section 4.2.3. Demolition of Buildings. Buildings in the Historic Overlay District that have been designated historic or architecturally significant may not be demolished without the approval of the Heritage Preservation Commission and <Jurisdiction>. All reasonable efforts shall be made to repair rather than demolish a building of historic or architectural significance. The Heritage Preservation Commission and < Jurisdiction > may approve a demolition only after finding that reasonable steps have been taken to try to repair the building.

[The Heritage Preservation Commission and < Jurisdiction > should consider creating incentives for the maintenance and repair of building designated as historic or architecturally significant.]

Section 4.3. Emergency Repair.

Nothing in this Ordinance prevents < Jurisdiction > from taking emergency action to address safety concerns with any property in the Historic Overlay District. < Jurisdiction > shall take only those actions necessary to neutralize the emergency and shall make them in conformance with the U.S. Secretary of Interior's recommended standards for historic preservation projects and any adopted historic preservation guidelines. In addition, < Jurisdiction > shall immediately notify the Heritage Preservation Commission of the action and specify the facts or conditions constituting the emergency situation.

[The jurisdiction may wish to adopt historic preservation guidelines.]

Traditional Neighborhood Zone Overlay District

An Ordinance to establish a Traditional Neighborhood Zone Overlay District in _____, Minnesota.

Section 1. Name. This Ordinance shall be known as the Traditional Neighborhood Zone (TNZ) Overlay District.

Section 2. Definitions.

- A. **Civic Use Area:** Land located within the TNZ and reserved for civic uses that serve public or community needs, such as churches, public and private schools, municipal buildings, post offices, community facilities, libraries, fire stations, day care facilities, transportation terminals, and other similar uses.
- B. **Commercial Lots:** Properties located in the Neighborhood Center intended for Commercial Uses that support, and primarily serve the surrounding residential community. Commercial Lots may be developed with mixed-use buildings that have offices or residential dwellings on upper floors.
- C. **Neighborhood Center:** The focal point for the area and its residents containing commercial, civic, and/or Open Space.
- D. **Open Space:** Space located within the TNZ that is dedicated to uses such as parks and recreation, pedestrian trails, environmental protection or similar public purposes, and may be publicly owned as part of a public park system or a street right-of-way, or owned and maintained by a homeowners' association or conservancy.
- E. **Residential Lots:** Properties intended for the placement of Dwellings, fronting on public streets arranged in a traditional neighborhood setting. Residential Lots may be occupied by more than one Dwelling, but other than home occupations, shall be utilized exclusively for residential purposes.
- F. **Streetscape:** The sum of the man-made and planted features within and adjacent to the street right-of-way that create the character of the public space. The Streetscape often includes sidewalks, street trees and plantings, street furniture such as benches, street lights, signs, trash receptacles, railings and fences, fountains, planters, banners and flags, public art and similar publicly visible features.
- G. **Structure:** Any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, tower poles, and other supporting facilities.

Section 3. Purpose and Preamble. The purpose of the Traditional Neighborhood Zone Overlay District ("TNZ") is to permit new development to occur in a manner that is consistent

with the historic character and development pattern of the existing community, while providing an alternative to typical suburban-style development patterns.

Section 4. Statement of Law.

Section 4.1. Designation of TNZ. The TNZ may be applied as an overlay district on any area of at least 35 acres and designated as suitable in the Comprehensive Plan, if any, or found suitable by <Jurisdiction> based on its location, natural amenities and availability of services. In general, such areas shall be

- A. Supplied with or planned for public utilities; and
- B. Served by a collector or arterial street or a street that can be improved to such a standard.

[35 acres is a general recommendation to ensure enough land area to fulfill the General Requirements of a TNZ. The adopting jurisdiction may wish to modify this recommendation to fit the needs of the community.]

Section 4.2. General Requirements. A TNZ shall be characterized by a compact settlement pattern, with a center and an edge, a mix of residential housing types, distributed on a connected street system, and enhanced by deliberately defined Open Space areas. Upon designating the TNZ, the jurisdiction shall designate a Neighborhood Center and designate the location of the following categories of land:

- A. Residential Lots;
- B. Commercial Lots;
- C. Civic Use Area;
- D. Open Space; and
- E. Streetscape.

Section 4.3. Permitted Uses. The uses in the following table are permitted or permitted with conditions in a TNZ.

PERMITTED USES IN THE TRADITIONAL NEIGHBORHOOD ZONE OVERLAY DISTRICT			
	Residential Lots	Commercial Lots	Civic Use Areas
Single-family detached Dwellings;	Permitted	Not permitted	Not permitted
Single-family attached Dwellings, including duplexes, zero lot-line single-family Dwellings, provided that a reciprocal access easement is recorded for both Lots, and townhouses or other	Permitted	Not permitted	Not permitted

attached Dwellings provided that all Dwellings have pedestrian access to the rear yard through means other than the principal Structure;			
Multifamily Dwellings;	Permitted	Not permitted	Not permitted
Secondary Dwelling Units on a single Lot, not exceeding 800 square feet in size and limited to one unit per Lot, to be located only within the rear yard;	Permitted	Not permitted	Not permitted
Secondary Dwelling Units located above a permitted use on the ground or lower levels.	Not permitted	Permitted	Conditional
Banks and financial institutions;	Not permitted	Permitted	Not permitted
Bed-and-breakfast establishments;	Conditional	Permitted	Not permitted
Day care centers;	Conditional	Permitted	Permitted
Civic Uses such as municipal offices, fire stations and post offices;	Not permitted	Permitted	Permitted
Customary home occupations;	Conditional	Permitted	Not permitted
Libraries, museums and galleries;	Not permitted	Permitted	Permitted
Music, dance or exercise studios;	Not permitted	Permitted	Not permitted
Offices, including professional and medical offices;	Not permitted	Permitted	Not permitted
Parks, playgrounds and outdoor recreational facilities;	Not permitted	Not permitted	Permitted
Passenger depots and transit shelters;	Not permitted	Not permitted	Permitted
Places of worship, churches and related uses;	Not permitted	Not permitted	Permitted
Public and private schools and other educational facilities;	Not permitted	Not permitted	Permitted

Restaurants, cafes and coffee shops (bars, taverns optional), not including drive-through or franchise architecture;	Not permitted	Permitted	Not permitted
Retail stores and shops, with a building footprint not exceeding 5,000 square feet;	Not permitted	Permitted	Not permitted
Service businesses such as barber, air, dry cleaning or similar business;	Not permitted	Permitted	Not permitted
Studios and shops of artists and artisans.	Not permitted	Permitted	Not permitted

Section 4.4. Conditional Use Permits.

Section 4.4.1. Factors Considered. In passing upon conditional use applications, < Jurisdiction > shall consider the following factors in addition to all relevant factors specified in other sections of this Ordinance:

- A. Whether the use is substantially consistent with < Jurisdiction’s > Comprehensive Plan, if any;
- B. Whether the use is substantially compatible with the purpose of the TNZ;
- C. Whether the use will expand the location of housing choices for people of all ages, incomes and family sizes;
- D. Whether the use will expand the energy-efficient housing choices for people of all ages, incomes and family sizes;
- E. Whether the use will lower the combined cost of housing and transportation for people of all ages, incomes and family sizes;
- F. Whether the design will minimize the potential for traffic and/or parking congestion caused by the proposed use;
- G. How the design contributes to an orderly development of the TNZ;
- H. The extent, location and intensity of the use; and
- I. Whether the use is detrimental to the existing character of the TNZ.

Section 4.4.2. Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this Ordinance, < Jurisdiction > may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

- A. A plan for vehicular access points and off-street parking that serves the proposed use(s) and minimizes traffic congestion, parking problems, and conflict with through traffic movement;
- B. A plan for pedestrian and bicycle movement through the project that provides connection to adjacent residential areas and provides the infrastructure and equipment to enable secure and convenient parking of bicycles; and
- C. Other specific conditions deemed necessary to protect the public health, safety and general welfare and meet the purpose of this Ordinance.

[It is presumed that the adopting jurisdiction already has a procedure in place for the consideration of applications for a Conditional Use Permit.]

Section 4.5. Residential Use Standards.

Section 4.5.1. A mix of at least two of the permitted residential housing types shall be provided. The different types shall be integrated with each other on the same block, opposite sides of a block (across rear Lot lines or alley) or adjacent blocks, rather than in separate sectors of the TNZ.

Section 4.5.2. No more than 60 percent of the total number of Dwelling Units shall be of the same type.

Section 4.6. Neighborhood Center Standards.

Section 4.6.1. The TNZ shall be designed with a Neighborhood Center that contains commercial, civic, and/or open space. The Neighborhood Center shall be designed to serve as the focal point for the neighborhood and for the interaction of the residents. The Neighborhood Center shall be adjacent to and contiguous with the central open spaces of the development. Access to the Neighborhood Center shall be directly from a collector or arterial street.

Section 4.6.2. The Neighborhood Center shall be composed of two or more of the following land uses, and shall be bordered on at least two sides by public streets:

- A. First floor Commercial Uses in conjunction with second floor residential or professional office uses;

B. First floor professional office uses in conjunction with second floor residential uses; and

C. Civic uses.

Section 4.6.3. Existing buildings located in the vicinity of the Neighborhood Center shall be retained and adaptively reused, whenever possible.

Section 4.6.4. Commercial Uses or Civil Use Areas located adjacent to each other shall share driveways and/or parking facilities.

Section 4.6.5. Parking lots or Structures shall be located to the rear and sides of all buildings. Only on-street (parallel or angled) parking shall be permitted in front of commercial uses.

Section 4.6.6. Pedestrian access shall be provided from the residential portions of the TNZ to the neighborhood center, minimizing at-grade street crossings.

Section 4.7. Public Space Standards.

- A. The design of every TNZ shall be based on a survey of the existing natural, cultural and scenic features of the site. The design shall preserve important features of the site, identified through the survey, by inclusion of public space as a design element.
- B. Public space includes Open Space, including parks, trails, greenways and natural areas, street rights-of-way, and Lots reserved for civic uses.
- C. The ratio of private space to public space shall not exceed 3:1.
- D. Public space shall be used to define the character of the community, and shall be visually and physically linked throughout the community.

Section 4.8. Civic Use Area Standards.

Section 4.8.1. Civic Use Areas shall be included within the Neighborhood Center, and shall be incorporated into the street and block pattern to achieve visual prominence.

Section 4.8.2. Civic Use Areas shall be visually and physically tied to other public space within the community.

Section 4.8.3. Civic Use Areas within the Neighborhood Center must provide for at least two of the following uses:

- A. Libraries;
- B. Fountains, statues, or other public art;

- C. Museums / galleries;
- D. Theaters;
- E. Municipal buildings;
- F. Post offices;
- G. Service organization facilities;
- H. Day care facilities;
- I. Transit centers;
- J. Meeting halls;
- K. Public or private schools; and
- L. Places of worship.

Section 4.8.4. The type of civic uses provided shall be dependent on the scale of the TNZ and the location and availability of existing facilities.

Section 4.8.5. Civic Use Areas shall be located to be accessible to all community residents.

Section 4.8.6. Development of the Civic Use Areas shall be completed upon the sale of 75 percent of the Lots within the TNZ.

Section 4.9 Open Space Standards. Open space shall be provided within every TNZ to meet residents' recreational needs and reinforce the identity, form and character of the settlement.

Section 4.9.1. Open Space may consist of two or more of the following:

- A. Squares;
- B. Community gardens;
- C. Pedestrian trails;
- D. Parks / playgrounds; and
- E. Natural areas.

Section 4.9.2. All Open Spaces shall be accessible to all community residents. The location of Open Space within the TNZ shall be coordinated with and, if appropriate, shall connect with or expand adjacent Open Space or recreational areas.

Section 4.10. Dimensional Standards. These standards are in addition to the regulations of general applicability that appear elsewhere in <Jurisdiction's> Code. Where an existing building does not conform to the following requirements, the building may be expanded without fully meeting the requirements as long as the expansion does not increase the nonconformity.

Building Height: No building in the TNZ shall exceed 35 feet in height.

	Lot Area Min-Max	Lot Width Minimum	Front yard setback Min-Max	Side yard setback Minimum	Rear yard setback Minimum	Lot coverage Maximum
Residential Lots						
Single family, detached	2,000 – 5,000 sq ft	20 feet	10 – 20 feet	5 feet	10 feet	45% for primary dwelling; 60% all structures
Single family, attached	2,000 – 4,000 sq ft per unit	20 feet per unit	10 – 20 feet	10 feet	15 feet	50% all structures
Duplex	2,000 – 4,000 sq ft per unit	20 feet per unit	10-20 feet	10 feet	15 feet	50% all structures
Multi-family buildings	1,500 -3,000 sq ft per unit	20 feet per unit	10-30 feet	15 feet	20 feet	50% maximum impervious surfaces
Commercial Lots and Civic Use Areas						
		40 feet	10-20 feet	10 feet	25 feet	75% maximum impervious surfaces

Section 4.11. Street System and Parking. The traffic circulation system or changes to the established traffic circulation system shall be organized to interconnect the TNZ with the existing town center and other sectors of the community.

Section 4.11.1. The street system shall act as a functional and visual link between neighborhoods, open space, civic and commercial uses.

