

## ORDINANCE NO. 162, 2<sup>ND</sup> SERIES

AN ORDINANCE OF THE CITY OF PAYNESVILLE, MINNESOTA, AMENDING CITY CODE CHAPTER 11 ENTITLED "LAND USE REGULATIONS (ZONING)" BY MODIFYING SECTION 11.03, SUBD. 2, ENTITLED "DEFINITIONS" BY ADDING AT NO. 37 THEREOF A DEFINITION OF "INTERMODAL CONTAINER" AND RE-NUMBERING THE FOLLOWING PARAGRAPHS TO ACCOMMODATE THE ADDITION; BY AMENDING SECTION 11.10 ENTITLED "GENERAL REQUIREMENTS" BY ADDING THERETO A SUBDIVISION 9 ENTITLED "INTERMODAL CONTAINERS"; AND BY ADOPTING BY REFERENCE CITY CODE CHAPTER 1 AND SECTION 11.99, WHICH, AMONG OTHER THINGS, CONTAIN PENALTY PROVISIONS.

THE CITY COUNCIL OF PAYNESVILLE, MINNESOTA ORDAINS:

**Section 1.** City Code, Chapter 11, Section 11.03, Subd. 2, is hereby amended to read:

**Subd. 2. Definitions.** The following terms, as used in this Chapter, shall have the meanings stated:

**1. Accessory Building** – A subordinate building or structure on the same lot or part of the main building, occupied by or devoted exclusively to an accessory use.

**2. Accessory Use** – A use naturally and normally incidental to, subordinate to, and auxiliary to the principal permitted use of the premises.

**3. Adult Arcade** – An establishment where, for any form of consideration, one or more motion pictures projectors, slide projectors or similar machines for viewing by five (5) or fewer persons are each used to show films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or sexual anatomical areas.

**4. Adult Bookstore** – An establishment that has as a substantial portion of its stock-in-trade and offers for sale, for any form of consideration, any one or more of the following: 1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides, or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or 2) instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

**5. Adult Cabaret** – A nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

**6. Adult Motion Picture Theater** – An establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

**7. Adult Theater** – A theater, concert hall, auditorium, or similar establishment characterized by (activities featuring) the exposure of specified anatomical areas or by specified sexual activities.

**8. Adult use Establishments** – Adult use establishments include, but are not limited to: adult arcade, adult bookstore, adult cabaret, adult motion picture theater, adult theater, or sexual encounter establishment.

**9. Alley** - Any dedicated public way providing a secondary means of ingress and/or egress to

land or structures thereon.

**10. Automobile Wrecking or Junk Yard** – A place maintained for keeping, storing or piling in commercial quantities, whether temporarily, irregularly, or continually; buying or selling at retail or wholesale any old, used or second-hand materials of any kind, including used motor vehicles, machinery, and/or parts thereof, cloth, rugs, clothing, paper, rubbish, bottles, rubber, iron or other metals, or articles which from its worn condition render it practically useless for the purpose for which it was made and which is commonly classed as junk. This shall include a lot or yard for the keeping of unlicensed motor vehicles or the remains thereof for the purpose of dismantling, sale of parts, sale as scrap, storage or abandonment. This shall not prohibit the keeping of one (1) unlicensed motor vehicle within a garage or other structure in residential districts or two (2) unlicensed motor vehicles not including farm implements within a farm in the agricultural district.

**11. Basement** – That portion of a floor of a building which is wholly or partially, up to fifty (50) percent, underground or below grade.

**12. Boarding or Rooming House** – A boarding or rooming house shall be construed to mean any dwelling occupied in any such manner that certain rooms in excess of those used by members of the immediate family and occupied as a home or family unit, are leased or rented to persons outside of the family, without any attempt to provide therein cooking or kitchen accommodations, providing that accommodations are not provided for more than ten (10) persons.

**13. Building** – Any structure, either temporary or permanent, having a roof, and used or built for the shelter or enclosure of any person, animal, or chattel or property of any kind, when any portion thereof is completely separated from every other part thereof by division walls from the ground up and without openings, each portion of such building shall be deemed as a separate building.

**14. Buildable Area** – That part of the lot remaining after required yards have been provided.

**15. Building Principal** – A building or structure in which is conducted the main or principal use of the lot on which said building or structure is situated.

**16. Building Height** – The vertical distance measured from the average ground level adjoining the building to the highest point of the roof surface if a flat roof, to the deck line of mansard roofs, and to the mean height level between eaves and ridge of gable, hip and gambrel roofs.

**17. Building Setback Line** – The front line of the building or the legally established line which determines the location of the building with respect to the street line.

