New Brighton Planning Commission
Agenda
New Brighton City Hall | City Council Chambers
803 Old Highway 8 NW, New Brighton, MN 55112
6:30 PM September 16, 2025

Members of the Planning Commission will attend the meeting in person unless eligible to attend remotely per MN Stat. 13D.02.

To participate in this meeting, members of the public may:

- **Attend the meeting in person.**
- **Watch the meeting electronically.** Tune into CTV Channel 8023 (CenturyLink) or Channel 16 (Comcast). To observe the meeting as a livestream or a webcast, visit NBMN.info/View-A-Meeting

I. Call to Order

II. Roll Call

Chair Tim McQuillan
Vice Chair Eric Nelson
Commissioner Karen Collins
Commissioner Ian Pirner
Commissioner Abby Bryant
Commissioner Andre Kuiper
Commissioner Position - vacant

III. Approval of Agenda

IV. Approval of Past Minutes

1. August 19, 2025

V. Report from City Council Liaison

VI. Public Hearings

1. **Special Use Permit:** Application from Commers Roseville Properties LLC to expand the existing Linkdrive Express business at 855 3rd St SW to include auto repair -- PID 32-30-23-24-0002.
2. **Special Use Permit:** Application from Josh Peterson to run a U-Haul rental business from the building at 301 County Road E2 West -- PID 29-30-23-41-0030.
3. **Ordinance 920: Zoning Code Update.** Review of a wholesale update of the existing

New Brighton zoning code into a new organization that addresses multiple shortcomings within the current zoning code, fixes long-standing legal concerns, and creates new district names throughout the community while largely maintaining existing regulations.

VII. Business Items

VIII. Adjournment

MINUTES
PLANNING COMMISSION
August 19, 2025 City Hall
Council Chambers 6:30 p.m.

I. Call to Order

The meeting was called to order at 6:30 p.m.

II. Roll Call

Members Present: Chair Tim McQuillan, and Commissioners Abby Bryant, Karen Collins, Andre Kuiper, and Ian Pirner

Members Absent: Commissioner Eric Nelsen

Also Present: Ben Gozola – Assistant Director of Community Assets and Development

III. Approval of Agenda

Motion by Commissioner Kuiper seconded by Commissioner Pirner, to approve the August 19, 2025 agenda as presented.

Approved 5-0.

IV. Approval of Minutes

Minutes from June 17, 2025

Motion by Commissioner Pirner, seconded by Commissioner Collins, to approve the June 17, 2025 meeting minutes as presented.

Friendly amendment requested by Commissioner McQuillan to remove Kari Niedfeldt-Thomas from the 6-17-25 attendees list as she was not present at that meeting. Amendment accepted.

Amended minutes approved 5-0.

V. Report from City Council Liaison

There was no report from the City Council.

VI. Public Hearing

(A) Special Use Permit: Application from Josh Peterson to run a U-Haul rental business from the building at 301 County Road E2 West -- PID 29-30-23-41-0030.

Assistant Director of Community Assets and Development Gozola reported this application was technically withdrawn due to issues with the site plan, but staff will be asking the Planning Commission to table the scheduled public hearing to the September 16th meeting as we anticipate all application issues will be resolved by that date.

Motion by Commissioner Kuiper, seconded by Commissioner Pirner, to open the Public Hearing.

Approved 5-0.

The Public Hearing was opened at 6:33 p.m.

Motion by Commissioner Collins, seconded by Commissioner Pirner to table action on this item to the September 16, 2025 Planning Commission meeting.

Approved 5-0.

(B) Ordinance 920: Zoning Code Update. Review of a wholesale update of the existing New Brighton zoning code into a new organization that addresses multiple shortcomings within the current zoning code, fixes long-standing legal concerns, and creates new district names throughout the community while largely maintaining existing regulations.

Assistant Director of Community Assets and Development Gozola reported the City's draft zoning code is finally ready for final review and approval. Legal review of the document is complete, and numerous small changes have been implemented since the Planning Commission saw this document last January and April. Process wise, staff is recommending the following steps be followed as we wrap up this effort:

- Open the public hearing and accept comments on the current draft code.
- Once all comments have been received, table the public hearing to the September 16th Planning Commission meeting, and provide staff with final direction on desired changes and updates. Staff will use the next 30 days to complete the following:
    - Incorporate any updates that come out of the 8-19-25 review.
    - Finalize the new zoning map that will accompany this new zoning code showing all new districts & designations.

- Review and finalize the cross-reference document to ensure no existing language has been left out of this new document.
- Produce an adoption-ready version of the ordinance (no colors, no notes, no symbols indicating changes, etc.).

- On 9-16-25, the Planning Commission will then be asked to make a final recommendation for approval of the new zoning code for City Council consideration on September 23, 2025

Assistant Director of Community Assets and Development Gozola provided further comment on the changes that were made to the zoning code, zoning map and requested comments or questions from the Planning Commission.

Chair McQuillan stated he would like the City to consider putting a tree preservation ordinance in place. In addition, he recommended a lakeview or view shed ordinance in place.

Commissioner Collins asked how long a construction dumpster could be in place. Assistant Director of Community Assets and Development Gozola reported a construction dumpster could be in place until a certificate of occupancy was issued or three days following the completion of work.

Motion by Commissioner Kuiper, seconded by Commissioner Pirner to open the Public Hearing.

Approved 5-0.

The Public Hearing was opened at 6:49 p.m.

There were no comments from the public.

Motion by Commissioner Collins, seconded by Commissioner Pirner to continue the Public Hearing to the September 16, 2025 Planning Commission meeting.

Approved 5-0.

VII. Business Items

None.

VIII. Adjournment

Motion by Commissioner Pirner, seconded by Commissioner Collins, to adjourn the meeting.

Approved 5-0.

Meeting adjourned at 6:52 PM

Respectfully submitted,



Ben Gozola
Assistant Director of Community Assets and Development

Agenda Section:	**Public Hearings**
Report Date:	**08/28/2025**
Meeting Date:	**September 16, 2025**

REQUEST FOR COUNCIL CONSIDERATION – EXECUTIVE SUMMARY

ITEM DESCRIPTION: Special Use Permit: Application from Commers Roseville Properties LLC to expand the existing Linkdrive Express business at 855 3rd St SW to include auto repair -- PID 32-30-23-24-0002.

Action Requested:

Public Hearing	Motion
Discussion	Informational

Form of Action:

Recommendation	Ordinance
Contract/Agreement	N/A or Other

Votes Needed:

Majority of Quorum	4 Votes
5 Votes	N/A

Summary Statement:	LinkDrive Express is an existing business at 855 3rd St SW that provides transportation services for clients in the Twin Cities. The businesses' owner, Ramadan Adem, would like to supplement the existing business with auto repair. The added use would allow them to repair their fleet vehicles on-site when necessary, and also to complete repairs on their client's vehicles.

Recommendations:	Approval with conditions.

Applicable Deadlines:	Based on an application date of 8/13/25, the 60-day review period for this application expires on 10/12/25. This deadline can be extended an additional 60 days if more time is necessary.

Community Impact:	None (provided conditions are followed).

Legislative History:	• Auto repair has previously been approved in both of the neighboring buildings. Suite #1 in the 833 building in 2010, and Suite #6 in the 877 building in 2011. • The application for this SUP was received on 8/13/25

Strategic Priority:

Financial Sustainability	Staff Capabilities
Economic Development	Community Engagement & Belonging
City Assets	N/A

Fiscal Impact:

Financial Impact: Is there a financial consideration?	**No**	Yes $

Financing Sources:	Budgeted	Budget Modification
New Revenue	Use of Reserves	Other

Attachments:

1.	Staff Report
2.	Draft Resolution
3.	Maps (mailing)
4.	Maps (zoning)
5.	Application Materials_LinkDrive Express

Planning Report

Special Use Permit Amendment Review

To: **Planning Commission**

From: Ben Gozola, Assistant Director DCAD

Meeting Date: **9-16-25**

Applicant(s): Commers Roseville Properties LLC

Main Contacts: Ramadan Adem

Location: 855 3rd St SW, Suite #6

Zoning: **I-1 (Light Industrial)**

Introductory Information

Project:

- LinkDrive Express is an existing business at 855 3rd St SW that provides transportation services for clients in the Twin Cities. The businesses' owner, Ramadan Adem, would like to supplement the existing business with auto repair. The added use would allow them to repair their fleet vehicles on-site when necessary, and also to complete repairs on their client's vehicles.

History:

- Auto repair has been previously approved in both of the neighboring buildings. Suite #1 in the 833 building in 2010, and Suite #6 in the 877 building in 2011.
- The application for this SUP received on 8/13/25.

Request(s):

- Commers Roseville Properties LLC is seeking a **Special Use Permit to authorize an auto repair business** in Suite #6 in the building at 855 SW 3rd Street.

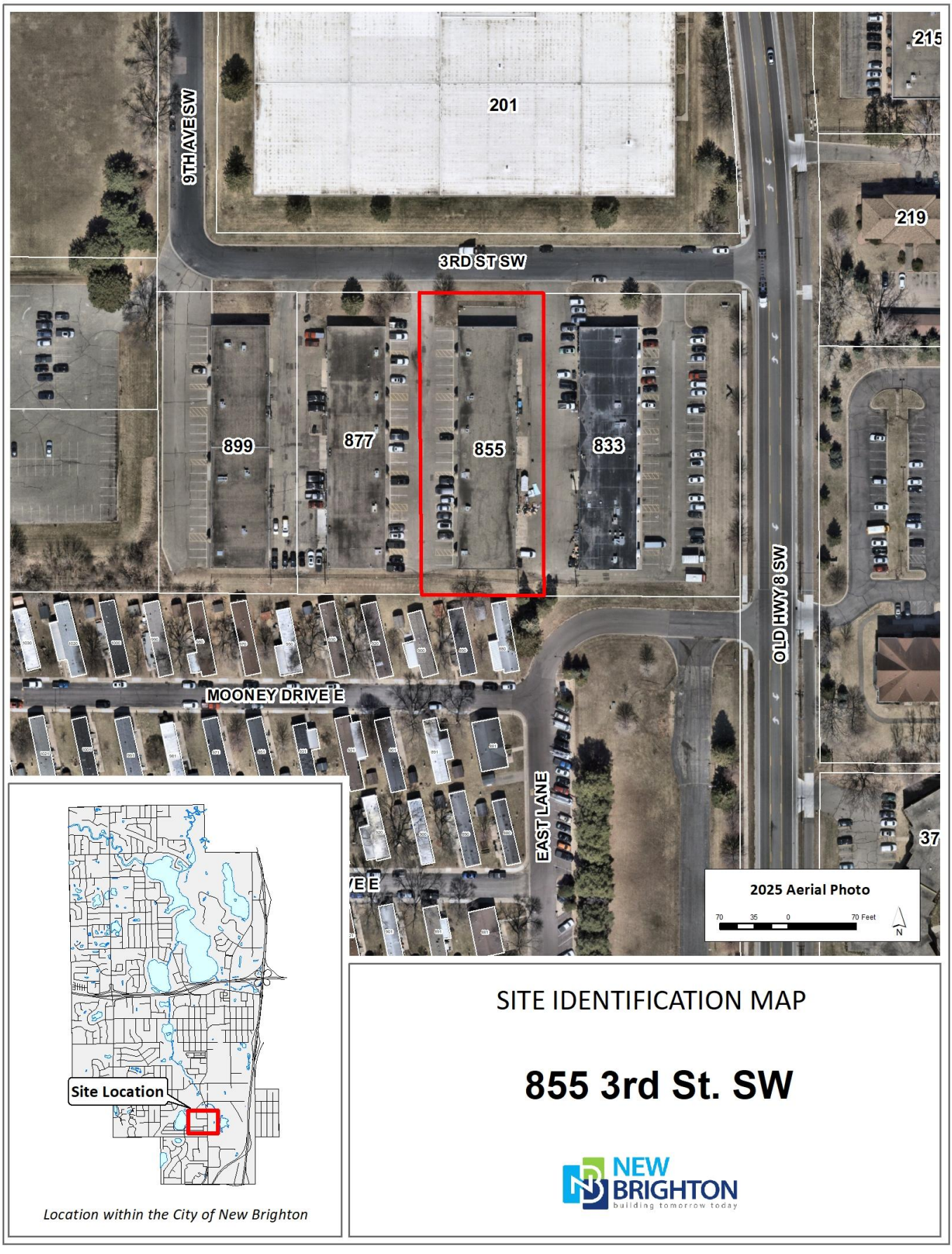
General Findings

Site Data:

- Existing Lot Size ≈ 0.91 acres (≈ 39,640 sq ft)
- Existing Use – Multi-tenant industrial building
- Existing Zoning – I-1
- Property Identification Number (PID): 32-30-23-24-0002

Comp Plan Guidance & Zoning:

- The comprehensive plan guides this property for Light Industrial Development. Auto repair is appropriate in this zoning district if approved by special use permit.


9TH AVE SW
201
215
3RD ST SW
219
899
877
855
833
OLD HWY 8 SW
MOONEY DRIVE E
EAST LANE
37
2025 Aerial Photo
70 35 0 70 Feet
N
Site Location
Location within the City of New Brighton
SITE IDENTIFICATION MAP
855 3rd St. SW
NEW BRIGHTON
building tomorrow today

Notable Code Definitions:

- None

Applicable Codes:

- **Chapter 6, Article 1, <u>Light Industrial District</u>.**
  Allows any use (except residential and those listed as I-2 uses) by special use permit.
- **Chapter 8, Article 2, <u>Special Use Permit and Variance</u>.**
  Identifies the process by which a special use request is to be reviewed and decided.

***Applicant's Narrative** [sic]:*

Linkdrive Express, a local special needs student transportation service company, is proposing to open an auto repair and detailing shop in the rear section of our existing leased space. The shop will support our fleet maintenance needs and also service client vehicles by appointment only.

The facility will operate as a light-duty vehicle service and detailing center, offering:

Essential maintenance and repair services, including oil changes, brake repair, tire services, suspension work, diagnostics, and general mechanical work

Professional auto detailing services, including interior deep cleaning, upholstery care, exterior washing, waxing, polishing, and paint protection treatments.

No body work, painting, or heavy-duty repair is planned.

Customer and Staff Parking: Parking will be located in the front, inside the shop, and at the rear of the building. Our shop will service vehicles by appointment only to manage flow and minimize parking impact. The property has sufficient parking to accommodate both customers and staff.

A parking layout is attached to this proposal.

Fire Suppression: Our current space is equipped with standard fire extinguishers located per code. We will coordinate with the city's fire inspector to confirm whether this is sufficient or if additional suppression systems are required for the auto repair and detailing operations.

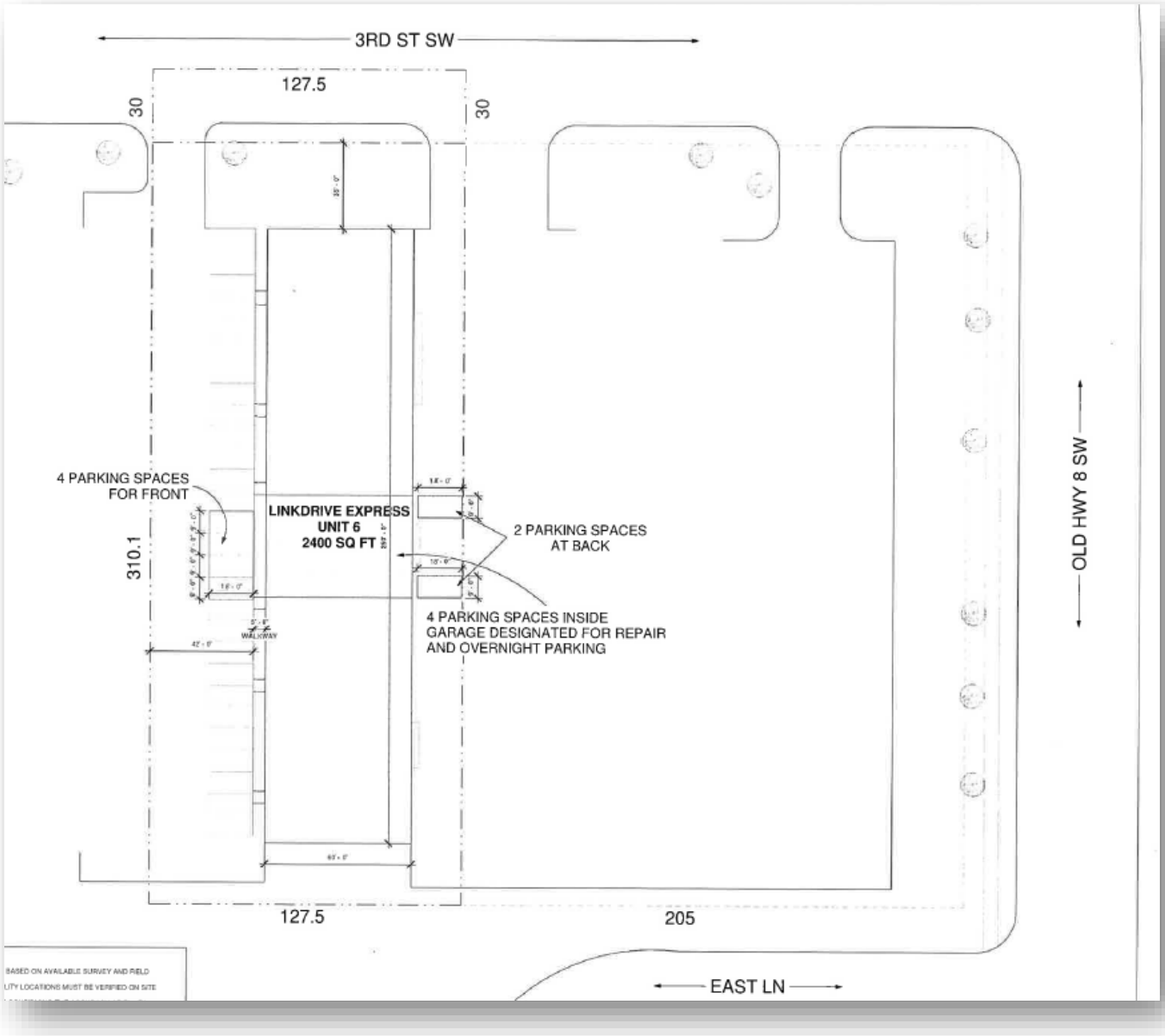
Storage of Business Items: All tools, detailing equipment, and repair parts will be stored within the enclosed repair bay area. No outdoor storage is planned. Waste oil, chemicals, and other hazardous materials will be stored in approved

containers and disposed of through licensed waste management services, in compliance with local and state regulations.

We are committed to operating in a safe, clean, and city-compliant manner and welcome further input to ensure all zoning and operational expectations are met.

Site Plan Overview: A formal site plan review is not necessary for this application as no new construction is proposed by the applicant. The following site plan details and review are provided to give context to the subsequent special use permit examination.

The following site plan was submitted by the applicant for this request.



- Minimum parking needs for this businesses will be met if this special use permit is approved. Minimum requirements by code are 2 per employee or 4 total.
- Neither access points nor traffic flow will change as a result of this application if the SUP is approved.

Special Use Permit Review:

In General:

- Equipment rental is a use that requires a Special Use Permit in the I-1 zoning district.

Criteria Review:

Issuance of an SUP requires an analysis of the proposed use against the following specific review criteria established in code.

1. ***That the establishment, maintenance, or operations of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.***

   APPLICANT COMMENTS: The proposed use will adhere to all health and safety regulations, including proper disposal of automotive fluids, ensuring minimal environmental impact. Vehicles will be stored indoors during non-business hours, minimizing potential hazards and visual clutter. Additionally, operations will be conducted in a manner that controls noise levels, ensuring the comfort and welfare of nearby residents and businesses [sic]

   Staff Analysis: The establishment of this business should have minimal impact on public health, safety, morals, and comfort of the public with proper conditions. This multi-tenant industrial building complex has two very similar small auto repair businesses that have not caused issues. Similar conditions are proposed for this facility. **Criterion can be met with conditions.**

2. ***That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.***

   APPLICANT COMMENTS: The surrounding area is primarily industrial, and similar automotive businesses have operated without impacting adjacent properties. Vehicles will be stored indoors, reducing visual impact and ensuring an orderly appearance. This practice aligns with the neighboring industrial uses and will not diminish property values or enjoyment of nearby properties. [sic]

   Staff Analysis: This use will supplement the existing business, and should not have impacts on neighboring tenants provided conditions are followed. **Criterion met with conditions.**

(cont.)

3. That the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

APPLICANT COMMENTS: The proposed use is compatible with the existing industrial zoning and does not require any modifications to the building. As such, it will not impede the normal development or improvement of surrounding properties. [sic]

Staff Analysis: The proposed auto repair business should have no impact on the use of nearby properties or suites provided all conditions of approval are continually met. **Criterion met with conditions**.

4. That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.

APPLICANT COMMENTS: The site is fully equipped with necessary infrastructure, including access roads, utilities, and drainage systems. This infrastructure is suitable for the intended use, ensuring smooth operation without additional demands on local facilities. [sic]

Staff Analysis: There are no access problems or issues with the availability of utilities serving the subject site. **Criterion met with conditions.**

5. That the special use shall in all other respects conform to the applicable regulations of the district in which it is located.

APPLICANT COMMENTS: The proposed operations will conform to all I-1 Light Industrial district regulations. Linkdrive Express will meet parking requirements, comply with zoning regulations for signage, and maintain the building's current exterior, ensuring compatibility with other district uses.. [sic]

Staff Analysis: Staff did not identify other ways in which the proposed use would not conform to code.

Supplementary Review & Public Comment

Additional Information:

- None

Engineering Review:

- No concerns noted.

Public Safety Review:

- No public safety concerns. Suit size is too small to require fire suppression.

Public Comment:	▪ There were no comments received for or against this proposal as of 9/11/25.
Planning Commission Review:	▪ The Planning Commission will hold a public hearing on this request at their meeting on 9/16/25.

Conclusion:

The application is requesting a Special Use Permit to authorize auto repair to supplement the existing business at 855 3rd St SW, suite #6. The added use would allow them to repair their fleet vehicles on-site when necessary, and also to complete repairs on their client's vehicles.

<u>Staff Recommendation</u>: Per the analysis outlined in the report, staff is recommending APPROVAL of the request with conditions.

Commission Options:

The Planning Commission has the following options:

A) RECOMMEND APPROVAL OF THE REQUEST based on the applicant's submittals and findings of fact.

B) RECOMMEND DENIAL OF THE REQUEST based on the applicant's submittals and findings of fact.

C) TABLE THE ITEM and request additional information.

Based on an application date of 8/13/25, the 60-day review period for this application expires on 10/12/25. This deadline can be extended an additional 60 days if more time is necessary.

Template Denial Motion:

(<u>not</u> recommended)

- "I move that we recommend the City Council deny the requested special use permit based on the following findings of fact:"
  - *(provide findings to support your conclusion)*

Template Approval Motion:

RECOMMENDED

- "I move we recommend the City Council approve the requested special use permit authorize auto repair at 855 3rd St SW, suite #6, based on the findings of fact and conditions listed on pages 7 & 8 of the report as may have been amended here tonight."

Suggested Findings of Fact:

1. The subject property is guided for light industrial by the comprehensive plan, and automotive repair can be permitted via a special use permit in the I-1 zoning district.
2. Establishment, maintenance, and operation of an automotive repair business at the proposed location will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.
3. The existing building along with the proposed site plan can accommodate the use without impacting surrounding lands.
4. The auto repair use with conditions will not have detrimental impact on area property values.
5. The subject site is adequately served by public utilities, roads, and drainage facilities to accommodate the proposed use.
6. The special use will be in conformance with all underlying zoning district requirements provided stormwater management concerns are addressed.

Recommended Conditions:

1. All vehicles being serviced shall be parked indoors during non-business hours.
2. Unlicensed or inoperable vehicles cannot be stored on site.

cc: Ramadan Adem (owner)

RESOLUTION
CITY COUNCIL
CITY OF NEW BRIGHTON

RESOLUTION MAKING FINDINGS OF FACT AND APPROVING A SPECIAL USE PERMIT TO AUTHORIZE AN AUTO REPAIR BUSINESS WITHIN SUITE #6 AT 855 3RD ST SW

WHEREAS, the City of New Brighton is a municipal corporation, organized and existing under the laws of the State of Minnesota; and,

WHEREAS, the City Council of the City of the New Brighton has adopted a comprehensive plan and corresponding zoning regulations to promote orderly development and utilization of land within the city; and,

WHEREAS, Commers Roseville Properties LLC (the "Applicant") is owner of the property at 855 3rd St SW (the "Property") which has the PID number 32-30-23-24-0002 and is depicted on Exhibit A.

WHEREAS, the Applicant made application on August 13, 2025, for a Special Use Permit to authorize auto repair in suite #6 of the Property; and

WHEREAS, staff fully reviewed the request and prepared a report for consideration by the Planning Commission at their meeting on September 16, 2025; and

WHEREAS, the Planning Commission held a public hearing on the request at the September 16, 2025, meeting and considered input from residents; and recommended conditional approval of the request based on the applicant's submittals and findings of fact; and

WHEREAS, the City Council considered on October 14, 2025, the recommendations of the Planning Commission, Staff, the Applicant's submissions, the contents of the staff report, and other evidence available to the Council.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of New Brighton hereby approves the requested special use permit based on the following findings of fact:

1. The subject property is guided for light industrial by the comprehensive plan, and automotive repair can be permitted via a special use permit in the I-1 zoning district.
2. Establishment, maintenance, and operation of an automotive repair business at the proposed location will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare.

3. The existing building along with the proposed site plan can accommodate the use without impacting surrounding lands.
4. The auto repair use with conditions will not have detrimental impact on area property values.
5. The subject site is adequately served by public utilities, roads, and drainage facilities to accommodate the proposed use.
6. The special use will be in conformance with all underlying zoning district requirements provided stormwater management concerns are addressed.

BE IT FURTHER RESOLVED, that approval of the special use permit shall be subject to the following conditions:

1. All vehicles being serviced shall be parked indoors during non-business hours.

2. Unlicensed or inoperable vehicles cannot be stored on site.

ADOPTED this 14th day of October, 2025 by the New Brighton City Council with a vote of __ ayes and __ nays.

_____
Kari Niedfeldt-Thomas, Mayor

_____
Devin Massopust, City Manager

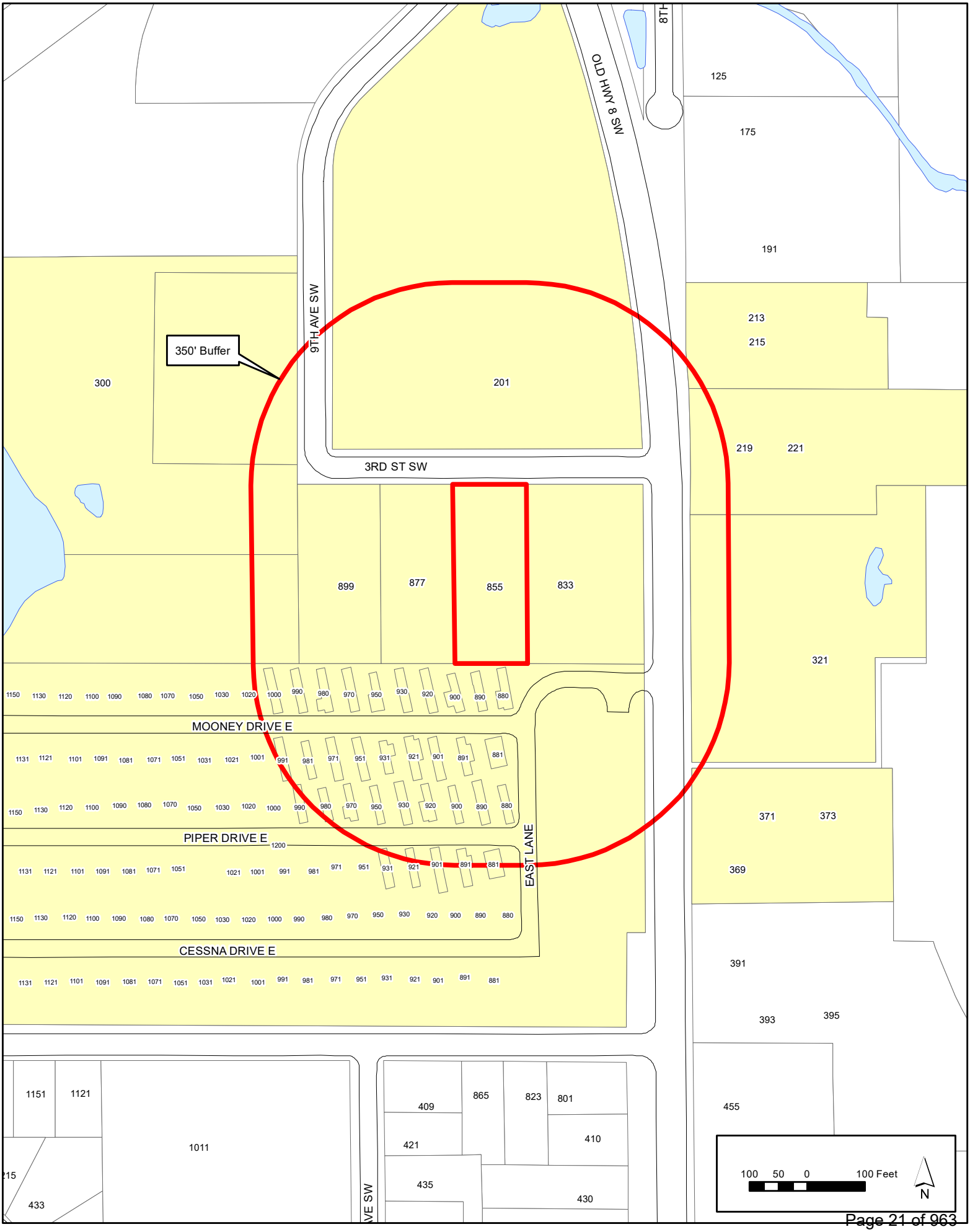
ATTEST:

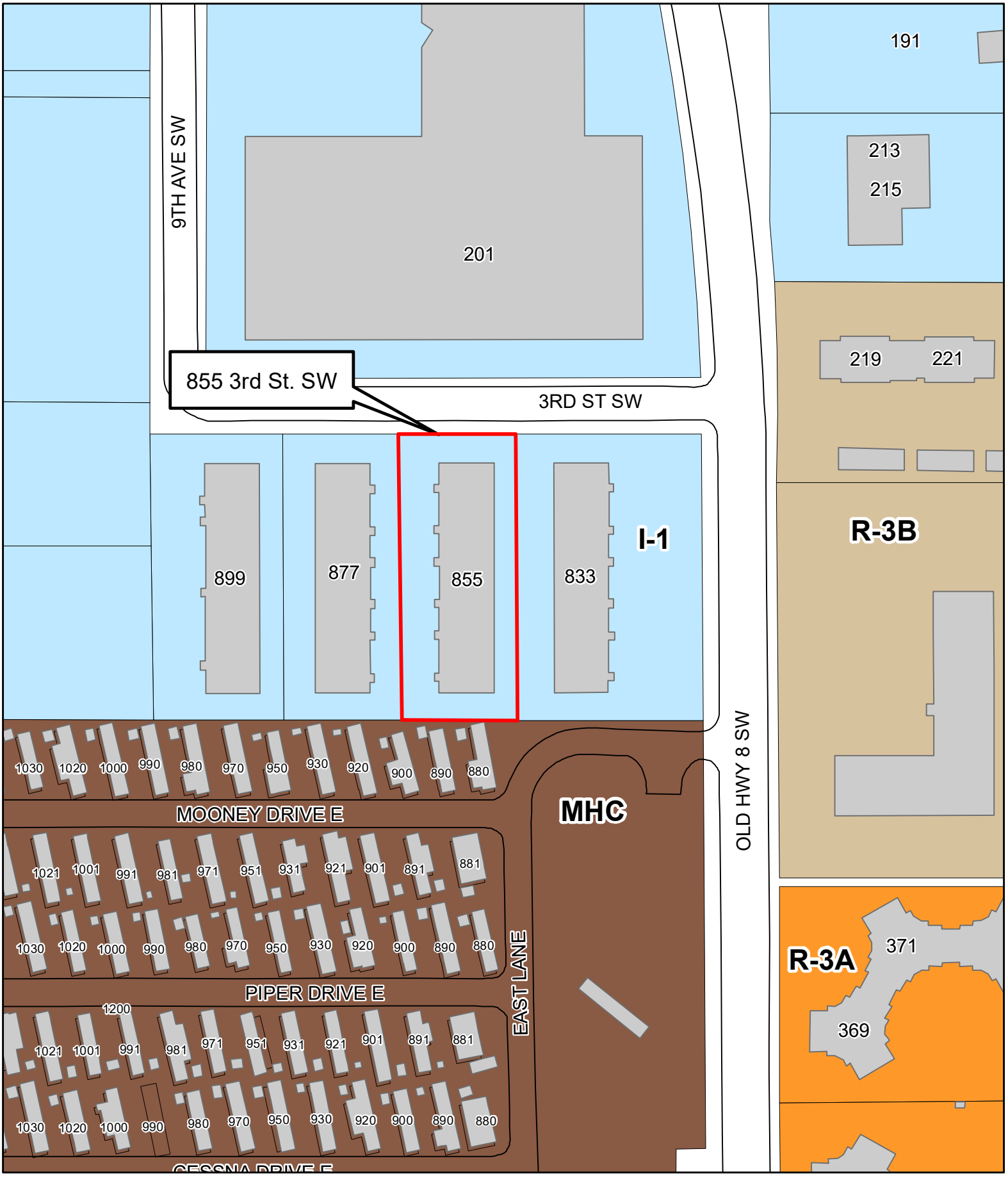
_____
Terri Spangrud, City Clerk

Exhibit A: Property Location



855 3rd St. SW - 350' Mailing List





I-1, Light Industrial
MHC, Manufactured Home Community
R-3A, High Density Residential
R-3B,High Density Residential

N

50 25 0 50 Feet

NEW BRIGHTON
building tomorrow today

Current Zoning

855 3rd St. SW
I-1, Light Industrial

NEW BRIGHTON
building tomorrow today

RECEIVED AUG 13 2025

City of New Brighton Application Form

(Land use applications, Subdivision applications, and vacation requests will not be considered complete and will not be accepted until all property owners have signed)

I. Property Owner #1

Commers Roseville Properties, LLC	2956 Center Court	MN	55121
(name)	(mailing address)	(st)	(zip)

952-826-9161		andrew.p.commers@saberhall.com
(phone #)	(fax #)	(email)

Signature: A Commers

II. Property Owner #2 *For more than two owners, please provide their information and signature(s) on a separate sheet.*

(name)	(mailing address)	(st)	(zip)

(phone #)	(fax #)	(email)

Signature: _____

III. Please identify the request(s) for which you are applying:

☒ **LAND USE APPLICATION** (subject to MN State Statute 15.99 timelines)

- ☐ Variance
- ☒ Special Use Permit
- ☐ Site Plan Review
- ☐ Ordinance Amendment / Rezoning
- ☐ Comprehensive Plan Amendment
- ☐ Interim Use Permit
- ☐ Grading Permit
- ☐ Moving/Relocating Structures Permit
- ☐ Sign Permit
- ☐ Other:

☐ **SUBDIVISION APPLICATION** (subject to MN State Statue 462.358, subd. 3b timelines)

- ☐ Administrative Lot Split / Minor Subd.
- ☐ PUD or PRD
- ☐ Preliminary Plat
- ☐ Final Plat

☐ **GENERAL APPLICATION** (not subject to any state mandated timelines)

- ☐ Right of Way Vacation
- ☐ Easement / Utility Vacation
- ☐ Administrative Appeal
- ☐ Deadline Extension Request
- ☐ Municipal Site Work Authorization
- ☐ Zoning Letter
- ☐ Temporary Use Permit
- ☐ Other:

FEES

Fees for individual application types are established on a yearly basis by the City Council.