Section 4.11.2. The street and parking systems shall meet the standards specified in < Jurisdiction’s > Zoning Code.

[If the adopting jurisdiction does not have standards for street and parking systems, it should create them and add these standards to this Ordinance.]

Section 4.12. Transit.

Section 4.12.1. Transit facilities shall be provided if the site is located within an area served by public transportation.

Section 4.12.2. Covered stops with adequate pedestrian access shall be located along through streets or adjacent to arterial or collector streets. Turnouts shall be provided for transit vehicles so that passenger loading and unloading may occur outside of the traffic way.

Section 4.13. Architectural Standards.

Section 4.13.1. Standards for New Buildings.

- A. The main entrances of all Structures, other than secondary Dwelling Units, second-floor Dwelling Units, decks, or Accessory Structures, shall open to the street.
- B. The front entrance to all Structures shall be defined by architectural elements, which may include porches, pent roofs, hooded pediments, transom windows, or similar features. Front porches and pent roofs are encouraged on Structures facing local residential streets. Covered porches must be at least 4 feet wide and may not be enclosed, but may encroach into the front setback area.
- C. New Structures may be constructed in any architectural style. However, if such Structures are built using elements of Victorian, Craftsman or Bungalow, Prairie School or Colonial Revival stylistic details, such elements shall be based upon an architectural inventory of the existing town center. Stylistic details characteristic of other regions of the United States are discouraged.
- D. A human scale should be achieved near ground level on all buildings and along street facades and entries through the use of such scale elements as windows, doors, columns, porches, pent roofs, cornices, and similar details.
- E. Buildings should be designed so that wall surfaces dominate over roof projections such as cantilevered canopies, long cantilevers that are unsupported by doorway openings, or non-traditional geometric roof planes.
- F. Long, monotonous, uninterrupted walls or roof planes shall be avoided. Buildings of 40 or more feet in width should be visually divided into smaller increments using any of the following techniques:
 - 1. Divisions or breaks in materials (although materials should be drawn from a common palette);
 - 2. Window bays;
 - 3. Separate entrances and entry treatments, porticos;
 - 4. Variation in roof lines;
 - 5. Awnings; and
 - 6. Building setbacks.
- G. All Dwellings other than zero lot-line Dwellings separated from any other Dwelling by a distance greater than 12 feet shall have at least one window opening, measuring at least 2 feet by 3 feet in size, on every wall. Dwellings on corner Lots shall have window openings on each habitable level of the Structure on both sides facing the streets. Windows may be part of doorway openings.

- H. Fire escapes shall be located to the rear of buildings.
- I. Trash collection and storage areas shall be located to the rear or side of buildings and screened from adjoining properties and public streets.

Section 4.13.2. Standards for Existing Structures.

- A. Existing Structures within the TNZ site are encouraged to be retained as part of the new development and may be adapted to appropriate uses.
- B. Existing Structures, if determined to be historic or architecturally significant, shall be protected from demolition or encroachment by incompatible Structures or landscape development.
- C. The Secretary of the Interior's Standards for Rehabilitation of Historic Buildings shall be used as the criteria for renovating historic or architecturally significant Structures.

Section 4.14. Master Redevelopment Plan.

Any development proposed within the TNZ district shall be based on a Master Development Plan, submitted by the developer. The Master Plan shall include the following:

[This section should be eliminated if the Jurisdiction does not allow Planned Unit Developments.]

1. The block layout;
2. The proposed categories of land for each block and a general plan for development of each block;
3. Streets;
4. Plans for the open space; and
5. Streetscape.

Pedestrian Overlay District

An Ordinance to support non-automotive modes of transportation in _____, Minnesota.

Section 1. Name. This Ordinance shall be known as **Pedestrian Overlay District Ordinance**.

Section 2. Definitions.

- A. **Articulation:** the giving of emphasis to architectural elements (like windows, balconies, entries, etc.) that create a complementary pattern, or rhythm, dividing large buildings into smaller identifiable pieces.
- B. **Articulation interval:** the measure of articulation, the distance before architectural elements repeat.
- C. **Awning:** a sheet of canvas or other material stretched on a frame and used to keep the sun or rain off a storefront, window, doorway, or deck.
- D. **Bicycle lock-ups:** site-built secure enclosures that hold one or more bicycles which may be designated for long-term bicycle storage by a pre-determined user.
- E. **Bicycle Lockers:** stand-alone secure enclosures designed to hold one bicycle per unit which are designed for long-term parking by a temporary user.
- F. **Bicycle rack:** open-air devices for short-term parking to which a bicycle may be locked at the user's discretion.
- G. **Canopy:** a protective roof-like covering, often of canvas, mounted on a frame over a walkway or door.
- H. **Catenary Lighting:** lighting suspended from wires affixed to poles or buildings.
- I. **Cornice:** any horizontal decorative molding that crowns a building or furniture element.
- J. **Dormer:** a structural element of a building that protrudes from the plane of a sloping roof surface.
- K. **Gable:** the generally triangular portion of a wall between the edges of a sloping roof.
- L. **Gable End:** refers to the entire wall, including the gable and the wall below it.
- M. **Grade:** Also called slope, incline, gradient, pitch or rise, it is the degree of inclination of a slope, road or other surface.
- N. **Human Scale:** the set of physical qualities, and quantities of information, characterizing the human body, its motor, sensory, or mental capabilities, and human social institutions.

- O. **Landscape island:** “minimedians” consisting of cutouts in the asphalt within the limits of the center lane. These cutouts will vary in length and can be at grade for water harvesting or raised with curbing.
- P. **Parapet:** a wall-like barrier at the edge of a roof, terrace, balcony, or other structure.
- Q. **Parking Bay:** an area off a road in which vehicles may park or unload.
- R. **Pedestrian-Scale:** A development pattern that provides a safe and efficient transportation option for pedestrians and persons in wheelchairs.
- S. **Plaza:** public square or similar open area in a town or city.
- T. **Roof Overhang:** the part of a roof that extends over the sidewall or end wall of a building.
- U. **Roundabout:** a type of circular intersection or junction in which road traffic is slowed and flows almost continuously in one direction around a central island to several exits onto the various intersecting roads.
- V. **Streetscape:** the sum of the man-made and planted features within and adjacent to the street right-of-way that creates the character of the public space. The streetscape often includes sidewalks, street trees and plantings, street furniture such as benches, street lights, signs, trash receptacles, railings and fences, fountains, planters, banners and flags, public art and similar publicly visible features.
- W. **Traffic-Calming:** consists of engineering and other measures put in place on roads for the intention of slowing down or reducing motor-vehicle traffic.

Section 3. Purpose and Preamble. The purpose of this Ordinance is

- A. To promote Pedestrian orientation and safety within < Jurisdiction >;
- B. To encourage Streetscape design that is inviting and on a human scale; and
- C. To enhance the economic viability of < Jurisdiction > by preserving its main street character.

Section 4. Statement of Law.

Section 4.1. Applicability. The standards in this Ordinance apply to all new development, redevelopment and alterations to existing buildings or sites within the overlay district, with the following exceptions:

- A. For alterations to existing buildings or sites, the standards shall apply to the element being developed or altered rather than the entire site (for example, the building footprint or parking area).

- B. Flexibility in the interpretation or application of any standard may be granted by < Jurisdiction > in cases where specific physical conditions of a building or site would make compliance difficult or inappropriate.

Section 4.2. Standards.

Section 4.2.1. Pedestrian Amenities. The pedestrian environment should be safe. Sidewalks, walkways, and crossings should be designed and built to be free of hazards and to minimize conflicts with external factors such as noise, vehicular traffic, and protruding architectural elements. The pedestrian network should be accessible to all. Sidewalks, walkways, and crosswalks should ensure the mobility of all users by accommodating the needs of people regardless of age or ability, and should comply with any applicable Americans with Disabilities Act standards. The pedestrian network should connect to places people want to go. The pedestrian network should provide continuous direct routes and convenient connections between destinations, including homes, schools, shopping areas, public services, recreational opportunities, and transit. The pedestrian environment should be easy to use. Sidewalks, walkways, and crossings should be designed so people can easily find a direct route to a destination and minimize delays.

Section 4.2.2. Bicycle Amenities. Safe and accommodating bicycle lanes, paths, routes, trails, and ways must be provided for the encouragement of increased bicycle use. Additionally, designated bicycle parking devices, such as bicycle racks, lockers, and lock-ups, should be provided and accessible to bicycle riders.

Section 4.2.3. Traffic-Calming Treatments. The use of traffic-calming elements should be utilized, to ensure that motor vehicles are operated at or below compatible speeds. Traffic calming elements include stop signs, roundabouts, reduced speed limits, etc.

[See mn-traffic-calming.org for more traffic calming techniques currently being utilized.]

Section 4.2.4. Lighting. To improve walkway illumination for pedestrian traffic and enhance community safety and business exposure, all building entrances, pathways and other pedestrian areas must include pedestrian-scale lighting, such as wall mounted lights, sidewalk lamps, bollards, landscape lighting, in-pavement lighting, and catenary lighting.

Section 4.3. Design Standards.

Section 4.3.1. Compatibility with Historic Buildings. New development shall relate to the design of identified historic buildings adjacent to the site, where present, in scale and character. This can be achieved by maintaining similar

setbacks, facade divisions, rooflines, rhythm and proportions of openings, building materials and colors. Historic architectural styles need not be replicated.

Section 4.3.2. Building Placement. Buildings shall be placed at or close to the sidewalk to the extent practical. At intersections, buildings shall “hold the corner,” that is, have front and side facades aligned at or near the sidewalks of both streets. Exceptions may be granted if the setback is pedestrian-oriented and contributes to the quality and character of the Streetscape, such as a setback for outdoor dining.

Section 4.3.3. Entrance Orientation. Primary building entrances on all new buildings shall be oriented to the primary abutting public street. Additional secondary entrances may be oriented to a secondary street or parking area. Entries shall be clearly visible and identifiable from the street, and delineated with elements such as roof overhangs, recessed entries, landscaping, or similar design features.

Section 4.3.4. Façade Articulation.

- A. Consistent with most traditional storefront buildings, a building width of 40 feet or less is encouraged. New buildings of more than 40 feet in width shall be divided into smaller increments, between 20 and 40 feet in width, through articulation of the façade. This can be achieved through combinations of the following techniques, or others that meet the intent of this section.
 - 1. Façade modulation - Stepping back or extending forward a portion of the façade;
 - 2. Vertical divisions using different textures or materials drawn from a common palette;
 - 3. Division into storefronts, with separate display windows and entrances;
 - 4. Variation in rooflines by alternating Dormers, stepped roofs, Gables, or other roof elements to reinforce the modulation or articulation interval; or
 - 5. Arcades, Awnings, window bays, arched windows and balconies, or other intervals equal to the Articulation Interval.
- B. No blank wall shall be permitted to face the public street, sidewalks, or other public spaces such as Plazas. Elements such as windows, doors, columns, changes in material, or similar details should be used.

Section 4.3.5. Door and Window Openings. For new commercial, mixed-use and civic buildings, windows and doors or openings shall comprise at least fifty (50) percent of the length and at least thirty (30) percent of the area of the ground floor of the primary street facade. Window openings shall be located between two (2) and eight (8) feet from ground level, and meet the following requirements:

- A. Windows shall be designed with punched and recessed openings, in order to create a strong rhythm of light and shadow;
- B. Glass on windows and doors shall be clear or slightly tinted, allowing views into and out of the interior; and
- C. Window shape, size and patterns shall emphasize the intended organization of the façade and the definition of the building.

Section 4.3.6. Ground-Floor Residential Uses. Ground-floor residential uses shall generally be separated from the street by landscaping, steps, porches, grade changes, and low ornamental fences or walls in order to create a private yard area between the sidewalk and the front door.

Section 4.3.7. Equipment and Service Area Screening. If an outdoor storage, service or loading area is visible from adjacent residential uses or a public street or walkway, it shall be screened by a decorative fence, wall or screen of plant material at least six (6) feet in height. Fences and walls shall be architecturally compatible with the primary structure.

Section 4.3.8. Screening of Rooftop Equipment. All rooftop equipment shall be screened from view from adjacent streets, public rights-of-way and adjacent properties. Rooftop equipment shall be screened by the building parapet, or shall be located out of view from the ground. If this is infeasible, the equipment shall be grouped within a single enclosure. This structure shall be set back a distance of one and one-half (1½) times its height from any primary facade fronting a public street. Screens shall be of durable, permanent materials (not including wood) that are compatible with the primary building materials. Exterior mechanical equipment such as ductwork shall not be located on primary building facades.

Section 4.3.9. Materials. Nonresidential or mixed-use buildings shall be constructed of high-quality materials such as brick, stone, textured cast stone, or tinted masonry units. Unless created from recycled materials, the following materials are generally not acceptable:

- A. Unadorned plain or painted concrete block;
- B. Tilt-up concrete panels;
- C. Pre-fabricated steel or sheet metal panels;
- D. Reflective glass; and
- E. Aluminum, vinyl, fiberglass, asphalt or fiberboard siding.

All building façades visible from a public street or walkway shall employ materials and design features similar to those of the front façade.