**18. Carport** – A structure permanently attached to a dwelling having a roof supported by columns, but not otherwise enclosed.

**19. Clear-Cutting** – The removal of an entire stand of trees.

**20. Clinic** - A clinic for the purpose of this Chapter, is a public or proprietary institution providing diagnostic, therapeutic or preventive treatment of ambulatory patients by a group of doctors acting in concert and in the same building for the purposes aforesaid.

**21. Conditional Use** – A use which, because of unique characteristics, cannot be classified as a permitted use in any particular district. After due consideration, in each case, of the impact of such use upon neighboring land and of the public desirability for the particular use at the particular location a “Conditional Use Permit” may be granted.

**22. District Zoning** – Any section of the incorporated area of the City within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Chapter.

**23. Dwelling** – A building or portion thereof, designed exclusively for residential occupancy, including one family, two family and multiple family dwellings, but not including motels, hotels, boarding house and garage space.

**24. Dwelling, Multiple** – A building designed with three (3) or more units for occupancy by three (3) or more families living independently of each other but sharing hallways and main entrances and exits.

**25. Dwelling, Single Family** – A dwelling occupied by only one (1) family, and so designed and arranged as to provide cooking and kitchen accommodations and sanitary facilities for one (1) family only.

**26. Dwelling, Two Family** – A dwelling so designed and arranged to provide cooking and kitchen accommodations and sanitary facilities for occupancy by two (2) families.

**27. Easement** – A grant by a property owner for the use of a strip of land for the purpose of construction and maintaining utilities, including but not limited to sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage ways and gas lines.

**28. Equal Degree of Encroachment** – A method of determining the location of encroachment lines so that the hydraulic capacity of flood plain lands on each side of a stream are reduced by an equal amount when calculating the increases in flood stages due to flood plain encroachments.

**29. Essential Services** – The erection, construction, alteration or maintenance by public utilities or municipal departments or commissions, of underground or overhead gas, electrical, communications, steam or water transmissions or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, and other similar equipment and accessories in connection therewith (but not including buildings) reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions for the public health, safety or general welfare.

**30. Family** – A family is any number of persons living together in a room or rooms comprising a single housekeeping unit and related by blood, marriage, adoption or any unrelated person who resides therein as though a member of the family including the domestic employees thereof. Any group of persons not so related but inhabiting a single house shall, for the purpose of this Chapter, be considered to constitute one family for each five (5) persons, exclusive of domestic employees, contained in each such group.

**31. Farming** – The cultivating or pasturing of a parcel of land or using it for the raising of livestock or fowl for commercial purposes.

**32. Farmstead** – Property on which structures and a farm dwelling are located for management, storage, and general farm operation.

**33. Flood** – A temporary rise in stream flow or stage that results in inundation of the areas adjacent to the channel.

**34. Flood Fringe** – That portion of the flood plain outside of the floodway.

**35. Flood Plain** – Those areas adjoining a water course which have been or hereafter may be covered by the regional flood.

**36. Flood Proofing** – A combination of structural provisions, changes or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

**37. Intermodal Container** – A large standardized water resistant shipping or cargo container designed and built for intermodal freight transportation, parking or storage, and commonly referred to as containers, cargo or freight containers, ISO containers, shipping, sea or ocean containers, container van, connex

box, sea can or c-can, and often capable of being mounted on a rail car, truck trailer or ship. This term specifically excludes from this definition trailers, travel trailers, tractor trailers, or similar vehicles which are not allowed to be used as storage. Also separately addressed are sheds and other traditional accessory structures.

**38. Floodway** – The channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regional flood.

**39. Floor Area, Ground** – The area within the exterior walls of the main building or structure as measured from the outside walls at the ground level, not including garages or enclosed or unenclosed porches and not including attached utility or accessory rooms having three (3) or more exterior sides.

**40. Garage, Community** - Any space or structure or series of structures for the storage of motor vehicles for the use of two (2) or more occupants of property in the vicinity and having no public shop or service therein.

**41. Garage, Private** – An accessory building designed or used for the storage of not more than three (3) licensed automobiles, trucks, or buses, owned and used by the occupants of the building to which it is accessory.

**42. Gasoline Service Station** – A building or structure designed or used for the retail sale or supply of fuels, lubricants, air, water and other operating commodities for motor vehicles, and including the customary space and facilities for the installation of such commodities on or in such vehicles, but not including special facilities for the painting, major repair or similar servicing thereof.