Please see the attached fee schedule for the applicable costs (and possibly escrow requirements) for your request(s)

Briefly describe your request below *(If additional space is needed, please attach a narrative to this application)*

Tenant, Linkdrive Express, in Suite 6 is looking to use portion of warehouse space for auto repair shop.

IV. Property & Contractor Information:

Street Location/Address of Property: 855 SW 3rd St.

Property Identification Number (PID): 32-30-23-24-0002 Zoning District: I-1

Legal Description (From Deed or Certificate of Title): ☒ *Please see attached*

Lot: _____ Block: _____ Addition: _____

Property described is by: ☐ Abstract ☐ Torrens – Certificate #: _____

Location of Certificate: _____

Architect (if applicable): _____ Phone: _____

Surveyor/Engineer (if applicable): _____ Phone: _____

Builder (if applicable): _____ Phone: _____

SECTION 32 TOWN 30 RANGE 23 W 127 5/10 FT OF E 372 5/10 FT OF S 310 ...OF NW 1/4 OF SEC 32 TN 30 RN 23

V. Main Contact Person

☒ Property Owners

☐ Other (if other, please fill out the information below)

Title (Position or relation to property owners): CEO

Ramadan Adem	855 3rd st SW #6		55112
(name)	(address)	(st)	(zip)

651-808-0438		transportation@linkdrive express.com
(phone #)	(fax #)	(email)

VI. Notice of Fees

As set forth in the City Fee Schedule and pursuant to applicable law, the property owner shall be responsible to reimburse the city for all related miscellaneous costs incurred pursuant to the processing of this application. Note that these reimbursements may exceed the amount of the original land use application fee. Such expenses may include, but are not limited to, direct city payroll and overhead costs, fees paid to consultants and other professionals, and the cost of printing, mailing, and supplies. These miscellaneous fees are due immediately upon notification by the City. The City shall provide, upon request, an itemized statement of the various expenses incurred by the City. The City may withhold final action on a land use application and/or rescind prior action until all miscellaneous fees are paid. The City may require additional deposits, if deemed necessary. The property owner agrees to allow city staff and commission members to access the property per this application for inspection.

I acknowledge that I have read the above statement and fully understand that I am responsible for all costs incurred by the City in the processing and reviewing of this application.

Property Owners Signature: _____ ***Date:*** ~~5/12/2025~~ 8/13/25 RA

ADMINISTRATIVE USE ONLY:

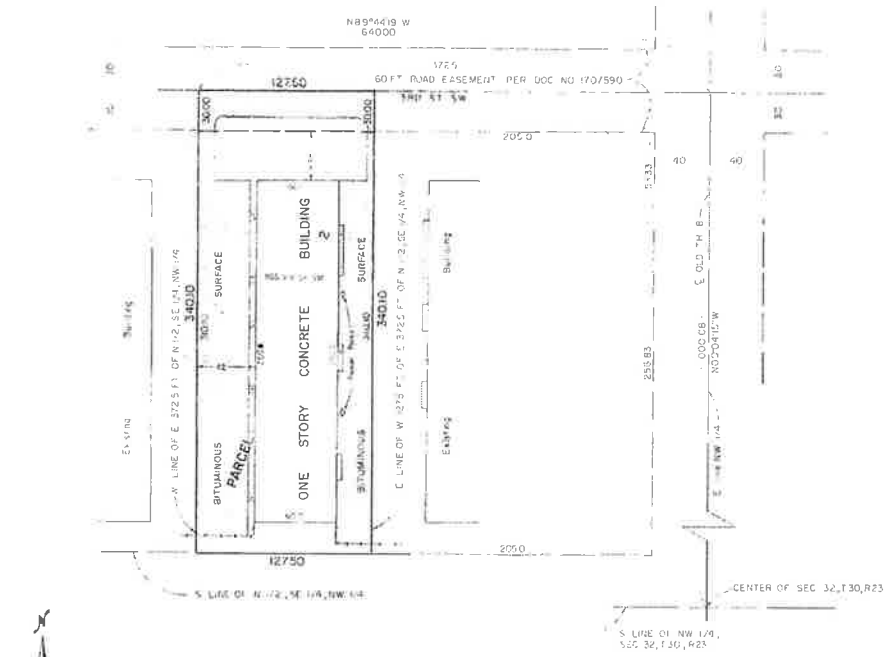
Date Application Received: _____ *PC Date:* _____

Fee Paid: _____ *CC Date:* _____

Escrow Paid: _____

Receipt Number: _____ *Form Last Updated 2.1.23*

MORTGAGE LOAN SURVEY
for
ROSEVILLE PROPERTIES



NOTE PARCEL 2
Description and Parcel Number per COMMONWEALTH LAND TITLE INSURANCE POLICY OF TITLE INSURANCE NO. C 20268

That part of the West 127.5 feet of the East 372.5 feet of the North 1/2 of the Southeast 1/4 of the Northwest 1/4 of Section 32, Township 30, Range 23, Ramsey County, Minnesota, lying South of the following described line:
Commencing at the Southeast corner of the Northwest 1/4 of said section 32; thence N 0° 04' 15" W along the East line of said Northwest 1/4 a distance of 1000.08 feet to the point of beginning; thence N 89° 44' 19" W a distance of 640.0 feet and there terminating; said parcel being subject to a road easement over the North 30.0 feet thereof.

"I hereby certify to Roseville Properties, Title Services, Inc., and Minnesota Mutual Life Insurance Company, that this is a true and correct survey of the boundaries of the herein described land and correctly shows the location of all easements of record per Schedule B, Title Services, Inc. Commitment for Title Insurance No. C 20268, all buildings, structures, and improvements on said described property; that there are no visible encroachments onto adjoining properties, streets, or alleys by any of said buildings, structures, or improvements, that there are no visible right-of-ways or easements on said described property other than shown thereon; that there are no party walls or visible encroachments on said described property by buildings, structures, or other improvements situated on adjoining property except as shown on said plat of survey."

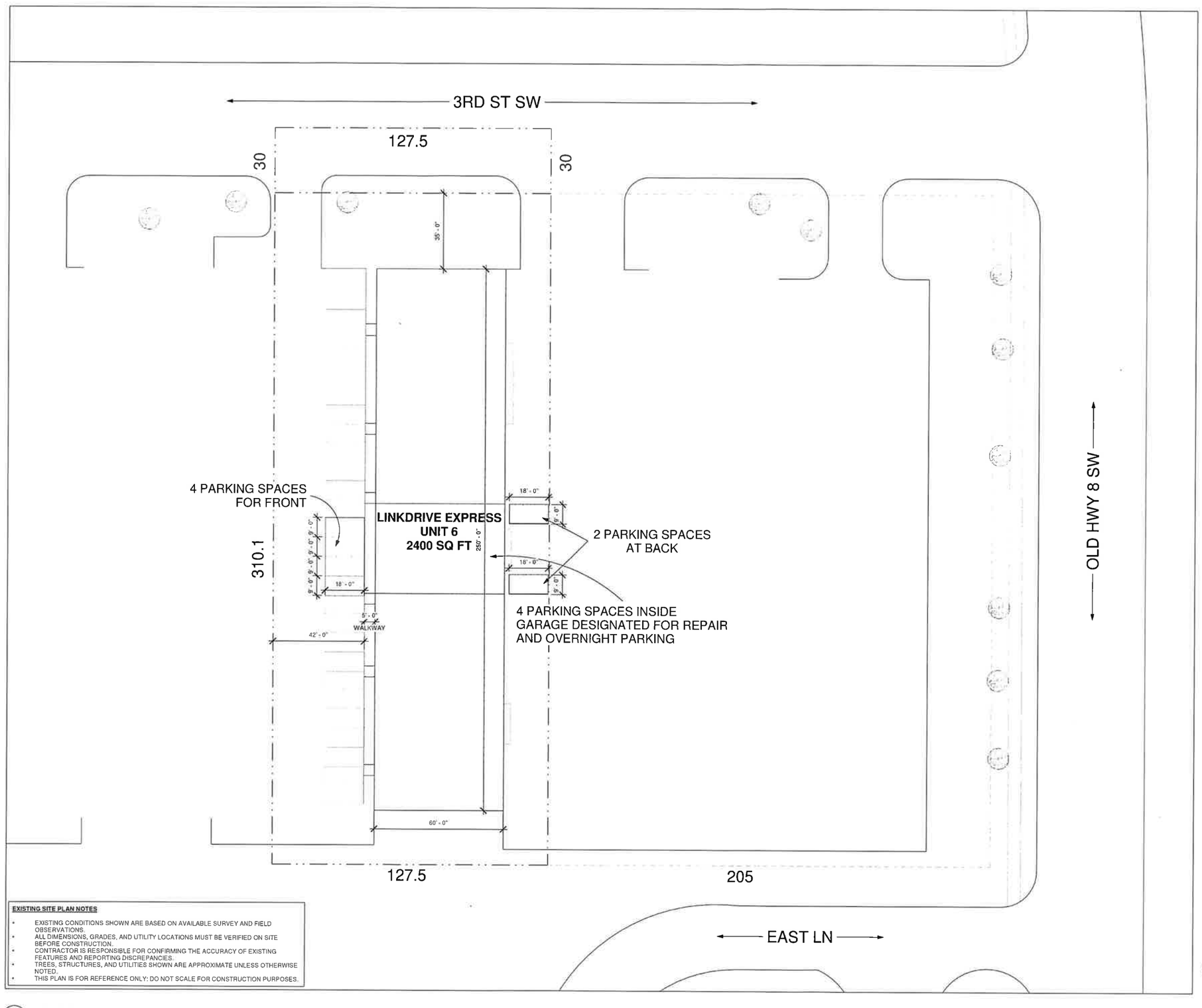
Marvin G. Lovlein
Land Surveyor, Mn. Reg. No. 17259

Sept. 22, 1986
Date

BRW

NOT A BOUNDARY SURVEY

S-8318



EXISTING SITE PLAN NOTES

- EXISTING CONDITIONS SHOWN ARE BASED ON AVAILABLE SURVEY AND FIELD OBSERVATIONS.
- ALL DIMENSIONS, GRADES, AND UTILITY LOCATIONS MUST BE VERIFIED ON SITE BEFORE CONSTRUCTION.
- CONTRACTOR IS RESPONSIBLE FOR CONFIRMING THE ACCURACY OF EXISTING FEATURES AND REPORTING DISCREPANCIES.
- TREES, STRUCTURES, AND UTILITIES SHOWN ARE APPROXIMATE UNLESS OTHERWISE NOTED.
- THIS PLAN IS FOR REFERENCE ONLY; DO NOT SCALE FOR CONSTRUCTION PURPOSES.

1 / A1-10 EXISTING SITE
3/64" = 1'-0"

RAYS DESIGNS
MINNEAPOLIS, MN
tel: 612.470.2789
email: priyanka@rays-designs.com
www.rays-designs.com

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TERMS:
CONTRACTOR TO VERIFY ALL DIMENSIONS, AS BUILT CONDITIONS (IF APPLY) AND SITE CONDITIONS, BEFORE ORDERING MATERIAL OR DEMOLISHING EXISTING STRUCTURES. CONTRACTOR AND ALL SUBS MUST REPORT ANY DISCREPANCIES TO DESIGNER IMMEDIATLY. AS BUILT AND SITE CONDITIONS OFTEN HAVE UNIQUE CONDITIONS THAT CANNOT BE PREDICTED OR FORSEEN AT DESIGN COMPLETION. CONTRACTOR, SUBS AND DESIGNER WILL WORK TOGETHER TO REACH A SOLUTION IF ANY SITUATION MAY ARISE.

LINKDRIVE EXPRESS

SCHEMATIC DESIGN

855 3rd St SW #6, New Brighton, MN 55112

SITE-PLAN

Revision Schedule

No.	Description	Date
	Issued for permit	08-11-2025

SITE PLAN

Project number	25719
Date	07-21-2025
Drawn by	SS
Checked by	PRS

A1-10

8/2025 3:08:02 PM

LINKDRIVE EXPRESS
855 3rd St SW #6, New Brighton, MN 551112
Phone 651-344-8825 Ext 700/Transportation@linkdriveexpress.com

Written Narrative – Linkdrive Auto Repair & Detailing Shop Proposal

Location: 855 3rd St SW, Suite #6, New Brighton, MN 55112

Linkdrive Express, a local special needs student transportation service company, is proposing to open an auto repair and detailing shop in the rear section of our existing leased space. The shop will support our fleet maintenance needs and also service client vehicles by appointment only.

The facility will operate as a light-duty vehicle service and detailing center, offering:

- Essential maintenance and repair services, including oil changes, brake repair, tire services, suspension work, diagnostics, and general mechanical work.
- Professional auto detailing services, including interior deep cleaning, upholstery care, exterior washing, waxing, polishing, and paint protection treatments.

No body work, painting, or heavy-duty repair is planned.

Customer and Staff Parking:

Parking will be located in the front, inside the shop, and at the rear of the building. Our shop will service vehicles by appointment only to manage flow and minimize parking impact. The property has sufficient parking to accommodate both customers and staff.

A parking layout is attached to this proposal.

Fire Suppression:

Our current space is equipped with standard fire extinguishers located per code. We will coordinate with the city's fire inspector to confirm whether this is sufficient or if additional suppression systems are required for the auto repair and detailing operations.

Storage of Business Items:

All tools, detailing equipment, and repair parts will be stored within the enclosed repair bay area. No outdoor storage is planned. Waste oil, chemicals, and other hazardous materials will be stored in approved containers and disposed of through licensed waste management services, in compliance with local and state regulations.

We are committed to operating in a safe, clean, and city-compliant manner and welcome further input to ensure all zoning and operational expectations are met.

Special Use Permit Criteria Worksheet

A special use permit cannot be approved unless the Planning Commission and City Council find that the following criteria have been met. Please provide a response on how/why your project meets the below stated criteria. Use additional sheets if necessary and consult with the Planning Director at the time of your Pre-Application Meeting as some items may not be applicable for your project.

1) That the establishment, maintenance, or operations of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

The proposed use will adhere to all health and safety regulations, including proper disposal of automotive fluids,ensuring minimal environmental impact. Vehicles will be stored indoors during non-business hours, minimizing potential hazards and visual clutter. Additionally, operations will be conducted in a manner that controls noise levels, ensuring the comfort and welfare of nearby residents and businesses.

2) That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

The surrounding area is primarily industrial, and similar automotive businesses have operated without impacting adjacent properties. Vehicles will be stored indoors, reducing visual impact and ensuring an orderly appearance. This practice aligns with the neighboring industrial uses and will not diminish property values or enjoyment of nearby properties.

3) That the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

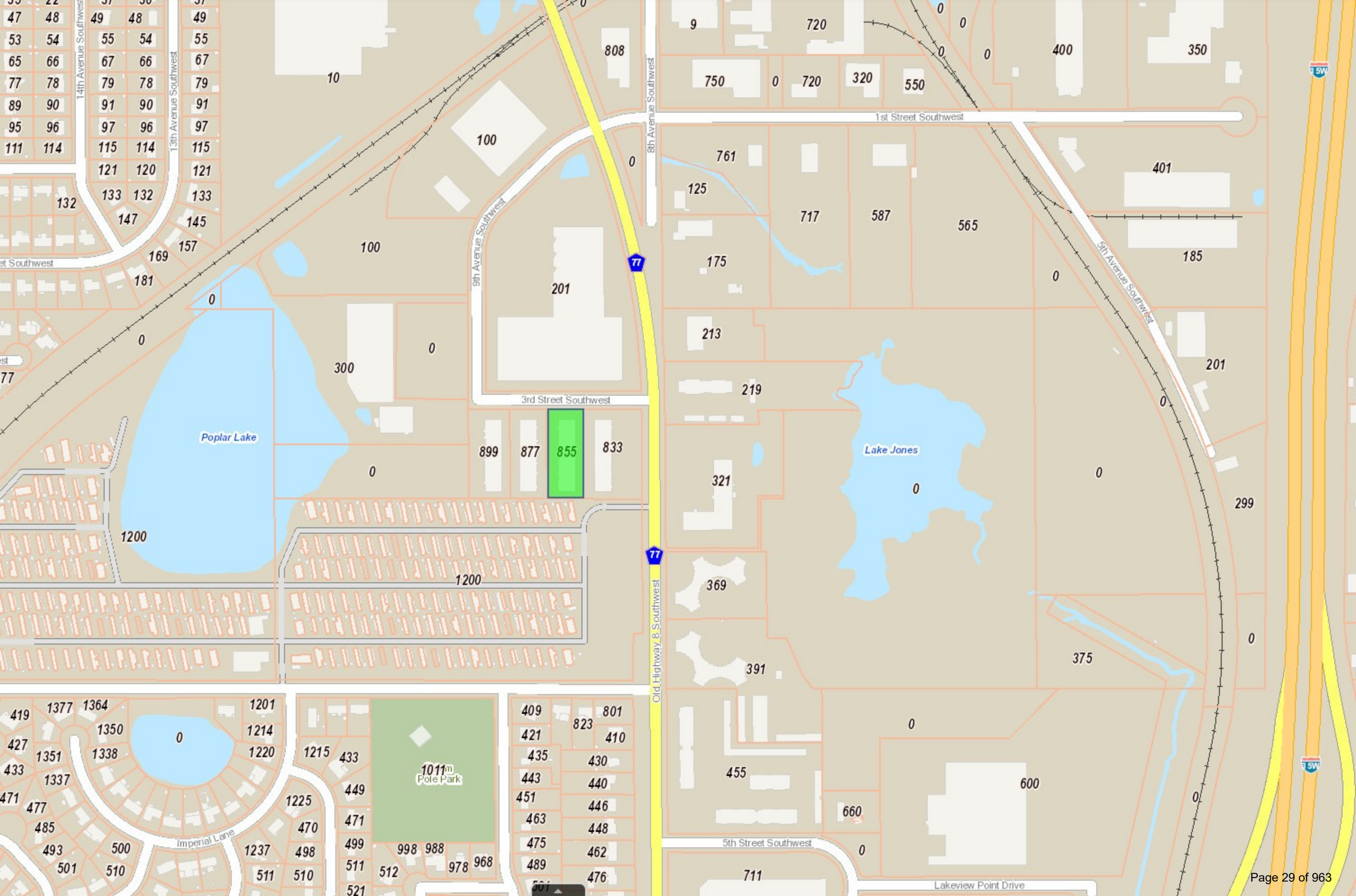
The proposed use is compatible with the existing industrial zoning and does not require any modifications to the building. As such, it will not impede the normal development or improvement of surrounding properties.

4) That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.

The site is fully equipped with necessary infrastructure, including access roads, utilities, and drainage systems. This infrastructure is suitable for the intended use, ensuring smooth operation without additional demands on local facilities.

5) That the special use shall in all other respects conform to the applicable regulations of the district in which it is located.

The proposed operations will conform to all I-1 Light Industrial district regulations. Linkdrive Express will meet parking requirements, comply with zoning regulations for signage, and maintain the building's current exterior, esnsuring compatibility with other district uses.


14th Avenue Southwest
13th Avenue Southwest
8th Avenue Southwest
9th Avenue Southwest
1st Street Southwest
3rd Street Southwest
5th Street Southwest
5th Avenue Southwest
Old Highway 8 Southwest
Lakeview Point Drive
Imperial Lane
Poplar Lake
Lake Jones
1011 m
Pole Park
77
5W

Agenda Section:	**Public Hearings**
Report Date:	**08/28/2025**
Meeting Date:	**September 16, 2025**

REQUEST FOR COUNCIL CONSIDERATION – EXECUTIVE SUMMARY

ITEM DESCRIPTION: Special Use Permit: Application from Josh Peterson to run a U-Haul rental business from the building at 301 County Road E2 West -- PID 29-30-23-41-0030.

Action Requested:

Public Hearing	Motion
Discussion	Informational

Form of Action:

Recommendation	Ordinance
Contract/Agreement	N/A or Other:

Votes Needed:

Majority of Quorum	4 Votes
5 Votes	N/A

Summary Statement:	This item was tabled during the September 16th meeting in anticipation of the application being ready for review in September. The finalized site plan was agreed to earlier this month, so staff's analysis of this after-the-fact special use permit request is now outlined herein. In short, the applicants are seeking the ability to operate a U-Haul equipment rental business from the multi-tenant property at 301 CR E2 West.

Recommendations:	Approval with conditions.

Applicable Deadlines:	Based on an application date of 9/2/25, the 60-day review period for this application expires on 11/1/25. This deadline can be extended an additional 60 days if more time is necessary.

Community Impact:	None (provided conditions are followed).

Legislative History:	See report.

Strategic Priority:

Financial Sustainability	Staff Capabilities
Economic Development	Community Engagement & Belonging
City Assets	**N/A**

Fiscal Impact:

Financial Impact: Is there a financial consideration?	**No**	Yes $

Financing Sources:	Budgeted	Budget Modification
New Revenue	Use of Reserves	Other

Attachments:

1.	Staff Report
2.	Draft Resolution
3.	Map (mailing)
4.	Map (zoning)
5.	Application Materials

Planning Report

Special Use Permit Amendment Review

To: **Planning Commission**

From: Ben Gozola, Assistant Director DCAD

Meeting Date: **9-16-25**

Applicants: Josh Peterson (owner) and Gabriel Aguirre (property manager)

Main Contacts: same

Location: 301 County Road E2 W

Zoning: **I-1 (Light Industrial)**

Introductory Information

Project:

- Josh Peterson and Gabriel Aguirre are seeking a Special Use Permit to authorize a U-Haul business to operate from the property at 301 County Road E2 West.

History:

- On Friday, May 30th, staff was called out to the site at 301 County Road E2 West to investigate a business that had opened seemingly without approvals. Upon arrival, staff documented that a U-Haul operation had moved onto the site at 301 CR E2 W (but was closed for the day), so contact information was left for later follow up.
- On Monday, June 2nd, staff spoke with the business owner via phone and followed up with an email listing the two approvals necessary (SUP & an equipment rental license) to allow the business to continue. A deadline of Friday, June 20th was established to allow for July reviews. This deadline was missed.
- On Thursday, July 3rd, applications for the SUP and license were submitted, but both were deemed incomplete on July 15th due to missing information.
- Staff then met with the applicant on July 16 to talk through application requirements in person in preparation for applications being submitted before the July 18th application deadline. Both applications were submitted on July 24th and staff initiated our review process. Both applications were again deemed incomplete, and staff requested the missing information be provided.

(cont.)

- During the back and forth on the second incomplete application, staff told the applicant they had to produce proof of insurance to allow the status quo to continue pending approvals. On Monday, August 11th, staff received a policy indicating the building was covered, but staff questioned whether the *business* was covered, so the insurance agency was contacted for more information
- On Tuesday, August 12th, staff received a return call from the insurance agency who indicated the business was not covered under the provided policy. Staff requested the applicant withdraw both applications and demanded that the applicant immediately provide proof of insurance for the U-Haul operation and to completely shut down until such time as proof of insurance was in hand and confirmed by City Hall. Both applications were withdrawn as requested, and additional insurance information was provided. The operation was closed down from August 13th through August 18th during which time staff confirmed insurance coverage was in place. The business was allowed to reopen on August 19th with the understanding that new and complete applications had to be submitted in time to allow for September review.

Request(s):

- **Special Use Permit to authorize a U-Haul rental business out of the building at 301 County Road E2 West.**

General Findings

Site Data:

- Existing Lot Size ≈ 1.69 acres (≈ 73,616 sq ft)
- Existing Use – Multi-tenant commercial/office building
- Existing Zoning – I-1
- Property Identification Number (PID): 29-30-23-41-0030

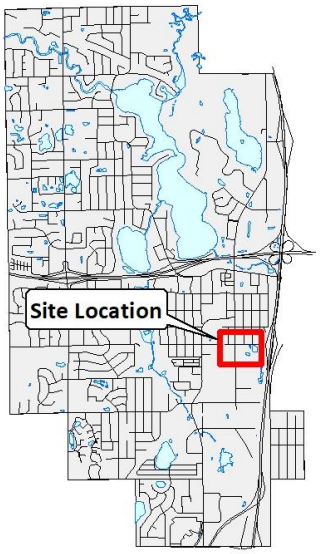
Comp Plan Guidance & Zoning:

- The comprehensive plan guides this property for Light Industrial Development. A U-Haul rental business is appropriate in this zoning district if approved by special use permit.

Notable Code Definitions:

- none





Location within the City of New Brighton

SITE IDENTIFICATION MAP

301 County Rd. E2

NEW BRIGHTON
building tomorrow today

Applicable Codes:

- **Chapter 6, Article 1, Light Industrial District.**
  Allows any use (except residential and those listed as I-2 uses) by special use permit.
- **Chapter 8, Article 2, Special Use Permit and Variance.**
  Identifies the process by which a special use request is to be reviewed and decided.