Section 4.3.10. Parking Structure Design. The ground floor of any parking structure abutting a public street or walkway shall be designed and architecturally

detailed in a manner consistent with new commercial or mixed-use buildings, with features such as:

- A. Upper floors shall be designed so that sloped floors typical of parking structures do not dominate the appearance of the façade;
- B. Windows or openings shall be provided that echo those of surrounding buildings; and
- C. Entrance drives to structured or underground parking shall be located and designed to minimize interference with pedestrian movement. Entrances should be on secondary streets where feasible.

Section 4.3.11. Parking Area Landscaping and Screening. Screening is required wherever parking lots abut public streets, sidewalks or paths, or are adjacent to residential or open space uses, with the following requirements:

- A. A landscape buffer strip a minimum of five (5) feet in width shall be provided between all parking areas and the public sidewalk or street. The buffer strip shall consist of drought tolerant shade trees, low shrubs or perennial plants, or a decorative fence or masonry wall. Plantings and parking lot screen walls or fences shall be between two and three feet in height to allow views into and out of parking areas; and
- B. Parking bays shall have landscape islands at each end and bays in excess of 15 spaces in length shall be divided by intermediate landscape islands. Landscape islands at ends of bays shall provide at least 180 square feet of area for trees, shrubs and/or groundcovers. Intermediate landscape islands shall provide at least 90 square feet of planting area.

[Jurisdictions may wish to expand or reduce the size of the landscape islands.]

Section 5. Exemptions. < Jurisdiction > may approve exceptions to the stated Pedestrian Overlay District requirements upon finding that the use or development includes site amenities that address any adverse effects of the exception or where < Jurisdiction > finds that strict adherence to the requirements is impractical because of site location or conditions.

Section 6. Compliance. At the time of application for a permit or a Conditional Use Permit, the Applicant shall demonstrate that the proposed building, structure, improvement, renovation, or sign complies with the requirements of this Ordinance. No permits will be issued until the requirements of this Ordinance have been met. It is the Applicant's responsibility to provide the necessary information to < Jurisdiction > to determine compliance with this Ordinance.

[It is presumed that the adopting jurisdiction already has a procedure in place for the consideration of applications for a Conditional Use Permit.]

Infill Residential Overlay District

An Ordinance to promote development of underutilized areas in _____, Minnesota.

Section 1. Name. This Ordinance shall be known as Infill Residential Overlay District Ordinance.

Section 2. Definitions.

- A. **Block Face:** All residential properties along both sides of the public or private right-of-way on which the development fronts. The Block Face shall be measured from intersection to intersection, to the road end, or 200 feet in either direction from the development site, whichever is nearest.

Section 3. Purpose and Preamble. The purpose of the Infill Residential Overlay District (“IROD”) is to encourage the development of underutilized Lots in areas identified by < Jurisdiction’s > Comprehensive Plan goals and policies, if any; establish regulatory and financial incentives for growth through infill and redevelopment of Lots in existing neighborhoods as an alternative to building in undeveloped areas; and encourage development that maintains the character of the existing neighborhood buildings and structures that define the community.

Section 4. Statement of Law.

Section 4.1. Applicability. An IROD may be applied to an area, development or redevelopment that meets all of the following criteria:

- A. The area, development, or redevelopment is within one of the following residential zones:

[Insert the residential zones that would be eligible for an IROD designation.]

- B. Adjacent properties abutting at least 50 percent of the non-street perimeter of the subject property (i.e., side and/or rear lot lines) are developed with single-family dwellings or high intensity uses; and
- C. All underutilized Lots within the proposed IROD are 10,000 square feet or less in size.

Section 4.2. Infill Residential Standards. All other provisions of < Jurisdiction’s > Code of Ordinances that apply to a residential development shall apply to developments in the IROD, except as specifically modified by this Ordinance. The following standards shall also apply:

Section 4.2.1. Reduction in Dimensional Requirements for Infill Residential Development. Notwithstanding the dimensional development standard

requirements found in the underlying residential zones of < *Jurisdiction's zoning or land use code* >, Lots within the IROD may be subdivided as follows:

- A. Minimum Lot Area and minimum average Lot Area may be no less than 80 percent of the minimum lot area required in the underlying zone;
- B. Minimum Lot Width may be reduced by up to 20 percent of the required minimum Lot Width of the underlying zone, but no more than 10 feet; and
- C. Maximum lot coverage may be increased by up to 10 percent more than allowed in the underlying zone.

Section 4.2.2. Infill Development Standards. Lots within the IROD are eligible for these additional development standards provided they meet all required utility infrastructure, access requirements, and street elements required by < *Jurisdiction* > design and construction standards:

- A. The maximum density provided for in the underlying zone may be increased by up to 10 percent;
- B. The building height required in the underlying zone may be increased by up to five feet to allow for roof features noted in this Ordinance;
- C. Front or street side setbacks may be reduced to conform to the average existing building lines or setbacks of adjoining Structures. Setbacks may not be reduced for a garage or carport. Standard setbacks of the zone shall be applied for any required setback when the subject setback abuts; and
- D. The minimum on-site parking requirements in the underlying zone may be reduced by up to 10 percent when on-site parking is shared parking. This reduction may be combined with any other reduction provided for in this Ordinance.

Section 4.2.3. Infill Development Fee Waivers. Notwithstanding the fee requirements found in [*insert applicable Jurisdiction's Ordinance*], underutilized parcels in the IROD shall be eligible for the following fee reductions:

- A. Reduced Sewer Access Charge at 50% of the standard fee charged for the proposed development type as listed in the [*Jurisdiction's fee schedule*];
- B. Reduced Water Access Charge at 50% of the standard fee charged for the proposed development type as listed in the [*Jurisdiction's fee schedule*]; and
- C. Reduced Plan Review Fee at 50% of the standard fee charged for the proposed development type as listed in the [*Jurisdiction's fee schedule*].

[Individual communities may determine to increase or decrease the fee waiver percentages for infill development according to the individual communities' goals and needs.]

Section 4.2.4. Infill Design Standards. Underutilized parcels in the IROD shall adhere to specific design requirements. While creativity and variation in architectural design is encouraged, the purpose of these requirements is to ensure the compatibility of infill development with the character of nearby existing residential Structures. The predominant character of the existing residential Block Face shall define the design criteria for residential infill development. Residential infill development shall meet the following design criteria:

- A. Building orientation on infill lots shall match the predominant orientation of other buildings along the Block Face.
- B. Access and location of off-street parking on infill Lots shall be similar to the predominant character for existing development along the Block Face. Primary vehicular access shall be through rear alleys where such rights-of-way exist, and on-site parking shall be located to the rear of proposed Structures, insofar as this is consistent with the predominant character of the Block Face.
- C. Proposed residences require an additional five-foot setback over that required in the underlying zone above the second story where property line(s) abut a property with an existing single-story Structure.
- D. Roofs on proposed infill residential Structures shall be similar in slope, material, and style to existing development and shall incorporate any or all of the following features, insofar as such features are compatible with existing development on the Block Face:
 - 1. Dormers;
 - 2. Gabled or hipped roofs;
 - 3. Pitched roofs; and
 - 4. Parapets or cornices.

Unless it is the predominant existing style on the Block Face, flat, unadorned roofs are not allowed.

- E. Horizontal façades longer than 25 feet shall be designed to reduce building mass and visual bulk using at least one of the following techniques. The applicant shall demonstrate that the selected techniques are either currently present on the Block Face or are not substantially incompatible with existing development.
 - 1. Bays or recesses (minimum depth of 18 inches);
 - 2. Window patterns;
 - 3. Contrasting materials or colors;
 - 4. Upper story setbacks; and
 - 5. Balconies.

Chapter Five: Miscellaneous Ordinances to Support a Resilient Region

The document titled “Model Comprehensive Plan Policies and Model Ordinances to Implement the Livability Principles” also suggests several additional ordinances to implement and enforce the goals and livability principles identified in the Resilient Region Project.

Accessory Dwelling Units

This Ordinance addresses one aspect of the need for an adequate supply of safe, decent, affordable and life-cycle housing throughout the Region: that is, housing for family members, particularly an elderly parent, that combines privacy and nearby supports. Accessory Dwelling Units are a tool to build sustainable communities and promote Life Cycle Housing opportunities. They also honor the Livability Principles outlined by Region 5 of promoting equitable and affordable housing, supporting existing communities and valuing existing communities and neighborhoods. The intention is to provide an option for families to grow and age together on a single parcel of land or in a single residence while providing certain levels of independence between generations and family units.

This Ordinance makes the Accessory Dwelling Unit a permitted use in Single Family residential or large lot residential zones, subject to many standards and regulations.

Park Dedication

Scenic landscapes and natural amenities provide some of the most unique characteristics within the Region. This Ordinance recognizes the need and desire of residents to connect with the natural environment in sustainable ways. By expanding and improving the region’s parks, communities create greater access to green spaces meant for recreation, while preserving other areas primarily used as economic and environmental resources. This Ordinance emphasizes pedestrian access to parks. Smaller communities can provide parks within residential and commercial areas to give community members greater opportunity to bike or walk to a park. Counties may wish to use trails to connect parks to increase opportunities for hiking, bicycling, and other low-impact recreation.

Many communities have established a park dedication requirement in their ordinances to implement the park and recreation goals outlined in their comprehensive plans. Such ordinances typically require that subdivisions dedicate a specified percentage of the land area for park or recreation use, or pay a fee in lieu of land dedication. Park dedication requirements encourage developers to incorporate park space into subdivisions, thereby providing recreation space within walking distance for residents or commercial employees and customers. If the development is not appropriate for a park area, the fee will provide an income source to the city or county to create parks and trails elsewhere. By limiting the requirement to developments, the ordinance avoids potential burden on smaller infill projects in already developed areas.

Park dedication ordinances are governed by Minnesota Statutes. Minn. Stat. § 462.358 subd. 2b (for cities and towns) and § 394.25, subd. 7 (for counties) regulate how park dedication fees are charged and spent. In addition, Minn. Stat. § 394.25 places jurisdictional limits on county park dedication ordinances and restricts the placement of parks funded by park dedication fees. These considerations are incorporated into the model ordinance, but adopting jurisdictions should consult with their attorney to ensure compliance.

Small Wind Energy Conversion Systems

A number of federal and state grants, tax incentives, and other subsidies are available for alternative energy projects. Local planning documents should encourage or at least allow individuals and businesses to take advantage of state and federal programs. The following Small Wind Energy Conversion Systems (SWECS) Ordinance is designed for communities seeking to take advantage of these programs. It is aimed at eliminating barriers to SWECS that might exist in a community's planning regime. This policy encourages planners to make planning decisions with a broad view, keeping in mind policies at the local, state, tribal, and federal levels. This Ordinance should encourage investment and sustainable growth in the region.

One goal of this Ordinance is to encourage the development of alternative energy projects such as SWECS to serve the individual, local and regional energy needs of Region 5. This Ordinance is adapted, in part, from two sources: a model ordinance prepared in partnership by John Biren, Lyon County, Annette Bair, Southwest Regional Development Commission, Kyle Krier, Pipestone County, Mandy Landkamer, Nicollet County, and Mark Lindquist, The Minnesota Project with additional assistance from Jannie Hanson, Three Rivers Resource and Conservation Development District, and from CR Planning's Model Ordinances for Sustainable Development, developed for the Minnesota Pollution Control Agency.

This Ordinance addresses the land use issues for the construction, installation, operation and dismantling of Wind Energy Conversion Systems (WECS) and their components which have a combined nameplate capacity of less than 5,000 kilowatts. A WECS of this size is termed a "Small Wind Energy Conversion System" or SWECS under state law (Minn. Stat. § 216F.01, Subd. 3).

Minn. Stat. Chap. 216F governs the siting of a WECS with a capacity of 5,000 kilowatts or more (termed a "Large Wind Energy Conversion System" or LWECS at Minn. Stat. § 216F.01, subd. 2). A permit under Minn. Stat. Chap. 216F is the only site approval required for the location of a LWECS. This site permit "supersedes and preempts all zoning, building, or land use rules, regulations, or ordinances adopted by regional, county, local, and special purpose governments." (Minn. Stat. § 216F.07) However, a **county** may adopt by ordinance standards for LWECS that are more stringent than standards in the public utilities commission rules or in the commission's permit standards. The commission, in considering a permit application for a LWECS in a county that has adopted more stringent standards, "shall consider and apply those more stringent standards, unless the commission finds good cause not to apply the standards." (Minn. Stat. § 216F.081)

This Ordinance uses the state law distinction between SWECS and LWECS to avoid confusion, but further differentiates SWECS that have a generating capacity of 100kW or more (termed “Commercial SWECS”) or less than 100kW (termed “Non-Commercial SWECS”) on the grounds that turbines of up to 100kW are usually fully consistent with other land uses and reasonably qualify for a less rigorous set of standards and review procedures. This Ordinance also carves out standards for an even smaller SWECS (termed a “Micro-SWECS”) with a generating capacity of 2kW or less and which is mounted on a shorter tower or a building.

A county may wish to create standards or amend this Ordinance to apply to LWECS, as that term is defined in state law.

