Agenda
City of Minnetonka
Planning Commission Meeting
Thursday, October 8, 2026
6:00 PM
Council Chambers
14600 Minnetonka Blvd.

Map of Agenda Items

1. Call to Order
2. Roll Call
3. Approval of Agenda
   - A. Oct. 8, 2026 addenda
4. Approval of Minutes
   - A. Sept. 24, 2026 meeting minutes
5. Report from Staff
6. Report from Planning Commission Members
7. Public Hearings: Consent Agenda Items
8. Public Hearings: Non-Consent Agenda Items
   - A. Ordinance repealing and replacing Section 300, the Minnetonka Zoning Ordinance of 1986.
9. Other Business
10. Adjournment

If you have questions about any of the agenda items, please contact:
Susan Thomas, AICP, City Planner, (952) 939-8292
Julie Wischnack, FAICP, Community Development Director, (952) 939-8282

Planning Commission
Agenda Item 3.A
Meeting of October 8, 2026

Title:	Oct. 8, 2026 addenda
Report from:	Susan Thomas, AICP, City Planner

Form of Action:	Other
Votes needed:	N/A

Summary Statement
Item 8A: Ordinance repealing and replacing Section 300, the Minnetonka Zoning Ordinance of 1986.

- The city council introduced an update to the zoning ordinance on October 5, 2026, and requested information to provide additional clarity and insight for commission discussion. The attached memo provides some of that information; additional details will be included in the November 5, 2026, planning commission packet.
- Comments were received after the report was published.

Recommended Action
Motion to approve the agenda as amended.

Planning Commission
Agenda Item 4.A
Meeting of October 8, 2026

Title:	Sept. 24, 2026 meeting minutes
Report from:	Lois Mason, Secretary
Submitted Through:	Susan Thomas, AICP, City Planner

Form of Action:	Minutes
Votes needed:	4 votes

Recommended Action
Approve the minutes.

Background
See attached draft minutes.

ATTACHMENTS:
Minutes

Unapproved
Minutes
Minnetonka Planning Commission
Regular Meeting
Sept. 24, 2026

1. Call to Order

Chair Minion called the meeting to order at 6 p.m.

2. Roll Call

Commissioners Hindi Abdi, Derrick Banks, Scott Brink, Sandra Johnson, Gretchen Sher and Dana Minion were present. Jonathon Shoemaker was absent.

Community Development Director Julie Wischnack, City Planner Susan Thomas and Planner Riley Rooney.

3. Approval of Agenda

Banks moved, Johnson seconded, a motion to approve the agenda as submitted with the removal of item 8A, amendment to the existing sign plan for Hampton Inn and Suites at 10600 Wayzata Blvd., at the applicant's request and the addition of a late comment provided in the change memo dated Sept. 24, 2026. Abdi, Banks, Brink, Johnson, Sher and Minion voted "yes." Shoemaker was absent. Motion carried.

4. Approval of Minutes: Sept. 3, 2026

Johnson moved, Abdi seconded, a motion to approve the Sept. 3, 2026 meeting minutes as submitted. Abdi, Banks, Brink, Johnson, Sher and Minion voted "yes." Shoemaker was absent. Motion carried.

5. Report from Staff

Thomas briefed the commission on land use applications considered by the city council at its meeting of Sept. 14, 2026:

- Adopted a resolution approving the conditional use permit for We Rock the Spectrum at 10925 Bren Road East.

The proposed zoning ordinance is available for review on **minnetonkamatters.com**.

Planning staff will be available to receive feedback on the proposed zoning ordinance at:

- Dunn Brothers Coffee on Sept. 30, 2026 from 9 a.m. to 11 a.m.
- The Marsh on Oct. 1, 2026 from 10 a.m. to noon.
- The city-wide open house on Oct. 6, 2026 from 5 p.m. to 7:30 p.m.

The proposed zoning ordinance is scheduled to be introduced at the city council meeting on Oct. 5, 2026 and referred to the planning commission to hold a public hearing on Oct. 8, 2026.

6. Report from Planning Commissioners: None

7. Public Hearings: Consent Agenda

No item was removed from the consent agenda for discussion or separate action.

Sher moved, Banks seconded, a motion to approve the items listed on the consent agenda as recommended in the respective staff reports as follows:

A. Expansion permit for an addition at 11801 Bradford Road.

Adopt the resolution approving the expansion permit for an addition at 11801 Bradford Road.

B. Expansion permit for a second-story living space addition at 12924 Inverness Road.

Adopt the resolution approving the expansion permit for a second-story addition at 12924 Inverness Road.

C. Front yard setback variance for a front porch at 3425 Elmwood Place.

Adopt the resolution approving the front yard setback variance for the construction of an unfinished front porch at 3425 Elmwood Place.

Abdi, Banks, Brink, Johnson, Sher and Minion voted “yes.” Shoemaker was absent. Motion carried and the items on the consent agenda were approved as submitted.

8. Public Hearings

A. Amendment to the existing sign plan for Hampton Inn and Suites at 10600 Wayzata Blvd.

This item was removed from the agenda at the applicant’s request.

B. Tree removal and front yard setback variances for a garage and living space addition at 16820 Edgewood Ave.

Chair Minion introduced the proposal and called for the staff report.

Rooney reported. She recommended approval of the application based on the findings and subject to the conditions listed in the staff report.

Banks confirmed with Rooney that the applicant would be required to mitigate the tree removal by planting at least 94 caliber inches on site.

Johnson asked how the required tree mitigation would be enforced. Rooney explained that the applicant would be required to provide an escrow to cover the cost of planting the required trees if it would not be completed within a certain amount of time. Natural resources staff visit the site routinely to ensure compliance. Thomas added that the final certificate of occupancy could be withheld until tree mitigation would be completed.

In response to Sher's question, Thomas explained that there are burial grounds known to be in the area, but not on the applicant property. If evidence is discovered to suggest there may be a burial ground, then construction would be required to stop.

Farhad Hakim, 16820 Edgewood Ave., applicant, stated that:

- He purchased the house five years ago sight unseen. The previous owner left a lot of garbage including nine tons of garbage that he removed from the backyard.
- The previous owner left over 100 wheels attached to trees with spikes. The trees were damaged and unhealthy.
- The house design was done to provide cohesiveness.
- The proposal would be setback farther than most houses in the neighborhood.
- When he learned about the tree protection ordinance, he contacted the city. He made an appointment with city staff to show them the issues on site.
- It takes three days to cut the grass due to cinder blocks, rocks, pieces of fencing and other debris being in the way.
- He, his wife and three sons are currently living in an apartment until the construction is complete.
- He wants construction to be completed as soon as possible.
- The proposal would have the same exterior character as the existing house. The exterior and windows of the existing house would be redone to match the proposed addition.
- Debris needs to be removed first and then trees would be planted on the perimeter every few feet.
- He is working with natural resources staff to create a landscape plan. He will follow natural resources staff's instructions.
- If he could have saved some of the trees, then he would have. In the last year, his neighbor's tree fell on his vehicle; his tree fell onto the neighbor's fence; and a limb from a tree in his front yard fell into the street. The trees were not in good shape.

The public hearing was opened. No testimony was submitted. The hearing was closed.

Sher moved, Johnson seconded, a motion to take separate action on the tree removal variance and the front yard setback variance for the redevelopment at 16820 Edgewood Ave. Sher, Johnson and Minion voted "yes." Abdi, Banks and Brink voted no. Shoemaker was absent. Motion failed.

Sher was concerned with the proposed front yard setback due to the height of the house. The houses in the neighborhood that have a smaller front yard setback are smaller houses than the proposal that would be 30-feet tall. The proximity of the house to the road would make it appear larger.

Banks confirmed with Rooney that the proposal meets Mcmansion policy requirements.

Johnson felt the fine for cutting down trees could be higher than $4,000.

Abdi confirmed with staff that there was one comment in opposition and multiple others in support of the proposal.

Sher stated that:

- The proximity of the house to the road based on the volume of the structure would be imposing and not fit the neighborhood. The front yard grade raises the house higher.

Johnson stated that:

- She read the comments in support of the proposal and the one with a concern.
- The state of the current site is abysmal. The siding is unpainted; there is plywood on windows; it is in an advanced state of disrepair; there are safety issues; and there are property maintenance issues.
- The letters from neighbors welcome having the eyesore eradicated and brought up to the standards of the neighborhood.
- As much as she does not like the trees being removed, moving forward to approve the resolution is the best way to improve the neighborhood.

Brink stated that:

- He drove by the property. Something definitely needs to be done. The sooner the site gets improved the better.
- The neighbors seem to be overwhelmingly in support of the proposal except for one.
- The proposal would be a big improvement for this property and the neighborhood.
- The removal of the trees was disappointing, but between the penalty that was imposed and the mitigation plan he is satisfied.

- He understood the height and setback concern, but the Mcmansion policy addresses that.
- He supports staff's recommendation.

Chair Minion stated that:

- He appreciates Sher's observation.
- He will vote to approve the proposal.
- He is glad a plan is in place to address the tree removal.
- He encouraged the applicant to use natural resources staff who are a great resource.

Johnson moved, Brink seconded, a motion to recommend that the city council adopt the resolution approving the tree removal and front yard setback variances for the redevelopment at 16820 Edgewood Avenue. Abdi, Banks, Brink, Johnson and Minion voted "yes." Sher voted "no." Shoemaker was absent. Motion carried.

Chair Minion stated that the city council is scheduled to review this item at its meeting on Oct. 5, 2026.

9. Adjournment

Sher moved, Abdi seconded, a motion to adjourn the meeting at 7 p.m. All voted "yes." Motion carried unanimously.

By: _____
Lois T. Mason
Planning Secretary

Planning Commission
Agenda Item 8.A
Meeting of October 8, 2026

Title:	Ordinance repealing and replacing Section 300, the Minnetonka Zoning Ordinance of 1986.
Report from:	Susan Thomas, AICP, City Planner
Submitted Through:	Susan Thomas, AICP, City Planner

Form of Action:	Ordinance
Votes needed:	4 votes

Summary Statement
In July 2024, the city council directed staff to begin a full zoning ordinance update.The city's zoning consultant, ZoneCo., staff and council-appointed community staff workgroups have collaborated to complete that update.

Discussion and public hearing only; recommendation to be made on Nov. 5, 2026.

Recommended Action
Open a public hearing and continue it until Nov. 5, 2026 (4 votes).

Background
See attached staff report and attachments.

ATTACHMENTS:
Staff Report
Draft Zoning Map
Zoning Ordinance - Repeal and Replace
Public Comments
Addendum

MINNETONKA PLANNING COMMISSION
Oct. 8, 2026

Brief Description	An ordinance repealing and replacing Section 300, Minnetonka Zoning Ordinance of 1986
Recommendation	Discuss the ordinance and open the public hearing

Background

In July 2024, the city council directed staff to begin a full zoning ordinance update. The city's zoning consultant, ZoneCo., staff and council-appointed community staff workgroups have collaborated to complete that update. Since its outset, the goals of the zoning ordinance update project have been to:

- Shift to a modern approach that proactively defines what is allowed on a property to better advance the community's goals.
- Support a diverse range of housing options by removing barriers.
- Maintain strong environmental protection and promote sustainability initiatives.
- Simplify the development process for everyone – including property owners, developers, residents, and city staff – by clearly organizing and noting regulations and streamlining application reviews.
- Align the zoning ordinance with the comprehensive plan, translating long-term policy goals into clear, enforceable development standards.

Proposed Ordinance

Zoning text amendments are usually presented in a redlined format, highlighting changes with strikeouts and underlining. However, because this ordinance update project involves extensive revisions – including significant changes to the structure and layout – a redlined draft is not feasible. Instead, the following outlines each of the 11 parts and two appendices of the proposed ordinance, notes whether and how each part differs substantively from the existing ordinance and explains how each part supports the update's goals.

- **Part 1: Introduction.** This part establishes the ordinance's effective date and the official zoning map, following standard zoning ordinance practices. It also clarifies that in cases of conflicting regulations, the more restrictive provision – whether from the ordinance or state law – will prevail.
  - ✓ Substantive Differences: N/A
  - ✓ Support of Goals: N/A
- **Part 2: How to Use This Code.** This part provides clear guidance for anyone referring to the ordinance. It begins by defining key terms, explains how areas, distances, and

heights are measured, and clarifies that city staff may interpret provisions when there is uncertainty. The section then details five essential steps for using the code: (1) locate the property on the official zoning map to identify the zoning district; (2) review the dimensional and placement standards for that district; (3) consult the permitted use table to determine allowable uses and any specific standards; (4) review requirements for natural resource protection, parking, landscaping, and related standards; and (5) identify necessary applications.

- ✓ Substantive Differences: This part is entirely new. In planning staff's view, navigating the existing ordinance requires at least an intermediate understanding of planning and zoning practices. This section is specifically written for the non-practitioner.

- ✓ Support of Goals: Simplify the development process for everyone.

- **Part 3: Zoning Districts.** This part establishes 17 zoning districts and provides *dimensional* standards – lot size, width, depth, setbacks from property lines, and impervious surface restrictions within each.

  - ✓ Substantive Differences, Residential:

    Structure and Layout. The existing ordinance has separate chapters for each district. In text, the dimensional and land use standards for each district are outlined in separate chapters, making it difficult to quickly find requirements and recognize differences or similarities across districts. The proposed code places all districts and their dimensional standards in one section, allowing easy cross-referencing. It will also summarize standards through diagrams and tables, consolidating dimensional requirements on one or two pages for each district.

    - *Support of Goals: Simplify the development process for everyone.*

    Consolidation of Residential Districts. The current ordinance includes three low density residential districts – R-1, R-1A, and R-2 – distinguished by different minimum lot area requirements. Each district permits development within the comprehensive guide plan's definition of low density, allowing up to four units per acre. However, R-1A and R-2 are often overlooked or discounted in practice or not approved, with many presuming that only R-1 qualifies as "true low density." The proposed ordinance would consolidate these districts into a single Low Density Residential (LDR) district to reduce confusion and better align with the comprehensive plan.

    - *Support of Goals: Align the zoning ordinance with the comprehensive plan.*

    Low Density Residential Dimensions. The LDR's dimensional standards are one of the two biggest substantive differences between the existing and proposed ordinance. (See Part 4 for second.) The minimum lot area and setbacks for properties currently zoned R-1 – under the proposed ordinance, zoned LDR – would generally be reduced.

Minimum	Existing Ordinance	Proposed Ordinance
Minimum Lot Area*	22,000 sq.ft.	18,000 sq.ft.**
Minimum Buildable Area	3,500 sq.ft.	N/A
Lot Width at Setback	110 ft	90 ft
Lot Width at Right-of-Way	80 ft (65 on cul-de-sac bulb)	90 ft
Lot Depth	125 ft	125 ft
Front Yard Setback	35 ft local street 50 ft collector or arterial	25 ft local street 35 ft collector or arterial
Side Yard Setback	30 ft combined and no side less than 10 ft	10 ft
Rear Yard Setback	20% of average lot depth or 40 ft, whichever is less	25 ft
* For data about existing lot size and the impact of the proposed ordinance changes, see the Data and Examples section of this report ** Two-unit dwellings would need 9,000 square feet per side if horizontally subdivided.		

- *Support of Goals: Align the zoning ordinance with the comprehensive plan and simplify the development process for everyone by standardizing requirements.*

Low Density Residential Impervious Surface. Under the current ordinance, impervious surfaces are specifically limited in the shoreland district: no more than 30% of the area within 150 feet of the ordinary high-water mark of a lake or creek may be hard surface. Outside shoreland areas, the ordinance regulates residential impervious surfaces primarily through required setbacks from property lines and natural features, as well as environmental protections such as tree preservation and steep-slope ordinances. The draft ordinance introduces a 20 percent impervious surface limit for individual lots in the LDR, allowing incremental increases up to 50 percent if stormwater treatment is proportionally enhanced. These thresholds and formulas are based on a study the city's water resources consultant conducted during the zoning ordinance update project.

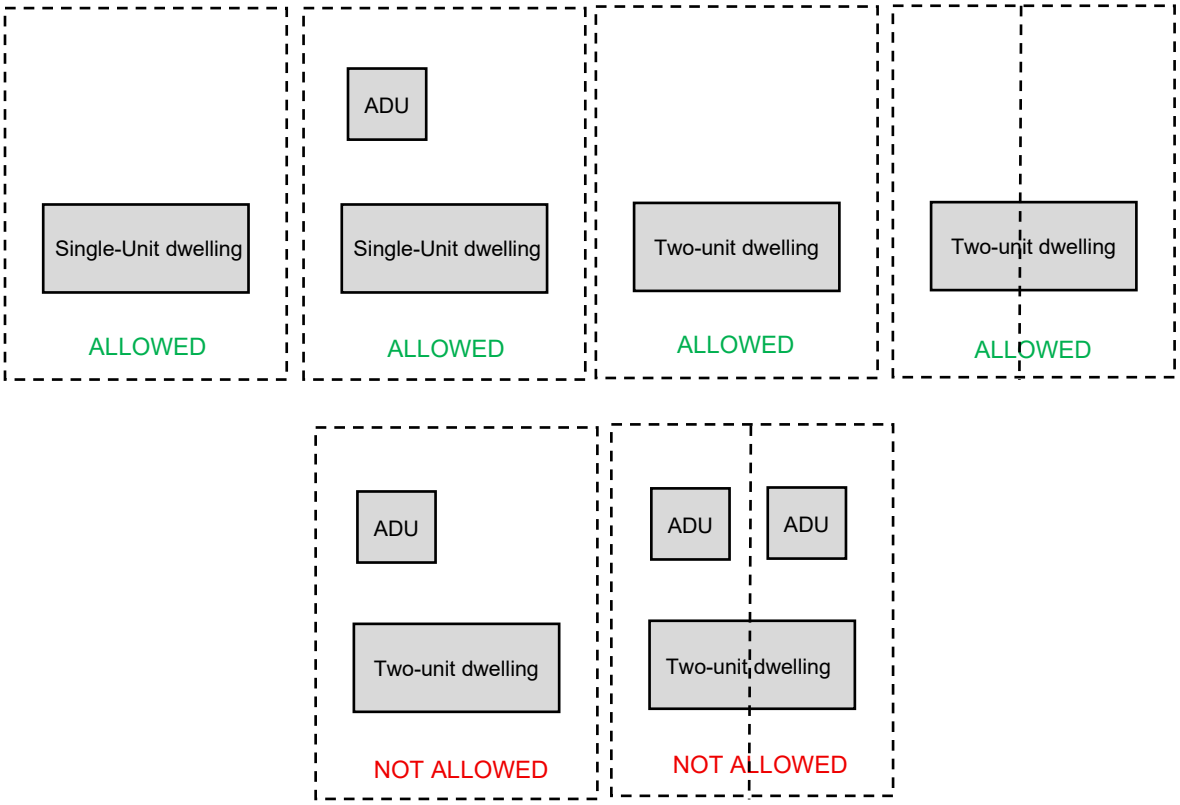
- *Support of Goals: Maintain strong environmental protection and promote sustainability initiatives.*

✓ Substantive Differences, Village Centers: The existing ordinance includes three commercial zoning districts—B-1, B-2, and B-3—and two mixed-use districts, PUD and PID. Lot dimension requirements and standards are uniform within each district, regardless of where they are located in the community. The proposed ordinance eliminates all commercial districts except PUD and introduces 13 distinct village centers. Each village center corresponds to centers already established in the comprehensive plan and reflects the unique character – both existing and envisioned – for these hubs of business and community activities. For more information about the village centers, see the attached Village Center exhibit.

- *Support of Goals: Align the zoning ordinance with the comprehensive plan.*

- **Part 4: Uses and Standards.** This part outlines permitted, conditional, accessory, and temporary uses within each zoning district.

  ✓ Substantive Differences, Residential: Within the LDR district, single-unit and two-unit dwellings would be permitted. Accessory dwelling units would be allowed as accessory uses on properties containing single-unit dwellings.



- *Support of Goals: Support a diverse range of housing options by removing barriers.*

  ✓ Substantive Differences, Non-Residential: In the village centers, certain uses that once required a conditional use permit – such as medical clinics, veterinary offices, restaurants, daycares, and religious assemblies – could now be approved administratively by staff. Staff would remain responsible for ensuring compliance with all code standards, but qualifying uses could be approved directly, bypassing planning commission and city council review. Drive-thru uses would be conditionally permitted uses in Village Centers A (101 & 7), B (Williston & 7) and G (Cedar Lake), consistent with council discussion in July 2026.

- *Support of Goals: Simplify the development process for everyone.*

- **Part 5: General Development Standards.** This part outlines standards that would apply to properties across multiple zoning districts. Many of these standards update or reinforce requirements from the existing ordinance, such as limits on exterior lighting and minimum parking provisions.

  - ✓ Substantive Difference, Sustainable and Resilient Development: New construction or redevelopment of multi-unit residential or non-residential buildings must achieve a specified number of "sustainability" points by incorporating features listed in an attached appendix.

    - *Support of Goals: Maintain strong environmental protection and promote sustainability initiatives.*

  - ✓ Substantive Difference, Trail Oriented Standards: New construction or redevelopment of multi-unit residential or non-residential buildings adjacent to an existing or planned public trail must meet specific design standards to ensure strong physical and visual connections to the trail. Additionally, such developments must earn a set number of "amenity" points by incorporating features outlined in an attached appendix. These standards clarify expectations for both developers and nearby residents or businesses.

    - *Support of Goals: Align the zoning ordinance with the comprehensive plan and simplify the development process for everyone by setting clear expectations.*

  - ✓ Substantive Difference, Roundabout Oriented Standards: New construction or redevelopment of multi-unit residential or non-residential buildings adjacent to a roundabout must meet specific design standards to ensure strong physical and visual connections to the roundabout. These standards clarify expectations for both developers and those living or working near the site.

    - *Support of Goals: Align the zoning ordinance with the comprehensive plan and simplify the development process for everyone by setting clear expectations.*

  - ✓ Substantive Difference, Buffering and Screening Standards: The existing ordinance requires buffering or screening between different land use types or intensities. The proposed ordinance clarifies and introduces objective standards for minimum buffering, such as specifying the number and type of plantings required per 100 feet. These standards set clear expectations for developers and adjacent property users.

    - *Support of Goals: Align the zoning ordinance with the comprehensive plan and simplify the development process for everyone by setting clear expectations.*

- **Part 6: Environmental Protections.** This part consolidates all environmental protection requirements into a single chapter of the code, covering standards for shoreland, floodplains, wetlands, tree preservation, and steep slopes.

  - ✓ Substantive Difference, Density "Exemption": Under the existing ordinance, if tree removal associated with a residential development exceeds permitted thresholds, the project is limited to a maximum density of one dwelling unit per acre. The proposed ordinance eliminates this density exemption entirely.

- *Support of Goals: Maintain strong environmental protection and promote sustainability initiatives, and simplify the development process for everyone by consolidating all standards in one section.*

- **Part 7: Signs.** This section reflects the existing ordinance.

  ✓ Substantive Differences: N/A

  ✓ *Support of Goals: N/A*

- **Part 8: Non-Conformities.** This section consolidates all standards associated with non-conformities into one chapter.

  ✓ Substantive Differences: N/A

  ✓ *Support of Goals: Simplify the development process for everyone by consolidating all standards in one section.*

- **Part 9: Administration and Procedures.** This section establishes the role of city planning staff, the planning commission, and consolidates all application requirements.

  ✓ Substantive Differences: N/A

  ✓ *Support of Goals: Simplify the development process for everyone by consolidating all standards in one section.*

- **Part 10: Enforcement.** This section reflects the existing ordinance.

  ✓ Substantive Differences: N/A

  ✓ *Support of Goals: N/A.*

- **Part 11: Glossary.** This section consolidates all definitions in one chapter.

  ✓ Substantive Differences: N/A

  ✓ *Support of Goals: N/A.*

- **Appendix A: Sustainable and Resilient Development Plan Feature Menu.** Referenced in Part 5, General Development Standards, this section outlines the five categories in which "sustainability points" must be earned. It details the eligible features, the point value assigned to each, and the specific standards required for compliance.

  ✓ Substantive Differences: Entirely new section.

  ✓ *Support of Goals: Maintain strong environmental protection and promote sustainability initiatives and simplify the development process for everyone by setting clear expectations.*

- **Appendix B: Trail Oriented Amenity Menu.** Referenced in Part 5, General Development Standards, this section details the eligible features, the point value assigned to each, and the specific standards required for compliance.

  ✓ Substantive Differences: Entirely new section.

  ✓ *Support of Goals: Align the zoning ordinance with the comprehensive plan and simplify the development process for everyone by setting clear expectations.*

Recommendation

Staff recommends the planning commission:

1. Open the public hearing, accept public comment, and continue the hearing to Nov. 5, 2026.

2. Discuss the proposed ordinance and provide direction to staff on any additional information or examples to be included in the Nov. 5, 2026, report.

Originator: Susan Thomas, AICP, City Planner

Supporting Information

Recent Subdivisions

Since January 2020, the city has approved 27 residential subdivisions, resulting in the creation of 66 new lots. Of these, 10 were part of the Mills Twinhomes project and 12 were “villa” lots in the new Ridgewood Ponds neighborhood.

Recent Permits

Since January 2020, the city has issued 240 building permits for new dwellings (averaging 36 new homes per year). This number exceeds the 66 lots created during that period, indicating that many new homes were built on existing vacant lots or were the result of "teardown/rebuild" projects.

	2020	2021	2022	2023	2024	2025	2026, to date	TOTAL
Single-unit Dwelling	43	36	42	26	33	36	17	233
Two-unit Dwelling	2	2	0	0	0	1	2	7
TOTAL	45	38	42	26	33	37	19	240

Possible Subdivision

Under the current ordinance, the minimum lot size for newly created lots in the R-1 zoning district is 22,000 square feet. Therefore, a property must be at least 44,000 square feet to qualify as “subdividable.” The proposed ordinance would reduce the minimum lot size for new lots in the LDR to 18,000 square feet, meaning a property must be at least 36,000 square feet to be subdivided. Other requirements – such as minimum lot width and depth, and the presence of natural resources like steep slopes, wetlands, or trees – also affect whether a lot can be subdivided.

Under the proposed ordinance, roughly 13,500 privately owned properties would be zoned LDR.

Lot Size	# of Lots	# of Total
Under 22,000 sq.ft.	5894	44%
22,000 to 35,999 sq.ft.	5787	43%
36,000 to 43,999 sq.ft.	772	6%
over 44,000 sq.ft.	1045	8%
TOTAL	13498	100%

Based on lot area alone – not accounting for width, depth, steep slopes, wetlands, or trees – 772 lots could become “subdividable” under the new ordinance, creating 772 new lots. This means the decrease in minimum lot size would affect roughly six percent of all privately-owned low density properties. (The likelihood of this occurring is low; see building permit section.)

Density

Staff acknowledges that adding new homes to an established neighborhood can alter its visual character. However, the information and examples below illustrate that the minimum lot size and dwelling types proposed in the LDR are unlikely to cause low density areas to become medium- or high density areas solely through lot division or new home construction. [1]

- **Calculations**

  The comprehensive guide plan establishes density classifications. Density refers to the total number of dwelling units per acre, regardless of unit type or ownership. It is calculated by dividing the total number of dwelling units in a defined area by that area's total acreage. The defined area may include the entire city, specific zoning districts, or all lots in a proposed development. The comprehensive guide plan defines low density as up to 4 units per acre.

  The zoning ordinance establishes minimum lot sizes for new lots in each zoning district. Under the current ordinance, several districts (R-1, R-1A, and R-2) are classified as low density because their minimum lot sizes allow development of up to 4 units per acre.

  - R-1: Minimum lot size is 22,000 sq. ft., permitting one dwelling per lot. This results in approximately **1.98** units per acre for new lots or neighborhoods.

  - R-1A: Minimum lot size is 15,000 sq. ft., allowing one dwelling per lot. For new lots or neighborhoods, this results in about **2.90** units per acre.

  - R-2: Minimum lot size is 12,500 sq. ft. per dwelling unit. For new lots or neighborhoods, this equates to roughly **3.48** units per acre.

  The minimum lot sizes in each existing district were designed to ensure that density for new lots or neighborhoods does not exceed 4 units per acre, maintaining consistency with the comprehensive plan.

- **Density of existing properties**

  Minnetonka currently has roughly 13,500 privately owned properties classified as low density in the comprehensive plan.[2] Collectively, these lots cover approximately 8,210 acres and range significantly in size, with single-unit dwellings located on properties from just over 3,000 square feet to nearly 20 acres. Assuming one dwelling per lot, Minnetonka's current low density lots have an overall density of 1.6 dwelling units per acre.[3] If each existing property contained two dwellings – such as a single-unit dwelling plus an ADU, or a two-unit dwelling – the overall density would rise to 3.3 units per acre.[4] The resulting zoning results in continuing to be below the 4 units per acre threshold defined as the upper limit for low density.

1 The city can reclassify areas of the community during the comprehensive plan update process or if an individual amendment is requested and approved outside of the update process.
[2] 13,498 lots rounded to 13,500. This does not include properties zoned PUD under the current ordinance, which would continue to be zoned PUD under the proposed ordinance.
[3] 13,500 lots (assumed units) / 8,210 acres = 1.6 units per acre
[4] 13,500*2 = 27,000 units. 27,000 units / 8,210 acres = 3.3 units per acre

- **Density examples**

  Calculating density for individual neighborhoods demonstrates that the specific "units per acre" low density varies through the community. Two examples follow.

  Example #1. Oak Knoll and Sherwood Forest



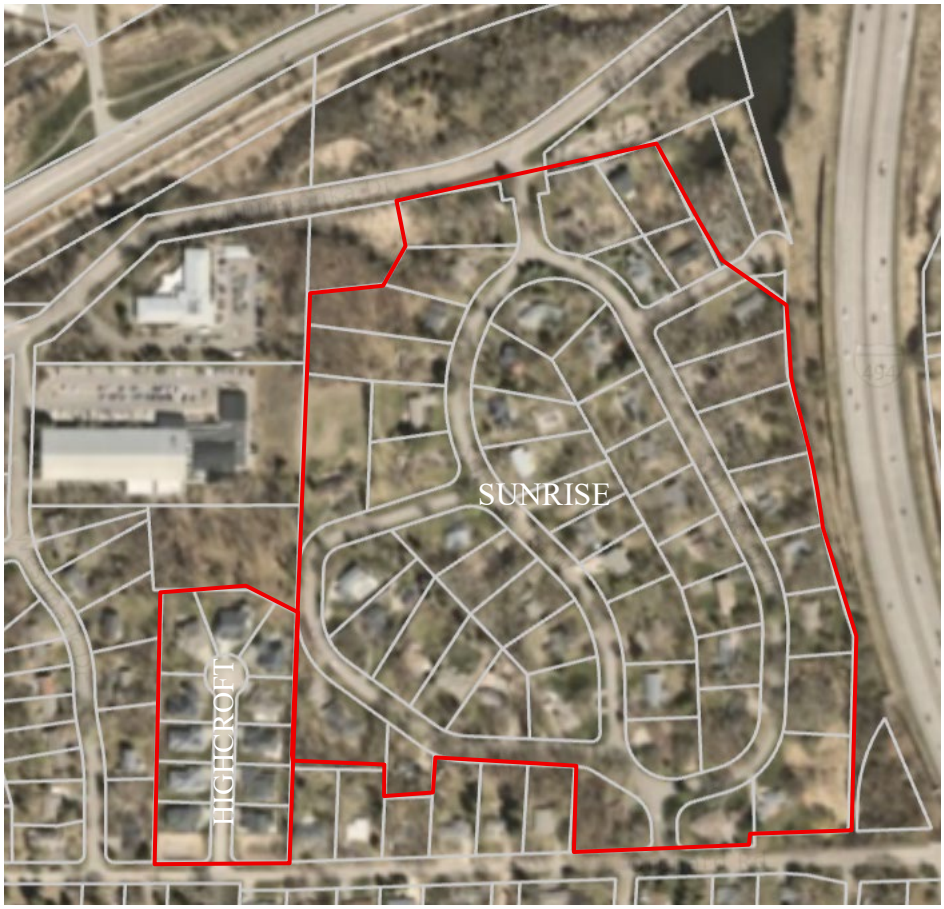
	Oak Knoll	Sherwood Forest
Guide Plan Designation	Low density residential	Low density residential
Current Zoning	R-1	R-1
Median Average Lot Size	13,795 sq.ft.	26,952 sq.ft.
Total Area*	15.72 acres	63.25 acres
Total Units	47 units	98 units
Density	3.0 units per acre	1.6 units per acre
* This area is based simply on the boundary chosen by staff. The area could increase or decrease by choosing a different boundary, which would, in turn, change the density calculation.		

Under the proposed ordinance, no lots in the Oak Knoll area could be subdivided. Therefore, increased density could only be achieved by adding dwelling units—either by

replacing existing single-unit dwellings with two-unit dwellings or by constructing accessory dwelling units (ADUs). To surpass the low density comprehensive guide plan designation for this area, 17 new units would need to be built, meaning more than 35 percent of the current 47 units would have to be replaced by two-unit dwellings or have an ADU added. change. However, adding these 17 units would have minimal impact on the city's overall density.

Based on lot size alone - and not accounting for wetlands, floodplains, steep slopes, or trees – six of the 98 lots in Sherwood Forest could be individually subdivided under the proposed ordinance, resulting in 9 new lots.[5] If a single-unit dwelling were built on each new lot, Sherwood Forest's density would increase from 1.6 to 1.7 units per acre. Density could rise further if existing single-unit dwellings were replaced with two-unit dwellings or if ADUs were constructed. If every lot (98 existing plus 9 new, for a total of 107) contained two dwellings, density would reach only 3.4 units per acre, which remains below the four units per acre considered low density.[6]

Example #2. Highcroft and Sunrise



[5] Three lots could be divided to create one additional lot, and three lots could be split into two additional lots.
[6] 214 units / 63.25 acres = 3.4 units per acre

EXAMPLE #2	Highcroft	Sunrise
Guide Plan Designation	Low density residential	Low density residential
Current Zoning	R-2	R-1
Median Average Lot Size	14,095 sq.ft.	25,555 sq.ft.
Total Area*	3.93 acres	32.10 acres
Total Units	11	52
Density	2.8 units per acre	1.6 units per acre
* This area is based simply on the boundary chosen by staff. The area could increase or decrease by choosing a different boundary, which would, in turn, change the density calculation.		

Under the proposed ordinance, no lots in Highcroft could be subdivided. To surpass the low density guide plan designation for this area, either by replacing existing single-unit dwellings with two-unit dwellings or by constructing ADUs, four new units would need to be built.

Based on the required minimum lot area and width in the proposed ordinance, just one property in the Sunrise area could be subdivided; the subdivision could create just one new lot, resulting in no change to neighborhood density. Even if every lot (52 existing plus 1 new, for a total of 53) contained two dwellings – a single-unit dwelling and ADU or a two-unit dwelling – density would reach only 3.3 units per acre, which remains below the four units per acre considered low density.[7]

Impervious Surface

The draft ordinance establishes a 20 percent limit on impervious surfaces for individual lots in the LDR, with potential incremental increases up to 50 percent if stormwater treatment is correspondingly increased. These limits and formulas are informed by a study conducted by the city's water resources consultant as part of the zoning ordinance update.

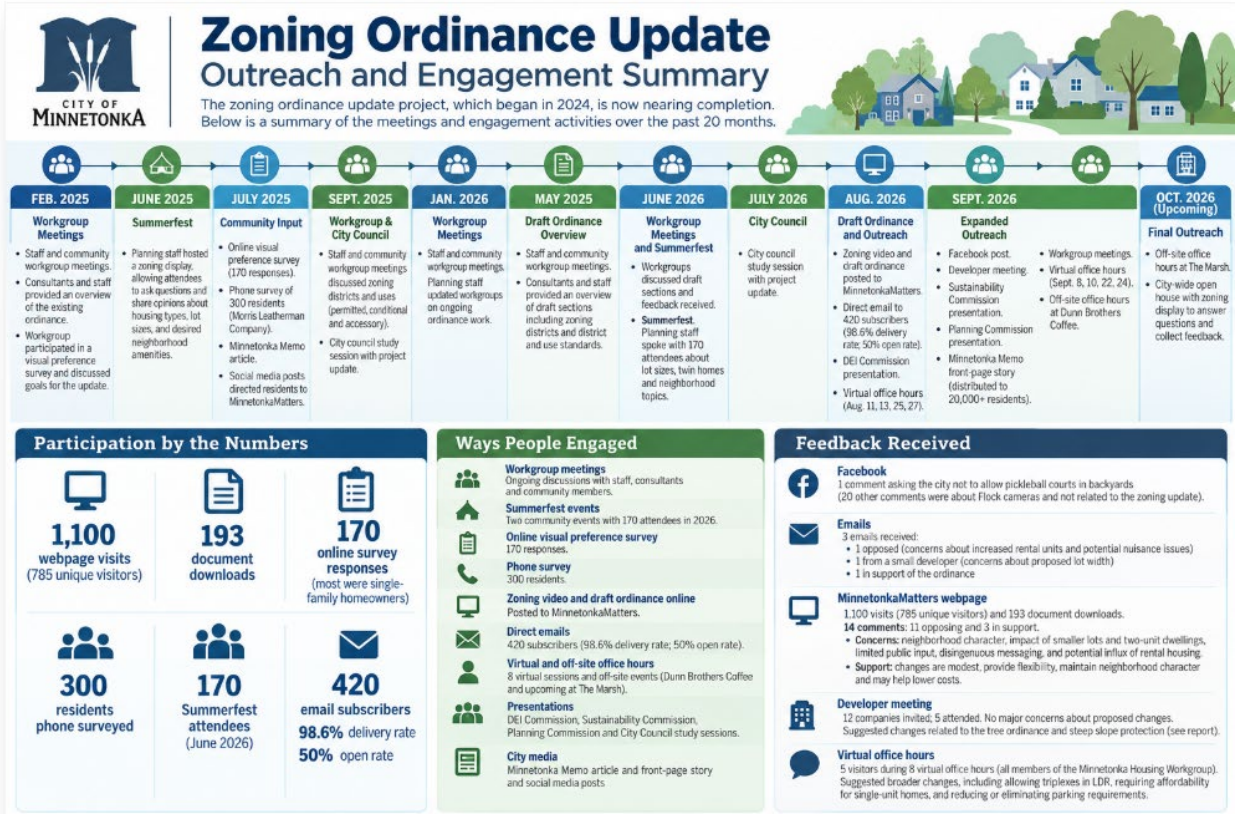
Staff reviewed five randomly selected building permits for new homes constructed between 2020 and 2025 to assess impervious surface levels. The impervious percentages varied among the permits, but all would have been approvable under the proposed ordinance, each requiring different degrees of stormwater management.

Year Approved	Street	Lot Size	% Impervious	Increased Stormwater Management?
2020	Farmington Rd	31,660 sq.ft.	18%	N/A
2021	Victor Lane	27,230 sq. ft	14%	N/A
2022	Lake Street Ext	29,040 sq.ft.	34%	Required
2023	Bay Lane	8,500 sq.ft.	36%	Required
2024	Binger Court	22,375 sq.ft.	23%	Required
2025	Wilson St	23,000 sq.ft.	23%	Required

[7] 106 units / 32.10 acres = 3.3 units per acre

Meetings and Engagement Timeline

The zoning ordinance update project, which began in 2024, is now nearing completion. Below is a summary of the meetings and engagement activities over the past 20 months.



Feb. 2025 **Staff and community workgroup meetings.** The city's consultants and staff provided the workgroups with an overview of the existing ordinance. The groups then participated in a visual preference survey and discussed goals of the ordinance update.

The staff workgroup includes the city's development review team and diversity, equity, and inclusion staff. This 20-person group is recognized as the city's subject matter experts. They help ensure that the proposed ordinance aligns with community goals while also incorporating relevant federal and state laws.

The community workgroup includes the mayor and ten individuals appointed by the council. Each of the city's boards and commissions is represented, along with two at-large residents.

June 2025 **Summerfest.** Planning staff hosted a zoning display, allowing attendees to ask questions about zoning and share opinions about housing types, lot sizes, and desired neighborhood amenities.



July 2025 **Visual preference survey.** The city posted an online survey on the Zoning Ordinance Update page at minnetonkamatters.com to gather feedback on housing types and building proximity to property lines. The survey received 170 responses. Most respondents were single-family homeowners.

Phone survey. The city's consultant, Morris Leatherman Company, surveyed 300 residents to gather preferences on housing types, lot sizes, and opinions on commercial development (e.g., stores and offices).



City media. The Minnetonka Memo included a short article about the zoning ordinance update, and social media posts invited residents to visit the minnetonkamatters.com Zoning Ordinance Update page.

Sept. 2025 **Staff and community workgroup meetings**. The workgroups discussed possible zoning districts and permitted, conditional, and accessory uses.

City council study session. Planning staff provided the council with a project update.



Jan. 2026 **Staff and community workgroup meetings.** Planning staff updated the workgroups on ongoing ordinance work.

May 2026 **Staff and community workgroup meetings.** The city's consultants and staff provided the workgroups with an overview of draft sections of the ordinance, including zoning districts and use standards.

June 2026 **Staff and community workgroup meetings**. The workgroups discussed the draft sections and feedback that members had received.

Summerfest. Planning staff again hosted a zoning display, speaking directly with 170 attendees about topics such as lot sizes and twinhomes in predominantly single-unit dwelling neighborhoods.

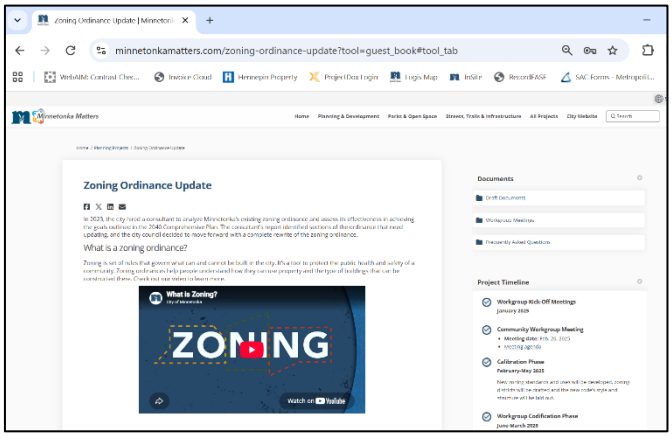
July 2026 **City council study session**. Planning staff provided the council with a project update.



Aug. 2026 **Zoning video and draft ordinance**. A video – explaining zoning and purpose of the update – was posted to minnetonkamatters.com along with a draft of the ordinance.

Direct emails. Direct emails were sent to 420 zoning ordinance update page subscribers, noting the draft was available online. The emails have a 98.6% delivery rate and a 50% open rate.

DEI Commission. Planning staff presented the draft ordinance goals and summary at a regular commission meeting. Staff asked commissioners to connect with people in their networks, alert them to the ordinance project, and refer them to minnetonkamatters.com and planning staff.



Virtual office hours. Planning staff hosted virtual office hours during the evenings of Aug. 11 and 25, and lunchtime hours on Aug. 13 and 27.

Sept. 2026 **City media.** The city's Facebook page invited followers to visit the minnetonkamatters.com Zoning Ordinance Update page.



Developer meeting. Planning staff hosted an information and discussion session with developers who have worked in or have considered working in Minnetonka.

Sustainability Commission. Planning staff presented the draft ordinance goals and summary at a regular commission meeting. Staff asked commissioners to connect with people in their networks, alert them to the ordinance project, and refer them to minnetonkamatters.com and planning staff.

Planning Commission. Planning staff presented the draft ordinance goals and summary at a regular commission meeting. Staff asked commissioners to connect with people in their networks, alert them to the ordinance project, and refer them to minnetonkamatters.com and planning staff.

Minnetonka Memo. The September issue of the Minnetonka Memo, distributed to more than 20,000 residents, featured a front-page story that directed readers to MinnetonkaMatters and highlighted office hours.


SEPTEMBER 2026

MINNETONKA MEMO

A publication from the City of Minnetonka

Zoning ordinance seeks modern refresh

Share your feedback on update process

Minnetonka's zoning ordinance is currently undergoing an update with the goal of streamlining the development process and better aligning with the city's comprehensive plan.

The full zoning ordinance, adopted in the mid-1980s, has been amended hundreds of times, making it difficult to navigate, hard to interpret and less aligned with current community goals.

At the direction of city council, staff and community members began an update process in February 2025 to modernize zoning regulations, clarify standards, update outdated rules and provide helpful graphics and tables.

For residential properties, the main differences between the existing and draft zoning ordinances are:

- **Consolidating zoning districts**, e.g., combining the current R-1, R-1A and R-2 zoning districts—all classified as low-density—into one new district called Low Density Residential.
- **Reducing and standardizing lot dimensions and setbacks.**
- **Establishing Low Density Residential** to include single-family, two-family and accessory dwelling units (ADUs) as permitted dwelling types.

A draft ordinance is now available for review. You're invited to share your input:

- Visit **www.MinnetonkaMatters.com/zoning-ordinance-update** to review the current draft ordinance, ask questions and provide feedback.
- Log into the city's virtual office hours.
- Stop by city hall during regular hours and speak with a planner.

What is a zoning ordinance?

Zoning is set of rules that govern what can and cannot be built in the city. It's a tool to protect the public health and safety of a community. Zoning ordinances help people understand how they can use a property and the type of buildings that can be constructed there.

Check out our video on Minnetonka Matters to learn more.

Turn ideas into action

Funding available for local youth-led climate grants

Minnetonka teens and young adults have a unique opportunity to bring their climate ideas to life with migrogrants. Minnetonka is accepting applications for youth-led projects related to sustainability, sponsored by public entities, nonprofits or charitable organizations.

Earlier this year Bloomberg Philanthropies chose Minnetonka to host one of its $50,000 grant programs. Microgrants of up to $5,000 will be redistributed to local teams led by at least two young people between ages 15-24 and their sponsor organization.

Eligible local projects can relate to sustainable transportation, building energy use and renewable energy, waste and recycling, climate resiliency and more.

Review program details, apply or to request help with the application process, visit **www.minnetonkamatters.com/youth-climate-fund**. Deadline is Oct. 16.

YOUTH CLIMATE ACTION FUND

Staff and community workgroup meetings. The workgroups discussed the ordinance draft and feedback members have received.

Virtual office hours. Planning staff hosted virtual office hours during the evenings of Sept. 8 and 22, and lunchtime hours on Sept. 10 and 24.

Off-site office hours. Planning staff hosted off-site office hours at Dunn Brothers Coffee.

Oct. 2026 **Off-site office hours**. Planning staff will host office hours at The Marsh.

City-wide open house. Planning staff will host a zoning display, giving attendees the opportunity to ask questions about the zoning ordinance update and share feedback.

Feedback received

As of the publication of this report, the city has received feedback via Facebook comments, direct email to planning staff, the minnetonkamatters.com webpage, the developer meeting, and office hours.

- **Facebook.** One comment was posted. The commenter asked the city not to allow pickleball courts in backyards. (Note: there were 20 other comments, but all pertained to Flock cameras, which are not part of the zoning ordinance.)

- **Emails.** Three emails were received; they are attached to the report. One expressed opposition based on potential for increased rental units and corresponding nuisance issues; one was from a small developer concerned that proposed lot width may impact a potential development site; and one was in support of the proposed ordinance.

- **MinnetonkaMatters.** As of this report, the Zoning Ordinance Update page has been visited 1,100 times, with 785 unique visitors. Documents have been downloaded 193 times. Fourteen comments have been posted: 11 opposing the ordinance and three in support. Opponents of the update raised concerns about the impact smaller lots and two-unit dwellings will have on the character of the neighborhood and broader community, as well as limited opportunities for public input, disingenuous messaging, and an influx of rental housing. Those supporting the ordinance suggested the changes

are modest, providing flexibility while maintaining the feel of neighborhoods and may help lower costs.

- **Developer meeting.** Twelve development companies were invited to the meeting, including three multi-unit developers, three single-unit, three commercial, and three "misc." Five companies sent representatives. The group did not express concern about the proposed changes, including adding sustainability and trail-oriented design features to commercial and multi-family buildings. Instead, the group commented on the lack of change to the tree and steep slope ordinance, suggesting:

  Redevelopment of existing office/commercial sites should:

  - ✓ Not be subject to the tree ordinance (as was the case pre-2018); or
  - ✓ Trees planted as part of original landscape plans – for example trees in parking lot islands – be exempted; or
  - ✓ The city commissions a third-party tree review for redevelopment, as we do for traffic, to determine what trees on a site are appropriate for preservation.

  The group also suggested exempting human-made slopes from the steep slope protection ordinance.

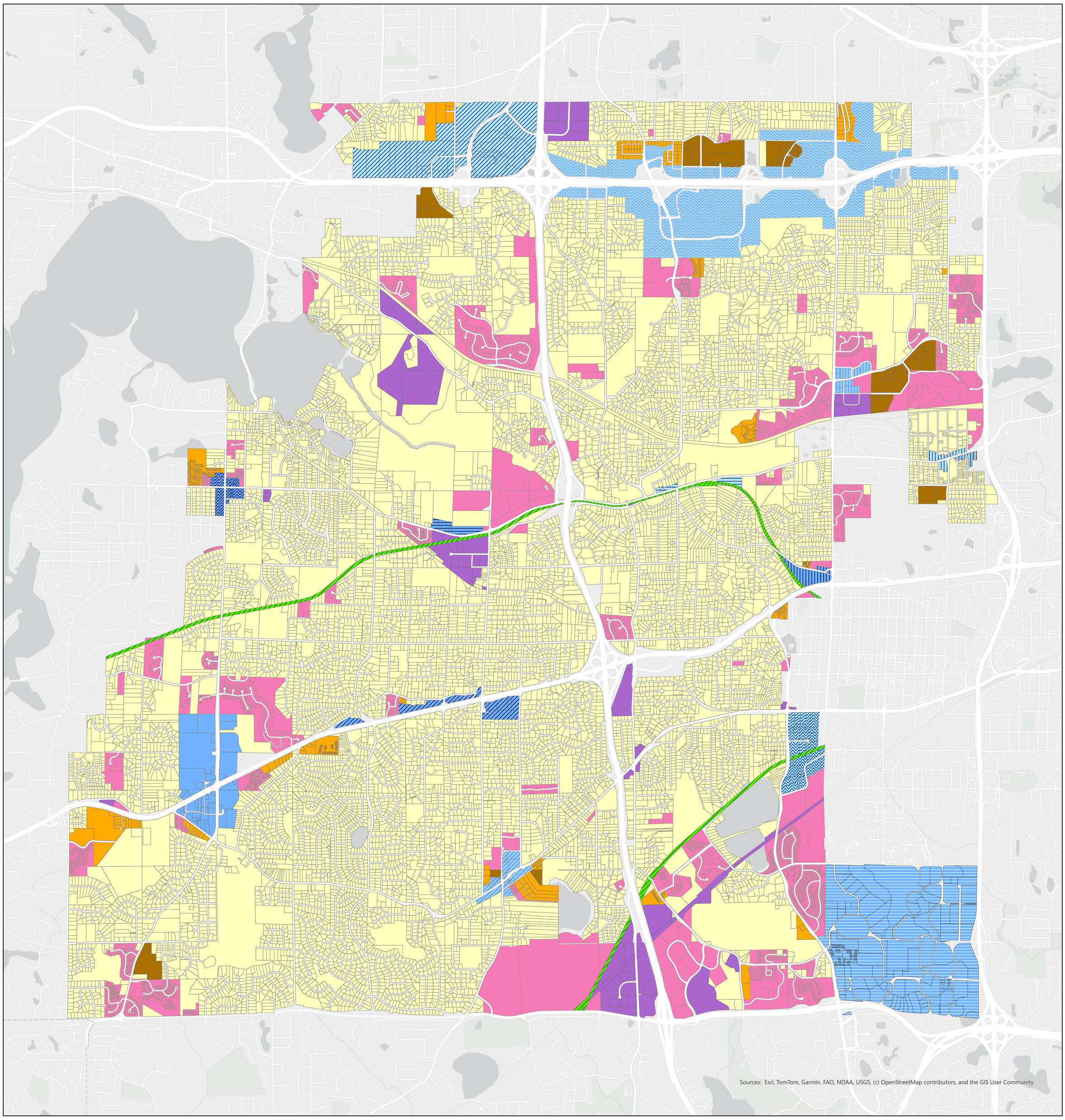
- **Virtual office hours.** Staff received five visitors during 8 virtual office hours. All were members of the Minnetonka Housing Workgroup. They suggested the ordinance be broadened to:

  - ✓ Allow triplexes in LDR
  - ✓ Require affordability for single-unit homes.
  - ✓ Reduce or eliminate parking requirements in residential districts.

  A visitor also noted an oversight in the draft. While triplex and quad dwellings – townhomes – should be allowed in medium density areas, these types of units are not permitted.

Draft Zoning Map

Minnetonka, MN | May 2026



Legend

- Low Density Residential
- Medium Density Residential
- High Density Residential
- Flexible Development
- VC-A Village Center District A: 101 & 7
- VC-B Village Center District B: Williston & 7
- VC-C Village Center District C: Country Village
- VC-D Village Center District D: Minnetonka Boulevard
- VC-E Village Center District E: CR5 & 101
- VC-F Village Center District F: Glen Lake
- VC-G Village Center District G: Cedar Lake
- VC-H Village Center District H: Opus
- VC-I Village Center District I: Ridgedale
- VC-J Village Center District J: Carlson
- VC-K Village Center District K: 169 & Cedar Lake
- VC-L Village Center District L: Minnetonka Mills
- VC-M Village Center District: Southwest Light Rail
- Planned Unit Development
- Trail

CITY OF MINNETONKA

ZONECO

Better Codes Make Better Places

Ordinance No. 2026-

**An ordinance repealing and replacing Section 300,
Minnetonka Zoning Ordinance of 1986**

The City of Minnetonka Ordains:

Section 1. Section 300 of the Minnetonka City Code, a copy of which is attached as Exhibit A, is repealed.

Section 2. The Minnetonka City Code is updated by adding a new Section 300, as set forth in the attached Exhibit B.

Section 3. This ordinance is effective on Jan. 1, 2027.

Adopted by the city council of the City of Minnetonka, Minnesota, on _____, 2026.

_____
Rebecca Schack, Mayor

Attest:

_____
Becky Koosman, City Clerk

Action on this Ordinance:

Date of introduction: Oct. 8, 2026
Date of adoption:
Motion for adoption:
Seconded by:
Voted in favor of:
Voted against:
Abstained:
Absent:
Ordinance adopted.

Date of publication:

Certification:

I certify that the foregoing is a true and correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on _____ ,2026.

_____
Becky Koosman, City Clerk

EXHIBIT A

CHAPTER 3: ZONING REGULATIONS

Section

300. ZONING REGULATIONS.

300.01. TITLE, PURPOSE, SCOPE AND INTERPRETATION.

300.02. DEFINITIONS.

300.03. ADMINISTRATION AND ENFORCEMENT.

300.04. PLANNING COMMISSION.

300.05. INTERIM USE PERMITS.

300.06. CONDITIONAL USE PERMITS.

300.07. VARIANCES.

300.08. CERTIFICATES OF OCCUPANCY.

300.09. ZONING ORDINANCE TEXT AND MAP AMENDMENTS.

300.10. R-1 LOW DENSITY RESIDENTIAL DISTRICT.

300.11. R-2 LOW DENSITY RESIDENTIAL DISTRICT.

300.12. R-3 LOW OR MEDIUM DENSITY RESIDENTIAL DISTRICT.

300.13. R-4 MEDIUM DENSITY RESIDENTIAL DISTRICT.

300.14. R-5 HIGH DENSITY RESIDENTIAL DISTRICT.

300.15. GENERAL REGULATIONS FOR RESIDENTIAL DISTRICTS.

300.16. CONDITIONAL USE PERMIT STANDARDS FOR RESIDENTIAL DISTRICTS.

300.17. B-1 OFFICE BUSINESS DISTRICT.

300.18. B-2 LIMITED BUSINESS DISTRICT.

300.19. B-3 GENERAL BUSINESS DISTRICT.

300.20. I-1 INDUSTRIAL DISTRICT.

300.21. CONDITIONAL USE PERMIT STANDARDS FOR BUSINESS AND INDUSTRIAL DISTRICTS.

300.22. PLANNED UNIT DEVELOPMENT DISTRICT.

300.23. WETLANDS PROTECTION.

300.24. FLOODPLAIN DISTRICT.

300.25. SHORELAND DISTRICT.

300.26. CONDITIONAL USE PERMIT STANDARDS FOR WETLANDS, FLOODPLAIN AND SHORELAND DISTRICTS

300.27. SITE AND BUILDING PLAN REVIEW.

300.28. PERFORMANCE STANDARDS.

300.29. NON-CONFORMING USES.

300.30. [REPEALED].

300.31. PLANNED I-394 DISTRICT.

300.32. I-394 REDEVELOPMENT OVERLAY DISTRICTS.

300.33. ANTI-BLIGHT REGULATIONS.

300.34. [REPEALED]

300.35. OPUS OVERLAY DISTRICT.

300.36. SOUTHWEST LIGHT RAIL TRANSIT OVERLAY DISTRICT.

300.37. R-1A, RESIDENTIAL ALTERNATIVE, DISTRICT.

310.03. TELECOMMUNICATION FACILITIES REGULATIONS

314. TREE PROTECTION

314.01 TREE PROTECTION

315.14 PARKING AND LOADING REQUIREMENTS

325. SIGN REGULATIONS.

325.01 PURPOSE AND FINDINGS.

325.02 DEFINITIONS.

325.03 CITATION; ADMINISTRATION AND ENFORCEMENT.

325.04 PERMITS, PROCEDURE AND VARIANCES.

325.05 GENERAL REGULATIONS.

325.06 DISTRICT REGULATIONS

SECTION 300. ZONING REGULATIONS.

SECTION 300.01. TITLE, PURPOSE, SCOPE AND INTERPRETATION.

1. Title.

Sections 300.01 through 300.33, inclusive, of the code of city ordinances shall be known and may be referred to as the "Minnetonka zoning ordinance of 1986". When referred to herein it shall be known as "this ordinance".

2. Purpose.

This ordinance is enacted to promote the public health, safety and general welfare of the city of Minnetonka through the following:

a) encouraging the planned and orderly development of residential, commercial, industrial, recreational and public uses of land;

b) providing adequate light, air and convenience of access to property;

c) limiting congestion in the public right-of-way;

d) preventing overcrowding of land and undue concentration of population and structures;

e) providing for the compatible integration of different land uses and the most appropriate use of land;

f) encouraging development in accordance with the city's comprehensive plan;

g) conserving the natural beauty and environmental assets of the city including areas of steep slopes, mature trees,wetlands, and habitat;

h) protecting water resources and water quality in accordance with the provisions of this ordinance and the city's water resources management plan;

i) facilitating the provision of water, utilities and sewage disposal to property;

j) protecting the population from fire, and other matters affecting public safety;

k) maintaining to a reasonable extent property values and the tax base of the city; and

l) providing for the administration of this ordinance and amendments to it, defining the powers and duties imposed by this ordinance and prescribing penalties for violation of its provisions.

3. Scope.

a) From and after the effective date of this ordinance, the use of all land and all buildings erected, altered, enlarged or relocated and every use accessory thereto shall be in conformance with the provisions of this ordinance. Any existing use or building, lot or development which was legally established but is not in conformance with the provisions of this ordinance shall be regarded as non-conforming and may continue in existence only for such period of time and under such conditions as is provided for in section 300.29 of this ordinance.

b) Some of the residential zoning designations established by this ordinance may differ from the stated land use designations in the comprehensive plan. These differences are consistent with the comprehensive plan, which recognizes that the existing zoning designations may remain in the near term, while waiting for planned, orderly, and staged development or redevelopment that complies with the comprehensive plan. Until that future development occurs, those properties will remain subject to the provisions of the current residential zoning district and these additional restrictions: (1) each property must be subdivided, developed or redeveloped only in compliance with the comprehensive plan land use designation, and (2) no conditional use permit that changes the principal use may be granted for a property. This does not prohibit improvements to an existing principal structure, including expansion and replacement, nor prohibit the construction, improvement, expansion, or replacement of permitted accessory uses. The city will initiate an amendment to the zoning district when the property is ready for subdivision, development or redevelopment, or when there is a specific development application that is consistent with the comprehensive plan.

(Amended by Ord. No. 2012-04, adopted March 26, 2012)

4. Interpretation and Application.

a) The provisions of this ordinance shall be minimum requirements. Where the conditions imposed by any provision of this ordinance differ from those required by any statute or other ordinance of the city, the regulations which are more restrictive or which impose the higher standard shall prevail except provisions of the subdivision ordinance as codified in the 1982 code of ordinances shall not supercede provisions of this ordinance.

b) Words or terms defined in this ordinance shall have the meanings assigned to them unless such meaning is clearly contrary to the intent of this ordinance. The singular number shall include the plural. The present tense shall include the past and future tenses. The word “shall” is mandatory and “may” is permissive.

5. Official Zoning Map.

a) The location and boundaries of the zoning districts established by this ordinance shall be known and may be referred to as the “Minnetonka official zoning map”. The map and all notations, references and data shown on it are incorporated by reference into this ordinance and shall be as much a part of this ordinance as if it were fully described herein.

b) The official wetlands, floodplain and shoreland maps referenced in sections 300.23, 300.24 and 300.25 of this ordinance are a part of the official zoning map established by this subdivision.

c) All property within the city shall have the zoning designation shown on the official zoning map. If there is any discrepancy or inconsistency between the official zoning map and any other map, ordinance or source which purports to indicate the zoning of property, the official zoning map shall take precedence.

d) Except for the wetland, floodplain and shoreland overlay districts, zoning district boundary lines shown on the official zoning map are intended to follow lot lines, the center lines of streets or alleys, the center lines of street or alleys projected, railroad right-of-way lines, the center of watercourses or the corporate limits of the city, unless otherwise indicated. In the case of the wetlands, floodplain and shoreland overlay districts, the boundary lines of the districts must be determined as specified in sections 300.23, 300.24, and 300.25 of this ordinance, respectively.

e) It shall be the responsibility of the city planner to maintain the Minnetonka official zoning map and to make changes on the map promptly whenever appropriate.

6. Severability.

Every section or subdivision of this ordinance is declared separable from every other section or subdivision. If any section or subdivision is held to be invalid by competent authority, no other section or subdivision shall be invalidated by such action or decision.

(Amended by Ord. No. 2008-10, adopted March 24, 2008)

SECTION 300.02. DEFINITIONS.

For the purpose of this ordinance, certain terms and words are defined as follows:

1. “Abandon” - the cessation of a specific use of a property for a period of 12 or more months.

2. “Abut” - to make direct contact with or immediately border.

3. “Access aisle or aisle” - the traveled way by which vehicles enter and depart parking spaces.

4. "Accessory dwelling unit" - a secondary dwelling unit located on the same property as a principal dwelling unit, which includes provisions for living independent of the principal dwelling, such as areas for sleeping, cooking, and sanitation, as determined by the city planner. This definition includes seecondary dwelling units attached to or detached from the principal dwelling unit.

5. “Alteration, structural” - any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders or rooflines, or any enlargement of a building or structure whether horizontal or vertical.

6. “Alteration, use” - any change to the use or occupancy of a building or parcel from one type of land use to another. Changes in use or

occupancy include office to retail, warehouse to assembly, retail to restaurant or similar changes which result in a different intensity of use.

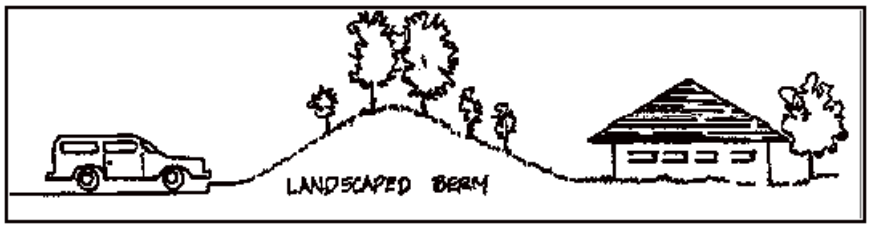
7. “Apartment” - a dwelling unit, generally rented, located within a larger bulding.

8. “Basement” - an area of a building, having its floor or base below ground level on all four sides, regardless of the depth of excavation below ground level.

9. “Basement floor elevation (minimum)” - the lowest floor of a building.

10. “Berm” - a landscaped mound of earth used for aesthetic or buffer purposes. (Figure 1)

Figure 1



11. “Bluff ”- a steep slope as defined in this ordinance.

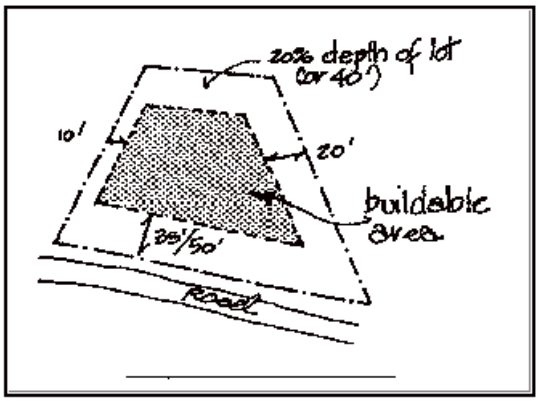
12. “Bluff impact zone” - land within a bluff and land within 20 feet from the top of a bluff.

13. “Boarding or lodging house” - a dwelling unit or part of a dwelling unit in which meals, sleeping accommodations, or meals and sleeping accommodations are provided for compensation to no more than five persons who do not function as a single housekeeping unit.

14. “Buffer” - the use of land, topography, open space or landscaping to separate a use of property from another adjacent or nearby use.

15. “Buildable area” - a contiguous portion of a lot that is suitable for the location of the primary structure and that excludes all existing and proposed easements, setback areas for principal structures, wetlands, floodplains, the neck portion of any neck or flag lot, steep slopes that are unbuildable under this ordinance, and other unbuildable areas. Certain easements may be included in the buildable area at the discretion of the city if their inclusion is consistent with the intent of this code. (Figure 2)

Figure 2



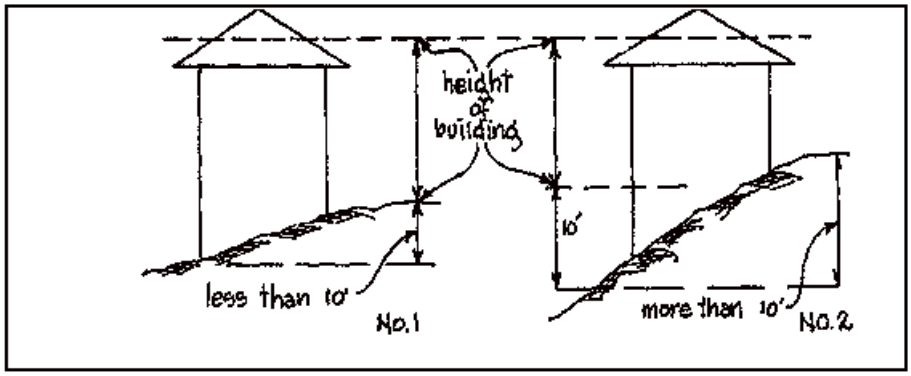
16. “Building” - any structure having a roof supported by columns, walls or other means of support for the shelter or enclosure of persons or property.

17. “Building height” - the vertical distance between the ground elevation abutting a building and the midpoint elevation of the highest gable of a pitched or hipped roof, the deck line of a mansard roof, or the highest point of a flat roof or a parapet wall. The ground elevation used to measure building height will be selected from one of the following, whichever results in the greater height:

a) When the change in grade within the footprint of the building is equal to or less than 10 feet, the highest ground elevation abutting the building will be used.

b) When the change in grade within the footprint of the building is greater than 10 feet, an elevation 10 feet higher than the lowest ground elevation abutting the building will be used.

Figure 3



18. “Cannabis retail business“ - as defined in section 650 of this code.

19. “City“ - the city of Minnetonka, a municipal corporation, along with its duly authorized boards, commissions or representatives.

20. "City Planner" - for purposes of this ordinance, the person holding said position or a designated representative.

21. “Common area, residential” - land, structures, or both, that are owned and maintained by a homeowners' association or similar organization and used for the mutual benefit of residents or tenants of the association or organization.

22. “Common space, commercial” - enclosed areas located within a commercial structure that are utilized for the mutual benefit of building tenants.

23. “Community based residential care facility” - any facility similar to but not included within the definition of licensed residential care facility. These may include public or private facilities which provide one or more persons with up to 24 hour care, training, education, rehabilitation, treatment or other support services.

24. “Comprehensive plan” - the comprehensive municipal plan, as defined in Minnesota Statutes section 462.352, in effect at the time of the final action on an application, except as otherwise required by Minnesota Statutes section 462.357.

25. “Conditional use permit” - a permit to allow a conditional use duly authorized by the appropriate authority as described in sections 300.16 or 300.21 of this ordinance. A conditional use permit may be subject to periodic review upon determination by the city.

26. “Conservation easement” - a recordable document that prohibits construction, grading, vegetation removal, or other alteration of property except in accordance with city-approved environmental management practices, but which does not grant the public the right to use the property.

27. “Crawl space” - an enclosure designed to internally flood, which is completely above grade on at least one side and usable solely for building access or storage.

28. “Cul-de-sac” - a street with a single means of ingress and egress and having a turnaround at its end for safe and convenient reversal of traffic.

29. "Cul-de-sac bulb" - a turnaround at the end of a cul-de-sac.

30. “Deck” - an unenclosed platform structure composed of boards made of synthetic or natural materials. A deck is considered attached if any part of it is within ten feet of the principal structure; a deck is considered detached if no part of it is within ten feet of the principal structure. A detached deck is considered an accessory structure in the wetland, floodplain, and shoreland districts.

31. "Density" - the number of dwelling units per acre of land, excluding existing or proposed rights-of-way intended to be used for location of streets and areas zoned as wetland, floodplain, or below the ordinary high water level of a public water, as regulated by the comprehensive plan.

32. "Distribution line" - an overhead or underground facility consisting of utility poles, lines, underground conduit, and related devices used to carry electricity from a substation to the ultimate user, with a nominal voltage equal to or less than 35 kilovolts, or to carry communications.

33. "Dock" - a platform that provides access to a water resource.

34. "Dwelling" - a building or portion thereof designed or used exclusively for residential occupancy.

35. "Dwelling, multi-household" - a building designed with three or more dwellings intended for occupancy by three or more households. Examples include apartments, condominium buildings, cooperatives, and townhomes.

36. "Dwelling, single-household attached" - a building designed or intended for occupancy by one household, which is attached by a common wall to another building designed or intended for occupancy by one household. Examples include duplexes and twinhomes.

37. "Dwelling, single-household detached" - a building designed or intended for occupancy by one household, which is physically unconnected from any other dwelling.

38. "Educational institution or facility" - a public or private school that has a course of instruction meeting the compulsory education requirements of the Minnesota board of education.

39. "Excavation" - the removal, relocation or recovery by any means of soil, rock, minerals, debris or organic substances other than vegetation from a parcel of land.

40. "Expansion" - any increase in dimension, size, area, volume, or height, any increase in the area of use, any placement of a structure or part thereof where none existed before, any addition of a site feature such as a deck, patio, fence, driveway, parking area, or swimming pool, any improvement that would allow the land to be more intensely developed, any move of operation to a new location on the property, or any increase in intensity of use based on a review of the original nature, function or purpose of a non-conforming use, the hours of operation, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odors, area of operation, number of employees, and other factors deemed relevant by the city. Expansion is synonymous with "enlargement" and "intensification."

41. "FEMA" - the United States federal emergency management agency or its successor.

42. "Filling" - sand, gravel, earth or other materials of any composition placed on a parcel of land.

43. "Flood" - a temporary increase in the flow or stage of a stream or in the stage of a wetland, pond, watercourse, or lake that results in the inundation of normally dry areas.

44. "Flood elevation" - the water level achieved by a 100-year flood as defined by the city water resources management plan, the federal emergency management agency, or other studies accepted by the city, whichever is more restrictive. A 100-year flood is synonymous with the terms one-percent chance flood, base flood, and regional flood.

45. "Flood obstruction" - a dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation (except for creation of compensatory flood storage), channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

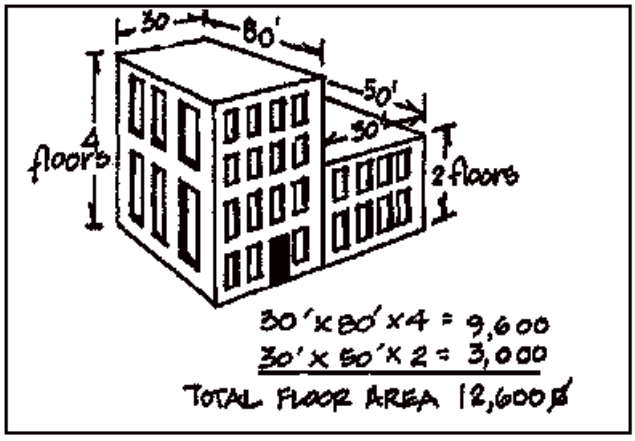
46. "Flood proofing" - a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

47. "Flood way" - the bed of a wetland, pond, or lake, or the channel of a watercourse, and those portions of the adjoining floodplain that are reasonably required to carry, store or discharge the 100-year flood event.

48. "Floodplain" - the area adjoining a wetland, pond, lake or water course including the floodway, subject to periodic inundation by a 100-year flood as designated on the official city floodplain district map.

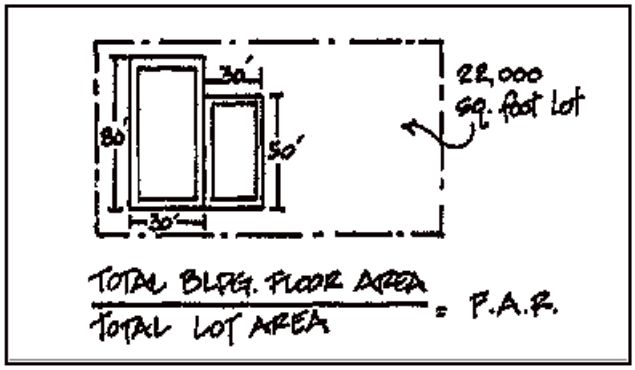
49. "Floor area" - for single-family and two-family dwellings, the sum of the following as measured from exterior walls: the fully exposed gross horizontal area of a building, including attached garage space and enclosed porch areas, and one-half the gross horizontal area of any partially exposed level such as a walkout or lookout level. For multiple family dwellings and non-residential buildings, the sum of the following as measured from exterior walls: the fully exposed gross horizontal area of a building and one-half of the gross horizontal area of any partially exposed level such as a walkout or lookout level, excluding interior parking spaces and vehicular circulation areas. For all buildings, if a floor has a height in excess of 15 feet an additional floor will be assumed for every full 15 feet of interior building height. (Figure 5)

Figure 5



50. "Floor area ratio (FAR)" - the floor area of a building as defined by this ordinance, divided by area of the lot on which the building is located. Area zoned as wetland, floodplain, or below the ordinary high water level of a public water is excluded from the lot area for purposes of the floor area ratio calculation unless it can be demonstrated that there will be minimal hydrologic, aesthetic and ecological impacts to the relevant area as determined by the city. (Figure 6)

Figure 6



51. "Garage" - a detached or attached accessory structure designed or used for the parking and storage of vehicles owned and operated by residents of a principal structure on the same lot.

52. "Grade" - the elevation of the ground.

53. "Grading" - excavating, filling or other land-disturbing activity.

54. "Habitat" - the place(s) where an organism lives, including the resources and conditions required for its survival.

55. "Heliport" - any area on the ground or on a structure approved by the city for the landing and takeoff of helicopters.

56. "Home occupation" - an occupation that is clearly secondary to the principal residential use and does not change the nature of the principal residential use.

57. "Housekeeping unit" - all persons residing within a dwelling unit whose relationship includes a substantial amount of social interaction, including the sharing of housekeeping responsibilities or expenses and the taking of meals together.

58. "Impervious surface" - a material providing a hardsurface that prevents normal infiltration of water into the ground.

59. "Intensity of development" - a measure of the magnitude and impact of a land use on the environment and neighboring land uses. Variables include, but are not limited to, the levels of traffic that are generated, degree of lot coverage, volume of noise or odor emitted and similar factors.

60. "Intensive vegetative clearing" - the complete removal of trees and shrubs, or grasses and forbs, in a contiguous patch, strip, row, or block except the removal of invasive species as approved by the city.

61. "Landscape plan" - a plan that details the location, size and species of existing and proposed plantings on a property or development site. The plan may include other features such as fences, retaining walls, or berms.

62. "Level of service" - the level at which an intersection operates based upon criteria established by the institute of traffic engineers, as amended periodically.

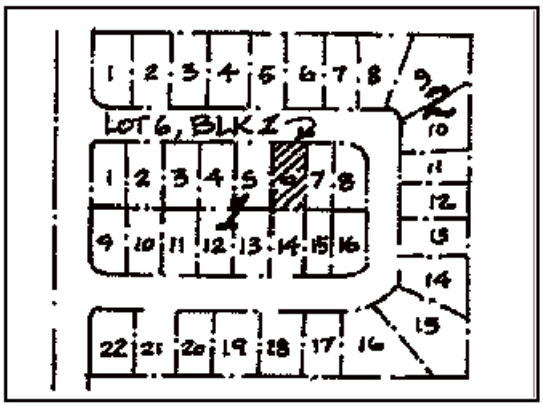
63. "Licensed day care facility" - any facility required to be licensed by a governmental agency, public or private, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habilitation, rehabilitation or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own home. Licensed day care facilities include, but are not limited to, family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, developmental achievement centers, day treatment programs, adult day care centers and day services.

64. "Licensed residential care facility" - any facility required to be licensed by a governmental agency, public or private, which for gain or otherwise regularly provides one or more persons with a 24 hour per day substitute for care, food, lodging, training, education, supervision, habilitation, rehabilitation and treatment they need, but which for any reason cannot be furnished in the person's own home. Residential facilities include, but are not limited to, state institutions under the control of the commissioner of human services, foster homes, residential treatment centers, maternity shelters, group homes, residential programs, supportive living residences for functionally impaired adults or schools for handicapped children.

65. "Loading space" - that portion of a property designed to serve the purpose of loading or unloading all types of vehicles.

66. "Lot" - a measured parcel of contiguous land having fixed boundaries and recorded with the appropriate government authority or office. (Figure 7)

Figure 7



67. "Lot area" - the total area bounded by lot lines excluding dedicated public road rights-of-way and any area located below the ordinary high water level of a lake or creek. (Figure 8)

68. "Lot-behind-a-lot"

a) a lot with substandard or no frontage on a public road right-of-way, where access to public road right-of-way is over the substandard lot frontage or by a private easement, commonly called a "flag" or "neck" lot (Figure 9), or

b) a lot with standard frontage on a public street, where the only buildable area is directly behind an existing or potential house pad that fronts on a public street.

68. "Lot, corner" - a lot abutting, and located at the intersection of, two or more public road rights-of-way. (Figure 9)

70. "Lot coverage" - - that portion of a lot, excluding any area located below the ordinary high water level of a lake or creek, that is covered by buildings, driveways, parking areas and any other impervious surface. (Figure 8)

Figure 8

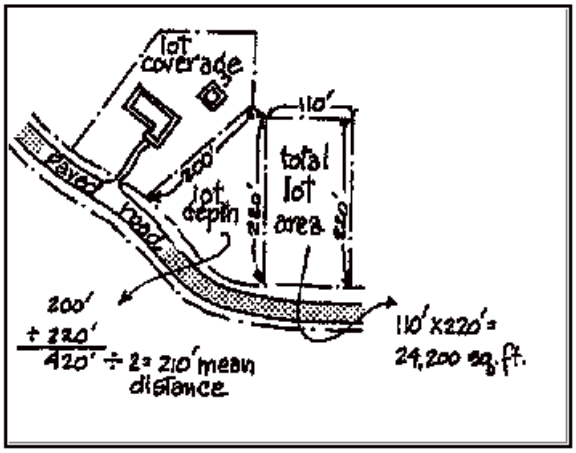
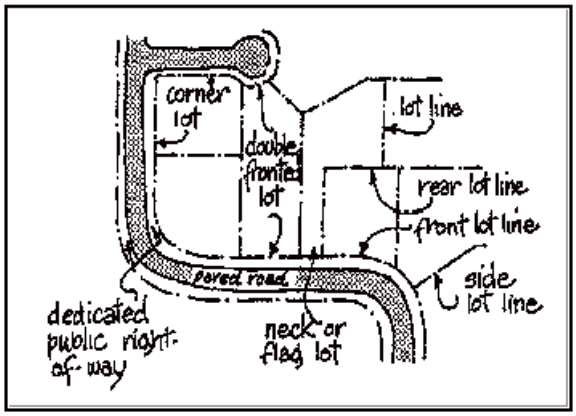


Figure 9



71. "Lot depth" - the average horizontal distance between the front and rear lot lines. (Figure 8)

72. "Lot, double frontage" - a lot abutting two, non-intersecting public road rights-of-way. (Figure 9)

73. "Lot, riparian" - a lot abutting a public water, excluding wetlands.

74. "Lot line" - a line that defines the legal boundary of a lot. (Figure 9)

75. "Lot line, front" - a lot line abutting a public road right-of-way. In the case of a lot-behind-lot, the front lot line will be determined by the city planner based upon characteristics of the lot and the surrounding neighborhood. (Figure 9)

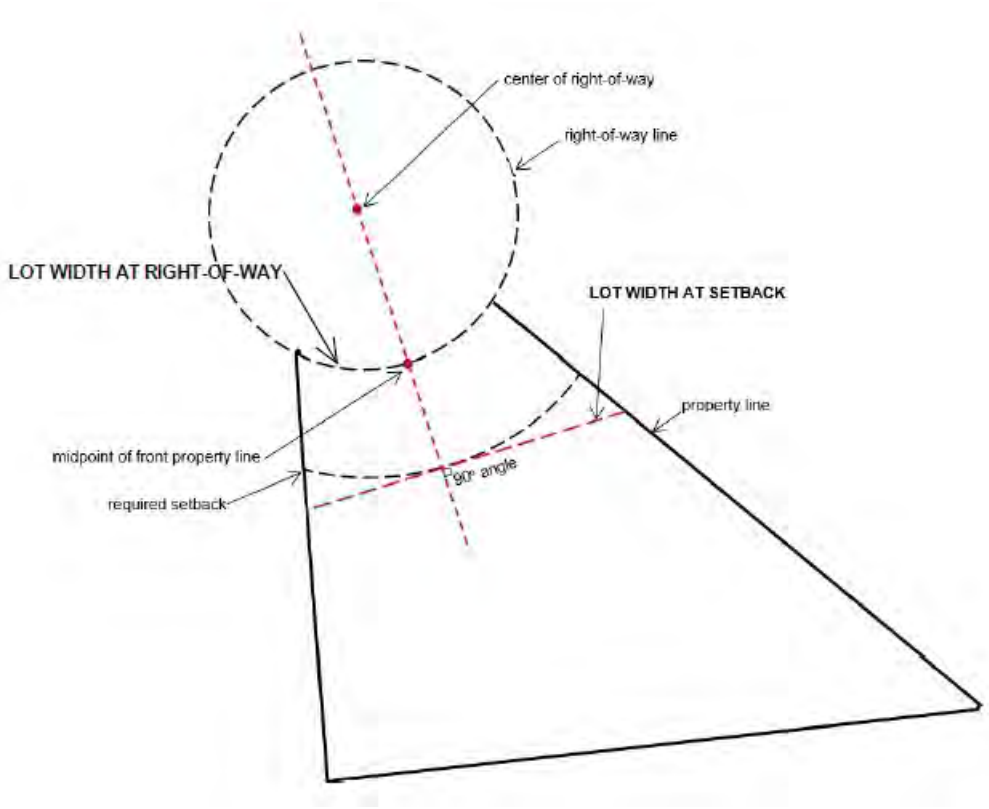
76. "Lot line, rear" - the lot line opposite and most distant from the front lot line. In the case of corner lots and uniquely configured lots, the rear lot line will be determined by the city planner or their designee at the time of preliminary plat, issuance of a building permit, or other resident request. Such determination will be based upon characteristics of the existing development pattern and surrounding neighborhood. (Figure 9)

77. "Lot line, side" - any lot line other than a front or rear lot line. (Figure 9)

78. "Lot of record" - a lot whose legal description was established in the Hennepin county property records by plat, subdivision or as otherwise permitted by law prior to February 12, 1966, and which contains identical lot lines as were present on February 12, 1966.

79. "Lot width at right-of-way" - the horizontal distance between side lot lines as measured along the public road right-of-way. This distance is measured along the right-of-way regardless of the shape of the right-of-way. See Figure 10.

Figure 10



80. "Lot width at setback" - the horizontal distance between side lot lines as measured along the minimum required front yard setback established by this ordinance and generally perpendicular to the front property line, as determined by the city planner or their designee.

In the case of lots with frontage located only on a cul-de-sac buldb, lot width at setback is established as follows: Find the center of the right-of-way and the midpoint of the front property line. Extend a straight line through the right-of-way center, the midpoint of the front property line, and the required front yard setback as outlined by the zoning ordinance. The width measurement is taken between side property lines, at the required setback, perpendicular to this straight line. See example illustrated by Figure 10.

81. "Lowest floor" - the lowest floor of the lowest enclosed area of a building, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.

82. "Manufactured or mobile home" - a structure, transportable in one or more sections, that is built on a permanent chassis, is designed for use with or without a permanent foundation, and may be used as a dwelling unit when attached to the required utilities. The term does not include a recreational vehicle.

83. "Marina" - a facility for storing, servicing, fueling, berthing and securing of pleasure boats and which may include eating, sleeping and retail facilities for owners, crews, and guests.

84. "Master development plan" - description or illustration of development usually comprised of a series of plans that generally show: location of trees and water resources, streets, utilities, stormwater improvements, buildings, and parking areas; proposed site grading, tree removal, and landscaping; and building elevations and signs.

85. Medical clinic" - a freestanding structure or, in the case of multiple tenant buildings, a total occupied space of 2,000 square feet or greater used for patient examination and treatment by physicians, dentists, optometrists, psychologists or other health care professionals and where patients are not lodged overnight.

86. "Microbrewery" - a facility that manufactures and distributes malt liquor or wine in total quantity not to exceed 250,000 barrels per year, which may include space dedicated as a taproom to distribute on-sale and off-sale alcohol.

87. "Mixed use development" - the development of a parcel of land with two or more different uses such as residential, commercial, or manufacturing or with residential uses of different densities as permitted by this ordinance.

88. "Native cultivar" - a variation of a native plant, deliverately selected, cross-bred or hybridized for desirable traits.

89. "Native plant" - a plant that was found naturally in an area prior to human introduction, usually defined as pre-European settlement.

90. "Non-PUD development" - a development that is not a PUD and which complies with all applicable subdivision and zoning regulations.

91. "Occupancy" - the purpose for which a building or part thereof is used or intended to be used.

92. "Ordinary high water level or OHWL" - the boundary of public waters at an elevation delineating the highest water level as defined by the department of natural resources which has been maintained for a sufficient period of time to leave evidence upon the landscape; commonly that point where the vegetation changes from predominantly aquatic to predominately terrestrial. For tributary creeks, the ordinary high water level is the elevation of the top of the bank of the channel as approved by the city's engineer.

93. "Original zoning classification" - the zoning classification a property had immediately prior to being rezoned.

94. "Outdoor entertainment" - any type of entertainment or recreation activity that does not occur within an enclosed building.

95. "Parking deck or ramp" - a structure built for the temporary storage of motor vehicles.

96. "Parking lot" - an off-street, ground level area, without a roof, surfaced and improved for the temporary storage of motor vehicles.

97. "Parking space" - an area within a parking deck, ramp or lot intended for the storage of an individual motor vehicle and that complies with the standards outlined in section 300.28 of this ordinance. This term is identical to the term parking stall.

98. "Patio" - a horizontal structure without a roof, composed of any material other than boards, such as concrete, flagstones, bricks or pavers. A patio is considered attached if any part of it is within ten feet of the principal structure; a patio is considered detached if no part of it is within ten feet of the principal structure. A detached patio is considered an accessory structure in the wetlands, floodplain, and shoreland districts.

99. "Performance standards" - specified criteria and limitations provided in section 300.28 which are intended to protect the public health, safety or welfare.

100. "Person(s)" - an individual, firm, partnership, corporation, company, association, society, joint stock association or body politic including any trustee, receiver, assignee or other representative thereof.

101. "peak hour trips" - the total number of inbound and outbound motor vehicle trips generated during a continuous 60 minute period of the highest volume of traffic. The a.m. peak hours are between 7:00 and 9:00 a.m. The p.m. peak hours are between the hours of 4:00 and 6:00 p.m.

102. "Planned unit development (PUD)" - a zoning classification and development type in which the city grants flexibility from certain subdivision and zoning regulations to achieve a public benefit that would not otherwise be achieved through a non-PUD development.

103. "Pollinator" - an animal that transfers pollen between flowering plants, including but not limited to hummingbirds, butterflies and moths, bees, and other insects.

104. "Porch" - a structure that is designed for residential occupancy that includes a floor and roof, and may include walls, but is not designed for winter use. A porch may be attached to, or detached from, a principal structure. A detached porch (for example, a gazebo) is classified as an accessory structure. A porch is considered attached if any part of it is within ten feet of the principal structure; a porch is considered detached if no part of it is within ten feet of the principal structure.

105. "Premises" - a lot together with all buildings and structures located on it.

106. "Public building" - a building owned and occupied by a municipal, school district, regional, state or other governmental unit.

107. "Public water" - any water defined in Minnesota statutes, section 103G.005, or as amended. These waters include lakes, wetlands, and watercourses.

108. "Recreational vehicle" - a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towed by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

109. "Restaurant" - an establishment in which food and drink is offered or prepared and served for public consumption. Restaurants may include incidental take-out service.

110. "Restaurant, fast food" - a restaurant whose business is the sale of rapidly prepared or pre-prepared food or drink directly to customers without table service and which may include drive-up order and delivery systems. This definition does not include establishments within community or neighborhood shopping centers that do not have a customer dining area and offer food only as take-

out or by delivery.

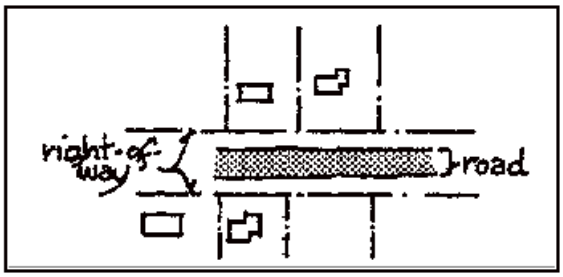
111. "Restoration" - a reestablishment of previously existing conditions or uses or reconstruction of previously existing building features.

112. "Retaining wall" - a wall that separates and retains two areas of earth that have different elevations.

113. "Right-of-way" - An area of land dedicated on a plat or by legal document or by operation of law that is intended to be used for location of streets, pedestrian ways, railroads, or utility purposes.

(Figure 11)

Figure 11



114. "Riparian" - of, on, or relating to the banks of a natural water body excluding wetlands.

115. "Roof" - the exterior surface forming the upper covering of a building.

116. "Setback" - the minimum horizontal distance that must be maintained between a property line, delineated wetland edge, floodplain elevation, ordinary high water level, or top of bluff and a building or structure. A setback is measured perpendicularly from the lot line, delineated wetland edge, floodplain elevation, ordinary high water level, or top of bluff to the closest point of the building or structure, excluding building or structure eaves.

117. "Setback line" - a line located at the required setback from a property line, delineated wetland edge, floodplain elevation, ordinary high water level, or top of bluff.

118. "Shopping center" - a group of retail and other commercial establishments that is planned, developed, owned, or managed as a single property.

119. "Shore impact zone" - land located between the ordinary high water level of a public water including a tributary creek, and a line parallel to it at a setback of 25 feet for general development lakes and tributary creeks, and 37.5 feet for recreational development lakes.

120. "Shorelands" - land located within the shoreland district as defined in section 300.25.

121. "Sign" - any writing, pictorial presentation, number, illustration or decoration, flag, banner or other device that is used to announce, direct attention to, identify, advertise, or otherwise make anything known. The term "sign" does not include the terms "building" or "landscaping," or any architectural embellishment of a building not intended to communicate information.

122. "Sign, advertising" - a sign which directs attention to a business, commodity, service, activity or entertainment not necessarily conducted, sold or offered upon the premises where such sign is located.

123. "Sign, business" - a sign which directs attention to a business or profession or to a commodity, service or entertainment sold or offered upon the premises where such a sign is located.

124. "Sign, flashing" - any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use.

125. "Sign, illuminated" - any sign which has characters, letters, figures, designs or outlines illuminated by electric lights or luminous tubes as part of the sign.

126. "Sign, name plate" - any sign which states the name or address of the business or occupant of the lot where the sign is placed.

127. "Sign, projecting" - a sign, other than a wall sign, which projects from and is supported by a wall of a building or structure.

128. "Sign, pylon" - a free standing sign erected upon a single pylon or post which is in excess of 10 feet in height with a sign mounted on top thereof.

129. "Sign, rotating" - a sign which revolves or rotates on its axis by mechanical means.

130. "Sign, surface area of" - the entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside the limits of such sign and not forming an integral part of the display.

131. "Sign, wall - flat" - a sign affixed directly to an exterior wall and confined within the limits thereof of any building and which projects from that surface less than 18 inches at all points.

132. "Site and building plans" - plans that specifically illustrate: location of trees and water resources, streets, utilities, stormwater

improvements, buildings, and parking areas; proposed site grading, tree removal, and landscaping; building elevations and signs; and other information as may be reasonably required by the city.

133. "Slope" - the inclination of the natural surface of the land from the horizontal, commonly described as a percentage derived from the height divided by the length.

134. "Slope, toe of" - the lowest topographic contour of a 50-foot segment with an average slope of at least 20 percent.

135. "Slope, top of" - the highest topographic contour of a 50-foot segment with an average slope of at least 20 percent.

136. "Solar Energy System" (SES) is a system whose primary purpose is to harvest energy by transforming solar energy into another form of energy, or transferring heat from a collector, to another medium using mechanical, electrical, or chemical means.

137. "Solar Energy System, Ground-Mounted" is a freestanding solar energy system mounted directly to the ground using a rack, pole, or other base.

138. "Solar Energy System, Roof-Mounted" is a solar energy system located on the roof of a building or backside of a parapet wall.

139. "Solar Energy System, Wall-Mounted " is a solar energy system located on the wall of a building.

140. "Steep slope" - a slope that: (1) rises at least 20 feet between toe and top of the slope; (2) has an average grade of 20 percent as measured between toe and top of slope; and (3) has been field verified and located by city staff. In verifying and locating steep slopes, staff may consider site factors such as soil types, vegetation coverage, anyicipated erosion issues, technical reports and studies, or other items staff considers pertinent for the protection of the slope.

141. "Storage" - goods, materials or equipment placed or left in a location on a premises.

142. "Story" - that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. It is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and, for the top most story, from the top of the floor finish to the top of the ceiling joist or, where there is not a ceiling, to the top of the finished rafters. If the finished floor level directly above a usable or unused space is more than six feet above grade for more than 50 percent of the total perimeter or is more than 12 feet above grade at any point, such usable or unused space will be considered a story.

143. "Street" - a vehicular way located within road right-of-way, as defined and designated in the subdivision ordinance and comprehensive guide plan.

144. "Structure" - anything placed, poured, constructed, or erected, the use of which requires location on the ground or attachment to something having a location on the ground. Examples include, but are not limited to: buildings, parking ramps, sport courts, patios, and pools.

145. "Structure, accessory" - on non-riparian lots, an uninhabited structure over 200 square feet in area, located on the same lot, subordinate to, and associated with the principal structure. On riparian lots and lots within the shoreland, floodplain, and wetland zoning districts, the same definition, but including structures over 120 square feet in area and as modified by sections 300.23, 300.24, and 300.25 of this ordinance.

146. "Structure, enclosed" - a structure that is surrounded by a roof and walls composed of any type of material.

147. "Structure, unenclosed" - a structure that is not surrounded by a roof and walls composed of any type of material.

148. "Structure, principal" - the structure in which the primary use of the lot occurs.

149. "Substantial compliance" - relative to an approved master development plan, or approved final site and building plans:

a) streets, utilities, stormwater improvements, buildings, parking areas, and landscaping are in generally the same location;

b) the number of residential units has not changed by more than 5 percent;

c) the gross floor area of non-residential buildings has not been changed by more than 5 percent or the gross floor area of any individual building has not been changed by more than 10 percent;

d) The number of stories of any building has not increased;

e) The square-footage of grading on any individual lot has not increased by more than 1,000 square feet;

f) the amount of open space has not decreased by more than 5 percent or been altered in such a way as to change its original design or intended use;

g) all special conditions attached to the approval are met.

150. "Substantial damage" - damage of any origin sustained by a structure when the cost of restoring the structure to its undamaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

151. "Substantial improvement" - reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, within a consecutive 365-day period, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes an improvement to a structure that has incurred substantial damage, regardless of the actual repair work performed. The term does not include either:

a) improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have

been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions; or

b) an alteration of an historic structure as defined in 44 code of federal regulations, part 59.1, provided that the alteration will not preclude the structure's continued designation as an historic structure.

152. "Transient sales" - use of a structure or lot for the temporary sale of goods, wares or merchandise. Transient sales do not include the sale of food products of a farm or garden occupied and cultivated by the seller.

153. "Transitional area" - an area in the process of changing from one use to another use or an area which functions as a buffer between land uses of different types or intensity.

154. "Transmission line" - an overhead or underground facility consisting of utility poles, lines, underground conduit, and related devices used to carry electricity generally to a location other than the ultimate user, with a nominal voltage greater than 35 kilovolts.

155. "Tributary creek" - a water course mapped on the public water inventory including the Minnehaha Creek, Nine Mile Creek, and Purgatory Creek (including both branches), and the public water course that flows out of Glen Lake. These waters include those defined as tributary rivers by the Minnesota department of natural resources.

156. "Use" - the purpose or activity for which a premises is designed, arranged or intended or for which it is or may be occupied or maintained.

157. "Use, Accessory" - a use that is subordinate to, associated with, and located on the same property as the principal use.

158. "Use, Commercial" - a use that involves the sale of goods or services.

159. "Use, Conditional" - a use that is permitted in a particular zoning district when certain and specific standards and conditions outlined in the ordinance are met. The city may impose conditions beyond those outlined in ordinance when necessary to protect public health, safety, and welfare.

160. "Use, Permitted" - a use that is allowed by right when ordinance standards are met.

161. "Use, Primary" - a use for which a premises is designed, arranged, or intended or for which it is or may be occupied.

162. "Utility pole" - a structure which is owned by a governmental agency or utility company and which is used to support illumination devices or lines and other equipment carrying electricity or communications.

163. "Variance" - a modification from the literal requirements of this ordinance as specified in section 300.07 of this ordinance.

164. "Water oriented accessory structure" - a detached, above ground small building or structure that does not exceed 120 square feet in size or 10 feet in height, exclusive of safety rails, that's use is directly related to the surface water. Examples include sheds, gazebos, screen porches and detached decks. Stairways, fences, retaining walls and docks are not considered water oriented accessory structures. Boat houses are not water oriented accessory structures.

165. "Water Resource" - for purposes of this ordinance, a lake, creek, wetland, stormwater pond, ditch, or other similar natural feature.

166. "Water resources management plan" - the document entitled City of Minnetonka Water Resources Management Plan dated January 25, 1999, and as amended.

167. "Wetlands" - a low area where the water table is usually at or near the surface, or where the land is covered by shallow water. Wetlands must: (1) have hydric soils; (2) be inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation; and (3) under normal circumstances support a prevalence of hydrophytic vegetation.

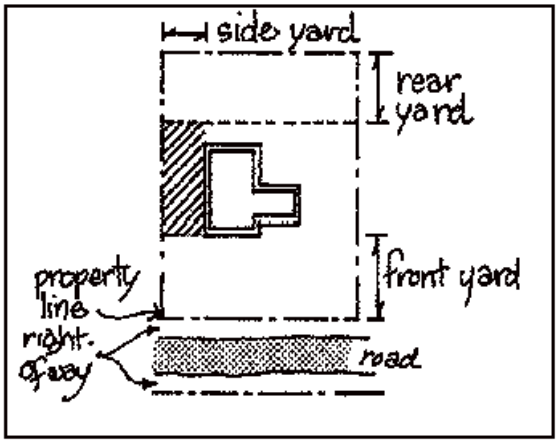
168. "Wind energy conversion system (WECS) or windmill" - an apparatus capable of converting wind energy into electricity.

169. "Yard, front" - the area between the front lot line and the principal structure. (Figure 13)

170. "Yard, rear" - the area between the rear lot line and the principal structure. (Figure 13)

171. "Yard, side" - the area between front and rear yards extending from the side lot lines to the principal structure. (Figure 13)

Figure 13



(Amended by Ord. No. 2004-07, effective March 15, 2004; amended by Ord. No. 2004-24, effective August 23, 2004; amended by Ord. No. 2006-01, effective January 9, 2006; amended by Ord. No. 2006-10, effective May 8, 2006; amended by Ord. No. 2007-03, effective Jan. 22, 2007; amended by Ord. No. 2008-10, effective March 24, 2008; amended by Ord. No. 2008-25, effective August 25, 2008; amended by Ord. No. 2011-29, effective December 19, 2011; Ord. No. 2012-05, effective March 26, 2012; amended by Ord. No. 2012-07, effective June 25, 2012; amended by Ord. No. 2012-13, effective September 18, 2012; amended by Ord. No. 2014-07, effective March 24, 2014; amended by Ord. No. 2014-18, effective May 19, 2014; amended by Ord. No. 2016-05, effective February 29, 2016; amended by Ord. No. 2019-03, effective March 18, 2019; amended by Ord. No. 2019-16, effective July 22, 2019; amended by Ord. No. 2021-20, effective October 4, 2021; amended by Ord. No. 2021-22, effective October 18, 2021; amended by Ord. No. 2022-18, effective November 14, 2022; amended by Ord. No. 2023-02, effective February 27, 2023; amended by Ord. No. 2024-17, effective November 18, 2024)

SECTION 300.03. ADMINISTRATION AND ENFORCEMENT.

1. Administration.

The city planner is responsible for administering and enforcing this ordinance. The planner has the power and duty to:

a) Create and maintain necessary records and files and establish administrative procedures to ensure the efficient implementation of this ordinance;

b) Designate additional individuals as needed to assist in the administration and enforcement of this ordinance; and

c) Make substantially similar use determinations for permitted, conditional, accessory, and interim uses as authorized in each zoning district. The public may request a written statement of clarification that includes the findings that lead to the city planner's determination.

Any person dissatisfied with any procedure or decision of the city planner may appeal to the planning commission. The decision of the planning commission regarding any decision first made by the city planner may be appealed to the city council in accordance with the procedures outlined in section 300.04 of this ordinance.

(Amended by Ord. No. 2025-07, effective June 23, 2025)

2. Violations and Penalties.

a) A person who violates, fails to comply with or assists, directs or permits the violation of a provision of this chapter 3 or who knowingly makes or submits a false statement or document in connection with an application or procedure required by this chapter 3 is guilty of a misdemeanor. A person who violates, fails to comply with or assists, directs or permits the violation of a performance standard required by section 300.28 of this chapter 3 must reimburse the city or its agent for the actual cost of the tests, measurements or other procedures necessary to demonstrate that violation. In addition, the person must pay a fee twice that which is specified in section 710 of the code of city ordinances for any application that is submitted in connection with or as a result of the violation. Each day a violation continues constitutes a separate offense.

b) If a building or structure is erected, constructed, altered, repaired, converted or maintained or if a building, structure, or land is used in violation of this chapter 3, the city planner may initiate any lawful action or proceeding in the name of the city of Minnetonka and has the powers of a peace officer to prevent, restrain, correct or abate the violation. Nothing in this chapter 3 prevents the city planner from taking any other lawful action that is deemed necessary to prevent or remedy a violation of this chapter 3.

c) A violation of a provision of this chapter 3 or of a condition imposed under authority of chapter 3 is a public nuisance, except if enforcement of the violation would result in the removal or relocation of a principal or accessory structure, or a part of it. The public nuisance may be abated in accordance with the provisions of section 845 of this code.

d) No section or part of this chapter 3 designating the duties of an official, employee or appointee of the city may be construed to make that official, employee or appointee liable for the penalty provided by the code of city ordinances for violation of this chapter 3.

3 Notice.

Failure to give notice or to give adequate notice when such is required by this ordinance shall not invalidate any proceeding, provided that a good faith attempt has been made to comply with the notice requirement.

4. Fees.

The fees required by this ordinance shall be those specified by section 710 of the code of city ordinances.

(Amended by Ord. No. 2012-05, adopted March 26, 2012; amended by Ord. No. 2003-25, adopted October 27, 2003)

SECTION 300.04. PLANNING COMMISSION.

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1. Establishment.

A planning commission of seven members is established and will constitute the planning agency of the city. Members of the planning commission must be residents of the city and will be appointed by the mayor and confirmed by the city council. Members will serve staggered terms of two years and may be removed by a vote of two-thirds of the full city council. Members will hold office until their successors are appointed and qualified, not to exceed an additional 90 days.

2. Powers and Duties.

The planning commission shall have such powers and duties as may be conferred upon it by statute, charter or ordinance. The planning commission's actions shall be advisory to the city council except with regard to those matters in which its decisions are final but subject to appeal to the city council. In addition, the planning commission shall have the power:

a) to hear requests and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by an administrative officer in the enforcement of this ordinance; and

b) to hear applications for variances, expansion permits, and sign plan requests and to grant such requests only when it is demonstrated that the application meets the requirements of this ordinance.

(Amended by Ord. No. 2023-02, effective February 27, 2023)

3. Procedures.

The planning commission shall elect from among its members such officers as it may deem appropriate. The planning commission may adopt bylaws or rules for the conduct of its business.

4. Staff Liaison.

The city planner shall serve as liaison between the planning department and planning commission. The city planner shall prepare reports and information for the planning commission, attend its meetings and participate in hearings and discussions held by the commission but shall not vote on any item before the planning commission.

5. Actions.

The planning commission shall make recommendations to the city council or decisions on items before it within a reasonable time or such time as shall be prescribed by statute, charter or ordinance. Failure by the planning commission to make a recommendation or decision within the required period shall be deemed to be a denial if the delay is appealed by the applicant. The planning commission may condition its recommendations or approval in order to effect the intent of this ordinance. The planning commission shall accompany its decision to deny an application with a statement of its findings regarding the matter. The planning commission shall serve a copy of any decision in which its action is final upon the applicant by mail.

6. Appeals.

a) Any person aggrieved by a decision of the planning commission regarding an application on which the decision of the planning commission may be final may appeal such decision to the city council. The appeal shall be submitted in writing within 10 days of the date of the decision or the decisions stands. Upon appeal, the city council shall consider the request within 90 days unless an extended period is agreed with the appellant. The city council may reverse the decision of the planning commission by an affirmative vote of two-thirds of its full membership.

b) A person aggrieved by a decision of the city planner or the city engineer that is made under the authority of this ordinance may appeal such decision to the planning commission. The appeal must be submitted in writing within 10 days of the date of the decision. A person aggrieved by a decision of the planning commission regarding such appeal may appeal the decision of the planning commission to the city council. The appeal must be submitted in writing within 10 days of the decision. The city council may reverse the decision of the planning commission by an affirmative vote of at least two-thirds of its full membership.

c) In any matter in which the planning commission's decision is not final but is a recommendation to the city council, the city council may adopt, modify or reject the recommendation of the planning commission by vote of a simple majority of those present, unless otherwise required by this ordinance.
d) A person aggrieved by a final city decision made under this chapter 3 may seek judicial review by filing an action with the Hennepin County District Court within 60 days after the date that the city provides written notice of the final decision to the applicant.

e) Any applicant who obtains a building permit, starts construction, begins a use in reliance upon the decision of the planning commission, or any combination of those activities, prior to the termination of the appeal period, assumes the risk that the decision may be reversed upon appeal. When an appeal is received by the city the applicant will be notified of the appeal and informed as to the date of the city council meeting where it will be heard.

(Amended by Ord. No. 2012-07, adopted June 25, 2012, Ord. No. 2004-24, adopted August 23, 2004; amended by Ord. No. 2001-15, adopted May 21, 2001; amended by Ord. No. 2020-04, adopted April 20, 2020)

SECTION 300.05 INTERIM USE PERMITS

1. Definition and Purpose.

a) An interim use is a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

b) The purposes for allowing interim uses are:

1) To allow a use for a temporary period of time until a permanent location is obtained or while the permanent location is under construction;

2) To allow a use that is presently judged acceptable by the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district;

3) To allow a use that is seasonal in nature; or

4) To allow a use for a limited period of time that reasonably uses the property where it is not reasonable to use it in the manner otherwise provided in the zoning ordinance or comprehensive plan.

2. Permit Required.

It is unlawful to use any structure or land for any purpose requiring an interim use permit in the zoning district in which the property is located without first obtaining an interim use permit from the city. Where applicable, a building permit must also be obtained from the city.

3. Application.

An application for an interim use permit must comply with the provisions for a conditional use permit application in section 300.06, subdivision 2.

(Amended by Ord. No. 2025-07, effective June 23, 2025)

4. Procedure.

An interim use application will be processed in accordance with the procedure for conditional use permits in section 300.06, subd. 3 and 4. No application for an interim use permit that has been denied wholly or in part may be resubmitted for a period of one year after the date of denial, except on grounds of new evidence or proof of changes of conditions found to be valid by the city council.

5. General Standards.

No interim use permit may be granted unless the city council determines that the use will comply with the following:

a) The use will conform to performance standards outlined in 300.28;

b) The use will not delay anticipated development or redevelopment of the site;

c) The use will not adversely affect the adjacent property, the surrounding neighborhood, or other uses on the property where the use will be located;

d) The use will not impose additional unreasonable costs on the public;

e) The date or event that will terminate the use can be identified with certainty; and

f) The applicant agrees in writing to any conditions that the city council deems appropriate for the use, including a requirement for a financial security to ensure removal of all evidence of the use upon termination.

(Amended by Ord. No. 2025-07, effective June 23, 2025)

6. Effect of Permit.

a) An interim use permit is effective only for the location specified in the application.

b) The issuance of an interim use permit does not confer on the property any vested right.

c) In the event of a public taking of property after the interim use is established, the property owner is not entitled to compensation for any increase in value attributable to the interim use.

(Amended by Ord. No. 2025-07, effective June 23, 2025)

7. Termination.

a) An interim use permit expires and the interim use must terminate at the earlier of:

1) the expiration date in the interim use permit;

2) the occurrence of any event identified in the interim use permit for the termination of the use;

3) revocation of the interim use permit; or

4) an amendment of the city code that no longer allows the interim use.

b) An interim use permit expires one year after approval if the proposed use has not commenced or a building permit for a structure to support the interim use has not been issued.

c) An interim use permit expires if the interim use ceases operation for a continuous period of at least one year.

8. Revocation or Modification.

The city council may review an interim use permit periodically and may revoke a permit upon violation of any condition of the permit, any law of the United States or the state of Minnesota, or any city ordinance. If it is discovered after approval of the interim use permit that the city's decision was based at least in part on false, misleading, or fraudulent information, the city council may revoke the permit, modify the conditions or impose additional conditions to ensure compliance with this section. The procedure for revocation will be the same as that for licenses specified in section 700.035 of the city code.

(New section 300.05 added by Ord. No. 2011-19, adopted August 22, 2011; former section 300.05 repealed by Ord. No. 92-621, adopted April 16, 1992)

SECTION 300.06. CONDITIONAL USE PERMITS.

1. Permit Required.

It shall be unlawful to use any structure or land for any purpose requiring a conditional use permit in the zoning district in which the property is located without first obtaining a conditional use permit from the city. Where applicable, a building permit shall also be obtained from the city.

2. Application.

Application for a conditional use permit shall be made to the city planner on forms provided by the city and shall be accompanied by the following:

a) the legal description of the property;

b) evidence of ownership or an interest in the property;

c) the fee required by section 710 of the code of city ordinances;

d) a plat or map of the property which shows, at a minimum, all lot lines, existing and proposed structures, driveways and parking areas; and

e) such other information as may be required by the city.

(Amended by Ord. No. 2023-02, effective February 27, 2023)

3. Public Hearing.

a) After receipt of a completed application, a date must be set for a public hearing before the planning commission. Not less than 10 days before the public hearing, the city must publish notice in the official newspaper and send notice by mail to the applicant and to the owners of all properties located wholly or partially within 400 feet. Following the hearing or any continuance that is not appealed by the

applicant, the planning commission must make a recommendation to the city council.

b) The public hearing must be held before the city council instead of the planning commission if the application is for a city-owned park, the project has no variances, and a public hearing complying with the notice provisions of this paragraph has been held at a neighborhood meeting or by the Minnetonka park board.

4. City Council.

After receipt of the recommendation of the planning commission, the city council must consider the request and hold whatever hearing it deems advisable. In evaluating an application for a conditional use permit, the city council must consider and adopt findings regarding compliance with the general and specific criteria outlined in sections 300.16 or 300.21 of this ordinance. The planning commission may recommend and the city council may impose conditions on granting the permit in order to ensure compliance with the criteria or to effect the purpose of this ordinance. The city council must make a decision within the time period specified in state law. The Minnesota Department of Natural Resources must be notified of conditional use permit applications and decisions in the shoreland district as provided for in section 300.25.

5. Revocation or Modification.

The city council may review conditional use permits periodically and may revoke a permit upon violation of any condition of the permit, any law of the United States or the state of Minnesota, or any city ordinance. If it is discovered after approval of the conditional use permit that the city's decision was based at least in part on fraudulent information, the city council may revoke the conditional use permit, modify the conditions or impose additional conditions to ensure compliance with section 300.16 or 300.21 of this ordinance. The procedure for revocation shall be the same as that for licenses specified in section 700.035 of the code of city ordinances.

6. Recording.

A certified copy of the conditional use permit shall be filed by the applicant with the Hennepin county recorder or registrar of titles. The permit shall contain a legal description of the property.

7. Term of CUP.

A conditional use permit shall remain in effect for so long as the conditions agreed upon are observed. A conditional use permit shall expire if normal operation of the use has been discontinued for 12 or more months. Time shall be calculated as beginning on the day following the last day in which the use was in normal operation and shall run continuously thereafter.

8. Violations.

A person who violates, fails to comply with or assists, directs or permits the violation of the terms or conditions of a conditional use permit is guilty of a misdemeanor. A violation is a violation of the permit and renders the permit null and void. A violation also constitutes a public nuisance that may be abated in accordance with the provisions of section 845.

(Amended by Ord. #2008-10, adopted March 24, 2008; amending by Ord. #2004-37, adopted December 20, 2004; amended by Ord. #2003-25, adopted October 27, 2003)

SECTION 300.07. VARIANCES.

1. Limitations.

a) A variance may be granted from the requirements of this ordinance including those placed on nonconformities. A variance is only permitted when it is in harmony with the general purposes and intent of this ordinance and when the variance is consistent with the comprehensive plan. A variance may be granted when the applicant establishes that there are practical difficulties in complying with this ordinance. Practical difficulties means that the property owner proposes to use the property in a reasonable manner not permitted by this ordinance, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, would not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties also includes inadequate access to direct sunlight for solar energy systems. Inadequate access means the failure to achieve reasonable access to direct sunlight, not optimal or maximal access. Variances must be granted for earth sheltered construction as defined in state law, when in harmony with this ordinance. The city may impose conditions in the granting of a variance. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

b) A lot that does not meet the minimum requirements of this ordinance and section 400 is not buildable unless a variance is granted. No variance will be granted to declare a substandard lot buildable unless, in addition to meeting the criteria enumerated in paragraph (a) of this subdivision, the applicant has exhausted all reasonable possibility of combining the lot with an adjacent vacant lot. Notwithstanding the above, no variance is needed to declare buildable any lot which was a lot of record zoned for single family residential use on February 12, 1966 and which meets all of the following minimum standards:

1) 15,000 square feet;

2) 90 feet in width at building setback line; and

3) 110 feet in depth.

c) No variance shall be granted to permit a use which is not allowed as a permitted use, accessory use or conditional use under this ordinance for property in the district in which the land is located.

d) No variance shall be granted in the wetlands, floodplain or shoreland districts which allows for a lesser degree of flood protection than is required by sections 300.23, 300.24 or 300.25 of this ordinance.

e) A variance from the standards applicable to another land use approval, such as a site plan, conditional use permit, and subdivision, does not require a separate application, but the applicant for the underlying land use approval must provide a written narrative explaining the justification for any requested variance. The planning commission and city council may act separately on such a variance at their discretion, but if no separate action is taken, the variance will be considered approved or denied as part of the underlying application.

2. Application.

Application for a variance shall be made to the zoning administrator. The application shall be on forms provided by the city and shall be accompanied by the following:

a) a plat or map of the property which shows, at a minimum, all lot lines, existing and proposed structures, driveways and parking areas, significant topographical features and mature trees;

b) evidence of ownership or an interest in the property;

c) the fee required by section 710 of the code of city ordinances; and

d) such other information as may be required by the city.

(Amended by Ord. No. 2023-02, effective February 27, 2023)

3. Public Hearing.

Upon receipt of a completed application, a date shall be set for a public hearing before the planning commission. The public hearing shall be held only after notice has been sent by mail to the owners of all properties situated wholly or partially within 400 feet, as reflected in the certified records of the Hennepin county auditor.

4. Decisions.

Following the public hearing or any continuance that is not appealed by the applicant, the planning commission must decide the matter before it. Appeals from orders, requirements, decisions or determinations of an administrative officer will be decided by the planning commission by vote of a simple majority of those present. The planning commission may grant a variance only upon an affirmative vote of two-thirds of its full membership. The planning commission may impose conditions in granting variances to effect the intent of this ordinance and to protect adjacent properties. The planning commission must accompany its decision to deny a variance with a statement of its findings and must serve a copy of its decision upon the applicant by mail. The planning commission action will be final action subject to the right of appeal, except:

a) if the application is for a variance from the provisions of section 300.29, Subd. 3(g) with respect to the time limit for amortizing non-conforming uses; or

b) if the variance is an integral part of another land use application that requires city council action.

In those circumstances, the planning commission action will be a recommendation to the city council, and action by the planning commission will require only approval of a majority of its full membership. Approval of the variance by the city council will require an affirmative vote of two-thirds of its full membership. The Minnesota Department of Natural Resources must be notified of variance applications and decisions in the shoreland district as provided for in section 300.25.

5. Term of Variance.

Any variance granted by the city shall run with the land and shall be perpetual unless prior to December 31 of the year following the year of approval and no building permit has been issued or substantial work performed on the project, in which case the variance shall be null and void. The planning commission may extend the period for construction upon finding that the interest of the owners of neighboring properties will not be adversely affected by such extension. If the variance is part of an approved site and building plan, extension of the time period for construction shall be contingent upon a similar extension of the time period for the site and building plan by the planning commission as required by section 300.27 of this ordinance. Once the project is completed as approved, the variance becomes perpetual.

6. Specific Project.

A variance shall be valid only for the project for which it was granted. Construction of any project shall be in substantial compliance with the building plans and specifications reviewed and approved by the planning commission or city council.

7. Appeals.

Any person aggrieved by a decision of the planning commission regarding a variance or an order, requirement, decision or determination

first made by an administrative officer may have such decision reviewed by the city council if a request for review is submitted to the zoning administrator within 10 days of the date of the decision. The appeal shall be in writing and shall include a statement of the alleged errors or omissions of the planning commission. The city council may reverse a decision of the planning commission by an affirmative vote of at least two-thirds of its full membership. The city council shall make a decision within 120 days of submission of a completed application or such longer period not objected to by the applicant. If the city council fails to make a timely decision, the appeal shall be deemed to have been approved.

8. Recording.

A certified copy of the variance shall be filed by the applicant with the Hennepin county recorder if the variance applies to abstract property. The variance shall contain a legal description of the property affected.

9. Violations.

A person who violates, fails to comply with or assists, directs or permits the violation of the terms or conditions of a variance is guilty of a misdemeanor. A violation is a violation of the variance and renders the variance null and void. A violation also constitutes a public nuisance that may be abated in accordance with the provisions of section 845.

(Amended by Ord. 2011-10, adopted June 20, 2011; amended by Ord. 2010-18, adopted December 20, 2010; amended by Ord. 2008-10, adopted March 24, 2008; amended by Ord. 2007-17, adopted May 7, 2007; Ord. #2003-25, adopted October 27, 2003)

SECTION 300.08. CERTIFICATES OF OCCUPANCY.

1. Certificate Required.

It shall be unlawful to use, occupy, or permit the use or occupancy of any building or portion of building constructed, erected, enlarged, altered, converted or moved onto a lot within the city until a certificate of occupancy has been issued.

2. Application.

Application for a certificate of occupancy shall be made on forms provided by the city.

3. Issuance.

A certificate of occupancy shall be issued within 10 days of completion of the building but only upon demonstration that the building and use are in conformance with all requirements of the code of city ordinances and that all conditions of approval have been met. A record shall be kept of all certificates issued.

4. Temporary Certificates.

A temporary certificate of occupancy may be issued for a period not to exceed six months. Additionally, one extension of a temporary certificate of occupancy for a period not to exceed six months may be authorized. Conditions may be imposed on the issuance of a temporary certificate of occupancy in order to ensure compliance with this ordinance, including posting financial security acceptable to the city. Issuance of a temporary certificate will not alter the rights or obligations of the owner, tenant or city with respect to full compliance with the requirements of this ordinance or other provisions of the code of city ordinances.

(Amended by Ordinance No. 2011-02, adopted April 18, 2011)

5. Non-conforming Uses.

A certificate of occupancy shall be required for all non-conforming uses or buildings. The certificate issued for non-conforming uses or buildings shall state the manner and extent to which the requirements of this ordinance are not met.

6. Revocation.

A certificate of occupancy may be revoked if the building or use is no longer in compliance with this ordinance. The procedure for revocation shall be the same as that for licenses specified in section 700.035 of the code of city ordinances. The city shall have authority to enforce the revocation of the certificate of occupancy by appropriate means. Upon revocation the building shall not be used for any purpose until issuance of a new certificate of occupancy.

SECTION 300.09. ZONING ORDINANCE TEXT AND MAP AMENDMENTS.

1. Initiation of Amendment.

An amendment of this ordinance may be initiated by petition of the owner of the property to be rezoned, upon recommendation of the planning commission or by the city council. The ordinance may be amended whenever consistent with the public health, safety or general welfare. All amendments shall be consistent with the intent of this ordinance and of the comprehensive plan.

2. Application.

An application for a change in the boundaries of a zoning district made by the owner of the property shall be submitted to the city planner on forms provided by the city and shall be accompanied by the following:

a) a map or plat of the property and the land within 400 feet thereof;

b) evidence of ownership or an interest in the property;

c) the fee required by section 710 of the code of city ordinances; and

d) such other information as may be required by the city.

An application for a change in the boundaries of a zoning district which would result in the creation of a zoning district which is inconsistent with the land use designation of the property in the comprehensive plan must be accompanied by an application for an amendment to the comprehensive plan.

(Amended by Ord. No. 2023-02, effective February 27, 2023)

3. Public Hearing.

A public hearing before the planning commission shall be held on all applications for amendments to this ordinance. Notice regarding an amendment which involves a change in the boundaries of a zoning district shall be published in the official newspaper at least 10 days prior to the public hearing and shall be sent by mail within a similar time to the applicant and to the owners of all property located wholly or partially within 400 feet, as reflected in the certified records of the Hennepin county auditor. Notice regarding an amendment which does not involve a change in the boundaries of a zoning district shall be published in the official newspaper not less than 10 days prior to the public hearing. The planning commission shall make a decision within 60 days following the hearing or any continuance which is not appealed by the applicant.

4. City Council Action.

After receiving the planning commission's recommendation, the city council must consider the matter and may hold whatever hearing it deems advisable. The city council must act upon the amendment within 60 days of submission of a completed application or such longer period agreed to by the applicant. The city may take an additional 60 days for a decision upon notifying the applicant of the reasons for such an extension. In the case of an amendment involving a change in the boundaries of a zoning district, the city must mail a copy of its decision to the applicant. If the council fails to make a timely decision, the amendment will be deemed to have been approved. The city council may adopt an amendment to this ordinance only upon a majority vote, except that the city council may only adopt a rezoning from residential to any commercial or industrial zone upon an affirmative vote of at least two-thirds of its full membership. In the case of a rezoning to PUD, planned unit development, or the approval of a master development plan, the required votes will be based on the gross floor area of the proposed uses. In these cases, a commercial or industrial zone will be considered to be any plan with more than 25% of the gross floor area in commercial or industrial use.

5. Effective Date.

Any amendment to this ordinance adopted by the city council shall be effective upon adoption or at such later date as may be specified in the amendment.

(Amended by Ord. #2001-25, adopted September 24, 2001)

SECTION 300.10. R-1 LOW DENSITY RESIDENTIAL DISTRICT.

1. Purpose.

The purpose of the R-1 district is to provide a district for single family detached dwellings in those areas where such development is consistent with the low density residential designation of the comprehensive plan and compatible with surrounding land use characteristics. Development within this district shall occur at densities not exceeding four dwelling units per acre. The allowed density for a piece of property will be determined by the city at the time of the development application. The determination will be based upon the site specific characteristics of the property and the requested development. Factors to be considered in increasing or decreasing the allowed density include the existing environmental conditions such as wetlands, floodplains, steep slopes, and significant trees; the specific site plan; the type of housing units proposed, including whether greater density is desirable because the development contains affordable housing that is consistent with the city's affordable housing goals but that avoids unacceptable concentrations of such housing; the requested zoning; the minimum standards of this ordinance; the potential impact from traffic generated by the development; and the surrounding area. The burden of establishing the appropriateness of the high end of the density range will be on the applicant.

2. Permitted Uses.

Within the R-1 district no structure or land shall be used except for one or more of the following permitted uses and the accessory and conditional uses in subdivisions 3 and 4:

a) single family detached dwelling units, but not more than one dwelling unit per lot;

b) manufactured homes built in conformance with Minn. Stat. §§ 327.31 et seq.;

c) public park and recreational areas owned and operated by a governmental unit, including recreational facilities and structures consistent with the area, except as provided for in subdivision 4;

d) licensed residential care facilities or community based residential care facilities serving six or fewer persons, a licensed day care facility serving 12 or fewer persons, and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve 14 or fewer children, except a residential facility whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses;

e) agriculture, farming, and truck gardening, except that cannabis cultivation for commercial purposes is not allowed; or

f) cabinets no larger than 150 cubic feet that hold utility equipment and for which a landscape plan has been approved by the city planner; overhead utility poles and lines for a distribution line up to a maximum height of 60 feet as measured from the ground upon which it is located, except that poles and lines for a distribution line may be taller than 60 feet, but not taller than 80 feet, when needed to cross a major roadway such as a freeway.

g) private recreational uses and structures for the exclusive use of surrounding property owner(s) as a principal use. Such uses and structures include tennis courts, pools, patios, and docks, which cannot be used for commercial purposes or non-recreational uses. The only permitted buildings are gazebos and storage sheds. Storage sheds may be no larger than 120 square feet. All structures mentioned in this subsection must be at least 50 feet from a front property line and meet all other minimum-required setbacks and maximum area requirements for accessory structures.

(Amended by Ord. 2013-10, adopted June 24, 2013; amended by Ord. 2008-19, adopted July 14, 2008; amended by Ord. No. 2024-17, effective November 18, 2024)

3. Accessory Uses.

Within the R-1 district only the following uses shall be permitted as accessory uses, provided they are subordinate to, associated with and located on the same lot as a permitted use:

a) private swimming pools, except as provided for in subdivision 4;

b) Accessory structures, except swimming pools, unless covered with an accessory structure, not exceeding 12 feet in height or an aggregate of 1,000 square feet of gross floor area and except as provided for in subdivision 4;

c) receive only satellite dish antennas and other antenna devices up to a maximum height of 60 feet as measured from the ground upon which it is located subject to the requirements provided in section 300.15, subd. 12; and radio devices no larger than one cubic foot in size that are attached to utility poles, if there is no more than one per pole;

d) solar energy system;

e) private tennis courts, except as provided for in subdivision 4;

f) home occupations that comply with the provisions of section 300.15, subd. 14;

g) minor mass transit facilities including benches, which benches may include advertising signs consistent with the provisions of section 325 of the code of city ordinances, except as provided for in subdivision 4;

h) recreational facilities and structures, provided they contain less than 1,000 square feet of gross floor area, and except as provided for in subdivision 4;

i) evergreen material sales if in compliance with the standards specified in section 300.15, subd. 13, and the city planner has given approval;

j) public or private schools having a course of instruction meeting the compulsory education requirements of the Minnesota board of education for students enrolled in grades K-12, or any portion thereof, provided that each school:

1) serves no more than 12 students, unless each and every one of the students is living in the structure and is the child, grandchild, parent, grandparent, spouse, or ward of a family member living in the structure;

2) has no residential facilities for students who are not the child, grandchild, parent, grandparent, spouse, or ward of a family member living in the structure;

3) has no more than one employee or independent teaching contractor who lives outside the structure, unless the total number of traffic trips generated by these people does not exceed the total of one trip to and from the structure for each day of instruction;

4) complies with the sign regulations for permitted residential uses, not conditionally permitted uses, in the applicable zoning district;

and

5) complies with all other applicable city ordinances regarding parking.

k) licensed day care facilities serving 12 or fewer persons, and licensed group family day care facilities serving 14 or fewer children, provided that there is not more than one outside employee in any such facility;

l) garage sales, estate sales, yard sales, rummage sales, and other sales of personal property that have similar traffic and parking patterns, if:

1) the sales occur during no more than two periods of a maximum of three consecutive days each in any 12-month period,

2) the items offered for sale consist only of items owned by a person who occupies the property as his/her residence or by friends of the resident

3) none of the items offered for sale have been purchased for resale or received on consignment for purposes of resale, and

4) paragraphs 1, 2 and 3 do not apply to conditionally permitted educational, religious, and public institutions; and

m) daycare facilities within a religious institution occupying no more than 20 percent of the total floor area of the building.

n) other uses that are not regulated by this code and that are customarily associated with but subordinate to a permitted use, as reasonably determined by the city.

(Amended by Ord. 2016-08, effective May 23, 2016; Amended by Ord. 2012-05, adopted March 26, 2012; amended by Ord. 2009-13, adopted September 14, 2009; amended by Ord. 2008-19, adopted July 14, 2008; amended by Ord. 2019-04, adopted March 18, 2019; amended by Ord. No. 2022-18, effective November 14, 2022; amended by Ord. No. 2023-02, effective February 27, 2023)

4. Conditional Uses.

Within the R-1 district no structure or land shall be used for the following except by conditional use permit and in conformance with the standards specified in section 300.16 of this ordinance:

a) educational institutions and facilities, except as provided for in subdivision 3;

b) religious institutions and facilities;

c) mass transit facilities, except as provided for in subdivision 3;

d) accessory dwelling units;

e) licensed day care facilities serving 13 through 16 persons, provided they are located within suitably designed structures which are not also used for residential purposes or are not within religious or educational buildings;

f) accessory structures exceeding 12 feet in height or 1,000 square feet in agregate areas;

g) licensed residential care facilities or community based residential care facilities serving 7 through 10 people;

h) private, non-profit recreational facilities as a principal use;

i) wind energy conservation systems or windmills;

j) cemeteries;

k) marinas;

l) public buildings or facilities, except for recreational buildings that contain less than 1,000 square feet, and utility cabinets larger than 150 cubic feet;

m) public or private nursing or convalescent homes;

n) telecommunication facilities as defined in Section 300.34;

o) golf courses;

p) utility poles and appurtenances (such as wires) that are over 60 feet in height and freestanding upon the ground, and all transmission lines which are not subject to state review under the Minnesota power plant siting act;

q) commercial nurseries;

r) daycare facilities within a religious institution occupying more than 20 percent of the total floor area of the building.

s) other uses similar to those permitted by this section, as determined by the city.

(Amended by Ord. 2012, effective March 26, 2012; Amended by Ord. 2013-10, effective June 24, 2013; amended by Ord. No. 2023-02, effective February 27, 2023)

5. District Standards.

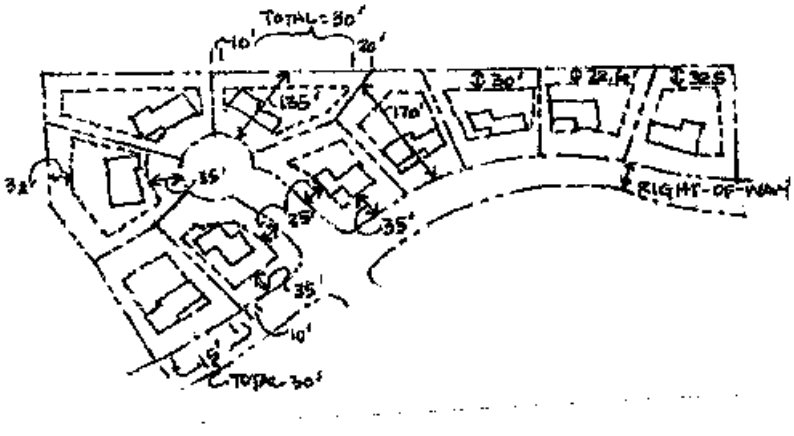
No building or land in the R-1 district shall be used except in conformance with the following:

a) building height: maximum of 35 feet;

b) front yard setback: minimum of 35 feet from the right-of-way of local and neighborhood collector streets and railroad lines, or 50 feet from the right-of-way of major collector or arterial roadways as identified in the comprehensive plan. In the case of a corner lot, one front yard setback may be reduced by 10 feet. On double frontage lots, the setback may be reduced by 10 feet towards the direction perceived by the city planner to be the rear yard. (Figure 13) For a neck lot or one which is serviced by a driveway easement, see section 300.10, subd. 5(e);

c) side yard setback: the sum of the side yard setbacks shall not be less than 30 feet, with a minimum setback of 10 feet; (Figure 14)

Figure 14



d) rear yard setback: minimum of 40 feet or 20 percent of the depth of the lot, whichever is less;

e) minimum setbacks for principal buildings on lots-behind-lots: 40 feet or 20% of the average distance between opposite lot lines, whichever is less, but no less than 25 feet. The city council may reduce all or some of these setbacks to no less than 25 feet, where:

1) the new home would be substantially screened from homes on adjacent lots or from the buildable area of adjacent undeveloped lots;

2) a home cannot be built on a lot adjacent to the side with the proposed reduced setback; or

3) an existing home on a lot-behind-lot is adjacent to the side with the proposed reduced setback and has a setback on that side that is less than those required above

minimum setback for detached, accessory buildings: 10 feet.

f) driveway setback for flag/neck lots and lots served by a driveway easement: minimum of 7 feet from side and rear lot lines, except to the extent reasonably necessary to share a street access point with an adjacent lot. For a lot encumbered by a driveway easement serving another lot, the driveway across that easement must also be set back a minimum of 17 feet from the easement line which is adjacent to the buildable area of the encumbered lot, except as reasonably necessary for the driveway to also serve the residence on that lot;

g) lot area: established in section 400 of this code;

h) lot width: established in section 400 of this code;

i) lot depth: established in section 400 of this code.

j) All structures and site work, including any grading and landscaping activities, must comply with the wetland protection, floodplain protection, shoreland protection, steep slope protection and tree protection requirements contained in sections 300.23, 300.24, 300.25, 300.28 and 314.01 of this ordinance.

(Amended by Ord. No. 2023-02, effective February 27, 2023)

6. Additional Requirements.

a) All dwellings, including manufactured homes, shall have a depth of at least 20 feet for at least 50 percent of their width. All dwellings, including manufactured homes, shall have a width of at least 20 feet for at least 50 percent of their depth.

b) All dwellings shall have a permanent foundation in conformance with the Minnesota state building code.

c) Accessory structures shall conform to the setbacks established for principal structures, except for the following:

1) all accessory structures located more than 10 feet from a principal structure may be located a minimum of 10 feet from a rear or side lot line;

2) accessory structures, except detached garages, must be located behind the front line of the principal structure or maintain a

minimum setback of 50 feet when located between the principal structure and the front lot line; and

3) swimming pools shall be located behind the front building line of the house, and 15 feet side and rear setbacks as measured to the water line are required. On corner lots, swimming pools shall be subject to front yard setbacks established for principal structures.

d) Off-street parking must be provided as outlined in City Code 315.14.

e) Each lot must have a buildable area as defined by this ordinance and established in section 400 of this code. The purpose for a buildable area is to ensure that each lot has a reasonable area for the location of a house, attached garage, and associated decks or patios and that there is sufficient room for the location of the house to be positioned to minimize the physical impacts on the lot and to be consistent with the surrounding neighborhood. This does not require that a house pad occupy the entire buildable area. Each lot must comply with the following:

1) The buildable area must be designated by the applicant and approved by the city council at the time of the subdivision creating the lot. For pre-existing lots, the buildable area will be designated by the city planner based on the standards contained in this ordinance and section 400 of this code.

2) The city may require that construction within the buildable area be located where the city determines it would reasonably:

a. minimize the amount of adverse impacts to the physical environment on the lot, including such things as significant trees, grading, erosion, and surface water drainage, and

b. be consistent with the location of the structures in the surrounding neighborhood.

3) No principal structure, or any portion of it, may be located outside the buildable area, except when intrusions into setbacks are allowed by this code.

4) If a home exists on a lot with less than the minimum buildable area, the home may be enlarged or rebuilt within the applicable setbacks without a variance from the buildable area standard.
(Amended by Ord. 2019-04, effective March 18, 2019; amended by Ord. No. 2023-02, effective February 27, 2023)

7. Exceptions for Qualifying Small Lots.

a) The buildable status of R-1 lots is determined in accordance with section 300.07, subd. 1(b). If a substandard lot has been declared buildable, the provisions of this subdivision (section 300.10, subd. 7) may be applied.

b) In recognition of the exceptional circumstances of nonconforming small lots located in neighborhoods of similarly sized lots, the R-1 district setback standards are reduced for qualifying small lots meeting the following criteria:

1) less than 15,000 square feet;

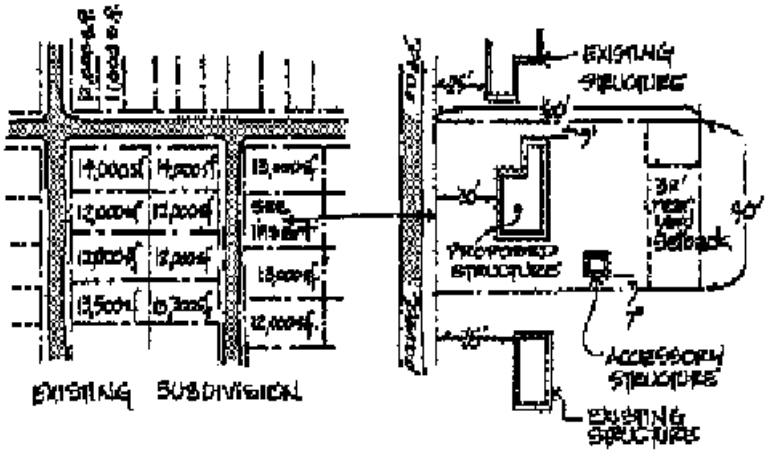
2) lot of record as of February 12, 1966, or lots approved by the city subsequent to this date; and

3) located in an area in which the average size of all residential lots within 400 feet is less than 15,000 square feet.

c) The following standards apply to principal structures located on qualifying small lots:

1) front yard setback: average front setback of principal structures located on adjoining parcels, but in no case less than 20 feet from the right-of-way (Figure 17);

Figure 17



2) side yard setback: 10 percent of lot width measured at the building setback line on each side of the structure, but in no case less than seven feet (Figure 17); and

3) rear yard setback: 20 percent of lot depth, but in no case less than seven feet (Figure 17).

d) The following standards apply to accessory structures located on qualifying small lots: (Figure 17)

1) front yard setback: same as for principal structure;

2) side yard setback: seven feet; and

3) rear yard setback: seven feet.

e) The buildable area for a qualifying small lot must meet the minimums established in section 400 of this code.

8. Interim Uses.

The following uses are allowed by interim use permit in the R-1 district:

a) Any use authorized as a conditional use or other similar uses as determined by the city planner. These uses must meet the standards and conditions outlined for the corresponding conditional use unless waived by the city council, given the temporary nature of the use.

b) Home occupation:

1) must comply with the provisions of section 300.15, subd. 14.

c) Leasing, sales or management office for a development if the office exceeds 1,000 square feet of floor area:

1) must be designed to be architecturally consistent with the principal buildings in the project;

2) must meet the parking standards provided in section 300.28, subd. 12, for office use; and

3) must have any signs designed to be consistent with the principal use.

d) Commercial kennel for dogs, cats, or both:

1) must have a minimum lot size of two acres;

2) must be located next to a collector or arterial street, as identified in the comprehensive plan, or otherwise located so that access to the site will not conduct significant traffic on local residential streets;

3) must screen exterior storage, including refuse, from view from adjacent properties or public streets;

4) must not include the use of a crematory;

5) must screen parking areas for patrons from adjacent properties;

6) must maintain a minimum setback of 100 feet between the kennels and all property lines;

7) must keep all dogs and cats within an enclosed building at all times, except for supervised walks;

8) must not cause annoyance or disturbance to another person by frequent howling, yelping, barking, or other kinds of noise. This paragraph only applies when the noise has continued for a 5-minute period. This requirement applies to the cumulative barking from the kennel, including one or several dogs;

9) must provide at least one parking space per employee and one parking space for each ten kennel cages;

10) must maintain a valid city kennel license and must comply with all applicable city and state building, health and maintenance standards;

11) is subject to site and building plan review pursuant to section 300.27 of this ordinance; and

12) is subject to a reasonable limitation on the total number of animals or the size of the facilities. This will be determined by the city based on the size of the property, the uses of adjoining properties, the existence of buffering and other appropriate factors.

e) A use or improvement that is not permitted in this zoning district or that does not comply with the standards for this zoning district, if such action is required as a reasonable accommodation under the federal Americans with disabilities act, the federal fair housing act, or other federal or state law.

(Amended by Ord. #99-25, effective October 11, 1999; amended by Ord. #2000-19, effective October 16, 2000; amended by Ord. #2002-03, effective January 7, 2002; amended by Ord. #2002-04, effective February 11, 2002; amended by Ord. #2002-24, effective October 14, 2002; amended by Ord. #2004-37, effective December 20, 2004; Ord. #2006-05, effective March 27, 2006; amended by Ord. 2007-03, effective January 22, 2007; amended by Ord. 2010-18, effective December 20, 2010; amended by Ord. 2012-05, effective March 26, 2012; amended by Ord. No. 2021-20, effective October 4, 2021; amended by Ord. No. 2021-21, effective October 10, 2021; amended by Ord. No. 2025-07, effective June 23, 2025)

SECTION 300.11. R-2 LOW DENSITY RESIDENTIAL DISTRICT.

1. Purpose.

The purpose of the R-2 district is to provide a district for two family dwellings in those areas where such development is consistent with the low-density residential designation of the comprehensive plan and compatible with surrounding land use characteristics.

Development within this district may occur at densities not exceeding three dwelling units per acre.

2. Permitted Uses.

Within the R-2 district no structure or land may be used except for any one or more of the following permitted uses and the accessory and conditional uses in subdivisions 3 and 4:

a) two-family dwellings;

b) manufactured homes built in conformance with Minn. Stat. §§ 327.31 et seq., except not more than one home per lot.

c) public park and recreational areas owned and operated by a governmental unit, including recreational facilities and structures consistent with the area, except as provided for in subdivision 4;

d) licensed residential care facilities or community based residential care facilities serving six or fewer persons, a licensed day care facility serving 12 or fewer persons, and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve 14 or fewer children, except a residential facility whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses;

e) cabinets no larger than 150 cubic feet that hold utility equipment and for which a landscape plan has been approved by the city planner; overhead utility poles and lines for a distribution line up to a maximum height of 60 feet as measured from the ground upon which it is located, except that poles and lines for a distribution line may be taller than 60 feet, but not taller than 80 feet, when needed to cross a major roadway such as a freeway.

f) private recreational uses and structures for the exclusive use of surrounding property owner(s) as a principal use. Such uses and structures include tennis courts, pools, patios, and docks, which cannot be used for commercial purposes or non-recreational uses. The only permitted buildings are gazebos and storage sheds. Storage sheds may be no larger than 120 square feet. All structures mentioned in this subsection must meet other minimum-required setbacks and maximum area requirements for accessory structures.

3. Accessory Uses.

Within the R-2 district only the following uses are permitted as accessory uses, provided they are subordinate to, associated with and located on the same lot as a permitted use:

a) private swimming pools, tennis courts, and other sport courts;

b) Accessory structures not exceeding 12 feet in height, or an aggregate of 600 square feet of gross floor area, except as provided for in subdivision 4;

c) solar energy system;

d) home occupations that comply with the provisions of section 300.15, subd. 14;

e) minor mass transit facilities including benches, except as provided for in subdivision 4;

f) licensed day care facilities serving 12 or fewer persons, and licensed group family day care facilities serving 14 or fewer children, provided that there is not more than one outside employee in any such facility;

g) garage sales, estate sales, yard sales, rummage sales, and other sales of personal property that have similar traffic and parking patterns, if:

1) the sales occur during no more than two periods of a maximum of three consecutive days each in any 12-month period,

2) the items offered for sale consist only of items owned by a person who occupies the property as his/her residence or by friends of the resident

3) none of the items offered for sale have been purchased for resale or received on consignment for purposes of resale, and

h) other uses that are not regulated by this code and that are customarily associated with but subordinate to a permitted use, as reasonably determined by the city.

(Amended by Ord. 2019-04, adopted March 18, 2019; amended by Ord. No. 2022-18, effective November 14, 2022)

4. Conditional Uses.

Within the R-2 district no structure or land shall be used for the following except by conditional use permit and in conformance with the standards specified in section 300.16 of this ordinance:

a) accessory dwelling units;

b) utility poles and appurtenances (such as wires) that are over 60 feet in height and freestanding upon the ground, and all transmission lines that are not subject to state review under the Minnesota power plant siting act;

c) other uses similar to those permitted by this section, as determined by the city.

5. Specific District Standards.

a) Lots must meet all of the following minimum standards:

1) Lot area: 12,500 square feet per dwelling unit

2) Lot width at front yard setback: 55 feet per dwelling unit

3) Lot width at right-of-way: 55 feet per dwelling unit

4) Lot depth: 125 feet

5) Buildable area: 2,400 square feet

6) Buildable area dimensions: minimum of four sides with 30 feet per side

b) Principal structures must conform with the following:

1) building height: maximum of 35 feet, except if the building includes a walkout or lookout elevation, in which case the maximum height is 25 feet.

2) front yard setback:

a. From streets located outside of the R-2 plat, a minimum of 35 feet from the right-of-way of streets and railroad lines. In the case of a corner lot, one front yard setback may be reduced by 10 feet. On double frontage lots, the setback may be reduced by 10 feet towards the direction perceived by the city planner to be the rear yard.

b. From streets located within the R-2 plat, and only serve the lots within the R-2 plat, a minimum of 25 feet.

3) side yard setback: 10 feet

4) rear yard setback: minimum of 30 feet or 20 percent of the depth of the lot, whichever is less

5)_ maximum impervious surface: 50 percent

6) maximum floor area ratio: 0.25

c) Accessory structures must conform to the setbacks established for principal structures, except for the following:

1) all accessory structures located more than 10 feet from a principal structure must be located a minimum of 10 feet from a rear or side lot line;

2) accessory structures, except detached garages, must be located behind the front line of the principal structure or maintain a minimum setback of 50 feet when located between the principal structure and the front lot line;

3) swimming pools and sport courts must be located behind the front building line of the house, and set back a minimum of 15 feet from side and rear property lines as measured to the water line of pool or edge of the sport court. On corner lots, swimming pools and sport courts are subject to front yard setbacks established for principal structures.

d) All dwellings, including manufactured homes, must have a depth of at least 20 feet for at least 50 percent of their width and a width of at least 20 feet for at least 50 percent of their depth.

e) All dwellings must have a permanent foundation in conformance with the Minnesota state building code.

f) Off street parking must be provided as outlined in City Code 315.14.

g) The city may require that construction within the buildable area of an R-2 lot be located where the city determines it would reasonably:

1) minimize the amount of adverse impacts to the physical environment on the lot, including such things as significant trees, grading, erosion, and surface water drainage, and

h) No principal structure, or any portion of it, may be located outside the buildable area, except when intrusions into setbacks are allowed by this code.

i) All structures and site work, including any grading and landscaping activities, must comply with the wetland protection, floodplain protection, shoreland protection, steep slope protection and tree protection requirements contained in sections 300.23, 300.24, 300.25, 300.28 and 314.01 of this ordinance.

(Amended by Ord. 2021-20, adopted October 4, 2021; amended by Ord. 2019-04, adopted March 18, 2019; Section 300.11 replaced and replaced by Ord. 2014-23, adopted September 15, 2014; amended by Ord. No. 2023-02, effective February 27, 2023)

SECTION 300.12. R-3 LOW OR MEDIUM DENSITY RESIDENTIAL DISTRICT.

1. Purpose.

The purpose of the R-3 district is to provide a district for attached dwelling units in those areas where such development is consistent with the low or medium density residential designation of the comprehensive plan and compatible with the development pattern of the surrounding area. Clustering of buildings to permit more orderly development and to enhance the preservation of open space is encouraged within the district. Development within the district shall occur at densities not exceeding 12 dwelling units per acre. The allowed density for a piece of property will be determined by the city at the time of the development application. The determination will be based upon the site specific characteristics of the property and the requested development. Factors to be considered in increasing or decreasing the allowed density include the existing environmental conditions such as wetlands, floodplains, steep slopes, and significant trees; the specific site plan; the type of housing units proposed, including whether greater density is desirable because the development contains affordable housing that is consistent with the city's affordable housing goals but that avoids unacceptable concentrations of such housing; the requested zoning; the minimum standards of this ordinance; the potential impact from traffic generated by the development; and the surrounding area. The burden of establishing the appropriateness of the high end of the density range will be on the applicant.

2. Permitted Uses.

Within the R-3 district no structure or land shall be used except for one or more of the following permitted uses and the accessory and conditional uses in subdivisions 3 and 4:

a) dwelling units not exceeding four attached units;

b) manufactured homes built in conformance with Minn. Stat. §§ 327.31 et seq.;

c) public park and recreational areas owned and operated by a governmental unit, including recreational facilities and structures consistent with the area, except as provided for in subdivision 4;

d) licensed residential care facilities or community based residential care facilities serving six or fewer persons, a licensed day care facility serving 12 or fewer persons, and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve 14 or fewer children, except a residential facility whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses; or

e) cabinets no larger than 150 cubic feet that hold utility equipment and for which a landscape plan has been approved by the city planner; overhead utility poles and lines for a distribution line up to a maximum height of 60 feet as measured from the ground upon which it is located, except that utility poles and lines for a distribution line may be taller than 60 feet, but not taller than 80 feet, when needed to cross a major roadway such as a freeway.

