

## ORDER No. 2008-0018

**AN ORDER ADOPTING A ZONING MAP AMENDMENT FROM M-1 (LIMITED INDUSTRIAL) TO M-2 (LIGHT INDUSTRIAL) FOR A PARCEL LOCATED AT 2401 E. HANCOCK STREET, YAMHILL COUNTY TAX LOT # 3220AB-202.**

### RECITALS:

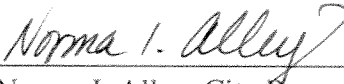
1. On August 4, 2008, Total Concept Development LLC submitted an application for a zoning map amendment for a 1.4 acre parcel located at 2401 E. Hancock Street. The site has a Mixed Use (MIX) comprehensive plan designation and a M-1 (Limited Industrial) zoning designation. The applicant is requesting a zone change to M-2 (Light Industrial). The Mixed Use comprehensive plan designation allows both commercial and light industrial uses, so the applicant does not need to request a concurrent comprehensive plan map amendment.
2. On October 9, 2008, the Planning Commission held a hearing to consider the request, heard testimony in favor of the application, and discussed the relevant criteria. The commissioners unanimously approved Resolution 2008-257, which recommended that the City Council approve the zoning map amendment as requested.
3. After proper notice, on November 3, 2008, the Newberg City Council held a hearing to consider the request.
4. The City Council finds that the proposal is consistent with and promotes the goals and policies of the comprehensive plan and development code, and meets the criteria for a zoning map amendment.

### THE CITY OF NEWBERG ORDERS AS FOLLOWS:

1. The Newberg zoning map as shown in Exhibit "D" is hereby amended to change the designation of tax lot # 3220AB-202 described in Exhibit "B" from M-1 (Limited Industrial) to M-2 (Light Industrial). Exhibits "B", "C", "D" and "E" are hereby adopted and by this reference incorporated.
2. The findings shown in Exhibit "A" are hereby adopted and by this reference incorporated.

➤ **EFFECTIVE DATE** of this order is the day after the adoption date, which is: November 4, 2008.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 3rd day of November, 2008.

  
\_\_\_\_\_  
Norma I. Alley, City Recorder

**ATTEST** by the Mayor this 6th day of November, 2008.

  
\_\_\_\_\_  
Bob Andrews, Mayor

### QUASI-JUDICIAL HISTORY

By and through the Planning Commission at their October 9, 2008 meeting.

**EXHIBIT A: ZONING MAP AMENDMENT FINDINGS**  
**ZMA-08-002**  
**2401 E. Hancock Street**

**A. *The proposed change is consistent with and promotes the objectives of the Newberg Comprehensive Plan and this Code.***

**1. Comprehensive Plan Description**

**Mixed Use (MIX)**

The objective of this designation is to provide a compatible mixture of commercial, office, employment and high density residential uses. Commercial uses are intended to include neighborhood convenience uses such as convenience retail businesses, retail food establishments, personal service establishments, institutional uses and professional offices. Office employment uses may include office buildings, banks, theaters, and other similar types of facilities. Residential uses will be primarily multi-plexes and low or medium rise multi-family dwellings. Light industrial uses which are compatible with the general character of the area may also be permitted.

Due to the area's location, development should not be limited to a single type of use. Instead, this designation provides flexibility and recognizes that certain commercial, residential and industrial activities can be located together without conflicts. Proposals for the mixed use area shall be consistent with the availability of services and should not adversely impact existing or potential development of adjacent lands.

**FINDING:** The request to amend the zoning designation from M-1 (Limited Industrial) to M-2 (Light Industrial) is consistent with the intent of the Mixed Use comprehensive plan designation, which recognizes that light industrial uses can be compatible with commercial uses.

**2. Development Code - Description and Purpose**

**M-1 Limited Industrial District**

The M-1 Limited Industrial District is intended to create, preserve and enhance areas containing manufacturing and related establishments with limited external impact, and with an open and attractive setting. The M-1 Limited Industrial District is typically appropriate to locations near major thoroughfares and non-manufacturing areas. The M-1 District is intended to be consistent with the "industrial" and "mixed use" designations of the comprehensive plan

**M-2 Light Industrial District**

The M-2 Light Industrial District is intended to create, preserve and enhance areas containing a wide range of manufacturing and related establishments, and is typically appropriate to areas providing a wide variety of sites with good rail or highway access. The M-2 District is intended to be consistent with the "industrial" designation of the comprehensive plan.