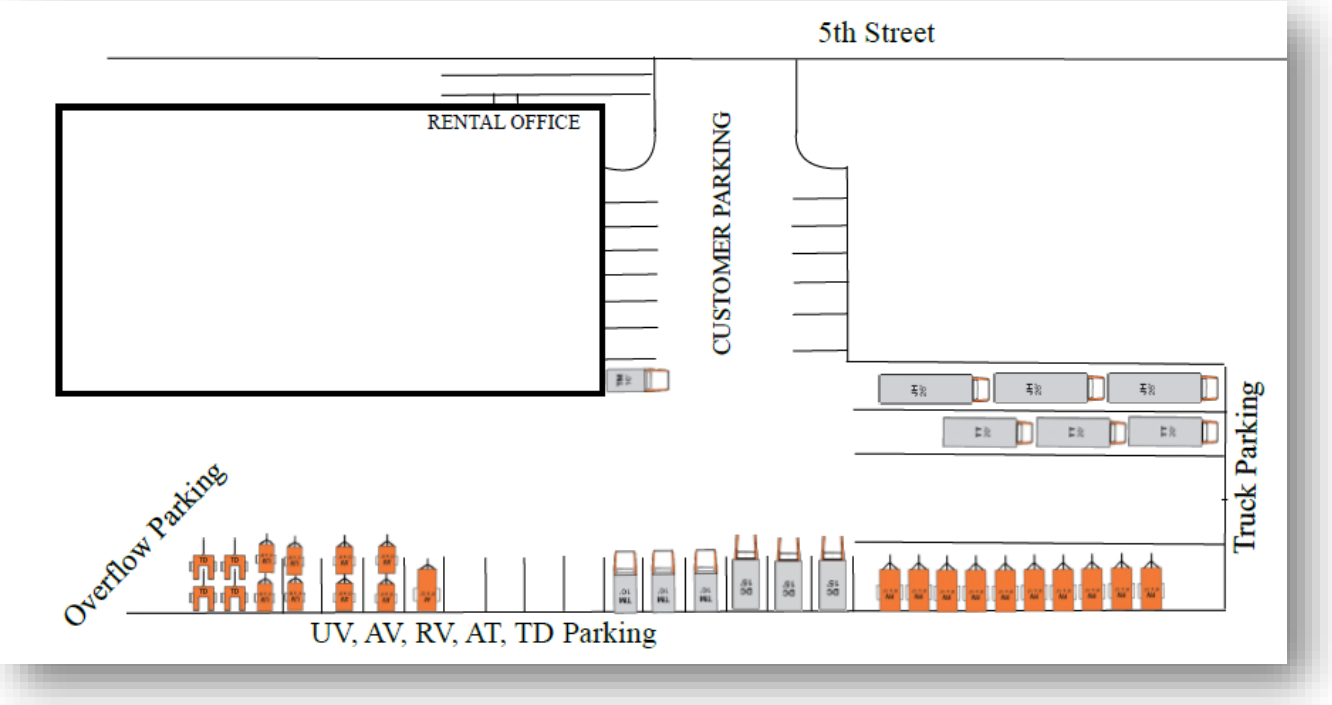
***Applicant's Narrative** [sic]:*

- *We are looking to operate a U-Haul franchise at our location at 301 5th St NW New Brighton 55112.*

Site Plan Overview:

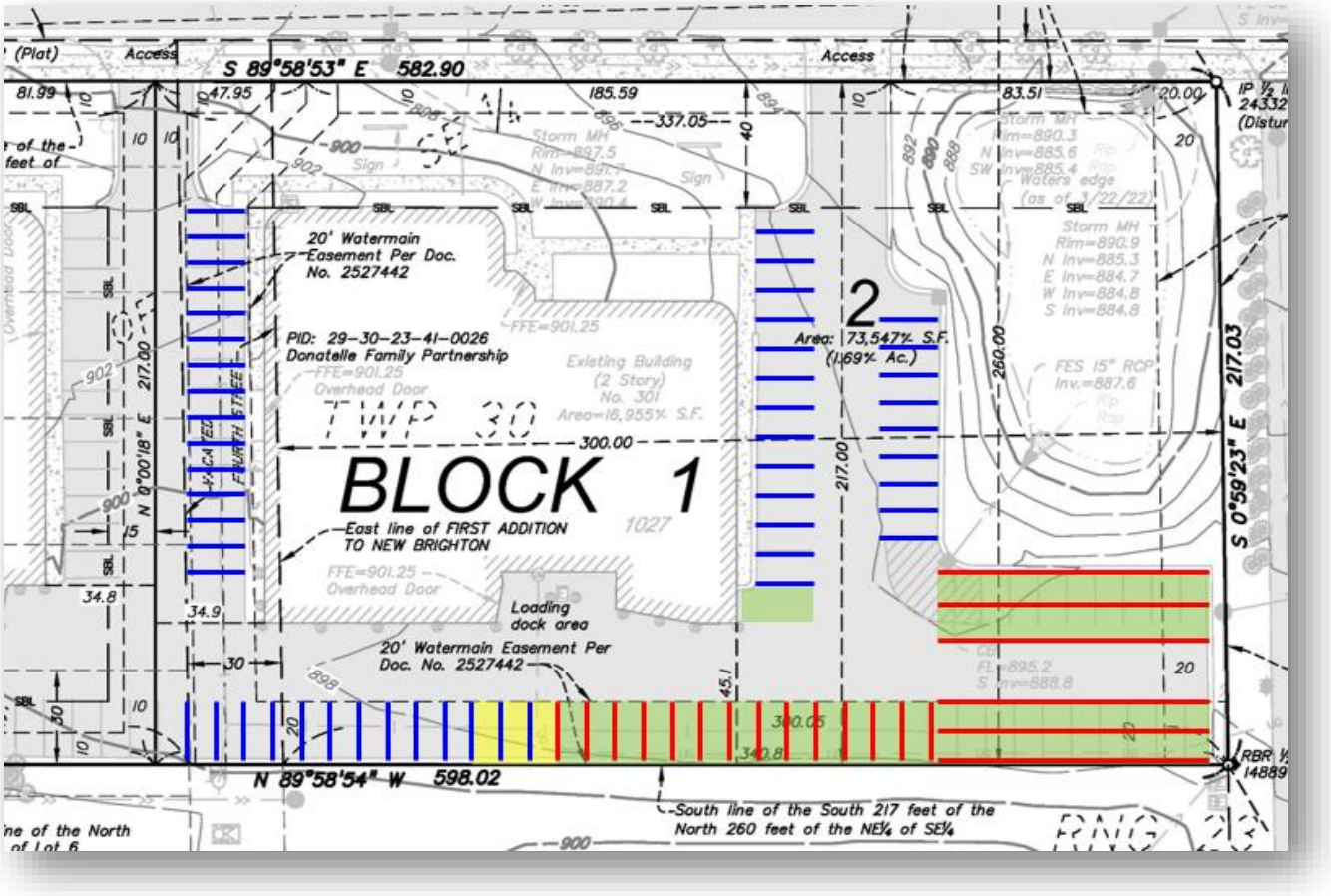
A formal site plan review is not necessary for this application as no new construction is proposed by the applicant. The following site plan details and review are provided to give context to the subsequent special use permit examination.

The following site plan was submitted by the applicant for this request.



The above plan is not to scale and does not accurately depict the number of parking spaces in the various areas of the parking lot being shown. Staff requested the applicant depict this information directly on the survey for the property to provide clarity on specific extent of the parking lot to be used by U-Haul. No such plan was provided. Staff then prepared an exhibit (shown on the following page) to illustrate the specificity we needed to review this request.

Rather than supplying a new exhibit, the applicant indicated that staff's depiction accurately illustrated their request, so they asked that we include our exhibit as part of their application. Accordingly, the following accurately depicts the areas of the site to be utilized by U-Haul per their provided plan.



- **Green** colored spaces (31) with **red** striping would be reserved for exclusive use by U-Haul.
- Yellow spaces (3) are allowed overflow parking spaces U-Haul may use if available and needed during times of equipment turnover.
- **Blue** striped spaces (46) are available for other businesses at 301 County Road E2 W.

All minimum parking needs for businesses in this building will be met if this special use permit is approved. Minimum parking requirements for each business in the building are:

- U-Haul (4)
- Jimmy Johns Offices (4)
- Enriched Living (14)
- Streamline Warehouse (5)

- Neither access points nor traffic flow will change as a result of this application if the SUP is approved.

Special Use Permit Review:

In General:

- Equipment rental is a use that requires a Special Use Permit in the I-1 zoning district.

Criteria Review:

Issuance of an SUP requires an analysis of the proposed use against the following specific review criteria established in code.

1. ***That the establishment, maintenance, or operations of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.***

   APPLICANT COMMENTS: Uhaul has set a standard of maintenance operations – safety protocol that we adhere to. [sic]

   Staff Analysis: The establishment of this business should have minimal impact on public health, safety, morals, and comfort of the public with proper conditions. Yearly licensing must be secured to operate an equipment rental business within the City, and that licensing procedure will ensure proper insurance is in place to protect the general public. Furthermore, the business has already been operating for three months, and no complaints have arisen, suggesting this will not be an issue. **Criterion can be met with conditions.**

2. ***That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.***

   APPLICANT COMMENTS: Uhaul has a simple model. We believe it is a benefit to this area, also being next to a storage facility would be beneficial to many. [sic]

   Staff Analysis: Timing of pick ups and drop offs along with control over on-site equipment inventory will be key to ensuring there are minimal to no impacts on surrounding properties and to other businesses on this site.

   - Proposed hours of operation are 8:00 a.m. to 4:00 p.m. Monday through Friday, and 10:00 a.m. to 2:00 p.m. on Saturday. Per the applicant, equipment will be allowed to be dropped off at all hours. Staff's primary concern would be headlights, backup beepers, and/or idling of trucks during late night hours. As a condition of approval, staff would recommend that should after-hours drop offs become a problem for any reason, complaints

(cont.)

shall be grounds for the SUP to be reopened and additional conditions placed on drop offs to eliminate the identified problem(s).

- Vehicle rentals will include trucks from 10' long to 26' long, and trailers of size 6x12, 5x8, and 4x8. Car dollies and auto transports may also be on-site from time to time, but they are only used and rented on a very limited scale according to the applicant.
- Inside the offices, the business will also store and rent transport dollies and limited moving accessories (dollies, blankets etc.)

Given the above, staff would be recommending consideration of the following conditions to ensure this criterion is met:

1. Proposed hours of operation shall be followed. Changes to operating hours shall require amendment of the SUP.
2. Should after-hours drop-offs become a problem for any reason, complaints shall be grounds for the SUP to be re-opened, and additional conditions placed on drop-offs to eliminate the identified problem(s).

   OR

   After hours drop-offs shall cease at 8:00 p.m. on any given night.

   The draft resolution proposed for consideration includes the first option
3. The business' use of the parking lot shall be limited to those areas depicted on the approved site plan, and it shall be the responsibility of the business to manage inventory in a manner that allows for storage within designated parking/storage areas per the site plan. No parking and storage of U-Haul rental vehicles shall occur within drive aisles, nor within parking spaces reserved for the remainder of the building.

Criterion met with conditions.

3. That the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

APPLICANT COMMENTS: We have a plan that calls for limited inventory and limited use of space. We will include planogram of parking lot usage. [sic]

Staff Analysis: The proposed equipment rental business should have no impact on the use of nearby properties provided all conditions of approval are continually met. **Criterion met with conditions**.

(cont.)

4. ***That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.***

   APPLICANT COMMENTS: *Nothing here should be impacted. [sic]*

   Staff Analysis: Provided the driving lanes are never blocked by these business activities, there should be no access problems to the site. Per engineering, there are no issues with the availability of utilities to serve the subject site. **Criterion met with conditions.**

5. ***That the special use shall in all other respects conform to the applicable regulations of the district in which it is located.***

   APPLICANT COMMENTS: *yes. [sic]*

   Staff Analysis: Staff did not identify other ways in which the proposed use would not conform to code.

Supplementary Review & Public Comment

Additional Information:	▪ None
Engineering Review:	▪ No concerns noted.
Public Safety Review:	▪ No public safety concerns other that the applicant must keep drive lanes open at all times for emergency vehicle access.
Public Comment:	▪ There were no comments received for or against this proposal as of 9/11/25.
Planning Commission Review:	▪ The Planning Commission will hold a public hearing on this request at their meeting on 9/16/25.

Conclusion:

The application is requesting a Special Use Permit to authorize a U-Haul business to operate from the property at 301 County Road E2 West.

Staff Recommendation: Per the analysis outlined in the report, staff is recommending APPROVAL of the request with conditions.

Commission Options:

The Planning Commission has the following options:

A) RECOMMEND APPROVAL OF THE REQUEST based on the applicant's submittals and findings of fact.

B) RECOMMEND DENIAL OF THE REQUEST based on the applicant's submittals and findings of fact.

C) TABLE THE ITEM and request additional information.

Based on an application date of 9/2/25, the 60-day review period for this application expires on 11/1/25. This deadline can be extended an additional 60 days if more time is necessary.

Template Denial Motion:

(not recommended)

- "I move that we recommend the City Council deny the requested special use permit based on the following findings of fact:"
  - *(provide findings to support your conclusion)*

Template Approval Motion:

RECOMMENDED

- "I move we recommend the City Council approve the requested special use permit authorize a U-Haul business to operate from the property at 301 County Road E2 West based on the findings of fact and conditions listed on pages 9 & 10 of the report as may have been amended here tonight."

Suggested Findings of Fact:

1. The subject property is guided for light industrial by the comprehensive plan, and equipment rental can be permitted via a special use permit in the I-1 zoning district.
2. Establishment, maintenance, and operation of an equipment rental business at the proposed location will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare provided all conditions are followed.
3. The existing building along with the proposed site plan can accommodate the use without impacting surrounding lands.
4. Conditions can be placed on this SUP to ensure drive lanes remain open for other businesses and emergency vehicles.
5. The equipment rental business will not have detrimental impact on area property values provided all conditions are followed.

(cont.)

6. The subject site is adequately served by public utilities, roads, and drainage facilities to accommodate the proposed use.
7. The special use will be in conformance with all underlying zoning district requirements provided the required license for rental equipment is secured each year.

Recommended Conditions:

1. Yearly licensing must be secured to operate an equipment rental business within the City. Failure to renew the license shall be grounds for revocation of the SUP.
2. The U-Haul franchise shall remain in good standing with U-Haul corporate policies, maintenance operations, and safety protocols. Failure to remain in good standing with corporate policies shall be grounds for revocation of the SUP.
3. With the exception of light maintenance as accepted by the Department of Community Assets & Development (i.e. changing windshield wipers), all maintenance of vehicles and equipment shall occur off-site.
4. The area of the parking lot to be utilized by U-Haul shall be restriped in accordance with the approved site plan. Existing striping in the remaining parking lot that has faded over time shall be repainted as necessary.
5. Should after-hours drop-offs become a problem for any reason, complaints shall be grounds for the SUP to be re-opened, and additional conditions placed on drop-offs to eliminate the identified problem(s).
6. Hours of operation shall be limited to 8:00 a.m. to 4:00 p.m. Monday through Friday, and 10:00 a.m. to 2:00 p.m. on Saturday. Changes to operating hours shall require amendment of the SUP.
7. The business use of the parking lot shall be limited to those areas depicted on the approved site plan, and it shall be the responsibility of the business to manage inventory in a manner that allows for storage within designated parking & storage areas per the site plan. No parking and storage of U-Haul rental vehicles shall occur within drive aisles, nor within parking spaces reserved for the remainder of the building. Failure to follow these guidelines shall be grounds for revocation of the SUP.
8. Drive lanes serving the building and U-Haul parking area shall be kept free and clear at all times for access and safety purposes.

cc: Josh Peterson (owner) and Gabriel Aguirre (property manager)

RESOLUTION
CITY COUNCIL
CITY OF NEW BRIGHTON

RESOLUTION MAKING FINDINGS OF FACT AND APPROVING A SPECIAL USE PERMIT TO AUTHORIZE AN EQUIPMENT RENTAL BUSINESS (U-HAUL) ON THE PROPERTY AT 301 COUNTY ROAD E2 WEST

WHEREAS, the City of New Brighton is a municipal corporation, organized and existing under the laws of the State of Minnesota; and,

WHEREAS, the City Council of the City of the New Brighton has adopted a comprehensive plan and corresponding zoning regulations to promote orderly development and utilization of land within the city; and,

WHEREAS, 301 E2, LLC (the "Applicant") is owner of the property at 343 Old Highway 8 (the "Property") which is legally described as follows:

LOT 2, BLK 1, VANDELEY ADDITION, RAMSEY COUNTY, MINNESOTA

WHEREAS, the Applicant illegally began operation of a U-Haul equipment rental business on the Property on or around June 2, 2025, and was instructed to apply for the necessary approvals to allow the business to continue; and

WHEREAS, the Applicant made application on July 3rd, 2025, for a Special Use Permit to authorize a U-Haul equipment rental business on the Property; and

WHEREAS, the application was officially deemed incomplete on July 15th, 2025, due to missing information; and

WHEREAS, a second application for a special use permit was submitted on July 24th, 2025, and that application was subsequently withdrawn by the applicant on Tuesday, August 12th to provide the Applicant with more time to address application deficiencies; and

WHEREAS, a third application was received on September 2, 2025, which was deemed complete and ready for review by the Planning Commission; and

WHEREAS, staff fully reviewed the request and prepared a report for consideration by the Planning Commission at their meeting on September 16, 2025; and

WHEREAS, the Planning Commission held a public hearing on the request at the September 16, 2025, meeting and considered input from residents; and recommended conditional approval of the request based on the applicant's submittals and findings of fact; and

WHEREAS, the City Council considered on October 14, 2025, the recommendations of the Planning Commission, Staff, the Applicant's submissions, the contents of the staff report, and other evidence available to the Council.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of New Brighton hereby approves the requested special use permit based on the following findings of fact:

1. The subject property is guided for light industrial by the comprehensive plan, and equipment rental can be permitted via a special use permit in the I-1 zoning district.

2. Establishment, maintenance, and operation of an equipment rental business at the proposed location will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare provided all conditions are followed.

3. The existing building along with the proposed site plan can accommodate the use without impacting surrounding lands.

4. Conditions can be placed on this SUP to ensure drive lanes remain open for other businesses and emergency vehicles.

5. The equipment rental business will not have detrimental impact on area property values provided all conditions are followed.

6. The subject site is adequately served by public utilities, roads, and drainage facilities to accommodate the proposed use.

7. The special use will be in conformance with all underlying zoning district requirements provided the required license for rental equipment is secured each year.

BE IT FURTHER RESOLVED, that approval of the special use permit shall be subject to the following conditions:

1. Yearly licensing must be secured to operate an equipment rental business within the City. Failure to renew the license shall be grounds for revocation of the SUP.
2. The U-Haul franchise shall remain in good standing with U-Haul corporate policies, maintenance operations, and safety protocols. Failure to remain in good standing with corporate policies shall be grounds for revocation of the SUP.
3. With the exception of light maintenance as accepted by the Department of Community Assets & Development (i.e. changing windshield wipers), all maintenance of vehicles and equipment shall occur off-site.
4. The area of the parking lot to be utilized by U-Haul shall be restriped in accordance with the approved site plan. Existing striping in the remaining parking lot that has faded over time shall be repainted as necessary.

5. Should after-hours drop-offs become a problem for any reason, complaints shall be grounds for the SUP to be re-opened, and additional conditions placed on drop-offs to eliminate the identified problem(s).
6. Hours of operation shall be limited to 8:00 a.m. to 4:00 p.m. Monday through Friday, and 10:00 a.m. to 2:00 p.m. on Saturday. Changes to operating hours shall require amendment of the SUP.
7. The business use of the parking lot shall be limited to those areas depicted on the approved site plan, and it shall be the responsibility of the business to manage inventory in a manner that allows for storage within designated parking & storage areas per the site plan. No parking and storage of U-Haul rental vehicles shall occur within drive aisles, nor within parking spaces reserved for the remainder of the building. Failure to follow these guidelines shall be grounds for revocation of the SUP.
8. Drive lanes serving the building and U-Haul parking area shall be kept free and clear at all times for access and safety purposes.

ADOPTED this 14th day of October, 2025 by the New Brighton City Council with a vote of __ ayes and __ nays.

_____
Kari Niedfeldt-Thomas, Mayor

_____
Devin Massopust, City Manager

ATTEST:

_____
Terri Spangrud, City Clerk

301 County Rd E2 - 350' Mailing List





R-1A, Single Family Residential
B-3, General Business
B-4, Downtown Business
I-1, Light Industrial

N

60 30 0 60 Feet

NEW BRIGHTON
building tomorrow today

Current Zoning

301 County Rd. E2
I-1, Light Industrial

NEW BRIGHTON
building tomorrow today

City of New Brighton Application Form

(Land use applications, Subdivision applications, and vacation requests will not be considered complete and will not be accepted until all property owners have signed)

I. Property Owner #1

Josh Peterson (name) | 301 County Rd E2 W (mailing address) | 55112 (zip)

612-290-6266 (phone #) | _____ (fax #) | Peterson.Josh82@gmail.com (email)

Signature: _____

II. Property Owner #2 *For more than two owners, please provide their information and signature(s) on a separate sheet.*

_____ (name) | _____ (mailing address) | _____ (st) | _____ (zip)

_____ (phone #) | _____ (fax #) | _____ (email)

Signature: _____

III. Please identify the request(s) for which you are applying:

☒ **LAND USE APPLICATION** (subject to MN State Statute 15.99 timelines)

- ☐ Variance
- ☒ Special Use Permit
- ☐ Site Plan Review
- ☐ Ordinance Amendment / Rezoning
- ☐ Comprehensive Plan Amendment
- ☐ Interim Use Permit
- ☐ Grading Permit
- ☐ Moving/Relocating Structures Permit
- ☐ Sign Permit
- ☐ Other:

☐ **SUBDIVISION APPLICATION** (subject to MN State Statue 462.358, subd. 3b timelines)

- ☐ Administrative Lot Split / Minor Subd.
- ☐ PUD or PRD
- ☐ Preliminary Plat
- ☐ Final Plat

☐ **GENERAL APPLICATION** (not subject to any state mandated timelines)

- ☐ ROW / Easement / Utility Vacation
- ☐ Municipal Site Work Authorization
- ☐ Deadline Extension Request
- ☐ Temporary Use Permit
- ☐ Administrative Appeal
- ☐ Zoning Letter
- ☐ Other:

FEES

Individual applications are subject to fees as established on a yearly basis by the City Council. These fees must be paid at the time of application.

IMPORTANT:

Many cities are reporting that fake invoices are being sent to land use applicants by scammers. Do not pay a "City" invoice unless you've confirmed its legitimacy.

Briefly describe your request below *(If additional space is needed, please attach a narrative to this application)*

Uhaul truck + trailer rentals

IV. Property & Contractor Information:

Street Location/Address of Property: _____

Property Identification Number (PID): _____ Zoning District: _____

Legal Description (From Deed or Certificate of Title): ☐ *Please see attached*

Lot: _____ Block: _____ Addition: _____

Property described is by: ☒ Abstract ☐ Torrens – Certificate #: _____

Location of Certificate: _____

Architect (if applicable): _____ Phone: _____

Surveyor/Engineer (if applicable): _____ Phone: _____

Builder (if applicable): _____ Phone: _____

V. Main Contact Person

☒ Property Owners

☐ Other (if other, please fill out the information below)

Title (Position or relation to property owners): _____

_____

(name) (address) (st) (zip)

_____ _____ _____

(phone #) (fax #) (email)

VI. Notice of Fees

As set forth in the City Fee Schedule and pursuant to applicable law, the property owner shall be responsible for reimbursing the city for all related miscellaneous costs incurred pursuant to the processing of this application. Note that these reimbursements may exceed the amount of the original land use application fee. Such expenses may include, but are not limited to, direct city payroll and overhead costs, fees paid to consultants and other professionals, and the cost of printing, mailing, and supplies. These miscellaneous fees are due immediately upon notification by the City. The City shall provide, upon request, an itemized statement of the various expenses incurred by the City. The City may withhold final action on a land use application and/or rescind prior action until all miscellaneous fees are paid. The City may require additional deposits, if deemed necessary. The property owner agrees to allow city staff and commission members to access the property per this application for inspection.

I acknowledge that I have read the above statement and fully understand that I am responsible for all costs incurred by the City in the processing and reviewing of this application. I also understand that scammers are impersonating City invoices, so I've been advised to confirm all invoices with the City before issuing payment.

Property Owners Signature: _____ ***Date:*** 8/9/25

ADMINISTRATIVE USE ONLY:

Date Application Received: _____ *PC Date:* _____

Fee Paid: _____ *CC Date:* _____

Escrow Paid: _____

Receipt Number: _____

Form Last Updated 8.13.25

Special Use Permit Criteria Worksheet

A special use permit cannot be approved unless the Planning Commission and City Council find that the following criteria have been met. Please provide a response on how/why your project meets the below stated criteria. Use additional sheets if necessary and consult with the Planning Director at the time of your Pre-Application Meeting as some items may not be applicable for your project.

1) That the establishment, maintenance, or operations of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

Uhaul has set a standard of maintenance operations + safety protocol that we adhere to.

2) That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

Uhaul has a simple model, we believe it is a benefit to this area, also being next to a storage facility would be beneficial to many.

3) That the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

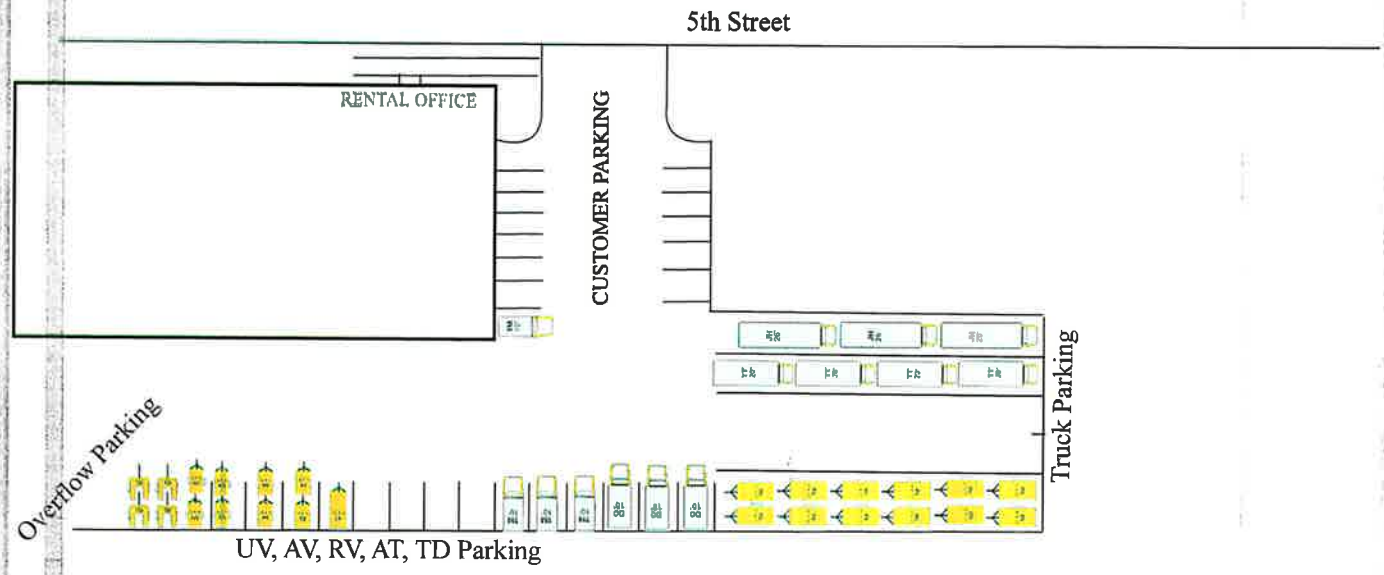
We have a plan that calls for limited inventory and limited use of space. We will include planogram of parking lot usage.

4) That adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.

Nothing here should be impacted

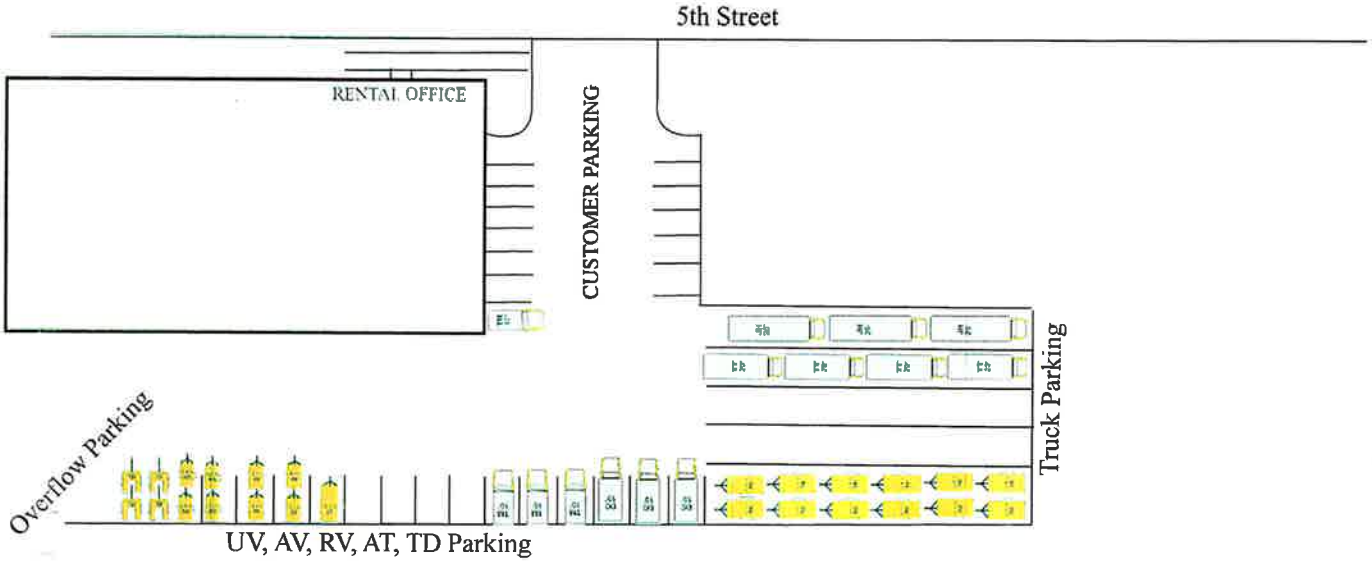
5) That the special use shall in all other respects conform to the applicable regulations of the district in which it is located.

yes



MCP Signature: X_____

GM Signature: X_____



MCP Signature: X_____

GM Signature: X_____

Uhaul - 301 County E2 W, New Brighton MN 55112

-Jimmy Johns (office space) 1000sqft

-Enriched Living (office space) 6000sqft

-Streamline (Warehouse space) 5750 sq ft

-Enriched Living uses the parking spaces just north of Uhaul area.

-Jimmy Johns uses parking on west side of the building.

-Streamline uses west side parking as well.

-Largest vehicles (20-26ft) will be stored on the North side of the lot with center aisle separating smaller vehicles and trailers. We will have space for approximately 5 larger vehicles in these east-west marked spaces shown in layout sheet with overflow space on the far west area of Uhaul space.

-We notify the GM when we have reached capacity and then returns of those vehicles get rerouted to other facilities. Uhaul also offers free upgrades to customers to move vehicles and trailers where needed in an effort to maintain even levels of inventory and service more customers.

-We have 2 allowed customer parking spots during day hours, no night time parking. They are not reserved spots.

-Easy maintenance is handled on site (cracked windshield, broken mirror etc.), anything else that needs to be done at a garage is pulled offsite to the Uhaul garage.

Agenda Section:	**Public Hearings**
Report Date:	**08/28/2025**
Meeting Date:	**September 16, 2025**

REQUEST FOR COUNCIL CONSIDERATION – EXECUTIVE SUMMARY

ITEM DESCRIPTION: Ordinance 920: Zoning Code Update. Review of a wholesale update of the existing New Brighton zoning code into a new organization that addresses multiple shortcomings within the current zoning code, fixes long-standing legal concerns, and creates new district names throughout the community while largely maintaining existing regulations.

Action Requested:

Public Hearing	Motion
Discussion	Informational

Form of Action:

Resolution	**Ordinance**
Contract/Agreement	N/A or Other

Votes Needed:

3 Votes	**4 Votes (ordinance includes summary publication language)**
5 Votes	N/A

Summary Statement:	The City's draft zoning code is ready for review and approval. Legal review of the document was completed in August, and a final version of the document was placed before the Planning Commission on August 19th for review and an initial public hearing. Since that meeting, the City Council and Economic Development Commission have also seen and commented on the document.

	On September 16th, the Planning Commission is asked to re-open and conclude the public hearing that was opened and continued on August 19th. Following the closure of the public hearing, the Planning Commission is asked to make a final recommendation on the new zoning code and zoning map for City Council consideration on October 14th, 2025.

Recommendations:	Follow the process steps outlined in the summary statement.

Applicable Deadlines:	None. As a completely City driven process, there are no official deadlines that must be met throughout the duration of this project.

Community Impact:	-- **Comprehensive Plan Implementation:** updated zoning ordinances ensure the city's current goals are being adequately addressed through by-right regulations. -- **Serving the Public Good:** making regulations easy to find and understand eliminates unnecessary confusion, and promotes investment as businesses and homeowners aren't faced with surprises during the development process. -- **Legal Protections:** eliminating antiquated language and code provisions which are no longer consistent with state law will allow the City to avoid unnecessary lawsuits moving forward. -- **Fiscal responsibility:** while the process was long and drawn out, completing this work in-house over several years has saved the City significant money.