(Amended by Ord. 2013-10, adopted June 24, 2013; amended by Ord. 2008-19, adopted July 14, 2008)

3. Accessory Uses.

Within the R-3 district only the following uses shall be permitted as accessory uses, provided they are subordinate to, associated with and located on the same lot as a permitted use:

a) garages for any residential structure;

b) swimming pools, tennis courts and similar recreational facilities, provided they are developed for joint use by members of the homeowners' association or similar organization;

c) individually owned hot tubs and pools, provided they are located on individually owned property, including decks or rear yards, do not exceed 80 square feet, and are subject to review by the homeowners' association or similar organization, if one exists;

d) storage sheds, greenhouses or other accessory structures, provided they do not exceed 120 square feet in gross floor area;

e) solar energy system;

f) receive only satellite dish antennas and other antenna devices up to a maximum height of 60 feet as measured from the ground upon which it is located subject to the requirements provided in section 300.15, subd. 12; and radio devices no larger than one cubic foot in size that are attached to utility poles, if there is no more than one per pole;

g) home occupations that comply with the provisions of section 300.15, subd. 14;

h) minor mass transit facilities including benches, which benches may include advertising signs consistent with the provisions of section 325 of the code of city ordinances, except as provided for in subdivision 4;

i) licensed day care facilities for five or fewer persons, subject to review as a home occupation;

j) evergreen material sales if in compliance with the standards specified in section 300.15, subd. 13, and the city planner has given approval;

k) public or private schools having a course of instruction meeting the compulsory education requirements of the Minnesota board of education for students enrolled in grades K-12, or any portion thereof, provided that each school:

1) serves no more than 12 students, unless each and every one of the students is living in the structure and is the child, grandchild,

parent, grandparent, spouse, or ward of a family member living in the structure;

2) has no residential facilities for students who are not the child, grandchild, parent, grandparent, spouse, or ward of a family member living in the structure;

3) has no more than one employee or independent teaching contractor who lives outside the structure, unless the total number of traffic trips generated by these people does not exceed the total of one trip to and from the structure for each day of instruction;

4) complies with the sign regulations for permitted residential uses, not conditionally permitted uses, in the applicable zoning district; and

5) complies with all other applicable city ordinances regarding parking.

l) garage sales, estate sales, yard sales, rummage sales, and other sales of personal property that have similar traffic and parking patterns, if:

1) the sales occur during no more than two periods of a maximum of three consecutive days each in any 12-month period,

2) the items offered for sale consist only of items owned by a person who occupies the property as his/her residence or by friends of the resident

3) none of the items offered for sale have been purchased for resale or received on consignment for purposes of resale, and

4) paragraphs 1, 2 and 3 do not apply to conditionally permitted educational, religious, and public institutions; and

m) other uses that are not regulated by this code and that are customarily associated with but subordinate to a permitted use, as reasonably determined by the city.

(Amended by Ord. 2016-08, effective May 23, 2016; Amended by Ord. 2012-05, adopted March 26, 2012; amended by Ord. 2009-13, adopted September 14, 2009; amended by Ord. 2008-19, adopted July 14, 2008; amended by Ord. No. 2022-18, effective November 14, 2022)

4. Conditional Uses.

Within the R-3 district no structure or land shall be used for the following, except by conditional use permit and in conformance with the standards specified in section 300.16 of this ordinance:

a) educational institutions and facilities, except as provided for in subdivision 3;

b) religious institutions and facilities;

c) mass transit facilities, except as provided for in subdivision 3;

d) licensed day care facilities serving 13 through 16 persons, provided they are located within common or community spaces or free-standing structures, such as educational or religious facilities;

e) licensed residential care facilities or community based residential care facilities serving 7 through 10 people;

f) private, non profit recreational facilities as a principal use;

g) cemeteries;

h) marinas;

i) public buildings or facilities and cabinets larger than 150 cubic feet that hold utility equipment;

j) telecommunication facilities as defined in Section 300.34;

k) utility poles and appurtenances (such as wires) that are over 60 feet in height and freestanding upon the ground, and all transmission lines which are not subject to state review under the Minnesota power plant siting act;

l) commercial nurseries;

m) commercial dog and/or cat kennels; or

n) other uses similar to those permitted by this section, as determined by the city.

(Amended by Ord. No. 2021-21, adopted October 10, 2021; amended by Ord. 2013-10, adopted June 24, 2013)

5. District Standards.

No building or land in the R-3 district shall be used except in conformance with the following:

a) building height: maximum of 35 feet;

b) front yard setback: minimum of 35 feet from the right-of-way of local and neighborhood collector streets as identified in the comprehensive plan; or a minimum of 50 feet from railroad lines and from the right-of-way of major collector or arterial roadways as identified in the comprehensive plan;

c) side yard setback: minimum of 15 feet plus two feet for every foot by which the building exceeds 25 feet in height. Side yard setbacks may be reduced to zero feet along the common property line when dwellings share common walls and are subject to site and building plan review;

d) rear yard setback: minimum of 40 feet from exterior property lines. Rear yard setbacks may be reduced to zero feet by the city for attached dwellings located within cluster developments which are subject to site and building plan review;

e) building spacing: minimum spacing between buildings shall be the average of the heights of the buildings. Spacing requirements may be reduced to zero feet by the city for dwellings which share common walls and are subject to site and building plan review;

f) lot area: established in chapter 400 of this code; and

g) accessory structures: accessory structures must be located a minimum of 10 feet from any required exterior side or rear lot line. The setback may be reduced to zero feet along common property lines for detached accessory structures in conjunction with attached dwellings.

h) All structures and site work, including any grading and landscaping activities, must comply with the wetland protection, floodplain protection, shoreland protection, steep slope protection and tree protection requirements contained in sections 300.23, 300.24, 300.25, 300.28 and 314.01 of this ordinance.

(Amended by Ord. No. 2023-02, effective February 27, 2023)

6. Interim Uses.

The following uses are allowed by interim use permit in the R-3 district:

a) Any use authorized as a conditional use or other similar uses as determined by the city planner. These uses must meet the standards and conditions outlined for the corresponding conditional use unless waived by the city council, given the temporary nature of the use.

b) Home occupation:

1) must comply with the provisions of section 300.15, subd. 14.

c) Commercial kennel for dogs, cats, or both:

1) must have a minimum lot size of two acres;

2) must be located next to a collector or arterial street, as identified in the comprehensive plan, or otherwise located so that access to the site will not conduct significant traffic on local residential streets;

3) must screen exterior storage, including refuse, from view from adjacent properties or public streets;

4) must not include the use of a crematory;

5) must screen parking areas for patrons from adjacent properties;

6) must maintain a minimum setback of 100 feet between the kennels and all property lines;

7) must keep all dogs and cats within an enclosed building at all times, except for supervised walks;

8) must not cause annoyance or disturbance to another person by frequent howling, yelping, barking, or other kinds of noise. This paragraph only applies when the noise has continued for a 5-minute period. This requirement applies to the cumulative barking from the kennel, including one or several dogs;

9) must provide at least one parking space per employee and one parking space for each ten kennel cages;

10) must maintain a valid city kennel license and must comply with all applicable city and state building, health and maintenance standards;

11) is subject to site and building plan review pursuant to section 300.27 of this ordinance; and

12) is subject to a reasonable limitation on the total number of animals or the size of the facilities. This will be determined by the city based on the size of the property, the uses of adjoining properties, the existence of buffering and other appropriate factors.

d) A use or improvement that is not permitted in this zoning district or that does not comply with the standards for this zoning district, if such action is required as a reasonable accommodation under the federal Americans with disabilities act, the federal fair housing act, or other federal or state law.

(Aamended by Ord. #99-25, effective October 11, 1999; amended by Ord. #2000-19, effective October 16, 2000; amended by Ord. #2002-03, effective January 7, 2002; amended by Ord. #2002-04, effective February 11, 2002; amended by Ord. 2010-18; amended December 20, 2010; amended by Ord. 2012-05, effective March 26, 2012; amended by Ord. No. 2021-21, effective October 10, 2021; amended by Ord. No. 2025-07, effective June 23, 2025; amended by Ord. No. 2025-07, effective June 23, 2025)

SECTION 300.13. R-4 MEDIUM DENSITY RESIDENTIAL DISTRICT.

1. Purpose.

The purpose of the R-4 district is to provide a district for attached and multiple family dwellings in those areas designated for medium density residential development in the comprehensive plan. Development within this district shall occur at densities greater than four but not exceeding 12 dwelling units per acre. The allowed density for a piece of property will be determined by the city at the time of the development application. The determination will be based upon the site specific characteristics of the property and the requested development. Factors to be considered in increasing or decreasing the allowed density include the existing environmental conditions such as wetlands, floodplains, steep slopes, and significant trees; the specific site plan; the type of housing units proposed, including whether greater density is desirable because the development contains affordable housing that is consistent with the city's affordable housing goals but that avoids unacceptable concentrations of such housing; the requested zoning; the minimum standards of this ordinance; the potential impact from traffic generated by the development; and the surrounding area. The burden of establishing the appropriateness of the high end of the density range will be on the applicant.

2. Permitted Uses.

Within the R-4 district no structure or land may be used except for one or more of the following permitted uses and the accessory and conditional uses in subdivisions 3 and 4:

a) attached dwelling units;

b) multiple family dwelling units;

c) public park and recreational areas owned and operated by a governmental unit, including recreational facilities and structures consistent with the area, except as provided for in subdivision 4

d) licensed residential care facilities or community based residential care facilities for six or fewer persons;

e) licensed day care facilities serving three or fewer persons within any dwelling unit, excluding children residing in the dwelling unit; or

f) cabinets no larger than 150 cubic feet that hold utility equipment and for which a landscape plan has been approved by the city planner; overhead utility poles and lines for a distribution line up to a maximum height of 60 feet as measured from the ground upon which it is located, except that utility poles and lines for a distribution line may be taller than 60 feet, but not taller than 80 feet, when needed to cross a major roadway such as a freeway.

(Amended by Ord. 2013-10, adopted June 24, 2013; amended by Ord. 2008-19, adopted July 14, 2008)

3. Accessory Uses.

Within the R-4 district only the following uses shall be permitted as accessory uses, provided they are subordinate to, associated with and located on the same lot as a permitted use:

a) attached garages for any residential structure;

b) detached garages, provided they are located in a common building or space approved by the city under a uniform plan;

c) swimming pools, tennis courts and similar recreational facilities, provided they are developed for joint use by members of the homeowners' association or similar organization;

d) storage buildings designed for common use by members of the homeowners' association or similar organization or for use by the maintenance staff for storage or as a workshop associated with normal upkeep of the property;

e) solar energy system;

f) receive-only satellite dish antennas and other antenna devices up to a maximum height of 60 feet as measured from the ground upon which it is located subject to the requirements provided in section 300.15. subd. 12; and radio devices no larger than one cubic foot in size that are attached to utility poles, if there is no more than one per pole.

g) one leasing, sales or management office per development, provided it is used solely for leasing, sales or management of units within the development, does not exceed 1,000 square feet of floor area and except as provided for in subdivision 4;

h) minor mass transit facilities including benches, which benches may include advertising signs consistent with the provisions of section 325 of the code of city ordinances, except as provided for in subdivision 4;

i) evergreen material sales if in compliance with the standards specified in section 300.15, subd. 13, and the city planner has given approval;

j) public or private schools having a course of instruction meeting the compulsory education requirements of the Minnesota board of education for students enrolled in grades K-12, or any portion thereof, provided that each school:

1) serves no more than 12 students, unless each and every one of the students is living in the structure and is the child, grandchild, parent, grandparent, spouse, or ward of a family member living in the structure;

2) has no residential facilities for students who are not the child, grandchild, parent, grandparent, spouse, or ward of a family member living in the structure;

3) has no more than one employee or independent teaching contractor who lives outside the structure, unless the total number of traffic trips generated by these people does not exceed the total of one trip to and from the structure for each day of instruction;

4) complies with the sign regulations for permitted residential uses, not conditionally permitted uses, in the applicable zoning district; and

5) complies with all other applicable city ordinances regarding parking.

k) garage sales, estate sales, yard sales, rummage sales, and other sales of personal property that have similar traffic and parking patterns, if:

1) the sales occur during no more than two periods of a maximum of three consecutive days each in any 12-month period,

2) the items offered for sale consist only of items owned by a person who occupies the property as his/her residence or by friends of the resident

3) none of the items offered for sale have been purchased for resale or received on consignment for purposes of resale, and

4) paragraphs 1, 2 and 3 do not apply to conditionally permitted educational, religious, and public institutions; and

l) other uses that are not regulated by this code and that are customarily associated with but subordinate to a permitted use, as reasonably determined by the city.

(Amended by Ord. 2016-08, effective May 23, 2016; Amended by Ord. 2009-13, adopted September 14, 2009; amended by Ord. 2008-19, adopted July 14, 2008; amended by Ord. No. 2022-18, effective November 14, 2022)

4. Conditional Uses.

Within the R-4 district no structure or land shall be used for the following except by conditional use permit and in compliance with the standards specified in section 300.16 of this ordinance:

a) educational institutions and facilities, except as provided for in subdivision 3;

b) religious institutions and facilities;

c) mass transit facilities, except as provided for in subdivision 3;

d) licensed day care facilities serving four through 16 persons in suitably designed and designated common areas or structures which are not also used for residential purposes;

e) licensed residential care facilities or community based residential care facilities serving 7 through 10 persons;

f) private, non-profit recreational facilities as a principal use;

g) public or private nursing or convalescent homes;

h) cemeteries;

i) marinas;

j) public buildings or facilities and cabinets larger than 150 cubic feet that hold utility equipment;

k) telecommunication facilities as defined in Section 300.34;

l) utility poles and appurtenances (such as wires) that are over 60 feet in height and freestanding upon the ground, and all transmission lines which are not subject to state review under the Minnesota power plant siting act;

m) commercial nurseries;

n) other uses similar to those permitted by this section, as determined by the city.

(Amended by Ord. No. 2021-21, effective October 10, 2021; amended by Ord. 2013-10, effective June 24, 2013; amended by Ord. 2012-05, effective March 26, 2012)

5. District Standards.

No building or land in the R-4 district shall be used except in conformance with the following:

a) height: building height shall be regulated generally by floor area ratio and yard area requirements but shall be evaluated along with other design parameters under site and building plan review. The planning commission or city council may impose reasonable height limitations when any of the following conditions are found to exist:

1) the proposed building is located within 200 feet of any designated low density residential district;

2) the proposed building is located within 100 feet of any designated public park;

3) the proposed building is highly visible to a large number of parcels containing or designated on the comprehensive plan to contain low density residential uses due to site conditions, including topography and lack of mature vegetation; or

4) the proposed building will be of an inappropriate site or architectural design due to existing or planned topography or sight lines.

In imposing height limitations, it shall be the intent of the planning commission and city council to mitigate potential negative impacts rather than to limit the density of the project.

b) front yard setback: minimum of 35 feet from the right-of-way of local and neighborhood collector streets as identified in the comprehensive plan; or a minimum of 50 feet from railroad lines or from the right-of-way of major collector or arterial roadways as identified in the comprehensive plan, or the height of the building, whichever is greater;

c) side and rear yard setback: side and rear yard setbacks shall be 1½ times the height of the building up to a maximum of 100 feet, but in no case less than the following when measured from land designated accordingly in the comprehensive plan:

1) 50 feet from low density residential;

2) 40 feet from medium or high density residential, commercial or office;

3) 30 feet from industrial; and

4) 20 feet from institutional or open space;

Side and rear yard setbacks may be reduced to zero feet where dwellings are designed to share common walls.

d) floor area ratio: maximum of 0.5;

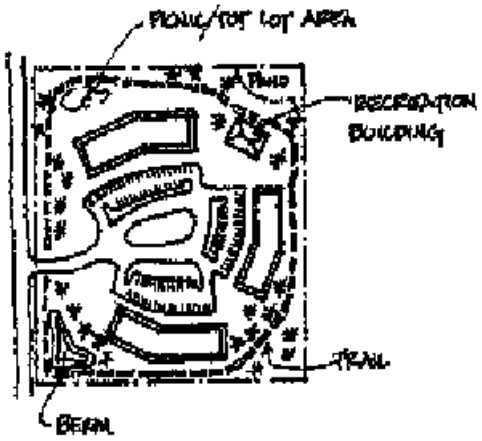
e) lot area: established in chapter 400 of this code;

f) access: by permit from a public body. Principal access shall be to a collector or arterial roadway as designated in the comprehensive plan;

g) building spacing: minimum spacing between buildings shall be the average of the heights of the buildings;

h) outdoor recreational area: minimum of 10 percent of the gross project area shall be in private recreational uses for project residents. Such area shall be for active or passive recreational uses suited to the needs of the residents of the project, including swimming pools, trails, nature areas, tot lots and saunas. (Figure 20)

Figure 20



i) All structures and site work, including any grading and landscaping activities, must comply with the wetland protection, floodplain protection, shoreland protection, steep slope protection and tree protection requirements contained in sections 300.23, 300.24, 300.25, 300.28 and 314.01 of this ordinance.

(Amended by Ord. No. 2023-02, effective February 27, 2023)

6. Interim Uses.

The following uses are allowed by interim use permit in the R-4 district:

a) Any use authorized as a conditional use or other similar uses as determined by the city planner. These uses must meet the standards and conditions outlined for the corresponding conditional use unless waived by the city council, given the temporary nature of the use.

b) Home occupation:

1) must comply with the provisions of section 300.15, subd. 14.

c) Leasing, sales or management office for a development if the office exceeds 1,000 square feet of floor area:

1) must be designed to be architecturally consistent with the principal buildings in the project;

2) must meet the parking standards provided in section 300.28, subd. 12, for office use; and

3) must have any signs designed to be consistent with the principal use.

d) Commercial kennel for dogs, cats, or both:

1) must have a minimum lot size of two acres;

2) must be located next to a collector or arterial street, as identified in the comprehensive plan, or otherwise located so that access to the site will not conduct significant traffic on local residential streets;

3) must screen exterior storage, including refuse, from view from adjacent properties or public streets;

4) must not include the use of a crematory;

5) must screen parking areas for patrons from adjacent properties;

6) must maintain a minimum setback of 100 feet between the kennels and all property lines;

7) must keep all dogs and cats within an enclosed building at all times, except for supervised walks;

8) must not cause annoyance or disturbance to another person by frequent howling, yelping, barking, or other kinds of noise. This paragraph only applies when the noise has continued for a 5-minute period. This requirement applies to the cumulative barking from the kennel, including one or several dogs;

9) must provide at least one parking space per employee and one parking space for each ten kennel cages;

10) must maintain a valid city kennel license and must comply with all applicable city and state building, health and maintenance standards;

11) is subject to site and building plan review pursuant to section 300.27 of this ordinance; and

12) is subject to a reasonable limitation on the total number of animals or the size of the facilities. This will be determined by the city based on the size of the property, the uses of adjoining properties, the existence of buffering and other appropriate factors.

e) A use or improvement that is not permitted in this zoning district or that does not comply with the standards for this zoning district, if such action is required as a reasonable accommodation under the federal Americans with disabilities act, the federal fair housing act, or other federal or state law.

(Amended by Ord. #99-25, effective October 11, 1999; amended by Ord. #2000-19, effective October 16, 2000; amended by Ord. #2002-03, effective January 7, 2002; Ord. #2002-04, effective February 11, 2002; amended by Ord. 2010-18, effective December 20, 2010; Amended by Ord. 2012-05, effective March 26, 2012; amended by Ord. No. 2021-21, effective October 10, 2021; amended by Ord. No. 2025-07, effective June 23, 2025)

SECTION 300.14. R-5 HIGH DENSITY RESIDENTIAL DISTRICT.

1. Purpose.

The purpose of the R-5 district is to provide a district for multiple family dwelling units in those areas designated for high density residential development in the comprehensive plan. Development within this district shall occur at densities greater than 12 dwelling units per acre. The allowed density for a piece of property will be determined by the city at the time of the development application. The determination will be based upon the site specific characteristics of the property and the requested development. Factors to be considered in increasing or decreasing the allowed density include the existing environmental conditions such as wetlands, floodplains, steep slopes, and significant trees; the specific site plan; the type of housing units proposed, including whether greater density is desirable because the development contains affordable housing that is consistent with the city's affordable housing goals but that avoids unacceptable concentrations of such housing; the requested zoning; the minimum standards of this ordinance; the potential impact from traffic generated by the development; and the surrounding area. The burden of establishing the appropriateness of the high end of the density range will be on the applicant.

2. Permitted Uses.

Within the R-5 district no structure or land shall be used except for one or more of the uses permitted within the R-4 medium density residential district.

3. Accessory Uses.

Within the R-5 district any use permitted as an accessory use within the R-4 medium density residential district shall be permitted provided it is subordinate to, associated with and located on the same lot as a permitted use.

4. Conditional Uses.

Within the R-5 district any use permitted as a conditional use within the R-4 medium density residential district shall be permitted by conditional use permit when in compliance with the standards specified in section 300.16 of this ordinance.

5. District Standards.

No building or land in the R-5 district shall be used except in conformance with the following:

a) height: building height shall be regulated generally by floor area ratio and yard area requirements but shall be evaluated along with other design parameters under site and building plan review. The planning commission or city council may impose reasonable height limitations when any of the following conditions are found to exist:

1) the proposed building is located within 200 feet of any designated low density residential district;

2) the proposed building is located within 100 feet of any designated public park;

3) the proposed building is highly visible to a large number of parcels containing or designated on the comprehensive plan to contain low density residential uses due to site conditions, including topography and lack of mature vegetation; or

4) the proposed building will be of an inappropriate site or architectural design due to existing or planned topography or sight lines.

In considering height limitations, the intent of the planning commission and city council shall be to mitigate potential negative impacts and not to place limits on the density of the project.

b) front yard setback: minimum of 35 feet from the right-of-way of local and neighborhood collector streets as identified in the comprehensive plan; or a minimum of 50 feet from railroad lines or from the right-of-way of major collector or arterial roadways as identified in the comprehensive plan, or the height of the building, whichever is greater;

c) side and rear yard setback: side and rear yard setbacks shall be 1½ times the height of the building, up to a maximum of 100 feet, but in no case less than the following when measured from land designated accordingly in the comprehensive plan:

1) 50 feet from low density residential;

2) 40 feet from medium or high density residential, commercial or office;

3) 30 feet from industrial; and

4) 20 feet from institutional or open space.

d) floor area ratio: maximum of 1.0;

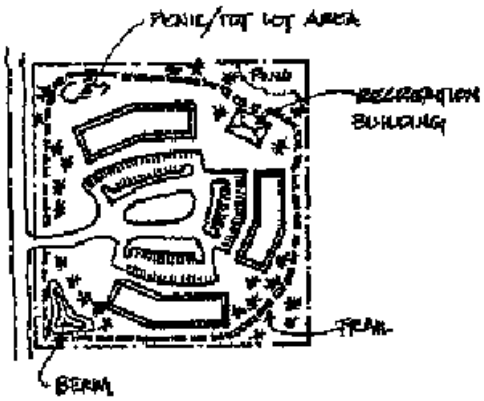
e) lot area: established in chapter 400 of this code;

f) access: by permit from the appropriate public body. Principal access shall be to a collector or arterial roadway as designated in the comprehensive plan;

g) building spacing: minimum spacing between buildings shall be the average of the heights of the buildings;

h) outdoor recreational area: minimum of 10 percent of the gross project area shall be in private recreational uses for project residents. Such area shall be for active or passive recreational uses suited to the needs of the residents of the project, including swimming pools, trails, nature areas, picnic areas, tot lots and saunas. (Figure 21)

Figure 21



i) All structures and site work, including any grading and landscaping activities, must comply with the wetland protection, floodplain protection, shoreland protection, steep slope protection and tree protection requirements contained in sections 300.23, 300.24, 300.25, 300.28 and 314.01 of this ordinance.

(Amended by Ord. 2010-18, adopted December 20, 2010; amended by Ord. #2002-04, adopted February 11, 2002; amended by Ord. No. 2023-02, effective February 27, 2023)

6. Interim Uses.

a) Any use authorized as a conditional use or other similar uses as determined by the city planner. These uses must meet the standards and conditions outlined for the corresponding conditional use unless waived by the city council, given the temporary nature of the use.

(Amended by Ord. No. 2025-07, effective June 23, 2025)

SECTION 300.15. GENERAL REGULATIONS FOR RESIDENTIAL DISTRICTS.

1. Signs.

Signs within the residential districts shall be regulated by section 325 of the code of city ordinances.

(Amended by Ord. 2016-08, effective May 23, 2016)

2. Review Standards.

All residential structures except single family detached and two-family dwellings, and all non-residential principal structures are subject to site and building plan review under section 300.27 of this ordinance. The property owner must ensure that all landscaping, natural vegetation, parking areas and other site improvements are maintained in accordance with the approved site and building plan. Property that does not comply with this requirement is declared a public nuisance that may be abated in accordance with the provisions of section 845. All residential structures except single family detached dwellings are subject to the performance standards specified in section 300.28.

3. Driveways.

Driveways which access onto public streets shall be subject to review under section 1105 of the code of city ordinances. In reviewing driveways, the city shall utilize guidelines for driveway design and location by the institute of traffic engineers as a reference. Driveways which access onto county or state roadways shall be subject to review by the appropriate authorities. Paved turn-around areas shall be required for driveways on collector or arterial streets as designated in the comprehensive plan and in locations where sight distance is inadequate as determined by the city. All parking areas except those serving one and two family dwellings on local streets shall be designed so that cars shall not have to back into the street.

4. Water Resources Management Plan.

All residential developments shall comply with the requirements of the city's water resources management plan. Easements, ponding areas, culverts, storm sewers or similar improvements may be required by the city. No construction on or alteration of land shall be permitted which creates unreasonable drainage on adjacent properties.

5. Wetlands, Floodplain and Shoreland Controls.

All residential developments occurring in areas identified on city floodplain and wetland maps as a wetlands, floodplain or shoreland district shall comply with the provisions of sections 300.23, 300.24 or 300.25 of this ordinance.

6. Conditional Uses.

All residential conditional uses shall be subject to review under the standards and criteria established in section 300.16 of this ordinance.

7. Parking.

a) Off-street parking must be provided as required by section 315.14 of this code.

b) All residential dwelling units shall also be subject to the parking regulations specified in section 300.28 of this ordinance.

(Amended by Ord. No. 2023-02, effective February 27, 2023)

8. Height Regulations.

Height limitations within the residential districts do not apply to water towers, chimneys, flag poles, or architectural components generally associated with educational or religious facilities.

(Amended by Ord. No. 2023-02, effective February 27, 2023)

9. Yard and Setback Regulations.

a) Fire escapes, landing places, uncovered porches, decks, heating, air conditioning and ventilation equipment, open terraces, outside stairways, cornices, canopies, swimming pool aprons and pool equipment, fireplaces and other similar architectural features may extend into a required front, side or rear yard setback by a distance not to exceed five feet. The provisions of this paragraph shall not be

construed as permitting any such feature to extend closer than 10 feet from any side lot line or, in the case of double frontage or corner lots, to extend any further into the front yard setback than the 10 foot reduction allowed in section 300.10, subd. 5(b). In the case of qualifying small lots, the provisions of this paragraph shall not be construed as permitting any such feature to extend towards any front, side or rear lot line a distance greater than allowed under the provisions of section 300.10, subd. 7 of this ordinance.

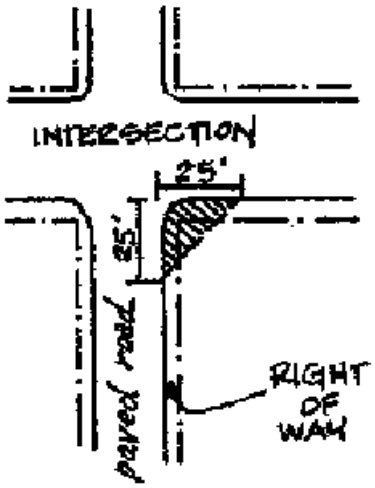
b) Detached retaining walls, fences, patio slabs, public utility poles, light poles, mail boxes, hedges and means of access such as sidewalks, driveways, steps and roadways may occupy any part of a required front, side or rear yard setback. The preceding sentence shall not apply to driveways and roadways in the R-3, R-4 and R-5 districts, which shall be governed by the standards of section 300.28, subd. 12(b)(4).

c) On double frontage lots the required front yard setback shall be provided on both streets. However, in R-1 and R-2 districts the setback may be reduced by 10 feet towards the direction perceived by the city planner to be the rear yard.

d) On corner lots, the required front yard setback shall be provided on both streets. However, in R-1 and R-2 districts the setback may be reduced by 10 feet towards the direction perceived by the city planner to be the side yard.

e) No wall, fence, structure, tree, shrub, vegetation or other obstruction shall be permitted in any yard or setback which poses a danger to traffic by obscuring the view from any street or roadway. Visibility from any street or roadway shall be unobstructed above the height of two and one-half feet within the triangle described as beginning from a point at the paved edge of the intersection, two sides of which extend a distance of 25 feet along the edge of each street and the third side being a line connecting the other sides. (Figure 22)

Figure 22



f) The following uses are exempt from the lot area, lot width and setback requirements of this section: overhead utility poles and lines that are less than two feet in diameter, underground utility lines and distribution equipment, traffic signals, traffic regulatory signs, mailboxes and other equipment that provides an essential public service.

g) The provisions of this section do not exempt any structure, structural feature, or appurtenance from the wetland protection, floodplain protection, shoreland protection, steep slope protection and tree protection requirements contained in sections 300.23, 300.24, 300.25, 300.28 and 314.01 of this ordinance.

(Amended by Ord. No. 2023-02, effective February 27, 2023)

10. Lot Area.

a) No lot may be so reduced that its area or dimensions are less than required by section 400 of this code.

b) Notwithstanding paragraph (a) of this subdivision, any lot which meets the requirements for a variance specified in section 400.055 of this code or for which a variance reducing lot area or dimensions has been granted may be used for construction of a dwelling unit. Any lot of record not meeting the requirements of section 300.07, subd. 1(b) of this ordinance or for which no variance has been granted may be used for construction of a dwelling unit only upon the granting of a variance pursuant to section 300.07 of this ordinance.

11. Exterior Storage.

All exterior storage of trash and maintenance equipment for multiple dwelling buildings shall be located in an appropriately sited structure. The structure shall provide visual screening of the storage area and shall be constructed of materials which are compatible with the principal structure.

12. Accessory Structures.

Any accessory building attached to a principal structure shall be made a structural part of the principal structure and shall comply with all requirements relating to principal structures. No accessory building which is not attached to a principal structure shall be located within six feet of a principal structure unless in conformance with fireproof requirements of the uniform building code. Accessory structures shall conform to the setbacks established for principal structures, except in R-1 and R-2 districts the following shall apply:

a) all accessory structures located more than 10 feet from a principal structure may be located a minimum of 10 feet from a rear or side lot line;

b) accessory structures, except detached garages, which are located between the principal structure and the front lot line shall maintain a minimum setback of 50 feet from the front lot line; and

c) receive-only satellite dish antennas and other antenna devices subject to the following requirements:

1) shall be in compliance with all city building and electrical code requirements;

2) verification that the structural design has been approved by a professional engineer;

3) verification that the mounting system and installation have been approved by a professional engineer;

4) one per building or, if more than one antenna is proposed, the antennas shall be clustered in a single, screened location;

5) submission of written authorization from the property owner;

6) no advertising message shall be on the antenna structure;

7) shall comply with setback requirements for accessory structures and in no event shall be located between the principal structure and the front lot line;

8) shall be screened to the greatest extent practicable to minimize visual impacts on surrounding properties. Screening shall include landscape materials for ground mounted antennas and materials compatible with those utilized on the exterior of the building for roof mounted antennas;

9) antennas located closer to a property line than the height of the antenna shall be designed and engineered to collapse progressively within the distance between the antenna and the property line;

10) shall be in compliance with all applicable federal communications commission (FCC) requirements; and

11) antenna height shall be no more than 60 feet as measured from the ground upon which it is located.
(Amended by Ord. 2019-04, adopted March 18, 2019)

13. Residential Accessory Uses.

Within all residential districts, the following uses shall be permitted provided they are subordinate to, associated with and located on the same lot as a permitted use and in conformance with the specified standards.

a) Evergreen material sales may be permitted by the city planner once per calendar year if in compliance with the following standards:

1) is located in a suitable off-street location and does not extend into adjacent right-of-way;

2) does not unreasonably interrupt vehicle circulation on the site or obstruct parking spaces;

3) has written authorization from property owner who also agrees to clean up the site if the applicant does not;

4) has all applicable licenses and approvals from the city, county or other appropriate jurisdictions;

5) meets the requirements for sight visibility clearance at street intersections and access points in accordance with section 300.15, subd. 9(e) of this ordinance or as required by the city to protect public safety;

6) has no more than one sign with a maximum area of 32 square feet and a maximum height of 8 feet;

7) is kept in a neat and orderly fashion;

8) has no more than one temporary shelter not to exceed 120 square feet;

9) agrees to clean up and restore the site to its prior condition within 10 days of completion of sales; and

10) submits the deposit specified in section 710 at the time of permit application. The deposit will be returned upon timely restoration of the site.

(Amended by Ord. #2010-18, adopted December 20, 2010; Ord. #2006-20, adopted November 6, 2006; amended by Ord. #2003-25, adopted October 27, 2003)

14. Home Occupations.

a) The intent of this subdivision is to maintain the character and integrity of residential areas by establishing standards regulating home occupations so that they can be conducted in a manner that does not jeopardize the health, safety and general welfare of residential neighborhoods. The purpose of this subdivision is to distinguish between those home occupations that have minimal or no secondary impact and those that have the potential for adverse effects upon neighboring properties.

b) A home occupation is allowed in all residential districts as a permitted accessory use if in compliance with the general standards listed in paragraph (d) below and if all of the people who work in the dwelling unit as part of the home occupation live at the dwelling unit. The home occupation may have additional employees that do not work in the dwelling but these employees may not come to the property on a regular basis.

c) A home occupation that does not meet the requirements related to employees in paragraph (b) above, that regularly has customer, client, or patient visits to the home, or that is not in compliance with the general standards listed in paragraph (d) below, is allowed in all residential districts only as an interim use and only if it obtains the appropriate permit and is in compliance with all conditions attached to the permit.

d) All home occupations permitted by this section must comply with the following general standards:

1) The home occupation must be clearly secondary to the residential use and not change the nature of the residential use;

2) No more than 25% of the habitable area of the dwelling may be devoted to a home occupation. A home occupation is not permitted to conduct any of the business in an attached garage or a detached accessory building or outside of any building.

3) There must be no exterior evidence of the occupation, including no exterior storage or signs.

4) There must be no exterior alterations to the dwelling that involve construction features not customarily found in dwellings, except where required to comply with fire and building code requirements.

5) A home occupation must be in compliance with all applicable fire and building codes.

6) A home occupation must be in compliance with the provisions of the city's nuisance regulations.

7) No retail or wholesale sales activity may be conducted on the premises, except by telephone, mail, Internet or other electronic medium. This provision is not intended to exclude garage sales, estate sales, yard sales, rummage sales, and other sales of personal property that have similar parking and traffic patterns.

8) A home occupation must not create additional vehicle trips in excess of 10 trips per day averaged over a period of five days per week. One trip is counted for each vehicle that arrives at the property, and an additional trip is counted for each vehicle that leaves the property.

9) All parking demands generated by the home occupation must be accommodated within a garage and the existing driveway area. Vehicle parking generated by employees, customers, visitors and invitees of the home occupation may not exceed four vehicles parked outside on the property. No vehicles used in connection with the home occupation and no vehicles of employees, customers, visitors and invitees of the home occupation may be parked on public or private streets. Parking for a home occupation in multi-family residential buildings is limited to two parking spaces in external parking areas.

10) A vehicle used in connection with a home occupation that has exterior ladders, pipes, tools, buckets, tanks, snow plow, vehicle towing equipment, trailers, or any other attachment and a vehicle licensed as a cab or limousine must be parked in a garage when at the site of the home occupation. All vehicle attachments must be stored in an accessory building or screened from public view.

11) There must be no significant increase in pollution levels of noise, light, air, or other types of pollution outlined in city code section 300.28.

12) The following types of uses have a tendency to increase in size or intensity beyond the conditions imposed for home occupations and may adversely affect nearby residential properties. Therefore, the following types of businesses are prohibited as home occupations:

a. mortuaries;

b. automobile or equipment sales;

c. landscaping and lawn maintenance;

d. massage therapy;

e. repair, service, and painting of motor vehicles, appliances, and small engines; and

f. other uses similar to those prohibited by this section, as reasonably determined by the city.

(Added by Ord. 2012-05, adopted March 26, 2012)

SECTION 300.16. CONDITIONAL USE PERMIT STANDARDS FOR RESIDENTIAL DISTRICTS

1. Purpose.

It is the intent of the city in establishing general and specific criteria for conditional uses that such uses be subject to careful evaluation to ensure that their location, size and design are consistent with the standards, purposes and procedures of this ordinance and the comprehensive plan. The planning commission may recommend and the city council may impose conditions on such uses in order to effect the purpose of this ordinance.

2. General Standards.

No conditional use permit shall be granted unless the city council determines that all of the following standards will be met:

a) the use is consistent with the intent of this ordinance;

b) the use is consistent with the goals, policies and objectives of the comprehensive plan;

c) the use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements; and

d) the use does not have an undue adverse impact on the public health, safety or welfare.

3. Specific Standards.

In addition to the standards specified in subdivision 2, no conditional use permit shall be granted unless the city council determines that all of the specific standards contained in this subdivision will be met.

a) Educational institutions and facilities:

1) direct access limited to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets; the use is not permitted on property that has access only by way of a private road or driveway that is used by more than one lot;

2) buildings set back 50 feet from all property lines and parking setbacks subject to section 300.28 of this ordinance;

3) school bus pick-up and drop-off areas located outside of the public right-of-way and designed to enhance vehicular and pedestrian safety;

4) recreational areas designed for group outdoor activities set back 25 feet from residential property, suitable buffering provided to protect neighboring properties from noise and adverse visual impacts, and lighted playing fields permitted only upon demonstration that off-site impacts can be mitigated substantially;

5) no more than 60 percent of the site to be covered with impervious surface and the remainder to be suitably landscaped;

6) site and building plan subject to review pursuant to section 300.27 of this ordinance; and

7) not connected to, or part of, any residential dwelling.

b) Religious institutions and facilities:

1) direct access limited to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

2) buildings set back 50 feet from all property lines;

3) parking spaces and parking setbacks subject to section 300.28 of this ordinance;

4) no more than 70 percent of the site to be covered with impervious surface and the remainder to be suitably landscaped; and

5) site and building plan subject to review pursuant to section 300.27 of this ordinance.

c) Mass transit facilities:

1) bus shelters subject to the following:

a. screened from adjoining residential uses if required by the city;

b. a concrete pad to be provided for the shelter and immediately surrounding area;

c. signs to conform to section 325 of the code of city ordinances unless determined by the city to be necessary for economic viability of shelter;

d. paved bus standing area to be provided if determined by the city to be necessary for safe and efficient traffic flow; and

e. incorporation of architectural features compatible with surrounding area if required by the city.

2) park and ride facilities and inter-modal transfer points subject to the following:

a. permitted only along collector or arterial roadways as identified in the comprehensive plan;

b. screened from adjoining residential uses if required by the city;

c. all parking areas to be paved and maintained; and

d. site and building plan subject to review pursuant to section 300.27 of this ordinance.

d) Accessory dwelling units (ADUs):

1) General Standards:

a. ADUs are allowed only on properties zoned R-1, R-1A, and R-2.

b. No more than one ADU is allowed per property.

c. The owner of the property must reside in the principal dwelling unit or the ADU as a permanent residence, not less than 185 days per calendar year.

d. ADUs may no be subdivided or otherwise separated in ownership from the principal dwelling unit.

e. Adequate off-street parking must be provided for both the principal dwelling unit and the ADU. Such parking must be in a garage, carport, or on a paved area specifically intended for that purpose but not within a required driveway turnaround. No more than four vehicles may be parked or stored anywhere outside on the property. This maximum number does not include vehicles of occasional guests who do not reside on the property.

f. The ADU and property on which it is located are subject to all other provisions of this ordinance related to single-family dwellings, including all provisions of the shoreland, wetland, floodplain, and nuisance ordinances. To the extent of any inconsistency among ordinance provisions, the most restrictive provisions apply.

2) Construction and Design Standards:

a. On properties zoned R-1 or R-1A, an ADU may be attached to or detached from a principal structure. On properties zoned R-2, ADUs must be attached to the principal structure. An attached ADU includes an ADU that is contained within an existing principal structure.

b. Any ADU, whether attached or detached:

1. Must be no larger than 1,000 square feet in total area or 35 percent of the floor area of the principal dwelling, whichever is less. The city council may approve a larger area where the additional size would not result in undue adverse impacts to the neighboring properties. In evaluating where this standard is met, the city may consider things such as the size of the property; the location of the ADU relative to homes on adjacent properties; whether the ADU would be reasonably screened from adjacent properties by existing or proposed vegetation, elevation changes, or linear distance; whether a similarly-sized, non-variance; or any other characteristic the city considers important or unique. In no case may be detached ADU be 200 square feet or less in total size.

2. Must be served by municipal water, municipal sanitary sewer, and gas and electric utilities via service lines shared with the principal dwelling unit. Unless otherwise approved by staff, water service to the ADU must be connected after the existing meter in the principal structure.

3. Must comply or be brought into compliance with all applicable building, housing, electrical, plumbing, mechanical, and related city codes.

4. May not be served by an additional curb cut unless approved by the city engineer in compliance with the driveway ordinance.

5. Must be registered with the Minnetonka police and fire departments prior to occupancy.

c. Attached ADUs:

1. Must be designed to maintain the single-family appearance of the principal dwelling from off-site views.

2. May be created through the conversion of living space or attached garage space. However, the garage space may be converted only if (1) space is available on the property for construction of a 24-foot by 24-foot garage without variance; and (2) the applicant submits a detailed plan demonstrating adequate vehicluar parking exists on the site.

3. Maximum height and minimum required setbacks are outlined for principal structures in the associated zoning district.

d. Detached ADUs:

1. Must be designed to maintain the residential character of the lot on which it will be located.

2. May be created through the conversion of detached garage space only if either: (1) the principal structure includes an attached garage with minimum dimensions of 24 feet by 24 feet; or (2) space is available on the property for construction of an attached or detached 24-foot by 24-foot garage without variance, and the applicant submits a detailed plan that demonstrates adequate vehicular parking exists on the site.

3. The highest point of the ADU may not extend above the highest point of the roof of the principal dwelling unit. The city council may approve a taller ADU if it finds the additional height would not result in undue adverse impacts to neighboring properties. In evaluating whether this standard is met, the city may consider things such as the size of the property; the location of the ADU relative to homes on adjacent properties; whether the ADU would be reasonably screened from adjacent properties by existing vegetation, elevation changes, or linear distance; whether a similarly-sized, non-ADU structure could be constructed in the location proposed without a conditional use permit or variance; or any other characteristic the city considers important or unique.

4. Must be located:

a) Behind the rear building line of the principal dwelling unit. In the case of a corner or double frontage lots, the ADU is subject to front yard setbacks established for principal structures.

b) To preserve existing, natural site features to the extent practicable.

5. Must be set back from side and rear property lines a distance equal to the code-defined height of the ADU, but not less than 15 feet, and set back from all natural features as required by ordinance.

6. May contain a maximum of two bedrooms.

7. Must be constructed on a permanent foundation with no wheels.

e) Licensed day care facilities in common areas or in structures which are not also used for residential purposes:

1) located only on a collector or arterial roadway as designated in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

2) buildings set back 50 feet from all property lines and parking lots set back 15 feet from streets and non-residential property and 25 feet from residential property;

3) pick-up and drop-off areas located outside of parking setback area;

4) outdoor recreational areas to be set back 15 feet from all property lines and screening provided to mitigate noise and adverse visual impacts on neighboring properties;

5) one parking space provided for each six children based upon the licensed capacity of the center;

6) site and building plan of all free standing centers subject to review pursuant to section 300.27 of this ordinance, with particular attention to compatibility of facility with surrounding neighborhood; and

7) review by city planner of facilities in common areas to determine whether externally visible modifications are significant enough to require formal site and building plan review.

f) Detached garages, storage sheds or other accessory structures in excess of 1,000 square feet of gross floor area or 12 feet in height or occupying more than 30 percent of the side or rear yard in which they are located:

1) side and rear setbacks equal to the height of the structure or 15 feet, whichever is greater;

2) no additional curb cuts to be permitted;

3) not to be used for commercial activities;

4) structure to be architecturally consistent with the principal structure;

5) landscaping to be required to buffer views when the structure is highly visible from adjoining properties; and

6) site and building plan subject to review pursuant to section 300.27 of this ordinance.

g) Licensed residential care facilities or community based residential care facilities serving seven to ten residents:

1) The site and facility must be designed to minimize undue adverse impacts to neighboring properties. In evaluating whether this standard is met, the city may consider such things as the surrounding land uses; the size of the property relative to adjacent properties; the location of the facility on the property relative to the location of homes on adjacent properties; whether the facility would be buffered from adjacent properties by existing vegetation, elevation changes, or linear distance; or any other site or neighborhood characteristic the city considers important or unique. In addition:

2) Site Standards.

a. Facilities may only be located on properties:

1. At least one acre in size; and

2. With direct access to a collector or arterial street as identified in the comprehensive plan.

b. No on-street parking is allowed.

c. A minimum of 0.5 parking stalls must be provided on-site per overnight resident based on the proposed capacity.

d. Exterior parking must be located on a paved area. If designed as a parking lot, the lot must be located behind the rear building line of the facility and must be set back a minimum of 20 feet from all property lines. The city council may waive these locational requirements for areas designed as parking lots based on a unique or important characteristic of the property or surrounding area.

3) Building Standards.

a. The facility may be located in a new or existing structure. Any new structure or changes to the existing structure necessary to accommodate the facility must be residential in character.

b. The floor area ration (FAR) of the facility may be no more than 100% of the highest FAR of the homes within 400 feet of the lot lines and within 1,000 feet of the lot along the street where it is located, including both sides of the street.

c. The facility must contain a minimum of 300 square feet of residential building area for each overnight resident, based on the proposed capacity.

d. The facility must meet the maximum height restrictions and minimum setback requirements of the site's corresponding zoning district and from shoreland, wetland, and floodplain areas as outlined in this ordinance.

4) Additional Standards.

a. Landscape buffering of the facility and any parking lot must be provided consistent with requirements contained in section 300.27 of this ordinance. A privacy fence of appropriate residential design may be required to limit off-site impacts.

b. The facility must prepare, and abide by, a plan for handling traffic and parking on high traffic days, such as holidays. The plan must be submitted to city staff for review and approval.

c. No exterior evidence of the use or activity that is not customary for typical residential uses is allowed.

d. The facility must conform or come into conformance with the requirements of the Minnesota state building code, fire code, health code, and all other applicable codes and city ordinances.

e. The city may impose additional conditions in order to address the specific impacts of a proposed facility.

h) Private, non-profit recreational facilities as a principal use:

1) site and building plan subject to review pursuant to section 300.27 of this ordinance.

i) Wind energy conversion systems (WECS):

1) set back from the nearest property line a distance equal to the height of the tower plus one-half the diameter of the rotor;

2) certified by a professional engineer as being of a design adequate for the atmospheric conditions of the twin cities;

3) equipped with over-speed or similar controls designed to prevent disintegration of the rotor in high winds;

4) compliance with all building and electrical code requirements of the city, the noise regulations of the Minnesota pollution control agency and the rules and regulations of the federal communications commission and federal aviation administration;

5) if the WECS has not been operated for a period of one year or fails to meet the conditions of this ordinance, the city council may order it dismantled and the site restored to its original condition; and

6) if the owner or person responsible for the WECS does not maintain it or comply with all requirements of this ordinance, the city may take such steps as are necessary to achieve compliance. The cost of such work, including administrative costs, shall be a lien against the property and may be collected as a special assessment. The city may sell salvaged and valuable materials at public auction on 10 days' notice.

j) Cemeteries:

1) minimum lot size of five acres;

2) located in proximity to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

3) direct views from all adjoining residential parcels shall be buffered by appropriate means; and

4) site and building plan subject to review pursuant to section 300.27 of this ordinance.

k) Marinas:

1) minimum lot size of two acres;

2) located in proximity to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

3) direct views from all adjoining areas shall be screened, with particular attention to screening exterior storage;

4) approval by city fire marshall and by all governmental agencies having jurisdiction over adjacent body of water; and

5) site and building plan subject to review pursuant to section 300.27 of this ordinance.

l) Public buildings or facilities, except for recreational buildings that contain less than 1,000 square feet, and utility cabinets larger than 150 cubic feet:

1) site and building plans subject to review pursuant to section 300.27 of this ordinance.

2) direct access limited to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

3) buildings set back 50 feet from all property lines;

4) parking spaces and parking setbacks subject to section 300.28 of this ordinance; and

5) no more than 70 percent of the site to be covered with impervious surface and the remainder to be suitably landscaped; and

6) stand-alone utility buildings, such as lift stations, are only subject to site and building plan review.

m) Public or private nursing or convalescent homes:

1) direct access limited to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

2) buildings set back 50 feet from all property lines;

3) parking spaces and parking setbacks subject to section 300.28 of this ordinance;

4) no more than 70 percent of the site to be covered with impervious surface and the remainder to be suitably landscaped; and

5) site and building plan subject to review pursuant to section 300.27 of this ordinance.

n) Telecommunication facilities are subject to the provisions of Section 300.34.

o) Golf courses:

1) the minimum size is nine holes and 15 acres with no hole to be shorter than 100 yards. For an 18 hole golf course, minimum size is 60 acres;

2) a maximum of one principal structure for use as a clubhouse is permitted. One primary accessory building for equipment storage is required. All maintenance equipment must be stored inside. Except for structures which are used for customer shelters, starter kiosks, or concession sales, a maximum of two accessory structures not to exceed 120 square feet each is permitted. Site plan review according to section 300.27 is required for all structures that exceed 120 square feet. The clubhouse design is to be of a residential character and exterior materials are to be primarily wood or brick;

3) a minimum of two satellite restrooms or other acceptable facilities are required for each nine holes. The satellites are to be centrally located away from property lines and painted an earth-tone color;

4) driving ranges are not permitted except as accessory practice areas for golf courses with nine or more holes and greater than 60 acres. Retail sales are limited to concessions and golf related items that are commonly used by on-premises customers;

5) the location must be on or in reasonable proximity to a collector or arterial roadway as defined in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets. Stop signs are to be installed at all driveway connections to public streets;

6) the minimum building setback is 50 feet from all property lines except accessory structures less than 120 square feet for which 25 feet is required. Parking areas are to be set back 20 feet from public right-of-way and 25 feet from residential uses. All parking areas must be screened with berms and landscaping;

7) no exterior light sources are permitted on the golf course except:

a. building lighting; wall mounted decorative fixtures with low wattage, incandescent luminaires as would commonly be found at single family dwelling units; and

b. parking lot lighting; freestanding decorative fixtures, located along parking areas, driveways or sidewalks as would commonly be found at single family dwelling units. When in proximity to low density residential uses, fixture height is limited to 10 feet and low wattage, incandescent luminaires must be used. At isolated, screened locations, a 20 foot fixture height is permitted as long as the luminaire is shielded from off-site views.

8) no exterior speakers or public address systems are permitted. Equipment operation must be in accordance with section 850 of the code of ordinances of the city of Minnetonka;

9) all tees, greens, fairways and landscaped areas must be equipped with an automatically operated, timed irrigation system;

10) water quality protective measures are required as follows:

a. maintenance of erosion control barriers during construction and until all ground cover is established;

b. a 50 foot undisturbed buffer between turf areas and natural water bodies, watercourses or wetlands must be maintained. The buffer must contain natural vegetation and shall not be chemically treated;

c. to the extent practicable, runoff must be directed to on-site holding/sedimentation ponds with a water quality control structure installed at the outlet prior to water discharge from the premises;

d. site areas in proximity to fuel and chemical storage areas shall be designed to direct all runoff to an on-site ponding area;

e. a chemical storage area must be designated within the accessory building. The area must be surrounded with a curbed barrier;

f. all herbicide, insecticide, fungicide and rodenticide chemicals must be stored in a locked enclosure;

g. an inventory manifest of stored chemicals must be posted at the entrance of the accessory building;

h. at any time widespread or non-spot application of herbicide, insecticide, fungicide or rodenticide is to occur, notification signs must be posted at property lines. The signs are to state the type and name of the chemical, date and time of application, and other appropriate information;

i. all chemical applications must be by a Minnesota department of agriculture licensed applicator;

j. chemicals shall meet the requirements of the federal insecticide, fungicide and rodenticide act (FIFRA), the environmental protection agency (EPA), the Minnesota pesticide control law and the Minnesota fertilizer control law; and

k. an annual chemical application management plan must be submitted for review and approval by the city. The plan is to specify chemicals used, number of annual applications, application rates and method, and other appropriate information.

11) a golf course architect or professional landscape architect with experience in designing golf courses must review and approve the safety aspects of the golf course plan;

12) to the extent practicable, the golf course must be designed to minimize a potential for activity spill-over onto adjacent properties;

13) based on the design of the golf course, the city may require fencing and installation of a lockable gate at access points;

14) based on the proximity of adjacent low density residential uses, the number of proposed motorized golf carts, or both, the city may require use of electric golf carts only. Overnight golf cart storage is to be within a building or at a location which is screened from off-site views;

15) for 18 hole golf courses, a paved or crushed rock cart path is required along all tee and green areas;

16) one sign with maximum area of 30 square feet is permitted. Directional signs not to exceed seven square feet each are exempt from this requirement. The primary sign must be set back 10 feet from public right-of-way unless the city determines that a closer setback will not adversely impact sight distances at driveway or street intersections;

17) a landscape plan in accordance with section 300.27, subd. 14, must be provided;

18) evidence of liability insurance which specifically covers claims for damage to private property and sudden and accidental pollution events in the amount of $500,000 must be submitted;

19) in order to ensure that the site can be restored to prior conditions should golf course construction not be completed, the city may require posting of a financial security acceptable to the city;

20) no off-season exterior activity is permitted unless authorized by the city and the owner; and

21) evidence that all required jurisdictions including but not limited to watershed district; Minnesota department of natural resources and United States army corps of engineers have approved the golf course plan must be provided.

p) Utility poles and appurtenances (such as wires) that are over 60 feet in height and freestanding upon the ground, transmission lines that are not subject to state review under the Minnesota power plant siting act, and substations and other related facilities:

Phase I (Application for Conditional Use Permit):

1) The applicant must first participate in a task force study with city staff. The task force may also include landowners representing residential interests that may be affected. The task force will review alternatives for the proposed location. The applicant must submit an alternatives analysis to the task force that includes:

a. documentation demonstrating the need and purpose for such a facility so that alternatives to the facility can be adequately assessed;

b. all of the alternatives considered by the applicant;

c. alternative locations;

d. a “no-build” alternative that discusses measures that could be taken in an attempt to meet the documented need without construction of the facility; and

e. designation of the applicant's preferred location.

2) The city may retain an independent technical expert paid for by the applicant to assist the task force. The expert must be acceptable to the applicant, who may not unreasonably withhold this acceptance. The applicant will have five business days to reject the city's selected expert after receiving notice from the city. If the applicant does not reject the expert within that time, the expert will be deemed to be acceptable. The task force will conduct an analysis of the alternatives and present its report to the city council. The council will narrow the alternatives to two for each facility. One of those alternatives may be a no-build alternative.

3) The applicant will then submit an application for a conditional use permit with the following information for each alternative selected by the city council:

a. the cost;

b. the amount of vegetation that would be removed or damaged;

c. for an electrical transmission line or substation, a summary of current research regarding the health effects of EMF levels, conducted by health and scientific professionals, including those who do and do not receive utility sponsorship;

d. for an electrical transmission line or substation, EMF levels under maximum and average anticipated loading at the base of the utility poles, underneath the wires between the poles, at ground level above underground wires, at the edge of the property line, at the edge of the closest habitable building, and at the point above ground where there would be the greatest EMF level;

e. for an electrical transmission line or substation, reasonable and prudent measures to minimize EMF levels along all alternative routes; and

f. depictions of the views of the proposed facility, if above ground, from at least two directions selected by city staff.

4) All alternative routes for transmission lines must comply with the following unless the applicant shows that this is not reasonable or prudent:

a. the routes must be on or along corridors presently used for public roads, public trails, railroads, or above-ground utilities, or on corridors which were previously used for such purposes and which are being retained for future public or utility purposes;

b. arterial or collector streets must be used instead of local roadways, except that local roadways may be used where above-ground electrical lines already exist; and

c. platted utility easements in residential zones which do not abut public roads or roadway easements may not be used, unless the lines are placed underground.

5) After receiving a complete application, the planning commission must hold a public hearing on the application. At least 10 days before this hearing, the city must mail notice of the hearing to all owners of property wholly or partially within a 400-foot radius of any portion of the alternative locations to be presented to the planning commission.

6) The planning commission will recommend a preferred alternative to the city council. The city council will select an alternative for each facility by a majority vote of the members present. The planning commission and council may impose reasonable conditions as part of the approval to protect adjacent property and people.

7) In making their decisions, the planning commission and city council must consider the following factors:

a. the potential adverse aesthetic, economic, environmental, social, health, and safety impacts on adjacent properties or people;

b. the potential interference with public use of public property;

c. the applicant's need to adequately and reliably serve customers within the relevant service area now and in the foreseeable future;

d. compliance with the requirements in subparagraph 4;

e. cost; and

f. the purposes in section 300.01 and the general standards in section 300.16, subd. 2 and section 300.21, subd. 2.

8) The applicant may notify the city and request selection of a different alternative after the council's action if the applicant believes that it cannot use the selected alternative because of a reason that was beyond its own control and not apparent during the selection process. The council will choose a different alternative if it finds that the applicant is prevented from the using the selected location.

Phase II (Site Plan Review):

9) The applicant must apply for site plan approval after receiving the conditional use permit and before beginning construction. At the applicant’s request, the city council may choose to consider the site plan at the time of the conditional use permit. The application must comply with the conditions specified in paragraphs (9) through (13). The applicant must obtain sufficient interest in the property needed for that alternative before applying for the approval. The city planner must reject an application for a location other than the selected alternative, and it will not be considered.

10) The applicant must submit a landscape plan prepared by a registered landscape architect. The plan must be designed to mitigate the amount of trees removed for the facility and must minimize the visual impact on abutting properties caused by the facility. The landscape plan will be subject to review and approval by the city pursuant to section 300.27, subd. 14 through subd. 19 of this code, except the minimum landscape requirements in subd. 15(a). The applicant must submit financial security acceptable to the city to ensure compliance and must install and maintain the landscaping in compliance with those code provisions and the plan as approved by the city. With the concurrence of the abutting property owner, the landscape plan may include plantings on abutting property. In that case, the applicant will be responsible for installation, and the abutting property owner will be responsible for the maintenance of the landscaping.

11) The applicant must design the facility to minimize its visual impact. The applicant must submit configuration, material and color options that are technically feasible. The city may require the applicant to design the facility in a manner that reduces the visual impact of the project, including regulating the height and spacing of utility poles. Utility poles may not exceed 80 feet in height, except when needed to cross a major roadway such as a freeway.

12) The facility must not interfere with the use of public right-of-way, including use for vehicular and pedestrian travel, snow storage, and lateral support.

13) The applicant and any subsequent owner must continually maintain the facility in good condition, including repainting or restaining deteriorated surface finishes, securing poles and guy wires to the ground, and replacing poles that are in a deteriorated condition.

q) Commercial nurseries:

1) shall have a minimum lot size of two acres;

2) shall be located next to a collector or arterial street, as identified in the comprehensive plan, or otherwise located so that access to the site will not conduct significant traffic on local residential streets;

3) shall not have any exterior display except plants, unless approved by the city council;

4) shall screen exterior storage and materials from view from adjacent properties or public streets;

5) shall provide at least 10 parking spaces plus one space for each 90 square feet of floor area in the principal building;

6) shall only be permitted where it is demonstrated that the nursery will not have an undue adverse impact on adjacent properties and where there will not be a substantial alteration of the neighborhood character; and

7) shall be subject to site and building plan review pursuant to section 300.27 of this ordinance.

(Amended by Ord. #99-2, effective January 11, 1999; amended by Ord. #99-25, effective October 11, 1999; amended by Ord. #2000-19, effective October 16, 2000; amended by Ord. #2002-03, effective January 7, 2002; amended by Ord. #2002-08, effective April 22, 2002; amended by Ord. #2004-37, effective December 20, 2004; amended by 2010-18, effective December 20, 2010; amended by Ord. 2011-02, effective April 18, 2011; Ord. 2012-05, effective March 26, 2012; amended by Ord. 2012-07, effective June 25, 2012; amended by Ord. 2013-10, effective June 24, 2013; amended by Ord. 2016-08, effective May 23, 2016; amended by Ord. 2021-20, effective October 4, 2021; amended by Ord. No. 2021-21, effective October 10, 2021)

SECTION 300.17. B-1 OFFICE BUSINESS DISTRICT.

1. Purpose.

The purpose of the B-1 district is to provide a district for office and accessory service uses but which excludes general retail and service uses. Retail sales shall be prohibited except for uses established primarily in support of the principal office use. Exterior display of merchandise shall be prohibited. The B-1 district is intended for those areas of the city identified for office development by the comprehensive plan or for transitional areas between residential and more intense uses.

2. Permitted Uses.

Within the B-1 district no structure or land shall be used except for one or more of the following uses;

a) administrative, executive, professional or other offices; or

b) cabinets no larger than 150 cubic feet that hold utility equipment and for which a landscape plan has been approved by the city planner; overhead utility poles and lines for a distribution line up to a maximum height of 60 feet as measured from the ground upon which it is located, except that utility poles and lines for a distribution line may be taller than 60 feet, but not taller than 80 feet, when needed to cross a major roadway such as a freeway.

3. Accessory Uses.

Within the B-1 district the following shall be permitted provided they are subordinate to and associated with a permitted use:

a) receive-only satellite dish antennas and other antenna devices up to a maximum height of 60 feet as measured from the ground upon which it is located subject to the requirements found in section 300.28, subd. 13; and radio devices no larger than one cubic foot in size that are attached to utility poles, if there is no more than one per pole;

b) evergreen material sales if in compliance with the standards specified in section 300.15, subd. 13, and the city planner has given approval; and

c) solar energy systems;

d) other uses customarily associated with but subordinate to a permitted use, as determined by the city.

(Amended by Ord. No. 2022-18, effective November 14, 2022)

4. Conditional Uses.

Within the B-1 district no structure or land shall be used for the following except by conditional use permit and except in conformance with the standards specified in section 300.21 of this ordinance:

a) business service uses normally associated with office developments and containing limited retail activity;

b) residential dwelling units;

c) restaurants and cafeterias incorporated within a principal structure and oriented predominantly towards serving the needs of employees of the surrounding area but excluding drive-up and exterior walk-up facilities;

d) storage, assembly or servicing incidental to the principal use;

e) hospitals and medical clinics;

f) minor manufacturing or assembly incidental to the principal use;

g) heliports;

h) hotels and motels;

i) financial institutions, with or without drive-up facilities;

j) licensed day care facilities;

k) cemeteries;

l) marinas;

m) public buildings or facilities and cabinets larger than 150 cubic feet that hold utility equipment;

n) telecommunication facilities as defined in Section 300.34;

o) utility poles and appurtenances (such as wires) that are over 60 feet in height and freestanding upon the ground, and all transmission lines which are not subject to state review under the Minnesota power plant siting act; or

p) other uses similar to those permitted by this section, as determined by the city.

None of the uses permitted by conditional use permit shall occupy more than 25 percent of the gross floor area of the building or of several buildings developed under a unified site plan.

5. District Standards.

No building or land in the B-1 district shall be used except in conformance with the following:

a) building height: buildings located within 200 feet of any residential district shall be limited to four stories or 45 feet, whichever is less. The height of all other buildings shall be regulated by setback and floor area requirements;

b) front yard setback: minimum of 35 feet from the right-of-way of local and neighborhood collector streets as identified in the comprehensive plan; or a minimum of 50 feet from railroad lines and from the right-of-way of major collector or arterial roadways as identified in the comprehensive plan; or the height of the building, whichever is greater. The most restrictive of the above shall apply up to a maximum of 100 feet;

c) side and rear yard setbacks: side and rear yard setbacks shall comply with the following formula: *setback = (1.5 times building height) - 10 feet* up to a maximum setback of 100 feet but in no case shall the setbacks be less than the following when measured from land designated accordingly in the comprehensive plan:

1) 50 feet from low density residential;

2) 40 feet from medium and high density residential; and

3) 20 feet from commercial, office, industrial, institutional and public park.

d) floor area ratio: maximum of 1.0;

e) lot coverage: maximum lot coverage shall be 85 percent and shall be calculated to include building footprints; parking areas; driveways; loading, storage and trash areas and other areas covered by any impervious surface;

f) access: by permit from a public body with principal access from a collector or arterial roadway as designated in the comprehensive plan or a street specifically designed to accommodate commercial traffic; and

g) trash enclosures or accessory buildings not to exceed 600 square feet in size shall be located behind the front building line of the principal building. Setbacks shall be equal to the parking setback as specified in section 300.28, subd. 12(b)(4).

6. Additional Requirements.

a) All developments shall be subject to site and building plan review pursuant to section 300.27 of this ordinance.

b) All developments must be in compliance with city code sections 300.23 wetland protection; 300.24 floodplain protection; 300.25 shoreland district; 300.28 Subd.20 performance standards regulating steep slopes; and 314.01 tree protection.

c) Parking shall be regulated pursuant to section 300.28 of this ordinance.

d) All developments shall comply with the city's water resources management plan.

e) Signs shall be regulated pursuant to section 325 of the code of city ordinances.

(Amended by Ord. 2016-08, effective May 23, 2016; Amended by Ord. 2002-04, adopted February 11, 2002; amended by Ord. 2002-03, adopted January 7, 2002; amended by Ord. 2000-19, adopted October 16, 2000; amended by Ord. No. 2023-02, effective February 27, 2023)

SECTION 300.18. B-2 LIMITED BUSINESS DISTRICT.

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1. Purpose.

The purpose of the B-2 district is to provide a district for low intensity, service oriented commercial uses in areas designated as neighborhood or community centers in the comprehensive plan. Since these areas are often near residential areas, limitations are placed on the type, size and intensity of commercial uses in the district.

2. Permitted Uses.

Within the B-2 district no structure or land shall be used except for one or more of the following uses:

a) administrative, executive or professional offices;

b) general retail, including cannabis retail businesses subject to City Code 650, and service commercial uses occurring within an enclosed building, except as provided for in subdivision 4; or

c) cabinets no larger than 150 cubic feet that hold utility equipment and for which a landscape plan has been approved by the city planner; overhead utility poles and lines for a distribution line up to a maximum height of 60 feet as measured from the ground upon which it is located, except that utility poles and lines for a distribution line may be taller than 60 feet, but not taller than 80 feet, when needed to cross a major roadway such as a freeway.

(Amended by Ord. No. 2024-17, effective November 18, 2024)

3. Accessory Uses.

Within the B-2 district the following uses shall be permitted provided they are subordinate to and associated with a permitted use:

a) storage, assembly or servicing related to a permitted use and occupying no more than 10 percent of the gross floor area of the principal structure;

b) receive-only satellite dish antennas and other antenna devices up to a maximum height of 60 feet as measured from the ground upon which it is located subject to the requirements found in section 300.28, subd. 13; and radio devices no larger than one cubic foot in size that are attached to utility poles, if there is no more than one per pole;

c) sidewalk sales may be authorized by the city planner, at his or her discretion, up to three times per calendar year so long as they will be held on sidewalks located adjacent to the principal structure, will not block pedestrian or handicapped access, will not block any required parking or drive aisle, will not be located in any required setback area, will be limited to a maximum duration of two days, will use signage no larger than 4 feet by 4 feet per sign at the sale location with all other signage in compliance with city ordinances and upon completion of the sale that the site will be restored and cleaned as necessary. If a permitted sale does not comply with these standards, the city planner may require that it be immediately removed. Decisions of the city planner may be appealed to the planning commission. Cash deposits or other financial security acceptable to the city may be required if deemed necessary based upon the proposal or prior actions concerning the site;

d) evergreen material sales if in compliance with the standards specified in section 300.15, subd. 13, and the city planner has given approval;

e) solar energy systems; and

f) other uses customarily associated with but subordinate to a permitted use, as determined by the city.

(Amended by Ord. 2011-02, adopted April 18, 2011; amended by Ord. No. 2022-18, effective November 14, 2022)

4. Conditional Uses.

Within the B-2 district, no structure or land shall be used for the following except by conditional use permit and in conformance with the standards specified in section 300.21 of this ordinance:

a) outside storage, display, sales or servicing;

b) service stations and other automobile related uses having service bays except auto body repair and painting;

c) non-service station retail facilities having gasoline pumps;

d) uses having a drive-up window;

e) storage, assembly or servicing related to a permitted use occupying between 10 and 25 percent of the gross floor area of the principal structure;

f) fast food restaurants with or without drive-up facilities, except those located in community or regional shopping centers;

g) automobile, truck, trailer or boat sales or rentals that are accessory to another use;

h) theaters;

i) restaurants having on-sale intoxicating liquor or dance hall licenses;

j) licensed day care facilities;

k) hospitals and medical clinics;

l) cemeteries;

m) marinas;

n) public buildings or facilities and cabinets larger than 150 cubic feet that hold utility equipment;

o) telecommunication facilities as defined in Section 300.34;

p) accessory sidewalk cafes and outdoor eating areas;

q) utility poles and appurtenances (such as wires) that are over 60 feet in height and freestanding upon the ground, and all transmission lines which are not subject to state review under the Minnesota power plant siting act;

r) microbreweries;

s) residential dwelling units; or

t) other uses similar to those permitted in this section, as determined by the city.

(Amended by Ord. 2014-07; adopted March 24, 2014; amended by Ord. 2011-19, adopted August 22, 2011)

5. District Standards.

No building or land in the B-2 district shall be used except in conformance with the following:

a) building height: maximum of 35 feet or two stories, whichever is less;

b) front yard setback: minimum of 50 feet;

c) side and rear yard setback: minimum of 35 feet;

d) floor area ratio: maximum of 0.8;

e) lot coverage: maximum lot coverage shall be 85 percent and shall be calculated to include building footprints; parking areas; driveways; loading, storage and trash areas and other areas covered by any impervious surface;

f) access: by permit from a public body with principal access from a collector or arterial roadway as designated in the comprehensive plan or a street specifically designed to accommodate commercial traffic; and

g) trash enclosures or accessory buildings not to exceed 600 square feet in size shall be located behind the front building line of the principal building. Setbacks shall be equal to the parking setback as specified in section 300.28, subd. 12(b)(4).

6. Additional Requirements.

a) All developments shall be subject to site and building plan review pursuant to section 300.27 of this ordinance.

b) All developments must be in compliance with city code sections 300.23 wetland protection; 300.24 floodplain protection; 300.25 shoreland district; 300.28 Subd.20 performance standards regulating steep slopes; and 314.01 tree protection.

c) Parking shall be regulated pursuant to section 300.28 of this ordinance.

d) All developments shall comply with the city's water resources management plan.

e) Signs shall be regulated pursuant to section 325 of the code of city ordinances.

(Amended by Ord. 2016-08, effective May 23, 2016; Amended by Ord. 2002-03, adopted January 7, 2002; amended by Ord. 2000-19, adopted October 16, 2000; amended by Ord. No. 2023-02, effective February 27, 2023)

7. Interim Uses.

The following uses are allowed in the B-2 district only pursuant to an approved interim use permit and in conformance with the standards specified in section 300.05 of this ordinance and the additional standards specified below:

a) Any use authorized as a conditional use or other similar uses as determined by the city planner. These uses must meet the standards and conditions outlined for the corresponding conditional use unless waived by the city council, given the temporary nature of the use.

b) transient sales;

1) must be located in a suitable off-street location and shall not extend into adjacent right-of-way or other public property;

2) must not interrupt vehicular circulation on the site or obstruct parking spaces needed by permanent business established on the site;

3) must have written authorization from property owner;

4) business operator must secure all applicable licenses and approvals from the city, Hennepin county or other appropriate jurisdictions;

5) sight visibility clearances at street intersections and access points must be provided in accordance with section 300.15, subd. 9(e) of this ordinance or as determined by the city to protect public safety;

6) no portion of the use may take place within 100 feet of any developed property zoned for residential use;

7) signs are subject to the following:

a. no more than four signs are allowed, which do not exceed 32 square feet in aggregate;

b. incidental product or pricing signs must be placed directly next to the appropriate product;

c. product advertising is permitted, but must be included in the maximum allowed sign area;

d. the signs must have a professional appearance and must be securely mounted or erected in a safe location; and

e. these limitations apply to all signs associated with the use, including those affixed to vehicles;

8) any display of items must be limited to representative samples and be arranged in as compact a manner as reasonably practicable;

9) the interim use permit will be issued in the name of the person requesting the permit and will be for the purpose of selling a particular item or range of items at a specific location. Any change in the person, location or items sold will render the permit invalid; and

10) violation of the above standards or other conditions placed upon the interim use permit will result in immediate revocation of the interim use permit;

c) outside sales and display of plant materials except those associated with a commercial nursery;

1) is allowed only for nursery type merchandise that is normally associated with the principal use and sold outdoors;

2) must be located in compliance with building setback requirements except side or rear yard setbacks when the city determines that locations in those areas will not impact adjacent properties or public views;

3) is not permitted where there is a shortage of parking spaces or where it would cause in excess of 10 percent of parking spaces to be removed from service;

4) must be located in a controlled or cordoned area which does not obstruct vehicular circulation;

5) must be kept in a neat and orderly fashion;

6) must not include a public address system;

7) must not include the display of banners, stringers or advertising items except as permitted in section 325; and

8) is not permitted within 200 feet of the nearest existing or potential residential structure (a potential location is measured from the closest setback line on a residentially zoned property) and must be screened from views of residential and office business property; the city may determine that outdoor display and sales is becoming a permanent site feature and require that permanent facilities attached and complimentary to the principal building be constructed;

d) sidewalk sales exceeding allowable standards described for accessory uses and carnivals:

1) permits will only be granted if the applicant can demonstrate that the operation is located in an area that is removed from residential parcels and that adequate buffering is provided to minimize adverse impacts on residential property from the operation. Buffering adequate to comply with this standard may include substantial physical separation supplemented by one or more of the following: a landscaped buffer, natural vegetation, or location of a building between the operation and property line as determined by the city;

2) the use of outdoor speaker systems is prohibited;

3) a loss of the use of parking stalls determined by the city to be required to accommodate both normal parking demand and demands associated with the proposed operation is not allowed;

4) hours of operation will be imposed by the city dependant on the level of activity and adverse impacts on adjacent properties;

5) compliance with sign limitations imposed by the ordinance for temporary signs is required;

6) pedestrian access in and around the site cannot be blocked or impaired;

7) the retention of an off-duty police officer(s) may be required if deemed necessary by the chief of police to control large crowds and direct traffic if there is interference with normal traffic flow;

8) evidence of liability coverage of at least $300,000, with the city identified as an additional insured, must be provided for carnivals, in a form acceptable to the city attorney;

9) financial security acceptable to the city to insure compliance with the stipulations of approval and maintenance of the site must be posted. The minimum amount of the financial security is $5,000. Higher amounts may be required by the city if deemed appropriate based upon the size of the event and potential for problems in these areas;

10) compliance with applicable health, public safety and building code regulations as imposed by the city is required;

11) traffic flow must not unreasonably interfere with traffic on adjacent streets, intersections and curb cuts; events will not be approved when roads and intersections serving the site are under construction or repair to the extent that traffic capacities and flows are impaired;

12) only one event per site per calendar year will be allowed;

13) an acceptable plan must be submitted detailing the boarding and hygiene facilities to be used by the employees associated with the carnival operations and sale. Such employees are not permitted to be boarded overnight in temporary or mobile structures placed on the site; and

14) if a promotional carnival places an undue burden on the city or adjacent properties as evidenced by police responses or complaints, the city may deny future promotional carnival conditional use permits at that location.

e) outdoor entertainment;

1) must be located:

a. at least 100 feet from any residential property as measured from the closest property lines of the properties. The city may modify this distance based on physical characteristics of the commercial and residential properties such as: existing sight lines, existing or proposed physical barriers, existing natural resources, and proposed landscaping;

b. in proximity to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

c. in a controlled or cordoned area; and

d. to not interfere with pedestrian or vehicular circulation;

2) must not use public address systems, speakers, or other audio equipment which is audible anywhere on a residential lot that is within 400 feet, and must not create noise that is unreasonably disturbing to a reasonable person of ordinary sensitivity anywhere on a residential lot that is within 400 feet. The distance will be measured from the property lines of the source and receiving properties that are closest to each other. Whether the sound is unreasonably disturbing to a reasonable person will be determined under section 850.005;

3) Must not occur between the hours of 10:00 p.m. and 7:00 a.m.; and

4) Must be in compliance with applicable health, public safety, and building code regulations as imposed by the city or other pertinent agency.

(Amended by Ord. 2016-08, effective May 23, 2016; Amended by Ord. 2014-07, adopted March 24, 2014; amended by Ord. 2012-13, adopted September 18, 2012; added by Ord. 2012-07, adopted June 25, 2012; Ord. 2011-19, adopted August 22, 2011; amended by Ord. No. 2025-07, effective June 23, 2025)

SECTION 300.19. B-3 GENERAL BUSINESS DISTRICT.

1. Purpose.

The purpose of the B-3 district is to provide a district for general commercial development in areas so designated in the comprehensive plan and which are removed from residential areas. The intensity of development permitted in this district shall be determined by the city's assessment of the quality of the site and building plan and upon the ability to mitigate off-site impacts.

2. Permitted Uses.

Within the B-3 district no structure or land shall be used except for one or more of the following uses:

a) retail, including cannabis retail businesses subject to City Code 650, business, office or service uses occurring within an enclosed building, except as provided for in subdivision 4; or

b) cabinets no larger than 150 cubic feet that hold utility equipment and for which a landscape plan has been approved by the city planner; overhead utility poles and lines for a distribution line up to a maximum height of 60 feet as measured from the ground upon which it is located, except that utility poles and lines for a distribution line may be taller than 60 feet, but not taller than 80 feet, when needed to cross a major roadway such as a freeway.

(Amended by Ord. No. 2024-17, effective November 18, 2024)

3. Accessory Uses.

Within the B-3 district the following uses shall be permitted provided they are subordinate to and associated with a permitted use:

a) storage, assembly or servicing related to a permitted use and occupying no more than 25 percent of the gross floor area of the principal structure;

b) receive-only satellite dish antennas and other antenna devices up to a maximum height of 60 feet as measured from the ground upon which it is located subject to the requirements found in section 300.28, subd. 13; and radio devices no larger than one cubic foot in size that are attached to utility poles, if there is no more than one per pole;

c) sidewalk sales may be authorized by the city planner, at his or her discretion, up to three times per calendar year so long as they will be held on sidewalks located adjacent to the principal structure, will not block pedestrian or handicapped access, will not block any required parking or drive aisle, will not be located in any required setback area, will be limited to a maximum duration of two days, will use signage no larger than 4 feet by 4 feet per sign at the sale location with all other signs at the location in compliance with city ordinances and will restore and clean up the site to its prior condition upon completion of the sale. If a permitted sale does not comply with these standards, the city planner may require that it be immediately removed. Decisions of the city planner may be appealed to the planning commission. Cash deposits or other financial security acceptable to the city may be required if deemed necessary based upon the proposal or prior actions concerning the site;

d) evergreen material sales if in compliance with the standards specified in section 300.15, subd. 13 and the city planner has given

approval;

e) solar energy systems; and

f) other uses customarily associated with but subordinate to a permitted use, as determined by the city.

(Amended by Ord. 2011-02, adopted April 18, 2011; amended by Ord. No. 2022-18, effective November 14, 2022)

4. Conditional Uses.

Within the B-3 district no structure or land shall be used for the following except by conditional use permit and in conformance with the standards specified in section 300.21 of this ordinance:

a) outside storage, display, sales or servicing;

b) service stations and other automobile related uses having service bays except auto body repair and painting;

c) non-service station retail facilities having gasoline pumps;

d) uses having a drive-up window;

e) storage, assembly or servicing related to a permitted use and occupying between 25 and 50 percent of the gross floor area of the principal structure;

f) fast food restaurants with or without drive-up facilities, except those located in community or regional shopping centers;

g) automobile, truck, trailer or boat sales or rentals;

h) theaters;

i) restaurants having on-sale intoxicating liquor or dance hall licenses;

j) licensed day care facilities;

k) hospitals and medical clinics;

l) cemeteries;

m) marinas;

n) public buildings or facilities and cabinets larger than 150 cubic feet that hold utility equipment;

o) telecommunication facilities as defined in Section 300.34;

p) accessory sidewalk cafes and outdoor eating areas;

q) utility poles and appurtenances (such as wires) that are over 60 feet in height and freestanding upon the ground, and all transmission lines which are not subject to state review under the Minnesota power plant siting act;

r) microbreweries;

s) residential dwelling units; or

t) other uses similar to those permitted in this section, as determined by the city.

(Amended by Ord. 2014-07, adopted March 24, 2014; amended by Ord. 2011-19, adopted August 22, 2011)

5. District Standards.

No building or land in the B-3 district shall be used except in conformance with the following:

a) building height: building height to be regulated by setbacks and floor area ratio requirements;

b) front yard setback: minimum of 50 feet;

c) side and rear yard setback: side and rear yard setbacks shall comply with the following formula: *setback = (1.5 times building height) - 10 feet* up to a maximum of 100 feet but in no case shall the setbacks be less than the following when measured from land designated accordingly in the comprehensive plan:

1) 50 feet from low density residential;

2) 40 feet from medium and high density residential; and

3) 20 feet from commercial, office, industrial, institutional and public park.

d) floor area ratio: maximum of 1.5;

e) lot coverage: maximum lot coverage shall be 85 percent and shall be calculated to include building footprints; parking areas; driveways; loading, storage and trash areas and other areas covered by any impervious surface;

f) access: by permit from a public body with principal access from a collector or arterial roadway as designated in the comprehensive plan or a street specifically designed to accommodate commercial traffic; and

g) trash enclosures or accessory buildings not to exceed 600 square feet in size shall be located behind the front building line of the principal building. Setbacks shall be equal to the parking setback as specified in section 300.28, subd 12(b)(4).

6. Additional Requirements.

a) All developments shall be subject to site and building plan review pursuant to section 300.27 of this ordinance.

b) All developments must be in compliance with city code sections 300.23 wetland protection; 300.24 floodplain protection; 300.25 shoreland district; 300.28 Subd.20 performance standards regulating steep slopes; and 314.01 tree protection.

c) Parking shall be regulated pursuant to section 300.28 of this ordinance.

d) All developments shall comply with the city's water resources management plan.

e) Signs shall be regulated pursuant to section 325 of the code of city ordinances.

(Amended by Ord. 2016-08, effective May 23, 2016; Amended by Ord. 2002-03, adopted January 7, 2002; amended by Ord. 2000-19, adopted October 16, 2000; amended by Ord. No. 2023-02, effective February 27, 2023)

7. Interim Uses.

The following uses are allowed in the B-3 district only pursuant to an approved interim use permit and in conformance with the standards specified in section 300.05 of this ordinance and the additional standards specified for the interim use in section 300.18, subd. 7:

a) Any use authorized as a conditional use or other similar uses as determined by the city planner. These uses must meet the standards and conditions outlined for the corresponding conditional use unless waived by the city council, given the temporary nature of the use.

b) transient sales;

c) outside sales and display of plant materials except those associated with a commercial nursery;

d) sidewalk sales exceeding allowable standards described for accessory uses and carnivals; and

e) outdoor entertainment.

(Amended by Ord. 2012-13, adopted September 18, 2012; added by Ord. 2011-19, adopted August 22, 2011; amended by Ord. No. 2025-07, effective June 23, 2025)

SECTION 300.20. I-1 INDUSTRIAL DISTRICT.

1. Purpose.

The purpose of the I-1 district is to provide a district for industrial uses in areas so designated in the comprehensive plan. Development within the district shall be regulated through the performance standards outlined in section 300.28 of this ordinance to promote sensitive site design and to mitigate external site impacts.

2. Permitted Uses.

Within the I-1 district no structure or land may be used except for a cultivation, warehouse, storage, manufacturing, processing, office, wholesale, testing or research use occurring within an enclosed building, except as provided for in subdivision 4.

(Amended by Ord. No. 2024-17, effective November 18, 2024)

3. Accessory Uses.

Within the I-1 district the following uses are permitted provided they are subordinate to and associated with a permitted use:

a) living quarters for security personnel, provided they are located within the principal structure;

b) overnight outside storage of vehicles, provided the vehicles are associated with the business and are screened from view from residential properties or public views;

c) outside storage, including fuel storage, provided it is screened from general public view;

d) retail, including cannabis retail businesses subject to City Code 650, or service uses not exceeding 25 percent of the gross floor area of the principal structure;

e) overhead utility poles and lines for a distribution line, receive-only satellite dish antennas and other antenna devices up to a maximum height of 60 feet as measured from the ground upon which it is located subject to the requirements found in section 300.28,

subd. 13; except that utility poles and lines for a distribution line may be taller than 60 feet, but not taller than 80 feet, when needed to cross a major roadway such as a freeway;

f) evergreen material sales if in compliance with the standards specified in section 300.15; subd. 13, and the city planner has given approval;

g) solar energy systems; and

h) other uses customarily associated with but subordinate to a permitted use, as determined by the city.

(Amended by Ord. No. 2022-18, effective November 14, 2022; amended by Ord. No. 2024-17, effective November 18, 2024)

4. Conditional Uses.

Within the I-1 district no land or structure may be used for the following except by conditional use permit and in conformance with the standards contained in section 300.21 of this ordinance:

a) heliport;

b) retail, including cannabis retail businesses subject to City Code 650, or service uses occupying between 25 and 50 percent of the gross area of the principal structure;

c) cemeteries;

d) marinas;

e) public buildings or facilities and cabinets larger than 150 cubic feet that hold utility equipment;

f) vehicle towing businesses;

g) auto body repair and painting businesses;

h) telecommunication facilities as defined in Section 300.34;

i) waste transfer facilities;

j) microbreweries;

k) utility poles and appurtenances (such as wires) that are over 60 feet in height and freestanding upon the ground, and all transmission lines which are not subject to state review under the Minnesota power plant siting act; or

l) other uses similar to those permitted in this section, as determined by the city.

(Amended by Ord. 2014-07, adopted March 24, 2014; amended by Ord. 2011-19, adopted August 22, 2011; amended by Ord. No. 2024-17, effective November 18, 2024)

5. District Standards.

No building or land in the I-1 district shall be used except in conformance with the following:

a) building height: maximum of 35 feet;

b) front yard setback: minimum of 35 feet from local and neighborhood collector streets as identified in the comprehensive plan; or a minimum of 50 feet from railroad lines and from major collector or arterial roadways as designated in the comprehensive plan;

c) side and rear yard setbacks: minimum setbacks shall be in accordance with the following when measured from land designated accordingly in the comprehensive plan:

1) 70 feet from low density residential;

2) 50 feet from medium and high density residential;

3) 30 feet from commercial, office and institutional; and

4) 20 feet from industrial and public park.

d) floor area ratio: maximum of 1.0;

e) lot coverage: maximum lot coverage shall be 85 percent and shall be calculated to include building footprints; parking areas; driveways; loading, storage and trash areas and other areas covered by any impervious surface;

f) access: by permit from the appropriate public authority with principal access from a collector or arterial roadway as designated in the comprehensive plan or a street specifically designed to accommodate industrial traffic; and

g) trash enclosures or accessory buildings not to exceed 600 square feet in size shall be located behind the front building line of the principal building. Setbacks shall be equal to the parking setback as specified in section 300.28, subd. 12(b)(4).

6. Additional Requirements.

a) All developments shall be subject to site and building plan review pursuant to section 300.27 of this ordinance.

b) All developments must be in compliance with city code sections 300.23 wetland protection; 300.24 floodplain protection; 300.25 shoreland district; 300.28 Subd.20 performance standards regulating steep slopes; and 314.01 tree protection.

c) Parking shall be regulated pursuant to section 300.28 of this ordinance.

d) All developments shall comply with the city's water resources management plan.

e) Signs shall be regulated pursuant to section 325 of the code of city ordinances.

(Amended by Ord. 2016-08, effective May 23, 2016; Amended by Ord. 2002-18, adopted May 20, 2002; amended by Ord. 2002-04, adopted February 11, 2002; amended by Ord. 2002-03, adopted January 7, 2002; amended by Ord. 2000-19, adopted October 16, 2000; amended by Ord. No. 2023-02, effective February 27, 2023)

7. Interim Uses.

The following uses are allowed in the I-1 district only pursuant to an approved interim use permit and in conformance with the standards specified in section 300.05 of this ordinance and the additional standards specified below:

a) Any use authorized as a conditional use or other similar uses as determined by the city planner. These uses must meet the standards and conditions outlined for the corresponding conditional use unless waived by the city council, given the temporary nature of the use.

b) Outdoor entertainment;

1) Must be located:

a. at least 100 feet from any residential property as measured from the closest property lines of the properties. The city may modify this distance based on physical characteristics of the commercial and residential properties such as existing sightlines, existing or proposed physical barriers, existing natural resources, and proposed landscaping;

b. in proximity to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

c. in a controlled or cordoned area; and

d. to not interfere with pedestrian or vehicular circulation;

2) Must not use public address systems, speakers, or other audio equipment which is audible anywhere on a residential lot that is within 400 feet, and must not create noise that is unreasonably disturbing to a reasonable person of ordinary sensitivity anywhere on a residential lot that is within 400 feet. The distance will be measured from the property lines of the source and receiving properties that are closest to each other. Whether the sound is unreasonably disturbing to a reasonable person will be determined under section 850.005;

3) Must not occur between the hours of 10:00 p.m. and 7:00 a.m.; and

4) Must be in compliance with applicable health, public safety, and building code regulations as imposed by the city or other pertinent agency.

c) Temporary telecommunications towers;

1) May not be located adjacent to any low or medium-density residential property;

2) Maximum tower height, excluding lightning rods, is 150 feet;

3) Accessory equipment must meet minimum setback requirements established for accessory structures; and

4) Tower, antennas, and support structures must be painted a non-contrasting color consistent with the surrounding area, such as gray, brown, or silver, or have a galvanized finish to reduced visual impact. Metal towers must be constructed of, or treated with, corrosion-resistant material.

d) Transient sales;

1) Must be located in a suitable off-street location and shall not extend into adjacent right-of-way or other public property;

2) Must not interrupt vehicular circulation on the site or obstruct parking spaces needed by a permanent business established on the site;

3) Must have written authorization from the property owner;

4) The business operator must secure all applicable licenses and approvals from the city, Hennepin county or other appropriate jurisdictions;

5) Sight visibility clearances at street intersections and access points must be provided in accordance with section 300.15, subd. 9(e) of this ordinance or as determined by the city to protect public safety;

6) No portion of the use may take place within 100 feet of any developed property zoned for residential use;

7) Signs are subject to the following:

a. no more than four signs are allowed, which do not exceed 32 square feet in aggregate;

b. incidental product or pricing signs must be placed directly next to the appropriate product;

c. product advertising is permitted but must be included in the maximum allowed sign area;

d. the signs must have a professional appearance and must be securely mounted or erected in a safe location; and

e. e. these limitations apply to all signs associated with the use, including those affixed to vehicles;

8) Any display of items must be limited to representative samples and be arranged in as compact a manner as reasonably practicable;

9) The interim use permit will be issued in the name of the person requesting the permit and will be for the purpose of selling a particular item or range of items at a specific location. Any change in the person, location, or items sold will render the permit invalid; and

10) Violation of the above standards or other conditions placed upon the interim use permit will result in the immediate revocation of the interim use permit;

(Amended by Ord. 2021-10, effective June 28, 2021; amended by Ord. No. 2025-07, effective June 23, 2025)

SECTION 300.21. CONDITIONAL USE PERMIT STANDARDS FOR BUSINESS AND INDUSTRIAL DISTRICTS.

1. Purpose.

It is the intent of the city in establishing general and specific criteria for conditional uses that such uses be subject to careful evaluation to ensure that their location, size and design are consistent with the standards, purposes and procedures of this ordinance and the comprehensive plan. The planning commission may recommend and the city council may impose conditions on such uses in order to ensure compliance or to effect the purpose of this ordinance.

2. General Standards.

No conditional use permit shall be granted unless the city council determines that all of the following standards will be met:

a) the use is consistent with the intent of this ordinance;

b) the use is consistent with the goals, policies and objectives of the comprehensive plan;

c) the use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements;

d) the use is consistent with the city's water resources management plan;

e) the use is in compliance with the performance standards specified in section 300.28 of this ordinance; and

f) the use does not have an undue adverse impact on the public health, safety or welfare.

3. Specific standards in the B-1, Office Business District.

In addition to the standards specified in subdivision 2, no conditional use permit shall be granted unless the city council determines that each of the following specific standards will be met.

a) Business service uses normally associated with office developments and containing limited retail activity:

1) shall not result in any exterior building modifications, including truck docks, separate entrances, freestanding signs or overnight truck parking; and

2) shall not exceed more than 25 percent of the gross floor area.

b) Residential dwelling units:

1) building and site design shall provide a quality residential environment which is compatible with the permitted use;

2) residential uses must be within an existing building or constructed as part of a mixed use development;

3) at least two off-street parking spaces must be provided for the dwelling unit, with such parking to be in a garage, carport or on a paved area specifically intended for that purpose, but not within a required turnaround;

4) the dwelling unit must be in compliance with all applicable building, housing, electrical, plumbing, heating and related city codes;

5) the use will be permitted only where the dwelling unit will not have an undue adverse impact on adjacent properties and where there will not be a substantial alteration of the neighborhood character; and

6) the city may require buffering or screening if needed.

c) Restaurants and cafeterias incorporated within a principal structure and oriented predominantly towards serving the needs of employees of the surrounding area but excluding drive-up and exterior walk-up facilities:

1) only wall mounted signs, subject to the limitations of section 325 of the code of city ordinances, shall be permitted;

2) shall not exceed 15 percent of the gross floor area or 3,000 square feet, whichever is less;

3) parking and vehicular circulation shall be in compliance with the requirements of section 300.28 of this ordinance and shall be adequate to accommodate the restaurant;

4) shall only be permitted when it can be demonstrated that operation will not significantly lower the existing level of service as defined by the institute of traffic engineers on streets and intersections; and

5) hours of operation shall be limited to 8:00 a.m. to 9:00 p.m.

d) Storage, assembly or servicing incidental to the principal use:

1) shall not require any exterior modifications to the structure.

e) Hospitals and medical clinics:

1) shall not be adjacent to low density residential areas;

2) site shall have direct access to collector or arterial street as defined in the comprehensive plan; and

3) emergency vehicle access shall not be adjacent to or located across a street from any residential use.

f) Minor manufacturing or assembly incidental to the principal use:

1) shall be no outside storage of materials or trucks;

2) truck deliveries shall only be permitted when it is evident that they will not detract from the site or adjoining residential areas; and

3) shall not exceed 25 percent of the gross floor area.

g) Heliports:

1) shall conform to all applicable federal aviation administration regulations;

2) shall establish and utilize approach and departure routes over non-residential areas to the maximum extent possible;

3) hours of operation limited to 7:00 a.m. to 9:00 p.m., inclusive, excluding emergencies;

4) shall not be located within 500 feet of residential areas; and

5) shall be provided with a dust free landing pad.

h) Hotels and motels:

1) shall not be located adjacent to any low density residential parcels as identified in the comprehensive plan;

2) shall be developed to serve primarily the office district in which the use is located; and

3) shall only be permitted when it can be demonstrated that operation will not significantly lower the existing level of service as defined by the institute of traffic engineers on streets and intersections.

i) Financial institutions, with or without drive-up facilities: drive-through facilities and stacking areas are subject to the following requirements:

1) must not be located adjacent to any residential lot lines;

2) must be provided with a suitable visual screen from adjacent properties;

3) stacking for a minimum of six cars per aisle must be provided within applicable parking lot setbacks;

4) will only be permitted when it can be demonstrated that operation will not significantly lower the existing level of service as defined by the institute of traffic engineers on streets and intersections; and

5) must be subordinate to and associated with a permitted use located within a building on the site.

j) Licensed day care facilities:

1) shall have loading and drop-off points designed to avoid interfering with traffic and pedestrian movements;

2) outdoor play areas shall be located and designed in a manner which mitigates visual and noise impacts on adjoining residential areas;

3) one parking space for each six children based on the licensed capacity of the center; and

4) shall obtain all applicable state, county and city licenses.

k) Cemeteries:

1) minimum lot size of five acres;

2) located in proximity to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

3) direct views from all adjoining residential parcels shall be buffered by appropriate means; and

4) site and building plan subject to review pursuant to section 300.27 of this ordinance.

l) Marinas:

1) minimum lot size of two acres;

2) located in proximity to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

3) direct views from all adjoining areas shall be screened, with particular attention to screening exterior storage;

4) approval by city fire marshal and by all governmental agencies having jurisdiction over adjacent body of water; and

5) site and building plan subject to review pursuant to section 300.27 of this ordinance.

m) Public buildings or facilities and cabinets larger than 150 cubic feet that hold utility equipment:

1) site and building plan subject to review pursuant to section 300.27 of this ordinance.

n) Telecommunications facilities are subject to the provisions of Section 300.34.

o) Utility poles and appurtenances (such as wires) that are over 60 feet in height and freestanding upon the ground, transmission lines that are not subject to state review under the Minnesota power plant siting act, and substations and other related facilities:

Phase I (Application for Conditional Use Permit):

1) The applicant must first participate in a task force study with city staff. The task force may also include landowners representing residential interests that may be affected. The task force will review alternatives for the proposed location. The applicant must submit an alternatives analysis to the task force that includes:

a. documentation demonstrating the need and purpose for such a facility so that alternatives to the facility can be adequately assessed;

b. all of the alternatives considered by the applicant;

c. alternative locations;

d. a “no-build” alternative that discusses measures that could be taken in an attempt to meet the documented need without construction of the facility; and

e. designation of the applicant's preferred location.

2) The city may retain an independent technical expert paid for by the applicant to assist the task force. The expert must be acceptable to the applicant, who may not unreasonably withhold this acceptance. The applicant will have five business days to reject the city's selected expert after receiving notice from the city. If the applicant does not reject the expert within that time, the expert will be deemed to be acceptable. The task force will conduct an analysis of the alternatives and present its report to the city council. The council will narrow the alternatives to two for each facility. One of those alternatives may be a no-build alternative.

3) The applicant will then submit an application for a conditional use permit with the following information for each alternative selected by the city council:

a. the cost;

b. the amount of vegetation that would be removed or damaged;

c. for an electrical transmission line or substation, a summary of current research regarding the health effects of EMF levels, conducted by health and scientific professionals, including those who do and do not receive utility sponsorship;

d. for an electrical transmission line or substation, EMF levels under maximum and average anticipated loading at the base of the utility poles, underneath the wires between the poles, at ground level above underground wires, at the edge of the property line, at the edge of the closest habitable building, and at the point above ground where there would be the greatest EMF level;

e. for an electrical transmission line or substation, reasonable and prudent measures to minimize EMF levels along all alternative routes; and

f. depictions of the views of the proposed facility, if above ground, from at least two directions selected by city staff.

4) All alternative routes for transmission lines must comply with the following unless the applicant shows that this is not reasonable or prudent:

a. the routes must be on or along corridors presently used for public roads, public trails, railroads, or above-ground utilities, or on corridors which were previously used for such purposes and which are being retained for future public or utility purposes;

b. arterial or collector streets must be used instead of local roadways, except that local roadways may be used where above-ground electrical lines already exist; and

c. platted utility easements in residential zones which do not abut public roads or roadway easements may not be used, unless the lines are placed underground.

5) After receiving a complete application, the planning commission must hold a public hearing on the application. At least 10 days before this hearing, the city must mail notice of the hearing to all owners of property wholly or partially within a 400-foot radius of any portion of the alternative locations to be presented to the planning commission.

6) The planning commission will recommend a preferred alternative to the city council. The city council will select an alternative for each facility by a majority vote of the members present. The planning commission and council may impose reasonable conditions as part of the approval to protect adjacent property and people.

7) In making their decisions, the planning commission and city council must consider the following factors:

a. the potential adverse aesthetic, economic, environmental, social, health, and safety impacts on adjacent properties or people;

b. the potential interference with public use of public property;

c. the applicant's need to adequately and reliably serve customers within the relevant service area now and in the foreseeable future;

d. compliance with the requirements in subparagraph 4;

e. cost; and

f. the purposes in section 300.01 and the general standards in section 300.16, subd. 2 and section 300.21, subd. 2.

8) The applicant may notify the city and request selection of a different alternative after the council's action if the applicant believes that it cannot use the selected alternative because of a reason that was beyond its own control and not apparent during the selection process. The council will choose a different alternative if it finds that the applicant is prevented from the using the selected location.

Phase II (Site Plan Review):

9) The applicant must apply for site plan approval after receiving the conditional use permit and before beginning construction. At the applicant’s request, the city council may choose to consider the site plan at the time of the conditional use permit. The application must comply with the conditions specified in paragraphs (9) through (13). The applicant must obtain sufficient interest in the property needed for that alternative before applying for the approval. The city planner must reject an application for a location other than the selected alternative, and it will not be considered.

10) The applicant must submit a landscape plan prepared by a registered landscape architect. The plan must be designed to mitigate the amount of trees removed for the facility and must minimize the visual impact on abutting properties caused by the facility. The landscape plan will be subject to review and approval by the city pursuant to section 300.27, subd. 14 through subd. 19 of this code, except the minimum landscape requirements in subd. 15(a). The applicant must submit financial security acceptable to the city to ensure compliance and must install and maintain the landscaping in compliance with those code provisions and the plan as approved by the city. With the concurrence of the abutting property owner, the landscape plan may include plantings on abutting property. In that case, the applicant will be responsible for installation, and the abutting property owner will be responsible for the maintenance of the landscaping.

11) The applicant must design the facility to minimize its visual impact. The applicant must submit configuration, material and color options that are technically feasible. The city may require the applicant to design the facility in a manner that reduces the visual impact of the project, including regulating the height and spacing of utility poles. Utility poles may not exceed 80 feet in height, except when needed to cross a major roadway such as a freeway.

12) The facility must not interfere with the use of public right-of-way, including use for vehicular and pedestrian travel, snow storage, and lateral support.

13) The applicant and any subsequent owner must continually maintain the facility in good condition, including repainting or restaining deteriorated surface finishes, securing poles and guy wires to the ground, and replacing poles that are in a deteriorated condition.

(Amended by Ord. 2016-08, effective May 23, 2016; Amended by Ord. 2014-07, adopted March 24, 2014; amended by Ord. 2012-07, adopted June 25, 2012; Ord. 2011-02, adopted April 18, 2011; amended by Ord. No. 2023-02, effective February 27, 2023)

4. Specific Standards in B-2, Limited Business District.

In addition to the standards specified in subdivision 2, no conditional use permit shall be granted unless the city council determines that each of the following specific standards will be met.

a) Outside storage, display, sales or servicing:

1) shall be allowed for periods not exceeding 20 days per year and shall include only items sold on the premises;

2) screening shall be provided from residential and office business property;

3) no public address system shall be audible from any residential property;

4) site shall be kept in a neat and orderly fashion;

5) no uses shall be permitted in required parking or building setback areas; and

6) shall not be permitted within 100 feet of any residential parcel.

b) Service stations and other automobile related uses having service bays:

1) no vehicles which are unlicensed and inoperable shall be stored on premises except in appropriately designed and screened storage areas;

2) all repair, assembly, disassembly and maintenance of vehicles shall occur within closed buildings except minor maintenance, including tire inflation, adding oil and wiper replacement;

3) no public address system shall be audible from any residential parcel;

4) stacking for gas pumps shall be provided for at least one car beyond the pump island in each direction in which access can be gained to the pump. The required stacking shall not interfere with internal circulation patterns or with designated parking areas and shall not be permitted in any public right-of-way, private access easement or within the required parking setback;

5) no sales, storage or display of used automobiles, except when a conditional use permit is approved allowing automobile, truck, trailer or boat sales or rentals;

6) shall not be located within 100 feet of any low density residential parcel or adjacent to medium or high density residential parcels, as designated in the city's land use plan. The city may reduce separation requirements if the following are provided:

a. landscaping and berming to shield the auto service use;

b. parking lots are not located in proximity to residential uses; and

c. lighting plans which are unobtrusive to surrounding residential uses;

7) all canopy lighting shall be recessed lighting, flush mounted with canopy ceiling and having a flat glass lens; and

8) canopies shall be set back at least 20 feet from all property lines, but in no case shall the setbacks be less than 30 feet from land that the city’s land use plan designates for residential use.

c) Non-service station retail facilities having gasoline pumps:

1) no vehicles which are unlicensed and inoperable shall be stored on premises;

2) no repair, assembly or disassembly of vehicles;

3) gasoline pumps, stacking lanes or access drives shall not be located adjacent to low density residential properties unless separated from the low density property by the principal structure or shall be screened from views from mid or high density residential parcels, as designated in the city's land use plan;

4) no public address system shall be audible from any residential parcel;

5) stacking for gas pumps shall be provided for at least one car beyond the pump island in each direction in which access can be gained to the pump. The required stacking shall not interfere with internal circulation patterns or with designated parking areas and shall not be permitted in any public right-of-way, private access easement or within the required parking setback;

6) no sales, storage or display of used automobiles;

7) shall be screened from adjacent residential areas;

8) all canopy lighting shall be recessed lighting, flush mounted with canopy ceiling and having a flat glass lens; and

9) canopies shall be set back at least 20 feet from all property lines, but in no case shall the setbacks be less than 30 feet from land that the city’s land use plan designates for residential use.

d) Drive-up window or similar facility:

1) drive-up windows and stacking areas must not be located adjacent to any residential parcel;

2) stacking areas must provide for a minimum of six cars per aisle; and

3) public address system must not be audible from any residential parcel; and

4) must be subordinate to and associated with a permitted use located within a building on the site.

e) Storage, assembly or servicing related to the permitted use and occupying between 10 and 25 percent of the gross floor area of the principal structure:

1) the building and site shall maintain a predominantly commercial character;

2) no exterior storage shall be permitted;

3) no overnight parking of trucks on site; and

4) truck loading areas shall be fully screened and not located adjacent to any residential lot line.

f) Fast food restaurants with or without drive-up facilities, except those located in community or regional shopping centers:

1) shall be located only on sites having direct access to minor arterial streets or service roads;

2) public address systems shall not be audible from any residential parcel;

3) stacking for a minimum of six cars per aisle shall be provided within applicable parking lot setbacks;

4) shall not be permitted when traffic studies indicate significant impacts on the levels of service as defined by the institute of traffic engineers of adjacent streets and intersections; and

5) building shall be set back at least 100 feet and screened from any adjacent property designated in the comprehensive plan for residential use.

g) Auto, truck, trailer or boat sales or rentals:

1) no vehicles that are unlicensed or inoperative, or both shall be stored on the premises, unless they are being repaired and are kept in a closed building;

2) all repair, assembly, disassembly or maintenance of vehicles shall occur within a closed building, except minor maintenance, which includes tire inflation, adding oil or wiper replacement;

3) no outside storage or display without a separate conditional use permit, except automobiles, trucks, trailers or boats for sale or rent;

4) no public address system shall be audible from residential property;

5) storage or display areas must be landscaped as required by the parking lot landscaping provisions of section 300.27, subdivision 13;

6) the minimum required parking setback shall apply to any automobile, truck, trailer or boat storage, display or waiting areas;

7) no test driving of vehicles on local residential streets;

8) shall be subject to sign covenants approved by the city;

9) the outdoor storage area, display area and building shall be at least 100 feet from any residential zoning district and must include landscaping as required by the city to screen the use from residential zones. The city may reduce the separation and landscaping requirements if the following are provided:

a) The trucks are fully screened by the use of berming, fencing or other means approved by the city. The screen must be, at minimum, equal to the height of the tallest trailer or vehicle; and

b) The principal structure must be between a residential zone and the drop-off and pick-up areas when drop-off or pick-up activities, or both, occur between 7:00 p.m. and 7:00 a.m.

10) automobiles, trucks, trailers or boats must only be parked on paved and striped parking spaces in a location approved by the city, but must not be parked on required parking spaces;

11) must be accessory to another use on the same lot in the B-2 zones. The storage area, drop-off/pick-up area, building area and other areas used as part of the sales or rental operation must not exceed 25 percent of the lot area and must meet the standards established in section 300.27, subdivision 5, site and building plan review;

12) all vehicle dealers shall be licensed by the state.

13) must be located and designed so as not to interfere with internal/external pedestrian and vehicular circulation. A traffic study may be necessary to determine traffic impacts; and

14) must not be located to obstruct parking spaces. Parking spaces may be removed for the use only if parking requirements specified in section 300.28 are met.

h) Theaters:

1) for theaters located within shopping centers or otherwise utilizing joint parking arrangement, the applicant shall submit an analysis of parking demand versus availability for review and approval by staff. Additional parking may be required based on this analysis;

2) for theaters located within existing structures, the city may require the installation of appropriate building modifications to provide adequate pedestrian and vehicle access; and

3) interior and free standing theaters shall only be permitted when it can be demonstrated that vehicular ingress and egress may be accomplished without inducing undue traffic problems on area roadways.

i) Restaurants having on-sale intoxicating liquor or dance hall licenses:

1) parking shall be in compliance with the requirements of section 300.28 of this ordinance;

2) shall only be permitted when it can be demonstrated that operation will not significantly lower the existing level of service as defined by the Institute of Traffic Engineers on streets and intersections; and

3) shall not be located within 100 feet of any low density residential parcel or adjacent to medium or high density residential parcels. The city may reduce separation requirements if the following are provided:

a. landscaping and berming to shield the restaurant use;

b. parking lots not located in proximity to residential uses; and

c. lighting plans which are unobtrusive to surrounding uses.

j) Licensed day care facilities; the same standards as specified in subdivision 3(j)(1) through (4), inclusive, of this section shall apply.

k) Hospitals and medical clinics: the same standards as specified in subdivision 3(e)(1) through (3), inclusive, of this section shall apply.

l) Cemeteries: the same standards as specified in subdivision 3(k)(1) through (4), inclusive, of this section shall apply.

m) Marinas: the same standards as specified in subdivision 3(l)(1) through (5), inclusive, of this section shall apply.

n) Public buildings or facilities and cabinets larger than 150 cubic feet that hold utility equipment: the same standard as specified in subdivision 3(m) of this section shall apply.

o) Telecommunications facilities are subject to the provisions of Section 300.34.

p) Accessory sidewalk cafes and outdoor eating areas:

1) shall be located in a controlled or cordoned area with at least one opening to an acceptable pedestrian walk. When a liquor license is involved, an enclosure is required and the enclosure shall not be interrupted; access shall be only through the principal building;

2) shall not be permitted within 200 feet of any residential parcel and shall be separated from residential parcels by the principal structure or other method of screening acceptable to the city;

3) shall be located and designed so as not to interfere with pedestrian and vehicular circulation;

4) shall not be located to obstruct parking spaces. Parking spaces may be removed for the use only if parking requirements specified in section 300.28 are met;

5) shall be located adjacent to an entrance to the principal use;

6) shall be equipped with refuse containers and periodically patrolled for litter pick-up;

7) shall not have speakers or audio equipment which is audible from adjacent parcels; and

8) shall be located in compliance with building setback requirements.

q) Residential dwelling units: the same standards as specified in subdivision 3(b)(1) through (6), inclusive, of this section shall apply.

r) Utility poles and appurtenances (such as wires) that are over 60 feet in height and freestanding upon the ground, and all transmission lines which are not subject to state review under the Minnesota power plant siting act: the same standards as specified in subdivision 4(1) through (19), inclusive, of this section shall apply.

s) Microbreweries:

1) parking requirements:

a. microbrewery: one parking space for each 1000 square feet of floor area.

b. tap room: one parking space for each 50 square feet of floor area.

2) shall have parking and vehicular circulation in compliance with the requirements of section 300.28 of this code and which items must be adequate to accommodate the restaurant; and

3) shall only be permitted when it can be demonstrated that operation will not significantly lower the existing level of service as defined by the Institute of traffic engineers on the roadway system.

(Amended by Ord. 2014-07, adopted March 24, 2014; amended by Ord. 2012-07, adopted June 25, 2012, Ord. 2011-19, adopted August 22, 2011; amended by Ord. 2011-02, adopted April 18, 2011; amended by Ord. #2005-09, adopted April 4, 2005; amended by Ord. No. 2023-02, effective February 27, 2023)

5. Specific Standards in B-3, General Business District.

In addition to the standards specified in subdivision 2, no conditional use permit shall be granted unless the city council determines that each of the specific standards contained in this subdivision will be met.

a) Outside storage, display, sales or servicing: the same standards as specified in subdivision 4(a)(1) through (6), inclusive, of this section shall apply.

b) Service stations and other automobile related uses having service bays: the same standards as specified in subdivision 4(b)(1) through (8), inclusive, of this section shall apply.

c) Non-service station retail facilities having gasoline pumps: the same standards as specified in subdivision 4(c)(1) through (9), inclusive, of this section shall apply.

d) Drive-up window or similar facility: the same standards as specified in subdivision 4(d)(1) through (4), inclusive, of this section apply.

e) Storage, assembly or servicing related to the permitted use occupying between 10 and 25 percent of the gross floor area of the principal structure: the same standards as specified in subdivision 4(e)(1) through (4), inclusive, of this section shall apply.

f) Fast food restaurants with or without drive-up facilities, except those located in community or regional shopping centers: the same standards as specified in subdivision 4(f)(1) through (4), inclusive, of this section shall apply.

g) Auto, truck or boat sales: the same standards as specified in subdivision 4(g)(1) through (10), inclusive, of this section shall apply.

h) Theaters: the same standards as specified in subdivision 4(h)(1) through (3), inclusive, of this section shall apply.

i) Restaurants having on-sale intoxicating liquor or dance hall licenses: the same standards as specified in subdivision 4(i)(1) through (3), inclusive, of this section shall apply.

j) Licensed day care facilities: the same standards as specified in subdivision 4(j)(1) through (3), inclusive, of this section shall apply.

k) Hospitals and medical clinics: the same standards as specified in subdivision 3(e)(1) through (3), inclusive, of this section shall apply.

l) Cemeteries: the same standards as specified in subdivision 3(k)(1) through (4), inclusive, of this section shall apply.

m) Marinas: the same standards as specified in subdivision 3(l)(1) through (5), inclusive, of this section shall apply.

n) Public buildings or facilities and cabinets larger than 150 cubic feet that hold utility equipment: the same standard as specified in subdivision 3(m) of this section shall apply.

o) Telecommunication facilities are subject to the provisions of section 300.34.

p) Accessory sidewalk cafes and outdoor eating areas: the same standards as specified in subdivision 4(r)(1) through (8), inclusive, of this section shall apply.

q) Residential dwelling units: the same standards as specified in subdivision 3(b)(1) through (6), inclusive, of this section shall apply.

r) Utility poles and appurtenances (such as wires) that are over 60 feet in height and freestanding upon the ground, and all transmission lines which are not subject to state review under the Minnesota power plant siting act: the same standards as specified in subdivision 4(1) through (19), inclusive, of this section shall apply.

s) Microbreweries: the same standards as specified in subdivision 4(s)(1) through (3), inclusive, of this section shall apply.

(Amended by Ord. 2014-07, adopted March 24, 2014; amended by Ord. 2011-19, adopted August 22, 2011; amended by Ord. No. 2023-02, effective February 27, 2023)

6. Specific Standards in I-1 Industrial District.

In addition to the standards specified in subdivision 2, no conditional use permit shall be granted unless the city council determines that each of the following standards will be met:

a) Heliports: the same standards as specified in subdivision 3(g)(1) through (5), inclusive, of this section shall apply.

b) Retail or service uses occupying between 25 and 50 percent of the gross area of the principal structure:

1) shall be no exterior modifications to the building;

2) shall have no outside storage or display and no accessory structures; and

3) shall have sufficient parking, consistent with the standards specified in section 300.28 of this ordinance.

c) Cemeteries: the same standards as specified in subdivision 3(k)(1) through (4), inclusive, of this section shall apply.

d) Marinas: the same standards as specified in subdivision 3(l)(1) through (5), inclusive, of this section shall apply.

e) Public buildings or facilities and cabinets larger than 150 cubic feet that hold utility equipment: the same standard as specified in subdivision 3(m) of this section shall apply.

f) Vehicle towing businesses:

1) there shall be no impound lot on the proposed location;

2) no exterior storage of unlicensed and inoperative vehicles;

3) any exterior storage of towed vehicles or vehicles awaiting service shall be screened from view of adjacent properties;

4) shall not be located within 200 feet of residential zoning district; and

5) hours of operation may be limited by the city council if deemed appropriate to protect residential properties in the area from adverse impacts.

g) Auto body repair and painting businesses:

1) shall not be located within 200 feet of any residential zoning district;

2) shall not have any exterior storage of unlicensed or inoperable vehicles;

3) shall have all repair activity take place within the principal building; and

4) shall have all vehicles scheduled for repair parked in the principal building or completely screened from view of adjacent properties.

h) Telecommunication facilities are subject to the provisions of Section 300.34.

i) Waste transfer facilities:

1) site and building plan subject to review pursuant to section 300.27 of this ordinance;

2) minimum site area shall be 10 acres;

3) the exterior surfaces of all buildings erected on the property shall be faced with brick, stone, architectural concrete masonry units, or an equivalent approved by the city;

4) exterior loading docks shall not be on any street frontage. Handling all material brought to or removed from the site shall be on those sides of the building that do not face a street or proposed street(s);

5) parking areas, driveways, circulation and stacking lanes shall be designed, surfaced and curbed in accordance with city code;

6) the horizontal stacking of trucks and other equipment shall occur on-site and off public rights-of-way;

7) an on-site stormwater collection system shall be installed to collect and treat stormwater prior to release into the city's collection system or natural drainageway;

8) the principal building structure shall maintain a 100 foot setback from stormwater holding areas, natural drainage facilities, wetlands, shorelands and floodplains;

9) all structures shall maintain a 500 foot setback from any residential zoning district and all parking and loading areas and driveway lanes shall maintain a 100 foot setback from any residential area;

10) all trucks and equipment traveling to or away from the site, except for personal vehicles, shall be restricted to designated routes established by the city. The operator of any transfer station shall be responsible for notifying truck operators of the route designation by the city. The city will not revoke a conditional use permit granted under this subsection for off-site violations beyond the control of the transfer station operator or owner;

11) access routes shall utilize arterial roadways;

12) no loading, unloading, cleaning of vehicles, equipment or containers, shall occur outside of a fully enclosed structure;

13) on-site storage or handling of hazardous waste materials as defined by state law is prohibited. Hazardous waste materials inadvertently delivered to the facility shall be promptly removed from the site in accordance with county and state requirements. Special programs for the collection of residential hazardous waste may be conducted within the facility with prior city approval;

14) there shall be no storage of solid waste outside of an enclosed structure;

15) all parking, vehicular and operational use areas shall be screened from public streets and adjacent properties;

16) all trucks and other operations equipment shall be parked in a designated screened area of the site;

17) the emission of noxious matter shall be controlled so that no concentration of such matter, at or beyond the lot line, will be detrimental to or endanger the public health, safety, comfort or general welfare or cause damage to property. Noxious matter means any solid, liquid or gaseous material including but not limited to gases, vapors, odor, dusts, fumes, mists, or combinations thereof, the emission of which does not comply with federal or state environmental laws and standards. The operator of the facility shall comply with a regular inspection schedule as approved by the city sanitarian and shall submit quarterly reports of such inspections to the city sanitarian;

18) air quality and the generation of dust or other particulates related to transfer station operations, including vehicle emissions, shall be periodically monitored. The operator of the facility shall be responsible for monitoring the site quarterly, or more frequently as determined by the city sanitarian and violations of state standards shall be abated;

19) the operator of the solid waste transfer station shall cooperate with the city in order to facilitate periodic city inspections of the facility as the city may deem necessary;

20) a pest control plan shall be implemented, that is acceptable to the city sanitarian including, but not limited to, a contract with a licensed pest control operator for regular service;

21) hours of operation shall not exceed the following: 7:00 a.m. to 6:00 p.m. Monday through Friday for commercial haulers; 7:00 a.m. to 9:00 p.m. Monday through Friday for recycling center; 7:00 a.m. to 6:00 p.m. Saturdays for all uses;

22) the operator of the site must ensure that the site and operation is in constant compliance with all city ordinances;

23) the applicant shall obtain all applicable federal, state, county, watershed district and city permits; and

24) other conditions as deemed necessary by the city to ensure public health, safety and welfare.

j) Utility poles and appurtenances (such as wires) that are over 60 feet in height and freestanding upon the ground, and all transmission lines which are not subject to state review under the Minnesota power plant siting act: the same standards as specified in subdivision 4(1) through (19), inclusive, of this section shall apply.

k) Microbreweries: the same standards as specified in subdivision 4(s)(1) through (3), inclusive, of this section shall apply.

(Amended by Ord. 2014-07, adopted March 24, 2014; amended by Ord. 2011-19, adopted August 22, 2011; amended by Ord. #2002-08, adopted April 22, 2002; amended by Ord. #2002-03, adopted January 7, 2002; amended by Ord. #2000-19, adopted October 16, 2000; amended by Ord. #1999-25, adopted October 11, 1999)

SECTION 300.22. PLANNED UNIT DEVELOPMENT DISTRICT.

1. Purpose.

The purpose of the planned unit development (PUD) zoning district is to provide a district that grants flexibility from certain subdivision and zoning regulations in order to realize public benefits that may not otherwise be achieved through non-PUD development.

2. Applicability.

PUD zoning may be considered by the city when it would result in one of the following public benefits:

a) Greater preservation of existing natural resources, in number or quality, than would otherwise be provided under non-PUD development;

b) Provision of affordable housing;

c) Provision of a housing type or target housing price that is desirable to the city;

d) A mix of land use types;

e) Development that is compatible with existing, surrounding development type and intensity that is no longer allowed in other existing zoning districts; or

f) Greater energy conservation through building and site design than would otherwise be achieved under non-PUD development;

g) Other public benefits as recognized by the city.

3. Uses.

Within the PUD district all uses allowed as permitted and accessory uses within any other zoning districts are allowed. All uses allowed by conditional use permit within any other district are allowed by conditional use permit. Uses must be reviewed for compliance with the applicable conditional use permit standards and site and building plan standards specified within city code.

4. General Standards.

A PUD may be approved when the following general standards are met:

a) Any use authorized as a conditional use or other similar uses as determined by the city planner. These uses must meet the standards and conditions outlined for the corresponding conditional use unless waived by the city council, given the temporary nature of the use.

b) The PUD results in at least one of the public benefits as outlined in section 2 of this ordinance;

c) The PUD is consistent with and advances the community-wide goals of the comprehensive plan; and

d) The PUD is appropriately integrated into existing and proposed surrounding development. This does not mean the PUD reflects the specific standards of the surrounding area such as lot size, density, setbacks, or design. While integration may be achieved through such standards, it may also be achieved through continuation of existing land use types, architectural transitions, landscape buffering, or other means.

(Amended by Ord. No. 2025-07, effective June 23, 2025)

5. Specific Standards.

Approval of a PUD may be conditioned upon compliance with the following specific standards:

a) If a PUD includes provision of affordable housing, a specific housing type, or target housing price, details associated with the housing - including number of units, unit size, and price - must be documented in a legally-binding agreement approved by the city and recorded against the properties within the PUD.

b) If a PUD includes preservation of natural resources, those resources must be permanently protected through a conservation easement

or other legally-binding agreement approved by the city and recorded against the properties with the PUD.

c) A homeowners association must be established where appropriate to ensure on-going maintenance of infrastructure and public spaces, required restoration and management of natural areas, or other actions and activities specific to the PUD.

6. Flexible Guidelines

a) The standards outlined in the following city code sections serve as development guidelines for structures within PUDs:

PUD Land Use	Development Guidelines
low-density residential	R-1, section 300.10
medium-density residential	R-3, section 300.12
high-density residential	R-5, section 300.14
commercial	B-2, section 300.18

b) The standards outlined in section 300.28 subdivision 12 of this ordinance serve as guidelines for parking and loading requirements within PUDs.

c) The standards outlined in section 400 of the ordinance serve as guidelines for the design of lots and public streets within PUDs.

d) The aforementioned are guidelines only and not development standards.

7. Review Process.

a) Rezoning and Master Development Plan Review

1) As with any rezoning, the decision to rezone a property to PUD is a policy decision that the city council may make in its legislative capacity. In evaluating a proposal to rezone a property to PUD, the council will consider its compliance with the standards outlined in subdivisions 4 and 5 of this ordinance.

2) The process to rezone a property to PUD is generally subject to the procedures outlined in section 300.09 of this ordinance for a zoning map amendment, except that:

a. Prior to concept plan review or introduction of the rezoning ordinance, city staff will establish a public hearing notification area. This area will include all properties located wholly or partially within 400 feet of the property proposed to be rezoned PUD and further extended to existing natural or manmade boundaries such as wetlands, creeks, lakes, roadways, intersections, railroads or different land use classifications.

b. At the time of concept plan review or ordinance introduction, the council will determine whether the notification area is appropriate. The council may require that the area be enlarged or retracted prior to the public hearing before the planning commission. In no case will the notification area be less than 400 feet.

c. At least 10 days prior to the public hearing before the planning commission, notice regarding the rezoning will be published in the official newspaper and sent by mail to the notification area as approved by the council.

3) An application to rezone a property to PUD must be accompanied by an application for master development plan review. The process to review and approve a master development plan is subject to the procedures outlined in section 300.09 of this ordinance for a zoning map amendment.

a. A master development plan must include:

1. type of land use;
2. building location;
3. building renderings or elevations;
4. grading and tree removal plan;
5. stormwater management plan;
6. street and utility plan, including locations and sizes; and
7. landscape plan.

4) Approval of the master development plan constitutes approval of the items outlined above.

5) An approved master development plan is the legal control governing development of property within a PUD.

6) The city council may attach conditions to a master development plan approval as it determines necessary or convenient to accomplish the purposes of the PUD.

b) Site and Building Plan Review Process

1) Site and building plan review and approval of final site and building plans is subject to the procedures outlined in section 300.27 of this ordinance.

2) Final site and building plans must be in substantial compliance with the approved master development plan.

c) Applicants may combine master development plan review and site and building plan review. In such cases, all information required for both processes must be submitted simultaneously.

d) The city council may attach conditions to a final site and building plan approval as it determines necessary or convenient to accomplish the purposes of the PUD.

8. Term of Approval.

a) If an application for final site and building plan approval is not made by December 31 of the year following approval of a rezoning to PUD, or of any extension granted by the city, the city council may rezone the property to its original zoning classification.

b) If construction has not started by December 31 of the year following approval of final site and building plans, or of any extension granted by city, the city council may rezone the property to its original zoning classification.

c) In reviewing extension requests, the city will consider the following:

1) whether there have been changes to city code or policy that would affect the previous approval; and

2) whether an extension would adversely affect the neighboring property owners.

9. Amendments.

a) A major amendment to an approved master development plan may be approved by the city council after review by the planning commission. The process to review and approve a major amendment is subject to the procedures outlined in section 300.09 of this ordinance for a zoning map amendment. A major amendment is any amendment that:

1) substantially alters the location of buildings, parking areas or roads;

2) increases or decreases the number of residential dwelling units by more than 5 percent;

3) increases the gross floor area of non-residential buildings by more than 5 percent or increases the gross floor area of any individual building by more than 10 percent;

4) increases the number of stories of any building;

5) increases the square-footage of grading on any individual lot by more than 1,000 square feet;

6) decreases the amount of open space by more than 5 percent or alters it in such a way as to change its original design or intended use; or

7) creates non-compliance with any special condition attached to the master development plan.

b) Any other amendment may be made through review and approval by a majority vote of the planning commission.

10. Exceptions.

This section does not apply to any PUD or planned unit residential development (PURD) that received preliminary or final approval by the city council prior to the effective date of this ordinance unless requested by the property owner and approved by the city council. An amendment of a previously approved PUD or PURD is subject to this section.

(Section 300.22 was repealed and new section adopted May 19, 2014; amended by Ord. 2008-25, adopted August 25, 2008; amended by Ord. 2008-10, adopted March 24, 2008; amended by Ord. #2002-04, adopted February 11, 2002)

SECTION 300.23. WETLANDS PROTECTION.

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1. Purpose and Intent.

a) The purpose of this section is to recognize, preserve and protect the environmental, aesthetic and hydrologic functions of the city's wetlands by regulating the use of wetlands and their adjacent properties. These functions include, but are not limited to, sediment control, pollution control, filtration, fish and wildlife habitat and aquifer recharge.

b) The intent of this section is to protect wetlands to the maximum extent possible while allowing a reasonable use of the property. This section adopts the regulations and standards of the Wetland Conservation Act of 1991 (WCA), Laws of Minnesota 1991, chapter 354, as amended, and the rules adopted pursuant to the WCA. It also establishes a wetland overlay district. This overlay district further regulates the underlying land use as allowed by other districts or the WCA.

2. Designation of Protected Wetlands and Exemptions.

a) The wetlands protected and regulated by this Section are types 1, 2, 3, 4, 5, 6, 7, and 8 wetlands, as defined in circular 39, "Wetlands of the United States", 1956 and 1971 editions, United States Department of the Interior. Protected wetlands are further generally defined as follows:

Type 1 Seasonally Flooded Basins or Floodplains: Type 1 wetlands are seasonally flooded basins or flats in which soil is covered with water or is waterlogged during variable seasonal periods but usually is well-drained during much of the growing season. Type 1 wetlands are located in depressions and in overflow bottom lands along water courses. Vegetation varies greatly according to the season and duration of the flooding, and includes bottom land hardwoods, as well as herbaceous plants.

Type 2 Inland Fresh Meadow: Occurs along the shallow edges of lakes, marshes and floodplains, or in perched depressions. The soil is usually without standing water during much of the growing season, but is waterlogged within at least a few inches of the surface. Vegetation includes grasses, sedges, rushes and various herbaceous plants.

Type 3 Inland Shallow Fresh Marsh: Soil is usually water logged during the growing season, often covered with as much as six inches or more of water. Vegetation includes grasses, bulrushes, cattails, arrowheads, smartweeds and other emergent aquatic vegetation.

Type 4 Inland Deep Fresh Marsh: Soil covered with six inches to three feet or more of water during growing season. Vegetation includes cattails, reeds, bulrushes and wild rice. Open water areas may contain pondweeds, naiads, coontail, water milfoils and other submergent aquatic vegetation.

Type 5 Inland Open Fresh Water: Water is usually less than 10 feet deep and is fringed by a border of emergent vegetation. Vegetation includes pondweeds, naiads, coontail, water milfoils and other submergent aquatic vegetation.

Type 6 Shrub Swamp: Occurs along sluggish streams or on floodplains. The soil is usually waterlogged during the growing season, and is often covered with as much as six inches of water. Vegetation includes alder, willow and dogwood.

Type 7 Wooded Swamp: Occurs along sluggish streams, on floodplains, on flat perched depressions and in shallow lake basins. The soil is waterlogged to within a few inches of its surface during the growing season and is often covered with as much as one foot of water. Vegetation typical to this wetland includes tamarack, white cedar, black spruce, balsam fir, red maple and black ash.

Type 8 Bog: Occurs along sluggish streams, on flat perched depressions and shallow lake basins. The soil is waterlogged and supports a spongy covering of mosses. Vegetation typical to this wetland type includes sphagnum moss, heath shrubs and sedges. Minnesota bogs contain leatherleaf, Labrador tea, cranberries and pitcher plants. Scattered stunted black spruce and tamarack also are common features of bogs.

b) Areas that exhibit wetland characteristics but were created for a purpose other than to create a wetland are exempt from this section. This includes areas such as storm water ponds, roadway ditches, or other areas that receive artificial hydrology. The landowner has the responsibility to prove by a preponderance of the evidence that an area is exempt under this paragraph.

c) The reconstruction and maintenance of existing public roads and associated public utilities are exempt from this section 300.23 as long as they comply with the WCA as approved by city staff.

(Amended by Ord. 2005-04, adopted March 2, 2015, amended by Ord. 2019-05, adopted March 18, 2019)

3. Boundaries of the Wetland Overlay Districts.

This section establishes the wetland overlay districts which consists of the wetland as described below and associated buffer. These districts are subject to additional requirements beyond those required by the WCA. The wetland boundaries are determined by a wetland delineation performed by a professional wetland delineator according to the WCA rules and in conformance with the 1987 Corps of Engineers Wetland Delineation Manual and Midwest Regional Supplement 2010, as amended. The delineation must be acceptable to the city planner or qualified designee . Public waters and public water wetlands are included in the wetland overlay district.
(Amended by Ord. 2019-05, adopted March 18, 2019)

4. Interpretation of Wetlands Boundaries.

Whenever a delineated wetland boundary is disputed or uncertain, the city planner or designee may convene the technical evaluation panel according to the WCA rules. The owner must have the delineated wetland boundary staked in the field in order for the panel to evaluate the area. The technical evaluation panel and city planner or designee may require additional information to resolve the dispute or uncertainty. Persons aggrieved by a decision of the city planner, or designee may appeal the decision as provided in section 300.03, subdivision 1 of this ordinance and the WCA rules as applicable.

(Amended by Ord. 2015-04, adopted March 2, 2015, amended by Ord. 2019-05, adopted March 18, 2019)

5. Wetland Buffer Areas.

a) This subsection establishes requirements for wetland buffer areas around protected type 1-8 wetlands. Buffer areas are necessary and beneficial to maintain the health of wetlands. Buffer areas protect the edge of wetlands from erosion while filtering sediment, chemicals and other nutrients from runoff that drains into wetlands. Buffer areas can improve the biological diversity and health of a wetland environment while reducing the adverse impacts of human activities.

b) Buffer areas regulated by this section are areas of vegetative cover that are upland of the wetland edge, and that occur in a natural condition or through restoration. Buffer areas consist of shrubbery and trees, and native grasses or forbs or both that are not mowed, fertilized or manicured in any manner.

c) With the exception of Type 1 wetlands that are manicured turf and not part of a proposed development, wetland buffer areas must be created or existing buffer areas must be maintained around all protected type 1-8 wetlands in the following situations:

1) when wetlands are required to be replaced or restored;

2) when new development occurs. For purposes of this subsection, new development means:

a) any subdivision that creates a new lot that has no principal use on it;

b) construction of a principal use on an existing vacant parcel of land;

3) when redevelopment occurs. For purposes of this section redevelopment means the reconstruction of the principal structure if it includes the removal of the principal structure by more than 50 percent of the square footage of the building footprint or an increase of the square footage of the building footprint by more than 50 percent. This requirement does not apply if construction is the result of more than 50 percent of the building being damaged by an involuntary force, such as fire, wind, or vandalism;

4) when the city requires a buffer as part of a variance, expansion permit, conditional use permit, or a site plan review; or

5) on any preserve wetland when grading or construction is proposed that requires a city permit and the proposed activity could potentially impact the quality of the wetland by increasing hard surface run off, altering existing drainage, or impacting an existing buffer.

d) Except as otherwise provided in 5)d)1 and 2 below, buffer area widths will be based on the wetland classification in the city's water resources management plan, the most recent city-approved Minnesota Routine Assessment Method (MNRAM), or similar classification system approved by city staff. The following are the required buffer area widths:

Wetland Classification	**Width of Buffer Area From the Wetland Boundary**
Manage 2	16.5 feet
Manage 1	25 feet
Preserve	50 feet

1) Wetland basins may have more than one management classification based on components of a MNRAM such as vegetation, habitat structure, amphibian habitat, aesthetic/cultural resource, etc. The required buffer for a specific site will be based on the management classification of the wetland adjacent to the subject property.

2) Any development or redevelopment project within the Bassett Creek Watershed must comply with the rules of the Bassett Creek Watershed Management Commission as outlined in the Bassett Creek Watershed Management Commission Requirements for Improvements and Development Proposals document (May 18, 2017), as amended.

e) In cases of new development or redevelopment the city may require that vegetation in the wetland buffer be installed prior to the issuance of the certificate of occupancy. To ensure installation of the buffer the city may require a cash escrow or letter of credit equal to 150 percent of the cost to install the required buffer.

f) The city may allow the disturbance of an existing buffer area during the course of construction activity. This disturbance must be kept to a minimum, soils must be decompacted to a level that will accommodate root growth, and the buffer area must be re-established as required by the city. The city will determine the amount of allowable disturbance. The city may require a cash escrow or letter of credit equal to 150 percent of the cost to re-establish the buffer to its original condition.

g) The city may require buffer area planting and maintenance when the city determines that there is inadequate vegetation in the buffer area to meet the intent of this section. The city may require a cash escrow or letter of credit equal to 150 percent of the estimated cost of the vegetation and installation. The escrow or letter of credit must be valid for up to two years and may be used by the city to replace any vegetation that dies.

h) The affected property owner or homeowner association that is responsible for the maintenance must:

1) maintain and repair damage to buffer areas from such activities as mowing, cutting, grading or other prohibited activities, unless mowing is approved by city staff as a buffer management strategy. Permission must be obtained from the city before implementing buffer management strategies, which may include mowing, burning, and the use of herbicides.

2) be responsible for maintaining only the permitted vegetation in the buffer area and must remove all noxious weeds and invasive, non-native species such as European buckthorn;

3) ensure that all soil surfaces in the buffer area are planted with the permitted vegetation and that there is no open soil surface that may result in erosion.

(Amended by Ord. 2012-07, adopted June 25, 2012; Ord. 2011-30, adopted December 19, 2011, amended by Ord 2019-05, adopted March 18, 2019; amended by Ord. No. 2023-02, effective February 27, 2023)

6. Permitted Uses.

a) Within the wetland no land may be used except for one or more of the following uses:

1) native wetland vegetation, provided that no change is made to the ground elevation;

2) wildlife and nature preserves;

3) public overhead utility lines and poles that are less than two feet in diameter;

4) docks, boardwalks and bridges and reasonable access to the wetland, placed on poles, posts or footings that are less than two feet in diameter.

5) pervious hiking and skiing trails that comply with WCA standards. Pervious will mean an area where water is able to infiltrate into the ground;

6) public and private flood control structures, ponding and drainage facilities and associated accessory appurtenances if the city determines that there is no other viable alternative and as approved by the city engineer;

7) environmental monitoring or control facilities, including those related to water quality and wildlife regulation;

8) in wetlands where impervious, public trails exist, maintenance of the trail will be allowed as long as there is not an increased impact to the wetland.

b) Within wetland buffer areas no land may be used except for one or more of the following uses:

1) native vegetation, provided that no change is made to the ground elevation;

2) wildlife and nature preserves;

3) docks, boardwalks and bridges and reasonable access to the wetland placed on poles, posts or footings that are less than two feet in diameter.

4) pervious hiking and skiing trails. Pervious will mean an area where water is able to infiltrate into the ground;

5) public and private flood control structures, ponding and drainage facilities and associated accessory appurtenances;

6) environmental monitoring or control facilities, including those related to water quality and wildlife regulation;

7) public overhead utility poles and lines that are less than two feet in diameter, underground public utility lines and distribution equipment, light poles, traffic signals, traffic regulatory signs, mailboxes and other equipment that provides an essential public service;

8) fences;

9) retaining walls if the city determines that the retaining wall will protect the wetland from existing conditions of erosion;

10) in wetland buffer areas where impervious, public trails exist, maintenance of the trail will be allowed as long as there is not any additional impact to the wetland buffer area.

(Amended by Ord. 2015-04, adopted March 2, 2015; amended by Ord. 2011-30, adopted December 19, 2011, amended by Ord. 2019-05, adopted March 18, 2019)

7. Conditional Uses.

Within the wetland buffer areas no land may be used for the following except by conditional use permit and except in conformance with the standards specified in subsection 8 of this section:

a) private and public recreational uses, including golf courses, impervious trails, picnic grounds and boat ramps;

b) public utilities not permitted under subdivision 6 of this section, including necessary structures;

c) other non-structural facilities similar to those permitted by this section which also meet the intent of this section, as determined by the city; or

d) public structures associated with recreational uses permitted by this subsection or by subsection 6 of this section that are designed in an environmentally sensitive manner and will withstand periodic flooding, except for structures designed or used for habitation or the storage of equipment.

(Amended by Ord. 2015-04, adopted March 2, 2015, ameded by Ord. 2019-05, adopted March 18, 2019)

8. Standards for Wetlands, Buffer Areas and Neighboring Lands.

The following standards apply to all land within wetlands, wetland buffer areas, and to neighboring lands:

a) Protection of wetlands and wetland buffer areas.

1) Except as modified or regulated by the standards of this subsection, all requirements of the underlying zoning district apply.

2) No structures are allowed in the wetland overlay districts, except those allowed as of right or by conditional use permit by subsections 6 or 7 of this section.

3) Activities including, but not limited to, building, paving, mowing, cutting, filling, dumping, yard waste disposal or fertilizer

application are prohibited. Mowing may be permitted when approved by city staff as a buffer management strategy. However, invasive non-native vegetation, such as European buckthorn and noxious weeds, may be removed.

4) Before grading or construction near a wetland overlay district, the owner or contractor must place erosion control fencing on the upland side of the perimeter of the wetland overlay district, which ever is more restrictive, or as required by the city. This fencing must remain in place until all development activities that may affect the wetland and the wetland buffer area have been finished and adequate vegetative cover has been established.

5) All structures must have a minimum basement floor elevation not less than two feet above the 100-year flood elevation.

6) All hard surface runoff must be treated in accordance with the requirements of the city and the appropriate watershed district. Treatment may include site retention, skimmers, weirs, bioretention or infiltration basins, or sedimentation ponds of appropriate scale. Structures and ponds serving this purpose must be properly maintained and serviced by the property owner.

7) Discharge into the wetlands must occur at a rate no greater than allowed by the city engineer in accordance with the city's water resources management plan.

b) Setbacks.

1) All structures, except those permitted within the wetland overlay districts, must be setback at least 35 feet from a wetland and at least 10 feet from a required wetland buffer, whichever is greater. The distance for a pool will be measured from the water's edge of the pool. However, uncovered porches, decks, patios, sport courts, tennis courts, pool aprons, above ground hot tubs not exceeding 120 square feet stairways and walkways, as well as cantilevered building areas, porticos, and similar features may extend up to 10 feet into the required setbacks but not into buffer areas. For purposes of this section a pool apron is the hard surface or decking material that is contiguous to the water's edge of the pool.

2) Parking areas, roadways, driveway areas, trails and any retaining wall if it is structurally integral to the construction of these items must not be located within 20 feet of a wetland and must be outside of any required buffer area.

3) A setback is not required from the wetland for overhead public utility poles and lines that are less than two feet in diameter, underground public utility lines and distribution equipment, light poles, traffic signals, traffic regulatory signs, mailboxes, and other equipment that provides an essential public service.

4) A setback is not required from the wetland for fences.

5) Retaining walls may not be within 25 feet of a wetland unless needed to control existing conditions of erosion as field verified by city staff. In this instance the location of the retaining wall must be approved by city staff.

6) An existing structure, driveway or parking area becomes legally nonconforming and is governed by section 300.29 at any time that a city-approved wetland delineation or implementation of a wetland buffer requires a setback that is more restrictive than a previously established setback. This provision recognizes that wetland locations and classifications are susceptible to change over time.

(Amended by Ord. 2015-04, adopted March 2, 2015; amended by Ord. 2011-30, adopted December 19, 2011, amended by Ord. 2019-05, adopted March 18, 2019)

9. Removal of Lands from the Wetlands Overlay District.

a) Removal of wetlands from a wetland overlay district requires a zoning amendment. An amendment must be made pursuant to the provisions of section 300.09 of this ordinance and the WCA replacement rules. This amendment must be consistent with the purpose of this ordinance, the city's water resources management plan and the goals and policies of the comprehensive plan. In determining the appropriateness of a rezoning request, the city council will consider the size of the wetland overlay district, the magnitude of the area proposed for removal, the overall impact on the function and value of the wetland, the hydrological and ecological effects and the type and function of wetlands involved in order to provide the maximum feasible protection.

b) Wetlands within an overlay district may only be removed according to the WCA rules and if at least an equal area of new wetland is created to compensate for the wetland being filled. Unless otherwise approved by the city council, compensatory wetland area must be provided within the same subwatershed district as the wetland being altered, it must be located outside of any public easement and it must not result in the loss of regulated trees. The city may require cash escrow or letter of credit equal to 150 percent of the cost to mitigate for the wetland.

c) In addition to application requirements, the city may require submission and approval of the following information:

1) a concept plan showing ultimate use of the property;

2) a grading plan with appropriate drainage calculations and erosion controls prepared by a registered engineer;

3) a landscaping or revegetation plan;

4) such other information as may be necessary or convenient to evaluate the proposed rezoning; and

5) a determination of the function and value of the wetland using the most recent version of the Minnesota routine assessment method (MNRAM) for evaluating wetland functions (MNRAM) or other approved assessment methodology.

(Amended by Ord. 2015-04, adopted March 2, 2015; amended by Ord. 2011-30, adopted December 19, 2011, amended by Ord. 2019-05, adopted March 18, 2019)

10. Alteration of the Wetlands.

a) Except as provided below, no alteration of land within a wetland overlay district is allowed without a wetland alteration permit, subject to recommendation by the planning commission and approval of the city council. The planning commission must hold a public hearing after notifying the property owners within 400 feet of the proposed alteration. Activities that constitute an alteration regulated by this section include changes to the size, depth or contour of the wetlands or its buffer, dredging, or alterations of wetlands or buffer vegetation.

b) A wetland alteration permit is not required:

1) To alter the existing contour within a buffer;

2) to remove vegetation from the wetland or its buffer pursuant to a restoration management plan approved by qualified city staff;

3) to plant native wetland vegetation;

4) to selectively clear or prune trees or vegetation that are dead, diseased, noxious or similar hazards;

5) to remove vegetation in a contiguous width not to exceed ten feet in order to install a dock or gain access to the wetland as permitted in 6(a) or 6(b) of this section and as approved by city staff;

6) to repair and maintain existing public facilities such as ponds, trails, and utilities if the work does not result in an increased impact to the wetland or its buffer; or

7) to remove sediment and debris from the wetland that has resulted from erosion, public works projects, transportation projects or other similar activities. The removal of sediment must not result in the removal of hydric soil from the wetland basin and must be approved by city staff.

c) Alteration of land within a wetland overlay district will only be allowed if the wetland and its buffer are provided in an amount compensatory to that being altered. Unless otherwise approved by the city council, compensatory wetland area and its buffer must be provided within the same subwatershed district as the wetland being altered, it must be located outside of any public easement and it must not result in the loss of regulated trees. The city may require cash escrow or letter of credit equal to 150 percent of the estimated cost to restore the wetland and its buffer.

d) In determining the appropriateness of an alteration request, the city council will consider the size of the total wetland district, the magnitude of the area proposed for alteration, the impact on the overall function and value of the wetland, the aesthetic, hydrological and ecological effect, the type and function of wetlands involved, and such other factors as may be appropriate in order to provide the maximum feasible protection to the wetlands. Application for a wetlands alteration permit must be accompanied by such information as required by the city, including:

1) a concept plan showing the ultimate use of the property;

2) a grading plan, with appropriate drainage calculations and erosion controls prepared by a registered engineer;

3) a landscaping or revegetation plan;

4) such other information as may be necessary or convenient to evaluate the proposed permit; and

5) a determination of the function and value of the wetland using the most recent version of the Minnesota routine assessment method (MNRAM) for evaluating wetland functions or other approved assessment methodology.

(Amended by Ord. 2015-04, adopted March 2, 2015; amended by Ord. 2011-30, adopted December 19, 2011, amended by Ord. 2019-05, adopted March 18, 2019)

11. Public Control of Wetlands.

a) The city council may require that the owner of any property affected by this ordinance must record wetland and buffer area easements or restrictive covenants within the property's chain of title. These easements or covenants must describe the boundaries of the wetland and buffer area and prohibit any building, paving, mowing (unless approved as a management strategy), cutting, filling, dumping, yard waste disposal or fertilizer application within the wetland and the buffer area. The owner or developer must record these easements or covenants with the final plat, with deeds from a lot division or, if no subdivision is involved, before the city issues a grading permit or building permit for an affected property. The applicant must submit evidence that the easement or covenant has been submitted to the county for recording.

b) If the city council does not require an easement or covenant, the city may record a notice of the wetland and buffer area requirements against the property. The property owner must still comply with the requirements of this section.