Adequate Public Facilities

This Ordinance provides a mechanism to ensure that development is commensurate with infrastructure capacity. It seeks to encourage growth while limiting the use of public infrastructure to subsidize sprawl in largely undeveloped areas. It does this by making certain that public facilities needed to support new development meet or exceed the level of service standards established in the community’s comprehensive plan. One benefit is that revitalization of existing neighborhoods can help improve property values and retail business. Investment in developed areas near city or township centers can also foster a greater sense of community, and avoid the phenomenon of leapfrog development. Another benefit is lower public infrastructure costs. Finally, the Ordinance protects shoreland, farmland, and forests, which have great economic, environmental, and social value for the region’s communities.

The Ordinance establishes a system of concurrency management standards and requirements to facilitate implementation of the Ordinance’s goals and policies. Implementing the Ordinance requires significant resources from the community’s governing bodies because the Ordinance establishes uniform procedures for reviewing zoning applications subject to the concurrency management standards and requirements.

The Ordinance is primarily recommended for large cities but may also make sense at the regional or individual county level. Smaller communities may find the Ordinance useful on a more limited scale. For example, a community may find it useful to narrow the definition of “Adequate Public Facilities” to essential services such as water, wastewater, and roads. A limited implementation of this Ordinance allows smaller communities to ensure that new development is commensurate with essential infrastructure capacity.

Accessory Dwelling Unit

An ordinance regulating an Accessory Dwelling Unit in _____, Minnesota.

Section 1. Name. This Ordinance shall be known as the Accessory Dwelling Unit Ordinance.

Section 2. Definitions.

- A. **Accessory Dwelling Unit:** A secondary dwelling unit that
- Is physically attached to or within the same lot as a single family dwelling unit;
 - Is subordinate in size to the single family dwelling unit;
 - If attached to the single family dwelling unit, is fully separated from the single family dwelling unit by means of a wall or floor, with or without a door;
 - Uses a separate entrance than the primary dwelling unit; and
 - Meets the definition of a Dwelling Unit.
- B. **Dwelling Unit:** Any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more personas, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.
- C. **Family:** One (1) or more persons related by blood, marriage or adoption, including foster children, or a group of not more than four (4) adult individuals (excluding personal care attendants, in accordance with Minn. Stat. § 265B.04, Subd. 16 and § 256B.0625, Subd. 19a and Minn. Rules § 9505.0335)
- D. **Large Lot:** A lot zoned for residential use which has a minimum of _____ square feet.
- [The jurisdiction should determine the minimum lot size for an Accessory Dwelling Unit.]*
- E. **Rent:** Consideration paid for the use of the premises, including, but not limited to, money services, or a combination thereof; or shared housing expenses with persons not part of the homeowner's family.

Section 3. Purpose and Preamble. The purpose of this Ordinance is to provide standards for an Accessory Dwelling Unit as a permitted use in areas zoned for single Family residences or zoned for Large Lot residential uses.

Section 4. Statement of Law. An Accessory Dwelling Unit is a permitted use in areas zoned for single-Family residents or zoned for Large Lot residential uses provided it meets the following criteria:

Section 4.1. Design Standards.

- A. One Accessory Dwelling Unit shall be allowed per legal building lot as a subordinate use in conjunction with any single-Family Dwelling Unit.
- B. An Accessory Dwelling Unit must be at least 300 square feet and not more than 800 square feet, excluding any related garage area; provided, that if an Accessory Dwelling Unit is completely located on a single story, with no basement, < Jurisdiction > may allow increased floor area in order to efficiently use all floor area, so long as all other standards set forth in this section are met.
- C. There shall be one off-street parking space provided for an Accessory Dwelling Unit with one bedroom and two off-street parking spaces provided for an Accessory Dwelling Unit with two or more bedrooms. Off-street parking spaces shall be in addition to that required for the primary residence and shall be located in a carport, garage, or designated space.
- D. An Accessory Dwelling Unit may be located in the same building as the principal residence or may be a detached unit.
- E. An Accessory Dwelling Unit shall be designed to maintain the appearance of the main building of the single-Family residence. If an Accessory Dwelling Unit extends beyond the current footprint of the principal residence, such an addition shall be consistent with the existing roof pitch, siding and windows. If an Accessory Dwelling Unit is detached from the main building it must also be consistent with the existing roof pitch, siding and windows of the principal residence.
- F. Only one entrance for the main building will be permitted in the front of the principal residence. A separate entrance to the main building for an Accessory Dwelling Unit shall be located either off the rear or the side of the building.
- G. Windows in living, dining, and great room areas located on the second story shall face interior to the site. Window area above the first floor shall not exceed 30 square feet in total cumulative window area for all windows on any one side facing the rear or side yards, unless bordering an alley where there is no limit on window area. There is no limit on window area located on the first story.
- H. A detached Accessory Dwelling Unit shall have a maximum building height of 16 feet for gabled, hipped and gambrel roofs and 12 feet for flat and mansard roofs, except that the height may be increased to 18 feet when it is necessary to match the existing roof pitch of the principal structure. In no case shall the second story contain exterior walls exceeding five feet in height on more than 50 percent of the perimeter of the second story.
- I. An Accessory Dwelling Unit shall meet all technical code standards including building, electrical, fire, plumbing and other applicable code requirements.

Section 4.2. Setbacks.

- A. Minimum yard setbacks for an attached Accessory Dwelling Unit shall be the same as the setback requirements for the principal structure.
- B. Minimum yard setbacks for a detached Accessory Dwelling Unit is as follows:
 - a. Front yard setback in feet: equal to or greater than existing setback of the principal structure or the required setback, whichever is greater;
 - b. Rear yard setback in feet: 15, except when the rear property line is abutting an alley, then 5 feet or that required for garage ingress and egress
 - c. Interior side yard in feet: five, except 10 when the building exceeds one story; and
 - d. Street side yard in feet: same as required for the principal structure.

[Setback guidelines should be evaluated to make sure they are in line with the desires of the adopting jurisdiction.]

Section 4.3. Occupancy Standards.

Section 4.3.1. Either the primary Dwelling Unit or an Accessory Dwelling Unit must be occupied by the owners of the property as their principal residence for at least six months of every calendar year.

Section 4.3.2. The combined number of occupants in both the primary residence and an Accessory Dwelling Unit may not exceed the maximum number established by the definition of Family in this ordinance.

Section 4.4. Additional requirements.

Section 4.4.1. An Accessory Dwelling Unit shall not be subdivided or otherwise segregated in ownership from the primary Dwelling Unit. An Accessory Dwelling Unit constructed prior to [effective date of the ordinance], may be subdivided from the original parcel; provided, that the minimum lot size, lot coverage, front yard setbacks, building height, and all other dimensions for the zoning district except interior side and rear yard setbacks are met. An Accessory Dwelling Unit that is subdivided from the original parcel shall meet the off-street parking standards for the applicable zone.

Section 4.4.2. An Accessory Dwelling Unit cannot be offered in exchange for Rent as defined by this ordinance.

[By disallowing subdivision of interests and Rent to be collected, the Ordinance prohibits these units from being a way that people may create multi Family income properties.]

Section 4.4.3. The owners shall sign and record with the County Registrar of Titles or County Recorder an Affidavit in recordable form affirming that the owners will occupy

the main building or an Accessory Dwelling Unit as their principal residence for at least six months of every calendar year and agree to comply with the conditions of this Ordinance. < Jurisdiction > may create an Affidavit form for this purpose.

Park Dedication Requirement

An Ordinance to encourage the practice of Park Dedications in _____, Minnesota.

Section 1. Name. This Ordinance shall be known as Park Dedication Requirement Ordinance.

Section 2. Definitions.

- A. **100 Year Floodplain:** A floodplain that has a 1-percent chance of being equaled or exceeded in any year.
- B. **Creek:** A stream, brook, minor tributary of a river, an inlet in a shoreline, a channel in a marsh, or another narrow, or sheltered waterway.
- C. **Drainageways:** A route or course along which water moves or may move to drain a region. **Wetlands:** lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes: (1) have a predominance of hydric soils; (2) are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and (3) under normal circumstances support a prevalence of such vegetation.
- D. **Green space:** An area of grass, trees, or other vegetation set apart for recreational or aesthetic purposes in an otherwise urban environment.
- E. **Greenbelt:** A policy and land use designation used in land use planning to retain areas of largely undeveloped, wild, or agricultural land surrounding or neighboring urban areas.
- F. **Intergovernmental Agreement:** An agreement between two or more governmental entities.
- G. **Leasehold Improvement:** Alterations made to rental premises in order to customize it for the specific needs of a tenant.
- H. **Open Space:** An undeveloped land or water area.
- I. **Ordinary High water level:** The boundary of water basins, watercourses, public waters, and public waters wetlands, and: (1) the ordinary high water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial; (2) for watercourses, the ordinary high water level is the elevation of the top of the bank of the channel; and (3) for reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

- J. **Park:** An area of open space for recreational use by the general public.
- K. **Park Dedication:** Requirement that subdivisions dedicate a specified percentage of the land area for park or recreation use, or pay a fee in lieu of land dedication.
- L. **Trail:** A path with a rough beaten or dirt/stone surface used for travel.

Section 3. Purpose and Preamble. The purpose of the Park Dedication Ordinance is to

- A. Create a Park Dedication Requirement for new subdivisions, as provided by Minn. Stat. § 462.358, subd. 2b [*for counties*, § 394.25, subd. 7];
- B. Preserve natural landscapes, Green Spaces, and recreation areas, which bring economic, environmental and aesthetic value to <Jurisdiction >;
- C. Facilitate implementation of the goals and policies set forth in <Jurisdiction's > Comprehensive Plan relating to availability of public Green Space, Parks and recreation, and orderly development;
- D. Develop human-scale connections to <Jurisdiction's > Parks and Green Spaces for greater accessibility to bike or walk to a park;
- E. Develop Trails to connect parks to increase opportunities for hiking, bicycling, and other low-impact recreation; and
- F. Ensure that all applicable legal standards and criteria are properly incorporated in these procedures and requirements.

Section 4. Statement of Law.

Section 4.1. Applicability. This Ordinance applies to all applications for residential, commercial, and industrial subdivisions within <Jurisdiction > except the following:

- A. This Ordinance does not apply to applications for redevelopment of existing residential, commercial, or industrial developments;
- B. This Ordinance does not apply to previously subdivided property from which a Park Dedication has been received and which is being resubdivided with the same number of lots;
- C. This Ordinance does not apply to lot combination/redivisions that do not increase the number of single-family residential lots or units, conversion of apartments into condominiums, or internal Leasehold Improvements; and
- D. [*For counties only*] This Ordinance does not apply to any development within

< Jurisdiction > that has adopted its own Park or Green Space dedication requirement under Minn. Stat. § 462.358, subd. 2b, or Minn. Stat. Ch. 366, unless pursuant to an Intergovernmental Agreement.

Section 4.2. Required Dedication. As a prerequisite to any subdivision approval, applicant is required to dedicate land that equals a minimum of seven percent (7%) of the property to be subdivided to the < Jurisdiction > for Park purposes. < Jurisdiction >, at its sole discretion and upon the recommendation of < Jurisdiction >, may accept or require a cash contribution or a combination cash and land contribution to meet this requirement. In the case of a proposed Planned Unit Development (PUD), the land area dedicated shall be in addition to and not in lieu of any Open Space requirements specific to the PUD.

[If the adopting Jurisdiction wishes to apply this ordinance to all new developments, not just to land subdivisions, it should amend this Model Ordinance to include those projects.]

Section 4.3. General Requirements.

Section 4.3.1. Land dedicated under this Ordinance must be suitable for Park and recreation uses by the general public. The following characteristics are to be considered:

- A. No more than [()] percent of the land dedicated can be located in the 100-Year Floodplain or beneath the Ordinary High Water Level;
- B. Any areas with grades exceeding twelve (12) percent are generally unsuitable;
- C. The amount of land dedicated including topography that renders the area unusable for organized recreational activities should not exceed twelve (12) percent; and
- D. Land with trash, junk, pollutants, or unwanted structures is generally unsuitable.

Section 4.3.2. The proposed park area must have direct access to a public street. Any sidewalks and Trails shall be continued and constructed throughout any dedicated Park site.

Section 4.3.3. Land dedicated for Park purposes does not have to be within the proposed subdivision. Proposed Park land may be located in the near vicinity of the subdivision. If the subdivision is residential or commercial, the proposed Park land must be connected to the subdivision by sidewalks or Trails, subject to approval by < Jurisdiction >.

Section 4.3.4. Proposed Park areas must be buffered from adjacent residential lots.

Section 4.4. Appropriate Park Dedication Areas.

Section 4.4.1. The following uses meet the Park Dedication requirement:

- A. **Tot Lot/Mini-Park:** A small Park, generally less than one acre in size, that features playground equipment designed for use by the residents of the immediate neighborhood.
- B. **Neighborhood Park:** A larger Park designed for use by a greater surrounding neighborhood, and may include playground equipment and neighborhood ball fields.
- C. **Community Park:** A larger Park designed for use by the residents of the entire city. A community Park will have various general use facilities including playground equipment, picnic areas and shelters, ball fields, and/or special use facilities.
- D. **Hike & Bike Trails:** A network of graded paths providing access to Parks and Open Space areas that can be used for walking, biking, running, scenic observation, and similar activities. Trail locations within the area to be subdivided depend on the street design of the plat.
- E. Similar Park and Open Space uses developed in coordination with < Jurisdiction >.