Legislative History:	• The City's current zoning code dates back to the late 1970's and is greatly in need of an update to address a multitude of issues. • Completion and adoption of a new Comprehensive Plan in 2019 established a new vision for the community which supported a revised zoning ordinance. • This project was initially contemplated in early 2020, but was

	quickly tabled due to the COVID-19 pandemic response.
	
	• The project kicked off in 2021 with the formation of a zoning code steering committee and finalization of an annotated outline.
	
	• Authoring of all eight chapters of the new code was then intermixed with various concurrent planning studies and city efforts to update the existing zoning code in several critical areas:
	  ○ Interim Use Permits Created
	  ○ Short Term Rentals studied, and a permitting process implemented
	  ○ Manufactured Home Park Regulations in the City Code and Zoning Code were updated
	  ○ Rental licensing regulations were completely overhauled to expand licensing and inspection to all rental units in the community.
	  ○ The Vision Silver Lake Road Study was completed to provide a foundation for mixed-use zoning district standards.
	  ○ New Mixed Use Zoning Districts (MUR, MUN, MUE) were created and adopted.
	  ○ Accessory Dwelling Units were studied, and new regulations approved.
	  ○ Parking regulations were studied and right-sized by a new ordinance updating all parking standards throughout the community.
	  ○ New cannabis regulations were created to oversee the new industry being introduced to the State in 2025.
	
	• Fall 2025, all work is finally completed such that the new zoning code is ready for review and adoption.

Strategic Priority:	Financial Sustainability	Staff Capabilities
	Economic Development	Community Engagement & Belonging

	City Assets	N/A

Fiscal Impact:	**Financial Impact: Is there a financial consideration?**	**No**	Yes $
	Financing Sources:	Budgeted	Budget Modification
	New Revenue	Use of Reserves	Other

Attachments:	1.	Ordinance Adopting New Zoning Ordinance
	2.	FINAL Zoning Code Formatted for Adoption
	3.	FINAL Zoning Map 2025
	4.	Annotated Outline
	5.	FINAL Zoning Code with color coded changes

ORDINANCE NO. 920

STATE OF MINNESOTA
COUNTY OF RAMSEY
CITY OF NEW BRIGHTON

AN ORDINANCE ADOPTING THE CITY OF NEW BRIGHTON ZONING ORDINANCE AND THE CITY OF NEW BRIGHTON ZONING MAP

THE CITY OF NEW BRIGHTON ORDAINS:

SECTION 1. Authority. Minnesota Statutes Sections 415.02, 415.021, and 599.13 and the Municipal Planning Act (Minnesota Statutes Sections 462.351 to 462.363) (collectively the "Act") authorize the City of New Brighton (the "City") to adopt and codify zoning and land use ordinances. The Act also provides that any ordinance included in a new code, but not previously published, is sufficiently published if a substantial quantity of the code is printed for general distribution to the public.

SECTION 2. Background. At the direction of the City Council, City staff and the City Attorney undertook an extensive process to review and update the New Brighton Zoning Ordinance with the understanding that once all the amendments were finalized, they would be incorporated into a new zoning ordinance, which would be reformatted and readopted as a single unified zoning ordinance. The updated zoning ordinance has been prepared and it is the intent of this Ordinance to adopt the new zoning ordinance which is entitled the "City of New Brighton Zoning Ordinance" (the "Zoning Ordinance"). Section 3.1 (A) of the Zoning Ordinance adopts the map entitled the "City of New Brighton Zoning Map." No amendments to the City's current City Code are incorporated into the Zoning Ordinance. A complete copy of the Zoning Ordinance was presented to the City Council and the public together with this Ordinance and is further on file with the City Clerk and available on the City's website. Public hearings on the Zoning Ordinance, including the zoning map, were held by the Planning Commission on August 19, 2025, and on September 16, 2025.

SECTION 3. Adoption. Pursuant to the City's authority contained in the Act, the Zoning Ordinance is hereby adopted. Per Section 3.1 (A) of the Zoning Ordinance, this includes the zoning map. The City's previous zoning ordinance and zoning map are hereby repealed in their entirety.

SECTION 4. Copies. The City Clerk is authorized and directed to prepare sufficient copies of the Zoning Ordinance for use by the City Council and City staff and for general distribution to the public in accordance with City policies regarding the distribution and availability of City documents. The City Clerk shall also keep an official copy of the Zoning Ordinance in the office of the City Clerk and ensure that a copy is available through the City's website.

SECTION 5. Effect. The Zoning Ordinance shall be controlling and shall supersede and replace previously adopted zoning ordinances pertaining to the same subjects contained within the Zoning Ordinance, which are hereby repealed as of the effective date of this Ordinance. Such repeal shall not affect: (i) any offense committed or penalty incurred under the previous zoning ordinance; or (ii) any rights vested prior to the effective date of this Ordinance. Furthermore, nothing in this Ordinance or

the Zoning Ordinance is to be construed to modify, abrogate or abridge: (i) the rights, duties, liabilities, privileges or immunities of the City; (ii) the qualifications or terms of office of City officers as they existed prior to adoption; or (iii) any special ordinance or franchise not embodied in the Zoning Ordinance. The Zoning Ordinance is declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by Minnesota Statutes by the courts of the State of Minnesota.

SECTION 6. General Penalty. Unless another penalty is expressly provided in the Zoning Ordinance, every person convicted of a violation of any provision of the Zoning Ordinance or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a fine up to the maximum permitted or required by law. Each act of violation and each day upon which any such violation shall continue or occur shall constitute a separate offense. The penalty provided herein, unless another penalty is expressly provided, shall apply to the amendment of any Zoning Ordinance section, whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the City Council may pursue other remedies, including without limitation, abatement of nuisances, injunctive relief and revocation of licenses or permits.

SECTION 7. Amendments. Additions or amendments to the Zoning Ordinance when passed in such form as to indicate the intention of the City Council to make the same part of the Zoning Ordinance shall be deemed to be incorporated in the Zoning Ordinance, so that reference to the Zoning Ordinance includes such additions and amendments.

SECTION 8. Corrections. Given the size of this project and refinements made as part of the Zoning Ordinance, the City Council recognizes the Zoning Ordinance may contain certain errors, such as cross-references to changed subsections, typographical errors, and other non-substantive matters that may be discovered once the Zoning Ordinance is placed in use. The City Council hereby authorizes the City Clerk to work with the City Attorney, as necessary, to make any non-substantive corrections to the Zoning Ordinance as may be needed upon discovery. Such corrected provisions shall be incorporated in and made part of the official Zoning Ordinance without further action by the City Council.

SECTION 9. Summary Publication. In accordance with Minnesota Statutes 412.191, the City Council determines that publication of the title and a summary of this Ordinance would clearly inform the public of its intent and effect, and so City staff shall have the following summary printed in the official City newspaper in lieu of the complete ordinance:

> On October 14, 2025, the City Council of the City of New Brighton adopted Ordinance No. 920 which adopted a new zoning ordinance for the City of New Brighton. Section 3.1 of the new zoning ordinance includes the adoption of a new zoning map. City staff and the City Attorney undertook an extensive process to review and update the Zoning Ordinance. Prior to adoption, a complete copy of the new Zoning Ordinance was presented to the City Council and the public and was further on file with the City Clerk and made available for viewing on the City's website.
>
> Printed copies of the new Zoning Ordinance, as adopted by Ordinance No. 920, are available for inspection and general distribution to the public during regular business hours

at City Hall. It can also be viewed online through the City's website at: www.newbrightonmn.gov.

SECTION 10. Effective Date. This Ordinance and the Zoning Ordinance, as presented to the City Council and the public and made available for inspection in accordance with law, shall take effect and be in force after its passage and publication (the "Effective Date"). Ordinances adopted after the Effective Date that amend or refer to the Zoning Ordinance shall be construed as if they amend or refer to like provisions of said Zoning Ordinance.

ADOPTED this 14th day of October, 2025, by the New Brighton City Council with a vote of ____ ayes and _____ nays.

_____
Kari Niedfeldt-Thomas, Mayor

_____
Devin Massopust, City Manager

ATTEST:

_____
Terri Spangrud, City Clerk

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CHAPTER 1: GENERAL PROVISIONS

1.1 Title

This Ordinance shall be known as the "City of New Brighton Zoning Ordinance" except as referred to herein, where it shall be known as "this ordinance."

1.2 Authority

MN Statutes Section 462

This ordinance is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, Sections 462.351 to 462.363.

1.3 Ordinance Purpose

This ordinance is adopted for the following purposes:

(A) To implement the policies of the City's Comprehensive Plan;

(B) To provide for optimum land use;

(C) To protect the public health, safety, and general welfare of the community and its people through the establishment of regulations governing development and land use;

(D) To promote the economic stability of existing land uses that are consistent with the Comprehensive Plan by protecting them from intrusions by incompatible land uses;

(E) To provide for administration and enforcement of this ordinance;

(F) To provide for amendments;

(G) To prescribe penalties for violation of this ordinance; and

(H) To define powers and duties of the City staff, the Board of Adjustment and Appeals, the Planning Commission, and the City Council in relation to the Zoning Ordinance.

1.4 Effective Date

This ordinance shall be effective on and after <publication date>. The adoption of this ordinance shall not be construed to confer any protected legal status on uses in existence prior to the effective date that did not conform to previous ordinance provisions. Uses that were illegal under previous ordinance provisions shall not be converted to a legal non-conforming use by reason of adoption of this ordinance.

1.5 Applicability

(A) This ordinance is applicable to all land located within the City both now and as may be incorporated in the future. The use of land and buildings or structures, and the construction, reconstruction, alteration, expansion, or relocation of buildings or structures shall conform to the provisions of this ordinance.

(B) In their interpretation and application, the provisions of this ordinance shall be held as the minimum requirements for the promotion of public health, safety, and welfare.

1.6 Relation to the Comprehensive Plan

It is the policy of the City of New Brighton that the Comprehensive Plan is the City's guiding document for the regulation of land use and development. The enforcement, amendment, and administration of this ordinance is to be accomplished with due consideration of the recommendations contained in the Comprehensive Plan as developed and amended from time to time by the Planning Commission and City Council.

The Comp Plan is viewable on the City of New Brighton's web site

1.7 Relationship to Other Laws and Agreements

(A) Conflict with Other Public Laws, Chapters, Regulations, or Permits

(1) This ordinance is intended to complement other municipal, state, and federal regulations that affect land use. This ordinance is not intended to revoke or repeal any other public law, ordinance, regulation, or permit.

(2) Where the provisions of this ordinance impose greater restrictions than those of any statute, other chapter, or regulation; the provisions of this ordinance shall apply.

(3) Where the provisions of any statute, other chapter or regulation impose greater restrictions than this ordinance, the provisions of that statute, other chapter or regulation shall apply.

(B) Conflict with Private Agreements

(1) The existence of any easement, covenant, or other private agreement with respect to property affected by this ordinance shall not affect the duty of any interested person to comply with this ordinance.

(2) The City shall have no obligation to waive or modify the requirements of this ordinance to conform to private agreements, nor shall it be obligated to enforce private agreements.

(C) Conflict Between Standards in this Ordinance

(1) Controlling Standards

In the event of conflict between one or more of the standards in this ordinance, priority shall be established based on the following descending hierarchy level:

(a) Overlay Zoning District Requirements

(b) Base Zoning District Requirements

(c) Section 8.2, Rules of Measurement; and

(d) Chapter 4: Finishing Standards

(Example: if an overlay district standard conflicts with a base district standard, the overlay district standard shall apply and take precedence).

(2) Conflicts at the Same Level

In cases where standards conflict within the same hierarchical category in Section 1.7(C)(1) above, this subsection [1.7(C)(2)] will be used by the Department of Community Assets & Development (DCAD) to determine which control applies. DCAD's decision shall be based on the control that best achieves the following goals:

(a) Greater consistency with the goals and objectives contained within the adopted Comprehensive Plan;

Section 1.3: Purpose

(b) More supportive of the purposes of this ordinance as described in Section 1.3, Purpose;

(c) Increased compatibility with adjacent development and surrounding community character;

(d) Enhanced environmental quality and natural resource protection;

(e) Greater protection and preservation of historic and cultural resources; and

(f) A superior level of building form, design, or architecture.

1.8 Transitional Regulations

(A) Purpose

The purpose of transitional regulations is to resolve the status of properties with pending applications or recent approvals, and properties with outstanding violations, at the time of the adoption of this ordinance.

(B) Violations Continue

Section 1.4: Effective Date

Any violation of previous versions of this ordinance existing as of the effective date of this ordinance shall continue to be a violation under this ordinance and shall be subject to the penalties and enforcement set forth in Chapter 7: Enforcement; unless the use, development, construction, or other activity complies with the provisions of this ordinance.

Chapter 7: Enforcement

(C) Uses, Structures, and Lots Rendered Nonconforming

Where any use, building, structure, or lot that legally existed on the effective date of this ordinance does not meet all standards set forth in this ordinance, such building, structure, lot or parcel shall be subject to the requirements of Chapter 6: Nonconformities.

Chapter 6: Nonconformities

(D) Existing Legal Nonconformities

Legal nonconforming lots of record and uses that existed on the effective date of this ordinance shall be controlled by Chapter 6: Nonconformities.

(E) Existing Special Use Permits transition to Conditional Use Permits

All valid Special Use Permits that existed on the effective date of this ordinance shall transition to valid Conditional Use Permits upon the effective date of this ordinance.

(F) Processing of Applications Commenced or Approved Under Previous Ordinances

(1) Pending Application

(a) Any complete application that has been submitted or accepted for review, but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of this ordinance, shall be reviewed in accordance with the provisions of ordinances in effect on the date the application was deemed complete by the City.

(b) An applicant with a pending application may waive the review available under the prior ordinance through a written letter to the Department of Community Assets & Development, and instead request review under the provisions of this ordinance.

(2) Approved Projects

(a) Approved land use and other related actions by the City of New Brighton authorized under the prior ordinance, including building permits that are valid on the effective date of this ordinance, shall remain valid until their expiration date.

(b) Projects with valid approvals or permits may be carried out in accordance with the zoning regulations in effect at the time of approval, provided that the permit or approval is valid and has not lapsed. Furthermore, no provision of this Ordinance shall require any change in the plans, construction, or designated use of any structure for which a building permit has been issued prior to the effective date of this ordinance, unless the building permit has expired.

Section 1.4: Effective Date

(c) Any re-application for an expired project approval shall meet the standards in effect at the time of re-application

(d) Building permits authorized in accordance with the ordinance existing prior to the effective date of this ordinance shall still be valid but shall not be renewed if the permit expires. All future building permits shall only be issued if in compliance with the requirements of this ordinance.

1.9 Severability

(A) It is expressly declared that this ordinance and each section, subsection, sentence, and phrase would have been adopted regardless of whether one or more other portions of the Ordinance is declared invalid or unconstitutional.

(B) If any section, subsection, sentence, or phrase of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction for any reason, the remaining portions of this ordinance shall not be affected.

(C) If any court of competent jurisdiction invalidates the application of any provision of this ordinance, then such judgment shall not affect the application of that provision to any other building, structure, or use not specifically included in that judgment.

(D) If any court of competent jurisdiction judges invalidates any condition attached to the approval of an application for development, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment.

(E) No judgment of any court of competent jurisdiction shall be considered final until all appeals have been exhausted.

CHAPTER 2: APPLICATION REVIEWS AND PROCEDURES

2.1 Purpose

The purpose of Chapter 2 is to identify all decision-making bodies responsible for the review of applications, the common review requirements for all applications, and the specific requirements and review procedures for various application types.

2.2 Summary of Decision Making and Review Bodies

(A) Summary Table of Decision-Making and Review Bodies

New Brighton City Code

(1) Table 2-1 summarizes the general review and decision-making responsibilities of the bodies that have roles in the procedures set forth in this ordinance. Other duties and responsibilities of each review body are set forth in subsequent subsections of this ordinance or elsewhere within the City of New Brighton City Code.

(2) The City has discretion to ask other boards, commissions, government agencies, or non-government agencies to review applications as deemed appropriate prior to making decisions on such applications.

TABLE 2-1: SUMMARY OF THE ROLES OF DECISION-MAKING BODIES

H = Hearing (Public Hearing Required)
D = Decision (Responsible for Final Decision)
A = Appeal (Authority to Hear/Decide Appeals)
R = Recommendation (Responsible for Review and a Recommendation)
*** = Resolution Memorializing Decision Approved by the City Council**

Procedure	Subsection	City Council	Planning Commission	DCAD Staff	Zoning Board of Adjustment
Comp Plan Amendment	2.4(A)	D	H / R	R	–
Zoning Map or Text Change	2.4(B)	D	H /R	R	–
Variance	2.4(C)	A	–	R	H / D*
Conditional Use Permit	2.4(D)	D	H / R	R	–
Interim Use Permit	2.4(E)	D	H / R	R	–
Administrative Appeal	2.4(F)	A	–	R	H / D*
Site Plan Review	2.4(G)	D	R	R	–
Building Permits	2.4(H)	A	–	D	–
Certificate of Occupancy	2.4(I)	A	–	D	–
Grading Permit	2.4(J)	A	–	D	–
Sign Permit	2.4(K)	A	–	D	–
Temporary Use Permit	2.4(L)	A	–	D	–
Vacations	2.4(M)	H / D	–	R	–
PUD or PRD	2.4(N)	D	H / R	R	–
Subdivisions	City Code CH 26	D	H / R	R	–

At the discretion of the Department of Community Assets & Development, other City Commissions (i.e. the Economic Development Commission or the Public Safety Commission) may also be asked to make recommendations on individual applications as part of the review process

(B) City Council

In addition to any other authority granted to the City Council by the City Code or state law, the City Council shall have the following powers and duties related specifically to this ordinance:

(1) To enact amendments to the Comprehensive Plan, the text of this ordinance, and the Zoning Map.

(2) To hear, review, and make decisions on applications submitted to the City as identified on Table 2-1.

(C) Planning Commission

City Code Chapter 2, Article 4, Division 6: Planning Commission

(1) Establishment, Membership, Rules and Procedures

The establishment, membership, rules, and procedures for the Planning Commission are established in Chapter 2, Article 4, Division 4 of the City Code, as authorized by Minnesota State Statute Section 462.354, subdivision 1.

(2) Powers and Duties

In addition to any other authority granted to the Planning Commission by the New Brighton Code, the Planning Commission shall have the following additional powers and duties related to this ordinance:

(a) Comprehensive Plan Amendments, Zoning Map Amendments, and Zoning Text Amendments

(i) To propose amendments to the Comprehensive Plan, the text of this ordinance, the Official Zoning Map (rezoning of property), or other sections of the New Brighton Code; and

(ii) To hear, review, and make recommendations to the City Council on applications for amendments to the Comprehensive Plan, the text of this ordinance, or zoning map amendments.

(b) Land Use Applications

To hear, review, and make recommendations on the following Land Use Applications before the City:

(i) Comprehensive Plan Amendment;

(ii) Zoning Map Amendment;

(iii) Zoning Text Amendment;

(iv) Variances;

(v) Conditional Use Permits;

(vi) Interim Use Permits;

(vii) Site Plan Reviews

(viii) Planned Unit Development; and

(ix) Subdivisions.

(c) Other

To exercise such other powers and perform such other duties as provided by law.

(D) Board of Adjustments and Appeals

(1) Establishment

The Board of Adjustments and Appeals is hereby established.

(2) Membership

The Planning Commission shall act as the Board of Adjustments and Appeals.

(3) Rules

(a) The Board of Adjustment and Appeals may adopt rules for the conduct of business, and may exercise all of the powers conferred on such boards by state law.

(b) Staff services for the Board shall be furnished by City Staff as directed by the City Manager.

(4) Procedures

Unless a special meeting of the Board of Adjustment and Appeals is scheduled, proceedings of the Board of Adjustment and Appeals by the Planning Commission shall be undertaken as a component of a scheduled Planning Commission meeting. It shall not be necessary for the Planning Commission to adjourn and reconvene as the Board of Adjustment and Appeals to undertake such proceedings.

(5) Powers and Duties

The Board of Adjustment and Appeals shall have the following powers and duties related to this ordinance:

(a) To consider applications for variances; and

(b) To hear appeals of administrative discretionary decisions made by any administrative official in carrying out or enforcing any provision of this ordinance.

(E) Department of Community Assets & Development (DCAD)

(1) General Authorization

The Department of Community Assets & Development, under the supervision of the City Manager, shall administer the provisions of this ordinance.

(2) Powers and Duties

In addition to the jurisdiction, authority, and duties that may be conferred upon the Department of Community Assets & Development by other provisions of the New Brighton Code, the Department of Community Assets & Development shall have the following jurisdiction, powers, and duties under this ordinance:

(a) Interpretations

Render interpretations of all provisions of this ordinance, including but not limited to, interpretations of the text of this ordinance, interpretation of the zoning map, and interpretation of the comprehensive plan.

(b) Enforcement

Enforce the provisions of this ordinance.

(c) Administer Ordinance

Review, approve, conditionally approve, or deny applications for Building Permits and other administratively reviewed permits or applications as may be required by this ordinance.

(d) Application Tracking and Recommendations

Review, monitor, and provide recommendations on applications requiring approval by the City Council or other governmental bodies as directed by the City Manager.

(e) Provide Expertise and Technical Assistance

Provide expertise and technical assistance to the City Council and the City's commissions, boards, and other bodies.

(f) Maintain the Zoning Map

Update the City's official zoning map as it may be amended from time to time.

(g) Recommendations on Procedures

Review and provide comments or make recommendations to the appropriate decision-making and review body on the various procedures, requirements or appeals established by this ordinance.

(h) Recommendations on planning issues

Provide recommendations on planning issues, propose amendments and additions to zoning and planning ordinances, and recommend changes to the Comprehensive Plan.

2.3 Common Review Procedures & Requirements

(A) Applicability

The requirements of Section 2.3 shall apply to all applications subject to review under this ordinance unless otherwise stated.

(B) Authority to File Applications

(1) Unless otherwise specified in this ordinance, applications may be initiated by:

(a) The owner of the property that is the subject of the application; or

(b) The owner's authorized agent; or

(c) The City.

(2) When an authorized agent files an application under this ordinance on behalf of a property owner, the agent shall provide a signed authorization from the fee title property owner stating that the property owner agrees to be bound by all decisions, agreements, and related conditions agreed to by such agent.

(3) Application by multiple party ownership, at the sole discretion of the City, is acceptable when legally sufficient written consent from all persons and entities with an ownership interest is provided at the time of application.

(C) Application Submission Schedule

The schedule for the submission of applications in relation to scheduled meetings of the decision-making bodies shall be maintained by the City Clerk and be made available to the public.

(D) Application Contents

(1) Organization and Copies

The organization of applications and the number of copies of required information to be submitted shall be determined by the Department of Community Assets & Development.

(2) General Submittal Requirements

All applications shall include:

(a) A completed City of New Brighton application form;

(b) Verification of authority to file applications per the requirements of section 2.3(B);

(c) Supporting title information establishing ownership interests in the property (e.g. a title commitment and/or signature of fee title property owner);

(d) All submittal requirements outlined in this ordinance for the specific application type;

(e) Electronic copies of all written narratives and plan sets required by the Department of Community Assets & Development as part of the specific application;

(f) If requested by the Department of Community Assets & Development, applicants shall submit such technical studies as may be necessary to enable the City to evaluate the application. Such studies may include, but not be limited to, traffic studies, engineering studies, environmental reviews, and economic impact reports. The costs of such studies shall be borne by the applicant with the persons or firms preparing the study approved by the City.

(g) Any other information deemed necessary by the Department of Community Assets & Development or other City departments.

(3) Submission of Fees

Applications shall be accompanied by a fee as established by the City of New Brighton pursuant to the most recently adopted Fee Schedule.

Current Fee Schedule

(E) Application Acceptance

(1) Complete Application Required

The review and consideration of an application shall only occur if such application includes all items that are required in support of the application, and the application is deemed complete by the Department of Community Assets & Development.

MN Statute 15.99 subdivision (3)(a)

(2) Waiver of Application Requirements

Except for the required application form and the associated fee, the Department of Community Assets & Development may waive individual submittal requirements and deem an application complete for review if it is determined that such information will serve no purpose during the review process. However, it is the responsibility of the applicant to supply all information required by this ordinance, and a waiver issued by the Department of Community Assets & Development shall not eliminate the need to provide such information at a later time if it is ultimately deemed necessary to adequately review the application. During the review process, failure of an applicant to supply information in a timely manner may result in denial of the application due to the City's inability to comply with state mandated time deadlines.

(F) Simultaneous Processing of Applications

Whenever two or more forms of review and approval are required under this ordinance (e.g., a proposed rezoning and subdivision application), the applications for those approvals may, at the discretion of the Department of Community Assets & Development, be processed simultaneously, so long as all applicable requirements are satisfied for all applications.

(G) Pre-application Conferences

(1) All prospective applicants are encouraged to speak with someone from the Department of Community Assets & Development prior to submitting an application in order to review the proposal and to determine the specific materials to be submitted with the future application.

(2) Discussions that occur during a pre-application conference are not binding on the City and do not constitute official assurances, representations, or approvals by the City or its officials on any aspects of the plan or application discussed.

(H) Fees

(1) Determination of Fees

Current Fee Schedule

Fees required to accompany applications submitted under this ordinance shall be in accordance with pursuant to the most recently adopted Fee Schedule.

(2) Fees to be Paid

(a) No application, except as may be determined by the Department of Community Assets & Development, shall be accepted until all applicable application fees have been paid.

(b) Upon the termination of an application by approval, denial, withdrawal, or any other means, all consultation expenses incurred by the City due to the application shall be immediately payable in full.

(c) No permit or approval shall be issued and no construction or development shall commence until the total application fee and additional expenses for reviewing the application are paid in full.

(3) Refund of Application Fee

Application fees are not administratively refundable except when the Department of Community Assets & Development determines that an application was withdrawn prior to any consideration or review of the application.

(4) Escrow or Performance Agreement

(a) Application fees may also require payment of an escrow in favor of the City. The required escrow amount shall be in accordance with the approved fee schedule adopted by the City Council.

(b) As an alternative to an escrow and at the City's sole discretion, an applicant may enter into an alternative performance agreement acceptable to the City.

(5) Consultant Fee(s)

In order to defray the additional cost of processing applications submitted under this ordinance, all applicants shall pay the total cost of any applicable outside consultant time spent exclusively to review and/or produce materials related to the applicant's request.

(a) "Materials" shall include, but not be limited to, maps, graphs, charts, drawings, etc., and all printing and reproduction of same.

(b) "Consultant time" shall include any time spent by an outside consultant to research, analyze, or produce materials for the application review including legal expenses.

(c) The hourly rate for consulting time shall be in accordance with the approved contract or agreement the City has for the needed consulting services.

(I) Public Notification

Applications requiring public notification shall be noticed in compliance with the following provisions.

(1) Content

Notices for public hearings, whether by publication or mailed notice, shall contain at a minimum:

(a) A bold title referring to the content of the notice.

(b) Identification of the address or location of the property or properties subject to the application.

(c) Date, Time, and Place of the Public Hearing.

(d) Nature and Scope of the Application.

(e) Where to View the Application.

(f) Where the Public May be Heard.

(g) Provision for Written Comments. The notice should describe how written comments will be received prior to the public hearing.

(2) Timing of the Notice

Unless otherwise expressly provided or required by law, all statutorily or code required notices shall be postmarked or published at least 10 calendar days prior to the hearing or meeting at which the application will be considered.

(3) Responsibilities

(a) Published notice

When the provisions of this ordinance require that notice be published, the Department of Community Assets & Development shall be responsible for preparing the content of the notice and publishing the notice in the City's official newspaper. The content and form of the published notice shall be consistent with the requirements of Section 2.3(I)(1) and state law.

(b) Written (mailed) notice.

When the provisions of this ordinance require that written or mailed notice be provided, the Department of Community Assets & Development shall be responsible for preparing and mailing the written notice per the requirements outlined in Table 2-2.

TABLE 2-2: WRITTEN NOTIFICATION REQUIREMENTS	
Application Type:	Written Notice Provided to:
Comprehensive Plan Amendment	▪ For amendments which involve five acres of land or less, written notice shall be provided to all property owners within 350 feet ▪ For amendments which involve more than five acres of land, notice need only be published in the City's official newspaper
Zoning Map Amendment	All property owners within 350 feet
Variance	All property owners within 350 feet
Conditional Use Permit	All property owners within 350 feet
Interim Use Permit (new and renewal)	All property owners within 350 feet
Appeal of Administrative Decision	All property owners within 350 feet
CUP/IUP Revocation	All property owners within 350 feet
Planned Developments	All property owners within 600 feet
If the application type is not listed above	All property owners within 350 feet

(4) Notice Procedures

(a) The Department of Community Assets & Development may use property tax records to determine the names and addresses of affected property owners. A copy of the notice and a list of the owners and addresses to which the notice was sent must be attested to by the Department of Community Assets & Development and is considered to be part of the records of the proceedings.

(b) Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a good faith attempt has been made to comply with applicable notice requirements. Minor defects in notice are errors that do not affect the substance of the notice (e.g., errors in a legal description, typographical or grammatical errors, errors of actual acreage or dimensions, etc.). Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the notification requirements and information specifying the time, date, and place of a hearing shall be strictly construed.

(c) When the records of the City document the publication, mailing, and posting of notices as required by this subsection, it shall be presumed that notice of a public hearing was given as required by this subsection.

(J) Continuation of Public Hearings

A public hearing for which proper notice was given may be continued during the course of such hearing to a later date without again complying with the written notice requirements of Chapter 2, provided that the continuance date is announced at the meeting.

(K) Withdrawal of an Application

A request for withdrawal of an application shall be submitted in writing to the Department of Community Assets & Development by the applicant or the applicant's authorized representative.

(L) Required Action Deadline

(1) All applications for land use approvals shall be approved or denied within timeframes required by applicable laws, regulations, and the provisions of this ordinance in effect on the date the application was submitted.

(2) For applications that require recommendation by the Planning Commission or other recommending body, the Department of Community Assets & Development may forward such applications to the City Council or Board of Adjustment and Appeals without a recommendation when it is deemed necessary to ensure compliance with state mandated deadlines for application review.

MN Rules 4410

(M) Environmental Review

(1) No development project shall be approved prior to the Department of Community Assets & Development determining the necessity for completion of an Environmental Assessment worksheet (EAW) or Environmental Impact Statement (EIS). Procedures for when to require and how to administer EAWs and EISs are set forth in the Minnesota Environmental Quality Review Board (EQB) regulations for the Environmental Review Program authorized by Minnesota Statutes Sections 116D.04 and 116D.045 and specified in Minnesota Rules Parts 4410.0200 to 4410.7055.

(2) Environmental reviews (EAWs and EISs) shall be conducted as early as practical in the processing of a development project. No decision on granting of a permit or other approval required may be issued until the EAW/EIS process is completed.

(N) Reconsideration of Land Use Approval Applications

No application for land use approval which has been denied by the City Council, in whole or in part, shall be reconsidered for a period of six months from the date of City Council action on the application, except where there is substantial new evidence or proof of a change in conditions with respect to such application. Before such reconsideration, the City may require the submission of the appropriate application fee and the application may be considered as a new application.