12. Wetland Buffer Markers.

When new development or redevelopment results in multifamily residential or a business use, the developer may be required to place markers at the upland boundary of the wetland buffer edge at least every two hundred feet. The developer must use uniform markers provided by the city. The city will charge a reasonable cost for the markers.
(Amended by Ord. 2019-05, adopted March 18, 2019)

APPENDIX A TO SECTION 300.23

Section	Wetland Number	Wetland Elevation
1	267	936.5
	269	931.1
	269-1	933.1
	269-2	932.8
	272	932.8
	272-2	935.2
	419	937.4
	421	933.6
	451	915.9
	454	901.6
	454-1	901.8
	456	892.0
	456-1	892.0

Section	Wetland Number	Wetland Elevation
2	410	928.9
	415	930.9
	425	920.4
	425-1	920.3
	436	922.5
	437	919.6
	440	921.2
	441	916.7
	441-1	915.7
	444	914.7
	444A	915.7

Section	Wetland Number	Wetland Elevation
3	171	983.9
	172	966.4
	173	985.4
	174	974.6
	195	962.5
	196A	957.5
	197-1	951.6
	198	947.1
	198-1	950.0
	204A	945.0

204A-1 952.7

207A 939.4

207B 936.4

220A 935.4

445 961.8

Section	Wetland Number	Wetland Elevation
4	120	956.5
	128	942.0
	128-1	942.3
	128-2	943.2
	133A-8	941.1
	133A1	940.5
	133A2	937.2
	161	966.4
	184	974.6
	185	987.1
	185-1	968.8
	186-1	963.0
	303-1	957.7

Section	Wetland Number	Wetland Elevation
5	128	942.0
	133A-9	936.2
	133A-11	932.0
	303-2	956.7

Section	Wetland Number	Wetland Elevation
8	133A-11	936.2
	133A-12	932.0
	305	953.2
	306-3	941.9
	306-4	942.7
	307-1	932.0
	307-2	930.5
	G.B.4	931.9
	G.B.5	934.6

Section	Wetland Number	Wetland Elevation
9	133A-1	962.4
	133A-4	940.0

133A-5 940.5

133A-7 941.1

133A-8 941.1

133A-11 936.2

133A2 937.2

134 947.0

135 941.3

135-2 946.4

140 949.8

141 937.5

142 933.2

143 940.3

144A 935.0

144A-4 943.0

144B 934.5

148 931.0

152 953.9

156 947.8

158 963.7

159 939.3

161 966.4

287 938.7

304 943.3

311 943.7

312 939.3

312-1 942.0

313 939.4

M.C.21 928.9

M.C.22 929.2

Section	Wetland Number	Wetland Elevation
10	154	951.6
	155	949.5
	159	939.3
	164	969.4
	164-1	966.3
	165	934.4
	168	969.2
	169	966.6
	175	955.8
	176	929.8
	182	929.7

183 929.2

209-1 955.4

210 980.9

212 973.0

212-1 987.4

215 939.1

216 937.7

220A 935.4

220B 932.9

227 939.3

227-1 960.7

228A 928.1

228B 925.5

228B-1 933.6

Section	Wetland Number	Wetland Elevation
11	222A	958.6
	239	954.3
	241	933.8
	242	945.2
	244A-1	918.3
	244A-2	918.4
	246	910.9
	253	918.5
	254	914.5
	255	911.3
	256A	910.6
	256B	910.6
	403	988.5
	406	950.7
	407	952.3
	408	957.7
	410-1	928.6
	412	919.4
	413	919.1
	414	931.5
	415	930.9
	416	922.0

Section	Wetland Number	Wetland Elevation
12	257	946.8
	260-1	909.5

260B 908.0

260C 907.1

263 943.7

266 936.7

271 934.2

272 930.9

276 918.4

277 914.8

278-1 912.9

278-2 912.8

281 903.5

315 899.7

Wetland	Wetland
Section	**Number**	**Elevation**
13	260C	907.1
	M.C.15	913.7
	M.C.18	909.7
	M.C.19	903.7

Wetland	Wetland
Section	**Number**	**Elevation**
14	95	978.7
	95-1	983.9
	96	956.1
	107	932.2
	109	912.1
	115	916.6
	116	934.4
	248-1	928.3

Wetland	Wetland
Section	**Number**	**Elevation**
15	37	932.1
	38-2	930.8
	60	939.1
	61	930.8
	62	929.2
	76	941.8
	77	939.8
	78	936.2
	92	934.3
	150	933.1
	152-1	980.1

	164-1	966.3
	181	934.0
	228C-1	921.7
	228C-2	917.9
	228C-3	918.3
	229A	922.0
	234	943.2
	238	919.1
	238-1	918.1
	148	931.0
	152	953.9
	16E	933.6
	38-1	930.5
	38-2	930.8
	39	936.2
	43-1	928.5
	M.C.6	932.3

Section	Wetland Number	Wetland Elevation
17	321	934.2
	322	930.6
	802	926.3
	804	925.5
	805	917.8
	814	924.0
	817-1	917.7
	817-2	916.1
	817-3	915.9
	817A	913.6
	817B	910.4
	819	913.2

Section	Wetland Number	Wetland Elevation
18	319C	928.6
	824-1	913.7
	824-2	912.6

Section	Wetland Number	Wetland Elevation
19	825	912.2
	826	911.5
	830	905.9

832-1 907.3

833 893.4

833A 901.2

833B 900.3

843 908.3

873 890.5

873-1 892.5

873-2 888.9

Section	Wetland Number	Wetland Elevation
20	814	924.0
	817A	913.6
	817B	910.4
	818	910.3
	819	913.2
	820	904.9
	821A	903.6
	821A-1	906.0
	821B	902.5
	832-2	905.6
	876	912.5
	877	911.0
	885	927.1
	887	950.4
	901	908.1
	903-3	903.0
	904	893.3
	918	884.7

Section	Wetland Number	Wetland Elevation
21	1	947.5
	2	966.1
	3	941.7
	4-3	949.6
	5	939.0
	8-2	1052.0
	10	1028.1
	14	1020.3
	16E	933.6
	16E-3	935.0
	17	1018.6
	812	928.6

	813	928.0
	879	948.5
	884	983.8

Section	Wetland Number	Wetland Elevation
22	7-3	1057.0
	18	995.1
	21A-1	976.7
	49-1	1022.8
	52	987.7
	54	955.4
	57	965.9
	58	952.7
	59	947.0
	64	982.4
	65	981.0
	66	975.4
	70	944.2
	71	941.7
	75	941.8
	539	971.7
	541	994.7
	542	957.6
	545	999.7

Section	Wetland Number	Wetland Elevation
23	84	995.3
	85	1001.0
	86B	975.7
	87	966.7
	94	1002.8
	501	979.3
	501-1	980.2
	502	1005.6
	504	938.5
	505	948.8
	506	931.1
	507-2	938.6
	508	919.3
	511	912.0
	512-1	911.8
	512-2	912.3

512-3 916.7

513 946.8

514 920.6

516 910.8

517 911.0

538 972.5

538-1 981.8

539 971.7

540 967.9

543 948.6

544 936.1

548 921.7

Wetland Wetland

Section Number Elevation

26 520B-2 891.6

520B-3 897.2

530 907.2

531 903.8

537 903.4

548 921.7

548C 930.2

549B 921.8

564 906.4

567 897.0

567-1 899.0

579-1 898.4

579-2 898.2

Wetland Wetland

Section Number Elevation

27 546 967.6

564 906.4

566 914.1

567 897.0

579 898.4

586 1014.7

589 958.1

590 916.5

592A 945.5

592A-1 1005.0

613A 916.5

629 904.4

Wetland Wetland

Section	Number	Elevation
28	584	1051.0
	597A	1002.7
	597A-2	1003.3
	598	964.3
	598A-1	989.2
	598A-2	986.2
	599	980.5
	600	967.3
	602	980.1
	603	977.9
	605	1010.2
	635	1029.3
	638	988.6
	639	1028.6
	640	982.0
	643	973.5
	650	932.3
	657	939.2
	908	986.0
	908-1	1033.6
	909	997.9
	910	953.4
	911	953.0

Wetland	Wetland
Section	Number	Elevation
29	657	939.2
	870	920.7
	904-1	892.0
	913	922.7
	915	935.6
	916	910.4
	917	908.4
	918	884.7
	918-1A	886.6
	918A	898.3
	920	915.3
	929	881.0
	931	901.7
	934	917.3
	938-1	910.7

938A 877.9

Wetland Wetland

Section Number Elevation

30 835A 938.1

835B 933.9

836 932.8

839 937.4

840-3 932.6

842 915.4

843 908.3

844 922.9

845 962.4

846 932.8

846-2 964.9

846-4 935.4

847 912.2

847A 921.3

847B 921.2

870 920.7

871A 926.2

873 890.5 (W)

885.0 (E)

Wetland Wetland

Section Number Elevation

31 847 912.2

849 910.8

850 907.0

851 900.6

852 902.7

853 888.3

859 884.0

861 881.4

862 885.0

863 904.8

863-2 906.6

865 910.8

938-6 876.7

938A 877.9

938B 868.7 (N)

866.9 (S)

Wetland Wetland

Section	Number	Elevation
32	868	887.6
	934	917.3
	937	896.2
	938-8	885.6
	938A	877.9 (N)
		871.3 (S)
	938A-1	875.0
	938B	865.4 (N)
		862.8 (S)
	940	874.0
	942	934.7
	946-2	882.5
	946-3	888.3
	947A	859.7
	947B	856.2
	948	906.3
	949	904.0
	949-1	905.2
	950	899.9
	Wetland	**Wetland**

Section	Number	Elevation
33	629	904.4
	665	940.3
	672B	970.4
	676-1	924.5
	681	935.4
	681-1	931.8
	691	951.1
	698	930.6
	700	939.7
	706	923.1
	708	925.9
	714B	901.6
	716	892.5
	716B	894.0
	Wetland	**Wetland**

Section	Number	Elevation
34	566	914.1
	573	914.8
	576A	918.7
	576B	916.2

577 910.4

579-1 898.4

579-2 898.2

579-3 900.6

579-4 902.6

617 908.5

619-2 920.6

623 908.3

623A-1 946.8

623A-6 943.2

628 905.0

629 904.4

Section	Wetland Number	Wetland Elevation
35	520C	931.2
	534	912.8
	537	903.4
	579-1	898.4
	579-2	898.2
	581	898.1
	581B	889.2 (N)
		885.2 (S)
	581E	924.2
	581F	927.0
	582	898.6
	582-2	903.1
	582B	944.5
	583	907.3

Section	Wetland Number	Wetland Elevation
36	520C	931.2
	582B	944.5
	582C	881.3
	582C-1	886.0
	582C-4	882.5
	582D-1	889.2
	582E	903.0
	582I-1	874.4

(Amended by Ord. 2008-10, adopted March 24, 2008; amended by Ord. #2004-28, adopted August 23, 2004)

SECTION 300.24. FLOODPLAIN DISTRICT.

1. Purpose, Authority.

a) This ordinance regulates development in the flood hazard areas within the City. The purpose of the floodplain district is to recognize, preserve, and protect recreational and hydrological resources and functions of the city's creeks and associated lakes and drainageways by regulating the use of the creeks, associated lakes and adjacent properties in order to minimize loss of life, property damage, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection, and the impairment of the tax base due to flooding, and thereby promote the public health, safety, and welfare. The intent is to apply the regulations and standards of this district as an overlay zone, further regulating the use of land as allowed by

b) the other use districts of this ordinance and to maintain a no net loss of floodplain volume.

c) This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this ordinance imposes greater restrictions, the provisions of this ordinance prevail.

d) This ordinance does not imply that areas outside of the floodplain districts, as defined by this ordinance, or lands uses permitted within such districts will be free from flooding or flood damages. This ordinance does not create liability on the part of the City of Minnetonka or its officers or employees for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

e) This section is adopted pursuant to Minn. Stat. chapters 103F and 462 as amended.

f) This section is adopted to comply with the rules and regulations of the national flood insurance program codified as Code of Federal Regulations, title 44, parts 59-80, as amended, to maintain the community's eligibility in that program.

(Amended by Ord. 2011-28, adopted December 19, 2011; Amended by Ord. 2016-14, adopted October 24, 2016; Amended by Ord. No. 2025-05, effective April 19, 2025)

2. Boundaries of Floodplain District.

a) Districts. The boundaries of the floodplain district are comprised of two areas: (1) areas designated by FEMA as floodplain ("FEMA floodplain"); and (2) areas located outside the FEMA floodplain ("Additional floodplain").

1) FEMA floodplain. The boundaries of the floodplain district designated by FEMA are those areas designated as lying within the 100-year flood boundary on the most recent flood insurance rate maps dated November 4, 2016, contained in the flood insurance study for the city of Minnetonka titled Hennepin County, MN, All Jurisdictions Volume 1 and Volume 2 dated November 4, 2016, and prepared by FEMA. These maps may also be amended by other studies adopted by ordinance by the city and that are not less restrictive than the 100-year flood elevation and the floodways as published by FEMA. These maps constitute the official floodplain district map for the city. All notations, references, and data shown on the maps are incorporated by reference into this ordinance. The FEMA floodplain is comprised of the following three separate districts:

a. Floodway district: the FEMA floodway district includes these areas within Zone AE that have a floodway delineated as shown on the Flood Insurance Rate Map (FIRM) adopted in this subdivision 2(a). For lakes, wetlands and other basins within Zone AE that do not have a floodway delineated, the FEMA floodway district also includes those areas that are at or below the ordinary high water level (OWHL) as defined in the Minnesota Statutes, Section 103G.005, Subd. 14.

b. Flood fringe district: the FEMA flood fringe district includes areas within Zones AE that have a floodway delineated on the FIRM adopted in this subdivision 2(a), but are located outside of the floodway. For lakes, wetlands, and other basins within Zone AE that do not have a floodway delineated, the FEMA flood fringe district also includes those areas below the 1% annual chance (100-year) flood elevation but above the OHWL as defined in Minnesota Statutes, Section 103G.005, Subd. 14.

c. General floodplain district: the General Floodplain district includes those areas within Zones A or AE that do not have a delineated floodway as shown on the FIRM adopted in this subdivision 2(a).

2) Additional Floodplain. The Additional floodplain area consists of:

a. those areas designated within the 100-year flood elevation in the city's water resources management plan or a study conducted by a government agency or other organization and accepted by the city;

b the 931.5-foot elevation for the area surrounding Lake Minnetonka westward from the Gray's Bay dam based on the hydrological study conducted by the Minnehaha Creek Watershed District until such time as this study is amended;

c. the flood profiles and floodplain delineations in the Riley Purgatory - Bluff Creek Watershed District's watershed management plan, adopted in 1996 as amended; and

d. the flood profiles and floodplain delineations in the Nine Mile Creek Watershed District's watershed management plan, adopted in 1996 as amended; and

e. the flood profiles and floodplain delineations in the Bassett Creek Watershed Management Commission's watershed management plan, adopted in 2015 as amended.

b) Sub-districts. This ordinance establishes regulations and standards based on two floodplain sub-districts each of which contains portions of the FEMA floodplain and additional floodplain.

1) Floodway Sub-district. This sub-district consists of:

a. The FEMA floodway district as described in Subdivision 2(a)(1)(a) above; and

b. Those portions of the Additional floodplain as described in subdivision 2(a)(2) above that are within channels having definable beds and banks capable of conducting generally confined runoff from adjacent lands, but not including roadside ditches created by excavation or human construction activity.

2) Other Floodplain Sub-district. This sub-district consists of:

a. The FEMA flood fringe and FEMA general floodplain districts as described in subdivision 2(a)(1)(b) and (2)(a)(1)(c) above; and

b. Those portions of the Additional floodplain as described in Subdivision 2(a)(2) above that are outside of the Floodway sub-district.

c) Protected wetland districts and "public waters" as classified by the Minnesota department of natural resources are regulated by sections 300.23, 300.25, and 300.26 respectively, of this ordinance. The official floodplain may contain type 1,2, 3, 4, 5, 6, 7 and 8 wetlands. In such instances, the more restrictive regulations apply.

(Amended by Ord. 2011-28, adopted December 19, 2011; Amended by Ord. 2016-14, adopted October 24, 2016 ; Amended by Ord. 2023-11, effective September 30, 2023)

3. Interpretation of Floodplain Boundaries.

The boundaries of the floodplain district will be determined by scaling distances on the official floodplain district map and by the use of the water surface profile of the 100-year flood as shown in the flood insurance study, or by other approved studies. Where interpretation is needed regarding the exact location of the boundary of the district as shown on the official floodplain district map, or where there appears to be a conflict between the location of the boundary shown on the official floodplain district map and actual field conditions, all decisions will be based on the 100-year flood elevations shown on the flood insurance study and maps, if available. When evidence of fill exists the ground elevations that existed on the site as of September 2, 1974 must be submitted and will be used in this determination. If a 100-year flood elevation is not available on the flood insurance study maps, the city engineer may establish the boundary at the 100-year flood elevation as defined in the city's water resources management plan. The city engineer may also require the submission of a registered survey of the property and such other information as is necessary or convenient to reach a determination. This may include items listed in subdivision 7 in this section.

Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Planning Commission and to submit technical evidence.

(Amended by Ord. 2011-28, adopted December 19, 2011; Amended by Ord. 2016-14, adopted October 24, 2016)

4. Permitted Uses.

a) Land may be used in the FEMA floodplain and Additional floodplain, only for one or more of the following uses, if it does not result in net fill of the floodplain, does not involve placement of a structure in the floodway, does not involve excavation or fill of an area greater than 1,000 square feet, does not involve a volume of excavation, fill or other obstruction greater than 20 cubic yards, and meets the requirements in subdivision 6 and subdivision 8:

1) agricultural uses such as general farming, pasture and grazing;

2) residential lawns, gardens, landscaped ponds, and play areas and swimming areas such as beaches, if any of the preceding uses is accessory to a low-density residential use on the same site;

3) wildlife and nature preserves;

4) public and private parks, playfields, and picnic grounds; or

5) non-structural pervious hiking, skiing, and horseback riding trails.

b) Land may be used in the FEMA and Additional Floodplain but outside of the floodway, only for one or more of the following uses, if it does not result in net fill of the floodplain, does not involve excavation or fill of an area greater than 1,000 square feet, does not involve a volume of excavation, fill or other obstruction greater than 20 cubic yards, and meets the requirements in subdivision 6. If no delineated Floodway exists refer to subdivision 7(h):

1) fences and retaining walls;

2) detached decks and patios located 10 or more feet from the principal use;

3) tennis courts and sport courts;

4) recreational trails and boardwalks;

5) environmental monitoring or control facilities, including those related to water quality and wildlife regulation;

6) residential boat docks and boat ramps;

7) public ponding and drainage facilities, associated appurtenances and approved flood control structures;

8) public utilities that are flood-proofed in accordance with the state building code or elevated to a minimum of two feet above the

100-year flood elevation;

9) overhead utility poles that are less than two feet in diameter, underground utility lines and distribution equipment, light poles, traffic signals, traffic regulatory signs, mailboxes, and other equipment that provides an essential public service; or

10) other uses similar to those permitted by this section if they have no greater impact on the floodplain, as determined by the city.

(Amended by Ord. 2011-28, adopted December 19, 2011; Amended by Ord. 2016-14, adopted October 24, 2016)

5. Conditional Uses.

Land may be used within the FEMA and Additional floodplain, but outside of the Floodway, for the following by first obtaining a conditional use permit and conforming with the standards specified in subdivisions 6 and 8 of this section. If no delineated Floodway exists, refer to subdivision 7(h):

a) outdoor nurseries;

b) public or private, nonresidential or commercial boat docks and boat ramps, marinas, and boat slip rental;

c) recreational uses including private and public golf courses, game farms, shooting ranges, public and private swimming pools and spas, and swimming areas such as beaches that are not a permitted use;

d) a permitted use that involves excavation or fill of an area greater than 1,000 square feet or a volume greater than 20 cubic yards;

e) railroads, streets, bridges, utility transmission lines and pipelines;

f) commercial extraction and storage of sand, gravel, equipment, machinery and other materials;

g) construction of additions to non-conforming homes built before September 9, 1974, if the construction uses stilts, pilings, parallel walls, above-grade enclosed areas such as crawl spaces or tuck-under garages, or other approved methods that do not obstruct the flow of floodwater;

h) a use permitted by subdivision 4 that involves moving 1,000 cubic yards of material per acre or more if in compliance with section 300.28 subdivisions 15-18;

i) private ponding and drainage facilities, associated appurtenances, and approved flood control structures;

j) a structure placed on fill or flood proofed meeting the flood protection standards of this code; or

k) other uses similar to those permitted by this section if they have no greater impact on the floodplain, as determined by the city.

(Amended by Ord. 2011-28, adopted December 19, 2011; Amended by Ord. 2016-14, adopted October 24, 2016)

6. Performance Standards.

All applicable permits must be obtained before any of the following takes place within the floodplain: erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any part of a building or structure; commencement of the use or change of use of a building, structure, or land; construction of a dam, fence, or on-site septic system; change or extension of a nonconforming use; repair of a structure that has been damaged by flood, fire, tornado, or any other source; or placement of fill, excavation of materials, or the storage of materials or equipment. The necessary permits may not be granted until the applicant has obtained all necessary state and federal permits. The activity allowed by the permit must comply with the provisions of this section 300.24, including the following:

a) the use must have a low damage potential and must not obstruct flood flows or increase flood elevations in the floodway, and must not result in net fill within the subject floodplain;

b) fill, dredge, spoil and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method;

c) if regulated trees, wetlands, existing wetland buffers, or public easements exist in the location of the proposed excavation or fill activity, administrative approval is not allowed;

d) moving of 1,000 cubic yards of material per acre or more requires a separate conditional use permit.

(Amended by Ord. 2011-28, adopted December 19, 2011)

7. Information to be Submitted.

An applicant for a permit under subdivisions 5 and 6 of this section may be required to furnish the following information as deemed necessary by the city:

a) a concept plan indicating ultimate utilization of the property;

b) a survey of existing conditions prepared by a registered land surveyor having, at a minimum, spot elevations or contours of the ground, any existing structures, the 100-year flood elevation and the boundary of the applicable FEMA flood zone (e.g. floodway, Zone A and Zone AE);

c) a grading plan consistent with 300.28 prepared by a licensed engineer or land surveyor showing existing and proposed spot elevations or contours of the ground, erosion control measures, existing and proposed structures on the site, fill or storage elevations, location and elevations of adjacent streets, photographs showing existing land uses upstream and downstream, and soil type;

d) supporting drainage calculations for fill, existing storage volumes, compensatory volumes, and flood elevations;

e) a landscaping or re-vegetation plan;

f) a legal document approved by the city attorney, filed against the subject property, and recorded with the county, acknowledging that construction in the floodplain or a deviation from the standards under subdivision 8 of this section will result in an increased risk of flooding to the subject property or structures on the property;

g) a review of the proposal by the Minnesota department of natural resources, if applicable, and the appropriate watershed district;

h) a hydrologic analysis and, if necessary, a hydraulic analysis, to determine the 100-year flood elevation, the floodway and or the floodplain boundary. The analysis must include existing channel cross sections, existing and proposed stream profiles, must estimate the peak 100-year flood discharge and designate the floodway without a flood stage increase of more than .1 foot if applicable:

1. The City Engineer, or their designee, will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe district boundary. The assessment must include the cumulative effects of pervious floodway encroachments. The City Planner may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the City Planner may approve or deny the application.

2. Once the Floodway and Flood Fringe district boundaries have been determined, the City Planner must process the permit application consistent with the applicable provisions of subdivision 4 and 5 of this ordinance.

i) other information that may be required by the city.

(Ord. 2011-28, adopted December 19, 2011; Amended by Ord. 2012-07, adopted June 25, 2012; Amended by Ord. 2016-14, adopted October 24, 2016)

8. Standards for Floodplain Districts and Neighboring Lands.

The following standards apply to all land within the floodplain district and to neighboring lands:

a) except as modified or regulated by the standards of the floodplain district, all requirements of the underlying zoning district and section 300.29 will apply;

b) Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of 4 upon occurrence of the regional (1%) flood;

c) The storage of materials or equipment must be elevated on fill to the Regulatory Floodplain Elevation;

d) The storage or processing of materials that are, in times of flooding, flammable, explosive, or potentially injurious to human, animal or plant life is prohibited;

e) no structure, fill, deposit, obstruction, storage of materials or equipment, or other use that will cause an increase in the stage of the 100-year flood in the floodway or decrease in existing storage volume in the floodplain is allowed;

f) parking or driveway areas, except those accessory to single-family dwellings, may not be located within 10 feet of the floodplain district and must be a minimum of one foot above the designated 100-year flood elevation;

g) driveways accessory to a single family dwelling must be a minimum of one foot above the 100-year flood elevation;

h) new principal structures, attached garages, or additions to existing structures must be set back a minimum of 20 feet upland from the edge of the floodplain district and have a minimum lowest floor elevation not less than two feet above the designated 100-year flood elevation. Any addition above the first floor will be exempt from this setback requirement. For purposes of this section first floor will mean the portion of the principal structure that is above grade. This does not apply to any structure or additions for which a conditional use permit is required;

i) attached decks and patios, outside stairways, cantilevered building areas, porticos and similar architectural features, may extend a distance not to exceed 10 feet into the required setback and must be 1.5 feet above the 100-year flood elevation and made of flood resistant materials;

j) detached pools and their associated apron have no setback from floodplain. For purposes of this section a pool is considered detached if no part of it or its associated apron is within 10 feet of the principal structure. A pool apron is the hard surface or decking material that is contiguous to the water's edge of the pool. Detached pools must be anchored and have all utilities designed or located to prevent water damage;

k) attached pools may extend a distance not to exceed 10 feet into the required setback as measured from the water's edge of the pool and must be 1.5 feet above the 100-year flood elevation as measured from the water's edge of the pool. For purposes of this section a pool is considered attached if any part of it or its associated apron is within 10 feet of the principal structure. A pool apron is the hard surface or decking material that is contiguous to the pool;

l) other accessory structures must:

1) not be designed for human habitation and must not contain sanitary facilities;

2) must be setback a minimum of 10 feet upland from the edge of the floodplain district except as otherwise indicated in this subdivision;

3) must have a minimum lowest floor elevation of not less than 1.5 feet above the designated 100-year flood elevation;

4) water-orientated accessory structures less than 120 square feet may have a 0-foot setback from the Floodway, provided they are not located in the Floodway, are not designed for human habitation, do not contain sanitary facilities, are constructed out of flood resistant materials and are anchored; and

5) for purposes of this ordinance accessory structures in subdivision 4(b) and 5(d) of this section have no setback from the floodplain district if they are located outside of the floodplain district.

m) principal structures must have areas within 15 feet of the structure at least ½ foot above the designated 100-year flood elevation or have an approved evacuation route from the structure directly to land above the designated 100-year flood elevation;

n) in the floodplain above-grade fully enclosed non-basement areas such as crawl spaces or other uninhabitable spaces within a structure, that are used to elevate a structure's lowest floor to two feet above the 100-year elevation, must be constructed to flood internally and must meet the following standards:

1) a minimum of two automatic openings must be included, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

2) openings must be on at least two sides of the structure;

3) when openings are placed in a structure's wall to provide for entry of floodwater to equalize pressures, the bottom of all openings must be no higher than one-foot above grade;

4) openings may be equipped with screens, louvers, valves, or other covering or devices, provided that they permit the automatic entry and exit of floodwaters without any form of human intervention; and

5) the enclosed area must be constructed of flood-resistant materials in accordance with the state building code and be used solely for building access or storage. The enclosed space cannot be finished;

o) before issuance of the certificate of occupancy, the applicant will be required to submit as-built drawings and certification by a licensed professional engineer or registered land surveyor that the finished fill and lowest floor elevation of all structures were accomplished in compliance with the provisions of this ordinance;

p) hard surface runoff must be treated in accordance with the requirements of the city and appropriate watershed district. Treatment may include site retention, skimmers, weirs, infiltration basins, or storm water ponds of appropriate scale. Structures and ponds serving this purpose must be properly maintained and serviced by the property owner;

q) discharge into the floodplain must not occur at a rate greater than allowed by the city engineer in accordance with the city's water resources management plan and appropriate watershed district requirements;

r) development proposals must be designed in compliance with the city's water resources management plan and must incorporate the requirements of the appropriate watershed district, the Minnesota department of natural resources and other governmental agencies;

s) in areas with land-locked basins that have no outlet, the minimum lowest floor elevation of new principal structures or additions to existing structures must be a minimum of two-feet above the flood elevation of two back-to-back 100-year storm events as calculated by a licensed professional engineer, or a minimum of two feet above the natural overflow elevation of the basin, as directed and approved by the city engineer;

t) the 100-year flood elevation will be based on the following criteria; in floodplain areas where the 100-year flood elevation is not readily available, the minimum lowest floor elevation of new principal structures or additions to existing structures must be a minimum of three-feet above the Minnesota department of natural resources' ordinary high water level or two feet above the highest known water level, whichever is more restrictive and is acceptable to the city engineer;

u) no development may adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodplain or other encroachment limit has not been specified on the official zoning map;

v) all recreational vehicles that are not travel-ready must meet the same standards as any other single family dwelling unit. For purposes of this section "travel-ready" means that the unit must be ready to travel on a roadway, including that it:

1) have a current, valid license to operate on public roads;

2) rest on inflated tires or an internal jacking system that can quickly return the unit to its inflated tires;

3) be attached to the site by no more than the quick-disconnect type of utilities commonly used in transitory campgrounds; and

4) have no permanent structures attached to it;

w) all manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse, lateral movement, and they must meet the same standards as any other single family dwelling unit. Methods of anchoring may include use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces;

x) no land may be subdivided that is unsuitable because of flooding or inadequate drainage, water supply or sewage treatment facilities. Lots within the floodplain district must be able to contain a building site outside of the floodplain overlay district or above the 100-year flood elevation and comply with the requirements of this code. Subdivisions must have water and sewage treatment facilities that comply with city standards and have road access to the subject property that complies with the requirements of this code. For subdivisions in the floodplain district, all access roads must be clearly labeled on all subdivision drawings and platting documents. An applicant for a subdivision must provide the information required in section 300.24 (8) to determine the 100-year flood elevation and the floodplain district boundaries for the subdivision site;

y) public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be flood proofed in accordance with the state building code or elevated to one foot above the 100-year flood elevation;

z) railroad tracks, roads, and bridges to be located within the floodplain must comply with section 300.24, subdivision 8. Elevation to a minimum of one foot above the 100-year flood elevation must be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety; and

aa) where public utilities are not provided:

1) on-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and

2) new or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and they must not be subject to impairment or contamination during times of flooding. A sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems is deemed to be in compliance with this provision.

bb) the city will review all permit applications to ensure that all proposed building sites in floodplain will be:

1) anchored to prevent flotation, collapse, or lateral movement;

2) use flood-resistant materials;

3) use construction methods and practices that minimize flood damage; and

4) ensure that electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities are designed and/or located to prevent water entry and accumulation.

(Amended by Ord. 2011-28, adopted December 19, 2011; Amended by Ord. 2016-14, adopted October 24, 2016)

9. Alteration of the Floodplain.

a) Activities that constitute an alteration of the floodplain district include the physical alteration of the size, depth and contour of the floodplain. No alteration of the floodplain district is allowed without a floodplain alteration permit, except that only a grading permit approved by the city planner and reviewed by the city engineer is required for permitted uses that do not involve excavation or fill of a volume greater than 50 cubic yards of land located outside of the floodway.

b) An alteration permit is subject to the recommendation of the planning commission and approval of the city council.

c) In reviewing alteration permits, the city will consider whether the following general standards are met:

1) The magnitude of the alteration is appropriate relative to the size of the floodplain district.

2) The amount of any increase in buildable area is appropriate in comparison to the amount of buildable area before alteration.

3) The alteration will not negatively impact the hydrology of the floodplain.

4) Floodplain mitigation areas will not negatively impact adjacent properties.

5) The alteration will meet the intent of the city's water resources management plan and the subdivision and zoning ordinances;

6) The alteration will not adversely impact governmental facilities, utilities, services or existing or proposed public improvements; and

7) The alteration will not have an undue adverse impact on the public health, safety or welfare.

d) Notwithstanding the general standards, no alteration permit will be granted unless the following specific standards are met.

1) On all properties within the city:

a. Water storage must be maintained and provided in an amount at least equal to that filled unless acceptable hydrologic engineering data has been presented and approved by the city engineer indicating that conditions have changed such that the floodplain characteristics will be maintained even with proposed floodplain fill.

b. Floodplain fill area must be located no more than 20 feet from any existing or proposed structure, except where required by the city engineer to achieve a required evacuation route.

c. Where floodplain alteration is required for construction of a driveway, the driveway must be no wider than 12 feet and must be located to minimize impact to the floodplain.

d. Floodplain alteration, including the creation of compensatory water storage, must not result in removal of regulated trees, adversely impact wetlands or existing wetland buffers, or be located within public easements. The city council may waive this condition if the proposed alteration would improve existing site conditions.

e) If the alteration will change the boundary of the floodplain district, a zoning map amendment is also required under subdivision 10 below.

(Amended by Ord. 2011-28, adopted December 19, 2011; Amended by Ord. 2023-11, effective September 30, 2023)

10. Removal of Lands from the Floodplain District.

This subsection applies to new principal structures or additions to existing principal structures constructed in accordance with section 300.24, subdivisions 5 and 8. It does not apply to accessory structures or other uses.

a) The following applies to only the FEMA floodplain areas:

1) Changes in the official floodplain district map must meet FEMA technical conditions and criteria and must receive prior FEMA approval before adoption by the city. The applicant must obtain a conditional letter of map revision from FEMA before the city council considers the request, and a subsequent letter of map revision from FEMA within 90 days after issuance of the certificate of occupancy. The FEMA standards should be considered before initiation of site preparation if a change of special flood hazard area designation will be requested.

2) All amendments to this ordinance, including amendments to the official floodplain district map as defined in section 300.24, subdivision 2, must be submitted to and approved by the commissioner of the Minnesota department of natural resources before adoption by the city. The commissioner must be given 10-days written notice of the hearing to consider an amendment to this ordinance, and the notice must include a draft of the ordinance amendment or technical study under consideration.

b) The following applies to the FEMA floodplain and the Additional floodplain areas;

1) Land may be removed from the floodplain district only by a zoning map amendment pursuant to the provisions of section 300.09 of this ordinance. The floodplain designation on the official floodplain district map will not be removed from a floodplain area unless it can be shown that the designation is in error or that the area has been filled to one foot above the elevation of the 100-year flood and stage increase, and is contiguous to land outside of the floodplain per state standards.

2) When land is removed from the floodplain district, water storage must be provided in an amount compensatory to that removed or acceptable hydrologic engineering data must be presented which indicates how conditions have changed so that the floodplain characteristics can be maintained without compensation. Removal of land from the flood plain or creation of compensatory water storage cannot be located where there are any regulated trees, wetlands, existing wetland buffers, or public easements, unless approved by the city council. In addition to other application requirements, the city may require submission and approval of information listed under subdivision 8(b) in this section.

(Amended by Ord. 2011-28, adopted December 19, 2011; Amended by Ord. 2016-14, adopted October 24, 2016)

11. Public Control of Floodplains.

The proponents of development on properties containing a floodplain district may be required to dedicate all or a part of the floodplain or to convey an easement over all or a part of the floodplain to the city if consistent with the intent and procedures of this ordinance.

(Amended by Ord. 2011-28, adopted December 19, 2011)

12. Administration.

a) A person who has obtained a permit pursuant to section 300.24, must submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this section 300.24. Flood-proofing measures must be certified by a registered professional engineer or registered architect.

b) The city planner must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The city planner must also maintain a record of the elevation to which structures or alterations and additions to structures are flood-proofed.

c) The city planner must notify, in riverine situations, adjacent communities and the commissioner of the department of natural resources before the city authorizes an alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minn. Stat. chapter 103G, this will suffice as adequate notice to the commissioner of natural resources. The city planner must also send a copy of the notification to the Chicago regional office of FEMA.

d) As soon as is practicable, but no later than six months after the date the supporting information becomes available, the city planner must notify the Chicago regional office of FEMA of the physical changes that increase or decrease the 100-year flood elevation by submitting a copy of the technical or scientific data.

e) When granting variances to the provisions of section 300.24, the following additional variance criteria of FEMA must be satisfied:

1) Variances may not be issued within a designated regulatory floodplain if an increase in flood levels during the 100-year flood discharge would result.

2) Variances may only be issued upon (a) a showing of good and sufficient cause, (b) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

3) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4) A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the Regulatory Floodplain Elevation for the particular area, or permit standards lower than those required by law.

f) The city planner must notify the applicant for a variance that (1) the issuance of a variance to construct a structure below the 100-year flood elevation will result in significantly increased premium rates for flood insurance, (2) construction below the 100-year flood elevation increases risks to life and property. This notification must be maintained with a record of the variance action. The city planner must maintain a record of all variance actions, including justification for their issuance, and report the variances issued in its annual or biennial report submitted to the administrator of the national flood insurance program.

g) Before the hearing on a conditional use permit or variance for a use or activity in the floodplain, the city planner must mail a copy of the application to the commissioner of natural resources sufficiently in advance so that the commissioner will receive at least ten days notice of the hearing. The city planner must mail a copy of all decisions granting a conditional use permit or a variance to the commissioner within ten days after the action.

(Amended by Ord. 2011-28, adopted December 19, 2011; Amended by Ord. 2016-14, adopted October 24, 2016)

13. Non-Conforming Uses.

a) This subdivision 13 applies to all legal non-conformities defined in section 300.29, subdivision 2. Those legal non-conformities that are in the floodplain are also subject to the provisions in section 300.29.

b) A legal non-conformity in the floodplain may not be expanded, changed, enlarged, or altered in a way that increases its non-conformity. A non-conforming use or structure in a floodplain may only be changed, repaired, replaced, maintained, improved, or expanded to the extent that it would qualify for eligibility in the National Flood Insurance Program and would not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway. No variance may be granted to this requirement.

c) A structural alteration or addition to a non-conforming structure or non-conforming use that would result in increasing the flood damage potential of that structure or use must be protected to the regulatory elevation in accordance with the flood protection standards as defined in subdivisions 6 and 8 of this code or flood-proofing techniques (i.e., FP-1 thru FP-4 flood-proofing classifications) must be implemented as allowable in the state building code, except as further restricted in (d) and (f) below.

d) The cost of all structural alterations or additions to a non-conforming structure over the life of the structure must not exceed 50 percent of the market value of the structure unless the conditions of this paragraph are satisfied. The cost of all structural alterations and additions constructed after the adoption of the city's initial floodplain controls must be calculated into today's current cost, including all costs such as construction materials and a reasonable amount for labor. If the current cost of all previous and proposed alterations and additions exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of this section 300.24 for new structures.

e) If a non-conforming use or structure is substantially damaged, as defined in section 300.02, it may be reconstructed only in conformity with the provisions of this section 300.24 for new structures.

f) If a substantial improvement occurs, as defined in section 300.02, from any combination of an addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing non-conforming building, then the building addition and the existing non-conforming building must meet the requirements of this section 300.24 for new structures.

(Amended by Ord. 2011-28, adopted December 19, 2011)

14. Exception for Compensatory Flood Storage Provisions.

Activities undertaken by a government unit to eliminate or minimize the flooding of existing roadways that are located in the floodplain district are exempt from the provisions of section 300.24 as long as the work to eliminate or minimize flooding does not occur in the floodway, cause an increase in the flood stage by more than .1 foot, or cause flooding impacts on neighboring properties.

(Ord. #2004-24, adopted August 23, 2004; Amended by Ord. #2007-17, adopted May 7, 2007; Amended by Ord. 2008-24, adopted March 24, 2008; Amended by Ord. 2011-28, adopted December 19, 2011)

SECTION 300.25. SHORELAND DISTRICT.

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1. Purpose.

The purpose of the shoreland district is to recognize, preserve, protect and enhance the environmental, recreational and hydrologic

resources and functions of the city's lakes and tributary creeks by regulating the use of both the public waters and adjacent land. In order to promote the general health, safety and welfare, certain protected waters in the city have been given a shoreland management classification by the Minnesota department of natural resources and the city of Minnetonka. The intent of the shoreland district is to apply the regulations and standards to public waters and adjacent land as an overlay zone, further regulating the use of land as allowed by other districts of this ordinance.

2. Classifications of Protected Shoreland Areas.

The Minnesota department of natural resources has assigned a shoreland management classification status to public water. Public water classifications as defined by the Minnesota Department of Natural Resources and the city of Minnetonka include the following:

a) Recreational Development. Recreational development lakes (RD) are characterized by moderate levels of recreational use and existing development. Many of these lakes have capacities for accommodating additional development and recreational use.

b) General Development. General development lakes (GD) have high levels and mixes of existing development. These lakes are extensively used for recreation and heavily developed around the shore.

c) Tributary Creeks. Tributary creeks (TR) consist of all watercourses mapped in the Minnesota department of natural resources public waters inventory including the Minnehaha Creek, the Nine Mile Creek, the south fork of the Nine Mile Creek, the Purgatory Creek including both branches, and the public watercourse that flows out of Glen Lake. These creeks include those defined as tributary rivers by the Minnesota department of natural resources.

d) The following classifications of public waters have been assigned by the Minnesota department of natural resources and the city of Minnetonka:

Lake Name	Classification	Lake Name	Classification
Windsor (27-82P)	RD	Wing (27-91P)	RD
Libbs (27-85P)	GD	Rose (27-92P)	RD
Shavers (27-86P)	RD	Glen (27-93P)	RD
Mud (Minnetoga) (27-88P)	RD	Lone (27-94P)	RD
Shady Oak (27-89P)	RD	Minnetonka (27-133P)	GD
Holiday (27-90P)	GD	Crane (27-734P)	GD
Gleason (27-95P)	RD		

Tributary Creek	Classification
Minnehaha Creek (27-036a)	TR
Purgatory Creek (27-054a)	TR
Purgatory Creek, Eastern fork (27-055a)	TR
Purgatory Creek, Western fork (27-056a)	TR
Nine Mile Creek (27-050a)	TR
Nine Mile Creek, Southern fork (27-051a)	TR
Unnamed tributary flowing south from Glen Lake (27-052a)	TR

(Amended by Ord. 2019-06, adopted March 18, 2019)

3. Description of Shoreland District.

The shoreland district consists of:

a) land containing or abutting public waters and assigned a shoreland management classification by the Minnesota Department of Natural Resources or the city of Minnetonka; and

b) land located within the following distances from public water:

1) 1,000 feet from the ordinary high water level (OHWL) of a lake;

2) 300 feet from OHWL (top of bank) of a tributary creek, or the upland edge of the floodplain designated by ordinance, whichever is greater.

Properties or portions of properties may be exempt from the requirements of the shoreland district if the drainage and runoff patterns from the properties are directed outside of the drainage basin of the public water as a result of a natural topographic divide. This exemption determination will be made by the city engineer.

4. Permitted uses at or Below the Ordinary High Water Level and within Shore and Bluff Impact Zones.

At or below the ordinary high water level, and within shore and bluff impact zones, no land may be used except for one or more of the following uses:

a) residential yards;

b) wildlife and nature preserves;

c) public and private parks;

d) pervious hiking and skiing trails;

e) public utilities;

f) public and private flood control structures, ponding and drainage facilities and associated accessory appurtenances if the city determines that there is no other viable alternative as approved by the city engineer;

g) environmental monitoring or control facilities, including those related to water quality and wildlife regulation;

h) docks no wider than 8 feet unless a permit is obtained from the Minnesota department of natural resources, boat lifts and mooring structures;

i) foot bridges over a creek if it does not obstruct passage or block navigation and is permitted by the Minnesota department of natural resources;

j) beaches;

k) public fishing piers;

l) soil stabilization techniques permitted by the Minnesota department of natural resources; and

m) retaining walls if needed to control existing conditions of erosion as field verified by staff, but only if there is absolutely no other alternative to protect the integrity of the slope. No new retaining wall is allowed below the ordinary high water level.
(Amended by Ord. 2019-06, adopted March 18, 2019)

5. Conditional Uses at or Below the Ordinary High Water Level and within Shore and Bluff Impact Zones.

At or below the ordinary high water level and within shore and bluff impact zones, land may be used for the following only by conditional use permit and only in conformance with the standards specified in section 300.26 of this code:

a) within shore and bluff impact zones, private and public recreational uses, such as picnic grounds, boardwalks and impervious trails; or

b) non-motorized public water craft landings, marinas, and boat ramps.
(Amended by Ord. 2019-06, adopted March 18, 2019)

6. Uses on Lands Outside the Shore and Bluff Impact Zones.

Permitted and conditionally permitted uses on lands outside the shore and bluff impact zones are those uses allowed and regulated by applicable underlying zoning districts.

7. Shoreland District Standards, Based on Classifications.

The following standards apply to all land within the shoreland district based on proximity to the specified classifications:

	General Development (GD)	**Recreational Development Creeks(RD)**	**Tributary (TR)**
a) Minimum lot area for riparian lots:	22,000 square feet	22,000 square feet	22,000 square feet
b) Minimum lot area for non-riparian single family homes, R-1:	22,000 square feet	22,000 square feet	22,000 square feet
c) Minimum lot area for non-riparian single			

family homes, R-2:	15,000 square feet	15,000 square feet	15,000 square feet
d) Minimum lot area for non-riparian duplexes, R-2:	20,000 square feet	20,000 square feet	20,000 square feet
e) Minimum lot area for non-riparian triplexes, R-3:	10,890 square feet	10,890 square feet	10,890 square feet
f) Minimum lot area for non-riparian multi-family residential units, R-3, R-4, and R-5:	30,000 square feet	30,000 square feet	30,000 square feet
g) Minimum water frontage at lot line:	75 feet	75 feet	75 feet
h) Elevation of the lowest floor above the OHWL:	2 feet	2 feet	2 feet
i) Minimum setbacks from the OHWL for principal structures, and accessory structures, including decks, patios, tennis courts, sport courts, swimming pools (including the apron of the pool), walls, retaining walls (unless permitted due to existing conditions of erosion as field verified by city staff) and any fence that obstructs lake views such as picket or privacy fence:	50 feet	75 feet	50 feet

Fences that are 6 feet in height or less and do not obstruct views such as chain link or wrought iron can extend up to the OHWL but not into any adjacent wetland.

j) Maximum height of structures:	35 feet	35 feet	35 feet

If a variance is requested from this standard the city may consider, in addition to other relevant factors, the following criteria in order to minimize the shoreland impact:

1) proximity to the public water;

2) screening of structures and vehicles as viewed from the water in summer leaf-on conditions;

3) amount of open space;

4) amount and location of water quality treatment systems that are beneficial to the receiving public water; and

5) methods that implement shoreland management strategies to protect the public water, which may include vegetative protection and enhancement, creation of wildlife habitat, or water quality enhancement strategies.

k) Maximum impervious surface coverage for the portion of land on a lot that is within 150 feet of OHWL: 30 percent 30 percent 30 percent

l) Maximum impervious surface coverage for the portion of land on a lot that is beyond 150 feet of OHWL: 75 percent 75 percent 75 percent

The city may allow credit for pervious hard surfaces such as pavers or pervious concrete to the extent of the proven infiltration rate for the pervious pavement area. For example if pervious pavers are installed in an area totaling 100 square feet, and the pavers are proven to infiltrate 14 percent of the area, up to 14 square feet may be subtracted from the impervious surface coverage.

m) Minimum structure setback from top of bluff, when the grade of the bluff is at least 30 percent or greater,except for structures built on post footings, stairways and landings: 30 feet 30 feet 30 feet

(Amended by Ord. No. 2011-30, adopted December 19, 2011, amended by Ord. No. 2019-06, adopted March 18, 2019)

8. Shoreland District Standards, General.

The following standards apply to all land in the shoreland district:

a) Water oriented accessory structures:

1) must not exceed 120 square feet in size, or 10 feet in height, exclusive of safety rails. Detached decks must not exceed eight feet above grade at any point;

2) must be setback from the OHWL 10 feet;

3) must meet the standards of sections 300.23 and 300.24;

4) must not exceed one per lot;

5) must be treated to reduce visibility as viewed from the public water and adjacent shorelands by vegetation, topography, increased setbacks, or color, assuming summer-leaf on conditions;

6) must not be designed or used for human habitation and must not contain a water supply or sewage treatment facilities;

7) cannot be used principally for water craft storage; and

8) may use the roof as a deck with safety rails, but not with enclosed walls or as a storage area.

b) The person proposing any land altering activity on a riparian property, such as building a structure, road or driveway, or grading activity, that will impact a topographic area having an average slope of 12% or more measured over a horizontal distance of 50 feet or more, must demonstrate that the land altering activity will not impact the public water regulated by this section and must;

1) demonstrate that soil erosion will not occur as a result of the project activity;

2) demonstrate preservation of the existing vegetation to the extent practical; and

3) provide screening of structures such as buildings and vehicles as viewed from the water in summer leaf on conditions.

In no instance is land altering activity on a riparian property allowed on a slope averaging 20% or greater if it will have an adverse impact on the public water regulated by this section, such as erosion, loss of vegetation, or loss of screening as viewed from the lake. If the applicant can demonstrate that the land altering activity will not have an adverse impact on the public water then the activity must comply with the section 300.28 subsection 20, the steep slope ordinance. Stairways, landings and permitted retaining walls are exempt from this requirement.

c) All impervious surface runoff must be treated in accordance with the requirements of the city and appropriate watershed district. Treatment may include site retention, skimmers, weirs, infiltration basins, storm water sedimentation ponds of appropriate scale, or other acceptable methods. Facilities serving this purpose must be properly maintained and serviced by the property owner.

d) Discharge into the public waters must occur at a rate no greater than the rate allowed by the city engineer in accordance with the city's water resources management plan and appropriate watershed district requirements.

e) All construction projects must provide erosion and sediment control as required by the city.

f) No building permit will be issued by the city for the construction or alteration of any principal structure on property adjoining a lake or tributary creek if that structure is not served by the city's sanitary sewer system.

g) No structure may be placed nearer than 50 feet from the boundary of an unplatted cemetery or significant historic site protected under Minnesota statute section 307.08 unless necessary approval is obtained from the Minnesota state historic preservation office.

h) Each lot wholly or partially within the shoreland district and created through a subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the city must consider susceptibility to flooding, existing wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, near-shore aquatic conditions unstable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or the community.

i) Roadways, parking areas, driveways and trails must meet the following standards:

1) Where feasible, all roadways, parking areas, driveway areas, trails and any retaining wall if it is structurally integral to the construction of these items must meet the setback requirements established for principal structures. If no feasible placement alternative exists, they must be designed to minimize adverse impacts to the public water and must not be constructed in the shore or bluff impact zones except as allowed under subdivision 5 of this section.

2) Roadways and drives may cross a public water. Footings for bridges may be allowed in the shore or bluff impact zone if they are designed to minimize adverse impacts to the public water.

3) Vehicles may not be parked in shore or bluff impact zones.

4) Vegetation must be used to screen parking areas when viewed from the water.

j) Stairways, lifts, and landings must meet the following standards:

1) Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas.

2) Stairways and lifts must not exceed six feet in width on residential lots. Wider stairways may be used for commercial properties and public open space recreational properties if approved as part of the site plan.

3) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties and public open space recreational properties if approved as part of the site plan.

4) Canopies or roofs are not allowed on stairways, lifts or landings.

5) Stairways, lifts and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.

6) Facilities such as ramps or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards in items 2) through 5) are met.

k) Controlled access lots except those that existed prior to March 24, 2008, must meet the following standards:

1) Lots intended as controlled accesses to public waters for use by owners of non-riparian lots are permissible if they meet or exceed all of the standards below.

2) They must meet the width and size requirements for single family residential lots and be suitable for the intended uses of controlled access lots.

3) They must be jointly owned by all purchasers of lots in one subdivision or by all purchasers of non-riparian lots in one subdivision who are provided riparian access rights on the access lot.

4) The maximum number of watercraft docking or mooring at any controlled access lot is limited to six unless the width of the lot

(keeping the same lot depth) is increased by one third of the required riparian frontage for every additional dock or moored watercraft.

5) Covenants or other legal instruments must be executed, specifying which owners have authority to use the access lot and what activities are allowed. These activities cannot significantly conflict with general public use of the public water.

(Amended by Ord. 2011-30, adopted December 19, 2011)

9. Exceptions to Structure Setback and Impervious Surface Requirements.

The following are exceptions to the setback and impervious surface requirements for structures:

a) Setback requirements from the ordinary high water level do not apply to piers, permitted docks, boat lifts, and mooring structures. The location of these structures is controlled by applicable state and local regulations.

b) There is no setback from the ordinary high water level or from top of bluff for overhead utility poles and lines that are less than two feet in diameter, underground utility lines and distribution equipment, fences, light poles, traffic signals, traffic regulatory signs, mailboxes, and other equipment that is associated with an essential public service.

c) There is no setback from the OHWL or from top of bluff for stairways and landings no wider than 6 feet on residential lots and for stairways and landings on commercial properties or public open space recreational properties if approved as part of a site plan.

d) Shoreland R-1 lots of record existing as of February 12, 1966 may maintain the following reduced setbacks from the OHWL under the following conditions but must comply with all other setbacks:

1) The setback for the principal structure and accessory structures including tennis courts, sport courts, swimming pools (including the apron of the pool), walls, retaining walls (unless permitted due to existing conditions of erosion) and any fence that obstructs lake views such as picket or privacy fence, may be determined by a line drawn from the closest shoreward corners of the two immediately adjacent principal structures, as long as there is a minimum setback of 35 feet for principal structures and accessory structures.

2) The setback for an unenclosed or uncovered attached deck or patio may be determined by a line drawn from the closest shoreward corners of the two immediately adjacent principal structures or any attached deck or patio to that principal structure, as long as there is a minimum setback of 25 feet.

If one of the adjacent lots is vacant, the closest shoreward corner of the principal structure on the nearest developed lot past the vacant lot will be substituted for the vacant lot.

Figure 25



e) In order to qualify for one of the above setback exceptions, the applicant must provide documentation acceptable to the city to verify adjacent and average setbacks.
(Amended by Ord. No. 2019-06, adopted March 18, 2019)

10. Additional Standards for a Planned Unit Development.

The applicant for a planned unit development (PUD) that is wholly or partially in the shoreland district must meet the following requirements in addition to the requirements of section 300.22:

a) If the property is already fully developed under its current zoning status but is being redeveloped, the project must:

1) preserve the natural features on the site and comply with the city's ordinances and standards designed to protect the natural environment, including regulation pertaining to steep slopes, trees, wetlands, and floodplains; and

2) provide open space that is at least twenty percent of the total project area. Open space is defined as land in its undeveloped state except that passive recreational uses such as trails or picnic areas may be included in the open space calculation;

b) If a property is undeveloped or could be further subdivided under its current zoning status, then 50 percent of the natural area must be preserved as designated by the city. This area must be protected by a conservation easement or restrictive covenants;

c) In the case of either (a) or (b), impervious cover within the PUD cannot exceed 40 percent. All impervious cover must also comply

with this section.

11. Alteration of Shoreland.

The removal of natural vegetation within shore and bluff impact zones must be restricted to prevent erosion into public waters and to preserve soil nutrients, habitat, and shoreland aesthetics. Removal of natural vegetation, grading and filling in the shoreland district is subject to the following provisions:

a) intensive clearing, as defined in this ordinance, of natural vegetation within shore and bluff impact zones is prohibited;

b) in shore and bluff impact zones, limited clearing of trees and shrubs and cutting, pruning and trimming of trees is allowed to provide a view to the water from the principal structure, to control noxious or invasive vegetation, or to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water - oriented facilities, provided that:

1) structures, vehicles, or other facilities are screened as viewed from the water, assuming summer, leaf-on conditions.

2) existing shading of water surfaces is preserved along tributary creeks; and

3) natural vegetation must be restored during and after all construction projects to retard surface runoff and soil erosion.

The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

c) any grading, filling or excavation in the shoreland district which will change or diminish the course, current or cross-section of a public water must be approved by the Minnesota Department of Natural Resources.
(Amended by Ord. No. 2019-16, adopted July 22, 2019)

12. Administration.

The city must notify and supply the Minnesota Department of Natural Resources with plans and information as follows:

a) notices of public hearings for all variances, and conditional use permits in shoreland districts must be submitted at least 10 days prior to such hearings;

b) a copy of the final decision regarding variances or conditional use permits must be submitted within 10 days after a decision has been made;

c) all preliminary plats within the shoreland district must be submitted at least 10 days before the meeting;

d) all approved final plats must be submitted within 10 days after a decision has been made; and

e) when a variance, CUP or preliminary plat in the shoreland district is approved after the department of natural resources has formally recommended denial in the hearing record, the notification to the department of natural resources of the approval must also include the findings of the planning commission or city council which supported the approval.

(Amended by Ord. No. 2012-07, adopted June 25, 2012; Amended by Ord. No. 2008-08, adopted March 24, 2008; Amended by Ord. No. 2004-27, adopted August 23, 2004; Amended by Ord. No. 2004-26, adopted August 23, 2004)

SECTION 300.26. CONDITIONAL USE PERMIT STANDARDS FOR WETLANDS, FLOODPLAIN AND SHORELAND DISTRICTS.

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1. Purpose.

It is the intent of the city in establishing general and specific criteria for conditional uses that such uses be subject to careful evaluation to ensure that their location, size and design are consistent with the standards, purposes and procedures of this ordinance and the comprehensive plan. The planning commission may recommend and the city council may impose conditions on such uses in order to effect the purpose of this ordinance.

2. General Standards.

No conditional use permit may be granted for a conditional use in the wetlands, floodplain, or shoreland districts unless the city council determines that all of the following standards will be met:

a) the use is consistent with the intent of this ordinance;

b) the use is consistent with the goals, policies and objectives of the comprehensive plan;

c) the use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements;

d) the use is consistent with the city's water resources management plan;

e) the use does not have an undue adverse impact on the public health, safety or welfare;

f) water bodies receiving runoff entering wetlands, floodplain or shoreland areas shall not be adversely impacted by the water quality of runoff;

g) no structure or fill may be placed which adversely affects the minimum required water storage capacity as defined in the water resources management plan of a property;

h) no structure subject to periodic inundation shall be designed for human habitation or shall the structure be serviced with public utilities;

i) structures shall have a low flood damage potential and shall be firmly anchored;

j) service facilities, such as electrical and heating equipment, must be located a minimum of two feet above the flood elevation defined in the water resources management plan;

k) there shall be no storage of materials which are flammable, explosive or otherwise dangerous to human, animal or plant life;

l) there shall be only minimal interference with wetland vegetation; and

m) required approvals shall be secured from all appropriate jurisdictions, including the United States army corps of engineers, Minnesota department of natural resources, governing watershed district and the Lake Minnetonka conservation district. Any conditions imposed upon such approvals shall be met.

3. Wetlands District Standards.

No conditional use permit will be granted in the wetlands district unless its approval will not adversely impact wetlands, the wetland buffer area, and surrounding properties, the intent of this ordinance or the goals and policies of the comprehensive plan. If applicable, granting of a conditional use permit will be conditioned upon review of the request by all other appropriate regulatory governmental agencies, including the watershed district or the Minnesota department of natural resources.

4. Floodplain District Standards.

No conditional use permit may be granted in the floodplain district except in circumstances in which its approval will not have an adverse impact on the intent of this ordinance or the precepts of the comprehensive plan. In addition, no conditional use permit may be issued unless efforts have been made to mitigate to the extent feasible adverse impacts on the subject property and adjacent properties. Granting of a conditional use permit will be conditioned upon review of the request by all other appropriate governmental agencies, including watershed districts, the Minnesota department of natural resources, and the United States federal emergency management agency and army corps of engineers.

5. Shoreland District Standards.

No conditional use permit may be granted in the shoreland district unless the city council determines that all of the following standards are met:

a) The use is consistent with the intent of this ordinance;

b) The applicant demonstrates how the use will minimize the adverse impacts to the public water and to the shore and bluff impact zones such as;

1) soil erosion and other pollutants entering the public water during and after construction;

2) visibility of structures and other facilities from the public water, and;

3) overcrowding of watercraft on the public water based on the types, uses, and numbers of watercraft that the project will generate in relation to the suitability of the public water to safely accommodate these watercraft;

c) The use is consistent with the goals, policies and objectives of the comprehensive plan;

d) The use does not have an unreasonable adverse impact on governmental facilities, utilities, services or existing or proposed improvements;

e) The use does not have an unreasonable adverse impact on the public health, safety or welfare;

f) All other appropriate governmental agencies have reviewed the request, including watershed districts, conservation districts, and the Minnesota department of natural resources; and

g) The use complies with the standards in sections 300.23 and 300.24 if applicable.

6. Additional Shoreland District Standards.

The applicant for a conditional use permit that is required by another zoning district and that is wholly or partially in the shoreland district must meet the following requirements in addition to the requirements of section 300.16 or 300.21:

a) decrease the amount of impervious cover to at least twenty percent less than the allowable amount as regulated in section 300.16 or 300.21. All impervious cover must also comply with this section;

b) double the setback from the OHWL; and

c) screen all structures as viewed from the lake in summer-leaf on conditions.

(Amended by Ord. No. 2008-09, adopted March 24, 2008; Amended by Ord. No. 2004-27, adopted August 23, 2004)

SECTION 300.27. SITE AND BUILDING PLAN REVIEW.

1. Purpose.

It is the intent of this section to serve the public interest by promoting a high standard of development within the city. Through a comprehensive review of both functional and aesthetic aspects of new or intensified development, the city seeks to accomplish the following:

a) implement the comprehensive plan;

b) maintain and improve the city's tax base to a reasonable extent;

c) mitigate to the extent feasible adverse impacts of one land use upon another;

d) promote the orderly and safe flow of vehicular and pedestrian traffic; and

e) preserve and enhance the natural and built environment.

2. Approval required.

Without first obtaining site and building plan approval it shall be unlawful to do any of the following:

a) construct a building;

b) move a building to any lot within the city;

c) expand or change the use of a building or parcel of land or modify a building, accessory structure or site or land feature in any manner which results in a different intensity of use, including the requirement for additional parking;

d) grade or take other actions to prepare a site for development, except in conformance with a permit or an approved plan; or

e) remove earth, soils, gravel or other natural material from or place the same on a site, except in conformance with a permit or an approved plan.

3. Exceptions.

Notwithstanding the provisions of subdivision 2 of this section, the following shall not require site or building plan approval:

a) construction or alteration of a single family residential building or accessory building;

b) enlargement of a building by less than 10 percent of its gross floor area, provided that there is no variance involved and also provided that the city planner has conducted an administrative review pursuant to subdivision 9 of this section;

c) changes in the leasable space of a multi-tenant building where the change does not intensify the use, require additional parking, or result in an inability to maintain required performance standards as specified in section 300.28 of this ordinance; or

d) construction or alteration of any use permitted within the R-2 district, unless required by the planning commission or city council at the time of rezoning or plat approval.

4. Application.

Application for a site and building plan review shall be made to the city planner on forms provided by the city and shall be accompanied by the following:

a) a plat or map of the property showing the proposed improvements;

b) evidence of ownership or an interest in the property;

c) the fee required by section 710 of the code of city ordinances;

d) complete site and building elevations and footprint plans, signed by a registered architect, civil engineer, landscape architect or other appropriate design professional; and

e) such other information as may be required by the city.

An application for a site and building plan review on a parcel for which the zoning is contrary to the land use designation in the comprehensive plan must be accompanied by an application for an amendment to the comprehensive plan. If an environmental assessment worksheet is required, no site and building plan approval shall be granted until the environmental assessment worksheet has

been received and a negative declaration for an environmental impact statement has been made by the city council. If an environmental impact statement is required, no site and building plan shall be approved until the environmental impact statement has been prepared.

(Amended by Ord. No. 2023-02, effective February 27, 2023)

5. Standards.

In evaluating a site and building plan, the planning commission and city council shall consider its compliance with the following:

a) consistency with the elements and objectives of the city's development guides, including the comprehensive plan and water resources management plan;

b) consistency with this ordinance;

c) preservation of the site in its natural state to the extent practicable by minimizing tree and soil removal and designing grade changes to be in keeping with the general appearance of neighboring developed or developing areas;

d) creation of a harmonious relationship of buildings and open spaces with natural site features and with existing and future buildings having a visual relationship to the development;

e) creation of a functional and harmonious design for structures and site features, with special attention to the following:

1) an internal sense of order for the buildings and uses on the site and provision of a desirable environment for occupants, visitors and the general community;

2) the amount and location of open space and landscaping;

3) materials, textures, colors and details of construction as an expression of the design concept and the compatibility of the same with the adjacent and neighboring structures and uses; and

4) vehicular and pedestrian circulation, including walkways, interior drives and parking in terms of location and number of access points to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic and arrangement and amount of parking.

f) promotion of energy conservation through design, location, orientation and elevation of structures, the use and location of glass in structures and the use of landscape materials and site grading; and

g) protection of adjacent and neighboring properties through reasonable provision for surface water drainage, sound and sight buffers, preservation of views, light and air and those aspects of design not adequately covered by other regulations which may have substantial effects on neighboring land uses.

6. Public Hearing.

a) After receipt of a completed application, a date must be set for a public hearing before the planning commission. Not less than 10 days before the public hearing, the city must send notice to the owners of properties located wholly or partially within 400 feet of the site. Following the hearing or any continuance thereof which is not appealed by the applicant, the planning commission must make a decision regarding the matter. The planning commission may approve a building or site plan review only upon the affirmative vote of at least two-thirds of its full membership. The planning commission action will be final action subject to the right of appeal, except if the application is associated with, or is an integral part of, another land use application which requires city council action. In that situation, the planning commission action will be a recommendation to the city council, and require only a majority vote. City council action requires a majority vote.

b) The public hearing must be held before the city council instead of the planning commission if the application is for a city-owned park, the project has no variances, and a public hearing complying with the notice provisions of this paragraph has been held at a neighborhood meeting or by the Minnetonka park board.

7. Appeals.

Any person aggrieved by a decision of the planning commission may appeal to the city council in accordance with the provisions of section 300.04 of this ordinance. Notice shall be given in the same manner as required for the public hearing before the planning commission. The city council shall make a decision within 120 days of submission of a completed application or such longer period not objected to by the appellant. If the city council fails to make a timely decision, the appeal shall be deemed to have been approved. The city council may reverse or amend a decision of the planning commission by an affirmative vote of two-thirds of its full membership.

8. Multiple Applications.

Any site and building plan application which is accompanied by a request for a conditional use permit or for a zoning map amendment to this ordinance shall be considered by the planning commission concurrently with the conditional use permit or rezoning application.

9. Administrative Approvals.

Site and building plans which do not involve a variance and which are not accompanied by other matters requiring consideration by the planning commission or city council may be approved by the city planner. If any application is processed administratively, the city

planner shall render a decision within 30 days and shall serve a copy of the decision upon the applicant by mail.

Any person aggrieved by a decision of the city planner may appeal the decision to the planning commission in the manner specified in section 300.04 of this ordinance.

10. Term of Approval.

Construction of the building or initiation of the use shall begin no later than December 31 of the year following the year in which site and building plan approval is granted. After the expiration of such period the approval shall be null and void unless the planning commission grants an extension of time or a building permit has been issued and substantial work performed on the project. Upon request by the applicant, the planning commission may grant a one-year extension of time for a site and building plan approval following compliance with the notice and public hearing requirements of this section. The city may decline to grant an extension if there has been a change in circumstances affecting the property or if there are other reasons to justify the denial. A change in circumstance may be an approved modification to the comprehensive guide plan, substantial changes to the surrounding development pattern or other items as determined by the city. Three consecutive one-year extensions shall be conclusive proof that the development has not made adequate progress toward completion, and no further extensions shall be granted, except upon a variance from this provision.

11. Conditions.

The planning commission, city council or city planner may impose conditions in granting approval to site and building plans to promote the intent of this section or to protect adjacent properties.

12. Specific Project.

Site and building plans shall be valid only for the project for which approval is granted. Construction of all site elements shall be in substantial compliance with the plans and specifications approved by the planning commission, city council or city planner.

13. Architectural Standards.

a) It is not the intent of the city to restrict design freedom unduly when reviewing project architecture in connection with a site and building plan. However, it is in the best interest of the city to promote high standards of architectural design and compatibility with surrounding structures and neighborhoods. Architectural plans shall be prepared by an architect or other qualified person acceptable to the city planner and shall show the following:

1) elevations of all sides of the building;
2) type and color of exterior building materials;
3) a typical floor plan;
4) dimensions of all structures; and
5) the location of trash and recycling containers and of heating, ventilation and air conditioning equipment.

b) Unadorned prestressed concrete panels, concrete block and unfinished metal shall not be permitted as exterior materials for residential or non-residential buildings. This restriction shall apply to all principal structures and to all accessory buildings except those accessory buildings not visible from any exterior property line. The city may, at its discretion, allow architecturally enhanced block or concrete panels.

c) All rooftop or ground mounted mechanical equipment and exterior trash and recycling storage areas shall be enclosed with materials compatible with the principal structure. Low profile, self-contained mechanical units which blend in with the building architecture are exempt from the screening requirement.

d) Underground utilities shall be provided for all new and substantially renovated structures.

14. Landscape Plan Requirements.

Landscape plans must be prepared by a landscape architect or other qualified person acceptable to the city planner, drawn to a scale of not less than one inch equals 50 feet and must show the following:

a) Property:
1) lot lines with accurate dimensions;
2) locations of existing and proposed buildings, parking lots, roads and other improvements;
3) existing and proposed easements;
4) proposed grading plan with two foot contour intervals;

b) Existing Vegetation:
1) All trees that will be removed, relocated, or preserved;
2) Any shrubs or planting beds that will be removed or modified;
3) Tree protection measures for tress to be saved;
4) Any other vegetation identified as significant by city staff.

c) New Plantings:

1) A planting plan with the location of each new plant with the species and size labeled;
2) A plant schedule with symbols, quanitites, common and botanical names, size, container/root type, and any details or remarks summarizing the plant material to be used;
3) Planting details for planting trees and shrubs.
4) Areas to be seeded or sodded, or otherwise established with groundcover. Note, gravel or landscape rock does not, by itself, constitute landscaping.

d) Other landscape elements:
1) Fences, retaining walls, patios, and other similar features, and associated construction details.
2) Berms and associated grading details.
3) Lighting and associated details.
4) Irrigation systems and associated details.

(Amended by Ord. No. 2019-16, adopted July 22, 2019)

15. Minimum Landscaping Requirements.

a) A reasonable attempt must be made to preserve as much existing vegetation as is practicable and to incorporate it into the landscape plan.

b) All open areas of a lot which are not used or improved for required parking areas, drives or storage must be landscaped with a combination of overstory trees, understory trees, shrubs, flowers and ground cover materials. The plan for landscaping must include ground cover, bushes, shrubbery, trees, sculpture, foundations, decorative walks or other similar site design features or materials in a quantity having a minimum value in conformance with the following table:

Project Value, Including Building Construction, Site Preparation, and Site Improvements	**Minimum Landscape Value**
below $1,000,000	= 2%
$1,000,001 - $2,000,000	= $20,000 + 1% of project value in excess of $1,000,000
$2,000,001 - $3,000,000	= $30,000 + 0.75% of project value in excess of $2,000,000
$3,000,001 - $4,000,000	= $37,500 + 0.25% of project value in excess of $3,000,000
over $4,000,000	= 1%

In instances where native or significant plant materials exist on a site prior to its development, the application of the standards in this subdivision may be adjusted by the city to allow credit for such material, provided that such adjustment is consistent with the intent of this ordinance. The city may permit the seeding of areas reserved for future expansion of the development if consistent with the intent of this ordinance.

c) At least 25 percent of proposed new plantings must be species beneficial to pollinators derived from the city's native or native cultivar plant list, unless approved by the city. The city may allow credit for existing, native and/or significant plant materials beneficial to pollinators that are preserved as part of the landscape plan.

d) Not more than 25 percent of the required number of trees may be composed of any one species unless approved by the city. The following trees are not allowed as new plantings:

1) a species of the genus Ulmus (elm), except those elms bred to be immune to Dutch elm disease;
2) box-elder;
3) ash;
4) female ginkgo; or
5) Colorado spruce.

e) All new landscape trees and shrubs must meet the American Standard for Nursery Stock and American National Standard relating to planting guidelines, quality of stock and appropriate sizing of the root ball. Landscape trees must be balled and burlapped or moved from the growing site by tree spade. Deciduous trees will be not less than one and one quarter inches but not more than three inches caliper for balled and burlapped trees, and not less than three inches but not more than six inches caliper for spade-moved trees. Coniferous trees will not be less than six feet in height but no more than eight feet for balled and burlapped trees, and not less than eight feet in height but not more than fourteen feet for spade-moved coniferous trees.

The city may allow larger balled and burlapped or spade moved trees if these trees are accompanied with a three year guarantee.

f) In order to provide for adequate maintenance of landscaped areas, an irrigation system must be provided as part of each new development, except one and two-family dwellings and additions to existing structures that do not at least equal the floor area of the

existing structure. The irrigation system must include a properly installed and operating rain sensor or other smart irrigation controller, and must be installed in all landscaped areas except areas to be preserved in a natural state.

(Amended by Ord. No. 2019-16, adopted July 22, 2019)

16. Interior Parking Lot Landscaping.

a) All parking lots containing over 150 stalls shall be designed to incorporate unpaved, landscaped islands in number and dimension as required by the city. All landscape islands shall contain a minimum of 180 square feet. Islands which are necessary to promote the safe and efficient flow of traffic shall not be subject to the "150 stall" standard and shall be required by the city when warranted.

b) Parking lot landscape areas, including landscape islands, shall be reasonably distributed throughout the parking lot area so as to break up expanses of paved areas. Parking lot landscape areas shall be provided with deciduous shade trees, ornamental or evergreen trees, plus ground cover, mulch and shrubbery as determined appropriate by the planning commission. Parking lot landscape trees shall be provided at the rate of one tree for each 15 surface parking spaces provided, or major fraction thereof. Parking lot landscaping shall be contained in planting beds bordered by a raised concrete curb or equivalent approved by the planning commission.

(Amended by Ord. No. 2012-07, adopted June 25, 2012)

17. Maintenance of Landscaping.

The owner, tenant and their respective agents shall be jointly and severally responsible for the maintenance of all landscaping in a condition presenting a healthy, neat and orderly appearance and free from refuse and debris. Plants and ground cover which are required by an approved site or landscape plan and which have died, have severely declined or have been damaged, must be replaced within three months of notification by the city. However, the time for compliance may be extended up to nine months by the city planner in order to allow for seasonal or weather conditions. Trees and shrubbery will be considered to be severely declined if more than 25 percent of the crown has died.

(Amended by Ord. No. 2011-30, adopted December 19, 2011)

18. Retaining Walls.

Retaining walls must be reviewed and constructed as required by the building code.
(Amended by Ord. No. 2019-07, adopted March 18, 2019)

19. Landscaping Security Required.

When screening, landscaping or other similar improvements to property are required by this ordinance, a performance security must be supplied by the owner in an amount equal to at least one and one-half times the value of such screening, landscaping, or other improvements. The security amount must include reimbursement of all expenses incurred by the city for engineering, legal or other fees in connection with making or completing such improvements. The security must be provided before the city issues any building permit and must be valid for one full growing season after the date of installation of the landscaping. The city may accept a letter of credit, cash escrow or equivalent acceptable to the city attorney to satisfy this security requirement. In the event construction of the project is not completed within the time prescribed by building permits and other approvals, the city may, at its option, use the security to complete the work required at the expense of the owner.

The city may allow an extended period of time for completion of all landscaping if the delay is due to conditions which are reasonably beyond the control of the developer. Extensions which may not exceed nine months, may be granted due to seasonal or weather conditions. When an extension is granted, the city may require such additional security as it deems appropriate.

20. Screening and Buffering.

a) The following uses shall be screened or buffered in accordance with the requirements of this subdivision.

1) Principal buildings and structures and any building or structure accessory thereto located in any business, industrial or planned unit development district containing non-residential uses shall be buffered from lots used for any residential purpose.

2) Principal buildings and structures and any building or structure accessory thereto located in any R-3, R-4, R-5 or planned unit development district containing residential development at densities exceeding 4 units per acre shall be buffered from lots located in any R-1 or R-2 district.

3) Off-street parking facilities containing six or more spaces shall be buffered from streets located within 50 feet, and from lots which are used for any residential purpose.

4) Loading docks shall be screened from all lot lines and public roads.

5) Trash storage facilities shall be screened from all lot lines and public roads.

6) Outside storage in business and industrial districts which is allowed by other provisions of this ordinance shall be screened from all public views.

b) Required screening or buffering may be achieved with fences, walls, earth berms, hedges or other landscape materials. All walls and fences shall be architecturally harmonious with the principal building. Earth berms shall not exceed a slope of 3:1. The screen shall be

designed to employ materials which provide an effective visual barrier during all seasons.

c) All required screening or buffering shall be located on the lot occupied by the use, building, facility or structure to be screened. No screening or buffering shall be located on any public right of way or within eight feet of the traveled portion of any street or highway.

d) Screening or buffering required by this section shall be of a height needed to accomplish the goals of this section. Height of plantings required under this section shall be measured at the time of installation.

21. Public Nuisance.

Property that does not comply with a condition imposed in a building and site plan approval or with a requirement in subdivisions 15 - 20 of section 300.27 is declared a public nuisance that may be abated in accordance with the provisions of section 845.

(Amended by Ord. No. 2008-25, adopted August 25, 2008; Amended by Ord. No. 2004-37, adopted December 20, 2004; Amended by Ord. No. 2004-27, adopted August 23, 2004; Amended by Ord. No. 2004-01, adopted January 5, 2004; Amended by Ord. No. 2003-25, adopted October 27, 2003)

SECTION 300.28. PERFORMANCE STANDARDS.

1. Purpose.

The purpose of performance standards is to establish specific and quantifiable limitations on identified types of pollution and other activities which have a high nuisance potential. The performance standards apply in all zoning districts unless specifically stated to the contrary.

2. Performance Standards Regulating Exterior Lighting.

a) Exterior lighting shall be designed and arranged to limit direct illumination and glare upon or into any contiguous parcel. Reflected glare or spill light shall not exceed five-tenths footcandles as measured on the property line when abutting any residential parcel and one footcandle on any abutting commercial or industrial parcel. Street lights installed in public right-of-way shall be excepted from these standards.

b) Mitigative measures shall be employed to limit glare and spill light to protect neighboring parcels and to maintain traffic safety on public roads. These measures shall include lenses, shields, louvers, prismatic control devices and limitations on the height and type of fixtures. The city may also limit the hours of operation of outdoor lighting if it is deemed necessary to reduce impacts on the surrounding neighborhood.

c) No flickering or flashing lights shall be permitted.

d) Direct, off-site views of the light source shall not be permitted except for globe and ornamental light fixtures approved in conjunction with a site and building plan. Globe and ornamental fixtures shall only be approved when the developer can demonstrate that off-site impacts stemming from direct views of the bulb are mitigated by the fixture design or location or both.

e) The city may require submission of a light distribution plan if deemed necessary to ensure compliance with the intent of this ordinance.

(Amended by Ord. No. 2012-20, adopted Dec. 3, 2012; Amended by Ord. No. 2012-07. adopted June 25, 2012)

3. Performance Standards Regulating Noise and Vibration.

a) Noises emanating from any use shall be in compliance with and regulated by the standards of the Minnesota Pollution Control Agency. Any use established or remodeled after the effective date of this ordinance shall be so operated as to prevent vibration discernable at any point beyond the lot line of the site on which such use is located. The city may also limit the hours of operation of outdoor noise if it is deemed necessary to reduce impacts on the surrounding neighborhood.

b) Ground vibration and noise caused by motor vehicles, trains, aircraft operations or temporary construction or demolition shall be exempt from these regulations. However, if deemed appropriate, the city may establish limits on the hours of operation of temporary construction or demolition operation to limit off-site impacts

4. Performance Standards Regulating Smoke and Particulate Matter.

No use shall produce or emit smoke, dust or particulate matter exceeding applicable regulations established by the Minnesota Pollution Control Agency.

5. Performance Standards Regulating Odor.

No use shall produce unreasonable or disturbing odors beyond the property line exceeding applicable regulations established by the Minnesota Pollution Control Agency.

6. Performance Standards Regulating Toxic or Noxious Matter.

No use or operation shall emit a concentration of toxic or noxious matter across the property line which exceeds applicable regulations of the Minnesota Pollution Control Agency.

7. Performance Standards Regulating Radiation.

No operation shall be conducted which exceeds the standards established by applicable regulations of the Minnesota Department of Health.

8. Performance Standards Regulating Heat and Humidity.

No use shall produce any unreasonable, disturbing or unnecessary emissions of heat or humidity beyond the property line which cause material distress, discomfort or injury to persons of ordinary sensitivity.

9. Performance Standards Regulating Electromagnetic Interference.

No use shall produce electromagnetic interference with normal radio or television reception in any residential district, or exceed applicable standards established by any applicable federal or state regulations.

10. Performance Standards Regulating Fire and Explosive Hazards.

All uses shall be subject to the fire prevention code of the city.

11. Performance Standards Regulating Liquid or Solid Waste.

All uses shall be subject to: (1) applicable regulations of the city and the metropolitan waste control commission governing discharge into a public storm or sanitary sewer, waterway or stream; and (2) the waste controls found in city ordinance and water resources management plan.

(Amended by Ord. No. 2015-07, adopted March 2, 2015)

12. Parking and Loading Requirements. As outlined in City Code Section 315.14

(Amended by Ord. No. 2004-37, adopted December 20, 2004; Amended by Ord. No. 2012-07, adopted June 25, 2012; Amended by Ord. No. 2016-08, effective May 23, 2016; Amended by Ord. No. 2023-04, effective May 18, 2023.)

13. Receive-Only Satellite Dish Antennas and Other Antenna Devices.

a) Receive-only satellite dish antennas and other antenna devices subject to the following requirements:

1) shall be in compliance with all city building and electrical code requirements;

2) verification that the structural design has been approved by a professional engineer;

3) verification that the mounting system and installation have been approved by a professional engineer;

4) one per building or, if more than one antenna is proposed, the antennas shall be clustered in a single, screened location;

5) submission of written authorization from the property owner;

6) no advertising message shall be on the antenna structure;

7) shall comply with setback requirements for principal structures and in no event shall be located between the principal structure and the front lot line;

8) shall be screened to the greatest extent practicable to minimize visual impacts on surrounding properties. Screening shall include landscape materials for ground mounted antennas and materials compatible with those utilized on the exterior of the building for roof mounted antennas;

9) antennas located closer to a property line than the height of the antenna shall be designed and engineered to collapse progressively within the distance between the antenna and the property line;

10) shall be in compliance with all applicable federal communications commission (FCC) requirements; and

11) antenna height shall be no more than 60 feet as measured from the ground upon which it is located.

14. Traffic Studies.

a) The city may require a traffic analysis to be prepared by a registered traffic engineer approved by the city to assess potential traffic impacts on local streets and highways. If impacts on service levels of roadways and intersections are anticipated, the project will be approved only contingent upon a traffic management plan that adequately mitigates those impacts. The plan may include travel demand

management strategies, use of transit facilities or other appropriate measures to reduce traffic generation, and necessary improvements to road systems. The developer shall have the responsibility to install all necessary road system improvements.

15. Grading, Filling and Excavation.

a) Purpose. The purpose of this section is to require preparation and implementation of grading and erosion control plans for land-disturbing activity to:

1) prevent sediment deposits on roadways;

2) retain sediment on site;

3) prevent disruption or damage to water resources and public stormwater systems;

4) prevent adverse impacts to neighboring property

5) reduce soil compaction and enhance infiltration and the establishment of vegetation;

6) prevent damage to natural resources, such as trees, that are intended to be preserved; and

7) maintain stable slopes.

b) Grading Permit.

1) Except as provided below, a grading permit is required for the following activities:

a. excavating, grading, filling or other land-disturbing activity on a per project basis that exposes soil in an area or areas encompassing at least 5,000 square feet or results in the movement of at least 50 cubic yards of material;

b. excavating, grading, filling or any other land-disturbing activity that exposes soil in or on any steep slope, wetland, floodplain or shoreland; or

c. excavating, grading, filling or any other land-disturbing activity that de-stabilizes the soil, involves the movement of contaminated soils, involves work in the right-of-way that is approved by the city engineer, or creates the potential of erosion onto property not in common ownership with the location of the activity or creates the potential of erosion into a water resource.

2) A separate grading permit is not required for land disturbing activity that is undertaken in compliance with a grading and erosion control plan approved in conjunction with a building permit if in conformance with subdivisions 16 and 17 of this section.

c) Grading and Erosion Control Plan. A grading and erosion control plan is required to be submitted for city approval as part of an application for any grading permit, preliminary plat, site plan review, lot division, and wetland/floodplain alteration permit, and as part of an application for a building permit that involves any amount of land-disturbing activity.

d) Definition. For purpose of subdivisions 15, 16, 17, and 18, the term "water resource or resources" means any lake, creek, pond, or wetland.

(Subdivision repealed and replaced by Ord. No. 2011-29, adopted December 19, 2011)

16. Application for a Grading Permit or a Grading and Erosion Control Plan.

a) An application for a grading permit must be made to the city planner on forms provided by the city and be accompanied by the permit fee specified in section 710 and a grading and erosion control plan that includes the following information as required by the city:

1) existing and proposed final grades utilizing two foot contour intervals and spot elevations;

2) a survey showing the site's property lines, location and elevation of all existing and proposed roads, utilities and structures on and adjacent to the site;

3) a development concept plan indicating how the re-contoured parcel may be developed in a manner consistent with this section and the comprehensive plan;

4) a survey showing all floodplain areas, water resources and their required buffers on and adjacent to the site, and indicating the receiving floodplain or water resource for drainage from the site;

5) the location of any water body that is identified as impaired pursuant to section 303(d) of the Clean Water Act and meeting the specific impaired waters criteria of the Minnesota Pollution Control Agency and that is within one mile of the site;

6) a drainage plan that includes the existing and proposed direction of drainage, stormwater conveyance systems to which the site drains, any stormwater management practices that are required by the city's water resources management plan and any engineering plans and specifications that may be deemed necessary by the city engineer, along with supporting calculations for all engineering work;

7) a tree survey and tree preservation plan that complies with the requirements of city code 300.28 subdivision 19;

8) a landscaping and site restoration plan;

9) a grading and erosion control plan which indicates how the control measures in subdivision 17 will be implemented;

10) a stormwater pollution prevention plan;

11) designated locations for cleaning concrete trucks if needed;

12) proposed locations of soil stock piles;

13) the location of where compaction is to be prevented and/or mitigated;

14) an estimate of the amounts of material being moved within the site, onto the site, and away from the site;

15) an earth work balance summary designating cut and fill locations;

16) a soils engineering report and a geological report including data obtained from the requested site investigation; a description of the types, composition, permeability, stability, erodability and distribution of existing soils on the site; a description of the site geology; and conclusions and revisions to the proposed land-disturbing activity or erosion control plan;

17) a construction management plan which includes a description of grading and construction activities, a schedule that outlines these activities, hours of activity, a traffic analysis showing how the material will be removed from or delivered to the site, a site maintenance inspection schedule and other items requested by the city. The site maintenance inspection schedule must indicate the person responsible for implementing the erosion control plan;

18) written permission from the owner of the property where grading activity will take place, if the property is not owned by the applicant;

19) a cash deposit or a letter of credit in a form acceptable to the city attorney in an amount not to exceed 150% of the estimated cost of the work, or 125% of an actual bid, to ensure proper implementation of a grading and erosion control plan or site restoration if the applicant defaults on his or her responsibilities;

20) status of all necessary permits from other governmental agencies, including a watershed district, the state, and federal government, site inspection logs, transfer of permit ownership as required by the MPCA, or proof that a permit has been approved or is not required by these agencies.

21) a cash deposit in an amount not to exceed 150% of the estimated cost, or 125% of an actual bid, for the city to hire a private inspector to inspect the site for compliance during the work, if the area of site disturbance encompasses one acre or more. The city may instead allow the applicant to hire a private inspector if the inspector provides weekly compliance updates to the city on a form acceptable to the city and if the agreement with the inspector and the inspector's contact information are provided to the city before issuance of the permit;

22) a cash deposit or a letter of credit in a form acceptable to the city attorney in an amount not to exceed 150% of the estimated cost of potential repairs to public streets from earth hauling activities as reasonably determined by the city engineer;

23) an agreement signed by the applicant indicating that the city may use the financial security to correct violations of the approved plan within 48 hours of written notification by the city to the applicant; and

24) other information as may be required by the city.

b) A grading permit and grading and erosion control plan will not be approved until all erosion control, tree protection and construction limit measures have been installed and inspected by the city.

(Amended by Ord. No. 2015-06, adopted March 2, 2015; amended by Ord. No. 2012-07, adopted June 25, 2012; Subdivision repealed and replaced by Ord. No. 2011-29, adopted December 19, 2011)

17. Standards for Grading and Erosion Control Plans.

a) All plans must be consistent with the Minnesota Pollution Control Agency's construction general permit as applicable.

b) Except as otherwise provided by the city planner, a grading and erosion control plan and the work conducted under an approved plan must comply with all of the following requirements as applicable:

1) The work must be scheduled so as to minimize the amount of soil exposed at any one time. Land disturbance and removal of existing vegetation must be minimized to avoid adverse impacts to adjacent properties and natural resources. All exposed soil must be stabilized as soon as possible if the exposed soil has not been worked for 14 days.

2) Structures must be designed to conform to the existing site topography as much as reasonably possible.

3) Temporary rock construction driveways or other acceptable best management practice must be installed and maintained as needed wherever vehicles enter and exit a site.

4) Streets must be cleaned and swept whenever tracking of sediments occurs and before sites are left idle for weekends and holidays. A regular sweeping schedule must be established. A copy of the street-sweeping service agreement and company contact information may be required before issuance of the permit.

5) Silt fence or equivalent sediment control measures to be used must conform to the city's standard.

6) Silt fences or equivalent sediment control measures must be installed along the downslope and sideslope perimeters of the approved grading and construction limits. Perimeter controls should be located to maintain a buffer of existing vegetation during construction, as site conditions allow, along the edges of any curbs, wetlands, channels or other water resources that could receive sediment from the site.

7) Tree protection or construction fence must be installed to minimize impacts to the critical root zones of adjacent trees or to prevent impacts to adjacent properties.

8) The city may require heavy-duty fencing such as chain link or wire mesh along the approved grading and construction limits. The city may require signs to be posted that prohibit construction or grading activity beyond the required fencing.

9) Sufficient silt fence or equivalent is required to hold all sheet flow runoff generated at an individual site. Additional measures such as check dams, diversion, temporary or permanent sedimentation basins are required to handle channelized flow.

10) All erosion and sediment control and tree and wetland protection measures must be inspected on a weekly basis and maintained. Sediment must be removed from these measures when it accumulates to a depth of 1/3 of the designed capacity.

11) All storm drain inlets must be protected during construction.

12) Newly installed and rehabilitated catch basins must be provided with a sump area or grit chamber for collecting coarse-grained material as required by the city engineer. Such basins must be cleaned when they are half filled with material and at the time of project completion.

13) Pipe outlets must be provided with temporary or permanent energy dissipation within 24 hours of connection to a surface water.

14) The normal wetted perimeter of any temporary or permanent drainage ditch or swale that drains water from the site, or diverts water around a site must be stabilized. Stabilization must be completed within 24 hours of connecting to a surface water. Portions of the ditch that are under construction must be stabilized within 24 hours after the construction activity in that portion has ceased. The normal wetted perimeter is defined as the area that is in contact with water during annual flow events.

15) Sediment, construction debris, or other temporary impacts from the activity must be removed from water resources, adjacent properties, or other areas that were intended to be protected as part of the city's approval. The removal must restore the sites to previous or improved conditions. The city must be contacted before removing sediment from a water resource, tree preservation area, or other protected area to ensure that the removal does not result in additional damage. A restoration plan may be required by the city.

16) Temporary soil stockpiles must have silt fence or other sediment controls in place if not already contained by perimeter controls, and must not be placed in any natural buffers, surface waters, drainage patterns or storm water conveyances.

17) Soil stockpiles and slopes equal to or greater than 3:1 that will not be worked for over 14 days must be stabilized with vegetation, mulch, tarps or other means unless no run-off from them is directed toward a watercourse, tree protection area, or the site perimeter. The city may require that slopes steeper than 12% that will not be worked for 14 days must be temporarily stabilized if directed toward a water resource, tree protection area, adjacent property, roadway, or other sensitive area.

18) The work must avoid creating or altering topography in a manner that appears artificial or out of place with adjacent property.

19) Slopes that are created may not be steeper than 3:1. The city may allow temporary or permanent created slopes steeper than 3:1 in an area where a retaining wall would pose a practical difficulty or in public improvements that serve the greater public good if the final grades are approved by the city engineer and the created slope:

a. is not steeper than 2:1 in any event;

b. is permanently stabilized with deep-rooted vegetation, rip-rap, boulders, or other groundcover adequate to control erosion and does not require mowing or other maintenance by equipment that would need to traverse the slope;

c. contains no unbroken slope length greater than 30 feet in order to maintain sheet flow and minimize rills and gullies;

d. is not directed toward a water resource;

e. does not inhibit snow storage or maintenance of a public improvement and is not located within a public easement;

f. does not obstruct a traffic sightline or pose a safety hazard; and

g. does not adversely impact drainage toward, or pose potential erosion onto, adjacent property.

20) When one or more acres of disturbed soil drains to a common location the site must be in compliance with the Minnesota Pollution Control Agency's construction general permit which includes the installation of a temporary sediment basin to provide treatment to the runoff before it leaves the site or enters surface waters. A temporary basin may be converted into a permanent basin after construction is complete. The city engineer may also require a temporary sediment basin for those sites that are less than one acre based on site conditions. In both instances the basin must be designed and constructed according to the city's water resources management plan.

21) Dewatering and draining activities must be discharged to on-site temporary or permanent sediment basins whenever possible. Dewatering and draining activities must not result in the release of sediment toward or into water resources, the street, or other areas that were intended to be protected as part of the city's approval. The dewatering rate and direction must be controlled and must incorporate energy dissipation to prevent flooding or other harm to water resources or adjacent property. The city must be notified of the dewatering schedule prior to the start of work.

22) All waste and unused building materials such as garbage, debris, cleaning wastes, wastewater, toxic materials or hazardous materials must be properly disposed of and not allowed to be carried by runoff into a surface water, receiving channel or storm sewer conveyances.

a. Solid waste: All unused building materials and waste such as contaminated sediment, asphalt and concrete millings, floating

debris, paper, plastic, and fabric must be disposed of accordingly and comply with disposal requirements set forth by the Minnesota Pollution Control Agency.

b. Hazardous/toxic waste: Paint, gasoline, oil and any hazardous materials must be properly stored, including secondary containment, to prevent spills, leaks or other discharges. Access to the storage areas must be restricted to prevent vandalism. Storage and disposal of hazardous or toxic substance must be in compliance with the requirements set forth by the Minnesota Pollution Control Agency.

c. Liquid waste: All other non-stormwater discharges such as concrete truck washout, vehicle washing or maintenance spills produced during the construction activity may not be discharged to any surface waters and must be properly disposed of.

d. External washing of equipment and vehicles, including concrete trucks: All external washing activities must be limited to a designated area of the site as provided on the approved grading and erosion control plan as applicable. All runoff must be contained and wastes from external washing activities must not cause erosion, pollution or damage to trees or other natural resources and must be disposed of properly. No engine degreasing is allowed on the site.

e. Wastes generated by concrete and other washout operations on sites that require a Minnesota Pollution Control Agency construction general permit: All liquid and solid wastes generated by any concrete or other washout operations must be contained in a leak proof facility or impermeable liner. Concrete waste must not come into contact with the ground. Concrete waste must be disposed of properly and in compliance with applicable Minnesota Pollution Control Agency regulations.

23) Dust must be adequately controlled by site watering, temporary stabilization, or other means approved by the city.

24) The burial of organic materials such as trees, lumber, and yard waste that could decompose is prohibited. No rock, concrete, or other construction material or debris may be buried unless approved by city staff.

25) All on-site construction debris must be contained. A regularly scheduled trash removal service must be hired to remove this debris. A copy of the service agreement and company contact information may be required before issuance of the permit.

26) All temporary erosion and sediment control, tree protection fencing, and other temporary protection measures must be removed within 30 days after permanent groundcover has been fully established, inspected, and approved by the city. The city may grant an extension for frozen ground conditions.

27) At a minimum, the work must conform to the city's water resources management plan, the current version of the Minnesota Pollution Control Agency's publication regarding protecting water quality in urban areas, and the Metropolitan Council's publication about urban small sites best management practices, or equivalent.

28) A site that drains to a water identified as impaired pursuant to section 303(d) of the Clean Water Act and meeting the specific impaired waters criteria of the Minnesota Pollution Control Agency and that is within a one-mile linear distance from that impaired water may be required to comply with additional site-specific standards, including:

a. stabilizing all exposed soil areas as soon as possible to limit soil erosion if the soil areas have not been worked for 7 days; and

b. using a temporary sediment basin for common drainage locations that serve an area with five or more acres disturbed at one time.

29) The plan and work must comply with the performance standards regulating trees and steep slopes under subdivisions 19 and 20 below.

30) During construction of an infiltration or biofiltration system, sediment controls must be used to prevent the discharge of sediment into the infiltration or biofiltration area. The area must not be compacted while the site is under construction. Infiltration or biofiltration areas must not be excavated to final grade until the contributing drainage areas have been permanently stabilized.

31) As-built plans must be provided for ponding, infiltration areas or other areas as required by the city engineer. The city may also require as-built plans for final grades and structures such as retaining walls, foundations, and catch basins.

32) Other measures may be required by the city if warranted at an individual site, such as:

a. screening retaining walls;

b. planting or re-vegetating large slopes with vegetation similar to that which was removed, except that turf grass must be re-vegetated with native deep rooted species;

c. providing a site maintenance inspection log to be maintained by the applicant or the applicant's contractor for compliance with the grading and erosion control plan or the construction management plan as required. The log must be a written record and include:

1) the name of the person who conducted the inspection;

2) the date of the inspection and any associated maintenance activity;

3) the findings of the inspection;

4) a description of corrective work completed, if any;

5) the date the corrective work was completed;

6) the date and amount of rainfall events in excess of 0.5 inches in a 24-hour period.

d. decompacting soils, outside the intact critical root zones of trees to be protected, to a depth of 18 inches;

e. spreading at least 6 inches of topsoil or other organic material and incorporating it into the underlying soil during final site treatment in order to increase infiltration or improve establishment of vegetation; and

f. imposing additional conditions to protect the public interest.

c) All items listed in subdivision 17(a) must be maintained throughout the course of construction and grading activity.

d) If a grading and erosion control plan has been implemented but is reasonably considered by the city planner to be inadequate in achieving the policy objectives described in subdivision 15(a), the city may require the permittee to modify and implement the plan to achieve those objectives.

e) If a Minnesota Pollution Control Agency construction general permit is required the applicant must obtain the permit, submit proof to the city that the permit has been acquired, submit proof to the city that the permit has been transferred if applicable, and comply with the regulation.

f) Upon written notification from the applicant that all land-disturbing activities are complete, the site has been permanently stabilized or re-vegetated, and all temporary erosion and sediment controls, tree protection fencing and construction limit fencing have been removed, the city will inspect the site and release any security being held if the site is deemed to be in compliance with the approved grading permit and the grading and erosion control plan.

(Amended by Ord. No. 2015-06, adopted March 2, 2015; Subdivision repealed and replaced by Ord. No. 2011-29, adopted December 19, 2011)

18. Grading and Erosion Control Enforcement.

a) No person may undertake, authorize or permit any excavating, grading, filling or any other land-disturbing activity that exposes soil:

1) if the person does not have a city-approved grading permit or city-approved grading and erosion control plan; or

2) if the action violates or is not in compliance with a city-approved grading and erosion control plan or a required grading permit issued by the city, or a Minnesota Pollution Control Agency construction general permit if required, including the approved plans and all terms and conditions of the permit.

b) The city may inspect any property subject to an approved grading and erosion control plan or grading permit to ensure that erosion and sediment control and tree protection measures are properly installed and maintained. Upon request by the city the site maintenance inspection log must be made available within 24 hours of the request.

c) If the soil is not permanently stabilized through landscaping when a certificate of occupancy is issued, the city may require a cash deposit or letter of credit in a form acceptable to the city attorney not to exceed 150% of the estimated cost, or 125% of an actual bid, to ensure compliance with the approved grading and erosion control plan for the site.

d) A public nuisance exists when there is any violation of the provisions of subdivisions 15 through 18 or the Minnesota Pollution Control Agency construction general permit if required. A public nuisance also exists when erosion or drainage from a property is causing, or has the likelihood of causing, serious harm to neighboring property, the city's stormwater system, or to natural resources such as significant trees, water resources, and wetland buffers. Serious harm includes actual damage as well as interference with reasonable use of the property.

e) Whenever the city finds noncompliance with any provision of subdivisions 15 through 18, or the Minnesota Pollution Control Agency construction general permit if required staff will attempt to communicate with the permittee and the landowner to obtain immediate and voluntary compliance. If that person is not readily available or refuses to comply within reasonable deadlines, the city may take any or all of the following actions, provided that written notice of the noncompliance has been sent to the permittee and landowner or posted on the property:

1) implement the necessary corrective measures and pay for them with financial security deposited with the city;

2) initiate proceedings to abate a public nuisance under section 845 of this code;

3) withhold inspections or any city approvals for the property in question until compliance is achieved;

4) issue a stop work order for the project in question until compliance is achieved;

5) revoke the permit; and

6) pursue criminal and civil penalties under section 1310 of this code.

(Subdivision repealed and replaced by Ord. No. 2011-29, effective December 19, 2011; amended by Ord. No. 2015-06, effective March 2, 2015)

19. Tree Protection.

As outlined in City Code Section 314.

(Repealed and amended by Ord. No. 2008-24, effective August 25, 2008; amended by Ord. No. 2015-05, effective March 2, 2015; repealed and amended by Ord. No. 2021-24, effective October 18, 2021)

20. Performance Standards Regulating Steep Slopes.

a) Purpose. The purposes of the standards governing the alteration of steep slopes are to:

1) preserve steep slopes in essentially their natural state as part of a comprehensive open- space plan;

2) encourage alternative approaches to conventional flatland development practices in areas of steep slopes, including the planning of development which fits the existing topography of the site;

3) minimize grading and cut-and-fill operations consistent with the retention of the natural character of steep slopes;

4) minimize the short and long-term increase in stormwater water-runoff and soil erosion problems incurred in the grading and development of steep slopes;

5) preserve the predominant views, both from and of the steep slopes; and

6) preserve the variety of topography which exists in the city and is an integral part of this city's identity.

b) Standards.

1) The city may require that a property be rezoned and developed as a planned unit development to utilize flexible development standards to preserve steep slopes.

2) Construction, development, grading, filling, and any other method of alteration may occur on a steep slope only if they meet the standards of this ordinance and are approved by the city. City approval will be by the city council, planning commission or city planner, depending on who is authorized to approve the associated development application.

3) The city will approve steep slope development only if the city can make the findings specified below. In making these findings, the city will evaluate the extent to which the development meets the design guidelines included under each finding. It is the intent to require compliance with as many design guidelines as possible, but the city may choose to not require compliance with every guideline, if the findings are still achieved.

Finding 1. The property is physically suitable for the design and siting of the proposed development. The proposed development will preserve significant natural features by minimizing disturbance to existing topographical forms.

a. design developments into steep slopes, rather than making significant alterations to the slope to fit the development:

1. avoid building pads that result in extensive grading outside the building footprint and driveway areas;

2. use retaining walls as an alternative to banks of cut-and-fill, and design and site such walls to avoid adverse visual impact;

3. allow for clustering with different lot shapes and sizes, with the prime determinant being to maximize the preservation of the natural terrain;

4. allow flag lots when appropriate to minimize grading;

5. avoid cuts and fills greater than 25 feet in depth; and

6. design grading to preserve the crest of prominent ridges. Buildings may be located on the prominent ridges, as long as the requirements of this subdivision are met.

b. design streets and driveways that generally follow existing contours, except where necessary for public safety or to minimize the adverse impacts from traffic:

1. use cul-de-sacs and common drives where practical and desirable to preserve slopes; and

2. avoid individual long driveways, unless necessary to locate the principal structure on a less sensitive area of the site.

c. concentrate development on the least sensitive portion of the site to maximize the preservation of significant trees and natural features:

1. preserve sensitive areas by clustering buildings or using other innovative approaches; and

2. maintain sufficient vegetation and design the scale of development so that it does not overwhelm the natural character of the steep slope.

d. preserve steep slopes that buffer residences from non-residential sources of light and noise.

Finding 2. The development will not result in soil erosion, flooding, severe scarring, reduced water quality, inadequate drainage control, or other problems.

a. wherever practical, minimize the impervious surface area and maximize the use of the natural drainage systems:

1. design any new drainage systems away from neighboring properties, away from cut faces or sloping surfaces of a fill, and toward appropriate drainage facilities, whether artificial or natural. Drainage systems must comply with the city's water resources management plan; and

2. use the existing natural drainage system as much as possible in its unimproved state, if the natural system adequately controls erosion.

b. avoid building on or creating steep slopes with an average grade of 30 percent or more. The city may prohibit building on or

creating such slopes in the following situations:

1. where the city determines that reasonable development can occur on the site without building on or creating such slopes; or

2. development on such slopes would create real or potentially detrimental drainage or erosion problems.

c. design slopes to be in character with the surrounding natural terrain;

d. use benching, terracing, or other slope-stabilizing techniques for fill, as determined appropriate by the city engineer;

e. install and maintain erosion control measures during construction in accordance with the current Minnesota pollution control agency best management practices; and

f. revegetate disturbed slopes as soon as practical after grading to stabilize steep slopes and prevent erosion, as required by the city.

Finding 3. The proposed development provides adequate measures to protect public safety.

a. limit the slopes of private driveways to not more than 10 percent, unless necessary to minimize excessive grading. Where the grade exceeds 10 percent, the driveway should have sufficient flat areas at the top and toe to provide vehicles a landing area and to avoid vehicles slipping onto the adjacent street during icy conditions. The city may require a driveway turn-around; and

b. provide sufficient access for emergency vehicles to reach the proposed buildings.

4) The city may require that the applicant provide engineering certification, acceptable to the city, that no excavation or fill will cause any steep slope to become unstable; impose loads that may affect the safety of structures or steep slopes; interfere with adequate drainage for the site area and the area that drains directly to the site; obstruct, damage, or adversely affect existing sewerage or drainage; adversely affect the quality of stormwater runoff; adversely affect downstream properties, wetlands or bodies of water; or cause adverse erosion or sedimentation.

5) The city may require that the applicant provide certification from a registered engineer that the final grading was completed in compliance with the approved grading plan.

6) The city may require the applicant to prepare and record a declaration of covenants, conditions and restrictions, in a form acceptable to the city attorney, providing for property owner maintenance of manufactured slope areas, acceptance of all risks and liability associated with those areas, and release of the city from all associated claims.

c) Applicability.

1) This subdivision does not apply to the expansion or reconstruction of an existing structure, where the footprint of the completed building does not exceed 150 percent of the structure footprint existing on June 23, 1997. The person wishing to qualify for this exception must:

a. show that the structure existed on June 23, 1997; and

b. undertake the construction pursuant to plans that are approved by the city planner and that provide adequate surface water drainage, appropriate erosion control, and safe driveway access to adjacent streets.

2) Lots existing on June 23, 1997, are subject to all of the standards in this subdivision, except:

a. the standards may not be applied to lot divisions or subdivisions preliminarily approved within one year, and finally approved within two years, before June 23, 1997, to the extent that this is prohibited by Minn. Stat. § 462.358, subd. 3c; and

b. the standards may not be used to prohibit development of undeveloped lots finally approved between December 31, 1991 and June 23, 1997, but the standards may be applied to regulate that development.

21. Conservation Easements.

The city may require conservation easements to accomplish one or more of the following: to ensure that selected areas of significant trees are not destroyed after development has been approved, to prevent development of selected steep slopes areas, and to preserve areas not intended for further development.

(Amended by Ord. No. 2012-07, adopted June 25, 2012)

22. Sight and Vision Clearance Standards.

Visibility from any access point to a public street shall be unobstructed above the height of 2½ feet for a distance determined by the city to be adequate for the operating speed on the street. This applies to any wall, fence, structure, sign, vegetation or other obstruction which is determined to pose a danger to traffic by limiting views of on-coming vehicles.

23. Performance standards for solar energy systems, as outlined in City Code Section 315.16.

24. Violations.

Any person who violates, fails to comply with or assists, directs or permits the violation of the terms or conditions of an approved site and building plan, landscape plan or grading plan is guilty of a misdemeanor. A violation is a violation of the approved site and building

plan, landscape plan or grading plan and renders the approval or plan null and void. A violation also constitutes a public nuisance that may be abated in accordance with the provisions of section 845.

(Amended by Ord. No. 2008-25, adopted August 25, 2008; Amended by Ord. No. 2003-25, adopted October 27, 2003; Amended by Ord. No. 2003-11, adopted April 14, 2003; Amended by Ord. No. 2002-20, adopted August 12, 2002; Amended by Ord. No. 99-21, adopted August 30, 1999; amended by Ord. No. 2022-18, effective November 14, 2022)

SECTION 300.29. NON-CONFORMING USES.

1. Purpose.

It is the purpose of this section to accomplish the following:

a) recognize the existence of uses which were lawful when established but which no longer meet all ordinance requirements;

b) discourage the enlargement, expansion, intensification or extension of any non-conforming use or any increase in the impact of a non-conforming use on adjacent properties;

c) regulate the repair, replacement, restoration, and improvement of non-conforming uses to prevent and abate nuisances and to protect the public health, safety, or welfare; and

d) encourage the elimination of non-conforming uses or reduce their impact on adjacent properties.

2. Definitions.

For the purposes of this section, the following terms and phrases have the meanings given to them.

a) "Non-conformity" or "non-conforming use" means any land use, structure, physical form of land development, lot of record or sign that is not in full compliance with the regulations of this ordinance and either (1) was legally established before the effective date of the ordinance provision with which it does not comply, or (2) became non-conforming because of other governmental action, such as a court order or a taking by a governmental body under eminent domain or negotiated sale. A non-conformity or non-conforming use does not include a land use, structure, physical form of land development, lot of record, or sign that was allowed to deviate from this ordinance by an approved variance. A non-conformity or non-conforming use is one of two types of physical land development: a non-conforming land use or a non-conforming development.

b) "Non-conforming land use" means an activity using land, buildings, structures, or any combination of these, for a purpose that is not currently allowed as a use in the zoning district in which it is located.

c) "Non-conforming development" means a non-conformity other than a non-conforming land use that does not currently conform to an ordinance standard such as height, setback, or size.

d) "Expansion," "enlargement," or "intensification" means any increase in a dimension, size, area, volume, or height, any increase in the area of use, any placement of a structure or part thereof where none existed before, any addition of a site feature such as a deck, patio, fence, driveway, parking area, or swimming pool, any improvement that would allow the land to be more intensely developed, any move of operations to a new location on the property, or any increase in intensity of use based on a review of the original nature, function or purpose of the non-conforming use, the hours of operation, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odors, area of operation, number of employees, and other factors deemed relevant by the city.

e) "Improvement" means making the non-conforming use better, more efficient, or more aesthetically pleasing, including any change that does not replicate what pre-existed, but does not include an expansion, enlargement, or intensification.

f) "Replacement," "reconstruction," or "restoration" means construction that exactly matches pre-existing conditions.

(Amended by Ord. No. 2012-07, adopted June 25, 2012; Amended by Ord. No. 2010-11, adopted August 16, 2010)

3. General Standards.

A nonconforming use may be used and continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, only in compliance with the provisions of this section. The use must have been in compliance with all land use regulations at the time the non-conformity was created in order to be eligible for the benefits of being a non-conforming use.

a) There may be no expansion, enlargement, or intensification, of any use or any site element of any non-conforming use except to make it a permitted use or except as otherwise provided in this subdivision. Normal building maintenance and repair are allowed. Expansion, enlargement or intensification of conforming aspects of a non-conforming development are excepted from this requirement. For example, if a structure has a non-conforming front setback, it may be expanded on the sides that do meet setback requirements as long as the expansion itself meets ordinance requirements.

b) No non-conforming use may be resumed if normal operation of the use has been discontinued, or if a non-conforming building has been removed and not replaced, for a period of 12 or more months. Time will be calculated as beginning on the day following the last day in which the use was in normal operation and will run continuously thereafter. Following the expiration of 12 months, only uses that

are permitted by this ordinance are allowed to be established.

c) Full use of a non-conforming use may not be resumed if the amount of land or floor area dedicated to the use is lessened or if the intensity of the use is in any manner diminished for a period of 12 or more months. Time will be calculated as beginning on the day following the last day in which the non-conforming use was in full operation and will run continuously thereafter. Following the expiration of 12 months, the non-conforming use may be used only in the manner or to the extent used during the preceding 12 months. For the purposes of this section, intensity of use will be determined by a review of the original nature, function or purpose of the non-conforming use, the hours of operation, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odors, area of operation, number of employees, and other factors deemed relevant by the city.

d) Removal or destruction of a non-conforming use to the extent of more than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, by fire or other peril, excluding land value and as determined by the city assessor, terminates the right to continue or replace any non-conforming use, except if a valid and complete building permit application has been submitted to the city within 180 days after the property was damaged.

e) If replacement, reconstruction, or restoration of a legal non-conforming land use is allowed, it may occur without any land use approval from the city if the resulting use does not create any new adverse impacts on adjacent property and matches exactly the conditions that existed before the work was undertaken or before the use was damaged or destroyed. Work that would not meet this requirement and any work that would be an improvement to a non-conforming land use may not be undertaken unless a conditional use permit has been issued for the property. The city may impose conditions in a conditional use permit to protect the public health, safety, or welfare, and to mitigate any newly created impacts on adjacent property or water body.

f) If replacement, reconstruction, or restoration of a legal non-conforming development is allowed, it may occur without any land use approval from the city if the resulting use does not create any new adverse impacts on adjacent property and matches exactly the conditions that existed before the work was undertaken or before the use was damaged or destroyed, except for internal improvements and improved materials used to replace roof surfaces, siding, windows, doors, and similar components. Work that would not meet this requirement or any other improvement to a non-conforming development may not be undertaken unless the appropriate approval required below has been granted for the property. The city may impose conditions in its approval to protect the public health, safety, or welfare, and to mitigate any newly created impacts on adjacent property or water body.

1) Work that brings a structure into compliance with building code requirements requires approval from the city planner. The city planner may choose, in his or her sole discretion, to require site plan approval instead of administrative approval.

2) All other improvements require site plan approval notwithstanding any other provision of this ordinance to the contrary.

g) Work that constitutes an expansion of any non-conforming use may not be done without first obtaining a variance pursuant to section 300.07 or an expansion permit pursuant to subdivision 7 of this section.

1) A variance is required if the expansion will intrude into one or more setback areas beyond the distance of the existing structure or will exceed the height or size limitations in this section 300 by a distance or amount greater than the existing structure. Otherwise, an expansion permit is required. For example, if the building currently has a front setback of 25 feet when 30 feet is required, and the expansion would reduce the setback to 24 feet, then a variance is required. In contrast, if only a portion of the building has a front setback of 25 feet when 30 is required, and the expansion brings the rest of the building to the same setback of 25 feet, then an expansion permit is required rather than a variance.

2) An expansion permit is also required if:

a. the use occupies any space within a non-conforming area that was previously not occupied both vertically and horizontally. For example, an expansion permit would be required if a second floor area is expanded into the non-conforming setback over an existing non-conforming first floor even though the non-conformity of the first floor setback dimension stays the same or is reduced; or

b. the non-conforming aspect of a use is reduced but still does not comply with current ordinance standards.

h) Notwithstanding the prohibitions contained in the foregoing paragraphs of this subdivision, if approved by the city council a non-conforming use may be changed to another non-conforming land use of less intensity if it is in the public interest. In all instances the applicant has the burden of proving that the proposed land use is less intense than the existing nonconforming land use

i) If a non-conforming use is superseded or replaced by a permitted use, the non-conforming status of the premises and any rights which arise under the provisions of this section terminate.

j) Notwithstanding the foregoing paragraphs of this subdivision, all non-conforming sexually-oriented businesses and sexually-oriented uses, as defined in section 300.33, subd. 3, which were made non-conforming by the zoning ordinance or an amendment to it must be discontinued no later than three years after the adoption of the provision creating the non-conformity.

k) Notwithstanding the foregoing paragraphs, a non-conforming use or structure in a floodplain area may only be repaired, replaced, maintained, improved, or expanded to the extent that it would qualify for eligibility in the National Flood Insurance Program, would not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway, and would comply with the provisions in section 300.24, subd. 14.

(Amended by Ord. No. 2010-11, adopted August 16, 2010; amended by Ord. No. 2009-12, adopted September 14, 2009)

4. Non-Conforming Sign.

A non-conforming sign that is an imminent danger to life or property or that may not be replaced under this ordinance must be removed

immediately at the expense of the owner.

5. Non-Conforming Utility Pole.

For a non-conforming utility pole that exists on the effective date of the ordinance, the pole and wires may be replaced in the event that it is damaged as the result of circumstances beyond the owner's control, but only if the height of the pre-existing pole and its lines are not exceeded and the voltage of the pre- existing wires is not increased. The height and voltage may be exceeded only if this is required by other governmental agencies or by applicable safety codes. In addition, the height may be exceeded temporarily if the owner does not have a conforming pole available, but only on the condition that a permanent replacement which does not exceed the pre-existing height is installed as soon as practical.

6. Non-Conforming Lot.

A lot or parcel of land that is non-conforming and that is not improved with a principal use is not entitled to be developed with a principal use if it has been in common ownership with adjacent land, including land that is across a street, or if it has been part of a larger parcel of land, at any time after adoption of the standard that causes the lot or land to be non-conforming.

7. Non-conforming Use Expansion Permit.

a) Application.

Application for a non-conforming use expansion permit must be made to the zoning administrator. The application must be on forms provided by the city and must be accompanied by the following:

1) a plat or map of the property which shows, at a minimum, all lot lines, existing and proposed structures, driveways and parking areas, significant topographical features and mature trees;

2) evidence of ownership or an interest in the property;

3) the fee required by section 710 of the code of city ordinances; and

4) such other information as may be required by the city.

b) Public Hearing.

Upon receipt of a completed application, a date will be set for a public hearing before the planning commission. The public hearing will be held only after notice has been sent by mail to the owners of all properties situated wholly or partially within 400 feet, as reflected in the certified records of the Hennepin county auditor.

c) Decisions.

1) An expansion permit for a non-conforming use may be granted, but is not mandated, when the applicant meets the burden of proving that:

a. the proposed expansion is a reasonable use of the property, considering such things as:

1. functional and aesthetic justifications for the expansion;

2. adequacy of off-street parking for the expansion;

3. absence of adverse off-site impacts from such things as traffic, noise, dust, odors, and parking; and

4. improvement to the appearance and stability of the property and neighborhood.

b. the circumstances justifying the expansion are unique to the property, are not caused by the landowner, are not solely for the landowner's convenience, and are not solely because of economic considerations; and

c. the expansion would not adversely affect or alter the essential character of the neighborhood.

2) The planning commission may grant an expansion permit only upon an affirmative vote of at least a majority of its full membership. The planning commission may impose conditions in granting an expansion permit to effect the intent of this ordinance and to protect adjacent properties. The planning commission must accompany its decision to deny an expansion permit with a statement of its findings and must serve a copy of its decision upon the applicant by mail. The planning commission action will be final action subject to the right of appeal, except if the expansion permit is an integral part of another land use application that requires city council action. In those circumstances, the planning commission action will be a recommendation to the city council, which may approve an expansion permit by an affirmative vote of at least a majority of the city council's full membership.

d) Term of Expansion Permit.

An expansion permit granted by the city will run with the land and will be perpetual unless no building permit has been issued or substantial work performed on the project prior to December 31 of the year following the year of approval, in which case the permit will be null and void. The planning commission may extend the period for construction upon finding that the interest of the owners of neighboring properties will not be adversely affected by such extension. If the expansion permit is part of an approved site and building plan, extension of the time period for construction will be contingent upon a similar extension of the time period for the site and building plan by the planning commission as required by section 300.27 of this ordinance. Once the project is completed as approved, the

expansion permit becomes perpetual.

e) Specific Project.

An expansion permit is valid only for the project for which it was granted. Construction of any project must be in substantial compliance with the building plans and specifications reviewed and approved by the planning commission or city council.

f) Appeals.

A person aggrieved by a decision of the planning commission regarding an expansion permit may appeal to the city council pursuant to section 300.04, subd. 6(a).

g) Recording.

A certified copy of the expansion permit must be filed by the applicant with the Hennepin county recorder or the Hennepin county registrar of titles. The expansion permit must contain a legal description of the property affected.

h) Violations.

A person who violates, fails to comply with or assists, directs or permits the violation of the terms or conditions of an expansion permit is guilty of a misdemeanor. A violation is a violation of the expansion permit and renders the permit null and void. A violation also constitutes a public nuisance that may be abated in accordance with the provisions of section 845.

(Amended by Ord. No. 2010-11, adopted August 16, 2010)

8. Burden of Proof.

A person who wishes to take advantage of the rights granted to a legal non-conformity has the burden of proving the status as a legal non-conformity by clear and convincing evidence.

(Amended by Ord. No. 2007-27, adopted August 20, 2007; Amended by Ord. No. 2007-17, adopted May 7, 2007; Amended by Ord. No. 2004-34, adopted November 8, 2004)

9. Non-conforming Uses in Shoreland District.

a) When a nonconforming structure in the shoreland district with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the city may require the structure setback to be increased, if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.

b) The following applies to lots in the shoreland district that were of record in the office of the county recorder on the date of adoption of applicable shoreland controls and that do not meet the requirements for lot size or lot width:

1) A nonconforming single lot of record located within the shoreland district may be allowed as a building site without variances from lot size requirements, if:

a. all structure setback distance requirements can be met;

b. the lot is connected to a public sewer; and

c. the impervious surface coverage does not exceed 25 percent of the lot.

2) In a group of two or more contiguous lots of record under common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if:

a. the lot is at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;

b. the lot is connected to a public sewer;

c. the impervious surface coverage does not exceed 25 percent of each lot; and

d. development of the lot is consistent with the comprehensive plan.

3) A lot subject to paragraph (2) that does not meet the requirements of paragraph (2) must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.

4) Notwithstanding paragraph (2), contiguous nonconforming lots of record in the shoreland district under common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are connected to a public sewer.

5) In evaluating all variances, conditional use permits, other zoning permits, and building permit applications, the city must require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

6) A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

(Added by Ord. No. 2009-12, adopted September 14, 2009)

SECTION 300.30. [REPEALED].

(Repealed by Ord. No. 2016-08, effective May 23, 2016)

SECTION 300.31. PLANNED I-394 DISTRICT.

1. Purpose.

The purpose of the planned I-394 district is to establish a comprehensive, planned framework for development within the I-394 corridor. The city has determined that it is in the best interest of the city and the region to responsibly manage corridor growth. Specific development goals within the I-394 corridor include the following:

a) limitation of development to ensure reasonable traffic operations because population and employment distribution and traffic generation resulting from existing and future corridor development has the potential to overload the capacity of regional and local road systems. Development will be limited to ensure reasonable traffic operations on corridor road systems including I-394 interchanges;

b) encouragement of a high quality development standard for structures within the corridor because properties fronting I-394 are among the most visible in the city. It is in the best interest of the city and individual properties within the corridor to encourage a high-quality development standard for structures within the corridor;

c) protection of the natural environment, including areas of steep slopes, mature trees, floodplain/wetlands, open space and drainage;

d) promotion of neighborhood stability and protection of property values through the use of buffers between land uses of different intensity;

e) promotion of flexibility in land development and redevelopment in order to utilize new techniques of building design, construction and land development. Also, flexibility in locating specific land uses will allow development options which do not overburden the capacity of the planned road system;

f) more efficient and effective use of land, open space and public facilities through mixes of land use and assembly and development of land in larger parcels;

g) provision of alternative housing types in a range of affordability;

h) energy conservation through the use of more efficient building designs and sitings, and the clustering of buildings and land uses; and

i) development which is consistent with the comprehensive guide plan (1981), as amended by the I-394 corridor study (1987).

2. Definitions.

For the purpose of this section and section 300.32, I-394 redevelopment overlay districts, definitions contained in section 300.02 and the following shall apply.

a) All references to types of parcels or areas by use, such as “residential areas” means the type and intensity of use as designated on the comprehensive guide plan. These references do not mean the existing use or zoned use of the property.

b) “Gross floor area” - for trip generation calculation purposes means the sum of the area at all floor levels of a building, including cellars, basements, mezzanines, penthouses, corridors, lobbies, stores, and offices, that are included within the principal outside faces of exterior walls, not including architectural setbacks or projections. Included are all stories or areas that have floor surfaces with clear standing head room (6 feet, 6 inches minimum) regardless of their use. Where a ground level area, or part thereof, within the principal outside faces of the exterior walls is left unenclosed, the gross area of the unenclosed portion is to be considered as a part of the overall square footage of the building. All unroofed areas and unenclosed roofed-over spaces, except as defined above, are to be excluded from the area calculations.

For purposes of trip generation calculation, the gross area of any parking garages within the building shall not be included within the gross area of the entire building.

c) “Gross leasable area” - for trip generation calculation purposes means the total building floor area designed for tenant occupancy and exclusive use, including any basements, mezzanines, or upper floors, expressed in square feet and measured from the centerline of joint partitions and from outside wall faces.

d) “p.m. peak hour trips” - means the total number of inbound and outbound motor vehicle trips generated during a continuous 60 minute period of the highest volume of traffic between 4:00 and 6:00 p.m.

e) “Substantial compliance” - means that the limits shall be an absolute maximum, except that a greater number of trips or larger building square footage will be allowed if the adverse impact on the road system caused by the particular use would be less than expected as determined by a traffic impact study approved by the city. A lower adverse impact could result from a category of use which generates more favorable turning movements than assumed in the traffic projections or from a lower actual p.m. peak rate.

f) “Comprehensive plan” or “comprehensive guide plan” or “guide plan” - means the comprehensive guide plan (1981) as amended by the I-394 corridor study (1987) and other amendments.

3. Master Development Plan Required.

a) A master development plan which complies with the standards of this section and which has been approved by the city shall be required for all property in the planned I-394 district for which development is proposed. Property which is the subject of a master development plan shall be under unified ownership or control and be made subject to such legal restrictions or covenants as may be necessary to ensure compliance with the approved master development plan and final site and building plans.

b) Exceptions for existing developments: for developments existing on the effective date of this section, no master development plan is required until any development is proposed which needs a variance from the provisions of this section, a conditional use permit as specified in subdivision 4(b), or which is an expansion exceeding 10 percent of gross floor area, 10 percent of site area or 10 percent of I-394 right-of-way frontage.

4. Uses.

a) Any use authorized as a conditional use or other similar uses as determined by the city planner. These uses must meet the standards and conditions outlined for the corresponding conditional use, unless waived by the City Council, given the temporary nature of the use.

b) Permitted uses:

1) Within the planned I-394 district, permitted uses shall be only those uses at the permitted densities and intensities specified for each property in the comprehensive guide plan. Uses which may be available depending upon the specific guide plan map designations include the following:

a. office: office used for administrative, executive, professional and like activity;

b. service commercial: business uses primarily engaged in commercial activities other than the sale of goods or merchandise;

c. retail commercial: uses which primarily involve the sale of goods or merchandise to the general public for personal or household consumption. Retail commercial includes cannabis retail businesses subject to City Code 650. Office and service commercial uses as noted above are also permitted;

d. mid-density residential: residential development at densities ranging from 4 to12 units per acre; and

e. high-density residential: residential development at densities exceeding 12 units per acre.

2) A use which is generally referenced as a conditionally permitted use but which does not meet the definition or criteria for the conditionally permitted use is not a permitted use. For example, any restaurant which does not meet the requirements for the various categories of restaurants under conditionally permitted uses is not permitted.

3) Exterior display, sales or storage: within the planned I-394 district, exterior display, sales or storage of merchandise, consumer goods or business related items is not permitted. Exceptions to this requirement are limited to the following:

a. development existing on May 18, 1988: properties which contain exterior display, sales or storage of merchandise, consumer goods or business related items may continue this activity. Except as provided below in section 300.31, subd. 4(a)(3)(b) and (c), the entire property is subject to all applicable performance requirements of this ordinance when site changes, exterior improvements or expansions to the property are proposed;

b. expansion of development existing on May 18, 1988: properties which contain exterior display, sales or storage of merchandise, consumer goods or business related items may expand the exterior display, sales or storage in existence on May 18, 1988 by no more than 20 percent of the entire property area. In no case, however, can the expansion extend along I-394 by more than an additional 10 percent of the property's I-394 right-of-way frontage existing on the effective date of this section. This 10 percent limitation is measured as follows:

1. the existing display area means any display in the area between the property line generally parallel to I-394 and the front faces of the principal structure, with the front face of the structure at each side extended to the side property lines;

2. the length of the front property line (generally parallel to I-394) of the property is multiplied by 10 percent; and

3. the limits of the existing display area may be extended in one or both directions parallel with I-394 no greater than a total of the number of feet determined in subparagraph 2.

Variances to permit expansion of exterior display, sales or storage greater than 10 percent of the property frontage will be considered, but not necessarily granted, only upon evidence that appropriate screening such as landscaping, berming, structure location, or other amenities not otherwise required by this ordinance compensates for the visual impact of the additional expansion.

This expansion may extend to adjacent property not being used for that use on the effective date of this section. Property area shall include all contiguous property under common ownership which is being used for one principal use, including exterior display, sales or storage, on the effective date of this section, regardless of political boundaries, but shall not include area within wetlands or floodplain districts. Expansion will be approved only upon the entire development being subject to compliance with all applicable landscape, lighting, noise, buffering and setback requirements of this ordinance.

c. exterior display, sales, or storage of motor vehicles on property within the I-394 redevelopment overlay districts No. 6 and No. 7:

properties may be developed consistent with a conditional use permit issued pursuant to section 300.31, Subd. 4(b)(2)(i).

4) Also permitted in the planned I-394 district are cabinets no larger than 150 cubic feet that hold utility equipment and for which a landscape plan has been approved by the city planner; overhead utility poles and lines for a distribution line up to a maximum height of 60 feet as measured from the ground upon which it is located, except that utility poles and lines for a distribution line may be taller than 60 feet, but not taller than 80 feet, when needed to cross a major roadway such as a freeway.

5) Solar energy systems are permitted as an accessory use within the I-394 district.

c) Conditionally permitted uses:

1) Notwithstanding the above, the city may issue a conditional use permit to allow a maximum of 25 percent of the gross floor area of all buildings within one development to be used for land uses not designated by the comprehensive guide plan. Review standards for this conditional use permit shall include the following:

a. shall be in compliance with standards applicable to similar uses as specified in paragraph (2) below;

b. shall be permitted only when it is demonstrated that the use will meet traffic requirements contained in subdivision 6 and that the use will not significantly lower the level of service as defined by the institute of traffic engineers on the roadway system;

c. shall be permitted only as part of a unified development project;

d. shall be permitted only upon a determination by the city that the use is compatible with a unified development project and is consistent with the policies specified in the comprehensive plan; and

e. shall be further limited in size if needed to ensure compliance with the intent of this ordinance and the comprehensive plan.

2) Because of impacts associated with certain specific uses, the city has determined that a conditional use permit is required for the following uses. A permit will be issued only if the city finds that the standards specified below for each use are met, that the use is in the best interest of the city, that the use is compatible with other nearby uses, and that the use is consistent with other requirements of this ordinance.

a. Business service uses normally associated with office developments on properties designated for office use and containing limited retail activity:

1. shall not result in any exterior building modifications, including truck docks, separate entrances, freestanding signs or overnight truck parking; and

2. shall not exceed more than 25 percent of the gross floor area of the building(s) in which it is located.

b. Storage, assembly or servicing incidental to the principal use on properties designated for office, retail, or service commercial uses:

1. shall not have outside storage of materials or trucks;

2. shall not require any exterior modifications to the structure; and

3. shall not occupy more than 25 percent of the building.

c. Minor manufacturing or assembly incidental to the principal use on property designated for office, retail or service commercial uses:

1. shall not have outside storage of materials or trucks;

2. shall not have truck deliveries unless it is demonstrated by the applicant that the deliveries will not cause adverse impacts to the site or adjoining residential areas; and

3. shall not exceed 25 percent of the gross floor area of the building in which it is located.

d. Hospitals and medical clinics on property designated for office, retail or service commercial uses:

1. shall not be adjacent to low density residential areas;

2. shall have direct access from the site to a collector or arterial street as defined in the comprehensive plan;

3. shall not have emergency vehicle access adjacent to or located across a street from any residential use; and

4. may be required to submit a detailed parking analysis for uses exceeding 10,000 square feet. Additional parking may be required based on this analysis.

e. Heliports on property designated for office use:

1. shall conform to all applicable federal aviation administration and Minnesota department of transportation regulations;

2. shall establish and utilize approach and departure routes over non-residential areas to the maximum extent possible;

3. shall have hours of operation limited to 7:00 a.m. to 9:00 p.m., inclusive, excluding emergencies;

4. shall not be located within 500 feet of residential areas;

5. shall be provided with a dust free landing pad; and

6. shall be fenced or otherwise secured to prevent unauthorized access.

f. Hotels and motels including accessory uses within the building such as restaurants, convention facilities and limited retail areas on property designated for service commercial use:

1. shall not be located adjacent to residential parcels unless the following criteria are met:

a) parking and loading facilities are screened from residential views; and

b) lighting and sign plans are unobtrusive to residential uses.

2. shall only be permitted when it can be demonstrated that operation will not significantly lower the existing level of service as defined by the institute of traffic engineers on the roadway system; and

3. are required to submit a detailed parking demand analysis. Additional parking may be required based on this analysis.

g. Licensed day care facilities on property designated for office, retail or service commercial use:

1. shall have loading and drop-off points designed to avoid interfering with traffic and pedestrian movements;

2. shall have outdoor play areas located and designed in a manner which mitigates visual and noise impacts on adjoining residential areas;

3. shall have one parking space for each six children based on the licensed capacity of the center; and

4. shall obtain all applicable state, county and city licenses.

h. Public buildings or facilities, and cabinets larger than 150 cubic feet that hold utility equipment, on property designated for any use:

1. are subject to site and building plan review pursuant to section 300.27 of this ordinance.

i. service stations and other automobile related uses having service bays on property designated for retail use:

1. must have no unlicensed and inoperable vehicles stored on premises except in storage areas where the contents are completely screened from the view from nearby properties;

2. must conduct all repair, assembly, disassembly and maintenance of vehicles within closed buildings except minor maintenance, such as inflating tires, adding oil and replacing wipers;

3. must have no public address system audible from any residential parcel;

4. must provide stacking for gas pumps for at least one car beyond the pump island in each direction in which access can be gained to the pump. The required stacking shall not interfere with internal circulation patterns or with designated parking areas and shall not be permitted in any public right-of-way, private access easement or within the required parking setback;

5. must have no sales, storage or display of motor vehicles, unless the following criteria are met:

a) the parcel is located within the I-394 redevelopment overlay district No. 6 or No. 7;

b) all inventory and display vehicles located outside of a building or structure, must be at finish grade level. No jack stands, risers, or other mechanisms may be used to elevate any vehicle for display purpose;

c) class II motor vehicle sales (used car sales) are allowed only as an accessory part of the new car sales;

d) the sale of vehicles may occur during the times and days allowed by state law;

e) vehicles must not be displayed in any yard area, drive aisle, or fire lane;

f) the overall hardsurface coverages must not exceed 70% and floor area ratios must not exceed 0.6 except that the hardsurface coverage may extend to 80% with innovative stormwater management methods and treatment measures subject to approval by the city engineer;

g) the architectural and site standards must comply with section 300.31(7)(a);

h) the landscaping must comply with Section 300.31(7)(b) and must contain a wall, berm or other feature that is constructed for long term durability when adjacent to residentially zoned property to minimize to the greatest extent reasonably possible, noise and visual impacts;

i) parking lot and site security lighting must comply with section 300.31(7)(c) and in addition, the following requirements:

1) Maximum of 450 watts per fixture.

2) Maximum height of light standards is 30 feet in outdoor display areas as defined in 300.31 Subd. (4)(a)(3)(b) and 25 feet in all other outdoor areas.

3) Maximum of 1 watt per square foot surface parking area.

4) The lighting plan shall be designed to have 0.0 foot-candles at residential property lines with the understanding that

ambient light from other sources may spill on the property and influence actual on site measurements.

j) Parking requirements must comply with one of the following:

1) fifty percent of the total on-site parking spaces must be in a structured parking ramp, or

2) if the city deems appropriate, surface parking without a ramp under the following conditions:

(a) total on-site parking must not exceed one parking space for every 200 square feet of building area, and

(b) submittal of a plan that adequately screens 50% of the total parking spaces from public view.

k) vehicles parked within a parking structure must be screened from view from surrounding residential uses;

l) the customer parking spaces must be clearly signed and may not be used at any time for inventory vehicle parking;

m) all pickups and drop offs of vehicles must occur on site and off public streets;

n) all loading and unloading of vehicles must occur on site and off public streets;

o) customer testing of vehicles may occur only on non-residential streets and only with a store employee;

p) no loudspeaker paging system may be used;

q) all rooftop equipment must be fully screened from ground level view of adjacent properties;

r) all signs must be consistent with this code;

s) poured-in-place concrete curbs must be constructed and maintained on the perimeter of parking lots and traffic islands; and

t) all trash and recyclable materials must be screened from public view.

6. must not be located within 100 feet of any low density residential parcel or adjacent to medium or high density residential parcels. The city may reduce separation requirements if the following are provided:

a) landscaping and berming to shield the auto service use;

b) parking lots not located in proximity to residential uses; and

c) lighting plans which are unobtrusive to surrounding residential uses;

j. Retail facilities having gasoline pumps on property designated for retail use:

1. shall have no vehicles which are unlicensed and inoperable stored on premises;

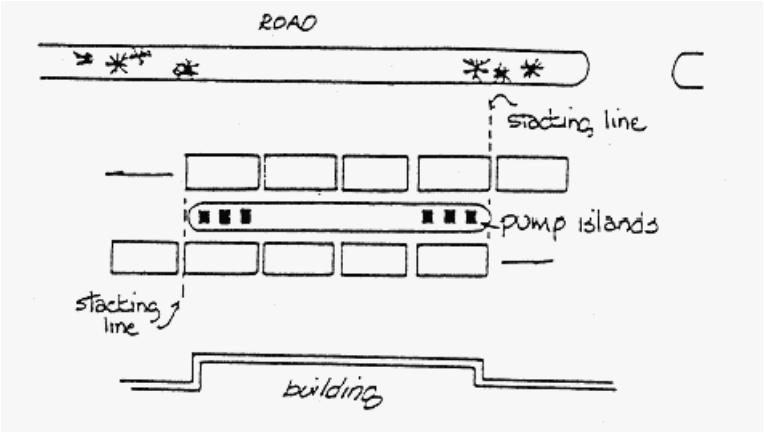
2. shall conduct no repair, assembly or disassembly of vehicles;

3. shall not locate gasoline pumps, stacking lanes or access pumps adjacent to low density residential properties unless separated from the low density property by the principal structure or from mid or high density residential parcels by screening sufficient to block the view of those items from those parcels;

4. shall have no public address system audible from any residential parcel;

5. shall provide stacking for gas pumps at least one car beyond the pump island in each direction in which access can be gained to the pump. The required stacking shall not interfere with internal circulation patterns or with designated parking areas and shall not be permitted in any public right-of-way, private access easement or within the required parking setback; (Figure 31-1)

Figure 31-1



6. shall have no sales, storage or display of automobiles; and

7. shall be screened from adjacent residential areas.

k. Uses having a drive-up window or similar facility on property designated for office, service commercial or retail use:

1. must not have drive-up windows and stacking areas located adjacent to any residential parcel;

2. must be provided with a suitable visual screen from adjacent properties;

3. must provide stacking areas with a minimum of six cars per aisle on the property in areas not within applicable setback requirements; and

4. must not have public address system audible from any residential parcel.; and

5. the drive-up window or similar facility must be subordinate to and associated with a permitted or conditionally- permitted use located within a building on the site.

l. Theaters on property designated for service commercial or retail use:

1. theaters located within shopping centers or otherwise utilizing joint parking arrangement shall submit an analysis of parking demand versus availability for review and approval by the city. Additional parking may be required based on this analysis if available parking does not meeting the expected demand;

2. theaters located within existing structures may be required to install appropriate building modifications to provide adequate pedestrian and vehicle access; and

3. interior and free standing theaters shall only be permitted when it can be demonstrated that vehicular ingress and egress may be accomplished without inducing undue traffic problems on area roadways.

m. Restaurants and cafeterias on property designated for office, retail or service commercial use incorporated within a portion of a principal structure and oriented predominantly towards serving the needs of employees of the surrounding area but excluding drive-up and exterior walk-up facilities:

1. shall be permitted only wall mounted signs, subject to the limitations of section 325 of this code;

2. shall not exceed 15 percent of the gross floor area of the building in which it is located;

3. shall have parking and vehicular circulation in compliance with the requirements of section 300.28 of this code and which items must be adequate to accommodate the restaurant; and

4. shall only be permitted when it can be demonstrated that operation will not significantly lower the existing level of service as defined by the Institute of traffic engineers on the roadway system.

n. Freestanding restaurants on property designated for retail or service commercial use:

1. shall have minimum seating capacity of 150;

2. shall be part of an overall master development plan consisting of more than one structure;

3. shall be architecturally consistent and compatible with other structures in the master development plan;

4. shall have parking in compliance with the requirements of section 300.28 of this code;

5. shall be permitted only when it can be demonstrated that operation will not lower significantly the existing level of service as defined by the institute of traffic engineers on the roadway system;

6. shall not include a drive-up window; and

7. shall not be located within 100 feet of any low density residential parcel or adjacent to medium or high density residential parcels. The city may reduce separation requirements if the following are provided:

a) landscaping and berming to shield the restaurant use;

b) parking lots not located in proximity to residential uses; and

c) lighting plans which are unobtrusive to surrounding uses.

o. Restaurants other than those included in paragraph m. and n. and fast food restaurants on property designated for retail use:

1. must be in retail multiple tenant centers only and conform to the architecture of a specific center;

2. will not be permitted when traffic studies indicate significant impacts on the levels of service as defined by the Institute of Traffic Engineers on the roadway system;

3. outdoor seating areas will be approved only subject to the following:

a) must be located in a controlled or cordoned area with at least one opening to an acceptable pedestrian walk. When a liquor license is involved, an enclosure is required and the enclosure shall not be interrupted; access must be only through the principal building;

b) must be set back at least 200 feet and screened from any adjacent property designated in the comprehensive plan for residential use;

c) must be located and designed so as not to interfere with pedestrian and vehicular circulation;

d) must be located next to an entrance to the main use;

e) must be equipped with refuse containers and periodically patrolled for litter pick-up;

f) must not have speakers or audio equipment that is audible from adjacent residential parcels; and

g) must meet building setback requirements.

4. drive-up windows and related stacking spaces will be approved only subject to the following:

a) public address systems must not be audible from any residential parcel; and

b) stacking for a minimum of six cars per aisle must be provided subject to applicable parking lot setbacks.

c) must be set back at least 100 feet and screened from any adjacent property designated in the comprehensive plan for residential use.

5. restaurants or fast-food restaurants with less than 1,200 square feet gross floor area, designed seating capacity not exceeding 25, having no drive-up window and located in retail multiple tenant centers are exempt from the requirements of this section and are considered to be a standard retail use. For tenants with accessory fast-food restaurants, the 1,200-square-foot calculation will include the total gross area of all restaurants and fast-food restaurants within the tenant space.

p. Health clubs and accessory uses within the building on property designated for service commercial use:

1. shall have any active outdoor use areas screened from residential views;

2. shall submit a detailed parking demand analysis. Additional parking may be required based on this analysis; and

3. shall not be permitted when traffic studies indicate significant impacts on the levels of service as defined by the institute of traffic engineers on the roadway system.

q. Exterior display, sales or storage consistent with the provisions of section 300.31, subd. 4(a)(3):

1. all merchandise, consumer goods and business related items shall be kept in a neat and orderly fashion at locations indicated on approved plans;

2. a combination of landscaping and berming to screen views of the exterior sales, display or storage area from adjacent properties shall be provided;

3. all service or maintenance activity shall occur within the principal building;

4. all applicable provisions of section 300 shall be met;

5. public address systems shall not be audible on residential property. If continued complaints regarding audible public address systems are received, the city retains the right to require removal of the system; and

6. detailed lighting plans shall be provided which show that there will be no direct residential views of the light source. Decorative light fixtures shall be provided. Stringer type lighting is not permitted.

r. Telecommunication facilities, subject to the provisions of Section 300.34.

s. Microbreweries: the same standards as specified in section 300.21, subdivision 4(s)(1) through (3), inclusive, of this section shall apply.

d.) Interim Uses: The following uses are allowed in the PID district only pursuant to an approved interim use permit and in conformance with the standards specified in section 300.05 of this ordinance and the additional standards specified below:

1) Outdoor entertainment;

a. Must be located:

1. at least 100 feet from any residential property as measured from the closest property lines of the properties. The city may modify this distance based on physical characteristics of the commercial and residential properties, such as existing sightlines, existing or proposed physical barriers, existing natural resources, and proposed landscaping;

2. in proximity to a collector or arterial roadway as identified in the comprehensive plan or otherwise located so that access can be provided without conducting significant traffic on local residential streets;

3. in a controlled or cordoned area; and

4. to not interfere with pedestrian or vehicular circulation;

b. Must not use public address systems, speakers, or other audio equipment which is audible anywhere on a residential lot that is within 400 feet, and must not create noise that is unreasonably disturbing to a reasonable person of ordinary sensitivity anywhere on a residential lot that is within 400 feet. The distance will be measured from the property lines of the source and receiving properties that are closest to each other. Whether the sound is unreasonably disturbing to a reasonable person will be determined under section 850.005;

c. Must not occur between the hours of 10:00 p.m. and 7:00 a.m.;

d. Must be in compliance with applicable health, public safety, and building code regulations as imposed by the city or other

pertinent agency.

2) Temporary telecommunications towers;

a. May not be located adjacent to any low or medium-density residential property;

b. Maximum tower height, excluding lightning rods, is 150 feet;

c. Accessory equipment must meet minimum setback requirements established for accessory structures; and

d. Tower, antennas, and support structures must be painted a non-contrasting color consistent with the surrounding area such as: gray, brown, or silver, or have a galvanized finish to reduced visual impact. Metal towers must be constructed of, or treated with, corrosion-resistant material.

3) Transient sales;

a. Must be located in a suitable off-street location and shall not extend into adjacent right-of-way or other public property;

b. Must not interrupt vehicular circulation on the site or obstruct parking spaces needed by a permanent business established on the site;

c. Must have written authorization from the property owner;

d. Business operator must secure all applicable licenses and approvals from the city, Hennepin county or other appropriate jurisdictions;

e. Sight visibility clearances at street intersections and access points must be provided in accordance with section 300.15, subd. 9(e) of this ordinance or as determined by the city to protect public safety;

f. No portion of the use may take place within 100 feet of any developed property zoned for residential use;

g. Signs are subject to the following:

1. No more than four signs are allowed, which do not exceed 32 square feet in aggregate;

2. Incidental product or pricing signs must be placed directly next to the appropriate product;

3. Product advertising is permitted but must be included in the maximum allowed sign area;

4. The signs must have a professional appearance and must be securely mounted or erected in a safe location; and

5. These limitations apply to all signs associated with the use, including those affixed to vehicles;

h. Any display of items must be limited to representative samples and be arranged in as compact a manner as reasonably practicable;

i. The interim use permit will be issued in the name of the person requesting the permit and will be for the purpose of selling a particular item or range of items at a specific location. Any change in the person, location, or items sold will render the permit invalid; and

j. Violation of the above standards or other conditions placed upon the interim use permit will result in the immediate revocation of the interim use permit;

(Amended by Ord. No. 2016-08, effective May 23, 2016; Amended by Ord. No. 2014-07, adopted March 24, 2014; Amended by Ord. No. 2012-07, adopted June 25, 2012; Amended by Ord. No. 2008-21, adopted July 28, 2008; Amdended by Ord. No. 2014-07, adopted March, 2014; Amended by Ord. No. 2021-11, adopted June 28, 2021; amended by Ord. No. 2022-18, effective November 14, 2022; amended by Ord. No. 2023-02, effective February 27, 2023; amended by Ord. No. 2024-17, effective November 18, 2024; amended by Ord. No. 2025-07, effective June 23, 2025)

5. Development Standards.

Within the planned I-394 district all development shall be in compliance with the following.

a) Minimum lot area: except for parcels included in designated I-394 redevelopment overlay districts, parcels for which any development including expansion of existing development is proposed shall have a minimum area of three acres. Designated wetlands, floodplains, shorelands or public right-of-way shall not be included when calculating the minimum area. The minimum lot area shall not apply to the following:

1) a property directly adjacent to or across a right-of-way from property which has been developed previously as a planned unit development; where land uses and architecture similar to the earlier planned unit development are proposed and the development will be perceived as and will function as an extension of that previously approved development;

2) situations where it is demonstrated to the satisfaction of the city that there is no reasonable future possibility of assembling land parcels into an aggregate of three acres; or

3) minor architectural improvements, building additions not exceeding 10 percent of gross floor area and minor site improvements if determined by the city to comply with the provisions of this ordinance.

b) Where the site of a proposed development is designated for more than one land use in the comprehensive plan, the city may require

that the development include a combination of the designated uses in order to achieve traffic management objectives contained in subdivision 6 of this section.

c) Developments approved under the planned unit development district in effect prior to the effective date of this section shall remain subject to all requirements of the approved planned unit development and associated P.U.D. agreement.

d) Overall hardsurface coverages and floor area ratios for a planned I-394 district project shall be limited as follows:

comprehensive plan designation	hardsurface coverage (%)	floor area ratio
mid-density residential	50	0.50
high-density residential	60	0.75
office	70	0.75
service commercial	70	0.60
retail commercial	80	0.30

Individual parcels within a proposed development may exceed these standards as long as the total average does not.

e) Internal lot lines may be located to allow individual ownership of specific buildings.

f) Each residential development shall provide a minimum of 10 percent of the gross project area in private recreational uses for project residents. This area shall be for active or passive recreational uses suited to the needs of the residents of the project including, but not limited to, swimming pools, trails, nature areas, picnic areas, tot lots and saunas.

g) Except for internal project lot lines to allow individual ownership of specific buildings, no subdivision of land shall be approved unless accompanied by a master development plan in conformance with the provisions of this section.

h) The city may utilize incentives to encourage the construction of projects which are consistent with the city's housing goals. Incentives may include modification of development standards for developments providing low and moderate cost housing. Incentives may be approved by the city only after the developer and city have entered into an agreement to ensure that the low and moderate cost units remain available to persons of low and moderate income for a specific period of time.

(Amended by Ord. No. 2011-04, adopted April 18, 2011)

6. Traffic.

The city has determined that future growth within the planned I-394 district must be responsibly managed under a planned framework of development parameters. A crucial element of planned growth management involves the maintenance of acceptable levels of traffic operation on regional and local road systems. In order to maintain the functional capacity of area road systems, a development limitation based on p.m. peak hour trip generation is established for new development. Further, the I-394 system design is based on a commitment to transit alternatives including high occupancy vehicle lanes, park and ride lots and timed transfer transit stations. A commitment from development projects within the I-394 corridor to manage traffic and to utilize transit alternatives is necessary to maintain the design capacity of the road system. All parcels within the planned I-394 district are subject to the following traffic requirements.

a) Traffic impact studies: a traffic impact study prepared by a registered traffic engineer to assess potential traffic impacts on local and regional road systems is required for any of the following:

1) any development which exceeds 25,000 square feet of gross floor area;

2) expansion of existing development which exceeds 10 percent of gross floor area and the total gross floor area is 25,000 square feet or greater; or

3) any development for which the p.m. peak hour trip generation rate, as defined by the institute of traffic engineers, is expected to exceed two p.m. peak hour trips per 1,000 square feet of gross floor area.

b) Trip generation: to avoid exceeding acceptable levels of service at area intersections and thus overburdening the capacity of the road system, development limitations based on p.m. peak hour trip generation are established in subdivision 13 for each parcel of land in the I-394 corridor. These have been developed using recognized methods of traffic forecasting. All property in the I-394 corridor was divided into traffic analysis zones. Traffic generation and distribution were analyzed based upon reasonable development on all parcels. A maximum number of p.m. peak hour trips per traffic analysis zone were calculated based upon the approved traffic levels at interchanges as specified in the I-394 corridor plan. The total number of trips were allocated on the basis of square footage of buildable property in each zone, regardless of present or future use.

The trip generation number specified in subdivision 13 is the maximum number of p.m. peak hour trips that may be generated by any permitted use of property. To determine the maximum square footage of building space which is allowed for each parcel, the trip limitation number is divided by the p.m. peak hour rate for that use. The applicable rates are defined by the traffic analysis included with the I-394 corridor study. Substantial compliance with the trip generation number and resultant maximum square footage of buildable space is required. In determining trip generation and building square footage allowable, gross floor area of a building shall be used. In cases where there is a substantial amount of common area within a building and when institute of traffic engineers data is based on gross leasable area, gross leasable area may be used.

Uses existing on the effective date of this section which generate p.m. peak hour trips or which have a building area greater than the number assigned may continue to exist as non-conforming developments. These uses shall be subject to the restrictions contained in section 300.29; however, each of these uses shall be allowed to expand by no more than 10 percent of existing building area if measures are taken to keep the traffic generation at the rate existing on the effective date of this section. An expansion beyond that amount or a change of use shall be permitted only if there is substantial compliance with the trip generation limit.

Unused trips allocated to a parcel are not a property right which may be transferred at will to another property. Unused trips may be transferred, but only to another parcel in the same zone and only after city council approval. The council may decline to permit a transfer if it would threaten to overload the capacity of the roadway system or would otherwise not be in the public interest.

c) Appeal of p.m. peak hour trips: appeals to the p.m. peak hour trips and rates may be made by any person to the planning commission and city council. Appeals shall be written and accompanied by a report prepared by a registered traffic engineer and deemed adequate by the city planner which shall provide evidence indicating potential errors in a p.m. peak trip limitation in subdivision 13, reasons why the property or development is presently or will in the future generate less p.m. peak hour trips, or both.

The appeal shall be reviewed by the planning commission. Notices of a public meeting before the planning commission regarding the appeal shall be mailed to owners of property located wholly or partially within 400 feet of the subject property, as reflected in the certified records of the Hennepin county auditor. The planning commission shall make a decision within 60 days following the date of submission of a completed application for appeal unless a continuance is not objected to by the applicant.