Section 4.4.2. Open Space land uses that do not qualify for Park Dedication include:

- A. Open Space that preserves and protects Drainageways, wetlands, lakes, stormwater retention areas or provides development breaks.
- B. Greenbelts used to define Creeks, rivers, Drainageways, wetlands, which form the edges of various neighborhoods within < Jurisdiction >.

Section 4.5. Preliminary Approval Process. Prior to the submittal of a subdivision's preliminary plat or application for rezoning, the applicant shall provide a written proposal outlining how the Applicant will meet the Park Dedication requirement. The proposal shall include the following items:

- A. Statement of how applicant proposes to meet the Park Dedication requirements of this Ordinance. This may include cash contribution, land dedication, or a combination thereof;

[The adopting Jurisdiction may want to consider allowing an in-kind contribution in lieu of, or in addition to, a cash contribution or land dedication to meet the requirement.]

- B. A legal description of the land to be dedicated;
- C. The amount of cash contribution, if any;

- D. A drawing of the proposed layout for any land dedication, which includes 2-foot contour topographic information showing existing and final grades. The drawing for a land dedication without structures or fields shall be scaled one inch (1") to 100 feet (100'); the drawing for a land dedication with structures or field layouts shall be scaled one-inch (1") to 50-foot (50'); and
- E. A minimum of four photographs of the land to be dedicated, with at least one photograph taken from the four corners of the site and directed towards the center. The location and direction of each photo shall be described (i.e. southwest corner looking northeast).

Section 4.6. Fee in Lieu of Land Dedication. < Jurisdiction > may elect, at its sole discretion, to require or accept a payment of a Park Dedication fee in lieu of a land dedication. < Jurisdiction > electing Park Dedication fees shall establish per lot or per unit Park Dedication fee amounts in its permits and fees schedule.

Section 4.6.1. [For Counties:] The fees assessed or dedication required must be fair, reasonable, and proportionate to the need created. In establishing the portion to be dedicated or preserved or the per lot cash fee, < Jurisdiction > must consider the Open Space, Park, recreational, or common areas and facilities that the applicant proposes to reserve for the subdivision.

Section 4.6.2. [For Cities and Townships:] In establishing the portion to be dedicated or preserved or the cash fee, the regulations shall give due consideration to the Open Space, recreational, or common areas and facilities open to the public that the applicant proposes to reserve for the subdivision.

Section 4.6.3. If any of the fees are determined by any court to be invalid for any reason, the Park Dedication fee shall be determined by the fair market value of the land to be subdivided. This value includes, but is not limited to, zoning, public and subdivider improvements, and other factors as determined by the County Assessor. The value excludes any buildings or structures on the property.

Section 4.6.4. To determine the Park Dedication fee for re-subdivided land, the city shall subtract the number of old lots from the number of new lots and multiply that difference by the appropriate Park Dedication fee.

Section 4.6.5. Park Dedication fee contributions are to be calculated and paid at the time of final plat. Cash dedications shall be included in the development agreement and paid prior to < Jurisdiction's > signature of and release of the final plat. For subdivisions that do not require a development agreement, the cash dedication shall be paid before the City releases the signed approval of the subdivision for recording.

Section 4.7. Combined Land Dedication and Fee Contribution. < Jurisdiction > may elect at its sole discretion to receive a combination of cash, land dedication, or in-kind contribution from the subdivision to meet the Park Dedication requirement. To determine a combined land and

cash contribution, < Jurisdiction > shall use the fair market land value of the proposed Park area. This value shall be subtracted from the total cash contribution required by < Jurisdiction's > fee schedule to calculate the balance of cash owed by the subdivider.

Section 4.8. Special Fund Created.

Section 4.8.1. All Park Dedication fees collected under this Ordinance shall be deposited in a park development fund and used only for land acquisition for Parks and the development or improvement of Parks, recreational facilities, playgrounds, Trails, wetlands, or Open Space based on < Jurisdiction's > approved Park systems plan. The park development fund shall not be used for ongoing maintenance, repair, or other operating expenses.

Section 4.8.2. *[For cities and townships:]* Park Dedication funds collected for a specific subdivision shall be used for Parks, recreational facilities, playgrounds, Trails, wetlands or Open Space that primarily benefit or are in close geographic proximity to the residents of that subdivision.

[For counties only] The county must use at least 75 percent of the funds collected under this Ordinance in the township or city where the collection of funds occurs, for Parks according to its capital improvement program and its parks and open space plan or parks, trails, and open space component of its comprehensive plan. However, the township board or city council may agree to allow the county to use these funds outside of the township or city in a manner consistent with the county parks, trails, and open space capital improvement plan or the county parks and open space component in its comprehensive plan. The remainder of the funds may be used by the county only for parks and trails connectivity and accessibility purposes.

Section 4.8.3. All expenditures from the park development fund shall be reviewed by < Jurisdiction > and approved by < Jurisdiction >. < Jurisdiction > shall account for the use of all sums paid in lieu of land dedication under this Ordinance. The county must annually report to cities and townships on where funds were collected and where funds were expended in the past year.

[The adopting jurisdiction may wish to require expenditure of the park dedication funds for the purposes stated in this Ordinance within a specified period of time. Such a requirement should explain the consequences for failure to meet that deadline.]

Section 4.9 Park Dedication Appeals. If the applicant does not believe that the estimates contained in this Ordinance fairly and accurately represent the effect of the subdivision on the Park system of < Jurisdiction >, the applicant may request that < Jurisdiction > prepare an in-depth study of the effect of the subdivision on the Park system and an estimate of that effect in money and/or land. The applicant shall pay all costs of such a study. If such a study is requested, no application for the development shall be deemed complete until the study has been completed and a determination is made as to the appropriate amount of land or money necessary to offset the effects of the subdivision.

[The prior sentence may need to be modified if <Jurisdiction> decides to include rezoning in its Park Dedication Ordinance, in order to consider the sixty-day approval or denial period required for requests to rezone.]

Small Wind Energy Conversion Systems

[An alternative to this Ordinance is establishing a Wind Energy Overlay District with standards for each zoning district to be applied to specific areas identified as having conditions which are good for Small Wind Energy Conversion Systems (SWECS) and are based on community priorities such as view shed protection, natural resource areas, or ultimate build-out for rural residential or urban development. The overlay concept could be applied to only Commercial SWECS, Non-Commercial SWECS, Micro SWECS or any combination of these SWECS. See Chapter 4: Overlay Districts to Support a Resilient Region.]

An Ordinance to promote and regulate Small Wind Energy Conversion Systems in , Minnesota.

Section 1. Name. This Ordinance shall be known as the Small Wind Energy Conversion Systems Ordinance.

Section 2. Definitions.

- A. **Aggregated Project:** Aggregated projects are those which are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual SWECS within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included in the aggregated project.
- B. **Blade Arc:** The arc created by the edge of the rotor blade that is farthest from the nacelle.
- C. **Commercial SWECS:** A SWECS that has a total name plate generating capacity of 100kW or more.
- D. **Fall Zone:** The furthest distance from the tower base, in which a guyed tower will collapse in the event of a structural failure. This area is less than the total height of the structure.
- E. **Feeder Line:** Any power line that carries electrical power from one or more wind turbines or individual transformers associated with an individual wind turbine to the point of interconnection with the electric power grid. In the case of interconnection with high voltage transmission systems the point of interconnection shall be the substation serving the SWECS.
- F. **Large City:** A statutory or home rule charter city with a population of 10,000 or more
- G. **Meteorological Tower:** Towers that are erected primarily to measure wind speed and directions plus other data relevant to siting SWECS. Meteorological towers do not include towers and equipment used by airports, the Minnesota Department of Transportation, or other similar applications to monitor weather conditions.

- H. **Micro-SWECS:** A SWECS of 2kW nameplate generating capacity or less and is mounted on a building or on a tower of 70 feet or less.
- I. **Non-Commercial SWECS:** A SWECS that has a total name plate generating capacity of less than 100kW.
- J. **Property Line:** The boundary line of the area over which the entity applying for a SWECS permit has legal control for the purposes of installation of a SWECS. This control may be attained through fee title ownership, easement, or other appropriate contractual relationship between the project developer and landowner.
- K. **Public Conservation Lands:** Land owned in fee title by State or Federal agencies or by non-profit conservation organizations, and managed specifically for conservation purposes, including but not limited to State Wildlife Management Areas, State Parks, State Scientific and Natural Areas, federal Wildlife Refuges and Waterfowl Production Areas. Public conservation lands do not include private lands upon which conservation easements have been sold to public resource management agencies or non-profit conservation organizations.
- L. **Rotor Diameter:** The diameter of the circle described by the moving rotor blades.
- M. **Small City:** A statutory or home rule charter city with a population of no more than 10,000.
- N. **SWECS – Small Wind Energy Conversion System:** Any device such as a wind charger, windmill, or wind turbine and associated facilities that converts wind energy to electrical energy and has a combined nameplate capacity of less than 5,000kW. The energy may be used on-site or distributed into the electrical grid.
- O. **Substations:** Any electrical facility designed to convert electricity produced by wind turbines to a voltage greater than (35,000 KV) for interconnection with high voltage transmission lines shall be located outside of the road right of way.
- P. **Total Height:** The distance between ground level and the highest point reached by a rotor tip or other highest point of the SWECS.
- Q. **Transmission Line:** Electrical power lines that carry voltages of at least 69,000 volts (69 KV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.
- R. **Tower:** The vertical structure that support the electrical generator, rotor blades, and/or meteorological equipment.
- S. **Township:** A governmental entity organized under Minn. Stat. Chaps. 365-468.

T. **Tower Height:** The distance between the ground level and the highest point of the SWECS exclusive of the rotor blades.

U. **Wind Turbine:** Any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

Section 3. Purpose and Preamble. This ordinance addresses the land use issues for the construction, installation, operation and dismantling of Small Wind Energy Conversion Systems (SWECS) not otherwise subject to siting and oversight by the State of Minnesota and relevant statutes. The purpose of this ordinance is to encourage local wind energy development and to meet the Resilient Region’s goals to encourage the sustainable use of local economic resources, encourage development to help meet Region 5 climate protection aspirations, minimize conflicts between desirable land uses that may need to coexist in the same area, protect natural resources, and leverage private and public investment in Region 5.

Section 4. Statement of Law.

Section 4.1. Where Permitted. SWECS and Meteorological Towers will be permitted, conditionally permitted, or not permitted based in the various land use districts as established in the table below:

Generic Districts				
Agricultural	Permitted	Permitted	Conditional	Permitted
Residential: Rural	Permitted	Conditional	Not Permitted	Not Permitted
Within a city or a town	Conditional	Not Permitted	Not Permitted	Not Permitted
Business/Commercial:*** Town	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Small City	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Large City	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Industrial Area	Permitted	Permitted	Conditional	Permitted
Shoreland	Conditional	Conditional	Not Permitted	Not Permitted
Zoning Districts to Support a Resilient Region				
Downtown Mixed Use	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Urban Residential	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Highway Commercial	Conditional	Conditional	Not Permitted	Conditional
All Overlay Districts	Not Permitted	Not Permitted	Not Permitted	Not Permitted

[The adopting jurisdiction should list all zoning districts within its jurisdiction and determine whether SWECS and Meteorological Towers will be permitted, conditionally permitted or not permitted in each district.]*

*[** Region 5 may wish to require a conditional use permit for all SWECS and Meteorological Towers over a certain height.]*

*[*** Region 5 may wish to allow a Micro-SWECS or Non-Commercial in a business or commercial district as either a permitted use or a conditional use.]*

Section 4.2. Conditional Use Permits.

Section 4.2.1. Factors Considered. In passing upon conditional use applications, < Jurisdiction > shall consider the following factors in addition to all relevant factors specified in other sections of this Ordinance:

- A. The visual impact of the SWECS or Meteorological Tower;
- B. The noise expected to be generated by the SWECS Or Meteorological Tower;
- C. The lighting;
- D. Migratory bird patterns within a ten miles radius of the proposed SWECS or Meteorological Tower;
- E. The expected shadow flicker of the SWECS or Meteorological Tower; and
- F. The proximity of existing SWECS.

Section 4.2.2. Conditions Attached to Conditional Use Permits. Upon consideration of the factors listed above and the purpose of this Ordinance, < Jurisdiction > may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

- A. The visual impact of the SWECS or Meteorological Tower;
- B. The noise expected to be generated by the SWECS or Meteorological Tower;
- C. The lighting, including color, lighting intensity and frequency of strobe;
- D. Migratory bird patterns within a ten miles radius of the proposed SWECS or Meteorological Tower;
- E. The expected shadow flicker of the SWECS or Meteorological Tower; and
- F. For SWECS to be placed within _____ mile(s) of an existing SWECS, the relative size of the existing and proposed SWECS, the alignment of the SWECS relative to the predominant winds, topography, the extent of wake interference impacts on

existing SWECS, and other considerations in order to minimize or eliminate impact on existing SWECS.