2.4 Specific Review Procedures & Requirements



(A) Comprehensive Plan Amendments

(1) Purpose and Scope

Section 2.4(A) sets out the procedure to follow when considering a change/amendment to the Comprehensive Plan.

(2) Initiation of Proceedings

Proceedings for the amendment of the Comprehensive Plan shall be initiated by one of the following:

(a) An owner of the property or an authorized representative of an owner of the property pursuant to Section 2.3(B), Authority to File Applications;

(b) Recommendation of the Planning Commission; or

(c) Action of the City Council.

(3) Application

Section 2.3: Common Review Requirements

(a) All applications to amend the Comprehensive Plan shall be in accordance with Section 2.3, Common Review Procedures & Requirements.

(b) In addition to the common review requirements, applications for Comprehensive Plan amendments shall also include the following:

(i) The name of the applicant;

(ii) A narrative explaining the requested change and the reasons why the Comprehensive Plan should be amended per the request;

(iii) The legal description of all real property proposed for change;

(iv) The existing and proposed land use and zoning designations for all properties proposed to change (if applicable);

(v) A map of the properties to be modified to a different land use category, showing the addresses and land uses for adjacent properties (if applicable);

(vi) The proposed text and/or maps to be added, amended, or deleted from the Comprehensive Plan along with documentation as to the location of the text changes in the Comprehensive Plan (if applicable).

(4) Review

Section 2.3(I): Public Notification

(a) Planning Commission

(i) Before any amendment is adopted, the Planning Commission shall hold at least one public hearing after proper notice has been issued in accordance with Section 2.3(I).

(ii) Following the hearing, the Planning Commission shall adopt findings and recommendations on the proposed amendment as soon as practical.

(b) City Council

(i) The City Council may receive additional comments on the amendment if it deems them necessary prior to taking action on the proposed amendments.

(ii) After consideration of recommendations from the Department of Community Assets & Development, recommendations of the Planning Commission, and the comments received at the public hearing, the City Council may adopt the amendment or any part thereof in such form as it deems advisable.

(iii) In accordance with statutory requirements, approval of a comprehensive plan amendment shall require a two-thirds super-majority vote of all Council members.

(5) Approval Criteria

Recommendations and decisions on Comprehensive Plan amendments should take into consideration the following criteria:

(a) Whether the proposed amendment corrects an error or addresses something resulting from some changing condition, trend, or fact arising since the adoption of the Comprehensive Plan;

(b) Whether the proposed amendment is consistent with the guiding principles of the Comprehensive Plan;

(c) The extent to which the proposed amendment addresses a demonstrated community need;

(d) Whether the proposed amendment will protect the health, safety, morals, and general welfare of the public;

(e) The impacts on the natural and built environments, including air, water, noise, stormwater management, wildlife habitat, water quality, vegetation, drainage, streets, and other engineering design or environmental factors;

(f) Whether the proposed amendment is compatible with existing and proposed uses surrounding the subject property; whether the proposed design and land uses are appropriate for the land; and whether the proposed amendment will maintain or improve compatibility among uses and ensure efficient development within the City;

(g) Whether the proposed amendment will result in a logical, orderly and predictable development pattern; and

(h) Such other considerations as the Planning Commission and City Council deem reasonable and proper.

(6) Met Council Approval

Following local approval, all amendments to the Comprehensive Plan must be reviewed and approved by the Metropolitan Council for consistency with regional planning documents prior to taking effect.



(B) Zoning Ordinance Text and Zoning Map Amendments

(1) Purpose and Scope

Section 2.4(B) sets out the procedures to be followed in reviewing and considering a text change to this ordinance or an amendment to the zoning map (rezoning). Amendments to a planned unit development or planned residential development, which may be shown on the zoning map, shall be subject to the procedures in Section 2.4(N), Planned Developments.

(2) Initiation of Proceedings

Proceedings for the amendment of the text of this ordinance or the zoning map shall be initiated by one of the following:

(a) An owner of the property or an authorized representative of the property owner pursuant to Section 2.3(B), Authority to File Applications;

(b) Recommendation of the Department of Community Assets & Development, the City Manager, or City Attorney;

(c) Action of the Planning Commission; or

(d) Action of the City Council.

(3) Application

(a) All applications to amend the text of this ordinance or the zoning map shall be in accordance with Section 2.3, Common Review Procedures & Requirements.

Section 2.3: Common Review Requirements

(b) In addition to the common review requirements, applications for changes to the text of this ordinance or the Zoning Map shall also include the following:

- **(i)** The name of the applicant;
- **(ii)** A narrative explaining the requested modification and the reasons why the changes are supported by the Comprehensive Plan;
- **(iii)** The legal description of all real property proposed for change (if applicable);
- **(iv)** The existing and proposed land use and zoning designations for all properties proposed for change (if applicable);
- **(v)** A map of the properties to be modified to a different zoning designation, showing the addresses and zoning designations for the subject properties and the adjacent properties (if applicable);
- **(vi)** The location of the proposed text to be added, amended, or deleted in this ordinance (if applicable).

(4) Review

(a) Planning Commission

[Section 2.3(I): Public Notification]

(i) Before any amendment is adopted, the Planning Commission shall hold at least one public hearing after proper notice has been issued in accordance with Section 2.3(I).

(ii) Following the hearing, the Planning Commission shall adopt findings and recommendations on the proposed amendment as soon as practical.

(iii) The Department of Community Assets & Development may forward an application to the City Council without a recommendation from the Planning Commission if it is deemed necessary to ensure compliance with state mandated deadlines for application review.

(b) City Council

(i) The City Council may receive comments on the amendment if it deems them necessary prior to taking action on the proposed change.

(ii) After consideration of recommendations from the Department of Community Assets & Development, recommendations of the Planning Commission, and the comments received at the public hearing, the City Council may adopt the amendment or any part thereof in such form as it deems advisable

(iii) Approval of an amendment shall require a majority vote of all members of the City Council unless the rezoning is changing residential property to a commercial or industrial designation, in which case a super majority vote shall be required.

(5) Approval Criteria

Recommendations and decisions on zoning amendments shall include consideration of the following criteria:

(a) Whether the proposed amendment corrects an error in the original text or map; or

(b) Whether the proposed amendment addresses needs arising from a changing condition, trend, or fact affecting the subject property and surrounding area; or

(c) Whether the proposed amendment is consistent with achieving the goals and objectives outlined in the comprehensive plan; or

(d) Whether the proposed amendment addresses concerns or problems recognized by the Department of Community Assets & Development, the Planning Commission, or the City Council.

Variances



(C) Variances

(1) Purpose and Scope

Mn Statute 462.357

The City Council shall have the power to grant variances from the literal provisions of the City's Zoning Code as authorized by Minnesota Statutes, Section 462.357, Subd. 6, as may be amended. The variance process is intended to provide limited relief from the strict requirements of the Zoning Code in cases where strict application of a particular requirement will create practical difficulties due to circumstances unique to the individual property under consideration. It is not intended that variances be granted to allow a use not permitted by the underlying zoning district, nor to merely remove inconveniences or financial burdens that the requirements of the Zoning Code may impose on property owners in general. Variances are intended to address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission.

(2) Initiation of Proceedings

Variances shall be initiated by an owner of the property or an authorized representative of the property owner pursuant to Section 2.3(B), Authority to File Applications.

(3) Application

Section 2.3: Common Review Requirements

(a) All applications for a Variance shall be in accordance with Section 2.3, Common Review Procedures & Requirements.

(b) In addition to the common review requirements, applications for a Variance shall also include the following:

(i) A written narrative demonstrating that the criteria for a Variance as set out in subsection (4)(a) below have been met.

(ii) An up-to-date survey of the property showing all information necessary to allow the City to determine conformance with all zoning provisions, and to calculate the specific variance(s) being requested. Information shall include but not be limited to:

1. Property and structure dimensions;
2. Setback dimensions/measurements; and
3. Parking and access locations and dimensions;

(iii) Electronic copies of all documents required by the specific application;

(iv) Any other information deemed necessary by the City in order to review the application.

(4) Review

(a) Variance Criteria

MN Statute 462.357 (6)(2) variances

Approval of a Variance requires that the City find that all of the following criteria are satisfied, as they may be modified from time to time by statute or interpretative court decisions:

(i) The request is in harmony with the general purposes and intent of this ordinance.

(ii) The Variance is consistent with the City's comprehensive plan.

(iii) The applicant can establish there are "practical difficulties" in complying with the zoning ordinance based on the following:

1. The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.
2. The plight of the landowner is due to circumstances unique to the property that are not created by the landowner.
3. A variance, if granted, will not alter the essential character of the locality.

(b) Practical Difficulties and Variance Guidelines

(i) Economic considerations alone shall not constitute a sufficient basis for granting a Variance if reasonable use for the property exists under the terms of the ordinance.

(ii) Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

(iii) Variances shall be granted for earth sheltered construction, as defined by State Statute, when in harmony with the ordinance.

(iv) A variance to permit a use that is not otherwise allowed by this ordinance is prohibited.

(c) Board of Adjustment and Appeals

(i) The Board of Adjustment and Appeals shall consider the applicant's submittals, City staff's recommendation, and the comments received at the public hearing against the variance review criteria outlined in Section 2.4(C)(4)(a), and take action on the request(s) as soon as practicable.

(ii) Approval or denial of a Variance shall require a majority vote of the Board of Adjustment and Appeals.

1. In approving a variance, the Board of Adjustment and Appeals may impose reasonable conditions on the approval as deemed appropriate to ensure compliance with the approval and to protect adjacent properties. Any conditions must be directly related to and must bear a rough proportionality to the impact created by the variance.
2. Denial of any request shall be accompanied by findings of fact as to how the request did not meet one or more of the review criteria.

(iii) The decision of the Board of Adjustment and Appeals shall take effect after the appeal timeframe has expired, and upon being memorialized in a resolution approved by the City Council at the first available Council meeting following action by the Board of Adjustment and Appeals.

(5) Appeal of Variance Decision

Decisions of the Board of Adjustment and Appeals are final unless the applicant or an affected party, including any member of the City Council, files a written appeal outlining the basis for the appeal within three business days of the decision. Variance appeals shall be reviewed by the City Council as outlined in Section 2.4(C)(4). Decisions by the City Council on appeal are final.

(6) Effect of a Variance

(a) The issuance of a Variance shall authorize only the particular variation that is approved by the Board of Adjustment and Appeals.

(b) A Variance, including any conditions, shall run with the land and shall not be affected by a change in ownership.

(7) Subsequent Development

Development authorized by the Variance shall not be carried out until the applicant has secured all other approvals required by this ordinance or any other applicable chapters or regulations. The granting of a Variance does not constitute, imply, or guarantee the granting of any other such required approval (e.g.: a building permit).

(8) Time Limit

(a) Unless otherwise specified in the variance, if a building permit has not been applied for within one year of the date of the variance approval, the variance shall become invalid. Permitted timeframes do not change with successive owners.

(b) Upon written request, extensions of one year may, but need not, be granted by the City Council if the applicant can show good cause.

(9) Amendment

(a) A variance may be amended, extended, or modified only in accordance with the procedures and standards established for originally securing the variance.

(b) A request for a change in the conditions of approval of a variance shall be considered an amendment and subject to the full review procedure set forth in Section 2.4(C).

(c) An additional application fee may be required before consideration of the amendment request.

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Conditional Use Permits



(D) Conditional Use Permits

(1) Purpose and Scope

The Conditional Use Permit process is intended to provide the City with an opportunity to review a use in order to establish reasonable conditions necessary to ensure compatibility between the proposed use and surrounding properties. Approval of a conditional use at a location within a zoning classification does not mean the same conditional use can be conducted on any other parcel with the same specific zoning classification. Every application for a Conditional Use Permit will be individually reviewed on its own merits, and the facts surrounding a subject property will determine the appropriateness of the proposed use.

(2) Initiation of Proceedings

A request for a Conditional Use Permit shall be initiated by the owner of the property or an authorized representative of the property owner pursuant to Section 2.3(B), Authority to File Applications.

(3) Application

(a) All applications for a Conditional Use Permit shall be in accordance with Section 2.3, Common Review Requirements.

Section 2.3: Common Review Requirements

(b) In addition to general review requirements, applications for a Conditional Use Permit shall also include the following:

(i) A written narrative which includes:

1. A description of the proposed conditional use, how it will function on the property, hours of operation (if applicable), and any other information necessary to fully describe the request; and
2. An explanation of how the proposed conditional use will meet each of the criteria set forth in subsection (4)(a) below, as well as any additional criteria that may apply for the specific use as listed in Chapter 5.

Chapter 5: Use Standards

(ii) A location map showing the general location of the proposed use within the community and the principal land uses surrounding the parcel on which the conditional use is proposed;

(iii) Development plans for the proposed use showing all information deemed necessary by the Department of Community Assets and Development to ensure that the City can determine whether the proposed use will conform to all City Code standards. Such information may include, but shall not be limited to, the following:

1. Site plan drawn to scale showing parcel and existing topography;
2. Location of all existing and proposed buildings and the size of each (including square footage);
3. Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks;
4. Natural features such as woodlands, wetlands, shorelines, etc;
5. Landscaping and screening plans, including species and size of trees and shrubs proposed;
6. Proposed finished grading and drainage plan sufficient to drain and dispose of all surface water accumulated;
7. Type of business or activity and proposed number of employees (if applicable);
8. Proposed floor plan and elevations of any building with use indicated;

9. Proposed outdoor storage spaces (if applicable);
10. Signage plan.

(iv) If deemed necessary by the Department of Community Assets and Development, a survey may be required to be submitted with the application in addition to or in lieu of a site plan.

(v) Color profile elevation drawings of new structures to illustrate the proposed visual appearance of new construction.

(vi) Any other information that may be reasonably required by the City to evaluate the application.

(4) Review

(a) Conditional Use Permit Criteria

Approval of a Conditional Use Permit application requires that the City find that conditions (if needed) can be established to ensure that all of the following criteria will always be met:

(i) The conditional use will not be detrimental to the health, safety, morals, or welfare of persons residing or working near the use;

(ii) The conditional use will not be injurious to the use and enjoyment of other properties in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;

(iii) The conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district;

(iv) The conditional use will not pose an undue burden on public utilities or roads, and adequate sanitary facilities are provided;

(v) The conditional use can provide adequate parking and loading spaces, and all storage on the site can be done in conformance with City code requirements;

(vi) The conditional use will not unnecessarily impact natural features such as woodlands, wetlands, and shorelines; and all erosion will be properly controlled;

(vii) The conditional use will adhere to any applicable additional criteria outlined in Chapter 5 for the proposed use.

(b) Planning Commission

(i) Before any conditional use permit is acted upon, the Planning Commission shall hold at least one public hearing after proper notice has been issued in accordance with Section 2.3(I).

Section 2.3(I): Public Notification

(ii) Following the hearing and subsequent discussion on the merits of the proposal, the Planning Commission shall adopt findings and recommendations on the general Conditional Use Permit review criteria and any specific criteria outlined for the specific use in Chapter 5.

General CUP review criteria: Section 2.4(D)(4)(a)

1. Recommendations for approval may include such conditions as deemed necessary to ensure compliance with each of the Conditional Use Permit review criteria, and shall be supported by findings of fact as to why the permit request should be approved.
2. Denial recommendations shall be supported by findings of fact as to why the permit request was denied.

(c) City Council

(i) The City Council shall consider recommendations from the Department of Community Assets and Development, recommendations from the Planning Commission, and the comments received at the public hearing to evaluate the request against the general and specific review criteria applicable to the use, and take action on the request(s).

(ii) Decisions on a Conditional Use Permit shall require a majority vote of the City Council.

1. In approving a Conditional Use Permit, the City Council shall support the decision with findings of fact as to why the permit request is being approved.
2. Denial of any request shall be accompanied by findings of fact as to why the requested permit cannot be approved.

(5) Reasonable Conditions

(a) In approving a CUP, the City may adopt and impose such reasonable conditions and requirements as it deems necessary and appropriate to ensure continued compliance with the Conditional Use Permit review criteria.

(b) Conditions pertaining to a site are subject to change when the Council, upon investigation into a formal request, finds that the general welfare and public betterment can be served as well or better by modifying the conditions.

(6) Effect of Conditional Use Permit Approval

(a) The issuance of a Conditional Use Permit shall authorize only the improvements and the uses approved by the City Council.

(b) A Conditional Use Permit, including any conditions, shall run with the land and shall not be affected by a change in ownership.

(7) Subsequent Development

Development authorized by the Conditional Use Permit shall not be carried out until the applicant has secured all other approvals required by this ordinance or any other applicable ordinances or regulations. The granting of a Conditional Use Permit does not constitute, imply, or guarantee the granting of any other such required approval (i.e. a building permit).

(8) Time Limit

(a) Unless a multi-year deadline is specifically included as part of a Conditional Use Permit approval, the operation of the use and/or issuance of building permits for permitted structures shall begin within one year of the date of the Conditional Use Permit approval. Failure to do so will invalidate the Conditional Use Permit. Permitted timeframes do not change with successive owners.

(b) If the operation of the use and/or issuance of building permits has not commenced within one year of the date of approval, the applicant may petition for an extension of time in which to commence the work that has been granted by the Conditional Use Permit. Such an extension shall be requested in writing and be filed with the City at least 30 days before the expiration of the one year period. The request for extension shall state facts supporting good cause for extension of the Conditional Use Permit. Such a petition shall be presented to the City Council for a decision.

(c) If a use operating pursuant to an approved Conditional Use Permit is discontinued for a period of at least one year, any further use of the property shall conform to the requirements of this ordinance. A discontinued conditional use shall not begin operations again without first obtaining approval of a new conditional use permit.

(9) Revocation

If any of the conditions set forth in the Conditional Use Permit are violated, the City Council shall have the authority to revoke the Conditional Use Permit. Before the revocation is considered, the City Council shall hold at least one public hearing after proper written notice has been issued in accordance with Section 2.3(I) and Table 2-2. Following the hearing and subsequent discussion, the City Council may revoke the Conditional Use Permit by adopting findings of fact showing there has not been substantial compliance with the required conditions.

(10) Amendments

(a) A Conditional Use Permit may be amended or modified only in accordance with the procedures and standards established when originally securing the Conditional Use Permit.

(b) A request for a change in the conditions of approval of a Conditional Use Permit shall be considered an amendment and be subject to the full review procedure set forth in this subsection.

(c) An additional application fee may be required before consideration of an amendment request.

Interim Use Permits



(E) Interim Use Permits

(1) Purpose and Scope

The purpose and intent of allowing interim uses is:

(a) To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction.

(b) To allow a use that is presently acceptable, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced by a permitted or conditional use allowed within the respective district.

(c) To allow a use which is reflective of anticipated long-range change to an area and which is in compliance with the comprehensive plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.

(2) Initiation of Proceedings

A request for an Interim Use Permit shall be initiated by the owner of the property or an authorized representative of the property owner pursuant to Section 2.3(B), Authority to File Applications.

(3) Application

(a) All applications for an Interim Use Permit shall be in accordance with Section 2.3, Common Review Requirements.

Section 2.3: Common Review Requirements

(b) In addition to general review requirements, applications for an Interim Use Permit shall also include the following:

(i) A letter from the applicant explaining the proposed interim use, why it is needed, and stating the date or event that will terminate the use or trigger required changes;

(ii) A location map showing the general location of the proposed use within the community and the principal land uses surrounding the parcel on which the interim use is proposed;

(iii) Development plans for the proposed interim use showing all information deemed necessary by the Department of Community Assets and Development to ensure that it can be determined whether the proposed development will meet all applicable development standards. Such information may include but shall not be limited to the following:

1. Site plan drawn to scale showing parcel and existing topography;
2. Location of all buildings and the size of each, including square footage;
3. Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks;
4. Natural features such as woodlands, wetlands, shorelines, etc;
5. Landscaping and screening plans, including species and size of trees and shrubs proposed;
6. Proposed finished grading and drainage plan sufficient to drain and dispose of all surface water accumulated;
7. Type of business or activity and proposed number of employees;
8. Proposed floor plan and elevations of any building with use indicated;
9. Proposed outdoor storage spaces (if applicable); and
10. Signage plan.

Sec 4.7 Parking

(iv) If deemed necessary by the Department of Community Assets and Development, a survey may be required to be submitted with the application in addition to or in lieu of a site plan.

(v) A signed consent agreement, provided by the City of New Brighton, agreeing:

1. That the applicant, owner, operator, tenant and/or user has no entitlement to future re-approval of the Interim Use Permit;
2. That the interim use will not impose additional costs on the public if it is necessary for the City or another governmental entity to fully or partially take the property in the future; and
3. That the applicant, owner, operator, tenant and/or user will abide by conditions of approval that the City Council attaches to the Interim Use Permit.

(vi) Any other information that may be reasonably required by the City to evaluate the application.

(4) Review

(a) Interim Use Permit Criteria

Approval of an Interim Use Permit application requires that the City find that conditions (if needed) can be established to ensure all of the following criteria will always be met:

(i) The use is allowed as an interim use in the respective zoning district and conforms to standard zoning regulations unless exempted by the specific interim use type;

(ii) The use will not adversely affect nearby properties through nuisance, noise, traffic, dust, odor, or unsightliness; and will not otherwise adversely affect the health, safety, and welfare of the community;

(iii) The use will not adversely impact implementation of the Comprehensive Plan;

(iv) The date, event, or change in circumstances that will terminate the use is identified with certainty;

(v) The applicant has signed a consent agreement stating that the applicant, owner, operator, tenant and/or user has no entitlement to future re-approval of the interim use permit as well as agreeing that the interim use will not impose additional costs on the public if it is necessary for the City or another government entity to fully or partially take the property in the future;

(vi) The applicant agrees to all conditions that the City Council deems appropriate to allow the interim use including, but not limited to, the requirement of appropriate financial surety to cover the cost of removing the interim use and any interim use-related structures upon the expiration of the interim use permit;

(vii) There are no delinquent property taxes, special assessments, or City utility charges due upon the subject parcel;

(viii) The interim use will adhere to any applicable additional criteria for the use required in the applicable zoning district; and

(ix) The term of the interim use does not exceed two years unless an end date for the use is attached to a specific triggering event

(b) Planning Commission

(i) Before any Interim Use Permit is considered by the City Council, the Planning Commission shall hold at least one public hearing after proper notice has been issued in accordance with Section 2.3(I).

Section 2.3(I): Public Notification

(ii) Following the hearing and subsequent discussion on the merits of the proposal, the Planning Commission shall adopt findings and recommendations on the general Interim Use Permit review criteria and any specific criteria outlined for the specific use in Chapter 5.

1. Recommendations for approval may include such conditions as are deemed necessary to ensure compliance with each of the Interim Use Permit review criteria and shall be supported by findings of fact as to why the permit request should be approved.
2. Denial recommendations shall be supported by findings of fact as to why the permit request was denied.

(iii) Applications may be forwarded to the City Council without a recommendation from the Planning Commission if it is deemed necessary to ensure compliance with state-mandated deadlines for application review.

(c) City Council

(i) The City Council shall consider recommendations from the Department of Community Assets & Development, recommendations from the Planning Commission, and the comments received at the public hearing to evaluate the request against the general and specific review criteria applicable to the use and take action on the request(s).

(ii) Decisions on an Interim Use Permit shall require a majority vote of the City Council.

a. In approving an Interim Use Permit, the City Council shall support the decision with findings of fact as to why the permit request is being approved.

b. Denial of any request shall be accompanied by findings of fact as to why the requested permit cannot be approved.

(5) Reasonable Conditions

In approving an Interim Use Permit, the City may adopt and impose such reasonable conditions and requirements as it deems necessary and appropriate to ensure continued compliance with the Interim Use Permit review criteria.

(6) Effect of an Interim Use Permit Approval

(a) The issuance of an Interim Use Permit shall authorize only the improvements and use approved by the City Council as an interim use over the specified timeframe.

(b) An interim use permit, including any conditions, shall run with the land and shall not be affected by a change in ownership of the property unless it is stated in the interim use permit that a change in ownership of the property will terminate the interim use permit.

(7) Subsequent Development

Development authorized by the interim use permit shall not be carried out until the applicant has secured all other approvals required by this zoning ordinance or any other applicable chapters or regulations. The granting of an interim use permit by the City does not constitute, imply, or guarantee the granting of any other such required approvals (e.g., a building permit).

(8) Termination

An interim use permit shall be terminated, and the interim use removed for any of the following reasons, whichever occurs first:

(a) The date, event, or circumstances occur as stated in the permit;

(b) Upon violation of a condition under which the permit was issued;

(c) Upon a change in the City's zoning regulations which renders the use nonconforming; or

(d) The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.

(9) Revocation

The City Council may revoke an interim use permit upon finding that any of the conditions set forth in the permit are violated or if there are any other violations of federal, state, or local laws or regulations relating to the interim use permit. The City shall notify the holder of the interim use permit of the violation(s) in writing and provide a reasonable amount of time for the holder to correct the violation(s). If the violation(s) are not corrected within the time specified in the notice, the City Council may revoke the interim use permit. Before the revocation is considered, the City Council shall hold a public hearing after proper written notice has been issued in accordance with Section 2.3(I). Following the hearing and subsequent discussion, the City Council may revoke the interim use permit by adopting a resolution with findings of fact that include the basis for the revocation.

Section 2.3(I): Public Notification

(10) Amendments

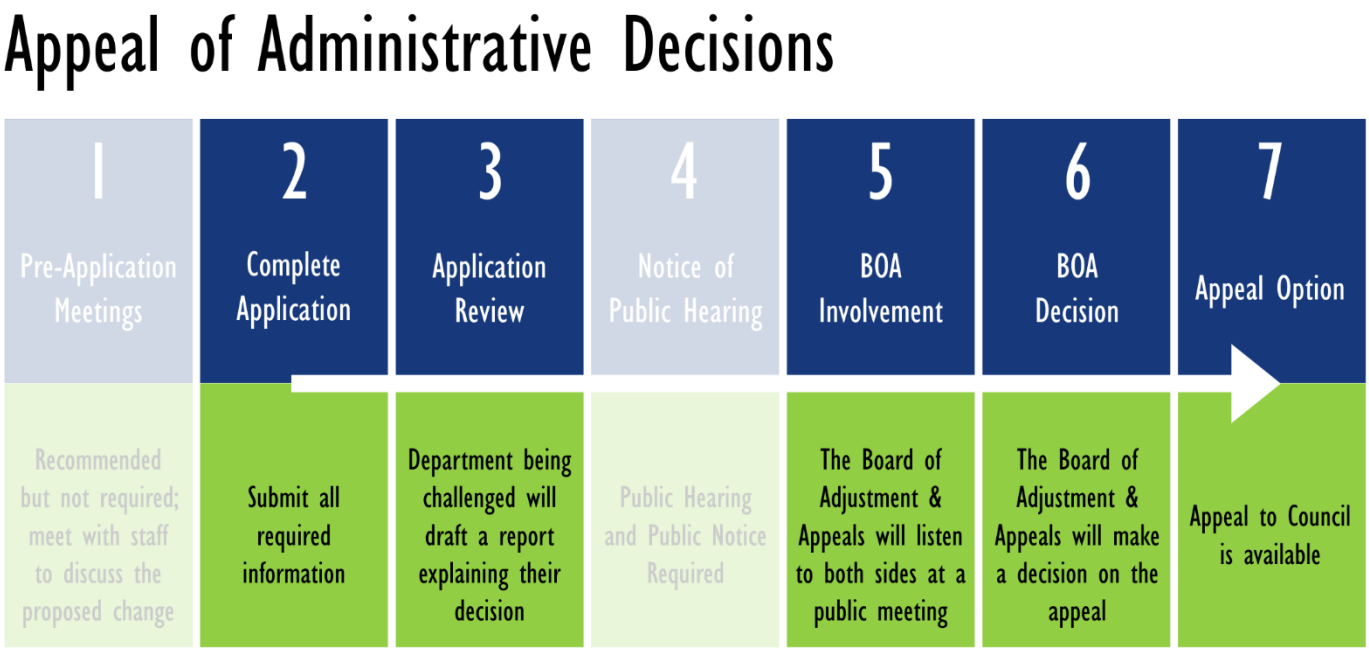
All requested amendments to an existing interim use permit shall be processed in the same manner as a new application.

(11) Renewal

The following process must be used to renew an active interim use permit that is set to expire. Terminated interim use permits cannot be renewed.

(a) Application. Application requirements for renewal of an existing interim use permit shall be the same as for a new application.

(b) Review. Upon receiving a complete application for an interim use permit renewal, the Department of Community Assets & Development shall send notice of the requested renewal to all property owners within 350 feet of the parcel(s) containing the interim use. If any objections are raised within 10 days of the mailed notice, the application shall be processed in the manner of a new application. If no objections are raised, the Department of Community Assets & Development shall prepare a resolution of approval outlining the conditions and stipulations of the renewal for consideration by the City Council. The City Council at its discretion may approve or deny the request with findings. Denial of a renewal request does not constitute termination of the existing interim use permit.



(F) Appeal of Administrative Decisions

(1) Purpose and Scope

This subsection sets out the procedure to follow when a person claims to have been aggrieved or affected by an administrative decision made under this ordinance.

(2) Initiation of Proceedings

Appeals shall be initiated by the person aggrieved or affected by any order, decision, determination, or interpretation made by the Department of Community Assets & Development or other administrative official of the City charged with the administration or enforcement of this ordinance.

(3) Procedure

(a) Submission of Appeal (Application)

(i) An appeal pursuant to this subsection shall be initiated by filing a written appeal of the administrative decision or determination on an official form provided by the City.

(ii) All applications for an appeal shall be in accordance with Section 2.3, Common Review Requirements.

(iii) All appeals shall be submitted within one of the following timeframes to be valid:

1. Within 10 business days of the date the appellant was notified of the order, decision, determination, or interpretation they intend to appeal.
2. If the appellant was not notified of the order, decision, determination, or interpretation they intend to appeal; then within 30 calendar days of the initiation of activity which either alerted or could have alerted the appellant to the matter they wish to appeal.
3. If the appellant was not notified of the order, decision, determination, or interpretation they intend to appeal; and no household members were present in the community during the initiation of activity which could have alerted the appellant to the matter they wish to appeal (i.e. due to business trips or relocation during the winter months), then the appellant will have 10 business days to appeal from the date a household member returned to the property.

(b) Review by the Board of Adjustment and Appeals

[Section 2.3(I): Public Notification]

(i) Upon receiving the written appeal of the administrative decision or determination, the City Clerk shall place the matter on the next available agenda of the Board of Adjustment and Appeals that gives city staff and consultants enough time to prepare all required materials.

(ii) A report prepared by the Department of Community Assets & Development accompanied by all relevant papers, documents, and other materials relating to the order, decision, determination, or interpretation shall be provided to the Board of Adjustment and Appeals prior to the meeting. These materials shall be a part of the record of the appeal.

(iii) The City Attorney and/or involved City consultants may also submit materials in connection with any appeal considered by the Board of Adjustment and Appeals.

(iv) Following reports by the Department of Community Assets & Development and appellant(s), the Board of Adjustment and Appeals shall discuss the information presented by both sides and ask questions as necessary.

(v) Following discussion on the appeal, the Board of Adjustment and Appeals shall adopt findings of fact and make a decision on the appeal.

(vi) The decision of the Board of Appeals shall take effect after the allowed appeal timeframe has expired, and upon being memorialized in a resolution approved by the City Council at the first available Council meeting following action by the Board of Adjustment and Appeals.