After receipt of the recommendation of the planning commission, the city council shall consider the matter and may hold whatever hearing it deems advisable. The city council shall act upon the appeal within 120 days of submission to the city of a completed application or such longer period not objected to by the applicant and, shall serve a copy of its decision upon the applicant by mail. If the council fails to make a timely decision, the appeal shall be deemed to have been denied. The city council may approve an appeal to Subdivision 13 only upon an affirmative vote of at least two-thirds of its full membership.

d) Road system improvements: development that would exceed trip generation guidelines in subdivision 13 below may only be constructed if concurrent road system improvements to accommodate additional trip generation are installed and paid for by the developer. The road system improvements must achieve a level of service operation at area intersections consistent with level of service that would have existed without the excess trip generation. Further, the comprehensive plan has identified a series of geometric road system and traffic control improvements which are needed to accommodate trip levels specified in subdivision 13. Nothing in this chapter shall be construed to eliminate developer responsibility for stated improvements if improvements are found to be needed by a traffic impact study as a result of development. If a traffic impact study finds that road system improvements are required as a result of the proposed development, no construction of the development shall commence until arrangements, including financing, for permanent improvements are made and approved by the city. If qualifying warrants are not met for such improvements, interim improvements shall be installed by the developer.

e) Access and traffic orientation: access to public road systems shall be limited and spaced to promote effective and safe access as determined by the city and other appropriate review jurisdictions. Public or private streets within redevelopment areas shall be designed to channel traffic to the regional road system and not to nearby single family neighborhood road systems.

f) Phased occupancy: the city may require phased construction or occupancy of a building or portions of a development/redevelopment project. Such phasing may be tied to completion of I-394 construction segments or other road system improvement found to be needed by the traffic impact study.

g) Traffic management: all approved development projects of 25,000 square feet or greater shall submit and operate under a traffic management plan approved by the city. Specific plan elements will vary depending on the scale, location and type of a project. Traffic management items which may be required include, but are not limited to, the following:

1) staggered work hours or flextime;

2) use of mass transit and car pools along with preferential location of car pool and van pool parking spaces within parking lots and ramps;

3) use of alternative traffic routes away from intersections operating in excess of targeted service levels;

4) possible restrictions on certain turn movements during peak traffic periods;

5) a program for the use of the timed transfer station located at the Plymouth Road/I-394 interchange;

6) partial funding of a Minnesota rideshare position or designation of an employee to work with Minnesota rideshare to arrange and assist in providing rideshare services and transit information;

7) project design to accommodate bus service when routes allow and the provision of climate controlled bus shelters;

8) private van shuttle services between a development and transit locations or other appropriate destinations within the corridor;

9) provision of a cab stand and information about available taxicab services; or

10) provision of visible and convenient areas for marketing rideshare and transit services.

h) Pedestrian circulation: all development/redevelopment projects shall install pedestrian improvements in accordance with the Ridgedale sidewalk/trail plan approved by the city. Other pedestrian sidewalks and trails may be required if deemed appropriate by the city.

(Amended by Ord. No. 2012-07, adopted June 25, 2012)

7. Design Standards.

The city has determined that development located in the planned I-394 district requires a high degree of design quality. The high visibility of properties from the interstate frontage and the proximity of development sites to single family residential neighborhoods dictate sensitive design considerations. This section is intended to serve the public interest, maintain and enhance property values and mitigate the impacts between adjacent land uses of different intensity through appropriate design standards.

a) Architectural and site standards:

1) Building setbacks: the setback for all buildings within the planned I-394 district from any bordering or abutting street shall be 35 feet for local and neighborhood collector streets and 50 feet from all other street classifications except that in no case shall the setback be less than the height of a building up to a maximum of 100 feet. Building setbacks from internal public or private streets shall be determined by the city based on the characteristics of a specific planned I-394 district master development plan.

Building setbacks from lot lines on the exterior of a proposed development and not abutting a public street or low density residential property shall be the height of a building up to a maximum of 100 feet, but not less than 50 feet. Building setbacks from lot lines on the exterior of a proposed development and abutting lands designated for low density residential development in the comprehensive plan shall be a minimum of two times the building height unless unique circumstances are found which may allow the city to reduce the setback requirement. Unique circumstances include substantial differences in site elevation, separation by natural features such as wetlands or large stands of mature trees, or substantial visual screening of a development by berms with landscaping. In no case shall the setback be less than 50 feet.

2) Building height: building height within the planned I-394 district is regulated by the combination of building setback, floor area ratio and hardsurface coverage requirements established in paragraph 1 above and in subdivision 4 of this section. Additionally, the city may establish stricter height restrictions based on the characteristics of a specific planned I-394 district project. Stricter height restrictions may be established if the following criteria are not met:

a. use of compact building footprints to de-emphasize height;

b. use of stepped building heights to provide a visual transition towards areas dominated by low buildings. This applies to both multiple building projects and individual buildings;

c. clustering of taller buildings at areas in proximity to interchanges; or

d. location of taller buildings on natural lower base elevations.

3) Building height studies: for all structures exceeding three stories in height, the city may require the following:

a. view-shed analysis: site sections and building views from all sides of a project and from the directions most likely to impact nearby properties. This includes elevational representation of building heights and topographic elevations within 1,000 feet of a development; and

b. sun-shadow studies: shadow cast studies which project hourly shadows of a proposed structure between the hours of 9:00 a.m. and 5:00 p.m. on December 21st. Buildings which adversely impact light availability to nearby properties will not be permitted.

4) Building materials: The Interstate-394 corridor is a highly visible regional corridor with high levels of property investments and evolving redevelopment opportunities. Building materials in the planned I-394 district must reflect this property investment and be generally consistent and compatible with the architectural character of the district, which is defined by structures which incorporate façade materials of brick, dimension natural or man-made stone, glass, and architectural-grade metal panels and a limited use of stucco and exterior insulated finishing systems.

5) Parking: parking requirements contained in section 300.28, subd. 12, shall apply to all development within the planned I-394 district. Additionally, the following shall apply:

a. structured parking required: all office or service commercial projects exceeding 100,000 square feet gross floor area shall include deck or ramp parking. The percentage of required parking spaces to be included in structured parking shall be determined by the city based on specific characteristics of the master development plan. The city may require structured parking for retail development exceeding 200,000 square feet based on specific characteristics of a master development plan;

b. surface parking lot setbacks: 20 feet from public streets and exterior project lot lines, 50 feet from exterior lot lines abutting an area designated as low density residential in the comprehensive plan unless unique circumstances are found which may allow the city to reduce the setback requirement. Unique circumstances include substantial differences in site elevation, separation by natural features such as wetlands or large stands of mature trees, or substantial visual screening the parking by berms and landscaping. In no case shall the setback be less than 20 feet;

c. parking structure setbacks: the setback for parking structures including decks and ramps shall be 35 feet from local streets and 50 feet from all other street classifications except that in no case shall the setback be less than the height of the structure. Parking structure setbacks from external lot lines shall be 50 feet or the height of the structure, whichever is greater when adjacent to residential properties; 35 feet when adjacent to non-residential properties. Parking structure setbacks from internal public or private streets shall be determined by the city based on specific characteristics of a planned I-394 district master development plan;

d. location of parking facilities: surface parking lots and parking structures shall be located so that views from residential neighborhoods are screened. Parking structures shall be located away from service road frontages unless they are given architectural treatment equal to the building served by the parking structure and are buffered from public views; and

e. parking structure exterior materials: exterior facades of parking structures shall be of materials compatible with exterior materials of the principal building served by the parking structure.

6) Signs: for development with approved master development plans, signs shall be restricted to those which are permitted in a sign plan approved by the city, shall be regulated by permanent covenants which can be enforced by the city, and shall be subject to city review and permit. For existing properties without approved master development plans, signs shall be regulated according to section 325 of this code by using the zoning designation of the property in effect on the day prior to the effective date of this section.

7) Accessory equipment: all mechanical and heating, ventilation, air conditioning equipment shall be incorporated into the architecture of a building so as not to be visible from public views or audible from residential neighborhoods.

8) Refuse storage and recycling: all master development plans shall designate refuse storage sites. Exterior refuse locations shall be screened with a masonry enclosure of materials compatible with the principal building. All buildings shall be designed to accommodate a refuse recycling program and operated under a refuse recycling program as approved by the city.

b) Landscaping: in addition to the landscape plan requirements contained in section 300.27, subd. 14, the following requirements shall be met:

1) Master development plans shall undertake all efforts to preserve existing natural features including wetlands/floodplain, trees and areas of steep slope conditions.

2) All development other than single family residential development shall be buffered from nearby single family neighborhoods. Buffering may be accomplished through the preservation of existing slopes and trees. In cases where natural buffers are absent, earthen berms with new landscape materials shall be installed.

3) Landscape berms and buffers intended to screen development projects from single family residential areas shall be installed with the commencement of construction activity if determined appropriate by the city.

4) A minimum landscape plan investment of 2 percent of total project value is required.

5) All new landscape trees and shrubs must meet the American Standard for Nursery Stock and American National Standard relating to planting guidelines, quality of stock and appropriate sizing of the root ball. Landscape trees must be balled and burlapped or moved from the growing site by tree spade. Deciduous trees will be not less than two inches but not more than four inches caliper for balled and burlapped trees, and not less than four inches but not more than eight inches caliper for spade-moved trees. Coniferous trees will not be less than six feet in height but no more than eight feet for balled and burlapped trees, and not less than eight feet in height but not more than fourteen feet for spade-moved coniferous trees.

The city may allow larger balled and burlapped or spade moved trees if these trees are accompanied with a three year guarantee.

6) Surface parking lots shall be buffered with surrounding berms and coniferous tree plantings.

7) Enhancement of the I-394 frontage shall be achieved by a mixture of a variety of species and sizes of boulevard plantings.

c) Environmental protection: protection and enhancement of environmental elements is determined to have a direct benefit on the quality of life and image of the I-394 corridor. All master development plans shall include the following:

1) Lighting plans: in addition to the requirements contained in section 300.28, subd. 2 of this code, lighting plans shall include the following:

a. Building lighting plans. Accent lighting of buildings may be permitted subject to lighting plan review by the city. Floodlighting of buildings shall be limited to building facades which are not in direct view from residential areas.

b. Site lighting plans. Luminaires are to be located in recessed or boxed fixtures to eliminate off-site direct views of the luminaire.

2) Wetlands/floodplain: wetlands and floodplain areas as identified on official city maps shall be protected by the dedication of permanent conservation easements. Alternatively, the protected lands may be dedicated to the city.

3) Drainage: drainage studies and calculations shall be required for review and approval by the city and other appropriate review jurisdictions. Drainage plans shall comply with the city water resources management plan.

4) Utility lines: master development plans shall include provisions for underground utility lines wherever physically and economically feasible.

5) Noise: noise levels originating in the I-394 system require design sensitivity and mitigative measures. Master development plans shall be designed with attention to the following:

a. preservation of natural sound buffers;

b. installation of new sound buffers created by berming and landscaping, particularly when residential development is included;

c. siting of non-residential buildings to function as sound barriers; and

d. exterior public address or speaker systems are not permitted, unless specifically allowed for certain uses by this section.

(Amended by Ord. No. 2016-08, effective May 23, 2016; Amended by Ord. No. 2009-04; adopted April 6, 2009)

8. Review of Application.

a) In order to receive guidance in the design of a planned I-394 district project prior to submission of a formal application, an applicant may submit a concept plan for review and comment by the planning commission and city council. Submission of a concept plan is optional but is highly recommended for large projects. In order for the review to be of most help to the applicant, the concept plan should contain such specific information as is suggested by the city. Generally, this information should include the following:

1) approximate building and road locations;

2) height, bulk and square footage of buildings;

3) type and square footage of specific land uses;

4) number of dwelling units;

5) generalized grading plan showing areas to be cut, filled and preserved;

6) staging and timing of the development.

7) traffic impact study; and

8) other information determined to be appropriate by the city.

The comments of the planning commission and city council shall address the consistency of the concept plan with this section. The comments of the planning commission and city council shall be for guidance only and, if positive, shall not be considered binding upon the planning commission or city council regarding approval of the formal application when submitted. If a development is of a scale where an environmental assessment worksheet (EAW) is to be prepared, final approval of a master development plan shall not be granted until the EAW receives approval from the city and other appropriate agencies.

b) Approval of a rezoning to planned I-394 district and required master development plan shall be subject to the procedures outlined in section 300.09 of this code for a zoning map amendment. The master development plan shall comply with the standards in this section and other applicable sections of the zoning ordinance. It shall contain the following:

1) building location, height, bulk and square footage;

2) type and square footage of specific land uses;

3) number of dwelling units;

4) detailed street and utility locations and sizes;

5) drainage plan, including location and size of pipes and water storage areas;

6) grading plan;

7) generalized landscape plan;

8) generalized plan for uniform signs and lighting;

9) plan for timing and phasing of the development;

10) covenants or other restrictions proposed for the regulation of the development;

11) renderings or elevations of the entrance side of buildings to be constructed in the first phase of the development.

12) traffic impact study when required; and

13) other appropriate information as required by the city.

Approval of the master development plan shall indicate approval of the previously listed items and for properties not then zoned as planned I-394 district shall occur in conjunction with any proposed rezoning of the property to planned I-394 district. After approval, nothing shall be constructed on the site except in conformance with the approved plans and this section. The procedure for notification of and public hearing on the master development plan shall be the same as required for a zoning map amendment by section 300.09 of this code.

c) Approval of a final site and building plan shall be subject to the procedures outlined in section 300.27 of this code. The final site and building plan shall contain information as required by the city, including the following:

1) detailed utility, street, grading and drainage plans;

2) detailed building elevations, architectural renderings and floor plans; and

3) detailed landscaping, sign and lighting plans.

d) The final site and building plan shall be in substantial compliance with the approved master development plan. Substantial compliance shall mean:

1) buildings, parking areas and roads are in substantially the same location as previously approved;

2) the number of residential living units has not increased or decreased by more than five percent from that approved in the master development plan;

3) the floor area of non-residential uses has not been increased by more than five percent nor has the gross floor area of any individual building been increased by more than 10 percent from that approved in the master development plan;

4) there has been no increase in the number of stories in any building;

5) open space has not been decreased or altered to change its original design or intended use; and

6) all special conditions required on the master development plan by the city have been incorporated into the final site and building plan.

Approval of a final site and building plan shall signify approval of all plans necessary prior to application for a building permit, subject to compliance with any conditions on the approval and subject to other necessary approvals by the city.

e) Applicants may combine the final site and building plan review with the master development plan review by submitting all information required for both stages simultaneously.

f) The planning commission and city council shall base their recommendations and actions regarding approval of a master development plan on a consideration of the following:

1) compatibility of the proposed plan with this section and the goals, policies and proposals of the comprehensive plan;

2) effect of the proposed plan on the neighborhood in which it is to be located;

3) internal organization and adequacy of various uses or densities, circulation and parking facilities, public facilities, recreation areas, open spaces, screening and landscaping;

4) consistency with the standards of section 300.27 pertaining to site and building plan review;

5) accommodation of the traffic associated with a proposed development on the public road system within service level goals as stated in this section and in the comprehensive guide plan; and

6) such other factors as the planning commission or city council deem relevant.

The planning commission and city council may attach such conditions to their actions as they shall determine necessary or convenient to better accomplish the purposes of this section.

(Amended by Ord. No. 2012-07, adopted June 25, 2012)

9. Term of Approval.

Application for a final site and building plan approval must be made by December 31 of the year following the date on which the city approved an application for a rezoning to P.I.D., a master development plan, or a major amendment to a master development plan, whichever was latest. If no application has been made nor extension of time been granted during that time period, the city council may rezone the property to the original zoning classification at the time of the application or to a zoning classification consistent with the comprehensive plan designation for the property. In the absence of a rezoning, the approved master development plan shall remain the legal control governing development of the property.

If construction on the property included within an approved final site and building plan has not started by December 31 of the year following the date on which the final site and building plan was approved, if building construction in a phase of a planned I-394 district approved to be built in phases has not started within that same period, or if within that period no extension of the time has been granted, the city council may rezone the property to the original zoning classification at the time of the application or to a zoning classification consistent with the comprehensive plan designation for the property. In the absence of rezoning, the approved master development plan and final site and building plan shall remain the legal control governing development of the property.

10. Amendments.

A major amendment to an approved master development plan may be approved by the city council after review by the planning commission. The notification and public hearing procedure for the amendment shall be the same as for approval of the original master development plan. A major amendment is any amendment which:

a) substantially alters the location of buildings, parking areas or roads;

b) increases or decreases the number of residential dwelling units by more than 5 percent;

c) increases the gross floor area of non-residential buildings by more than 5 percent or increases the gross floor area of any individual building by more than 10 percent;

d) increases the number of stories of any building;

e) decreases the amount of open space by more than 5 percent or alters it in such a way as to change its original design or intended use;

f) creates non-compliance with any special condition attached to the approval of the master development plan; or

g) increases traffic generation beyond either the limit specified in subdivision 13 of this section or that associated with an approved master development plan.

Any other amendment may be made through review and approval by a simple majority vote of the planning commission.

11. Applicability.

a) This section shall not apply to any P.U.D. or planned unit residential development which has received preliminary or final approval by the city council prior to the effective date of this section unless applicability is requested by the property owner and approved by the city council or unless there is a major amendment to the approved master development plan.

b) The planned I-394 district has been uniquely developed for properties located in the I-394 corridor. This section has been developed to regulate corridor growth within the capacity of public facilities. No property in the traffic analysis districts identified in Subdivision 13 which is designated for a use other than low density residential in the guide plan may be rezoned to a zoning classification other than planned I-394 district. A contrary rezoning will be permitted only if it is demonstrated that the planned I-394 district incorrectly applies to a specific property.

12. Separate Districts.

There shall be separate planned I-394 districts for each traffic analysis district identified in subdivision 13. All property which is zoned planned I-394 district shall be included within the separate zoning district associated with a particular traffic analysis district. All property in a traffic analysis district area which is not yet zoned planned I-394 district shall become part of the associated separate zoning district upon rezoning.

13. P.M. Peak Hour Trip Generation Limits.

Traffic Analysis District No. 1 (Figure 31-2)

Parcel Number Existing P.M. Peak Hour Trips P.M. Peak Hour Trips

P.I.D. District No. 1

1 202 251

2 98 190

3 0 783

4 0 69

5 47 110

6a 45 285

6b 152 218

6c 13 99

7 20 56

8 13 35

9 11 33

10 13 35

other:

multi family parcels (total) 80

mid density

single family parcels (total) 84

total: 2328

Traffic Analysis District No. 2 (Figure 31-2)

Parcel Number Existing P.M. Peak Hour Trips P.M. Peak Hour Trips

P.I.D. District No. 2

1 0 226

2 0 27

3 multi family parcels

mid density (total) 67

high density (total) 187

total: 507

Traffic Analysis District No. 3 (Figure 31-2)

Parcel Number	Existing P.M. Peak Hour Trips	P.M. Peak Hour Trips
P.I.D. District No. 3		
1	0	1997

Traffic Analysis District No. 4 (Figure 31-2)

Parcel Number	Existing P.M. Peak Hour Trips	P.M. Peak Hour Trips
P.I.D. District No. 4		
1	0	562
2	118	80
3	8	114
4	65	121
5	305	170
6	199	191
7	197	332
8	0	855
other:		
single family parcels (total)		141
total:		2566

Traffic Analysis District No. 5 (Figure 31-3)

Parcel Number	Existing P.M. Peak Hour Trips	P.M. Peak Hour Trips
P.I.D. District No. 5		
1	96	113
2	75	99
3	49	32
4	40	32
5	0	40
6	1	30
7	0	615
other:		
8 (high density residential)	21	92
Single family parcels (total)		65
total:		1138

Traffic Analysis District No. 6 (Figure 31-3)

Parcel Number	Existing P.M. Peak Hour Trips	P.M. Peak Hour Trips
P.I.D. District No. 6		
1	20	185
2	12	94
3	19	136
4	179	370
5	129	177
6	121	194
7	90	731
8 (high density residential 815 units)	489	489
other:		
single family parcels (total)		71
total:		2447

Traffic Analysis District No. 7 (Figure 31-3)

Parcel Number	Existing P.M. Peak Hour Trips	P.M. Peak Hour Trips
P.I.D. District No. 7		
1	98	328
2	0	168
other:		
3	36	1156
single family parcels (total)		63
total:		1715

Traffic Analysis District No. 8 (Figure 31-3)

Parcel Number Existing P.M. Peak Hour Trips P.M. Peak Hour Trips

P.I.D. District No. 8

1a 44 702

2 85 212

3 43 69

4 15 19

other:

1b 64 246

5 7 128

single family parcels (total) 51

total: 1427

Traffic Analysis District No. 10 (Figure 31-4)

Parcel Number Existing P.M. Peak Hour Trips P.M. Peak Hour Trips

P.I.D. District No. 10

1 0 2

other:

2 6 7

single family parcels (total) 147

multi family parcels (total) 3

total: 159

Traffic Analysis District No. 11 (Figure 31-4)

Parcel Number Existing P.M. Peak Hour Trips P.M. Peak Hour Trips

P.I.D. District No. 11

1 183 133

2 148 101

3 59 60

4 77 92

5 182 205

6 59 119

other:

single family parcels (total) 85

total: 795

Traffic Analysis District No. 12 (Figure 31-4)

Parcel Number	Existing P.M. Peak Hour Trips	P.M. Peak Hour Trips
P.I.D. District No. 12		
1	224	143
2	887	783
3	27	43
4	57	68
5	59	48
6	305	338
7	157	173
8	72	192
other:		
9 (high density residential)	1	25
multi family parcels (total)	226	
single family parcels (total)	58	
total:	2097	

Traffic Analysis District No. 14 (Figure 31-5)

Parcel Number	Existing P.M. Peak Hour Trips	P.M. Peak Hour Trips
P.I.D. District No. 14		
1	2760	2770
2	212	213
3	28	41
4	92	69
5	22	34
total:	3127	

Traffic Analysis District No. 15 (Figure 31-5)

Parcel Number	Existing P.M. Peak Hour Trips	P.M. Peak Hour Trips
P.I.D. District No. 15		
1	74	27
2	15	106
other:		
3	472	210
4	74	250
5 (high density residential 179 units)	107	
6 (mid density residential 69 units)	55	
7 (mid density residential 48 units)	38	
single family parcels (total)	22	
total:	815	

Traffic Analysis District No. 16 (Figure 31-5)

Parcel Number	Existing P.M. Peak Hour Trips	P.M. Peak Hour Trips
P.I.D. District No. 16		
1	27	27
2	230	230
3	0	102
other:		
4	0	212
single family parcels (total)	26	
total:	597	

Traffic Analysis District No. 19 (Figure 31-5)

Parcel Number	Existing P.M. Peak Hour Trips	P.M. Peak Hour Trips
P.I.D. District No. 19		
1	90	63
2	9	20
3a	27	24
3b	24	34
4	40	48
5	81	81
6	62	68
7	20	20
8	40	24
9	78	88
10	64	84
11	83	63

12 (medium density 36

residential 45 units)

other:

13 20 246

single family parcels (total) 209

total: 1108

Figure 31-2

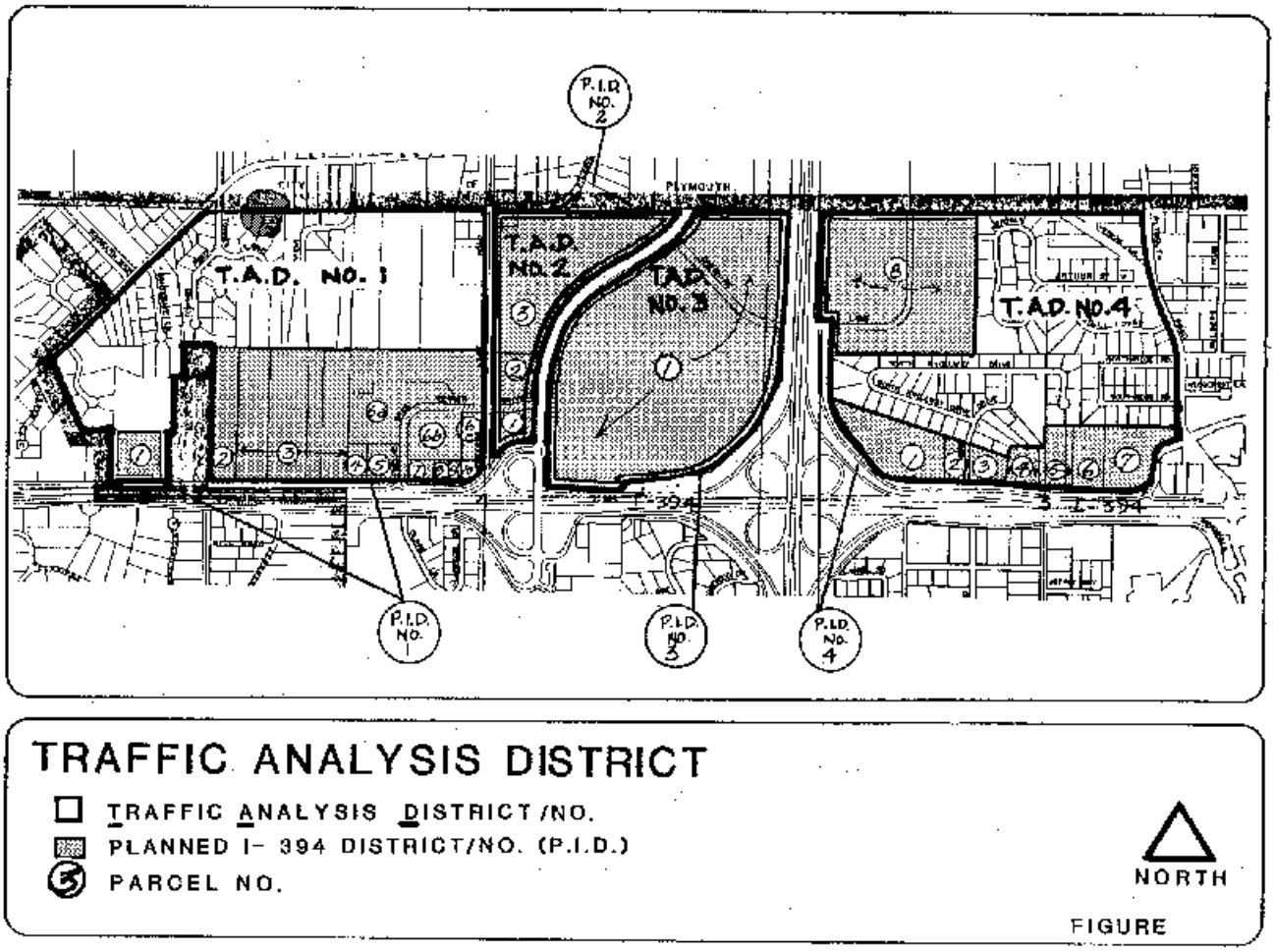


Figure 31-3

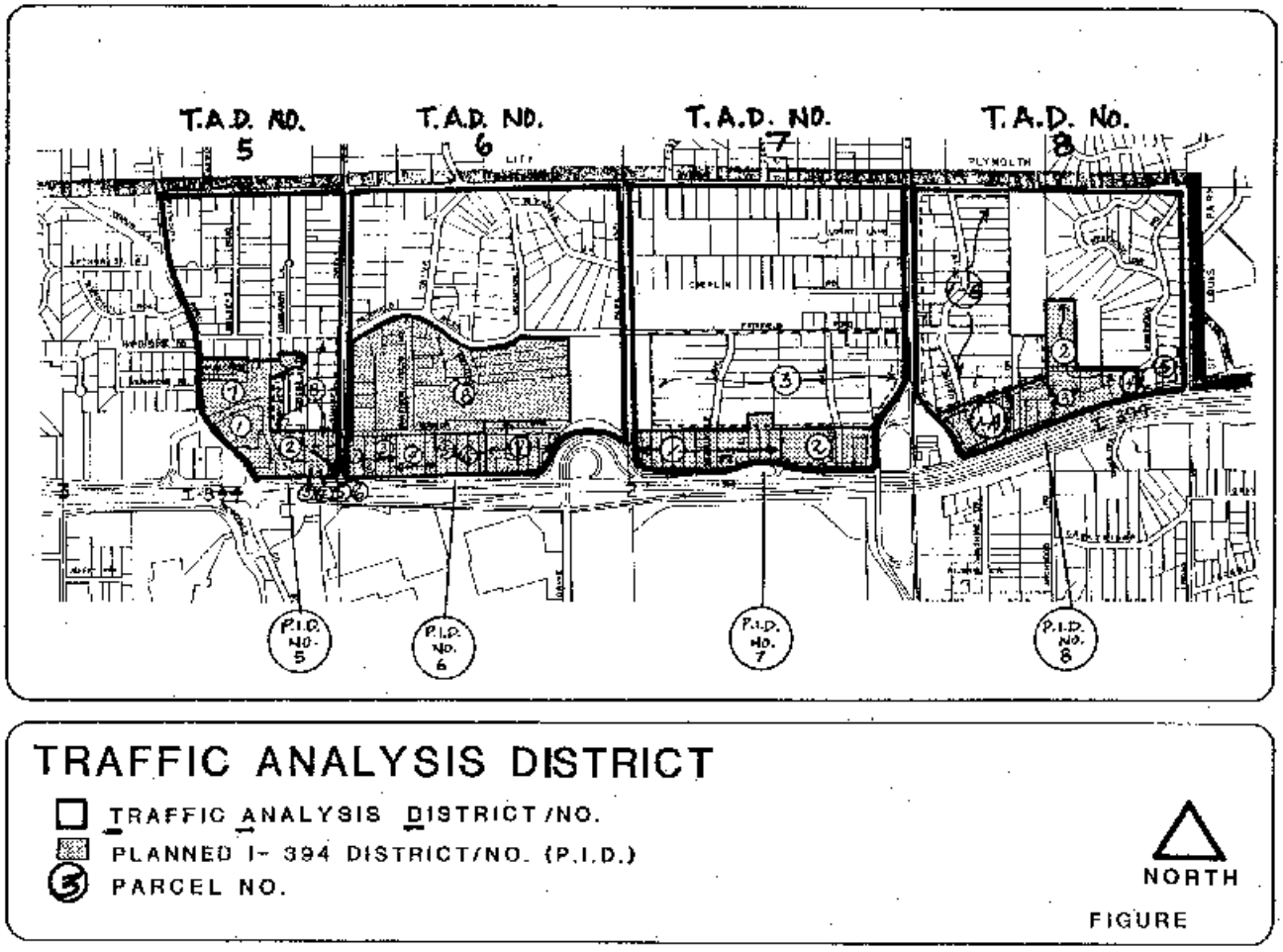

T.A.D. NO. 5
T.A.D. NO. 6
T.A.D. NO. 7
T.A.D. No. 8
P.I.D. NO. 5
P.I.D. NO. 6
P.I.D. NO. 7
P.I.D. NO. 8
TRAFFIC ANALYSIS DISTRICT
TRAFFIC ANALYSIS DISTRICT/NO.
PLANNED I- 394 DISTRICT/NO. (P.I.D.)
PARCEL NO.
NORTH
FIGURE

Figure 31-4

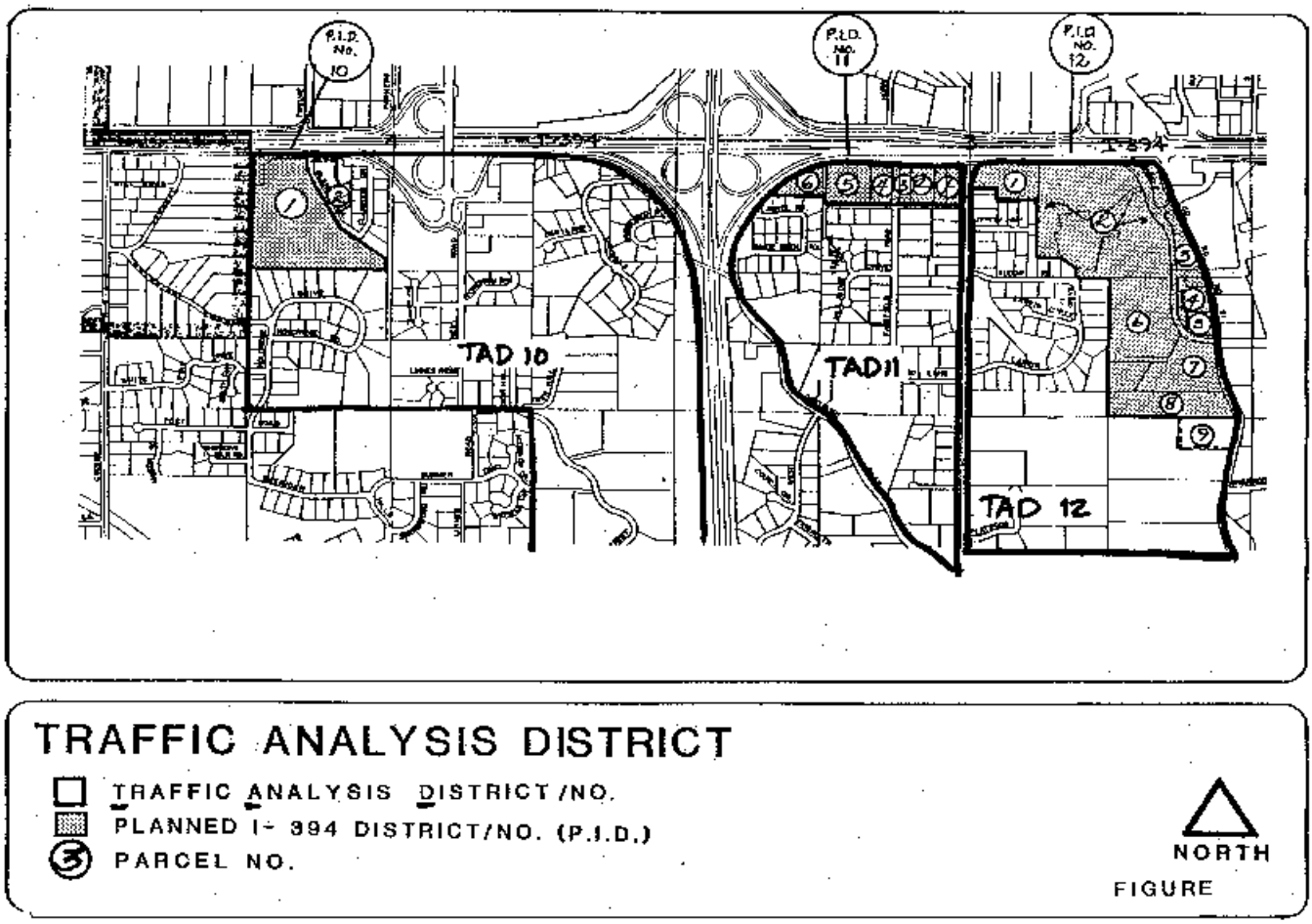
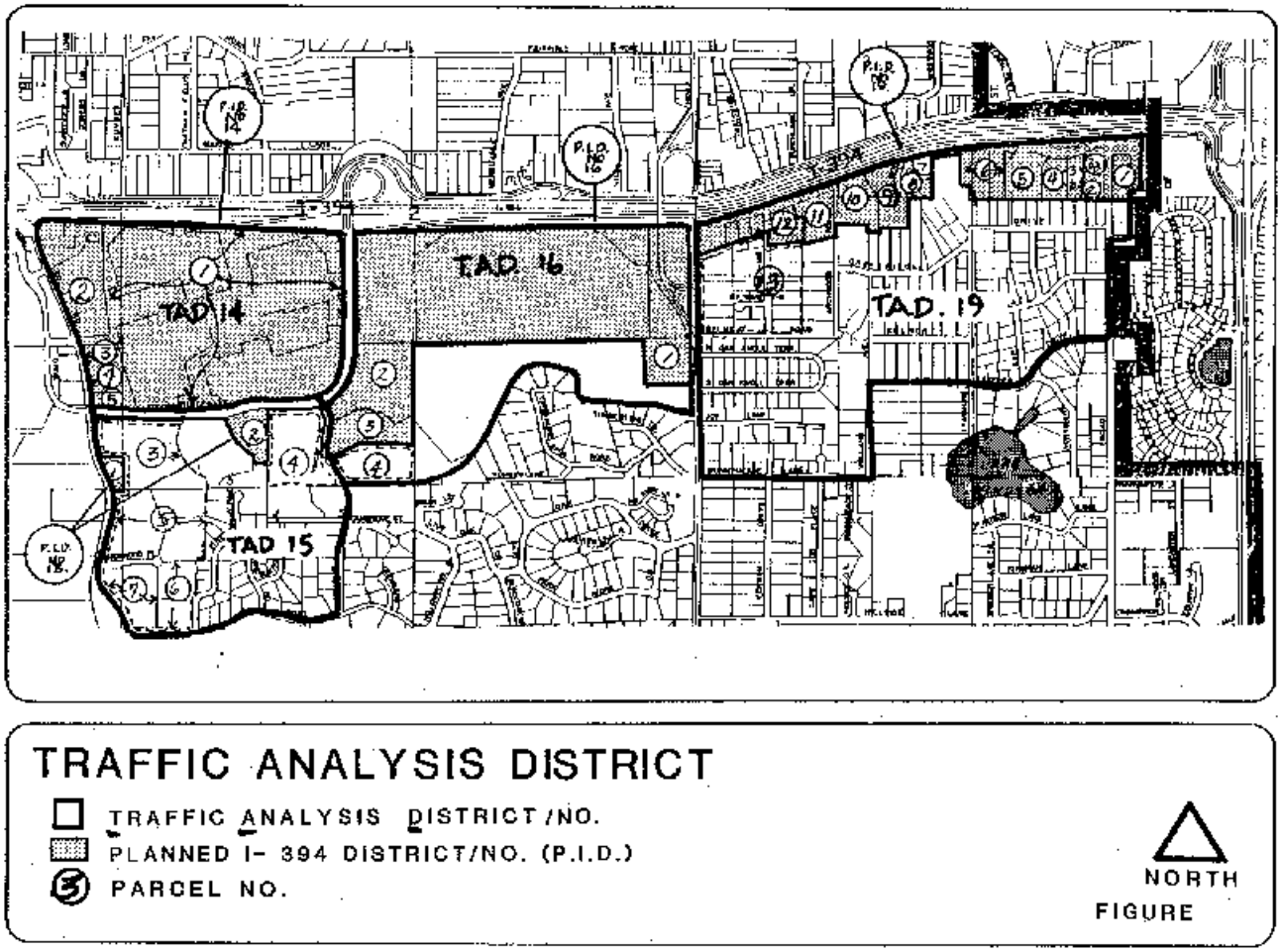

P.I.D. No. 10
P.I.D. No. 11
P.I.D. No. 12
I-394
TAD 10
TAD 11
TAD 12
TRAFFIC ANALYSIS DISTRICT
TRAFFIC ANALYSIS DISTRICT/NO.
PLANNED I- 394 DISTRICT/NO. (P.I.D.)
PARCEL NO.
NORTH
FIGURE

Figure 31-5



(Amended by Ord. No. 2014-07, adopted March 24, 2014; Amended by Ord. No. 2008-25, adopted August 25, 2008; Amended by Ord. No. 2004-07, adopted March 15, 2004; Amended by Ord. No. 2004-02, adopted January 5, 2004; Amended by Ord. No. 2002-04, adopted February 11, 2002; Amended by Ord. No. 2002-03, adopted January 7, 2002; Amended by Ord. No. 2000-19, adopted October 16, 2000; Amended by Ord. No. 99-25, adopted October 11, 1999)

SECTION 300.32. I-394 REDEVELOPMENT OVERLAY DISTRICTS.

1. Purpose.

The city has determined that certain lands lying adjacent and in proximity to I-394 may be desirable for redevelopment. These lands shall be subject to I-394 redevelopment overlay districts. The boundaries of these districts are shown on Figures 32-1 through 32-4, which shall be a part of the official zoning map established by section 300.01, subd. 5.

2. Definitions.

Definitions of terms applicable to this section are contained in section 300.31, subd. 2.

3. Interim Development.

Properties zoned R-1, low density residential district on and after the effective date of this ordinance will remain R-1 for development and subdivision purposes. Section 300.10 (R-1, low density residential district) shall apply until parcels are rezoned to planned I-394 district.

4. Redevelopment Requirements.

In order to promote planned, responsible growth in accordance with the comprehensive plan, lands within I-394 redevelopment overlay districts will be considered for development, redevelopment or master development plan approval only upon compliance with all provisions of the zoning ordinance, the comprehensive guide plan and the following specific items:

a) I-394 redevelopment overlay district #1, northeast quadrant of County Road 73/I-394.

1) Lands lying within I-394 redevelopment overlay district #1 as shown on Figure 32-1 and located east of Westwood Road must be assembled into one unified redevelopment area.

2) In order to maintain acceptable levels of service on the public road system, a development cap for new development/redevelopment

is established for redevelopment overlay district #1. No additional development will be approved unless it is shown that vehicle trip generation is in substantial compliance with limitations established for traffic analysis district no. 8 as stated in section 300.31, subd. 13.

b) I-394 redevelopment overlay district #2, northeast quadrant of County Road 73/I-394.

1) Lands lying within I-394 redevelopment overlay district #2 as shown on Figure 32-1 and located east of County Road 73 and west of the wetlands/woodside planned unit development are eligible for redevelopment only in any of the following circumstances:

a. All parcels south of Fairfield Road are assembled into one unified redevelopment site, but no redevelopment is proposed for all parcels north of Fairfield Road. Redevelopment and rezoning of this area under these circumstances will be considered only if a buffer area is provided between the development south of Fairfield Road and the homes that will remain north of Fairfield Road. The size and type of buffer area shall be at the discretion of the city council.

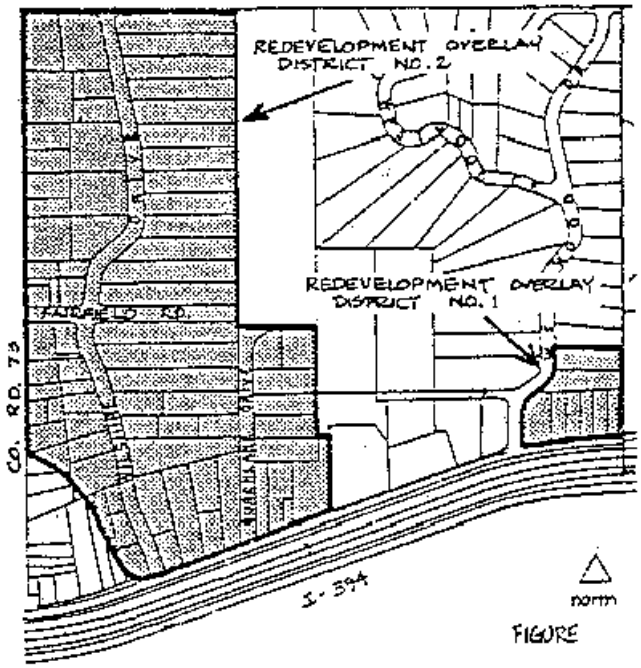
b. All parcels south of Fairfield Road are assembled into one unified redevelopment site and all parcels north of Fairfield Road are concurrently assembled to form a second unified redevelopment site.

c. All parcels south and north of Fairfield Road are assembled into one unified redevelopment site.

2) No additional development/redevelopment will be approved unless it is shown that vehicle trip generation is in substantial compliance with limitations established for traffic analysis district no. 8 as stated in section 300.31, subd. 13.

Figure 32-1

Sec. 300.32
Sub. 4 b) 2)

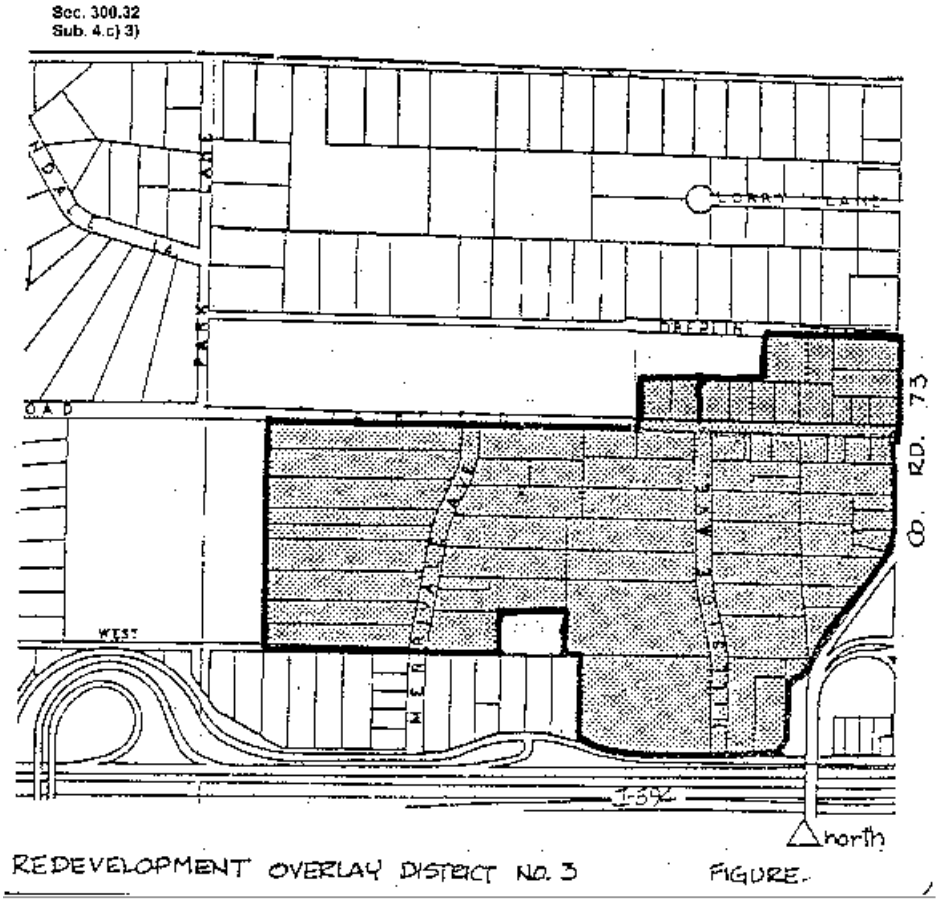


c) I-394 redevelopment overlay district #3, northwest quadrant of County Road 73/I-394.

1) All properties south of Oberlin Park, as shown on Figure 32-2, must be assembled into one unified development site.

2) No additional development/redevelopment will be approved unless it is shown that vehicle trip generation is in substantial compliance with limitations established for traffic analysis district no. 7 as stated in section 300.31, subd. 13.

Figure 32-2



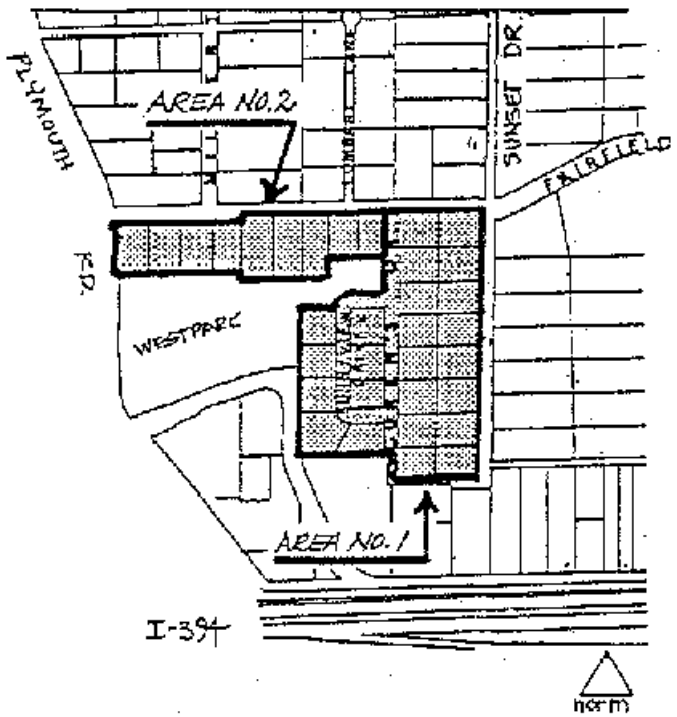
d) I-394 redevelopment overlay district #4, east of Plymouth Road.

Area 1: lands lying between the North Highway 12 redevelopment district to the east and the Westpark planned unit development district to the west as shown on Figure 32-3 are eligible for redevelopment only if all parcels are assembled into one unified development site. No development/redevelopment for this portion of I-394 redevelopment overlay district #4 will be approved unless it is shown that vehicle trip generation is in substantial compliance with limitations established for traffic analysis district no. 5 as stated in section 300.31, subd. 13.

Area 2: lands lying between Fairfield Road and the westpark planned unit development district as shown on Figure 32-3 are eligible for redevelopment only as part of an enlarged westpark planned unit development district and all residential parcels are included in the enlarged district. No additional development/redevelopment for this portion of I-394 redevelopment overlay district #4 will be approved unless it is shown that vehicle trip generation is in substantial compliance with limitations established for traffic analysis district no. 5 as stated in section 300.31, subd. 13.

Figure 32-3

Sec. 300.32
Sub. 4.d) area 2



FIGURE

REDEVELOPMENT OVERLAY DISTRICT NO. 4

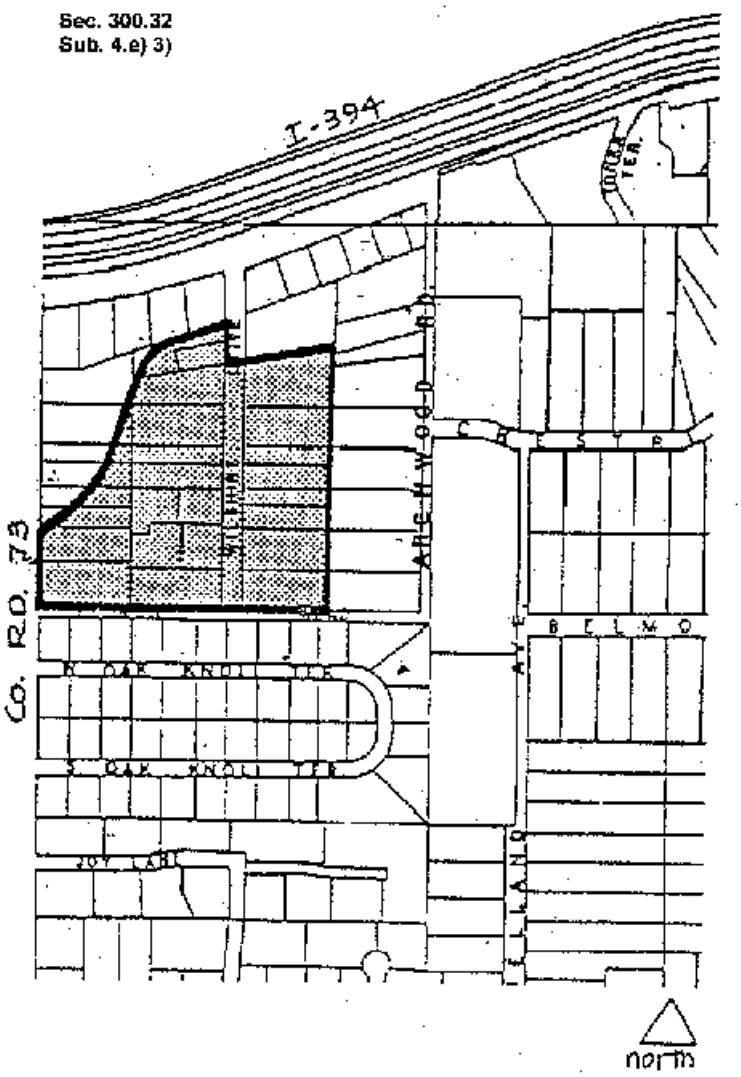
e) I-394 redevelopment overlay district #5, southeast quadrant of County Road 73/I-394:

1) All parcels as shown on Figure 32-4 must be assembled into one unified development site.

2) No building heights greater than three stories will be permitted in order to minimize the impact on nearby residential property.

3) No additional development/redevelopment will be approved unless it is shown that vehicle trip generation is in substantial compliance with limitations established for traffic analysis district no. 19 as stated in section 300.31, subd. 13.

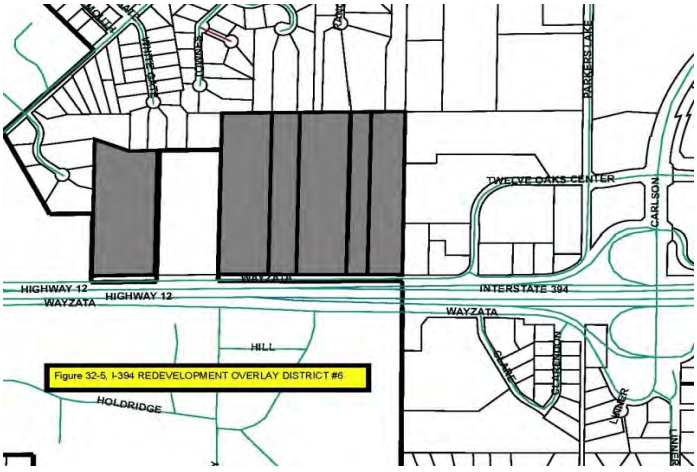
Figure 32-4



FIGURE

REDEVELOPMENT OVERLAY DISTRICT No. 5

f. I-394 redevelopment overlay district no. 6, including lands lying to the north of I-394, west of Carlson Parkway and south and east of Gleason Lake Road as shown on Figure 32-5.



g. I-394 redevelopment overlay district no. 7, including lands lying to the north of I-394, east of I-494 and west of Plymouth Road as shown in Figure 32-6.



(Amended by Ord. No. 2012-07, adopted June 25, 2012; Amended by Ord. No. 2008-21, adopted July 28, 2008)

SECTION 300.33. ANTI-BLIGHT REGULATIONS.

1. Purpose.

The purpose of this section is to control, through zoning regulations, certain land uses that have a direct and detrimental effect on the character of the city's residential and commercial neighborhoods. The city council specifically recognizes the sanctity and fundamental nature of free speech and does not intend to regulate or ban speech based on content.

2. Findings.

The Minnetonka city council makes the following findings regarding the effect sexually-oriented businesses have on the character of the city's neighborhoods. In making these findings, the city council accepts the recommendations of a task force including staff from Minnetonka and two other cities, that has studied the experiences of other urban areas where sexually-oriented businesses have located.

a) Sexually-oriented businesses have an impact on the neighborhoods surrounding them which is distinct from the impact caused by other uses.

b) Residential and commercial neighborhoods located within close proximity to sexually- oriented businesses experience the following negative impacts:

1) increased crime rates, particularly in sex-related crimes such as rapes, prostitution, indecent exposure and other lewd and lascivious behavior;

2) property values which are either diminished or fail to appreciate at the rate of other comparable properties not located in proximity to sexually-oriented businesses;

3) increased transiency and decreased stability of ownership;

4) deteriorated neighborhood appearance from litter and graffiti;

5) sex-related harassment of residents and customers by motorists and pedestrians;

6) a perception that the area is "unsafe;" and

7) difficulty in attracting and retaining customers, employees, and desirable tenants.

c) The adverse impacts which sexually-oriented businesses have on surrounding areas diminish as the distance from the sexually-oriented business increases.

d) The adverse impacts of sexually-oriented businesses are exacerbated when the uses are located near each other.

e) The presence of liquor establishments in the immediate vicinity of sexually-oriented businesses also compounds the adverse impacts on the neighborhood.

f) Sexually-oriented businesses can exert a dehumanizing influence on persons attending places of worship, children attending day care centers or schools, and people using public parks and libraries.

g) Sexually-oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can impair the character and quality of the residential housing in the area where they are located, thereby exacerbating the shortage of affordable and habitable housing for city residents.

h) The concentration of sexually-oriented businesses in one area can have a substantially detrimental effect on that area and on the overall quality of urban life. A cycle of decay can result from the influx and concentration of sexually-oriented businesses. The presence

of such businesses is perceived by others as an indication that the area is deteriorating and the result can be devastating: other businesses move out of the vicinity and residents flee from the area. The resulting decline in real estate values erodes the city's tax base and contributes to overall urban blight.

i) Land-use regulations are appropriate to minimize the detrimental effects that sexually-oriented businesses have on adjacent land uses.

3. Definitions.

The following words and terms shall have the following meanings when used in this section, except as provided otherwise in subdivision 4 below:

a) "Sexually-oriented business" - means

1) a business that meets any of the following criteria, measured on a daily, weekly, monthly, or yearly basis:

a. has more than 25% of its inventory, stock in trade, or publicly displayed merchandise in sexually-oriented materials,

b. devotes more than 25% of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to sexually-oriented materials, or

c. derives more than 25% of its gross revenues from sexually-oriented materials; or

2) a business that engages for any length of time in a sexually-oriented use as defined in subdivision c below or any other use that has an emphasis on specified sexual activities or specified anatomical areas.

b) "Sexually-oriented materials" - means visual, printed, or aural materials, and other objects or devices, which:

1) contain, depict, simulate, or describe specified sexual activities or specified anatomical areas;

2) are marketed for use in conjunction with, or are primarily used only with or during, specified sexual activities; or

3) are designed for sexual stimulation.

c) "Sexually-oriented use" means any of the following activities and businesses, even if the activity exists for only a short-time:

1) "Adult body painting studio" means an establishment or business that provides the service of applying paint, ink, or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.

2) "Adult bookstore" means an establishment or business used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, movies, or motion picture film if it meets the criteria established in paragraph (a)(1) above.

3) "Adult cabaret" means a business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on: (1) the depiction of nudity, specified sexual activities or specified anatomical areas; or (2) the presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.

4) "Adult companionship establishment" means a business or establishment that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

5) "Adult conversation/rap parlor" means a business or establishment that provides the services of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

6) "Adult health/sport club" means a health/sport club that is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

7) "Adult hotel or motel" means a hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

8) "Adult massage parlor/health club" means a massage parlor or health club that provides massage services distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

9) "Adult Mini-Motion Picture Theater" means a business or establishment with a capacity of less than 50 persons that as a prevailing practice presents on-premises viewing of movies, motion pictures, or other material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

10) "Adult Modeling Studio" means a business or establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.

11) "Adult Motion Picture Arcade" means any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

12) "Adult Motion Picture Theater" means a motion picture theater with a capacity of 50 or more persons that as a prevailing practice

presents material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons.

13) "Adult Novelty Business" means an establishment or business that has a variety of items for sale if it meets the criteria established in paragraph (1)(a) above.

14) "Adult Sauna" means a sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

15) "Adult Steam Room/Bathhouse Facility" means a building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

d) "Specified anatomical areas"- means:

1) less than completely and opaquely covered human genitals, pubic area, buttock, anus, or female breast below a point immediately above the top of the areola; and

2) human male genitals in a state of sexual arousal, whether or not completely and opaquely covered.

e) "Specified sexual activities" - means:

1) Actual or simulated: sexual intercourse; oral copulation; anal intercourse; oral-anal copulation; bestiality; direct physical stimulation of unclothed genitals; flagellation or torture in the context of a sexual relationship; the use of excretory functions in the context of a sexual relationship; anilingus; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pedophilia; piquerism; or zooerastia;

2) Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence;

3) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;

4) Fondling or touching of nude human genitals, pubic regions, buttocks, or female breasts, except touching the buttocks of a person receiving a massage if done upon the person's request and only for medical purposes such as relieving pain or muscle soreness;

5) Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding, or other physical restraint of any person;

6) Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or

7) Human excretion, urination, menstruation, or vaginal or anal irrigation.

(Amended by Ord. No. 2011-25, adopted December 19, 2011)

4. Exceptions.

This section does not regulate the following:

a) any material with significant literary content or social commentary;

b) a business where sexually-oriented materials are sold, bartered, distributed, leased, furnished, or otherwise provided for off-site use or entertainment, if (1) the sexually- oriented material on each item is blocked from view by an opaque cover as required under Minn. Stat. § 617.293, and (2) each item is in an area accessible only by an employee of the business;

c) any person or organization exempted under Minn. Stat. § 617.295;

d) *[repealed]*

e) displaying works of art showing specified anatomical areas, so long as no sexually- oriented materials are for sale, and the business does not have a liquor license; and

f) movies rated G, PG, PG13, NC-17, or R.

(Amended by Ord. No. 2025-05, effective April 19, 2025)

5. Location of a Sexually-Oriented Business.

a) A sexually-oriented business may locate only in the B-1, B-2, B-3, and I-1 zones, and in PUD and PID zones on land that is designated in the master development plan for a non- residential use.

b) No person may operate a sexually-oriented business on property, any part of which is within the area circumscribed by a circle that has a radius of 250 feet from any of the uses listed below. Distances must be measured by following a straight line, without regard to intervening structures or objects, between the closest points on the boundary lines of the property parcels where the two uses are located. This distance requirement applies to the following uses:

1) property used or zoned for residential uses;

2) a day care facility, school, library, park, playground, state or federal wildlife area or preserve, religious institution, or other public recreational facility;

3) premises licensed under city code chapter 600, relating to liquor, beer and wine licensing; and

4) another sexually-oriented business.

6. Sign Restrictions for Sexually-Oriented Businesses.

In order to protect children from exposure to lurid signs and materials, to avoid the appearance that the windows are boarded-up and that the property is deteriorating, and to preserve the value of property surrounding sexually-oriented businesses, the following sign regulations apply to all sexually-oriented businesses, in addition to the provisions of section 325. To the extent that the following provisions are inconsistent with section 325, the following provisions apply.

a) All signs must be flat wall signs. No signs may be freestanding, located on the roof, or contain any flashing lights, moving elements, or electronically or mechanically changing messages.

b) No merchandise, photos, or pictures of the products or entertainment on the premises may be displayed in, or immediately behind, window areas or any other area, if they can be viewed from outside the portion of the building in which the business is located.

c) Window areas must not be covered or made opaque in any way. No signs may be placed in a window. A sign no larger than one-square-foot must be placed on the main entrance door and must state, “adults only.” The letters of this message must be a minimum of 2 inches high. The only other information on this sign may be the hours of operation.

(Amended by Ord. No. 2016-08, effective May 23, 2016)

7. Penalty.

A violation of this section is a misdemeanor under Minnesota law and is subject to the penalties and provisions of chapter 13 of the city code.

(Section amended by Ord. No. 2002-14, adopted May 20, 2002)

SECTION 300.34. [REPEALED]

(Amended by Ord. No. 2018-03, effective March 19, 2018)

SECTION 300.35. OPUS OVERLAY DISTRICT.

1. Preamble.

The city has determined that future growth within the general area of the Opus II business park must be responsibly managed to maintain acceptable levels of traffic operation on regional and local road systems. The city has also determined that the highway interchange at Bren Road and Highway 169 is nearly at full capacity and that the interchange is the primary limiting factor for growth in the majority of the Opus II business park area. Limitations must be placed on this area in addition to the underlying zoning requirements in order to prevent unacceptable levels of traffic at the Bren Road interchange. Therefore, the Opus overlay district is established, and properties in that district are subject to the provisions in this section.

2. Boundaries of Opus Overlay District.

The Opus overlay district covers the area bounded by County Road No. 62 on the south, Highway 169 on the east, Smetana Road on the north, and Shady Oak Road/County Road No. 61 on the west. The Opus overlay district is further divided into four traffic analysis districts that reflect the different levels of expected distribution of traffic to the Bren Road interchange. The boundaries of each traffic analysis district are shown in subdivision 4.

3. Traffic Requirements.

In order to avoid overloading the Bren Road interchange, all non-residential parcels within the Opus overlay district are subject to the following traffic requirements. If an application is submitted to increase the density of a residential parcel, that application will be subject to the following requirements except for the trip generation limit. If an application is submitted to change the use of a residential parcel, that parcel will be subject to all of the following requirements, and the city will establish an appropriate trip generation limit for that parcel.

a) Traffic impact studies: a traffic impact study prepared by a registered traffic engineer to assess potential traffic impacts on local and regional road systems is required for any of the following:

1) any development that exceeds 25,000 square feet of gross floor area;

2) expansion of existing development that exceeds 10 percent of gross floor area and the total gross floor area is 25,000 square feet or greater; or

3) any development for which the p.m. peak hour trip generation rate, as defined by the institute of traffic engineers, is expected to exceed two p.m. peak hour trips per 1,000 square feet of gross floor area.

b) Trip generation:

1) Development limitations based on p.m. peak hour trip generation are established in subdivision 4 for each parcel of non-residential land in the Opus area district that contributes traffic to the Bren Road interchange. These development limitations have been developed by determining the maximum number of p.m. peak hour trips that can be accommodated at the interchange. That number of trips was then allocated proportionately on the basis of the maximum development that would be allowed under current zoning standards and the rate of trip distribution to the interchange for each traffic analysis district. The properties in traffic analysis district no. 4 were determined to have no trips to the interchange, so no trip generation limits are imposed for that district.

2) The trip generation numbers specified in subdivision 4 are the maximum numbers of p.m. peak hour trips that may be generated by non-residential properties to the Bren Road and TH169 interchange in traffic analysis districts no. 1, 2, and 3. To determine the maximum square footage of building space that is allowed for each parcel, the trip limitation number is divided by the p.m. peak hour rate for that use. The applicable rates are those specified in the Opus II area trip generation analysis, dated August 1, 2009, on file in the community development department. Substantial compliance with the trip generation number and resultant maximum square footage of buildable space is required. In determining trip generation and allowable building square footage, gross floor area of a building must be used, except that gross leasable area may be used when there is a substantial amount of common area within a building and when institute of traffic engineers data is based on gross leasable area.

3) Uses existing on December 7, 2009 that generate greater p.m. peak hour trips or that have a greater building area than would be allowed by the trip generation number may continue to exist as non-conforming developments. These uses are subject to the restrictions contained in section 300.29; however, each of these uses is allowed to expand by no more than 10 percent of existing building area if measures are taken to keep the traffic generation at the rate existing on December 7, 2009. An expansion beyond that amount or a change of use is permitted only if there is substantial compliance with the trip generation limit.

4) Unused trips allocated by this ordinance to a parcel under subdivision 4 are not a property right that may be transferred at will to another property. Allocated trips may be transferred to another property in the overlay district only with the approval of the city council, which may deny the transfer if it is likely to have a negative impact on the public health, safety, or welfare.

c) Appeal of p.m. peak hour trips:

1) The owner of any property subject to a trip generation limit may appeal that limit to the planning commission and city council. No appeal may be taken unless the affected property owner files a written appeal with the city clerk within 90 days after the adoption of this section. The failure to file a timely appeal eliminates all right to challenge a trip generation limit. The appeal must be accompanied by a report prepared by a registered traffic engineer. The report must provide evidence indicating potential errors in a p.m. peak trip or rate, reasons why the property or development is presently generating, or will in the future generate, less p.m. peak hour trips, or both.

2) The appeal will be reviewed by the planning commission. Notices of a public meeting before the planning commission regarding the appeal will be mailed to owners of property located wholly or partially within 400 feet of the subject property, as reflected in the certified records of the Hennepin county auditor.

3) After receipt of the recommendation of the planning commission, the city council will consider the matter and may hold whatever hearing it deems advisable. The city council must serve a copy of its decision upon the applicant by mail. The city council may approve an appeal only upon an affirmative vote of at least two-thirds of its full membership.

d) Road system improvements:

1) Development that would exceed the established trip generation limitations may only be constructed if concurrent road system improvements to accommodate the additional trip generation are paid for by the property owner. The road system improvements must achieve a level of service operation at the Bren Road interchange consistent with the level of service that would have existed without the excess trip generation. The adequacy and necessity of the road system improvements will be reviewed and approved by the city council as part of the development approvals.

2) If the city constructs, or participates in financing, road system improvements that create additional capacity at the Bren Road interchange after December 7, 2009, development beyond the allocated trip generation number is allowed only if the developer helps to reimburse the city for its costs by purchasing additional trips from the city. The city will determine the value of each additional trip by dividing the city's share of the total construction cost by the number of p.m. peak hour trips that can be added to the interchange because of the construction. That value will be adjusted each year by the rate established in the engineering news record or a similar standard for determining the inflationary or deflationary rate of construction costs per year.

3) Purchase of the additional trips from the increased capacity of the Bren Road interchange will be on a first-come, first-served basis. When all of the additional trips have been purchased, no more fees for additional trips will be charged and no development beyond that allowed by the allocated and purchased trips may occur. Purchase of the additional trips may occur only after a development has received all necessary land use approvals from the city. The trips will not be reserved for the development until the payment is made. If all available trips have been purchased before the owner of an approved development seeks to pay for its needed trips, the development may not proceed.

4) All purchased trips may be used only for the specific associated development approved by the city. Notwithstanding the foregoing, the owner of purchased trips may transfer those trips to another development if the city council has given all necessary land use

approvals for that other development and has approved the transfer of those trips, after considering the impact on the public health, safety, and welfare.

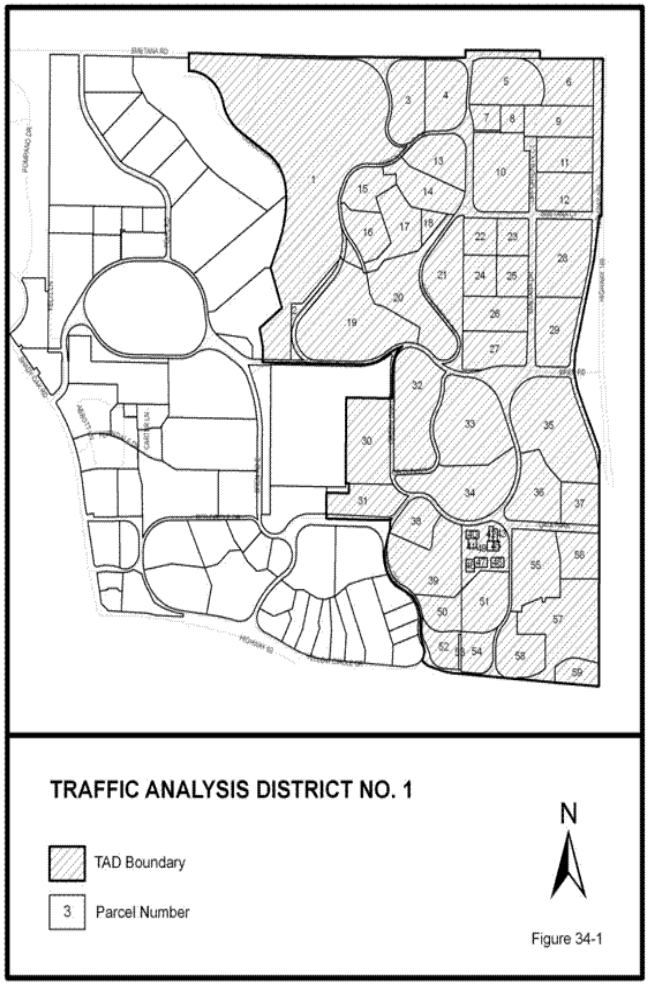
5) Nothing in this chapter may be construed to eliminate developer responsibility for other improvements unrelated to the Bren Road interchange. If a traffic impact study finds that road system improvements unrelated to the Bren Road interchange are required as a result of the proposed development, no construction of the development may commence until arrangements, including financing, for completion of permanent improvements are made and approved by the city. If qualifying warrants are not met for such improvements, the city may require that the property owner install interim improvements.

e) Phased occupancy: the city may require phased construction or occupancy of a building or portions of a development/redevelopment project. Such phasing may be tied to completion of a road system improvement found to be needed by the traffic impact study.

(Amended by Ord. No. 2012-07, adopted June 25, 2012; Amended by Ord. No. 2019-08, adopted March 18, 2019)

4. P.M. Peak Hour Trip Generation Limits.

Traffic Analysis District No. 1 (Figure 34-1)

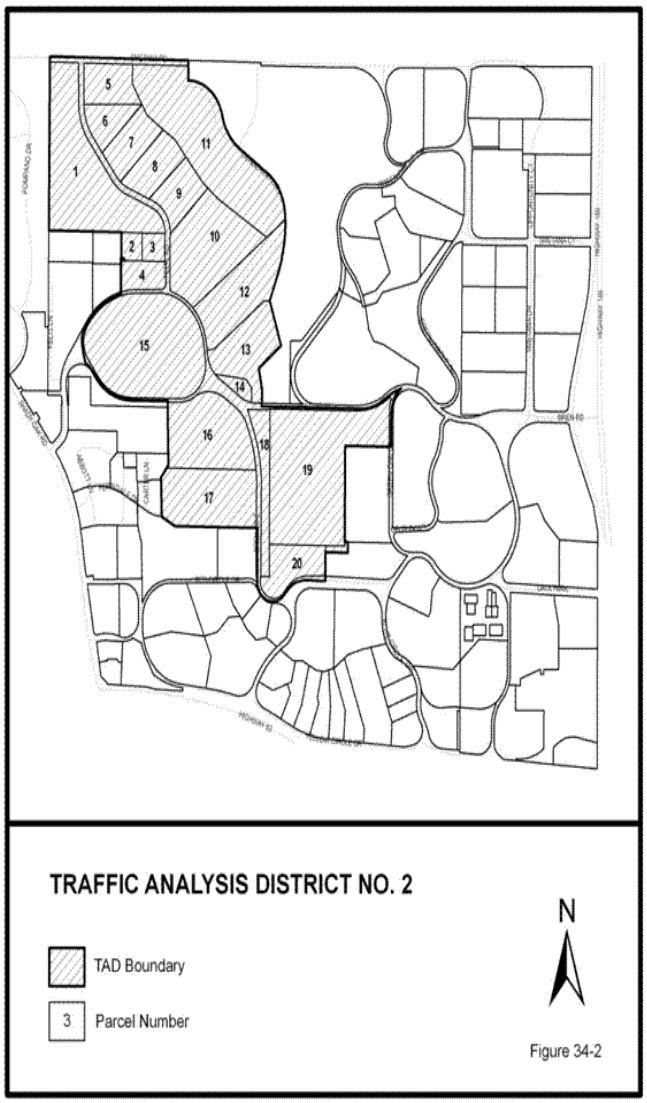


Parcel Number	Max. P.M. Peak Hour Trips
1	0
2	0
3	0
4	0
5	49
6	0
7	11
8	10
9	0

10	66
11	30
12	33
13	0
14	0
15	0
16	0
17	0
18	0
19	196
20	0
21	109
22	19
23	14
24	33
25	33
26	44
27	44
28	0
29	86
30	79
31	32
32	127
33	119
34	146
35	268
36	0
37	0
38	24
39	64
40	4
41	3
42	3
43	2
44	2
45	2
46	5
47	5
48	6
49	0
50	29
51	39

52	25
53	0
54	27
55	279
56	39
57	111
58	35
59	0

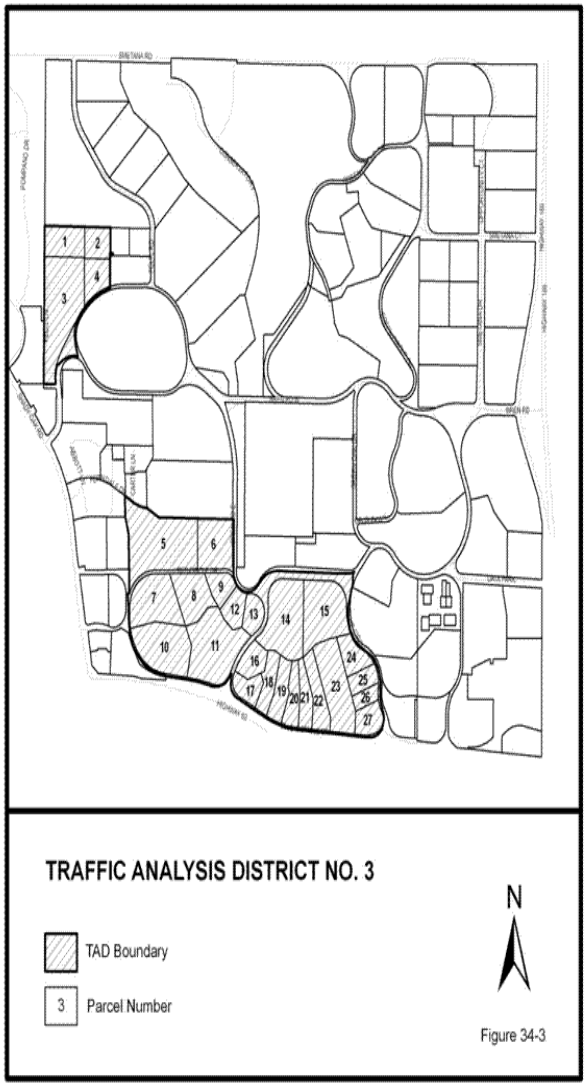
Traffic Analysis District No. 2 (Figure 34-2)



Parcel Number	Max. P.M. Peak Hour Trips
1	77
2	5
3	5
4	15
5	17
6	13
7	17
8	20

9	13
10	63
11	0
12	44
13	33
14	4
15	122
16	47
17	62
18	0
19	79
20	27

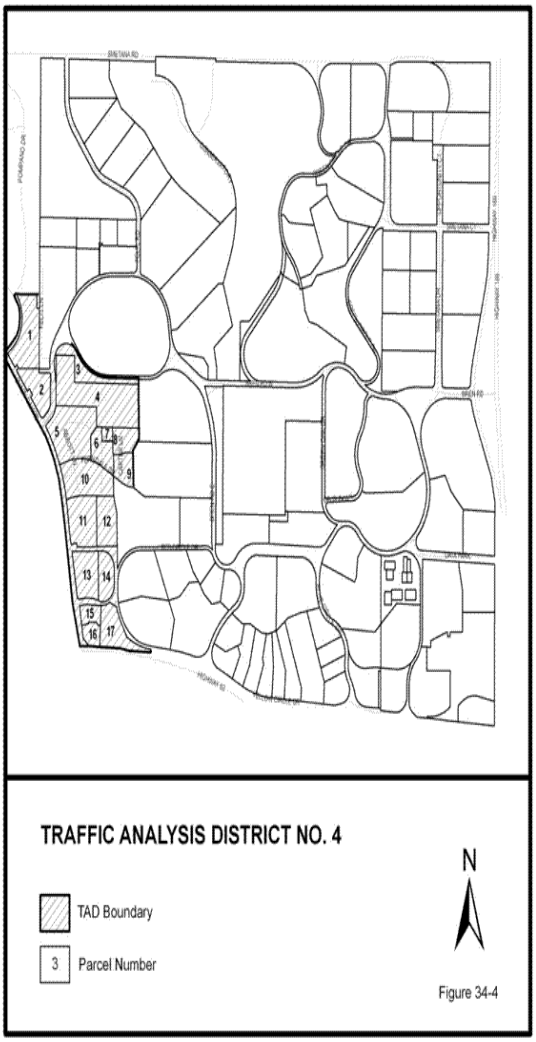
Traffic Analysis District No. 2 (Figure 34-3)



Parcel Number	Max. P.M. Peak Hour Trips
1	8
2	4
3	24
4	4

5	24
6	11
7	14
8	7
9	3
10	20
11	25
12	3
13	3
14	13
15	12
16	5
17	4
18	5
19	6
20	5
21	5
22	7
23	15
24	5
25	4
26	3
27	5

Traffic Analysis District No. 4 (Figure 34-4)



Parcel Number	Maximum P.M. Peak Hour Trips
1	N/A
2	N/A
3	N/A
4	N/A
5	N/A
6	N/A
7	N/A
8	N/A
9	N/A
10	N/A
11	N/A
12	N/A
13	N/A
14	N/A
15	N/A
16	N/A
17	N/A

(Section added by Ord. No. 2009-17, adopted December 7, 2009)

SECTION 300.36. SOUTHWEST LIGHT RAIL TRANSIT OVERLAY DISTRICT.

1. Preamble.

The Southwest Light Rail Transitway is an identified regional transportation corridor planned for rail transit improvements to connect the city of Minneapolis and many communities in the southwest suburban area. Planning has been ongoing for a number of years as it is a transportation project of regional significance. In 2009, the Hennepin County Regional Railroad Authority completed a corridor-wide conceptual station area planning effort. The Southwest Light Rail Transit Study anticipates the location of two light rail transit stations in the city of Minnetonka. These stations will be catalysts for new development and redevelopment in their surrounding areas. In addition, the city is currently undertaking planning studies of the two areas to develop a more definitive and coordinated development plan to guide this development and redevelopment in a transit-friendly manner. A coordinated development plan is necessary for the Shady Oak Road area station because there is multiple ownership of affected properties, new and realigned public infrastructure will be needed, environmental clean-up is needed on some properties, and many parcels have older development nearing the end of their life-cycle and are ripe for redevelopment. A coordinated development plan is also necessary for the Opus area station because there is multiple ownership of affected properties and the significant size of some that require further study. Limitations must be placed on these areas in addition to the underlying zoning requirements in order to ensure that premature development and redevelopment does not hinder or foreclose a comprehensive and cohesive plan for each area. Therefore, the southwest light rail transit station (SWLRT) overlay district is established, and properties in that district are subject to the provisions in this section. The boundaries of the district are shown on Figures 36-1 and 36-2, which are a part of the official zoning map established by section 300.01, subd. 5.

2. Development and Redevelopment Requirements.

All properties in the SWLRT overlay district are subject to the following requirements:

a) Before the adoption of city-approved plans and accompanying regulations for the applicable station area, construction or development that requires any land use or building approval from the city is subject to the following requirements:

1) The applicant must include as part of its application to the city a discussion of how the development would integrate with other properties in the district when the station is constructed and what future changes to the property would be necessary for a cohesive transit-friendly redevelopment of the relevant station area, including

a. Building placement,

b. Building orientation,

c. Building facades,

d. Property use,

e. Site layout and connections to adjacent properties,

f. Parking including shared parking arrangements,

g. Bicycle parking,

h. Pedestrian connections,

i. Access to the station,

j. Landscaping,

k. Size of the development parcel.

2) The applicant may not make new investment into the property that is more than 50% of the current value of all improvements on the property; and

3) No re-zonings, variances, or conditional use permits will be allowed for the property. Only site plan approvals and building permits will be issued.

b) After the adoption of city-approved plans and accompanying regulations for the station areas, construction or development must be in compliance with those approved plans and regulations.

3. Interim Uses.

The following uses are allowed in the SWLRT overlay district only pursuant to an approved interim use permit and in conformance with the standards specified in section 300.05 of this ordinance:

a) all uses allowed as permitted or conditionally permitted uses in the underlying zoning district that do not comply with the limitations in section 300.36, subd. 2(a).

4. Boundaries of SWLRT Overlay District.

The boundaries of the SWLRT overlay district are shown on Figures 36-1 and 36-2, which are a part of the official zoning map established by section 300.01, subd. 5.

Figure 36-1

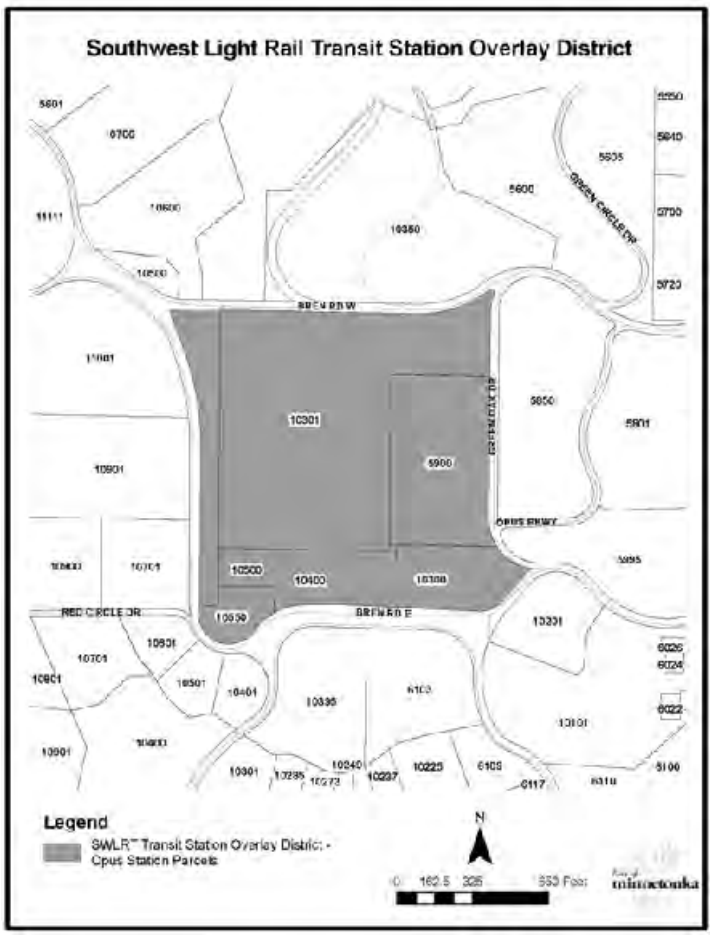


Figure 36-2



(Section added by Ord. No. 2011-18, adopted August 22, 2011)

SECTION 300.37. R-1A, RESIDENTIAL ALTERNATIVE, DISTRICT.

1. Purpose.

The purpose of the R-1A district is to continue and promote a diversity of housing by providing a single-family alternative to the R-1 zoning district. Development within this district may occur at densities not exceeding three dwelling units per acre.

2. Applicability.

R-1A zoning may be considered when both a) and b) below are met:

a) The proposed R-1A development will be appropriately integrated into existing and proposed surrounding development. This does not mean the R-1A development must reflect the specific standards of the surrounding area such as lot size, density, setbacks, or design. While integration may be achieved through such standards, it may also be achieved through continuation of existing land use types, architectural transitions, landscape buffering, or other means.

b) Either of the following is met:

1) At least 60 percent of existing lots within 400 feet of the proposed R-1A development, and along 1000 feet on both sides of street on which the proposed development is located, have lot areas less than the R-1 standards as outlined in city code section 400; or

2) All lots within the R-1A development will be served by a new street.

3. Permitted Uses.

Within the R-1A district no structure or land may be used except for any one or more of the following permitted uses and the accessory and conditional uses in subdivisions 3 and 4:

a) single family detached dwelling units, but not more than one dwelling unit per lot; a manufactured home built in conformance with Minn. Stat. §§ 327.31 et seq. is considered a single-family detached dwelling unit;

b) public park and recreational areas owned and operated by a governmental unit, including recreational facilities and structures consistent with the area, except as provided for in subdivision 4;

c) licensed residential care facilities or community based residential care facilities serving six or fewer persons, a licensed day care facility serving 12 or fewer persons, and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve 14 or fewer children, except a residential facility whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses;

d) cabinets no larger than 150 cubic feet that hold utility equipment and for which a landscape plan has been approved by the city planner; overhead utility poles and lines for a distribution line up to a maximum height of 60 feet as measured from the ground upon which it is located, except that poles and lines for a distribution line may be taller than 60 feet, but not taller than 80 feet, when needed to cross a major roadway such as a freeway.

e) private recreational uses and structures for the exclusive use of surrounding property owner(s) as a principal use. Such uses and structures include tennis courts, pools, patios, and docks, which cannot be used for commercial purposes or non-recreational uses. The only permitted buildings are gazebos and storage sheds. Storage sheds may be no larger than 120 square feet. All structures mentioned in this subsection must meet other minimum-required setbacks and maximum area requirements for accessory structures.

4. Accessory Uses.

Within the R-1A district only the following uses are permitted as accessory uses, provided they are subordinate to, associated with and located on the same lot as a permitted use:

a) private swimming pools, tennis courts, and other sport courts;

b) detached garages, storage sheds, or other accessory structures not exceeding 12 feet in height, an aggregate of 600 square feet of gross floor area, or occupying more than 30 percent of the area of the side or rear yard in which they are located and except as provided for in subdivision 4;

c) solar energy system;

d) home occupations that comply with the provisions of section 300.15, subd. 14;

e) minor mass transit facilities including benches, except as provided for in subdivision 4;

f) licensed day care facilities serving 12 or fewer persons, and licensed group family day care facilities serving 14 or fewer children, provided that there is not more than one outside employee in any such facility;

g) garage sales, estate sales, yard sales, rummage sales, and other sales of personal property that have similar traffic and parking patterns, if:

1) the sales occur during no more than two periods of a maximum of three consecutive days each in any 12-month period,

2) the items offered for sale consist only of items owned by a person who occupies the property as his/her residence or by friends of the resident

3) none of the items offered for sale have been purchased for resale or received on consignment for purposes of resale, and

h) other uses that are not regulated by this code and that are customarily associated with but subordinate to a permitted use, as reasonably determined by the city.

(Amended by Ord. No. 2022-18, effective November 14, 2022)

5. Conditional Uses.

Within the R-1A district no structure or land shall be used for the following except by conditional use permit and in conformance with the standards specified in section 300.16 of this ordinance:

a) accessory dwelling units;

b) utility poles and appurtenances (such as wires) that are over 60 feet in height and freestanding upon the ground, and all transmission lines that are not subject to state review under the Minnesota power plant siting act;

c) other uses similar to those permitted by this section, as determined by the city.

6. Specific District Standards.

a) Lots must meet all of the following minimum standards:

1) Lot area: 15,000 square feet

2) Lot width at front yard setback: 75 feet

3) Lot width at right-of-way: 55 feet, except that lots abutting a cul-de-sac bulb may have a lot width at right-of-way of 45 feet

4) Lot depth: 125 feet

5) Buildable area: 2,400 square feet

6) Buildable area dimensions: minimum of four sides with 30 feet per side

b) Principal structures must conform with the following:

1) building height: maximum of 35 feet, except if the building includes a walkout or lookout elevation, in which case the maximum height is 25 feet.

2) front yard setback:

a. From streets located outside of the R-1A plat, a minimum of 35 feet from the right-of-way of streets and railroad lines. In the case of a corner lot, one front yard setback may be reduced by 10 feet. On double frontage lots, the setback may be reduced by 10 feet towards the direction perceived by the city planner to be the rear yard.

b. From streets located within the R-1A plat, and only serve the lots within the R-1A plat, a minimum of 25 feet.

3) side yard setback: 10 feet

4) rear yard setback: minimum of 30 feet or 20 percent of the depth of the lot, whichever is less

5) maximum impervious surface: 50 percent

6) maximum floor area ratio:

a. Lot area less than 17,500 square feet: 0.24

b. Lot area 17,500 square feet and greater: 0.22

c) Accessory structures must conform to the setbacks established for principal structures, except for the following:

1) all accessory structures located more than 10 feet from a principal structure must be located a minimum of 10 feet from a rear or side lot line;

2) all accessory structures except detached garages located between the principal structure and the front lot line, must maintain a minimum setback of 50 feet;

3) sheds or storage buildings less than 120 square feet in size must be located behind the rear building line of the house; and

4) swimming pools and sport courts must be located behind the front building line of the house, and set back a minimum of 15 feet from side and rear property lines as measured to the water line of pool or edge of the sport court. On corner lots, swimming pools and sport courts are subject to front yard setbacks established for principal structures.

d) All dwellings, including manufactured homes, must have a depth of at least 20 feet for at least 50 percent of their width and a width of at least 20 feet for at least 50 percent of their depth.

e) All dwellings must have a permanent foundation in conformance with the Minnesota state building code.

f) Off-street parking must be provided for at least two vehicles for all single-family dwellings. A suitable location for a garage measuring at least 24-feet by 24-feet and that does not require a variance must be provided and indicated as such on a survey or site plan to be submitted when applying for a building permit to construct a new dwelling or alter an existing garage.

g) The city may require that construction within the buildable area of an R-1A lot be located where the city determines it would reasonably:

1) minimize the amount of adverse impacts to the physical environment on the lot, including such things as significant trees, grading, erosion, and surface water drainage, and

h) No principal structure, or any portion of it, may be located outside the buildable area, except when intrusions into setbacks are allowed by this code.

i) All structures must comply with the wetland protection, floodplain protection, shoreland protection, steep slope protection and tree protection requirements contained in sections 300.23, 300.24, 300.25, 300.28 and 314.01 of this ordinance.

(Amended by Ord. No. 2023-02, effective February 27, 2023)

7. Review Process.

a) Applications for rezoning and preliminary or final plat will not be considered simultaneously. A rezoning to R-1A must be approved by the city council prior to receipt of a plat application.

b) Rezoning

1) As with any rezoning, the decision to rezone a property to R-1A is a policy decision that the city council may make in its legislative capacity. In evaluating a proposal to rezone a property to R-1A, the council will consider its compliance with the standards outlined in section 2 of this ordinance.

2) The process to rezone a property to R-1A is generally subject to the procedures outlined in section 300.09 of this ordinance for a zoning map amendment, except that:

a. An application for rezoning to R-1A must include a conceptual subdivision plan. The plan must note lot area and dimensions and buildable area and dimensions. If a rezoning to R-1A is approved, future subdivision must be substantially consistent with the conceptual plan.

b. Prior to introduction of the rezoning ordinance, city staff will establish a public hearing notification area. This area will include all properties located wholly or partially within 400 feet of the property proposed to be rezoned R1-A and further extended to existing natural or manmade boundaries such as wetlands, creeks, lakes, roadways, intersections, railroads or different land use classifications.

c. At the time of ordinance introduction, the council will determine whether the notification area is appropriate. The council may require that the area be enlarged or retracted prior to the public hearing before the planning commission. In no case will the notification area be less than 400 feet of the property proposed be rezoned R-1A.

d. At least 10 days prior to the public hearing before the planning commission, notice regarding the rezoning will be published in the official newspaper and sent by mail to the notification area as approved by the council.

c) Platting Process

1) The process to plat an R-1A property is subject to the procedures outlined in section 400.

8. Term of Rezoning Approval.

a) If an application for preliminary plat approval is not made by December 31 of the year following approval of a rezoning to R-1A or the end of any extension granted by the city, the city council may rezone the property back to its original zoning classification.

(Section added by Ord. No. 2014-22, adopted September 15, 2014; amended by Ord. No. 2016-06, effective February 29, 2016; amended by Ord. 2021-20, effective October 4, 2021)

SECTION 310.03 TELECOMMUNICATION FACILITIES REGULATIONS

1. Purpose and Findings.

a) Purpose. The purpose of this section is to establish predictable and balanced regulations for telecommunication facilities and systems in order to accommodate such within the city, while protecting the community against adverse impacts to the public welfare or aesthetic resources.

b) Findings. The City of Minnetonka finds the following:

1) Wireless telecommunication systems provide a valuable service to the public. However, telecommunications facilities and systems are not a public utility nor part of the public infrastructure system.

2) To promote and preserve the public health, safety, welfare, and aesthetics of the community, the location, design, construction, and modification of telecommunication facilities and systems must be regulated.

3) To minimize the visual impact of telecommunication facilities:

a. installation of facilities on existing support structures is favored over installation of new, freestanding telecommunication towers;

b. new telecommunication towers must be designed to accommodate more than one telecommunication provider and must incorporate stealth design techniques; and

4) To minimize safety hazards and visual impacts, and to ensure continued and adequate space for public utilities, public right-of-way should be minimally used for telecommunication facilities.

c) Severability. Every section, subdivision, clause or phrase of this section 310.03 is declared separable from every other section, subdivision, clause or phrase. If any such part is held to be invalid by competent authority, no other part shall be invalidated by such action or decision.

2. Definitions

For the purpose of this ordinance, the terms below have the meaning given to them, unless the context clearly indicates a different meaning:

a) "Accessory Equipment" - wires, cables, generators, or other equipment or apparatus associated with an antenna and necessary for telecommunication transmission.

b) "Antenna" - any device used for the transmission or reception of wireless radio television, or electromagnetic waves for cellular, internet service, personal communication service, enhanced specialized mobilized radio service, or television purposes.

c) "Engineer" - an engineer licensed by the state of Minnesota, or an engineer acceptable to the city if licensing is not available.
d) "Non-Small Cell Wireless Facility" - a telecommunication facility that is not a small cell wireless facility.
e) "Radome" - a structural, weatherproof enclosure that protects an antenna and is constructed of material that minimally attenuates the signal transmitted/received by such antenna.

f) "Small Cell Wireless Facility" - a wireless facility that meets both of the following qualifications:

1) Each antenna is located inside an enclosure of no more than six cubic feet in volume or could fit within such an enclosure; and

2) All other wireless equipment associated with the small wireless facility is, in aggregate, no more than 28 cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed.

g) "Stealth Design" - design intended to minimize visual impact of an object on its surroundings. Examples of stealth telecommunication design include: eliminating horizontal projections; screening with other architectural elements; nestling into surrounding landscape such that natural topography or vegetation reduces views; locating in areas that would result in the least amount of visibility to the public; minimizing size; and designing a telecommunications facility to appear as something other than a telecommunications facility.

h) "Support Structure" - a structure on which antenna can be mounted. Examples of support structures include: telecommunication towers, buildings, water towers, electrical transmission towers, utility poles, and structures designed to support or capable of supporting small cell wireless facilities.

i) "Telecommunication Facility" - antennas, associated equipment, and support structures. This term includes small cell wireless facilities..

j) "Tower" - a freestanding, self-supported structure constructed from grade for the purpose of supporting one or more antenna.

3. Citation; Administration and Enforcement.

a) Citation. This section 310.03 may be cited as the Minnetonka Telecommunications Ordinance.

b) Administration and Enforcement. Administration and enforcement of this section 310.03 is governed by section 300.03.

4. Permitted Uses

a) Within right-of-way:

1) New Support Structures. Small cell wireless facilities located on new support structures are permitted uses, within public rights-of-way if adjacent to properties zoned for office, commercial, industrial, or high-density residential, subject to the standards outlined in City Code §1120.

2) Existing or Replacement Structures. In all zoning districts, telecommunication facilities located on existing or replacement structures are permitted uses, subject to the standards of subdivision 7 of this ordinance, when the facility includes no component larger than six cubic feet in size and:

a. Is located on an electric transmission tower carrying over 200 kil volts of electricity; or

b. Is located on an existing utility pole and does not extend above the top of the pole by more than 10 feet; or

c. Is located on a replacement utility pole that does not exceed 50 feet in height or the height of the existing structure, whicever is greater, and does not exceed the diameter of the existing pole by more than 50 percent.

b) Outside right-of-way. In all zoning districts, the following are permitted uses outside of right-of-way, subject to the standards outlined in subdivision 7 of this ordinance:

1) Facilities located on electric transmission towers carrying over 200 kil volts of electricity.

2) Facilities located on water towers or buildings for which a conditional use permit has already been approved.

3) A one-time 15-foot extension of an existing telecommunication tower or one-time replacement of a telecommunication tower by a tower no greater than 15 feet tall than the original, existing tower up to a maximum of 90 feet.

(Amended by Ord. No. 2023-02, effective February 27, 2023)

5. Conditional Uses

a) Within right-of-way. In single-family medium and low-density residential districts, as defined by the comprehensive plan, small cell wireless facilities located on new support structures are conditional uses, subject to conditions in subdivision 8 of this ordinance.
b) Outside right-of-way. In all zoning districts, the following telecommunication facilities are conditional uses, subject to conditions outlined in subdivision 8 of this ordinance:
1) New telecommunications towers; and
2) Facilities located on water towers or buildings for which a telecommunications conditional use permit has not already been approved.

6. Permits; Applications

a) Permits.
1) Small Wireless Facility Permit. A small wireless facility permit, pursuant to City Code §1120, is required for all permitted uses within the right-of-way as outlined.
2) Administrative Permit. An administrative permit is required for: (1) all permitted facilities, located outside of right-of-way; and (2) permitted, non-small cell wireless facilities located within right-of-way. Administrative permit applications are subject to the review of the city planner or their designee, who will render a decision within time periods provided by Minnesota Statute 15.99, as applicable, and will serve a copy of that decision upon the applicant by mail. Any person aggrieved by the decision of the city planner, or their designee, may appeal the decision to the planning commission in the manner specified in section 300.04 of this ordinance
3) Conditional Use Permit. A conditional use permit is required for conditionally-permitted uses. Conditional use permit applications are subject to the review procedures outlined in section 300.06 of this ordinance. In the case of a conditionally-permitted small cell wireless facility within the right-of-way, a Small Wireless Facility Permit pursuant to City Code §1120, will be reviewed and issued in conjunction with an approved conditional use permit.
b) Permit Applications. Applications must be submitted on the appropriate form provided by the city and must include the following, unless otherwise waived by city staff based on circumstances unique to the site:
o Wireless telecommunication provider that will utilize the facility and provider's consent to the application;
o Certificate of survey, illustrating the location of the proposed facility, property lines, right-of-way line, and any existing or proposed easements;
o Support structure elevations;
o Construction drawings signed by a registered architect, civil engineer, landscape architect or other appropriate design professional; and
o For small cell wireless facilities, the bandwidth on which the facility will operate. If bandwidth is outside of low band blocks 200-806, 824-849 and 869-894 or high band blocks 1710-1730, 1900-1910, 1980-1990 and 2110-2130, cash escrow is required to cover the reasonable expense of an RF engineer retained by the city to conduct an interference study. The study will evaluate a proposed facility's potential interference with public safety communications, including communications with public utility monitoring systems;
o For non-small cell wireless facilities, cash escrow is required to cover the reasonable expense of an RF engineer retained by the city to conduct an interference study. The study will evaluate a proposed facility's potential interference with public safety communications, including communications with public utility monitoring systems;
o For new telecommunication towers, a coverage and capacity analysis prepared by radio frequency (RF) engineer that demonstrates that the location of the proposed facility is necessary to meet the coverage and capacity needs of the wireless telecommunication providers system and cash escrow to cover the reasonable expense of an RF engineer retained by the city, at its option, to review the coverage and capacity analysis.
c) A variance from the regulations in this ordinance requires a separate application, according to the procedures in section 300.07 of this code.

7. Standards; Permitted Uses

a) All locations and facilities.

1) Service Provider. A telecommunications service provider must be identified for the proposed telecommunication facility and must occupy the facility within twelve months of approval.

2) Lighting. Telecommunications facilities may not be artificially illuminated unless required by law or by a governmental agency to protect the public's health and safety or unless necessary to facilitate service to ground-mounted equipment.

3) Construction. Facilities and equipment must be constructed in compliance with applicable building and electrical code requirements. Structural design, mounting, and installation of the telecommunication facility must be in compliance with manufacturer's specifications.

b) Within right-of-way.

1) All Facilities. All telecommunication facilities located within public right-of-way are subject to the requirements of Section 1120, Right of Way Management. To the extent of any inconsistency between this section and section 1120, the more restrictive provision applies.

2) Small Cell Wireless Facilities. Permitted small cell wireless facilities must comply with section 1120.

3) Non-Small Cell Wireless Facilities. Permitted facilities are subject to the following additional requirements:

a. Location. Facilities may be located in any zoning district. However:

1. No facility may be located within 400 feet of the boundary of any property that contains a facility or structure listed on the national register of historic places.

2. Facilities located within right-of-way must be separated by 330 feet.

b. Design.

1. Width. New or replacement utility poles mays not exceed the width of the closest public utility pole by more than 50 percent, but in no case may they exceed 18 inches in diameter.

2. Projections.

a. Facilities located on existing or replacement utility poles must be top-mounted and concealed within a radome or otherwise concealed to the extent feasible. Cable connections, antenna mount and other hardware must also be concealed. In no case may the wireless facility extend more than 10 feet above, or three out from, the pole to which it is attached.

b. Facilities located on transmission towers may not extend more than 15 feet above or project out more than three feet from the structure to which they are attached.

c. Color. Radomes, antennas and support structures must be painted a non-contrasting color consistent with the surrounding area. Replacement utility poles located within the public right-of-way must match, to the greatest extent practicable, the materials and colors of the closest public utility structure.

c. Accessory Equipment. Equipment must be located in compliance with City Code §1120.

c) Outside right-of-way. Permitted facilities located outside of right-of-way are subject to the applicable conditions in subdivision 7(b) above and:

1) Projections. Antennas may not project out from an antenna support structure or tower, unless it is physically impossible to locate the antenna with the structure or tower, in which case they may not project out more than three feet. Facilities located on transmission towers, water towers or buildings may not extend more than 15 feet above the structure to which they are attached. Wall or façade-mounted antennas may not extend above the building cornice line.

2) Accessory equipment is subject to the following:

a. Equipment or buildings meet minimum setback requirements established for accessory structures in the associated zoning district.

b. Equipment or buildings must be designed to blend in with the surrounding natural or built environment or must be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the character of the surrounding neighborhood.

c. No more than one accessory building is permitted for each tower. If additional space is needed to accommodate the co-location of antennas, the existing accessory building must be expanded or a new accessory building must be constructed adjacent and complementary to the existing building.

8. Standards; Conditional Uses

a) Small Cell Wireless Facilities. Conditionally-permitted facilities are subject to the standards outlined in subdivision 7(a) above, City Code §1120 and the following:

1) Location. Facilities:

a. May not be located adjacent to residentially-zoned properties, unless the applicant provides an RF certification that the applicant's service objectives for the site cannot be met by constructing a similar facility in a non-residentially zoned area; and

b. Must be located within the rights-of-way of collector or arterial streets, unless the application provides an RF certification that the applicant's service objectives for the site cannot be met by constructing a similar facility on a collector or arterial street; and

b) Non-Small Cell Wireless Facilities. Conditionally-permitted, non-small cell wireless facilities are subject to the requirements in subdivision 7(c) above and the following:

1) Location.

a. Design. General. Facilities must be located in an area that will meet the applicant's reasonable coverage and capacity needs. However, the city may require that a different location be used if it would result in less public visibility, is available, and would continue to meet the applicant's reasonable capacity and coverage needs.

b. Zoning Districts. Facilities may be located within any zoning district. However, on properties guided low-density residential, telecommunication towers may only be located on public or institutional property.

c. Setbacks. Towers located adjacent to low or medium-density residential properties must meet the minimum setback requirements established for principal structures within the associated residential zoning district, but only from the property line abutting the residential district. The city council may waive the setback requirement if necessary to implement stealth design techniques. Accessory equipment must meet minimum setback requirements established for accessory structures within the zoning district.

2) Design

a. Stealth Design. Facilities must use as many stealth design techniques as reasonably possible. Economic considerations alone are not justification for failing to provide stealth design techniques.

b. Collocation. New telecommunication towers must be designed to accommodate more than one telecommunication provider at more than one height within the tower, unless it is physically impossible or impractical to do so at the tower's proposed location. In addition, the applicant, tower owner, landlord, and their successors must agree in writing to: (1) meet reasonable terms and conditions for shared use; (2) submit a dispute over the potential terms and conditions to binding arbitration.

c. Height. Maximum tower height, excluding lightning rods, is restricted based on the land use designation of property on which the tower is located:

Land Use Designation	Single-User Tower	Multiple-User Tower
Low and Medium Density Residential	60 feet	90 feet
High Density Residential	75 feet	90 feet
Office, Commerical	75 feet	90 feet
Industrial	150 feet	150 feet
Institutional	60 feet	90 feet

The city council may increase height if the applicant can demonstrate that the increase would not have a significant impact on surrounding properties because of things like proximity, topography, or screening by trees or buildings. The council may likewise waive height restrictions for towers wholly or partially for essential public services, such as public safety.

d. Projections. Antennas may not project out from an antenna support structure or tower, unless it is physically impossible to locate the antenna with the structure or tower, in which case they may not project out more than three feet. Facilities located on transmission towers, water towers or buildings may not extend more than 15 feet above the structure to which they are attached. Wall or façade-mounted antennas may not extend above the building cornice line.

e. Color. Tower, antennas and support structures must be painted a non-contrasting color consistent with the surrounding area such as: gray, brown, or silver, or have a galvanized finish to reduced visual impact. Metal towers must be constructed of, or treated with, corrosion-resistant material.

9. Special Village Centers

The Glen Lake Station and Minnetonka Boulevard/County Road 101 Community Village Centers, and the Minnetonka Mills Area Special Purpose Village Center are recognized within the Comprehensive Guide Plan as unique commercial nodes. These village centers represent the earliest developed commercial areas in the city. They have existing and anticipated pedestrian designs unique within Minnetonka, typified by sidewalks, trails, landscaped boulevards, street lights, and buried utilities. Accordingly, there is a presumption that telecommunication facilities are prohibited in these areas. An applicant may overcome this presumption by submitting an RF certification that the applicant's service objectives for the site cannot be met by constructing a similar facility in a non-residentially zoned area. If non-small cell wireless telecommunication facilities are permitted in these special village centers under paragraph above, then the installation of the facilities must meet the following additional standards:

a) Accessory equipment must be located within a principal building. If space is not available in the principal building, an accessory building may be used. The accessory building must meet the construction standard of the applicable zoning district and must complement the principal structure design and materials.
b) Telecommunication facilities may not be located within public right-of-way or within any front yard. The council may waive one or both of these restrictions if the proposal would provide a public benefit, such as improving the existing site aesthetics.

10. Removal of Facilities

a) Facilities located within the right-of-way must be removed when required by the road authority.
b) Obsolete telecommunications facilities must be removed within 90 days after cessation of their use at the site, unless an exemption is granted by the city council. Unused telecommunications facilities and all related equipment must be removed within one year after cessation of operation at the site, unless an exemption is granted by the city council. Telecommunications facilities and related equipment that have become hazardous must be removed or made not hazardous within 30 days after written notice to the current owner and to any separate landowner, unless an exemption is granted by the city council. Notice may be made to the address listed in the application, unless another one has subsequently been provided, and to the taxpayer of the property listed in the Hennepin County tax records. Telecommunications facilities and all related equipment that are not removed within this time limit are declared to be public nuisances and may be removed by the city. The city may assess its costs of removal against the property

11. Exceptions

This ordinance applies to all telecommunications facilities in the city, except:

a) To facilities or devices that is used for the private enjoyment of those on the premises where it is located. Examples include: amateur radio antennas and antennas receiving television signals for viewing on site. Such facilities or devices are considered accessory uses and are regulated as such in each zoning district; or
b) As prohibited or otherwise required by Federal Communications Commission regulations or orders.

(Amended by Ord. No. 2018-03, effective March 19, 2018; Amended by Ord. No. 2021-01, effective January 25, 2021)

SECTION 314. TREE PROTECTION.

SECTION 314.01 TREE PROTECTION

1. Purpose. The purpose of this subdivision is to encourage tree preservation by reasonably limiting the removal of trees during construction, site work, and land development activities, as well as to mitigate for the loss of trees due to these activities while maintaining the rights of existing homeowners to use their private property.

2. Findings. The city of Minnetonka finds that trees and woodlands are an integral part of the city's identity. As such, the city finds that standards governing the preservation, protection, and planting of tree resources are necessary to:

a) Maintain and enhance, as much as practical, the diversity and extent of the city's trees and woodlands while balancing community responsibilities with private property rights.

b) Maintain buffers between similar land uses and maintain and establish buffers between conflicting land uses;

c) Promote climate resilience;

d) Improve air quality and reduce noise pollution;

e) Enhance energy conservation through natural insulation and shading;

f) Reduce the urban heat island effect;

g) Reduce soil erosion, sedimentation, and stormwater runoff;

h) Preserve habitat for wildlife, including pollinating insects;

i) Extend the life of roadways;

j) Increase and maintain property values; and

k) Promote the positive impacts of trees on society, such as lowering stress, reducing noise, and calming traffic.

3. Applicability. The provisions of this subdivision apply whenever construction, site work, development, or redevelopment activities occur on a property.

4. Authority. Consistent with the purpose of this subdivision, and in order to enforce its provisions, the city may:

a) Identify, require, and enforce a tree preservation plan as described in subdivision 6 below;

b) Specify trees or groups of trees for preservation;

c) Establish grading limits;

d) Require the clustering of buildings or the relocation of roads, drives, buildings, utilities, or storm water facilities when relocation would preserve protected trees;

e) Specify time periods in which tree cutting, pruning, or injury may not occur in order to prevent the spread of disease;

r) Require conservation easements or other legal means to ensure that woodland preservation areas or groups of high priority trees or significant trees are not intentionally destroyed after the development has been approved; and

g) Grant variances from the provisions of this section 314.01, subject to the limitations and procedures outlined in City Code 300.07;

5. Definitions. For the purpose of this ordinance, the terms below have the meaning given to them:

a) "Basic Tree Removal Area" - consists of the following:

1) within the areas improved for reasonably-sized driveways, parking areas, and structures without frost footings and within ten feet around those improvements;

2) within the footprints of, and 20 feet around, buildings with frost footings;

3) within the footprints of, and 10 feet around, structures with post footings such as decks or porches, if the structure is located at or outside of the area allowed by paragraph (a)(2) of this subdivision 5; and

4) in areas where trees are being removed for ecological restoration in accordance with a city-approved restoration plan.

b) "Canopy" - the uppermost layer of a forest formed by tree crowns.

c) "Construction" - the activity of building a new principal or accessory structure or adding on to an existing principal or accessory structure.

d) "Critical root zone" - the minimum area around a tree that must remain undisturbed. The critical root radius is calculated by

measuring the tree's diameter at standard height. For each inch of tree diameter, 1.5 feet of root zone radius must be protected. For example, if a tree's dsh is 10 inches, then its critical root zone radius is 15 feet (10 x 1.5 = 15).

e) "Diameter at standard height (dsh)" - the diameter of a tree measured at 4.5 feet above the base of the tree. Multi-stem trees are considered one individual tree, and each stem must be measured 4.5 feet above the base of the stem and added together to determine the diameter of the multi-stem tree.

f) “Redevelopment” - removal and reconstruction of more than 50% of the square footage of a principal structure in any zoning district or a more-than-50% increase in the square footage of structure or structures on a site.

g) “Removal/Removed” - the physical removal of a tree or: (1) girdling; (2) injury to 30 percent or more of the trunk circumference; (3) pruning of 30% or more of the crown; (4) trimming an oak between April 1st and July 15th; or (5) compacting, cutting, filling, or paving 30 percent of the critical root zone for all tree species.

h) "Sapling" - a tree generally one to three years old.

i) “Site work” - work on a property or properties that involves filling, excavating, or moving earth by any means, mechanized or otherwise, requiring a grading permit. Site work does not include the planting of trees or other vegetation.

j) "Tree, high priority" - a tree that is not in a woodland preservation area but is still important to the site and the neighborhood character, that is structurally sound and healthy, and that meets at least one of the following standards as outlined below. The city forester prioritizes native and culturally significant trees species above non-native native trees.

The city will maintain, and periodically update, a list of prioritized and acceptable tree species. This list may be used to guide both tree removals and mitigation.

1) a deciduous tree that is at least 10 inches dsh.

2) a coniferous tree that is at least 15 feet in height that is not in a group as described below; or

3) a tree that is in a group of three or more deciduous trees that are at least eight inches dsh or coniferous trees that are at least 15 feet in height, that provide a buffer or screening along an adjacent public street, and that is within 50 feet of an arterial road and 35 feet of a minor collector, local, or private street and a trail. This distance will be measured from the edge of the pavement or curb of the road, street, or trail.

k) "Tree, protected" - a tree that is in a woodland preservation area, or is a high priority tree, or significant tree.

l) "Tree, significant" - a tree that is structurally sound and healthy and that is either a deciduous tree at least four inches dsh or a coniferous tree at least 10 feet in height.

m) "Understory" - The trees, shrubs, and herbaceous plants that grow in the shade of the forest canopy, including trees that could potentially grow to reach the canopy.

n) "Woodland preservation area" - a remnant woodland ecosystem that is at least two acres in size regardless of property boundaries, is generally mapped in the city's Minnesota Land Cover Classification System, and although it may be degraded, it generally meets the criteria for one of the following types of ecosystems as reasonably determined by the city:

1) "floodplain forest" - an area populated by deciduous tree species tolerant of seasonal flooding and deposition of silty or sandy soils. The canopy cover is extremely variable, and mature trees are typically greater than 70 feet tall. The dominant tree species in the canopy are silver maple and eastern cottonwood. In floodplain areas with severe flooding, the understory will be sparsely vegetated. Trees in the understory include saplings from the canopy species, green ash, black willow, slippery elm, American elm, boxelder, and hackberry;

2) "lowland hardwood forest" - an area with a flat terrain populated by deciduous tree species tolerant of periodic soil saturation from seasonally high water tables. The soils are moderately well to poorly drained. The dominant tree species in the canopy are American elm, black ash, basswood, bur oak, red oak, white oak, quaking aspen, paper birch, and red maple. Trees in the understory include saplings from the canopy species, slippery elm, green ash, butternut, sugar maple, quaking aspen, balsam poplar, and American hornbeam. The large shrub or small tree layer of the understory is typically dense and can include ironwood, pagoda dogwood, prickly ash, American hazelnut, gray dogwood, and speckled alder;

3) "maple basswood forest" - an area with well-drained soils and populated by a variety of shade-tolerant, fire-sensitive, deciduous tree species. The mature trees are straight with narrow crowns greater than 60 feet tall. The dominant tree species in the canopy are basswood and sugar maple, but mesic species such as slippery elm, red oak, bur oak, green ash, white ash, and black ash may be found as well. Trees in the understory include saplings from the canopy species, bitternut, black cherry, and ironwood. The large shrub or small tree layer of the understory is composed of primarily tree seedlings and herbaceous plants;

4) "mesic oak forest" - an area populated by tall, single-stemmed deciduous trees greater than 60 feet tall that lack spreading lower branches. Mesic oak forests may have a moderately moist habitat but can be dry depending on the slope and aspect of the forest. The dominant tree species in the canopy include red oak, white oak, and bur oak. Trees in the understory include saplings from the canopy and fire-sensitive species such as basswood, green ash, bitternut hickory, big-toothed aspen, butternut, northern pin oak, black cherry, paper birch, American elm, boxelder, and red maple. The large shrub or small tree layer in the understory tends to be sparse with greater herbaceous plant diversity but can include ironwood, chokecherry, prickly ash, American hazelnut, prickly gooseberry, red-berried elder, nannyberry, juneberry/serviceberry, and pagoda dogwood;

5) "oak woodland brushland" - an area with a canopy more open than a forest but less open than a savanna. It is characterized by

open-grown trees and a distinct shrub layer in well-drained sandy, gravelly soils. The dominant tree species include red oak, northern pin oak, white oak, bur oak, and aspen. When it exists, the trees in the understory include saplings from the canopy, black cherry, and red cedar. The large shrub or small tree layer can include American hazelnut, ironwood, juneberry, and chokecherry;

6) "tamarack swamp" - an area that is a forested wetland community dominated by patches of tamarack, a deciduous coniferous tree. The dominant tree species in the canopy include tamarack, black spruce, paper birch, and red maple. The trees in the understory include saplings from the canopy, and the large shrub or small tree layer can include speckled alder and red osier dogwood; or

7) "willow swamp" - an area that is a forested wetland community or an area with seasonally flooded soils and scattered-to-dense shrub cover. The dominant tree species in the canopy include black willow and speckled alder. The trees in the understory include saplings from the canopy, and the large shrub or small tree layer can include several species of willow and dogwood.

6. Tree Preservation Plan. A tree preservation plan is required as part of any application that involves construction, site work, or redevelopment activities. A tree preservation plan must include:

a) A tree inventory, in spreadsheet format, that includes the following:

1) The species, sizes, and locations of high priority trees, significant trees, and trees in woodland preservation areas, regardless of health. Dead, diseased or structurally unsound trees, and trees infested with a disease or insect, should be noted as such in the inventory.

2) An inventory of all canopy species that exist in woodland preservation areas, including those that are in the understory, if they are four inches dsh or larger. Understory trees, excluding canopy species, and large shrubs that exist in woodland preservation areas must be inventoried if they are two inches dsh or larger.

3) The size of high priority trees and significant trees, regardless of location.

4) The size of coniferous trees recorded in dsh and approximate height, regardless of location.

Note: Invasive plants such as buckthorn and honeysuckle should not be inventoried.

b) A site plan that illustrates the dsh, location and critical root zone for each protected tree – including the trees to be removed and the trees to be preserved, the proposed construction limits, and the proposed tree protection methods in addition to construction limit fencing. If grading or construction limits are outside of a woodland preservation area, the trees in that woodland preservation area may be grouped together.

7. Tree Removal.

a) General Standards. The removal of protected trees during construction, site work, development, or redevelopment activities must comply with the following:

1) Principal structures and associated facilities must be located to maximize tree preservation. The city may specify the location of the principal structures and associated facilities in order to ensure a reasonable tree preservation.

2) In no case may trees be removed from a conservation easement without the approval of city staff.

3) Trees required to be saved as part of a subdivision approval must remain on a lot for two years after the final building permit inspection or certificate of occupancy is issued for the principal structure, whichever is later. Any tree that dies solely of natural causes such as disease or wind is exempt from this section.

4) An applicant and property owner must comply with any approved tree preservation or landscape plan. In the event that a tree preservation or landscape plan is not on file with the city, any tree removed without authorization from the city will be considered part of the approved tree preservation or landscape plan.

5) A healthy protected tree that did not pose a significant or severe risk to personal safety or property damage and that was removed or otherwise destroyed by unnatural causes within three years before a redevelopment or subdivision application will be regarded as if it were present at the time of construction or a development application. In no case may healthy protected trees be removed from properties required to have a tree preservation or landscape plan unless first approved by the city.

b) Specific Standards. Protected trees may be removed as follows:

		Woodland Preservation Area (WPA)	**High-Priority Trees***	**Significant Trees***
Single-Family Property	No construction or site work	Removal is not restricted, except as outlined in subd. 7(a) above		
	Construction on a vacant lot	In conformance with subdivision approvals		
	Construction or site work, two years after initial house construction	Removal is not restricted, except as outlined in subd. 7(a) above		
	Redevelopment	25% of WPA on the lot	35% of trees on the lot	50% of trees on the lot
Non-Single-Family Property	No construction or site work	In conformance with approved landscape or tree preservation plan		
	Construction or site work on a vacant lot	In conformance with subdivision or site plan approval		
	Construction or site work on a developed lot	25% of WPA on site	35% of trees on site	50% of trees on site
	Redevelopment	25% of WPA on site	35% of trees on site	50% of trees on site

Subdivision	25% of area on site	35% of trees on the site	50% of trees on the site
	If a subdivision proposal includes removal of trees above the thresholds listed above, the subdivision must occur at a density of no more than 1 unit/acre		

* located outside of a WPA

c) In addition to the on-site woodland preservation area removal thresholds outlined in the chart above, the city may consider a proposal's impact on the cumulative removal within the larger woodland preservation area.

d) Exceptions. The city council may allow removal of protected trees over the percentages listed in the chart above if:

1) The removal would promote a greater public good, such as:

* providing reasonable use or access to the property;
* providing affordable housing;
* allowing for the creation or rehabilitation of a public road or trail;
* providing for a public utility service, such as a transmission line, stormwater pond, or a water tower;
* allowing for the creation or rehabilitation of a public park;
* enabling redevelopment in a designated redevelopment area;
* or other public good recognized by the city.

2) The removal of some trees would promote the preservation of important or unique natural features of trees on the property or site.

3) The removal of some trees would promote the planting or growth of more climate-resilient trees or vegetation on the property or site.

4) A variance is granted under Section 300.07 of the zoning ordinance.

8. Tree Mitigation.

a) Mitigation Required. Mitigation is required for trees removed, as follows.

		Mitigation is Required For:
Single-Family Property	No construction or site work	N/A. Removal not restricted, except as outlined in subd. 7 above.
	Construction on a vacant lot	* High priority trees, significant trees, and trees within woodland preservation removed outside of: (1) the basic tree removal area; and (2) the width of required easements for public and private streets and utilities.
	Construction or site work, two years after initial house construction	
	Redevelopment	* High priority and significant trees removed for surface stormwater practices.
Non-Single- Family Property	No construction or site work	* Trees part of an approved tree preservation or landscape plan.
	Construction or site work on a vacant lot	* High priority trees, significant trees, and trees within woodland preservation removed outside of: (1) the basic tree removal area; and (2) the width of required easements for public and private streets and utilities.
	Construction or site work on a developed lot	
	Redevelopment	* High priority and significant trees removed for surface stormwater practices.
Subdivision		* High priority trees, significant trees, and trees within woodland preservation removed outside of: (1) the basic tree removal area; and (2) the width of required easements for public and private streets and utilities. * High priority and significant trees removed for surface stormwater practices.

b) Mitigation Plan. When tree mitigation is required, the applicant must submit a tree mitigation plan for staff review and approval. The plan must indicate the number of inches or feet of mitigation trees, the species and quantity of each species, and the caliper size or feet and location for each replacement tree. The plan may not be comprised of more than 10 percent of the same species or size unless approved by the city. The plan must comply with the mitigation standards required below. The applicant must implement the tree mitigation plan approved by city staff.

c) Mitigation Standards. Mitigation for removal of trees or large shrubs in woodland preservation areas, high priority trees, and significant trees must meet the following standards:

	Woodland Preservation Area	**High-Priority Tree**	**Significant Tree**

Rate	One inch for each inch in diameter of a deciduous tree removed and one foot for each foot in height of a coniferous tree removed		Two inches dsh replanted per tree removed
Species	Species found in that eco- type, as specified on the list of acceptable replacement species on file with the city	Species of a similar type that are normally found growing in similar conditions and that are included on the list of acceptable replacement species on file with the city;	Any tree species, as approved by city staff
Size	* Deciduous balled and burlapped trees: at least 1.25 inches, but not more than 3 inches dsh * Deciduous spade moved trees: at least 3 inches, but not more than 6 inches * Understory or small trees: at least #7 container stock * Shrubbery: at least #3 container stock * Coniferous balled and burlapped trees: at least 6 feet, but not more than 8 feet in height * Coniferous spade moved: at least 8 feet, but not more than 14 feet.		Deciduous: no less than two inches dsh replanted per tree removed Conifer: no less than six feet in height replanted per tree removed

In addition,

1) Mitigation trees must be planted on the same property or development area from which the trees were removed. The city recognizes that, in some unique situations, site conditions may not allow a property owner or applicant to achieve the required on-site mitigation. In such cases, and at the sole discretion of city staff, a property owner or applicant may be required to provide cash in lieu of the required mitigation that cannot be planted on site. Such funds would be deposited into the city's natural resources fund.

2) If larger trees are allowed, a three-year financial guarantee may be required.

3) The required mitigation trees must be replaced by the current property owner if the trees have died, have severely decline, or have been damaged after the end of the second full growing season following installation. A tree will be considered to be severely declined if more than 25 percent of the crown has died.

4) Development that is subject to landscape requirements in sections 300.27 and 300.31 must meet the minimum landscape requirements of the applicable section. Trees planted as part of a required landscaping plan may be counted as mitigation trees under this section, at the city's discretion.

5) All mitigation trees and shrubs must meet the American National Standards Institute (ANSI A300 and as amended) relating to planting guidelines, quality of stock, and appropriate sizing of the root ball for balled and burlapped, containerized, and spade- moved trees.

6) The city may require an escrow deposit to ensure the required planting and continued existence of the mitigation trees. The city will release the escrow deposit after the end of the second full growing season following installation of the mitigation trees and any replacement trees.

9. Construction.

a) Before construction or site work – including any tree removal – tree protection fencing or other approved protection measures must be installed for city staff inspection. The location of the fencing/protection measures must be in conformance with the approved tree preservation plan and must be maintained throughout the course of construction or site work.

b) No construction, compaction, construction access, stockpiling of earth, storage of equipment or building materials, or grading of any kind may occur within the critical root zone areas of trees to be protected.

c) An area of new or compensatory water storage may not be located where there are woodland preservation areas, high priority trees, or significant trees unless approved by the city. Mitigation will be required for the loss of woodland preservation areas and high- priority trees due to ponding. The compensatory storage area must be created in a manner that prevents erosion into any nearby water resource.

10. Violations

a) Each protected tree that is removed in violation of ordinance requirements is a separate violation of the city code.

b) A tree or shrub that was required by the city to be saved but was removed must be replaced at a rate of 2:1 based on dsh for deciduous species and height for conifers. The city may also impose a financial penalty equal to $500 for each inch of dsh or foot of height removed, not to exceed $2,000 for each tree or shrub. This provision also applies to a conservation easement area that is disturbed during or after development.

11. Exemptions. Linear projects, utility maintenance projects, and associated activities undertaken by a government unit are exempt from the provisions of this ordinance. Plans must be designed to protect as many trees as practicable and must be provided to natural resources staff for review and comment.

(Added by Ord. No. 2021-24, effective October 10, 2021)

SECTION 315. PERFORMANCE STANDARDS.

SECTION 315.01. EXTERIOR LIGHTING.

[Reserved.]

(Added by Ord. No. 2022-18, effective November 14, 2022)

SECTION 315.02. NOISE AND VIBRATION.

[Reserved.]

(Added by Ord. No. 2022-18, effective November 14, 2022)

SECTION 315.03. SMOKE AND PARTICULATE MATTER.

[Reserved]

(Added by Ord. No. 2022-18, effective November 14, 2022)

SECTION 315.04. ODOR.

[Reserved]

(Added by Ord. No. 2022-18, effective November 14, 2022)

SECTION 315.05. TOXIC OR NOXIOUS MATTER.

[Reserved]

(Added by Ord. No. 2022-18, effective November 14, 2022)

SECTION 315.06. RADIATION.

[Reserved]

(Added by Ord. No. 2022-18, effective November 14, 2022)

SECTION 315.07. HEAT AND HUMIDITY.

[Reserved]

(Added by Ord. No. 2022-18, effective November 14, 2022)

SECTION 315.08. ELECTROMAGNETIC INTERFERENCE.

[Reserved]

(Added by Ord. No. 2022-18, effective November 14, 2022)

SECTION 315.09. FIRE AND EXPLOSIVE HAZARDS.

[Reserved]

(Added by Ord. No. 2022-18, effective November 14, 2022)

SECTION 315.10. LIQUID OR SOLID WASTE.

[Reserved]

(Added by Ord. No. 2022-18, effective November 14, 2022)

SECTION 315.11. SATELLITE DISH ANTENNAS.

[Reserved]

(Added by Ord. No. 2022-18, effective November 14, 2022)

SECTION 316.12. SIGHT AND VISION CLEARANCE STANDARDS.

[Reserved]

(Added by Ord. No. 2022-18, effective November 14, 2022)

SECTION 317.13. GRADING.

[Reserved]

(Added by Ord. No. 2022-18, effective November 14, 2022)

SECTION 315.14. PARKING AND LOADING REQUIREMENTS.

1. Findings, Purpose, and Administration.

a) Findings. The City of Minnetonka finds that:

1) Parking requirements should promote public health, safety, and welfare.

2) Parking requirements can significantly influence land use density and design and, in doing so, influence the overall aesthetic of a community.

3) Parking requirements and resulting parking availability can influence the decisions of property owners, business owners, developers, and consumers.

4) Parking requirements can result in increased impervious surfaces and stormwater runoff while reducing groundwater recharge and areas for vegetation and other impervious site amenities.

5) Parking requirements alone do not determine parking availability. Rather, parking demand for any land use, and thereby parking availability, can change based on business practices, consumer decisions, and household composition. For example, a business may promote teleworking, the popularity of restaurants may vary over time, and households may have more or fewer cars as members of households age.

b) Purpose. Consistent with the findings above, the purpose of the section is to establish parking regulations that promote public health, safety, and welfare by:

1) Ensuring that the average parking demand associated with new and existing land uses can be reasonably met.

2) Providing flexibility in parking regulations in support of city goals related to community aesthetics, environmental protection, and economic sustainability.

c) Administration.

1) Administration and enforcement of this section 315.14 is governed by Section 300.03.

2) Citation. This section 315.14 may be cited as the Minnetonka parking ordinance.

3) Severability. Every section, subdivision, clause, or phrase of this section 315.14 is declared separable from every other section, subdivision, clause, or phrase. If any such part is held to be invalid by a competent authority, no other part is invalidated by such action or decision.

2. Definitions. For the purpose of this ordinance, the terms below have the meaning given to them:

a) "Assembly use" – a building or facility where a group of people gathers for specific purposes. Examples include educational buildings, religious facilities, fraternal clubs, sporting venues, community centers, and theaters.

b) "Bicycle parking facilities" – bicycle storing equipment that accommodates secure parking of multiple bicycles.

c) "Charging station" – a parking space served by charging equipment that conducts energy to a battery or storage device to a vehicle that operates on something other than fossil fuels.

d) "Daycare service" – service use that provides care to persons or animals for periods of less than 24 hours per day. This definition does not apply to uses operating as a permitted or accessory use under Sections 300.10, 300.11, 300.12, 300.13, 300.14, or 300.37.

e) "Healthcare service" – service use that includes areas for patient examination and treatment by physicians or dentists. Examples include hospitals, medical clinics, or dental clinics serving human or animal clients. Conversely, uses focused on mental health – such as psychiatry, psychology, or therapist offices - are considered personal care/wellness services uses for the purpose of calculating parking requirements.

f) "Low turnover use" – residential, office, industrial use, and other uses with similar traffic characteristics, as determined by the city planner.

g) "Personal care/wellness services" – service use catering to personal care. Examples include psychiatry, psychology, or therapist offices, licensed chiropractor offices, hair and nail salons, licensed massage facilities, weight loss centers, athletic clubs, and workout facilities.

h) "Proof-of-Parking" – parking stalls illustrated on site plans, which meet minimum design standards of this ordinance, but are not constructed.

i) "Restaurant, with table service" – a restaurant in which wait staff take orders for food or drink from customers in a seating area. Sometimes called "sit-down restaurants."

j) "Restaurant, without table service" – a restaurant in which customers place orders for food or drink at a counter or via a computer or phone application and where seating is provided for the consumption of the food or drink. Examples include fast food restaurants, coffee shops, donut shops, or other similar food or drink-related spaces.

k) "Restaurant, without seating" – a restaurant in which customers place orders for food or drink at a counter or via a computer or phone application and where no seating is provided for the consumption of the food or drink. Examples include take-out only businesses.

l) "Visitor parking" – parking stalls designated for use by non-residents of a multi- household dwelling.

3. Numerical Requirements.

a) General Parking. The change of use, tenancy, or occupancy of a parcel of land or building may change the parking demand associated with that parcel of land or building. To accommodate demand, the city will calculate parking requirements as outlined in this section.

1) Unless otherwise excepted by Section 3(b) or 3(c) below, parking stalls must be provided for uses in conformance with the following parking rates. Square footage is based on gross floor area, except as otherwise noted.

Table 1, Required Number		
Table 1, Required Number		
Residential Uses		
Single-household detached dwelling*		2 per unit
Single-household attached dwelling*		2 per unit
Multi-household dwelling**	Apartment, condo, coop	1 per bedroom
	Senior independent	1 per unit
	Senior assisted/memory care	.5 per unit
	Continuous care	1 per unit
	Visitor parking	10% of units
Nursing, convalescent home, licensed care facility (CUP)*		1 per 3 beds
Assembly Uses		
General		10 per 1,000 sq.ft. of main assembly area, as determined by the city planner
	Pre-school	2.5 per 1,000 sq.ft.
	Elementary school	2 per classroom
	Middle school/junior high	2 per classroom

Educational Facility	High school	1 per employee station, plus 10 per 1,000 sq.ft. of main assembly area, as determined by the city planner
Service Uses		
General		3 per 1,000 sq.ft.
Daycare service		2.5 per 1,000 sq.ft.
Healthcare service		3 per 1,000 sq.ft., with a minimum of 5 required
Hotel		0.75 per guest room
Personal care service		3 per 1,000 sq.ft.
Office and Commercial Uses		
General office		2.75 per 1,000 sq.ft.
General retail**		3 per 1,000 sq.ft., with a minimum of 5 required
Brewery, taproom, distillery, winery		1 per 1,000 sq.ft. for production area, plus 14 per 1,000 sq.ft. for all other area
Restaurant, with table service ^		14 per 1,000 sq.ft.
Restaurant, without table service, no drive-thru ^		10 per 1,000 sq.ft.
Restaurant, without table service, with drive-thru ^		9 per 1,000 sq.ft., plus 6 off-street stacking per drive thru lane
Restaurant, without seating		3 per 1,000 sq.ft., with a minimum of 5 required
Shopping center		4 per 1,000 sq.ft., gross leasable area
Industrial Uses		
Warehousing or storage		0.5 per 1,000 sq.ft.
Manufacturing		1 per 1000 sq.ft.

* Residential uses must also meet Subd. 4, Design Standards for enclosed and unenclosed parking spaces.
** For single-tenant buildings only. Buildings with more than one tenant, use the _Shopping Center calculation.
^ Outdoor seating areas may be required to provide additional parking as part of a conditional use permit approval. In determining if additional parking is needed, a parking study may be conducted, and the city will consider things such as the size of the area relative to the size of a restaurant, if the seating area includes an outdoor bar, if off-street shared parking is readily available or easily accessible, and observed parking demand at other similar seating areas.

2) The parking requirement for a site will be calculated based on its component uses. For example, the total required parking for a hotel that includes a sit-down restaurant would be equal to 0.75 space per guest room (hotel parking rate) + 14 stalls per 1,000 square feet of restaurant space (restaurant with table service rate).

3) The parking requirement for uses not specifically outlined in this ordinance will be determined by the city planner based upon: (1) available published parking standards such as those compiled by the Institute of Transportation Engineers and American Planning Association; (2) observed local demand; or (3) a combination thereof.

4) When calculating parking, if the resulting number for the entire site is a fraction, the number will be rounded up to the closest whole number.

b) Existing Development. When the city has documented that parking demand regularly exceeds parking supply on or around a particular property or building, the city may require that a parking study be conducted prior to a change in use, tenancy, or occupancy of the property or building. The results of the study may result in conditions of approval, including but not limited to providing additional parking, or findings for denial.

c) Reduced Parking. The city may approve land use with parking stalls at a rate less than outlined in Table 1 without variance, if:

1) A parking study suggests fewer parking spaces would reasonably meet average parking demand. Such parking studies may be completed by city staff or a consultant hired by the city and referencing: (1) available published parking standards such as those compiled by the Institute of Transportation Engineers and American Planning Association; (2) observed local demand; or (3) a combination thereof. A memo outlining the results of the parking study must be saved in the associated building permit file or other appropriate city- maintained file; or

2) A travel demand management (TDM) plan is approved by the city. The plan may include a combination of modes of transportation, hours of operation, remote work options, incentives, and facilities that reduce parking demand. A memo outlining the TDM and any required reporting must be saved in the associated building permit file or another appropriate city-maintained file.

d) Proof-of-Parking. The city may allow the use of proof-of-parking to achieve parking requirements. The parking area must meet the setback, dimension, and maneuverability standards of this ordinance and the stormwater management rules as outlined in the city's water resources management plan. When proof of parking is approved, an agreement must be recorded against the property outlining: (1) the proof-of-parking may not be constructed unless the city observes that parking demand regularly exceeds parking supply and approves such construction in writing; and (2) the property owner and successors are responsible for the cost of the parking lot and stormwater management facility construction.

e) Event Parking. The city may require that land uses provide a plan outlining how parking will be managed during reoccurring, high parking demand events.

4. Design Requirements.

a) Enclosed and Unenclosed Parking. For residential land uses, parking must be designed as follows:

Table 2, Required Location	
Single-household detached dwelling	Parking spaces may be enclosed or unenclosed. However, a suitable location on the site for a garage measuring at least 24-feet by 24-feet which does not require a variance must be designated on building permit plans.
Single-household attached dwelling	One space per unit must be enclosed
Multi-household dwelling	One space per unit must be enclosed
Nursing, convalescent home, licensed residential care facility (CUP)	Parking spaces may be enclosed or unenclosed

b) Visitor Parking. Visitor parking, whether enclosed or unenclosed, must be fully accessible to the public. No gates, doors, or other physical barriers may be erected to limit access to the parking area. In addition: (1) appropriate signage must be installed to direct visitors to the parking; and (2) the stalls and drive aisles must meet setback, dimension, and maneuverability standards of this ordinance.

c) Setbacks. Minimum setbacks for parking lots, driving aisles, loading spaces, and maneuvering areas are as follows:

Table 3, Required Setback		**Subject Property**				
		Low & Med. Density Res.	**High-Density Res.**	**Office, Comm.**	**Industrial**	**Institutional**
Table 3, Required Setback		**Subject Property**				
		Low & Med. Density Res.	**High-Density Res.**	**Office, Comm.**	**Industrial**	**Institutional**
Adjacent Property	**Low & Med.-Density Res.**	20 ft	20 ft	20 ft	30 ft	20 ft
	High-Density Res.	20 ft	10 ft	20 ft	30 ft	20 ft
	Office, Comm.	20 ft	10 ft	10 ft	10 ft	20 ft
	Industrial	30 ft	30 ft	20 ft	20 ft	30 ft
	Institutional	20 ft	20 ft	20 ft	30 ft	20 ft

	Right-of-Way	20 ft	20 ft	20 ft	20 ft	20 ft

1) For subject properties that contain multiple uses, the most restrictive setback outlined in Table 3 will apply.

2) If property lines bisect shared parking elements, the setback requirements do not apply. For example, if individual tenants in a retail center own a portion of a parking lot which serves the entire center, setbacks are not required between the separately owned areas, provided there is a recorded agreement outlining shared access and parking use.

d) Dimensions. Minimum parking stall and drive width dimensions are as follows:

Table 4, Required Dimensions	**Parking Stall**			**Drive Aisle Width****	
	Parking Angle	**Stall Width**	**Stall Length**	**Standard**	**Low Turnover Uses Parking Structure**
Table 4, Required Dimensions	**Parking Stall**			**Drive Aisle Width****	
	Parking Angle	**Stall Width**	**Stall Length**	**Standard**	**Low Turnover Uses Parking Structure**
Standard Stall	45 degrees	12 ft	18 ft	13.5 ft, one-way only	12 ft
	60 degrees	10 ft	18 ft	18.5 ft, one way only	16 ft
	75 degrees	9 ft	19 ft	23 ft	18 ft
	90 degrees	8.5 ft	18 ft	26 ft*	24 ft
	Parallel	20 ft	8 ft	22 ft	22 ft
Compact stalls	45 degrees	10 ft	16 ft	13.5 ft, one-way only	12 ft
	60 degrees	8.5 ft	17.5 ft	18.5 ft, one way only	16 ft
	75 degrees	8 ft	16.5 ft	23 ft	18 ft
	90 degrees	7.5 ft	16 ft	26 ft*	24 ft
* aisle serving one row of 90 degree parking spaces may be 22 ft wide ** minimum drive aisle width(s) may vary from these standards as determined by the Fire Marshal.					

In addition: (1) all required parking spaces must be accessed by adequate maneuvering space; and (2) all dead-end parking rows must contain a turnaround area at least 13 feet deep.

e) Compact Parking. The city may allow low-turnover uses to use compact parking stalls, as follows:

1) The parking lot serving the use must contain at least 20 parking stalls.

2) No more than 25 percent of the total required stalls may be compact stalls.

3) Compact stalls must be appropriately signed.

f) Loading and Unloading. Except on properties containing single-household attached and detached dwellings, parking must be provided for site services including, but not limited to, garbage collection, moving trucks, and inventory delivery.

1) The city may require parking spaces for the loading, unloading, or parking of trucks or semi-trailers. The number, configuration, and location of such spaces will be determined by the city based on individual use and site characteristics with an emphasis on minimizing interference with the use of the public right-of-way.

2) Loading and unloading spaces and the associated maneuvering area must be set back at least 50 feet from properties containing single-household attached or detached dwellings.

3) Unless approved by the city based on unique site characteristic or existing or proposed screening, loading and loading spaces must be located behind the building being served.

g) Landscaping.All parking lots containing over 150 stalls must be designed with unpaved, landscaped islands consistent with City

Code Section 300.27 Subd. 16.

h) Construction. Parking improvements, including pavement expansion, reduction, or restriping, require city approval.

1) Properties containing or being developed for single-household dwellings must comply with Section 1105 of this code.

2) On all other properties:

a. All parking and loading areas, aisles, and driveways must be bordered with raised concrete curbs or equivalent approved by the city.

b. All parking, loading, and driveway areas must be surfaced with asphalt, concrete, or equivalent material approved by the city.

c. All parking stalls must be marked with painted lines not less than four inches wide in accordance with the approved site and building plan.

d. All parking lots must provide islands for traffic control as needed.

e. Parking lots must be designed such that vehicles are not required to back into public rights-of-way. The city may require turnaround areas to prevent such maneuvers.

i) Off-Site Parking. Required parking must be provided on-site. However, the city may allow off-site parking when an applicant demonstrates that the off-site parking will be:

1) Reasonably accessible from the use being served, as determined by the city planner; and

2) Protected by a recorded document. The document must be acceptable to the city and must include provisions binding any successor or assigns and allowing termination only as agreeable to the city.

5. Miscellaneous Requirements.

a) Occupancy. Parking required under this ordinance must be fully constructed and striped, where required, before occupancy of a parcel of land or building served by the parking.

b) Accessible Parking. In addition to the standards outlined in this ordinance, all parking areas must conform to the requirements of Minnesota State Accessibility Code, Chapter 1341. Areas striped as “no parking” for accessibility purposes are not considered parking stalls.

c) Bike Parking. New construction, redevelopment, or other proposals requiring planning commission or city council review must provide bicycle parking as outlined below. Single-household dwellings are exempt from these requirements.

1) Multi-household Dwellings. The number of bicycle parking spaces provided must be at least equal to the required number of automobile parking spaces and must be located interior to the building(s). Spaces may be within bike storage rooms, lockers, or floor or wall-mounted racks.

2) Non-Residential Dwellings. The number of bicycle parking spaces provided must be at least equal to ten percent (10%) of the required number of automobile parking spaces.

3) Bike parking must be visible, well-lit, and at least as conveniently located as the most convenient automobile spaces, other than those spaces for accessible parking.

4) Spaces must be of sufficient dimension to accommodate a full-sized bicycle, including space for access and maneuvering.

5) Bicycle parking facilities must be appropriately separated from motor vehicle parking areas to protect parked bicycles from damage by motor vehicles.

6) Bicycle parking facilities must be visually compatible with the architectural design of the associated building(s).

7) Bicycle parking must be securely anchored and must allow the bicycle wheel and frame to be locked to the facility.

d) Charging Stations. New construction, redevelopment, or other proposals requiring planning commission or city council review are encouraged to appropriately plan for charging stations. Planning may include actual installation of stations, installation of station infrastructure, or installation of conduit to minimize site disruption for future installation of infrastructure. Projects receiving financial assistance from the city may be required to install charging stations as a percentage of total required parking.

e) Prohibitions

1) Parking lots, driving aisles, loading spaces, and maneuvering areas may not be used for the storage, display, sales, or rental of goods; repair of vehicles; or storage of snow unless approved by city staff.

2) Gates or other limiting devices are prohibited unless approved in writing by city planning and emergency management staff.

(Added by Ord. No. 2022-18, effective November 14, 2022; Amended by Ord. No. 2023-04, Effective May 18, 2023.)

SECTION 315.15. TRAFFIC STUDIES.

[Reserved]

(Added by Ord. No. 2022-18, effective November 14, 2022)

SECTION 315.16. SOLAR ENERGY SYSTEMS.

1. General

a) Roof-mounted solar energy systems and wall-mounted solar energy systems must comply with all location, setback, size, and height requirements of its attached structure.

b) Ground-mounted solar energy systems must comply with all location, setback, size, and height standards relating to accessory structures in that zoning district. Ground-mounted solar energy system height must be measured from the top of the grade to the highest point of the structure at its maximum designed height.

c) Ground-mounted solar energy systems in parking lots within the B-1, B-2, B-3, I-1, PID district, and conditionally permitted uses within residential districts are allowed, but must meet the following:

1) Location: Must follow parking lot setback requirements and may not disrupt parking lot spaces, landscape, or drive aisle requirements.

2) Height: Structures in drive aisles must have a 13.5-foot vehicle clearance and may not exceed 20 feet in height or the height of the principal structure, whichever is less. Structures located over parking stalls must have a 9-foot clearance and may not exceed 20 feet in height or the height of the principal structure, whichever is less. Structures may not interfere with fire apparatus access (as determined by the city's fire marshal).

3) Design: Solar energy system structures may not be enclosed or have walls.

d) Solar Energy Systems collector surfaces must be oriented to not direct glare towards neighboring windows. Where necessary, screening may be required to address glare.

e) Solar energy collector devices less than two (2) square foot in area and generally used for garden decoration, exterior accent lighting, lawns, and flagpoles, are exempt from the requirements of this section.

f) Accessory solar energy systems installed by a government agency or public utility on light poles, signs, transit shelters, within the public right of way, easements, and city-owned property are exempt from the provisions of this section.

2. Safety

a) Solar energy systems and all components thereof must meet the minimum manufacturer standards, if any, as required by the Minnesota State Building Code, including the Plumbing Code, Electrical Code, Energy Code, and Fire Code, as applicable.

b) Any solar energy system found to be unsafe by the building official or designee must be repaired by the owner to meet all code requirements or removed as directed.

c) If any solar energy system remains nonfunctional or inoperative for a continuous period of twelve (12) months, the system will be deemed abandoned and will constitute a public nuisance. The owner must remove the abandoned system at their expense after any required permits have been obtained. Removal includes the entire structure, including transmission equipment and footings.

(Added by Ord. No. 2022-18, effective November 14, 2022)

SECTION 325. SIGN REGULATIONS.

SECTION 325.01 PURPOSE AND FINDINGS.

1. Purpose.

The sign ordinance is intended to establish a comprehensive and balanced system of sign control that accommodates the need for a well-maintained, safe, and attractive community, and the need for effective communications including business identification. It is the intent of this section, to promote the health, safety, general welfare, aesthetics, and image of the community by regulating signs that are intended to communicate to the public, and to use signs that meet the city's goals by authorizing:

a) permanent signs that establish a high standard of aesthetics;

b) signs that are compatible with their surroundings;

c) signs that are designed, constructed, installed and maintained in a manner that does not adversely impact public safety or unduly distract motorists;

d) signs that are large enough to convey the intended message and to help citizens find their way to intended destinations;

e) signs that are proportioned to the scale of, and are architecturally compatible with, principal structures;

f) permanent signs that give preference to the on-premise owner or occupant; and

g) temporary commercial signs and advertising displays that provide an opportunity for grand openings and occasional sales events while restricting signs that create continuous visual clutter and hazards at public right-of-way intersections.

2. Findings.

The city of Minnetonka finds it is necessary for the promotion and preservation of the public health, safety, welfare and aesthetics of the community that the construction, location, size and maintenance of signs be controlled. Further, the city finds:

a) permanent and temporary signs have a direct impact on and relationship to the image of the community;

b) the manner of installation, location and maintenance of signs affects the public health, safety, welfare and aesthetics of the community;

c) an opportunity for viable identification of community businesses and institutions must be established;

d) the safety of motorists, cyclists, pedestrians and other users of public streets and property is affected by the number, size, location and appearance of signs that unduly divert the attention of drivers;

e) installation of signs suspended from, projecting over, or placed on the tops of buildings, walks or other structures may constitute a hazard during periods of high winds and an obstacle to effective fire-fighting and other emergency service;

f) uncontrolled and unlimited signs adversely impact the image and aesthetic attractiveness of the community and thereby undermine economic value and growth;

g) uncontrolled and unlimited signs, particularly temporary signs which are commonly located within or adjacent to public right-of-way or are located at driveway/street intersections, result in roadside clutter and obstruction of views of oncoming traffic. This creates a hazard to drivers and pedestrians and also adversely impacts a logical flow of information;

h) commercial signs are generally incompatible with residential uses and should be strictly limited in residential zoning districts; and

i) the right to express noncommercial opinions in any zoning district must be protected, subject to reasonable restrictions on size, height, location and number.

3. Severability.

Every section, subdivision, clause or phrase of this section 325 is declared separable from every other section, subdivision, clause or phrase. If any such part is held to be invalid by competent authority, no other part shall be invalidated by such action or decision.

SECTION 325.02. DEFINITIONS.

1. "Blade sign" - see "projecting sign."

2. "Commercial sign" - any sign that advertises or identifies a product, business, service, entertainment, or any other matter of a commercial nature, even though the matter may be related to a nonprofit organization.

3. "Conditionally permitted uses" - within residential districts, educational institutions and facilities, religious institutions and facilities, public buildings or facilities, public or private nursing homes, and commercial nurseries.

4. "Copy and graphic" - the wording and other display messages such as logos or symbols on a sign.

5. "Copy and graphic area" - the area in square feet of the smallest four-sided figure which encloses the copy and graphic of a sign.

6. "Dynamic display" - any characteristics of a sign that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure itself, or any other component of the sign. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. This also includes any rotating, revolving, moving, flashing, blinking, or animated display and any display that incorporates rotating panels, LED lights manipulated through digital input, "digital ink" or any other method or technology that allows the sign face to present a series of images or displays.

7. "Feather flag" - a freestanding, temporary sign constructed of a vertical pole, tube or post supporting one edge of a sheet of cloth, vinyl or similar material.

8. "Freestanding sign" - a sign which is self-supporting and affixed to a frame structure not attached to a building.

9. "Illumination, internal" - a light source within the sign.

10. "Illumination, external" - a light source which is not internal to the sign.