151.267 COMPREHENSIVE PLAN AND ZONING DESIGNATIONS.

(A) The comprehensive plan map designation of the property at the time of annexation shall be used as a criterion to determine whether or not the proposed request complies with the Newberg comprehensive plan. A redesignation of the comprehensive plan map may be requested concurrent with annexation. The proposed redesignation shall then be used to determine compliance with the Newberg comprehensive plan.

(B) Upon annexation, the area annexed shall be automatically zoned to the corresponding land use zoning classification which implements the Newberg comprehensive plan map designation. The corresponding designations are shown in the table below. The procedures and criteria of § [151.122](#) shall not be required.

Comprehensive Plan Classification	Appropriate Zoning Classification
OS	Any zoning classification
LDR	R-1
MDR	R-2
HDR	R-3
COM	C-1, C-2, or C-3 as determined by the Director
MIX	C-2, M-1, or M-2 as determined by the Director
IND	M-1, M-2, or M-3
PQ	Any zoning classification
P/PP	Any zoning classification

**FINDING:** The objective of the Mixed Use comprehensive plan designation is to allow a compatible mixture of commercial, residential and industrial uses. The zoning district description shows that the M-1 Limited Industrial district is compatible with Industrial or Mixed Use comprehensive plan designations. The M-2 district is defined as light industrial, which is typically compatible with Industrial comprehensive plan designations. The annexation section of the development code states that the Mixed Use comprehensive plan designation corresponds to the C-2, M-1 or M-2 zoning districts, as determined by the Director. In this case the applicant is constructing three light industrial buildings on the site. The buildings have flexible internal configurations and are intended to be divided into as many as fifteen separate spaces. The buildings do not have loading docks for heavy equipment or high-volume deliveries, and will not have regular deliveries by large semi trucks. Their design is for multiple small light industrial businesses and is therefore not conducive to some of the heavier types of manufacturing allowed in the M-2 zone. A zone change from M-1 to M-2 for this particular site would therefore be compatible with the Mixed Use comprehensive plan designation.

### 3. Comprehensive Plan Goals and Policies

**LAND USE PLANNING GOAL:**

Policy 3. Industrial land use needs shall be periodically evaluated.

Policy 4. When Comprehensive Plan statements conflict, the relative importance of the statements should be balanced by giving consideration to existing and future public needs, impacts on surrounding areas, and the effect of any precedent that may be established.

**FINDING:** The proposed change from M-1 to M-2 would not reduce the amount of industrial land within the city. This is significant because industrial land is a resource that drives much of Newberg's future economic development. The applicant has found that the uses allowed within the M-1 zone are very limited, and that many potential light industrial businesses that are interested in leasing space would be allowed if the site was zoned M-2.

There was a related zone change application in 2004, when a zone change from C-2 to M-2 was approved for a nearby site within the Mixed Use comprehensive plan area (Ordinance 2004-2614). The owner of that site is Action Equipment. Action Equipment is a heavier type of industrial use than would be possible at the Total Concept site. Action Equipment has been in operation for over a year and has proved compatible with the surrounding commercial and residential uses. It serves as a good precedent that M-2 industrial uses can be consistent with the Mixed Use comprehensive plan designation.

***B. Public facilities and services are or can be reasonably made available to support the uses allowed by the proposed change.***

**FINDING:** Water, sanitary sewer and storm drainage are available to support the uses allowed by the proposed changes. The City of Newberg provides police and fire protection to the site.

***C. Compliance with the State Transportation Planning Rule (OAR 660-012-0060) for proposals that significantly affect transportation facilities.***

**FINDING:** The proposed zone change is not expected to have any effect, either positive or negative, on the amount of traffic generated by this site. The M-2 zone allows more types of uses than the M-1 zone allows, but they are not expected to generate more trips during the PM peak hour on Highway 99W. This proposal therefore will not significantly affect transportation facilities.