Section 4.2.3. Additional Conditions for Micro-SWECS in Residential Districts within a City or a Town and in Urban Residential Districts. A Micro-SWECS shall be allowed on a residential lot of one acre or less provided it meets the conditions listed in Section 4.2.2. above and the following conditions:

- A. The Micro-SWECS is a conditional land use in the district;
- B. The tower meets all setback requirements applicable to the lot and the base of the tower is setback from all Property Lines by a minimum of the height of the tower plus 10 feet;
- C. The Tower Height is 70 feet or less; and
- D. The proposed system must be certified to operate at noise levels lower than 50 db at a distance no farther than the distance from the base of the tower to the closest Property Line.

[It is presumed that the adopting jurisdiction already has a procedure in place for the consideration of applications for a Conditional Use Permit.]

Section 4.3. Equipment Design Standards and Requirements.

Section 4.3.1. Height limits.

Generic Districts				
Agricultural	70' or less Tower Height	Less than 200' Total Height	Less than 200' Total Height	Less than 200' Total Height
Residential; Rural	70' or less Tower Height	Less than 200' Total Height	Not Permitted	Not Permitted
Within a city or a town	70' or less Tower Height	Not Permitted	Not Permitted	Not Permitted
Business/Commercial.*** Town	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Small City	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Large City	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Industrial Area	70' or less Tower Height	Less than 200' Total Height	Less than 200' Total Height	Less than 200' Total Height
Shoreland	70' or less Tower Height	125' or less Total Height	Not Permitted	Not Permitted

Zoning Districts to Support a Resilient Region				
Downtown Mixed Use	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Urban Residential	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Highway Commercial	70' or less Tower Height	125' or less Total Height	Not Permitted	Less than 200' Total Height
All Overlay Districts	Not Permitted	Not Permitted	Not Permitted	Not Permitted

[The adopting jurisdiction should list all land use districts within its jurisdiction and determine the maximum permitted height for WECS and Meteorological Towers that are permitted or conditional permitted in each district.]*

Section 4.3.2. Color and Finish.

- A. All SWECS and Meteorological Towers shall be white, grey and another non-obtrusive color.
- B. Blades may be black in order to facilitate deicing.
- C. Finishes shall be matte or non-reflective.
- D. Exceptions may be made for Meteorological Towers, where concerns exist relative to aerial spray applicators.

Section 4.3.3. Lighting.

- A. Lighting, including lighting intensity and frequency of strobe, shall adhere to but not exceed requirements established by Federal Aviation Administration permits and regulations.
- B. Red strobe lights are preferred for nighttime illumination to reduce impacts on migrating birds.
- C. Red pulsating incandescent lights should be avoided.
- D. Exceptions may be made for Meteorological Towers, where concerns exist relative to aerial spray applicators.

Section 4.3.4. Energy Storage. Batteries or other energy storage devices shall be designed consistent with the Minnesota Electric Code and Minnesota Fire Code.

Section 4.4. Tower Configuration. All Wind Turbines that are part of a Commercial SWECS shall be installed with a tubular, monopole type tower. Meteorological Towers may be guyed.

Section 4.5. Safety Concerns & Certifications.

Section 4.5.1. Rotor Safety. Each SWECS shall be equipped with both a manual and automatic braking device capable of stopping the SWECS operation in high winds (40 mph or greater).

Section 4.5.2. Certifications.

- A. **Engineering Certification.** For all SWECS, Applicant must provide engineering certification of turbine, foundation, and tower design within accepted professional standards, given local soil and climate conditions. For Non-Commercial and Micro-SWECS, the manufacturer's engineer or another qualified engineer may demonstrate certification.
- B. **Turbine Certification.** Non-Commercial and Micro-SWECS turbines shall be certified or in the process of being certified by the Small Wind Certification Council (SWCC) or the Micro-generation Certification Scheme (MCS), or must be listed by the Interstate Turbine Advisory Council.
- C. **Building mounted Micro-SWECS Certification.** The Applicant for a permit to construct a building mounted Micro-SWECS shall provide engineering documentation that the structure upon which the SWECS is to be mounted has the structural integrity to carry the weight and wind loads of the Micro-SWECS and have minimal vibration impacts on the structure.

Section 4.5.3. Feeder Lines. All communications and Feeder Lines, equal to or less than 34.5 kV in capacity, installed as part of a SWECS shall be buried where reasonably feasible. Feeder Lines installed as part of a SWECS shall not be considered an essential service, as described in < Jurisdiction's > General Development Standards.

Section 4.6. Equipment Placement and Other Requirements.

Section 4.6.1. Established Wind Resource. All SWECS shall be installed where there is an established wind resource. An established wind resource can be documented in the following ways:

- A. The planned turbine site has a minimum 11 MPH average wind speed at the designed hub height, as documented on the Minnesota Department of Commerce statewide wind speed maps.
- B. The planned turbine has a minimum hub height of eighty (80) feet and the BLADE ARC is 30 feet higher, on a vertical measurement, than all structures and trees within 300 feet of the tower.
- C. The applicant submits an analysis conducted by a certified wind energy installer or site assessor (North American Board of Certified Energy Professional, NABCEP, or equivalent) that includes estimates of wind speed at turbine height based on measured

data, estimated annual production, and compliance with the turbine manufacturer’s design wind speed.

D. The proposed turbine is within an area designated by the community for SWECS.

Section 4.6.2. Interference.

A. No SWECS shall be constructed so as to interfere with microwave transmissions by the Minnesota Department of Transportation or any governmental entity in Region 5.

B. No SWECS shall be constructed so as to interfere with existing SWECS.

C. SWECS and Meteorological Towers shall be sited to as to minimize or mitigate any interference with electromagnetic communications, such as radio, telephone, microwaves, or television signals cause by any SWECS or Tower.

D. The applicant shall notify all communication tower operators within ___miles of the proposed SWECS location upon application for a permit under this Ordinance.

Section 4.6.3. Setbacks for SWECS and Meteorological Towers. All SWECS and Meteorological Towers shall adhere to the following setbacks:

From Property Lines	1.1 times the Total Height, or the Fall Zone, as certified by a professional engineer + 10 feet, whichever is greater.	1.1 times the Total Height, or the Fall Zone, as certified by a professional engineer + 10 feet, whichever is greater.	5 Rotor Diameters along the primary wind axis and 3 Rotor Diameters along the secondary wind axis (Rotor Diameters are between 250-400 feet)	1.1 times the Total Height, or the Fall Zone, as certified by a professional engineer, + 10 feet, whichever is greater.
From Residential Dwellings, participating**	If mounted on a pole, 1.1 times the Total Height, or the Fall Zone, as certified by a	The Fall Zone, as certified by a professional engineer, + 10 feet or 1.1 times the Total Height, whichever is greater.	The Fall Zone, as certified by a professional engineer, + 10 feet or 1.1 times the Total Height, whichever is greater.	The Fall Zone, as certified by a professional engineer, + 10 feet or 1.1 times the Total Height, whichever is greater.

	professional engineer + 10 feet, whichever is greater.			
From Residential Dwellings, non-participating	1,000 feet, the Fall Zone, as certified by a professional engineer, + 10 feet or 1.1 times the Total Height, whichever is greater	1,000 feet, the Fall Zone, as certified by a professional engineer, + 10 feet or 1.1 times the Total Height, whichever is greater	1,000 feet, the Fall Zone, as certified by a professional engineer, + 10 feet or 1.1 times the Total Height, whichever is greater	1,000 feet, the Fall Zone, as certified by a professional engineer, + 10 feet or 1.1 times the Total Height, whichever is greater.
From Road Rights-of-Way***	The Fall Zone, as certified by a professional engineer, + 10 feet or 1 times the Total Height, whichever is greater	The Fall Zone, as certified by a professional engineer, + 10 feet or 1 times the Total Height, whichever is greater	The Fall Zone, as certified by a professional engineer, + 10 feet or 1 times the Total Height, whichever is greater	The Fall Zone, as certified by a professional engineer, + 10 feet or 1 times the Total Height, whichever is greater.
Other Rights-of-Way (Railroads, power lines, etc.)	1 times the Total Height or the Fall Zone, as certified by a professional engineer + 10 feet, whichever is less.	1 times the Total Height or the Fall Zone, as certified by a professional engineer + 10 feet, whichever is less.	1 times the Total Height or the Fall Zone, as certified by a professional engineer, + 10 feet, whichever is less.	1 times the Total Height or the Fall Zone, as certified by a professional engineer, + 10 feet, whichever is less.
Public Conservation Lands	600 feet	600 feet	600 feet	600 feet
Wetlands, USPW	600 feet	600 feet	600 feet	600 feet

Types III, IV, and V				
Other Structures	The Fall Zone, as certified by a professional engineer, + 10 feet or 1.1 times the Total Height, whichever is greater.	The Fall Zone, as certified by a professional engineer, + 10 feet or 1.1 times the Total Height, whichever is greater.	The Fall Zone, as certified by a professional engineer, + 10 feet or 1.1 times the Total Height, whichever is greater.	The Fall Zone, as certified by a professional engineer, + 10 feet or 1.1 times the Total Height, whichever is greater.

* Commercial SWECS are allowed with a Conditional Use Permit. The jurisdiction may consider adding setback requirements to the list of conditions for that permit.

** The setback for dwellings shall be reciprocal; no residential dwelling shall be constructed within 750 feet of a Commercial SWECS.

*** The setback shall be measured from future rights-of-way if a planned changed or expanded right-of-way is known.

[The jurisdiction may wish to add setbacks from all lakes, rivers, streams and other topographical water features.]

Section 4.6.4. Setbacks for Building Mounted Systems. A Micro-SWECS mounted on a building shall be setback from Property Lines by a distance equal to the Tower Height.

Section 4.6.5. Setbacks for Substations and Accessory Facilities. Minimum setback standards for Substations and Feeder Lines shall be consistent with the standards established in < Jurisdiction's > General Development Standards.

Section 4.7. Other Applicable Standards and Requirements.

Section 4.7.1. Noise. Except as otherwise provided in this Ordinance, all SWECS shall comply with Minnesota Rules 7030 governing noise, and shall not exceed fifty (50) dB(A) when measured from the outside of the nearest residence, business, school, hospital, religious institution, or other inhabited structure. The audible noise from SWECS may periodically exceed allowable noise levels during extreme wind events (winds above 30 mph or greater).

Section 4.7.2. Electrical Codes and Standards. All SWECS and accessory equipment and facilities shall comply with the National Electrical Code and other applicable standards.

Section 4.7.3. Guy Wires. For all guyed towers, visible and reflective objects, such as plastic sleeves, reflectors or tape, shall be placed on the guy wire anchor points and along the outer and innermost guy wires up to a height of 8 feet above the ground.

[The jurisdiction may wish to require visible fencing around anchor points of guy wires.]

Section 4.7.4. Signage. Except as otherwise required by this Ordinance:

- A. All signage on site shall comply with any sign ordinances of < Jurisdiction > in which it is located;
- B. All signage shall comply with Federal Aviation Administration standards;
- C. The manufacturer's or owner's company name and /or logo may be placed upon the nacelle, compartment containing the electrical generator, of the SWECS; and
- D. For all Commercial SWECS, a sign or signs shall be posted on the tower, transformer and Substation warning of high voltage, and providing emergency contact information.

Section 4.7.5. Federal Aviation Administration. All SWECS shall comply with FAA standards.

Section 4.7.6. Waste Disposal. Solid and hazardous wastes, including but not limited to crates, packaging materials, damaged or worn parts, as well as used oils and lubricants, shall be removed from the site promptly and disposed of in accordance with all applicable local, state and federal laws and regulations.

Section 4.7.7. Drainage System. The Applicant shall be responsible for immediate repair of damage to public drainage systems stemming from construction, operation or maintenance of the SWECS.

Section 4.7.8. Green Infrastructure. The Applicant shall meet the Minnesota Department of Natural Resources Guidance for Wind Projects, June, 2009 version or most recent version, for siting wind energy facilities and mitigation of risk to natural resources.

Section 4.8. Avoidance and Mitigation of Damages to Roadways.

Section 4.8.1. Applicants for Commercial SWECS shall

- A. Identify all county, city or Township roads to be used for the purpose of transporting SWECS, Substation parts, cement, and/or equipment for construction, operation or maintenance of the SWECS and or Substation and obtain applicable weight and size permits from impacted road authority(ies) prior to construction.

- B. At the request of the road authority, the applicant shall post bonds or other financial assurance, subject to approval of < Jurisdiction > sufficient to restore the road(s) to pre-construction conditions.

Section 5. Application for Permits.

Section 5.1. Application Procedure. The procedure for application for a permit and for a Conditional Use Permit shall be as established in < Jurisdiction's > Code of Ordinances, except as otherwise provided herein.

Section 5.2. Application Procedure for Aggregated Projects. Aggregated Projects may be submitted as a single application and be reviewed under a single proceeding, including notices, hearings, reviews and approvals. Permits will be issued and recorded separately. The Aggregated Project will be assessed fees as one project.

Section 5.3. Required Information.