11. "Items of information" - individual copy and graphic items situated in a manner which presents separate messages. An item of information can only be a name, an address, a logo, or geographic directions.

12. "Limited tenant building" - a commercial retail establishment or a group of commercial retail establishments with the designed occupancy of three or less tenants. It must have shared parking and a visual appearance of a contiguous structure, which may or may not be planned, constructed or managed as a total entity. This includes single tenant retail structures.

13. "Merchandise box" - a sign which is affixed on or located adjacent to a gas pump and used to advertise services and goods.

14. "Monument sign" - a sign not supported by exposed posts or poles which is architecturally designed and located directly at grade where the base width dimension is 50% or more of the greatest width of the sign.

15. "Monument area" - the area in square feet of an entire monument sign structure, including copy and graphic area.

16. "Multi-tenant building" - a building with a designed occupancy of four or more tenants with shared parking and visual appearance as a contiguous structure, which may or may not be planned, constructed or managed as a total entity.

17. "Non-commercial sign" - any sign that is not a commercial sign, including but not limited to signs that convey messages concerning political, religious, social, ideological, public service and informational topics.

18. "On-premise sign" - a sign relating in it subject matter to, or which directs attention to, a business, person, activity, commodity, service or entertainment located on the site where the sign is installed.

19. "Off-premise sign" - a sign relating in its subject matter to, or that directs attention to, a business, person, activity, commodity, service, entertainment or any other matter that is not available, or does not take place, on the same premises as the sign. A discontinued sign is an off-premise sign.

20. "Outdoor advertising sign" - a permanent off-premise sign.

21. "Permanent sign" - any sign other than a temporary sign.

22. "Portable sign" - a sign with or without copy and graphic that is designed or intended to be moved or transported. Examples of portable signs are: A - or T - frame signs; sandwich signs; signs designed to be transported by trailer or on wheels; signs mounted on a vehicle for advertising purposes, when the vehicle is parked and visible from public right-of-way, except signs identifying a business when the vehicle is being used in the normal day-to-day operation of that business. A sign may be a portable sign even if it has wheels removed, was designed without wheels, or is attached temporarily or permanently to the ground, a structure, or other sign.

23. "Private road open to public travel" has the meaning given that term under the Manual of Uniform Traffic Control Devices.

24. "Projecting sign" - a sign which extends perpendicularly beyond a wall face more than 18-inches.

25. "Pylon sign" - a sign supported by a post or posts so that the sign and supports are finished to grade by encasing the posts in a material consistent with the sign and where the base width dimension is a minimum of 10% up to and including 50% of the greatest width of the sign.

26. "Sandwich sign" - a freestanding temporary sign, typically A-shaped, with two visible sides that is placed near the main entrance to a building.

27. "Sign" - any writing, pictorial presentation, number, illustration or decoration, flag, banner or other device that is used to announce, direct attention to, identify, advertise, or otherwise make anything known. The term "sign" shall not be deemed to include: the terms "building" or "landscaping", or any architectural embellishment of a building not intended to communicate information; works of art that do not convey commercial messages and that are painted on a building wall; flags that do not convey commercial messages; or any sign structure or device that is not visible from an adjacent street, property line or building on adjacent property.

28. "Temporary sign" - a sign constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, plywood or other like materials and that appears to be intended to be displayed for a limited period of time. This includes items such as banners, pennants, beacons, sandwich or curb signs, balloons or other air or gas filled figures.

29. "Wall sign" - a single faced sign attached to or erected against an exterior wall of a building with the face in a parallel plane to the plane of the building wall.

SECTION 325.03. CITATION; ADMINISTRATION AND ENFORCEMENT.

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1. Citation.

This section 325 may be cited as the Minnetonka Sign Ordinance.

2. Administration and enforcement.

Administration and enforcement of this section 325 is governed by section 300.03.

SECTION 325.04. PERMITS, PROCEDURE AND VARIANCES.

1. Permit not required.

The following signs do not require a permit but must meet the regulations in this section:

a) Signs required or allowed by section 325.05, subd. 3.

b) Temporary signs in residential districts as allowed by section 325.06, subd. 1(d)(1).

2. Permit required.

a) No person may erect or install any of the following signs without first obtaining a permit from the community development director or designee:

b) All permanent signs permitted in section 325.06 require a sign permit, unless specifically noted otherwise. The permit must be received prior to installation of the sign. The permit and inspection fee for all permanent signs is specified in city code section 710.

c) All temporary signs permitted in section 325.06, require a temporary sign permit, unless specifically noted otherwise. The permit and inspection fee for permitted signs, banners, search lights, or inflatable advertising devices is specified in city code section 710.

3. Permit procedure.

a) Application for a permit must be on a form provided by the city and must include the following information:

1) name and address of the owner of the sign;

2) street address or location of the property on which the sign is to be located, along with the name and address of the property owner;

3) the type of sign as defined in this section;

4) site plan showing the location of the proposed sign;

5) specifications and scale drawings showing the materials, design, dimensions, structural supports, method of attachment and electrical components of the sign;

6) plan showing the location and size of all existing signs located on the same premises upon city request;

7) sign permit fee as specified in city code section 710.

b) The community development director or designee must approve or deny a sign permit application within 15 business days after a complete application is submitted. A decision must be made in writing and must be mailed or electronically delivered to the applicant at the address or email address provided in the application. If a permit is denied, the reason must be stated in writing.

c) An applicant may appeal a denial by submitting a request in writing within 10 days after the decision was mailed or electronically delivered. The appeal must be scheduled for planning commission review as soon as practicable, but no later than 30 days after the appeal was submitted. The applicant may appeal a planning commission denial by submitting a request in writing within 10 days after the decision. The appeal must be scheduled for city council review as soon as practicable, but no later than 30 days after the appeal was submitted. All review of a sign permit application must be based solely on whether the application complies with city ordinances.

4. Variances.

A variance from the regulations in this section requires a separate application, according to the procedures in section 300.07 of this code. The fee for application for variance from this section or approval of a sign plan for a development is specified in city code section 710.

5. Permit expiration.

A sign permit becomes null and void if the sign is not installed within 180 days after issuance of the permit, and a new application must be submitted.

SECTION 325.05 GENERAL REGULATIONS.

1. Scope.

The regulations in this section 325.05 apply to signs in all zoning districts.

2. Prohibited Signs.

The following signs are prohibited in all districts.

a) Signs not specifically authorized under this section 325.

b) Portable signs, except for temporary traffic control devices in temporary traffic control zones as required by the Manual on Uniform Traffic Control Devices or portable signs specifically permitted in section 325.06.

c) Feather flags and pennants;

d) Signs designed to resemble official traffic control devices are prohibited in all districts, except signs that are used to control traffic on private property.

e) Abandoned signs;

f) Blank signs;

g) Merchandise boxes or signs not affixed to a principal structure excluding signs permitted in subdivision 8(d);

h) Permanent off-premises signs.

3. Permitted signs.

The following signs are required or permitted in every zoning district:

a) An assigned street address marking its property with the street address numerals is required, so that emergency services providers can easily identify the address from the public street. The identification may be on the curb or on the principal building of the property. The size and location of the identifying numerals must be proportional to the size of the building and the distance from the street to the building. In cases where the building is not located within view of the public street, or where the building is located more than 150 feet from the public street, the identifier must be located on the mailbox or other suitable device that is visible from the street.

b) Traffic control devices on private or public property must be erected and maintained to comply with the Manual on Uniform Traffic Control Devices adopted in this state.

c) Permanent and temporary signs required by law or ordinance for regulatory/notification purposes.

d) Permanent freestanding signs on properties with more than 20 parking spaces, provided the signs comply with the requirements in Table 325.1:

Table 325.1: Parking Lot Signs*	
Maximum sign area	7 sq. ft.
Maximum height	6 ft.
Location requirement	Within 5 ft. of drive aisles in parking lots and located in proximity to the change in direction.
Numerical limit	1 sign for each 60 degree change in direction of the drive isle.
*Advertisement (Logos or business names) are not permitted. Sign permit not required.	

e) Temporary off-premise commercial signs are permitted in all districts, provided the signs comply with the following:

1) must be at least 5 feet from the edge of a public street and must not obstruct driver visibility at intersections;

2) may not be on the right-of-way of county and state roads and municipal state-aid streets;

3) are limited to one per parcel of property as defined in subdivision 9 below for the same topic, location, event, or matter;

4) may only be displayed between 6:00 a.m. on a Thursday and 6:00 p.m. on the following Sunday; and

5) must be no larger than 3 square feet in area and no higher than 6 feet above the ground to which it is attached.

f) In all districts, any sign authorized in this chapter is allowed to contain noncommercial copy in lieu of any other copy. For new signs posted with a noncommercial message, the sign fee is waived until such time as the sign is converted to contain a commercial message.

4. Location requirements.

a) Signs may not be located on property without the permission of the property owner. For signs located in public right-of-way as allowed under subdivision 3(e) of this section 325.05, the permission of the immediately adjacent property owner must be obtained.

b) Unless specifically noted otherwise, all signs must maintain a 10-foot setback from all lot lines. The city may require a greater or lesser setback because of public safety reasons which may include the following conditions: vehicle sight distance, distance from intersection, designation of adjacent right-of-way.

c) Signs may not be mounted on a roof surface and may not project above the roof line of a structure if either attached to the structure or cantilevered over the structure.

d) Signs may not be attached to trees or utility poles.

e) Signs may not be located within public right-of-way except for official traffic control devices and those allowed by section 3(e) of this section 325.05.

f) Signs may not be attached to fences.

g) Signs may not be located so as to obstruct the vision of pedestrians, cyclists, or motorists traveling on or entering public streets in a manner that presents a hazard to public safety.

h) Signs may not be located so as to obstruct any window, door, fire escape, stairway or opening intended to provide light, air, ingress or egress for any structure.

i) Signs must be in compliance with the wetland protection, floodplain protection, shoreland protection, steep slope protection and tree protection requirements contained in sections 300.23, 300.24, 300.25, 300.28 and 314.01 of this ordinance

(Amended by Ord. No. 2023-02, effective February 27, 2023)

5. Approved sign plans.

The city may enforce, in the same manner as the requirements of this section, the terms of a sign plan or sign covenants which it has approved. Any violation of an approved sign plan or sign covenants is a misdemeanor.

6. Changeable messages.

A message that is not permanently attached to the sign face but that is not a dynamic display may occupy no more than 50 percent of the actual copy and graphic area. The remainder of the sign must not have the capability to change messages even if not used.

7. Font size.

Every line of copy and graphics in a sign must be at least four inches in height.

8. Sign illumination.

a) All illuminated signs must meet the following standards:

1) External illumination on signs must be directed so that the illumination does not interfere with safe traffic operations;

2) Illuminated signs must not be directly oriented to any residential district;

3) No sign may be brighter than is necessary for clear and adequate visibility.

4) No sign may be of such intensity or brilliance as to impair the vision of a motor vehicle driver with average eyesight or to otherwise interfere with the driver's operation of a motor vehicle.

5) No sign may be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device or signal.

b) The person owning or controlling the sign must adjust the sign to meet the brightness standards in accordance with the city's instructions. The adjustment must be made immediately upon notice of non-compliance from the city. The person owning or controlling the sign may appeal the city's determination through the following appeal procedure:

1) After making the adjustment required by the city, the person owning or controlling the sign may appeal the city's determination by delivering a written appeal to the city clerk within 10 days after the city's non-compliance notice. The written appeal must include the name of a person unrelated to the person and business making the appeal, who will serve on the appeal panel.

2) Within five business days after receiving the appeal, the city must name a person who is not an official or employee of the city to serve on the appeal panel. Within five business days after the city names its representative, the city's representative must contact the sign owner's representative, and the two of them must appoint a third member to the panel, who has no relationship to either party.

3) The appeal panel may develop its own rules of procedure, but it must hold a hearing within five business days after the third member is appointed. The city and the sign owner must be given the opportunity to present testimony, and the panel may hold the hearing, or a portion of it, at the sign location. The panel must issue its decision on what level of brightness is needed to meet the brightness standards within five business days after the hearing commences. The decision will be binding on both parties.

c) All signs installed after June 25, 2007 that will have illumination by a means other than natural light must be equipped with a mechanism that automatically adjusts the brightness in response to ambient conditions. These signs must also be equipped with a means to immediately turn off the display or lighting if it malfunctions, and the sign owner or operator must immediately turn off the sign or lighting when notified by the city that it is not complying with the standards in this section.

9. Outdoor advertising displays.

Outdoor advertising signs which exist as of March 13, 1991 are nonconforming signs. A permanent outdoor advertising sign is a principal use of property. No permitted or conditionally permitted use or any part of such use may be located on the same parcel of property as such a sign. The parcel on which such a sign is located may not be subdivided to segregate the sign from the remaining property. For the purposes of this paragraph, "parcel of property" means any property for which one property identification number has been issued by the county, or all contiguous property in common ownership as of October 15, 1997, whichever is greater.

10. Dynamic Displays.

a) Findings. Studies show that there is a correlation between dynamic displays on signs and the distraction of highway drivers. Distraction can lead to traffic accidents. Drivers can be distracted not only by a changing message, but also by knowing that the sign has a changing message. Drivers may watch a sign waiting for the next change to occur. Drivers are also distracted by messages that do not tell the full story in one look. People have a natural desire to see the end of the story and will continue to look at the sign in order to wait for the end. Additionally, drivers are more distracted by special effects used to change the message, such as fade-ins and fade-outs. Finally, drivers are generally more distracted by messages that are too small to be clearly seen or that contain more than a simple message. Time and temperature signs appear to be an exception to these concerns because the messages are short, easily absorbed, and become inaccurate without frequent changes.

Despite these public safety concerns, there is merit to allowing new technologies to easily update messages. Except as prohibited by state or federal law, sign owners should have the opportunity to use these technologies with certain restrictions. The restrictions are intended to minimize potential driver distraction and to minimize proliferation in residential districts where signs can adversely impact residential character.

Local spacing requirements could interfere with the equal opportunity to use such technologies and are not included. Without those requirements, however, there is the potential for numerous dynamic displays to exist along any roadway. If more than one dynamic display can be seen from a given location on a road, the minimum display time becomes critical. If the display time is too short, a driver could be subjected to a view that appears to have constant movement. This impact would obviously be compounded in a corridor with multiple signs. If dynamic displays become pervasive and there are no meaningful limitations on each sign's ability to change frequently, drivers may be subjected to an unsafe degree of distraction and sensory overload. Therefore, a longer display time is appropriate.

A constant message is typically needed on a sign so that the public can use it to identify and find an intended destination. Changing messages detract from this way-finding purpose and could adversely affect driving conduct through last-second lane changes, stops, or turns, which could result in traffic accidents. Accordingly, dynamic displays generally should not be allowed to occupy the entire copy and graphic area of a sign.

In conclusion, the city finds that dynamic displays should be allowed on signs but with significant controls to minimize their proliferation and their potential threats to public safety.

b) Regulations. Dynamic displays on signs are allowed subject to the following conditions:

1) Dynamic displays are allowed only on monument and pylon signs for conditionally permitted uses in residential districts and for all uses in other districts. Dynamic displays may occupy no more than 50 percent of the actual copy and graphic area. The remainder of the sign must not have the capability to have dynamic displays even if not used. Only one, contiguous dynamic display area is allowed on a sign face;

2) A dynamic display may not change or move more often than once every 20 minutes, except one for which changes are necessary to correct hour-and-minute, date, or temperature information. Time, date, or temperature information is considered one dynamic display and may not be included as a component of any other dynamic display. A display of time, date, or temperature must remain for at least 20 minutes before changing to a different display, but the time, date, or temperature information itself may change no more often than once every three seconds;

3) The images and messages displayed must be static, and the transition from one static display to another must be instantaneous without any special effects;

4) The images and messages displayed must be complete in themselves, without continuation in content to the next image or message or to any other sign;

5) Every line of copy and graphics in a dynamic display must be at least seven inches in height on a road with a speed limit of 25 to 34 miles per hour, nine inches on a road with a speed limit of 35 to 44 miles per hour, 12 inches on a road with a speed limit of 45 to 54 miles per hour, and 15 inches on a road with a speed limit of 55 miles per hour or more. If there is insufficient room for copy and graphics of this size in the area allowed under clause 1 above, then no dynamic display is allowed;

6) Dynamic displays must be designed and equipped to freeze the device in one position if a malfunction occurs. The displays must also be equipped with a means to immediately discontinue the display if it malfunctions, and the sign owner must immediately stop the dynamic display when notified by the city that it is not complying with the standards of this ordinance;

7) Dynamic displays must comply with the brightness standards contained in subdivision 15;

8) Dynamic displays existing on June 25, 2007 must comply with the operational standards listed above. An existing dynamic display that does not meet the structural requirements in clause 1 may continue as a non-conforming development subject to section 300.29. An existing dynamic display that cannot meet the minimum size requirement in clause 5 must use the largest size possible for one line of copy to fit in the available space.

c) Incentives. Outdoor advertising signs do not need to serve the same way-finding function as do on-premises signs. Further, outdoor advertising signs are no longer allowed in the city, and there is no potential that they will proliferate. Finally, outdoor advertising signs are in themselves distracting and their removal serves public safety. The city is extremely limited in its ability to cause the removal of those signs. This clause is intended to provide incentives for the voluntary and uncompensated removal of outdoor advertising signs in certain settings. This removal results in an overall advancement of one or more of the goals set forth in this section that should more than offset any additional burden caused by the incentives. These provisions are also based on the recognition that the incentives create an opportunity to consolidate outdoor advertising services that would otherwise remain distributed throughout the community.

1) A person may obtain a permit for an enhanced dynamic display on one face of an outdoor advertising sign if the following requirements are met:

(a) The applicant agrees in writing to permanently remove, within 15 days after issuance of the permit, at least two other faces of an outdoor advertising sign in the city that are owned or leased by the applicant, each of which must satisfy the criteria of parts (b) through (d) of this subsection. This removal must include the complete removal of the structure and foundation supporting each sign face. The applicant must agree that the city may remove the sign if the applicant does not timely do so, and the application must be accompanied by a cash deposit or letter of credit acceptable to the city attorney sufficient to pay the city's costs for that removal. The applicant must also agree that it is removing the sign voluntarily and that it has no right to compensation for the removed sign under any law.

(b) The city has not previously issued an enhanced dynamic display permit based on the removal of the particular faces relied upon in this permit application.

(c) Each removed sign has a copy and graphic area of at least 288 square feet and satisfies two or more of the following additional criteria:

(1) The removed sign is located adjacent to a highway with more than two regular lanes and with a general speed limit of 45 miles per hour or greater, but that does not have restrictions on access equivalent to those of an interstate highway;

(2) All or a substantial portion of the structure for the removed sign was constructed before 1975 and has not been substantially improved;

(3) The removed sign is located in a noncommercial zoning district;

(4). The removed sign is located in a special planning area designated in the 1999 comprehensive plan; or

(5) The removed copy and graphic area is equal to or greater than the area of the copy and graphic area for which the enhanced dynamic display permit is sought.

(d) If the removed sign face is one for which a state permit is required by state law, the applicant must surrendered its permit to the state upon removal of the sign. The sign that is the subject of the enhanced dynamic display permit cannot begin to operate until proof is provided to the city that the state permit has been surrendered.

(e) The applicant must agree in writing that no dynamic displays will ever be used on one additional outdoor advertising sign that has a copy and graphic area of at least 288 square feet in size. This agreement will be binding on the applicant and all future owners of the sign. If the sign is subsequently removed or destroyed and not replaced, the holder of the enhanced dynamic display permit is not required to substitute a different sign for the one that no longer exists.

2) If the applicant complies with the permit requirements noted above, the city will issue an enhanced dynamic display permit for the designated outdoor advertising sign. This permit will allow a dynamic display to occupy 100 percent of the potential copy and graphic area and to change no more frequently than once every eight seconds. The designated sign must meet all other requirements of this ordinance.

11. Sign construction and maintenance.

All signs must conform to the following standards.

a) Construction specifications. All permanent signs must be constructed in accordance with the following:

1) the Minnesota state building code;

2) all electric signs must be approved and labeled as conforming to the standards of the Underwriters' Laboratories, Inc., the United States bureau of standards or other similar institutions of recognized standing. All illuminating elements must be kept in satisfactory working condition or immediately repaired or replaced. Signs that are partly illuminated must meet all electrical requirements for the portion that is illuminated;

3) all permanent freestanding signs must have self-supporting structures erected on and permanently attached to concrete foundations;

4) for wall signs, the wall must be designed for and have sufficient strength to support the sign;

5) signs may not be painted on the wall of a building; and

6) Unless otherwise specified in this section, the maximum angle permitted between faces of a double face freestanding sign is 45 degrees.

b) Sign maintenance and repair. All signs must be maintained in a safe, presentable and good structural condition at all times, including the replacement of defective parts, cleaning and other items required for maintenance of the sign. Vegetation around, in front of, behind, and underneath the base of ground signs for distance of 10 feet must be neatly trimmed and free of weeds. Rubbish or debris under or near the sign that would constitute a fire or health hazard must be removed.

12. Removal of Abandoned Signs, Signs in Disrepair and Signs Located in Public Right-of-Way.

a) Abandoned signs and signs in disrepair. An abandoned sign or sign in disrepair is prohibited and shall be removed by the owner of the premises within 30 days after notification. If compliance with the provisions of this section is not achieved within 30 days, the city may remove the sign as a public nuisance by following the procedure as specified in section 1120.045 of the municipal code of

ordinances. If an abandoned sign remains in good condition and without holes or other evidence of disrepair or damage, the sign shall not be considered as abandoned for a period of one year.

b) Signs on public property or within public right-of-way: The city may at any time and without notice may impound signs that have been installed on public property or within public right-of-way or easement. The sign owner may retrieve the signs according to the following:

1) a fee must be paid to the city as established in city code section 710. For each subsequent impoundment in a calendar year, the specified fee shall be doubled;

2) the sign may be retrieved from a designated impound area during routine business hours and within 15 days from the date of impounding. After 15 days, the city will dispose of the sign; and

3) the city may not be held liable for any damage to impounded signs.

13. Nonconforming Signs.

Any sign that complied with all applicable laws and ordinances at that time that it was erected but that has been or is made nonconforming due to a subsequently enacted amendment of this city code is governed by section 300.29.

SECTION 325.06. DISTRICT REGULATIONS.

1. Residential Districts.

Within residential zoning districts, signs are permitted as provided in this subsection. Except as expressly permitted in this subsection, commercial signs are not allowed:

a) Permanent signs, must comply with Table 325.2. In addition:

1) One wall sign is permitted per building.

2) One freestanding sign is permitted per development. Sign may be single or double-faced. The sign must be perpetually maintained by a homeowners association or responsible property owner.

3) Internal illumination is not allowed if a sign faces low-density residential properties. External illumination may not include exposed light sources.

Table 325.2 Permanent Signs in Residential Districts					
Property Type	**Max. Area**	**Max. Copy & Graphic Area**	**Max. Height**	**Illumination Type**	**Other**
Table 325.2 Permanent Signs in Residential Districts					
Property Type	**Max. Area**	**Max. Copy & Graphic Area**	**Max. Height**	**Illumination Type**	**Other**
Permanent Wall Signs					
Any Residental use***	2 sq. ft.	2 sq. ft.	1 ft.	External only	
Conditionally permitted principal use	50 sq. ft. or 10% of the wall in which the sign is located, whichever is less	50 sq. ft. or 10% of the wall in which the sign is located, whichever is less	2 ft.	Internal or External	
Permanent Freestanding Signs					
Low density Residential**	75 sq. ft. per entrance	30 sq. ft. per entrance	6 ft.	External	Must be located at primary entrance(s), two signs permitted per development
Medium/High density Residential	100 sq. ft. per entrance	36 sq. ft. per entrance	8 ft.	Internal or External	Must be located at primary entrance(s), two signs permitted per development
Conditionally Permitted Use****, except for public buildings and parks	75 sq. ft.	30 sq. ft.	8 ft.	Internal or External	
Public Building and Park	32 sq. ft.	32 sq. ft.	8 ft.	Internal or External	Hours of illumination 6 am to 10 pm only
Athletic Field, with structured seating for 2000 or fewer people	410 sq. ft. per sign face	410 sq. ft. per sign face	35 ft.	Internal only	
Athletic Field, with structured seating for more than 2000 people	500 sq. ft. per Sign face 1000 sq. ft. aggregate	500 sq. ft. per sign face 1000 sq. ft. aggregate	35 ft.	Internal only	

* Internal illumination is not allowed when a sign faces low-density residential properties.

External illumination may not include exposed light sources.

** Allowed only for single-family developments of at least 6 lots and two-family

development with at least 12 dwelling units.

*** Sign permit not required.

**** Includes educational, religious, institutional, or nursing home uses.

b) Temporary non-commercial signs must comply with Table 325.3. Temporary signs may not be illuminated.

Table 325.3 Temporary Non-Commercial Signs in Residential Districts

Property Type	Sign Type	Max. Number of Signs	Max. Area	Max. Height	Duration of Display
Any residential use*/**	Banner or freestanding	None	None	6	N/A

* Signs must be located at least five feet from the edge of a public street, must not obstruct driver visibility at intersections and must be placed with the consent of the property owner.

** Sign permit not required.

c) Temporary commercial signs must comply with Table 325.4. Temporary signs may not be illuminated.

Table 325.4 Temporary Commercial Signs in Residential District					
Property Type	**Sign Type**	**Max. Number of Signs**	**Max. Area**	**Max. Height**	**Display Duration**
Table 325.4 Temporary Commercial Signs in Residential District					
Property Type	**Sign Type**	**Max. Number of Signs**	**Max. Area**	**Max. Height**	**Display Duration**
Development Properties					
Low-Density*/**	Freestanding	1 per development	32 sq. ft.	8 ft.	Must be removed When building permits have been issued for 90% of lots
Medium/High Density**					Must be removed 18 months after a building permit has been issued
For Sale or Lease Properties					
Low/Medium Density**	Freestanding	1 per property	6 sq. ft.	6 ft.	Must be removed 7 days after a property is no longer for sale or lease
High Density**	Freestanding	1 per property	32 sq. ft.	8 ft.	Must be removed 12 months after issuance of a certificate of occupancy for the last building
	Banner attached to wall	1 per property	60 sq. ft.	N/A	
General Commercial Signage					
Conditionally Permitted Principal Use	Banner	1 per property	30 sq. ft.	N/A	Two occasions per calendar year for a maximum of 10 day display for each occasion

* Allowed for low-density developments with at least four lots under development.

** Sign permit not required.

(Amended by Ord. No. 2019-09, adopted March 18, 2019; Ord. No 2024-04, effective May 6, 2024)

2. Office Business District Sign Regulations.

Within the B-1, office business district, signs are permitted according to the following standards:

a) Permanent Signs.

1) Permanent monument signs: One monument sign is permitted per development provided the sign complies with the requirements of Table 325.5. In addition,

(a) Signs may be single or double-faced

(b) Signs may be internally or externally illuminated, except internal illumination is not allowed if a sign faces low-density residential properties. External illumination may not include exposed light sources.

2) Permanent wall signs: One permanent wall sign is permitted per building, except that buildings with frontage on more than one public street are allowed one wall sign facing each frontage. Signs must comply with the requirements of Table 325.5. In addition:

(a) Signs must be comprised of individually dimensioned letters, unless all wall signs are incorporated into architecture of structure and of similar design.

(b) Signs may be internally illuminated or backlit, except illumination is not allowed if a sign faces low-density residential properties.

Table 325.5 Permanent Signs in Office District

Sign Type	Max. Monument Area	Max. Copy & Graphic Area	Max. Height
Permanent monument sign - adjacent ROW is less than 100 ft in width	72	36 sq. ft.	15 ft.
Permanent monument sign - adjacent ROW is 100 ft. or more in width	100	50 sq. ft.	15 ft.
Permanent wall sign	N/A	Maximum wall sign height x 25% of length of building where sign is located	36 inches for one and two story buildings 48 inches for three and four story buildings 60 inches for five or more story buildings

b) Temporary Signs. On-premise signs must comply with the requirements of Table 325.6. Signs may not be illuminated.

Table 325.6 Temporary On-Premise Signs, Office Districts					
Property Type	**Sign Type**	**Max. Number of Signs**	**Max. Area**	**Max. Height**	**Disply Duration**
Table 325.6 Temporary On-Premise Signs, Office Districts					
Property Type	**Sign Type**	**Max. Number of Signs**	**Max. Area**	**Max. Height**	**Disply Duration**
Vacant Properties, During Construction*	Freestanding	1 if property is 3 acres or less, 2 signs if property is over 3 acres in size	32 sq. ft.	12 ft.	Must be removed 7 days after issuance of a certificate of occupancy
Improved Properties, For Sale or Lease*	Freestanding or Wall				Only while property is for sale or lease space is available
General Temporary Signs	Banners	1 sign per tenant	30 sq. ft.	N/A	Max. 30 day period to coincide with grand opening Max. 2 occasions per calendar years with each occasion not to exceed 10 days
	Sandwich Signs*/**/***	1 per tenant	12 sq. ft.	4	Allowed during business hours, but must be removed at closing
	Search Light or Inflatable***	1 per development	N/A	N/A	Max. 2 occasions per calendar year with each occasion not to exceed 3 days
	Non- commercial banner or freestanding sign*/****	3 per property	6 sq. ft. per sign, 18 sq. ft. aggregate per property	3 ft.	N/A

* Sign permit not required.

** Sign must be located directly in front the tenant space the sign is associated with and must not reduce sidewalk area to less than 4 ft. in width.

*** Sign must be located on the ground.

**** Signs must be located at least five feet from the edge of a public street, must not obstruct driver visibility at intersections and must be placed with the consent of the property owner.

3. Commercial Business and Industrial Sign Regulations

Within the B-2, B-3 and I-1 districts, the following signs are permitted:

a) Permanent signs.

1) Freestanding signs. Signs must comply with requirements of Table 325.7. In addition,

(a) One freestanding sign is allowed per development, except that a second sign is allowed for properties with drive-thru windows.

(b) Signs may be single or double-faced.

(c) Signs may be internally or externally illuminated, except internal illumination is not allowed if a sign faces low-density residential properties. External illumination may not include exposed light sources.

Table 325.7 Permanent Freestanding Signs in the Commercial Business and Industiral Districts

	Pylon Sign		Monument Sign		
Principal Structure (gross square feet)	**Max. Height**	**Max. Sign Size**	**Max. Height**	**Max. Copy & Graphic**	**Max. Monument Area**

Table 325.7 Permanent Freestanding Signs in the Commercial Business and Industiral Districts

	Pylon Sign		Monument Sign		
Principal Structure (gross square feet)	**Max. Height**	**Max. Sign Size**	**Max. Height**	**Max. Copy & Graphic**	**Max. Monument Area**
Greater than 400,000	30 ft.	200 sq. ft.	21 ft.	100 sq. ft.	150 sq. ft.
100,000 - 400,000*	24 ft.	100 sq. ft.	21 ft.	100 sq. ft.	150 sq. ft.
20,000 - 100,000	18 ft.	80 sq. ft.	18 ft.	80 sq. ft.	120 sq. ft.
Less than 20,000	15 ft.	60 sq. ft.	15 ft.	60 sq. ft.	90 sq. ft.
Building with multiple screen theater	30 ft.	200 sq. ft.	21 ft.	100 sq. ft.	150 sq. ft.
Second Sign for properties with drive-thru	8 ft.	50 sq. ft.	8 ft.	50 sq. ft.	50 sq. ft.

* For multi-tenant building or limited tenant building with more than 100,000 gross sq. ft. and with 2 or more access points, one monument sign allowed at primary access and second monument allowed at second access; height and graphic limits for second monument are 50% of those in outlined in this table.

2) Permanent Wall Signs:

(a) Limited tenant wall signs. Signs must comply with the requirements in Table 325.8. In addition,

(1) One permanent wall sign is permitted per exterior wall face.

(2) Signs must be comprised of individually dimensioned letters, unless all wall signs are incorporated into the architecture of structure and of similar design.

(3) Signs may be internally illuminated or backlit, except illumination is not allowed if a sign faces low-density residential properties.

Table 325.8: Wall Signs, Limited Tenant Building		
Principal Structure Size (Gross Sq. Ft.)	**Individual Wall Sign Calculation**	**Total Wall Signage for Property**
100,000 - 400,000 sq. ft.	200 sq. ft. or 10 percent of wall face, whichever is less	300 sq. ft.
20,000 - 100,000 sq. ft.	150 sq. ft. or 10 percent of wall face, whichever is less	240 sq. ft.
less than 20,000 sq. ft.	100 sq. ft. or 15 percent of wall face, whichever is less	150 sq. ft.

(b) Multi-tenant wall signs. Each tenant is permitted one wall sign per tenant exterior wall face, but no more than two total signs. For example, a tenant that occupies a corner or endcap space is allowed two wall signs, whereas a tenant that occupies an interior space is allowed one wall sign. Signage size is regulated under Table 325.9. In addition,

(1) Signs may be located no closer than 2 feet from any lease line.

(2) Signs must be comprised of individually dimensioned letters, unless all wall signs are incorporated into the architecture of structure and of similar design.

(3) Signs may be internally illuminated or backlit, except internal illumination is not allowed when a sign faces low-density residential properties.

Table 325.9 Wall Signs, Multi-tenant Building		
	Max. Height	**Max. Copy & Graphic Area**
Horizontal-mounted signs	36 inches for graphic 26 inches for copy	Defined by maximum allowed height and lease lines*
Projecting sign	Must not project above the roofline of building and provide for no less than 8 feet of clearance between the lowest portion of the sign and the grade below.	
*Signs may not project out from the face of the building by more than 48 inches.		

b) Temporary Signs. On-premise signs must comply with Table 325.10. Signs may not be illuminated.

Table 325.10 Temporary On-Premise Signs, Commercial and Industrial Districts

Property Type	Sign Type	Max. Number of Signs	Max. Area	Max. Height	Display Duration
Table 325.10 Temporary On-Premise Signs, Commercial and Industrial Districts					
Property Type	**Sign Type**	**Max. Number of Signs**	**Max. Area**	**Max. Height**	**Display Duration**
Vacant Properties, During Construction*	Freestanding	1 if property is 3 acres or less 2 signs if property is over 3 acres in size	32 sq. ft.	12 ft.	Must be removed 7 days after issuance of a certificate of occupancy
Improved Properties, For Sale or Lease*	Freestanding or Wall				Only while property is for sale or lease space is available
General Temporary Signs	Banners	1 sign per tenant	30 sq. ft.	N/A	Max. 30 day period to coincide with grand opening Max. 2 occasions per calendar years with each occasion not to exceed 10 days
	Sandwich Signs*/**/***	1 per tenant	12 sq. ft.	4	Allowed during business hours, but must be removed at closing
	Search Light or Inflatable***	1 per development	N/A	N/A	Max. 2 occasions per calendar year with each occasion not to exceed 3 days
	Noncom-mercial banner or freestanding sign*/****	3 per property	6 sq. ft. per sign, 18 sq. ft. aggregate per property	3 ft.	N/A

* Sign permit not required.

** Sign must be located directly in front the tenant space the sign is associated with and must not reduce sidewalk area to less than 4 ft. in width.

*** Sign must be located on the ground.

**** Signs must be located at least five feet from the edge of a public street, must not obstruct driver visibility at intersections and must be placed with the consent of the property owner.

(Amended by Ord. No. 2023-02, effective February 27, 2023)

4. Planned Unit Development Districts.

Permanent and temporary signs in planned unit development and planned I-394 districts are regulated according to the standards for the corresponding land use and zoning category as stated in this chapter 3. A sign plan with differing requirements may be approved by the city. Factors that will be used in determining if an individual P.U.D./P.I.D. sign plan will be considered include the following:

a) The development includes a high rise (greater than 3 story) structure;

b) the development includes multiple structures and/or substantial site area;

c) the development includes mixed uses;

d) a sign plan is uniquely adapted to address the visibility needs of a development while remaining consistent with the intent of this section to direct high quality signage; and

e) the sign plan includes permanent sign covenants which can be enforced by the city.

(Section 325 repealed and replaced by Ord. No. 2018-17, effective Nov. 5, 2018)



ZONING CODE

REVIEW DRAFT | DRAFT 2

PART 01. INTRODUCTION.

§ 301.00. Title; Purpose; Effective Date; and Applicability.

1. **Title.** Chapter 3 of the city code of ordinances will be known and may be referred to as the "Minnetonka Zoning Code". When referred to in this document it will be known as "this Code."

2. **Purpose.** This Code is enacted to promote the public health, safety, and general welfare of the city of Minnetonka and further the goals established in the comprehensive plan.

3. **Effective date.** This Code is effective as of [Month XX, 2026].

4. **Applicability.** From and after the effective date of this Code, the use of all land and all buildings and structures erected, altered, enlarged, or relocated, and every use accessory thereto must be in conformance with the provisions of this Code.

    a. Any existing lot, development, building, structure, or use that was legally established prior to the effective date of this Code but is not in conformance with the provisions of this Code will be regarded as nonconforming and may continue in existence only for such period of time and under such conditions as is provided for in § 300.XX.

§ 301.01. Legal Provisions.

1. **Establishment of Official Zoning Map.** The location and boundaries of the zoning districts established by this Code are designated as the "Official Zoning Map."

    a. The map and all notations, references, and data shown on it are hereby incorporated by reference into this Code and have the same effect as fully described within this Code.

    b. The official wetlands, floodplain, and shoreland maps referenced in § 300.xx. through § 300.xx. are a part of the Official Zoning Map established by this subsection.

    c. All property within the city has the zoning designation shown on the Official Zoning Map. If there is any discrepancy or inconsistency between the Official Zoning Map and any other map, ordinance, or source indicating the zoning of property, the Official Zoning Map takes precedence.

d. Except for the wetland, floodplain, and shoreland overlay districts, zoning district boundary lines shown on the Official Zoning Map are intended to follow lot lines, the center lines of streets or alleys, the center lines of street or alleys projected, railroad right-of-way lines, the center of watercourses, or the corporate limits of the city, unless otherwise indicated.

(1) In the case of the wetlands, floodplain and shoreland overlay districts, the boundary lines of the districts must be determined as specified in § 300.xx. through § 300.xxx.

e. It is the responsibility of the city planner to maintain the Official Zoning Map and to make changes on the map promptly whenever appropriate.

2. Conflicting provisions. Where this Code imposes greater restrictions than another applicable statute, ordinance, rule, or regulation, this Code will control when and to the extent allowed by state law. Where another applicable statute, ordinance, rule, or regulation imposes greater restriction than this Code, the other applicable statute, ordinance, rule, or regulation will control.

3. Severability. If any section, subsection, subdivision, paragraph, subparagraph, sentence, clause, or phrase of this Code is found to be invalid or unenforceable by any court of competent jurisdiction for any person or circumstance, that decision will not affect the application of the provision to other persons or circumstances. All remaining provisions of this Code will continue to be valid and enforceable.

PART 02. HOW TO USE THIS CODE.

§ 302.00. Interpretations.

1. **How to interpret words.** Words or terms defined in this Code have the meanings assigned to them in § 300.XX. Definitions, unless such meaning is clearly contrary to the intent of this Code.
   a. The singular number includes the plural.
   b. The present tense includes the past and future tenses, and vice versa.
   c. The word "will," and "must" are mandatory.
   d. The word "may," "can," and "might" are permissive.
   e. The words "used" or "occupied" include the words "intended," "designed," "constructed," "altered," or "arranged" to be used or occupied.
   f. The word "lot" includes the words "plot," "tract," or "parcel."
   g. The terms "standards," "regulations," and "requirements" are used to mandate a specific course of action or built outcome.
   h. Section headings are provided for ease of use and organization and should not be interpreted as regulatory.
   i. Where a regulation involves two or more items, conditions, provisions, or events that are connected by a conjunction – "and," "or," or "either or" – the conjunction must be interpreted as follows.
      (1) "And" indicates that all the connected items, conditions, provisions, or events apply.
      (2) "Or" indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination.
      (3) "Either or" indicates that all the connected items, conditions, provisions, or events apply singularly but not in combination.
2. **Administrative interpretations.** Where uncertainty exists as to the meaning or intent of any provision of this Code, the city planner has the power to interpret such provision.
3. **Minimum requirement.** The provisions of this Code are minimum requirements, unless otherwise noted.

§ 302.01. Lot Classifications.

1. **Generally.** A lot is a measured parcel of contiguous land with fixed boundaries and recorded with the appropriate authority or office. All lots will be classified according to this section.

[INSERT GRAPHIC.]

2. **Interior lot.** A lot other than a corner lot.

3. **Corner lot.** A lot located at the intersection of two streets, or at a point where a single street changes direction with an interior lot angle of 135 degrees or less.

4. **Through lot.** An interior lot with frontage on two streets.

5. **Lot-behind-lot.** An interior lot that does not meet the minimum lot width dimension at the front lot line and that is located behind other lots that have frontage on a public street.

§ 302.02. Lot Lines.

1. **Generally.** Lot lines are lines that define the legal boundary of a lot. All lot lines are classified according to this section.

    a. On a lot-behind-lot, the city planner will designate all lot lines based upon the orientation of the principal structure, and characteristics of the lot and the surrounding neighborhood.

2. **Front lot line.** A lot line that separates the lot from the street right-of-way.

[INSERT GRAPHIC.]

    a. On a corner lot, there are two or more front lot lines.

    b. On a through lot, the lot line that separates the lot from the street right-of-way and that the principal building entrance faces.

    c. For the purposes of establishing a front setback on a lot in the Village Center districts, the front lot line is any lot line that separates the lot from the street right-of-way or a shared-use trail.

3. **Side lot line.** Any lot line that separates the lot from another lot, and which connects to a front lot line.

[INSERT GRAPHIC.]

4. **Rear lot line.** Any lot line that separates the lot from another lot, and does not connect to a front lot line at any point. On a corner lot where all lot lines connect to a front lot line, the rear lot line is the lot line that separates the lot

from another lot, and which connects to the longest front lot line. On a through lot, the lot line other than the front lot line that separates the lot from the street right-of-way.

[INSERT GRAPHIC.]

a. For the purposes of establishing a rear setback on a triangular lot with two side lot lines, the rear lot line will be administered as a 30-foot line approximately parallel to the front lot line and connecting to both side lot lines.

[INSERT GRAPHIC.]

b. There is no rear lot line and no minimum rear setback required on a triangular lot with two front lot lines.

§ 302.03. Measurements.

1. Distances. Unless otherwise specified, all distances will be measured in a straight line along a horizontal plane from the closest point of one object to the closest point of the other.

2. Height.

a. Height is measured vertically in a straight line from the average established grade at the front building line to one of the following points, as applicable.

(1) For structures without roofs or with a flat roof, the height is measured to the highest point of the structure.

(2) For structures with mansard roofs, the height is measured to the deck line of the mansard roof.

(3) For structures with gable, hip, or gambrel roofs, the height is measured to the average height of the eaves and ridge of the roof.

[INSERT GRAPHIC.]

b. The following features do not count against any maximum structure height established in this Code.

(1) Spires, steeples, or other architectural features on structures associated with a religious assembly use.

(2) Elevator shafts and similar structural elements not intended as places of occupancy or storage.

(3) Renewable energy generation equipment such as solar panels, provided that such equipment is mounted to the roof of the

structure and does not project more than five feet past the maximum structure height.

3. Area. Unless otherwise specified, all areas and related ratios are measured as the horizontal area within a horizontal plane, regardless of any topographical features.

4. Setbacks.

a. The front setback is the shortest horizontal distance from any part of the principal building or structure to the nearest point on the front lot line.

(1) Where a maximum front setback is established, at least 80 percent of the principal building's front façade must be located between the minimum front setback and maximum front setback.

b. The side setback is the shortest horizontal distance from any part of the principal building or structure to the nearest point on the side lot line.

c. The rear setback is the shortest horizontal distance from any part of the principal building or structure to the nearest point on the rear lot line.

d. The accessory structure setback is the shortest horizontal distance from any part of the accessory building or structure to the nearest point on any lot line and any other building or structure.

[INSERT GRAPHIC.]

5. Specific measurements.

a. For information on specific measurements included in this Code, see § 300.xx. Definitions.

§ 302.04. How to Use This Code.

1. Step one.

a. Locate the subject property on the Official Zoning Map.

b. Take note of the zoning district applying to that property and any adjacent properties.

2. Step two.

a. Review the applicable building dimensional, placement, and form standards for the applicable zoning district in § 300.xx.

3. Step three.

a. Review the use permissions table in § 300.xx. and any applicable use standards in § 300.xx. to determine allowed uses in the applicable zoning district.

4. Step four.

a. Review the applicable natural resources protection, parking, landscaping, signage, and other development requirements in § 300.xx.

5. Step five.

a. Determine which application approvals are necessary and review the applicable requirements in § 300.xx.

PART 03. ZONING DISTRICTS.

§ 303.00. Establishment of Zoning Districts.

1. List of zoning districts. For the purposes of this Code, the city is geographically divided into the following zoning districts.

a. For the purposes of this Code, the zoning districts are divided into categories based on the general intent and predominant land uses within each district. The zoning district categories are as established in the column titled "category" in Table XX: List of Zoning Districts.

Category	District Symbol	District Name
Residential	LDR	Low Density Residential District
	MDR	Medium Density Residential District
	HDR	High Density Residential District.
Village Center	VC-A	Village Center District A: 101 & 7
	VC-B	Village Center District B: Williston & 7
	VC-C	Village Center District C: Country Village
	VC-D	Village Center District D: The Marsh
	VC-E	Village Center District E: CR5 & 101
	VC-F	Village Center District F: Glen Lake
	VC-G	Village Center District G: Cedar Lake
	VC-H	Village Center District H: Opus
	VC-I	Village Center District I: Ridgedale
	VC-J	Village Center District J: Carlson
	VC-K	Village Center District K: 169 & Minnetonka Mills
	VC-L	Village Center District L: Minnetonka Mills
	VC-M	Village Center District M: Southwest Light Rail
N/A	FD	Flexible Development District
Overlay	OPUS	OPUS Overlay District
	WPO	Wetland Protection Overlay District
	FPO	Floodplain Overlay District
	SLO	Shoreland Overlay District

2. District boundaries. The boundaries of all zoning districts, except the overlay districts, are shown in the official zoning map entitled "Official Zoning Map," a copy of which, reduced in size, is appended to this Code.

§ 303.01. LDR Low Density Residential District.

1. **Purpose.** The purpose of the LDR Low Density Residential District is to establish and preserve neighborhoods within the city primarily consisting of single-unit and two-unit dwellings.

[INSERT GRAPHIC.]

2. **Uses.** Land in the LDR District may be used only for uses allowed in accordance with Part 04 of this Code.

3. **Dimensional standards.** All lots in the LDR District must comply with the dimensional standards established in Table XX: LDR Dimensional Standards.

Table** Error! No text of specified style in document.**-1: LDR Dimensional Standards

Standard		Requirement
Minimum Lot Area		18,000 sq. ft.
Minimum Lot Width		90 ft.
Minimum Lot Depth		125 ft.
Minimum Front Setback [1]	Abutting a Local Street	25 ft.
	Abutting All Other Streets	35 ft.
Minimum Side Setback		10 ft. [2]
Minimum Rear Setback		25 ft.
Minimum Accessory Structure Setback		10 ft.
Maximum Building Height		35 ft.
[1] On a double frontage or corner lot, the minimum front setback must be provided along all front lot lines; however, the minimum front setback from one front lot line may be reduced by 10 feet as approved by the city planner.		
[2] Subject to § 303.01.4 of this Code.		

4. **Small lot setback standards.** The city planner may approve a side yard setback of seven feet if a lot meets the following criteria:

   a. The lot is less than 15,000 square feet in size and less than 90 feet in width; and

   b. The lot existed as a lot of record on February 12, 1966.

5. **Impervious surface coverage.**

   a. The city strives to limit the amount of impervious surfaces to protect the environment, improve water quality, reduce potential flood risk and damage, minimize runoff to other properties, and reduce the need for additional public stormwater infrastructure.

(1) Projects that require a building permit, grading permit, or site development permit are subject to the impervious surface coverage section.

(2) Lots with 20% impervious surface coverage or less are exempt from providing onsite stormwater storage under this section, unless otherwise required by the Minnetonka Water Resources Management Plan. Lots with more than 20% impervious surface coverage must provide onsite stormwater storage to mitigate impacts in accordance with this section. These provisions are separate from and in addition to any stormwater management or floodplain management provisions that may apply.

(3) Legal non-conforming lot. Only the incremental increase in storage volume is required when adding impervious surface coverage to a legal non-conforming lot.

(4) The entire storage volume is required when constructing a new principal structure.

(5) Under this section, lot area includes only that portion of the lot above the ordinary high water level or normal water level of a lake, stream, wetland, or pond.

b. The table below shows the volume of onsite stormwater storage required (cubic feet) as impervious surface coverage increases on each lot.

(1) Storage volumes in the table reflect the difference between the impervious and pervious runoff depths for the 100-year storm event (approximately 2.9 inches rounded to 0.25 feet) multiplied by the square feet of impervious surface area over 20 percent.

(a) For example, a 22,000 square foot lot going from 20 percent to 25 percent impervious surface coverage would comply according to the following calculations.

1. 25 percent of 22,000 square feet is 5,500 square feet. 20 percent of 22,000 square feet is 4,400 square feet.

2. The difference between 5,500 square feet and 4,400 square feet is 1,100 square feet.

3. 1,100 square feet times 0.25 feet runoff depth equals 275 cubic feet of required storage. For reference, 275 cubic feet is approximately 18'L x 13'W x 1.25'D rain garden, swale, or depression.

Lot Area	Impervious Surface Coverage						
	20 %	25 %	30 %	35 %	40 %	45 %	50 %
15,000 sq. ft. or less.	0	0	188	375	563	750	983
15,001 to 16,000 sq. ft.	0	200	400	600	800	1,000	1,200
16,001 to 18,000 sq. ft.	0	225	450	675	900	1,125	1,350
18,001 to 20,000 sq. ft.	0	250	500	750	1,000	1,250	1,500
20,001 to 22,000 sq. ft.	0	275	550	825	1,100	1,375	1,650
22,001 to 24,000 sq. ft.	0	300	600	900	1,200	1,500	1,800
24,001 to 26,000 sq. ft.	0	325	650	975	1,300	1,625	1,950
26,001 to 28,000 sq. ft.	0	350	700	1,050	1,400	1,750	2,100
28,001 to 30,000 sq. ft.	0	375	750	1,125	1,500	1,875	2,250
30,001 to 32,000 sq. ft.	0	400	800	1,200	1,600	2,000	2,400
32,001 to 34,000 sq. ft.	0	425	850	1,275	1,700	2,125	2,550
34,001 to 36,000 sq. ft.	0	450	900	1,350	1,800	2,250	2,700
36,000 to 38,000 sq. ft.	0	475	950	1,425	1,900	2,375	2,850
38,001 to 40,000 sq. ft.	0	500	1,000	1,500	2,000	2,500	3,000
40,001 to 42,000 sq. ft.	0	525	1,050	1,575	2,100	2,625	3,150
More than 42,000 sq. ft.	0	550	1,100	1,650	2,200	2,750	3,300

c. The city engineer may approve a deviation in the stormwater storage volume required based on soils data or unique site characteristics such as topography, steep slopes, drainage patterns, groundwater depths, tree cover, wetlands, underground utilities, and other natural or environmental features.

§ 303.02. MDR Medium Density Residential District.

1. **Purpose.** The purpose of the MDR Medium Density Residential District is to establish and preserve areas within the city for housing at densities consistent with the low or medium density residential designation in the comprehensive plan and compatible with the development pattern of the surrounding area.

[INSERT GRAPHIC.]

2. **Uses.** Land in the MDR District may be used only for uses allowed in accordance with Part 04 of this Code.

3. **Dimensional standards.** All lots in the MDR District must comply with the dimensional standards established in Table XX: MDR Dimensional Standards.

Table** Error! No text of specified style in document.**-1: MDR Dimensional Standards

Standard		Requirement
Minimum Lot Area		3,630 sq. ft. per dwelling unit.
Minimum Lot Width		n/a
Minimum Lot Depth		n/a
Minimum Front Setback		20 ft.
Minimum Side Setback	Abutting LDR District	20 ft.
	Not Abutting LDR District	10 ft.
Minimum Rear Setback		10 ft.
Minimum Accessory Structure Setback		10 ft.
Maximum Building Height		35 ft.
Maximum Impervious Surface Coverage		TBD

§ 303.03. HDR High Density Residential.

1. **Purpose.** The purpose of the HDR High Density Residential District is to establish and preserve areas within the city for housing at density compatible with and in those areas designated for medium or high density residential development in the comprehensive plan.

[INSERT GRAPHIC.]

2. **Uses.** Land in the HDR District may be used only for uses allowed in accordance with Part 04 of this Code.

3. **Dimensional standards.** All lots in the HDR District must comply with the dimensional standards established in Table XX: HDR Dimensional Standards.

Table** Error! No text of specified style in document.**-1: HDR Dimensional Standards

Standard		Requirement
Minimum Lot Area		435 sq. ft. per dwelling unit.
Minimum Lot Width		n/a
Minimum Lot Depth		n/a
Minimum Front Setback		20 ft.
Maximum Front Setback		55 ft. [1]
Minimum Side Setback		20 ft.; the city planner may require a Shadow Study.
Minimum Rear Setback		20 ft.
Minimum Accessory Structure Setback		10 ft.
Maximum Building Height	Within 200 ft. of the LDR or MDR Districts	60 ft.
	Not Within 200 ft. of the LDR or MDR Districts	80 ft.
Maximum Impervious Surface Coverage		TBD
1 At least 80 percent of the principal building's front façade must be located between the minimum front setback and maximum front setback.		

§ 303.04. VC-A Village Center District A: 101 & 7.

1. **Purpose.** The purpose of the VC-A Village Center District A: 101 & 7 is to promote a concentrated core of economic and community oriented activity at and near the intersection of Hwy 101 and Hwy 7.

[INSERT GRAPHIC.]

2. **Uses.** Land in the VC-A District may be used only for uses allowed in accordance with Part 04 of this Code.

3. **Dimensional standards.** All lots in the VC-A District must comply with the dimensional standards established in Table XX: VC-A Dimensional Standards.

Table** Error! No text of specified style in document.**-1: VC-A Dimensional Standards

Standard		Requirement
Minimum Lot Area		n/a
Minimum Lot Width		n/a
Minimum Lot Depth		n/a
Minimum Front Setback		35 ft.
Maximum Front Setback		80 ft.
Minimum Side Setback		10 ft. plus 1 ft. per foot of building height over 40 ft.; or as required by the Minnesota State Building Code.
Minimum Rear Setback		35 ft.
Minimum Accessory Structure Setback		10 ft.
Maximum Building Height	Within 200 ft. of a Residential District	60 ft.
	Not Within 200 ft. of a Residential District	80 ft.
Maximum Impervious Surface Coverage		TBD

§ 303.05. VC-B Village Center District B: Williston & 7.

1. **Purpose.** The purpose of the VC-B Village Center District B: Williston & 7 is to support commercial and mixed use development activities at and near the intersection of Williston Road and Hwy 7.

[INSERT GRAPHIC.]

2. **Uses.** Land in the VC-B District may be used only for uses allowed in accordance with Part 04 of this Code.

3. **Dimensional standards.** All lots in the VC-B District must comply with the dimensional standards established in Table XX: VC-B Dimensional Standards.

Table** Error! No text of specified style in document.**-1: VC-B Dimensional Standards

Standard	Requirement
Minimum Lot Area	n/a
Minimum Lot Width	n/a
Minimum Lot Depth	n/a
Minimum Front Setback	35 ft.
Maximum Front Setback	80 ft.
Minimum Side Setback	10 ft. plus 1 ft. per foot of building height over 40 ft.; or as required by the Minnesota State Building Code.
Minimum Rear Setback	35 ft.
Minimum Accessory Structure Setback	10 ft.
Maximum Building Height	60 ft.
Maximum Impervious Surface Coverage	TBD

§ 303.06. VC-C Village Center District C: Country Village.

1. **Purpose.** The purpose of the VC-C Village Center District C: Country Village is to support commercial and mixed use activity that recognizes the recreational and economic value of the Lake Minnetonka LRT Regional Trail within and near the Country Village Shopping Center at the intersection of Hwy 7 and Hopkins Crossroads.

[INSERT GRAPHIC.]

2. **Uses.** Land in the VC-C District may be used only for uses allowed in accordance with Part 04 of this Code.

3. **Dimensional standards.** All lots in the VC-C District must comply with the dimensional standards established in Table XX: VC-C Dimensional Standards.

Table** Error! No text of specified style in document.**-1: VC-C Dimensional Standards

Standard	Requirement
Minimum Lot Area	n/a
Minimum Lot Width	n/a
Minimum Lot Depth	n/a
Minimum Front Setback	35 ft.
Maximum Front Setback	80 ft.
Minimum Side Setback	10 ft. plus 1 ft. per foot of building height over 40 ft.; or as required by the Minnesota State Building Code.
Minimum Rear Setback	35 ft.
Minimum Accessory Structure Setback	10 ft.
Maximum Building Height	60 ft.
Maximum Impervious Surface Coverage	TBD

§ 303.07. VC-D Village Center District D: Minnetonka Boulevard.

1. **Purpose.** The purpose of the VC-D Village Center District D: Minnetonka Boulevard is to provide areas for community-oriented development along Minnetonka Boulevard near the Minnetonka Community Center.

[INSERT GRAPHIC.]

2. **Uses.** Land in the VC-D District may be used only for uses allowed in accordance with Part 04 of this Code.

3. **Dimensional standards.** All lots in the VC-D District must comply with the dimensional standards established in Table XX: VC-D Dimensional Standards.

Table** Error! No text of specified style in document.**-1: VC-D Dimensional Standards

Standard	Requirement
Minimum Lot Area	n/a
Minimum Lot Width	n/a
Minimum Lot Depth	n/a
Minimum Front Setback	30 ft.
Maximum Front Setback	80 ft.
Minimum Side Setback	10 ft.
Minimum Rear Setback	20 ft.
Minimum Accessory Structure Setback	10 ft.
Maximum Building Height	40 ft.
Maximum Impervious Surface Coverage	TBD

§ 303.08. VC-E Village Center District E: CR5 & 101.

1. **Purpose.** The purpose of the VC-E Village Center District E: CR5 & 101 is to promote mixed use economic development at a scale and intensity compatible with nearby residential neighborhoods.

[INSERT GRAPHIC.]

2. **Uses.** Land in the VC-E District may be used only for uses allowed in accordance with Part 04 of this Code.

3. **Dimensional standards.** All lots in the VC-E District must comply with the dimensional standards established in Table XX: VC-E Dimensional Standards.

Table** Error! No text of specified style in document.**-1: VC-E Dimensional Standards

Standard	Requirement
Minimum Lot Area	n/a
Minimum Lot Width	n/a
Minimum Lot Depth	n/a
Minimum Front Setback	30 ft.
Maximum Front Setback	80 ft.
Minimum Side Setback	10 ft. plus 1 ft. per foot of building height over 40 ft.; or as required by the Minnesota State Building Code.
Minimum Rear Setback	20 ft.
Minimum Accessory Structure Setback	10 ft.
Maximum Building Height	40 ft.
Maximum Impervious Surface Coverage	TBD

§ 303.09. VC-F Village Center District F: Glen Lake.

1. **Purpose.** The purpose of the VC-F Village Center District F: Glen Lake is to support a variety of residential, commercial, and community uses near Glen Lake.

[INSERT GRAPHIC.]

2. **Uses.** Land in the VC-F District may be used only for uses allowed in accordance with Part 04 of this Code.

3. **Dimensional standards.** All lots in the VC-F District must comply with the dimensional standards established in Table XX: VC-F Dimensional Standards.

Table** Error! No text of specified style in document.**-1: VC-F Dimensional Standards

Standard	Requirement
Minimum Lot Area	n/a
Minimum Lot Width	n/a
Minimum Lot Depth	n/a
Minimum Front Setback	20 ft.
Maximum Front Setback	80 ft.
Minimum Side Setback	10 ft. plus 1 ft. per foot of building height over 40 ft.; or as required by the Minnesota State Building Code.
Minimum Rear Setback	20 ft.
Minimum Accessory Structure Setback	10 ft.
Maximum Building Height	65 ft.
Maximum Impervious Surface Coverage	TBD

§ 303.10. VC-G Village Center District G: Cedar Lake.

1. **Purpose.** The purpose of the VC-G Village Center District G: Cedar Lake is to support and control economic development near the intersection of Cedar Lake Road and Hopkins Crossroad.

[INSERT GRAPHIC.]

2. **Uses.** Land in the VC-G District may be used only for uses allowed in accordance with Part 04 of this Code.

3. **Dimensional standards.** All lots in the VC-G District must comply with the dimensional standards established in Table XX: VC-G Dimensional Standards.

Table** Error! No text of specified style in document.**-1: VC-G Dimensional Standards

Standard	Requirement
Minimum Lot Area	n/a
Minimum Lot Width	n/a
Minimum Lot Depth	n/a
Minimum Front Setback	30 ft.
Maximum Front Setback	80 ft.
Minimum Side Setback	10 ft. plus 1 ft. per foot of building height over 40 ft.; or as required by the Minnesota State Building Code.
Minimum Rear Setback	20 ft.
Minimum Accessory Structure Setback	10 ft.
Maximum Building Height	60 ft.
Maximum Impervious Surface Coverage	TBD

§ 303.11. VC-H Village Center District H: Opus.

1. **Purpose.** The purpose of the VC-H Village Center District H: Opus is to support existing commercial uses while allowing for the adaptation of the Opus II Business Park into a residential, mixed-use neighborhood at a density and scale that leverages the planned METRO Green Line Opus Station.

[INSERT GRAPHIC.]

2. **Uses.** Land in the VC-H District may be used only for uses allowed in accordance with Part 04 of this Code.

3. **Dimensional standards.** All lots in the VC-H District must comply with the dimensional standards established in Table XX: VC-H Dimensional Standards.

Table** Error! No text of specified style in document.**-1: VC-H Dimensional Standards

Standard	Requirement
Minimum Lot Area	n/a
Minimum Lot Width	n/a
Minimum Lot Depth	n/a
Minimum Front Setback	30 ft.
Maximum Front Setback	80 ft.
Minimum Side Setback	10 ft. plus 1 ft. per foot of building height over 40 ft. [1]
Minimum Rear Setback	20 ft.
Minimum Accessory Structure Setback	10 ft.
Maximum Building Height	150 ft.
Maximum Impervious Surface Coverage	TBD
[1] The city planner may require a Shadow Study for buildings over 40 ft. in heigh according to § 300.XX. Shadow Study.	

§ 303.12. VC-I Village Center District I: Ridgedale.

1. **Purpose.** The purpose of the VC-I Village Center District I: Ridgedale is to provide flexible development standards that support the transformation of the area surrounding the Ridgedale Center from an automobile-dependent commercial node to a walkable, mixed-use neighborhood.

[INSERT GRAPHIC.]

2. **Uses.** Land in the VC-I District may be used only for uses allowed in accordance with Part 04 of this Code.

3. **Dimensional standards.** All lots in the VC-I District must comply with the dimensional standards established in Table XX: VC-I Dimensional Standards.

Table** Error! No text of specified style in document.**-1: VC-I Dimensional Standards

Standard		Requirement
Minimum Lot Area		n/a
Minimum Lot Width		n/a
Minimum Lot Depth		n/a
Maximum Front Setback		80 ft.
Minimum Front Setback		20 ft. plus 1 ft. per foot of building height over 60 ft.
Minimum Side Setback		10 ft. plus 1 ft. per foot of building height over 60 ft.; or as required by the Minnesota State Building Code.
Minimum Rear Setback		20 ft. plus 1 ft. per foot of building height over 60 ft.
Minimum Accessory Structure Setback		10 ft.
Maximum Building Height	Within 200 ft. of a Residential District	80 ft.
	Not Within 200 ft. of a Residential District	100 ft.
Maximum Impervious Surface Coverage		TBD

§ 303.13. VC-J Village Center District J: Carlson.

1. **Purpose.** The purpose of the VC-J Village Center District J: Carlson is to provide flexible standards for residential and commercial development north of Hwy 12 and west of I-494.

[INSERT GRAPHIC.]

2. **Uses.** Land in the VC-J District may be used only for uses allowed in accordance with Part 04 of this Code.

3. **Dimensional standards.** All lots in the VC-J District must comply with the dimensional standards established in Table XX: VC-J Dimensional Standards.

Table** Error! No text of specified style in document.**-1: VC-J Dimensional Standards

Standard	Requirement
Minimum Lot Area	n/a
Minimum Lot Width	n/a
Minimum Lot Depth	n/a
Minimum Front Setback	n/a
Maximum Front Setback	80 ft.
Minimum Side Setback	10 ft. plus 1 ft. per foot of building height over 40 ft. The city planner may require a Shadow Study.
Minimum Rear Setback	20 ft. plus 1 ft. per foot of building height over 60 ft.
Minimum Accessory Structure Setback	10 ft.
Maximum Building Height	80 ft.
Maximum Impervious Surface Coverage	TBD

§ 303.14. VC-K Village Center District K: 169 & Minnetonka.

1. **Purpose.** The purpose of the VC-K Village Center District K: 169 & Minnetonka is to provide appropriate standards for commercial and mixed use development along Minnetonka Boulevard near Hwy 169.

[INSERT GRAPHIC.]

2. **Uses.** Land in the VC-K District may be used only for uses allowed in accordance with Part 04 of this Code.

3. **Dimensional standards.** All lots in the VC-K District must comply with the dimensional standards established in Table XX: VC-K Dimensional Standards.

Table Error! No text of specified style in document.-1: VC-K Dimensional Standards

Standard	Requirement
Minimum Lot Area	n/a
Minimum Lot Width	n/a
Minimum Lot Depth	n/a
Minimum Front Setback	n/a
Maximum Front Setback	80 ft.
Minimum Side Setback	10 ft.
Minimum Rear Setback	20 ft.
Minimum Accessory Structure Setback	10 ft.
Maximum Building Height	60 ft.
Maximum Impervious Surface Coverage	TBD

§ 303.15. VC-L Village Center District L: Minnetonka Mills.

1. **Purpose.** The purpose of the VC-L Village Center District L: Minnetonka Mills is to preserve the front setback pattern established near the intersection of Minnetonka Boulevard and Shady Oak Road while supporting commercial and mixed use economic activity.

[INSERT GRAPHIC.]

2. **Uses.** Land in the VC-L District may be used only for uses allowed in accordance with Part 04 of this Code.

3. **Dimensional standards.** All lots in the VC-L District must comply with the dimensional standards established in Table XX: VC-L Dimensional Standards.

Table** Error! No text of specified style in document.**-1: VC-L Dimensional Standards

Standard	Requirement
Minimum Lot Area	n/a
Minimum Lot Width	n/a
Minimum Lot Depth	n/a
Minimum Front Setback	n/a
Maximum Front Setback	80 ft.
Minimum Side Setback	10 ft. plus 1 ft. per foot of building height over 40 ft.; or as required by the Minnesota State Building Code.
Minimum Rear Setback	20 ft.
Minimum Accessory Structure Setback	10 ft.
Maximum Building Height	60 ft.
Maximum Impervious Surface Coverage	TBD

§ 303.16. VC-M Village Center District M: Southwest Light Rail.

1. **Purpose.** The purpose of the VC-M Village Center District M: Southwest Light Rail is to leverage the extension of the METRO Green Line for the creation of a mixed-use, high-activity neighborhood near the Shady Oak LRT Station.

[INSERT GRAPHIC.]

2. **Uses.** Land in the VC-M District may be used only for uses allowed in accordance with Part 04 of this Code.

3. **Dimensional standards.** All lots in the VC-M District must comply with the dimensional standards established in Table XX: VC-M Dimensional Standards.

Table** Error! No text of specified style in document.**-1: VC-M Dimensional Standards

Standard		Requirement
Minimum Lot Area		n/a
Minimum Lot Width		n/a
Minimum Lot Depth		n/a
Minimum Front Setback	Abutting Residential Use	10 ft.
	Not Abutting Residential Use	n/a
Maximum Front Setback		80 ft.
Minimum Side Setback		10 ft. plus 1 ft. per foot of building height over 40 ft.; or as required by the Minnesota State Building Code.
Minimum Rear Setback		20 ft.
Minimum Accessory Structure Setback		10 ft.
Minimum Building Height		30 ft.
Maximum Building Height		100 ft.
Maximum Impervious Surface Coverage		80 %; and 15 percent of the impervious surface area must be covered with semi-pervious surfaces.

§ 303.17. FD Flexible Development.

1. **Purpose.** The purpose of the FD Flexible Development District is to provide areas in the city with lenient dimensional standards that enable the development and preservation of low intensity industrial and commercial uses.

[INSERT GRAPHIC.]

2. **Uses.** Land in the FD District may be used only for uses allowed in accordance with Part 04 of this Code.

3. **Dimensional standards.** All lots in the FD District must comply with the dimensional standards established in Table XX: FD Dimensional Standards.

Table** Error! No text of specified style in document.**-1: FD Dimensional Standards

Standard		Requirement
Minimum Lot Area		n/a
Minimum Lot Width		n/a
Minimum Lot Depth		n/a
Minimum Front Setback		20 ft.
Maximum Front Setback		80 ft.
Minimum Side Setback		20 ft.; the city planner may require a Shadow Study.
Minimum Rear Setback		20 ft.
Minimum Accessory Structure Setback		10 ft.
Maximum Building Height	Within 200 ft. of a Residential District	40 ft.
	Not Within 200 ft. of a Residential District	60 ft.
Maximum Impervious Surface Coverage		TBD

§ 303.18. OPUS Opus Overlay District.

1. **Preamble.** The City has determined that future growth within the general area of the Opus II Business Park must be responsibly managed to maintain acceptable levels of traffic operation on regional and local road systems. The City has also determined that the highway interchange at Bren Road and Hwy 169 is nearly at full capacity and that the interchange is the primary limiting factor for growth in the majority of the Opus II Business Park area. Limitations must be placed on this area in addition to the underlying zoning requirements to prevent unacceptable levels of traffic at the Bren Road interchange. Therefore, the Opus Overlay (OPUS) District is established, and properties in that district are subject to the provisions in this section.

2. **Boundaries of Opus Overlay District.** The OPUS District covers the area bounded by County Road No. 62 on the south, Hwy 169 on the east, Smetana Road on the north, and Shady Oak Road/County Road No. 61 on the west. The OPUS District is further divided into four traffic analysis districts that reflect the different levels of expected distribution of traffic to the Bren Road interchange. The boundaries of each traffic analysis district are shown in subsection (4) of this section.

3. **Traffic requirements.** To avoid overloading the Bren Road interchange, all non-residential parcels within the OPUS District are subject to the following traffic requirements. If an application is submitted to increase the density of a residential parcel, that application will be subject to the following requirements except for the trip generation limit. If an application is submitted to change the use of a residential parcel, that parcel will be subject to all of the following requirements, and the city will establish an appropriate trip generation limit for that parcel.

    a. *Traffic impact studies*. A traffic impact study prepared by a registered traffic engineer to assess potential traffic impacts on local and regional road systems is required for any of the following:

        (1) Any development that exceeds 25,000 square feet of gross floor area;

        (2) Expansion of existing development that exceeds 10 percent of gross floor area and the total gross floor area is 25,000 square feet or greater; or

        (3) Any development for which the afternoon (p.m.) peak hour trip generation rate, as defined by the Institute of Traffic Engineers, is

expected to exceed two afternoon peak hour trips per 1,000 square feet of gross floor area.

b. Trip generation.

(1) Development limitations based on p.m. peak hour trip generation are established in subsection (4) of this section for each parcel of non-residential land in the OPUS District that contributes traffic to the Bren Road interchange.

(a) These development limitations have been developed by determining the maximum number of p.m. peak hour trips that can be accommodated at the interchange. That number of trips was then allocated proportionately on the basis of the maximum development that would be allowed under current zoning standards and the rate of trip distribution to the interchange for each traffic analysis subdistrict.

(b) The properties in traffic analysis subdistrict 4 were determined to have no trips to the interchange, so no trip generation limits are imposed for that subdistrict.

(2) The trip generation numbers specified in subsection (4) of this section are the maximum numbers of p.m. peak hour trips that may be generated by non-residential properties to the Bren Road and TH169 interchange in traffic analysis subdistricts 1, 2, and 3.

(a) To determine the maximum square footage of building space that is allowed for each parcel, the trip limitation number is divided by the p.m. peak hour rate for that use. The applicable rates are those specified in the Opus II area trip generation analysis, dated August 1, 2009, on file in the community development department.

(b) Substantial compliance with the trip generation number and resultant maximum square footage of buildable space is required.

1. In determining trip generation and allowable building square footage, gross floor area of a building must be used, except that gross leasable area may be used when there is a substantial amount of common area within a building and when Institute of Traffic Engineers data is based on gross leasable area.

(3) Uses existing on December 7, 2009, that generate greater p.m. peak hour trips or that have a greater building area than would be allowed by the trip generation number may continue to exist as nonconforming developments.

(a) These uses are subject to the restrictions contained in § 300.xx.; however, each of these uses is allowed to expand by no more than 10 percent of existing building area if measures are taken to keep the traffic generation at the rate existing on December 7, 2009. An expansion beyond that amount or a change of use is permitted only if there is substantial compliance with the trip generation limit.

(4) Unused trips allocated by this section to a parcel under subsection (4) are not a property right that may be transferred at will to another property. Allocated trips may be transferred to another property in the OPUS District only with the approval of the city Council, which may deny the transfer if it is likely to have a negative impact on the public health, safety, or welfare.

c. Appeal of trip generation limit.

(1) The owner of any property subject to a trip generation limit may appeal that limit to the Planning Commission and city council.

(a) No appeal may be taken unless the affected property owner files a written appeal with the city Clerk within 90 days after the adoption of this section.

(b) The failure to file a timely appeal eliminates all right to challenge a trip generation limit.

(c) The appeal must be accompanied by a report prepared by a registered traffic engineer. The report must provide evidence indicating potential errors in a p.m. peak trip or rate, reasons why the property or development is presently generating, or will in the future generate, less p.m. peak hour trips, or both.

(2) The Planning Commission will review the appeal.

(a) Notices of a public meeting before the Planning Commission regarding the appeal will be mailed to owners of property located wholly or partially within 400 feet of the subject property, as reflected in the certified records of the Hennepin County Auditor.

(3) After receiving receipt of the recommendation of Planning Commission, the city Council will consider the matter and may hold whatever hearing it deems advisable.

(a) The city council may approve an appeal only upon an affirmative vote of at least two-thirds of its full membership.

(b) The city council must serve a copy of its decision upon the applicant by mail.

d. Road system improvements.

(1) Development that would exceed the established trip generation limitations may only be constructed if concurrent road system improvements to accommodate the additional trip generation are paid for by the property owner.

(a) The road system improvements must achieve a level of service operation at the Bren Road interchange consistent with the level of service that would have existed without the excess trip generation.

(b) The adequacy and necessity of the road system improvements will be reviewed and approved by the city Council as part of the development approvals.

(2) If the city constructs, or participates in financing, road system improvements that create additional capacity at the Bren Road interchange after December 7, 2009, development beyond the allocated trip generation number is allowed only if the developer helps to reimburse the city for its costs by purchasing additional trips from the city.

(a) The City will determine the value of each additional trip by dividing the city's share of the total construction cost by the number of p.m. peak hour trips that can be added to the interchange because of the construction. That value will be adjusted each year by the rate established in the engineering news record or a similar standard for determining the inflationary or deflationary rate of construction costs per year.

(3) Purchase of the additional trips from the increased capacity of the Bren Road interchange will be on a first-come, first-served basis.

(a) When all of the additional trips have been purchased, no more fees for additional trips will be charged and no

development beyond that allowed by the allocated and purchased trips may occur.

(b) Purchase of the additional trips may occur only after a development has received all necessary land use approvals from the city. The trips will not be reserved for the development until the payment is made. If all available trips have been purchased before the owner of an approved development seeks to pay for its needed trips, the development may not proceed.

(4) All purchased trips may be used only for the specific associated development approved by the city. Notwithstanding the foregoing, the owner of purchased trips may transfer those trips to another development if the city Council has given all necessary land use approvals for that other development and has approved the transfer of those trips, after considering the impact on the public health, safety, and welfare.

(5) Nothing in this Chapter may be construed to eliminate developer responsibility for other improvements unrelated to the Bren Road interchange.

(a) If a traffic impact study finds that road system improvements unrelated to the Bren Road interchange are required as a result of the proposed development, no construction of the development may commence until arrangements, including financing, for completion of permanent improvements are made and approved by the city.

(b) If qualifying warrants are not met for such improvements, the city may require that the property owner install interim improvements.

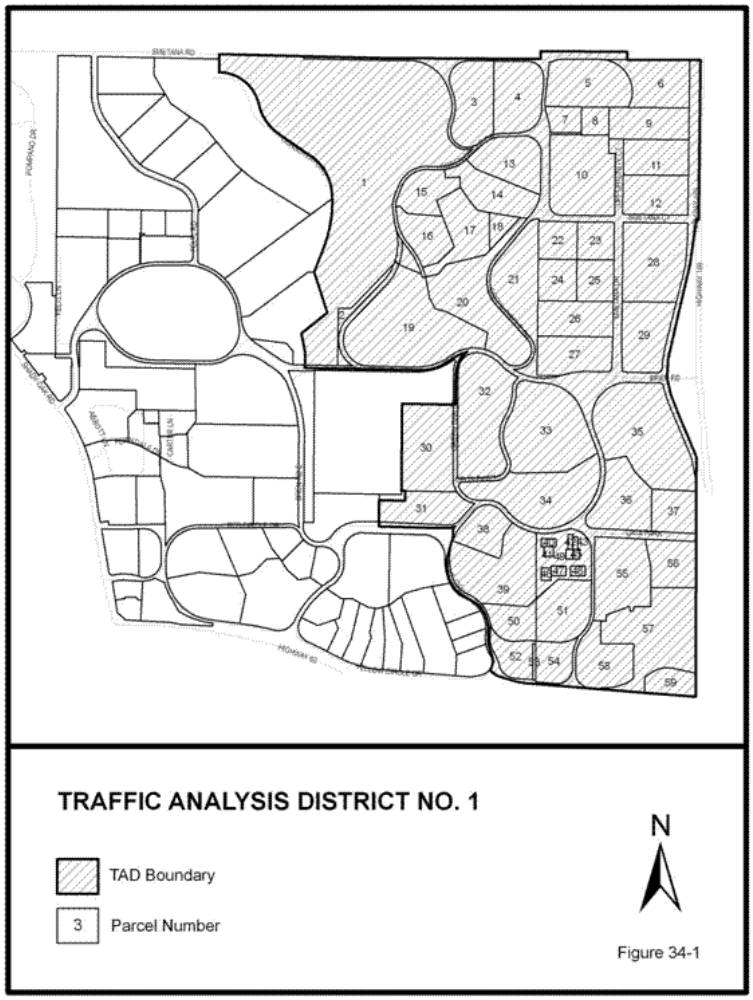
e. *Phased occupancy.* The City may require phased construction or occupancy of a building or portions of a development or redevelopment project.

(1) Such phasing may be tied to completion of a road system improvement found to be needed by the traffic impact study.

4. Afternoon peak hour trip generation.

a. Traffic Analysis Subdistrict 1.

Figure 03.18-1: Traffic Analysis Subdistrict 1



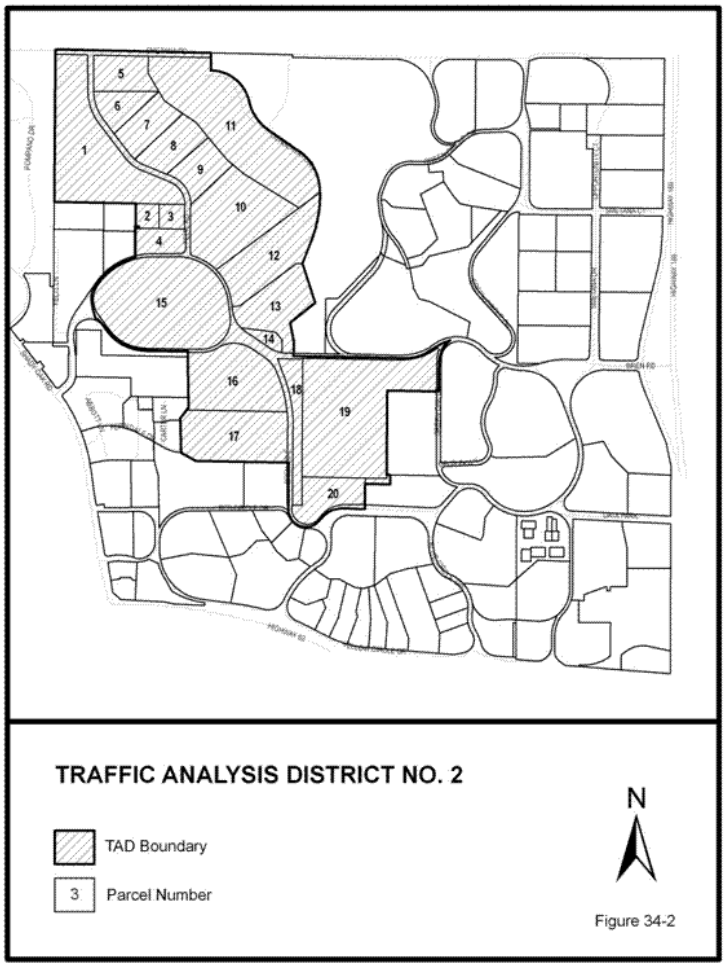
Parcel Number	Max. Afternoon (p.m.) Peak Hour Trips
1	0
2	0
3	0
4	0
5	49
6	0
7	11
8	10
9	0
10	66
11	30
12	33
13	0
14	0
15	0

Parcel Number	Max. Afternoon (p.m.) Peak Hour Trips
16	0
17	0
18	0
19	196
20	0
21	109
22	19
23	14
24	33
25	33
26	44
27	44
28	0
29	86
30	79
31	32
32	127
33	119
34	146
35	268
36	0
37	0
38	24
39	64
40	4
41	3
42	3
43	2
44	2
45	2
46	5
47	5
48	6
49	0
50	29
51	39
52	25
53	0
54	27
55	279
56	39
57	111

Parcel Number	Max. Afternoon (p.m.) Peak Hour Trips
58	35
59	0

b. Traffic Analysis Subdistrict 2.

Figure 03.18-2: Traffic Analysis Subdistrict 2

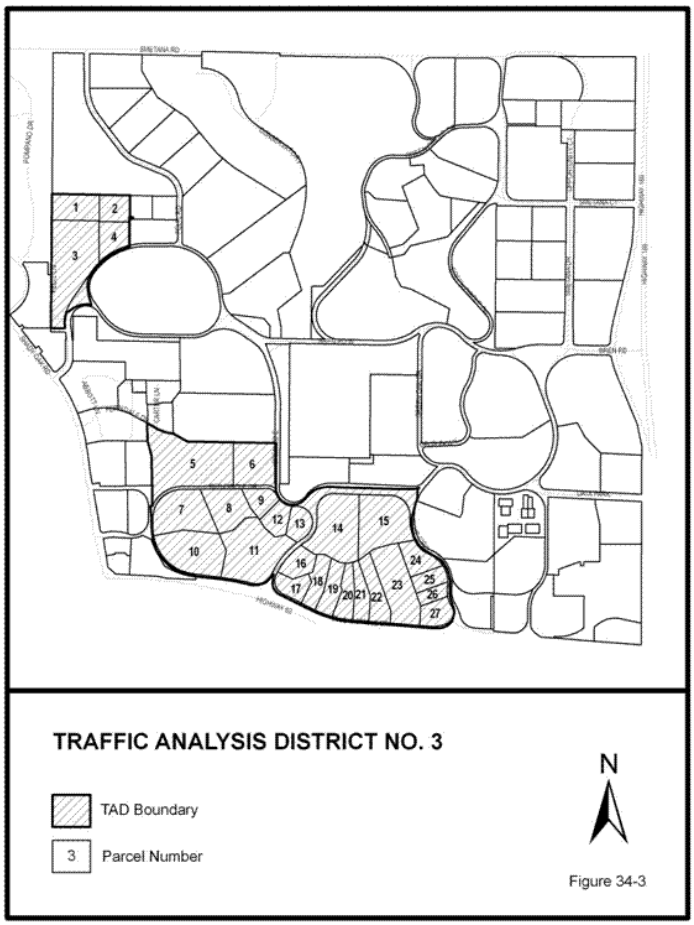


Parcel Number	Max. Afternoon (p.m.) Peak Hour Trips
1	77
2	5
3	5
4	15
5	17
6	13
7	17
8	20
9	13
10	63
11	0
12	44
13	33
14	4

Parcel Number	Max. Afternoon (p.m.) Peak Hour Trips
15	122
16	47
17	62
18	0
19	79
20	27

c. Traffic Analysis Subdistrict 3.

Figure 03.18-3: Traffic Analysis Subdistrict 3

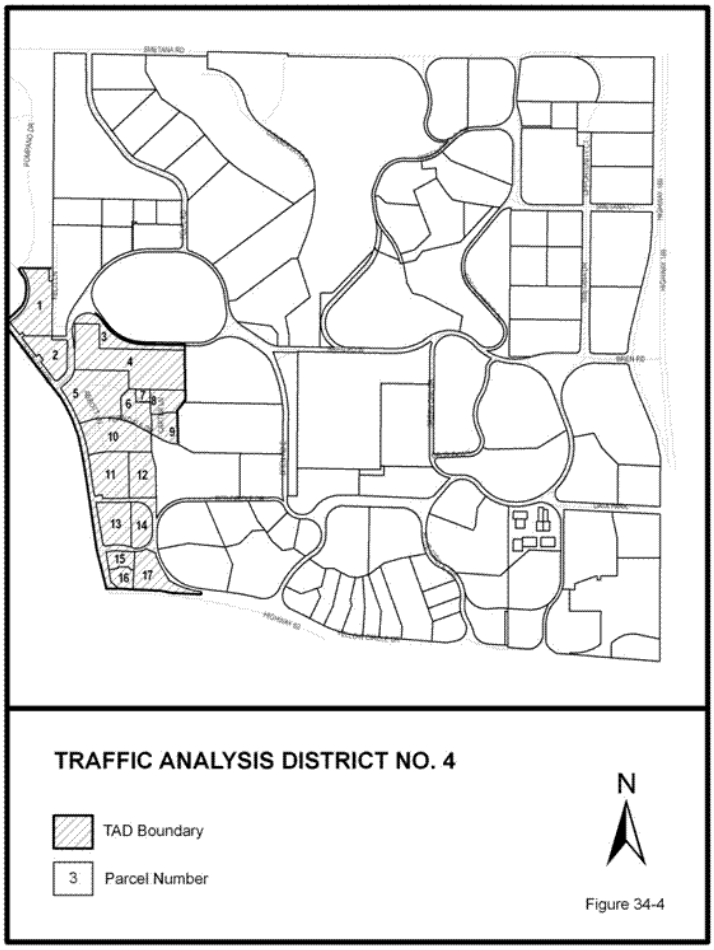


Parcel Number	Max. Afternoon (p.m.) Peak Hour Trips
1	8
2	4
3	24
4	4
5	24
6	11
7	14
8	7
9	3
10	20
11	25
12	3
13	3
14	13
15	12

Parcel Number	Max. Afternoon (p.m.) Peak Hour Trips
16	5
17	4
18	5
19	6
20	5
21	5
22	7
23	15
24	5
25	4
26	3
27	3

d. Traffic Analysis Subdistrict 4.

Figure 03.18-4: Traffic Analysis Subdistrict 4



Parcel Number	Max. Afternoon (p.m.) Peak Hour Trips
1	n/a
2	n/a
3	n/a
4	n/a
5	n/a
6	n/a
7	n/a
8	n/a
9	n/a
10	n/a
11	n/a
12	n/a
13	n/a
14	n/a

Parcel Number	Max. Afternoon (p.m.) Peak Hour Trips
15	n/a
16	n/a
17	n/a

§ 303.19. PD Planned Development District.

1. Purpose. The purpose of the planned development (PD) zoning district is to provide a district that grants flexibility from certain subdivision and zoning regulations to realize public benefits that may not otherwise be achieved through non-PD development.

2. Applicability.

a. The rezoning of property to a PD District may be considered by the city when it would result in one of the following public benefits.

(1) Greater preservation of existing natural resources, in number or quality, than would otherwise be provided under non-PD development;

(2) Provision of affordable housing;

(3) Provision of a housing type or target housing price that is desirable to the city;

(4) A mix of land use types not otherwise allowed by this Code;

(5) Development that is compatible with existing, surrounding development type and intensity that is no longer allowed in other existing zoning districts; or

(6) Higher levels of sustainable or resilient building or site design than would otherwise be achieved; or

(7) Other public benefits as recognized by the city.

b. This section does not apply to any planned unit development (PUD) district or planned unit residential development (PURD) district that received preliminary or final approval by the city council prior to the effective date of this Code unless requested by the property owner and approved by the city council. An amendment of a previously approved PUD or PURD is subject to this section.

3. Uses. Within a PD District, all uses allowed as permitted and accessory uses within any other zoning districts are allowed. All uses allowed by conditional use permit within any other district are allowed by conditional use permit. All

uses allowed by temporary use permit within any other district are allowed by temporary use permit. Uses must be reviewed for compliance with the applicable conditional use permit standards, temporary use permit standards, and site plan standards specified within the city code of ordinances.

4. **General standards.** The rezoning of property to a PD District may be approved when the following general standards are met.

   a. Any use authorized as a conditional use or similar uses, as determined by the city planner, meet the standards and conditions outlined for the corresponding conditional use unless the city council waives such standards and conditions in approving the zoning amendment.

   b. The city council determines the PD District results in at least one of the public benefits as outlined in subsection (2)(a) of this section;

   c. The city council determines the PD District is consistent with and advances the community-wide goals of the comprehensive plan; and

   d. The PD District is appropriately integrated into existing and proposed surrounding development. This provision does not mean the PD District reflects the specific standards of the surrounding area such as lot size, density, setbacks, or design. While integration may be achieved through such standards, it may also be achieved through continuation of existing land use types, architectural transitions, landscape buffering, or other means.

5. **Specific standards.** In approving the rezoning of property to a PD District, the city council may condition such approval upon compliance with the following specific standards.

   a. If a PD District includes the provision of affordable housing, a specific housing type, or target housing price, details associated with the housing such as number of units, unit size, and price must be documented in a legally-binding agreement approved by the city and recorded against the properties within the PD District.

   b. If a PD District includes the preservation of natural resources, those resources must be permanently protected through a conservation easement or other legally-binding agreement approved by the city and recorded against the properties with the PD District.

   c. A homeowners association must be established where appropriate to ensure on-going maintenance of infrastructure and public spaces,

required restoration and management of natural areas, or other actions and activities specific to the PD District.

6. **Flexible guidelines.** The following provisions will serve as guidelines for the design and development of PD Districts and will not be enforced as development standards.

   a. The standards outlined in the following sections of the city code of ordinances serve as development guidelines for structures within PD Districts.

PD District Land Use	Development Guidelines
Low-Density Residential	§ 300.XX.x.
Medium-Density Residential	§ 300.XX.x.
High-Density Residential	§ 300.XX.x.
Nonresidential	§ 300.XX.x.

   b. The standards outlined in § 300.XX.x. of this Code serve as guidelines for parking and loading requirements within PD Districts.

   c. The standards outlined in Chapter 4 of the city code of ordinance will serve as guidelines for the design of lots and public streets within PD Districts.

7. **Review criteria.** As with other zoning amendments, the decision to rezone a property to the PD District is a policy decision that the city council may make in its legislative capacity. In evaluating a proposal to rezone a property to a PD District, the council will consider its compliance with the standards outlined in subsections (4) and (5) of this section.

8. **Review procedure.**

   a. *Zoning amendment and master development plan review*.

      (1) The process to rezone a property to a PD District is subject to the review procedure outlined in § 300.XX. of this Code.

      (2) A zoning amendment application to rezone a property to a PD District must be accompanied by a master development plan application subject to § 300.XX. of this Code. An approved master development plan, including any conditions attached to the approval thereof, is the legal control governing development of property within a PD District.

   b. *Site plan review*.

(1) Site plan review and approval of final site plans will be subject to the procedures outlined in § 300.XX. of this Code.

(2) Final site plans must be in substantial compliance with the approved master development plan.

(3) The city council may attach conditions to a final site plan approval as it determines necessary or convenient to accomplish the purposes of the PUD.

c. *Combined approval*. Applicants may combine master development plan review and site plan review. In such cases, all information required for both processes must be submitted simultaneously.

9. Validity period.

a. If an application for final site plan approval is not made by December 31 of the year following approval of a rezoning of property to a PD District, or of any extension granted by the city, the city council may rezone the property to its original zoning classification.

b. If construction has not started by December 31 of the year following approval of final site plans, or of any extension granted by city, the city council may rezone the property to its original zoning classification.

c. In reviewing an extension request, the city council will consider the following criteria.

(1) Whether there have been changes to city code or policy that would affect the previous approval; and

(2) Whether an extension would adversely affect the neighboring property owners.

PART 04. USES AND USE STANDARDS.

§ 304.00. Use Permissions Table.

1. **Number of uses per lot.** The maximum number of principal uses permitted on a lot is determined by the applicable zoning district.
   a. In the LDR, MDR, and HDR Districts, no more than one principal use is permitted on a lot.
   b. In all other districts, multiple principal uses are permitted on the same lot provided that all such uses comply with the standards established in this Code.

2. **How to use the use permissions table.** Uses permitted in each zoning district are outlined in Table XX: Use Permissions Table. In the interpretation and administration of the use permissions table, the following rules apply.
   a. Find the desired use in the column titled "use."
   b. Find the intersection of the desired use and the applicable zoning district.
   c. Interpret the symbol as set forth in Table XX: Use Permissions Table Legend.

Table** Error! No text of specified style in document.**-1: Use Permission Legend

Symbol	Interpretation	Approving Authority
P	Use permitted by right as a principal use.	City planner
C	Use permitted by conditional use permit approval as a principal use.	Planning commission
PA	Use permitted by right as an accessory use.	City planner
CA	Use permitted by conditional use permit approval as an accessory use.	Planning commission
T	Use permitted by temporary use approval as a temporary use.	City planner
I	Use permitted by interim use permit approval as a temporary use.	Planning commission
	Use prohibited.	n/a

3. **Uses not listed.** Uses not explicitly permitted by right or conditional use permit approval are prohibited unless the city planner determines a specific use to be substantially similar to a use permitted by right or conditional use permit approval according to the following standards.
   a. Any person who believes a proposed use not included in Table XX is substantially similar in definition and impact to a use included in Table XX

may submit a substantial similarity of use determination application to the city planner in accordance with § 309.XX. of this Code.

4. **Lots not meeting the minimum lot size requirements.** Any lot that meets the requirements for a variance as specified in § 400.xxx. of the city code of ordinances or for which a variance reducing lot area or dimensions has been granted may be developed with a single-dwelling unit use. Any lot not meeting the minimum dimensional standards requirements established in Part 3 Zoning Districts and for which no variance has been granted may only be developed with a single-unit dwelling upon the granting of a variance pursuant to § 300.xxx. of this Code.

5. **Use categories.** To organize different uses, this Code divides uses into eight categories based on their predominant intent. Throughout this Code, references to use categories include all uses within the use category. Use categories are as established and contain the uses included in Table XX.

6. **Use standards.** Certain uses must comply with specific standards established in § 300.XX. through § 300.XX.

7. Use permissions table.

Category	Use	Use Standards	LDR	MDR	HDR	VC-A	VC-B	VC-C	VC-D	VC-E	VC-F	VC-G	VC-H	VC-I	VC-J	VC-K	VC-L	VC-M	FD
Ag.	Agricultural use.	300.29.01	P	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA
Residential	Dwelling, attached.	300.30.01		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Dwelling, manufactured or modular.	300.30.03	P	P															
	Dwelling, multi-unit.	300.30.04			P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Dwelling, single-unit.	300.30.05	P	P															
	Dwelling, triplex or fourplex.	300.30.06		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Dwelling, two-unit.	300.30.07	P	P															
	Residential care facility.	300.30.08	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Commercial	Eating and drinking establishment.				PA	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Fast food establishment.					P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Garden sale.					PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	P
	Greenhouse.																		P
	Hotel.					P	P	P	P	P	P	P	P	P	P	P	P	P	P

Category	Use	Use Standards	LDR	MDR	HDR	VC-A	VC-B	VC-C	VC-D	VC-E	VC-F	VC-G	VC-H	VC-I	VC-J	VC-K	VC-L	VC-M	FD
	Microbrewery, winery, or distillery.					P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Office.					P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Personal service.				PA	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Pet care facility.					P													P
	Retail.				PA	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Sexually-oriented business.																		P
	Veterinary office.					P	P	P	P	P	P	P	P	P	P	P	P	P	P
Community	Assembly.					P	P	P	P	P	P	P	P	P	P	P	P	P	
	Cemetery.		C																C
	Commercial recreation, indoor.					P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Commercial recreation, outdoor.					C	C	C	C	C	C	C	C	C	C	C	C	C	C
	Day care center.				CA	P	P	P	P	P	P	P	P	P	P	P	P	P	C
	Hospital.																		C
	Publicly-owned building.		C	C	C	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Public recreation.		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

Category	Use	Use Standards	LDR	MDR	HDR	VC-A	VC-B	VC-C	VC-D	VC-E	VC-F	VC-G	VC-H	VC-I	VC-J	VC-K	VC-L	VC-M	FD
	Religious assembly.		C	C	C	P	P	P	P	P	P	P	P	P	P	P	P	P	C
	School.		C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
Industrial	High resource use facility.																		C
	Industrial, light.																		P
Energy and Utilities	Electric vehicle charging station.		PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA
	Solar energy system, ground-mounted.			C	C	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Solar energy system, roof-mounted.		PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	
	Telecommunication facility.		PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA
	Utility facility.		C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
	Wind energy system.		PA	PA	PA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA	CA
Transportation	Fleet charging.																		CA
	Fleet management.																		C
	Gas station.					P	P	P	P	P	P	P	P	P	P	P	P	C	P
	Heliport.																		CA
	Marina.		C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C
	Transit station.		P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

Category	Use	Use Standards	LDR	MDR	HDR	VC-A	VC-B	VC-C	VC-D	VC-E	VC-F	VC-G	VC-H	VC-I	VC-J	VC-K	VC-L	VC-M	FD
	Vehicle sale and rental.													C	C				
	Vehicle service.													CA	CA				P
	Vehicle storage.													CA	CA				CA
Accessory	Accessory day care.		PA	CA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA
	Accessory dwelling unit.		PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA
	Accessory office.				PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA
	Drive-through facility.					CA	CA					CA							CA
	Garage, attached.		PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA
	Garage, detached.		PA	PA	PA														
	Home occupation.		PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA
	Outdoor dining.				PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA
	Outdoor sales.					PA	PA	PA	PA	PA	PA	PA	PA	CA	CA	PA	PA	PA	PA
	Outdoor storage.																		PA
	Play structure.		PA	PA	PA														
	Recreational structure.		PA	PA															
	Sports court.		PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA

Category	Use	Use Standards	LDR	MDR	HDR	VC-A	VC-B	VC-C	VC-D	VC-E	VC-F	VC-G	VC-H	VC-I	VC-J	VC-K	VC-L	VC-M	FD
	Swimming pool.		PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA	PA
Temporary	Seasonal tree sale.		T			T	T	T	T	T	T	T	T	T	T	T	T	T	T
	Temporary assembly.		T			T	T	T	T	T	T	T	T	T	T	T	T	T	T
	Temporary retail sale.		T			T	T	T	T	T	T	T	T	T	T	T	T	T	
	Temporary construction office.		T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T	T

8. Interim uses.

a. *Applicability*. In addition to the uses allowed by Table XX, interim uses will be permitted in the following circumstances.

(1) To allow a use for a temporary period of time until a permanent location is obtained or while the permanent location is under construction;

(2) To allow a use that is presently judged acceptable by the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district;

(3) To allow a use that is seasonal in nature; or

(4) To allow a use for a limited period of time that reasonably uses the property where it is not reasonable to use it in the manner otherwise provided in this Code or the comprehensive plan.

b. *Standards*. No interim use may be established except in compliance with the following standards.

(1) No interim use may be established prior to receiving an interim use permit in accordance with § 309.XX. of this Code.

(2) An interim use must not delay the anticipated development or redevelopment of the applicable site.

(3) No interim use may adversely affect the adjacent property, the surrounding neighborhood, or other uses on the property where the interim use is located.

(4) No interim use may impose additional unreasonable costs on the public;

(5) An interim use may not be established unless a date or event that will terminate the use can be identified with certainty. Such date or event must be indicated on the interim use permit application.

§ 304.01. Agricultural Use Standards.

1. Agricultural use.

a. Agricultural uses do not include the cultivation of cannabis for commercial sale, except in the FD District.

§ 304.02. Residential Use Standards.

1. Dwelling, attached.

a. Where a development includes attached dwellings, the dimensional standards established in Part 3 Zoning Districts will be interpreted and administered according to the following standards.

(1) Where multiple attached dwellings are located on the same lot, each lot must individually comply with the dimensional standards established in Part 3 Zoning Districts.

(2) Where each attached dwelling is established on its own lot, each row of attached dwellings must collectively comply with the dimensional standards established in Part 3 Zoning Districts so that these standards may be administered as though the entire row of attached dwellings is located on the same lot.

b. An attached dwelling development may not exceed the density established for the applicable future land use category in the comprehensive plan.

c. All attached dwellings must have its own independent, exterior entrance on the ground floor of the front facade.

(1) In the administration of this provision, a garage door located on the front façade will not be considered an independent, exterior entrance.

d. No row of attached dwellings may exceed eight units.

e. A row of attached dwellings must be set back from all other buildings and structures by at least 10 feet.

f. Where possible, vehicle access to an attached dwelling must be from the rear yard via an alley. Where vehicle access cannot be provided from the rear yard, the following standards apply.

(1) No driveway located in the front yard of a lot containing an attached dwelling may be more than 25 feet in length.

2. Manufactured or modular dwelling.

a. A manufactured or modular dwelling must comply with Minn. Stats. § 327.32.

b. A manufactured or modular dwelling must be placed on a permanent frost-protected foundation.

3. Multi-unit dwelling.

a. A multi-unit dwelling development may not exceed the density established for the applicable future land use category in the comprehensive plan.

4. Triplex or fourplex dwelling.

a. In the development of a triplex or fourplex dwelling, the dimensional standards established in Part 3 Zoning Districts will be interpreted and administered according to the following standards.

(1) Where all dwelling units are established on the same lot, the entire lot must comply with the dimensional standards established in Part 3 Zoning Districts.

(2) Where the dwellings units are established on more than one lot, all lots containing dwelling units, common open space, parking facilities, or landscaping must collectively comply with the dimensional standards established in Part 3 Zoning Districts so that the standards may be administered as though all such features are located on the same lot.

b. A triplex or fourplex dwelling development may not exceed the density established for the applicable future land use category in the comprehensive plan.

5. Two-unit dwelling.

a. In the development of a two-unit dwelling, the dimensional standards established in Part 3 Zoning Districts will be interpreted and administered according to the following standards.

(1) Where both dwellings are established on the same lot, the entire lot must comply with the dimensional standards established in Part 3 Zoning Districts.

(2) Where both dwelling units are established on their own lot, the two lots must collectively comply with the dimensional standards established in Part 3 Zoning Districts so that the standards may be

administered as though both dwelling units are located on the same lot.

b. A two-unit dwelling development may not exceed the density established for the applicable future land use category in the comprehensive plan.

6. Residential care facility.

a. In all zoning districts, a residential care facility providing accommodations to more than six people must receive a conditional use permit.

b. In the LDR and MDR Districts, no residential care facility is allowed if its primary purpose is treating juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of a criminal statute relating to sex offenses.

c. In the LDR District, a residential care facility providing accommodations to more than six people must comply with the following standards.

(1) The facility may not provide accommodation to more than 10 people.

(2) The facility must be located on a property at least one-acre in size, with direct access to a collector or arterial street as identified in the comprehensive plan.

(3) Parking must be accommodated on site at a rate of 0.5 parking stalls per resident. If exterior parking is designed as a parking lot, it must be located behind the rear building line of the facility and set back a minimum of 20 feet from rear and side lot lines.

(4) A type B landscape buffer must be provided along all lot lines abutting the LDR or MDR District.

(5) The facility must conform with the requirements of § 303.01 of this Code and all other applicable city ordinances, as well as Minnesota state building, fire, and health codes.

d. In the MDR District, a residential care facility may not provide accommodations to more than 14 people.

§ 304.03. Commercial Use Standards.

1. Eating and drinking establishment.

a. An eating and drinking establishment may provide live entertainment as an accessory use without meeting the use standards established for assembly uses in § 300.xx.

b. In the HDR District, an eating and drinking establishment must be accessory to a residential use and comply with the following standards.

(1) The eating and drinking establishment must independently meet parking requirement established in § 300.xx.

(2) No drive-through facility is allowed in association with the eating and drinking establishment.

2. Fast food establishment.

a. If a drive-through facility is provided, the drive-through facility must comply with the standards established in § 300.xx.

b. A fast food establishment must be accessed from a minor arterial, collector street or service road.

c. No fast food establishment will be permitted where traffic studies indicate significant impacts on the levels of service for adjacent public streets and intersections, as defined by the Institute of Traffic Engineers.

d. A fast food establishment, including any associated drive-through facility, must be set back at least 100 feet from any lot in a residential district. Additionally, a type A landscape buffer must be provided along all lot lines abutting a lot in a residential district.

3. Hotel.

a. The minimum rental period must be one night, and the maximum rental period is 30 nights. No hotel may offer a rooms at an hourly rate.

b. A hotel is permitted to establish an accessory eating and drinking facility, indoor recreation facility, assembly, and retail use provided that such spaces are primarily intended for the use of or to provide goods and services to guests.

(1) Such accessory uses may not constitute more than 40 percent of the hotel's gross floor area.

c. A hotel must demonstrate that its operation will not significantly lower the existing level of service for the adjacent public and private streets and intersections, as defined by the Institute of Traffic Engineers.

d. A type A landscape buffer must be provided along all lot lines abutting the LDR District.

4. Microbrewery, winery, or distillery.

a. Microbreweries, wineries, and distilleries may produce no more than 15,000 barrels of beer, 5,000 gallons of wine, or 10,000 proof gallons of spirits per year.

5. Office.

a. A place of business where the primary activities are clerical, administrative, or managerial in nature, supporting the operations of a company, organization, or government.

6. Personal service.

a. In the HDR District, a personal service use must be accessory to a residential care facility and comply with the following standards.

(1) The personal service use may only offer services for sale to on-site residents, the residents' guests, and employees of the residential care facility.

(2) No drive-through facility may be provided in association with the personal service use.

7. Pet care facility.

a. Outdoor runs are prohibited.

8. Retail.

a. If cannabis is offered for sale, the retail use must comply with § 650 of the city code of ordinances.

b. In the HDR District, a retail use must be accessory to a residential use and comply with the following standards.

(1) The use must demonstrate that its operation will not significantly lower the existing level of service for the adjacent public and private streets and intersections, as defined by the Institute of Transportation Engineers.

(2) A retail use must comply with the following parking standards. In either circumstance described below, the city planner may require a travel demand management study and require additional parking spaces beyond those established by § 305.xx. of this Code.

(a) If situated as the only principal use of the lot, a retail use must utilize a joint parking arrangement with an abutting residential use, as provided for in § 305.xx. of this Code.

(b) If situated on the same lot as a principal residential use, such lot must provide at least 75 percent of the combined minimum number of parking spaces required for the residential use and retail use.

(3) No drive-through facility may be allowed in association with the retail use.

9. Sexually-oriented business.

a. As regulated by § 300.xxx. of this Code.

10. Veterinary office.

a. Outdoor runs are prohibited.

§ 304.04. Community Use Standards.

1. Assembly.

a. If an assembly use utilizes a joint parking arrangement as provided for in § 300.xx, the city planner may require a parking demand study and require additional parking spaces beyond that required by § 300.xx.

2. Indoor commercial recreation.

a. Indoor commercial recreation uses may establish an accessory eating and drinking establishment or fast food establishment.

b. No outdoor use area, if provided, may be located within 200 feet of a residential use in the LDR, MDR, or HDR District.

c. Where located on a lot abutting the LDR or MDR District, a type B landscape buffer must be provided along all lot lines abutting the LDR or MDR District.

3. Outdoor commercial recreation.

a. Outdoor commercial recreation uses may establish an accessory eating and drinking establishment or fast food establishment.

4. Day care center.

a. A day care center must obtain all applicable city, county, and state licenses.

b. Outdoor play areas may not be located in a front yard or a yard abutting a lot in the LDR or MDR Districts.

(1) Where circumstances require an outdoor play area to be located in a front yard or otherwise abut a lot in the LDR or MDR Districts, the outdoor play area must be located adjacent to the LDR or MDR Districts.

c. The provision of a pick-up/ drop-off (PUDO) facility will reduce the minimum number of parking spaces required by § 300.xx. by 50 percent. The PUDO facility must comply with the standards below.

(1) The PUDO facility must be accessed internally, it cannot have direct access from a collector or arterial street.

(2) The PUDO facility must provide at least two PUDO spaces or one PUDO space per 10 parking spaces required by § 300.xx, whichever is greater.

(3) All PUDO spaces must meet the design requirements for a parallel parking space provided in § 300.xx.

(4) The PUDO facility must be constructed according to § 300.xx.

(5) At least two signs must be provided indicating the PUDO facility and distinguishing such facility from the parking lot. Such signs will not count towards the maximum number of signs or be subject to any of the requirements provided in Part 6 Signs.

d. In the HDR District, day care centers must be located on the ground floor of a building containing a multi-unit dwelling. Such day care centers must be accessed independently from the multi-use dwelling.

(1) The use must demonstrate that its operation will not significantly lower the existing level of service for the adjacent public and private streets and intersections, as defined by the Institute of Transportation Engineers.

(2) The use must utilize a joint parking arrangement as provided for in § 300.xx. of this Code. The city planner may require a parking demand study and require additional parking spaces beyond those established by § 300.xx.

5. Hospital.

a. No hospital may be established on a lot adjacent to the LDR District.

b. Access to a hospital must be provided via a collector or arterial street.

c. Where possible, emergency vehicles must not be stored, and emergency facilities may not be located within 100 feet of a lot containing a residential use.

6. School.

a. A school may include accessory uses such as, but not limited to, gyms, auditoriums, and playgrounds.

§ 304.05. Industrial Use Standards.

1. High resource use facility.

a. A high resource use facility must provide two additional sustainable and resilient development points in accordance with § 305.XX. of this Code.

b. No high resource use facility may operate unless all cooling is within a closed loop system that reduces water use.

c. No high resource use facility may be constructed or operated except where all backup generators are fully enclosed within the primary structure or an exterior structure.

d. No high resource use facility may be constructed or operated except where all exterior cooling equipment, rooftop cooling equipment, and other accessory structures are fully enclosed or screened with fully opaque materials to provide visual and acoustic barriers from surrounding properties and the public right-of-way.

e. No high resource use facility may occupy more than 500,000 square feet of gross floor area.

(1) In the administration of this provision, the gross floor area will be considered the combined gross floor areas of multiple structures where such structures are located on one lot or proximal lots and are connected by data transmission cables, operating as one coordinated facility.

f. In applying for a conditional use permit, a high resource use facility must supply the following information in addition to other information required by § 309.XX. of this Code.

(1) Map indicating the location of any new substations or substation upgrades required for a data center, and the location, height, and material of new power lines and power line poles serving the proposed high resource use facility;

(2) The number, size, fuel source, height, location, screening, noise mapping, and testing schedule for any backup generators and temporary generators;

(3) The expected timeline for commencing construction and operation of the facility;

(4) The expected noise level to be generated by the proposed facility, including its cooling systems and generators, prepared by a consultant equipped to perform noise studies, and the proposed facility's planned sound attenuation and noise reduction measures to limit the emission of noise and prevent disturbances to nearby land users, based on permissible noise levels outlined in § 305.XX. of this Code.

(5) The location and design of any fire detection and suppression systems that will be installed at the proposed facility; and

(6) The anticipated annual water use and anticipated annual cooling water return to groundwater, surface waters, recirculation systems, and sewer systems.

2. Light industrial.

a. A type C landscape buffer must be provided along all lot lines that abut a residential district.

b. A type B landscape buffer must be provided along all lot lines that abut a Village Center district.

c. Outdoor storage is not permitted within the front or corner yard as defined by this ordinance.

§ 304.06. Energy and Utility Use Standards.

1. Electric vehicle charging station (EVCS).

a. Parking stalls with an EVCS may count toward the off-street parking minimum as required by § 300.xx.

b. No EVCS or its associated equipment may exceed eight feet in height.

c. No EVCS may encroach into the minimum parking stall dimensions required by § 300.xx, obstruct sidewalks or other walkways, or interfere with a clear sight triangle.

d. Except on lots containing single-unit and two-unit dwellings, cords and connectors that are not in use must have retraction devices or locations

for storage located at a height sufficient to avoid conflict with pedestrian and vehicle maneuvering.

e. If located outside of an attached or detached garage, an EVCS must be located in a parking island surrounded by curbing, mounted to an adjacent structure, or protected by bollards.

f. In the LDR and MDR Districts, the use of EVCS is limited to site residents and their guests.

g. Parking spaces dedicated to electric vehicle charging must be painted to indicate the parking space is limited to vehicles connecting to the EVCS.

h. In nonresidential districts, EVCS spaces must include signs that:

(1) Indicate the parking stall is reserved for electric vehicle charging only.

(2) Note the days and hours of operation if tow-away provisions are to be enforced by the owner of the property.

(3) Include information identifying voltage and amperage levels and/or safety information.

(4) Include a phone number to report regular maintenance issues and state to call 911 in case of an emergency.

i. EVCS must be installed in accordance with the manufacturer's specifications and the Minnesota State Building Code, including the Electrical Code, Energy Code, and Fire Code.

j. EVCS shall be adequately maintained for safety and continual usage in accordance with the property maintenance code. The area surrounding the EVCS must be maintained to reduce hazards and allow access to EVCS, including snow removal around the equipment to allow for safety and access.

k. Alternatives may be considered for approval through administrative review if the alternative provides users with better safety, convenience or functionality outcomes.

2. Roof- and building-mounted solar energy system.

a. The following solar energy systems will be exempt from the provisions of this subsection and will be permitted by right in all zoning districts.

(1) Solar energy collector devices less than two square foot in area and generally used for garden decoration, exterior accent lighting,

lawns, and flagpoles, are exempt from the requirements of this section.

(2) Accessory solar energy systems installed by a government agency or public utility on light poles, signs, transit shelters, within the public right of way, easements, and city-owned property are exempt from the provisions of this section.

b. A roof- or building-mounted solar energy system must comply with the following standards.

(1) Solar energy systems and all components thereof must meet the minimum manufacturer standards, if any, as required by the Minnesota State Building Code, including the Plumbing Code, Electrical Code, Energy Code, and Fire Code, as applicable.

(2) Any solar energy system found to be unsafe by the building official must be repaired by the owner to meet all code requirements or removed as directed.

(3) If any solar energy system remains nonfunctional or inoperative for a continuous period of 12 months, the system will be deemed abandoned and will constitute a public nuisance.

(a) At such time, the owner must remove the abandoned system at their expense after any required permits have been obtained. Removal includes the entire structure, including transmission equipment and footings.

c. Roof- or building-mounted solar energy systems must comply with all location, setback, size, and height requirements of its attached structure.

d. No grid-tied solar energy system may be installed until the applicant has submitted evidence that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.

e. Roof- and building-mounted solar panels may not project more than five feet above the roof surface, and may not project more than one foot above the maximum building height limit allowed for the principal building in the applicable zoning district.

f. Roof- and building-mounted solar panels installed on a pitched roof must be installed parallel to the roof surface, may not project beyond the edge of the roofs peak, and may not exceed the maximum building height allowed for a principal building in the applicable zoning district.

g. Façade-mounted solar energy systems may be applied flat to a building façade, or project off a building façade up to 3 feet.

3. Ground-mounted solar energy system.

a. The following solar energy systems will be exempt from the provisions of this subsection and will be permitted by right in all zoning districts.

(1) Solar energy collector devices less than two square foot in area and generally used for garden decoration, exterior accent lighting, lawns, and flagpoles, are exempt from the requirements of this section.

(2) Accessory solar energy systems installed by a government agency or public utility on light poles, signs, transit shelters, within the public right of way, easements, and city-owned property are exempt from the provisions of this section.

b. A ground-mounted solar energy system must comply with the following standards.

(1) Solar energy systems and all components thereof must meet the minimum manufacturer standards, if any, as required by the Minnesota State Building Code, including the Plumbing Code, Electrical Code, Energy Code, and Fire Code, as applicable.

(2) Any solar energy system found to be unsafe by the building official must be repaired by the owner to meet all code requirements or removed as directed.

(3) If any solar energy system remains nonfunctional or inoperative for a continuous period of 12 months, the system will be deemed abandoned and will constitute a public nuisance.

(a) At such time, the owner must remove the abandoned system at their expense after any required permits have been obtained. Removal includes the entire structure, including transmission equipment and footings.

c. Ground-mounted solar energy systems must comply with all location, setback, size, and height standards relating to accessory structures in the applicable zoning district, as well as required setbacks as required by § 306.XX.x. through § 306.XX.x. of this Code.

(1) Ground-mounted solar energy system height must be measured from the top of the grade to the highest point of the structure at its maximum designed height.

d. If at least 95 percent of the area beneath a ground-mounted solar energy system contains vegetive ground cover, the ground-mounted solar energy system shall not count as an impervious surface in the administration of a maximum impervious surface coverage requirement.

e. Ground-mounted solar energy systems are limited to maximum height of 12 feet. Power transmission lines from a ground-mounted solar energy system to any structure must be located underground when possible and must be completely shielded against shock hazard.

f. Within a parking lot, ground-mounted solar energy systems must comply with the following standards.

(1) The ground-mounted solar energy system must follow parking lot setback requirements and may not disrupt parking lot spaces, landscape, or drive aisle requirements.

(2) A structure within a drive aisle must maintain a 13.5-foot vertical clearance and may not exceed 20 feet in height or the height of the principal structure, whichever is less.

(3) A structures located over a parking space must maintain a 9-foot vertical clearance and may not exceed 20 feet in height or the height of the principal structure, whichever is less.

(4) No structure may interfere with fire apparatus access as determined by the fire marshal.

(5) No ground-mounted solar energy system may be enclosed or have walls.

4. Telecommunications facility.

a. The use of a telecommunications facility is governed by § 300.xx. Telecommunication Facilities.

5. Utility facility.

a. A type C landscape buffer must be provided along all lot lines that abut a residential district.

b. A type B landscape buffer must be provided along all lot lines that abut a Village Center district.

§ 304.07. Transportation Use Standards.

1. Fleet charging.

a. The fleet charging area must remain subordinate to the principal use and may not occupy more than 10 percent of all parking stalls on the property.

b. Fleet charging and vehicle staging areas may not interfere with required parking, internal circulation, loading, pedestrian access, or access to the public right-of-way.

c. Vehicle storage and staging areas must be located on a paved, dust-free, all-weather surface.

d. Where a site abuts an LDR, MDR, or HDR District, fleet vehicle storage and staging areas must be screened along the shared property line. Screening may consist of landscaping, berming, fencing, or a combination thereof.

e. Exterior lighting must comply with § 300.xx and be designed to minimize impacts on adjacent properties, particularly residential uses.

2. Fleet management.

a. A traffic study must demonstrate that the proposed use will not adversely affect the surrounding transportation network, and that adequate on-site circulation and vehicle queuing are provided.

b. All vehicle storage areas must be located on a paved, dust-free, all-weather surface.

c. All servicing, maintenance, and cleaning activities must occur within an enclosed building, except for minor activities such as vehicle staging and short-term idling associated with dispatch.

d. Unlicensed or inoperable vehicles may not be stored on the site except within an enclosed building or appropriately screened area.

e. Designated vehicle staging and circulation areas must not interfere with required parking, internal traffic circulation, or the public right-of-way.

f. Where a site abuts the LDR, MDR, or HDR Districts, screening must be provided along all shared property lines and exterior storage or parking must have appropriate screening such as landscaping, berming, or other amenities.

g. Exterior lighting must comply with § 300.xx and be designed to minimize impacts on adjacent properties, particularly residential uses.

h. Customer-facing vehicle services are prohibited.

3. Gas station.

a. Gas stations must provide safe and efficient ingress and egress to the site for fuel delivery vehicles and an area for such fuel delivery vehicles to park while unloading that does not interfere with or impede pedestrian or vehicle ingress or egress to or from any public street, required parking spaces, or any gasoline sales area.

b. A type C landscape buffer must be provided along all lot lines that abut a residential district.

c. If provided, public address systems must not be audible from any lot containing a residential use.

d. A stacking lane for fuel pumps must be provided containing at least one stacking space per pump island.

(1) The required stacking spaces may not interfere with internal pedestrian or vehicle circulation patterns or with designated parking facilities.

(2) No stacking spaces are permitted in any public right-of-way, private-access easement, landscaped area, or within a required setback.

e. No vehicle service use may be located within 100 feet of the LDR District or on a lot abutting the MDR or HDR Districts. The city planner may reduce separation requirements if the following are provided.

(1) A type C landscape buffer is provided along all lot lines abutting the LDR, MDR, or HDR District.

(2) A lighting plan is submitted to and approved by the city planner, demonstrating that exterior lighting will be unobtrusive to adjacent residential uses, meeting the standards outlined in § 300.xx

f. No repair, assembly, or disassembly services may occur on site except minor maintenance, including tire inflation, adding oil, and replacing wipers.

g. The storage of unlicensed or inoperable vehicles on site is prohibited.

h. The sale, storage, and display of used automobiles is prohibited.

i. All canopy lighting must be recessed lighting, flush mounted with canopy ceiling and having a flat glass lens.

j. Canopies must be set back at least 20 feet from all lot lines, but in no case may the setbacks be less than 30 feet from a lot in the LDR, MDR, or HDR District.

4. Heliport.

a. All heliports must conform to all applicable federal aviation administration regulations.

b. A heliport must establish and utilize approach and departure routes over non-residential areas to the maximum extent possible.

c. The heliport may not operate prior to 7:00 a.m. or after 9:00 p.m., except in the case of emergencies.

d. No heliport may be located within 500 feet of a residential district.

e. All heliports must provide a dust free landing pad.

5. Marina.

a. The minimum lot size is two acres.

b. A marina must be accessed from a collector or arterial roadway.

c. A type A landscape buffer must be provided along all lot lines abutting a public street or residential district.

6. Vehicle sales and rental.

a. In addition to complying with the use permissions established in Table XX, vehicle sales and rental uses must be located within the following areas.

(1) Lands lying to the north of I-394, east of I-494, and west of Plymouth Road; and

(2) Lands lying to the north of I-394, west of Carlson Parkway, and south and east of Gleason Lake Road.

b. Unless permitted by right in the applicable zoning district, the storage of vehicles not for sale requires the approval of a conditional use permit. The storage of unlicensed or inoperative vehicles must occur within an enclosed building and is limited to those vehicle being repaired.

c. Vehicles offered for sale must be parked in parking spaces designed and constructed according to the standards established for parking facilities in § 300.xx. Vehicles stored or offered for sale must not be parked on or obstruct access to parking spaces required by § 300.xx.

d. No more than 50 percent of all parking spaces on the site, including any parking spaces reserved for vehicles offered for sale, may be located within a parking lot. All other parking spaces must be located within a building, parking deck, or ramp. A deck or ramp is not required if no more than one parking space per 200 square feet of principal building gross floor area is provided on the site.

e. All vehicles offered for sale within a parking space must be located at finished grade. No jack stands, risers, or other mechanisms may be used to elevate a vehicle for display purposes.

f. All repair, assembly, disassembly, or maintenance of vehicles must occur within an enclosed building, except minor maintenance, which includes tire inflation, adding oil, or replacing wipers.

g. If provided, no public address system may be audible from a lot in a residential district.

h. All display areas, except those located within a building, must be landscaped the same as a parking facility according to § 300.xx.

i. If test driving services are offered, no test driving of vehicles may occur on local residential streets.

j. Vehicle sales and rental uses are subject to sign regulations outlined in § 300.xx.

k. No vehicle sales and rental use may be located within 100 feet of the LDR District or on a lot abutting the MDR or HDR Districts. The city planner may reduce separation requirements if the following are provided.

   (1) A type C landscape buffer must be provided along all lot lines abutting a residential district.

   (2) The principal building or screen shields any loading facilities from all lots in a residential district. If provided, the screen must be at least equal to the height of tallest trailer or vehicle.

   (3) A lighting plan is submitted to and approved by the city planner demonstrating that exterior lighting will be unobtrusive to adjacent residential uses and meeting the standards outlined in § 300.xx.

l. The area where vehicles are offered for sale must be located and designed so as not to interfere with internal or external pedestrian and vehicular circulation.

(1) The city planner may require a traffic study to determine traffic impacts.

7. Vehicle service.

a. No vehicles that are unlicensed and inoperable may be stored on premises except in appropriately designed and screened storage areas.

b. All repair, assembly, disassembly, and maintenance of vehicles must occur within closed buildings except minor maintenance, including tire inflation, adding oil, and replacing wipers.

c. If provided, no public address system may be audible from any lot containing a residential use.

d. If fuel pumps are provided, a stacking lane for such pumps must be provided containing at least one stacking space per pump island.

(1) The required stacking spaces must not interfere with internal circulation patterns or with designated parking facilities.

(2) No stacking spaces are permitted in any public right-of-way, private-access easement, landscaped area, or within a required setback.

e. The sale, storage, and display of used automobiles is prohibited unless a conditional use permit is approved according to § 300.xx.

f. No vehicle service use may be located within 100 feet of the LDR District or on a lot abutting the MDR or HDR Districts. The city planner may reduce separation requirements if the following are provided.

(1) A type C landscape buffer is provided along all lot lines abutting a residential district.

(2) Lighting plans demonstrate that exterior lighting will be unobtrusive to adjacent residential uses and will meet the standards outline in § 300.xx.

g. All canopy lighting must be recessed lighting, flush mounted with canopy ceiling and having a flat glass lens.

h. Canopies must be set back at least 20 feet from all lot lines, but in no case may the setbacks be less than 30 feet from a lot in the LDR, MDR, or HDR District.

8. Vehicle storage.

a. A vehicle storage use must comply with the principal structure setback established by Part 3 Zoning Districts.

b. The vehicle storage area must be covered with a dust-free, all-weather surface.

c. If located on a lot abutting the LDR, MDR, or HDR District, a vehicle storage use must provide a type C landscape buffer along all lot lines abutting the LDR, MDR, or HDR District.

d. If located on a lot abutting a Village Center District, a vehicle storage use must provide a type B landscape buffer along all lot lines abutting the LDR, MDR, or HDR District.

e. The storage of vehicles owned or leased by a permitted business on the site, or a resident of the site are exempt from the setback and landscape buffer standards established in this subsection; however, such uses must provide the minimum accessory structure setback required by Part 3 Zoning Districts.

§ 304.08. Accessory Use Standards.

1. Accessory day care.

a. An accessory day care may not serve more than 14 persons at a time.

b. In the LDR and MDR Districts, the following standards apply to all accessory day care uses.

(1) The accessory day care must be accessory to a principal single-unit or two-unit dwelling.

(2) The accessory day care must be operated by a resident of the dwelling in which the use is operated. The accessory day care may not employ more than one individual who resides off-site.

c. In the HDR District, accessory care uses must comply with the standards established for day care centers in § 300.xx.xx.

d. In the Village Center and FD Districts, the following standards apply to all accessory day care uses.

(1) The accessory day care must provide care exclusively for the children of individuals employed on site.

(2) No accessory day care may be established on a lot containing a light industrial use.

2. Accessory dwelling unit.

a. The property on which the accessory dwelling is located must be homesteaded.

b. An accessory dwelling unit may only be established on a lot containing a single-unit dwelling.

c. Accessory dwelling units may be attached to or detached from the principal dwelling unit.

d. No accessory dwelling unit may be established or created within a recreational vehicle, travel trailer, or camper.

e. No accessory dwelling unit, whether attached or detached, may exceed 1,000 square feet or 50 percent of the principal building's floor area, whichever is greater.

(1) If located in the basement of the principal building, an accessory dwelling unit may occupy the entire basement, regardless of the maximum size requirement.

f. The accessory dwelling unit must be served by municipal water and sewer, gas, and electric utilities via service lines shared with the principal dwelling unit. Unless otherwise approved by city staff, water service to the accessory unit must be connected after the existing meter to the principal structure.

g. No additional curb cut may be established to serve the accessory dwelling unit unless approved by the city engineer in compliance with § 300.xx.

h. Attached accessory dwelling units must comply with the following standards.

(1) The accessory dwelling unit may not alter the design of the principal building. If the principal building is expanded to provide space for an accessory dwelling unit, the design of the expansion must be comparable to the rest of the building.

i. Detached accessory dwelling units must comply with the following standards.

(1) The accessory dwelling unit must be located behind the rear building line of the principal dwelling unit and must meet all other setback requirements from property lines and natural resources.

(2) The highest point of the roof line of the accessory dwelling unit may not extend above the highest point of the roof line of line of the principal dwelling unit.

j. A lot containing an accessory dwelling unit must provide the minimum number of parking spaces required for an accessory dwelling unit in addition to the minimum number of parking spaces required for the principal use as established by § 305.XX. of this Code.

3. Accessory office.

a. If located within a residential use, an accessory office must comply with the home occupation standards established in § 300.xxx.

b. An accessory office must not be offered for sale or lease to a tenant other than the tenant of the principal building.

c. No accessory office may exceed 20 percent of the principal use's gross floor area.

4. Drive-through facility.

a. If provided in association with a fast food establishment, at least six stacking spaces must be provided per pick-up window.

(1) If orders are taken from a location other than the pick-up window, at least six stacking spaces must be provided prior to the place where orders are taken and at least two stacking spaces are required between the place where orders are taken and where food is served.

b. If provided in association with a personal service or office use, the drive-through facility are subject to the following standards.

(1) The drive-through facility may not be located in any yard abutting a lot in the LDR or MDR Districts.

(2) At least six stacking spaces must be provided per stacking aisle.

c. If provided, speakers and audio equipment must not be audible from adjacent lots.

d. No drive-through facility will be permitted unless it can be demonstrated that the use will not significantly lower the existing level of service of adjacent streets and intersections, as defined by the Institute of Traffic Engineers.

e. The establishment of drive-through facility will require the entire lot to be brought into compliance with § 305.02 of this Code. If a drive-through

facility is established in association with the construction of a new principal building, one additional sustainable and resilient development point must be provided.

5. Home-based business.

a. No home occupation may be established prior to receiving Home-Based Business Permit approval from the city planner. Approval of a Home-Based Business Permit will be subject to the applicant's demonstration of compliance with the standards established in this subsection.

b. A home-based business must not visually alter the external appearance of the dwelling unit or property in a manner incompatible with the surrounding neighborhood unless required to comply with the Fire Code or Building Code.

(1) Outdoor storage associated with the home-based business is prohibited.

(2) No additional signage may be established in association with the home-based business other than the signage permitted for the dwelling unit in the applicable zoning district.

c. A home-based business may not employ more than one individual who does not live on the premises.

d. No more than 25 percent of the habitable area of the dwelling unit may be devoted to a home-based business.

e. A home-based business must comply with the city's nuisance regulations.

f. No retail or wholesale sales activity may be conducted on the premises, except by telephone, mail, Internet, or other electronic medium.

(1) This provision is not intended to exclude garage sales, estate sales, yard sales, rummage sales, and other sales of personal property that have similar parking and traffic patterns.

g. A home-based business must not create additional vehicle trips in excess of 10 trips per day averaged over a period of five days per week.

(1) One trip is counted for each vehicle that arrives at the property, and an additional trip is counted for each vehicle that leaves the property.

h. All parking demands generated by the home-based business must be accommodated within a garage and the existing driveway area.

(1) Vehicle parking generated by employees, customers, visitors, and invitees of the home-based business may not cause more than four vehicles to be parked outside on the lot at any one time.

(2) No vehicles used in connection with the home-based business and no vehicle of an employee, customer, visitor, or invitee of the home occupation may be parked on public or private streets.

(3) Parking for a home occupation in a multi-unit dwelling is limited to two parking spaces in the parking facility provided by the multi-unit dwelling.

i. A vehicle used in connection with a home-based business that has exterior ladders, pipes, tools, buckets, tanks, snow plow, vehicle towing equipment, trailers, or any other attachment and a vehicle licensed as a cab or limousine must be parked in a garage when at the site of the home-based business occupation.

(1) All vehicle attachments must be stored in an accessory building.

j. There must be no significant increase in pollution levels of noise, light, air, or other types of pollution outlined in § 300.xx.

k. The following types of uses tend to increase in size or intensity beyond the conditions imposed for home occupations and may adversely affect nearby residential properties. Therefore, the following types of businesses are prohibited as a home-based business.

(1) Mortuary.

(2) Vehicle sales and rental.

(3) Landscaping and lawn maintenance.

(4) Massage therapy.

(5) Vehicle repair, detailing, or auto-body service.

(6) Other uses similar to those prohibited by this subsection, as reasonably determined by the city planner.

6. Outdoor dining.

a. Outdoor dining may only be provided as an accessory use to a principal eating and drinking establishment or fast food establishment permitted in the applicable zoning district.

b. Outdoor dining areas must be located in a controlled or cordoned area with at least one opening to an acceptable pedestrian path.

(1) If the principal use holds a liquor license, the outdoor dining area must be entirely surrounded by an enclosure or fence and no opening to the outdoors is permitted.

c. Outdoor dining areas are not permitted within 200 feet of any lot in a residential district and must be screened from any lot in a residential district by the principal buildings or other method of screening acceptable to the city planner.

d. The outdoor dining area must be located and designed so as not to interfere with pedestrian and vehicular circulation.

e. No outdoor dining area may obstruct parking spaces required by § 300.xx. Parking spaces may be removed or obstructed if the minimum number of parking spaces required by § 300.xx. continue to be provided.

f. The outdoor dining area must be equipped with refuse containers and periodically patrolled for litter pick-up.

g. If provided, speakers and audio equipment must not be audible from adjacent lots.

h. An outdoor dining area must be located in compliance with dimensional standards established for the principal building except that the outdoor dining area may project up to 10 feet into the minimum front setback.

7. Outdoor sales.

a. No outdoor sales area may be located within a principal building setback required by Part 3 Zoning Districts.

(1) In a zoning district with a required front setback less than 10 feet, the outdoor sales area must be set back at least 10 feet from all lot lines.

b. No outdoor sales area may exceed 15 percent of the principal use's gross floor area.

c. No merchandise or goods may be offered for sale within a required parking facility, pedestrian path, or landscape buffer.

d. An outdoor sales area must be screened from a lot in the LDR, MDR, or HDR Districts as well as adjacent rights-of-way by solid wall or fence at least six feet in height.

8. Outdoor storage.

a. The outdoor storage area must be covered with a dust-free, all-weather surface.

b. If located on a lot abutting the LDR, MDR, or HDR District, an outdoor storage use must provide a type C landscape buffer along all lot lines abutting the LDR, MDR, or HDR District.

c. If located on a lot abutting a Village Center District, an outdoor storage use must provide a type B landscape buffer along all lot lines abutting the LDR, MDR, or HDR District.

d. The storage of plant materials associated with a greenhouse use are exempt from the standards established in this subsection.

e. All outdoor storage areas associated with a multi-unit dwelling must be located and enclosed by an appropriately sited structure. The structure must provide visual screening of the outdoor storage area and must be constructed of materials that are compatible with the principal structure.

9. Sports court.

a. A sports court, including any fence required by subsection (12)(b)(2) of this section, must be located behind the front building line of the principal structure and must be set back at least 15 feet from all lot lines, as measured to the edge of the sports court's surface.

b. An 8-foot tall fence constructed of an approved material is required along all sides of a sports court facing a property line or public right-of-way if the sports court is within 25 feet of that property line or right-of-way.

(1) Such a fence may not exceed an opacity of 20 percent.

c. In the LDR and MDR Districts, a sports court exceeding 1,000 square feet requires conditional use permit approval.

d. In the LDR, MDR, and HDR Districts, a sports court must be for the exclusive use of on-site residents and their guests.

10. Swimming pool.

a. All swimming pools must be constructed in accordance with § 805.020 of the city code of ordinances.

b. No swimming pool may be located between the building line and a front lot line.

c. No swimming pool or any associated paved or decked surface may be located less than 15 feet from side or rear property lines.

§ 304.09. Temporary Use Standards.

1. Seasonal tree sale.

a. A seasonal tree sale conducted by the City of Minnetonka shall be exempt from the requirements of this section.

b. No seasonal tree sale use may be established prior to receiving temporary use permit approval from the city planner. Approval of a temporary use permit is subject to the applicant's demonstration of compliance with the standards established in this subsection.

c. No more than one seasonal tree sale is permitted on the same lot per calendar year.

d. The seasonal tree sale must be located in a suitable off-street location and may not extend into an adjacent right-of-way.

e. The seasonal tree sale may not unreasonably interrupt pedestrian or vehicle circulation on the site or obstruct parking spaces required by § 300.xx. of this Code.

f. The operator must receive, and provide to the city planner, written authorization from lot owner.

g. The seasonal tree sale must have all applicable licenses and approvals from the city, county, or other appropriate jurisdictions.

h. The seasonal tree sale must comply with the requirements for sight visibility clearance at street intersections and access points in accordance with § 300.xx.xxx. or as required by the city to protect public safety.

i. No more than one additional sign beyond the signage allowed per § 300.xx. is allowed in association with a seasonal tree sale.

   (1) The additional sign may not be more than 32 square feet in size or 8 feet in height.

j. The lot must be kept in a neat and orderly fashion at all times.

k. The seasonal tree sale use may establish a temporary structure provided that such structure is no more than 120 square feet in size.

l. The lot must be restored to its prior condition, and all temporary structures must be removed, within 10 days of the seasonal tree sale concluding.

   (1) The lot owner must agree, in writing, to clean up the site if the applicant does not.

   (2) The applicant must submit a deposit specified in § 710 at the time of the temporary use permit application. The deposit will be returned upon timely restoration of the site.

2. Temporary assembly.

a. Temporary assembly uses located on a lot owned by the city are permitted by right in all zoning districts and are exempt from the standards established in this subsection.

b. All temporary assembly uses must receive an Interim Use Permit prior to the commencement of the assembly.

c. A temporary assembly use may be established for the time period specified on the temporary use permit, up to a maximum of 14 days.

(1) If specified on the temporary use permit application, a temporary assembly use may be established for more than 14 consecutive days provided that the use does not operate on more than 14 separate days.

d. The entire area used for the temporary assembly use must be cleaned and clear of structures, signs, and debris within three days of the temporary use permit's expiration.

3. Temporary retail sale.

a. All temporary retail sale uses must apply for and receive a temporary use permit prior to the commencement of the sale.

(1) Temporary retail sales conducted on lots in the LDR and MDR District which do not contain a permanent retail use are exempt from requiring temporary use permit approval.

b. No goods offered for sale may be shipped to the lot, building, or use specifically for the temporary retail sale.

c. In the LDR and MDR Districts, the following standards apply to all temporary retail sale uses.

(1) No more than two sales lasting no more than three days each may occur on the same lot in any 12-month period.

(2) The items offered for sale must consist only of items owned by a person who resides on site or their friends.

(3) No items offered for sale may have been purchased for resale or received on consignment for resale.

d. In all other districts, the following standards apply to all temporary retail sale uses.

(1) No more than one sale lasting no more than 10 days may occur on the same lot in any two-month period, unless such sale is operated by a community use.

4. Temporary construction office.

a. No temporary construction office may be located on a site before receiving a temporary use permit from the city planner.

b. No temporary construction office may be established more than 30 days prior to commencement of construction activity on the site. A temporary construction office must be removed within 30 days of the end of construction on the site.

c. A temporary construction office must be set back at least 50 from the public right-of-way. The city planners may approve a setback of less than 50 feet to protect natural resources.

d. Any vehicular drive providing access to a temporary construction office must be treated and maintained to prevent vehicles from blowing or spreading dust or debris onto adjacent properties or into the public right-of-way.

PART 05. GENERAL DEVELOPMENT STANDARDS.

§ 305.00. Standards Applying to All Zones.

1. **Clear sight triangle.** To provide visibility from any access point to a public street, no building, structure, fence, sign, landscape materials, or similar feature may be erected, constructed, located, placed, replaced, substantially altered, or maintained above the height of two and one half feet within the clear sight triangle.

   a. The clear sight triangle is formed by the intersection of the edges of the travel ways and a third line connecting two points along such edges at a distance specified by Table XX according to the classification of the travel way.

      (1) City staff may require a larger clear sight triangle if necessary for the safety of vehicular or pedestrian travelers.

Figure 05.00-1: Clear Sight Triangle



Table** Error! No text of specified style in document.**-1: Clear Sight Triangle Specified Distances

Travel Way Classification	Specified Distance
Pedestrian Facility	10 feet
Driveway or Access Drive	15 feet
Local Street	30 feet

Travel Way Classification	Specified Distance
Collector Street	45 feet
Arterial Street	60 feet

2. Conservation easements. The city may require conservation easements to ensure that selected areas of habitat or trees are not destroyed after a development has been approved, to prevent the development of selected steep slopes areas, or to preserve areas not intended for further development.

3. Dimensional standard allowances.

a. *Residential setback projections.* In a residential district, the following features may project into a minimum setback area by no more than five feet. The provisions of this subsection (3)(a) do not permit any such feature to extend closer than 10 feet from any lot line, unless otherwise permitted for the principal building in the applicable zoning district.

(1) Fire escapes;

(2) Minimum landing places required by the Minnesota State Building Code;

(3) Uncovered porches;

(4) Decks;

(5) Heating, conditioning, and ventilation equipment;

(6) Open terraces;

(7) Outside stairways;

(8) Cornices;

(9) Canopies;

(10) Swimming pool aprons and equipment;

(11) Fireplaces and chimneys; and

(12) Other similar architectural features.

b. *Generally permitted setback projections*. In all zoning districts, the following features may occupy any part of a minimum setback area provided the clear sight triangle established in subsection (1) of this section is maintained and the provisions of city council Policy 11.3 Private Use of Public Easement Areas is met

(1) Detached retaining walls;

(2) Fences;

(3) Patio slabs;

(4) Public utility poles;

(5) Light poles;

(6) Mail boxes;

(7) Landscaping; and

(8) Means of access such as sidewalks, driveways, steps, and roadways.

c. *Dimensional standard exemptions*. The following uses are exempt from the lot area, lot width, and minimum setback requirements established in Part 3 Zoning Districts of this Code.

(1) Overhead utility poles and lines that are less than two feet in diameter;

(2) Underground utility lines and distribution equipment;

(3) Traffic signals;

(4) Traffic regulatory signs;

(5) Mailboxes and other equipment that provides an essential public service.

d. *Limits of this subsection.* The provisions of this subsection (3) of this section do not exempt any structure, structural feature, or appurtenance from the wetland protection, floodplain protection, shoreland protection, steep slope protection, and tree protection requirements contained in §§ 300.xxx. through § 300.xxx. of this Code.

§ 305.01. Accessory Structures.

1. Attached accessory structures. Any accessory structure attached to a principal structure must be made a structural part of the principal structure and must comply with all requirements relating to principal structures.

2. Detached accessory structures.

a. Any accessory structure that is not attached to a principal structure must comply with the minimum accessory structure setback established for the applicable zoning district in Part 3 Zoning Districts of this Code, except in the LDR District as regulated below.

b. The cumulative total floor area for accessory structures may not exceed 1,000 square feet or 50 percent of the principal building's floor area, whichever is greater.

c. The highest point of the roof line of accessory structures may not extend above the highest point of the roof line of the principal dwelling unit.

d. In the LDR District, the following standards will apply.

(1) Accessory structures located more than 10 feet from a principal structure may be located anywhere on a lot provided that a minimum 10-foot setback from the side and rear lot line is maintained.

(2) Except for detached garages, accessory structures that are located between the principal structure and the front lot line must maintain a minimum setback of 50 feet from the front lot line.

§ 305.02. Sustainable and Resilient Development.

1. Purpose. This section is established to ensure that future development promotes and furthers the goals and objectives of the Minnetonka Climate Action and Adaptation Plan, as amended.

2. Applicability. Except for single-unit and two-unit dwellings and their associated accessory structures, no building, structure, or use may be constructed, redeveloped, established, or substantially altered, except in compliance with the standards established in this section.

3. Minimum sustainability and resilience requirements. No building may be constructed, and no redevelopment may occur, unless the following are points are earned according to Appendix A: Sustainable and Resilient Plan Feature Menu.

a. If a development is receiving public funding or Planned Unit Development (PUD) zoning approval, the development is required to earn 3 points in all categories.

b. If a development is not receiving public funding or Planned Unit Development (PUD) zoning approval, the development is required to earn 3 points in the building energy category and 1 additional category. Alternatively, the development may earn 3 points in all categories other than building energy.

c. To offset the environmental impact of specific uses, this Code establishes additional sustainable and resilient development requirements for certain uses in Part 04 of this Code. Such additional requirements shall be added to the minimum sustainable and resilient development points required in subsection (3)(a) and (3)(b) of this section as applicable.

d. The city recognizes that, in some unique situations, site conditions may not allow a property owner or applicant to achieve the required feature standards. In such cases, and at the sole discretion of city staff, a standard may be altered by city staff to adapt to the site constraints.

4. Administration. Prior to receiving a building permit or certificate of occupancy, the property owner must submit a sustainable and resilient development plan for review and approval by the city staff.

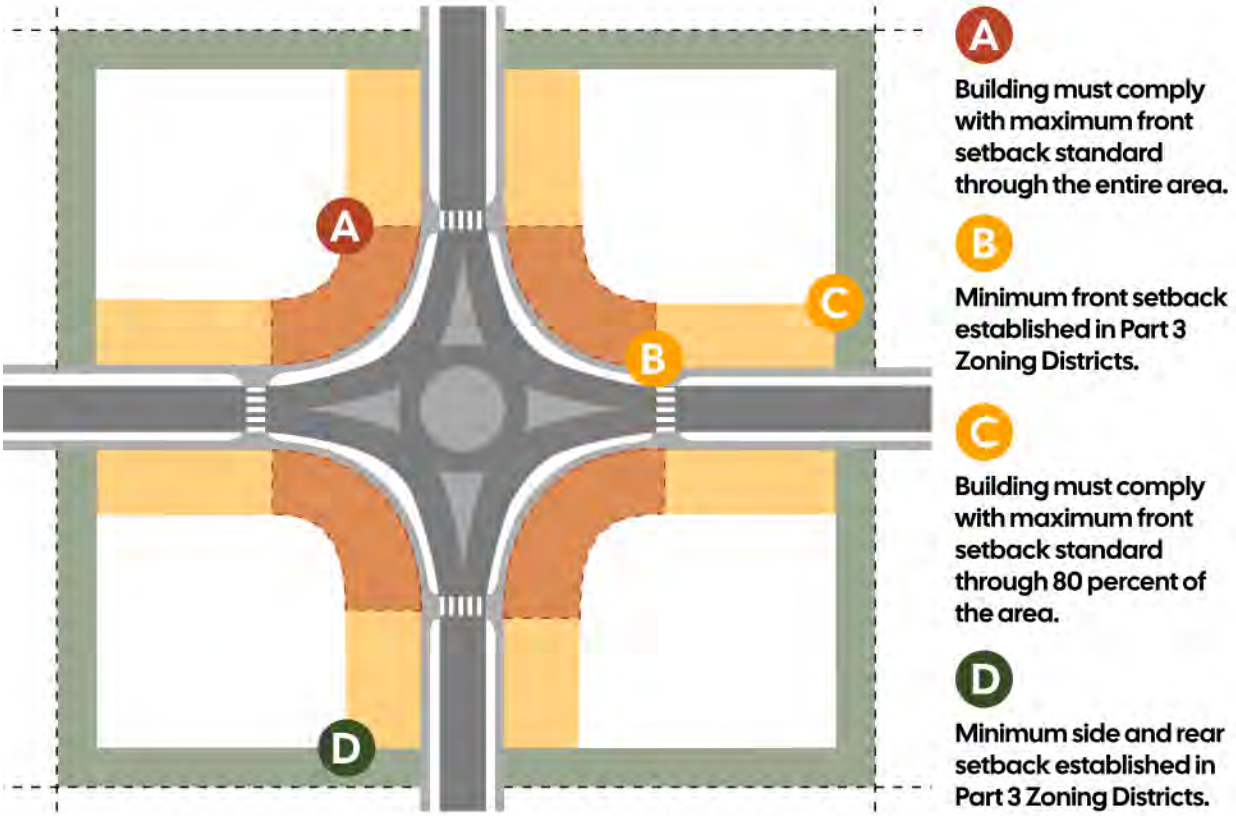
§ 305.03. Roundabout Oriented Standards.

1. Purpose. This section is established to regulate and guide the development of land, buildings, structures, and uses at and near intersections containing roundabouts.

2. Applicability. When redevelopment occurs on a lot in a Village Center District that abuts an intersection containing a roundabout, redevelopment must occur in conformance with the standards established in this section.

3. Setback standards.

Figure 05.03-1: Roundabout Setback Standards



a. The minimum and maximum front setback will be measured from and perpendicular to the right-of-way line. The side and rear setbacks are measured from and perpendicular to the applicable lot line.

(1) The minimum front setback is determined by the applicable zoning district in Part 3 Zoning Districts.

(2) The maximum front setback is 30 feet, unless the minimum front setback in the applicable zoning district is greater than 25 feet. If the minimum front setback in the applicable zoning district is greater than 25 feet, the maximum front setback will be five feet beyond the minimum front setback established for the applicable zoning district.

(a) The principal building must comply with the maximum front setback along the entire lot width where the right-of-way line curves with the roundabout.

(b) Within all other portions of the lot, the principal building must comply with the maximum front setback along at least 80 percent of the lot width not located within the minimum side or rear setback and not regulated by subsection (3)(b)(1) of this section.

b. The minimum side and rear setback will be as established in Part 3 Zoning Districts and measured according to Part 10 Glossary.

4. **Building entrance.** A functional, primary entrance to the building must be provided on each street-facing facade. If a functional, primary entrance is located on a façade that is truncated and oriented toward the roundabout, no other primary entrance is required.

5. **Ground floor transparency.** Between two and 10 feet above grade, all ground floor facades that face either street intersecting in the roundabout must have a minimum façade transparency of 60 percent.

6. **Vehicular use areas.** No parking, loading, or stacking facility may be located between the principal building and the roundabout. All parking must be located in the rear or side yard.

7. **Fences.** Within any yard abutting the roundabout, no fence may exceed three feet in height. Additionally, no fence may be constructed of chain link, vinyl, or any solid material.

§ 305.04. Trail Oriented Standards.

1. **Purpose.** These standards are established to protect and enhance the city's network of trails by providing pedestrian facilities, aesthetically pleasing frontages, and safe passages for multi-modal, non-vehicular traffic.

2. **Applicability.** When redevelopment occurs on a lot in a Village Center District that abuts a trail operated by the Three Rivers Park District or identified in the Trail Improvement Plan, whether built or planned, the redevelopment must comply with the standards established in this section.

3. **Building setbacks.** All buildings and structures must be set back at least 10 feet from any lot line abutting a built or planned trail. No more than 20 percent of any trail-facing wall may be set back more than 20 feet from a lot line that abuts a built or planned trail, as measured along the finished grade.

4. **Minimum transparency.** All trail-facing walls must have a minimum ground floor transparency of 60 percent, as measured between two and 10 feet above the finished grade.

5. **Blank walls.** All new buildings must comply with the minimum transparency requirement established in subsection (3) of this section. Where a building is expanded or reused in a manner that does not result in the destruction of an existing trail-facing wall and such wall extends horizontally for more than 50 feet, that wall must be covered with a mural. Such a mural must extend at least 80 percent of the height of the wall and at least 60 percent of the length of the wall.