**43. Home Occupation** – Any gainful occupation engaged in by the occupants of a dwelling at or from the dwelling when carried on within the dwelling unit and not in an accessory building. Permissible home occupations shall not include the conducting of a retail business other than by mail, manufacturing business, or a repair shop of any kind on the premises, and no stock in trade shall be kept or sold. No other persons residing on the premises shall be employed, and no mechanical equipment shall be employed that is not customarily found in the home. Such home occupation shall not require internal or external alterations or involve construction features not customarily found in dwellings. The entrance to the space devoted to such occupations shall be within the dwelling. There shall be no exterior display, nor exterior signs except as allowed in the sign regulations for the zoning districts in which such home occupation is located; there shall be no exterior storage of equipment or materials used in the home occupation. Permissible home occupations include, but are not limited to, the following: art studio; dressmaking; special offices, of a clergyman, lawyer, architect, engineer, accountant, or real estate agent or appraiser, when located in a dwelling unit occupied by the same; and teaching, with musical, dancing, and other instruction limited to one (1) pupil at a time, except daycare centers as regulated in the districts.

**44. Livestock Operation** – Any operation for the feeding and care of animals or poultry for food, pelts or as pets.

**45. Lot** – A lot is a piece or parcel of land occupied or to be occupied by a building, structure or use, or by other activity permitted thereon and including the open spaces required under this Chapter, and having its principal frontage on a public street.

**46. Lot Area** – The area of a horizontal plane within the lot lines.

**47. Lot Corner** – A lot situated at the junction of two (2) or more intersecting streets, or a lot at the point of deflection in alignment of a single street, the interior angle of which is one hundred thirty-five (135) degrees or less.

**48. Lot, Coverage** – The part of percentage of the lot occupied by buildings or structures, including accessory buildings or structures.

**49. Lot Depth** – The shortest horizontal distance between the front lot line and the rear lot line measured from a ninety (90) degree angle from the street right-of-way within the lot boundaries.

**50. Lot Frontage** – The front of a lot shall be for purposes of complying with this Chapter, that boundary abutting a public right-of-way having the least width.

**51. Lot Line** – A property boundary line of any lot held in single or separate ownership: except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way.

**52. Lot Width** – The shortest horizontal distance between the side lot lines measured at right angles to the lot depth.

**53. Lot of Record** – A lot which is part of a subdivision, the map of which has been recorded in the office of the Stearns County Recorder or a lot described by metes and bounds, the deed to which has been recorded in the office of the Stearns County Recorder prior to the effective date of this Chapter.

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

**55. Modular Home** – A non-mobile housing unit that is basically fabricated at a central factory and transported to a building site where final installations are made, permanently affixing the module to the site, and bears a seal from the State of Minnesota stating that the unit is approved by the State Building Inspector certifying that the unit is a manufactured building and complies with the State Building Code. A modular home shall be congruous to a single-family dwelling.

**56. Motel or Motor Court** – A business comprising a series of attached, semi-attached or detached rental units with or without eating facilities for the overnight accommodations of transient guests.

**57. Non-Conforming Building, Structure or Use** – A building, structure or use which does not conform with the district regulations in which it is situated.

**58. Ordinary High Water mark** – A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

**59. Parking Space** – An area sufficient in size to store one (1) standard automobile, which has adequate access to a public street or alley.

**60. Permitted Use** – A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements and performance standards (if any) of such district.

**61. Public Waters** – Any waters of the State which serve a beneficial public purpose, as defined in Minnesota Statutes 1976, Section 105.37, Subdivision 6. However, no lake, pond or flowage of less than 10 acres in size and no river or stream having a total drainage area less than two (2) square miles need be regulated for the purposes of these regulations. A body of water created by a private user where there was no previous shoreland, as defined herein, for a designated private use authorized by the Commission of Natural Resources shall be exempt from the provisions of these regulations.

**62. Reach** – A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two (2) consecutive bridge crossings would most typically constitute a reach.

**63. Regional Flood** - A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of 100 years recurrence interval.

**64. Regulatory Flood Protection Elevation** – A point not less than one (1) foot above the water surface profile associated with the regional flood plus any increases in flood heights attributable to encroachments on the flood plain. It is the elevation to which uses regulated by this Chapter are required to be elevated or flood proofed.

**65. Set Back** – The minimum horizontal distance between a building and street or lot line.

**66. Shoreland** - The land located within the following distances from public waters (a) 1,000 feet from the normal high water mark of a lake, pond, or flowage; (b) 300 feet from a river or stream, or the landward extent of a flood plain designated by this Chapter on such a river or stream, whichever is greater. The practical limits of shorelands may be less than the statutory limits wherever the waters involved are bounded by natural or man-made topographic divides which extend landward from the waters for lesser distances.