Section 5.3.1. The application for a permit or conditional use permit for all SWECS shall include the following information:

- A. The name(s), address and contact information of the project Applicant and the project Owner;
- B. The legal description and address of the property where the project will be built;
- C. Documentation of land ownership or the Applicant's legal control of the property;
- D. A description of the project including number, type, name plate generating capacity, Tower Height, Rotor Diameter, and Total Height of all Wind Turbines and means of interconnecting with the electrical grid;
- E. A drawing or map drawn to scale showing the location of Property Lines, Wind Turbines, electrical wires, interconnection points with the electrical grid, and all related accessory structures, and including setbacks, heights and other applicable distances;
- F. Location and height of all buildings, structures, above ground utilities and trees located within five hundred (500) feet of each proposed Non-Commercial SWECS and within three Rotor Diameters of each Commercial SWECS;
- G. An elevation drawing accurately depicting the proposed SWECS and its relationship to structures on the subject site and adjacent lots;

H. Engineer's certification of tower structure and foundation. Manufacturer certification and specification sheets may, at the discretion of < Jurisdiction >, be used in place of engineering study for Non-Commercial SWECS; and

I. Except for Micro-SWECS, a Decommissioning Plan as described below.

Section 5.3.2. The application for a permit or conditional use permit for a Commercial SWECS shall also include

- A. Identification of the primary and secondary wind axis for each individual Wind Turbine;
- B. The latitude and longitude for each individual Wind Turbine;
- C. A USGS topographical map, or map with similar data, of the property and surrounding area, including any other SWECS within 10 Rotor Diameters of the proposed SWECS;
- D. Location of lakes, wetlands, parks, federal or state habitat areas, other protected natural areas, and County Biological Survey sites within 1,320 feet of the proposed SWECS;
- E. An acoustical analysis documenting the sound level within 1000 feet of the turbine;
- F. FAA Permit Application;
- G. Location of all known communications towers within 2 miles of the proposed SWECS;
- H. Identification of nearby SWECS and description of potential impacts on wind resources on adjacent properties;
- I. Information demonstrating how the project integrates the United State Fish and Wildlife Service (USFWS) best management practices for minimizing impacts to wildlife from wind energy projects; and
- J. Information about the following:
 - 1. Natural heritage concerns within the project;
 - 2. Public lands within one mile of the project;
 - 3. Conservation easements and other officially protected natural areas within a quarter mile of the project; and
 - 4. Shoreland areas, wildlife corridors, habitat complexes, and designated scenic views within a quarter mile of the project.

Section 5.3.3. The Application for a permit or a conditional use permit for a Non-Commercial SWECS shall also include

- A. A copy of the interconnection agreement with the utility or documentation that an interconnection agreement is not necessary.
- B. For Non-Commercial SWECS that will not connected to the electric grid, the location of battery or other storage device.

Section 5.4. Required Notice. Upon issuance of a permit or Conditional Use Permit, all Commercial SWECS shall notify the Environmental Quality Board Power Plant Siting Act program Staff (or successor State regulator) of the project location and details on the survey form specified by the Environmental Quality Board or successor agency.

Section 5.5. Discontinuation and Decommissioning.

Section 5.5.1. Decommissioning Plan Required. Each SWECS, other than Micro-SWECS, shall have a decommissioning plan outlining the anticipated means and cost of removing the SWECS and accessory facilities at the end of its serviceable life or upon abandonment. The cost estimates shall be made by a competent party; such as a Professional Engineer, a contractor capable of decommissioning or a person with suitable expertise or experience with decommissioning. The plan shall also identify the financial resources that will be available to pay for the decommissioning and removal of the SWECS and accessory facilities.

Section 5.5.2. Abandonment. A SWECS shall be considered abandoned after one (1) year without energy production, unless a plan is developed and submitted to < Jurisdiction > outlining the steps and schedule for returning the SWECS to service. All SWECS and accessory facilities shall be removed to [*ground level / four feet below ground leve*] within 80 days of abandonment.

Adequate Public Facilities Ordinance

An Ordinance to focus development in areas with adequate public facilities in _____, Minnesota.

Section 1. Name. This Ordinance shall be known as the Adequate Public Facilities Ordinance.

Section 2. Definitions.

NONE.

Section 3. Purpose and Preamble. The purpose of the Adequate Public Facilities Ordinance is to

- A. Ensure that public facilities needed to support new development meet or exceed the adopted level of service standards established by < Jurisdiction's > Comprehensive Plan, if any, and this Ordinance;
- B. Ensure that no rezonings are approved that would cause a reduction in the levels of service for any public facilities below the adopted level of service established in < Jurisdiction's > Comprehensive Plan, if any;
- C. Ensure that adequate public facilities needed to support new development are available concurrent with the impacts of such development;
- D. Establish uniform procedures for the review of rezoning applications subject to the concurrency management standards and requirements;
- E. Facilitate implementation of goals and policies set forth in the < Jurisdiction's > Comprehensive Plan relating to adequacy of public facilities, level of service standards and concurrency, including
 - a. Avoiding sprawl or leapfrog development as an inefficient use of < Jurisdiction's > infrastructure and services.
 - b. Giving priority to development opportunities that do not require the construction of new public infrastructure.
- F. Ensure that all applicable legal standards and criteria are properly incorporated in these procedures and requirements.

Section 4. Statement of Law.

Section 4.1. Applicability. No development, redevelopment, project or other activity that may result in an additional residential dwelling unit shall be allowed until a positive concurrency determination or a positive concurrency determination subject to conditions has been made as provided in this Ordinance. No application for development approval

shall be granted unless it has received a positive concurrency determination, or a positive concurrency determination subject to conditions, as set out in this Ordinance.

Section 4.2. Creation of Public Facilities Concurrency Information Database.

Section 4.2.1. Creation. < Jurisdiction > shall develop, maintain, and update a Concurrency Information Database that shall provide support to < Jurisdiction > responsible for concurrency review, monitoring, and planning for public facilities. At a minimum, the database shall contain the following information:

- A. Existing dwelling units and nonresidential development;
- B. Committed development;
- C. The capacity of existing public facilities in < Jurisdiction >, based on adopted level of service; and
- D. The capacity created by the completion of public facilities to be provided in < Jurisdiction >, and that are planned, approved, and fully funded.

Section 4.2.2. Annual Review. < Jurisdiction > shall, not less frequently than annually, prepare and submit to < Jurisdiction > an annual Concurrency Management Report. The report shall include

- A. Growth trends and projections;
- B. Proposed changes to the boundaries of impact areas for any public facility;
- C. Proposed changes to existing or adopted level of service standards;
- D. Proposed changes in concurrency analysis methodologies;
- E. Recommendations on amendments to the Adequate Public Facilities Ordinance, if appropriate; and
- F. Other data, analysis, or recommendations as < Jurisdiction > may deem appropriate, or as requested by < Jurisdiction >.

Section 4.2.3. Effect of Annual Review. The Annual Review may, in whole or in part, form the basis for recommendations to < Jurisdiction > concerning actions to repeal, amend, or modify this Section. Other data, reports, analyses, and documents relevant to such decisions as may be available may also be used.

Section 4.2.4. Amendments. Nothing in this Ordinance precludes < Jurisdiction > or limits its discretion to amend this Section at such other times as may be deemed necessary or desirable.

Section 5.3. Methodology, Criteria and Conditions for Determining Availability and Adequacy of Public Facilities.

Section 5.3.1. Methodology: Level of Service Standards. Compliance with level of service standards shall be measured in accordance with the following standards:

[The adopting jurisdiction should insert the standards it wishes to adopt.]

Applications for a concurrency determination shall be reviewed as if the greatest impact on public facilities would result. The concurrency review and recommendation by <Jurisdiction > and the concurrency determination by <Jurisdiction > shall compare the capacity of public facilities to the maximum projected demand that may result from the proposed project based upon the maximum potential density of the affected area.

Section 5.3.2. Criteria for Availability of Public Facilities. Public facilities shall be deemed to be available within the applicable impact area if they meet the following standards:

A. Water Facilities, Wastewater Facilities, and Fire Protection Facilities

1. The public facilities are currently in place or will be in place when the development approval is granted; or
2. Provision of the public facilities are a condition of development approval and are guaranteed to be provided at or before the approval of a final plat or issuance of a building permit for proposed development on the subject property; or
3. The public facilities are under construction and will be available at the time that the impacts on public facilities of the proposed development will occur; or
4. The public facilities are guaranteed by an enforceable development agreement ensuring that the public facilities will be in place at the time that the impacts of the proposed development will occur.

B. Regional Parks and Public Schools

1. One of the criteria set forth in subsection 5.3.2 (A) is met, or
2. The public facilities are the subject of a written agreement or an enforceable development agreement that provides for the commencement of construction of the required regional parks or public schools, or
3. The public facilities are planned, approved, and funded capital improvements.

C. Streets

1. One of the criteria set forth in subsections 5.3.2(a) or 5.3.2 (B) above, is met, or
2. Proposed development is located in a traffic impact area in which the streets or intersections needed to achieve the adopted level of service are included in the capital improvements program, and < Jurisdiction > makes the following specific findings:

- a. The streets identified in this subsection are financially feasible;
- b. The capital improvements program provides for the construction of public facilities or improvements to streets within the traffic impact area that are necessary to maintain the adopted level of service standards;
- c. The capital improvements program contains a financially feasible funding system based on currently available revenue sources that are adequate to fund the streets required to serve the development authorized by the development approval.
- d. The applicable provisions of the capital improvements program show: (1) the estimated date of the commencement of construction; and (2) the estimated date of project completion for needed streets; and
- e. The concurrency information database includes sufficient data to ensure that proposed developments approved subject to this subsection do not cause a reduction of the level of service below the adopted level of service.

Section 5.3.3. Criteria for Determining Adequacy of Public Facilities. Public facilities shall be deemed to be adequate if it is demonstrated that they have available capacity to accommodate the demand generated by the proposed development in accordance with the following calculation methodology, unless otherwise indicated herein:

- A. Calculate capacity for each public facility within an impact area by adding together:
 1. The capacity of water facilities, wastewater facilities, and fire protection facilities consistent with subsection 5.3.2 (A);
 2. The capacity of public schools and regional parks consistent with subsection 5.3.2 (B); and
 3. The capacity of streets consistent with subsection 5.3.2 (C).
- B. Calculate available capacity by subtracting from the capacity the sum of:
 1. The existing demand for each public facility;
 2. The demand for each public facility created by the anticipated completion of committed development; and
 3. The demand for each public facility created by the anticipated completion of the proposed development under consideration for concurrency determination.

Section 5.3.4. Public Facilities Affecting Areas Outside of < Jurisdiction > General. Availability and adequacy of streets shall be determined only with respect to streets located within < Jurisdiction >. If part of the applicable traffic impact area lies in an adjacent < Jurisdiction > within < Jurisdiction >, absent an intergovernmental agreement with the < Jurisdiction >, availability and adequacy may be determined only with respect to that portion of the streets located within < Jurisdiction >.

Section 5.3.5. Intergovernmental Agreement. If < Jurisdiction > has entered into an intergovernmental agreement with an adjacent < Jurisdiction > to evaluate public facilities in such areas, an applicant will be subject to the evaluation of the level of service standard for the facility as adopted by the adjacent county or municipality. Prior to the determination of concurrency, < Jurisdiction > shall require that the adjacent county or municipality certify that issuance of development approval for the proposed development will not cause a reduction in the level of service standards in < Jurisdiction > with respect to those public facilities lying within the adjacent county or the municipality.

Section 5.3.6. Available capacity for fire protection facilities, water facilities, wastewater facilities, and public schools shall include < Jurisdiction > based demand and < Jurisdiction > based facilities.

Section 5.3.7. Conditions that May Be Imposed to Ensure Availability and Adequacy of Public Facilities. A positive Concurrency Determination may be subject to one or more of the following conditions if public facilities in the impact area are not adequate to meet the adopted levels of service for the development proposal.

- A. Deferral of further development approval until all public facilities are available and adequate;
- B. Reduction of the density or intensity of the proposed development, including phasing of development, to a level consistent with the available capacity of public facilities; and/or
- C. Provision by the applicant of the public facilities necessary to provide the capacity to accommodate the proposed development at the adopted levels of service and to be completed by the time that the impact of the proposed development will occur.

Section 5.4. Procedures for Obtaining a Concurrency Determination.

Section 5.4.1. Application for Concurrency Determination. All applications for development approval shall be accompanied by a Concurrency Data Form that includes sufficient information to allow < Jurisdiction > to determine the impact of the proposed development on public facilities pursuant to the concurrency determination procedures. The Concurrency Data Form shall be a form prepared by < Jurisdiction >. The information required shall include, but shall not be limited to

- A. The total number and type of dwelling units, and gross density of proposed development;
- B. The location of the proposed development;
- C. An identification of the public facilities impacted by the proposed development; and

- D. Any other appropriate information as may be required by < Jurisdiction > consistent with the provisions herein.

Section 5.4.1.1. Fee for Review of Concurrency Data Form. Each application for development approval shall be accompanied by the required Concurrency Review fees, as may be established by < Jurisdiction >.

Section 5.4.2. Concurrency Review and Recommendation by < Jurisdiction >.