6. **Building materials.** All trail-facing facades must be primarily constructed of high quality materials such as brick, stone, metal panels, high-quality wood, or fiber cement siding, or other materials as determined appropriate by the planning commission.

7. **Building entrances.** A building entrance must be provided on at least one trail-facing wall.

8. **Pedestrian access.** A pedestrian path must connect the adjacent trail to building entrances located on a trail-facing wall in accordance with the following standards.

    a. The pedestrian path must be at least five feet wide and be constructed of a slip-resistant, stable, and firm impervious surface such as concrete or

asphalt. Such pedestrian path counts towards a lot's maximum impervious surface coverage.

b. The pedestrian path must intersect the trail within 50 feet of the center of the entrance it serves. This distance is measured from the point where the path meets the trail to a point on the trail directly opposite the center of the entrance.

(1) Where the provision of an ADA-compliant ramp precludes a pedestrian path from complying with this requirement, the pedestrian path must intersect the adjacent trail as close as reasonable given the topography of the site.

(2) The standards of this subsection do not apply to pedestrian paths providing connections for two or more entrances in accordance with subsection (8)(c) below.

c. The same pedestrian path may serve multiple entrances provided that the following standards are met.

(1) All entrances served by the same pedestrian path must access the same building; however, such entrances may access different tenant spaces within the same building.

(2) A shared pedestrian path must meet the trail within 125 feet of the center of every entrance it serves. This is measured from the point where the path hits the trail to a point on the trail directly opposite the center of each entrance.

(3) A pedestrian path meeting the construction requirements established in subsection (8)(a) of this section must be within 5 feet of the building wall to link all served entrances to the pedestrian path that leads to the trail.

9. Amenity spaces. All areas between the lot line abutting the trail and the building must provide amenity spaces equaling at least 10 amenity space points, as regulated by Appendix B: Trail Oriented Feature Menu.

a. The upkeep, cleaning, and repair of all amenity spaces is the responsibility of the lot owner. During the site plan approval phase, the lot owner must submit an amenity maintenance according to § 300.xx.

10. Trail-facing yards. All areas between the lot line abutting the trail and the building that do not contain an amenity space or pedestrian path must be

landscaped with native plant species beneficial to pollinators, and be maintained to exclude invasive and noxious weeds.

§ 305.05. Vehicular Access Standards.

1. **Curb cuts.** No curb cut are allowed without the review and approval of the city engineer.

2. **Driveways.** In residential districts, all driveways that access onto public streets are subject to review under § 1105.065. of the city code of ordinances.
   a. In reviewing a driveway, the city will utilize guidelines for driveway design and location by the Institute of Traffic Engineers as a reference.
   b. A driveway that accesses onto a county or state roadway is subject to review by the appropriate authorities.
   c. Paved turn-around areas are required for driveways on collector or arterial streets as designated in the comprehensive plan and in locations where sight distance is inadequate as determined by the city.
   d. Except for a lot containing a single-unit or two-unit dwelling and abutting on a local street, all parking must be designed so that no vehicle is required to back into the street.

3. **Access drives.** In all districts other than the residential districts, vehicular access is regulated according to the standards established for business driveways approaches in § 1105 of the city code of ordinances.

§ 305.06. Parking and Loading.

1. **Findings.** The city finds that:
   a. Parking requirements should promote public health, safety, and welfare;
   b. Parking requirements can significantly influence land use density and design and, in doing so, influence the overall aesthetic of a community;
   c. Parking requirements and resulting parking availability can influence the decisions of property owners, business owners, developers, and consumers;
   d. Parking requirements can result in increased impervious surfaces and stormwater runoff while reducing groundwater recharge and areas for vegetation and other impervious site amenities; and
   e. Parking requirements alone do not determine parking availability. Rather, parking demand for any land use, and thereby parking availability can

change based on business practices, consumer decisions, and household composition. For example, a business may promote teleworking, the popularity of restaurants may vary over time, and households may have more or fewer cars as members of households age.

2. **Purpose.** Consistent with the findings above, this section is established to regulate parking in a manner that promotes the public health, safety, and welfare by:

   a. Ensuring that the average parking demand associated with new and existing land uses can be reasonably met; and

   b. Providing flexibility in parking regulations in support of city goals related to community aesthetics, environmental protection, and economic sustainability.

3. **Applicability.** No certificate of occupancy will be granted, and occupancy of a lot or building may not occur, prior to the full construction and striping of parking lots, loading facilities, and bicycle parking according to the standards established in this section.

4. **Minimum number of parking spaces.** The change of use, tenancy, or occupancy of a lot, building, or portion thereof may change the parking demand associated with that property. To accommodate such demand, no use, tenancy, or occupancy of a lot, building, or portion thereof may be changed except in compliance with the minimum number of parking spaces required by Table XX below.

   a. Where the calculation of the minimum number of parking spaces required by Table XX results in a fraction of a parking space, the required number of parking spaces must be rounded to the next whole parking space.

Category	Use	Minimum Number of Parking Spaces
Agricultural use.		n/a
Residential	Dwelling, attached.	2 per dwelling unit.
	Dwelling, manufactured or modular.	2 per dwelling unit
	Dwelling, multi-unit.	1 per bedroom plus 10 percent for visitor parking.
	Dwelling, single-unit.	2 per dwelling unit.

Category	Use		Minimum Number of Parking Spaces
	Dwelling, triplex or fourplex.		2 per dwelling unit.
	Dwelling, two-unit.		2 per dwelling unit.
	Residential care facilities.		1 per three beds
Commercial	Eating and drinking establishment.		14 per 1,000 sq. ft. of gross floor area.
	Fast food establishment.	With table service but no drive-through.	10 per 1,000 sq. ft. of gross floor area.
		Without table service or no drive-through.	9 per 1,000 sq. ft. of gross floor area.
		Without table service but with drive-through.	7 per 1,000 sq. ft. of gross floor area.
		Without seating.	3 per 1,000 sq. ft. of gross floor area.
	Garden sale.		See retail.
	Greenhouse.		1 per 1,000 sq. ft. of gross floor area.
	Hotel.		0.75 per guest room.
	Microbrewery, winery, or distillery.		1 per 1,000 sq. ft. of gross floor area used for production plus 14 per 1,000 sq. ft. of remaining gross floor area.
	Office.		2.5 per 1,000 sq. ft. of gross floor area.
	Personal service.		See retail; however, there is no absolute minimum number of spaces required.
	Pet care facility.		1 per 1,000 sq. ft. of gross floor area.
	Retail.		3 per 1,000 sq. ft. of gross floor area and no less than 5 total.
	Sexually-oriented business.		See retail.
	Veterinary office.		See retail.
Community	Assembly.		1 per 100 sq. ft. of gross floor area occupied by assembly area.
	Cemetery.		n/a
	Commercial recreation, indoor.		See retail.
	Commercial recreation, outdoor.		n/a
	Day care center.		2.5 per 1,000 sq. ft. of gross floor area.
	Hospital.		3 per 1,000 sq. ft. of gross floor area and no less than 5 total.
	Publicly-owned building.		n/a
	Public recreation.		See retail, unless entirely outdoors.
	Religious assembly.		1 per 100 sq. ft. of gross floor area occupied by assembly area.

Category	Use		Minimum Number of Parking Spaces
	School.	Pre-School	2.5 per 1,000 sq. ft. of gross floor area.
		Elementary School	2 per 3,000 sq. ft. of gross floor area.
		Middle School	2 per 3,000 sq. ft. of gross floor area.
		High School	2 per 1,500 sq. ft. of gross floor area.
Industrial	Industrial, light.		1 per 1,000 sq. ft. of gross floor area.
	Solar energy system.		n/a
	Telecommunication facility.		n/a
	Utility facility.		1 per 1,000 sq. ft. of gross floor area.
	Wind energy system.		n/a
	Gas station.		n/a
Transportation	Heliport.		n/a
	Marina.		n/a
	Transit station.		n/a
	Vehicle sale and rental.		1 per 500 sq. ft. of gross floor area occupied by a showroom.
	Vehicle service.		n/a
	Vehicle storage.		n/a
Accessory	Accessory day care.		n/a
	Accessory dwelling unit.		1 per dwelling unit.
	Accessory office.		n/a
	Beekeeping.		n/a
	Domestic fowl keeping.		n/a
	Drive-through facility.		n/a
	Garage, attached.		n/a
	Garage, detached.		n/a
	Home occupation.		n/a
	Outdoor dining.		n/a
	Outdoor sales.		n/a
	Outdoor storage.		n/a
	Play structure.		n/a
	Sports court.		n/a
	Swimming pool.		n/a
Temporary	Model home.		As established by approved Interim Use Permit.
	Seasonal tree sale.		As established by approved Interim Use Permit.
	Temporary assembly.		As established by approved Interim Use Permit.
	Temporary retail sale.		As established by approved Interim Use Permit.
	Temporary construction office.		As established by approved Interim Use Permit.

(1) The parking requirement for a site will be calculated based on its component uses.

(a) For example, the total required parking for a hotel that includes an eating and drinking establishment would be equal to the minimum number of parking spaces required for a hotel plus the minimum number of parking spaces required for the eating and drinking establishment.

(2) The parking requirement for uses not specifically outlined in this Code will be determined by the city planner upon consideration of:

(a) Available published parking standards such as those compiled by the Institute of Transportation Engineers and American Planning Association;

(b) Observed local demand; or

(c) A combination thereof.

b. *Existing development*. When the city has documented that parking demand regularly exceeds parking supply on or around a particular property or building, the city may require that a parking study be conducted prior to a change in use, tenancy, or occupancy of the property or building.

(1) The results of the study may result in conditions of approval, including but not limited to providing additional parking, or findings for denial.

c. *Reduced parking*. The city may approve a change in use, tenancy, or occupancy on a site not providing the minimum number of parking spaces required by Table XX without approving a variance in the following circumstances.

(1) A parking study suggests fewer parking spaces would reasonably meet average parking demand.

(a) Such parking studies may be completed by city staff or a consultant hired by the city and referencing:

1. Available published parking standards such as those compiled by the Institute of Transportation Engineers and American Planning Association;

2. Observed local demand; or

3. A combination thereof.

(b) A memo outlining the results of the parking study must be saved in the associated building permit file or other appropriate city-maintained file.

(2) A travel demand management (TDM) plan is approved by the city.

(a) The TDM plan may include a combination of modes of transportation, hours of operation, remote work options, incentives, and facilities that reduce parking demand.

(b) A memo outlining the TDM and any required reporting must be saved in the associated building permit file or another appropriate city-maintained file.

d. *Proof-of-parking*. The city may allow the use of proof-of-parking to meet parking requirements.

(1) The parking area must meet the setback, dimension, and maneuverability standards of this ordinance and the stormwater management rules as outlined in the city's water resources management plan.

(2) When proof of parking is approved, an agreement must be recorded against the property outlining the following conditions.

(a) The proof-of-parking may not be constructed unless the city observes that parking demand regularly exceeds parking supply and approves such construction in writing.

(b) The property owner and successors are responsible for the cost of the parking lot and stormwater management facility construction.

e. *Recurring event parking*. The city may require that specific uses provide a plan outlining how parking will be managed during recurring, high parking demand events.

f. *Off-site parking*. All or a portion of the minimum number of parking spaces required by this Code if the applicant can demonstrate that off-site parking will be:

(1) Reasonably accessible from the use being served, as determined by the city planner; and

(2) Protected by a recorded document. Such document must be in a form acceptable to the city and must include provisions binding any

successor or assigns and allowing termination only as agreeable to the city.

5. Parking design standards.

a. *Enclosed and unenclosed parking.* For residential land uses, parking must be designed as follows:

(1) For single-unit and two-unit dwellings, parking spaces may be enclosed or unenclosed. Where an enclosed parking garage is provided it must meet minimum setback requirements as outlined in § 30X.XX of this Code.

(2) For triplex, fourplex, townhouse, and multi-unit dwellings, at least one parking space per unit must be enclosed.

(3) For residential care facilities, parking spaces may be enclosed or unenclosed.

b. *Visitor parking.* Visitor parking, whether enclosed or unenclosed, must be fully accessible to the public and comply with the following standards.

(1) No gates, doors, or other physical barriers may be erected to limit access to the parking area.

(2) Appropriate signage must be installed to direct visitors to the parking.

(3) The stalls and drive aisles must meet setback, dimension, and maneuverability standards established in this Code.

c. *Setbacks.* All parking lots must be set back according to the standards below.

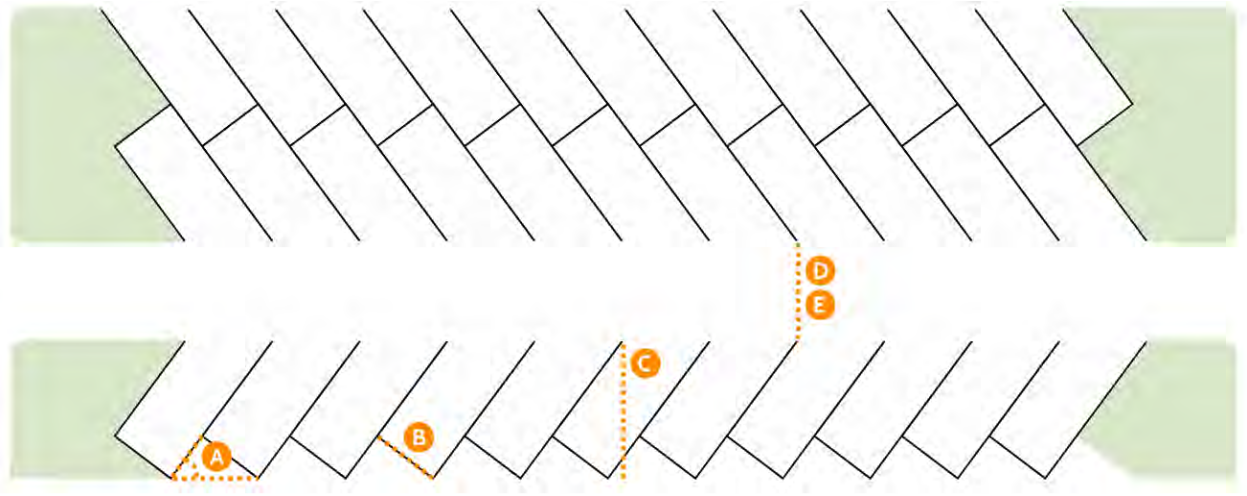
Use		Subject Lot				
		Single-unit, two-unit, three-unit, four-unit, cottage court, or townhouse dwelling.	**Multi-unit dwelling or residential care facility.**	**Commercial use.**	**Community use.**	**Industrial or automotive use.**
Adjacent	**Single-unit, two-unit, three-unit, four-unit, or townhouse dwelling.**	20 ft.	20 ft.	20 ft.	20 ft.	30 ft.

Use		Subject Lot				
		Single-unit, two-unit, three-unit, four-unit, cottage court, or townhouse dwelling.	Multi-unit dwelling or residential care facility.	Commercial use.	Community use.	Industrial or automotive use.
	Multi-unit dwelling or residential care facility.	20 ft.	10 ft.	20 ft.	20 ft.	30 ft.
	Commercial use.	20 ft.	10 ft.	10 ft.	20 ft.	10 ft.
	Community use.	20 ft.	20 ft.	20 ft.	20 ft.	30 ft.
	Industrial or automotive use.	30 ft.	30 ft.	20 ft.	30 ft.	20 ft.
	Public right-of-way.	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.

(1) If parking lot or loading facility is located entirely on one lot, the most restrictive setback outlined in Table XX must be provided between parking lot or loading facility and the lot line.

(2) If a lot line bisects a parking lot or loading facility, the setbacks outlined in Table XX do not apply, provided there is a recorded agreement outlining shared access and parking use between the lots.

d. *Dimensions.* All parking lots, including parking spaces and drive aisles, must comply with the following dimensional standards.



	Parking Space			Drive Aisle [2]	
	Parking Angle Pattern (A)	Space Width (B)	Space Length (C)	Standard (D)	Low Turnover Parking Structure (E)
Standard	45 degrees	12 ft.	18 ft.	13.5 ft.; one-way only.	12 ft.
	60 degrees	10 ft.	18 ft.	18.5 ft.; one-way only.	16 ft.
	75 degrees	9 ft.	19 ft.	23 ft.	18 ft.
	90 degrees	8.5 ft.	18 ft.	26 ft. [1]	24 ft.
	Parallel	20 ft.	8 ft.	22 ft.	22 ft.
Compact	45 degrees	10 ft.	16 ft.	13.5 ft.; one-way only.	12 ft.
	60 degrees	8.5 ft.	17.5 ft.	18.5 ft.; one-way only.	16 ft.
	75 degrees	8 ft.	16.5 ft.	23 ft.	18 ft.
	90 degrees	7.5 ft.	16 ft.	26 ft.	24 ft.

[1] A drive aisle serving only one row of parking spaces must be at least 22 feet wide.
[2] Minimum drive aisle widths may vary as determined by the Fire Marshall.

e. *Compact parking.* The city may allow low-turnover uses to use compact parking spaces where the following apply.

(1) The parking lot serving the use contains at least 20 parking spaces.

(2) No more than 25 percent of the total required parking spaces may be compact parking spaces.

(3) Compact parking spaces must be appropriately signed according to the Manual on Uniform Traffic Control Devices.

f. *Landscaping.* All parking lots containing more than 50 parking spaces must include landscaped islands in accordance with § 300.xxx.xx. of this Code.

g. *Construction.* Any expansion, reduction, restriping, or other improvement of a parking lot requires the review of the city planner to verify compliance with the following standards.

(1) On lots containing a single-unit or two-unit dwelling, parking lots must comply with the standards established in § 1105 of the city code of ordinances.

(2) On lots not containing a single-unit or two-unit dwelling, parking lots must comply with the following standards.

(a) The outside perimeter of all parking lots must be bordered with a raised concrete curb or an equivalent approved by the city.

(b) All parking lots, including all parking spaces and drive aisles, must be surfaced with asphalt, concrete, or an equivalent material approved by the city.

(c) All parking spaces must be marked with painted lines not less than four inches wide in accordance with the approved site plan.

(d) All parking lots must provide islands for traffic control as needed. Such islands must be bordered with a raised concrete curb or an equivalent approved by the city.

(e) Parking lots must be designed such that vehicles are not required to back into a public right-of-way. The city may require turnaround areas to prevent such maneuvers.

h. *Accessible parking.* In addition to the standards outlined in this Code, all parking areas must conform to the requirements of the Minnesota State Accessibility Code, Chapter 1431. Areas striped for "no parking" for accessibility purposes are be considered a parking space.

i. *Electric vehicle charging.* New construction, redevelopment, or other proposals requiring planning commission or city council review are encouraged to appropriately plan for charging stations.

(1) Planning may include actual installation of stations, installation of station infrastructure, or installation of conduit to minimize site disruption for future installation of infrastructure.

(2) Projects receiving financial assistance from the city may be required to install charging stations as a percentage of total required parking.

(3) If provided, electric vehicle charging must comply with the electric vehicle charging requirements established in § 300.XX.xxx.

(4) All EVCS-installed parking spaces must comply with the parking space design standards established in § 305.XX.xx. and the EVCS standards established in § 304.XX.1. of this Code.

6. Loading facilities.

a. Except on lots containing single-unit, two-unit, and townhouse dwellings, a loading facility must be provided site services including, but not limited to, garbage collection, moving trucks, and inventory delivery.

(1) The city may require loadings spaces designed for the loading, unloading, and parking of trucks or semi-trailers.

(2) The number, configuration, and location of such spaces will be determined by the city based on individual use and site characteristics with an emphasis on minimizing interference with the use of the public right-of-way.

b. Loading spaces and the associated maneuvering area must be set back at least 50 feet from any lot in the LDR Zone and any lot containing a single-unit, two-unit, or townhouse dwelling.

c. Unless approved by the city based on unique site characteristic or existing or proposed screening, a loading facility must be located behind the building being served.

d. *Setbacks*. A loading facility must be setback from all lot lines the same as required for a parking lot as established in § 300.xxx.

e. *Construction.* Any expansion, reduction, restriping or other improvement of a loading facility requires the review of the city planner to verify compliance with the following standards,

(1) The outside perimeter of a loading facility must be bordered with a raised concrete curb or an equivalent approved by the city.

(2) All loading facilities, including all loading spaces and maneuvering areas, must be surfaced with asphalt, concrete, or an equivalent material approved by the city.

(3) All loading spaces must be marked with painted lines not less than four inches wide in accordance with the approved site plan.

(4) If island are provided for traffic control, such islands must be bordered with a raised concrete curb or an equivalent approved by the city.

(5) Loading facilities must be designed such that vehicles are not required to back into a public right-of-way. The city may require turnaround areas to prevent such maneuvers.

7. Bicycle parking.

a. Minimum number of bicycle parking spaces required.

(1) Multi-unit dwellings. Multi-unit dwelling must provide bicycle parking spaces equal to at least 10 percent of the required number of automobile parking spaces. All such bicycle parking spaces must be located within an enclosed building. Bicycle parking spaces may be within bike storage rooms, lockers, or floor-mounted or wall-mounted racks.

(2) All nonresidential uses. Nonresidential uses must provide bicycle parking spaces equal to at least 10 percent of the required number of automobile parking spaces.

b. Bicycle parking design standards.

(1) Bike parking must be visible, well-lit, and at least as conveniently located as the most convenient automobile spaces, other than those spaces for accessible parking.

(2) Bicycle parking spaces must be of sufficient dimension to accommodate a full-sized bicycle, including space for access and maneuvering.

(3) Bicycle parking facilities must be appropriately separated from motor vehicle parking areas to protect parked bicycles from damage by motor vehicles.

(4) Bicycle parking facilities must be visually compatible with the architectural design of the associated building(s).

(5) Bicycle parking must be securely anchored and must allow the bicycle wheel and frame to be locked to the facility.

8. Prohibited use of parking, stacking, and loading facilities.

a. No parking lots, drive aisle, loading facility, stacking facility, or bicycle parking facility may be used for the storage, display, sale, or rental of

goods; repair of vehicles; or storage of snow unless approved by the city planner.

b. No parking lot, drive aisle, loading facility, stacking facility, or bicycle facility may be enclosed by a gate or other limiting device unless approved in writing by the city planner and public safety staff.

(1) Multi-unit dwellings providing bicycle parking in accordance with subsection (8)(a)(1) are exempt from this prohibition provided that all residents are granted access to the bicycle parking facility.

§ 305.07. Landscaping, Buffering, and Screening.

1. Purpose. This section is established to enhance the aesthetic quality of the city, encourage environmental stewardship, provide for the effective visual and physical buffering of uses and zoning districts, and promote the public health, safety, and welfare.

2. Applicability. No land, building, structure, or use may be erected, established, expanded, constructed, reconstructed, or substantially altered, nor may any work be started on the same, except in compliance with the standards established in this section.

a. Single-unit and two-unit dwellings are not required to submit a landscaping plan in accordance with this section and § 300.XX.xx.

3. Minimum landscaping requirements.

a. A reasonable attempt must be made to preserve as much existing native or desirable vegetation as is practicable. Existing vegetation should be incorporated into the landscaping plan.

b. All open areas of a lot that are not used or improved for parking lots, driveways, access drives, pedestrian paths, or outdoor storage must be landscaped with a combination of overstory trees, understory trees, shrubs, flowers, and ground cover materials. The landscaping plan must include ground cover, bushes, shrubbery, trees, sculpture, foundations, decorative pedestrian paths, or other similar site design features or materials in a quantity having a minimum value as established in Table XX.

Project Value Including Building Construction, Site Preparation, and Site Improvements	Minimum Landscape Value
$1,000,000 or less	2 percent of project value.

Project Value Including Building Construction, Site Preparation, and Site Improvements	Minimum Landscape Value
$1,000,001 to $2,000,000	$20,000 plus 1.00 percent of project value in excess of $1,000,000
$2,000,001 to $3,000,000	$30,000 plus 0.75 percent of project value in excess of $2,000,000
$3,000,001 to $4,000,000	$37,500 plus 0.25 percent of project value in excess of $3,000,000
$4,000,001 or more	1.00 percent of project value.

c. In instances where native or desirable plant materials exist on a site prior to its development, the application of the standards in this subsection (3) may be adjusted by the city to allow credit for such material, provided that such adjustment is consistent with the intent of this section.

(1) The city may permit the seeding of areas reserved for future expansion of the development if consistent with the intent of this section.

4. Minimum planting standards.

a. At least 25 percent of proposed new plantings must be species beneficial to pollinators derived from the city's native or native cultivar plant list, unless otherwise approved by the city.

(1) The city may allow credit for existing, native, or significant plant materials beneficial to pollinators that are preserved as part of the landscaping plan.

b. Not more than 10 percent of the required number of trees may be composed of any one species unless approved by the city.

c. No tree species prohibited by the city may be planted. Refer to the city's plant list to identify trees that cannot or should not be planted.

d. All new landscape trees and shrubs must meet the American Standard for Nursery Stock and American National Standard relating to planting guidelines, quality of stock and appropriate sizing of the root ball.

e. Landscape trees must be balled and burlapped or moved from the growing site by tree spade.

f. Deciduous trees may not be less than two inches but not more than three inches caliper for balled and burlapped trees, and not less than three inches but not more than six inches caliper for spade-moved trees.

(1) The city may allow larger balled and burlapped or spade moved trees if these trees are accompanied with a three year guarantee.

g. Coniferous trees may not be less than six feet in height but no more than eight feet for balled and burlapped trees, and not less than eight feet in height but not more than fourteen feet for spade-moved coniferous trees.

(1) The city may allow larger balled and burlapped or spade moved trees if these trees are accompanied with a three year guarantee.

h. To provide for the adequate maintenance of landscaped areas, an irrigation system must be provided as part of each new development, except for developments consisting entirely of single-unit and two-unit dwellings and additions to existing structures that do not increase the floor area of the existing structure by more than 100 percent.

(1) The irrigation system must include a properly installed and operating rain sensor or other smart irrigation controller.

(2) The irrigation system must be installed in all landscaped areas except areas to be preserved in a natural state.

5. Screening.

a. *Uses requiring screening*. The following uses must be screened in accordance with the requirements of this subsection (5).

(1) Loading docks must be screened from all lot lines and public roads.

(2) Trash storage facilities must be screened from all lot lines and public roads.

(3) Where allowed by this Code, outdoor storage in the Village Center districts and FD District must be screened from all public views.

b. In the circumstances described in subsection (5)(a) of this section, screening or buffering must be provided according to the following standards.

(1) Required screening or buffering may be achieved with fences, walls, earth berms, hedges, or other landscape materials.

(a) Where provided, walls and fences must be architecturally harmonious with the principal building.

(b) Where provided, earth berms may not exceed a slope of three-to-one.

(c) Screening must be designed to employ materials that provide an effective visual barrier during all seasons.

(2) All required screening or buffering must be located on the lot occupied by the use, building, facility, or structure to be screened.

(3) No screening may be located on any public right of way or within eight feet of the traveled portion of any street or highway.

(4) Screening required by this section must be of a height needed to accomplish the goals of this section.

(a) The height of plantings required under this section is as measured at the time of installation.

6. Landscape buffers.

a. Where required by this Code, a landscape buffer must be provided along the perimeter of a lot, running parallel to and extending along the entire shared lot line, unless otherwise indicated.

(1) A landscape buffer may be located within a required setback area.

(2) No driveway, parking facility or loading facility may be located within a transitional buffer.

(3) No landscape buffer is required within a clear sight triangle.

(4) No landscape buffer will be required as the result of development activity on an adjacent lot.

(5) No landscape buffer is required if a public street or natural feature separates the subject lot from the adjacent lot.

(6) No landscape buffer will be established in a public right-of-way.

(7) If two landscape buffers are required in the same location, only the more intense buffer is to be required.

b. *Site-specific landscape buffer requirements.* In addition to the landscape buffers required elsewhere in this Code, the following sites must provide a landscape buffer in accordance with the standards of this subsection (6) of this section.

(1) Any principal or accessory building or structure located on a lot in a Village Center district, FD District, or PD District must provide a Type A landscape buffer along all lot lines which abut a lot in a residential district or PD District that contains a residential use.

(a) No buffering is required between a residential use in a PD District that abuts a lot containing or allowing a residential use in another PD District unless required by the PD District approval.

(2) Any principal or accessory building or structure located in the HDR District or a PD District containing more than four dwelling units per acre must provide a Type A landscape buffer along all lot lines abutting a lot in the LDR or MDR Districts.

(3) Off-street parking facilities containing six or more spaces must provide a Type A landscape buffer between the parking facility and any adjacent streets located within 50 feet, lots that contain a residential uses, and lots located in a residential district.

c. *Landscape buffer requirements*. Where required by this Code, landscape buffers must be planted with materials according to Table XX: Landscape Buffers. The table will be interpreted and administered according to the following standards.

(1) Existing landscape materials, including landscape materials required by another provision of this Code, may be counted towards the minimum planting requirements for each landscape buffer established in Table XX: Landscape Buffers Requirements.

(2) In the calculation of the requirements established in Table XX: Landscape Buffer Requirements, any fractional result must be rounded up to the next whole number.

(3) Where a required landscape buffer would intersect with an existing densely planted or forested area, the applicant will not clear, thin, or grade the area, provided the existing vegetation meets the minimum density thresholds established below. The preserved area will be credited toward the landscape buffer requirement, and strict adherence to the exact spacing and quantity standards for new plantings will be waived.

(a) To qualify as a densely planted or forested area, the existing vegetation must meet one of the following criteria.

1. The area must contain at least 60 healthy deciduous or evergreen trees per acre, prorated to the square footage of the required buffer area. To be counted toward this density threshold, an existing tree must possess a minimum caliper of two inches.

2. The area possesses a continuous, unbroken existing canopy cover of at least 80 percent of the required buffer footprint during full leaf-out, provided it

maintains a continuous opaque visual screen to a minimum height of six feet through understory shrubs or topography.

(b) Trees utilized to meet the density thresholds in subsection (6)(c)(3)(a) of this section must be structurally sound, healthy, and free of fatal diseases or severe damage as determined by the natural resources division.

(c) Species identified by the Minnesota DNR as invasive species may not be counted toward the minimum density threshold and may be required to be removed.

(d) Where existing forested areas meet the per-acre density requirements but contain localized gaps wider than 20 feet as measured parallel to the lot line, the city planner may require supplemental planting of native understory shrubs or shade trees to fill the gap.

Type	Min. Landscape Buffer Width	Min. Plantings per 100 ft.			Min. Percent of Trees That Are Evergreen
		Canopy Trees	Understory Trees	Evergreen Shrubs	
A	10 ft.	2	3	8	25 percent
B	15 ft.	3	5	12	25 percent
C1	20 ft.	4	6	18	50 percent
C2	15 ft. with 6 ft. tall fence, wall, or berm.	3	5	12	25 percent
D1	40 ft.	8	10	20	50 percent
D2	20 ft. with 6 ft. tall fence, wall, or berm.	4	6	18	50 percent

d. *Modification*. The city planner shall have the authority to modify the standards established in this section where strict compliance with such standards would conflict with the purpose of this Code or the city's planning objectives.

7. Interior parking lot landscaping standards.

a. *Applicability*. All parking lots containing 50 parking spaces or more must be designed to incorporate unpaved, landscaped islands in a quantity and dimension as required by the city.

(1) Interior landscaping islands that are necessary to promote the safe and efficient flow of traffic are not be subject to the standard

established in subsection (5)(a) above and are required by the city when warranted.

b. *Interior landscape island minimum size*. All interior landscape islands must be at least 180 square feet in size.

c. *Parking lot landscaping planting standards*. All parking lot landscape areas, including interior landscape islands, must be reasonably distributed throughout the parking lot area so as to break up expanses of paved areas.

(1) Parking lot landscape areas must be planted with deciduous shade trees, ornamental or evergreen trees, plus ground cover, mulch, and shrubbery as determined appropriate by city staff.

(2) Parking lot landscape areas must be planted with species identified as having a "medium" or "high" salt tolerance on the Minnesota Stormwater Manual published by the Minnesota Pollution Control Agency, as amended.

(3) Parking lot landscape trees must be provided at the rate of one tree for each 15 surface parking spaces provided, or major fraction thereof.

(4) Parking lot landscaping must be contained in planting beds bordered by a raised concrete curb or equivalent approved by the planning commission.

(5) Landscaping rocks shall be prohibited.

8. Retaining walls. Retaining walls must be reviewed and constructed as required by the building code.

9. Maintenance of landscaping.

a. The owner, tenant, and their respective agents are jointly and severally responsible for the maintenance of all landscaping in a condition presenting a healthy, neat, and orderly appearance and free from noxious weeds, refuse, and debris.

b. Plants and ground cover that are required by an approved site plan or landscaping plan, and which have died, have severely declined, or have been damaged must be replaced within three months of notification by the city. However, the time for compliance may be extended up to nine months by the city planner to allow for seasonal or weather conditions.

(1) Trees and shrubbery will be considered to be severely declined if more than 25 percent of the crown has died.

10. Landscaping security required.

a. When screening, landscaping, or other similar improvements to property are required by this Code, a performance security must be supplied by the owner in an amount equal to at least one and one-half times the value of such screening, landscaping, or other improvements.

(1) The security amount must include reimbursement of all expenses incurred by the city for engineering, legal, or other fees in connection with making or completing such improvements.

(2) The security must be provided prior to the issuance of a building permit and must be valid for one full growing season after the date of installation of the landscaping.

(3) The city may accept a letter of credit, cash escrow or equivalent acceptable to the city attorney to satisfy this security requirement. In the event construction of the project is not completed within the time prescribed by building permits and other approvals, the city may, at its option, use the security to complete the work required at the expense of the owner.

b. The city may allow an extended period of time for completion of all landscaping if the delay is due to conditions that are reasonably beyond the control of the developer. Extensions, which may not exceed nine months, may be granted due to seasonal or weather conditions.

(1) When an extension is granted, the city may require such additional security as it deems appropriate.

§ 305.08. Lighting.

1. Purpose. This section is established to regulate exterior lighting by ensuring adequate illumination levels on a site, preventing excessive light from glaring onto adjacent lots, limiting light pollution, and conserving resources to the greatest extent possible.

2. Applicability. No lighting source or lighting fixture may be erected, placed, replaced, or substantially altered after the effective date of this Code except in compliance with the standards established in this section.

a. The replacement of a lighting source in a manner that does not alter the physical appearance of the associated lighting fixture does not require

the lighting fixture to be brought into compliance with this section if the maximum illumination standards established in this section are met.

3. Exemptions. The following types of lighting sources are exempt from the standards established in this section.

a. Street lights installed in the public right-of-way.

b. Lighting exempt under state or federal law.

c. Lighting designed to illuminate a sign, provided that such lighting complies with all standards established in Part 6 Signs of this Code.

d. Lighting associated with a temporary use, provided that such lighting complies with all standards established in the approved Interim Use Permit for the associated temporary use.

e. Security lighting in the FI District provided such lighting is controlled and activated by motion sensors and no individual detection of motion causes the lighting to remain illuminated for more than 15 minutes.

f. Underwater lighting in a swimming pool, fountain, or other water feature.

g. Holiday or festive lighting provided such lighting does not create unsafe glare on the public right-of-way.

h. Lighting associated with a sports court or field provided that such lighting does not exceed one half footcandle at the lot line and does not remain illuminated more than 30 minutes after the conclusion of any event scheduled on the associated sports court or field.

(1) In no circumstance may such lighting source be illuminated prior to 11:00 a.m. or after 11:00 p.m. each day.

i. Decorative lighting such as lighting used to illuminate architectural or landscaping features provided that such lighting complies with the following standards.

(1) Decorative lighting must cast all lighting downwards onto the associated architectural or landscaping feature.

(a) Decorative lighting may cast light upwards only if the light distribution is confined to the surface of the architectural feature and does not extend beyond the building's roofline or footprint.

(2) Decorative lighting may not exceed two footcandles.

4. Prohibited lighting.

a. No lighting source or fixture may imitate an official highway or traffic control light or sign.

b. No lighting source other than holiday or festive lighting exempt under subsection (3)(f) of this section may contain a flashing, flickering, strobing, or intermittent pattern of illumination.

c. Direct, off-site views of the light source are not be permitted except for globe and ornamental light fixtures approved in conjunction with a site plan.

(1) Globe and ornamental fixtures will only be approved when the developer can demonstrate that off-site impacts stemming from direct views of the bulb are mitigated by the fixture design, location, or some combination thereof.

5. **Maximum illumination.** Exterior lighting must be designed and arranged to limit direct illumination and glare upon or into any contiguous parcel. Where abutting a lot containing a residential use or planned for residential use in the future land use plan, reflected glare or spill light must not exceed one half footcandle as measured on the lot line.

6. **Lighting color.** No lighting fixture may emit light with a correlated color temperature greater than 3,000 K.

7. **Mitigation.** Mitigative measures must be employed to limit glare and spill light to protect neighboring parcels and to maintain traffic safety on public roads.

a. All lighting fixtures must provide full cut-off shielding that limits the U-rating of the lighting source to zero, as measured according to the BUG rating system established by the Illumination Engineering Society.

b. The city may also limit the hours of operation of outdoor lighting if it is deemed necessary to reduce impacts on the surrounding neighborhood.

8. **Parking facility lighting standards.** All parking facilities, including parking lots, decks, and ramps, must comply with the following lighting standards. Where the provisions established in this subsection conflict with a provision established elsewhere in this section, this subsection will control.

a. No lighting fixture may exceed a voltage of 450 watts.

b. In a parking lot, the maximum lighting power density is one watt per square foot.

c. On all levels of a parking deck or ramp other than the top level, lights must be located in recessed or boxed fixture to eliminate direct views of

such lights from adjacent properties. Lighting fixtures on the top level of a parking deck or ramp must comply with subsection (7) of this section.

d. The maximum height of a lighting fixture is 30 feet above the surface of a parking lot and 12 feet above the top level of a parking deck or ramp.

9. Lighting plan. The city may require submission of a lighting plan if the city planner determines it is necessary to ensure compliance with the intent of this Code.

10. Measurements.

a. *Illuminance level.* Illuminance level must be made in footcandles and measured five feet above grade at the lot line of the lot upon which the lighting fixture being measured is located.

(1) If measurement on private property is not possible or practical, illuminance level measurements may be made at the boundary of the public street right-of-way that adjoins the land.

(2) Measurements will be made at the finished grade with a light meter. The light meter will have the light-registering portion of the meter held parallel to the ground pointing up.

b. *Lighting color.* Lighting color will be measured in Kelvin as expressed by the manufacturer on packaging, cut sheet, or similar materials.

c. *Lighting fixture height.* If limited by the city, the height of a freestanding lighting fixture will be measured from the finished grade at the base of the lighting fixture to the highest point of the lighting fixture, regardless of the location of the lighting source. The height of a building-mounted lighting fixture will be measured from the finished grade at the base of the building to the highest point of the lighting fixture, regardless of the location of the lighting source.

§ 305.09. Telecommunications Facilities.

1. Purpose and findings.

a. *Purpose*. The purpose of this section is to establish predictable and balanced regulations for telecommunication facilities and systems in order to accommodate such within the city, while protecting the community against adverse impacts to the public welfare or aesthetic resources.

b. *Findings*. The city finds the following:

(1) Wireless telecommunication systems provide a valuable service to the public. However, telecommunications facilities and systems are not a public utility nor part of the public infrastructure system.

(2) To promote and preserve the public health, safety, welfare, and aesthetics of the community, the location, design, construction, and modification of telecommunication facilities and systems must be regulated.

(3) To minimize the visual impact of telecommunication facilities:

(a) Installation of facilities on existing support structures is favored over installation of new, freestanding telecommunication towers;

(b) New telecommunication towers must be designed to accommodate more than one telecommunication provider and must incorporate stealth design techniques; and

(4) To minimize safety hazards and visual impacts, and to ensure continued and adequate space for public utilities, public right-of-way should be minimally used for telecommunication facilities.

2. Receive-only satellite dish antennas and other antenna devices. Receive-only satellite dish antennas and other antenna devices are subject to the following requirements.

a. Receive-only satellite dish antennas and other antenna devices must comply with all city building and electrical code requirements.

b. Prior to the installation of a receive-only satellite dish antenna or other antenna device, the lot owner must submit verification from a certified engineer that the structural design, mounting system, and installation is appropriate.

c. No more than one receive-only satellite dish antenna or other antenna device per building or, if more than one antenna is proposed, the antennas must be clustered in a single, screened location.

d. Submission of written authorization from the property owner must be provided.

e. No sign may be affixed to the antenna structure unless necessary for the safe operation of such telecommunication facility.

f. The receive-only satellite dish antenna or other antenna device setback requirements for principal structures and in no event may be located between the principal structure and the front lot line.

g. Must be screened to the greatest extent practicable to minimize visual impacts on surrounding properties. Screening must include landscape materials for ground mounted antennas and materials compatible with those utilized on the exterior of the building for roof mounted antennas;

h. Antennas located closer to a lot line than the height of the antenna must be designed and engineered to collapse progressively within the distance between the antenna and the lot line.

i. Must comply with all applicable Federal Communications Commission requirements.

j. Antenna height may be no more than 60 feet as measured from the ground upon which it is located.

3. Telecommunications facilities permitted by right.

a. Within the right-of-way.

(1) *New support structures*. Small cell telecommunications facilities located on new support structures are permitted by right within the public rights-of-way if adjacent to a lot in the HDR, FD, or Village Center districts and are subject to the standards outlined in § 1120 of the city code of ordinances.

(2) *Existing or replacement structures*. In all zoning districts, telecommunication facilities located on existing or replacement structures are permitted by right, subject to the standards of subsection (7) of this section, provided the facility includes no component larger than six cubic feet in size and:

(a) Is located on an electric transmission tower carrying over 200 kil volts of electricity; or

(b) Is located on an existing utility pole and does not extend above the top of the pole by more than 10 feet; or

(c) Is located on a replacement utility pole that does not exceed 50 feet in height or the height of the existing structure, whichever is greater, and does not exceed the diameter of the existing pole by more than 50 percent.

b. *Outside the right-of-way*. In all zoning districts, the following are permitted uses outside of right-of-way, subject to the standards outlined in subdivision 7 of this Code:

(1) Facilities located on electric transmission towers carrying over 200 kil volts of electricity.

(2) Facilities located on water towers or buildings for which a conditional use permit has already been approved.

(3) A one-time 15-foot extension of an existing telecommunication tower or one-time replacement of a telecommunication tower by a tower no greater than 15 feet tall than the original, existing tower up to a maximum of 90 feet.

4. Telecommunications facilities requiring conditional use permit approval.

a. *Within the right-of-way*. Within the right-of-way. In the LDR and MDR Districts, small cell telecommunications facilities located on new support structures require conditional use permit approval and are subject to the conditions established in subsection (8) of this section.

b. *Outside the right-of-way*. In all zoning districts, the following telecommunication facilities require conditional use permit approval and are subject to conditions established in subsection (8) of this section.

(1) New telecommunications towers; and

(2) Facilities located on water towers or buildings for which a conditional use permit has not already been approved for a telecommunications facility.

5. Permit applications

a. Permits.

(1) *Small Wireless Facility Permit*. A Small Wireless Facility Permit, pursuant to §1120 of the city code of ordinances, is required for all permitted uses within the right-of-way as outlined.

(2) *Administrative Permit*. An Administrative Permit is required for all permitted telecommunications facilities located outside the right-of-way and non-small cell telecommunications facilities permitted by right and located within right-of-way.

(a) Administrative permit applications are subject to the review of the city planner, which will render a decision within time

periods provided by Minn. Stats. § 15.99, as applicable, and will serve a copy of that decision upon the applicant by mail.

(b) Any person aggrieved by the decision of the city planner may appeal the decision to the planning commission in the manner specified in § 300.xx. of this Code

(3) *conditional use permit.* A conditional use permit is required for telecommunications facilities that are permitted by conditional use permit per subsection (5) of this section or Table XX: Use Permissions Table.

(a) conditional use permit applications are subject to the review procedures outlined in § 300.xx.

(b) In the case of a small cell telecommunications facility permitted by conditional use permit approval and located within the right-of-way, a small wireless facility permit pursuant to § 1120 of the city code of ordinances, will be reviewed and issued in conjunction with the conditional use permit.

b. *Permit applications*. Applications must be submitted on the appropriate form provided by the city and must include the following, unless otherwise waived by city staff based on circumstances unique to the site:

(1) Wireless telecommunication provider that will utilize the facility and provider's consent to the application;

(2) Certificate of survey, illustrating the location of the proposed facility, property lines, right-of-way line, and any existing or proposed easements;

(3) Support structure elevations;

(4) Construction drawings signed by a registered architect, civil engineer, landscape architect, or other appropriate design professional; and

(5) For small cell telecommunications facilities, the bandwidth on which the facility will operate. If bandwidth is outside of low band blocks 200-806, 824-849 and 869-894 or high band blocks 1710-1730, 1900-1910, 1980-1990 and 2110-2130, cash escrow is required to cover the reasonable expense of an RF engineer retained by the city to conduct an interference study. The study will evaluate a proposed facility's potential interference with public safety

communications, including communications with public utility monitoring systems;

(6) For non-small cell telecommunications facilities, cash escrow is required to cover the reasonable expense of an RF engineer retained by the city to conduct an interference study. The study will evaluate a proposed facility's potential interference with public safety communications, including communications with public utility monitoring systems;

(7) For new telecommunications facilities, a coverage and capacity analysis prepared by radio frequency (RF) engineer that demonstrates that the location of the proposed facility is necessary to meet the coverage and capacity needs of the wireless telecommunication providers system and cash escrow to cover the reasonable expense of an RF engineer retained by the city, at its option, to review the coverage and capacity analysis.

c. A variance from the standards of this section requires a separate application, according to the procedures in § 300.xx.

6. Standards for facilities permitted by right.

a. All telecommunications facilities permitted by right are subject to the following standards, regardless of the facility's location.

(1) *Service provider*. A telecommunications service provider must be identified for the proposed telecommunication facility and must occupy the facility within 12 months of approval.

(2) *Lighting*. Telecommunications facilities may not be artificially illuminated unless required by law or by a governmental agency to protect the public's health and safety or unless necessary to facilitate service to ground-mounted equipment.

(3) *Construction*. Facilities and equipment must be constructed in compliance with applicable building and electrical code requirements. Structural design, mounting, and installation of the telecommunication facility must comply with manufacturer's specifications.

b. Telecommunication facilities permitted by right and located within the right-of-way must comply with the following standards.

(1) *All facilities*. All telecommunication facilities located within public right-of-way are subject to the requirements of § 1120 Right-of-way Management.

(a) To the extent of any inconsistency between this section and § 1120, the more restrictive provision applies.

(2) *Small cell telecommunications facilities.* Permitted small cell telecommunications facilities must comply with § 1120.

(3) *Non-small cell telecommunications facilities*. Permitted non-small cell telecommunications facilities are subject to the following additional requirements:

(a) *Location*. Facilities may be located in any zoning district; however:

1. No facility may be located within 400 feet of the boundary of any property that contains a telecommunication facility or structure listed on the National Register of Historic Places.

2. Facilities located within right-of-way must be separated by 330 feet.

(b) *Design*.

1. *Width*. New or replacement utility poles may not exceed the width of the closest public utility pole by more than 50 percent, but in no case may they exceed 18 inches in diameter.

2. *Projections*.

a. Facilities located on existing or replacement utility poles must be top-mounted and concealed within a radome or otherwise concealed to the extent feasible. Cable connections, antenna mounts, and other hardware must also be concealed. In no case may the wireless facility extend more than 10 feet above or three feet out from the pole to which it is attached.

b. Facilities located on transmission towers may not extend more than 15 feet above or project out more than three feet from the structure to which they are attached.

3. *Color*. Radomes, antennas, and support structures must be painted a non-contrasting color consistent with the surrounding area. Replacement utility poles located within the public right-of-way must match, to the greatest extent practicable, the materials and colors of the closest public utility structure.

(c) *Accessory equipment*. Equipment must be located in compliance with §1120 of the city code of ordinances.

c. *Outside right-of-way*. Telecommunication facilities permitted by right and located outside the public right-of-way are subject to the standards established in subsection (7)(b) above and the following standards below.

(1) *Projections*. Antennas may not project out from an antenna support structure or tower, unless it is physically impossible to locate the antenna with the structure or tower, in which case they may not project out more than three feet.

(a) Facilities located on transmission towers, water towers, or buildings may not extend more than 15 feet above the structure to which they are attached.

(b) Wall or façade-mounted antennas may not extend above the building cornice line.

(2) *Accessory equipment*. Accessory equipment is subject to the following standards.

(a) Equipment or buildings must meet minimum setback requirements established for accessory structures in the associated zoning district.

(b) Equipment or buildings must be designed to blend in with the surrounding natural or built environment or must be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the character of the surrounding neighborhood.

(c) No more than one accessory building is permitted for each tower. If additional space is needed to accommodate the co-location of antennas, the existing accessory building must be expanded or a new accessory building must be constructed adjacent and complementary to the existing building.

7. Standards for conditionally permitted facilities.

a. *Small cell telecommunications facilities.* Where permitted by conditional use permit approval, small cell telecommunications facilities must comply with the following standards.

(1) *Location*. Small cell telecommunications facilities:

(a) May not be located adjacent to residentially-zoned properties, unless the applicant provides an RF certification that the applicant's service objectives for the site cannot be met by constructing a similar facility in a non-residentially zoned area; and

(b) Must be located within the rights-of-way of collector or arterial streets, unless the application provides an RF certification that the applicant's service objectives for the site cannot be met by constructing a similar facility on a collector or arterial street; and

b. *Non-small cell telecommunications facilities.* Where permitted by conditional use permit approval, non-small cell telecommunications facilities must comply with the following standards.

(1) *Location*.

(a) *General design*. Facilities must be located in an area that will meet the applicant's reasonable coverage and capacity needs. However, the city may require that a different location be used if it would result in less public visibility, is available, and would continue to meet the applicant's reasonable capacity and coverage needs.

(b) *Zoning districts*. Facilities may be located within any zoning district. However, in the LDR District and properties guided low-density residential, telecommunication facilities may only be located on public or institutional property.

(c) *Setbacks*. Towers located adjacent to low or medium-density residential properties must meet the minimum setback requirements established for principal structures within the associated residential zoning district, but only from the property line abutting the residential district. The city council may waive the setback requirement if necessary to implement stealth design techniques. Accessory equipment must meet

minimum setback requirements established for accessory structures within the zoning district.

(2) *Design*.

(a) *Stealth design*. Facilities must use as many stealth design techniques as reasonably possible. Economic considerations alone are not justification for failing to provide stealth design techniques.

(b) *Collocation*. New telecommunication towers must be designed to accommodate more than one telecommunication provider at more than one height within the tower unless it is physically impossible or impractical to do so at the tower's proposed location. In addition, the applicant, tower owner, landlord, and their successors must agree in writing to the following.

1. Meet reasonable terms and conditions for shared use.
2. Submit a dispute over the potential terms and conditions to binding arbitration.

(c) *Height*. Maximum tower height, excluding lightning rods, will be limited to the maximum building height allowed in the applicable zoning district.

1. The city council may increase the allowable height if the applicant demonstrates that the increase would not have a significant impact on surrounding properties due to proximity, topography, screening, or similar considerations. The city council may likewise waive height restrictions for towers wholly or partially for essential public services, such as public safety.

(d) *Projections*. Antennas may not project out from an antenna support structure or tower, unless it is physically impossible to locate the antenna with the structure or tower, in which case they may not project out more than three feet. Facilities located on transmission towers, water towers or buildings may not extend more than 15 feet above the structure to which they are attached. Wall or façade-mounted antennas may not extend above the building cornice line.

(e) *Color*. Tower, antennas, and support structures must be painted a non-contrasting color consistent with the surrounding area such as gray, brown, or silver, or have a galvanized finish to reduced visual impact. Metal towers must be constructed of, or treated with, corrosion-resistant material.

8. Special Village Centers. The VC-E, VC-F, and VC-L Districts are recognized within the comprehensive plan as unique commercial nodes. These village centers represent the earliest developed commercial areas in the city. They have existing and anticipated pedestrian designs unique within Minnetonka, typified by sidewalks, trails, landscaped boulevards, street lights, and buried utilities. Accordingly, there is a presumption that telecommunication facilities are prohibited in these areas. An applicant may overcome this presumption by submitting an RF certification that the applicant's service objectives for the site cannot be met by constructing a similar facility in a non-residentially zoned area. If non-small cell wireless telecommunication facilities are permitted in these special village centers under paragraph above, then the installation of the facilities must meet the following additional standards:

a. Accessory equipment must be located within a principal building. If space is not available in the principal building, an accessory building may be used. The accessory building must meet the construction standard of the applicable zoning district and must complement the principal structure design and materials.

b. Telecommunication facilities may not be located within public right-of-way or within any front yard. The council may waive one or both of these restrictions if the proposal would provide a public benefit, such as improving the existing site aesthetics.

9. Removal of Facilities

a. Facilities located within the right-of-way must be removed when required by the road authority.

b. Obsolete telecommunications facilities must be removed within 90 days after cessation of their use at the site unless the city council grants an exemption. Unused telecommunications facilities and all related equipment must be removed within one year after cessation of operation at the site unless the city council grants an exemption. Telecommunications facilities and related equipment that have become

hazardous must be removed or made not hazardous within 30 days after written notice to the current owner and to any separate landowner unless the city council grants an exemption. Notice may be made to the address listed in the application, unless another one has subsequently been provided, and to the taxpayer of the property listed in the Hennepin County tax records. Telecommunications facilities and all related equipment that are not removed within this time limit are declared to be public nuisances and may be removed by the city. The city may assess its costs of removal against the property.

10. Exceptions. This Code applies to all telecommunications facilities in the city, except:

a. To facilities or devices that is used for the private enjoyment of those on the premises where it is located. Examples include amateur radio antennas and antennas receiving television signals for viewing on site.

(1) Such facilities or devices are considered accessory uses and are regulated as such in each zoning district; or

b. As prohibited or otherwise required by Federal Communications Commission regulations or orders.

§ 305.10. Operational Standards.

1. Purpose. This section is intended to establish specific and quantifiable limitations on identified types of pollution and other activities that have a high nuisance potential.

2. Applicability. All lots, regardless of the applicable zoning district, must comply with the performance standards established in this section unless otherwise noted.

3. Noise and vibration.

a. Noises emanating from any use must comply with and be regulated by the standards of the Minnesota Pollution Control Agency.

b. Any use established or remodeled after the effective date of this Code must be so operated as to prevent vibration discernable at any point beyond the lot line of the site on which such use is located.

(1) The city may also limit the hours of operation of outdoor noise if the city determines it is necessary to reduce impacts on the surrounding neighborhood.

c. Ground vibration and noise caused by motor vehicles, trains, aircraft operations or temporary construction or demolition are exempt from these regulations. However, if deemed appropriate, the city may establish limits on the hours of operation of temporary construction or demolition operation to limit off-site impacts

4. **Smoke and particulate matter.** No use may produce or emit smoke, dust, or particulate matter exceeding applicable regulations established by the Minnesota Pollution Control Agency.

5. **Odor.** No use may produce unreasonable or disturbing odors beyond the lot line exceeding applicable regulations established by the Minnesota Pollution Control Agency.

6. **Toxic or noxious matter.** No use or operation may emit a concentration of toxic or noxious matter across the lot line that exceeds applicable regulations of the Minnesota Pollution Control Agency.

7. **Radiation.** No use or operation may emit radiation at a level that exceeds the standards established by applicable regulations of the Minnesota Department of Health.

8. **Heat and humidity.** No use or operation may produce any unreasonable, disturbing, or unnecessary emissions of heat or humidity beyond the lot line that cause material distress, discomfort, or injury to persons of ordinary sensitivity.

9. **Electromagnetic interference.** No use or operation may produce electromagnetic interference with normal radio or television reception in any residential district, or exceed applicable standards established by any applicable federal or state regulations.

10. **Fire and Explosive Hazards.** All uses and operations are subject to Chapter 9 of the city code of ordinances.

11. **Liquid or solid waste.** All uses and operations are subject to the following.

    a. The applicable regulations governing discharge into a public storm or sanitary sewer, waterway, or stream as established by the city and the Metropolitan Waste Control Commission; and

    b. The waste controls found in the city code of ordinances and Water Resources Management Plan.

12. Violations. Any person who violates, fails to comply with or assists, directs or permits the violation of the terms or conditions of an approved site plan, landscaping plan, lighting plan, grading plan, or similar plan is guilty of a misdemeanor.

a. A violation is a violation of the approved site plan, landscaping plan, lighting plan, grading plan, or similar plan will render the approval or plan null and void.

b. A violation also constitutes a public nuisance that may be abated in accordance with the provisions of § 845 of the city code of ordinances.

§ 305.11. Anti-Blight Standards.

1. Purpose. This section is established to control specific uses that have a direct and detrimental effect on the character of the city's residential and commercial neighborhoods. The city specifically recognizes the sanctity and fundamental nature of free speech and does not intend to regulate or ban speech based on content.

2. Findings. The city makes the following findings regarding the effect sexually-oriented businesses have on the character of the city's neighborhoods. In making these findings, the city council accepts the recommendations of a task force including staff from Minnetonka and two other cities, that has studied the experiences of other urban areas where sexually-oriented businesses have located.

a. Sexually-oriented businesses have an impact on the neighborhoods surrounding them that is distinct from the impact caused by other uses.

b. Residential and commercial neighborhoods located within close proximity to sexually- oriented businesses experience the following negative impacts:

(1) Increased crime rates, particularly in sex-related crimes such as rapes, prostitution, indecent exposure and other lewd and lascivious behavior;

(2) Property values that are either diminished or fail to appreciate at the rate of other comparable properties not located in proximity to sexually-oriented businesses;

(3) Increased transiency and decreased stability of ownership;

(4) Deteriorated neighborhood appearance from litter and graffiti;

(5) Sex-related harassment of residents and customers by motorists and pedestrians;

(6) A perception that the area is "unsafe;" and

(7) Difficulty in attracting and retaining customers, employees, and desirable tenants.

c. The adverse impacts that sexually-oriented businesses have on surrounding areas diminish as the distance from the sexually-oriented business increases.

d. The adverse impacts of sexually-oriented businesses are exacerbated when the uses are located near each other.

e. The presence of liquor establishments in the immediate vicinity of sexually-oriented businesses also compounds the adverse impacts on the neighborhood.

f. Sexually-oriented businesses can exert a dehumanizing influence on persons attending places of worship, children attending day care centers or schools, and people using public parks and libraries.

g. Sexually-oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can impair the character and quality of the residential housing in the area where they are located, thereby exacerbating the shortage of affordable and habitable housing for city residents.

h. The concentration of sexually-oriented businesses in one area can have a substantially detrimental effect on that area and on the overall quality of urban life. A cycle of decay can result from the influx and concentration of sexually-oriented businesses. The presence of such businesses is perceived by others as an indication that the area is deteriorating and the result can be other businesses moving out of the vicinity and residents fleeing from the area. The resulting decline in real estate values erodes the city's tax base and contributes to overall urban blight.

i. Use standards are appropriate to minimize the detrimental effects that sexually-oriented businesses have on adjacent land uses.

3. Applicability. This section will regulate the establishment and operation of the sexually-oriented businesses and sexually-oriented uses.

4. Exceptions. This section does not regulate the following.

a. Any material with significant literary content or social commentary.

b. A business where sexually-oriented materials are sold, bartered, distributed, leased, furnished, or otherwise provided for off-site use or entertainment, if the following standards are met.

(1) The sexually- oriented material on each item is blocked from view by an opaque cover as required under Minn. Stat. § 617.293

(2) Each item is in an area accessible only by an employee of the business.

c. Any person or organization exempted under Minn. Stat. § 617.295.

d. Displaying works of art showing specified anatomical areas, so long as no sexually-oriented materials are for sale, and the business does not have a liquor license.

e. The showing of movies rated "g", "pg", "pg13", "nc-17", or "r".

5. Location of a sexually-oriented business.

a. A sexually-oriented business may be located as established in Table XX provided that the lot on that the sexually-oriented business is proposed to be established is not guided for residential use in the comprehensive plan.

b. No person may operate a sexually-oriented business on a lot within 250 feet of any of the following uses or lots. Such a distance will be measured in a straight line from lot line to lot line without regard to intervening structures or objects.

(1) Residential uses.

(2) Lots in the LDR, MDR, or HDR District.

(3) Day care center, school, religious assembly, publicly-owned building, park, playground, state or federal wildlife area or preserve, or public recreational facility.

(4) Any premise licensed under Chapter 600 of the city code of ordinances, relating to liquor, beer and wine licensing.

(5) Any other sexually-oriented business.

6. Windows. The glass area of a window between two and 10 feet above the finished grade must not be covered or made opaque in any way.

7. Sign restrictions for sexually-oriented businesses.

a. In order to protect children from exposure to lurid signs and materials, to avoid the appearance that the windows are boarded-up and that the

property is deteriorating, and to preserve the value of property surrounding sexually-oriented businesses, the following sign regulations apply to all sexually-oriented businesses, in addition to the provisions of Part 6 Signs. To the extent that the following provisions are inconsistent with Part 6 Signs, the following provisions control.

(1) All signs must be wall-mounted signs. No signs may be freestanding, located on the roof, or contain any flashing lights, moving elements, or electronically or mechanically changing messages.

(2) No merchandise, photos, or pictures of the products or entertainment on the premises may be displayed in, or immediately behind, window areas or any other area, if they can be viewed from outside the portion of the building in which the business is located.

(3) No signs may be placed in a window except that a sign no larger than one-square-foot must be placed on the main entrance door and must state, "adults only."

(a) The letters of this message must be a minimum of 2 inches high.

(b) The only additional information on this sign may be the hours of operation.

8. Penalty. A violation of this section is a misdemeanor under Minnesota law and is subject to the penalties and provisions of Chapter 13 of the city code of ordinances.

PART 06. ENVIRONMENTAL RESOURCE PROTECTION.

§ 306.00. Floodplain Protection.

1. Findings. The city finds that floodplain areas are a hydrologic resource that:

a. Provide natural flood protection, minimizing potential loss of life, property damage, health and safety hazards, disruption of commerce and governmental services, extraordinary expenditures for flood protection and relief, and impairment of the tax base;

b. Slow runoff and filter out nutrients and pollutants;

c. Promote infiltration and groundwater and aquifer recharge; and

d. Support biodiversity.

2. Purpose. Consistent with the findings above, the Floodplain Overlay Zone is established to regulate development in the flood hazard areas within the city.

3. Authority. The regulations and standards of this district are an overlay zone, applying additional regulations and standards as detailed below.

a. These regulations supplement the regulations of other use districts of this ordinance and are intended to maintain and ensure there is no net loss of floodplain volume.

b. This section does not repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this ordinance imposes greater restrictions, the provisions of this section prevail.

c. This section does not imply that areas outside of the Floodplain Overlay Districts, or lands uses permitted within such districts will be free from flooding or flood damage. This section does not create liability for the city or its officers or employees for any flood damage resulting from reliance on this ordinance or any administrative decision

d. This section is adopted pursuant to Minn. Stat. chapters 103F and 462, as amended.

e. This section is adopted to comply with the rules and regulations of the National Flood Insurance Program, as codified in title 44, parts 59-80, of the Code of Federal Regulations, as amended, to maintain the community's eligibility in that program.

4. Boundaries of the Floodplain Overlay District.

a. The Floodplain Overlay District includes all land shown on the city's Flood Risk Map, a copy of which is on file with the city engineer. The boundaries of the Floodplain Overlay District are comprised of the FEMA-designated floodplain and additional floodplain areas located outside the FEMA-designated floodplain, including:

(1) Those areas within Zone AE or Zone A as shown in the Flood Insurance Rate panel maps. The following Flood Insurance Rate panel maps apply to the city.

(a) 27053C0309F; eff. 11/4/2016

(b) 27053C0317F; eff. 11/4/2016

(c) 27053C0326F; eff. 11/4/2016

(d) 17053C0327F; eff. 11/4/2016

(e) 27053C0328F; eff. 11/4/2016

(f) 27053C0329F; eff. 11/4/2016

(g) 27053C0331F; eff. 11.4.2016

(h) 27053C0332F; eff. 11/4/2016

(i) 27053C0333F; eff. 11/4/2016

(j) 27053C0334F; eff. 11/4/2016

(k) 27053C0336F; eff. 11/4/2016

(l) 27053C0337F; eff. 11/4/2016

(m) 27053C0339F; eff. 11/4/2016

(n) 27053C0341F; eff. 11/4/2016

(o) 27053C0342F; eff. 11/4/2016

(p) 27053C0343F; eff. 11/4/2016

(q) 27053C0344F; eff. 11/4/2016

(2) Those areas designated within the 100-year flood elevation in the city's water resources management plan or a study conducted by a government agency or other organization and accepted by the city.

(3) The 931.5-foot elevation for the area surrounding Lake Minnetonka westward from the Gray's Bay dam based on the hydrological study conducted by the Minnehaha Creek Watershed District until such time as this study is amended.

(4) The flood profiles and floodplain delineations in the Riley Purgatory - Bluff Creek Watershed District's watershed management plan, adopted in 1996 as amended.

(5) The flood profiles and floodplain delineations in the Nine Mile Creek Watershed District's watershed management plan, adopted in 1996 as amended.

(6) The flood profiles and floodplain delineations in the Bassett Creek Watershed Management Commission's watershed management plan, adopted in 2015, as amended.

5. Interpretation of Floodplain Overlay District boundaries.

a. Where interpretation is needed regarding the exact location of the boundary of the district as shown on the Flood Risk Map, or where there appears to be a conflict between the location of the boundary shown on the Flood Risk Map and actual field conditions, all decisions will be based

on the 100-year flood elevations shown on the flood insurance study and maps, if available.

(1) When evidence of fill exists the ground elevations that existed on the site as of September 2, 1974, must be submitted and will be used in this determination.

(2) If a 100-year flood elevation is not available on the flood insurance study maps, the city engineer may establish the boundary at the 100-year flood elevation as defined in the city's water resources management plan.

(3) The city engineer may also require the submission of a registered survey of the property and such other information as is necessary or convenient to reach a determination. This may include items listed in subsection (8) in this section.

b. Persons contesting the location of a Floodplain Overlay District boundaries will be given a reasonable opportunity to present their case to the planning commission and to submit technical evidence.

6. Exception for compensatory flood storage provisions. Activities undertaken by a government unit to eliminate or minimize the flooding of existing roadways that are located in the Floodplain Overlay are exempt from the provisions of this section as long as the work to eliminate or minimize flooding does not occur in the floodway, cause an increase in the flood stage by more than one foot, or cause flooding impacts on neighboring properties.

7. Applications.

a. In the Floodplain Overlay District, permit applications must be submitted, reviewed and approved for any of the following:

(1) Erection, addition, modification, rehabilitation including normal maintenance and repair, or alteration of any part of a building or structure;

(2) Commencement of the use or change of use of a building, structure, or land;

(3) Construction of a dam, fence, or on-site septic system;

(4) Change or extension of a nonconforming use;

(5) Repair of a structure that has been damaged by flood, fire, tornado, or any other source; or

(6) Placement of fill, excavation of materials, or the storage of materials or equipment.

b. The city will not issue any permits until the applicant has obtained all necessary state and federal permits. The activity allowed by the permit must comply with the provisions of this section and the following standards.

(1) Uses must have a low damage potential, must not obstruct flood flows or increase flood elevations in the floodway, and must not result in net fill within the subject floodplain.

(2) Fill, dredge, spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap, or other acceptable methods.

(3) Administrative approval is not allowed if regulated trees, wetlands, existing wetland buffers, or public easements exist in the location of the proposed excavation or fill activity.

(4) The moving of 1,000 cubic yards of material per acre or more requires a separate conditional use permit.

8. Information to be submitted. An applicant for a permit required by subsections (6) and (7) of this section may be required to furnish the following information as deemed necessary by the city.

a. A concept plan indicating ultimate use of the property.

b. A survey of existing conditions prepared by a registered land surveyor having, at a minimum, spot elevations or contours of the ground, any existing structures, the 100-year flood elevation and the boundary of the applicable FEMA flood zones such as the floodway, Zone A, and Zone AE.

c. A grading plan consistent with § 300.xx. prepared by a licensed engineer or land surveyor showing existing and proposed spot elevations or contours of the ground, erosion control measures, existing and proposed structures on the site, fill or storage elevations, location and elevations of adjacent streets, photographs showing existing land uses upstream and downstream, and soil type.

d. Supporting drainage calculations for fill, existing storage volumes, compensatory volumes, and flood elevations.

e. A landscaping or re-vegetation plan.

f. A legal document approved by the city attorney, filed against the subject property, and recorded with the county, acknowledging that construction in the floodplain or a deviation from the standards under subsection (9) of this section will result in an increased risk of flooding to the subject property or structures on the property.

g. A review of the proposal by the Minnesota DNR, if applicable, and the appropriate watershed district.

h. A hydrologic analysis and, if necessary, a hydraulic analysis, to determine the 100-year flood elevation, the floodway and or the floodplain boundary.

(1) The analysis must include existing channel cross sections, existing and proposed stream profiles, must estimate the peak 100-year flood discharge and designate the floodway without a flood stage increase of more than one tenth of a foot if applicable.

(a) The city engineer will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary. The assessment must include the cumulative effects of pervious floodway encroachments. The city planner may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the city planner may approve or deny the application.

(b) If FEMA-designated Floodway and Flood Fringe District boundaries have been determined, the city planner must process the permit application consistent with the applicable provisions of subsections (5) and (6) of this section.

i. Other information that may be required by the city.

9. Permitted uses and use standards.

a. Use permissions.

(1) Land in a Floodplain Overlay District may only be used according to Table XX.

(a) Table XX will be interpreted according to the standards established for Table XX in § 304.00. of this Code.

(b) All uses permitted in the Floodplain Overlay District must comply with the standards established in Table XX as well as the use standards established in subsection (6)(b) of this section.

(2) On land in the FEMA-designated floodplain and additional floodplain, excluding the Floodway, the city planner may permit any use by right or conditional use permit if the city planner issues a substantial similarity of use determination in accordance with § 309.XX. of this Code and finds that the proposed use will have no greater impact on the floodplain.

Land Use	Land in the Floodplain Overlay District, including the floodway [1]	Land in the Floodplain Overlay District, excluding the Floodway [2 3]	Use Standards
Agricultural uses.	P	P	§ 306.00.6.b.1.
Residential lawns, gardens, landscaped ponds, play areas, and swimming areas.	P	P	
Wildlife and nature preserves.	P	P	
Public and private parks, playfields, and picnic grounds.	P	P	
Non-structural pervious hiking, skiing, and horseback riding trails.	P	P	
Fences and retaining walls.		P	
Detached decks and patios.		P	§ 306.00.6.b.2.
Tennis courts and sport courts.		P	
Recreational trails and boardwalks.		P	
Environmental monitoring or control facilities.		P	§ 306.00.6.b.3.
Residential boat docks and boat ramps.		P	
Public ponding and drainage facilities.		P	§ 306.00.6.b.4.
Public utilities.		P	§ 306.00.6.b.5.
Overhead utility poles, light poles, and other public service equipment.		P	§ 306.00.6.b.6.
Underground utility lines and distribution equipment.		P	
Outdoor plant nurseries.		C	

Land Use	Land in the Floodplain Overlay District, including the floodway [1]	Land in the Floodplain Overlay District, excluding the Floodway [2 3]	Use Standards
Boat docks, boat ramps, marinas, and boat slip rental		C	§ 306.00.6.b.7.
Recreational uses.		C	§ 306.00.6.b.8.
Railroads, streets, bridges, utility transmission lines, and pipelines.		C	
Commercial extraction and storage.		C	
Construction of an addition to a nonconforming single-unit dwelling.		C	§ 306.00.6.b.9.
Private ponding and drainage facilities.		C	§ 306.00.6.b.10.
A structure placed on fill or flood proofed meeting the flood protection standards of this code.		C	

1 No use may result in net fill of the floodplain, involve the placement of a structure in the floodway, involve the excavation or fill of an area greater than 1,000 square feet, or involve a volume of excavation, fill, or other obstruction greater than 20 cubic yards.
2 No use may result in net fill of the floodplain, involve the excavation or fill of an area greater than 1,000 square feet, or involve a volume of excavation, fill, or other obstruction greater than 20 cubic yards.
3 Any use involving the excavation or fill of an area greater than 1,000 square feet or a volume greater than 20 cubic yards will require conditional use permit approval.
4 Any use moving 1,000 cubic yards of material per acre or more will require conditional use permit approval.

b. *Use standards*.

(1) Residential lawns, gardens, landscaped ponds, play areas, and swimming areas.

(a) Must be accessory to a single-unit, two-unit, triplex, fourplex, or townhouse dwelling located on the same site.

(2) Detached decks and patios.

(a) Must be set back at least 10 feet from the principal use.

(3) Environmental monitoring or control facilities.

(a) This term includes uses related to water quality and wildlife regulation.

(4) Public ponding and drainage facilities.

(a) This use includes associated appurtenances and approved flood control structures.

(5) Public utilities.

(a) Must be flood-proofed in accordance with the Minnesota State Building Code or elevated to a minimum of two feet above the 100-year flood elevation.

(6) Overhead utility poles, light poles, and other public service equipment.

(a) This term includes traffic signals, traffic signs, and mailboxes.

(b) Overhead utility poles must be less than two feet in diameter.

(7) Boat docks, boat ramps, marinas, and boat slip rental.

(a) May be public or private and nonresidential or commercial.

(8) Recreational uses.

(a) This term includes private and public golf courses, game farms, shooting ranges, public and private swimming pools and spas, and swimming areas such as beaches that are not a permitted use.

(9) Construction of an addition to a nonconforming single-unit dwelling.

(a) No addition may be constructed on a building built before September 9, 1974.

(b) The construction must use stilts, pilings, parallel walls, above-grade enclosed areas such as crawl spaces or tuck-under garages, or other approved methods that do not obstruct the flow of floodwater.

(10) Private ponding and drainage facilities,

(a) This term includes associated appurtenances, and approved flood control structures.

10. Structure standards. The following standards apply to all land within and adjacent to the Floodplain Overlay District.

a. The subject features described in Table XX must comply with the standards established in Table XX.

(1) Table XX does not authorize the projection of an architectural feature into a minimum setback area established in Part 2 Zoning Districts of this Code.

Subject Feature	Minimum upland setback from the Floodplain Overlay District.	Minimum lowest floor elevation above the 100-Year Flood Elevation. [1]
Parking lots, driveways, and access drives.	10 ft. [2]	1 ft.
New principal structures, attached garages, and additions to existing structures.	20 ft.	2 ft.
Attached decks and patios, outside stairways, cantilevered building areas, porticos, and similar architectural features.	10 ft.	1.5 ft.
Attached swimming pools and their associated apron.	10 ft.	n/a
Detached swimming pools and their associated apron. [3]	n/a	n/a
Accessory structures not detailed elsewhere in this table. [4]	10 ft.	1.5 ft.
Water-oriented accessory structures.[6]	n/a	n/a

[1] In the administration of this provision, the first floor will mean the portion of the principal structure that is above grade. Any addition above the first floor will be exempt from this setback requirement. This setback requirement does not apply to any structure or additions for which a conditional use permit is required.

[2] Unless such parking lot, driveway, or access drive is accessory to a single-unit dwelling.

[3] Detached swimming pools must be anchored and have all utilities designed or located to prevent water damage.

[4] Such accessory structures must not be designed for human habitation and must not contain sanitary facilities.

[6] Provided such structure is less than 120 square feet in gross floor area, not located within the Floodway, not designed for human habitation, does not contain sanitary facilities, is constructed out of flood resistant materials, and is anchored.

b. In the Floodplain Overlay District, above-grade fully enclosed non-basement areas such as crawl spaces or other uninhabitable spaces within a structure, that are used to elevate a structure's lowest floor to two feet above the designated 100-year elevation, must meet the following standards.

(1) The above-grade, fully-enclosed non-basement area must be constructed to flood internally.

(2) A minimum of two automatic openings must be included, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.

(3) Openings must be on at least two sides of the structure.

(4) When openings are placed in a structure's wall to provide for entry of floodwater to equalize pressures, the bottom of all openings must be no higher than one foot above grade.

(5) Openings may be equipped with screens, louvers, valves, or other covering or devices provided that they permit the automatic entry and exit of floodwaters without any form of human intervention.

(6) The enclosed area must be constructed of flood-resistant materials in accordance with the Minnesota State Building Code and be used solely for building access or storage. The enclosed space cannot be finished.

c. Before issuance of the certificate of occupancy, the applicant is required to submit as-built drawings and certification by a licensed professional engineer or registered land surveyor that the finished fill and lowest floor elevation of all structures were accomplished in compliance with the provisions of this Code.

d. In areas with land-locked basins that have no outlet, the minimum lowest floor elevation of new principal structures or additions to existing structures must be a minimum of two-feet above the flood elevation of two back-to-back 100-year storm events as calculated by a licensed professional engineer, or a minimum of two feet above the natural overflow elevation of the basin, as directed and approved by the city engineer.

e. The 100-year flood elevation will be based on the following criteria.

(1) In floodplain areas where the 100-year flood elevation is not readily available, the minimum lowest floor elevation of new principal structures or additions to existing structures must be a minimum of three-feet above the Minnesota DNR's OHWL or two feet above the highest known water level, whichever is more restrictive and is acceptable to the city engineer;

f. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse, lateral movement, and they must meet the same standards as any other single-unit dwelling.

(1) Methods of anchoring may include use of over-the-top or frame ties to ground anchors.

(2) This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

g. Railroad tracks, roads, and bridges to be located within the floodplain must comply with § 300.XX.xxx.

(1) Elevation to a minimum of one foot above the 100-year flood elevation must be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area.

(2) Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

h. Where public utilities are not provided, the following standards must be met.

(1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems.

(2) The city will review all permit applications to ensure that all proposed building sites in the floodplain will:

(a) Be anchored to prevent flotation, collapse, or lateral movement;

(b) Use flood-resistant materials;

(c) Use construction methods and practices that minimize flood damage; and

(d) Ensure that electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities are designed or located to prevent water entry and accumulation.

11. Subdivision and development standards.

a. Development proposals must be designed in compliance with the city's water resources management plan and must incorporate the

requirements of the appropriate watershed district, the Minnesota DNR, and other governmental agencies.

b. No development may adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodplain or other encroachment limit has not been specified on the Official Zoning Map.

c. No land may be subdivided that is unsuitable because of flooding or inadequate drainage, water supply, or sewage treatment facilities.

(1) Lots within the floodplain district must be able to contain a building site outside of the floodplain overlay district and above the 100-year flood elevation and comply with the requirements of this Code.

(2) Subdivisions must have water and sewage treatment facilities that comply with city standards and have road access to the subject property that complies with the requirements of this Code.

(3) For subdivisions in the Floodplain Overlay District, all access roads must be clearly labeled on all subdivision drawings and platting documents.

(4) An applicant for a subdivision must provide the information required in subsection (8) to determine the designated 100-year flood elevation and the Floodplain Overlay District boundaries for the subdivision site.

d. Public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be flood-proofed in accordance with the Minnesota State Building Code or elevated to one foot above the 100-year flood elevation;

(1) Where public utilities are not provided, the following standards must be met. On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems.

(2) The city will review all permit applications to ensure that all proposed building sites in the floodplain will:

(a) Be anchored to prevent flotation, collapse, or lateral movement;

(b) Use flood-resistant materials;

(c) Use construction methods and practices that minimize flood damage; and

(d) Ensure that electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities are designed or located to prevent water entry and accumulation.

12. Alteration of the floodplain.

a. Activities that constitute an alteration of an area within the Floodplain Overlay District include the physical alteration of the size, depth, and contour of the floodplain. No alteration of a Floodplain Overlay District is allowed without a floodplain alteration permit, except that only a grading permit reviewed by the city engineer and approved by the city planner is required for permitted uses that do not involve excavation or fill of a volume greater than 50 cubic yards of land located outside of the floodway.

(1) A floodplain alteration permit is subject to the recommendation of the planning commission and approval of the city council.

(2) In reviewing a floodplain alteration permit application, the city will consider whether the following general standards are met.

(a) The magnitude of the alteration is appropriate relative to the size of the floodplain district.

(b) The amount of any increase in buildable area is appropriate in comparison to the amount of buildable area before alteration.

(c) The alteration will not negatively impact the hydrology of the floodplain.

(d) Floodplain mitigation areas will not negatively impact adjacent properties.

(e) The alteration will meet the intent of the city's water resources management plan, the Minnetonka Subdivision Code, and this Code.

(f) The alteration will not adversely impact governmental facilities, utilities, services, or existing or proposed public improvements.

(g) The alteration will not have an undue adverse impact on the public health, safety, or welfare.

(3) Notwithstanding the general standards, no floodplain alteration permit will be granted unless the following specific standards are met.

(a) Water storage must be maintained and provided in an amount at least equal to that filled unless acceptable hydrologic engineering data has been presented and approved by the city engineer indicating that conditions have changed such that the floodplain characteristics will be maintained even with proposed floodplain fill.

(b) Floodplain fill area must be located no more than 20 feet from any existing or proposed structure, except where required by the city engineer to achieve a required evacuation route.

(c) Where floodplain alteration is required for construction of a driveway, the driveway must be no wider than 12 feet and must be located to minimize impact to the floodplain.

(d) Floodplain alteration, including the creation of compensatory water storage, must not result in removal of regulated trees, adversely impact wetlands or existing wetland buffers, or be located within public easements. The city council may waive this condition if the proposed alteration would improve existing site conditions.

(4) If the alteration will change the boundary of the Floodplain Overlay District, a zoning map amendment is required under this Code.

13. Removal of lands from the Floodplain Overlay District.

a. This subsection (11) applies to new principal structures or additions to existing principal structures constructed in accordance with section 300.24, subsections (5) through (8) of this section. This subsection (11) does not apply to accessory structures or other uses.

(1) The following standards apply to FEMA-designated floodplain areas.

(a) Changes in the official Floodplain Overlay District map must meet FEMA technical conditions and criteria and must receive prior FEMA approval before adoption by the city. The applicant must obtain a conditional letter of map revision from FEMA before the city council considers the request, and

a subsequent letter of map revision from FEMA within 90 days after issuance of the certificate of occupancy. The FEMA standards should be considered before initiation of site preparation if a change of special flood hazard area designation will be requested.

(b) All amendments to this Code, including amendments to the official Floodplain Overlay District map must be submitted to and approved by the commissioner of the Minnesota DNR prior to adoption by the city. The commissioner must be given 10-days written notice of the hearing to consider an amendment to this ordinance, and the notice must include a draft of the ordinance amendment or technical study under consideration.

(2) The following standards apply to all floodplain areas.

(a) Land may be removed from the Floodplain Overlay District only by a zoning map amendment pursuant to the provisions of § 300.XX.xx. this Code. The floodplain designation on the official Floodplain Overlay District map will not be removed from a floodplain area unless it can be shown that the designation is in error or that the area has been filled to one foot above the elevation of the 100-year flood and stage increase, and is contiguous to land outside of the floodplain per state standards.

(b) When land is removed from the Floodplain Overlay District, water storage must be provided in an amount compensatory to that removed or acceptable hydrologic engineering data must be presented that indicates how conditions have changed so that the floodplain characteristics can be maintained without compensation. Removal of land from the flood plain or creation of compensatory water storage cannot be located where there are any regulated trees, wetlands, existing wetland buffers, or public easements, unless approved by the city council. In addition to other application requirements, the city may require submission and approval of information listed under subsection (8)(b) of this section.

14. Public control of floodplains.

a. Applicants for development on properties containing a Floodplain Overlay District may be required to dedicate all or a part of the floodplain or to convey an easement over all or a part of the floodplain to the city if consistent with the intent and procedures of this Code.

15. Administration.

a. A person who has obtained a permit pursuant to this section must submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this section. Flood-proofing measures must be certified by a registered professional engineer or registered architect.

b. The city planner must maintain a record of the elevation of the lowest floor, including the basement, of all new structures and alterations or additions to existing structures in the floodplain. The city planner must also maintain a record of the elevation to which structures or alterations and additions to structures are flood-proofed.

c. The city planner must notify, in riverine situations, adjacent communities and the commissioner of the Minnesota DNR before the city authorizes an alteration or relocation of a watercourse.

(1) If the applicant has applied for a permit to work in the beds of public waters pursuant to Minn. Stat. Ch. 103G, this will suffice as adequate notice to the commissioner of natural resources.

(2) The city planner must also send a copy of the notification to the Chicago regional office of FEMA.

d. As soon as is practicable, but no later than six months after the date the supporting information becomes available, the city planner must notify the Chicago regional office of FEMA of the physical changes that increase or decrease the 100-year flood elevation by submitting a copy of the technical or scientific data.

e. When granting variances to the provisions of this section, the following additional variance criteria of FEMA must be satisfied:

(1) Variances may not be issued within a designated regulatory floodplain if an increase in flood levels during the 100-year flood discharge would result.

(2) Variances may only be issued upon determination of the following.

(a) Showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the Regulatory Floodplain Elevation for the particular area, or permit standards lower than those required by law.

(5) The city planner must notify the applicant for a variance that (1) the issuance of a variance to construct a structure below the 100-year flood elevation will result in significantly increased premium rates for flood insurance, (2) construction below the 100-year flood elevation increases risks to life and property. This notification must be maintained with a record of the variance action.

(a) The city planner must maintain a record of all variance actions, including justification for their issuance, and report the variances issued in its annual or biennial report submitted to the administrator of the national flood insurance program.

f. Before the hearing on a conditional use permit or variance for a use or activity in the floodplain, the city planner must mail a copy of the application to the commissioner of natural resources sufficiently in advance so that the commissioner will receive at least ten days' notice of the hearing. The city planner must mail a copy of all decisions granting a conditional use permit or a variance to the commissioner within ten days after the action.

16. Nonconforming uses. All nonconforming lots, structures, uses, and signs located in the Floodplain Overlay District must comply with the standards established in § 300.XX. of this Code.

§ 306.01. Shoreland Protection.

1. **Findings.** The city finds that shoreland areas are important natural resources. Healthy shorelands:
   a. Help to minimize erosion from surface runoff and filters potentially harmful nutrients from the runoff.
   b. Provide habitat for fish, other wildlife, and aquatic plants.
   c. Preserve aesthetic value and offer opportunities for many types of recreation.
2. **Purpose.** Consistent with the findings of this section, the Shoreland Overlay District is established to recognize, preserve, protect, and enhance city's lakes and tributary creeks by regulating the use of both the public waters, protected waters that have a Minnesota DNR shoreland management classification, and adjacent land.
3. **Authority.** The regulations and standards of this district are applied as an overlay zone further regulating the use of land as allowed by the applicable zoning district established in this Code
4. **Classifications of protected shoreland areas.**
   a. The Minnesota DNR has assigned a shoreland management classification status to public water. Public water classifications as defined by the Minnesota DNR and the city include the following:
      (1) *Recreational development lakes*. Recreational development lakes (RD) are characterized by moderate levels of recreational use and existing development. Many of these lakes have capacities for accommodating additional development and recreational use.
      (2) *General development lakes*. General development lakes (GD) have high levels and mixes of existing development. These lakes are extensively used for recreation and heavily developed around the shore.
      (3) *Tributary creeks*. Tributary creeks (TR) consist of all watercourses mapped in the Minnesota DNR public waters inventory including the Minnehaha Creek, the Nine Mile Creek, the south fork of the Nine Mile Creek, the Purgatory Creek including both branches, and the public watercourse that flows out of Glen Lake. These creeks include those defined as tributary rivers by the Minnesota DNR.

(4) The classifications of public waters established in Table XX have been assigned by the Minnesota DNR and the city.

Lake Name		Classification
Gleason Lake	27-95P	Recreational development lake.
Glen Lake	27-93P	
Lake Rose	27-92P	
Lone Lake	27-94P	
Mud (Minnetoga) Lake	27-88P	
Shady Oak Lake	27-89P	
Shavers Lake	27-86P	
Windsor Lake	27-82P	
Wing Lake	27-91P	
Crane Lake	27-734P	General development lake.
Lake Holiday	27-90P	
Lake Minnetonka	27-133P	
Libbs Lake	27-85P	
Minnehaha Creek	27-036a	Tributary creek.
Nine Mile Creek	27-050a	
Nine Mile Creek, Southern Fork	27-051a	
Purgatory Creek	27-054a	
Purgatory Creek, Eastern Fork	27-055a	
Purgatory Creek, Western Fork	27-056a	
Unnamed tributary flowing south from Glen Lake	27-052a	

5. Applicability. The Shoreland Overlay District consists of the following.

a. Land containing or abutting public waters and assigned a shoreland management classification by the Minnesota DNR or the city.

b. Land located within any of the following distances from public water.

(1) Land within 1,000 feet from the ordinary high water level (OHWL) of a lake.

(2) Land within 300 feet from OHWL, as measured from the top of bank, of a tributary creek, or the upland edge of the floodplain designated by ordinance, whichever is greater.

c. Properties or portions of properties may be exempt from the requirements of the Shoreland Overlay District if the drainage and runoff patterns from the properties are directed outside of the drainage basin of the public water as a result of a natural topographic divide, as determined by the city engineer.

6. Uses and use standards.

a. *Use permissions.* At or below the OHWL and within a Shoreland Overlay District, land may only be used according to Table XX.

(1) Table XX will be interpreted according to the standards established for Table XX in § 304.00. of this Code.

(2) All uses permitted in the Floodplain Overlay District must comply with the standards established in Table XX as well as the use standards established in subsection (6)(b) of this section.

Use	Use Permission	Use Standard
Residential yard.	P	
Wildlife and nature preserves.	P	
Public and private parks.	P	
Pervious hiking and skiing trails	P	
Public utilities	P	
Public and private flood control structures, ponding facilities, and drainage facilities.	P	§ 306.01.6.c.
Environmental monitoring or control facilities.	P	§ 306.01.6.d.
Docks, boat lifts, and mooring structures.	P	§ 306.01.6.e.
Foot bridge.	P	§ 306.01.6.f.
Beaches	P	
Public fishing piers.	P	
Soil stabilization techniques permitted by the Minnesota DNR.	P	
Retaining walls.	P	§ 306.01.6.g.
Private and public recreational uses.	C	§ 306.01.6.h.
Non-motorized public water craft landings, marinas, and boat ramps.	C	

b. *Use standards.*

(1) Public and private flood control structures, ponding facilities, and drainage facilities.

(a) Associated accessory appurtenances may be permitted if the city engineer determines that there is no other viable alternative location.

(2) Environmental monitoring or control facilities.

(a) This term includes those related to water quality and wildlife regulation.

(3) Docks, boat lifts, and mooring structures.

(a) No dock may be wider than eight feet unless a permit is obtained from the Minnesota DNR.

(4) Foot bridges.

(a) Must not obstruct passage or block navigation and is permitted by the Minnesota DNR.

(5) Retaining walls.

(a) Only permitted if needed to control existing conditions of erosion as field verified by city staff provided there is absolutely no other alternative to protect the integrity of the slope.

(b) No new retaining wall is allowed below the OHWL.

(6) Private and public recreational uses.

(a) This term includes uses such as picnic grounds, boardwalks, and impervious trails.

7. Uses on lands outside a Shore and Bluff Impact Zone. Outside of a Shore and Bluff Impact Zone, no use of land may be established except in conformance with the standards established for the applicable zoning district in Part 4 Uses and Use Standards of this Code.

8. Shoreland Overlay District standards. The following standards apply to all land within the Shoreland Overlay District based on proximity to the specified classifications.

Standard		Recreational development lake.	General development lake.	Tributary creek.
Minimum lot area.	Riparian lots.	20,000 sq. ft.	18,000 sq. ft.	18,000 sq. ft.
	Non-riparian lots in the LDR.	18,000 sq. ft.	18,000 sq. ft.	18,000 sq. ft.
	Non-riparian lots in the MDR.	See applicable zoning district.		
	Non-riparian lots in the HDR.	See applicable zoning district.		
	Non-riparian lots in a nonresidential district.	See applicable zoning district.		
Minimum water frontage at lot line.		75 ft.	75 ft.	75 ft.
Minimum elevation of lowest floor above the OHWL.		2 ft.	2 ft.	2 ft.

Standard	Recreational development lake.	General development lake.	Tributary creek.
Minimum setback from OHWL for principal and accessory structures. [1] [2]	75 ft.	50 ft.	50 ft.
Maximum height of principal structure. [3]	35 ft.	35 ft.	35 ft.
Maximum height of accessory structure.	See applicable zoning district.		
Maximum impervious surface coverage for portion of lot within 150 feet of OHWL. [4]	As defined by the applicable zoning district, but not to exceed 30 percent.		
Maximum impervious surface coverage for portion of lot more than 150 feet from OHWL. [4]	As defined by the applicable zoning district.		
Minimum principal and accessory structure setback from top of bluff when the grade of the bluff is at least 30 percent. [5]	30 ft.	30 ft.	30 ft.

[1] Applicable accessory structures include decks, patios, tennis courts, sport courts, swimming pools, pool aprons, walls, retaining walls unless otherwise permitted due to existing conditions of erosion as field verified by city staff, and any fence that obstructs lake views such as picket or privacy fence.

[2] Fences that are 6 feet in height or less and do not obstruct views such as chain link or wrought iron can extend up to the OHWL but not into any adjacent wetland.

[3] If a variance is requested from this standard the city may consider, in addition to other relevant factors, the following criteria in order to minimize the shoreland impact: proximity to the public water; screening of structures and vehicles as viewed from the water in summer leaf-on conditions; amount of open space; amount and location of water quality treatment systems that are beneficial to the receiving public water; and methods that implement shoreland management strategies to protect the public water, which may include vegetative protection and enhancement, creation of wildlife habitat, or water quality enhancement strategies.

[4] The city may allow credit for pervious hard surfaces such as pavers or pervious concrete to the extent of the proven infiltration rate for the pervious pavement area. For example, if pervious pavers are installed in an area totaling 100 square feet, and the pavers are proven to infiltrate 14 percent of the area, up to 14 square feet may be subtracted from the impervious surface coverage.

[5] Structures built on post footings, stairways, and landings are exempt.

a. Water-oriented accessory structures. Accessory structures that are oriented towards the water must comply with the following standards.

(1) Such a structure must not exceed 120 square feet in size or 10 feet in height, exclusive of safety rails. Detached decks must not exceed eight feet above grade at any point.

(2) Such a structure must be setback from the OHWL 10 feet;

(3) Such a structure must meet the standards of §§ 300.XX.xxx. and 300.XX.xx.

(4) No more than one such structure may be established per lot.

(5) Water-oriented accessory structures must be treated to reduce visibility as viewed from the public water and adjacent shorelands by vegetation, topography, increased setbacks, or color, assuming summer-leaf on conditions.

(6) Water-oriented accessory structure must not be designed or used for human habitation and must not contain a water supply or sewage treatment facilities.

(7) No such structure may be used principally for water craft storage.

(8) A water-oriented accessory structure may use its roof as a deck with safety rails, but not with enclosed walls or as a storage area.

b. The person proposing any land altering activity on a riparian property, such as building a structure, road, or driveway, or grading activity that will impact a topographic area having an average slope of 12 percent or more measured over a horizontal distance of 50 feet or more, must comply with the following standards.

(1) The applicant must demonstrate that the land altering activity will not impact the public water regulated by this section, that soil erosion will not occur as a result of the project activity, and that existing vegetation will be preserved to the extent practical.

(2) The applicant must provide screening of structures such as buildings and vehicles as viewed from the water in summer leaf on conditions.

(3) In no instance is land altering activity on a riparian property allowed on a slope averaging 20 percent or greater if it will have an adverse impact on the public water regulated by this section, such as erosion, loss of vegetation, or loss of screening as viewed from the lake. If the applicant can demonstrate that the land altering activity will not have an adverse impact on the public water then the activity must comply with the § 300.XX.xx of this Code.

(a) Stairways, landings and permitted retaining walls are exempt from this requirement.

c. All impervious surface runoff must be treated in accordance with the requirements of the city and appropriate watershed district.

(1) Treatment may include site retention, skimmers, weirs, infiltration basins, storm water sedimentation ponds of appropriate scale, or other acceptable methods.

(2) Facilities serving this purpose must be properly maintained and serviced by the property owner.

d. Discharge into the public waters must occur at a rate no greater than the rate allowed by the city engineer in accordance with the city's water resources management plan and appropriate watershed district requirements.

e. All construction projects must provide erosion and sediment control as required by the city.

f. No building permit will be issued by the city for the construction or alteration of any principal structure on property adjoining a lake or tributary creek if that structure is not served by the city's sanitary sewer system.

g. No structure may be placed less than 50 feet from the boundary of an unplatted cemetery or significant historic site protected under Minn. Stats. § 307.08 unless necessary approval is obtained from the Minnesota State Historic Preservation Office.

h. Each lot wholly or partially within the Shoreland Overlay District and created through a subdivision must be suitable in its natural state for the proposed use with minimal alteration.

(1) Suitability analysis by the city must consider susceptibility to flooding, existing wetlands, soil, and rock formations with severe limitations for development, severe erosion potential, steep topography, near-shore aquatic conditions unstable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or the community.

i. Roadways, parking lots, driveways, access drives, and pedestrian paths must meet the following standards.

(1) Where feasible, all roadways, parking lots, driveways, drive aisles, and pedestrian paths, including any retaining wall that is structurally integral to the construction of such features must meet the setback requirements established for principal structures.

(a) If no feasible placement alternative exists, such features must be designed to minimize adverse impacts to the public water and must not be constructed in the Shore and Bluff Impact Zones except as allowed under subsection (5) of this section.

(2) Roadways, driveways, access drives, and pedestrian paths may cross a public water.

(a) Footings for bridges may be allowed in the Shore and Bluff Impact Zone if they are designed to minimize adverse impacts to the public water.

(3) No vehicle may be parked in a Shore and Bluff Impact Zone.

(4) Vegetation must be used to screen all parking lots when viewed from the water.

j. Stairways, lifts, and landings must meet the following standards.

(1) Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas.

(2) Stairways and lifts must not exceed six feet in width on residential lots. Wider stairways may be used for commercial properties and public open space recreational properties if approved as part of the site plan.

(3) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties and public open space recreational properties if approved as part of the site plan.

(4) Canopies or roofs are not allowed on stairways, lifts, or landings.

(5) Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.

(6) Facilities such as ramps or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards in items 2) through 5) are met.

k. Controlled access lots other than those existing prior to March 24, 2008, must meet the following standards.

(1) Lots intended as controlled accesses to public waters for use by owners of non-riparian lots are permissible if they meet or exceed all of the standards below.

(2) Such lots must meet the width and size requirements for single family residential lots and be suitable for the intended uses of controlled access lots.

(3) Such lots must be jointly owned by all purchasers of lots in one subdivision or by all purchasers of non-riparian lots in one subdivision who are provided riparian access rights on the access lot.

(4) No more than six watercraft docking spaces or moorings may be established on any controlled access lot unless the width of the lot (keeping the same lot depth) is increased by one third of the required riparian frontage for every additional dock or moored watercraft.

(5) Covenants or other legal instruments must be executed specifying which owners have authority to use the access lot and what activities are allowed. These activities cannot significantly conflict with general public use of the public water.

9. Exceptions to minimum setback and maximum impervious surface coverage. The following are exceptions to the minimum setback and maximum impervious surface requirements established in Table XX.

a. Minimum setback requirements from the OHWL do not apply to piers, permitted docks, boat lifts, and mooring structures. The location of these structures is controlled by applicable state and local regulations.

b. There is no setback from the OHWL or from the top of a bluff for overhead utility poles and lines that are less than two feet in diameter, underground utility lines and distribution equipment, fences, light poles, traffic signals, traffic regulatory signs, mailboxes, and other equipment that is associated with an essential public service.

c. There is no setback from the OHWL or from the top of a bluff for stairways and landings no wider than six feet on residential lots and for stairways and landings on commercial properties or public open space recreational properties if approved as part of a site plan.

d. In the LDR District, lots of record existing as of February 12, 1966 may maintain the following reduced setbacks from the OHWL under the following conditions provided such lots comply with all other setbacks.

(1) The setback for the principal structure and accessory structures including tennis courts, sport courts, swimming pools, pool aprons, walls, retaining walls unless permitted due to existing conditions of erosion, and any fence that obstructs lake views such as picket or privacy fence may be determined by a line drawn from the closest shoreward corners of the two immediately adjacent principal structures, provided there is a minimum setback of 35 feet for principal structures and accessory structures.

(2) The setback for an unenclosed or uncovered attached deck or patio may be determined by a line drawn from the closest shoreward corners of the two immediately adjacent principal structures or any attached deck or patio to that principal structure, provided there is a minimum setback of 25 feet.

e. If one of the adjacent lots is vacant, the closest shoreward corner of the principal structure on the nearest developed lot past the vacant lot will be substituted for the vacant lot.

f. To qualify for one of the above setback exceptions established in subsections (8)(a) through (8)(e), the applicant must provide documentation acceptable to the city to verify adjacent and average setbacks.

10. Additional standards for a Planned Unit Development. The applicant for a Planned Unit Development that is wholly or partially in the Shoreland Overlay District must meet the following requirements in addition to the requirements of § 300.XX.xxx.

a. If the property is already fully developed under its current zoning status but is being redeveloped, the project must:

(1) Preserve the natural features on the site and comply with the city's ordinances and standards designed to protect the natural environment, including regulation pertaining to steep slopes, trees, wetlands, and floodplains; and

(2) Provide open space that is at least twenty percent of the total project area.

b. If a property is undeveloped or could be further subdivided under its current zoning status, then 50 percent of the natural area must be preserved as designated by the city. This area must be protected by a conservation easement or restrictive covenants;

c. In either circumstance described by subsection (9)(a) or (9)(b) of this section, impervious surface coverage within the Planned Unit Development must not exceed 40 percent. All impervious cover must also comply with this section.

11. Alteration of Shoreland Overlay District. The removal of natural vegetation within a Shore and Bluff Impact Zone must be restricted to prevent erosion into public waters and to preserve soil nutrients, habitat, and shoreland aesthetics. Removal of natural vegetation, grading, and filling in the Shoreland Overlay District will be subject to the following provisions.

a. Intensive clearing, as defined in this Code, of natural vegetation within shore and bluff impact zones is prohibited.

b. In a Shore and Bluff Impact Zone, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal structure, to control noxious or invasive vegetation, or to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented facilities, provided that the following standards are met. Such provisions do not apply to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

(1) Structures, vehicles, or other facilities are screened as viewed from the water, assuming summer, leaf-on conditions.

(2) Existing shading of water surfaces is preserved along tributary creeks; and

(3) Natural vegetation must be restored during and after all construction projects to retard surface runoff and soil erosion.

c. Any grading, filling, or excavation in the Shoreland Overlay District that will change or diminish the course, current or cross-section of a public water must be approved by the Minnesota DNR.

12. Minnesota DNR notification. The city must notify and supply the Minnesota DNR with plans and information as follows.

a. Notices of public hearings for all variances and conditional use permits in the Shoreland Overlay District must be submitted at least 10 days prior to such hearings.

b. A copy of the final decision regarding variances or conditional use permits must be submitted within 10 days after a decision has been made.

c. All preliminary plats within the Shoreland Overlay District must be submitted at least 10 days before the meeting.

d. All approved final plats must be submitted within 10 days after a decision has been made.

e. When a variance, conditional use permit, or preliminary plat in the Shoreland Overlay District is approved after the Minnesota DNR has formally recommended denial in the hearing record, the notification to the Minnesota DNR of the approval must also include the findings of the planning commission or city council that supported the approval.

§ 306.02. Steep Slope Protection.

1. Purpose. This section is established to:

a. Control the alteration of steep slopes;

b. Preserve steep slopes in essentially their natural state;

c. Encourage alternative approaches to conventional flatland development practices in areas of steep slopes, including the planning of development that fits the existing topography of the site;

d. Minimize grading and cut-and-fill operations consistent with the retention of the natural character of steep slopes;

e. Minimize the short-term and long-term increase in stormwater water-runoff and soil erosion problems incurred in the grading and development of steep slopes;

f. Preserve the predominant views, both from and of the steep slopes; and

g. Preserve the variety of topography that exists in the city and is an integral part of the city's identity.

2. Applicability.

a. No development, grading, filing, or other activity may occur on a steep slope unless the standards of this section are met and approval from the city is received.

(1) City approval will be by the city council, planning commission, or city planner, depending on who is authorized to approve the associated development application.

b. This section does not apply to the expansion or reconstruction of an existing structure, where the footprint of the completed building does not exceed 150 percent of the structure footprint existing on June 23, 1997. Any person wishing to qualify for this exception must:

(1) Show that the structure existed on June 23, 1997; and

(2) Undertake the construction pursuant to plans that are approved by the city planner and that provide adequate surface water drainage, appropriate erosion control, and safe driveway access to adjacent streets.

3. Standards.

a. Development on slopes with an average grade of 30 percent or more is prohibited. Development on steep slopes that are less than 30 percent will be allowed only if the approving authority can make the findings specified below.

(1) *Finding 1*. The property is physically suitable for the design and siting of the proposed development. The proposed development will preserve significant natural features by minimizing disturbance to existing topographical forms. This may be done by using retaining walls or clustering the development. Developments must be concentrated on the least sensitive portion of the site to maximize the preservation of significant trees and natural features.

(2) *Finding 2*. The development minimizes impervious surface area and maximizes the use of the natural drainage systems, reducing the potential for soil erosion, flooding, severe scarring, reduced water quality, inadequate drainage control, or other drainage problems on the subject property and adjacent properties.

(3) *Finding 3*. The proposed development includes adequate measures to protect public safety, providing sufficient access for emergency vehicles and limiting the slopes of private driveways to not more than 10 percent, unless necessary to minimize excessive grading. Driveways over 10 percent grade must have sufficient flat areas at the top and toe of the driveway and the city may require a driveway turnaround.

b. The city may require that the applicant provide engineering certification, acceptable to the city, that no excavation or fill will cause any steep slope to become unstable; impose loads that may affect the safety of structures or steep slopes; interfere with adequate drainage for the site area and the area that drains directly to the site; obstruct, damage, or adversely affect existing sewerage or drainage; adversely affect the quality of stormwater runoff; adversely affect downstream properties, wetlands or bodies of water; or cause adverse erosion or sedimentation.

c. The city may require that the applicant provide certification from a registered engineer that the final grading was completed in compliance with the approved grading plan.

d. The city may require the applicant to prepare and record a declaration of covenants, conditions and restrictions, in a form acceptable to the city attorney, providing for property owner maintenance of manufactured slope areas, acceptance of all risks and liability associated with those areas, and release of the city from all associated claims.

§ 306.03. Tree Protection.

1. Findings. The city finds that trees and woodlands are an integral part of the city's identity. As such, the city finds that standards governing the preservation, protection, and planting of tree resources are necessary to accomplish the following goals.

a. Maintain and enhance, as much as practical, the diversity and extent of the city's trees and woodlands while balancing community responsibilities with private property rights.

b. Maintain buffers between similar land uses and maintain and establish buffers between conflicting land uses.

c. Promote climate resilience.

d. Improve air quality and reduce noise pollution.

e. Enhance energy conservation through natural insulation and shading.

f. Reduce the urban heat island effect.

g. Reduce soil erosion, sedimentation, and stormwater runoff.

h. Preserve habitat for wildlife, including pollinating insects.

i. Extend the life of roadways.

j. Increase and maintain property values.

k. Promote the positive impacts of trees on society, such as lowering stress, reducing noise, and calming traffic.

2. Purpose. The section is established to encourage tree preservation by reasonably limiting the removal of trees during construction, site work, and land development activities, as well as to mitigate for the loss of trees due to these activities while maintaining the rights of existing property owners to use their private property.

3. Authority. Consistent with the purpose of this section and to enforce the standards of this section, the city may take the following actions.

a. Identify, require, and enforce a tree preservation plan as described in subsection (6) below.

b. Specify trees or groups of trees for preservation.

c. Establish grading limits.

d. Require the clustering of buildings or the relocation of roads, drives, buildings, utilities, or storm water facilities when relocation would preserve protected trees.

e. Specify time periods in which tree cutting, pruning, or injury may not occur in order to prevent the spread of disease.

f. Require conservation easements or other legal means to ensure that woodland preservation areas or groups of high priority trees or significant trees are not intentionally destroyed after the development has been approved.

g. Grant a variance from the provisions of this section according to § 300.xxx. of this Code.

4. Applicability. No land, building, structure, use, or sign may be erected, constructed, placed, replaced, or substantially altered, nor any work be started on the same, except in compliance with the standards established in this section.

5. Exemptions. Linear projects, utility maintenance projects, and associated activities undertaken by a governmental entity are exempt from the provisions of this section provided that plans must be designed to protect as many trees as practicable and must be provided to the Minnetonka Natural Resources Division for review and comment.

6. Tree preservation plan. A tree preservation plan is required as part of any application that involves construction, site work, or redevelopment activities.

7. Tree removal.

a. *General standards.* The removal of protected trees during construction, site work, development, or redevelopment activities must comply with the following standards.

(1) Principal structures and associated facilities must be located to maximize tree preservation. The city may specify the location of the principal structures and associated facilities in order to ensure a reasonable tree preservation.

(2) In no case may trees be removed from a conservation easement without the approval of city staff.

(3) Trees required to be saved as part of a subdivision, development, or redevelopment approval must remain on a lot for two years after the final Building Permit inspection or a certificate of occupancy is issued for the principal structure, whichever is later.

(a) Any tree that dies solely of natural causes such as disease or wind is exempt from this provision.

(4) An applicant and property owner must comply with any approved tree preservation plan or landscaping plan.

(a) In the event that a tree preservation plan or landscaping plan is not on file with the city, any tree removed without authorization from the city will be considered part of the approved tree preservation plan or landscaping plan.

(5) A healthy protected tree that did not pose a significant or severe risk to personal safety or property damage and that was removed or otherwise destroyed by unnatural causes within three years before a redevelopment or subdivision application will be regarded as if it were present at the time of construction or a development application.

(a) In no case may healthy protected trees be removed from properties required to have a tree preservation or landscaping plan unless first approved by the city.

b. *Specific standards.* Protected trees may be removed as established in Table XX below.

Table** Error! No text of specified style in document.**-1: Tree Removal Standards

Principal Use	Activity	Woodland Preservation Area (WPA)	High-Priority Trees	Significant Trees
Single-unit dwelling.	No construction or site work.	Removal is not restricted, except as outlined in subsection (XX) of this section.		
	Construction on a vacant lot.	In conformance with subdivision approvals per Chapter 4 of the city code of ordinances.		
	Construction or site work, two years after initial house construction.	Removal is not restricted, except as outlined in subsection (XX) of this section.		
	Redevelopment.	25 % of WPA on the lot.	35 % of high-priority trees on the lot.	50 % of the significant trees on the lot.
All other uses.	No construction or site work.	In conformance with approved landscaping plan or tree preservation plan.		
	Construction or site work on a vacant lot.	In conformance with subdivision or site plan approval.		
	Construction or site work on a developed lot.	25 % of WPA on the site.	35 % of high-priority trees on the site.	50 % of the significant trees on the site.
	Redevelopment.	25 % of WPA on the site.	35 % of high-priority trees on the site.	50 % of the significant trees on the site.
Subdivision		25 % of WPA on the site.	35 % of high-priority trees on the site.	50 % of the significant trees on the site.
1 Located outside of a woodland preservation area. 2 If a subdivision proposal includes removal of trees above the thresholds listed above, the subdivision must occur at a density of no more than one dwelling unit per acre.				

(1) Trees removed within the basic tree removal area will not require mitigation; however, such trees will count as removed trees in the administration of Table XX below.

(2) In addition to the on-site woodland preservation area removal thresholds outlined in the table above, the city may consider a proposal's impact on the cumulative removal within the larger woodland preservation area.

c. *Exceptions.* The city council may allow removal of protected trees over the percentages listed in the chart above in the following circumstances.

(1) The removal would promote a greater public good, such as:

(a) Providing reasonable use or access to the property;

(b) Providing affordable housing;

(c) Allowing for the creation or rehabilitation of a public road or trail;

(d) Providing for a public utility service, such as a transmission line, stormwater pond, or a water tower;

(e) Allowing for the creation or rehabilitation of a public park;

(f) Enabling redevelopment in a designated redevelopment area; or

(g) Other public good recognized by the city.

(2) The removal of some trees would promote the preservation of important or unique natural features of trees on the property or site.

(3) The removal of some trees would promote the planting or growth of more climate-resilient trees or vegetation on the property or site.

(4) A Variance is granted according to § 300.xxx. of this Code.

8. Tree Mitigation.

a. *Mitigation required.* Mitigation is required for trees removed, as follows.

Table** Error! No text of specified style in document.**-2: Tree Mitigation Standards

Principal Use	Activity	Mitigation Required For:
Single-unit and two-unit dwellings.	No construction or site work.	n/a. Removal not restricted, except as outlined in subsection (7) above.
	Construction on a vacant lot.	High priority trees, significant trees, and trees within woodland preservation removed outside of the basic tree removal area and the width of required easement for public and private streets and utilities.
	Construction or site work, two years after initial house construction.	
	Redevelopment.	High priority and significant trees removed for surface stormwater practices.
All other uses.	No construction or site work.	Trees part of an approved tree preservation plan or landscaping plan.
	Construction or site work on a vacant lot.	High priority trees, significant trees, and trees within woodland preservation removed outside of the basic tree removal area and the width of required
	Construction or site work on a developed lot.	
	Redevelopment.	

Principal Use	Activity	Mitigation Required For:
		easement for public and private streets and utilities. High priority and significant trees removed for surface stormwater practices.
Subdivisions		High priority trees, significant trees, and trees within woodland preservation removed outside of the basic tree removal area and the width of required easement for public and private streets and utilities. High priority and significant trees removed for surface stormwater practices.

b. *Tree mitigation plan*. When tree mitigation is required, the applicant must submit a tree mitigation plan for staff review and approval.

(1) A tree mitigation plan must indicate the number of inches or feet of mitigation trees, the species and quantity of each species, and the caliper size or feet and location for each replacement tree.

(2) A tree mitigation plan may not propose mitigation trees to be comprised of more than 10 percent of the same species or size unless approved by the city.

(3) A tree mitigation plan must comply with the mitigation standards required below. The applicant must implement the tree mitigation plan as approved by city staff.

c. *Mitigation standards*. Mitigation for removal of trees or large shrubs in woodland preservation areas, high priority trees, and significant trees must meet the following standards.

Table** Error! No text of specified style in document.**-3: Tree Mitigation Standards - Woodland Preservation Areas, High Priority Trees, and Significant Trees

	Woodland Preservation Area	High-Priority Tree	Significant Tree
Rate	One inch for each inch in diameter of a deciduous tree removed and one foot for each foot in height of a coniferous tree removed.		Two inches dbh replanted per tree removed.

	Woodland Preservation Area	High-Priority Tree	Significant Tree
Species	Species found in that eco-type, as specified on the list of acceptable replacement species on file with the city.	Species of a similar type that are normally found growing in similar conditions and that are included on the list of acceptable replacement species on file with the city.	Any tree species, as approved by city staff.
Size	Deciduous balled or burlapped trees: at least 1.25 inches, but not more than 3 inches, dbh.		Deciduous: no less than 2 inches dbh replanted per tree removed.
	Deciduous spade moved trees: at least 3 inches, but not more than 6 inches, dbh.		
	Understory or small trees: at least #7 container stock.		
	Shrubbery: at least #3 container stock.		Conifer: no less than 6 feet in height replanted per tree removed.
	Coniferous balled and burlapped trees: at least 6 feet, but not more than 8 feet in height.		
	Coniferous spade moved: at least 8 feet, but not more than 14 feet.		

(1) Mitigation trees must be planted on the same property or development area from which the trees were removed.

(a) The city recognizes that, in some unique situations, site conditions may not allow a property owner or applicant to achieve the required on-site mitigation. In such cases, and at the sole discretion of city staff, a property owner or applicant may be required to provide cash in lieu of the required mitigation that cannot be planted on site. Such funds will be deposited into the city's natural resources fund.

(2) If larger trees are allowed, a three-year financial guarantee may be required.

(3) The required mitigation trees must be replaced by the current property owner if the trees have died, have severely decline, or have been damaged after the end of the second full growing season following installation.

(a) A tree will be considered to be severely declined if more than 25 percent of the crown has died.

(4) A development that is subject to landscape requirements established in § 300.xxx must meet all applicable minimum landscape requirements.

(a) Trees planted as part of a required landscaping plan may be counted as mitigation trees under this section, at the city's discretion.

(5) All mitigation trees and shrubs must meet the American National Standards Institute (ANSI A300, as amended) relating to planting guidelines, quality of stock, and appropriate sizing of the root ball for balled and burlapped, containerized, and spade-moved trees.

(6) The city may require an escrow deposit to ensure the required planting and continued existence of the mitigation trees.

(a) The city will release the escrow deposit after the end of the second full growing season following installation of the mitigation trees and any replacement trees.

9. Construction.

a. Before construction or site work, including any tree removal, tree protection fencing or other approved protection measures must be installed for city staff inspection.

(1) The location of such fencing or protective measures must be in conformance with the approved tree preservation plan and must be maintained throughout the course of construction or site work.

b. No construction, compaction, construction access, stockpiling of earth, storage of equipment or building materials, or grading of any kind may occur within the critical root zone areas of trees to be protected.

c. An area of new or compensatory water storage may not be located where there are woodland preservation areas, high priority trees, or significant trees unless approved by the city.

(1) Mitigation is required for the loss of woodland preservation areas and high-priority trees due to ponding.

(2) The compensatory storage area must be created in a manner that prevents erosion into any nearby water resource.

10. Violations

a. Each protected tree that is removed in violation of this section constitutes a separate violation of the city code of ordinances.

b. A tree or shrub that was required by the city to be saved but was removed must be replaced at a rate of two to one based on dbh for deciduous species and height for conifers.

(1) The city may also impose a financial penalty equal to $500.00 for each inch of dbh or foot of height removed, not to exceed $2,000.00 for each tree or shrub.

(a) This provision also applies to a conservation easement area that is disturbed during or after development.

§ 306.04. Wetland Protection.

1. Findings. The city finds that wetlands are a valuable natural resource and an integral part of the city's identity. Wetlands:

a. Slow runoff and filter out nutrients and pollutants.

b. Support groundwater recharge.

c. Provide critical ecosystems and habitats for a variety of plants and animals

2. Purpose. Consistent with the finding of this section, the Wetland Overlay District is established to recognize, preserve, and protect the city's wetlands by regulating the use of wetlands and wetland-adjacent properties.

3. Authority.

a. The regulations and standards of this district are applied as an overlay zone, further regulating land use as allowed by the applicable zoning district established in this Code or the Wetland Conservation Act.

b. This section intends to protect wetlands to the maximum extent possible while allowing reasonable use of the property. This section adopts the regulations and standards of the Wetland Conservation Act of 1991, Laws of Minnesota 1991, chapter 354, as amended, and the rules adopted pursuant to the Wetlands Conservation Act.

4. Designation of protected wetlands and exemptions.

a. The wetlands protected and regulated by this section are established in Table XX, as defined in circular 39, "Wetlands of the United States", 1956 and 1971 editions, United States Department of the Interior.

Wetland Type	Name	Definition
Type 1	Seasonally Flooded Basins or Floodplains	Seasonally flooded basins or flats in which soil is covered with water or is waterlogged during variable seasonal periods but usually is well-drained during much of the growing season.

Wetland Type	Name	Definition
		Type 1 wetlands are located in depressions and in overflow bottom lands along water courses. Vegetation varies greatly according to the season and duration of the flooding, and includes bottom land hardwoods, as well as herbaceous plants.
Type 2	Inland Fresh Meadow	Occur along the shallow edges of lakes, marshes and floodplains, or in perched depressions. The soil is usually without standing water during much of the growing season, but is waterlogged within at least a few inches of the surface. Vegetation includes grasses, sedges, rushes and various herbaceous plants.
Type 3	Inland Shallow Fresh Marsh	Soil is usually water logged during the growing season, often covered with as much as six inches or more of water. Vegetation includes grasses, bulrushes, cattails, arrowheads, smartweeds and other emergent aquatic vegetation.
Type 4	Inland Deep Fresh Marsh	Soil covered with six inches to three feet or more of water during growing season. Vegetation includes cattails, reeds, bulrushes and wild rice. Open water areas may contain pondweeds, naiads, coontail, water milfoils and other submergent aquatic vegetation.
Type 5	Inland Open Fresh Water	Water is usually less than 10 feet deep and is fringed by a border of emergent vegetation. Vegetation includes pondweeds, naiads, coontail, water milfoils and other submergent aquatic vegetation.
Type 6	Shrub Swamp	Occurs along sluggish streams or on floodplains. The soil is usually waterlogged during the growing season, and is often covered with as much as six inches of water. Vegetation includes alder, willow and dogwood.
Type 7	Wooded Swamp	Occurs along sluggish streams, on floodplains, on flat perched depressions and in shallow lake basins. The soil is waterlogged to within a few inches of its surface during the growing season and is often covered with as much as one foot of water. Vegetation typical to this wetland includes tamarack, white cedar, black spruce, balsam fir, red maple and black ash.
Type 8	Bog	Occurs along sluggish streams, on flat perched depressions and shallow lake basins. The soil is waterlogged and supports a spongy covering of mosses. Vegetation typical to this wetland type includes sphagnum moss, heath shrubs and sedges. Minnesota bogs contain leatherleaf, Labrador tea, cranberries and pitcher plants. Scattered stunted black spruce and tamarack also are common features of bogs.

b. Areas that exhibit wetland characteristics but were created for a purpose other than to create a wetland are exempt from this section. This includes

areas such as storm water ponds, roadway ditches, or other areas that receive artificial hydrology. The property owner has the responsibility to prove by a preponderance of the evidence that an area is exempt under this paragraph.

c. The reconstruction and maintenance of existing public roads and associated public utilities are exempt from this section provided they comply with the Wetlands Conservation Act as approved by city staff.

5. Boundaries of the Wetland Overlay Districts. This section establishes the Wetland Overlay Districts that consists of the wetlands as described below and their associated buffer. These districts are subject to additional requirements beyond those required by the Wetlands Conservation Act.

a. The Wetland Overlay District boundaries are determined by a wetland delineation performed by a professional wetland delineator according to the Wetlands Conservation Act rules and in conformance with the 1987 Corps of Engineers Wetland Delineation Manual and Midwest Regional Supplement 2010, as amended.

(1) The delineation must be acceptable to the city planner.

b. Public waters and public water wetlands are included in the Wetland Overlay District.

6. Interpretation of wetland boundaries. Whenever a delineated wetland boundary is disputed or uncertain, the city planner may convene the technical evaluation panel according to the Wetland Conservation Act rules.

a. The owner must have the delineated wetland boundary staked in the field in order for the panel to evaluate the area. Staking used to mark the wetland boundary must be removed upon staff approval of the boundary.

b. The technical evaluation panel and the city planner may require additional information to resolve the dispute or uncertainty.

c. Any person aggrieved by a decision of the city planner may appeal the decision as provided in § 300.XX.xxx. and according to the rules of the Wetland Conservation Act, as applicable.

7. Wetland buffer areas.

a. This subsection establishes requirements for wetland buffer areas adjacent to the wetlands established in Table XX.

(1) Buffer areas are necessary and beneficial to maintain the health of wetlands. Buffer areas protect the edge of wetlands from erosion

while filtering sediment, chemicals and other nutrients from runoff that drains into wetlands. Buffer areas can improve the biological diversity and health of a wetland environment while reducing the adverse impacts of human activities.

b. Buffer areas regulated by this subsection (5) are areas of vegetative cover that are upland of the wetland edge, and that occur in a natural condition or through restoration. Buffer areas consist of shrubbery and trees, and native grasses or forbs or both that are not mowed, fertilized, or manicured in any manner.

c. With the exception of Type 1 wetlands that are manicured turf and not part of a proposed development, wetland buffer areas must be established, and existing buffer areas must be maintained, adjacent to and surrounding Type 1 through Type 8 wetlands in the following situation.

(1) When wetlands are required to be replaced or restored;

(2) When new development occurs;

(a) In the administration of this provision, new development means any subdivision that creates a new lot that has no principal use on it or the construction of a principal use on an existing vacant parcel of land;

(3) When redevelopment occurs.

(a) In the administration of this provision, redevelopment means the reconstruction of the principal structure if it includes the removal of the principal structure or an accessory dwelling unit by more than 50 percent of the square footage of the building footprint or an increase of the square footage of the building footprint by more than 50 percent. This requirement does not apply if construction is the result of more than 50 percent of the building being damaged by an involuntary force, such as fire, wind, or vandalism;

(4) When the city requires a buffer as part of a variance, expansion permit, conditional use permit, or a site plan review; or

(5) On any preserve wetland when grading or construction is proposed that requires a city permit and the proposed activity could potentially impact the quality of the wetland by increasing hard

surface run off, altering existing drainage, or impacting an existing buffer.

d. Except as otherwise provided in subsections (5)(d)(1) and (5)(d)(2) below, wetland buffer area widths are based on the wetland classification in the city's water resources management plan, the most recent city-approved Minnesota Routine Assessment Method, or similar classification system approved by city staff. The minimum width of a wetland buffer area is as established in Table XX.

Table** Error! No text of specified style in document.**-1: Buffer Area Width

Wetland Classification	Width of Buffer Area from the Wetland Boundary
Manage Two	16.5 ft.
Manage One	25 ft.
Preserve	50 ft.

(1) Wetland basins may have more than one management classification based on components of a Minnesota Routine Assessment Method, or similar classification system approved by city staff, such as vegetation, habitat structure, amphibian habitat, aesthetic resource, cultural resource, or the like. The required buffer for a specific site will be based on the management classification of the wetland adjacent to the subject property.

(2) Any development or redevelopment project within the Bassett Creek Watershed must comply with the rules of the Bassett Creek Watershed Management Commission as outlined in the Bassett Creek Watershed Management Commission Requirements for Improvements and Development Proposals document, May 18, 2017, as amended.

e. In the case of new development or redevelopment, the city may require that vegetation in the wetland buffer be installed prior to the issuance of the certificate of occupancy.

(1) To ensure installation of the buffer, the city may require a cash escrow or letter of credit equal to 150 percent of the cost to install the required buffer.

f. The city may allow the disturbance of an existing buffer area during the course of construction activity.

(1) This disturbance must be kept to a minimum, soils must be de-compacted to a level that will accommodate root growth, and the buffer area must be re-established as required by the city.

(2) The city will determine the amount of allowable disturbance.

(3) The city may require a cash escrow or letter of credit equal to 150 percent of the cost to re-establish the buffer to its original condition.

g. The city may require buffer area planting and maintenance when the city determines that there is inadequate vegetation in the buffer area to meet the intent of this section.

(1) The city may require a cash escrow or letter of credit equal to 150 percent of the estimated cost of the vegetation and installation. The escrow or letter of credit must be valid for up to two years and may be used by the city to replace any vegetation that dies.

h. The affected property owner or homeowner association that is responsible for the maintenance is responsible for the following.

(1) Maintenance and repair of damage to buffer areas from such activities as mowing, cutting, grading, or other prohibited activities, unless mowing is approved by city staff as a buffer management strategy.

(a) Such permission must be obtained from the city before implementing buffer management strategies, which may include mowing, burning, and the use of herbicides.

(2) Maintenance only of the permitted vegetation in the buffer area. The affected property owner or homeowner association must remove all noxious weeds and invasive, non-native species such as European buckthorn.

(3) Ensure that all soil surfaces in the buffer area are planted with the permitted vegetation and that there is no open soil surface that may result in erosion.

8. Uses and use standards.

a. *Use permissions.* Within the Wetlands Overlay District, land may only be used according to Table XX.

(1) Table XX will be interpreted according to the standards established for Table XX in § 304.00. of this Code.

(2) All uses permitted in the Wetlands Overlay District must comply with the standards established in Table XX as well as the use standards established in subsection (6)(b) of this section.

Use	Wetlands Overlay District.	Wetland buffer area.	Use standards.
Native wetland vegetation.	P	P	§ 306.04.8.b.1.
Wildlife and nature preserves.	P	P	
Overhead public utility lines and poles.	P	P	§ 306.04.8.b.2.
Docks, boardwalks, bridges, and reasonable access to the wetland.	P	P	§ 306.04.8.b.3.
Pervious hiking and skiing trails.	P	P	§ 306.04.8.b.4.
Public and private flood control structures, ponding facilities, and drainage facilities.	P	P	§ 306.04.8.b.5.
Environmental monitoring and control facilities	P		§ 306.04.8.b.6.
Maintenance of the existing, impervious trail.	P	P	§ 306.04.8.b.7.
Fences.		P	
Underground public utility lines and distribution equipment.		P	§ 306.04.8.b.8.
Public service equipment.		P	§ 306.04.8.b.9.
Retaining walls		P	§ 306.04.8.b.10
Private and public recreational uses		C	§ 306.04.8.b.11.
Public structures associated with recreational uses.		C	§ 306.04.8.b.12.

b. *Use standards*.

(1) *Native wetland vegetation*.

(a) No change may be made to the ground elevation.

(2) *Overhead public utility lines and poles*.

(a) Must be less than two feet in diameter.

(b) Public utilities not otherwise permitted by this Table will require conditional use permit approval.

(3) *Docks, boardwalks, bridges, and reasonable access to the wetland*.

(a) Must be placed on poles, posts, or footings that are less than two feet in diameter.

(4) *Pervious hiking and skiing trails*.

(a) Must that comply with the standards of the Wetland Conservation Act. In the administration of this provision, pervious means an area where water is able to infiltrate into the ground.

(5) *Public and private flood control structures, ponding facilities, and drainage facilities*.

(a) May include associated accessory appurtenances.

(b) In the Wetland Overlay District, such structures are only permitted if the city engineer determines that there is no other viable alternative location.

(6) *Environmental monitoring or control facilities*.

(a) This term includes those facilities related to water quality and wildlife regulation.

(7) *Maintenance of existing public trails*.

(a) Only permitted if there is not an increased impact to the wetland.

(8) *Underground public utility lines and distribution equipment*.

(a) Public utilities not otherwise permitted by this Table will require conditional use permit approval.

(9) *Public service equipment*.

(a) This term includes light poles, traffic signals, traffic regulatory signs, mailboxes, and other equipment that provides an essential public service.

(10) *Retaining walls*.

(a) Only permitted when city staff determines that the retaining wall will protect the wetland from existing conditions of erosion.

(11) *Private and public recreational uses*.

(a) This term includes golf courses, impervious trails, picnic grounds, and boat ramps.

(12) *Public structures associated with recreational uses*.

(a) Must be associated with a recreational use permitted by this subsection.

(b) The structure must be designed in an environmentally sensitive manner and will withstand periodic flooding, except for structures designed or used for habitation or the storage of equipment.

9. Standards for wetlands, buffer areas, and neighboring lands. The following standards apply to all land within or neighboring a wetland or wetland buffer area.

a. *Protection of wetlands and wetland buffer areas*.

(1) Except as modified or regulated by the standards of this subsection, all requirements of the applicable zoning district apply.

(2) No structures are allowed in a wetland overlay districts, except those permitted by right or by conditional use permit approval by subsections (6) or (7) of this section.

(3) Activities including, but not limited to, building, paving, mowing, cutting, draining, filling, dumping, yard waste disposal, fertilizer application, the installation of fountains, or aerators for aesthetic purposes, are prohibited.

(a) Mowing may be permitted when approved by city staff as a buffer management strategy.

(b) Invasive non-native vegetation, such as European buckthorn and noxious weeds, may be removed.

(c) Installation of fountains or aerators may be approved by the city planner in cases where there is a proven public benefit.

(4) Before grading or construction near a wetland overlay district, the owner or contractor must place erosion control fencing on the

upland side of the perimeter of the wetland overlay district, whichever is more restrictive, or as required by the city.

(a) Such fencing must remain in place until all development activities that may affect the wetland, and the wetland buffer area have been finished, and adequate vegetative cover has been established.

(5) All structures must have a minimum basement floor elevation not less than two feet above the 100-year flood elevation.

(6) All hard surface runoff must be treated in accordance with the requirements of the city and the appropriate watershed district.

(a) Treatment may include site retention, skimmers, weirs, bioretention or infiltration basins, or sedimentation ponds of appropriate scale.

(b) Structures and ponds serving this purpose must be properly maintained and serviced by the property owner.

(7) Discharge into the wetlands must occur at a rate no greater than allowed by the city engineer in accordance with the city's water resources management plan.

b. Setbacks. The following site features must be setback from all wetlands and wetland buffer areas at least as far as the distance specified in Table XX.

(1) An existing structure, driveway, or parking area becomes legally nonconforming and will be governed by § 300.XX.xxx. at any time that a city-approved wetland delineation or implementation of a wetland buffer requires a setback that is more restrictive than a previously established setback. This provision recognizes that wetland locations and classifications are susceptible to change over time.

Feature	Minimum setback.
Structures other than those permitted by Table XX.	35 ft. from a wetland or 10 ft. from a wetland buffer area, whichever is greater.
Uncovered porches, decks, and patios. 1	25 ft. from a wetland or 0 ft. from a wetland buffer area, whichever is greater. May not project into a wetland or wetland buffer area.
Sport courts and tennis courts. [1]	25 ft. from a wetland or 0 ft. from a wetland buffer area, whichever is greater. May not project into a wetland or wetland buffer area.

Feature	Minimum setback.
Swimming pools, swimming pool aprons, and above ground hot tubs. [1] [2]	25 ft. from a wetland or 0 ft. from a wetland buffer area, whichever is greater. May not project into a wetland or wetland buffer area.
Stairways, walkways, cantilevered building areas, porticos.	25 ft. from a wetland or 0 ft. from a wetland buffer area, whichever is greater. May not project into a wetland or wetland buffer area.
Parking areas, roadways, driveway areas, and trails.	20 ft. from a wetland or 0 ft. from a wetland buffer area, whichever is greater. May not project into a wetland or wetland buffer area.
Retaining walls. [3] [4]	25 ft. from a wetland.
Overhead public utility lines and poles.	n/a
Underground public utility lines and distribution equipment.	n/a
Public service equipment.	n/a
Fences.	n/a

1 In the administration of this table, the setback distance for a swimming pool is measured from the water's edge of the pool.

2 An above ground hot tub exceeding 120 square feet in size must be set back 35 feet from a wetland or 10 feet from a wetland buffer area, whichever is greater.

3 A retaining wall which is structurally integral to the construction of a parking area, roadway, driveway area, or trail must meet the setback standards for the associated parking area, roadway, driveway area, or trail.

4 Unless needed to control existing conditions of erosion as field verified by the city engineer. In such a circumstance, the location of the retaining wall must be approved by the city engineer.

10. Removal of lands from the Wetlands Overlay District.

a. Removal of wetlands from a wetland overlay district requires a zoning amendment. A zoning amendment must be made pursuant to the provisions of § 300.XX.xxx. of this Code and the replacement rules of the Wetland Conservation Act.

(1) Such a zoning amendment must be consistent with the purpose of this Code, the city's water resources management plan, and the goals and policies of the comprehensive plan.

(2) In determining the appropriateness of a zoning amendment application, the city council will consider the size of the Wetland Overlay District, the magnitude of the area proposed for removal, the overall impact on the function and value of the wetland, the hydrological and ecological effects, and the type and function of wetlands involved to provide the maximum feasible protection.

b. Wetlands within a Wetland Overlay District may only be removed from such a district according to the rules of the Wetland Conservation Act and if at least an equal area of new wetland is created to compensate for the wetland being filled.

(1) Unless otherwise approved by the city council, compensatory wetland area must be provided within the same sub-watershed district as the wetland being altered.

(2) Such a compensatory wetland area must be located outside of any public easement, and it must not result in the loss of regulated trees.

(3) The city may require cash escrow or letter of credit equal to 150 percent of the cost to mitigate for the wetland.

c. In addition to the zoning amendment application requirements, the city may require submission and approval of the following information:

(1) A concept plan showing ultimate use of the property;

(2) A grading plan with appropriate drainage calculations and erosion controls prepared by a registered engineer;

(3) A landscaping or revegetation plan;

(4) Such other information as may be necessary or convenient to evaluate the proposed rezoning; and

(5) A determination of the function and value of the wetland using the most recent version of the Minnesota Routine Assessment Method, or other similar classification system approved by city staff, for evaluating wetland function or other approved assessment methodology.

11. Alteration of the wetlands.

a. Activities that constitute an alteration regulated by this section include changes to the size, depth or contour of the wetlands or its buffer, dredging, draining, or alterations of wetlands or buffer vegetation.

b. Except as provided below, no alteration of land within a Wetland Overlay District is allowed without a wetland alteration permit, subject to recommendation by the planning commission and approval of the city council.

(1) The planning commission must hold a public hearing after notifying all property owners within 400 feet of the proposed alteration.

c. A wetland alteration permit is not required for the following activities.

(1) The alteration of an existing contour within a buffer.

(2) The removal of vegetation from the wetland or its buffer pursuant to a restoration management plan approved by qualified city staff.

(3) The planting of native wetland vegetation.

(4) The selective clearing or pruning of trees or vegetation that are dead, diseased, noxious, or similar hazards.

(5) The removal of vegetation in a contiguous width not to exceed 10 feet in order to install a dock or gain access to the wetland as permitted in subsections (6)(a) or (6)(b) of this section and as approved by city staff.

(6) The repair or maintenance of existing public facilities such as ponds, trails, and utilities if the work does not result in an increased impact to the wetland or the associated wetland buffer.

(7) The removal of sediment and debris from the wetland that has resulted from erosion, public works projects, transportation projects, or other similar activities. The removal of sediment must not result in the removal of hydric soil from the wetland basin and must be approved by city staff.

d. Alteration of land within a wetland overlay district will only be allowed if the wetland and the associated wetland buffer are provided in an amount compensatory to that being altered.

(1) Unless otherwise approved by the city council, compensatory wetland area and the associated wetland buffer area must be provided within the same sub-watershed district as the wetland being altered, it must be located outside of any public easement, and it must not result in the loss of regulated trees.

(a) The city may require cash escrow or letter of credit equal to 150 percent of the estimated cost to restore the wetland and its buffer.

(2) In place of providing a compensatory wetland according to subsection (10)(d)(1) of this section, the property owner may purchase wetland credits at a one-to-one ratio to the required compensatory wetland replacement area.

(a) Wetland credits must be purchased from the nearest available wetland bank. Wetland credits may be purchased with priority given to credits from the same sub-watershed, then the same major watershed, and then wetland bank service area.

e. In determining the appropriateness of an alteration request, the city council will consider the size of the total wetland district, the magnitude of the area proposed for alteration, the impact on the overall function and value of the wetland, the aesthetic, hydrological and ecological effect, the type and function of wetlands involved, and such other factors as may be appropriate in order to provide the maximum feasible protection to the wetlands. An application for a wetlands alteration permit must include the following information as required by the city.

(1) A concept plan showing the ultimate use of the property.

(2) A grading plan, with appropriate drainage calculations and erosion controls prepared by a registered engineer.

(3) A landscaping or revegetation plan.

(4) Such other information as may be necessary or convenient to evaluate the proposed permit.

(5) A determination of the function and value of the wetland using the most recent version of the Minnesota Routine Assessment Method, or other similar classification system approved by city staff, for evaluating wetland functions or other approved assessment methodology.

12. Public control of wetlands.

a. The city council may require that the owner of any property affected by this section record wetland and wetland buffer area easements or restrictive covenants within the property's chain of title.

(1) Such easements or covenants must describe the boundaries of the wetland and wetland buffer area and prohibit any building, paving, mowing not approved as a management strategy, cutting, filling, dumping, yard waste disposal, or fertilizer application within the wetland and wetland buffer area.

(2) If subdivision is involved, the owner or developer must record these easements or covenants with the final plat, with deeds from a lot division. If no subdivision is involved, the owner or developer must

record these easements or covenants before the city issues a grading permit or building permit for any affected property.

(3) The applicant for a final plat, grading permit, or building permit must submit evidence that the easement or covenant has been submitted to the county for recording.

b. If the city council does not require an easement or covenant, the city may record a notice of the wetland and wetland buffer area requirements against the property. The property owner must still comply with the requirements of this section.

13. Wetland buffer markers. When new development or redevelopment results in multi-unit dwelling or a commercial use, the developer may be required to place markers at the upland boundary of the wetland buffer edge at least every 200 feet. The developer must use uniform markers provided by the city. The city will charge a reasonable cost for the markers.

§ 306.05. Grading.

1. Purpose. This section is intended to accomplish the following goals.

a. Prevent sediment deposits on roadways;

b. Retain sediment on site;

c. Prevent disruption or damage to water resources and public stormwater systems;

d. Prevent adverse impacts to neighboring property;

e. Reduce soil compaction and enhance infiltration and the establishment of vegetation;

f. Prevent damage to natural resources, such as trees, that are intended to be preserved; and

g. Maintain stable slopes.

2. Standards. Unless otherwise specified by the city planner, the work conducted under an approved grading and erosion control plan must comply with the standards established in Appendix C: Grading Standards.

3. Release of security. Upon written notification from the applicant that all land-disturbing activities are complete, the site has been permanently stabilized or re-vegetated, and all temporary erosion and sediment controls, tree protection fencing, and construction limit fencing have been removed, the city will inspect

the site and release any security being held if the site is deemed to comply with the approved grading permit and the grading and erosion control plan.

4. Maintenance. All items listed in subdivision (2) of this section must be maintained throughout the course of construction and grading activity.

5. Enforcement.

a. No person may undertake, authorize, or permit any excavating, grading, filling, or other land-disturbing activity that exposes soil:

(1) If the person does not have a city-approved grading permit or city-approved grading and erosion control plan; or

(2) If the action violates or is not in compliance with a city-approved grading and erosion control plan, a city-approved grading permit, or a Minnesota Pollution Control Agency construction general permit if required, including the approved plans and all terms and conditions of the permit.

b. The city may inspect any property subject to an approved grading permit or grading and erosion control plan to ensure that erosion and sediment control and tree protection measures are properly installed and maintained.

(1) The site maintenance inspection log must be made available within 24 hours of a request by the city.

c. If the soil is not permanently stabilized through landscaping when a certificate of occupancy is issued, the city may require a cash deposit or letter of credit in a form acceptable to the city attorney not to exceed 150 percent of the estimated cost, or 125 percent of an actual bid, to ensure compliance with the approved grading permit or grading and erosion control plan for the site.

d. A public nuisance will be declared in the following circumstances.

(1) When there is any violation of the provisions of this Code or the Minnesota Pollution Control Agency construction general permit, if applicable.

(2) When erosion or drainage from a property is causing, or has the likelihood of causing, serious harm to neighboring property, the city's stormwater system, or to natural resources such as significant trees, water resources, and wetland buffers.

(a) Serious harm includes actual damage as well as interference with reasonable use of the property.

e. Whenever the city finds noncompliance with any provision of this Code or the Minnesota Pollution Control Agency construction general permit, if applicable, city staff will attempt to communicate with the permittee and the landowner to obtain immediate and voluntary compliance. If that person is not readily available or refuses to comply within reasonable deadlines, the city may take any or all of the following actions, provided that written notice of the noncompliance has been sent to the permittee and landowner or posted on the property.

(1) Implement the necessary corrective measures and pay for them with financial security deposited with the city.

(2) Initiate proceedings to abate a public nuisance under § 845 of the city code of ordinances.

(3) Withhold inspections or any city approvals for the property in question until compliance is achieved.

(4) Issue a stop work order for the project in question until compliance is achieved.

(5) Revoke the grading permit.

(6) Pursue criminal and civil penalties under § 1310 of the city code of ordinances.

PART 07. SIGNS.

§ 307.06. Introduction.

1. **Purpose.** This Part 07 is intended to establish a comprehensive and balanced system of sign control that accommodates the need for a well-maintained, safe, and attractive community, and the need for effective communications including business identification. It is the intent of this Part to promote the health, safety, general welfare, aesthetics, and image of the community by regulating signs that are intended to communicate to the public, and to use signs that meet the city's goals by authorizing the following.
   a. Permanent signs that establish a high standard of aesthetics.
   b. Signs that are compatible with their surroundings.
   c. Signs that are designed, constructed, installed, and maintained in a manner that does not adversely impact public safety or unduly distract motorists.
   d. Signs that are large enough to convey the intended message and to help citizens find their way to intended destinations.
   e. Signs that are proportioned to the scale of, and are architecturally compatible with the principal structure on a lot.
   f. Permanent signs that give preference to the on-premise owner or occupant.
   g. Temporary signs and displays that provide an opportunity for grand openings and occasional sales events while restricting signs that create continuous visual clutter and hazards at public right-of-way intersections.
2. **Findings.** The city finds it is necessary for the promotion and preservation of the public health, safety, welfare, and aesthetics of the community that the construction, location, size, and maintenance of signs be controlled. Further, the city finds the following.
   a. Permanent and temporary signs have a direct impact on and relationship to the image of the community.
   b. The manner of installation, location, and maintenance of a signs affects the public health, safety, welfare, and aesthetics of the community.
   c. An opportunity for viable identification of community businesses and institutions must be established.

d. The safety of motorists, cyclists, pedestrians, and other users of public streets and property is affected by the number, size, location, and appearance of signs that unduly divert the attention of drivers.

e. Installation of signs suspended from, projecting over, or placed on the tops of buildings, walks, or other structures may constitute a hazard during periods of high winds and an obstacle to effective fire-fighting and other emergency service.

f. Uncontrolled and unlimited signs adversely impact the image and aesthetic attractiveness of the community and thereby undermine economic value and growth.

g. Uncontrolled and unlimited signs, particularly temporary signs that are commonly located within or adjacent to public right-of-way or are located at driveway-street intersections, result in roadside clutter and obstruction of views of oncoming traffic. This creates a hazard to drivers and pedestrians and also adversely impacts a logical flow of information.

h. Commercial signs are generally incompatible with residential uses and should be strictly limited in residential zoning districts.

i. The right to express opinions in any zoning district must be protected, subject to reasonable restrictions on size, height, location, and number.

§ 307.07. Applicability.

1. Permit required. No person may erect or install any of the following signs without first obtaining a sign permit or temporary sign permit, as applicable, from the city planner.

a. All permanent signs permitted in § 300.XX. require a sign permit, unless specifically noted otherwise.

(1) An approved sign permit must be received prior to installation of the sign.

(2) The sign permit and inspection fee for all permanent signs is as specified in § 710 of the city code of ordinances.

b. All temporary signs permitted in § 300.XX. require a temporary sign permit, unless specifically noted otherwise.

(1) The temporary sign permit and inspection fee for permitted temporary signs, banners, search lights, or inflatable advertising devices is specified in § 710 of the city code of ordinances.

2. Permit not required. The following signs do not require a sign permit but must meet the standards of this Part.

a. Signs required or allowed by § 300.XX.xxx.

b. Temporary signs in residential districts as allowed by § 300.XX.xx.x.x.

c. Any sign listed in § 300.XX. of this Code.

§ 307.08. General Sign Standards.

1. Locational requirements.

a. Signs may not be located on property without the permission of the property owner.

b. No sign may be located within public right-of-way, except as permitted under § 300.XX.x. or those official traffic control devices and those allowed by § 325.05.03.e. of this Code.

(1) No sign may be located in public right-of-way without receiving the prior approval of the underlying property owner.

c. Unless specifically noted otherwise, all signs must maintain a 10-foot setback from all lot lines.

(1) The city may require a greater or lesser setback because of public safety reasons that may include the vehicle sight distance, distance from intersection, or functional classification of the adjacent right-of-way.

d. No sign may be mounted on a roof surface and may not project above the roof line of a structure if either attached to the structure or cantilevered over the structure.

e. No sign may be attached to a fence, tree, or utility pole.

f. No sign may be located so as to obstruct the vision of pedestrians, cyclists, or motorists traveling on or entering public streets in a manner that presents a hazard to public safety.

g. No sign may be located so as to obstruct any window, door, fire escape, stairway, or opening intended to provide light, air, ingress, or egress for any structure.

h. All signs must comply the wetland protection, floodplain protection, shoreland protection, steep slope protection, and tree protection requirements contained in §§ 300.XX. through 300.XX. of this Code.

i. Nothing in this Part 07 will prevent the changing of a commercial sign permitted by this Code to a noncommercial sign.

2. Approved sign plans. The city may enforce, in the same manner as the requirements of this section, the terms of a sign plan or sign covenant that it has approved. Any violation of an approved sign plan or sign covenant is a misdemeanor.

3. Changeable messages. A message that is not permanently attached to the sign face but that is not a dynamic display may occupy no more than 50 percent of the actual copy and graphic area. The remainder of the sign must not have the capability to change messages even if not used.

4. Font size. Every line of copy and graphics in a sign must be at least four inches in height.

5. Sign illumination.

a. All illuminated signs must meet the following standards.

(1) External illumination on signs must be directed so that the illumination does not interfere with safe traffic operations.

(2) Illuminated signs must not be directly oriented towards any residential district.

(3) No sign may be brighter than is necessary for clear and adequate visibility.

(4) No sign illumination may be of such intensity or brilliance as to impair the vision of a motor vehicle driver with average eyesight or to otherwise interfere with the driver's operation of a motor vehicle.

(5) No sign illumination may be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device, or signal.

b. The person owning or controlling an illuminated sign must adjust the sign to meet the brightness standards in accordance with the city's instructions.

(1) The adjustment must be made immediately upon notice of noncompliance from the city.

(2) The person owning or controlling the sign may appeal the city's determination through the following appeal procedure.

(a) After making the adjustment required by the city, the person owning or controlling the sign may appeal the city's determination by delivering a written appeal to the city clerk within 10 days after the city's noncompliance notice. The written appeal must include the name of a person unrelated to the person and business making the appeal, who will serve on the appeal panel.

(b) Within five days after receiving the appeal, the city must name a person who is not an official or employee of the city to serve on the appeal panel.

(c) Within five business days after the city names its representative, the city's representative must contact the sign owner's representative, and the two of them must appoint a third member to the panel, who has no relationship to either party.

(d) The appeal panel may develop its own rules of procedure, but it must hold a hearing within five business days after the third member is appointed.

1. The city and the sign owner must be given the opportunity to present testimony, and the panel may hold the hearing, or a portion of it, at the sign location.

2. The panel must issue its decision on what level of brightness is needed to meet the brightness standards within five business days after the hearing commences. The decision will be binding on both parties.

c. All signs installed after June 25, 2007, that will have illumination by a means other than natural light must be equipped with a mechanism that automatically adjusts the brightness in response to ambient conditions.

(1) Such signs must also be equipped with a means to immediately turn off the display or lighting if it malfunctions.

(2) The owner or operator of such a sign must immediately turn off the sign or lighting when notified by the city that it is not complying with the standards in this section.

6. Outdoor advertising displays.

a. *Standards*. Outdoor advertising signs that existed as of March 13, 1991, are nonconforming signs and comply with the following standards.

(1) A permanent outdoor advertising sign is a principal use of property. No permitted or conditionally permitted use or any part of such use may be located on the same parcel of property as such a sign.

(2) The parcel on which such a sign is located may not be subdivided to segregate the sign from the remaining property. For the purposes of this provision, "parcel of property" means any property for which one property identification number has been issued by the county, or all contiguous property in common ownership as of October 15, 1997, whichever is greater.

7. Dynamic displays.

a. *Findings*.

(1) Studies show that there is a correlation between dynamic displays on signs and the distraction of highway drivers. Distraction can lead to traffic accidents. Drivers can be distracted not only by a changing message, but also by knowing that the sign has a changing message. Drivers may watch a sign waiting for the next change to occur. Drivers are also distracted by messages that do not tell the full story in one look. People have a natural desire to see the end of the story and will continue to look at the sign in order to wait for the end. Additionally, drivers are more distracted by special effects used to change the message, such as fade-ins and fade-outs. Finally, drivers are generally more distracted by messages that are too small to be clearly seen or that contain more than a simple message. Time and temperature signs appear to be an exception to these concerns because the messages are short, easily absorbed, and become inaccurate without frequent changes.