**CONCLUSION:** The proposed reclassification from M-1 to M-2 meets the applicable criteria and is consistent with the Comprehensive Plan.

**EXHIBIT B: LEGAL DESCRIPTION**  
**ZMA-08-002**

**PARCEL 1:** A tract of land in the Richard Everest Donation Land Claim in Section 20, Township 3 South, Range 2 West of the Willamette Meridian in Yamhill County, Oregon, being part of that certain tract of land described in Deed to Chester Leonard Erickson et ux., recorded January 20, 1960 in Film Volume 9, Page 180, Deed and Mortgage Records of Yamhill County, Oregon, being more particularly described as follows:

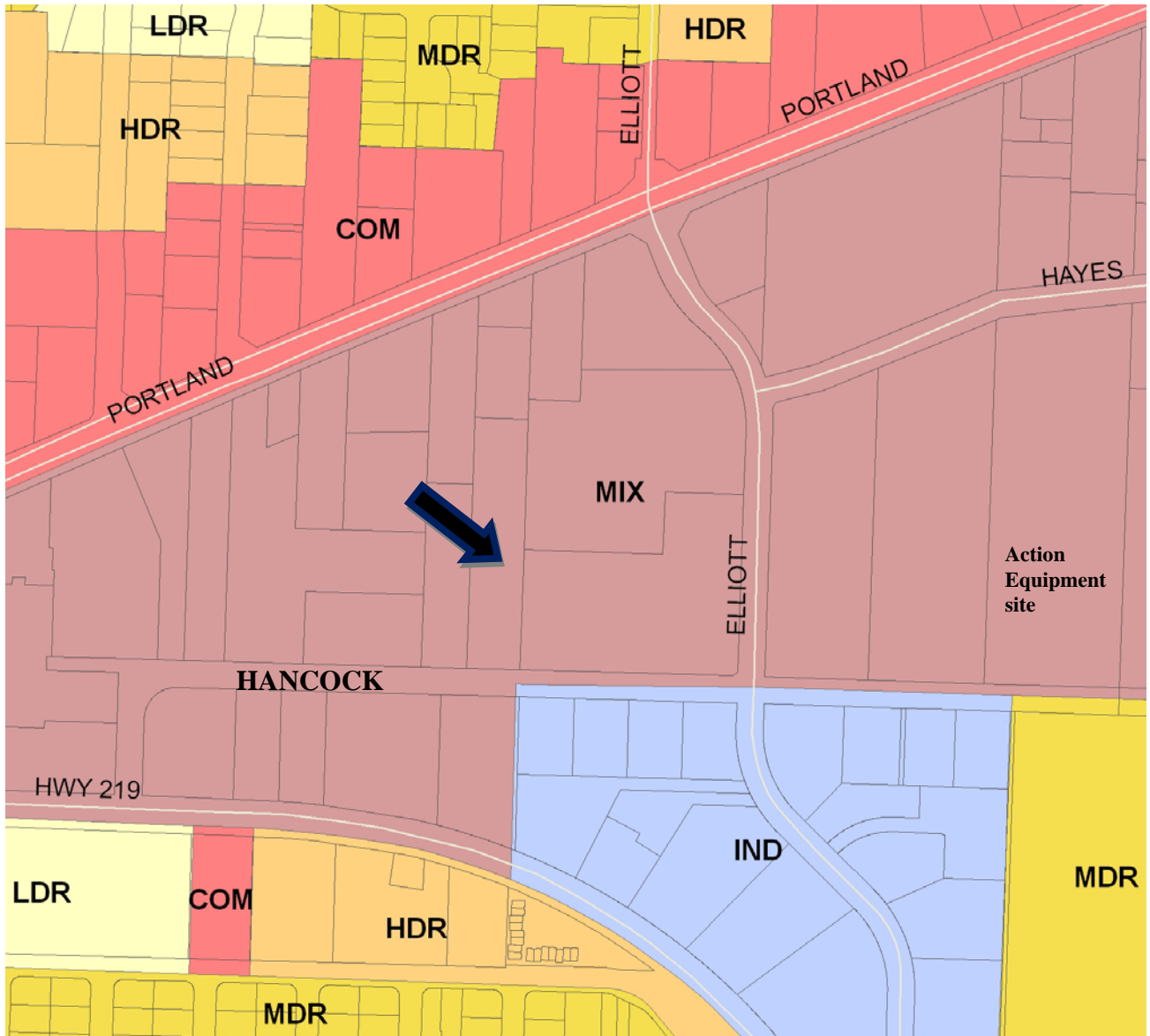
BEGINNING at a point on the East line of said Erickson tract that is North 577.92 feet from the Southeast corner thereof; thence North  $89^{\circ}57'10''$  West 117.47 feet to the West line of said Erickson tract; thence South along the said West line, 547.92 feet to an iron rod that is North 30 feet from the Southwest corner of said Erickson tract; thence South  $89^{\circ}57'10''$  East 117.47 feet, parallel with the South line of said Erickson tract to an iron rod in the East line of said tract; thence North 547.92 feet to the POINT OF BEGINNING.