Section 5.4.3.1. < Jurisdiction > Review. < Jurisdiction > shall determine whether the Concurrency Data Form complies with the submittal requirements set forth in Section 5.4.1. If the Concurrency Data Form is incomplete or the submittal requirements have not been complied with, < Jurisdiction > shall so notify the applicant, specifying the deficiencies. If the Concurrency Data Form is complete and the submittal requirements have been complied with, < Jurisdiction > shall evaluate the proposed development for compliance with the adopted levels of service and shall submit a Concurrency Recommendation pursuant to the criteria specified in Section 5.4.2.2.

Section 5.4.2.2. < Jurisdiction > Recommendation. If < Jurisdiction > concludes that each public facility will be available concurrent with the impacts of the proposed development at the adopted levels of service, < Jurisdiction > shall make a positive Concurrency Recommendation in its staff report. If < Jurisdiction > determines that any public facility will not be available concurrent with the impacts of the proposed development at the adopted levels of service based upon existing public facilities, < Jurisdiction > shall make a negative Concurrency Recommendation in the staff report or a positive Concurrency Recommendation with appropriate conditions consistent with the criteria set forth in Section 5.3.3. The report shall, at a minimum, include the following:

- A. The number of residential dwelling units proposed by the applicant, by type, and the resulting number of residential dwelling units served by each public facility;
- B. The timing and phasing of the proposed development, if applicable;
- C. The specific public facilities impacted by the proposed development;
- D. The extent of the impact of the proposed development in the applicable impact areas;
- E. The capacity of existing public facilities in the areas which will be impacted by the proposed development, based on adopted level of service;
- F. The demand on existing public facilities in the impact areas from all existing and approved development;

- G. The availability of existing capacity to accommodate the proposed development; and
- H. If existing capacity is not available, planned capacity and the year in which such planned capacity is projected to be available to serve the proposed development.

Section 5.5. Concurrency Determination by < Jurisdiction >. Upon receipt of <Jurisdiction's > report and recommendation, and subject to compliance with all other applicable standards for development approval, < Jurisdiction > may grant

- A. A positive Concurrency Determination;
- B. A negative Concurrency Determination; and
- C. A positive Concurrency Determination subject to one or more of the conditions specified in Section 5.3.

Section 5.6. Effect of Positive Concurrency Determination or Positive Concurrency Determination with Conditions.

- A. Positive Concurrency Determination shall be deemed to indicate that adequate public facilities are available at the time of issuance of the positive Concurrency Determination.
- B. The Concurrency Determination shall expire and become null and void upon the expiration of the Development approval to which it is attached or the time frame for submitting a subsequent application for approval, unless an application for a subsequent Development approval is submitted within the time frames set forth in the < Jurisdiction > Zoning Code. If no expiration date is provided in the < Jurisdiction > Zoning Code in the conditions of the Concurrency Determination or in the conditions of permit approval, the Concurrency Determination shall expire within two (2) years after approval of the Development approval.
- C. A Concurrency Determination shall not be deemed as evidence supporting a request for a Comprehensive Plan amendment or rezoning.
- D. Advancement of Capacity. No advancement of capacity for public facilities needed to avoid a deterioration in the adopted levels of service shall be accepted by <Jurisdiction> unless the proposed public facility is a planned capital improvement or appropriate conditions are included to ensure that the applicant will obtain all necessary approvals for such planned capital improvement from any governmental agency having jurisdiction over such planned capital improvement prior to or concurrent with the issuance of a final residential subdivision plat or, if subdivision approval is not required, a building permit. If such planned capital improvement

requires the approval of a governmental agency, such approval shall authorize the full capacity upon which the Concurrency Determination was rendered. The commitment to construction of public facilities prior to the issuance of a building permit shall be included as a condition of the Concurrency Determination and shall contain, at a minimum, the following:

1. For planned capital improvements, a finding that the planned capital improvement is included within the capital improvements program of the applicable service provider;
 2. An estimate of the total funding needed to construct the planned capital improvement and a description of the cost participation associated therewith;
 3. A schedule for commencement and completion, of construction of the planned capital improvement with specific target dates for multi phase or large-scale capital improvement projects;
 4. A statement, based on analysis, that the planned capital improvement is consistent with <Jurisdiction's> Comprehensive Plan; and
 5. At the option of <Jurisdiction>, and only if the planned capital improvement will provide capacity exceeding the demand generated by the proposed development, reimbursement to the applicant for the pro rata cost of the excess capacity.
- E. A positive Concurrency Determination or a positive Concurrency Determination with conditions does NOT authorize a rezoning or an allowance by special review that would otherwise be inconsistent with < Jurisdiction 's > Comprehensive Plan or Land Use Map.

Section 5.7. Vested Rights.

- A. Nothing in this ordinance shall limit or modify the rights of an applicant to complete any development authorized by an approved Site Specific Development Plan for a period extending three (3) years following the approval thereof or the expiration date set forth in the Site Specific Development Plan.
- B. If a developer has, by its actions in reliance on prior regulations, obtained vested rights that by law would have prevented < Jurisdiction > from changing those regulations in a manner adverse to its interests, nothing in this ordinance authorizes < Jurisdiction > or any official thereof to abridge those rights.
- C. The determination of concurrency shall not affect the otherwise operable and applicable provisions of the < Jurisdiction 's > zoning code or <Jurisdiction's> Subdivision Ordinance, all of which shall be operative and remain in full force and effect without limitation.

Section 5.8. Withdrawal of Concurrency Data Form. The applicant may withdraw the Concurrency Data Form at any time by submitting a written request to < Jurisdiction >.

Withdrawal may result in the forfeiture of some or all fees paid by the applicant for the processing of the Concurrency Data Form.

Section 5.9. Expiration of Concurrency Determination.

- A. A Concurrency Determination issued pursuant to Section 5.5 of this Ordinance shall be deemed to expire when the development approval to which it is attached expires, lapses, or is waived or revoked, or if the applicant has not complied with conditions attached to its issuance.
- B. If a Concurrency Determination attached to a rezoning expires, <Jurisdiction> may initiate proceedings to rezone the property.

List of Sources & Resources

CMSDP Guidance:

CMSDP, *Creating a Resilient Region: The Central Minnesota Sustainable Development Plan* (powerpoint),
www.rsdpmn.edu/prod/groups/cfans/@pub/@cfans/@rsdp/documents/asset/cfans_asset_351032.pdf (last visited Apr. 24, 2012).

Michael Dorfman, *County: Land Use Policy Analysis* (available at www.ResilientRegion.org)

John Sisser, *City: Land Use Policy Analysis* (available at www.ResilientRegion.org)

William Mitchell Community Development Clinic (*Research projects available at www.ResilientRegion.org*)

- Review of Local Zoning Ordinances for Housing Affordability Barriers
- Housing Barriers to Affordability
- CMSDP Zoning Typology Memo
- CMSDP Variance Changes Memo
- CMSDP Sustainability in Current Zoning Memo
- Transportation Funding Summary Memo

General:

Minnesota Department of Natural Resources, *Alternative Shoreland Standards* (2005),
www.dnr.state.mn.us/waters/watermgmt_section/shoreland/shoreland_rules_update.html.

Minnesota Complete Streets Coalition, *Complete Streets Toolkit*, at
www.mncompletestreets.org/gfx/MnCSLocalGovtToolkit.pdf (last visited Apr. 24, 2012).

Minnesota Pollution Control Agency, *GreenStep Cities*, at <http://greenstep.pca.state.mn.us/>
(last visited Apr. 24, 2012).

Minnesota Public Radio, *Ground Level* (blog),
<http://minnesota.publicradio.org/collections/special/columns/ground-level/> (last visited Apr. 24, 2012).

HUD-DOT-EPA Partnership for Sustainable Communities

- **Creating Equitable, Healthy, and Sustainable Communities:**
www.epa.gov/smartgrowth/pdf/2012_0208_creating-equitable-healthy-sustainable-communities.pdf
- Examples of Codes that Support Smart Growth Development available at
www.epa.gov/smartgrowth/codeexamples.htm

- **Green Communities**, at www.epa.gov/greenkit/basicinformation.htm
- **Livability Principle**: available at www.epa.gov/smartgrowth/partnership/index.html#livabilityprinciples
- **Smart Growth Implementation Toolkit**: available at www.smartgrowthamerica.org/leadership-institute/implementation-tools
- **Green Building Toolkit**: at www.epa.gov/region4/recycle/green-building-toolkit.pdf
- **Supporting Sustainable Rural Communities, Partnership for Sustainable Communities and USDA**: www.sustainablecommunities.gov/pdf/Supporting_Sustainable_Rural_Communities_FINAL.PDF
- **This Is Smart Growth**: www.epa.gov/smartgrowth/pdf/2009_11_tisg.pdf

League of Minnesota Cities

- **Model ordinances**: at www.lmc.org/page/1/resource-library.jsp?keywords=ordinance&Models=on&x=15&y=10 (addressing a variety of areas; not necessarily sustainability, but useful for guidance on structure)
- **Minnesota sample ordinances**: www.amlegal.com/library/mn/index.shtml (existing zoning ordinances from various MN municipalities)
- **Handbook for Minnesota Cities**: www.lmc.org/page/1/handbook-for-mn-cities.jsp (general information about the structure of city government)

US Green Building Council, LEED, www.usgbc.org/ (Apr. 24, 2012).

Minnesota Housing, 2012 Sustainable Housing Standards (for state and federally funded affordable housing projects), www.mnhousing.gov/housing/architects/MHFA_011060.aspx.

Rural Transportation.org, www.ruraltransportation.org (last visited Apr. 24, 2012).

City of St. Paul Zoning Code, <http://library.municode.com/index.aspx?clientId=10061> (last visited Apr. 24, 2012).

Partnership for Sustainable Communities, Supporting Sustainable Rural Communities (2011), www.sustainablecommunities.gov/pdf/Supporting_Sustainable_Rural_Communities_FINAL.PDF.

Sturm College of Law, Sustainable Community Development Code, www.law.du.edu/index.php/rmlui/rmlui-practice/code-framework/model-code (last visited Apr. 24, 2012).

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Minnesota Planning, *Under Construction: Tools and Techniques for Local Planning* (2002), www.gda.state.mn.us/pdf/2002/UnderConstruction.pdf.

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Lakesnwoods.com, *Wadena Minnesota Gallery* (last visited Apr. 24, 2012), www.lakesnwoods.com/WadenaGallery.htm.

City of Duluth, *Zoning Regulations*, www.duluthmn.gov/planning/zoning_regulations/ (last visited Apr. 24, 2012).

City of Brainerd, *Comprehensive Plan* (2004), www.ci.brainerd.mn.us/planning/docs/compplan.pdf.

Pipestone County, *Zoning Ordinance*, www.pipestone-county.com/departments/planning/Zoning_Ordinance.pdf (last visited Apr. 24, 2012).

City of Hopkins, *Zoning Code*, www.hopkinsmn.com/zoning/index.php (last visited Apr. 25, 2012).

City of Pequot Lakes, *Zoning Ordinance*, www.pequotlakes-mn.gov/index.asp?Type=B_BASIC&SEC={7927ECFC-BF3E-4F84-A39C-930C4EA9227D}.

City of Osakis, *Comprehensive Plan*, http://cityofosakis.com/comp_plan_pdfs/Comprehensive_Plan_All.pdf

City of Osakis, *Zoning Ordinance*, http://cityofosakis.com/forms_permits/zoning_ordinances/CH%209%20-%20Zoning%20Application%20Procedures.pdf.

Morrison County, *Zoning Ordinance* (2008), www.co.morrison.mn.us/vertical/sites/%7BC8FCCAFF-AECD-45DC-91B1-016A998EB4A8%7D/uploads/Land_Use_Ordinance.pdf.

Morrison County, *Comprehensive Plan*, www.co.morrison.mn.us/index.asp?Type=B_BASIC&SEC={A64328BA-9CE8-4CCA-BBE2-9478DAB8D294}&DE={FC8F7899-EBE0-4896-9CAF-8168C003457A}.

Todd County, *Comprehensive Plan*, www.co.todd.mn.us/content/comprehensive_plan.

South Carolina Department of Health and Environmental Control, Bureau of Air Quality, *Model Ordinances*, www.scdhec.gov/environment/baq/ModelOrdinances/. *Adequate Public Facilities sample ordinance*: www.scdhec.gov/environment/baq/docs/ModelOrdinances/AdequatePublicFacilitiesOrdinance.pdf

Montgomery County, MD, *Adequate Public Facilities Ordinance*, Chapter 50-35(k) - Subdivision of Land (1997),
www.montgomeryplanning.org/research/growth_policy/agp/documents/apfo.pdf.

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Hayley Bonsteel, *Park Dedication*, University of Minnesota Community Growth Options, Jan. 14, 2010, www.cura.umn.edu/sites/cura.advantagelabs.com/files/publications/CGO-117.pdf.

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Municipal Research and Services Center of Washington, *Infill Development: Completing the Community Fabric*, www.mrsc.org/subjects/planning/infilldev.aspx#incent (used for background information and best practices sources).

PolicyLink, *Equitable Development Toolkit- Infill Incentives*, <http://policylink.info/EDTK/Infill/> (used for incentive recommendations, including fee waivers).

Advancing Public Health Practice and Policy Solutions: Phase III: Components of Local Ordinances to Protect and Promote the Public's Health,
www.law.asu.edu/LinkClick.aspx?fileticket=a8Ef3sn7MJE%3D&tabid=908