(2) Despite these public safety concerns, there is merit to allowing new technologies to easily update messages. Except as prohibited by state or federal law, sign owners should have the opportunity to use these technologies with certain restrictions. The restrictions are intended to minimize potential driver distraction and to minimize proliferation in residential districts where signs can adversely impact residential character.

(3) Local spacing requirements could interfere with the equal opportunity to use such technologies and are not included. Without those requirements, however, there is the potential for numerous dynamic displays to exist along any roadway. If more than one

dynamic display can be seen from a given location on a road, the minimum display time becomes critical. If the display time is too short, a driver could be subjected to a view that appears to have constant movement. This impact would obviously be compounded in a corridor with multiple signs. If dynamic displays become pervasive and there are no meaningful limitations on each sign's ability to change frequently, drivers may be subjected to an unsafe degree of distraction and sensory overload. Therefore, a longer display time is appropriate.

(4) A constant message is typically needed on a sign so that the public can use it to identify and find an intended destination. Changing messages detract from this way-finding purpose and could adversely affect driving conduct through last-second lane changes, stops, or turns, which could result in traffic accidents. Accordingly, dynamic displays generally should not be allowed to occupy the entire copy and graphic area of a sign.

(5) In conclusion, the city finds that dynamic displays should be allowed on signs but with significant controls to minimize their proliferation and their potential threats to public safety.

b. *Regulations.* No dynamic display may be allowed on a sign except in compliance with the following standards.

(1) Dynamic displays are permitted only on monument and pylon signs for conditionally permitted uses in residential districts and for all uses in nonresidential districts.

(2) Dynamic displays may occupy no more than 50 percent of the actual copy and graphic area. The remainder of the sign must not have the capability to have dynamic displays even if not used. No more than one contiguous dynamic display area is allowed on a sign face.

(3) A dynamic display may not change or move more often than once every 20 minutes, except one for which changes are necessary to correct hour-and-minute, date, or temperature information.

(a) Time, date, or temperature information is considered one dynamic display and may not be included as a component of any other dynamic display.

(b) A display of time, date, or temperature must remain for at least 20 minutes before changing to a different display, but the time, date, or temperature information itself may change no more often than once every three seconds.

(4) The images and messages displayed must be static, and the transition from one static display to another must be instantaneous without any special effects.

(5) The images and messages displayed must be complete in themselves, without continuation in content to the next image or message or to any other sign.

(6) Every line of copy and graphics in a dynamic display must be at least as tall as the minimum established in Table XX. If there is insufficient room for copy and graphics of the minimum size in the area allowed under subsection (9)(b)(2) above, then no dynamic display is allowed.

Adjacent Street Speed Limit	Minimum Copy and Graphic Line Height
25 to 34 miles per hour	7 inches
34 to 44 miles per hour	9 inches
45 to 54 miles per hour	12 inches
55 miles per hour or more	15 inches

(7) A dynamic display must be designed and equipped to freeze the device in one position if a malfunction occurs. The displays must also be equipped with a means to immediately discontinue the display if it malfunctions, and the sign owner must immediately stop the dynamic display when notified by the city that it is not complying with the standards of this Part.

(8) A dynamic display must comply with the brightness standards contained in subsection 15.

(9) A dynamic display existing on June 25, 2007, must comply with the operational standards listed in this subsection (9)(b) above.

(a) An existing dynamic display that does not meet the structural requirements in subsections (1) and (2) may continue as a nonconforming development subject to § 300.XX. of this Code.

(b) An existing dynamic display that cannot meet the minimum size requirement in subsection (9)(b)(6) must use the largest size possible for one line of copy to fit in the available space.

c. *Replacement with enhanced dynamic displays*.

(1) *Findings.* Outdoor advertising signs do not need to serve the same way-finding function as do on-premises signs. Further, no new outdoor advertising sign may be established, erected, or substantially improved in the city, and there is no potential that they will proliferate. Finally, outdoor advertising signs are in themselves distracting and their removal serves public safety. The city is extremely limited in its ability to cause the removal of those signs.

(2) *Purpose.* This subsection (6)(b) is intended to provide incentives for the voluntary and uncompensated removal of outdoor advertising signs in certain settings. This removal results in an overall advancement of one or more of the goals set forth in this subsection that should more than offset any additional burden caused by the incentives. These provisions are also based on the recognition that the incentives create an opportunity to consolidate outdoor advertising services that would otherwise remain distributed throughout the community.

(3) *Dynamic display on outdoor advertising signs.* A person must obtain an enhanced dynamic display permit according to the standards established in § 300.XX. prior to installing an enhanced dynamic display on any face of an outdoor advertising sign.

8. Sign construction and maintenance. All signs must conform to the following standards.

a. *Construction specifications.* All permanent signs must be constructed in accordance with the following:

(1) The Minnesota State Building Code.

(2) All electric signs must be approved and labeled as conforming to the standards of the Underwriters' Laboratories, Inc., the United States bureau of standards or other similar institutions of recognized standing.

(a) All illuminating elements must be kept in satisfactory working condition or immediately repaired or replaced.

(b) Signs that are partly illuminated must meet all electrical requirements for the portion that is illuminated.

(3) All permanent freestanding signs must have self-supporting structures erected on and permanently attached to concrete foundations.

(4) The wall to which a wall sign or projecting side is attached must be designed for and have sufficient strength to support the sign.

(5) No sign may be painted on the wall of a building.

(6) Unless otherwise specified in this Part, the maximum angle permitted between faces of a double face freestanding sign is 45 degrees.

(7) Vegetation around, in front of, behind, and underneath the base of freestanding signs for distance of 10 feet must be neatly trimmed and free of weeds.

b. *Sign maintenance and repair*. All signs must be maintained in a safe, presentable and good structural condition at all times, including the replacement of defective parts, cleaning and other items required for maintenance of the sign. Rubbish or debris under or near the sign that would constitute a fire or health hazard must be removed.

9. Removal of abandoned signs, signs in disrepair, signs on public property, and signs located in the public right-of-way.

a. *Abandoned signs and signs in disrepair*. An abandoned sign or sign in disrepair must be prohibited and must be removed by the owner of the premises within 30 days after notification from the city.

(1) If compliance with the provisions of this section is not achieved within 30 days, the city may remove the sign as a public nuisance by following the procedure as specified in § 1120.045 of the city code of ordinances.

(2) If an abandoned sign remains in good condition and without holes or other evidence of disrepair or damage, the sign will not be considered as abandoned for a period of one year.

b. *Signs on public property or within public right-of-way*. The city may at any time and without notice may impound signs that have been installed on public property or within public right-of-way or easement. The sign owner may retrieve the signs according to the following standards.

(1) A fee must be paid to the city as established in § 710 of the city code of ordinances. For each subsequent impoundment in a calendar year, the specified fee will be doubled.

(2) The sign may be retrieved from a designated impound area during routine business hours and within 15 days from the date of impounding. After 15 days, the city will dispose of the sign.

(3) The city may not be held liable for any damage to impounded signs.

10. Nonconforming signs. Any sign that complied with all applicable laws and ordinances at that time that it was erected but that has been or is made nonconforming due to a subsequently enacted amendment of the city Code is governed by Part 7 Nonconformities of this Code.

§ 307.09. Residential District Sign Standards.

1. Applicability. No sign may be erected or installed within the LDR, MDR, or HDR District except as expressly permitted in this section or otherwise allowed by this Part.

2. General sign standards. All signs in LDR, MDR, and HDR District must comply with the standards established below.

a. Internal illumination is prohibited, and external illumination may not include exposed light sources, if a sign faces a lot in the LDR or MDR District.

b. Unless otherwise specified in this section or § 300.XX. of this Code, no sign may be erected or installed prior to the approval of a sign permit according to § 300.XX. of this Code.

3. Wall sign standards. All permanent wall signs in LDR, MDR, and HDR District must comply with Table XX as well as the standards established below.

a. No more than one wall sign is permitted per building.

Principal Use	Maximum Sign Area	Maximum Copy and Graphic Area	Maximum Sign Height	Illumination Type	Additional Standards
All residential uses.	2 sq. ft.	2 sq. ft.	1 ft.	External only.	No sign permit required.

Principal Use	Maximum Sign Area	Maximum Copy and Graphic Area	Maximum Sign Height	Illumination Type	Additional Standards
All nonresidential uses.	50 sq. ft. of 10 % of wall area to which the sign is attached, whichever is less.	50 sq. ft. of 10 % of wall area to which the sign is attached, whichever is less.	2 ft.	Internal or external.	

4. Freestanding sign standards. All permanent freestanding signs in LDR, MDR, and HDR District must comply with Table XX as well as the standards established below.

a. A freestanding sign may be single or double-faced.

b. A freestanding sign must be perpetually maintained by a homeowners association or responsible property owner.

Principal Use	Maximum Sign Area	Maximum Copy and Graphic Area	Maximum Sign Height	Illumination Type	Additional Standards
Single-unit or two-unit dwelling. [1]	75 sq. ft. per site entrance.	30 sq. ft. per site entrance.	6 ft.	External only.	No more than 2 signs per development. Must be located at a primary entrance to the site.
All other residential uses.	100 sq. ft. per site entrance.	36 sq. ft. per site entrance.	8 ft.	Internal or external.	No more than 2 signs per development. Must be located at a primary entrance to the site.
All other nonresidential uses.	75 sq. ft.	30 sq. ft.	8 ft.	Internal or external.	No more than 1 sign per development.
Community uses and parks, including	32 sq. ft.	32 sq. ft.	8 ft.	Internal or external.	No more than 1 sign per development.

Principal Use	Maximum Sign Area	Maximum Copy and Graphic Area	Maximum Sign Height	Illumination Type	Additional Standards
residential care facilities.					Illumination may only occur between 6:00 a.m. and 10:00 p.m.
Athletic field with seating for less than 2,000 people.	410 sq. ft. per sign face.	410 sq. ft. per sign face.	35 ft.	Internal only.	No more than 1 sign per development.
Athletic field with seating for 2,000 people or more.	500 sq. ft. per sign face.	500 sq. ft. per sign face.	35 ft.	Internal only.	No more than 1 sign per development.

5. **Temporary signs.** Temporary signs must comply with Table XX as well as the standards below.

   a. No temporary signs may be illuminated.

   b. All temporary signs must be set back at least five feet from the edge of a public street, must not obstruct driver visibility at intersections, and must be placed with the consent of the property owner.

   c. No temporary sign permit is required prior to the erection or installation of a temporary sign on a lot containing a residential use.

Principal Use	Sign Type	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Maximum Duration of Display
All residential uses. [1]	Banner or freestanding.	n/a	n/a	6 ft.	n/a
Subdivision in the LDR District. [1 2]	Freestanding.	1 per subdivision development.	32 sq. ft.	8 ft.	Must be removed when building permits are issued for 90 percent of lots in the development.
Subdivision in the MDR or HDR District. [1]	Freestanding.	1 per subdivision development.	32 sq. ft.	8 ft.	Must be removed within 18 months of first

Principal Use	Sign Type	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Maximum Duration of Display
					building permit being issued.
Lots in a subdivision in the LDR or MDR District. [1]	Freestanding.	1 per lot.	6 sq. ft.	6 ft.	Must be removed within 7 days of lot being sold or leased.
Lots in a subdivision in the HDR District. [1]	Freestanding.	1 per lot.	32 sq. ft.	8 ft.	Must be removed within 12 months of issuance of certificate of occupancy for all buildings.
	Banner.	1 per lot.	60 sq. ft.	n/a	
All nonresidential uses.	Banner.	1 per lot.	30 sq. ft.	n/a	Allowed on two occasions not to exceed 10 days each per calendar year.

[1] No temporary sign permit is required.
[2] Only allowed for subdivision developments in the LDR District, which consist of more than four lots that will be used exclusively for single-unit or two-unit dwellings.

§ 307.10. Village Center and Flex Industrial District Sign Standards.

1. **Applicability.** No sign may be erected or installed within the Village Center and Flex Industrial Districts, except as expressly permitted in this section or otherwise allowed by this Part.

2. **General sign standards.** All signs in a Village Center and Flex Industrial Districts must comply with the standards established below.

   a. Internal illumination is prohibited, and external illumination may not include exposed light sources, if a sign faces a lot in the LDR or MDR District.

b. Unless otherwise specified in this section or § 300.XX. of this Code, no sign may be erected or installed prior to the approval of a sign permit according to § 300.XX. of this Code.

3. Wall sign standards.

a. Permanent wall signs associated with a limited tenant building in the Village Center and Flex Industrial Districts must comply with Table XX as well as the standards established below.

(1) No more than one permanent wall sign is allowed per exterior wall face.

(2) All signs must be comprised of individually dimensioned letters, unless all wall signs are incorporated into the architecture of the structure and of a similar design.

(3) A wall sign be internally or externally illuminated, except no illumination is allowed if a sign faces the LDR or MDR District.

Principal Structure Gross Floor Area	Maximum Individual Wall Sign Size	Total Wall Signage per Property
Less than 20,000 sq. ft.	100 sq. ft. or 15 percent of wall face, whichever is less.	150 sq. ft.
20,000 to 100,000 sq. ft.	150 sq. ft. or 10 percent of wall face, whichever is less.	240 sq. ft.
100,000 to 400,000 sq. ft.	200 sq. ft. or 10 percent of wall face, whichever is less.	300 sq. ft.

b. Permanent wall signs associated with a multi-tenant building in the Village Center and Flex Industrial Districts, must comply with Table XX as well as the standards established below.

(1) No sign may be located less than two feet from the boundary of the tenant space.

(2) No tenant space may establish more than one sign per façade facing a public right-of-way provided that no tenant space may establish more than two signs.

(3) All signs must be comprised of individually dimensioned letters, unless all wall signs are incorporated into the architecture of the structure and of a similar design.

(4) A wall sign be internally or externally illuminated, except no internal illumination is allowed if a sign faces the LDR or MDR District.

Sign Type	Maximum Sign Height	Maximum Copy and Graphic Area
Wall Sign	36 inches for a graphic and 26 inches for copy.	Defined by the maximum allowed height and the boundary of the tenant space.
Projecting Sign [1]	Must not project above the roofline of the building and must provide at least 8 feet of clearance between the lowest portion of the sign and the grade below.	
[1] No sign may project from the wall to which the sign is affixed by more than 48 inches.		

4. Freestanding sign standards. All permanent freestanding signs in the Village Center and Flex Industrial Districts, excluding the VC-D District, must comply with Table XX as well as the standards established below.

a. One freestanding sign is allowed per development provided that a second freestanding sign is allowed for lots with a drive-through facility meeting the standards of this Code.

b. Freestanding signs may be single or double faced.

c. Freestanding signs may be internally or externally illuminated, except internal illumination is prohibited and external illumination may not include exposed light sources if a sign faces the LDR or MDR District.

Principal Structure Gross Floor Area	Pylon Sign		Monument Sign		
	Maximum Height	Maximum Sign Size	Maximum Height	Maximum Copy and Graphic Size	Maximum Monument Area
Less than 20,000 sq. ft.	15 ft.	60 sq. ft.	15 ft.	60 sq. ft.	90 sq. ft.
20,000 to 100,000 sq. ft.	18 ft.	80 ft.	18 ft.	80 sq. ft.	120 sq. ft.
100,000 to 400,000 sq. ft. [1]	24 ft.	100 sq. ft.	21 ft.	100 sq. ft.	150 sq. ft.
More than 400,000 sq. ft.	30 ft.	200 sq. ft.	21 ft.	100 sq. ft.	150 sq. ft.
Second sign for drive-through facility.	8 ft.	50 sq. ft.	8 ft.	50 sq. ft.	50 sq. ft.
[1] For multi-tenant building or limited tenant building with more than 100,000 gross sq. ft. and with 2 or more access points, one monument sign is allowed at the primary access, and a second monument is allowed at second access. The height and copy and graphic size limits for the second monument sign is 50 % of those in outlined in this table.					

5. Temporary sign standards. All temporary signs in the Village Center and Flex Industrial Districts, excluding the VC-D District, must comply with Table XX as well as the standards established below.

Property Type	Sign Type	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Display Duration
Vacant property with ongoing construction. [1]	Freestanding.	1 per property if site is 3 acres or less; and 2 per property if site is more than 3 acres.	32 sq. ft.	12 ft.	Must be removed 7 days after issuance of a certificate of occupancy.
Improved property available for sale or lease. [1]	Freestanding or wall.	1 per property if site is 3 acres or less; and 2 per property if site is more than 3 acres.	32 sq. ft.	12 ft.	May only be allowed while property is for sale or lease.
All other lots.	Banner.	1 per tenant.	30 sq. ft.	n/a	No more than two occasions each not to exceed 10 days per year. [5]
	Off-site banner. [1 4]	3 per lot.	6 sq. ft. per banner.	3 ft.	n/a
	Sandwich. [1 2 3]	1 per tenant.	12 sq. ft	4 ft.	Allowed during business hours. Must be removed after closing.
	Search light or inflatable. [3]	1 per development.	n/a	n/a	No more than two occasions each not to exceed 3 days per year. [5]

[1] No temporary sign permit is required prior to the erection or installation of such a sign.
[2] The sign must be located directly in front of the associated tenant space and must not reduce the sidewalk or pedestrian path width to less than four feet.
[3] Sign must be located on the ground.
[4] Signs must be located at least five feet from the edge of a public street, must not obstruct driver visibility at intersections and must be placed with the consent of the property owner.

Property Type	Sign Type	Maximum Number of Signs	Maximum Sign Area	Maximum Sign Height	Display Duration
[5] One additional period not to exceed 30 days may be permitted if such period coincides with a grand opening.					

§ 307.11. Planned Unit Development Sign Standards.

1. **General sign standards.** Permanent and temporary signs in planned unit development district are regulated according to the standards for the corresponding use and zoning category as established in § 300.XX. of this Code. A sign plan with differing requirements may be approved by the city.
   a. Factors that will be used in determining if an individual planned unit development sign plan will be considered include the following.
      (1) Whether the development includes a building more than 3 stories tall.
      (2) Whether the development includes multiple structures or substantial site area.
      (3) Whether development includes a mix of uses.
      (4) Whether the sign plan is uniquely adapted to address the visibility needs of a development while remaining consistent with the intent of the Minnetonka Sign Code to direct high quality signage.
      (5) Whether the sign plan includes permanent sign covenants that can be enforced by the city.

§ 307.12. Exempt Signs.

1. **Generally.** The signs included in this section are allowed in any zoning district without a sign permit and are not required to comply with the standards established in § 300.XX. through § 300.XX. provided that such signs comply with the standards established in this section. If any sign does not comply with the standards listed in this section, such sign are not considered an exempt sign.

2. **Permanent signs not requiring sign permit approval.** The following permanent signs are permitted in all zoning districts and do not require the approval of a sign permit provided such signs meet the standards established in this subsection (2).

a. An assigned street address marking its property with the street address numerals is required, so that emergency services providers can easily identify the address from the public street.

(1) The assigned street address marking may be on the curb or on the principal building of the property.

(2) The size and location of the identifying numerals must be proportional to the size of the building and the distance from the street to the building.

(3) In cases where the building is not located within view of the public street or where the building is located more than 150 feet from the public street, the assigned street address marking must be located on the mailbox or other suitable device that is visible from the street.

b. Traffic control devices on private or public property provided such devices are erected and maintained to comply with the Manual on Uniform Traffic Control Devices adopted in this state.

c. Permanent and temporary signs required by law or ordinance for regulatory or notification purposes.

d. Permanent freestanding signs on properties containing more than 20 parking spaces, provided any such sign complies with Table XX.

Standard	Requirement
Maximum Sign Area	7 sq. ft.
Maximum Height	6 ft.
Locational Requirement	Within 5 ft. of a driveway, access drive, or drive aisle and in proximity to a change in direction.
Maximum Number of Signs	1 sign for each change in direction of the driveway, access drive, or drive aisle exceeding 60 degrees.

e. Signs installed by employees or officials of a city, county, state, or federal agency in the course of their governmental duties.

f. Signs required by an order of a court of competent jurisdiction.

g. Signs installed by public utilities to demarcate their rights-of-way.

h. Signs installed by a transit company.

i. Signs less than one square foot in area.

3. Temporary signs not requiring temporary sign permit approval. The following temporary signs are permitted in all zoning districts and do not

require the approval of a temporary sign permit provided such signs meet the standards established in this subsection (3).

a. Temporary commercial signs are permitted in all zoning districts, provided all such signs comply with the following standards.

(1) The sign must be placed at least five feet from the edge of a public street and must not obstruct driver visibility at intersections.

(2) No such sign may be established or placed within the right-of-way of a county road, state road, or municipal state-aid street.

(3) Such a sign may only be displayed between 6:00 a.m. on a Thursday and 6:00 p.m. on the following Sunday.

(4) Such a sign may be no larger than 3 square feet in area and no higher than 6 feet above the ground to which it is attached.

b. Temporary noncommercial signs are permitted in all zoning districts, provided all such signs comply with the following standards.

(1) The sign must be placed at least five feet from the edge of a public street and must not obstruct driver visibility at intersections.

(2) No such sign may be established or placed within the right-of-way of a county road, state road, or municipal state-aid street.

(3) Such a sign may be no higher than 6 feet above the ground to which it is attached.

4. Window signs. Any sign affixed to or placed with five feet of a window so as to be visible from the exterior of a building are exempt from this section if the following standards are met.

a. No more than 20 percent of the glass area of a structure's windows may be covered with a window sign.

b. No more than 40 percent of the glass area of any individual window may be covered with a window sign.

c. Neon, including neon-imitating, signs are prohibited.

5. Signs in the public right-of-way. The following signs are exempt from the Minnetonka Sign Ordinance when provided in the public right-of-way.

a. Signs conforming to the Manual of Uniform Traffic Control Devices as approved by the state of Minnesota.

b. Signs installed by employees or officials of a city, county, state, or federal agency in the course of their governmental duties.

c. Signs required by a city, state, or federal statute.

d. Signs required by an order of a court of competent jurisdiction.

e. Public directional and safety signs.

§ 307.13. Prohibited Signs.

1. Prohibited signs. The following signs are prohibited in all zoning districts.

a. Signs not specifically authorized under this Part.

b. Portable signs, except for temporary traffic control devices in temporary traffic control zones as required by the Manual on Uniform Traffic Control Devices or portable signs specifically permitted in § 300.XX.

c. Feather flags and pennants.

d. Signs designed to resemble official traffic control devices, except signs that are used to control traffic on private property.

e. Abandoned signs.

f. Blank signs.

g. Merchandise boxes or signs not affixed to a principal structure, excluding signs permitted in subsection 8(d).

h. Permanent off-premise commercial signs other than outdoor advertising signs regulated by § 307.04.6. of this Code.

§ 307.14. Enforcement.

1. Violation. Any individual, firm, or corporation that erects, modifies, alters, places, replaces, or commits any other action involving a sign that is in any way inconsistent with this Part is in violation of this Code and is subject to the penalties and remedies set forth in Part 9 Enforcement of this Code.

2. Variances. A variance from these standards requires a separate application, according to § 300.XX. of this Code. The fee for application for variance from this Part is specified in § 710 of the city code of ordinances.

PART 08. NONCONFORMITIES.

§ 308.00. Purpose.

1. **Purpose.** This Part 7 is established to accomplish the following.
   a. Recognize the existence of lots, buildings, structures, uses, and signs that were lawful when established but that no longer meet all requirements of this Code.
   b. Discourage the enlargement, expansion, intensification, or extension of any nonconforming lot, building, structure, use, or sign or any increase in the impact of a nonconforming use on adjacent properties.
   c. Regulate the repair, replacement, restoration, and improvement of nonconforming buildings, structures, uses, and signs to prevent and abate nuisances and to protect the public health, safety, and welfare.
   d. Encourage the elimination of nonconforming lots, buildings, structures, uses, and signs and reduce their impact on adjacent properties.

§ 308.01. Burden of proof.

1. **Burden of proof.** A person who wishes to take advantage of the rights granted to a legal nonconformity has the burden of proving the status as a legal nonconformity by clear and convincing evidence.

§ 308.02. Nonconformities, Generally.

1. **Removal and destruction.** Removal or destruction of a nonconforming structure or use to the extent of more than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, by fire or other peril, excluding land value and as determined by the city assessor, terminates the right to continue or replace any such nonconforming structure or use, except if a valid and complete building permit application has been submitted to the city within 180 days after the property was damaged.
2. **Expansion.** Work that constitutes an expansion of any nonconforming structure or use may not be done without first obtaining a variance pursuant to § 300.XX.xx. or a nonconforming use expansion permit pursuant to § 300.XX.xx. of this Code.
   a. A variance is required if the expansion will intrude into one or more setback areas beyond the distance of the existing structure or will exceed

the height or size limitations in this Code by a distance or amount greater than the existing structure. Otherwise, an expansion permit is required.

(1) For example, if the building currently has a front setback of 25 feet when 30 feet is required, and the expansion would reduce the setback to 24 feet, then a variance is required. In contrast, if only a portion of the building has a front setback of 25 feet when 30 feet is required, and the expansion brings the rest of the building to the same setback of 25 feet, then an expansion permit is required rather than a variance.

b. An expansion permit is required in the following circumstances.

(1) The use occupies any space within a nonconforming lot, building, or structure that was previously not occupied both vertically and horizontally. For example, an expansion permit would be required if a second floor area is expanded into the nonconforming setback over an existing nonconforming first floor even though the non-conformity of the first floor setback dimension stays the same or is reduced; or

(2) The nonconforming aspect of a use is reduced but still does not comply with the standards this Code.

3. Replacement. If a nonconforming use is superseded or replaced by a permitted use or if a nonconforming structure is superseded or replaced by a conforming structure, the nonconforming status associated with the premises and any rights that arise under the provisions of this subsection terminate.

4. Nonconformities in the Floodplain Overlay District.

a. This subsection (4) applies to all nonconforming lots, structures, uses, and signs located in the Floodplain Overlay District.

b. A nonconforming use or structure located in the floodplain may only be changed, repaired, replaced, maintained, improved, or expanded to the extent that it would qualify for eligibility in the National Flood Insurance Program and would not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway.

(1) No variance may be granted to this requirement.

c. A use that is located outside of the floodplain, but is nonconforming due to horizontal setback from the floodplain or vertical separation from the

floodplain may be changed, repaired, replaced, maintained, improved, or expanded only if the following standards are met:

(1) Structural alterations or additions. The value of the alterations or additions over the nonconforming life of the structure may not exceed 50 percent of the current market value of the structure.

(a) Non-conforming life of the structure will be calculated from one of three years, as determined by the city engineer.

1. 1974, when the city's first floodplain ordinance was adopted.

2. 2004, when 100-year floodplain areas were incorporated into the ordinance.

3. 2023, when floodplain elevations were updated based on Atlas-14 modelling.

(b) Valuation of alterations or additions will be based on building permit valuations, including labor and materials, as indicated on permit applications and the valuation of all related permits need to make the structure habitable.

(c) Market value will be based on the most recent assessed value.

(2) Improvements to a structure, including maintenance and repair, that do not include structural alterations or additions. The value of the improvements within any 365-day period may not exceed 50 percent of the current market value of the structure.

d. If a nonconforming use or structure is substantially damaged it may be reconstructed only in conformity with the provisions of this section for new structures.

e. Notwithstanding the foregoing paragraphs, a nonconforming use or structure in a floodplain area may only be repaired, replaced, maintained, improved, or expanded to the extent that it would qualify for eligibility in the National Flood Insurance Program, would not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway, and would comply with the provisions in § 300.XX.xxx.

5. Nonconformities in the Shoreland Overlay District.

a. When a nonconforming structure in the Shoreland Overlay District with less than 50 percent of the required setback from the water is destroyed

by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the city may require the structure setback to be increased, if practicable and reasonable conditions are placed upon a zoning permit or building permit to mitigate created impacts on the adjacent property or water body.

b. The following applies to lots in the Shoreland Overlay District that were of record in the office of the county recorder on the date of adoption of applicable shoreland controls and that do not meet the requirements for lot size or lot width:

(1) A nonconforming single lot of record located within the Shoreland Overlay District may be allowed as a building site without variances from lot size requirements, if the following standards are met.

(a) All structure setback distance requirements can be met.

(b) The lot is connected to a public sewer.

(c) The impervious surface coverage does not exceed 25 percent of the lot.

(2) In a group of two or more contiguous lots of record under common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if:

(a) The lot is at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120.

(b) The lot is connected to a public sewer.

(c) The impervious surface coverage does not exceed 25 percent of each lot.

(d) Development of the lot is consistent with the comprehensive plan.

c. A lot subject to subsection (b) of this section that does not meet the requirements of subsection (b)(2) of this section must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.

d. Notwithstanding subsection (b) of this section, contiguous nonconforming lots of record in the shoreland district under common ownership must be able to be sold or purchased individually if each lot

contained a habitable residential dwelling at the time the lots came under common ownership and the lots are connected to a public sewer.

e. In evaluating all variances, conditional use permit, zoning permit, and building permit applications, the city must require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions.

f. A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size requirements of the zoning district for a new lot and the newly created parcel is combined with an adjacent parcel.

§ 308.03. Nonconforming Lots.

1. Usage of a nonconforming lot.

a. If a lot or parcel of land was approved prior to the effective date of a standard causing the lot or parcel to become nonconforming, the property owner is permitted to continue any use in place at such time as the standard creating the nonconformity was made effective.

b. A lot or parcel of land that is nonconforming and that is not improved with a principal use is not be entitled to be developed with a principal use if it has been in common ownership with adjacent land, including land that is across a street, or if it has been part of a larger parcel of land, at any time after adoption of the standard that causes the lot or land to be nonconforming.

2. Prohibition on establishment of nonconforming lots. No lot may be established after the effective date of this Code unless such parcel conforms with all requirements of this Code.

3. Lot line adjustments. Notwithstanding the provisions in this Code, lot line adjustments may be permitted between nonconforming lots or between a nonconforming lot and a conforming lot, provided the city planner finds that the degree of nonconformity is not increased for any lot.

§ 308.04. Nonconforming Structures.

1. Alteration of a nonconforming structure.

a. Unless such action does not increase the degree of nonconformity, a nonconforming structure may not be extended, enlarged, reconstructed, or substantially altered except in conformance with this Code or as required by other applicable law.

b. A nonconforming structure may not be moved in whole or in part to any other location unless every portion of such structure and the use thereof is made to conform with all requirements of this Code and other applicable ordinances.

2. Nonconforming utility poles. For a nonconforming utility pole that exists on the effective date of this Code, the pole and wires may be replaced in the event that it is damaged as the result of circumstances beyond the owner's control, but only if the height of the preexisting pole and its lines are not exceeded and the voltage of the preexisting wires is not increased.

a. The height and voltage may be exceeded only if this is required by other governmental agencies or by applicable safety codes.

b. The height may be exceeded temporarily if the owner does not have a conforming pole available, but only on the condition that a permanent replacement that does not exceed the pre-existing height is installed as soon as practical.

§ 308.05. Nonconforming Uses.

1. Applicability. No nonconforming use may be used and continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, except in compliance with the provisions of this section.

2. Nonconforming use standards. All nonconforming uses must comply with all land use regulations in place at the time the nonconformity was created to be eligible for the benefits of being a nonconforming use.

3. General nonconformity standards.

a. There may be no expansion, enlargement, or intensification, of any nonconforming use or development except to make it a permitted use or except as otherwise provided in this subsection.

(1) Normal building maintenance and repair is allowed.

(2) Expansion, enlargement, or intensification of a conforming aspect of a nonconforming use or development is allowed. For example, if

a structure has a nonconforming front setback, it may be expanded on the sides that do meet setback requirements as long as the expansion itself meets the requirements of this Code.

b. No nonconforming use may be resumed if normal operation of the use has been discontinued, or if a nonconforming development has been removed and not replaced, for a period of 12 or more months.

(1) Such time will be calculated as beginning on the day following the last day in which the use was in normal operation and will run continuously thereafter.

(2) Following the expiration of 12 months, only uses that are permitted by this Code are allowed to be established.

c. Full use of a nonconforming use may not be resumed if the amount of land or floor area dedicated to the principal use is lessened or if the intensity of the use is in any manner diminished for a period of 12 or more months.

(1) Such time will be calculated as beginning on the day following the last day in which the nonconforming use was in full operation and will run continuously thereafter.

(2) Following the expiration of 12 months, the nonconforming use or development may be used only in the manner or to the extent used during the preceding 12 months.

(a) For the purposes of this provision, intensity of use will be determined by a review of the original nature, function or purpose of the nonconforming use, the hours of operation, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odors, area of operation, number of employees, and other factors deemed relevant by the city.

d. Notwithstanding the prohibitions contained in the foregoing paragraphs of this subsection, a nonconforming use may be changed to another nonconforming use of less intensity if it is in the public interest subject to the approval of the city council. In all instances the applicant has the burden of proving that the proposed land use is less intense than the existing nonconforming land use

e. Notwithstanding the foregoing paragraphs of this subsection, all nonconforming sexually-oriented businesses and sexually-oriented uses,

as defined in this Code, which were made nonconforming by this Code or amendment thereto must be discontinued no later than three years after the adoption of the provision creating the nonconformity.

4. Expansion. Work that constitutes an expansion of any nonconforming use may not be done without first obtaining a variance pursuant to § 300.XX or a nonconforming use expansion permit in accordance with § 300.XX. of this Code.

§ 308.06. Nonconforming Sign.

1. Maintenance.

a. A nonconforming sign and all supporting structures must be maintained in good repair and condition.

2. Enlargement, extension, and modification.

a. Nonconforming signs may not be enlarged, extended, modified, reconstructed, or structurally altered except in accordance with this Code.

b. A sign support structure that is nonconforming due to location may be reused to erect a sign of conforming size or in compliance with the provisions below.

c. A nonconforming sign may be removed from its on-site location to allow for routine maintenance or repair of the sign for a period of 180 days from the date of permit issuance.

(1) Such signs must be repaired and reinstalled within the 180-day period.

(2) Failure to apply for a permit prior to removal of said sign or removal of the sign for a period longer than 180 days will result in the loss of the legal nonconforming status of the sign.

d. A legal nonconforming sign due to size may be replaced with another sign of legal nonconforming size if the new legal nonconforming sign reduces the existing degree of nonconformity by at least 30 percent.

e. Nonconforming signs may not be repainted or refaced when such action alters or changes the wording, composition, color, or material of the sign unless such a change is specifically authorized by the issuance of a sign permit.

f. A nonconforming sign may not be moved on the same parcel or building or to another lot or building unless the relocated sign is modified to fully comply this Code.

3. Loss lawful nonconforming sign status.

a. Any nonconforming sign that is enlarged, extended, modified, reconstructed, or structurally altered will cause the sign to lose its status as a lawful nonconforming sign status.

4. Supporting structures.

a. Supporting structures for nonconforming signs may continue in use for a conforming sign if said supporting structures comply in all respects to the applicable requirements of this ordinance and other ordinances.

5. Removal of nonconforming signs. A nonconforming sign that is an imminent danger to life or property or that may not be replaced under this Code must be removed immediately at the expense of the owner.

§ 308.07. Restoration, Repair, and Reconstruction.

1. Nonconforming buildings, structures, and uses.

a. If replacement, reconstruction, or restoration of a legal nonconforming use or development is allowed, it may occur without any zoning approval provided all permits required by the Minnesota State Building Code are received and the resulting use or development does not create any new adverse impacts on adjacent property and matches exactly the conditions that existed before the work was undertaken or before the use or development was damaged or destroyed, except for internal improvements and improved materials used to replace roof surfaces, siding, windows, doors, and similar components.

(1) Work that would not meet this requirement or any other improvement to a nonconforming use or development may not be undertaken unless the appropriate approval required below has been granted for the property.

(2) The city may impose conditions in its approval to protect the public health, safety, or welfare, and to mitigate any newly created impacts on adjacent property or water body.

(3) Work that brings a structure into compliance with the requirements of the building code requires approval from the city planner. The

city planner may choose, in their sole discretion, to require site plan approval instead of administrative approval.

(4) All other improvements require site plan approval notwithstanding any other provision of this Code to the contrary.

2. Nonconforming signs.

a. A nonconforming sign may not be reconstructed and must be removed if the building, structure, or use to which it is accessory is damaged or destroyed to an extent exceeding 50 percent of the previous fair market value of the principal building, structure, or use.

(1) The city council may waive this requirement through the approval of a Special Use Permit.

b. A nonconforming sign that is destroyed or damaged to an extent exceeding 50 percent of its previous fair market value may not be altered, replaced, or reinstalled unless it is in conformance with this Code.

(1) The city council may waive this requirement through the approval of a Special Use Permit.

c. A nonconforming sign that is damaged or destroyed to an extent less than 50 percent of its previous fair market value, the sign may be restored within 180 days of the damage or destruction but may not be enlarged in any manner.

PART 09. ADMINISTRATION AND PROCEDURES.

§ 309.00. City Planner.

1. **Powers and duties.** The city planner will be responsible for administering and enforcing this Code. The city planner has the power and duty to:
   a. Create and maintain necessary records and files and establish administrative procedures to ensure the efficient implementation of this Code;
   b. Designate additional individuals as needed to assist in the administration and enforcement of this Code; and
   c. Make substantially similar use determinations for permitted, conditional, accessory, temporary, and interim uses as authorized in each zoning district.
      (1) The public may request a written statement of clarification that includes the findings that lead to the city planner's determination.
2. **Appeals.** Any person dissatisfied with an action or decision of the city planner may appeal such action or decision in accordance with § 309.XX. of this Code.

§ 309.01. Planning Commission.

1. **Establishment.** A planning commission of seven members is established and will constitute the planning agency of the city. Members of the planning commission must be residents of the city and will be appointed by the mayor and confirmed by the city council. Members will serve staggered terms of two years and may be removed by a vote of two-thirds of the full city council. Members will hold office until their successors are appointed and qualified, not to exceed an additional 90 days.
2. **Powers and duties.** The planning commission will have such powers and duties as may be conferred upon it by statute, charter, or ordinance. The planning commission's actions will be advisory to the city council except with regard to those matters in which its decisions are final but subject to appeal to the city council. In addition, the planning commission will have the power:
   a. To hear requests and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of this Code; and

b. To hear applications for variances, conditional use permits, interim use permits, nonconforming use expansion permits, and sign plan requests and to grant such requests only when it is demonstrated that the application meets the requirements of this Code.

3. Procedures.

a. The planning commission will elect from among its members such officers as it may deem appropriate.

b. The planning commission may adopt bylaws or rules for the conduct of its business.

4. Staff liaison. The city planner will serve as liaison between the city planner and planning commission. The city planner will prepare reports and information for the planning commission, attend its meetings, and participate in hearings and discussions held by the commission but may not vote on any item before the planning commission.

5. Actions. The planning commission will make recommendations to the city council or decisions on items before it within a reasonable time or such time as prescribed by statute, charter, or ordinance.

a. Failure by the planning commission to make a recommendation or decision within the required period will be deemed to be a denial if the delay is appealed by the applicant.

b. The planning commission may condition its recommendations or approval to effect the intent of this Code.

c. The planning commission will accompany its decision to deny any application with a statement of its findings regarding the matter.

d. The decision of the planning commission will be mailed or electronically delivered to the applicant at the address or email address provided in the application.

6. Appeals.

a. Any person aggrieved by an action of the planning commission regarding an application on which the decision of the planning commission may be final may appeal such decision in accordance with § 309.XX. of this Code.

b. In any matter in which the planning commission's decision is not final but is a recommendation to the city council, the city council may adopt, modify, or reject the recommendation of the planning commission by

vote of a simple majority of those present, unless otherwise required by this Code.

§ 309.02. Amenity Maintenance Plan.

1. **Applicability.** No building permit or certificate of occupancy may be granted for a site subject to the standards established in § 305.04 of this Code unless an amenity maintenance plan is approved in accordance with this section.
   a. If a site plan containing an amenity maintenance plan was previously approved for the site, such site plan approval will constitute approval of an amenity maintenance plan.
   b. If an amenity maintenance plan was previously approved for the site that accurately describes the existing condition of the site and demonstrates compliance with the review criteria, such approval will constitute approval of an amenity maintenance plan.
2. **Application.** An amenity maintenance plan application must be submitted to the city planner on forms provided by the city. The city planner may require additional information as may be required by the city based on the characteristics of the site or proposed use.
3. **Review criteria.** In reviewing an amenity maintenance plan application, the approving authority must consider the application's demonstration that the proposed amenities on a site will be maintained in a working and accessible condition.
4. **Review procedure.** If submitted in conjunction with a site plan, an amenity maintenance plan will be reviewed in accordance with the standards and procedures established for site plan review in § 309.XX. of this Code. If submitted as an independent application, an amenity maintenance plan will be reviewed in accordance with the following standards.
   a. *Submission*. The applicant may submit amenity maintenance plan application at any time prior to the submittal of a building permit or certificate of occupancy application.
   b. *Review by the city planner*. Upon receiving a complete application, the city planner will act on an amenity maintenance plan according to whether the application demonstrates compliance with the review criteria.
      (1) In approving an amenity maintenance plan, the city may require a cash deposit or letter of credit in a form acceptable to the city

attorney not to exceed 150 percent of the estimated cost, or 125 percent of an actual bid, to maintain the associated trail-oriented amenities.

5. **Appeals.** Any person aggrieved by an action of an approving authority in the review of an amenity maintenance plan application may appeal such decision in accordance with § 300.XX. of this Code.

6. **Records.** The city planner must keep a record of all approved amenity maintenance plans.

7. **Effect of approval.** The approval of an amenity maintenance plan will enable the subject property to receive building permit approval.

8. **Validity period.** Where an amenity maintenance plan is submitted, reviewed, and approved in conjunction with a site plan, the amenity maintenance plan will remain valid as long as the site plan remains valid. Where an amenity maintenance plan is submitted independent of a site plan, the amenity maintenance plan will remain valid according the following standards.

   a. An approved amenity maintenance plan will remain valid for a period of two years from the date of approval. If a building permit has not been issued within this period, the approval will expire. If a building permit is issued, the amenity maintenance plan will remain valid for the duration of such building permit. An amenity maintenance plan will become valid indefinitely upon the completion of construction in accordance all approved plans and the approval of a Certificate of Occupancy for the development.

      (1) Upon request by the applicant, the city planner may grant a one-year extension of the validity period provided such request is submitted to the city planner at least 30 days prior to the expiration of the amenity maintenance plan's validity period.

9. **Enforcement.**

   a. The city planner may revoke an approved amenity maintenance plan in accordance with § 700.035 of the city code of ordinances and require the submission of a new amenity maintenance plan if the city planner determines, based on substantial evidence, that one or more of the following conditions exist.

(1) A trail-oriented amenity installed on the site fails to conform to the design or quality of service specified in the approved amenity maintenance plan.

(2) The property owner has failed to maintain a trail-oriented amenity in a clean, safe, and accessible condition.

(3) A significant change have been made to a trail-oriented amenity without prior amendment to the amenity maintenance plan.

(4) The initial approval was obtained through a material misrepresentation of fact or a fraudulent statement on the application.

b. Upon revocation of an amenity maintenance plan, no new building permit or certificate of occupancy will be issued for the site.

§ 309.03. Certificates of Occupancy.

1. Applicability.

a. It is unlawful to use, occupy, or permit the use or occupancy of any building or portion of a building constructed, erected, enlarged, altered, converted, or moved onto a lot within the city until a certificate of occupancy or temporary certificate of occupancy, if applicable, has been issued according to this section.

b. A certificate of occupancy will be required for all nonconforming uses and nonconforming developments.

(1) A certificate of occupancy issued for nonconforming uses or nonconforming development must state the manner and extent to which the requirements of this Code are not met.

2. Application. A certificate of occupancy or temporary certificate of occupancy application must be submitted to the building official on forms provided by the city. The city planner may require additional information as may be required by the city based on the characteristics of the site or proposed use.

3. Review criteria. In reviewing and acting upon a certificate of occupancy or temporary certificate of occupancy application, the approving authority must consider the application's demonstration that the building and use are in conformance with all requirements of the Minnesota State Building Code and city code of ordinances and that any conditions of approval have been met.

4. Review procedure.

a. A certificate of occupancy application must be submitted, reviewed, and acted upon in accordance with the following standards.

(1) *Submission*. The applicant may submit a certificate of occupancy application upon completion of a building or establishment of a use.

(2) *Review by the city planner*. Upon determination that the review criteria is met, the city planner will review the request for a certificate of occupancy within 10 days of receiving a complete application.

(a) Where an approved grading and erosion control plan exists for the site and the soil on the site is not permanently stabilized through landscaping prior to the issuance of a certificate of occupancy, the city may require a cash deposit or letter of credit in a form acceptable to the city attorney not to exceed 150 percent of the estimated cost, or 125 percent of an actual bid, to ensure compliance with the approved grading and erosion control plan for the site.

5. Appeals. Any person aggrieved by an action of an approving authority in the review of a certificate of occupancy or temporary certificate of occupancy application may appeal such decision in accordance with § 300.XX. of this Code.

6. Records. The building official must keep a record of all approved certificates of occupancy and temporary certificates of occupancy.

7. Effect of approval.

a. Approval of a certificate of occupancy or temporary certificate of occupancy will verify a building or use's compliance with the city code of ordinances and any conditions of approval.

b. Approval of a temporary certificate of occupancy will not alter the rights or obligations of the owner, tenant, or city with respect to full compliance with the requirements of this Code or other provisions of the city code of ordinances.

c. If seasonal weather conditions complicate the immediate installation of plant material, the city planner may authorize the temporary deferral of any planting required by the approved landscaping plan. Such deferral will be contingent upon the applicant providing a performance guarantee

approved by the city attorney in an amount equal to 125 percent of the estimated cost of the remaining materials and labor. All deferred landscaping must be installed within six months of the date of the deferral.

8. Validity period.

a. An approved certificate of occupancy will remain valid indefinitely provided the associated building or use remains in compliance with the city code of ordinances and any conditions of approval.

b. An approved temporary certificate of occupancy will remain valid for a period not to exceed six months.

(1) One extension of a temporary certificate of occupancy may be authorized for a period not to exceed six months.

9. Enforcement. The building official may revoke a certificate of occupancy if the building or use under Minnesota Administrative Rule 1300.0220 Subp. 7.

§ 309.04. Conditional Use Permit.

1. Applicability. It is unlawful to use any structure or land for any purpose requiring a conditional use permit, as established by this Code, without first obtaining a conditional use permit from the city.

a. Where applicable, a building permit must also be obtained from the city.

2. Application. A conditional use permit application must be made to the city planner on forms provided by the city and must be accompanied by the following information. The city planner may require additional information as may be required by the city based on the characteristics of the site or proposed use.

a. The legal description of the property;

b. Evidence of ownership or an interest in the property;

c. The fee required by § 710 of the city code of ordinances; and

d. A survey or site plan of the property which shows, at a minimum, all lot lines, existing and proposed structures, driveways and parking areas.

3. Review criteria. In reviewing and acting upon a conditional use permit application, the approving authority must consider the application's compliance with the following standards.

a. *General standards.*

(1) The use is consistent with the intent of this Code;

(2) The use is consistent with the goals, policies, and objectives of the comprehensive plan;

(3) The use does not have an undue adverse impact on governmental facilities, utilities, services, or existing or proposed improvements; and

(4) The use does not have an undue adverse impact on the public health, safety, or welfare.

b. *Additional standards for conditional use permits associated with lots in a Village Center or Flex Industrial District*.

(1) *Purpose*. It is the intent of the city in establishing additional standards for conditional uses in the Village Center and Flex Industrial Districts that such uses be subject to careful evaluation to ensure that their location, size, and design are consistent with the standards, purposes, and procedures of this Code and the comprehensive plan.

(2) *Additional standards*. No conditional use permit may be granted unless the approving authority determines that all of the following standards will be met.

(a) The use is consistent with the intent of this Code;

(b) The use is consistent with the goals, policies, and objectives of the comprehensive plan;

(c) The use does not have an undue adverse impact on governmental facilities, utilities, services, or existing or proposed improvements;

(d) The use is consistent with the city's water resources management plan;

(e) The use complies with the performance standards specified in § 300.XX. of this Code; and

(f) The use does not have an undue adverse impact on the public health, safety, or welfare.

c. *Additional standards for conditional use permits associated with lots in a Wetlands, Floodplains, or Shoreland Overlay District*.

(1) *Purpose*. It is the intent of the city in establishing general and specific criteria for conditional uses that such uses be subject to

careful evaluation to ensure that their location, size and design are consistent with the standards, purposes, and procedures of this Code and the comprehensive plan. The planning commission may impose conditions on such uses in order to effect the purpose of this ordinance.

(2) *Additional standards.* No conditional use permit may be granted for a lot in the Wetlands, Floodplain, or Shoreland Overlay Districts unless the approving authority determines that all of the following standards will be met:

(a) The use is consistent with the intent of this Code.

(b) The use is consistent with the goals, policies, and objectives of the comprehensive plan.

(c) The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements.

(d) The use is consistent with the city's water resources management plan.

(e) The use does not have an undue adverse impact on the public health, safety, or welfare.

(f) Water bodies receiving runoff entering wetlands, floodplain, or shoreland areas must not be adversely impacted by the water quality of runoff.

(g) No structure or fill may be placed which adversely affects the minimum required water storage capacity as defined in the water resources management plan of a property.

(h) No structure subject to periodic inundation may be designed for human habitation or be serviced with public utilities.

(i) Structures must have a low flood damage potential and must be firmly anchored.

(j) Service facilities, such as electrical and heating equipment, must be located a minimum of two feet above the flood elevation defined in the water resources management plan.

(k) There will be no storage of materials which are flammable, explosive or otherwise dangerous to human, animal, or plant life.

(l) There will be only minimal interference with wetland vegetation.

(m) Required approvals must be secured from all appropriate jurisdictions, including the United States Army Corps of Engineers, Minnesota DNR, governing watershed district, and the Lake Minnetonka conservation district. Any conditions imposed upon such approvals must be met.

(3) *Wetland Overlay District standards*. No conditional use permit may be granted for a lot in the Wetland Overlay District unless the approving authority determines its approval will not adversely impact wetlands, the wetland buffer area, and surrounding properties, the intent of this ordinance, or the goals and policies of the comprehensive plan.

(a) If applicable, the granting of a conditional use permit will be conditioned upon review of the request by all other appropriate regulatory governmental agencies, including the watershed district and the Minnesota DNR.

(4) *Floodplain Overlay District standards*. No conditional use permit may be granted in the Floodplain Overlay District unless the approving authority determines its approval will not have an adverse impact on the intent of this Code or the goals and policies of the comprehensive plan.

(a) No conditional use permit may be issued unless efforts have been made to mitigate to the extent feasible adverse impacts on the subject property and adjacent properties.

(b) The granting of a conditional use permit will be conditioned upon review of the request by all other appropriate governmental agencies, including watershed districts, the Minnesota DNR, FEMA, and the United States Army Corps of Engineers.

(5) *Shoreland Overlay District standards*.

(a) No conditional use permit may be granted in the Shoreland Overlay District unless the approving authority determines that all of the following standards are met.

1. The use is consistent with the intent of this Code.

2. The applicant demonstrates how the use will minimize the adverse impacts to the public water and to the Shore and Bluff Impact Zone.
    a. Soil erosion and other pollutants entering the public water during and after construction;
    b. Visibility of structures and other facilities from the public water, and;
    c. Overcrowding of watercraft on the public water based on the types, uses, and numbers of watercraft that the project will generate in relation to the suitability of the public water to safely accommodate these watercraft;
3. The use is consistent with the goals, policies, and objectives of the comprehensive plan;
4. The use does not have an unreasonable adverse impact on governmental facilities, utilities, services or existing or proposed improvements;
5. The use does not have an unreasonable adverse impact on the public health, safety or welfare;
6. All other appropriate governmental agencies have reviewed the request, including watershed districts, conservation districts, and the Minnesota DNR; and
7. The use complies with the standards in sections 300.23 and 300.24 if applicable.

(b) No approval may be granted for a conditional use permit that is required by another zoning district and that is wholly or partially in the Shoreland Overlay District unless the approving authority determines that following requirements are met in addition to the requirements of § 300.XX. or § 300.XX.

1. The impervious surface coverage must be 20 percent less than the amount allowed by § 300.XX. or § 300.XX. All impervious surfaces must comply with this Code.
2. The setback from the OHWL must be twice the minimum required by § 300.XX. or § 300.XX.

3. All structures must be screened from view as viewed from the lake in summer-leaf on conditions.

4. Review procedure. A conditional use permit application must be submitted, reviewed, and acted upon in accordance with the following standards.

a. *Submission*. The applicant must submit a conditional use permit application containing all information contained in subsection (2) of this section to the city planner.

(1) The city planner must notify the Minnesota DNR of all conditional use permit applications and any decisions made thereto related to lots in the shoreland district as provided for in § 300.xx.

b. *Review by the planning commission*.

(1) After receipt of a completed application, a date must be set for a public hearing before the planning commission.

(a) Not less than 10 days before the public hearing, the city must publish notice in the city's official newspaper, on the city website, and send notice by mail to the applicant and to the owners of all properties located wholly or partially within 400 feet.

(b) A public hearing must be held before the city council instead of the planning commission if the application is for a city-owned park, the project has no variances, and a public hearing complying with the notice provisions of this paragraph has been held at a neighborhood meeting or by the Minnetonka park board.

1. In such a circumstance, the city council will be the approving authority and must review the application is accordance with the standards established in this subsection (4)(b) of this section.

(2) Following the hearing or any continuance that is not appealed by the applicant, the planning commission must act on the conditional use permit application.

(a) In evaluating a conditional use permit application, the planning commission must consider and adopt findings regarding compliance with the review criteria established in subsection (3) of this section.

(b) The decision of the planning commission must be made in writing and must be mailed or electronically delivered to the applicant at the address or email address provided in the application. If a conditional use permit is denied, the reason must be stated in writing.

(c) In approving a conditional use permit application, the planning commission may attach conditions to the approval to ensure compliance with the review criteria established in subsection (3) of this section or to effect the purpose of this Code.

(3) The planning commission must act upon all conditional use permit applications within the time period specified by state law.

5. Appeals. Any person aggrieved by an action of an approving authority in the review of a conditional use permit application may appeal such decision in accordance with § 300.XX. of this Code.

6. Records. No conditional use permit will become effective until the applicant files a certified copy of the approved conditional use permit containing a legal description of the property and any conditions attached to the conditional use permit approval with the Hennepin County Recorder or Registrar of Titles.

7. Effect of approval. Upon proper recording, an approved conditional use permit will authorize the operation of the use or development activity described on the permit.

8. Validity period.

a. A conditional use permit will remain in effect for so long as the conditions agreed upon are observed.

b. A conditional use permit will expire if normal operation of the use has been discontinued for 12 or more months.

(1) Time will be calculated as beginning on the day following the last day in which the use was in normal operation and will run continuously thereafter.

9. Enforcement.

a. The planning commission may periodically review approved conditional use permits and may revoke a conditional use permit upon violation of any condition of the permit, any federal or state law, or any city ordinance.

b. If it is discovered after approval of the conditional use permit that the city's decision was based at least in part on fraudulent information, the city council may revoke the conditional use permit, modify the conditions, or impose additional conditions to ensure compliance with this Code.

c. The procedure for revocation is the same as that for licenses specified in § 700.035 of the city code of ordinances.

d. A person who violates, fails to comply with or assists, directs, or permits the violation of the terms or conditions of a conditional use permit is guilty of a misdemeanor.

(1) A violation is a violation of the permit and renders the permit null and void.

(2) A violation also constitutes a public nuisance that may be abated in accordance with the provisions of § 845.

§ 309.05. Construction Management Plan.

1. Applicability.

a. No building permit may be granted for any of the following site work unless a construction management plan is approved in accordance with this section.

(1) The erection of any new principal building or structure.

(2) The expansion of an existing principal building that increases the gross floor area by [e.g., 50%] or more, or adds a new story.

(3) Any land-disturbing activity requiring a grading and erosion control plan per § 309.XX. of this Code.

(4) The full demolition of a principal structure.

(5) The installation or significant replacement of public or private utilities, roadways, or large-scale stormwater management facilities.

b. An approved construction management plan will be required prior to building permit approval, but no new construction management plan will be required in the following circumstances.

(1) A site plan containing a construction management plan was previously approved for the same site work.

(2) A construction management plan was previously approved for the site, such plan accurately describes the proposed construction

activities, and such plan demonstrates compliance with the review criteria established in this section.

c. No construction management plan will be required in the following circumstances.

(1) Interior renovations, tenant fit-outs, or structural repairs that do not increase the building height or increase the building's gross floor area by more than five percent.

(2) Painting, roofing replacement, window replacement, or siding repair using standard residential or commercial scaffolding.

(3) The construction, reconstruction, and maintenance of sheds, fences, decks, or detached garages that do not exceed 600 square feet in area. This exception will not apply to the construction of an accessory dwelling unit.

(4) Immediate repairs necessary to protect public health and safety, as determined by the building official, provided that the city reserves the right to require basic mitigation measures during such work.

(5) The planting, removal of non-protected trees, and minor surface grading for residential gardens or pathways that do not alter established drainage patterns.

2. Application. A construction management plan application must be submitted to the city planner on forms provided by the city. The city planner may require additional information as may be required by the city based on the characteristics of the site or proposed use.

3. Review criteria. In reviewing a construction management plan application, the approving authority must consider the application's demonstration that construction activities will be conducted in accordance with this code and the city code of ordinances.

4. Review procedure. If submitted in conjunction with a site plan, a construction management plan will be reviewed in accordance with the standards and procedures established for site plan review in § 309.XX. of this Code. If submitted as an independent application, a construction management plan will be reviewed in accordance with the following standards.

a. *Submission*. The applicant may submit construction management plan application at any time prior to the submittal of a building permit.

b. *Review by the city planner*.

(1) Upon receiving a complete construction management plan application, the city planner will share the application with the city engineer for their review.

(2) Upon receiving a complete application, the city planner and the city engineer will act on a construction management plan application according to the application's demonstration that the review criteria is met.

5. **Appeals.** Any person aggrieved by an action of an approving authority in the review of a construction management plan application may appeal such decision in accordance with § 300.XX. of this Code.

6. **Records.** The city planner must keep a record of all approved construction management plans.

7. **Effect of approval.** The approval of a construction management plan will enable the subject property to receive building permit approval, the approval of which will be contingent on compliance with the construction management plan.

8. **Validity period.** Where a construction management plan is submitted, reviewed, and approved in conjunction with a site plan, the construction management plan will remain valid as long as the site plan remains valid. Where a construction management plan is submitted independent of a site plan, the construction management plan will remain valid according the following standards.

a. An approved construction management plan will remain valid for a period of two years from the date of approval. If a building permit has not been issued within this period, the approval will expire. If a building permit is issued, the construction management plan will remain valid for the duration of such building permit.

(1) Upon request by the applicant, the city planner may grant a one-year extension of the validity period provided such request is submitted to the city planner at least 30 days prior to the expiration of the construction management plan's validity period.

9. **Enforcement.**

a. The city planner may revoke an approved construction management plan in accordance with § 700.035 of the city code of ordinances if the city

planner determines, based on substantial evidence, that one or more of the following conditions exist.

(1) The property owner has failed to maintain the construction site in a clean, safe, and accessible condition.

(2) A significant change has been made to the management of construction activities without prior amendment to the construction management plan.

(3) The initial approval was obtained through a material misrepresentation of fact or a fraudulent statement on the application.

b. Upon revocation of a construction management plan, no new building permit or certificate of occupancy will be issued for the site.

§ 309.06. Enhanced Dynamic Display Permit.

1. Applicability. No sign permit may be issued for a sign containing an enhanced dynamic display or proposing to replace a dynamic display with an enhanced dynamic display prior to the approval of an enhanced dynamic display permit in accordance with this section.

2. Application. An enhanced dynamic display permit application must be made to the city planner on forms provided by the city and must be accompanied by the following information. The city planner may require additional information as may be required by the city based on the characteristics of the site or proposed use.

a. A written agreement sign by the applicant agreeing to permanently remove, within 15 days after issuance of the enhanced dynamic display permit, at least two other faces of an outdoor advertising sign in the city that are owned or leased by the applicant, each of which must satisfy the following criteria.

(1) The city has not previously issued an enhanced dynamic display permit based on the removal of the particular faces relied upon in the application.

(2) Each removed sign has a copy and graphic area of at least 288 square feet and satisfies two or more of the following additional criteria:

(a) The removed sign is located adjacent to a highway with more than two regular lanes and with a general speed limit of 45

miles per hour or greater, but that does not have restrictions on access equivalent to those of an interstate highway;

(b) All or a substantial portion of the structure for the removed sign was constructed before 1975 and has not been substantially improved;

(c) The removed sign is located in a noncommercial zoning district;

(d) The removed sign is located in a special planning area designated in the 1999 comprehensive plan; or

(e) The removed copy and graphic area is equal to or greater than the area of the copy and graphic area for which the enhanced dynamic display permit is sought.

(3) If a removed sign face is one for which a state permit is required by state law, the applicant must agree to surrender its permit to the state upon removal of the sign. The sign that is the subject of the enhanced dynamic display permit cannot begin to operate until proof is provided to the city that the state permit has been surrendered.

(4) Such removal must include the complete removal of the structure and foundation supporting each sign face.

(5) This agreement will be binding on the applicant and all future owners of the sign.

b. A written agreement signed by the applicant certifying that they are removing all signs voluntarily and that the applicant has no right to compensation for the removed sign under any law. This agreement will be binding on the applicant and all future owners of the sign.

c. A written agreement signed by the applicant certifying that the city may remove the sign if the applicant does not do so in a timely manner.

d. A cash deposit or letter of credit acceptable to the city attorney sufficient to pay the city's costs for any removal actions undertaken by the city.

e. A written agreement signed applicant certifying that no dynamic display will ever be used on an additional outdoor advertising sign that has a copy and graphic area of greater than 288 square feet in size.

(1) This agreement will be binding on the applicant and all future owners of the sign.

(2) If the sign is subsequently removed or destroyed and not replaced, the holder of the enhanced dynamic display permit is not required to substitute a different sign for the one that no longer exists.

(3) This agreement will be binding on the applicant and all future owners of the sign.

3. **Review criteria.** If the applicant complies with the application requirements noted in subsection (2) of this section and the enhanced dynamic display permit application demonstrates compliance with § 307.XX. of this Code, the approving authority will issue an enhanced dynamic display permit for the designated outdoor advertising sign.

4. **Review procedure.** An enhanced dynamic display permit application must be submitted, reviewed, and acted upon in accordance with the following standards.

a. Submission. The applicant must submit an enhanced dynamic display permit application containing all information contained in subsection (2) of this section to the city planner.

b. Review by the city planner. Upon determining the application complies with the review criteria established in subsection (3) of this section, the city planner must approve the enhanced dynamic display permit application.

5. **Appeals.** Any person aggrieved by the action of an approving authority in the review of an enhanced dynamic display permit application may appeal such action in accordance with § 300.XX. of this Code.

6. **Records.** The city planner must keep a record of all approved enhanced dynamic display permits.

7. **Effect of approval.** An approved enhanced dynamic display permit will allow a dynamic display to occupy 100 percent of the potential copy and graphic area and to change no more frequently than once every eight seconds. The designated sign must meet all other requirements of this Code.

8. **Validity period.** An approved enhanced dynamic display permit will remain valid indefinitely provided the applicant complies with the agreements signed per subsection (3) of this section and the associated enhanced dynamic display complies with the provisions of § 300.XX. of this Code.

9. **Enforcement.** The city planner may revoke an enhanced dynamic display permit if the applicant does not comply with the agreements signed per subsection (3) of this section or if the associated enhanced dynamic display violated the provisions of § 300.XX. of this Code.
   a. The procedure for revocation will be the same as that for licenses specified in § 700.035 of the city code of ordinances.
   b. The city will have authority to enforce the revocation of the enhanced dynamic display permit by appropriate means.
   c. Upon revocation, the enhanced dynamic display may not be operated until the violation in remedied and a new enhanced dynamic display permit is approved.

§ 309.07. Grading and Erosion Control Plan.

1. **Applicability.** Approval of grading and erosion control plan will be required as part of an application for any grading permit, preliminary plat, site plan, lot division, wetland/ floodplain alteration permit, and as part of an application for a building permit that involves any amount of land-disturbing activity.

2. **Application.** A grading and erosion control plan must be submitted to the city planner, be consistent with the Minnesota Pollution Control Agency's construction general permit, and include the information required by § 300.XX.2. of this Code. The city planner may require additional information as may be required by the city based on the characteristics of the site or proposed use.
   a. If a Minnesota Pollution Control Agency construction general permit is required, the applicant must obtain the permit, submit proof to the city that the permit has been acquired, and submit proof to the city that the permit has been transferred, if applicable.

3. **Review criteria.** In reviewing and acting upon a grading and erosion control plan application, the approving authority must consider the application's compliance with the provisions of the city code of ordinances.

4. **Review procedure.** A grading and erosion control plan must be submitted, reviewed, and acted upon in accordance with the following standards.
   a. *Submission.* The applicant must submit a grading and erosion control plan application containing all information contained in subsection (2) of this section to the city planner.

b. *Review by the city staff*.

(1) The city planner, city engineer, natural resources manager, and any other applicable city staff will review the grading and erosion control plan application.

(2) If an application is processed by the city staff, the city planner must render a decision within 60 days and must inform the applicant with a copy of the decision by mail.

(a) A grading and erosion control plan will not be approved until all erosion control, tree protection, and construction limit measures have been installed and inspected by the city.

5. Appeals. Any person aggrieved by an action of an approving authority in reviewing a grading and erosion control plan may appeal such action in accordance with § 300.XX. of this Code.

6. Records. The city planner must keep a record of all approved grading and erosion control plans.

7. Effect of approval.

a. No person may undertake, authorize, or permit any excavating, grading, filling, or any other land disturbing activity that exposes soil if:

(1) The person does not have an approved grading and erosion control plan; or

(2) The action violates or is not in compliance with the approved grading and erosion control plan.

b. If a Minnesota Pollution Control Agency construction general permit is required, the applicant must comply with the regulation listed on such permit.

8. Validity period.

a. Land disturbing activities must begin no later than December 31st of the year following the year in which grading and erosion control plan approval is granted. After the expiration of such period, the grading permit approval will be null and void unless the planning commission grants an extension of time or a building permit has been issued and substantial work performed on the project.

(1) Upon request by the applicant, the planning commission may grant a one-year extension of time for a grading and erosion control plan

approval following compliance with the notice and public hearing requirements of this section.

(2) The city may decline to grant an extension if there has been a change in circumstances affecting the property or if there are other reasons to justify the denial.

(a) A change in circumstance may be an approved modification to the comprehensive plan, substantial changes to the surrounding development pattern, or other items as determined by the city.

9. Enforcement.

a. If a grading and erosion control plan has been implemented but is reasonably considered by the city planner to be inadequate in achieving the policy objectives of this Code, the city may require the permittee to modify and implement the grading and erosion control plan to achieve those objectives. In such a circumstance, the modification must be approved subject to the review procedure established in subsection (4) of this section.

b. Whenever the city finds noncompliance with any provision of this Code, the grading and erosion control plan, or the Minnesota Pollution Control Agency construction general permit, if required, city staff will attempt to communicate with the permittee and the landowner to obtain immediate and voluntary compliance.

(1) The city may inspect any property subject to an approved grading and erosion control plan to ensure that erosion and sediment control and tree protection measures are properly installed and maintained.

(a) Upon request by the city the site maintenance inspection log must be made available within 24 hours of the request.

(2) If that person is not readily available or refuses to comply within reasonable deadlines, the city may take any or all of the following actions, provided that written notice of the noncompliance has been sent to the permittee and landowner or posted on the property.

(a) Implement the necessary corrective measures and pay for them with financial security deposited with the city;

(b) Initiate proceedings to abate a public nuisance under § 845 of the city code of ordinances;

(c) Withhold inspections or any city approvals for the property in question until compliance is achieved;

(d) Issue a stop work order for the project in question until compliance is achieved;

(e) Revoke the grading and erosion control plan; and

(f) Pursue criminal and civil penalties under § 1310 of the city code of ordinances.

c. A public nuisance exists when there is any violation of an approved grading and erosion control plan or the Minnesota Pollution Control Agency construction general permit, if required. A public nuisance also exists when erosion or drainage from a property is causing, or has the likelihood of causing, serious harm to neighboring property, the city's stormwater system, or to natural resources such as significant trees, water resources, and wetland buffers. Serious harm includes actual damage as well as interference with reasonable use of the property.

§ 309.08. Grading Permit.

1. Applicability.

a. Except as provided below, a grading permit will be required for the following activities.

(1) Excavating, grading, filling, or other land disturbing activity on a per project basis that exposes soil in an area or areas encompassing at least 5,000 square feet or results in the movement of at least 50 cubic yards of material;

(2) Excavating, grading, filling, or any other land disturbing activity that exposes soil in or on any steep slope, wetland, floodplain, or shoreland; or

(3) Excavating, grading, filling, or any other land disturbing activity that destabilizes the soil, involves the movement of contaminated soils, involves work in the right-of-way that is approved by the city engineer, or creates the potential of erosion onto property not in common ownership with the location of the activity or creates the potential of erosion into a water resource.

b. A separate grading permit will not be required for land disturbing activity that is undertaken in compliance with a grading and erosion control plan approved in conjunction with a building permit if in conformance with the provisions of § 300.XX. of this Code.

2. Application. A grading permit application must be submitted to the city planner on forms provided by the city and must contain the following contents. The city planner may require additional information as may be required by the city based on the characteristics of the site or proposed use.

a. The permit fee specified in § 710 of the city code of ordinances.

b. The existing and proposed final grades utilizing two foot contour intervals and spot elevations.

c. A survey showing the site's property lines, location, and elevation of all existing and proposed roads, utilities, and structures on and adjacent to the site.

d. A development concept plan indicating how the re-contoured parcel may be developed in a manner consistent with this section and the comprehensive plan.

e. A survey showing all floodplain areas, water resources, and their required buffers on and adjacent to the site, and indicating the receiving floodplain or water resource for drainage from the site.

f. The location of any water body that is identified as impaired pursuant to § 303(d) of the Clean Water Act and meeting the specific impaired waters criteria of the Minnesota Pollution Control Agency and that is within one mile of the site.

g. A stormwater management plan that includes the existing and proposed direction of drainage, stormwater conveyance systems to which the site drains, any stormwater management practices that are required by the city's water resources management plan and any engineering plans and specifications that may be deemed necessary by the city engineer, along with supporting calculations for all engineering work.

h. A tree survey and tree preservation plan that complies with the requirements of § 300.XX. of this Code.

i. A landscaping plan and site restoration plan.

j. A grading and erosion control plan which indicates how the control measures in § 300.XX.2. will be implemented.

k. A stormwater pollution prevention plan;

l. The location of designated areas for cleaning concrete trucks, if needed.

m. The proposed locations of soil stock piles.

n. The location of where compaction is to be prevented or mitigated.

o. An estimate of the amounts of material being moved within the site, onto the site, and away from the site.

p. An earth work balance summary designating cut and fill locations.

q. A soils engineering report and a geological report including data obtained from the requested site investigation; a description of the types, composition, permeability, stability, erodibility, and distribution of existing soils on the site; a description of the site geology; and conclusions and revisions to the proposed grading and erosion control plan.

r. Written permission from the owner of the property where grading activity will take place, if the property is not owned by the applicant.

s. A cash deposit or a letter of credit in a form acceptable to the city attorney in an amount not to exceed 150 percent of the estimated cost of the work, or 125 percent of an actual bid, to ensure proper implementation of a grading and erosion control plan or site restoration if the applicant defaults on their responsibilities;

t. Status of all necessary permits from other governmental agencies, including a watershed district, the state, and federal government, site inspection logs, transfer of permit ownership as required by the MPCA, or proof that a permit has been approved or is not required by these agencies.

u. A cash deposit in an amount not to exceed 150 percent of the estimated cost, or 125 percent of an actual bid, for the city to hire a private inspector to inspect the site for compliance during the work, if the area of site disturbance encompasses one acre or more.

(1) The city may instead allow the applicant to hire a private inspector if the inspector provides weekly compliance updates to the city on a form acceptable to the city and if the agreement with the inspector and the inspector's contact information are provided to the city before issuance of the grading permit.

v. A cash deposit or a letter of credit in a form acceptable to the city attorney in an amount not to exceed 150 percent of the estimated cost of potential repairs to public streets from earth hauling activities as reasonably determined by the city engineer.

w. An agreement signed by the applicant indicating that the city may use the financial security to correct violations of the approved plan within 48 hours of written notification by the city to the applicant.

x. Other information as may be required by the city.

3. Review criteria. In reviewing and acting upon a grading permit application, the approving authority must consider the application's compliance with the provisions of the city code of ordinances.

4. Review procedure. A grading permit application must be submitted, reviewed, and acted upon in accordance with the following standards.

a. *Submission.* The applicant must submit a grading permit application containing all information contained in subsection (2) of this section to the city planner.

b. *Review by the city staff.*

(1) The city planner, city engineer, natural resources manager, and any other applicable city staff will review the grading permit application.

(2) If an application is processed by the city staff, the city planner must render a decision within 60 days and must inform the applicant with a copy of the decision by mail.

(a) A grading permit will not be approved until all erosion control, tree protection and construction limit measures have been installed and inspected by the city.

5. Appeals. Any person aggrieved by an action of the city planner may appeal the decision to the planning commission in the manner specified in § 300.XX. of this Code.

6. Records. The city planner must keep a record of all approved grading permits.

7. Effect of approval.

a. No person may undertake, authorize, or permit any excavating, grading, filling, or any other land disturbing activity that exposes soil if:

(1) The person does not have an approved grading permit; or

(2) The action violates or is not in compliance with the approved grading permit.

b. If a Minnesota Pollution Control Agency construction general permit is required, the applicant comply with the regulation listed on such permit.

8. Validity period.

a. Land disturbing activities must begin no later than December 31st of the year following the year in which grading permit approval is granted. After the expiration of such period, the grading permit approval will be null and void unless the planning commission grants an extension of time or a building permit has been issued and substantial work performed on the project.

(1) Upon request by the applicant, the planning commission may grant a one-year extension of time for a grading permit approval following compliance with the notice and public hearing requirements of this section.

(2) The city may decline to grant an extension if there has been a change in circumstances affecting the property or if there are other reasons to justify the denial.

(a) A change in circumstance may be an approved modification to the comprehensive plan, substantial changes to the surrounding development pattern, or other items as determined by the city.

b. Whenever the city finds noncompliance with any provision of this Code, the grading permit, or the Minnesota Pollution Control Agency construction general permit, if required, city staff will attempt to communicate with the permittee and the landowner to obtain immediate and voluntary compliance.

(1) The city may inspect any property subject to an approved grading permit to ensure that erosion and sediment control and tree protection measures are properly installed and maintained.

(a) Upon request by the city the site maintenance inspection log must be made available within 24 hours of the request.

(2) If that person is not readily available or refuses to comply within reasonable deadlines, the city may take any or all of the following actions, provided that written notice of the noncompliance has

been sent to the permittee and landowner or posted on the property.

(a) Implement the necessary corrective measures and pay for them with financial security deposited with the city;

(b) Initiate proceedings to abate a public nuisance under § 845 of the city code of ordinances;

(c) Withhold inspections or any city approvals for the property in question until compliance is achieved;

(d) Issue a stop work order for the project in question until compliance is achieved;

(e) Revoke the grading permit; and

(f) Pursue criminal and civil penalties under § 1310 of the city code of ordinances.

9. Enforcement. The city planner, city engineer, natural resources manager, or other applicable city staff may revoke a grading permit if the excavating, grading, filing, or other land development activity for which the approval was granted is no longer in compliance with this Code.

§ 309.09. Interim Use Permit.

1. Purpose. The Interim Use Permit is established to:

a. Allow a use for a temporary period of time until a permanent location is obtained or while the permanent location is under construction;

b. Allow a use that is presently judged acceptable by the city council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district;

c. Allow a use that is seasonal in nature; or

d. Allow a use for a limited period of time that reasonably uses the property where it is not reasonable to use it in the manner otherwise provided in this Code or the comprehensive plan.

2. Applicability. It is unlawful to use any structure or land for any purpose requiring an interim use permit as established by this Code without first obtaining an interim use permit from the city.

a. Where applicable, a building permit must also be obtained from the city.

3. **Application.** An application for an interim use permit must comply with the provisions for a conditional use permit application as established in § 300.XX. The city planner may require additional information as may be required by the city based on the characteristics of the site or proposed use.

4. **Review criteria.** No interim use permit may be granted unless the approving authority determines that the use will comply with the following standards.

   a. The use will conform to performance standards outlined in § 300.XX;

   b. The use will not delay anticipated development or redevelopment of the site;

   c. The use will not adversely affect the adjacent property, the surrounding neighborhood, or other uses on the property where the use will be located;

   d. The use will not impose additional unreasonable costs on the public;

   e. The date or event that will terminate the use can be identified with certainty; and

   f. The applicant agrees in writing to any conditions that the city council deems appropriate for the use, including a requirement for a financial security to ensure removal of all evidence of the use upon termination.

5. **Review procedure.** An interim use permit application must be submitted, reviewed, and acted upon in accordance with the approval procedure established for a conditional use permit in § 300.XX.

   a. No application for an interim use permit that has been previously denied wholly or in part may be resubmitted for a period of one year after the date of denial, except on grounds of new evidence or proof of changes of conditions found to be valid by the city council.

6. **Appeals.** Any person aggrieved by the action of an approving authority in the review of an interim use permit application may appeal such action in accordance with § 300.XX.x. of this Code.

7. **Records.** No interim use permit will become effective until the applicant files a certified copy of the approved interim use permit containing a legal description of the property and any conditions attached to the conditional use permit approval with the Hennepin County Recorder or Registrar of Titles.

8. **Effect of approval.** Upon the proper recording of an interim use permit, the interim use permit will have the following effects.

a. An interim use permit will be effective only for the location specified in the application.

b. The issuance of an interim use permit does not confer on the property any vested right.

c. In the event of a public taking of property after the use associated with the interim use permit is established, the property owner will not be entitled to compensation for any increase in value attributable to the establishment of such use.

9. Validity period.

a. An interim use permit will expire, and the associated use must terminate, if any of the following occurs.

(1) The interim use permit expires according to the expiration date listed on the interim use permit;

(2) The occurrence of any event identified in the interim use permit for the termination of the use;

(3) The revocation of the interim use permit; or

(4) An amendment of the city code is made effective such that the associated use is no longer allowed.

b. An interim use permit will expire one year after approval if the proposed use has not commenced or a building permit for a structure to support the associated use has not been issued.

c. An interim use permit will expire if the interim use ceases operation for a continuous period of at least one year.

10. Enforcement.

a. The planning commission may periodically review interim use permits and may revoke an interim use permit upon violation of any condition of the permit, any federal or state law, or any city ordinance.

b. If it is discovered after approval of the interim use permit that the city's decision was based at least in part on fraudulent information, the planning commission may revoke the interim use permit, modify the conditions, or impose additional conditions to ensure compliance with this Code.

c. The procedure for revocation will be the same as that for licenses specified in § 700.035 of the city code of ordinances.

§ 309.10. Landscaping Plan.

1. Applicability.

a. No building permit or certificate of occupancy will be issued for a site, building, or use prior to the approval of a landscaping plan for the applicable site, building, or use.

b. No landscaping plan will be required in the following circumstances.

(1) A landscaping plan was previously approved for the site, the proposed building or use would not require additional landscaping, and all landscaping materials are provided on the site in accordance with the approved landscaping plan.

(a) For the purpose of this provision, additional landscaping will include a more intense landscape buffer, a proposed landscape value at least 10 percent greater than that presently existing on the site, and any change in the size, location, or design of a parking lot requiring additional landscaping areas.

(2) The site work is associated with a single-unit or two-unit dwelling.

2. Application. A landscaping plan application must be submitted to the city planner on forms provided by the city. The city planner may require additional information as may be required by the city based on the characteristics of the site or proposed use.

3. Review criteria. In reviewing a landscaping plan application, the approving authority must consider the application's demonstration that all landscape areas and materials will be provided in accordance with this Code.

4. Review procedure. If submitted in conjunction with a site plan, a landscaping plan will be reviewed in accordance with the standards and procedures established for site plan review in § 309.XX. of this Code. If submitted as an independent application, a landscaping plan will be reviewed in accordance with the following standards.

a. *Submission*. The applicant must submit landscaping plan application at any time prior to the submittal of a building permit or certificate of occupancy application.

b. *Review by the city planner*. Upon receiving a complete application, the city planner will act on a landscaping plan according to whether the application demonstrates compliance with the review criteria.

5. **Appeals.** Any person aggrieved by an action of an approving authority in the review of a landscaping plan application may appeal such decision in accordance with § 300.XX. of this Code.

6. **Records.** The city planner must keep a record of all approved landscaping plans.

7. **Effect of approval.** The approval of a landscaping plan will enable the subject property to receive building permit approval; however, no certificate of occupancy for the site will be granted prior to the installment of all landscape material detailed in the approved landscaping plan.

8. **Validity period.** Where a landscaping plan is submitted, reviewed, and approved in conjunction with a site plan, the landscaping plan will remain valid as long as the site plan remains valid. Where a landscaping plan is submitted independent of a site plan, the landscaping plan will remain valid according the following standards.

    a. An approved landscaping plan will remain valid for a period of two years from the date of approval. If a building permit has not been issued within this period, the approval will expire. If a building permit is issued, the landscaping plan will remain valid for the duration of such building permit. A landscaping plan will become valid indefinitely upon the completion of construction in accordance with all approved plans and the approval of a Certificate of Occupancy for the development.

        (1) Upon request by the applicant, the city planner may grant a one-year extension of the validity period provided such request is submitted to the city planner at least 30 days prior to the expiration of the landscaping plan's validity period.

9. **Enforcement.**

    a. The city planner may revoke an approved landscaping plan in accordance with § 700.035 of the city code of ordinances and require the submission of a new landscaping plan if the city planner determines, based on substantial evidence, that one or more of the following conditions exist.

        (1) The property owner has failed to maintain the site's landscape materials features in a safe and effective condition.

(2) A significant change has been made to the landscape materials, landscape design, or similar features without prior amendment to the landscaping plan.

(3) The initial approval was obtained through a material misrepresentation of fact or a fraudulent statement on the application.

b. Upon revocation of a landscaping plan, no new building permit or certificate of occupancy will be issued for the site.

§ 309.11. Lighting Plan.

1. **Applicability.** No building permit or certificate of occupancy may be granted for a site, building, or use unless a lighting plan is approved in accordance with this section.

   a. If a site plan containing a lighting plan was previously approved for the same site work, such site plan approval will constitute approval of a lighting plan.

   b. No lighting plan will be required in the following circumstances.

      (1) A lighting plan was previously approved for the site, the proposed building or use would not require additional lighting fixtures, and all lighting fixtures are provided on the site in accordance with the approved lighting plan.

      (2) The site work is associated with a single-unit or two-unit dwelling.

2. **Application.** A lighting plan application must be submitted to the city planner on forms provided by the city. The city planner may require additional information as may be required by the city based on the characteristics of the site or proposed use.

3. **Review criteria.** In reviewing a lighting plan application, the approving authority must consider the application's demonstration that all outdoor lighting will be provided in accordance with this Code and the city code of ordinances.

4. **Review procedure.** If submitted in conjunction with a site plan, a lighting plan will be reviewed in accordance with the standards and procedures established for site plan review in § 309.XX. of this Code. If submitted as an independent application, a lighting plan will be reviewed in accordance with the following standards.

a. *Submission*. The applicant must submit lighting plan application at any time prior to the submittal of a building permit.

b. *Review by the city planner*. Upon receiving a complete application, the city planner will act on a lighting plan according to whether the application demonstrates compliance with the review criteria.

5. Appeals. Any person aggrieved by an action of an approving authority in the review of a lighting plan application may appeal such decision in accordance with § 300.XX. of this Code.

6. Records. The city planner must keep a record of all approved lighting plans.

7. Effect of approval. The approval of a lighting plan will enable the subject property to receive building permit approval; however, no certificate of occupancy for the site will be granted prior to the installment of all lighting fixtures and light pollution mitigation techniques detailed in the approved lighting plan.

8. Validity period. Where a lighting plan is submitted, reviewed, and approved in conjunction with a site plan, the lighting plan will remain valid as long as the site plan remains valid. Where a lighting plan is submitted independent of a site plan, the lighting plan will remain valid according the following standards.

a. An approved lighting plan will remain valid for a period of two years from the date of approval. If a building permit has not been issued within this period, the approval will expire. If a building permit is issued, the lighting plan will remain valid for the duration of such building permit. A lighting plan will become valid indefinitely upon the completion of construction in accordance with all approved plans and the approval of a Certificate of Occupancy for the development.

(1) Upon request by the applicant, the city planner may grant a one-year extension of the validity period provided such request is submitted to the city planner at least 30 days prior to the expiration of the lighting plan's validity period.

9. Enforcement.

a. The city planner may revoke an approved lighting plan in accordance with § 700.035 of the city code of ordinances and require the submission of a new lighting plan if the city planner determines, based on substantial evidence, that one or more of the following conditions exist.

(1) The property owner has failed to maintain the site's lighting fixtures in a clean, safe, and effective condition.

(2) A significant change has been made to the layout or design of lighting fixtures without prior amendment to the lighting plan.

(3) The initial approval was obtained through a material misrepresentation of fact or a fraudulent statement on the application.

b. Upon revocation of a lighting plan, no new building permit or certificate of occupancy will be issued for the site.

§ 309.12. Master Development Plan.

1. Purpose. A master development plan is intended to establish development controls in a PD District which further the goals and objectives established in § 303.XX. of this Code.

2. Applicability. All zoning map amendment applications submitted to rezone a property to a PD District must be accompanied by a master development plan in compliance with this section. The city planner may require additional information as may be required by the city based on the characteristics of the site or proposed use.

3. Application. A master development plan must be submitted to the city planner on forms provided by the city and must contain the following information.

a. The proposed uses of the site;

b. The location of all buildings on the site;

c. Renderings or elevations of all buildings;

d. An amenity maintenance plan, if applicable;

e. A construction management plan, if applicable;

f. A stormwater management plan, if applicable;

g. A grading and erosion control plan;

h. A landscaping plan;

i. A lighting plan;

j. A stormwater pollution prevention plan, if applicable;

k. A sustainable and resilient development plan, if applicable;

l. A travel demand management plan, if applicable;

m. A tree preservation plan;

n. A stormwater pollution preservation plan; and

o. A street and utility plan, including locations and sizes.

4. Review criteria. In reviewing a master development plan application, the approving authority must consider the application's demonstration that the proposed development will comply with the standards of § 303.XX. of this Code and will further the goals and objectives of this Code and the comprehensive plan.

5. Review procedure. A master development plan must be submitted, reviewed, and acted upon in accordance with the review procedures established for a zoning map amendment in § 303.XX. of this Code.

a. The city council may attach conditions to a master development plan approval as it determines necessary or convenient to accomplish the purposes of the PD District.

b. The applicant may elect to combine a master development plan application and site plan application. In such cases, all information required for both processes must be submitted simultaneously.

6. Modification.

a. *Minor modification*. Any modification to an approved master development plan other than a change identified subsection (6)(b) of this section may be made through review and approval by a majority vote of the planning commission.

b. *Major modification*. A major amendment to an approved master development plan may be approved by the city council after review by the planning commission. The process to review and approve a major amendment is subject to the procedures established for a zoning map amendment in § 300.xx. of this Code. A major amendment will be any change to a master development plan that:

(1) Substantially alters the location of buildings, parking areas, or roads;

(2) Increases or decreases the number of residential dwelling units by more than 5 percent;

(3) Increases the gross floor area of all nonresidential buildings by more than 5 percent or increases the gross floor area of any individual building by more than 10 percent;

(4) Increases the number of stories of any building;

(5) Increases the square-footage of grading on any individual lot by more than 1,000 square feet;

(6) Decreases the amount of open space by more than 5 percent or alters it in such a way as to change its original design or intended use; or

(7) Creates noncompliance with any special condition attached to the master development plan.

7. Appeals. Any person aggrieved by an action of an approving authority in the review of a landscaping plan application may appeal such decision in accordance with § 300.XX. of this Code.

8. Records. A certified copy of an approved nonconforming use expansion permit containing a legal description of the property must be filed by the applicant with the Hennepin County Recorder or the Hennepin County Registrar of Titles.

9. Effect of approval.

a. Upon proper recording, the approval of the master development plan will constitute approval of the items outlined in subsection (3) of this section and the associated zoning amendment.

(1) Site plan review for a site having master development plan approval will be subject to the procedure outlined in § 300.XX. of this Code.

b. An approved master development plan is the legal control governing the development of the subject property within a PD District.

10. Validity period. A master development plan will become effective upon the effective date listed on the approval of the associated zoning amendment. The master development plan approval will run with the land unless an amendment is made to the master development plan or the property is rezoned to a base zoning district.

11. Enforcement. Following the effective date of a master development plan, all sites, buildings, and uses in the applicable PD District must comply with the master development plan. Violation of the master development plan will be addressed in accordance with Part 10 of this Code.

§ 309.13. Nonconforming Use Expansion Permit.

1. **Applicability.** Work that constitutes an expansion of any nonconforming use may not be done without first obtaining a variance pursuant to § 300.XX or a nonconforming use expansion permit in accordance with this section.

   a. A variance will be required if the expansion will intrude into one or more setback areas beyond the distance of the existing structure or will exceed the height or size limitations established in this Code by a distance or amount greater than the existing structure. Otherwise, an expansion permit is required.

      (1) For example, if the building currently has a front setback of 25 feet when 30 feet is required, and the expansion would reduce the setback to 24 feet, then a variance is required. In contrast, if only a portion of the building has a front setback of 25 feet when 30 is required, and the expansion brings the rest of the building to the same setback of 25 feet, then an expansion permit is required rather than a variance.

   b. A nonconforming use expansion permit will be required in the following circumstances.

      (1) The nonconforming use occupies any space within a nonconforming area that was previously not occupied both vertically and horizontally.

         (a) For example, an expansion permit would be required if a second floor area is expanded into the non-conforming setback over an existing non-conforming first floor even though the non-conformity of the first floor setback dimension stays the same or is reduced; or

      (2) The nonconforming aspect of a use is reduced but still does not comply with current standards of this Code.

2. **Application.** Application for a nonconforming use expansion permit must be made to the city planner on forms provided by the city and must be accompanied by the following contents. The city planner may require additional information as may be required by the city based on the characteristics of the site or proposed use.

   a. A survey of the property which shows, at a minimum, all lot lines, existing and proposed structures, driveways and parking areas, significant topographical features and mature trees;

b. Evidence of ownership or an interest in the property; and

c. The fee required by § 710 of the city code of ordinances.

3. Review criteria. A nonconforming use expansion permit for a nonconforming use may be granted, but is not mandated, when the applicant meets the burden of proving that:

a. The proposed expansion is a reasonable use of the property, considering such things as:

(1) Functional and aesthetic justifications for the expansion;

(2) Adequacy of off-street parking for the expansion;

(3) Absence of adverse off-site impacts from such things as traffic, noise, dust, odors, and parking; and

(4) Improvement to the appearance and stability of the property and neighborhood.

b. The circumstances justifying the expansion are unique to the property, are not caused by the landowner, are not solely for the landowner's convenience, and are not solely because of economic considerations; and

c. The expansion would not adversely affect or alter the essential character of the neighborhood.

4. Review procedure. A nonconforming use expansion permit application must be submitted, reviewed, and acted upon in accordance with the following standards.

a. *Submission.* The applicant must submit a nonconforming use expansion permit application containing all information contained in subsection (2) of this section to the city planner.

b. *Review by the planning commission*.

(1) Upon receipt of a completed application, a date will be set for a public hearing before the planning commission.

(a) The public hearing will be held only after notice has been sent by mail to the owners of all properties situated wholly or partially within 400 feet, as reflected in the certified records of the Hennepin County Auditor.

(2) The planning commission may grant a nonconforming use expansion permit only upon an affirmative vote of at least a majority of its full membership.

(a) In granting a nonconforming use expansion permit, the planning commission may impose conditions on the approval to effect the intent of this Code and to protect adjacent properties.

(b) The planning commission must accompany its decision to deny a nonconforming use expansion permit with a statement of its findings and must serve a copy of its decision upon the applicant by mail.

(3) The planning commission action will be final action subject to the right of appeal, unless the nonconforming use expansion permit is an integral part of another land use application that requires city council action.

(a) If city council action is required, the planning commission action will be a recommendation to the city council.

(b) If applicable, the city council may approve a nonconforming use expansion permit by an affirmative vote of at least a majority of the city council's full membership.

5. Appeals. A person aggrieved by a decision of the planning commission regarding a nonconforming use expansion permit may appeal to the city council pursuant to § 300.xx.

6. Records. A certified copy of an approved nonconforming use expansion permit containing a legal description of the property must be filed by the applicant with the Hennepin County Recorder or the Hennepin County Registrar of Titles.

7. Effect of approval. Upon proper recording, a nonconforming use expansion permit will remain valid only for the project for which it was granted. Construction of any project must be in substantial compliance with the site plan and specifications reviewed and approved by the planning commission or city council.

8. Validity period.

a. A nonconforming use expansion permit granted by the city will run with the land and will be perpetual.

b. A nonconforming use expansion permit will become null and void if no building permit has been issued or substantial work performed on the project prior to December 31st of the year following the year of approval.

(1) The planning commission may extend the period for construction upon finding that the interest of the owners of neighboring properties will not be adversely affected by such extension.

(2) If the nonconforming use expansion permit is part of an approved site plan, extension of the time period for construction will be contingent upon a similar extension of the time period for the site plan by the planning commission as required by § 300.xx. of this Code.

(3) Once the project is completed as approved, the nonconforming use expansion permit will become perpetual.

9. Enforcement. A person who violates, fails to comply with, or assists, directs, or permits the violation of the terms or conditions of a nonconforming use expansion permit is guilty of a misdemeanor.

a. A violation is a violation of the expansion permit and renders the permit null and void.

b. A violation also constitutes a public nuisance that may be abated in accordance with the provisions of § 845.

§ 309.14. Sign Permit.

1. Applicability. No sign requiring sign permit approval per § 300.XX. may be erected, installed, or substantially altered without the approval of a sign permit in accordance with this section.

2. Application. A sign permit application must be made on a form provided by the city planner and must include the following information. The city planner may require additional information as may be required by the city based on the characteristics of the site or proposed use.

a. The name and address of the owner of the sign.

b. The street address or location of the property on which the sign is to be located, along with the name and address of the property owner.

c. The type of sign to be established, as defined in this Part 10 Glossary of this Code.

d. A site plan showing the location and size of all existing and proposed signs located on the same premises with markings identifying which signs presently exist on the site and which are proposed to be established.

e. Specifications and scale drawings showing the materials, design, dimensions, structural supports, method of attachment and electrical components of the sign.

f. The sign permit fee as specified in § 710 of the city code of ordinances.

3. Review criteria. In reviewing and acting upon a sign permit application, the approving authority must consider the application's demonstration that the proposed sign will comply with this Code and other applicable provisions of the city code of ordinances.

a. Where a sign plan was previously approved for the site, the approving authority must consider the application's demonstration that the proposed sign will comply with the approved sign plan, this Code, and other applicable provisions of the city code of ordinances.

4. Review procedure. A sign permit application must be submitted, reviewed, and acted upon in accordance with the following standards.

a. *Submission.* The applicant must submit a sign permit application containing all information contained in subsection (2) of this section to the city planner.

b. *Review.* The city planner must act upon a sign permit application within 30 business days after a complete application is submitted.

(1) The decision of the city planner must be made in writing and must be mailed or electronically delivered to the applicant at the address or email address provided in the application. If a permit is denied, the reason must be stated in writing.

5. Appeals. Any person aggrieved by an action of an approving authority in the review of a sign permit application may appeal such decision in accordance with § 300.XX. of this Code.

6. Records. The city planner must keep a record of all approved sign permits.

7. Effect of approval. Approval of a sign permit will verify a proposed sign's compliance with the city code of ordinances and any conditions of approval. After receiving sign permit approval, the applicant may erect, modify, or alter the proposed sign in accordance with the approved sing permit.

8. **Validity period.** A sign permit will become null and void if the approved sign is not installed within 180 days after issuance of the sign permit. Upon expiration of a sign permit, a new application must be submitted prior to the erection or installation of any sign.

9. **Enforcement.** The city planner may revoke a sign permit if the sign for which the approval was granted is no longer in compliance with this Code.

§ 309.15. Sign Plan.

1. **Purpose.** The city recognizes that from time to time there exists a need to coordinate alternative signage standards from the provisions of Part 07 of this Code. The sign plan is established to allow for the coordination of standards which achieve superior design and aesthetic character more compatible with the associated development and its surroundings than otherwise permitted.

2. **Applicability.** A property owner may submit a sign plan application if the associated property or development meets one or more of the following criteria. The city planner may require additional information as may be required by the city based on the characteristics of the site or proposed use.
   a. The development site consists of at least three acres of contiguous land;
   b. The development includes a building more than three stories tall;
   c. The development contains more than four separate tenant spaces; or
   d. The development is located in a PD Districts.

3. **Application.** A sign plan application must be submitted to the city planner on forms provided by the city and must include the following contents.
   a. A detailed site plan showing the location of any existing signs on the property, including any signs under sign permit review at the time of submission;
   b. A narrative statement explaining how the sign plan provides a more cohesive and higher-quality design than the standard requirements of this Code;
   c. A table comparing the proposed signage standards to the base standards of this Code including but not limited to total sign area, height, and number of signs; and
   d. Any applicable fees as established by § 710 of the city code of ordinances.

4. **Review criteria.** In reviewing and acting upon a sign plan application, the approving authority will consider the following criteria.

   a. The development site's applicability for seeking sign plan approval as established in subsection (2) of this section.

   b. Whether the sign plan furthers the purpose of Part 07 and this Code.

   c. Whether the sign plan employs and requires a unified sign design on the site through the use of consistent materials, mountings, and lighting methods.

   d. Whether the standards included in the sign plan enhance the overall development, be in harmony with, and relate visually to other signs included in the sign plan, to the structures or developments they identify, and to surrounding developments.

5. **Review procedure.** A sign plan must be submitted, reviewed, and acted upon in accordance with the following standards.

   a. *Submission.* The applicant must submit a sign plan application containing all information contained in subsection (3) of this section to the city planner.

   b. *Review by the planning commission*.

      (1) After receipt of a completed application, a date must be set for a public hearing before the planning commission.

         (a) Not less than 10 days before the public hearing, the city must publish notice in the city's official newspaper, on the city website, and send notice by mail to the applicant and to the owners of all properties located wholly or partially within 400 feet.

      (2) Following the hearing or any continuance that is not appealed by the applicant, the planning commission must act upon the sign plan application.

         (a) In acting on a sign plan application, the planning commission must base their action on the following findings.

            1. The sign plan is consistent with the purpose of this Code or the comprehensive plan;

            2. The sign plan establishes standards which integrate signage with the architectural design of the buildings and the overall landscape of the site; and

3. The sign plan will not create a nuisance or safety hazard for pedestrians or motorists.

(b) In acting to approve a sign plan application, the planning commission may establish conditions of approval which will apply the same as any standard established in the sign plan.

(c) In acting to disapprove a sign plan application, the planning commission must notify the applicant of the reason for such disapproval.

6. Modification.

a. *Minor modifications*.

(1) A proposed change to an approved sign plan is considered a minor modification if it meets the following criteria, as applicable.

(a) Any increase in the allowable sign area of an individual sign does not exceed five percent of the area approved in the original sign plan, and the total allowable aggregate sign area for the entire development does not increase;

(b) Any increase in the maximum height of a sign does not exceed two feet or 10 percent of the height established in the approved sign plan, whichever is less; and

(c) Any change in materials, colors, or illumination methods is determined by the city planner to be of equal or superior quality to those originally approved.

(2) A minor modification application must be submitted to the city planner and include a revised sign plan highlighting the proposed changes.

(3) The city planner must review the request within 60 days of receipt of a complete application.

(a) The city planner will issue a written determination to approve, approve with conditions, or deny the minor modification based on the standards established in subsection (9)(a)(1) of this section.

(4) Any person aggrieved by a decision or action of the city planner may appeal such decision or action to the planning commission pursuant to § 300.XX.

b. *Major modifications.* Unless a modification is eligible to be approved as a minor modification according to subsection (9)(a)(1) of this section, all sign plan modifications must be submitted by the applicant and reviewed by the planning commission according to the standards established for a sign plan application in subsection (4) of this section.

c. *Effect of approval.* An approved minor or major modification must be attached to the original sign plan and will function as an amendment thereto.

7. Appeals. Any person aggrieved by a decision of the planning commission regarding a sign plan may appeal to the city council pursuant to § 300.xx.

8. Records. No sign plan may become effective for a property until the applicant files a certified copy of the approved sign plan containing a legal description of the property affected with the Hennepin County Recorder.

9. Effect of approval. Upon the proper recording of an approved sign plan, no sign permit may be granted for the property except for a sign in compliance with the approved sign plan and any conditions of approval established by the planning commission or city council.

a. The city may enforce the terms of an approved sign plan in the same manner as the requirements of this Code.

10. Validity period.

a. Approval of a sign plan will run with the land and will be perpetual, provided that the sign plan will be valid only for the project for which it was approved.

(1) If no sign permit is issued in relation to the approved sign plan within five years from the sign plan's date of approval, the sign permit will expire.

b. Any violation of an approved sign plan constitutes a misdemeanor and make the sign plan approval null and void.

11. Enforcement. Any sign that does not comply with a condition imposed in an approved sign plan will be declared a public nuisance that may be abated in accordance with the provisions of § 845 of the city code of ordinances.

§ 309.16. Site Plan.

1. Purpose. It is the intent of this section to serve the public interest by promoting a high standard of development within the city. Through a comprehensive

review of both functional and aesthetic aspects of new or intensified development, the city seeks to accomplish the following:

a. Implement the comprehensive plan;

b. Maintain and improve the city's tax base to a reasonable extent;

c. Mitigate to the extent feasible adverse impacts of one land use upon another;

d. Promote the orderly and safe flow of vehicular and pedestrian traffic; and

e. Preserve and enhance the natural and built environment.

2. Applicability.

a. Without first obtaining site plan approval, it will be unlawful to do any of the following.

(1) Construct a building;

(2) Move a building to any lot within the city;

(3) Expand or change the use of a building or parcel of land or modify a building, accessory structure, or site or land feature in any manner which results in a different intensity of use, including the requirement for additional parking;

(4) Grade or take other actions to prepare a site for development, except in conformance with a permit or an approved plan; or

(5) Remove earth, soils, gravel or other natural material from or place the same on a site, except in conformance with a permit or an approved plan.

b. Notwithstanding the provisions of subsection (2)(a) of this section, the following will not require site plan approval.

(1) Construction or alteration of a single-unit or two-unit dwelling, including accessory buildings related thereto;

(2) Enlargement of a building by less than 10 percent of its gross floor area, provided that there is no variance involved and also provided that the city planner has conducted an administrative review pursuant to subsection XX of this section;

(3) Changes in the leasable space of a multi-tenant building where the change does not intensify the use, require a 10 percent or greater increase in the minimum number of parking spaces required by this

Code, or result in an inability to maintain required performance standards as specified in § 300.XX. of this Code; or

(4) On a lot in the LDR District, the construction or alteration of any use permitted by right within the LDR District, unless site plan approval is required by the planning commission or city council at the time of zoning map amendment or subdivision approval.

3. Application.

a. Application for a site plan review must be made to the city planner on forms provided by the city and must be accompanied by the following information. The city planner may require additional information as may be required by the city based on the characteristics of the site or proposed use.

(1) A survey of the property showing the proposed improvements;

(2) Evidence of ownership or an interest in the property;

(3) A landscaping plan in accordance with § 300.XX;

(4) The fee required by § 710 of the city code of ordinances;

(5) Complete site and building elevations and footprint plans, signed by a registered architect, civil engineer, landscape architect, or other appropriate design professional;

(6) An amenity maintenance plan, if applicable;

(7) A construction management plan, if applicable;

(8) A stormwater management plan, if applicable;

(9) A grading and erosion control plan;

(10) A landscaping plan;

(11) A lighting plan;

(12) A stormwater pollution prevention plan, if applicable;

(13) A sustainable and resilient development plan, if applicable;

(14) A travel demand management plan, if applicable;

(15) A tree preservation plan;

(16) A stormwater pollution preservation plan;

(17) A street and utility plan, including locations and sizes; and

(18) Such other information as may be required by the city.

b. Any site plan application which is accompanied by a request for a conditional use permit, master development plan, or zoning map amendment will be considered by the planning commission concurrently with such conditional use permit, master development plan, or zoning map amendment application.

c. An application for a site plan review on a parcel for which the zoning district does not align with the land use designation in the comprehensive plan must be accompanied by an application for an amendment to the comprehensive plan.

d. If an environmental assessment worksheet is required, no site plan approval may be granted until the environmental assessment worksheet has been received and a negative declaration for an environmental impact statement has been made by the city council.

e. If an environmental impact statement is required, no site plan may be approved until the environmental impact statement has been prepared.

4. Review criteria.

a. When reviewing a site plan, the approving authority will evaluate its compliance with the following standards:

(1) The plan aligns with the site's comprehensive guide plan designation and complies with the requirements of the water resources management plan.

(2) The plan meets the use, performance, and environmental protection standards established in this code.

(3) The plan minimizes site disturbance to the extent practicable for the proposed use, including designing grade changes that integrate appropriately with surrounding development.

(4) The plan ensures safe and intuitive pedestrian and vehicular circulation.

(5) The plan is reasonably integrated into existing and proposed surrounding development. This does not require the plan to mirror specific standards of the surrounding area, such as lot size, density, setbacks, or design. Integration may be achieved through these means or through the continuation of existing land-use types, architectural transitions, landscape buffering, or other approaches.

b. *Architectural standards*.

(1) It is not the intent of the city to restrict design freedom unduly when reviewing project architecture in connection with a site plan. However, it is in the best interest of the city to promote high standards of architectural design and compatibility with surrounding structures and neighborhoods. Architectural plans must be prepared by an architect or other qualified person acceptable to the city planner and must contain the following contents.

(a) Elevations of all sides of the building;

(b) Type and color of exterior building materials;

(c) A typical floor plan;

(d) Dimensions of all structures; and

(e) The location of trash and recycling containers and of heating, ventilation and air conditioning equipment.

(2) In all zoning districts, unadorned prestressed concrete panels, concrete block, and unfinished metal will not be permitted as exterior materials for a building or structure.

(a) This restriction applies to all principal structures and accessory buildings except those accessory buildings not visible from any exterior property line.

(3) In the VC-I and VC-J Districts – highly visible regional corridors characterized by significant property investment and ongoing redevelopment – building materials must reflect this commitment and align with the district's architectural character. This character is defined by structures that use façade materials such as brick, dimensioned natural or man-made stone, glass, architectural-grade metal panels, and a limited use of stucco or exterior insulated finishing systems.

(4) The city may, at its discretion, allow architecturally enhanced block or concrete panels.

(5) All rooftop or ground mounted mechanical equipment and exterior trash and recycling storage areas must be enclosed with materials compatible with the principal structure.

(6) Low profile, self-contained mechanical units which blend in with the building architecture are exempt from the screening requirement.

c. *Underground utilities.* Underground utilities must be provided for all new and substantially renovated structures.

5. Review procedure.

a. *Submission*. The applicant must submit a site plan application containing all information contained in subsection (3) of this section to the city planner.

b. *Review by the city planner*. Site plans for residential uses containing fewer than four dwelling units which do not involve a variance or nonconforming use expansion permit, and which are not accompanied by other matters requiring consideration by the planning commission or city council, may be approved by the city planner.

(1) If any application is processed administratively, the city planner must render a decision within 60 days and will inform the applicant with a copy of the decision by mail.

(2) Any person aggrieved by a decision of the city planner may appeal the decision to the planning commission in the manner specified in § 300.XX. of this Code.

c. *Review by the planning commission*.

(1) After receipt of a completed application, a date must be set for a public hearing before the planning commission.

(a) Not less than 10 days before the public hearing, the city must send notice to the owners of properties located wholly or partially within 400 feet of the site.

(b) The public hearing must be held before the city council instead of the planning commission if the application is for a city-owned park, the project has no variances, and a public hearing complying with the notice provisions of this paragraph has been held at a neighborhood meeting or by the Minnetonka park board.

(2) Following the hearing or any continuance thereof that is not appealed by the applicant, the planning commission must act upon the site plan application.

(a) The planning commission may approve a site plan only upon the affirmative vote of at least two-thirds of its full membership.

(3) The planning commission action will be final action subject to the right of appeal, unless otherwise stated by this Code.

d. *Review by city council.* If the site plan application is associated with, or is an integral part of, another land use application that requires city council action, the city council must review and approve the site plan application.

(1) Where city council action is required, the planning commission must make a recommendation to the city council, which requires a majority vote.

(2) Any city council action on a site plan requires a majority vote.

e. *Conditions of approval*. In granting approval of a site plan, the city planner, planning commission, or city council may impose conditions on the site plan approval to promote the intent of this section or to protect adjacent properties.

6. Appeals. Any person aggrieved by an action of an approving authority in the review of a site plan application may appeal such decision in accordance with § 300.XX. of this Code.

a. The city council must act upon such appeal within 60 days of submission of the appeal or such longer period not objected to by the appellant.

(1) If the city council fails to make a timely decision, the appeal will be deemed to have been approved.

(2) The city council may reverse or amend a decision of the planning commission by an affirmative vote of two-thirds of its full membership.

7. Records. The city planner must keep a record of all approved site plans.

8. Effect of approval. Site plan approval will remain valid only for the specific project for which approval is granted. Construction of all site elements must be in substantial compliance with the plans and specifications approved by the city planner, planning commission, or city council.

9. Validity period. Construction of the building or initiation of the use related to the approved site plan must begin no later than December 31st of the year following the year in which site plan approval is granted. After the expiration of such period, the site plan approval will be null and void unless the approving authority grants an extension of time or a building permit has been issued and substantial work performed on the project.

a. Upon request by the applicant, the planning commission may grant a one-year extension of time for a site plan approval following compliance with the notice and public hearing requirements of this section.

b. The city may decline to grant an extension if there has been a change in circumstances affecting the property or if there are other reasons to justify the denial.

(1) A change in circumstance may be an approved modification to the comprehensive plan, substantial changes to the surrounding development pattern, or other items as determined by the city.

c. Three consecutive one-year extensions will be conclusive proof that the development has not made adequate progress toward completion, and no further extensions may be granted, except upon a variance from this provision.

10. Enforcement. Property that does not comply with a condition imposed in an approved site plan or with a requirement in § 300.xx. will be declared a public nuisance that may be abated in accordance with the provisions of § 845 of the city code of ordinances.

§ 309.17. Stormwater Management Plan.

1. Applicability. No building permit may be granted for a site unless a stormwater management plan is approved in accordance with this section.

a. If a site plan containing a stormwater management plan was previously approved for the same site work, such site plan approval will constitute approval of a drainage plan.

b. If a stormwater management plan was previously approved for the site that accurately describes the existing condition of the site and demonstrates compliance with the review criteria, such approval will constitute approval of a stormwater management plan.

c. No single-unit dwelling, two-unit dwelling, or accessory structure related thereto will be required to receive stormwater management plan approval except a required under § 30X.xx.

2. Application. A stormwater management plan application must be submitted to the city planner on forms provided by the city. The city planner may require additional information as may be required by the city based on the characteristics of the site or proposed use.

3. **Review criteria.** In reviewing a stormwater management plan application, the approving authority must consider the application's demonstration that the site, including any stormwater management facilities, will be designed in accordance with this Code and the city code of ordinances.

4. **Review procedure.** If submitted in conjunction with a site plan, a stormwater management plan will be reviewed in accordance with the standards and procedures established for site plan review in § 309.XX. of this Code. If submitted as an independent application, a stormwater management plan will be reviewed in accordance with the following standards.

   a. *Submission*. The applicant may submit stormwater management plan application at any time prior to the submittal of a building permit or certificate of occupancy application.

   b. *Review by the city planner*. Upon receiving a complete application, the city planner will act on a stormwater management plan according to whether the application demonstrates compliance with the review criteria.

5. **Appeals.** Any person aggrieved by an action of an approving authority in the review of a stormwater management plan application may appeal such decision in accordance with § 300.XX. of this Code.

6. **Records.** The city planner must keep a record of all approved stormwater management plans.

7. **Effect of approval.** The approval of a stormwater management plan will enable the subject property to receive building permit approval; however, no certificate of occupancy for the site will be granted prior to the installment of all features detailed in the approved stormwater management plan.

8. **Validity period.** Where a stormwater management plan is submitted, reviewed, and approved in conjunction with a site plan, the stormwater management plan will remain valid as long as the site plan remains valid. Where a stormwater management plan is submitted independent of a site plan, the stormwater management plan will remain valid according the following standards.

   a. An approved stormwater management plan will remain valid for a period of two years from the date of approval. If a building permit has not been issued within this period, the approval will expire. If a building permit is

issued, the stormwater management plan will remain valid for the duration of such building permit.

(1) Upon request by the applicant, the city planner may grant a one-year extension of the validity period provided such request is submitted to the city planner at least 30 days prior to the expiration of the stormwater management plan's validity period.

9. Enforcement.

a. The city planner may revoke an approved stormwater management plan in accordance with § 700.035 of the city code of ordinances and require the submission of a new stormwater management plan if the city planner determines, based on substantial evidence, that one or more of the following conditions exist.

(1) The property owner has failed to maintain the site's stormwater management features in a clean, safe, and accessible condition.

(2) A significant change has been made to the stormwater management features without prior amendment to the stormwater management plan.

(3) The initial approval was obtained through a material misrepresentation of fact or a fraudulent statement on the application.

b. Upon revocation of a stormwater management plan, no new building permit or certificate of occupancy will be issued for the site.

§ 309.18. Stormwater Pollution Prevention Plan.

1. Applicability. No building permit may be granted for a site unless a stormwater pollution prevention plan is approved in accordance with this section.

a. If a site plan containing a stormwater pollution prevention plan was previously approved for the same site work, such site plan approval will constitute approval of a stormwater pollution prevention plan.

b. If a stormwater pollution prevention plan was previously approved for the site that accurately describes the existing condition of the site and demonstrates compliance with the review criteria, such approval will constitute approval of a stormwater pollution preservation plan.

c. No single-unit dwelling, two-unit dwelling, or accessory structure related thereto will be required to receive stormwater pollution prevention plan approval.

2. Application. A stormwater pollution prevention plan application must be submitted to the city planner on forms provided by the city. The city planner may require additional information as may be required by the city based on the characteristics of the site or proposed use.

3. Review criteria. In reviewing a stormwater pollution prevention plan application, the approving authority must consider the application's demonstration that the site, including all stormwater detention and retention facilities, will be designed and constructed in accordance with this Code.

4. Review procedure. If submitted in conjunction with a site plan, a stormwater pollution prevention plan will be reviewed in accordance with the standards and procedures established for site plan review in § 309.XX. of this Code. If submitted as an independent application, a stormwater pollution prevention plan will be reviewed in accordance with the following standards.

a. *Submission.* The applicant must submit a stormwater pollution prevention plan application at any time prior to the submittal of a building permit or certificate of occupancy application.

b. *Review by the city planner*. Upon receiving a complete application, the city planner will act on a stormwater pollution prevention plan according to whether the application demonstrates compliance with the review criteria.

5. Appeals. Any person aggrieved by an action of an approving authority in the review of a stormwater pollution prevention plan application may appeal such decision in accordance with § 300.XX. of this Code.

6. Records. The city planner must keep a record of all approved stormwater pollution prevention plans.

7. Effect of approval. The approval of a stormwater pollution prevention plan will enable the subject property to receive building permit approval; however, no certificate of occupancy for the site will be granted prior to the installment of all stormwater management features and techniques detailed in the approved stormwater pollution prevention plan.

8. Validity period. Where a stormwater pollution prevention plan is submitted, reviewed, and approved in conjunction with a site plan, the stormwater

pollution prevention plan will remain valid as long as the site plan remains valid. Where a stormwater pollution prevention plan is submitted independent of a site plan, the stormwater pollution prevention plan will remain valid according the following standards.

a. An approved stormwater pollution prevention plan will remain valid for a period of two years from the date of approval. If a building permit has not been issued within this period, the approval will expire. If a building permit is issued, the stormwater pollution prevention plan will remain valid for the duration of such building permit. A stormwater pollution prevention plan will become valid indefinitely upon the completion of construction in accordance with all approved plans and the approval of a Certificate of Occupancy for the development.

(1) Upon request by the applicant, the city planner may grant a one-year extension of the validity period provided such request is submitted to the city planner at least 30 days prior to the expiration of the stormwater pollution prevention plan's validity period.

9. Enforcement.

a. The city planner may revoke an approved stormwater pollution prevention plan in accordance with § 700.035 of the city code of ordinances and require the submission of a new stormwater pollution prevention plan if the city planner determines, based on substantial evidence, that one or more of the following conditions exist.

(1) The property owner has failed to maintain the site's stormwater pollution prevention features in a clean, safe, and effective condition.

(2) A significant change has been made to the layout or design of the stormwater pollution prevention features without prior amendment to the stormwater pollution prevention plan.

(3) The initial approval was obtained through a material misrepresentation of fact or a fraudulent statement on the application.

b. Upon revocation of a stormwater pollution prevention plan, no new building permit or certificate of occupancy will be issued for the site.

§ 309.19. Substantial Similarity of Use Determination.

1. **Applicability.** Any person who believes a proposed use not included in Table XX is substantially similar in definition and impact to a use included in Table XX may submit a substantial similarity of use determination application to the city planner.

2. **Application.** A substantial similarity of use application must be submitted to the city planner on forms provided by the city. The city planner may require additional information as may be required by the city based on the characteristics of the site or proposed use.

3. **Review criteria.** In reviewing a substantial similarity of use determination application, the approving authority will consider whether the proposed use is similar in definition and impact to a use included in Table XX.

4. **Review procedure.** A substantial similarity of use determination application must be submitted, reviewed, and acted upon in accordance with the following standards.

   a. *Submission*. The applicant may submit a substantial similarity of use determination application to the city planner.

   b. *Review*. Upon receiving the application, the city planner will determine whether the proposed use is similar in definition and impact to a use included in Table XX. The city planner must notify the applicant of their decision in writing.

5. **Appeals.** Any person aggrieved by an action of an approving authority in the review of a certificate of occupancy or temporary certificate of occupancy application may appeal such decision in accordance with § 300.XX. of this Code.

6. **Records.** The city planner must keep a record of all approved substantial similarity of use determinations.

7. **Effect of Approval.** If approved, evidence of the approved substantial similarity of use determination must be included in all future development and permit applications where compliance with this Code is required.

   a. The granting of a substantial similarity of use determination is not a commitment by the city as to future zoning, approval of a conditional use permit, or any other matter relating to this Code.

b. The granting of a substantial similarity of use determination applies only to the property for which the determination is sought and will not apply to other properties or future substantial similarity of use determination application.

8. Validity period.

a. An approved substantial similarity of use determination will expire and may be revoked if no certificate of occupancy for the related use has been issued within 24 months of the date of approval. An approved substantially

b. If the use for which the substantial similarity of use determination was granted ceases operation for a continuous period exceeding 12 months, the substantial similarity of use determination will expire unless an extension is granted in accordance with subsection (8)(3) of this section.

c. The validity period may be extended up to six months at a time by mutual agreement of the city planner and the applicant provided that such extension is agreed to at least 30 days prior to the expiration of the approved substantial similarity of use determination.

9. Enforcement. The city planner may revoke a substantial similarity of use determination if the use for which the approval was granted is no longer in compliance with this Code.

§ 309.20. Sustainable and Resilient Development Plan.

1. Applicability. No building permit or certificate of occupancy may be granted for a site subject to the standards established in § 305.02 of this Code unless a sustainable and resilient development plan is approved in accordance with this section.

a. If a site plan containing a sustainable and resilient development plan was previously approved for the site, such site plan approval will constitute approval of a sustainable and resilient development plan.

b. If a sustainable and resilient development plan was previously approved for the site that accurately describes the existing condition of the site and demonstrates compliance with the review criteria, such approval will constitute approval of a sustainable and resilient development plan.

c. No single-unit dwelling, two-unit dwelling, or accessory structure related thereto will be required to receive sustainable and resilient development plan approval.

2. **Application.** A sustainable and resilient development plan application must be submitted to the city planner on forms provided by the city. The city planner may require additional information as may be required by the city based on the characteristics of the site or proposed use.

3. **Review criteria.** In reviewing a sustainable and resilient development plan application, the approving authority must consider the application's demonstration that all sustainable and resilient features required by § 305.XX. of this Code will be provided in accordance with this Code.

4. **Review procedure.** If submitted in conjunction with a site plan, a sustainable and resilient development plan will be reviewed in accordance with the standards and procedures established for site plan review in § 309.XX. of this Code. If submitted as an independent application, a sustainable and resilient development plan will be reviewed in accordance with the following standards.

   a. *Submission*. The applicant must submit sustainable and resilient development plan application at any time prior to the submittal of a building permit or certificate of occupancy application.

   b. *Review by the city planner*. Upon receiving a complete application, the city planner will act on a sustainable and resilient development plan application according to whether the application demonstrates compliance with the review criteria.

5. **Appeals.** Any person aggrieved by an action of an approving authority in the review of a sustainable and resilient development plan application may appeal such decision in accordance with § 300.XX. of this Code.

6. **Records.** The city planner must keep a record of all approved sustainable and resilient development plans.

7. **Effect of approval.** The approval of a sustainable and resilient development plan will enable the subject property to receive building permit approval; however, no certificate of occupancy for the site will be granted prior to the installment and operation of all sustainable and resilient features detailed in the approved sustainable and resilient development plan.

8. **Validity period.** Where a sustainable and resilient development plan is submitted, reviewed, and approved in conjunction with a site plan, the sustainable and resilient development plan will remain valid as long as the site plan remains valid. Where a sustainable and resilient development plan is submitted independent of a site plan, the sustainable and resilient

development plan will remain valid according the following standards. A sustainable and resilient development plan will become valid indefinitely upon the completion of construction in accordance with all approved plans and the approval of a Certificate of Occupancy for the development.

a. An approved sustainable and resilient development plan will remain valid for a period of two years from the date of approval. If a building permit has not been issued within this period, the approval will expire. If a building permit is issued, the sustainable and resilient development plan will remain valid for the duration of such building permit.

(1) Upon request by the applicant, the city planner may grant a one-year extension of the validity period provided such request is submitted to the city planner at least 30 days prior to the expiration of the sustainable and resilient development plan's validity period.

9. Enforcement.

a. The city planner may revoke an approved sustainable and resilient development plan in accordance with § 700.035 of the city code of ordinances and require the submission of a new sustainable and resilient development plan if the city planner determines, based on substantial evidence, that one or more of the following conditions exist.

(1) The property owner has failed to maintain the site's sustainable development features in a clean, safe, and effective condition.

(2) A significant change has been made to the layout or design of sustainable development features without prior amendment to the sustainable and resilient development plan.

(3) The initial approval was obtained through a material misrepresentation of fact or a fraudulent statement on the application.

b. Upon revocation of a sustainable and resilient development plan, no new building permit or certificate of occupancy will be issued for the site.

§ 309.21. Temporary Use Permit.

1. Applicability. No use requiring temporary use permit approval as established in § 304.00. or § 304.09. of this Code may be established prior to the approval of a temporary use permit in accordance with this section.

2. Application. A temporary use permit application must be made on a form provided by the city planner. The city planner may require additional

information as may be required by the city based on the characteristics of the site or proposed use.

3. **Review criteria.** In reviewing and acting upon a temporary use permit application, the approving authority must consider the application's demonstration that the proposed use will comply with § 304.09. of this Code and other applicable provisions of the city code of ordinances.

4. **Review procedure.** A temporary use permit application must be submitted, reviewed, and acted upon in accordance with the following standards.

   a. *Submission.* The applicant must submit a temporary use permit application containing all information contained in subsection (2) of this section to the city planner.

   b. *Review.* The city planner must act upon a temporary use permit application within 60 business days after a complete application is submitted.

      (1) The decision of the city planner must be made in writing and must be mailed or electronically delivered to the applicant at the address or email address provided in the application. If a temporary use permit application is denied, the reason must be stated in writing.

5. **Appeals.** Any person aggrieved by an action of an approving authority in the review of a temporary use permit application may appeal such decision in accordance with § 300.XX. of this Code.

6. **Records.** The city planner must keep a record of all approved temporary use permits.

7. **Effect of approval.** A temporary use permit will authorize the establishment and operation of a specific temporary use for the time period specified on the approved temporary use permit.

8. **Validity period.** A temporary use permit will remain valid until such date as specified on the approved permit. No temporary use may be established or operated following the expiration date specified on the approved temporary use permit.

   a. The city planner may extend the validity period by up to 30 days, provided the applicant requests such extension prior to the expiration date listed on the approved temporary use permit.

9. **Enforcement.** The city planner may revoke a temporary use permit if the use for which the approval was granted is no longer in compliance with this Code.

§ 309.22. Travel Demand Management Plan.

1. **Applicability.** If required by § 305.06 of this Code, no building permit or certificate of occupancy may be granted for a site unless a travel demand management plan is approved in accordance with this section.
   a. If a site plan containing a travel demand management plan was previously approved for the site, such site plan approval will constitute approval of a travel demand management plan.
   b. If a travel demand management plan was previously approved for the site that accurately describes the existing condition of the site and demonstrates compliance with the review criteria, such approval will constitute approval of a travel demand management plan.

2. **Application.** A travel demand management plan application must be submitted to the city planner on forms provided by the city. The city planner may require additional information as may be required by the city based on the characteristics of the site or proposed use.

3. **Review criteria.** In reviewing a travel demand management plan application, the approving authority must consider the application's demonstration that the proposed travel demand management features will adequately reduce the need for on-site parking such that the minimum number of parking spaces proposed for the site will be sufficient to meet the development's needs.

4. **Review procedure.** If submitted in conjunction with a site plan, a travel demand management plan will be reviewed in accordance with the standards and procedures established for site plan review in § 309.XX. of this Code. If submitted as an independent application, a travel demand management plan will be reviewed in accordance with the following standards.
   a. *Submission*. The applicant must submit a travel demand management plan application at any time prior to the submittal of a building permit or certificate of occupancy application.
   b. *Review by the city planner*. Upon receiving a complete application, the city planner will act on a travel demand management plan application according to whether the application demonstrates compliance with the review criteria.

5. **Appeals.** Any person aggrieved by an action of an approving authority in the review of a travel demand management plan may appeal such decision in accordance with § 300.XX. of this Code.

6. **Records.** The city planner must keep a record of all approved travel demand management plans.

7. **Effect of approval.** The approval of a travel demand management plan will enable the subject property to receive building permit approval; however, no certificate of occupancy for the site will be granted prior to the installment or operation of all travel demand management techniques detailed in the approved travel demand management plan.

   a. A travel demand management technique may commence after the issuance of a certificate of occupancy if such date by which the technique will commence is established in the approved travel demand management plan. In such a circumstance, the city may revoke the certificate of occupancy if such technique is not commended prior to the date listed on the approved travel demand management plan.

8. **Validity period.** Where a travel demand management plan is submitted, reviewed, and approved in conjunction with a site plan, the travel demand management plan will remain valid as long as the site plan remains valid. Where a travel demand management plan is submitted independent of a site plan, the travel demand management plan will remain valid according the following standards.

   a. An approved travel demand management plan will remain valid for a period of two years from the date of approval. If a building permit has not been issued within this period, the approval will expire. If a building permit is issued, the travel demand management plan will remain valid for the duration of such building permit. A travel demand management plan will become valid indefinitely upon the completion of construction in accordance with all approved plans and the approval of a Certificate of Occupancy for the development.

      (1) Upon request by the applicant, the city planner may grant a one-year extension of the validity period provided such request is submitted to the city planner at least 30 days prior to the expiration of the travel demand management plan's validity period.

9. **Enforcement.**

a. The city planner may revoke an approved travel demand management plan in accordance with § 700.035 of the city code of ordinances and require the submission of a new travel demand management plan if the city planner determines, based on substantial evidence, that one or more of the following conditions exist.

(1) The property owner has failed to maintain the travel demand management strategies in a clean, safe, and effective condition.

(2) A significant change has been made to the level of service or design of travel demand management strategies without prior amendment to the travel demand management plan.

(3) The initial approval was obtained through a material misrepresentation of fact or a fraudulent statement on the application.

b. Upon revocation of a travel demand management plan, no new building permit or certificate of occupancy will be issued for the site.

§ 309.23. Tree Mitigation Plan.

1. Applicability. If required by § 306.03.8 of this Code, no building permit may be granted for a site unless a tree mitigation plan is approved in accordance with this section.

a. If a site plan containing a tree mitigation plan was previously approved for the site, such site plan approval will constitute approval of a tree mitigation plan.

b. If a tree mitigation plan was previously approved for the site that accurately describes the existing condition of the site and demonstrates compliance with the review criteria, such approval will constitute approval of a tree mitigation plan.

2. Application. A tree mitigation plan application must be submitted to the city planner on forms provided by the city. The city planner may require additional information as may be required by the city based on the characteristics of the site or proposed use.

3. Review criteria. In reviewing a tree mitigation plan application, the approving authority must consider the application's demonstration that the site will be developed in accordance with § 306.03.08.b. of this Code.

4. **Review procedure.** If submitted in conjunction with a site plan, a tree mitigation plan will be reviewed in accordance with the standards and procedures established for site plan review in § 309.XX. of this Code. If submitted as an independent application, a tree mitigation plan will be reviewed in accordance with the following standards.

   a. *Submission*. The applicant must submit a tree mitigation plan application at any time prior to the submittal of a building permit or certificate of occupancy application.

   b. *Review by the city planner*. Upon receiving a complete application, the city planner will act on a tree mitigation plan application according to whether the application demonstrates compliance with the review criteria.

5. **Appeals.** Any person aggrieved by an action of an approving authority in the review of a tree mitigation plan application may appeal such decision in accordance with § 300.XX. of this Code.

6. **Records.** The city planner must keep a record of all approved tree mitigation plans.

7. **Effect of approval.** The approval of a tree mitigation plan will enable the subject property to receive building permit approval.

8. **Validity period.** Where a tree mitigation plan is submitted, reviewed, and approved in conjunction with a site plan, the tree mitigation plan will remain valid as long as the site plan remains valid. Where a tree mitigation plan is submitted independent of a site plan, the tree mitigation plan will remain valid according the following standards.

   a. An approved tree mitigation plan will remain valid for a period of two years from the date of approval. If a building permit has not been issued within this period, the approval will expire. If a building permit is issued, the tree mitigation plan will remain valid for the duration of such building permit. A tree mitigation plan will become valid indefinitely upon the completion of construction in accordance with all approved plans and the approval of a Certificate of Occupancy for the development.

      (1) Upon request by the applicant, the city planner may grant a one-year extension of the validity period provided such request is submitted to the city planner at least 30 days prior to the expiration of the tree mitigation plan's validity period.

9. Enforcement.

a. The city planner may revoke an approved tree mitigation plan in accordance with § 700.035 of the city code of ordinances and require the submission of a new tree mitigation plan if the city planner determines, based on substantial evidence, that one or more of the following conditions exist.

(1) The property owner has failed to comply with the approved tree mitigation plan or made a significant change to such plan without prior amendment.

(2) The initial approval was obtained through a material misrepresentation of fact or a fraudulent statement on the application.

b. Upon revocation of a tree mitigation plan, no new building permit or certificate of occupancy will be issued for the site.

§ 309.24. Tree Preservation Plan.

1. Applicability. If required by § 306.03 of this Code, no building permit may be granted for a site unless a tree preservation plan is approved in accordance with this section.

a. If a site plan containing a tree preservation plan was previously approved for the site, such site plan approval will constitute approval of a tree preservation plan.

b. If a tree preservation plan was previously approved for the site that accurately describes the existing condition of the site and demonstrates compliance with the review criteria, such approval will constitute approval of a tree preservation plan.

2. Application. A tree preservation plan application must be submitted to the city planner on forms provided by the city. A tree preservation plan application must contain the following information. The city planner may require additional information as may be required by the city based on the characteristics of the site or proposed use.

a. A tree inventory completed within two years of tree preservation plan application submission and containing the following information. The tree inventory must be completed by an International Society of Arboriculture-certified Arborist or another natural resource professional approved by

city staff if the tree preservation plan is associated with a redevelopment project.

(1) The tree tag numbers that correspond to trees physically tagged on the site.

(2) The species, size, and location of all high priority trees, significant trees, and trees in woodland preservation areas, regardless of health or location. Dead, diseased or structurally unsound trees, and trees infested with a disease or insect, should be clearly noted.

b. An inventory of all canopy species that exist in woodland preservation areas, including those that are in the understory, if they are four inches dbh or larger. Understory trees, excluding canopy species, and large shrubs that exist in woodland preservation areas must be inventoried if they are two inches dbh or larger.

c. The size of high priority trees and significant trees expressed in dbh.

d. The size of coniferous trees recorded expressed as the approximate height, regardless of location.

e. Invasive plants such as buckthorn and honeysuckle should not be inventoried.

f. A site plan that illustrates the dbh, location, and critical root zone for each protected tree including the trees to be removed and the trees to be preserved, the proposed construction limits, and the proposed tree protection methods in addition to construction limit fencing.

(1) If grading or construction limits are outside of a woodland preservation area, the trees in that woodland preservation area may be grouped together.

3. Review criteria. In reviewing a tree preservation plan application, the approving authority must consider the application's demonstration that the site will be developed in accordance with § 306.03. of this Code.

4. Review procedure. If submitted in conjunction with a site plan, a tree preservation plan will be reviewed in accordance with the standards and procedures established for site plan review in § 309.XX. of this Code. If submitted as an independent application, a tree preservation plan will be reviewed in accordance with the following standards.

a. *Submission*. The applicant must submit a tree preservation plan application at any time prior to the submittal of a building permit.

b. *Review by the city planner*. Upon receiving a complete application, the city planner will act on a tree preservation plan application according to whether the application demonstrates compliance with the review criteria.

5. Appeals. Any person aggrieved by an action of an approving authority in the review of a tree preservation plan application may appeal such decision in accordance with § 300.XX. of this Code.

6. Records. The city planner must keep a record of all approved tree preservation plans.

7. Effect of approval. The approval of a tree preservation plan will enable the subject property to receive building permit approval.

8. Validity period. Where a tree preservation plan is submitted, reviewed, and approved in conjunction with a site plan, the tree preservation plan will remain valid as long as the site plan remains valid. Where a tree preservation plan is submitted independent of a site plan, the tree preservation plan will remain valid according the following standards.

a. An approved tree preservation plan will remain valid for a period of two years from the date of approval. If a building permit has not been issued within this period, the approval will expire. If a building permit is issued, the tree preservation plan will remain valid for the duration of such building permit. A tree preservation plan will become valid indefinitely upon the completion of construction in accordance with all approved plans and the approval of a Certificate of Occupancy for the development.

(1) Upon request by the applicant, the city planner may grant a one-year extension of the validity period provided such request is submitted to the city planner at least 30 days prior to the expiration of the tree preservation plan's validity period.

9. Enforcement.

a. The city planner may revoke an approved tree preservation plan in accordance with § 700.035 of the city code of ordinances and require the submission of a new tree preservation plan if the city planner determines, based on substantial evidence, that one or more of the following conditions exist.

(1) The property owner has failed to comply with the approved tree preservation plan or made a significant change to such plan without prior amendment.

(2) The initial approval was obtained through a material misrepresentation of fact or a fraudulent statement on the application.

b. Upon revocation of a tree preservation plan, no new building permit or certificate of occupancy will be issued for the site.

§ 309.25. Variance.

1. Applicability.

a. A variance from the requirements of this Code, including those placed on nonconformities, may be granted in accordance with the following standards.

(1) A variance may only be granted when it is in harmony with the general purposes and intent of this Code and when the variance is consistent with the comprehensive plan.

(2) A variance may be granted when the applicant establishes that there are practical difficulties in complying with this ordinance.

(a) Practical difficulties means that the property owner proposes to use the property in a reasonable manner not permitted by this Code, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, would not alter the essential character of the locality.

1. Economic considerations alone will not constitute a practical difficulties.

2. Practical difficulties also includes inadequate access to direct sunlight for solar energy systems. Inadequate access means the failure to achieve reasonable access to direct sunlight, but does not mean optimal or maximal access.

b. Variances must be granted for earth sheltered construction as defined in state law, when in harmony with the purpose of this Code.

c. A lot that does not meet the minimum requirements of this Code and Chapter 4 of city code of ordinances is not buildable unless a variance is granted.

(1) No variance will be granted to declare a substandard lot buildable unless, in addition to meeting the criteria enumerated in subsection (1)(a) of this section, the applicant has exhausted all reasonable possibility of combining the lot with an adjacent vacant lot such that the lot would become buildable.

(2) Notwithstanding the above, no variance is needed to declare buildable any lot which was a lot of record zoned for a single-unit dwelling, or equivalent, use on February 12, 1966, provided that the lot must be at least 15,000 square feet in size, 90 feet in width at the minimum front setback line, and 110 feet in depth.

d. No variance may be granted to permit a use which is not allowed as a permitted, conditional, interim, temporary, or accessory use in the applicable zoning district as established in Part 4 of this Code.

e. No variance which allows for a lesser degree of flood protection than is required by this Code may be granted for a lot in the Wetlands, Floodplain, or Shoreland Overlay Districts.

f. A variance from the standards applicable to another land use approval, such as a site plan, conditional use permit, or subdivision will not require a separate application.

(1) The applicant for the underlying land use approval must provide a written narrative explaining the justification for any variance requested within such an application.

(2) The planning commission and city council may act separately on such a variance request at their discretion, but if no separate action is taken, the variance will be considered approved or denied as part of the underlying application.

2. Application. A variance application must be made to the city planner on forms provided by the city and must be accompanied by the following information. The city planner may require additional information as may be required by the city based on the characteristics of the site or proposed use.

a. A survey of the property which shows, at a minimum, all lot lines, existing and proposed structures, existing easements, driveways and parking areas, significant topographical features and mature trees;

b. Evidence of ownership or an interest in the property; and

c. The fee required by § 710 of the city code of ordinances.

3. Review criteria. In reviewing and acting upon a variance application, the approving authority must consider the application's compliance with the provisions of subsection (1) of this section.

4. Review procedure. A variance must be submitted, reviewed, and acted upon in accordance with the following standards.

a. *Submission*. The applicant must submit a variance application containing all information contained in subsection (2) of this section to the city planner.

(1) The Minnesota DNR Resources must be notified of all variance applications and decisions in the Shoreland District as provided for in § 300.XX.

b. *Review by the planning commission*.

(1) Upon receipt of a completed application, a date will be set for a public hearing before the planning commission.

(a) The public hearing may be held only after notice has been sent by mail to the owners of all properties situated wholly or partially within 400 feet, as reflected in the certified records of the Hennepin County Auditor.

(2) Following the public hearing or any continuance that is not appealed by the applicant, the planning commission must decide the matter before it.

(a) Appeals from orders, requirements, decisions, or determinations of an administrative officer will be decided by the planning commission by vote of a simple majority of those present.

(b) The planning commission may grant a variance only upon an affirmative vote of two-thirds of its full membership.

1. In granting a variance, the planning commission may impose conditions to effect the intent of this Code and to protect adjacent properties. Any condition imposed in the granting of a variance must be directly related to and must bear a rough proportionality to the impact created by the variance.

(c) The planning commission's decision will be mailed or delivered electronically to the applicant at the address or email provided in the application. A decision to deny a variance will be accompanied by a statement of the commission's findings.

(d) The planning commission action will be final action subject to the right of appeal, except in the following circumstances.

1. If the application is for a variance from the provisions of § 300.XX. with respect to the time limit for amortizing nonconforming uses; or

2. If the variance is an integral part of another land use application that requires city council action.

(3) In the circumstances prescribed in subsection (3)(b)(2)(d) of this section, the planning commission action will be a recommendation to the city council, and action by the planning commission will require only approval of a majority of its full membership.

(a) Approval of the variance by the city council will require an affirmative vote of two-thirds of its full membership.

1. In granting a variance, the city council may impose conditions to effect the intent of this Code and to protect adjacent properties. Any condition imposed in the granting of a variance must be directly related to and must bear a rough proportionality to the impact created by the variance.

5. Appeals. Any person aggrieved by an action of an approving authority in the review of a variance application may appeal such decision in accordance with § 300.XX. of this Code.

6. Records. The applicant must file a certified copy of an approved variance containing a legal description of the property affected with the Hennepin County Recorder if the variance applies to abstract property.

7. Effect of approval.

a. Upon proper recording, a variance granted by the city will run with the land and be perpetual, provided that a variance will remain valid only for the project for which it was granted.

(1) Construction of any project must be in substantial compliance with the site plan and any specifications reviewed and approved by the planning commission or city council.

b. A variance will be null and void if no substantial work is done or building permit issued for the project prior to December 31st of the year following the year of approval.

(1) The planning commission may extend the period for construction upon finding that the interest of the owners of neighboring properties will not be adversely affected by such extension.

(a) If the variance is part of an approved site plan, extension of the time period for construction will be contingent upon a similar extension of the time period for the site plan by the planning commission as required by § 300.XX. of this Code.

(2) Once the project is completed as approved, the approved variance will become perpetual.

8. Validity period. An approved variance will expire and may be revoked if no work on the related development activity has not begun within 24 months of the date of approval.

a. The validity period may be extended up to six months at a time by mutual agreement of the city planner and the applicant provided that such extension is agreed to at least 30 days prior to the expiration of the approved variance.

9. Enforcement. A person who violates, fails to comply with or assists, directs, or permits the violation of the terms or conditions of a variance is guilty of a misdemeanor.

a. A violation is a violation of the variance and renders the variance null and void.

b. A violation also constitutes a public nuisance that may be abated in accordance with the provisions of § 845.

§ 309.26. Zoning Amendment.

1. Initiation. An amendment of this Code may be initiated by petition of the owner of the property to be rezoned, upon recommendation of the planning commission, or by the city council.

a. This Code may be amended whenever consistent with the public health, safety, or general welfare.

b. All zoning text amendments and zoning map amendments must be consistent with the intent of this Code and the comprehensive plan.

2. Application.

a. A zoning map amendment application made by the owner of the property to be rezoned must be submitted to the city planner on forms provided by the city and must be accompanied by the following information. The city planner may require additional information as may be required by the city based on the characteristics of the site or proposed use.

(1) A map or plat of the property and the land;

(2) Evidence of ownership or an interest in the property; and

(3) The fee required by § 710 of the city code of ordinances.

b. A zoning map amendment that would result in the creation of a zoning district inconsistent with a property's land use designation, as established in the comprehensive plan, must be accompanied by an application to amend the comprehensive plan.

c. A zoning map amendment to rezone a property to a PD District must be accompanied by a master development plan.

3. Review procedure. A zoning amendment application must be initiated, reviewed, and acted upon in accordance with the following standards.

a. *Review by the planning commission*.

(1) A public hearing before the planning commission must be held on all zoning text amendment and zoning map amendment applications.

(a) Notice regarding a zoning map amendment which involves a change in the boundaries of a zoning district must be published in the city's official newspaper and on the city website at least 10 days prior to the public hearing and will be sent by mail within a similar time to the property owner and to the owners of all property located wholly or partially within 400 feet, as reflected in the certified records of the Hennepin County Auditor.

(b) Notice regarding a zoning text amendment must be published in the city's official newspaper and on the city website not less than 10 days prior to the public hearing.

(2) The planning commission will make a recommendation to the city council.

b. *Review by the city council*.

(1) After receiving the planning commission's recommendation, the city council must consider the matter and may hold whatever hearing it deems advisable.

(2) The city council must act upon the amendment within the timeline established by state statute or such longer period agreed to by the applicant.

(a) If the council fails to make a timely decision, the zoning text amendment or the zoning map amendment will be deemed to have been approved.

(3) The city council may adopt a zoning text amendment or zoning map amendment only upon a majority vote, except that the city council may only adopt a zoning map amendment changing a lot from a residential district to a Village Center or Flexible Development zone upon an affirmative vote of at least two-thirds of its full membership.

(a) The city council may adopt a zoning map amendment changing a lot from a residential district to a Village Center district by a majority vote if the applicant demonstrates that housing will be provided on the site at the same or greater density as previously permitted on the site.

(b) In the case of a zoning map amendment for a Planned Unit Development or in relation to a master development plan, the required votes will be based on the gross floor area of the proposed uses. In these cases, a commercial or industrial zone will be considered to be any plan with more than 25 percent of the gross floor area proposed to contain commercial or industrial uses.

(4) In the case of a zoning map amendment, the city's decision must be mailed or delivered electronically to the applicant at the address or email provided in the application.

4. **Effective date.** Any zoning text amendment or zoning map amendment adopted by the city council will be effective upon adoption or at such later date as may be specified in the action of the city council.

§ 309.27. Notice.

1. **Failure to give notice.** Failure to give notice or to give adequate notice when such is required by this Code will not invalidate any proceeding, provided that a good faith attempt has been made to comply with the applicable notice requirement.

§ 309.28. Fee Schedule.

1. **Fees.** The fees required by this Code are those specified by § 710 of the city code of ordinances.

§ 309.29. Appeals.

1. **Applicability.** A person aggrieved by an action or decision of an approving authority in the administration of this Code may appeal such action or decision to the applicable appeal authority in accordance with Table XX.

2. **Application.**
   a. All appeals must be in writing and must include a statement of the alleged errors or omissions of the administrative officer or planning commission.
   b. All appeals made to the planning commission must comply with the standards established in Minn. Stats. § 462.359. Subd. 4, as amended.

3. **Review procedure.**
   a. The appellant must submit the appeal to the city planner.
   b. When an appeal is received by the city, the applicant will be notified of the appeal and informed as to the date of the city meeting where it will be heard.
      (1) An appeal to the planning commission or city council will require public notice to be given in the same manner as required for a public hearing before the planning commission or city council.
   c. The review and decision of all appeals must comply with the procedure and timeline established in Table XX. Failure of the appeal authority to act on a request within the maximum time frame to decide the appeals will constitute approval of the request.

(1) The decision of the planning commission regarding an appeal of a decision first made by the city planner may be appealed to the city council in accordance with the procedures outlined in Table XX.

(2) The decision of the city council regarding an appeal of a decision first made by the planning commission may be appealed to the Hennepin County District Court in accordance with the procedures outlined in Table XX.

Table** Error! No text of specified style in document.**-1: Appeal Schedule

Approving Authority	Appeal Authority	Votes Required to Reverse	Maximum Time Frame to Appeal	Maximum Time Frame to Decide Appeal
Administrative Officer	Planning Commission	50 % + 1 Vote	10 Days After Decision	60 Days After Appeal. [1]
Planning Commission	City Council	2/3 of Full Membership	10 Days After Decision	60 Days After Appeal [1]
City Council	Hennepin County District Court	n/a	60 Days After Decision	See Minn. Stats. § 412.211.

[1] Unless a greater time period is agreed to in accordance with Minn. Stats. § 15.99. Subd. (2).

4. Disclaimer of responsibility. Any applicant who obtains a building permit, starts construction, begins a use in reliance upon the decision of the city planner or planning commission, or any combination of those activities prior to the termination of the appeal period, assumes the risk that the decision may be reversed upon appeal.

PART 10. ENFORCEMENT.

§ 310.00. Violations and Penalties.

1. **Violation.** A person who violates, fails to comply with, or assists, directs, or permits the violation of a provision of this Code or who knowingly makes or submits a false statement or document in connection with an application or procedure required by this Code is guilty of a misdemeanor.
   a. A person who violates, fails to comply with, or assists, directs, or permits the violation of a performance standard required by § 300.xx of this Code must reimburse the city or its agent for the actual cost of the tests, measurements, or other procedures necessary to demonstrate that violation. In addition, the person must pay a fee twice that which is specified in § 710 of the city code of ordinances for any application that is submitted in connection with or as a result of the violation.
   b. Each day a violation continues constitutes a separate offense.
2. **Prevention, restraint, and correction.** If a building or structure is erected, constructed, altered, repaired, converted, or maintained or if a building, structure, or land is used in violation of this Code, the city planner may initiate any lawful action or proceeding in the name of the city of Minnetonka and has the powers of a peace officer to prevent, restrain, correct or abate the violation. Nothing in this Code prevents the city planner from taking any other lawful action that is deemed necessary to prevent or remedy a violation of this Code.
3. **Public nuisance.** A violation of a provision of this Code or of a condition imposed under authority of this Code is a public nuisance, except if enforcement of the violation would result in the removal or relocation of a principal or accessory structure, or a part of it.
   a. The public nuisance may be abated in accordance with the provisions of § 845 of the city code of ordinances.
4. **Liability exemption.** No section or part of this Code designating the duties of an official, employee, or appointee of the city may be construed to make that official, employee, or appointee liable for the penalty provided by the city code of ordinances for violation of this Code.

PART 11. GLOSSARY.

§ 311.00. Rules of Definitions.

1. **Interpretation.** All terms listed in § 311.01. of this Code will carry the definition provided for the term in § 311.01. of this Code. Terms not defined in § 311.01. of this Code will be defined according to their typical dictionary definition.

2. **Conflicting definitions.** Where a term is defined in this Code and another section of the city code of ordinances, the definition provided in § 311.01. will apply in the administration of this Code.

§ 311.01. Definitions.

1. A terms.

a. Abandon.

(1) The cessation of a specific use of a property for a period of 12 or more months.

b. Abut.

(1) To make direct contact with or immediately border.

c. Access aisle or aisle.

(1) The traveled way by which vehicles enter and depart parking spaces.

d. Accessory day care.

(1) A day care center subordinate to the principal use of a structure.

e. Accessory dwelling unit.

(1) A secondary dwelling unit, attached or detached, located on the same property as a principal dwelling unit, which includes provisions for living independent of the principal dwelling, such as areas for sleeping, cooking, and sanitation, as determined by the city planner.

f. Accessory equipment.

(1) Wires, cables, generators, or other equipment or apparatus associated with an antenna and necessary for telecommunication transmission.

g. Accessory office.

(1) An office area located within a principal nonresidential building used for the administration and management of the principal use on the site.

h. Accessory structure.

(1) See "structure, accessory."

i. Accessory structure setback.

(1) See "setback, accessory structure."

j. Accessory use.

(1) See "use, accessory."

k. Adult body painting studio.

(1) An establishment or business that provides the service of applying paint, ink, or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.

l. Adult bookstore.

(1) An establishment or business used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, movies, or motion picture film if it meets the criteria established in paragraph (3)(c)(1)(a) above.

m. Adult cabaret.

(1) A business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on: The depiction of nudity, specified sexual activities or specified anatomical areas; or The presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.

n. Adult companionship establishment.

(1) A business or establishment that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

o. Adult conversation or rap parlor.

(1) A business or establishment that provides the services of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

p. Adult health or sport club.

(1) A health/sport club that is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

q. Adult hotel or motel.

(1) A hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

r. Adult massage parlor or health club.

(1) A massage parlor or health club that provides massage services distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

s. Adult mini-motion picture theater.

(1) A business or establishment with a capacity of less than 50 persons that as a prevailing practice presents on-premises viewing of movies, motion pictures, or other material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

t. Adult modeling studio.

(1) A business or establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.

u. Adult motion picture arcade.

(1) Any place where the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

v. Adult motion picture theater.

(1) A motion picture theater with a capacity of 50 or more persons that as a prevailing practice presents material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons.

w. Adult novelty business.

(1) An establishment or business that has a variety of items for sale if it meets the criteria established in the definition for "sexually-oriented business."

x. Adult sauna.

(1) A sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

y. Adult steam room or bathhouse facility.

(1) A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

z. Agricultural use.

(1) See "use, agricultural."

aa. Alteration, structural.