**PARCEL 2:** A non-exclusive easement for road and utilities purposes, over and across the following described tract of land, including tenements, hereditaments and appurtenances thereto, as being adjacent to Parcel number 1 above described:

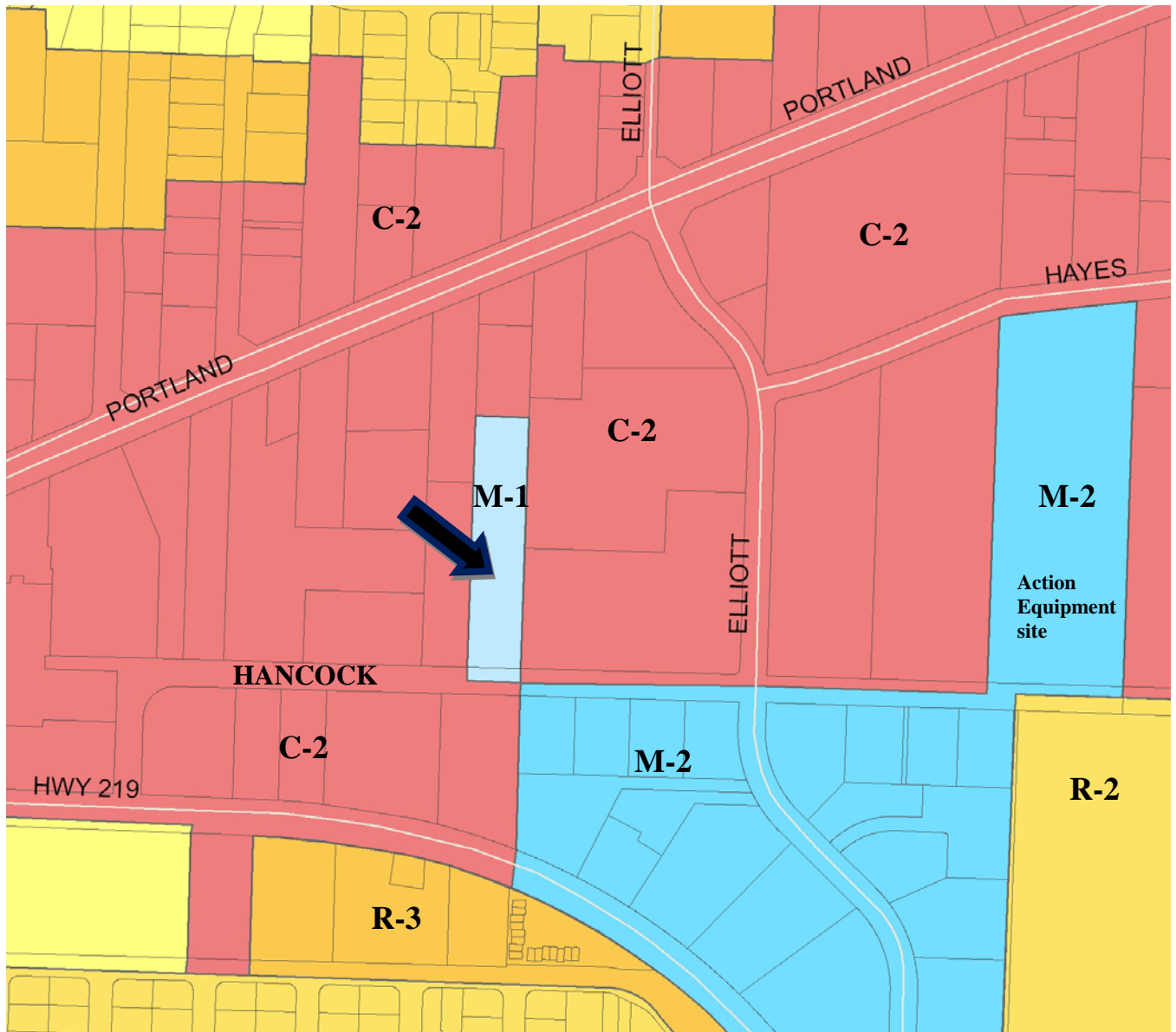
A tract of land in the Richard Everest Donation Land Claim in Township 3 South, Range 2 West of the Willamette Meridian in Yamhill County, Oregon, being part of that certain tract of land described in Deed to Chester Leonard Erickson et ux., recorded January 20, 1960 in Film Volume 9, Page 180, Deed and Mortgage Records of Yamhill County, Oregon, and being described as follows:

BEGINNING at an iron rod at the intersection of the West line of said Erickson tract with the South line of U. S. Highway 99W; thence South along the West line of said Erickson tract, 267.47 feet to the North boundary of Parcel 1 above described; thence South  $89^{\circ}57'10''$  East 25.00 feet along the North boundary of Parcel 1 above described to a point; thence North parallel with and 25.00 feet distant from the West line of said Erickson tract, 338.09 feet more or less, to the South line of said Highway 99W; thence South  $65^{\circ}53'10''$  West along said South line to the POINT OF BEGINNING.

**EXHIBIT C: COMPREHENSIVE PLAN MAP**



**EXHIBIT D: ZONING MAP**



## EXHIBIT E: M-1 & M-2 PERMITTED USES

### Part 8. M-1 LIMITED INDUSTRIAL DISTRICT

#### 151.385 DESCRIPTION AND PURPOSE.

The M-1 Limited Industrial District is intended to create, preserve and enhance areas containing manufacturing and related establishments with limited external impact, and with an open and attractive setting. The M-1 Limited Industrial District is typically appropriate to locations near major thoroughfares and non-manufacturing areas. The M 1 District is intended to be consistent with the "industrial" and "mixed use" designations of the comprehensive plan.

(Ord. [96-2451](#), passed 12-2-96)

#### 151.386 PERMITTED BUILDINGS AND USES.

In the M-1 Limited Industrial District, the following buildings and uses are permitted as hereinafter specifically provided, subject to the general provisions and exceptions set forth in this code.

(A) Accessory buildings and uses normal and incidental to the buildings and uses permitted in this section and § [151.387](#).

(B) Athletic facilities.

(C) Blueprinting.

(D) Dwelling unit for a caretaker or superintendent whenever the use requires the on-site residence of such person.

(E) Laboratories, general.

(F) Manufacturing and assembling of precision optics.

(G) Manufacturing and assembling of precision testing equipment.

(H) Manufacturing, assembling, testing and repairing of components, devices, equipment and systems of an electronic or electromechanical nature, such as, but not limited to:

(1) Audio systems and phonographs.

(2) Coils, tubes, semi-conductors and similar components.

(3) Communication, navigation, trans-mission and reception equipment, control equipment and systems.

(4) Data processing equipment and systems.

(5) Metering instruments.

(6) Radar, infra-red and ultraviolet equipment.

(7) Radio and television equipment.

(8) Scientific and chemical instruments.

(I) Manufacturing of ceramic products using only previously pulverized clay and fired in kilns using low pressure gas or electricity (brick and tiles not permitted).

(J) Offices for engineers, architects, landscape architects, surveyors, and those engaged in the practice of designing, drafting or graphics.