**67. Specified Anatomical Areas** – As used herein, specified anatomical areas means and includes any of the following: (1) less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**68. Specified Sexual Activities** – As herein, specified sexual activities means and includes any of the following: (1) the fondling of other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; (2) sex acts, actual or simulated, including intercourse, oral copulation, or sodomy; (3) masturbation, actual or simulated; or (4) excretory functions as part of or in connection with any of the activities set forth in subdivisions 1 through 3 of this subsection.

**69. Story** – That portion of a building included between the surface of any floor and the surface of the floor next above it, or the space between such floor and the ceiling next above it. A basement shall be considered a story if its ceiling is over five (5) feet above the average established grade.

**70. Structure** – Anything which is built, constructed or erected; an edifice or building of any kind; or any piece of work artificially built up and/or composed of parts joined together in some definite manner.

**71. Temporary Structure** - Any structure which is moved or constructed to temporarily meet the needs of a land owner in a commercial or industrial district who has lost the use of a permanent structure which has been destroyed or seriously damaged by fire, storm or other natural disaster.

**72. Townhouse** – Single family attached units in structures housing three (3) or more dwelling units contiguous to each other, only by the share of one (1) common wall, and each dwelling unit shall have separate and individual front and rear entrances.

**73. Use** – The purpose for which land or buildings thereon are designed, arranged, or intended to be occupied or used, or for which they are occupied or maintained.

**74. Variance** – The waiving of specific literal provisions of this Chapter in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration. Variances are to be granted only when it is demonstrated that a waiving of the provision will be in keeping with the spirit and intent of this Chapter. Furthermore, hardship must be demonstrated on a non-

economic basis.

**75. Yard** – An open space on the lot which is unoccupied and unobstructed from its lowest level to the sky. A yard extends along a lot line at right angles to such lot line to a depth of width specified in the yard regulations for the zoning district in which such lot is located.

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

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

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

**Section 2.** City Code, Chapter 11, Section 11.10, is amended to include a new Subdivision 9 to read as follows:

**Subd. 9. Intermodal Containers.** A) No intermodal containers shall be placed on a parcel of real estate zoned A-1, R, R-1, R-1A, R-2, RM, or any other future residential district, except for temporary construction uses as allowed herein.

B) Intermodal containers are allowed in commercial and industrial districts, but only after obtaining a placement permit from the City Building Official specifying the location of placement. The use of intermodal containers shall be for storage only. They shall not be used for human habitation or storage of hazardous materials, refuse or debris.

C) Intermodal containers may be used on a temporary basis for construction work where a building permit has been issued for a parcel of property only after issuance of a placement permit by the City Zoning Administrator specifying the location of placement. Any temporary intermodal container shall be removed within 30 days after the expiration, revocation or finalization of the building permit for the property.

D) Placement permits for intermodal containers shall ensure that:

i) Such containers do not occupy any required off-street parking spaces, loading areas or fire lanes within any zoning district.

ii) Such containers do not block, obstruct or reduce in any manner any required exits, windows, vent shafts, parking spaces, and/or access driveways.

iii) Such containers conform to the setback requirements of the zoning district where they will be placed.

iv) Such containers shall not be permitted in a location nearer to the public street than the main building, except for projects where the intermodal container is being used for temporary construction where there is an active building permit.

v) Such containers shall not be stacked on top of each other or on top of any other structure unless specifically permitted within an industrial zone. In any event, no more than three (3) containers shall be allowed to be stacked.

vi) Such containers shall be structurally sound, stable and in good repair. Any intermodal container that becomes unsound, unstable or otherwise dangerous, shall be immediately repaired or removed from the property.

**Section 3.** City Code, Chapter 1, entitled “General Provisions and Definitions Applicable to the Entire City Code Including Penalty for Violation” and City Code, Chapter 11, Section 11.99 entitled “Violation a Misdemeanor” are hereby adopted in their entirety by reference as though repeated verbatim herein.

**Section 4. Summary Approved.** The City Council hereby determines that the text of the summary of this Ordinance marked “official summary of Ordinance No. 162, 2<sup>nd</sup> Series”, and a copy of which is attached to this Ordinance, clearly informs the public of the intent and effect of this Ordinance. The Council further determines that the publication of the title and this summary will clearly inform the public of the intent and effect of this Ordinance. The City Administrative shall file a copy of this Ordinance and the official summary in the City Administrator’s office, which shall be available for inspection by any person during regular office hours. A copy of this Ordinance shall be available in the community library.

Adopted by the City Council of the City of Paynesville this 8<sup>th</sup> day of August, 2016.

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Jeff Thompson, Mayor

ATTEST:

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Renee Eckerly, City Administrator

A summary of this ordinance was published in the Paynesville Press on August 17, 2016.