(1) Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders or rooflines, or any enlargement of a building or structure whether horizontal or vertical.

bb. Alteration, use.

(1) Any change to the use or occupancy of a building or parcel from one type of land use to another. Changes in use or occupancy include office to retail, warehouse to assembly, retail to eating and drinking establishment, or similar changes which result in a different intensity of use.

cc. Antenna.

(1) Any device used for the transmission or reception of wireless radio television, or electromagnetic waves for cellular, internet service, personal communication service, enhanced specialized mobilized radio service, or television purposes.

dd. Apartment.

(1) A dwelling unit, generally rented, located within a larger building.

ee. Approving authority.

(1) The government official, body, board, commission, or agency designated by this Code or applicable law to review and grant approval for a specific permit, application, or development action.

ff. Area, buildable.

(1) A contiguous portion of a lot that is suitable for the location of the primary structure and that excludes all existing and proposed easements, setback areas for principal structures, wetlands, floodplains, the ordinary high water level of regulated waterbodies, the neck portion of any lot-behind-lot, steep slopes that are unbuildable under this ordinance, and other unbuildable areas. Certain easements may be included in the buildable area at the discretion of the city if their inclusion is consistent with the intent of this code.

gg. Area, copy and graphic.

(1) The area in square feet of the smallest four-sided figure which encloses the copy and graphic of a sign.

[INSERT GRAPHIC HERE]

hh. Area, gross floor.

(1) For single-family and two-family dwellings, the sum of the following as measured from exterior walls: the fully exposed gross horizontal area of a building, including attached garage space and enclosed porch areas, and one-half the gross horizontal area of any partially exposed level such as a walkout or lookout level.

(2) For multiple family dwellings and nonresidential buildings, the sum of the following as measured from exterior walls: the fully exposed gross horizontal area of a building and one-half of the gross horizontal area of any partially exposed level such as a walkout or

lookout level, excluding interior parking spaces and vehicular circulation areas.

(3) For all buildings, if a floor has a height in excess of 15 feet an additional floor will be assumed for every full 15 feet of interior building height.

[INSERT GRAPHIC HERE]

ii. Area, lot.

(1) The total area bounded by lot lines excluding dedicated public road rights-of-way and any area located below the ordinary high water level of a lake or creek.

[INSERT GRAPHIC HERE]

jj. Area, monument.

(1) The area in square feet of an entire monument sign structure, including the copy and graphic area.

[INSERT GRAPHIC HERE]

kk. Area, sign.

(1) The entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside the limits of such sign and not forming an integral part of the display.

[INSERT GRAPHIC HERE]

ll. Art installation.

(1) A temporary or permanent object, sculpture, or creative work, typically of a larger scale, designed for a specific location and intended for public viewing. This term includes, but is not limited to, murals, statues, and interactive physical structures, provided such installations do not meet the definition of a sign as established in this Code.

mm. Assembly.

(1) A facility other than a religious facility that organizes services, events, meetings, or programs to benefit, educate, and entertain, or promote discourse in a public or private setting.

nn. Attached dwelling.

(1) See "Dwelling, attached."

oo. Attached garage.

(1) See "Garage, attached."

pp. Average established grade.

(1) See "grade, average established."

2. B terms.

a. Basement.

(1) An area of a building, having its floor or base below ground level on all four sides, regardless of the depth of excavation below ground level.

[INSERT GRAPHIC HERE]

b. Basement floor elevation.

(1) The lowest floor of a building.

c. Basic Tree Removal Area.

(1) One of the following areas.

(a) An area improved for reasonably-sized driveways, parking areas, and structures without frost footings and within 10 feet around those improvements.

(b) An area within the footprints of, and 20 feet around, buildings with frost footings.

(c) An area within the footprints of, and 10 feet around, structures with post footings such as decks or porches, if the structure is located at or outside of the area allowed by subsection (2)(c)(1)(b) above.

(d) An area where trees are being removed for ecological restoration in accordance with a city-approved Restoration Plan.

d. Beekeeping.

(1) The management and maintenance of colonies of the honey bee, Apis mellifera, within a documented and managed structure known as a hive. This term includes the incidental collection of honey and other bee products for personal or limited commercial use, provided such activities are subordinate to the primary use of the property.

e. Berm.

(1) A landscaped mound of earth used for aesthetic or buffer purposes.

f. Bicycle parking facility.

(1) A designated area or structure specifically designed for the secure storage and parking of bicycles. This facility may include specialized racks, lockers, or covered shelters intended to protect bicycles from weather and theft.

g. Bicycle repair facility.

(1) A station or area equipped with tools and apparatus for the maintenance and minor repair of bicycles, including, but not limited to, air pumps, wrenches, and screwdrivers, provided for use by the general public or occupants of a development.

h. Blade sign.

(1) See "sign, blade."

i. Bluff.

(1) A steep slope as defined in this ordinance.

j. Bluff impact zone.

(1) Land within a bluff and land within 20 feet from the top of a bluff.

k. Buffer.

(1) An area of land, typically composed of landscaping, fencing, walls, berms, or a combination thereof, established between two dissimilar land uses or zoning districts to provide a physical and visual transition that reduces adverse impacts such as noise, glare, and visual intrusion. A buffer differs from screening in that it addresses dissimilarity between broad land uses or districts rather than concealing a specific site element.

l. Buildable area.

(1) See "area, buildable."

m. Building.

(1) Any structure having a roof supported by columns, walls or other means of support for the shelter or enclosure of persons or property.

n. Building, limited tenant.

(1) A building designed for occupancy by no more than three nonresidential tenants. A limited tenant building must have shared parking and a visual appearance of a contiguous structure, which may or may not be planned, constructed, or managed as the same entity. This term includes single tenant commercial buildings.

o. Building, multi-tenant.

(1) A building with a designed occupancy of four or more tenants with shared parking and visual appearance as a contiguous structure, which may or may not be planned, constructed or managed as a total entity.

p. Building official.

(1) The building official of the city of Minnetonka, Minnesota.

q. Building plan.

(1) See "site plan."

3. C terms.

a. Cannabis retail business.

(1) As defined in § 650 of the city code of ordinances.

b. Cemetery.

(1) Land or structures dedicated for the interment of human or animal remains.

c. Certificate of occupancy.

(1) An administrative approval specified in § 309.XX. of this Code.

d. City.

(1) The city of Minnetonka, a municipal corporation, along with its duly authorized boards, commissions or representatives.

e. City council.

(1) The city council of the city of Minnetonka, Minnesota.

f. City engineer.

(1) For purposes of this Code, the person holding said position, their designate representative within the engineering division, or the representative designated by the city manager.

g. City manager.

(1) For purposes of this Code, the person holding said position or their designated representative.

h. City planner.

(1) For purposes of this Code, the person holding said position, their designate representative within the planning division, or the representative designated by the city manager.

i. Commercial common space.

(1) See "common space, commercial."

j. Commercial recreation, indoor.

(1) An indoor facility in which a business provides recreation services, such as, but not limited to, bowling allies, indoor trampoline parks, and indoor sports facilities.

k. Commercial recreation, outdoor.

(1) An outdoor facility in which a business provides recreation services, such as, but not limited to, amphitheaters, outdoor stadiums, miniature golf, and batting cages. Includes ancillary uses, such as food service.

l. Commercial sign.

(1) See "sign, commercial."

m. Commercial use.

(1) See "use, commercial."

n. Common space, commercial.

(1) Enclosed areas located within a commercial structure that are utilized for the mutual benefit of building tenants.

o. Common space, residential.

(1) Land, structures, or both, that are owned and maintained by a homeowners' association or similar organization and used for the mutual benefit of residents or tenants of the association or organization.

p. Community based residential care facility.

(1) See "residential care facility, community based."

q. Community use.

(1) See "use, community."

r. Comprehensive plan.

(1) The comprehensive municipal plan, as defined in Minn. Stats. § 462.352, in effect at the time of the final action on an application, except as otherwise required by Minn. Stats. § 462.357.

s. Conditional use.

(1) See "use, conditional."

t. Conditional use permit.

(1) A permit specified in § 309.XX. of this Code.

u. Conservation easement.

(1) A recordable document that prohibits construction, grading, vegetation removal, or other alteration of property except in accordance with city-approved environmental management practices, but which does not grant the public the right to use the property.

v. Construction.

(1) The activity of building a new principal or accessory structure or adding on to an existing principal or accessory structure.

w. Copy and graphic.

(1) The wording and other display messages such as logos or symbols on a sign.

x. Copy and graphic area.

(1) See "area, copy and graphic."

y. Corner lot.

(1) See "lot, corner."

z. Crawl space.

(1) An enclosure designed to internally flood, which is completely above grade on at least one side and usable solely for building access or storage.

aa. Critical root zone.

(1) The minimum area around a tree that must remain undisturbed. The critical root radius is calculated by measuring the tree's diameter at breast height. For each inch of tree diameter at breast height, one and one half feet of root zone radius must be

protected. For example, if a tree's diameter at breast height is 10 inches, then its critical root zone radius is 15 feet.

bb. Cul-de-sac.

(1) A street with a single means of ingress and egress and having a turnaround at its end for safe and convenient reversal of traffic.

cc. Cul-de-sac bulb.

(1) A turnaround at the end of a cul-de-sac.

4. D terms.

a. Day care center.

(1) A business that provides licensed care in a protective setting for children or elderly or disabled adults.

b. Day care facility, licensed.

(1) Any facility required to be licensed by a governmental agency, public or private, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habilitation, rehabilitation or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own home. Licensed day care facilities include, but are not limited to, family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, developmental achievement centers, day treatment programs, adult day care centers and day services.

c. Deck.

(1) An unenclosed platform structure composed of boards made of synthetic or natural materials. A deck is considered attached if any part of it is within ten feet of the principal structure; a deck is considered detached if no part of it is within ten feet of the principal structure. A detached deck is considered an accessory structure in the wetland, floodplain, and shoreland districts.

d. Density.

(1) The number of dwelling units per acre of land, excluding existing or proposed rights-of-way intended to be used for location of streets and areas zoned as wetland, floodplain, or below the ordinary high water level of a public water, as regulated by the comprehensive plan.

e. Detached garage.

(1) See "Garage, detached."

f. Development, nonconforming.

(1) A nonconformity other than a nonconforming use which does not currently conform to this Code including standards such as height, setback, or size.

g. Diameter at breast height (dbh).

(1) The diameter of a tree measured at four and one half feet above the base of the tree. Multi-stem trees are considered one individual tree, and each stem must be measured four and one half feet above the base of the stem and added together to determine the diameter of the multi-stem tree.

h. Distillery.

(1) See "Microbrewer, winery, or distillery,"

i. Distribution line.

(1) An overhead or underground facility consisting of utility poles, lines, underground conduit, and related devices used to carry electricity from a substation to the ultimate user, with a nominal voltage equal to or less than 35 kilovolts, or to carry communications.

j. Dock.

(1) A platform that provides access to a water resource.

k. Drive-through facility.

(1) An area providing goods and services to customers waiting in vehicles who then consume or utilize such goods off-site.

l. Dwelling.

(1) A building or portion thereof designed or used exclusively for residential occupancy.

m. Dwelling, attached.

(1) A single dwelling unit within a building containing three or more dwelling units, each attached to at least one other dwelling unit by a shared vertical wall.

n. Dwelling, manufactured or modular.

(1) A manufactured home or modular home as defined by Minn. Stats. § 327.31.

o. Dwelling, multi-unit.

(1) A building containing five or more dwelling units with at least one dwelling unit located above another dwelling unit or ground floor nonresidential use.

p. Dwelling, single-unit.

(1) A building containing one dwelling unit and designed for occupancy by one household.

q. Dwelling, triplex or fourplex.

(1) A building containing three or four dwelling units with at least one dwelling unit located above another dwelling unit or ground floor nonresidential use. A triplex or fourplex dwelling that arranges all dwelling units on the ground floor in a side-by-side row is considered an attached dwelling.

r. Dwelling, two-unit.

(1) A building that contains two dwelling units.

s. Dynamic display.

(1) Any characteristics of a sign that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure itself, or any other component of the sign. This term includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. This term also includes any rotating, revolving, moving, flashing, blinking, or animated display and any display that incorporates rotating panels, LED lights manipulated through digital input, "digital ink", or any other method or technology that allows the sign face to present a series of images or displays.

t. Dynamic display, enhanced.

(1) See “dynamic display.”

5. E terms.

a. Eating and drinking establishment.

(1) A business that is primarily engaged in serving prepared food and beverages for consumption on or off the premises. Eating and drinking establishments may have a liquor license and serve alcohol.

b. Electric vehicle charging station (EVCS).

(1) A public or private parking stall that is served by battery charging station equipment that has its primary purpose the transfer of electric energy, by conductive or inductive means, to battery or other energy storage device in an electric vehicle.

c. Enclosed structure.

(1) See "structure, enclosed."

d. Engineer.

(1) An engineer licensed by the state of Minnesota, or an engineer acceptable to the city if licensing is not available.

e. Engineering division.

(1) The engineering division of the city of Minnetonka, Minnesota.

f. Enhanced dynamic display.

(1) See "dynamic display, enhanced."

g. Enhanced dynamic display permit.

(1) A permit specified in § 309.XX. of this Code.

h. Enlargement.

(1) See "expansion."

i. Excavation.

(1) The removal, relocation or recovery by any means of soil, rock, minerals, debris or organic substances other than vegetation from a parcel of land.

j. Expansion.

(1) Any increase in dimension, size, area, volume, or height, any increase in the area of use, any placement of a structure or part thereof where none existed before, any addition of a site feature such as a deck, patio, fence, driveway, parking area, or swimming pool, any improvement that would allow the land to be more intensely developed, any move of operation to a new location on the property, or any increase in intensity of use based on a review

of the original nature, function or purpose of a non-conforming use, the hours of operation, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odors, area of operation, number of employees, and other factors deemed relevant by the city. Expansion is synonymous with "enlargement" and "intensification."

k. External illumination.

(1) See “illumination, external.”

6. F terms.

a. Façade.

(1) The vertical face of a building, including any insets and protrusions facing a street or open space, which contributes to the aesthetic or structural design of the building.

b. Façade-mounted solar energy system.

(1) See “solar energy system, façade-mounted.”

c. Façade transparency.

(1) The percentage of a building façade elevation composed of windows or other transparent glazing materials that allow a clear view into the interior of the building.

(a) Mirrored, frosted, opaque, or spandrel glass does not count toward this requirement; however, for residential or hotel uses, clear glazing that is obscured by interior blinds, shades, or curtains will be considered transparent for the purposes of this calculation.

[INSERT GRAPHIC HERE]

d. Fast food establishment.

(1) A business that is engaged in serving prepared food and beverages for sale to the public for consumption via a counter or drive-through facility, generally presented in disposable containers, and that offers standardized menus, ingredients, and food preparation.

e. Feather flag.

(1) A freestanding, temporary sign constructed of a vertical pole, tube, or post supporting one edge of a sheet of cloth, vinyl, or similar material.

f. FEMA.

(1) The United States federal emergency management agency or its successor.

g. Filling.

(1) Sand, gravel, earth or other materials of any composition placed on a parcel of land.

h. Fleet charging.

(1) A facility that provides electricity to six or more motor vehicles, drones, watercraft, or other motorized equipment through one or more electric vehicle charging stations. This term does not include a standalone electric vehicle charging facility for general public use.

i. Fleet management.

(1) A property used for the centralized storage, parking, staging, fueling, charging, or dispatching of at least six motor vehicles, drones, watercraft, or other motorized equipment operated in connection with passenger transportation services, delivery services, or similar businesses. This term includes vehicles operated by a business, corporation, or similar entity. This term does not include vehicle storage, vehicle service, or vehicle sale and rental uses.

j. Flood.

(1) A temporary increase in the flow or stage of a stream or in the stage of a wetland, pond, watercourse, or lake that results in the inundation of normally dry areas.

k. Flood elevation.

(1) The water level achieved by a 100-year flood as defined by the city water resources management plan, the federal emergency management agency, or other studies accepted by the city, whichever is more restrictive. A 100-year flood is synonymous with the terms one-percent chance flood, base flood, and regional flood.

l. Flood obstruction.

(1) A dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation (except for creation of compensatory flood storage), channel modification, culvert, building, wire, fence,

stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

m. Flood proofing.

(1) A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

n. Flood Risk Map.

(1) The Interactive Flood Risk Map of Minnetonka, Minnesota as published by the engineering division.

o. Flood way.

(1) The bed of a wetland, pond, or lake, or the channel of a watercourse, and those portions of the adjoining floodplain that are reasonably required to carry, store or discharge the 100-year flood event.

p. Floodplain.

(1) The area adjoining a wetland, pond, lake or water course including the floodway, subject to periodic inundation by a 100-year flood as designated on the official city floodplain district map.

q. Floodplain forest.

(1) An area populated by deciduous tree species tolerant of seasonal flooding and deposition of silty or sandy soils. The canopy cover is extremely variable, and mature trees are typically greater than 70 feet tall. The dominant tree species in the canopy are silver maple and eastern cottonwood. In floodplain areas with severe flooding, the understory will be sparsely vegetated. Trees in the understory include saplings from the canopy species, green ash, black willow, slippery elm, American elm, boxelder, and hackberry;

r. Floor area ratio (FAR).

(1) The floor area of a building as defined by this ordinance, divided by area of the lot on which the building is located. Area zoned as wetland, floodplain, or below the ordinary high water level of a public water is excluded from the lot area for purposes of the floor

area ratio calculation unless it can be demonstrated that there will be minimal hydrologic, aesthetic and ecological impacts to the relevant area as determined by the city.

[INSERT GRAPHIC HERE]

s. Freestanding sign.

(1) See "sign, freestanding."

t. Front lot line.

(1) See "lot line, front."

u. Front setback.

(1) See "setback, front."

v. Front yard.

(1) See "yard, front."

7. G terms.

a. Garage.

(1) A detached or attached accessory structure designed or used for the parking and storage of vehicles owned and operated by residents of a principal structure on the same lot.

b. Garage, attached.

(1) An accessory structure attached to the principal building and designed or used for the parking and storage of vehicles owned or operated by residents of a principal structure on the same lot.

c. Garage, detached.

(1) An accessory structure detached to the principal building and designed or used for the parking and storage of vehicles owned or operated by residents of a principal structure on the same lot.

d. Garden sale.

(1) An establishment primarily engaged in the retail sale of garden supplies and plants grown on or off premises. The sale of cannabis plants and products is not considered garden sales; it is considered a retail use.

e. Gas station.

(1) A facility engaged in the retail sales of personal or commercial vehicle fuels.

f. Grade.

(1) The elevation of the ground.

g. Grade, average established.

(1) The ground elevation used to measure building height will be selected from one of the following, whichever results in the greater height.

(a) When the change in grade within the footprint of the building is equal to or less than 10 feet, the highest ground elevation abutting the building will be used.

(b) When the change in grade within the footprint of the building is greater than 10 feet, an elevation 10 feet higher than the lowest ground elevation abutting the building will be used.

[INSERT GRAPHIC HERE]

h. Grading and erosion control plan.

(1) An administrative approval specified in § 309.XX. of this Code.

i. Grading permit.

(1) A permit specified in § 309.XX. of this Code.

j. Grading.

(1) Excavating, filling or other land-disturbing activity.

k. Greenhouse.

(1) A building or structure constructed mostly of glass, glasslike, or translucent material, cloth, or lath, which is devoted to the protection or cultivation of plants or flowers.

l. Gross floor area.

(1) See "area, gross floor."

m. Ground-mounted solar energy system.

(1) See solar energy system, ground mounted.

8. H terms.

a. Habitat.

(1) The place(s) where an organism lives, including the resources and conditions required for its survival.

b. Height.

(1) The vertical distance, measured in a straight line along a vertical plane, from the average established grade at the front building line to one of the following points, as applicable.

(a) For structures without roofs or with a flat roof, the height is measured to the highest point of the structure.

(b) For structures with mansard roofs, the height is measured to the deck line of the mansard roof.

(c) For structure with gable, hip, or gambrel roofs, the height is measured to the average height of the eaves and ridge of the roof.

[INSERT GRAPHIC HERE]

(2) The following features do not count against any maximum structure height established in this Code. Spires and steeples on structures associated with a religious assembly use. Elevator shafts and similar structural elements not intended as places of occupancy or storage. Renewable energy generation equipment such as solar panels, provided that such equipment is mounted to the roof of the structure and does not project more than five feet past the maximum structure height.

c. Heliport.

(1) A designated area, on land or a structure, used for the takeoff and landing of helicopters.

d. High resource use facility.

(1) A facility, such as a data center, characterized by high consumption of water or energy resources necessary to manage cooling or significant electrical loads.

e. Home-based business.

(1) A business, profession, or other economic activity conducted within and that is clearly secondary to a principal residential use and does not change the nature of the principal residential use.

f. Hospital.

(1) A facility providing physical or mental health services, inpatient or overnight accommodations, and medical or surgical care for the sick and injured.

g. Hotel.

(1) A building or structure that provides transient lodging to guests in exchange for compensation.

h. Housekeeping unit.

(1) A group of persons living together within a single dwelling unit, sharing common living, sleeping, cooking, and eating facilities, and functioning as a single, relatively permanent economic and domestic unit. This definition does not rely upon the biological or legal relationship of the residents.

i. Hydration station.

(1) A permanent fixture or plumbing installation, such as a drinking fountain or water bottle refilling station, designed to provide potable water to the public for consumption.

9. I terms.

a. Illumination, external.

(1) A light source which is not located within a sign.

b. Illumination, internal.

(1) A light source within the sign.

c. Impervious surface.

(1) A material providing a hard surface that prevents normal infiltration of water into the ground.

d. Impervious surface coverage.

(1) The portion of a lot covered by impervious surfaces represented as a percentage of the lot area.

[INSERT GRAPHIC HERE]

e. Improvement.

(1) Making the nonconforming use better, more efficient, or more aesthetically pleasing, including any change that does not replicate what pre-existed, but does not include an expansion, enlargement, or intensification.

f. Indoor commercial recreation.

(1) See "Indoor commercial recreation."

g. Industrial use.

(1) See use, industrial.

h. Industrial, light.

(1) A facility for the manufacturing or processing of products or parts, including assembly, treatment, fabrication, and packaging of such products, and the incidental sales, storage, and distribution of such products, provided that all manufacturing products are contained entirely within a fully enclosed building. Any smoke, fumes, odors, heat, dust, or vibration are confined to the building and little to no external impacts are detectable beyond the lot lines of the facility.

i. Intensification.

(1) See expansion.

j. Intensity of development.

(1) A measure of the magnitude and impact of a land use on the environment and neighboring land uses. Variables include, but are not limited to, the levels of traffic that are generated, degree of lot coverage, volume of noise or odor emitted and similar factors.

k. Intensive vegetative clearing.

(1) The complete removal of trees and shrubs, or grasses and forbs, in a contiguous patch, strip, row, or block except the removal of invasive species as approved by the city.

l. Interim use.

(1) See "use, interim."

m. Interim use permit.

(1) A permit specified in § 309.XX. of this Code.

n. Interior lot.

(1) See "lot, interior."

o. Internal illumination.

(1) See "illumination, internal."

p. Items of information.

(1) Individual copy and graphic items situated in a manner which presents separate messages. An item of information can only be a name, an address, a logo, or geographic directions.

10. J terms. *Reserved.*

11. K terms. *Reserved.*

12. L terms.

a. Landscaping plan.

(1) A plan that details the location, size and species of existing and proposed plantings on a property or development site. The plan may include other features such as fences, retaining walls, or berms.

b. Level of service.

(1) The level at which an intersection operates based upon criteria established by the institute of traffic engineers, as amended periodically.

c. Licensed day care facility.

(1) See day care facility, licensed.

d. Licensed residential care facility.

(1) See residential care facility, licensed.

e. Light industrial.

(1) See "industrial, light."

f. Limited tenant building.

(1) See "building, limited tenant."

g. Loading space.

(1) That portion of a property designed to serve the purpose of loading or unloading all types of vehicles.

h. Lot.

(1) A measured parcel of contiguous land having fixed boundaries and recorded with the appropriate authority or office. All lots must be classified according to this section.

[INSERT GRAPHIC HERE]

i. Lot-behind-lot.

(1) A lot that does not meet the minimum lot width dimension at the front lot line and is located behind other lots that have frontage on a public street.

j. Lot, corner.

(1) A lot at the junction of and abutting on two or more intersecting streets, or at the point of deflection in alignment of a single street, the interior angle of which does not exceed 135 degrees.

k. Lot, flag.

(1) An interior lot providing substandard lot width at the front lot line, and which is situated behind adjoining lots that front on a street right-of-way and is accessed by a narrow strip of land or easement.

l. Lot, interior.

(1) A lot other than a corner lot.

m. Lot, riparian.

(1) A lot abutting a public water, excluding wetlands.

n. Lot, through.

(1) An interior lot having frontage on two nonintersecting streets.

o. Lot area.

(1) See “area, lot.”

p. Lot depth.

(1) The average horizontal distance between the front and rear lot lines.

[INSERT GRAPHIC HERE]

q. Lot line.

(1) A line which defines the legal boundary of a lot. All lot lines must be classified according to this section.

(2) On a lot-behind-lot, the city planner will designate all lot lines based upon the characteristics of the lot and the surrounding neighborhood."

r. Lot line, front.

(1) A lot line which separates the lot from the street right-of-way.

(2) On a corner lot, there will be two or more front lot lines.

(3) On a through lot, the lot line which separates the lot from the street right-of-way and which the principal building entrance faces.

[INSERT GRAPHIC HERE]

s. Lot line, rear.

(1) Any lot line which separates the lot from another lot, and which does not connect to a front lot line at any point. On a corner lot where all lot lines connect to a front lot line, the rear lot line will be the lot line which separates the lot from another lot, and which connects to the longest front lot line. On a through lot, the lot line

other than the front lot line which separates the lot from the street right-of-way.

(2) For the purposes of establishing a rear setback on a triangular lot with two side lot lines, the rear lot line will be administered as a 30-foot line approximately parallel to the front lot line and connecting to both side lot lines.

(3) There will be no rear lot line and no minimum rear setback required on a triangular lot with two front lot lines.

[INSERT GRAPHIC HERE]

t. Lot line, side.

(1) Any lot line which separates the lot from another lot, and which connects to a front lot line.

[INSERT GRAPHIC HERE]

u. Lot of record.

(1) A lot whose legal description was established in the Hennepin county property records by plat, subdivision or as otherwise permitted by law prior to February 12, 1966, and which contains identical lot lines as were present on February 12, 1966.

v. Lot width at setback.

(1) The horizontal distance between side lot lines as measured along the minimum required front yard setback established by this ordinance and generally perpendicular to the front property line, as determined by the city planner.

(2) In the case of lots with frontage located only on a cul-de-sac bulb, lot width at setback is established as follows: Find the center of the right-of-way and the midpoint of the front property line. Extend a straight line through the right-of-way center, the midpoint of the front property line, and the required front yard setback as outlined by the zoning ordinance. The width measurement is taken between side property lines, at the required setback, perpendicular to this straight line."

w. Lowest floor.

(1) The lowest floor of the lowest enclosed area of a building, including a basement. An unfinished or flood resistant enclosure used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.

x. Lowland hardwood forest.

(1) An area with a flat terrain populated by deciduous tree species tolerant of periodic soil saturation from seasonally high water tables. The soils are moderately well to poorly drained. The dominant tree species in the canopy are American elm, black ash, basswood, bur oak, red oak, white oak, quaking aspen, paper birch, and red maple. Trees in the understory include saplings from the canopy species, slippery elm, green ash, butternut, sugar maple, quaking aspen, balsam poplar, and American hornbeam. The large shrub or small tree layer of the understory is typically dense and can include ironwood, pagoda dogwood, prickly ash, American hazelnut, gray dogwood, and speckled alder.

13. M terms.

a. Manufactured or modular dwelling.

(1) See "Dwelling, manufactured or modular."

b. Maple basswood forest.

(1) An area with well-drained soils and populated by a variety of shade-tolerant, fire-sensitive, deciduous tree species. The mature trees are straight with narrow crowns greater than 60 feet tall. The dominant tree species in the canopy are basswood and sugar maple, but mesic species such as slippery elm, red oak, bur oak, green ash, white ash, and black ash may be found as well. Trees in the understory include saplings from the canopy species, bitternut, black cherry, and ironwood. The large shrub or small tree layer of the understory is composed of primarily tree seedlings and herbaceous plants;

c. Marina.

(1) A facility for storing, servicing, fueling, berthing, and securing of pleasure boats and that may include eating, sleeping, and retail facilities for owners, crews, and guests.

d. Master development plan.

(1) Description or illustration of development usually comprised of a series of plans that generally show the location of trees and water resources, streets, utilities, stormwater improvements, buildings, and parking areas; proposed site grading, tree removal, and landscaping; and building elevations and signs.

e. Medical clinic.

(1) A freestanding structure or, in the case of multiple tenant buildings, a total occupied space of 2,000 square feet or greater used for patient examination and treatment by physicians, dentists, optometrists, psychologists or other health care professionals and where patients are not lodged overnight.

f. Merchandise box sign.

(1) See "sign, merchandise box."

g. Mesic oak forest.

(1) An area populated by tall, single-stemmed deciduous trees greater than 60 feet tall that lack spreading lower branches. Mesic oak forests may have a moderately moist habitat but can be dry depending on the slope and aspect of the forest. The dominant tree species in the canopy include red oak, white oak, and bur oak. Trees in the understory include saplings from the canopy and fire-sensitive species such as basswood, green ash, bitternut hickory, big-toothed aspen, butternut, northern pin oak, black cherry, paper birch, American elm, boxelder, and red maple. The large shrub or small tree layer in the understory tends to be sparse with greater herbaceous plant diversity but can include ironwood, chokecherry, prickly ash, American hazelnut, prickly gooseberry, red-berried elder, nannyberry, juneberry/serviceberry, and pagoda dogwood;

h. Microbrewery, winery, or distillery.

(1) An establishment where beer, wine, malt beverages, or spirits are made on premises, and sold or distributed. The establishment may sell directly to a consumer or to a retailer.

i. Minnesota DNR.

(1) The Minnesota Department of Natural Resources.

j. Mixed use development.

(1) The development of a parcel of land with two or more different uses such as residential, commercial, or manufacturing or with residential uses of different densities as permitted by this ordinance.

k. Monument area.

(1) See "Area, monument."

l. Monument sign.

(1) See "Sign, monument."

m. Multi-tenant building.

(1) See "Building, multi-tenant."

n. Multi-unit dwelling.

(1) See "Dwelling, multi-unit."

14. N terms.

a. Native cultivar.

(1) A variation of a native plant, deliberately selected, cross-bred or hybridized for desirable traits.

b. Native plant.

(1) A plant that was found naturally in an area prior to human introduction, usually defined as pre-European settlement.

c. Natural resources division.

(1) The natural resources division of the city of Minnetonka, Minnesota.

d. Natural resources manager.

(1) The natural resources manager of the city of Minnetonka, Minnesota.

e. Noncommercial sign.

(1) See "sign, noncommercial."

f. Nonconforming development.

(1) See "development, nonconforming."

g. Nonconforming use expansion permit.

(1) A permit specified in § 309.XX. of this Code.

h. Nonconforming use.

(1) See "use, nonconforming."

i. Nonconformity.

(1) Any lot, building, structure, use, or sign which is not in full compliance with the regulations of this Code and either:

(a) Was legally established prior to the effective date of the applicable code provision with which it does not comply; or

(b) Became nonconforming because of other governmental action, such as a court order or a taking by a governmental body under eminent domain or negotiated sale.

(2) All conformities must be classified as either a nonconforming use or a nonconforming development, as defined.

(3) This term does not include a lot, building, structure, use, or sign that was allowed to deviate from this Code by an approved variance."

j. Non-PD development.

(1) A development that is not a planned development in a PD District and which complies with all applicable subdivision and zoning regulations.

k. Non-small cell wireless facility.

(1) A telecommunication facility that is not a small cell wireless facility.

15. O terms.

a. Oak woodland.

(1) An area with a canopy more open than a forest but less open than a savanna. It is characterized by open-grown trees and a distinct shrub layer in well-drained sandy, gravelly soils. The dominant tree species include red oak, northern pin oak, white oak, bur oak, and aspen. When it exists, the trees in the understory include saplings from the canopy, black cherry, and red cedar. The large shrub or small tree layer can include American hazelnut, ironwood, juneberry, and chokecherry.

b. Occupancy.

(1) The purpose for which a building or part thereof is used or intended to be used.

c. Office.

(1) A place of business where the primary activities are clerical, administrative, or managerial in nature, supporting the operations of a company, organization, or government.

d. Off-premise sign.

(1) See “sign, off-premise.”

e. On-premise sign.

(1) See "sign, on-premise."

f. Open space.

(1) Land in its undeveloped state except that passive recreational uses such as trails or picnic areas will be considered open spaces.

g. Ordinary high water level or OHWL.

(1) The boundary of public waters at an elevation delineating the highest water level as defined by the Minnesota DNR which has been maintained for a sufficient period of time to leave evidence upon the landscape; commonly that point where the vegetation changes from predominantly aquatic to predominately terrestrial. For tributary creeks, the ordinary high water level is the elevation of the top of the bank of the channel as approved by the city's engineer.

[INSERT GRAPHIC HERE]

h. Original zoning classification.

(1) The zoning classification a property had immediately prior to being rezoned.

i. Outdoor advertising sign.

(1) See "sign, advertising."

j. Outdoor commercial recreation.

(1) See "Commercial recreation, outdoor."

k. Outdoor dining.

(1) An accessory outdoor seating area that is intended solely for the consumption of food and beverages, served by a principal eating and drinking establishment or fast food establishment located on the same site.

l. Outdoor dining patio.

(1) An unenclosed area located on a hard-surfaced exterior space such as a deck or terrace that is accessory to a restaurant or other food service establishment and used specifically for the consumption of food and beverages.

m. Outdoor entertainment.

(1) Any type of entertainment or recreation activity that does not occur within an enclosed building.

n. Outdoor sales.

(1) The placement of goods for sale or advertisement outside of a fully enclosed building.

o. Outdoor storage.

(1) The keeping of goods, equipment, or similar materials outside of an enclosed building.

16. P terms.

a. Parking deck or ramp.

(1) A structure built for the temporary storage of motor vehicles.

b. Parking lot.

(1) An off-street, ground level area, without a roof, surfaced and improved for the temporary storage of motor vehicles.

c. Parking space.

(1) An area within a parking deck, ramp or lot intended for the storage of an individual motor vehicle and that complies with the standards outlined in § 300.XX of this Code. This term is identical to the term "parking stall."

[INSERT GRAPHIC HERE]

d. Patio.

(1) A horizontal structure without a roof, composed of any material other than boards, such as concrete, flagstones, bricks or pavers. A patio is considered attached if any part of it is within ten feet of the principal structure; a patio is considered detached if no part of it is within ten feet of the principal structure. A detached patio is considered an accessory structure in the wetlands, floodplain, and shoreland districts.

e. Peak hour trips.

(1) The total number of inbound and outbound motor vehicle trips generated during a continuous 60 minute period of the highest volume of traffic. The a.m. peak hours are between 7:00 and 9:00 a.m. The p.m. peak hours are between 4:00 and 6:00 p.m.

f. Performance standards.

(1) Specified criteria and limitations provided in § 300.XX of this Code which are intended to protect the public health, safety or welfare.

g. Permanent sign.

(1) See "sign, permanent."

h. Person.

(1) An individual, firm, partnership, corporation, company, association, society, joint stock association or body politic including any trustee, receiver, assignee or other representative thereof.

i. Personal service.

(1) A business that provides services to meet individual personal needs, including but not limited to uses such as barbers, hair and nail salons, massage therapy, and pet grooming.

j. Pervious surface.

(1) Any surface or material that permits the natural infiltration of water into the subsoil, in contrast to materials that significantly impede or prevent such absorption. Acceptable pervious surfaces include naturally vegetated land, unpaved planting areas, and engineered green stormwater infrastructure specifically designed for water penetration, such as bioretention cells or permeable pavers.

k. Pet care facility.

(1) A business that provides care for domestic animals. Pet care facilities may include, but are not limited to, pet day care, pet boarding, rescue shelters, and pet training facilities. Pet grooming is considered a personal service use.

l. Picnic tables.

(1) Outdoor furniture consisting of a table and integrated or attached seating, typically constructed of weather-resistant materials, intended for communal outdoor dining and gathering in public or semi-public spaces.

m. Planned development.

(1) A zoning classification and development type in which the city grants flexibility from certain subdivision and zoning regulations to achieve a public benefit that would not otherwise be achieved through a non-PD development.

n. Planning commission.

(1) The planning commission of the city of Minnetonka, Minnesota.

o. Planning division.

(1) The planning division of the city of Minnetonka, Minnesota.

p. Play structure.

(1) A structure containing specialized equipment designed for children to engage in physical play, social interaction, or recreation.

q. Pollinator.

(1) An animal that transfers pollen between flowering plants, including but not limited to hummingbirds, butterflies and moths, bees, and other insects.

r. Porch.

(1) A structure that is designed for residential occupancy that includes a floor and roof, and may include walls, but is not designed for winter use. A porch may be attached to, or detached from, a principal structure. A detached porch (for example, a gazebo) is classified as an accessory structure. A porch is considered attached if any part of it is within ten feet of the principal structure; a porch is considered detached if no part of it is within ten feet of the principal structure.

s. Portable sign.

(1) See "sign, portable."

t. Premises.

(1) A lot together with all buildings and structures located on it.

u. Principal structure.

(1) See "structure, principal."

v. Principal use.

(1) See "use, principal."

w. Private road open to public travel.

(1) As defined by the Manual of Uniform Traffic Control Devices.

x. Privately owned public space.

(1) An area of land that is owned and maintained by a private entity but is legally required to be open and accessible to the general public for use and enjoyment during specified hours. Such spaces may include plazas, small parks, or urban atriums.

y. Projecting sign.

(1) See "sign, projecting."

z. Proof gallon.

(1) One liquid gallon of a hypothetical spirit with 50 percent ABV.

aa. Public recreation.

(1) An area of land or facility owned, operated, or maintained by a government agency or non-profit entity for the purpose of providing active or passive leisure activities to the general public. This use includes, but is not limited to, public parks, playgrounds, athletic fields, and improved trails

bb. Public restroom.

(1) A fully enclosed and ventilated room or building containing plumbing fixtures, including toilets and washbasins, maintained for use by the general public and compliant with all applicable health and accessibility standards.

cc. Public water.

(1) Any water defined in Minnesota statutes, section 103G.005, or as amended. These waters include lakes, wetlands, and watercourses.

dd. Publicly-owned building.

(1) A facility that serves governmental or public purposes, which is generally accessible to the public. Include uses such as, but not limited to, government office buildings, libraries, and courthouses.

ee. Pylon sign.

(1) See "sign, pylon."

17. Q terms. *Reserved.*

18. R terms.

a. Radome.

(1) A structural, weatherproof enclosure that protects an antenna and is constructed of material that minimally attenuates the signal transmitted or received by such antenna.

b. Rear lot line.

(1) See "lot line, rear."

c. Rear setback.

(1) See "setback, rear."

d. Rear yard.

(1) See "yard, rear."

e. Reconstruction.

(1) See "replacement."

f. Recreational vehicle.

(1) A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towed by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

g. Redevelopment.

(1) Removal and reconstruction of more than 50 percent of the square footage of a principal structure in any zoning district or a more-than-50 percent increase in the square footage of structure or structures on a site.

h. Religious assembly.

(1) A facility devoted primarily to the purpose of divine worship.

i. Removal.

(1) The physical removal of a tree or the following actions. Girdling. Injury to 30 percent or more of the trunk circumference. Pruning of 30 percent or more of the crown. Trimming an oak between April 1st and July 15th. Compacting, cutting, filling, or paving 30 percent of the critical root zone for all tree species.

j. Replacement.

(1) Construction which exactly matches pre-existing conditions.

k. Residential care facility.

(1) A community based residential care facility or licensed residential care facility, as defined by this Code.

l. Residential care facility, community based.

(1) Any facility similar to but not included within the definition of licensed residential care facility. These may include public or private facilities which provide one or more persons with up to 24 hour care, training, education, rehabilitation, treatment or other support services.

m. Residential care facility, licensed.

(1) Any facility required to be licensed by a governmental agency, public or private, which for gain or otherwise regularly provides one or more persons with a 24 hour per day substitute for care, food, lodging, training, education, supervision, habilitation, rehabilitation and treatment they need, but which for any reason cannot be furnished in the person's own home. Residential facilities include, but are not limited to, state institutions under the control of the commissioner of human services, foster homes, residential treatment centers, maternity shelters, group homes, residential programs, supportive living residences for functionally impaired adults or schools for handicapped children.

n. Residential common space.

(1) See “common space, residential.”

o. Residential use.

(1) See “use, residential.”

p. Restoration.

(1) See “replacement.”

q. Retail.

(1) A business that provides goods directly to the consumer, and where such goods are available for immediate purchase on the premises by the purchaser.

r. Retaining wall.

(1) A wall that separates and retains two areas of earth that have different elevations.

s. Right-of-way.

(1) An area of land dedicated on a plat or by legal document or by operation of law that is intended to be used for location of streets, pedestrian ways, railroads, or utility purposes.

[INSERT GRAPHIC HERE]

t. Riparian.

(1) Of, on, or relating to the banks of a natural water body excluding wetlands.

u. Riparian lot.

(1) See "lot, riparian."

v. Roof.

(1) The exterior surface forming the upper covering of a building.

w. Roof-mounted solar energy system.

(1) See solar energy system, roof-mounted.

19. S terms.

a. Sandwich sign.

(1) See "sign, sandwich."

b. Sapling.

(1) A tree generally one to three years old.

c. School.

(1) A public, private, or parochial institution that offers education at the preschool through high school levels, with a full range of curricular programs.

d. Screening.

(1) A method of visually concealing a specific site element, such as a parking area, loading dock, mechanical equipment, refuse container, or outdoor storage area, from view from adjacent properties or public rights-of-way, achieved through the use of walls, fences, berms, dense evergreen plantings, or a combination thereof. Screening differs from a buffer in that it is intended to block views of a discrete element rather than to provide a broad transition between dissimilar land uses or zoning districts.

e. Seasonal tree sale.

(1) The sale of evergreen products directly to consumers for personal or household use for a defined period of time.

f. Setback.

(1) The minimum horizontal distance that must be maintained between a property line, delineated wetland edge, floodplain elevation, ordinary high water level, or top of bluff and a building or structure. A setback is measured perpendicularly from the lot line, delineated wetland edge, floodplain elevation, ordinary high water level, or top of bluff to the closest point of the building or structure, excluding building or structure eaves.

[INSERT GRAPHIC HERE]

g. Setback, accessory structure.

(1) The shortest horizontal distance from any part of the accessory building or structure to the nearest point on any lot line and any other building or structure.

h. Setback, front.

(1) The shortest horizontal distance from any part of the principal building or structure to the nearest point on the front lot line.

i. Setback, rear.

(1) The shortest horizontal distance from any part of the principal building or structure to the nearest point on the rear lot line.

j. Setback, side.

(1) The shortest horizontal distance from any part of the principal building or structure to the nearest point on the side lot line.

k. Setback line.

(1) A line located at the required setback from a property line, delineated wetland edge, floodplain elevation, ordinary high water level, or top of bluff.

[INSERT GRAPHIC HERE]

l. Sexually-oriented business.

(1) A business that meets any of the following criteria, measured on a daily, weekly, monthly, or yearly basis.

(a) Has more than 25 percent of its inventory, stock in trade, or publicly displayed merchandise in sexually-oriented materials;

(b) Devotes more than 25 percent of its floor area to sexually-oriented materials not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public;

(c) Derives more than 25 percent of its gross revenues from sexually-oriented materials; or

(d) A business that engages for any length of time in a sexually-oriented use as defined in this Code or any other use that has an emphasis on specified sexual activities or specified anatomical areas.

m. Sexually-oriented materials.

(1) Visual, printed, or aural materials, and other objects or devices, which:

(a) Contain, depict, simulate, or describe specified sexual activities or specified anatomical areas;

(b) Are marketed for use in conjunction with, or are primarily used only with or during, specified sexual activities; or

(c) Are designed for sexual stimulation.

n. Sexually-oriented use.

(1) Any of the following activities and businesses, even if the activity exists for only a short-time.

(a) Adult body painting studio;

(b) Adult bookstore;

(c) Adult cabaret;

(d) Adult companionship establishment;

(e) Adult conversation or rap parlor;

(f) Adult health or sport club;

(g) Adult hotel or motel;

(h) Adult massage parlor or health club;

(i) Adult mini-motion picture theater;

(j) Adult modeling studio;

(k) Adult motion picture arcade;

(l) Adult motion picture theater;

(m) Adult novelty business;

(n) Adult sauna; and

(o) Adult steam room or bathhouse facility.

o. Shade structure.

(1) A permanent or temporary structure, such as a pavilion, gazebo, pergola, or tensioned fabric canopy, designed and intended to provide relief from direct sunlight in an outdoor setting.

p. Shore impact zone.

(1) Land located between the ordinary high water level of a public water including a tributary creek, and a line parallel to it at a setback of 25 feet for general development lakes and tributary creeks, and 37.5 feet for recreational development lakes.

[INSERT GRAPHIC HERE]

q. Shorelands.

(1) Land located within the shoreland district as defined in § 300.XX.

r. Side lot line.

(1) See "lot line, side."

s. Side setback.

(1) See "setback, side."

t. Side yard.

(1) See "yard, side."

u. Sign.

(1) Any writing, pictorial presentation, number, illustration, decoration, flag, banner, or other device that is used to announce, direct attention to, identify, advertise, or otherwise make anything known.

(2) This term is not deemed to include the terms "building" or "landscaping", or any architectural embellishment of a building not intended to communicate information; works of art that do not convey commercial messages and that are painted on a building wall; flags that do not convey commercial messages; or any sign structure or device that is not visible from an adjacent street, property line or building on adjacent property.

v. Sign, blade.

(1) See "projecting sign."

w. Sign, commercial.

(1) A sign that identifies, advertises, or directs attention to a business, product, service, or activity for the purpose of a proposing a transaction.

x. Sign, freestanding.

(1) A sign which is self-supporting and affixed to a frame structure not attached to a building.

[INSERT GRAPHIC HERE]

y. Sign, merchandise box.

(1) A sign which is affixed on or located adjacent to a gas pump.

[INSERT GRAPHIC HERE]

z. Sign, monument.

(1) A sign not supported by exposed posts or poles which is architecturally designed and located directly at grade where the base width dimension is 50% or more of the greatest width of the sign.

[INSERT GRAPHIC HERE]

aa. Sign, noncommercial.

(1) A sign other than a commercial sign, as defined by this Code, including but not limited to signs expressing ideas, opinions, beliefs, or affiliations.

bb. Sign, off-premise.

(1) A commercial sign relating in subject matter to, or which directs attention to, a person, use, commodity, service, or entertainment not located on the same site on which the sign is installed.

(2) A commercial sign relating in subject matter to, or which directs attention to, a person, use, commodity, service, or entertainment which has been discontinued on a site will be considered an off-premise sign.

cc. Sign, on-premise.

(1) A commercial sign relating in subject matter to, or which directs attention to, a person, use, commodity, service, or entertainment located on the same site on which the sign is installed or noncommercial speech an opinion held by a property owner of or person residing on the site on which the sign is installed.

dd. Sign, outdoor advertising.

(1) A permanent commercial sign.

ee. Sign, permanent.

(1) Any sign other than a temporary sign.

ff. Sign, portable.

(1) A sign with or without copy and graphic that is designed or intended to be moved or transported. A sign may be a portable sign even if it has wheels removed, was designed without wheels,

or is attached temporarily or permanently to the ground, a structure, or other sign.

(2) Examples of portable signs are A-frame signs; T-frame signs; sandwich signs; signs designed to be transported by trailer or on wheels; signs mounted on a vehicle for advertising purposes, when the vehicle is parked and visible from public right-of-way, except signs identifying a business when the vehicle is being used in the normal day-to-day operation of that business.

[INSERT GRAPHIC HERE]

gg. Sign, projecting.

(1) A sign which extends more than 18 inches beyond a wall face at an approximately perpendicular angle.

[INSERT GRAPHIC HERE]

hh. Sign, pylon.

(1) A sign supported by a post or posts so that the sign and supports are finished to grade by encasing the posts in a material consistent with the sign and where the base width dimension is a minimum of 10 percent up to and including 50 percent of the greatest width of the sign.

[INSERT GRAPHIC HERE]

ii. Sign, sandwich.

(1) A freestanding temporary sign, typically A-shaped, with two visible sides that is placed near the main entrance to a building.

[INSERT GRAPHIC HERE]

jj. Sign, temporary.

(1) A sign constructed of paper, cloth, canvas, plastic sheet, cardboard, wallboard, plywood, or other similar materials and that appears to be intended to be displayed for a limited period of time. This term includes items such as banners, pennants, beacons, sandwich, or curb signs, balloons, or other air or gas filled figures.

[INSERT GRAPHIC HERE]

kk. Sign, wall.

(1) A single faced sign attached to or erected against an exterior wall of a building with the face in an approximately parallel plane to the plane of the building wall.

[INSERT GRAPHIC HERE]

ll. Sign area.

(1) See “area, sign.”

mm. Sign permit.

(1) A permit specified in § 309.XX. of this Code.

nn. Sign plan.

(1) An administrative approval specified in § 309.XX. of this Code.

oo. Single-unit dwelling.

(1) See “Dwelling, single-unit.”

pp. Site plan.

(1) Plans that specifically illustrate the location of trees and water resources, streets, utilities, stormwater improvements, buildings, and parking areas; proposed site grading, tree removal, and landscaping; building elevations and signs; and other information as may be reasonably required by the city.

qq. Site work.

(1) Work on a property or properties that involves filling, excavating, or moving earth by any means, mechanized or otherwise, requiring a grading permit. Site work does not include the planting of trees or other vegetation.

rr. Slope.

(1) The inclination of the natural surface of the land from the horizontal, commonly described as a percentage derived from the height divided by the length.

ss. Slope, toe of.

(1) The lowest topographic contour of a 50-foot segment with an average slope of at least 20 percent.

tt. Slope, top of.

(1) The highest topographic contour of a 50-foot segment with an average slope of at least 20 percent.

uu. Small cell wireless facility.

(1) A wireless facility that meets both of the following qualifications:

(a) Each antenna is located inside an enclosure of no more than six cubic feet in volume or could fit within such an enclosure; and

(b) Each antenna is located inside an enclosure of no more than six cubic feet in volume or could fit within such an enclosure; and

(c) All other wireless equipment associated with the small wireless facility is, in aggregate, no more than 28 cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed.

vv. Small-scale horizontal-axis wind turbine.

(1) See "wind turbine, small-scale horizontal-axis."

ww. Solar energy system.

(1) An energy system that uses photovoltaic solar cells/panels to capture electricity from the sun, store the energy, and transmit the energy.

xx. Solar energy system, facade-mounted.

(1) A solar energy system located on the wall of a building.

yy. Solar energy system, ground-mounted.

(1) A freestanding solar energy system mounted directly to the ground using a rack, pole, or other base.

zz. Solar energy system, roof-mounted.

(1) A solar energy system located on the roof of a building or backside of a parapet wall.

aaa. Specified anatomical areas.

(1) Less than completely and opaquely covered human genitals, pubic area, buttock, anus, or female breast below a point immediately above the top of the areola; and Human male genitals in a state of sexual arousal, whether or not completely and opaquely covered.

bbb. Specified sexual activities.

(1) Any of the following activities, whether actual or simulated:

(a) Anal intercourse;

(b) Anilingus;

(c) Bestiality;

(d) Coprophagy;

(e) Coprophilia;

(f) Cunnilingus;

(g) Direct physical stimulation of unclothed genitals;

(h) Fellatio;

(i) Flagellation or torture in the context of a sexual relationship;

(j) Necrophilia;

(k) Oral copulation;

(l) Oral-anal copulation;

(m) Pedophilia;

(n) Picquerism; or

(o) Sexual intercourse;

(p) The use of excretory functions in the context of a sexual relationship;

(q) Zooerastia.

(2) Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence.

(3) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation. Fondling or touching of nude human genitals, pubic regions, buttocks, or female breasts, except touching the buttocks of a person receiving a massage if done upon the person's request and only for medical purposes such as relieving pain or muscle soreness. Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding, or other physical restraint of any person. Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being. Human excretion, urination, menstruation, or vaginal or anal irrigation.

ccc. Sports court.

(1) An area used for personal physical, recreational, or training purposes including but not limited to a basketball court, tennis

court, and pickleball court. A driveway containing a basketball hoop or temporary netting is not considered a sports court.

ddd. Stealth design.

(1) Design intended to minimize visual impact of an object on its surroundings. Examples of stealth telecommunication design include eliminating horizontal projections; screening with other architectural elements; nestling into surrounding landscape such that natural topography or vegetation reduces views; locating in areas that would result in the least amount of visibility to the public; minimizing size; and designing a telecommunications facility to appear as something other than a telecommunications facility.

eee. Steep slope.

(1) A slope that: (1) rises at least 20 feet between toe and top of the slope; (2) has an established average grade of 20 percent as measured between toe and top of slope; and (3) has been field verified and located by city staff. In verifying and locating steep slopes, staff may consider site factors such as soil types, vegetation coverage, anticipated erosion issues, technical reports and studies, or other items staff considers pertinent for the protection of the slope.

fff. Storage.

(1) Goods, materials or equipment placed or left in a location on a premises.

ggg. Story.

(1) That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. It is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and, for the top most story, from the top of the floor finish to the top of the ceiling joist or, where there is not a ceiling, to the top of the finished rafters. If the finished floor level directly above a usable or unused space is more than six feet above grade for more than 50 percent of the total perimeter or is more than 12 feet above grade at any point, such usable or unused space will be considered a story.

hhh. Street.

(1) A vehicular way located within road right-of-way, as defined and designated in the subdivision ordinance and comprehensive plan.

iii. Structural alteration.

(1) See "alteration, structural."

jjj. Structure.

(1) Anything placed, poured, constructed, or erected, the use of which requires location on the ground or attachment to something having a location on the ground. Examples include, but are not limited to: buildings, parking ramps, sport courts, patios, and pools.

kkk. Structure, accessory.

(1) On non-riparian lots, an uninhabited structure over 200 square feet in area, located on the same lot, subordinate to, and associated with the principal structure. On riparian lots and lots within the shoreland, floodplain, and wetland zoning districts, the same definition, but including structures over 120 square feet in area and as modified by § 300.XX, § 300.XX, and § 300.XX. of this Code.

lll. Structure, enclosed.

(1) A structure that is surrounded by a roof and walls composed of any type of material.

mmm. Structure, principal.

(1) The structure in which the primary use of the lot occurs.

nnn. Structure, unenclosed.

(1) A structure that is not surrounded by a roof and walls composed of any type of material.

ooo. Substantial compliance.

(1) Relative to an approved master development plan, or approved final site plans:

(a) Streets, utilities, stormwater improvements, buildings, parking areas, and landscaping are in generally the same location;

(b) The number of residential units has not changed by more than 5 percent;

(c) The gross floor area of non-residential buildings has not been changed by more than 5 percent or the gross floor area of

any individual building has not been changed by more than 10 percent;

(d) The number of stories of any building has not increased;

(e) The square-footage of grading on any individual lot has not increased by more than 1,000 square feet;

(f) The amount of open space has not decreased by more than 5 percent or been altered in such a way as to change its original design or intended use; and

(g) All special conditions attached to the approval are met.

ppp. Substantial damage.

(1) Damage of any origin sustained by a structure when the cost of restoring the structure to its undamaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

qqq. Substantial improvement.

(1) Reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, within a consecutive 365-day period, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes an improvement to a structure that has incurred substantial damage, regardless of the actual repair work performed. The term does not include either:

(a) Improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions; or An alteration of an historic structure as defined in 44 code of federal regulations, part 59.1, provided that the alteration will not preclude the structure's continued designation as an historic structure."

rrr. Support structure.

(1) A structure on which antenna can be mounted. Examples of support structures include telecommunication towers, buildings, water towers, electrical transmission towers, utility poles, and

structures designed to support or capable of supporting small cell telecommunications facilities.

sss. Sustainability development plan.

(1) An administrative approval specified in § 309.XX. of this Code.

ttt. Swimming pool.

(1) As defined in § 805.010 of the city code of ordinances.

uuu. Swimming pool, attached.

(1) A swimming pool other than a detached swimming pool.

vvv. Swimming pool, detached.

(1) A swimming pool where no portion of the swimming pool or its associated swimming pool apron is within 10 feet of the principal structure.

www. Swimming pool apron.

(1) The hard surface or decking material that is contiguous to the water's edge of the pool.

20. T terms.

a. Tamarack swamp.

(1) An area that is a forested wetland community dominated by patches of tamarack, a deciduous coniferous tree. The dominant tree species in the canopy include tamarack, black spruce, paper birch, and red maple. The trees in the understory include saplings from the canopy, and the large shrub or small tree layer can include speckled alder and red osier dogwood.

b. Telecommunication facility.

(1) Antennas, associated equipment, and support structures. This term includes small cell telecommunications facilities.

c. Temporary assembly.

(1) A temporary outdoor activity held on private property and open to the general public, including, but not limited to, farmers' markets, community, or cultural events, musical or arts events, celebrations, festivals, fairs, carnivals, and circuses.

d. Temporary construction office.

(1) A temporary structure, facility, or space associated with the staging, management, and security of new construction located on or adjacent to the construction site.

e. Temporary retail sale.

(1) The sale of goods or merchandise directly to consumers for personal or household use for a defined period of time.

f. Temporary sign.

(1) See sign, temporary.

g. Temporary use permit.

(1) A permit specified in § 309.XX. of this Code.

h. Temporary use.

(1) See "use, temporary."

i. Through lot.

(1) See "lot, through."

j. Toe of slope.

(1) See "slope, toe of."

k. Top of slope.

(1) See "slope, top of."

l. Tower.

(1) A freestanding, self-supported structure constructed from grade for the purpose of supporting one or more antenna.

m. Trail.

(1) Any trail or shared-use path maintained by the Three Rivers Park District or identified in the 2024 Trail Improvement Plan.

n. Transit station.

(1) An area providing boarding, transfer, or support services for public transit.

o. Transitional area.

(1) An area in the process of changing from one use to another use or an area which functions as a buffer between land uses of different types or intensity.

p. Transmission line.

(1) An overhead or underground facility consisting of utility poles, lines, underground conduit, and related devices used to carry electricity generally to a location other than the ultimate user, with a nominal voltage greater than 35 kilovolts.

q. Transportation use.

(1) See "use, transportation.

r. Tree canopy.

(1) The uppermost layer of a forest formed by tree crowns. Also referred to as a "canopy."

s. Tree, high priority.

(1) A tree that is not in a woodland preservation area but is still important to the site and the neighborhood character, that is structurally sound and healthy, and that meets at least one of the following standards as outlined below.

(a) The city forester prioritizes native and culturally significant trees species above non-native native trees. The city will maintain, and periodically update, a list of prioritized and acceptable tree species. This list may be used to guide both tree removals and mitigation.

(b) A deciduous tree that is at least 10 inches dbh;

(c) A coniferous tree that is at least 15 feet in height that is not in a group as described below; or

(d) A tree that is in a group of three or more deciduous trees that are at least eight inches deciduous or coniferous trees that are at least 15 feet in height, that provide a buffer or screening along an adjacent public street, and that is within 50 feet of an arterial road and 35 feet of a minor collector, local, or private street and a trail.

1. This distance will be measured from the edge of the pavement or curb of the road, street, or trail.

t. Tree, protected.

(1) A tree that is in a woodland preservation area, or is a high priority tree, or significant tree.

u. Tree, significant.

(1) A tree that is structurally sound and healthy and that is either a deciduous tree at least four inches dbh or a coniferous tree at least 10 feet in height.

v. Tributary creek.

(1) A water course mapped on the public water inventory including the Minnehaha Creek, Nine Mile Creek, and Purgatory Creek (including both branches), and the public water course that flows out of Glen Lake. These waters include those defined as tributary rivers by the Minnesota DNR.

w. Triplex or fourplex dwelling.

(1) See "dwelling, triplex or fourplex dwelling."

x. Two-unit dwelling.

(1) See "dwelling, two-unit."

21. U terms.

a. Understory.

(1) The trees, shrubs, and herbaceous plants that grow in the shade of the forest canopy, including trees that could potentially grow to reach the canopy.

b. Unenclosed structure.

(1) See "structure, unenclosed."

c. Use.

(1) The purpose or activity for which a premises is designed, arranged or intended or for which it is or may be occupied or maintained.

d. Use, accessory.

(1) A use that is subordinate to, associated with, and located on the same property as the principal use.

e. Use, agricultural.

(1) An agricultural operation that includes horticultural, hydroponics, general farming, orchards, groves, or nurseries for the growing or propagation of plants, trees, and shrubs.

f. Use, commercial.

(1) Any use listed by Table XX as a commercial use, including any use determined to be substantially similar to such a use.

g. Use, community.

(1) Any use listed by Table XX as a community use, including any use determined to be substantially similar to such a use.

h. Use, conditional.

(1) Any use requiring the approval of a conditional use permit in the applicable zoning district as established by this Code. The city may impose conditions beyond those outlined in ordinance when necessary to protect public health, safety, and welfare.

i. Use, industrial.

(1) Any use listed by Table XX as an industrial use, including any use determined to be substantially similar to such a use.

j. Use, interim.

(1) A temporary use of property that is allowed to exist only until a specific date, the occurrence of a particular event, or until zoning regulations change to no longer allow it.

k. Use, nonconforming.

(1) An activity using land, buildings, structures, or any combination thereof for a purpose that is not currently allowed as a use in the zoning district in which it is located or deviates from the standards for the use required by this Code.

l. Use, permitted.

(1) A use that is allowed by right when ordinance standards are met.

m. Use, principal.

(1) A use for which a premises is designed, arranged, or intended or for which it is or may be occupied.

n. Use, residential.

(1) Any use listed by Table XX as a residential use, including any use determined to be substantially similar to such a use.

o. Use, temporary.

(1) Any use listed by Table XX as a temporary use, including any use determined to be substantially similar to such a use.

p. Use, transportation.

(1) Any use listed by Table XX as a transportation use, including any use determined to be substantially similar to such a use.

q. Utility facility.

(1) A facility that provides utilities for local/regional need, including uses such as, but not limited to, water treatment plant, electric substations, or sewer pump stations.

r. Utility pole.

(1) A structure which is owned by a governmental agency or utility company, and which is used to support illumination devices or lines and other equipment carrying electricity or communications.

22. V terms.

a. Variance.

(1) A modification from the literal requirements of this ordinance as specified in section 300.07 of this ordinance.

b. Vehicle sale and rental.

(1) A facility for the retail sale, leasing, or rental of motor vehicles, such as, but not limited to, cars, trucks, boats, or motorcycles.

c. Vehicle service.

(1) A business that offers repair, maintenance, and servicing of motor vehicles.

d. Vehicle storage.

(1) A lot or structure used for the parking and storage of motor vehicles.

e. Vertical-axis wind turbine.

(1) See "wind turbine, vertical-axis."

f. Veterinary office.

(1) An establishment used for the care, observation, or medical treatment of animals, which may include incidental grooming and training services. This term excludes animal shelters or businesses primarily engaged in the sale, distribution, or daytime or overnight boarding of animals for non-medical purposes.

23. W terms.

a. Wall sign.

(1) See "sign, wall."

b. Water oriented accessory structure.

(1) A detached, above ground small building or structure that does not exceed 120 square feet in size or 10 feet in height, exclusive of safety rails, that's use is directly related to the surface water. Examples include sheds, gazebos, screen porches and detached decks. Stairways, fences, retaining walls and docks are not considered water oriented accessory structures. Boat houses are not water oriented accessory structures.

c. Water resource.

(1) For purposes of this Code, a lake, creek, wetland, stormwater pond, ditch, or other similar natural feature.

d. Water resources management plan.

(1) The document entitled City of Minnetonka Water Resources Management Plan dated January 25, 1999, and as amended.

e. Wetlands.

(1) A low area where the water table is usually at or near the surface, or where the land is covered by shallow water. Wetlands must: (1) have hydric soils; (2) be inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation; and (3) under normal circumstances support a prevalence of hydrophytic vegetation.

f. Willow swamp.

(1) An area that is a forested wetland community or an area with seasonally flooded soils and scattered-to-dense shrub cover. The dominant tree species in the canopy include black willow and speckled alder. The trees in the understory include saplings from the canopy, and the large shrub or small tree layer can include several species of willow and dogwood.

g. Wind energy system.

(1) An apparatus capable of converting wind energy into electricity

h. Wind turbine, small-scale horizontal-axis.

(1) A device with a rated capacity no greater than 100 kW that converts the kinetic energy of wind into electricity using a rotor that rotates approximately parallel to the ground.

i. Wind turbine, vertical-axis.

(1) A device that converts the kinetic energy of wind into electricity using a rotor that rotates approximately perpendicular to the ground.

j. Winery.

(1) See "Microbrewery, winery, or distillery."

k. Woodland preservation area.

(1) A remnant woodland ecosystem that is at least two acres in size regardless of property boundaries, is generally mapped in the city's Minnesota Land Cover Classification System, and although it may be degraded, it generally meets the criteria for one of the following types of ecosystems as reasonably determined by the city. Floodplain forest; lowland hardwood forest; maple basswood forest; mesic oak forest; oak woodland; tamarack swamp; willow swamp.

24. X terms. *Reserved.*

25. Y terms.

a. Yard, front.

(1) The area between the front lot line and the principal structure.

[INSERT GRAPHIC HERE]

b. Yard, rear.

(1) The area between the rear lot line and the principal structure.

[INSERT GRAPHIC HERE]

c. Yard, side.

(1) The area between front and rear yards extending from the side lot lines to the principal structure.

[INSERT GRAPHIC HERE]

26. Z terms.

a. Zoning amendment.

(1) A legislative action formally altering a standard established in this Code, as specified in § 309.XX. of this Code.

APPENDIX A: SUSTAINABLE AND RESILIENT DEVELOPMENT PLAN FEATURE MENU

1. Sustainable and resilient development plan features.

a. To contribute to the minimum points requirement established by this Code, all sustainable and resilient development plan features must comply with the standards established in subsections (2) through (30) of this Appendix and the sustainable and resilient development requirements established in § 305.02 and § 309.20, unless otherwise noted.

b. A property owner may propose an unlisted feature subject to the approval of the city planner if the applicant demonstrates the feature provides an equivalent or greater benefit than those listed in the applicable menu category. The city planner may award up to three sustainability points for an alternative feature.

c. All sustainable and resilient development plan features provided in accordance with this Appendix must be maintained in good working order for the life of the project.

Category	Sustainable and Resilient Development Plan Feature	Points	Standards
Building Energy	Sustainable building rating system certification.	3	Subsection 2
	All-electric heating and water systems.	3	Subsection 3
	Energy-efficient building.	2	Subsection 4
	Solar panels.	2	Subsection 5
	Small-scale wind-energy system.	2	Subsection 6
	Geothermal HVAC.	2	Subsection 7
	Off-site renewable energy.	2	Subsection 8
	Solar ready.	1	Subsection 9
	Proposed by applicant.	Up to 3	Subsection 1(b)
Climate Readiness	Back-up battery power.	3	Subsection 10
	Severe weather shelter.	2	Subsection 11
	Flood preparedness.	1	Subsection 12
	Extreme heat preparedness.	1	Subsection 13
	Proposed by applicant.	Up to 3	Subsection 1(b)
Water and Vegetation	Stormwater management.	3	Subsection 14
	Low salt site design.	3	Subsection 15

Category	Sustainable and Resilient Development Plan Feature	Points	Standards
	Turf reduction.	3	Subsection 16
	Depaving.	3	Subsection 17
	Tree plantings.	3	Subsection 18
	Efficient sprinkler and irrigation controllers.	2	Subsection 19
	Stormwater harvest and reuse system.	1	Subsection 20
	Food garden.	1	Subsection 21
	Proposed by applicant.	Up to 3	Subsection 1(b)
Waste Management	Deconstruction.	3	Subsection 22
	Recycled building materials.	3	Subsection 23
	Reusable service ware infrastructure.	2	Subsection 24
	Organics recycling infrastructure.	2	Subsection 25
	Proposed by applicant.	Up to 3	Subsection 1(b)
Transportation	Electric vehicle charging stations.	3	Subsection 26
	Improved bus stop.	3	Subsection 27
	Metro Transit passes.	3	Subsection 28
	Bicycle parking facility.	2	Subsection 29
	Internal bike share.	2	Subsection 30
	Proposed by applicant.	Up to 3	Subsection 1(b)

2. Sustainable building rating system certification.

a. To contribute to the minimum point requirements established in § 305.25.3, a development must be certified under an eligible sustainable building rating systems at an appropriate rating level, as established in Table XX below.

Sustainable Building Rating System	Appropriate Rating Level
US Green Building Council's LEED Building Design and Construction (LEED BD+C) [1]	Silver
	Gold
	Platinum
State of Minnesota's Buildings, Benchmarks & Beyond (B3 Guidelines)	Certified Compliant
Enterprise's Green Communities [2] [3]	Certification
	Certification Plus
	Certification Plus Zero Emissions
Green Business Certification Inc.'s Parksmart	Parksmart Silver
	Parksmart Gold
US Department of Energy's Efficient New Homes Program [4]	Certified

[1] US Green Building Council's SITES Certification can be used in tandem with LEED for suitable public facilities.

Sustainable Building Rating System	Appropriate Rating Level
[2] For residential uses providing at least one affordable dwelling unit, equivalent Enterprise Green Communities credits may be permitted. [3] For residential projects with at least one affordable unit, defined as serving residents at or below 60 percent AMI for rental buildings and at or below 80 percent AMI for for-sale buildings, equivalent credits in Enterprise Green Communities may be permitted. [4] Only allowed for lots where the principal use is a residential use containing four or fewer dwelling units.	

3. All-electric heating and water systems.

a. All heating and water heating systems must be all-electric powered with efficiency standards identified by the city.

4. Energy-efficient building.

a. Facilities must be constructed with energy-efficient guidelines identified by the city.

5. Solar panels.

a. Solar panels must be installed and be capable of providing at least 15 percent of the associated building's energy load. A lesser percentage may be allowed if net-zero emissions have been achieved prior to the submission of the sustainable and resilient development plan.

b. Where provided, all solar panels must meet the standards established for a solar energy system in § 300.XX.xxx.

6. Small-scale wind-energy system.

a. The small-scale wind-energy systems must be capable of providing at least 15 percent of the associated building or use's energy load.

b. No small-scale wind-energy system may be established unless a vertical-axis wind turbine or small-scale horizontal-axis wind turbine is employed.

c. A small-scale wind-energy system must not exceed a noise level of 50 decibels.

d. All small-scale wind-energy systems must provide an automatic breaking system to prevent over-speeding.

e. Turbines must be set back from all lot line at least 110 percent the height of structure, including the post and blade. Such setback may be administratively reduced if the applicant provides structural analysis by a

certified engineer demonstrating that no part of the tower extend beyond the property line in the case of collapse.

7. Geothermal HVAC.

a. A geothermal HVAC must utilize a closed-loop system for heating and cooling the primary structure.

b. The geothermal HVAC system must have a minimum coefficient of performance of three and one half and a minimum energy efficiency ratio of 15.

c. The installation of a geothermal HVAC must be performed by an individual accredited by the International Ground Source Heat Pump Association.

8. Off-site renewable energy.

a. The development must enter a virtual purchasing power purchase agreement(s) or participate in community solar gardens to acquire Renewable Energy Credits (RECs) for at least 30 percent of the associated building or users' energy load.

9. Solar ready.

a. A solar-ready implementation plan must be submitted and approved by the city that includes the following information.

(1) The location of the contiguous solar-ready zone;

(2) Evidence the building shape, orientation, and volume are optimized to maximize solar energy generation;

(3) Evidence the structure will support a solar system that provides at least 15 percent of the associated building's energy load;

(4) The location of electrical or plumbing chases, location of dedicated mechanical space;

(5) The location of the maintenance access to allow straightforward installation and operation;

(6) Evidence the solar-ready zone will be kept clear of all plumbing vents, exhaust fans, chimneys, and skylights, and any additional standards identified by the city.

10. Back-up battery power.

a. The back-up battery power must be capable of storing enough energy to keep essential equipment running during outages or to shave peak energy demand.

b. If located outside of the principal building, the back-up battery must comply with the dimensional standards established for an accessory structure in the applicable zoning district.

11. Severe weather shelter.

a. A severe weather shelter implementation and outreach plan must be submitted to and approved by the city.

b. The plan must be informed by local climate data. It must indicate how the site will provide shelter to building users and the public who may be stranded or displaced due to severe weather or long-term power outages and how the building users and the public will be informed of the plan

12. Flood preparedness.

a. A flood mitigation implementation and outreach plan must be completed by a certified civil engineer and submitted to and approved by the city.

b. The plan must be informed by local climate and flood risk and demonstrate how flood preparedness will be implemented to protect building users and building infrastructure from flood risk impacts.

13. Extreme heat preparedness.

a. An extreme heat preparedness implementation and outreach plan must be submitted to and approved by the city.

b. The plan must be informed by local climate data. It must indicate how the site will protect building users and building infrastructure during extreme heat events and how the building users and the public will be informed of this plan.

14. Stormwater management.

a. The site must achieve one of the following:

(1) Meet stormwater management requirements by installing above-ground green infrastructure features.

(2) A runoff rate 10 percent lower than otherwise required.

(3) Stormwater design that meets Atlas 15 standards.

15. Low salt site design.

a. The site must incorporate at least four design strategies as outlined in the Minnesota Pollution Control Agency's Minnesota Stormwater Manual section on Low Salt Design, as amended, to address issues such as consideration of wind direction and shading to reducing horizontal and vertical meltwater, proper snow storage, incorporation of salt-tolerant vegetation, or using pavement alternatives.

16. Turf reduction

a. At least 20 percent of existing turf grass lawn area on the site must be converted into managed natural landscapes as defined by § 845.030 of the city code of ordinances, in addition to the minimum planting standards established for landscaping in § 305.07 of this Code.

17. Depaving.

a. At least 10 percent of existing pavement (asphalt or concrete) on the site must be converted into pervious surface, in addition to the minimum stormwater management requirements.

18. Tree plantings.

a. The site must replant 20 percent of tree caliper inches removed onsite that did not otherwise require mitigation per the tree mitigation requirements established in § 306.03. of this Code.

b. Trees that are replanted must follow the tree mitigation planting standards established in § 306.03. of this Code.

c. Trees planted to meet this standard must be planted in addition to the minimum tree mitigation requirements established in § 306.03. of this Code and landscaping requirements established in § 305.07 of this Code.

19. Efficient sprinkler and irrigation controllers.

a. All sprinklers and irrigation controllers must be EPA-certified WaterSense high-performing products that use at least 20 percent less water than the non-efficient alternative.

20. Stormwater harvest and reuse system.

a. The site must meet stormwater management requirements by installing a rainwater harvesting system.

b. Captured water must be plumbed for on-site use, such as landscape irrigation, cooling tower makeup, or indoor graywater flushing.

21. Food garden.

a. A food garden must be installed on-site that allows the primary users of the property to grow food. Food grown onsite may not be sold.

b. The area must be fenced in and actively maintained by the property owner and garden users to avoid public nuisances.

c. A nearby water source must be available for garden users.

22. Deconstruction.

a. The applicant must submit a construction waste management plan that specifies construction materials to be diverted from disposal by efficient usage, recycling, reuse, manufacturer's reclamation, or salvage for future use, donation or sale.

b. At least 75 percent of nonhazardous construction and demolition waste must be diverted from landfill. The percentage of materials diverted can be calculated by weight or volume, but not both. For the purposes of this subsection, construction materials and waste include, but are not limited to all materials delivered to the site and intended for installation prior to the issuance of the certificate of occupancy, including related packaging, and construction materials and waste removal during demolition or razing. For the purposes of this section, construction and waste materials do not include land-clearing debris (including trees, rocks, and vegetation), excavated soils, and fill and base materials such as topsoil, sand, and gravel. Ground concrete reused on site is considered retained construction materials.

c. Compliance with this requirement may be met by either on-site separation of materials or by sending materials to an approved construction and demolition material recovery facility.

23. Recycled building materials.

a. At least 25 percent of building materials used to construct the site must contain, in aggregate, a minimum weighted average of 20 percent post-consumer recycled content material, or a minimum weighted average 40 percent post-industrial recycled content material.

24. Reusable service ware infrastructure.

a. The development must contain infrastructure to support the use of reusable dine-in service ware products such as dishwashers and storage space for reusable service wear products. The applicant must

demonstrate that the infrastructure capacity is sufficient to meet anticipated reusable service ware demand.

b. An additional point can be earned by adding dishwasher capacity and space to support reusable to-go container collection. The applicant must demonstrate that the infrastructure capacity is sufficient to meet anticipated reusable service ware demand.

25. Organics recycling infrastructure.

a. A development required to collect organics by a city or county ordinance cannot receive a sustainable and resilient development plan point for the provision of organics recycling infrastructure.

b. Developments not required to collect organics by a city or county ordinance must provide users of the building with the opportunity to recycle organics materials as defined by § 835.005. The collection of recyclables must occur at least weekly.

26. Electric vehicle charging stations.

a. A development containing multiple dwelling units must meet the following electric vehicle space requirements.

Total Number of Parking Spaces Provided	EVCE-Installed Parking Spaces	EV-Ready Parking Spaces	EV-Capable Parking Spaces
1-25	1	1	1
26-50	2	1	4
51-75	3	2	6
76-100	4	2	8
101-150	6	3	12
151-200	8	4	16
201-300	12	6	24
301-400	15	9	32
401-500	20	11	40
501+	20 + 4 percent of the total number of spaces above 500	15 + 3 percent of the total number of spaces above 500	75 + 8 percent of the total number of spaces above 500

b. A development exclusively containing nonresidential uses must meet the following electric vehicle space requirements.

Total Number of Parking Spaces Provided	EVCE-Installed Parking Spaces	EV-Ready Parking Spaces	EV-Capable Parking Spaces
1-25	1	0	1

Total Number of Parking Spaces Provided	EVCE-Installed Parking Spaces	EV-Ready Parking Spaces	EV-Capable Parking Spaces
26-50	1	0	2
51-75	1	1	3
76-100	2	2	4
101-150	3	2	6
151-200	4	3	8
201-300	6	4	12
301-400	8	4	16
401-500	10	5	20
501+	10 + 2 percent of the total number of spaces above 500	5 + 1 percent of the total number of spaces above 500	20 + 4 percent of the total number of spaces above 500

c. All EVCE-installed parking spaces must meet the standards established in § 304.XX.1. of this Code.

27. Improved bus stop.

a. An existing bus stop located adjacent to the site must be improved by adding seating, enclosure, landscaping, or some combination of thereof. If landscaping is improved, it must meet the standards required under § 305.07.4. of this Code.

b. An improved bus stop must be designed and installed in accordance with the Bus Stop Improvement Guidelines established by Metro Transit. No bus stop may be improved without the approval of Metro Transit and the city.

28. Metro Transit passes.

a. The development must offer Metro Transit Metropasses subsidized by at least 75 percent to all employees and residents, if applicable. The continued provision of such Metropasses by the developer will be a condition of approval for the sustainable and resilient development plan and subsequent certificate of occupancy.

29. Bicycle parking facility.

a. The property owner must provide at least XXX percent of the minimum bicycle parking spaces required by § 300.XX.xx.

b. All bicycle parking facilities must be designed, constructed, and maintained in compliance with the standards established in § 300.XX.xxx.

30. Internal bike share.

a. To contribute to the minimum point requirements established in § 305.25.3, the site must offer an internal bike share program for employees and residents, if applicable.

APPENDIX B: TRAIL ORIENTED AMENITY MENU

1. Trail oriented amenity menu.

a. Unless otherwise noted, all trail oriented amenities will carry the amenity point values established in Table B-1 and must comply with the standards established in subsections (2) through (11) of this section to count towards the minimum point requirements established in § 305.04. of this Code.

Points	Amenity	Standards
10	Outdoor Dining Patio	Subsection 2
10	Privately Owned Public Space	Subsection 3
5	Art Installation	Subsection 4
5	Bicycle Repair Facility	Subsection 5
5	Child Play Structure	Subsection 6
5	Hydration Station	Subsection 7
5	Public Restroom	Subsection 8
2	Picnic Tables	Subsection 9
2	Shade Structure	Subsection 10
1	Bicycle Parking Station	Subsection 11
1	Seating	Subsection 12

2. Outdoor dining patio.

a. Outdoor dining patios may not be provided unless an eating and drinking establishment is located on the same site.

b. All outdoor dining patios must meet the standards established for outdoor dining uses in § 300.XX.xx.

3. Privately owned public space.

a. The space must cover at least 20 percent of the trail-facing yard in which it is located and may not be less than 400 square feet in size in any circumstance.

b. One linear foot of seating must be provided for every 40 square feet of privately owned public space.

c. Privately owned public spaces must be made available to the public free of charge at all times.

4. Art installation.

a. No mural required by § 300.xx. will count as an art installation.

b. Art installations must comply with the following minimum dimensional standards.

(1) Murals must be at least 250 square feet in size. Multiple murals may be combined to count as one art installation provided the cumulative size of such murals is at least 250 square feet.

(2) Sculptures must be at least 48 cubic feet in size. Multiple sculptures may be combined to count as one art installation provided the cumulative size of such murals is at least 48 cubic feet.

c. If the art installation is intended to be viewed from all sides, a pedestrian path at least five feet wide and constructed of a slip-resistant, stable, and firm impervious surface must connect the art installation to the adjacent trail.

d. All art installations must be illuminated between dusk and 10 p.m.

5. Bicycle repair facility.

a. The bicycle repair facility must include a permanently mounted repair stand, a heavy-duty air pump, and tethered tools such as wrenches, screwdrivers, and tire levers.

b. A clear space with at least a five foot radius must be provided around the permanently mounted repair stand.

c. Bicycle repair facilities must be made available to the public free of charge at all times.

6. Child play structure.

a. All areas containing a child play structure must be covered with soft surface consisting of materials such as rubber tiles, poured-in-place rubber, artificial turf, foam mats, natural mulch, or woodchips.

(1) For the purposes of complying with the maximum impervious surface area requirement established in Part 3 Zoning Districts, soft surface will count as an impervious surface.

b. If the child play structure is located within 15 feet of a trail, a fence or type B landscape buffer must be provided to prevent children using the play structure from crossing into the path of trail users.

c. Child play structures must be made available to the public free of charge during the principal use's hours of operation.

7. Hydration station.

a. All hydration stations must provide a standard drinking fountain and a bottle-filling station.

b. All hydration stations must be connected to a sanitary sewer to prevent puddling on the trail.

c. Hydration stations must be made available to the public free of charge at all times.

8. Public restroom.

a. The upkeep, cleaning, and maintenance of the restroom is the responsibility of the lot owner.

(1) During the site plan approval process, the lot owner must submit a maintenance plan to the city planner detailing how the restroom will be cleaned.

b. The restroom must be made available to the public and must not be for the exclusive use of the principal use's customers or employees.

c. The public restroom must be ADA-compliant and accessible directly from the exterior of the building.

d. The public restroom must be made available to the public free of charge between the hours of 8 a.m. and 10 p.m.

9. Picnic tables.

a. At least two picnic tables must be provided. An additional two points will be provided for each additional two picnic tables provided beyond the first two tables, up to a maximum of six points.

b. The picnic tables must be made available to the public free of charge at all times.

10. Shade structure.

a. A permanent shade structure may be an architectural canopy, pergola, pavilion, sail structure, or similar permanent structure.

b. All permanent shade structures must be affixed to a foundation.

c. The permanent shade structure must cover at least 400 square feet in area and provide a minimum vertical clearance of 10 feet.

d. Such permanent shade structure may not be occupied by a permanent principal or accessory use; however, a temporary use may be permitted according to Part 4 Uses and Use Standards.

e. The permanent shade structure must be made of durable, weather-resistant materials such as steel, aluminum, engineered wood, or concrete.

f. Drainage from the permanent shade structure's roof must be directed away from the adjacent trail.

g. The ground surface immediately beneath the permanent shade structure must consist of a stable, firm, and slip-resistant surface such as concrete, asphalt, or unit pavers or a pervious, stabilized surface such as turf blocks or engineered porous pavement.

h. The permanent shade structure must be made available to the public free of charge at all times.

11. Bicycle parking station.

a. Bicycle parking stations will only count towards the minimum amenity space point requirement where provided in excess of the minimum bicycle parking requirement established in § 300.xx. Beyond the minimum, one point will be provided per rack if such rack accommodates the simultaneous parking of five or more bicycles, up to a maximum of five points.

(1) One additional point will be provided for each bicycle rack that includes at least two 120 volt outdoor-rated outlets dedicated for e-bike charging.

b. All bicycle parking stations must comply with the standards established in § 300.xxx.

c. The bicycle parking station must be made available to the public free of charge at all times.

d. If outlets are provided for e-bike charging, the lot owner may charge users for the electricity consumed in the charging of their e-bikes, scooters, or similar micromobility devices.

12. Seating.

a. Seating will only count towards the minimum amenity space point requirement if permanently mounted to ground and constructed of durable, park-use grade materials.

GUEST BOOK

Public Comment

Visitors 112	Contributors 13	CONTRIBUTIONS 13

30 August 26

Concerned Resident

AGREES	DISAGREES	REPLIES
0	0	0

I believe this change would cause overcrowding and make areas to densely populated.

30 August 26

Stop Ruining Our City

AGREES	DISAGREES	REPLIES
0	0	0

I am writing to express my strong opposition to the proposed zoning ordinance changes, specifically regarding the reduction of minimum lot sizes and the increase in population density. Minnetonka's unique character, privacy, and property values depend heavily on maintaining our existing low-density, spacious neighborhoods. Forcing higher density, smaller lot dimensions, and more crowded housing onto our footprints will only strain local infrastructure and increase traffic. I urge the Planning Commission and City Council to reject these reductions and protect the established suburban identity of our community.

01 September 26

Smarty

AGREES	DISAGREES	REPLIES
0	0	0

I believe this to be the wrong decision for Minnetonka. Having dealt with rental properties in my neighborhood (of which no kind of ordinance/zoning was ever enforced). This will bring more cars, more unkempt properties, out of city landlords, beautiful well maintained homes destroyed. I've watched it happen many times in my own neighborhood with rentals. If it passes, one more reason to leave Minnetonka and Hennepin county and head to another city, county or state.

02 September 26

Minnetonka Resident 25

AGREES	DISAGREES	REPLIES
0	0	0

I'm opposed to the draft zoning ordinance as it applies to residential neighborhoods.
As currently written in plain terms: a builder could tear down a single family home and put up a two family home in its place (or on smaller lots with less space between structures) without the rezoning, variance, or public hearing that would normally give neighbors a say.
Has anyone accounted for what that means for traffic and safety? Many of our neighborhoods don't have sidewalks. Adding units means adding cars, on streets that weren't designed for the volume and where people already walk in the road. These neighborhoods weren't built for multi-family housing, and this ordinance changes that without residents getting a real say on a lot-by-lot basis.
I hope the City Council and planning staff take into consideration what this will do to the overall landscape and future of Minnetonka. People didn't choose Minnetonka to trade green space and privacy for added density.

GUEST BOOK

Public Comment

05 September 26

Tyler Powers

AGREES	DISAGREES	REPLIES
0	0	0

I am writing in support of the draft zoning ordinance. To put plainly, the euclidean model of large lot mcmansions has put the American suburb towards financial ruin. Low density equates to insufficient tax revenue per acre to maintain essential services, making cities like Minnetonka overly reliant on commercial real estate and sales tax revenue. When those fail, as we see in Minneapolis, the burden gets put right back onto homeowners. This zoning change, albeit nimble and still lacking density, is a necessary step. In the midst of the largest commercial real estate correction since the S&L crisis, this is a wise forward looking step towards financial sustainability.

06 September 26

Jeff

AGREES	DISAGREES	REPLIES
0	0	0

I am strongly opposed to this zoning change. Each suburb has developed its own identity over the decades. Minnetonka is not Plymouth, its not Eden Prairie, its not Orono and its not Wayzata. It has become what it is organically. Most residents chose this town for what it is not for what it isn't. If I wanted more densely packed homes I'd have chosen to live elsewhere. I watched my Alma mater morph from its historical character to become just another 4 year school in line with most other colleges…it lost its identity. And for what? Minnetonka has a character most of us citizens like. We don't want it to become just another Minneapolis, Richfield, Plymouth or Eden Prairie. I've always thought affordable meant affordable to the person buying; if I couldn't afford to live in Minnetonka 22 years ago I wouldn't have bought a home here. Let Minnetonka remain the Minnetonka we all liked when we moved here.

06 September 26

Anonymous

AGREES	DISAGREES	REPLIES
0	0	0

I strongly oppose the proposed zoning revisions and agree with many of the other concerne d citizens who have taken the time to submit similar concerns. Probably the most dishearten ing part of this is that it's framed as an "update" when in reality the proposal are incredibly si gnificant changes to the character of the City and what will be allowed - much more density t han current ordinance allows (particularly for single family homes), as well as significant ad d'l judgment granted to City planners than currently exists. I STRONGLY suggest the City cl arifies EXACTLY what is being proposed in these updates for property owners (all negative to existing owners in the City) in practical terms, not vague language about "modernization" or terms that underplay the significance. I would also like the City to be transparent about w hat is driving this. Why would existing property owners want more density in their neighborh oods? Again I strongly oppose these proposed changes and urge City leaders to act in the best interest of current City residents.

08 September 26

Unidentified

AGREES	DISAGREES	REPLIES
0	0	0

I am writing to strongly oppose the proposed zoning update and any increases to residential density in Minnetonka. Most of us chose to live here specifically for the lower density, quiet neighborhoods, and green space that set Minnetonka apart from places like St. Louis Park, Hopkins, and Minneapolis.
Between recent frustrating decisions like the changes to the Purgatory Creek dog area and these sweeping zoning proposals, it feels like the current council is prioritizing political agen das and rapid expansion over the taxpayers who built this community.
Please listen to the majority of your established residents, drop the density increases, and f ocus on preserving the unique suburban character that makes Minnetonka our home.

GUEST BOOK

Public Comment

10 September 26

AM

AGREES	DISAGREES	REPLIES
0	0	0

I'm a Minnetonka homeowner and wanted to add a supportive voice, while recognizing that many neighbors here care about the same things I do: green space, quiet streets, and the f eel of our neighborhoods.

After spending a lot of time reading the city's summary and draft ordinance, I think the draft i s more measured than it may first appear. Most of our neighborhoods would still be zoned lo w density. Today there are three separate low-density zones, each with its own rules. The d raft combines them into one, which means one clear set of rules instead of several. That ma kes it much easier for any of us to understand what we can and can't do with our own prope rty. The draft also sets a single minimum lot size for new lots, which is actually larger than w hat some neighborhoods allow today.

I appreciate the flexibility this gives families for a variety of potential circumstances while m aintaining the feel of our neighborhoods and community. Simpler rules about how close hom es can be to property lines should also mean fewer homeowners have to ask the city for sp ecial permission just to add a garage or a bedroom.

Thank you to city staff and the workgroup, and to everyone taking the time to weigh in.

11 September 26

someface

AGREES	DISAGREES	REPLIES
0	0	0

My wife was born in Minnetonka, and I've lived in Minnetonka for most of the last 40 years. Some of the proposed ordinance changes make sense, like standardizing on a single lot siz e, but others I find kind of baffling, namely, the ability to start building multi-family homes in every residential area.

I do not understand who this benefits other than developers who view our city as a profit ce nter and nothing more. We've already seen in our neighborhood the carelessness with whic h they treat our city. This proposed change will only accelerate this disregard as it will be ev en more lucrative for them to build here. Multiple family units are far more profitable than bui lding single family homes. The ability to take a home on a large lot, tear it down, chop the lo t up into smaller pieces, and then put multiple two-family homes in its place will drastically al ter the feel of any neighborhood and greatly decrease property values for the homes surrou nding it. This proposal therefore has a significant chance of negatively affecting countless r esidents while providing no benefit in return.

An example from our neighborhood: a single family home on a ~1.8 acre lot was sold and t orn down. This happens and it's nothing that should be restricted. It was cut up into three lot s of roughly equal size, which matches most of the lots in the neighborhood. This did not alt er the feel of the area nor did it negatively affect those surrounding it. Under this new propo sal a developer could come in, buy that lot, turn it into four lots, and build housing for eight f amilies.

Instead of living next to a single family, or three families as is what happened in the above e xample, you now will be living next to eight. And instead of the lot sizes next to you being at least 18,000 sqft, they will in reality be as small as 9,000 sqft as each family would have half of that lot, which is smaller than anything allowed in the city currently. If another lot next to y ou did the same thing, you would now have sixteen families living adjacent to your property.

The only people benefiting from this would be the developers. The citizens of the city would receive all of the downsides: significant increases in traffic, noise, light pollution, and a drast ic decrease in their home's value. I don't understand how that is something our elected offic ials would be in favor of.

As others have noted, we have a wide variety of wonderful cities to call home in the metro a rea, each with their own charm, characteristics, pluses, and minuses. Minnetonka has its po sition in that array of options. We do not need to drastically alter it.

The Minnetonka City Council is there to represent the interests of the citizens of Minnetonka . This part of the proposal does not do that in any way, shape, or form. I also find it rather di singenuous to claim that we are standardizing our minimum lot size at 18,000 sqft. In reality, that number is 9,000 sqft, roughly the size of a lot in much of Minneapolis.

GUEST BOOK

Public Comment

14 September 26

MinnM

AGREES	DISAGREES	REPLIES
0	0	0

Oppose. Oppose. Oppose. I am submitting this message to formally register my complete d isapproval of the proposed zoning adjustments and higher-density housing plans for Minnet onka. The principal draw of our Minnetonka has ALWAYS been its low-density layout, peace ful streets, and abundant open space. Higher density leads directly to increased demand for public services and accelerated wear on our roads—costs that inevitably fall on taxpayers w ho are already stretched to their limit. Many of my neighbors have already left Minnetonka f or communities further west specifically to escape these mounting tax burdens.

18 September 26

Eric

AGREES	DISAGREES	REPLIES
0	0	0

The proposed changes in the zoning ordinance make sense to me. They mainly simplify the rules for low density housing zones. This will help developers, but it will also help lower cost s for people who want to buy homes by decreasing regulations. In fact, some other changes that would help include permitting triplexes, slightly decreasing minimum lot sizes, increasin g building heights to 45', and relaxing parking requirements.

Who will benefit from these regulation changes that slightly increase housing density? Anyb ody who wants to own their own home but can't afford Minnetonka's median home price of $ 507,000 as of August, 2026. Think young families, single parents, retirees and new homeow ners. Many of these people want to live near where they work in Minnetonka!

Remember we're not talking about building large apartment buildings in areas of mainly sin gle family homes.

25 September 26

D_Gearing

AGREES	DISAGREES	REPLIES
0	0	0

YOU HAVE GOT TO BE KIDDING ME... Go to one of the neighboring cities or Minneapolis if you want tiny subdivided lots, ADU's, and houses crammed in like sardines. The current R-1 22,000 sq.ft (0.51 acre) min lot size prevents this from happening. With the new proposed 18,000 sq.ft (0.41 acre) lot size, developers could subdivide any lot over 0.83 acres without any neighborhood input.
I'm a 30+ year resident of Minnetonka... and based on some of city council's recent decisio ns, it seems they are NO longer working for the PEOPLE of Minnetonka, they are working f or the developers and trying to mirror neighboring cities.

From:
To: Susan Thomas
Subject: new Zoning code-preliminary
Date: Wednesday, September 23, 2026 10:15:30 AM

Hi Susan-

Read your proposed Zoning code yesterday- well done ! It was very well referenced and incredibly detailed-right down to helping the public with their lack of math skills. I have read many codes over the many years spent in construction ,and as an AE firm director of Administration. Definitely on the best side of any local codes.

Thank you for providing my wife a copy yesterday.(Took a few hours to read, but well referenced as you will number su-sections.)

Knut Horneland
15409 Highland Heights Dr

CAUTION: This email originated from outside of the organization. Do not click links or open unexpected attachments unless you recognize the sender and know the content is safe.

From:
To: Susan Thomas
Cc: Drew Ingvalson
Subject: Initial Thoughts - Potential Zoning Ordinance Update
Date: Sunday, September 13, 2026 10:06:03 AM
Attachments: Screenshot 2026-09-09 at 8.04.05 AM.png
3-Lot Overview (2.4.26) - 5501 Mayview.pdf

Hi Susan,

I've had the pleasure of speaking with Drew regarding the potential development of 5501 Mayview throughout the past year. A while back it became evident to pause development efforts until discussions conclude related to the potential zoning ordinance update.

First and foremost, credit to Minnetonka for being so ahead of schedule with the 2028 MUSA Review. It seems as if the proposed low density standards are streamlining the approval process, while also providing additional housing and more flexibility for builders and home owners.

Although, the proposed 90-foot Lot Width at Right-of-Way seems to complicate lot standards more than it needs to. I imagine the proposed 10-foot increase for the Lot Width at Right-of-Way is to provide a buffer for potential twin homes, but can't this be achieved with a minimum lot width at setback? This seems to address the same concern with twin homes, while also being consistent and reducing setback standards across the board. Increasing with Lot Width at Right-of-Way, while reducing all other standards, seems to fundamentally change the layout of lots in Minnetonka.

The attached Concept Plan for 5501 Mayview shows how three lots fit well under the current R-1 standards, but wouldn't comply with the proposed zoning ordinance update. I'd purpose putting more emphasis on having a minimum lot width at setback.

Thank you for the consideration and best of luck with the remainder of the study.

Cole E. Harstad
Managing Partner
HG Real Estate Partners, Inc.
https://www.hgrepartners.com/

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		Existing (low density districts)			Proposed
		R-1	R-1A	R-2	LDR
Lot Standards	Lot Area	22,000 sq.ft.	15,000 sq.ft.	12,500 sq.ft. per dwelling	18,000 sq.ft.
	Buildable Area	3.500 sq.ft.	2,400 sq.ft.	2,400 sq.ft.	N/A
	Lot Width at Right-of-Way	80 ft, except 65 ft on a cul-de-sac blub	55 ft, except 45 ft on cul-de-sac bulb	55 ft per dwelling	90 ft
	Lot Width at Setback	110 ft	75 ft	55 ft per dwelling	N/A
	Lot Depth	125 ft	125	125 ft	125 ft
Setback Standards	Front Yard	35 ft local streets 50 ft collector street	25 ft interior streets 35 ft exterior streets	25 ft interior streets 35 ft exterior streets	25 ft local street 35 ft collector street
	Side Yard	30 ft aggregate, 10 ft any one side	20 ft	10 ft	10 ft
	Rear Yard	40 ft or 20% of lot depth, whichever is less	30 ft or 20% of lot depth, whichever is less	30 ft or 20% of lot depth, whichever is less	25 t

CAUTION: This email originated from outside of the organization. Do not click links or open unexpected attachments unless you recognize the sender and know the content is safe.

From:
To: Susan Thomas; Amanda Maxwell
Subject: Proposed rezoning
Date: Tuesday, September 1, 2026 10:15:20 AM

Good Morning,

Please take a moment to thoughtfully read.

I'm writing to express my opinion on the proposed rezoning plan due to be discussed and voted on. First, As I talked to people in the neighborhood, no one even saw the news in the Minnetonka Memo. Second, is this a foregone conclusion? I say this as I believe a house a few doors down from me is already renting out their basement with a separate entrance. Third, the public comment section on the city's website is abysmal. I tried to post there and it hasn't been updated for almost a month and you have to go through quite a bit to even voice an opinion. Mine has never shown up.

That said: this is a very big change for the city, a city my step dad moved to in 1948, large lots, trees, no sidewalks, etc.... I hope the residents know what is about to happen. I think the citizens should get to vote on it in the next election.

Let me tell you my experience with these things: The house across from me was owned by a sweet old man and his wife, who lived there since it was built. Never a leaf out of place. A fat-cat developer/rental property guy showed up, bought the house from the young couple who had bought it a few years back. Parked his convertible in front of my driveway and when I asked him to move it, he smugly walked away. The house was pretty much destroyed by the time the renters left. Trash everywhere, police called constantly, fights in the front yard, cars in the street, cars on the lawn. When they finally moved out, 6 (SIX) roll offs of garbage were hauled out of the house, not to mention all the drug paraphernalia.

We have rental properties in our neighborhood. Cars on the street all night (violation of city ordinance) trash cans left out for days/week (violation). Busted beer bottle glass at the end of a driveway. Those big green garbage sacks, some have been sitting in front of driveways for months/years.

Be careful what you wish for, but since it looks like it's going to be passed anyway. I can just see the real estate mogul wanna-be's making cash offers to the elderly, changing the character of a lovely home and neighborhood and pushing more people to move out.

So, a couple of caveats: My daughter is moving to Lake County as she can't afford anything here. My other daughter moved to Dakota county, same reason.
Also, I'm not some old grumpy white guy. I have a mixed race family (black and native american) and grew up very poor. I'm also a pastor, a chaplain at a care facility and sometimes at Stillwater Prison.

People need affordable housing, but changing the character of neighborhoods is not the way.

Regards,
Dale Kleinman

CITY OF MINNETONKA

14600 Minnetonka Blvd. | Minnetonka, MN 55345 | 952-939-8200 | minnetonkamn.gov

To: Planning Commission

From: Susan Thomas, AICP, City Planner

Date: October 8, 2026

Subject: Addenda for the October 8, 2026 Planning Commission meeting

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Item 8A: **Ordinance repealing and replacing Section 300, the Minnetonka Zoning Ordinance of 1986.**

- The city council introduced an update to the zoning ordinance on October 5, 2026, and requested information to provide additional clarity and insight for commission discussion. The attached memo provides some of that information; additional details will be included in the November 5, 2026, planning commission packet.

- The attached comments were received after the report was published.

CITY OF MINNETONKA
14600 Minnetonka Blvd. | Minnetonka, MN 55345 | 952-939-8200 | minnetonkamn.gov

FROM: Susan Thomas

TO: Planning Commission

DATE: Oct. 8, 2026

SUBJECT: Council request for additional information

The city council introduced an update to the zoning ordinance on October 5, 2026. The purpose of this information is to provide additional clarity and insight for commission discussion. This memo provides some of that information; additional details will be included in the November 5, 2026, planning commission packet.

Affordability:

A councilmember asked about affordability and how the proposed zoning ordinance would help address it.

When the zoning ordinance update process began in 2024, the council established five goals that have been highlighted in every update and report over the last two years. One goal is to support a diverse range of housing options by removing barriers present in the previous ordinance.

A diverse range of housing options may result in a broader range of housing prices. However, neither the existing nor the proposed zoning ordinance alone will create new affordable housing or guarantee the preservation of naturally occurring affordable housing. Nevertheless, the city supports affordability in several ways including the city's affordable housing policy; its affordable housing trust fund; downpayment assistance programs and continued demonstration projects to better understand housing cost drivers and effective strategies to address those costs. Additionally, the city's strategies relating to housing and affordability are identified in the economic improvement program found at this link.

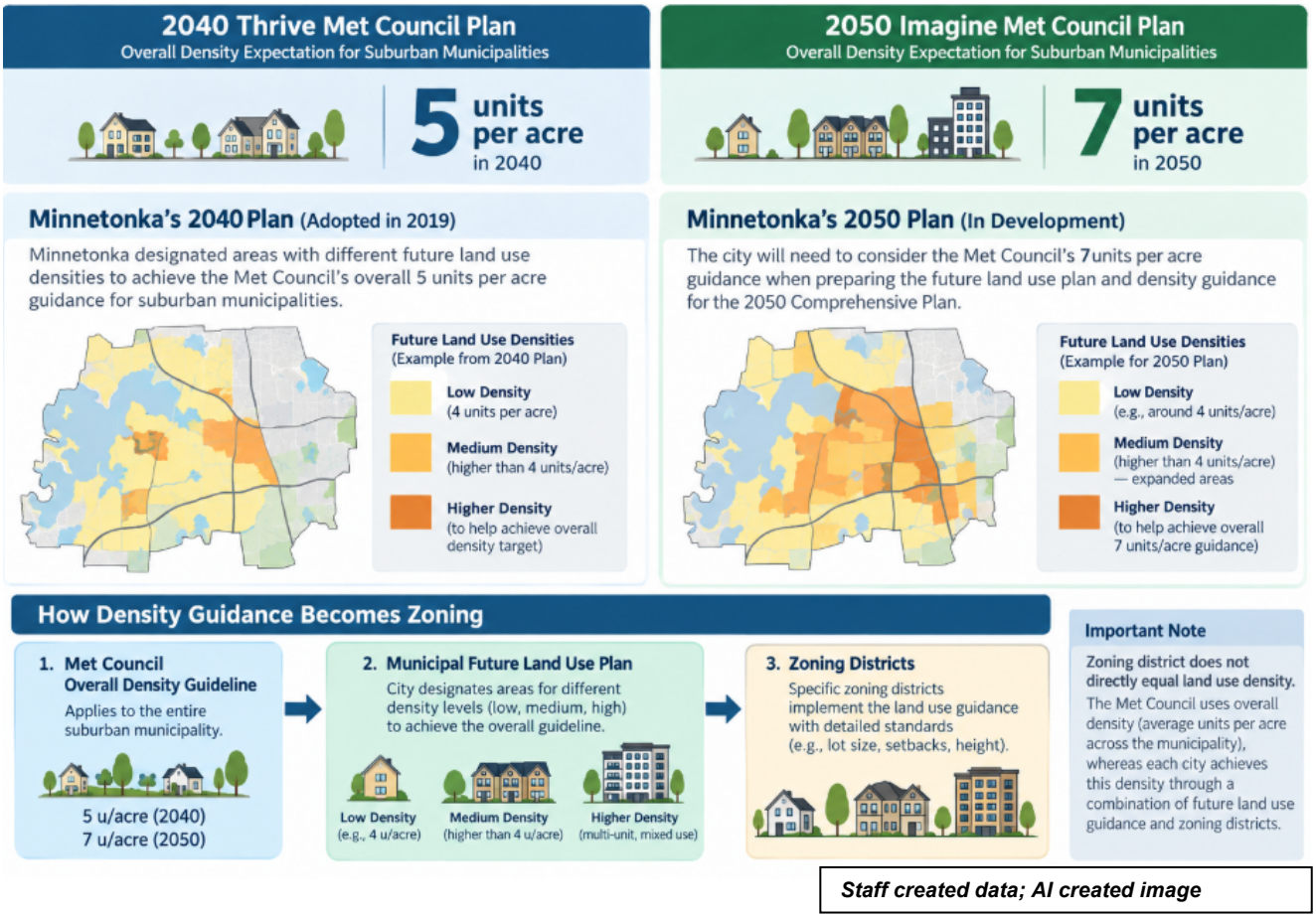
Density:

A councilmember requested clearer information about Metropolitan Council density requirements and how the proposed ordinance aligns with them.

To accommodate regional growth through efficient land use, the Metropolitan Council establishes overall density expectations for cities based on "community designations." Minnetonka holds a "suburban" community designation. As cities begin their 2050 Comprehensive Plan updates, the overall density expectation for suburban communities is 7 units per acre. Each community determines in its individual comprehensive plan how to achieve this expectation through guided plan density classifications.

While the comprehensive plan outlines area densities, the zoning ordinance establishes zoning classifications – and within those, lot size regulations – to ensure alignment with land use

categories. The proposed zoning ordinance would maintain this consistency. Although minimum lot sizes would change, density designations would remain the same for two reasons: (1) density designations are set by the comprehensive plan, not the zoning ordinance; and (2) the proposed minimum lot sizes would still fall within the density ranges established by the comprehensive plan.



Staff created data; AI created image

Sustainability and Resilience

A councilmember asked about applying proposed sustainability requirements to single- and two-unit dwellings.

The proposed ordinance requires new multi-unit and commercial buildings to incorporate sustainability features that support the City's Climate Action and Adaptation Plan (CAAP). If approved, staff will assume a larger and more technical role during the development review process to ensure developments adhere to the new regulations.

While all buildings use resources, the proposed ordinance prioritizes regulating larger developments, which have higher resource use intensity and environmental impact than single- and two-unit households. Although existing (and therefore older) single- and two-unit dwellings are excluded, the city is engaging these less efficient homes in CAAP outreach through other means, such as incentive programs. Examples include the city's discounted Home Energy Squad visit program and grant-funded water-efficiency and energy-rebate programs.

As currently proposed, the Sustainable and Resilient Development Plan requirement is unique in that it covers a much broader range of development types and sizes than other cities' sustainable development policies, which are typically only triggered when a project receives public funding, incentives, or special approvals. Staff will evaluate the impact of the Sustainable and Resilient Development Plan annually to recommend updates as needed.

Two-unit Dwellings

Although the city has received relatively few comments on the proposed zoning ordinance update, many focus on permitting two-unit dwellings in the proposed LDR district. The council has requested additional information for further discussion

- **Existing opportunities for construction.** Two-unit dwellings can currently be built in Minnetonka under the existing ordinance, which permits twinhomes in the R-2 zoning district. For example, in 2024, the city rezoned a city-owned property on Rowland Road from R-1 to R-2. The site was previously occupied by a single-unit dwelling, and single-unit homes still exist on adjacent properties and across the street. The rezoned lot was subsequently divided along the common wall of the new twinhome, as permitted under the current subdivision ordinance.


Photo taken during construction

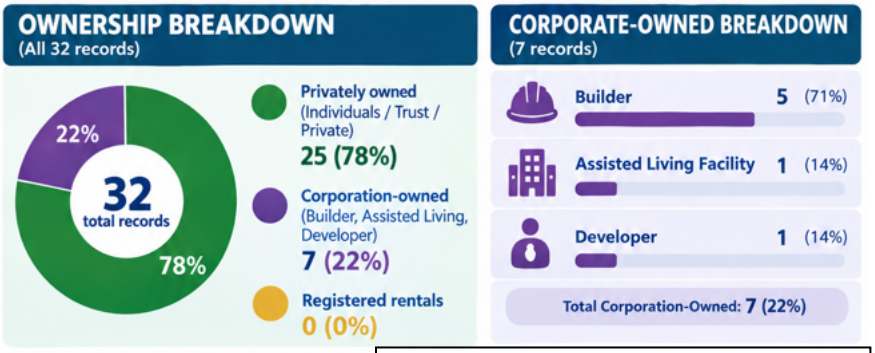


Photo taken during construction

- **Other communities.** Planning staff reviewed ordinances from 12 comparable cities – similar in land size and/or population. Three cities allow two-unit dwellings within predominantly single-unit neighborhoods Bloomington, St. Louis Park, and Woodbury. Both Bloomington and St. Louis Park indicate they received a few applications in the last two years. Many inquiries have been about converting existing single dwellings into two-unit dwellings through interior building changes. Woodbury staff indicate they have had no new construction twinhomes.

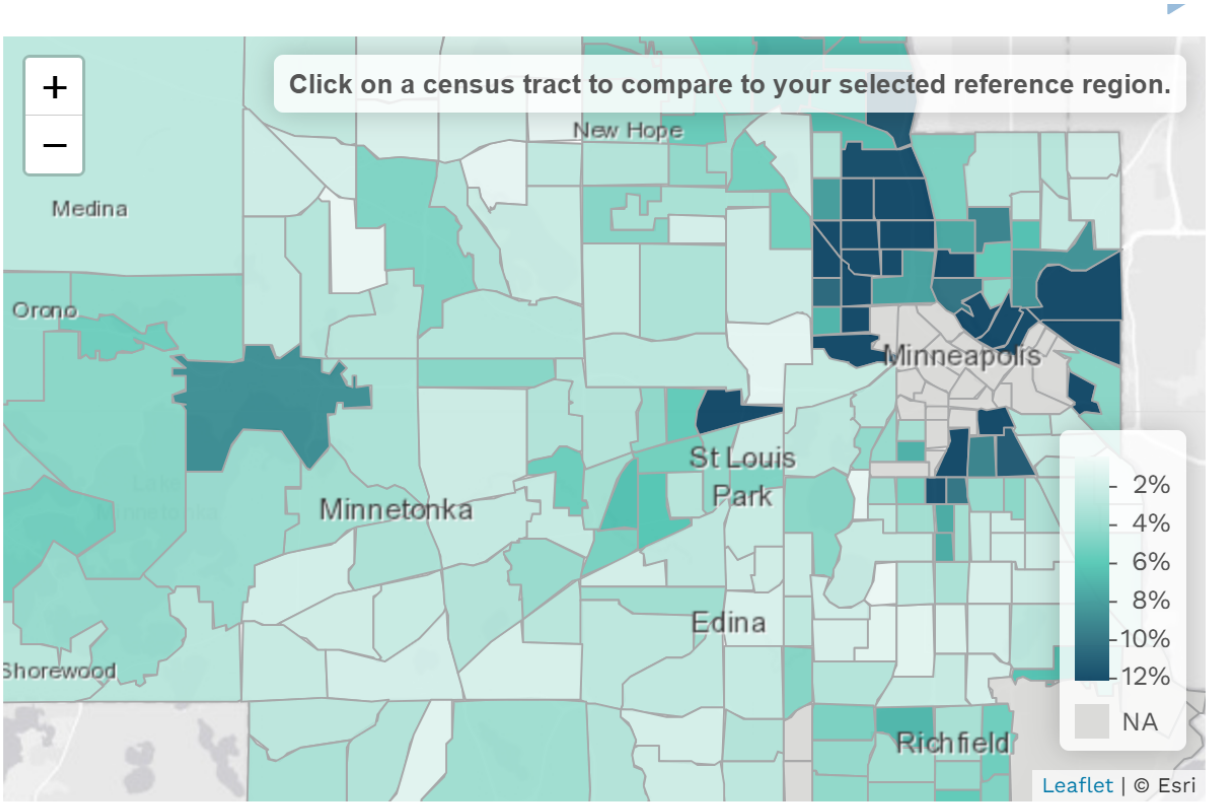
- **Neighborhood character.** The proposed ordinance establishes identical setback requirements for both single-unit and two-unit buildings. This approach supports the goal of diversifying housing options while maintaining the established neighborhood pattern. Staff will provide visual comparisons with the Nov. 5 planning commission packet.

- **Sale and Ownership.** Neither the existing nor the proposed ordinance addresses the private sale or future ownership of properties. Of the 32 new homes permitted in 2025, most are privately owned. Seven are corporate-owned: five are still under construction and owned by the builder, one is for sale, and one is an assisted living facility. None are registered as rentals.



Staff created data; AI created image

This link reflects information from the Federal Reserve regarding investor ownership of residential properties.



Other City Council Discussion

Other identified topics discussed by the city council at their Oct. 5th City Council meeting can be found at this link. Research and information about these additional considerations will be prepared for planning commission review at the continued public hearing.

GUEST BOOK

Public Comment

Visitors 114	Contributors 16	CONTRIBUTIONS 16

08 September 26

Unidentified

AGREES 0 DISAGREES 0 REPLIES 0

I am writing to strongly oppose the proposed zoning update and any increases to residential density in Minnetonka. Most of us chose to live here specifically for the lower density, quiet neighborhoods, and green space that set Minnetonka apart from places like St. Louis Park, Hopkins, and Minneapolis.
Between recent frustrating decisions like the changes to the Purgatory Creek dog area and these sweeping zoning proposals, it feels like the current council is prioritizing political agen das and rapid expansion over the taxpayers who built this community.
Please listen to the majority of your established residents, drop the density increases, and f ocus on preserving the unique suburban character that makes Minnetonka our home.

10 September 26

AM

AGREES 0 DISAGREES 0 REPLIES 0

I'm a Minnetonka homeowner and wanted to add a supportive voice, while recognizing that many neighbors here care about the same things I do: green space, quiet streets, and the f eel of our neighborhoods.

After spending a lot of time reading the city's summary and draft ordinance, I think the draft i s more measured than it may first appear. Most of our neighborhoods would still be zoned lo w density. Today there are three separate low-density zones, each with its own rules. The d raft combines them into one, which means one clear set of rules instead of several. That ma kes it much easier for any of us to understand what we can and can't do with our own prope rty. The draft also sets a single minimum lot size for new lots, which is actually larger than w hat some neighborhoods allow today.

I appreciate the flexibility this gives families for a variety of potential circumstances while m aintaining the feel of our neighborhoods and community. Simpler rules about how close hom es can be to property lines should also mean fewer homeowners have to ask the city for sp ecial permission just to add a garage or a bedroom.

Thank you to city staff and the workgroup, and to everyone taking the time to weigh in.

GUEST BOOK

Public Comment

11 September 26

someface

AGREES 0 DISAGREES 0 REPLIES 0

My wife was born in Minnetonka, and I've lived in Minnetonka for most of the last 40 years. Some of the proposed ordinance changes make sense, like standardizing on a single lot siz e, but others I find kind of baffling, namely, the ability to start building multi-family homes in every residential area.

I do not understand who this benefits other than developers who view our city as a profit ce nter and nothing more. We've already seen in our neighborhood the carelessness with whic h they treat our city. This proposed change will only accelerate this disregard as it will be ev en more lucrative for them to build here. Multiple family units are far more profitable than bui lding single family homes. The ability to take a home on a large lot, tear it down, chop the lo t up into smaller pieces, and then put multiple two-family homes in its place will drastically al ter the feel of any neighborhood and greatly decrease property values for the homes surrou nding it. This proposal therefore has a significant chance of negatively affecting countless r esidents while providing no benefit in return.

An example from our neighborhood: a single family home on a ~1.8 acre lot was sold and t orn down. This happens and it's nothing that should be restricted. It was cut up into three lot s of roughly equal size, which matches most of the lots in the neighborhood. This did not alt er the feel of the area nor did it negatively affect those surrounding it. Under this new propo sal a developer could come in, buy that lot, turn it into four lots, and build housing for eight f amilies.

Instead of living next to a single family, or three families as is what happened in the above e xample, you now will be living next to eight. And instead of the lot sizes next to you being at least 18,000 sqft, they will in reality be as small as 9,000 sqft as each family would have half of that lot, which is smaller than anything allowed in the city currently. If another lot next to y ou did the same thing, you would now have sixteen families living adjacent to your property.

The only people benefiting from this would be the developers. The citizens of the city would receive all of the downsides: significant increases in traffic, noise, light pollution, and a drast ic decrease in their home's value. I don't understand how that is something our elected offic

ials would be in favor of.

As others have noted, we have a wide variety of wonderful cities to call home in the metro a rea, each with their own charm, characteristics, pluses, and minuses. Minnetonka has its po sition in that array of options. We do not need to drastically alter it.

The Minnetonka City Council is there to represent the interests of the citizens of Minnetonka . This part of the proposal does not do that in any way, shape, or form. I also find it rather di singenuous to claim that we are standardizing our minimum lot size at 18,000 sqft. In reality, that number is 9,000 sqft, roughly the size of a lot in much of Minneapolis.

14 September 26

MinnM

AGREES	DISAGREES	REPLIES
0	0	0

Oppose. Oppose. Oppose. I am submitting this message to formally register my complete d isapproval of the proposed zoning adjustments and higher-density housing plans for Minnet onka. The principal draw of our Minnetonka has ALWAYS been its low-density layout, peace ful streets, and abundant open space. Higher density leads directly to increased demand for public services and accelerated wear on our roads—costs that inevitably fall on taxpayers w ho are already stretched to their limit. Many of my neighbors have already left Minnetonka f or communities further west specifically to escape these mounting tax burdens.

GUEST BOOK

Public Comment

18 September 26

Eric

AGREES	DISAGREES	REPLIES
0	0	0

The proposed changes in the zoning ordinance make sense to me. They mainly simplify the rules for low density housing zones. This will help developers, but it will also help lower cost s for people who want to buy homes by decreasing regulations. In fact, some other changes that would help include permitting triplexes, slightly decreasing minimum lot sizes, increasin g building heights to 45', and relaxing parking requirements.

Who will benefit from these regulation changes that slightly increase housing density? Anyb ody who wants to own their own home but can't afford Minnetonka's median home price of $ 507,000 as of August, 2026. Think young families, single parents, retirees and new homeow ners. Many of these people want to live near where they work in Minnetonka!

Remember we're not talking about building large apartment buildings in areas of mainly sin gle family homes.

25 September 26

D_Gearing

AGREES	DISAGREES	REPLIES
0	0	0

YOU HAVE GOT TO BE KIDDING ME... Go to one of the neighboring cities or Minneapolis if you want tiny subdivided lots, ADU's, and houses crammed in like sardines. The current R-1 22,000 sq.ft (0.51 acre) min lot size prevents this from happening. With the new proposed 18,000 sq.ft (0.41 acre) lot size, developers could subdivide any lot over 0.83 acres without any neighborhood input.
I'm a 30+ year resident of Minnetonka... and based on some of city council's recent decisio ns, it seems they are NO longer working for the PEOPLE of Minnetonka, they are working f or the developers and trying to mirror neighboring cities.

02 October 26

peter

AGREES	DISAGREES	REPLIES
0	0	0

Minnetonka homeowners, be alert to dramatic, far-reaching changes in the proposed new C ity of Minnetonka zoning ordinance. Your single family neighborhood may be targeted for ex pensive McMansion-style duplexes on single family lots.

The ordinance eliminates single-family zoning, reduces 22,000 square foot lot sizes to 18,0 00, and allows duplexes and detached accessory dwelling units (ADUs) everywhere. Duple x provisions further reduce lot sizes to 9,000 square feet.

The ordinance directly negates Minnetonka's 2040 Comprehensive Guide Plan, which main tains Minnetonka must protect itself by "(s)trengthening neighborhoods by improving and pr eserving the existing housing stock." Older existing homes are naturally occurring affordabl e housing, helping many young families move into Minnetonka. Attracting young families al so helps support our local schools. Unfortunately, the economics of redevelopment targets t hese same neighborhoods. An older $450,000 home would likely be replaced by two $1 mill ion or more duplexes, at a price unaffordable to many families.

Minnetonka neighborhoods have three duplex risk categories:

1. Neighborhoods with smaller, older homes and 18,000 sf (4/10 acre) lots have extreme ri sk. Of my Minnetonka Mills block's 16 homes, for example, lots for 7 homes are assessed a t 45% or more of total property value. Developers can buy a home for the price of 2 vacant l ots, tear it down, and have land for two expensive McMansions.

2. More expensive neighborhoods have less risk. Tearing down homes for McMansion-plex es profits where land values are larger fractions of total property value.

3. Neighborhoods with lots under the 9,000 sf (2/10 acre) per duplex home limit have less duplex invasion risk, although the City can still grant variances for large duplexes.

Permitting giant duplexes and reducing lot sizes is unfair to older Minnetonka neighborhood s. Understand your neighborhood's duplex risk. Click the Hennepin County Property map fo r lot sizes, here: https://gis.hennepin.us/property/ For a home's assessed land and building values, type its street address here: https://www16.co.hennepin.mn.us/pins/?articleId=by_a ddress#by_address and click "Search."

We must ask the objective of this rezoning. If it's providing affordable housing opportunities, I think we'll all agree that won't be the result. Please join me in sharing your concerns with our Planning Commission and City Council members.

GUEST BOOK

Public Comment

03 October 26

Kj.anderson3311

AGREES	DISAGREES	REPLIES
0	0	0

I strongly support much of the proposed zoning ordinance update, but I have concerns abou t allowing duplexes as a "permitted use" in all single family lots of 18,000 square feet or larg er, without notification or review by the city council or the public. This provision could allow f or drastic changes in some areas that would certainly have a negative effect on the "charac ter of the neighborhood."

I support allowing for duplexes, but there must be some provision for residents and their rep resentatives on the city council to comment and discuss the impact of each proposal.

I know the citizen zoning committee and city staff have worked hard to make changes in the zoning ordinance to improve, update, clarify and modernize it. Thank you for that work. I ho pe the ordinance can proceed through the approval process with changes/additions/correcti ons to the duplex provisions that allow for full public and city council review and discussion. Karen J. Anderson

04 October 26

steveo

AGREES	DISAGREES	REPLIES
0	0	0

I am writing to strongly oppose the proposed changes to the Minnetonka Zoning Ordinance s. The proposal to completely rewrite the zoning ordinance seems to focus on increasing ho using capacity by ignoring significant reasons why people want to live in Minnetonka. The u nique character of the many neighborhoods, the abundant natural resources, and the afford ability of homes are hallmarks of the city.

This plan will not benefit young families looking to move into well kept older homes at an aff ordable price. It will benefit developers and those who can afford to live in $1 million duplex es.

These components of the Minnetonka 2040 Comprehensive Guide Plan need to be retained :
"...older homes tend to be the more affordable housing stock in Minnetonka. The preservati on of these homes is critical to providing homeownership opportunities for those who could normally not afford to live in the community."
"The city has also initiated flexible standards for residential development to allow smaller lot sizes, if in keeping with the neighborhood character and not in conflict with valued natural r esources.

Character and natural resources vary from neighborhood to neighborhood. What may be tru e for one may be completely wrong for another. To account for this, the City Council MUST r etain an authority and associated process, which includes neighborhood input, on each proj ect.

The 2040 Plan is correct...valued natural resources need to be protected. There are signific ant questions as to how this proposal intends to do that, if at all.

Replacing a single structure on a typical lot will more than double the square footage of imp ervious surfaces. This will significantly increase infiltration and inflow to the sanitary sewer s ystem, when the long-term goal should be to reduce it. Some additional runoff will not enter the sanitary system. Where will this additional runoff be collected? Has the watershed distri ct approved this plan?

Inevitably, the existing trees between the roadway and the front of the dwellings will be rem oved. Many on the sides will also be removed. In a quick check of the six homes in my imm ediate vicinity, this would be over 50 trees. I thought Minnetonka viewed trees as an asset a nd protected them. There can be no "plan" to replace a 60-year-old tree!
The highest and best use concept is predominately a financial issue. There are issues invol ved in this decision that intrinsic value that must be considered. I urge you to stop this propo sed change to the zoning ordinance.

GUEST BOOK

Public Comment

04 October 26

Cindy R

AGREES	DISAGREES	REPLIES
0	0	0

I appreciate the efforts the City of Minnetonka is making to promote changes in the code an d the potential the new code contains to vary housing types and increase housing stock in t he city. I believe diversity of housing stock contributes to making Minnetonka the diverse an d inclusive community our city's mission promotes and that I want to see.

The proposed zoning changes are a meaningful step in the right direction and I believe we can go further. Here are other changes I would like to see in our new code.

1. Allow triplexes in low-density areas.
2. Relax parking requirements to allow for more building types.
3. Raise height requirements in medium and low density zones. Expanding the height requi rement to 45 feet would allow more building types.
4. Lower the proposed minimum lot size to 17,400. This will allow greater flexibility when we develop our next comprehensive plan.
5. Decrease the percentage of allowable lot coverage by structure. This would discourage t he building of large luxury homes on smaller lots, a concern some citizens have expressed i n response to the draft of the new code.
6. Allow for the building of multi-unit buildings in the medium density zone (something the c urrent code allows but is missing from the new code).

05 October 26

dsl

AGREES	DISAGREES	REPLIES
0	0	0

Thank you for investing in updating our zoning code. As a Minnetonka resident of 24 years, I am in favor of increasing density and smaller lot sizes in order to accommodate more dive rse housing types and homes. As construction costs continue to climb exponentially, allowin g more permit builds that are not overly burdened by public processes is a small step that c an help reduce costs.

06 October 26

KP

AGREES	DISAGREES	REPLIES
0	0	0

I oppose the ordinance provision allowing duplexes on any conforming lot. This puts older n eighborhoods with more affordable single family homes at risk. Such neighborhoods are par t of the character of the city and a significant reason people live here. Developers will quickl y start buying up and eliminating these older homes to make a profit. Why can't the city kee p some of these classic old neighborhoods as part of their diversity and character?

07 October 26

dillingham

AGREES	DISAGREES	REPLIES
0	0	0

Our neighborhood is defined by a mix of lots and has a large existing stock of modest single -family homes that are already affordable. Allowing duplexes and triplexes would go against that character. It would encourage developers and those wanting to rent to tear down the ex isting homes that keep this area within reach for working families and replace them with de nser, likely more expensive or rental units. Our streets and infrastructure weren't designed f or that density, either.

07 October 26

Carfy

AGREES	DISAGREES	REPLIES
0	0	0

I have loved living in Minnetonka for 43 years. The longer I have lived in the metro area, the more I have realized how large the lots are in Minnetonka are compared with many other s uburbs. We love the size of our lot - and we also realize changes in city zoning laws would make room for more diversity in housing, as well as affordable housing for so many that ca n't afford it hat work in our community. Please make changes that would allow for a mix of l ot sizes and types of housing, including duplexes and triplexes. If we can make room for m ega size houses, we can make room for this. Let us be known for openness to different kind s of housing, not just those that showcase wealth. Thank you for all your time and effort to making changes to the zoning code.

GUEST BOOK

Public Comment

07 October 26

Yes

AGREES	DISAGREES	REPLIES
0	0	0

Thank you for working on updating the zoning code. I understand that the changes will allo w for slightly more housing density, which I support. I would like to see owning a home in Mi nnetonka becoming more affordable to people with low or median incomes. These changes are a step in the right direction.

Lastly, I want to note that I have been a homeowner in Minnetonka for the last 10 years and am raising my family in this town. It is a great place to live. Let's make our town more welco ming by increasing the amount of affordable housing!

GUEST BOOK

Public Comment

07 October 26

JakeG

AGREES	DISAGREES	REPLIES
0	0	0

As a Minnetonka resident, I am submitting this comment regarding the proposed zoning ord inance rewrite and the regulation of commercially operated residential care facilities within s ingle-family neighborhoods.

I recognize that Minnesota law classifies qualifying licensed group homes as permitted resi dential uses. I am not challenging the right of individuals to reside in these homes. However , there is an important distinction between the residential occupancy of a property and the c ommercial business activities conducted by the organization operating that property.

When a for-profit company operates a facility with paid employees, scheduled shifts, emplo yee vehicles, administrative activities, and ongoing business operations, those activities sho uld be subject to reasonable and enforceable standards consistent with those applied to oth er businesses operating from residential properties.

Minnetonka's existing zoning ordinance establishes restrictions for home occupations, inclu ding limitations on employee parking, vehicle trips, and the impact of business activities on s urrounding residential properties.

My concern is that commercially operated residential facilities can create these same impac ts without being subject to comparable requirements. Simply classifying a property as resid ential should not automatically exempt separate commercial activities from reasonable neig hborhood regulations.

As part of the zoning ordinance rewrite, I want the city to establish and enforce the following :

1. Clear distinctions between residential occupancy and commercial operations. Business a ctivities conducted at residential care facilities that are separate from the provision of reside ntial care should be subject to applicable home-occupation regulations.

2. Enforceable driveway and street parking rules. Regularly scheduled employees should b e required to comply with clear, legally permissible parking standards. Employee parking sh ould be accommodated on the property's existing permitted parking areas rather than routin ely spilling onto neighborhood streets where lawful restrictions apply.

3. Consistent treatment of residential properties. A traditional home-based business is subj ect to restrictions on employees, parking, and vehicle traffic. Comparable impacts from com mercial operations at residential care facilities should be addressed through consistent, lega lly defensible standards rather than automatically exempted from review.

4. Protection of neighborhood safety and character. Residential neighborhoods should be pr otected from excessive vehicle congestion, obstructed streets, unsafe parking conditions, a nd operational impacts that interfere with neighboring properties, regardless of the type of or ganization operating at a residence.

5. Clear enforcement authority and accountability. The new ordinance should clearly establi sh which driveway, street parking, and business-operation regulations apply to residential c are facilities. Residents should have a straightforward process to report violations, and the c ity should consistently enforce applicable rules.

Minnetonka's existing home-occupation regulations recognize that business-related traffic a nd employee parking can negatively affect residential neighborhoods. These concerns do n ot disappear simply because the business provides residential care services.

State law provides important protections for qualifying residential care facilities, but those pr otections should not be interpreted more broadly than the law requires. The city should pres erve its authority to enforce neutral parking, traffic, and safety regulations that are consisten t with state and federal law.

I am not asking the city to prohibit group homes or restrict who may live in our neighborhoo ds. I want the city to ensure that commercially operated facilities comply with enforceable dr iveway and street parking requirements, just as other residential properties must comply wit h applicable parking rules.

The city should make it clear that residential classification does not provide blanket immunit y from otherwise lawful parking and property-use regulations. Residents should be able to r ely on consistent enforcement of the rules governing their neighborhoods.

From: Fiona Golden
To: Fiona Golden
Subject: FW: Zoning Code Feedback
Date: Monday, October 5, 2026 2:32:13 PM

From: Cindy Reich
Sent: Sunday, October 4, 2026 9:06 PM
To: Rebecca Schack <rschack@minnetonkamn.gov>; Deborah Calvert <dcalvert@minnetonkamn.gov>; Kimberly Wilburn <kwilburn@minnetonkamn.gov>; Patsy Foster-Bolton <pbolton@minnetonkamn.gov>; Amanda Maxwell <amaxwell@minnetonkamn.gov>; Paula Ramaley <pramaley@minnetonkamn.gov>; Kissy Coakley <kcoakley@minnetonkamn.gov>; Susan Thomas <sthomas@minnetonkamn.gov>; Julie Wischnack, FAICP <jwischnack@minnetonkamn.gov>; Mike Funk <mfunk@minnetonkamn.gov>
Subject: Zoning Code Feedback

Dear Mayor and City Council Members,

Thank you for the opportunity to provide feedback on the draft of the new zoning code. I appreciate the efforts the City of Minnetonka is making to promote changes in the code and the potential the new code contains to vary housing types and increase housing stock in the city. I believe diversity of housing stock contributes to making Minnetonka the diverse and inclusive community our city's mission promotes and that I want to see.

Research reported by Pew Charitable Trusts (see here also) supports the idea that increasing housing stock in a city leads to greater affordability, regardless of the type of housing built. Pew has also addressed ways MN can address the housing shortage; while their work targets state policy, given Minnetonka's interest in local control, we can certainly choose to implement recommendations of our own accord.

The proposed zoning changes are a meaningful step in the right direction for increasing housing stock and increasing affordability. I believe we can go further. Here are other changes I would like to see in our new code.

1. Allow triplexes in low-density areas.
2. Relax parking requirements to allow for more building types.
3. Raise height requirements in medium and low density zones. Expanding the height requirement to 45 feet would allow more building types.
4. Lower the proposed minimum lot size to 17,400. This will allow greater flexibility when we develop our next comprehensive plan.
5. Decrease the percentage of allowable lot coverage by structure. This would

discourage the building of large luxury homes on smaller lots, a concern some citizens have expressed in response to the draft of the new code.
6. Allow for the building of multi-unit buildings in the medium density zone (something the current code allows but is missing from the new code).

I look forward to seeing our city move closer to the values we aspire to in our mission.

Yours truly,
Cindy Reich
10910 Sumac Lane, 55305
Member, Minnetonka Community Housing Team

CAUTION: This email originated from outside of the organization. Do not click links or open unexpected attachments unless you recognize the sender and know the content is safe.

From:	Fiona Golden
To:	Fiona Golden
Subject:	FW: Minnetonka zoning ordinance review
Date:	Monday, October 5, 2026 2:33:38 PM

From: Peter Hill
Sent: Saturday, October 3, 2026 1:51 PM
To: Patsy Foster-Bolton
Subject: Minnetonka zoning ordinance review

Councilperson Bolton,

The text below is that of my letter published in the Sun Sailor newspaper, Minnetonka edition, this past Thursday the 1st of October.

The letter was a brief of some of my concerns regarding the proposed new Minnetonka zoning ordinance. As the Sun Sailor letter limit is 350 words, the published letter was constrained in both scope and detail.

There is more to be said about the potential problems the proposed zoning ordinance creates. I would be happy to expand on the topic at your request.

Peter Hill
13212 McGinty Road East, Minnetonka

••••• ••••• ••••• •••••

Minnetonka homeowners, be alert to dramatic, far-reaching changes in the proposed new City of Minnetonka zoning ordinance. Your single family neighborhood may be targeted for expensive McMansion-style duplexes on single family lots.

The ordinance eliminates single-family zoning, reduces 22,000 square foot lot sizes to 18,000, and allows duplexes and detached accessory dwelling units (ADUs) everywhere. Duplex provisions further reduce lot sizes to 9,000 square feet.

The ordinance directly negates Minnetonka's 2040 Comprehensive Guide Plan, which maintains Minnetonka must protect itself by "(s)trengthening neighborhoods by improving and preserving the existing housing stock." Older existing homes are naturally occurring affordable housing, helping many young families move into Minnetonka. Attracting young families also helps support our local schools. Unfortunately, the economics of redevelopment targets these same neighborhoods. An older $450,000 home would likely be replaced by two $1 million or more duplexes, at a price unaffordable to many families.

Minnetonka neighborhoods have three duplex risk categories:

1. Neighborhoods with smaller, older homes and 18,000 sf (4/10 acre) lots have extreme risk. Of my Minnetonka Mills block's 16 homes, for example, lots for 7 homes are assessed at 45% or more of total property value. Developers can buy a home for the price of 2 vacant lots, tear it down, and have land for two expensive McMansions.

2. More expensive neighborhoods have less risk. Tearing down homes for McMansion-plexes profits where land values are larger fractions of total property value.

3. Neighborhoods with lots under the 9,000 sf (2/10 acre) per duplex home limit have less duplex invasion risk, although the City can still grant variances for large duplexes.

Permitting giant duplexes and reducing lot sizes is unfair to older Minnetonka neighborhoods. Understand your neighborhood's duplex risk. Click the Hennepin County Property map for lot sizes, here: https://gis.hennepin.us/property/ For a home's assessed land and building values, type its street address here: https://www16.co.hennepin.mn.us/pins/?articleId=by_address#by_address and click "Search."

We must ask the objective of this rezoning. If it's providing affordable housing opportunities, I think we'll all agree that won't be the result. Please join me in sharing your concerns with our Planning Commission and City Council members.

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From: Fiona Golden
To: Fiona Golden
Subject: FW: *NEW SUBMISSION* City council and EDA email comments
Date: Monday, October 5, 2026 2:35:02 PM

From: City of Minnetonka, MN <minnetonkamn@minnetonkamn.gov>
Sent: Sunday, October 4, 2026 9:37 PM
To: Kelsey Larson <kalarson@minnetonkamn.gov>; Becky Koosman <bkoosman@minnetonkamn.gov>
Subject: *NEW SUBMISSION* City council and EDA email comments

City council and EDA email comments

Submission #:	5180699
IP Address:	24.118.51.3
Submission Date:	10/04/2026 9:36
Survey Time:	22 minutes, 29 seconds

You have a new online form submission.
Note: all answers displaying "*****" are marked as sensitive and must be viewed after your login.

Read-Only Content

Name

Sara Wright

Full Address

3209 Frear Dr
Minnetonka, MN 55305

Phone

Email

City Council, EDA or LBAE

City Council

Meeting date

10/5/2026

Agenda item

12 - Zoning Ordinance

Comment

I am writing as a Minnetonka resident of over 20 years regarding the proposed changes to residential rezoning, specifically regarding the proposal to allow duplexes on any conforming lot of 18,000 sq ft or more. As a first-time homebuyer who moved to Minnetonka, I am concerned about the impact this proposal could have on older neighborhoods like mine. When a home goes on the market, a developer may be able to outbid a family—particularly a young family—and replace a $450,000 home with a duplex. The resulting units would likely be priced well above the original home, further limiting affordable options for families looking to move into Minnetonka. As homeownership becomes increasingly difficult, reducing required lot sizes and replacing single-family zoning with low-density zoning could eliminate some of the few remaining pathways to homeownership for future residents. I urge you not to change the zoning to allow duplexes on all conforming properties.

Thank you,
City of Minnetonka, MN

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CAUTION: This email originated from outside of the organization. Do not click links or open unexpected attachments unless you recognize the sender and know the content is safe.

From:	Fiona Golden
To:	Fiona Golden
Subject:	FW: Zoning Code Updates - communtiy member feedback
Date:	Monday, October 5, 2026 2:36:07 PM

From: Susan Geller
Sent: Thursday, October 1, 2026 7:55 PM
To: Rebecca Schack <rschack@minnetonkamn.gov>; Deborah Calvert <dcalvert@minnetonkamn.gov>; Kimberly Wilburn <kwilburn@minnetonkamn.gov>; Patsy Foster-Bolton <pbolton@minnetonkamn.gov>; Amanda Maxwell <amaxwell@minnetonkamn.gov>; Paula Ramaley <pramaley@minnetonkamn.gov>; Kissy Coakley <kcoakley@minnetonkamn.gov>; Susan Thomas <sthomas@minnetonkamn.gov>; Julie Wischnack, FAICP <jwischnack@minnetonkamn.gov>; Mike Funk <mfunk@minnetonkamn.gov>; Samantha Thompson <sthompson@minnetonkamn.gov>; Gretchen Sher <gsher@minnetonkamn.gov>; Derrick Banks <dbanks@minnetonkamn.gov>; Hindi Abdi <habdi@minnetonkamn.gov>; Scott Brink <sbrink@minnetonkamn.gov>; Dana Minion <dminion@minnetonkamn.gov>; Jonathan Shoemaker <jshoemaker@minnetonkamn.gov>
Subject: Zoning Code Updates - communtiy member feedback

Dear City Council and Planning Commission Members,

- **The proposed zoning changes are an important step forward.** Creating clearer zoning rules and allowing a greater variety of housing types can open the door to more affordable housing options in Minnetonka.
- **I believe thoughtful changes to zoning and greater housing density are important to Minnetonka's future.** They can help us create a community that is more diverse, inclusive, and accessible to more people.
- **I'm encouraged by the improvements these proposed changes could bring to Minnetonka.** Thank you for making zoning updates a priority and for doing the work to move these changes forward.
-

--Susan Geller
16819 Scenic Ln S, Minnetonka, MN 55345

CAUTION: This email originated from outside of the organization. Do not click links or open unexpected attachments unless you recognize the sender and know the content is safe.

From:	Fiona Golden
To:	Fiona Golden
Subject:	FW: Open Letter to City Council related to zoning ordinance update duplex as permitted use in current R-1 lots
Date:	Monday, October 5, 2026 2:38:04 PM
Attachments:	Open Letter to the Minnetonka City Council 10-2-26.pdf

From: Terry Schneider
Sent: Friday, October 2, 2026 2:58 PM
To: Julie Wischnack, FAICP <jwischnack@minnetonkamn.gov>
Cc: Karen Anderson ; Brad Wiersum; Tony Wagner; Dick Allendorf
Subject: Open Letter to City Council related to zoning ordinance update duplex as permitted use in current R-1 lots

Julie,

Per our discussion, I am attaching a PDF of a letter regarding concern for the zoning ordinance change that would make duplexes a permitted use in all current single family R-1 lots over 18,000 SF, that you indicated you could include in the 10/5/26 Council packet.

The wording was approved by myself, Karen, Brad, Tony and Dick, and I am copying them on this email.

Feel free to call if you or other city staff members have any questions.

Terry

15333 Boulder Creek Dr.
Minnetonka, MN 55345

CAUTION: This email originated from outside of the organization. Do not click links or open unexpected attachments unless you recognize the sender and know the content is safe.

Open Letter to the Minnetonka City Council,

From: Karen Anderson, Terry Schneider, Brad Wiersum, Tony Wagner and Dick Allendorf

We have reviewed the new proposed ordinance update. We agree that most of the recommendations relating to a smaller lot size, lot width and front yard setbacks are reasonable ordinance changes. However, we do have a significant concern about allowing duplexes as a "permitted use" in all currently zoned R-1 lots over 18,000 SF.

We are fine with having more duplexes in the community, but believe that having duplexes as a permitted use without any notification or review process could facilitate a number of unintended consequences that would negatively affect the character of the city and the transparency of changes in zoning uses our residents.

We ask that the council postpone implementation of that element of the ordinance update and evaluate an approach that includes more public notification and Planning Commission and City Council review.

From: Fiona Golden
To: Fiona Golden
Subject: FW: Proposed Zoning Changes
Date: Monday, October 5, 2026 2:40:15 PM
Attachments: image.png
image.png
image.png

On Oct 4, 2026, at 3:30 PM, Steve Olson wrote:

Councilmember Maxwell,

I am writing to strongly oppose the proposed changes to the Minnetonka Zoning Ordinances. The proposal to completely rewrite the zoning ordinance seems to focus on increasing housing capacity by ignoring significant reasons why people want to live in Minnetonka. The unique character of the many neighborhoods, the abundant natural resources, and the affordability of homes are hallmarks of the city.

This plan will not benefit young families looking to move into well kept older homes at an affordable price. It will benefit developers and those who can afford to live in $1 million duplexes.

These components of the Minnetonka 2040 Comprehensive Guide Plan need to be retained:

1. "...older homes tend to be the more affordable housing stock in Minnetonka. The preservation of these homes is critical to providing homeownership opportunities for those who could normally not afford to live in the community."
2. "The city has also initiated flexible standards for residential development to allow smaller lot sizes, if in keeping with the neighborhood character and not in conflict with valued natural resources.

Character and natural resources vary from neighborhood to neighborhood. What may be true for one may be completely wrong for another. To account for this, the City Council MUST retain an authority and associated process, which includes neighborhood input, on each project.

The 2040 Plan is correct...valued natural resources need to be protected. There are significant questions as to how this proposal intends to do that, if at all.

Replacing a single structure on a typical lot will more than double the square footage of impervious surfaces. This will significantly increase infiltration and inflow to the sanitary sewer system, when the long-term goal should be to reduce it. Some additional runoff will not enter the sanitary system. Where will this additional runoff be collected? Has the watershed district approved this plan?

Inevitably, the existing trees between the roadway and the front of the dwellings will be removed. Many on the sides will also be removed. In a quick check of the six homes in my immediate vicinity, this would be over 50 trees. I thought Minnetonka viewed trees as an asset and protected them. There can be no "plan" to replace a 60-year-old tree!

The highest and best use concept is predominately a financial issue. There are issues involved in this decision that intrinsic value that must be considered. I urge you to stop this proposed change to the zoning ordinance.

Regards, Steve Olson 13404 Stanton Drive

Stephen L. Olson JD MPP

From: City of Minnetonka, MN
To: Karen Telega; Susan Thomas; Zoning Requests
Subject: *NEW SUBMISSION* Planning commission email comments
Date: Thursday, October 8, 2026 1:05:47 PM

Planning commission email comments

Submission #: 5189816

[redacted] [redacted]

Submission Date: 10/08/2026 1:05

Survey Time: 4 minutes, 39 seconds

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Name

[redacted]

Full Address

[redacted]
Minnetonka, MN 55305
USA

Phone

[redacted]

Email

[redacted]

Meeting date

10/8/2026

Agenda item

Planning Commission

Comment

I'd like to raise an issue involving residential treatment facilities operating in single-family neighborhoods. A six-bed adolescent mental-health residential facility recently opened directly across the street from our home on Ella Lane. We understand that Minnesota law protects the right of these facilities to operate in residential neighborhoods, and we support the young people receiving care. Our concern is not with the residents. It is with the operational impact of the facility. Since opening, we've regularly observed 12 or more vehicles parked in the driveway, additional vehicles beginning to park on our street, and substantial staff traffic throughout the day. We live on a quiet cul-de-sac, with families and young children nearby. The volume of traffic and staff activity has significantly changed the residential character of our neighborhood. My understanding is that Minnetonka currently limits outside parking to four vehicles per dwelling unit. What isn't clear is how that is enforced. As the city revises its zoning ordinances, I would encourage the Planning Commission to clarify how existing parking, traffic safety, and neighborhood nuisance

From: City of Minnetonka, MN
To: Karen Telega; Susan Thomas; Zoning Requests
Subject: *NEW SUBMISSION* Planning commission email comments
Date: Thursday, October 8, 2026 8:21:26 AM

Planning commission email comments

Submission #: 5188990
IP Address: 75.72.248.34
Submission Date: 10/08/2026 8:21
Survey Time: 6 minutes, 17 seconds

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Name

[redacted]

Full Address

[redacted]
Minnetonka, MN 55345
United States

Phone

[redacted]

Email

[redacted]

Meeting date

October 8th

Agenda item

Rezoning

Comment

Rezonig: Of these proposed changes, the one that concerns me is the "dupexes anywhere" provision. In that case, an 18,000 sq ft lot would be divided into two 9,000 sq ft lots, which is a significant change from our current 1/2 acre situation. Additionally, when we look at the duplex provision from an economics perspective, the change will likely target older neighborhoods, like ours, and not the newer neighborhoods with $1 milion plus homes. For example, a developer can purchase an older home and lot for $450,000. They will tear down the existing home and put up a pair of duplexes that would each likely be over $1 million. That more affordable home would be gone forever, making it even harder for young families to move into our city. We have been residents here for 51 years and do not approve of this rezoning proposal!

Thank you,

From: City of Minnetonka, MN
To: Karen Telega; Susan Thomas; Zoning Requests
Subject: *NEW SUBMISSION* Planning commission email comments
Date: Wednesday, October 7, 2026 9:27:33 PM

Planning commission email comments

Submission #: 5188580
IP Address: 107.4.237.14
Submission Date: 10/07/2026 9:27
Survey Time: 11 minutes, 1 second

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Name

[redacted]

Full Address

[redacted]
Minnetonka, MN 55305
USA

Phone

Email

Meeting date

10/7/2026

Agenda item

Proposed Zoning Ordinance Rewrite – Public Hearing

Comment

As a Minnetonka resident, I urge the Planning Commission to address the application of existing parking and home-occupation regulations to commercially operated residential care facilities. Minnesota law protects qualifying group homes as residential uses, and I respect those protections. However, residential classification should not automatically exempt separate commercial business activities from otherwise applicable city ordinances. These facilities are often operated by for-profit companies with paid employees, scheduled shifts, employee vehicles, and ongoing business operations. These activities can generate significant parking and traffic impacts in residential neighborhoods. Minnetonka already has ordinances governing driveway parking, outdoor vehicle parking, street parking, and home occupations. These regulations exist to protect residential neighborhoods and should be enforced consistently wherever legally applicable. I want the revised zoning ordinance to: 1. Clearly distinguish between protected residential occupancy and separate commercial business activities conducted at residential properties. 2. Ensure existing driveway, outdoor vehicle, and street parking restrictions apply to commercially operated residential facilities wherever legally permissible. 3. Clarify that regularly scheduled employees and business-related vehicles are not automatically exempt from existing parking restrictions simply because the

property is classified as residential. 4. Apply existing home-occupation regulations to any separate business activities that legally qualify, including applicable employee parking and vehicle traffic limitations. I am asking for consistent enforcement of existing ordinances, without granting commercially operated facilities exemptions beyond those required by law. Residential classification should not exempt properties from otherwise applicable parking and property-use regulations.

Thank you,
City of Minnetonka, MN

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From: City of Minnetonka, MN
To: Karen Telega; Susan Thomas; Zoning Requests
Subject: *NEW SUBMISSION* Planning commission email comments
Date: Thursday, October 8, 2026 2:38:16 PM

Planning commission email comments

Submission #: 5190093
IP Address: 24.118.248.246
Submission Date: 10/08/2026 2:38
Survey Time: 5 minutes, 14 seconds

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Name

[redacted]

Full Address

[redacted]
MINNETONKA, Minnesota 55305
HENNEPIN

Phone

[redacted]

Email

[redacted]

Meeting date

10/08/2026

Agenda item

RESIDENTIAL ZONING ORDINANCE

Comment

I encourage the Planning Commission to address the distinction between residential occupancy and commercial business operations in the new zoning ordinance. While state law protects qualifying group homes as residential uses, these facilities can also involve paid employees, shift changes, significant vehicle traffic, and recurring parking demands. I believe the city should clarify when business activities at these properties are subject to home-occupation regulations and establish reasonable, consistent parking and traffic standards that comply with state law. Residents should be able to expect the same consideration for neighborhood safety, parking, and quality of life regardless of what type of organization operates a property."

Thank you,
City of Minnetonka, MN