(K) Open space.

(L) Parking areas; public and private.

(M) Parking garages; public and private.

(N) Photographic film processing, photoengraving, photocopying and photostating.

(O) Planned unit development.

(P) Public and semi-public buildings.



- (Q) Restaurants.
- (R) Roller skating rink.
- (S) Service stations.
- (T) Storage buildings and warehouses for household or consumer goods.
- (U) Telecommunication facility, including radio towers and transmitters which are incorporated into an existing structure or an existing utility pole, and which will not extend above the existing structure more than 18 feet.
- (V) Transit centers.
- (W) Transportation facilities and improvements.
- (X) Wholesale businesses, provided all material storage is within an enclosed building.
- (Y) Any other building or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section.

(Ord. [96-2451](#), passed 12-2-96; Am. Ord. [2000-2536](#), passed 11-6-00; Am. Ord. [2005-2619](#), passed 5-16-05)

### 151.387 BUILDINGS AND USES PERMITTED CONDITIONALLY.

In addition to the buildings and uses permitted conditionally, listed in § [151.211](#), the Planning Commission may grant a conditional use permit for any of the following buildings and uses in accordance with a Type III procedure:

- (A) Contractor's equipment or storage.
- (B) Dwellings, in conjunction with a permitted use.
- (C) Manufacturing, compounding, bottling, processing, packaging, or treatment of food and beverage products.
- (D) Recreational vehicle parks.
- (E) Telecommunication facility, including radio towers and transmitters which are either freestanding or which are incorporated into an existing structure or an existing utility pole, and will extend above the existing structure more than 18 feet.
- (F) Any other building or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section.

(Ord. [96-2451](#), passed 12-2-96; Am. Ord. [2000-2536](#), passed 11-6-00)

## Part 9. M-2 LIGHT INDUSTRIAL DISTRICT

### 151.400 DESCRIPTION AND PURPOSE.

The M-2 Light Industrial District is intended to create, preserve and enhance areas containing a wide range of manufacturing and related establishments, and is typically appropriate to areas providing a wide variety of sites with good rail or highway access. The M-2 District is intended to be consistent with the "industrial" designation of the comprehensive plan.

(Ord. [96-2451](#), passed 12-2-96)

### 151.401 PERMITTED BUILDINGS AND USES.

- (A) In the M-2 Light Industrial District, the following buildings and uses are permitted as hereinafter specifically provided.

(B) The buildings and uses are subject to the general provisions and exceptions set forth in this code:

- (1) Accessory buildings and uses normal and incidental to the buildings and uses permitted in this section and § [151.402](#).
- (2) Agricultural machinery, sales and service.
- (3) Agricultural supplies, including hatcheries.
- (4) Agricultural uses or any other enterprise customarily carried on in the field of general agriculture (Except no slaughterhouses permitted).
- (5) Ambulance services.
- (6) Athletic facilities.
- (7) Auction sales.
- (8) Automobile painting shops.
- (9) Automobile sales, new and used.
- (10) Bakeries, wholesale and retail.
- (11) Banks.
- (12) Building maintenance services.
- (13) Building material sales.
- (14) Car washes; coin operated or mechanical.
- (15) Christmas tree sales (outdoor sales) in accordance with this code.
- (16) Churches.
- (17) Convenience grocery stores with a maximum of 2000 square feet.
- (18) Driving ranges, private.
- (19) Dwelling unit, limited to one, for a caretaker or superintendent, whenever the use requires the on-site residence of such person.
- (20) Equipment rental yards.
- (21) Equipment sales.
- (22) Feed and seed stores.
- (23) Fireworks sales (outdoor sales) from June 24 to July 6.
- (24) Laboratories.
- (25) Manufacturing, compounding, processing, assembling, packaging, treatment or fabrication of articles, such as:
  - (a) Blueprints.
  - (b) Boats.
  - (c) Ceramics.
  - (d) Communication components and systems.
  - (e) Cosmetics.
  - (f) Creameries.
  - (g) Drugs.
  - (h) Electrical and electronic components and systems.
  - (i) Farm equipment.
  - (j) Food and beverage products (except fish, meat, sauerkraut, vinegar, yeast and alcoholic beverages).
  - (k) Films.
  - (l) Garments.
  - (m) Glass.
  - (n) Greenhouses.
  - (o) Instruments.
  - (p) Iron, steel and sheet metal, provided no blast furnaces, shall be allowed.