(c) Appeal to the City Council

(i) Decisions of the Board of Adjustment and Appeals are final unless an affected party files a second written appeal to the City Council outlining the basis for the appeal within three business days of the decision by the Board of Adjustment and Appeals.

(ii) Upon receiving a second written appeal of the decision rendered by the Board of Adjustment and Appeals, the City Clerk shall place the matter on the next available agenda of the City Council.

(iii) Materials constituting the record of appeal from the Board of Adjustment and Appeals review shall be provided to the City Council for examination prior to the meeting.

(iv) Following review of the appeal, the City Council shall review and decide on the appeal in accordance with this ordinance and state law.

(d) Delivery of Decision

The City Clerk shall transmit a copy of the final decision to the appellant or Applicant by mail or email.

(4) Review Criteria

An order, decision, determination, or interpretation shall not be reversed or modified unless there is competent, material, and substantial evidence in the record that the order, decision, determination, or interpretation fails to comply with either the procedural requirements, substantive requirements, or intent of this ordinance or state law.

(5) Conditions

The Board of Adjustment and Appeals or City Council may impose conditions upon their decision to ensure that the requirements and purposes of this ordinance are followed.

(6) Effect of Decision

Determinations made by the Board of Adjustment and Appeals or the City Council shall be deemed to inform the Department of Community Assets & Development and other administrative officials on the exact meaning of zoning language or the process being questioned, and such direction shall be implemented thereafter until/unless the zoning language in question or procedure is amended by the City Council.



(G) Site Plan Review

(1) Purpose and Scope

The City Council declares it necessary and appropriate to require site plan approval of development in certain zoning districts to preserve and promote attractive, well-planned, and stable urban conditions. Site plan approval must be obtained before a building permit is issued in order to ensure the following:

(a) The project's compatibility with the surrounding environment and with other existing land uses and buildings in the area.

(b) The quantity, quality, utility, size, and type of a project's required open space and proposed landscaping improvements.

(c) The ability of a proposed project's traffic circulation system to provide for convenient and safe internal and external movement of vehicles and pedestrians.

(d) The quantity, quality, utility, size, and type of a project's required community facilities.

(e) The location and adequacy of a project's provision for drainage and utilities.

(f) Security, fire protection, and life/safety issues.

(2) Applicability

(a) Unless exempted pursuant to Section 2.4(G)(3) below, site plan review shall be required for all residential and nonresidential development (including changes to required parking areas, proposed changes to outside commercial sales or storage areas, etc) prior to the issuance of a building permit or other City approval.

(b) At the discretion of the Department of Community Assets & Development, site plan reviews may be completed concurrently with and as a component of other valid land use applications outlined in Section 2.4.

(3) Exemptions

(a) The following shall be exempted from site plan review:

(i) Detached residential uses (i.e. single-family homes) and their accessory buildings and structures.

(ii) Two-family residential uses (i.e. duplexes and twin homes) and their accessory buildings and structures.

(iii) The internal construction or change in floor area of a development that does not increase gross floor area, increase the intensity of use, or affect parking requirements on a site that meets all development and site design standards of this ordinance.

(iv) Any building exempted from permitting or review by state statute.

(v) Temporary uses.

(b) Revisions. The Department of Community Assets & Development is authorized to review and approve, approve with conditions, or deny revisions to previously approved site plans in accordance with the procedures and standards outlined in Section 2.4(G)(10).

(4) Initiation of Proceedings

An application for site plan review may be initiated by the property owner or other person with authority to file an application pursuant to Section 2.3(B), Authority to File Applications.

(5) Procedure

(a) Application

(i) All applications for site plan review shall be in accordance with Section 2.3, Common Review Requirements.

(ii) In addition to the Common Review application requirements noted above, applications for site plan review shall also include at least the following to be considered complete (except as exempted by the Department of Community Assets & Development). All documents shall be prepared by a registered land surveyor, registered professional engineer, or other qualified professional as determined by the Department of Community Assets & Development. A current certificate of survey must be presented with all required plans.

1. Name of the project;
2. Name, address and telephone number of applicant, engineer, architect, surveyor and owner of record;
3. Legal description of the property;
4. Date proposed, north arrow, engineering scale, number sheets and name of drawer;
5. Description of intended use of site, buildings, structures, including type of occupancy and occupancy load;
6. Tabulation box, indicating the following:
    a. Size of parcel in acres and square feet;
    b. Gross floor area of each building;
    c. Percent of site covered by impervious surface;
    d. Projected number of employees;
    f. Number of seats if intended use is a restaurant or place of assembly;
    g. Number of parking spaces required;
    h. Number of parking spaces provided, including accessible parking spaces;
    i. Dimension of parking spaces and aisles;
    j. Area of public open space (if applicable).

(iii) Property line dimensions, location of all existing and proposed structures with distance from boundaries, distance between structures, building dimensions and floor elevations within the proposed site plan boundary;

(iv) Topographic data shown in two-foot contours within the property and up to 200 feet beyond the property boundary if requested by the Department of Community Assets and Development. All areas with a slope greater than 25 percent must be clearly indicated;

(v) Grading, drainage and erosion control plan prepared by a licensed professional engineer;

(vi) Utility plans prepared by a licensed professional engineer consisting of the following:

1. Location, size and grades of all existing sanitary sewer, water main, hydrants, and storm sewer on site or adjacent to for proposed connection;
2. Location of all existing gas mains, electric and phone cables, light poles, power boxes, and the like;
3. Location, size, grades, and materials for all proposed public sanitary sewer, water main, hydrants, and storm sewer;
4. Supplemental calculations for trunk sanitary sewer and water main, if required by the Department of Community Assets & Development;
5. Supplemental storm sewer computation sheet verifying capacities and volumes for all pipe segments, if required by the Department of Community Assets & Development; and
6. Existing and proposed drainage and utility easements.

(vii) Vehicular circulation plan showing the location and dimensions for all driveways, parking spaces, parking lot aisles, service roads, loading areas, fire lanes, etc. Unless exempted by the Department of Community Assets & Development, a turning movement exhibit showing that emergency vehicles will be able to navigate the site when fully parked shall be submitted;

(viii) Landscape plan prepared by a qualified professional providing all information required by Section 4.1(E);

(ix) Location, access, and screening details for large trash handling and recycling collection areas;

(x) Building elevations (colored renderings) which detail all exterior materials being used;

(xi) Location and screening detail of roof top equipment (if required);

(xii) Location and detail of all proposed signage;

(xiii) Lighting location, style, mounting, and light distribution plan;

(xiv) Project narrative; and

(xv) Any other information that may be reasonably required by the City to evaluate the application including but not limited to floor plans, building elevations, rendered drawings, and materials samples.

(b) Site Plan Review Criteria

Recommendations and decisions on a site plan shall be based on consideration of the following criteria:

(i) Whether the proposed development is consistent with all the requirements of this ordinance and the City Code;

(ii) Whether the proposed development is in compliance with the applicable zoning district and overlay district(s);

(iii) Whether the proposed development is in compliance with other City approved planning documents; and

(iv) Whether the proposed development meets all the requirements or conditions of any applicable development approvals.

(c) Planning Commission Review

Before any site plan is considered by the City Council, the Planning Commission shall review the proposal and adopt findings as to whether the plans meet all zoning requirements and identify any changes that are necessary to eliminate or simplify future review procedures. Applications may be forwarded to the City Council without a recommendation from the Planning Commission if it is deemed necessary to ensure compliance with state-mandated deadlines for application review.

(d) City Council Review

(i) The City Council shall consider recommendations from the Department of Community Assets & Development and recommendations from the Planning Commission, and make a final determination as to whether the plans as presented are ready for approval.

(ii) Decisions on a site plan review shall require a majority vote of the City Council.

1. In approving a Site Plan, the City Council shall support the decision with findings of fact as to why the plan is being approved.
2. Denial of a site plan shall be accompanied by findings of fact as to why the requested plan cannot be approved.

(6) Reasonable Conditions

In approving a site plan, the City may adopt and impose such reasonable conditions and requirements as it deems necessary and appropriate to ensure compliance with code requirements.

(7) Effect of Decision.

(a) The approval of a site plan by the City does not in any way guarantee future approval of other applications that may be required by the regulations of the City (e.g. a building permit, certificate of occupancy, etc.).

(b) The approval of a site plan only verifies compliance with City regulations in effect at the time of site plan review.

(c) A site plan approved by the City, including any conditions, shall run with the land and shall not be affected by a change in ownership.

(8) Subsequent Development

Development authorized by site plan approval shall not be carried out until the applicant has secured all other approvals required by this ordinance or any other applicable ordinances or regulations.

(9) Time Limit

Site plan approvals do not expire; however, subsequent amendments to code may render specific portions of an approved site plan invalid if a proposed improvement is unrealized on the date a code change goes into effect. In such circumstances, any features made illegal by changes in code may no longer be implemented.

(10) Amendments

(a) New construction of any building or site changes deemed significant by the Department of Community Assets & Development shall be required to obtain site plan authorization following the procedures of Section 2.4(G)(5).

(b) Minor amendments to the placement of buildings, arrangement of parking, or other aspects of a previously approved Site Plan may be authorized administratively by the Department of Community Assets & Development.

(i) Upon receiving a complete application to amend a previously approved site plan, the Department of Community Assets & Development shall review the plans to determine their conformance to all current ordinance requirements. The Department of Community Assets & Development may be assisted in conducting site plan reviews by representatives from other City departments, divisions, or partnering agencies.

(ii) Applications determined to conform with the approval criteria outlined in Section 2.4(G)(5)(b) shall be approved by the Department of Community Assets & Development with any conditions deemed necessary. A notice of site plan approval shall be provided to the applicant that includes all conditions, comments, and recommendations.

(iii) Applications not conforming with the approval criteria outlined in Section 2.4(G)(5)(b) shall be denied by the Department of Community Assets & Development. A notice of site plan denial shall be provided to the applicant that includes all identified reasons for denial. Applicants may either update their plans to address comments of the Department of Community Assets & Development, or they may appeal the decision following the provisions of Section 2.4(F).

Building Permits



(H) Building Permits

(1) Purpose

Section 2.4(H) establishes when obtaining a building permit is required, how it will be reviewed, what surveys may be required to track construction, and how unauthorized work will be handled.

(2) In General

(a) No person, firm, or corporation shall erect, alter, construct, enlarge, expand, repair, move, improve, convert, demolish, equip, use, occupy, or maintain any building, structure, or portion thereof, within the City of New Brighton until proper permits have been issued by the City and partnering agencies.

(b) No building permit or other permit pertaining to the use of land or buildings shall be issued unless such building is designed and arranged to conform to the provisions of this ordinance.

(c) Building permits shall not be required for those structures and improvements specifically exempted by the adopted building code as may be amended.

Minnesota Rule 1300.0120, Subp. 4

(3) Surveys

DCAD Policy on Survey Requirement Thresholds

(a) Any application for building permit may need to be accompanied by a certified site survey (excluding interior remodels, re-roofs, re-siding and general maintenance) if deemed necessary by the Department of Community Assets & Development. Because the survey, if required, will be used to determine an application's conformance with City Code, it shall be the responsibility of the applicant to ensure information provided on the survey corresponds to submitted building plans (including existing and proposed topography). An issued building permit shall authorize only land alterations identified on the survey. Surveys shall include all information as deemed necessary by the Department of Community Assets & Development to provide for the enforcement of this ordinance.

(b) Any applicant for a building permit may be required to supply the City with an as-built foundation survey if deemed necessary by the Department of Community Assets & Development. If a foundation survey is required, the building permit holder shall obtain verification from a surveyor that the as-built foundation was located as proposed or still meets code requirements for placement. Failure to obtain surveyed verification of the foundation's compliance with code will result in the builder continuing with construction at their own risk. Expenditures incurred beyond the construction of the foundation will not be considered in determining the actions required to bring the building back into conformance if not built to approved plans.

(c) Any applicant for a building permit may be required to supply the City with an as-built grading survey if deemed necessary by the Department of Community Assets & Development. An as-built grading survey, if required, shall certify the final topography of the site and verify the drainage patterns existing upon completion of work. The City reserves the right to withhold the certificate of occupancy for a building until final grading addresses all problems that may be detrimental to adjacent properties.

(4) Review

(a) The Department of Community Assets & Development shall review all building permit applications for conformance to ordinance and building code requirements.

(b) The Department of Community Assets & Development may deem any building permit application incomplete if it is not accompanied by all information necessary to determine conformance with applicable rules and standards, or if it does not include detail necessary to show that the building project can proceed as proposed (i.e. a building permit application to relocate a building must be able to successfully demonstrate the building can physically make the proposed trip, coordinate any temporary disruptions to overhead utility services, etc).

(5) Unauthorized Work

Work done without the authorization of a permit or found to be out of conformance with approved plans shall be immediately halted and subject to the remedies and penalties described in Section 7.6 of this ordinance. Structures being built out of conformance shall be brought into conformance.



(I) Certificates of Occupancy

(1) Purpose

Section 2.4(I) establishes the requirement for City approval prior to the use or occupation of new buildings or structures, or prior to a change in use within an existing structure. Issuance of a certificate of occupancy signifies that the building or structure complies with all code requirements.

(2) Required

(a) No building or structure hereafter erected or moved, or that portion of an existing structure or building erected or moved, shall be occupied or used in whole or in part for any purpose whatsoever until a certificate of occupancy (or a conditional temporary certificate of occupancy) has been issued by the City stating that the building or structure complies with all provisions of this ordinance.

(b) No change in use of an existing building or structure shall take effect until a certificate of occupancy has been issued by the City stating that the updated building or structure complies with all provisions of this ordinance.

(3) Application

A certificate of occupancy shall be applied for coincident with an application for a building permit or prior to a proposed change in use.

(4) Issuance

(a) A certificate of occupancy will be issued within 10 days of the Building Official or their agents completing a final inspection and making findings that the building or structure conforms to all code requirements.

(b) If the Building Official or their agents find that no substantial hazard will result from occupancy of any building or portion thereof before all requirements are met, a conditional temporary certificate of occupancy may be issued for a period not to exceed six months, for the use of a portion or portions of a building or structure prior to the completion of the entire building or structure. Such conditional temporary certificate of occupancy shall not be construed as in any way as altering the respective rights, duties, or other obligations of the owners/tenants relating to the use or occupancy of the premises or any other provision of this Ordinance.

Grading Permits



(J) Grading Permits

(1) Purpose

Section 2.4(J) establishes when a grading permit is required, how it will be reviewed, information required with the application, and how unauthorized work will be handled. Requiring a grading permit enables the City to protect the public by ensuring resulting drainage works as intended, potential erosion issues are addressed, and to guard against unnecessary extra maintenance of sewers and ditches or the dredging of lakes and ponds. A grading permit promotes the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the City of New Brighton.

(2) In General

A Grading Permit shall be required when triggered by the provisions of the Shoreland Overlay District, or as may be required by other sections of this Zoning Ordinance or the City Code.

(3) Exceptions

(a) No grading permit is required for land disturbances necessary for the following activities:

(i) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

(ii) General lawn maintenance as authorized by the Department of Community Assets & Development.

(b) Grading specific to and in conjunction with an approved building permit shall not require a separate grading permit provided the proposed grading is approved by the Department of Community Assets & Development as part of the building permit review process.

(4) Application

(a) All applications for a grading permit shall be in accordance with Section 2.3, Common Review Requirements.

(b) In addition to general review requirements, applications for a grading permit shall also include all information as required by the provisions of the Shoreland Overlay District, Section 3.8(C)(16) except as exempted by the Department of Community Assets & Development.

(5) Review

(a) Grading Permit Review Criteria

Approval of a grading permit shall be based on the following criteria:

(i) Whether the proposed grading is consistent with all the requirements of Section 3.8(C)(16) and any other applicable City Code requirements.

(ii) Whether the proposed grading is in compliance with all engineering standards adopted by the City;

(iii) Whether the proposed grading is in compliance with any previous approvals for the property (e.g. grading required as a condition of approval for a variance).

(b) Grading Permit Review Process

(i) The Department of Community Assets & Development shall review all Grading Permit applications.

(ii) Applications determined to conform with the approval criteria outlined in Section 2.4(J)(5)(a) shall be approved by Department of Community Assets & Development with any conditions deemed necessary. A copy of the approved permit shall be provided to the applicant which includes all conditions and comments.

(iii) Applications not conforming with the approval criteria outlined in Section 2.4(J)(5)(a) shall be denied by Department of Community Assets & Development. A notice of denial shall be provided to the applicant which includes all identified reasons for denial.

(6) Reasonable Conditions

In approving a Grading Permit, the Department of Community Assets & Development may impose such reasonable conditions and requirements as it deems necessary and appropriate to ensure continued compliance with the Grading Permit review criteria and other city ordinances.

(7) Effect of Grading Permit Approval

The issuance of a Grading Permit shall authorize only the changes approved by the Department of Community Assets & Development as depicted by the application materials.

(8) Time Limit

(a) Failure to complete the authorized grading within six months of the date of approval will invalidate the permit.

(b) Upon written request, one extension of six months may be granted by the Department of Community Assets & Development if the applicant can show good cause.

(9) Amendments

All requested amendments to an existing grading permit shall be processed in the same manner as a new application.

(10) Unauthorized Work

Work done without the authorization of a grading permit or found to be out of conformance with approved plans shall be immediately halted and subject to the remedies and penalties described in Section 7.6 of this ordinance. Driveways or parking lots being built out of conformance shall be brought into conformance.

(11) Appeal

The applicant for a grading permit may appeal the decision of the Department of Community Assets & Development to the Board of Adjustment and Appeals per Section 2.4(F).



(K) Sign Permits

(1) Purpose and Scope

This subsection sets out the procedures to follow when requesting a sign permit.

(2) Initiation of Proceedings

A request for a Sign Permit shall be initiated by application of the property owner or other person having authority to file an application pursuant to Section 2.3(B), Authority to File Applications.

(3) In General

A sign permit shall be required for specific sign types as identified in Section 4.5 Signs.

Section 4.5: Signs

(4) Application

(a) All applications for a sign permit shall be in accordance with Section 2.3, Common Review Requirements.

Section 2.3: Common Review Requirements

(b) In addition to general review requirements, applications for a sign permits shall also include at least the following to be considered complete (except as exempted by the Department of Community Assets & Development):

(i) Names and addresses of the applicant and the owners of the sign.

(ii) The address(es) at which the sign(s) are to be erected.

(iii) Indication of the street on which each sign is to front.

(iv) Type and size of sign.

(v) A site plan (or survey if required by the Department of Community Assets & Development) which is to-scale showing the location of lot lines, building structures, parking areas, the location of existing and proposed signs, and any other physical features on the site.

(vi) Plans showing sign locations, specifications, and method of construction and attachment to the buildings or placement method on the ground.

(vii) Copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction in the amount required by this and all other laws and ordinances of the City, if required.

(viii) Written consent of the owner or lessee of any site on which the sign is to be erected.

(ix) Any electrical permit required and issued for the sign.

(x) A detailed description of any electronic or electrical components that are proposed to be added to the sign.

(xi) Other information to demonstrate compliance with this and all other ordinances of the City.

(5) Review

(a) Sign Review Criteria

Approval of a sign permit application shall be based on the following criteria:

(i) Whether the proposed sign is consistent with all the requirements of this ordinance and any other City Code requirements;

(ii) Whether the proposed sign meets all the requirements or conditions of any applicable development approvals or agreements.

(b) Sign Review Process

(i) The Department of Community Assets & Development will review all sign permit requests.

(ii) Applications determined to conform with the approval criteria outlined in Section 2.4(K)(5)(a) shall be approved by the Department of Community Assets & Development with any conditions deemed necessary. A copy of the approved permit shall be provided to the applicant which includes all conditions and comments.

(iii) Applications not conforming with the approval criteria outlined in Section 2.4(K)(5)(a) shall be denied by the Department of Community Assets & Development. A notice of denial shall be provided to the applicant which includes all identified reasons for denial.

(6) Reasonable Conditions

In approving a sign permit, the Department of Community Assets & Development may impose such reasonable conditions and requirements as deemed necessary and appropriate to ensure continued compliance with the sign permit review criteria.

(7) Effect of a Sign Permit Approval

(a) The issuance of a sign permit shall authorize only the installation or replacement of signage approved by the Department of Community Assets & Development.

(b) A sign permit, including any conditions, shall run with the land and shall not be affected by a change in ownership.

(8) Time Limit

(a) Failure to install the approved signage within six months of the date of approval will automatically invalidate the permit.

(b) Upon written request, one extension of six months may be granted by the Department of Community Assets & Development if the applicant can show good cause.

(9) Amendments

All requested amendments to an existing sign permit shall be processed in the same manner as a new application.

(10) Appeal

The applicant for a sign permit may appeal the decision of the Department of Community Assets & Development to the Board of Adjustment and Appeals per Section 2.4(F).

Temporary Use Permits



(L) Temporary Use Permits

(1) Purpose and Scope

The provisions of this Code cannot reasonably include all possible temporary uses which may be appropriate in various areas of the City, and the need for which may change very quickly due to unforeseen circumstances such as natural disasters or pandemics. Section 2.4(L) allows for the establishment of certain temporary uses for a limited duration. Temporary uses shall not involve the construction or alteration of any permanent building or structure.

(2) Establishment of Temporary Uses

(a) Temporary uses requiring a temporary use permit as listed in Table 5-3 are allowed as temporary uses on a yearly basis.

(b) Additional temporary uses may be identified and established by the City Council via resolution on a yearly basis. When establishing specific temporary uses allowed within the City, the City Council may identify the use as being allowed outright provided certain conditions are met, or it may require an administrative temporary use permit be acquired through the Department of Community Assets & Development before the temporary use is established.

(3) Overlap with Other Code Provisions

(a) Conditionally Permitted Uses

Uses authorized for approval as a temporary use by the City Council may overlap with uses identified as conditionally permitted within the zoning ordinance. In such cases, a landowner may choose to pursue a temporary use permit to authorize the use for a limited timeframe, or they may pursue a conditional use permit to secure permanent approval of the use.

(b) Prohibited Uses

In response to unforeseen circumstances, it may be necessary from time to time for the City Council to identify an otherwise prohibited use as an activity allowable via temporary use permit. In such cases, the use shall only be allowed as a temporary use while authorized by City Council via the most current resolution establishing temporary uses. Once removed from the list of allowed temporary uses, a prohibited use will once again be considered prohibited.

(4) Initiation of Proceedings

A request for a temporary use permit shall be initiated by application of the property owner or other person having authority to file an application pursuant to Section 2.3(B), Authority to File Applications.

(5) Application

(c) All applications for a temporary use permit shall be in accordance with Section 2.3, Common Review Requirements.

Section 2.3: Common Review Requirements

(d) In addition to general review requirements, applications for a temporary use permit shall also include at least the following to be considered complete (except as exempted by the Department of Community Assets & Development):

(i) A complete application form.

(ii) The required fee established for temporary use permits.

(iii) A written narrative which includes a description of the proposed temporary use, how it will function on the property, hours and dates of operation, and any other information necessary to fully describe the request; and an explanation of how the proposed temporary use will meet any special criteria established by the City Council for the proposed use.

(iv) A site plan of the property showing all information necessary to accurately depict how the proposed use will function on the site. Information required on the site plan shall include but not be limited to:

1. The location of all existing and proposed structures;
2. Driveways and parking areas;
3. Proposed storage areas;
4. Proposed additional parking spaces or number of spaces to be lost to the temporary use (as may be applicable).

(v) Any other information that may be reasonably required by the Department of Community Assets & Development to evaluate the application.

(6) Review

(a) Temporary Use Permit Review Criteria

Approval of a temporary use permit shall only be granted once the Department of Community Assets & Development has determined the use shall:

(i) Not be detrimental to the public health (per best practices), safety, or general welfare;

(ii) Be compatible with the principal use on the site, and not interfere with the normal operations of the property's permanent use(s);

(iii) Not have substantial adverse effects or noise impacts on nearby residential neighborhoods;

(iv) Not include permanent alterations to the site;

(v) Not maintain temporary signs associated with the use or structure after the activity ends;

(vi) Not violate the applicable conditions of approval that apply to the site or as may be established by the City Council for the specific use type;

(vii) Contain sufficient land area to allow the temporary use, structure, or special event to occur; as well as adequate land to accommodate the parking and traffic movement associated with the temporary use.

(b) Temporary Use Permit Review Process

(i) The Department of Community Assets & Development will review all temporary use permit applications.

(ii) Applications determined to conform with the approval criteria outlined in Section 2.4(L)(6)(a) shall be approved by the Department of Community Assets & Development with any conditions deemed necessary. A copy of the approved permit shall be provided to the applicant which includes all conditions and comments.

(iii) Applications not conforming with the approval criteria outlined in Section 2.4(L)(6)(a) shall be denied by the Department of Community Assets & Development. A notice of denial shall be provided to the applicant which includes all identified reasons for denial.

(7) Reasonable Conditions

In approving a temporary use permit, the Department of Community Assets & Development may impose such reasonable conditions and requirements as deemed necessary and appropriate to ensure continued compliance with requirements for the use.

(8) Effect of a Temporary Use Permit Approval

(a) The issuance of a temporary use permit shall authorize only the specific temporary use approved by the Department of Community Assets & Development over the timeframe specified within the permit or resolution authorizing the temporary use.

(b) Approval of a temporary use permit shall not require future approval of another temporary use permit or Conditional Use Permit for the same use at a later time.

(c) An authorized temporary use permit for a use that would otherwise be prohibited shall become void upon expiration of the permit, or removal of the use from the authorized temporary uses resolution.

(9) Time Limit

The time limit for each temporary use shall be as outlined in the Council resolution establishing allowed temporary uses, or for a timeframe specified by the Department of Community Assets & Development as a condition of permit approval.

(10) Amendments and Withdrawals

All requested amendments to a temporary use permit shall be processed in the same manner as a new application.

(11) Revocation

The City Council may revoke a temporary use permit if any of the conditions are being violated or there are any other violations of state, federal, or local laws or regulations. The City shall notify the holder of the temporary use permit of the violation in writing and provide a reasonable amount of time to the holder to correct the violation. If the violation is not corrected within the time specified in the notice, the City Council may revoke the temporary use permit after providing the holder with an opportunity to address the City Council.

(12) Appeals

The applicant for a temporary use permit may appeal the decision of the Department of Community Assets & Development to the Board of Adjustment and Appeals per Section 2.4(F).

Vacations



(M) Vacations

(1) Purpose and Scope

This subsection sets out the procedures to follow when requesting the vacation of any easement, alley, or right-of-way dedicated to the public.

(2) Initiation of Proceedings

A request to vacate public interest in an area of land may be initiated by:

(a) A petition of a majority of the owners of land abutting on the street, alley, public grounds, public way, or part thereof to be vacated; or

(b) Adoption of a resolution supported by at least four-fifths of all members of the City Council.

(3) Application

Section 2.3: Common Review Requirements

(a) All applications for a vacation shall be in accordance with Section 2.3, Common Review Requirements.

(b) In addition to general review requirements, applications for a vacation shall also include at least the following to be considered complete (except as exempted by the Department of Community Assets & Development):

(i) A written narrative which describes why the vacation is being requested, and why the public has no further interest in the subject area;

(ii) Legal description(s) prepared by a certified surveyor of the area(s) to be vacated, along with a visual depiction of the area(s) requested for vacation.

(iii) A valid petition showing that a majority of landowners abutting the area to be vacated support the requested vacation and that is signed by said majority.

(c) Any other information that may be reasonably required by the Department of Community Assets & Development to evaluate the application.

(4) Review

(a) Vacation Review Criteria

Approval of a vacation shall only be granted once the City has determined the area in question serves no present or future public interest of any kind, and the vacation appears to be in the interest of the public.

(b) Vacation Process

(i) Upon receipt of a vacation application, the Department of Community Assets & Development shall review the submittal for completeness, and if complete, prepare a resolution for Council consideration to set a public hearing date for Council to consider the vacation.

Section 2.3(I): Public Notification

(ii) Once the public hearing date is set, the Department of Community Assets & Development shall initiate public notices as follows:

1. Posted notice shall occur a minimum of fourteen calendar days prior to the public hearing.

2. Published notice shall occur two times: the first notice shall occur a minimum of fourteen calendar days prior to the public hearing, and the second notice should occur at least one week after the first notice but prior to the public hearing.
3. Written notice to each affected property owner shall be sent at least 10 days before the public hearing. Affected property owners shall include all property owners that abut the area proposed for vacation, and shall include all property owners in the plat which created the area proposed for vacation. Written notice must contain a copy of the petition or resolution initiating the vacation as well as the time, place, and date of the hearing.
4. If the area to be vacated abuts or terminates on, or is adjacent to any public water, the city must also send written notice of the petition or vacation resolution to the Commissioner of Natural Resources, by certified mail, a minimum of 60 calendar days before the public hearing. In addition, the City Council or its designee must meet with the Commissioner of Natural Resources or their designee at least 15 days before the public hearing. The Commissioner will evaluate the proposed vacation according to state law, and will advise the council as to that evaluation.

(iii) The Department of Community Assets & Development shall review the vacation application, and make a recommendation of approval or denial for City Council consideration.

(iv) Before a vacation is considered, the City Council shall hold the scheduled public hearing after proper notice has been issued in accordance with Section 2.3(I) and the special vacation notice requirements of Section 2.4(M)(4)(b)(ii).

(v) Following the hearing and subsequent discussion on the merits of the proposal, the City Council shall take action on the request(s).

(5) Reasonable Conditions

As a condition of approval, the City may specify the extent to which a proposed vacation affects existing utility easements (including the right to maintain and continue utility easements), or can require dedication of new easements deemed necessary to protect a City interest.

(6) Effect of a Vacation

Once a resolution of vacation is adopted by the City Council, the City Clerk will prepare a notice of completion of vacation proceedings. The notice will then be recorded at Ramsey County which will put the vacation into effect.

(N) Planned Developments: PUDs and PRDs

(1) Purpose and Intent

(a) Purpose. The purpose of a Planned Unit Development (PUD) or a Planned Residential Development (PRD) is to provide greater flexibility in the development of neighborhoods and non-residential areas in order to maximize public values and achieve more creative development outcomes while remaining economically viable and marketable. This is achieved by undertaking a process that results in a development outcome exceeding that which is typically achievable through conventional zoning. The City reserves the right to deny a PUD or PRD if desired outcomes are not achieved by the proposed plan, and instead direct a developer to re-apply under the standard applicable zoning district.

(b) Intent. Overarching goals (not requirements) of the City in approving a PUD or PRD include but are not limited to:

(i) Implementation of high-quality construction standards and the use of high quality construction materials;

(ii) Higher standards of site and building design such that a new development appears attractive and inviting from all surrounding parcels through four-sided architecture/articulation;

(iii) Facilitating a complementary mix of lifecycle housing;

(iv) Greater utilization of new technologies in building design, construction, and land development;

(v) A more creative and efficient use of land than would otherwise be possible;

(vi) Incorporation of extensive landscaping and site amenities in excess of what is required by code;

(vii) Provide high-quality park, open space, and trail opportunities that exceed the expectations established in the Comprehensive Plan and minimum required park dedication outlays;

(viii) Enhanced access to a convenient and efficient multi-modal transportation option to service the daily needs of residents at peak and non-peak use levels, with high connectivity to the larger metropolitan community;

(ix) Creative designs that reduce initial infrastructure costs as well as long-term maintenance and operational costs;

(x) The preservation and enhancement of desirable site characteristics (including flora and fauna, scenic views, and screening);

(xi) Flexibility in design and construction to alleviate anticipated impacts to nearby properties and to provide greater opportunity for increased buffers between uses of differing intensities;

(xii) Incorporation of structured parking to hide vehicle storage and to promote opportunities for improved buffering between intensive uses and sensitive areas;

(xiii) Elimination of repetition by encouraging a housing mixture that diversifies the architectural qualities of a neighborhood;

(xiv) Facilitation of a complementary mix of lifecycle housing; and

(xv) Accommodation of higher development intensity in areas where infrastructure and other systems are capable of providing appropriate levels of public services and subsequently lower intensity in areas where such services are inadequate or where natural features require protection and/or preservation.

(2) Project Designation

A Planned Development consisting solely of residential uses shall be designated a Planned Residential Development (PRD), while any non-residential or mixed use planned development shall be designated as a Planned Unit Development (PUD). Requirements specific to each project designation are contained herein.

(3) Initiation of Proceedings

Applications for any stage of a planned development shall be initiated by application of the property owner or other person having authority to file an application pursuant to Section 2.3(B), Authority to File Applications.

(4) Overlay District

Planned development provisions provide an optional method of regulating land use by authorizing flexibility in uses and other regulating provisions over a specific geographic area. In many circumstances, rules and regulations governing the underlying zoning district or other zoning regulations found elsewhere in the City's ordinances, will still be appropriate to apply within a proposed planned development. As such, approval of a planned development shall require establishment of a PUD or PRD overlay district.

(a) For each PUD or PRD Overlay District, a specific ordinance shall be adopted, and the boundaries of the overlay district shall be depicted on Figure 3-10: PRD and PUD Locations.

(b) Once a PUD or PRD has been granted and is in effect for a parcel, no building permit shall be issued for that parcel which is not in conformance with the approved PUD or PRD Plan, the current Minnesota State Building Code and all associated documents, and with all other applicable City Code provisions.

Section 1.4: Effective Date

(c) All PUDs and PRDs approved prior to the effective date of this ordinance shall continue to be governed by the ordinance or resolutions which created said areas and underlying zoning as may be applicable.

(5) Permitted Locations for PUDs or PRDs

Table 3-1: Zoning Districts Established

(a) A PUD overlay district may be proposed in any non-residential or mixed-use zoning district.

(b) A PRD overlay district may be proposed in any residential or mixed-use zoning district.

(6) Planned Development Qualifications

(a) Creation of a new planned development overlay district will be considered only for areas of land in single ownership or control unless multiple party ownership is adequately secured through a corporation, partnership, or other legal entity that will ensure the ability to fulfill all of the obligations of the planned development process, including approvals, development, and securities.

(b) The minimum acreage for a proposed PUD shall be 3.0 acres and the minimum acreage for a proposed PRD shall be 1.5 acres. At the complete discretion of the City Council, tracts not meeting these standards may still be eligible for a PUD or PRD overlay district if the applicant can demonstrate that a project of superior design can be achieved, or that greater compliance with the comprehensive plan goals and policies can be attained through use of the planned development process.

(7) Permitted Uses Within Planned Developments

(a) Uses within a planned development shall be governed by the ordinance establishing the PUD or PRD overlay district and by the conditions, if any, imposed by the City in the approval process and associated documents. If unaddressed by the overlay district, uses shall be dictated by underlying zoning.

(b) More than one building may be placed on one lot in an approved planned development. Nothing in Section 2.4(N) shall be construed to prohibit the approval of a planned unit development having only a single building.

(8) Areas of Flexibility

Flexibility provided through an approved planned development will not be approved simply to avoid adherence to underlying zoning regulations, but instead must be used as a springboard to new development that would not otherwise be possible utilizing existing zoning standards. Areas of possible flexibility include the following:

(a) Building Placement – including zero lot line construction subject to building code allowances. Specifications and standards for lots and setbacks shall be at the discretion of the City Council and shall encourage a desirable living or working environment which assists in achieving the goals set out in Section 2.4(N)(1)(b).

(b) Trees/Landscaping Requirements – requires specialized landscaping plans that better address on-site needs and adjacent property concerns than would otherwise be required.

(c) Open Spaces – provision of public open spaces that are enhanced with public art and other amenities to provide a congregation area and a unique sense of place within the development.

(d) Parking Standards – a change in stall or lot configuration requirements in exchange for structured parking, better screening of parking areas, or higher quality landscaping throughout a parking area.

(e) Exterior Materials – flexibility on exterior materials to allow for unique architectural expression via higher quality materials. Architectural styling shall not be the sole basis for denial of a planned development.

(f) Density – up to a 10 percent increase in residential density (compared to what is achievable under base zoning) if the PUD or PRD provides substantially more site amenities and achieves more comprehensive plan goals than would be achieved in a conventional development for the applicable land use zone. Applicant must illustrate that additional amenities are provided by comparing what is proposed against the general outline of a by-right development layout.

(g) Utilities – A planned development may include sizing for water supply, sanitary sewers, and storm sewers; the width and type of paving of streets, alleys, sidewalks, public ways, curbs, and gutters; and the width and type of public utility easements and street lighting, which do not meet the standards as provided for in other sections of the City or Zoning Codes. Whenever such a case arises, the City Council may modify these requirements in order to accommodate the planned development, provided that such modification, on the advice of the proper City officials, will not impair the preservation of the public health, safety, morals, and general welfare of the residents of the planned development or of the City.

(h) Other – the City Council reserves the right to consider other modifications to underlying zoning requirements not listed above (including uses) provided such changes are supportable under the applicable planned development review criteria listed in Section 2.4(N)(9)(b)(iii).

(9) Planned Development Procedure

All requests to create a PUD or PRD overlay district shall follow the steps outlined below.

(a) Concept Proposal

(i) Concept Purpose

Prior to submitting formal development stage PUD or PRD, preliminary plat (if applicable) and rezoning applications for the proposed development, the applicant may, at their option, prepare an informal Concept Proposal and present it to the Planning Commission and City Council for initial feedback. The purpose of the Concept Proposal is to:

1. Provide preliminary feedback on the concept plan in collaboration between the applicant, general public, Planning Commission, and City Council;
2. Provide a forum for public comment on the development prior to the preparation of extensive plan sets;
3. Provide a forum to identify potential issues and benefits of the proposal which can be addressed at succeeding stages of design and review.

(ii) Proposal Submittal

1. All proposals for a Planned Development Concept Proposal review shall be in accordance with Section 2.3, Common Review Requirements.
2. In addition to common review requirements, proposals for a Planned Development Concept Proposal review shall also include at least the information in Section 2.4(N)(9)(a)(iii) below to be considered complete (except as exempted by the Department of Community Assets & Development).

(iii) Specific Concept Proposal Submittal Requirements

The following information shall be provided unless waived by staff:

1. A listing of contact information including name(s), address(es) and phone number(s) of: the owner of record, authorized agents or representatives, engineer, surveyor, and any other relevant associates;
2. A listing of the following site data: Address, current zoning, parcel size in acres and square feet and current legal description(s);
3. A narrative explaining the applicant's proposed objectives for the PUD or PRD, and public values that the applicant believes may be achieved by the project;

4. A listing of general information including the number of proposed residential units, commercial and industrial land uses by category of use, public use areas including a description of proposed use, and any other land use proposed as part of the PUD or PRD;
5. Calculation of the proposed density of the project compared to the potential/estimated density possible under standard zoning regulations;
6. Outline a conceptual development schedule indicating the approximate date when construction of the project, or stages of the same, can be expected to begin and be completed (including the proposed phasing of construction of public improvements and recreational and common space areas).
7. A Concept Proposal illustrating the nature and type of proposed development. At a minimum, the plan should show:
    a. Area calculations for gross land area;
    b. Existing zoning district(s);
    c. Layout of proposed lots and proposed uses. Denote outlots planned for public dedication and/or open space (schools, parks, etc.);
    d. Area calculations for each parcel;
    e. General location of wetlands and/or watercourses over the property and within 200 feet of the perimeter of the subdivision parcel;
    f. Location of existing and proposed streets within and immediately adjacent to the subdivision parcel;
    g. Proposed sidewalks and trails;
    h. Proposed parking areas;
    i. Proposed parks and common areas;
    j. General location of wooded areas or significant features (environmental, historical, cultural) of the parcel;
    k. Location of utility systems that will serve the property; and
    l. Other: An applicant may submit any additional information that may explain or support the proposed PUD.
8. A listing of the areas of flexibility from the standard zoning to be sought through the use of PUD or PRD provision.

(iv) Planned Development Concept Plan Proposal Review

Table 2-2: Written Notification Requirements

1. Before any PUD/PRD Concept Plan is acted upon, the Planning Commission shall hold at least one public hearing after proper notice has been issued in accordance with Section 2.3(I).
2. Following the hearing and subsequent discussion on the merits of the proposal, the Planning Commission shall make comments on the merits of the proposal, needed changes, and suggested conditions that might be imposed to guide the applicant on their future application submittal. The Planning Commission shall make no formal decisions as part of their consideration.
3. The City Council shall consider recommendations from the Department of Community Assets & Development, recommendations from the Planning Commission, and the comments received at the public hearing to evaluate the Concept Plan. Following discussion, the City Council shall make comments on the merits of the proposal, needed changes, and suggested conditions that might be imposed to guide the applicant on their future application submittal. The City Council shall make no formal decisions as part of their consideration.

(b) Planned Development Preliminary Stage

(i) Concurrent Requests

The Planned Development Preliminary Stage includes review of a preliminary PUD/PRD development plan, review of a proposed ordinance to create a PUD/PRD overlay district, and in many cases, review of a preliminary plat. To constitute a complete application, each of these separate applications (as may be needed) must be submitted as a single package for review. All components of a PUD/PRD Preliminary Development application will be reviewed as a single, interconnected request unless specifically authorized to be considered individually by the Department of Community Assets & Development.

(ii) Application

1. The application for Planned Development Preliminary stage shall be in accordance with Section 2.3, Common Review Requirements.

2. If the PUD or PRD is proposed to develop over a timeframe exceeding two years, a phasing plan for the entire project (to be completed in phases) must be submitted. Subsequent final plan applications can then grant approval for an individual phase or phases.
3. The portion of the application requesting creation of the PUD/PRD overlay district shall be in accordance with Section 2.4(B)(3), Zoning Ordinance Text and Zoning Map Amendments, Application Requirements.
4. The portion of the application requesting Preliminary Plat (if applicable) shall be in accordance with City Code Chapter 26, Subdivisions.
5. A Planned Development Preliminary Development Plan clearly delineating the proposed development and identifying all features not consistent with underlying zoning regulations (e.g. setback deviations) shall be submitted and include the following:
    a. Administrative information (including identification of the drawing as a "PUD/PRD Development Stage Plan," the proposed name of the project, contact information for the developer and individual preparing the plan, signature of the surveyor and civil engineer certifying the document, date of plan preparation or revision, and a graphic scale and true north arrow);
    b. Area calculations for gross land area, wetland areas, right-of-way dedications, conservation areas, and proposed public and private parks;
    c. Existing zoning district(s);
    d. Layout of proposed lots with future lot and block numbers. The perimeter boundary line of the subdivision should be distinguishable from the other property lines. Denote outlots planned for public dedication and/or open space (schools, parks, etc.);
    e. Area calculations for each parcel;
    f. Proposed setbacks on each lot (forming the building pad) and calculated buildable area;
    g. Proposed impervious surface allowance per lot (if applicable);
    h. Existing contours at intervals of two feet. Contours must extend a minimum of 200 feet beyond the boundary of the parcel(s) in question;

i. Delineation of wetlands and/or watercourses over the property and within 200 feet of the perimeter of the subdivision parcel;

j. Delineation of the ordinary high water levels of all water bodies;

k. A grading, drainage, and erosion control plan prepared by a registered professional engineer;

l. Location, width, and names of existing and proposed streets within and immediately adjacent to the subdivision parcel;

m. Easements and rights-of-way within or adjacent to the subdivision parcel(s);

n. The location and orientation of proposed buildings;

o. Colored building elevations which detail the materials being used;

p. Proposed sidewalks and trails;

q. Vehicular circulation system showing locations and dimensions for all driveways, parking spaces, parking lot aisles, service roads, loading areas, fire lanes, emergency access (if necessary), public and private streets, alleys, sidewalks, bike paths, direction of traffic flow, and traffic control devices;

r. Lighting location, style, and mounting and light distribution plan.

s. Proposed parks, common areas, and preservation easements (indicate public vs. private if applicable);

t. Landscape plan prepared by a qualified landscaping professional providing all information required by Section 4.1, Landscaping.

u. Location and details of proposed signage.

v. Location, access, and screening detail of large trash handling and recycling collection areas.

w. Any other information as directed by the Department of Community Assets & Development.

(iii) Review

1. Planned Development Preliminary Stage Review General Criteria.

Approval of a Planned Development Preliminary Stage application requires that the City finds that all the following general criteria will always be met or can be met with conditions:

a. The plan is consistent with the City's Comprehensive Plan;

b. The plan is tailored to the specific characteristics of the site and achieves a higher quality of site planning and greater public benefits than would be achieved under conventional provisions of the zoning ordinance;

c. The plan successfully addresses the purpose and intent of a planned development as laid out in Section 2.4(N)(1);

d. The plan is consistent with allowed areas of flexibility as outlined in Section 2.4(N)(8);

e. The plan maintains or improves the efficiency of public streets, utilities, and other public services;

f. The plan results in development compatible with existing adjacent and future guided land uses;

g. The plan can be accommodated by existing public services, such as parks, police, fire, administration, and utilities, or the developer has provided for the growth and extension of such services as a component of the planned development; and

h. The plan is designed to take advantage of, and preserve, the natural features of the subject property, including waterways, forested areas, natural prairie, topography, views, etc.

2. Planned Residential Development (PRD) Specific Review Criteria.

Approval of a Planned Residential Development (PRD) requires that the City finds that all the following PRD specific criteria will also be met or can be met with conditions:

a. A planned residential development that includes only a single type of dwelling unit, such as all detached or all semi-detached shall not be deemed inconsistent with the stated purposes of this Chapter because it contains only a single type of dwelling unit.

b. The maximum ground floor area for the sum of all buildings in the project shall not exceed 25 percent of total land area in the planned residential development.

c. There shall be no height limitation for any buildings in a planned residential development except that all buildings and dwelling units shall observe the following setbacks and densities:

i. There shall be a minimum setback of the height of the building or 25 feet, whichever is less, from all property lines that form the perimeter of the entire plan of the planned residential development. Subject to approval of the City Council, building setbacks may be decreased from the perimeter setback requirement for any new planned residential development if pedestrian linkages to neighboring developments for residents, employees, or shoppers is provided along with an approved streetscape plan with enhanced landscaping.

ii. When any property line forming the perimeter of the plan for a planned residential development is in, abuts, or is less than 70 feet from an RS-l or RM-1 district, the setback for each building in the planned residential development shall be at least its building height away from said line except where said abutting or adjacent property is publicly owned and is 70 feet or more in width, then the setback shall be a minimum of 25 feet.

iii. In accordance with, and to better meet the stated purpose of the Planned Residential Development Article of the Zoning Code, the dwelling unit density for a planned residential development within an RS-1, RM-1, RM-2 or RM-3 district may be computed on a basis of 80 percent of the required minimum lot area per unit as stipulated for the respective districts in the Zoning Code. Adjusted densities may be applied to any land within the district that will be developed in accordance with an approved site plan for a planned residential development.

iv. In order to provide for the unique characteristics of developments serving the elderly and in recognition of their reduced levels of population and activity, housing developments for elderly persons may have their density calculated on the basis of 50 percent of the minimum lot area per dwelling unit stipulated for the respective districts in this Zoning Code.

d. There shall be a minimum of two off-street parking spaces per dwelling unit in a planned residential development serviced by a private road. In addition, a minimum of 1/2 parking space per dwelling unit shall be provided for visitor parking and visitor parking shall be posted "visitor parking only".

e. Any and all common open space shall be labeled as such and as to its intent or design function. Provisions for maintenance, ownership, and preservation shall be made in accordance with the provisions of the "Minnesota Condominium Act," Minnesota Statutes, Sections 515.01 to 515.29.

3. Planned Unit Development (PUD) Specific Review Criteria.

a. A minimum of 30,000 square feet of gross floor area shall be provided within the proposed buildings making up the PUD

b. The maximum gross floor area for the sum of all buildings in a project shall not exceed 45 percent of the total land area in the planned unit development. For purposes of determining compliance with this provision, the first two aboveground floors of structures used exclusively for parking of vehicles shall not be included as part of the gross floor area of the development. Subject to approval of the City Council, the gross floor area may be increased for any new Planned Unit Development that is within the New Brighton Exchange (NBE) zoning district.

c. All buildings shall observe the following setbacks unless otherwise specified by the Council at the time of approval of the planned unit development:

i. There shall be a minimum setback of the height of the building, or 30 feet, whichever is greater, from all property lines that form the perimeter of the entire plan of the Planned Unit Development. Subject to approval of the City Council, building setbacks may be decreased from the perimeter setback requirement for any new Planned Unit Development if pedestrian linkages to neighboring developments for residents, employees, or shoppers are provided along with an approved streetscape plan with enhanced landscaping.

ii. There shall be a minimum setback of the height of the building, or 60 feet, whichever is greater, from any property zoned RS-l or RM-1. Subject to approval of the City Council, the setbacks referenced in this sub-section may be decreased for any new Planned Unit Development that is located in the New Brighton Exchange (NBE) zoning district.

iii. There shall be a minimum setback of the height of the building, or 60 feet, whichever is greater, from any public street. Subject to approval of the City Council, the setbacks referenced in this sub-section may be decreased for any new Planned Unit Development that is located in the New Brighton Exchange (NBE) zoning district.

d. Any improvement, such as streets, sidewalks, or utilities to be located on or in land dedicated to the public, shall be ordered and financed in accordance with Sections 25-16 through 25-45 of the City Code.

4. Staff Review

a. The Department of Community Assets & Development shall generate an analysis of the proposal against the expectations for a PUD/PRD as outlined in Section 2.4(N)(9)(b)(iii) and formulate a recommendation regarding all requests for consideration by the Planning Commission and City Council.

b. An ordinance to establish the proposed PUD or PRD overlay district shall be prepared by the City as part of the PUD/PRD Development Stage Plan review. The ordinance shall lay out all special provisions being authorized by the PUD or PRD, and clearly lay out the framework of rules that will govern the PUD or PRD parcels moving forward. The draft ordinance shall be reviewed as a component of the Preliminary stage public hearing. Final adoption of the ordinance shall occur as part of the future Final Stage PUD/PRD approval.

5. Planning Commission

a. Before any PUD/PRD Development Stage Plan is acted upon, the Planning Commission shall hold at least one public hearing after proper notice has been issued in accordance with Section 2.3(I).

b. Following the public hearing and subsequent discussion on the merits of the proposal, the Planning Commission shall adopt findings and recommendations on the PUD/PRD Development Stage Plan review criteria.

i. Recommendations for approval may include conditions as deemed necessary to ensure compliance with each of the PUD/PRD Development Stage Plan review criteria and shall be supported by findings of fact as to why the PUD/PRD Development Stage Plan request is recommended for approval.

ii. Denial recommendations shall be supported by findings of fact as to why the PUD/PRD Development Stage Plan request should be denied.

6. City Council

a. The City Council shall consider recommendations from the Department of Community Assets & Development, recommendations from the Planning Commission, and the comments received at the public hearing to evaluate the request against all PUD/PRD review criteria and take action on the request.

b. Decisions on a PUD/PRD Development Stage Plan shall require a majority vote of the City Council.

(c) Planned Development Final Stage

(i) Initiation of Proceedings

The request for Planned Development final stage approval shall be initiated by application of the property owner or other person having authority to file an application pursuant to Section 2.3(B), Authority to File Applications.

(ii) Application

1. All applications for Planned Development final stage shall be in accordance with Section 2.3, Common Review Requirements.
2. Applications for Final Stage PUD or PRD approval shall also include at least the information in Section 2.4(N)(9)(c)(iii) below to be considered complete.

(iii) Specific Final Stage and Final Plat Submittal Requirements

1. If a Master Plan for the entire project was submitted and approved as part of the Preliminary Development Stage, an updated Master Plan shall be submitted incorporating all changes required by Preliminary Development Stage approval.
2. The Planned Development final stage application shall identify the specific stage or stages for which approval is currently being sought.
3. If applicable, an updated and finalized Final Plat shall be submitted in accordance with the provisions of City Code Chapter 26 along with up-to-date title work or title insurance acceptable to the City Attorney.
4. Developer shall provide warranty deeds for Property being dedicated to the City for all parks, Outlots, etc., free from all liens and encumbrances except as otherwise waived by the City Council.
5. Developer shall provide all easement dedication documents for easements not shown on the final plat including those for trails, ingress/egress, etc.
6. Any updates to preliminary stage documents as may be requested by the Department of Community Assets & Development.

(iv) Final Stage and Final Plat Review

1. The Department of Community Assets & Development shall analyze the Final Stage submittals against the requirements of Development Stage approval and formulate a recommendation regarding all requests for consideration by the City Council.
2. The City shall prepare, and the applicant shall be required to execute, a developer's agreement which references all PUD/PRD plans, development phasing, required improvements, completion dates for improvements, the required letter of credit, all required development fees, escrows, and warranties, and any other information deemed necessary by the City.
3. The City shall finalize the ordinance to establish the new PUD/PRD overlay district in accordance with development plan approval, and shall prepare the final ordinance and a summary publication resolution for consideration and approval by the City Council.

4. The application for Planned Development final stage and Final Plat shall be considered by the City Council once all materials are ready for consideration according to the Department of Community Assets & Development. Approval of the PUD Final Stage and Final Plat shall be by simple majority vote of the City Council, except where State law may specifically require a supermajority.
5. The City shall, upon approval of the PUD Final Stage, record the Final Plat, execute the PUD developer's agreement, and publish the approved and finalized PUD Ordinance or summary of the ordinance.

(10) Planned Development Amendments

Approved Planned Developments may be amended from time to time as a result of unforeseen circumstances, overlooked opportunities, or requests from a developer. At such a time, the applicant shall make an application to the City for a Planned Development amendment. All such amendments will be processed as one of the following:

(a) Administrative Fine-tuning – The Department of Community Assets & Development may approve minor changes in the location, placement, and height of buildings if such changes are required by engineering or other circumstances, provided the changes conform to the review criteria applied by the Planning Commission and City Council, and are consistent with all requirements of the PUD/PRD ordinance. Under no circumstances shall administrative fine-tuning allow for additional stories to buildings, additional lots, or changes to designated uses established as part of the Planned Development. Administrative fine-tuning shall be memorialized via letter signed by the Director of Community Assets & Development and recorded against the Planned Development property.

(b) Planned Development Adjustment – an adjustment to a Planned Development may be made through review and approval by a simple majority vote of the City Council with or without referral to the Planning Commission. For a Planned Development Adjustment, the applicant shall follow the procedures and requirements of the Planned Development Final Stage as identified in Section 2.4(N). A Planned Development Adjustment shall be memorialized with an amendment to the Development Agreement, executed by the City and applicant, and recorded against the Planned Development property. To qualify for this review, the adjustment shall not:

(i) Eliminate, diminish or be disruptive to the preservation and protection of sensitive site features.

(ii) Eliminate, diminish or compromise the high quality of site planning, design, landscaping or building materials.

(iii) Alter significantly the location of buildings, parking areas or roads.

(iv) Increase or decrease the number of residential dwelling units by more than five percent.

(v) Increase the gross floor area of non-residential buildings by more than three percent or increase the gross floor area of any individual building by more than five percent (residential lots not guided for specific structure sizes are excluded from this requirement).

(vi) Increase the number of stories of any building.

(vii) Decrease the amount of open space or alter it in such a way as to change its original design or intended function or use.

(viii) Create non-compliance with any condition attached to the approval of the Planned Development Final Stage.

(c) Planned Development Amendment – any change not qualifying for administrative fine-tuning, or a Planned Development Adjustment shall require a Planned Development amendment. An application to amend a PUD shall be administered in the same manner as that required for an initial PUD beginning at PUD Development Preliminary Stage.

(11) Planned Development Cancellation

A Planned Development shall only be cancelled and revoked upon the City Council adopting an ordinance rescinding the ordinance approving the Planned Development. Cancellation of a Planned Development shall include findings that demonstrate that the Planned Development is inconsistent with the Comprehensive Plan or other applicable land use regulations; why it threatens public safety, health, or welfare; or other applicable findings in accordance with law.

(12) Administration

In general, the following rules shall apply to all Planned Developments:

(a) Rules and regulations: No requirement outlined in the Planned Development process shall restrict the City Council from taking action on an application if necessary to meet state mandated time deadlines for a decision.

(b) Preconstruction: No building permit shall be granted for any building on land for which a Planned Development plan is in the process of review, unless the proposed building is allowed under the existing zoning and will not impact, influence, or interfere with the proposed Planned Development plan.

(c) Effect on Conveyed Property: In the event any real property is conveyed in total or in part as a component of a Planned Development, the buyers thereof shall be bound by the provisions of the approved Planned Development and ordinance.

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CHAPTER 3: ZONING DISTRICTS

3.1 General Provisions

Official Zoning Map

(A) Adoption of Zoning Map

(1) The map entitled City of New Brighton Zoning Map, dated <date new map adopted> and as may be amended, hereinafter referred to as the "zoning map," and all explanatory matters thereon, is hereby adopted and made a part of this ordinance.

(2) Questions concerning a zoning designation, or boundaries of a zoning district shown on the zoning map, shall be resolved by referring to the originally adopted map and any subsequent ordinances amending the districts and boundaries. The Department of Community Assets & Development shall make the final determination in the event of a dispute or discrepancy.

(B) Types of Zoning Districts

Land within the City is generally classified by this ordinance to be within a specific base zoning district. Land within any base zoning district may also be classified into one or more overlay zoning districts, in which case regulations governing development in the overlay district shall apply in addition to the regulations governing development in the underlying base zoning district, unless expressly stated otherwise.

(C) District Boundaries

District boundary lines are the centerlines of highways, streets, alleys, easements, right-of-way lines of limited access roadways, lot lines, or such lines extended unless otherwise indicated. In the event of closure of a street or alley, the district boundary shall be construed as the centerline of such vacated street or alley unless a specific amendment is made otherwise.

(D) Zoning Classifications for Newly Annexed Property

Any land annexed to the City in the future shall initially be placed in the RS-1 Single Family Residential District, unless placed in another district by action of the City Council after recommendation of the Planning Commission.

3.2 Districts Established

(A) Establishment of Base Districts

Table 3-1, Base Zoning Districts, sets out the base districts established by this ordinance.

TABLE 3-1: ZONING DISTRICTS ESTABLISHED		
DISTIRCT TYPE	DISTRICT ABBREVIATION	DISTRICT NAME
Residential	RS - 1	Single-Family Low-Density District
	RS - 2	Single-Family Medium-Density District
	RM - 1	Multi-Family Low-Density District
	RM - 2	Multi-Family Medium-Density District
	RM - 3	Multi-Family High-Density District
	MHC	Manufactured Home Community
Non-Residential	BR	Residential Business District
	BN	Neighborhood Business
	BG	General Business
	IL	Light Industrial District
	IH	Heavy Industrial District
	IR	Restricted Industrial District
Mixed Use	DT	Downtown District
	NBE	New Brighton Exchange
	MUN	Mixed Use Neighborhood
	MUR	Mixed Use Regional
	MUE	Mixed Use Exchange

(B) Establishment of Overlay Districts

Table 3-2, Overlay Zoning Districts, sets out the overlay zoning districts established by this ordinance.

TABLE 3-2: OVERLAY DISTRICTS ESTABLISHED		
DISTIRCT TYPE	DISTRICT ABBREVIATION	DISTRICT NAME
Overlays	SH	Shoreland Overlay District
	FP	Floodplain Overlay District
	PD	Palmer Drive Overlay District
	EC	Environmental Constraint Overlay District

(C) Classification of Districts

Section 2.4(B)

Land shall be classified or reclassified into a base or overlay zoning district only in accordance with the procedures and requirements set forth in Section 2.4(B), Zoning Ordinance Text and Zoning Map Amendments.

(D) Organization of Base Zoning District Regulations

Sections 3.4 through 3.6 establish the general purposes of each base zoning district along with the physical standards governing lot size and the placement of structures and buildings within each district. Most subsections have a common structure consisting of a purpose statement, density allowances, lot dimension requirements, and development standards; along with graphics showing typical lot configurations and a hypothetical graphic depicting the district's physical regulations. Finishing standards for lots (i.e. landscaping standards, parking requirements, etc.) can be found in Chapter 4. Uses allowed in each district can be found in Chapter 5.

3.3 Common District Requirements

The following regulations shall apply in all base zoning districts unless otherwise stated.

(A) Building within Public Easements Prohibited

No building or structure shall be placed within an easement dedicated for a public purpose unless expressly authorized by a variance issued in accordance with Section 2.4(C), a temporary use permit issued in accordance with Section 2.4(L), or by license/encroachment agreement if authorized by the City Manager.

(B) Outlots

No building permit or grading permit can be issued for a parcel of land designated in a plat as an Outlot unless specifically authorized by the City Council.

(C) Number of Principal Buildings or Uses per lot

(1) Only one principal building for single-family or duplex use, with permitted accessory buildings, may be located upon a lot.

(2) Where a lot is used for multifamily, mixed-use, commercial, or industrial purposes, more than one principal building may be located upon the lot but only when such buildings conform to all requirements of this Ordinance.

(3) No lot shall be divided to contain more dwelling units than are permitted by the Comprehensive Plan and the regulations of the zoning district in which they are located.

(D) Common Yard and Height Requirements

(1) In General

Unless otherwise authorized by variance, PUD, or PRD; no lot or yard shall be reduced in area or dimension so as to make such lot or yard less than the minimum required by this ordinance; or if the existing lot or yard is already less than the minimum required, it shall not be further reduced.

(2) Allowed Yard Encroachments

Architectural features listed in Table 3-3 may project into required yards as noted:

TABLE 3-3 ALLOWED YARD ENCROACHMENTS

Projecting Architectural and/or Other Feature	Allowed Projection into a Required Yard
Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, cornices, eaves, gutters, and similar architectural features.	Up to 24 inches into a required yard.
Steps, walks, driveways, and similar features used as a means of getting from one place to another.	No required setback provided they do not extend above the height of the ground floor level of the principal structure.
Fences and walls meeting the standards of Section 4.3.	May encroach into required yards but shall be subject to corner visibility requirements outlined in Section 3.3(D)(3).

(3) Corner Visibility (see Figure 3-1)

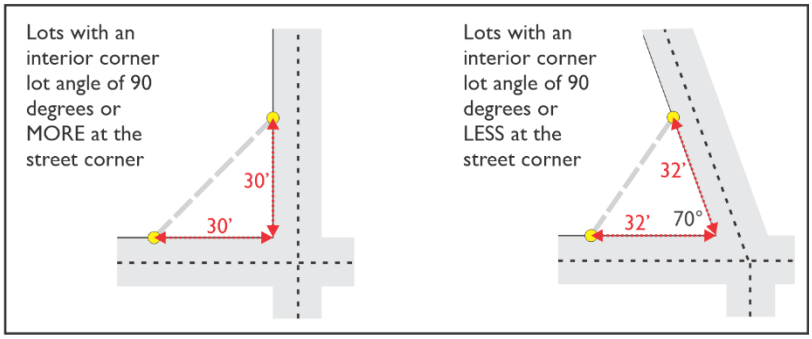
(a) Corner lots shall preserve areas necessary for intersection visibility by limiting the height of fences, walls, and all other obstructions to a maximum of two and one-half feet above grade in the following areas:

(i) For lots with an interior corner lot angle of 90 degrees or more at a street or railway corner, the protected corner area is defined by a triangle created by the two corner lot lines and an imaginary line between the corner lot lines at 30 feet from the corner on each property lot line.