- (q) Leather.
- (r) Novelties.
- (s) Paint, provided no boiling is allowed.
- (t) Paper and cellophane, except no manufacturing.
- (u) Perfumes.
- (v) Plaster, except no manufacturing.
- (w) Plastics, except no manufacturing.
- (x) Signs.
- (y) Soil.
- (z) Stone monuments.
- (aa) Textiles.
- (bb) Tires, limited to recapping, retreading and rebuilding.
- (cc) Tobacco.
- (dd) Toiletries.
- (ee) Upholstery.
- (ff) Wood, but excluding operation of a planing mill.
- (gg) Other items similar to the preceding items the manufacturing,

compounding, processing, assembling, treatment, testing or repairing of which shall not have any different or more detrimental effect upon the adjoining neighborhood areas or districts than the items specifically listed.

- (26) Miniature golf courses.
- (27) Mobile homes sales and service.
- (28) Open space.
- (29) Planned unit developments.
- (30) Plumbing supplies and services.
- (31) Printing and publishing.
- (32) Public and private parking areas and garages.
- (33) Radiator service and repairs.
- (34) Radio towers and transmitters.
- (35) Repair garages.
- (36) Restaurants.
- (37) Secondhand stores.
- (38) Service stations.
- (39) Skating rinks, indoors.
- (40) Small animal clinics.
- (41) Small animal hospitals.
- (42) Telecommunication facility, including radio towers and transmitters, which are 100 feet or less in height.
- (43) Theaters, drive-ins.
- (44) Transit centers.
- (45) Transportation facilities and improvements.
- (46) Trucking yards and terminals.
- (47) Truck sales and services.
- (48) Wholesaling, warehousing and storing of the following, provided that all outdoor storage shall be enclosed within site-obscuring fences or walls:
  - (a) Automobiles, truck and buses.
  - (b) Consumer goods.
  - (c) Contractors equipment.
  - (d) Building materials, except no on-site wrecking or burning.

- (e) Food products.
  - (f) Liquid fuel.
  - (g) Household goods.
  - (h) Ice.
  - (i) Lumber, except no log storage or ponding.
  - (j) Other items similar to the preceding items, including non-specific or general wholesaling, warehousing and storage that shall not have any different or more detrimental effect upon the adjoining neighborhood areas or districts than the items specifically listed.
- (49) Utility distribution plants and service yards.
  - (50) Other buildings and uses similar to the list above which shall not have any different or more detrimental effect upon the adjoining neighborhood areas or districts than the buildings and uses specifically listed, provided that retail sales uses, unless specifically listed, shall only be incidental and indirectly related to the operation of permitted industrial uses.

(Ord. [96-2451](#), passed 12-2-96; Am. Ord. [2000-2536](#), passed 11-6-00; Am. Ord. [2003-2576](#), passed 1-6-03; Am. Ord. [2005-2619](#), passed 5-16-05)

### 151.402 BUILDINGS AND USES PERMITTED CONDITIONALLY.

In addition to the buildings and uses permitted conditionally, listed in § [151.211](#), the Planning Commission may grant a conditional use permit for any of the following buildings and uses in accordance with a Type III procedure:

- (A) Dwellings, in conjunction with a permitted use.
- (B) Manufacturing, compounding, bottling, processing, packaging, or treatment of fish, meat, sauerkraut, vinegar, yeast and alcoholic beverages.
- (C) Recreational vehicle parks.
- (D) Telecommunication facilities including radio towers and transmitters, which are more than 100 feet in height or which are less than 2,000 feet apart.
- (E) Any other building or uses determined to be similar to those listed in this section. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood area than the buildings and uses specifically listed in this section.

(Ord. [96-2451](#), passed 12-2-96; Am. Ord. [2000-2536](#), passed 11-6-00; Am. Ord. [2003-2576](#), passed 1-6-03)