(ii) For lots with an interior angle of less than 90 degrees at a street or railway corner, the protected corner area is defined by a triangle created by the two corner lot lines and drawing an imaginary line between the corner lot lines 30 feet from the corner on each property lot line plus one foot for every ten degrees or fraction thereof less than 90 degrees.

Figure 3-1: Corner Visibility (Protected Corner Area)

The dashed lines in figure 3-1 represent the hypotenuse of the protected corner area at street intersections. The protected corner area increases as the angle between the intersecting streets decreases.



(b) Corner visibility standards do not apply to United States mailboxes, police and fire alarm boxes, public utility poles, street name markers, official traffic signs and control devices, and fire hydrants.

(4) Height Requirements

(a) In general

The total height of any structure shall not exceed the maximum height limit established for the applicable zoning district unless expressly stated otherwise in this ordinance.

(b) Exceptions

Height limitations shall not apply to the following:

(i) Church spires, belfries, cupolas, and domes;

(ii) Chimneys and smokestacks;

(iii) Flagpoles;

(iv) Any antenna or combination of antenna and tower rigidly attached to a building provided that the combination of antenna and tower does not exceed a total height of 20 feet above the highest point of attachment;

(v) Any dish antenna thirty inches or less in diameter;

(vi) Roof-mounted mechanical equipment. Such equipment shall be either screened or completely enclosed and shall be exempted from the height limitations if the enclosure(s) does not occupy more than thirty percent of the roof area and does not extend more than twelve feet above the roof upon which it is located;

(vii) Elevator bulkheads with siding and roofing matching the building;

(viii) Water towers;

(ix) Parapet walls extending not more than three feet above the limiting height of the building;

(x) Fire escapes or roof access stairways; and

(xi) Features similar to those noted above if approved by the Department of Community Assets & Development.

(E) Common Business and Industrial District Performance Standards

Any use established in a Business or Industrial District after October 24, 1968, shall be operated in compliance with the performance standards of this subsection. No use established before October 24, 1968, shall be so altered or modified to conflict with the following performance standards.

(1) No activities involving the storage, utilization, or manufacturing of materials or products that could decompose by detonation shall be permitted unless specifically licensed by the City Council. These materials shall include but not be confined to all primary explosives such as lead oxide and lead sulfate; all high explosives and boosters such as TNT, RDS, tetryl and ammonia nitrates; propellants and components thereof, such as nitrocellulose, black powder, ammonium perchlorate, and nitroglycerine; blasting explosives such as dynamite, powdered magnesium, potassium chlorate, potassium permanganates, and potassium nitrates; and, nuclear fuels and reactor elements such as uranium 235 and plutonium.

(2) Screening shall be provided and maintained by the property owner for a parcel used for business purposes adjacent to a Residential District. The screening, either of plantings, a fence, or a wall, shall be designed to reduce noise and prohibit eye-level vision from the residential land to the Business District.

(3) Sound levels above the following figures in Table 3-4 are prohibited. Sound levels shall be measured by equipment meeting the specifications of the American Standards Association.

TABLE 3-4: PROHIBITED SOUND LEVELS

OCTAVE BAND CYCLES PER SECOND	ALONG RESIDENTIAL LOT LINE LEVELS IN DECIBELS	ALONG NONRESIDENTIAL LOT LINE LEVELS IN DECIBELS
0 TO 75	72	79
>75 TO 150	67	74
>150 TO 300	59	66
>300 TO 600	52	59
>600 TO 1200	46	53
>1200 TO 2400	40	47
>2400 TO 4800	34	41
OVER 4800	32	39

(4) Any use creating periodic earth-shaking vibrations, such as may be created from a drop forge, shall be prohibited if such vibrations are perceptible beyond the lot line of the site on which the use is located. This standard shall not apply to vibrations created during the process of construction.

(5) Any use shall be so operated as to permit no smoke or particulate to be discharged that is darker than No. 1 classification of the Ringelmann Smoke Chart furnished by the U.S. Bureau of Mines. Further, the emission shall not exceed more than 0.07 pounds per hour per acre of site occupied.

(6) Any use established shall be so operated as not to discharge across the boundaries of the lot or through percolation into the subsoil beyond the boundary of the lot where such use is located, toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety, comfort or welfare; or, cause injury or damage to property or businesses.

(7) Any use shall operate in a way so as to prevent the emission of odorous matter of such quality as to be readily detectable beyond the lot line of the site on which such use is located.

(8) Any use producing intense heat or direct light transmission shall have shielding to prevent the heat or direct light from being detectable at the lot line of the site on which the use is located.

(9) Any use established in a Residential, Industrial, or Business District which requires the storage of material or goods shall provide a six foot screen to shield the material or goods from sight by the public traveling on the public right-of-way. Also, if such material or goods extends to a height greater than six feet, it shall be subject to the same yard requirements as a building for the district in which it is located. Material stored in the open shall be in rows no greater than 50 feet in width with access drives not less than 18 feet between rows.

(10) All loading docks and vehicular doors established after October 24, 1968, shall be, when facing a public right-of-way, 50 feet or more from the public right-of-way but at no time shall trucks or trailers cross the property line when parked. No more than one loading dock accommodating one truck at a time shall face a public street. More than one loading dock, but no more than three, may face a public right-of- way when said loading facilities are screened from that public right-of-way by topography, landscaping and/or fence. If any part of the fence that provides such screening is a gate, the gate must have an automated control that keeps the gate closed except when vehicles are passing through.

(11) The exterior treatment on the street side of the structure shall be brick, stone, tilt-up slabs, architectural metal panels, decorative block, or the equivalent. The other sides of the structure shall not be raw block.

3.4 Residential Base Zoning Districts

(A) General Purpose

The residential base zoning districts established in Section 3.4 are intended to provide a variety of housing options in a comfortable, healthy, safe, and pleasant environment in which to live and recreate at a neighborhood level. More specifically, they are intended to:

(1) Promote strong residential neighborhoods with a sense of connection to the community;

(2) Foster citizen involvement in the community, interaction between neighbors and neighborhood-oriented support systems;

(3) Provide a range of housing choices and affordability through varying housing densities, types and designs including accessory dwelling units;

(4) Seek quality over quantity in new residential growth; and

(5) Maintain a connection to the natural environment by incorporation of natural characteristics into the development setting.

(B) Standards Applicable to All Residential Base Zoning Districts

The following standards shall be applicable to all residential zoning districts and the Residential Business District (see table 3-1).

(1) Zero Side Lot Line Development

(a) Residential unit lots containing duplexes or townhouses may be subdivided along the common wall in a "zero lot line" arrangement, provided:

(i) The combined area of the base lot and individual unit lots contains the required amount of lot area per unit as prescribed elsewhere in this ordinance;

(ii) Unit lots shall meet all required setbacks from the boundaries of the base lot;

(iii) Any shared wall facing on a zero side lot line is a structural wall capable of providing protection from fire, noise, and visual encroachment;

(iv) All applicable provisions of City Code Chapter 26, Subdivisions, and the MN Building code can be successfully met.

(2) Condominiums

Residential lots of non-single-family structures may be divided for the purpose of condominium ownership provided that:

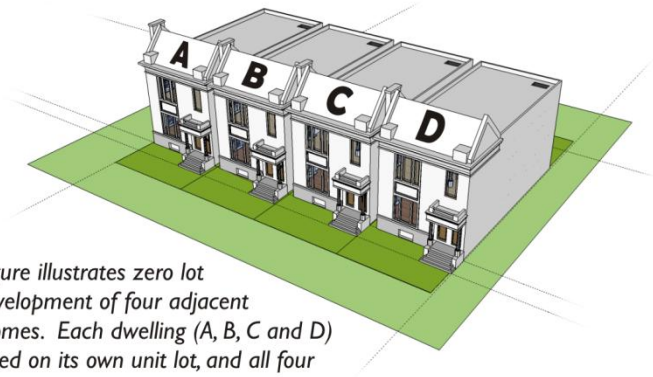
(a) The principal structure containing the housing units shall meet the setback distances of the applicable zoning district;

(b) The number of condominium units created is allowed by the comprehensive plan and base zoning district;

(c) Each condominium unit will conform to minimum zoning requirements as may be applicable (i.e. required parking spaces, minimum lot area, minimum usable open space, etc.); and

(d) Each condominium must conform with all applicable building code requirements.

Figure 3-2: Zero Lot Line Development vs Condominiums



This figure illustrates zero lot line development of four adjacent townhomes. Each dwelling (A, B, C and D) is located on its own unit lot, and all four unit lots are located on one base lot.

Comparatively, the figure below shows condominium ownership of the same development. Ownership is not defined by a unique lot, but rather a specified space within a building.



Section 3.4(C)

RS-1: Single-Family Low Density Residential District

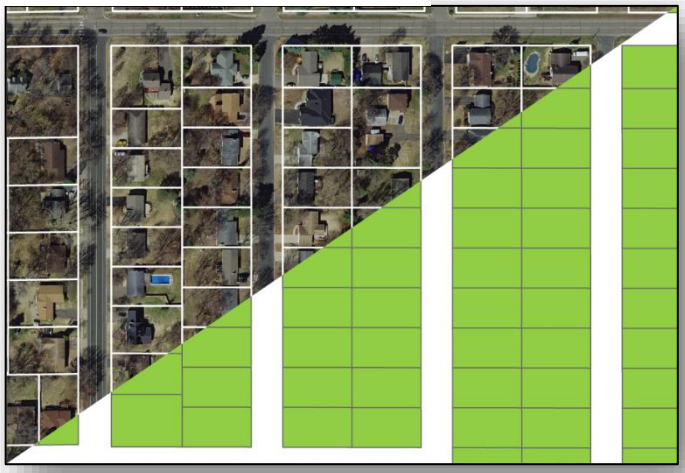
(1) Purpose

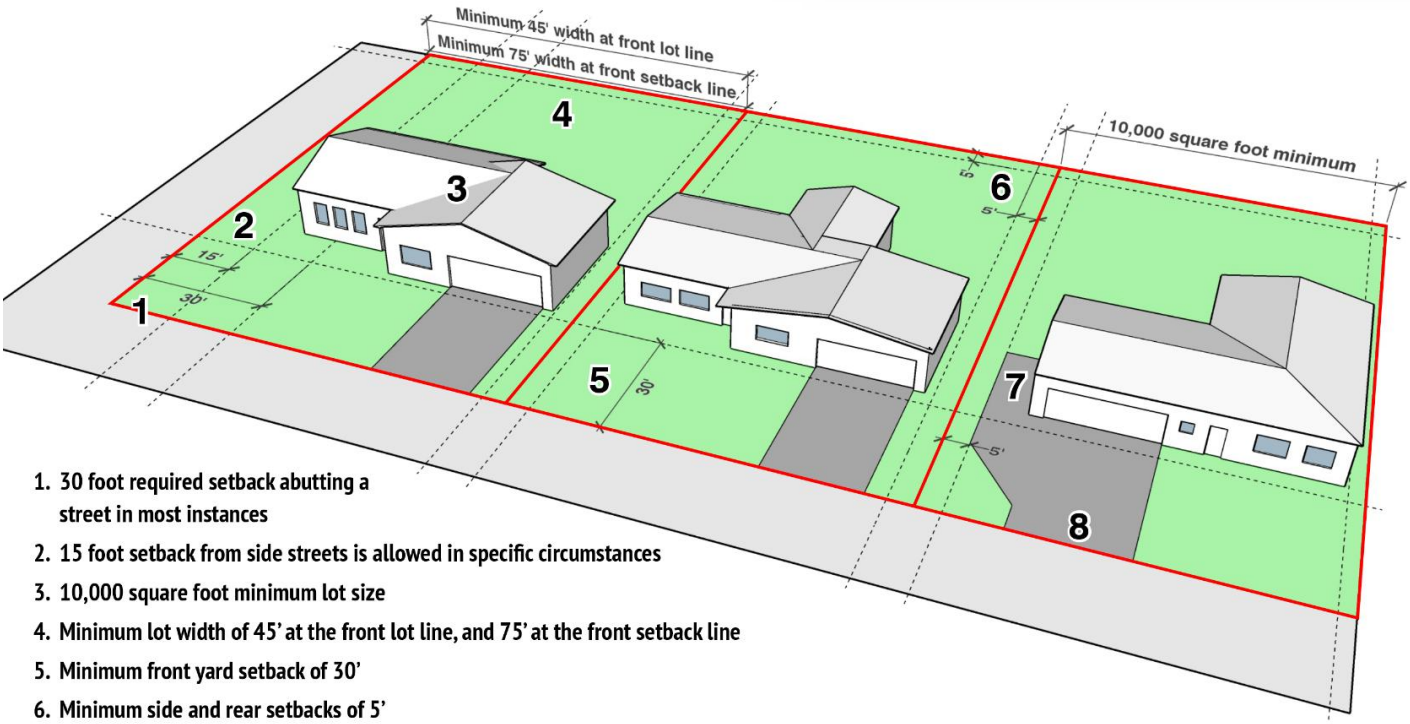
The RS-1 District is intended to accommodate single-family detached residential uses and typical accessory development at the City's lowest residential density.

(2) Density	
Dwelling units/acre max	6

(3) Lot Dimensions	
(a) Lot Area, minimum	
Any permitted use	10,000 square feet
(b) Lot Width, minimum	
At the front lot line	45 feet
At the front building setback line	75 feet
(c) Lot Depth, minimum	
All lots	n/a

Typical RS-1 Lot





1. 30 foot required setback abutting a street in most instances
2. 15 foot setback from side streets is allowed in specific circumstances
3. 10,000 square foot minimum lot size
4. Minimum lot width of 45' at the front lot line, and 75' at the front setback line
5. Minimum front yard setback of 30'
6. Minimum side and rear setbacks of 5'
7. Driveways are required to meet setback requirements
8. Driveways are not to exceed a width of 24' at the front lot line and through the right-of-way to the street.

TABLE 3-5: RS-1 DEVELOPMENT STANDARDS

	REQUIRED YARDS (in feet) [1]				Max Height (stories / feet)	Maximum Gross Impervious Surface Coverage	Maximum Gross Building Coverage
	Front [2]	Interior Side	Street Side [3]	Rear [4]			
All Structures and Buildings	30	5	30	5	Lesser of 2.5 stories or 30 feet	50%	30%

[1]: Any principal structure or building other than a single-family residence shall be located at least 30 feet from all property boundary lines.

[2]: A required front yard setback may be reduced to 24' for a portion of a principal dwelling. The portion of the dwelling within the standard setback shall:

a) Not exceed 35 percent of the dwelling width (excluding an attached garage) or shall be no more than 12 feet in width, whichever is less.

b) Include a base that is consistent in appearance with the base of the rest of the dwelling.

c) Include a roof that is properly proportioned to and integrated with the roof of the larger dwelling.

d) Utilize the same exterior structure materials and colors as the principal structure and accessories

[3]: Any property already improved on August 21, 1981, by construction of a principal structure with a 15 foot side street yard setback shall not be considered nonconforming in regard to side street yard setback. In all cases, where adjacent properties are already improved, the City Council can grant special permission to change the setback requirements on a corner lot based on the criteria of visual compatibility with the surrounding properties.

[4]: Rear yard setbacks for lakeshore lots shall be as outlined in Section 3.8(C)(10).

Accessory Structures	▪ See Section 5.4(B) for all general standards and limitations on all accessory structures. ▪ See Section 5.4(E)(4)(a) for accessory structure limitations in residential districts. ▪ See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.
Other Regulations to Consult (not all inclusive)	▪ Section 3.3, Common District Requirements ▪ Section 3.4(B), Standards Applicable to All Residential Base Zoning Districts ▪ Section 4.1, Landscaping and Screening Standards ▪ Section 4.3, Fences and Walls ▪ Section 4.7, Parking (and Driveway Standards) ▪ Section 5.4(E)(15), Home Occupations

Section 3.4(D)

RS-2: Single-Family Medium Density Residential District

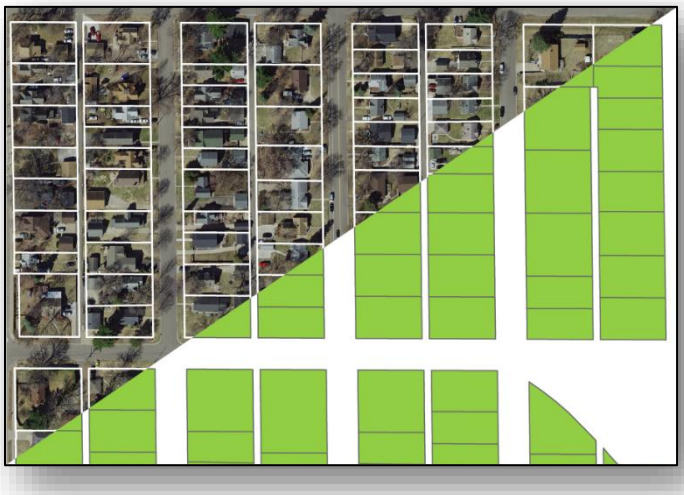
(1) Purpose

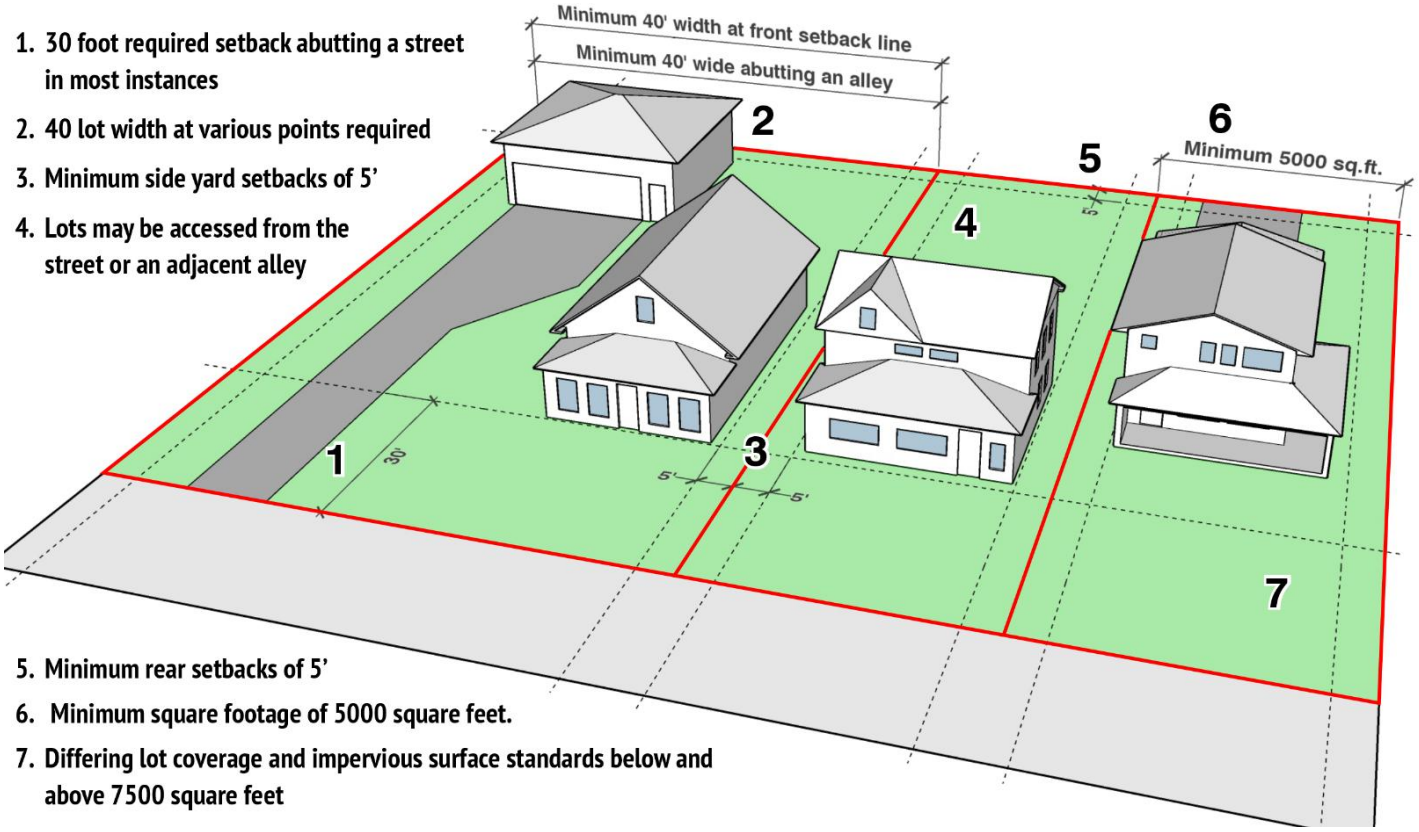
The RS-2 District is intended to accommodate dense single-family detached residential development and typical accessory uses on small lots.

(2) Density	
Dwelling units/acre max	12

(3) Lot Dimensions	
(a) Lot Area, minimum	
Any permitted use	5,000 square feet
(b) Lot Width, minimum	
At the front building setback line	40 feet
At the rear lot line	40 feet
(c) Lot Depth, minimum	
All lots	n/a

Typical RS-2 Lot





1. 30 foot required setback abutting a street in most instances
2. 40 lot width at various points required
3. Minimum side yard setbacks of 5'
4. Lots may be accessed from the street or an adjacent alley
5. Minimum rear setbacks of 5'
6. Minimum square footage of 5000 square feet.
7. Differing lot coverage and impervious surface standards below and above 7500 square feet

TABLE 3-6: RS-2 DEVELOPMENT STANDARDS

	REQUIRED YARDS (in feet) [1]				Max Height (stories / feet)	Maximum Gross Impervious Surface Coverage		Maximum Gross Building Coverage	
	Front [2]	Interior Side	Street Side [3]	Rear [4]		Lots less than 7500 sq ft	Lots 7500 sq ft and larger	Lots less than 7500 sq ft	Lots 7500 sq ft and larger
All Structures and Buildings	30	5	30	5	Lesser of 2.5 stories or 30 feet	55%	50%	40%	30%

[1]: Any principal structure or building other than a single-family residence shall be located at least 30 feet from all property boundary lines.

[2]: A required front yard setback may be reduced to 24' for a portion of a principal dwelling. The portion of the dwelling within the standard setback shall:

a) Not exceed 35 percent of the dwelling width (excluding an attached garage) or shall be no more than 12 feet in width, whichever is less.

b) Include a base that is consistent in appearance with the base of the rest of the dwelling.

c) Include a roof that is properly proportioned to and integrated with the roof of the larger dwelling.

d) Utilize the same exterior structure materials and colors as the principal structure and accessories.

[3]: Any property already improved on August 21, 1981, by construction of a principal structure with a 15 foot side street yard setback shall not be considered nonconforming in regard to side street yard setback. In cases where adjacent properties are already improved, the City Council can grant special permission to change the setback requirements on a corner lot based on the criteria of visual compatibility with the surrounding properties.

[4]: Rear yard setbacks for lakeshore lots shall be as outlined in Section 3.8(C)(10).

Accessory Structures

- See Section 5.4(B) for all general standards and limitations on all accessory structures.
- See Section 5.4(E)(4)(a) for accessory structure limitations in residential districts.
- See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.

Other Regulations to Consult (not all inclusive)

- Section 3.3, Common District Requirements
- Section 3.4(B), Standards Applicable to All Residential Base Zoning Districts
- Section 4.1, Landscaping and Screening Standards
- Section 4.3, Fences and Walls
- Section 4.7, Parking (and Driveway Standards)
- Section 5.4(E)(15), Home Occupations

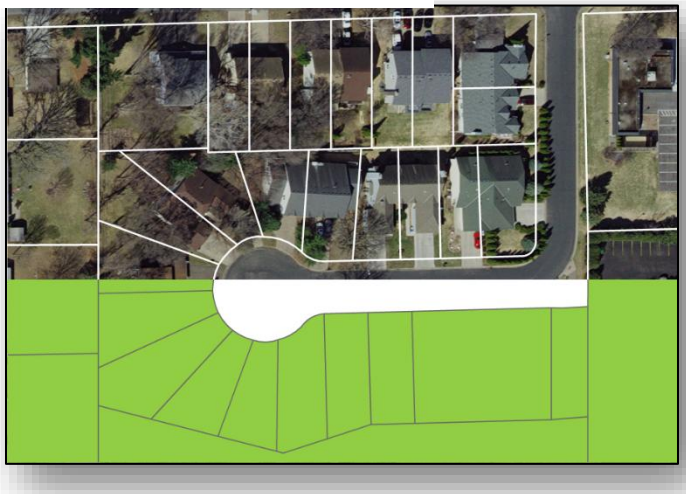
Section 3.4(E)

RM-1: Multi-Family Low Density Residential District

(1) Purpose

The RM-1 District is intended to accommodate both single-family homes and lower density multi-family options such as duplexes and townhomes.

Typical RM-1 Lot



(2) Density	
Maximum dwelling units/acre	12

(3) Lot Dimensions	
(a) Lot Area, minimum	
Any permitted use	12,500 square feet
(b) Lot Width, minimum	
At the front lot line	75 feet
At the front building setback line	85 feet
At the rear lot line	n/a
(c) Lot Depth, minimum	
All lots	n/a

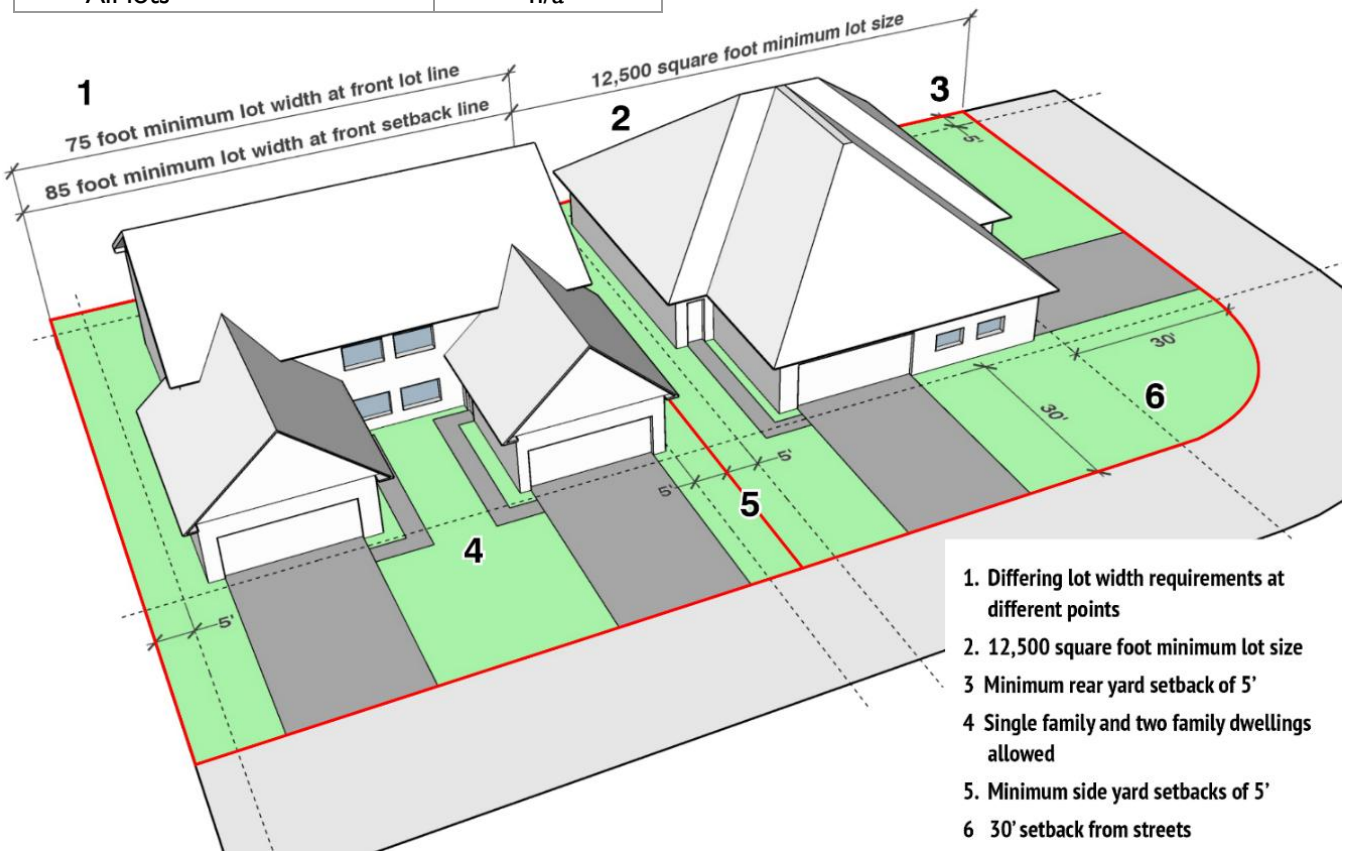


TABLE 3-7: RM-1 DEVELOPMENT STANDARDS

	REQUIRED YARDS (in feet) [1] [2]				Max Height (stories / feet)	Maximum Gross Impervious Surface Coverage	Maximum Gross Building Coverage	Maximum Floor Area Ratio
	Front	Interior Side	Street Side [3]	Rear [4]				
All Structures and Buildings	30	5	30	5	Lesser of 2.5 stories or 30 feet	n/a	n/a	0.4
	[1]: Any principal structure or building other than a single-family residence shall be located at least 15 feet from any boundary line of an R-1 district. [2]: In the case of duplex or townhome development, required setbacks shall apply to unit lots. [3]: Any property already improved on August 21, 1981, by construction of a principal structure with a 20 foot side street yard setback shall be considered conforming in regard to side street yard setback. [4]: Rear yard setbacks for lakeshore lots shall be as outlined in Section 3.8(C)(10).							
Accessory Structures	▪ See Section 5.4(B) for all general standards and limitations on all accessory structures. ▪ See Section 5.4(E)(4)(a) for accessory structure limitations in residential districts. ▪ See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.							
Other Regulations to Consult (not all inclusive)	▪ Section 3.3, Common District Requirements ▪ Section 3.4(B), Standards Applicable to All Residential Base Zoning Districts ▪ Section 4.1, Landscaping and Screening Standards ▪ Section 4.3, Fences and Walls ▪ Section 4.7, Parking (and Driveway Standards) ▪ Section 5.4(E)(15), Home Occupations							

Section 3.4(F)

RM-2: Multi-Family Medium Density Residential District

(1) Purpose

The RM-2 District is intended to accommodate single-family homes, duplexes, townhomes, and condominiums at a limited height.

(2) Density	
Maximum dwelling units/acre	12

(3) Lot Dimensions	
(a) Lot Area, minimum (square feet)	
Any permitted use	12,500
(b) Lot Area, minimum (square feet)	
Efficiency Unit	2,500
One (1) Bedroom Unit	3,500
Two (2) Bedroom Unit	4,375
Three (3) Bedroom Unit	5,625
(c) Green Area minimum per dwelling unit	
(can overlap with min lot area)	300 sq. ft.
(d) Lot Width, minimum	
At all points	100 feet
(e) Lot Depth, minimum	
All lots	125

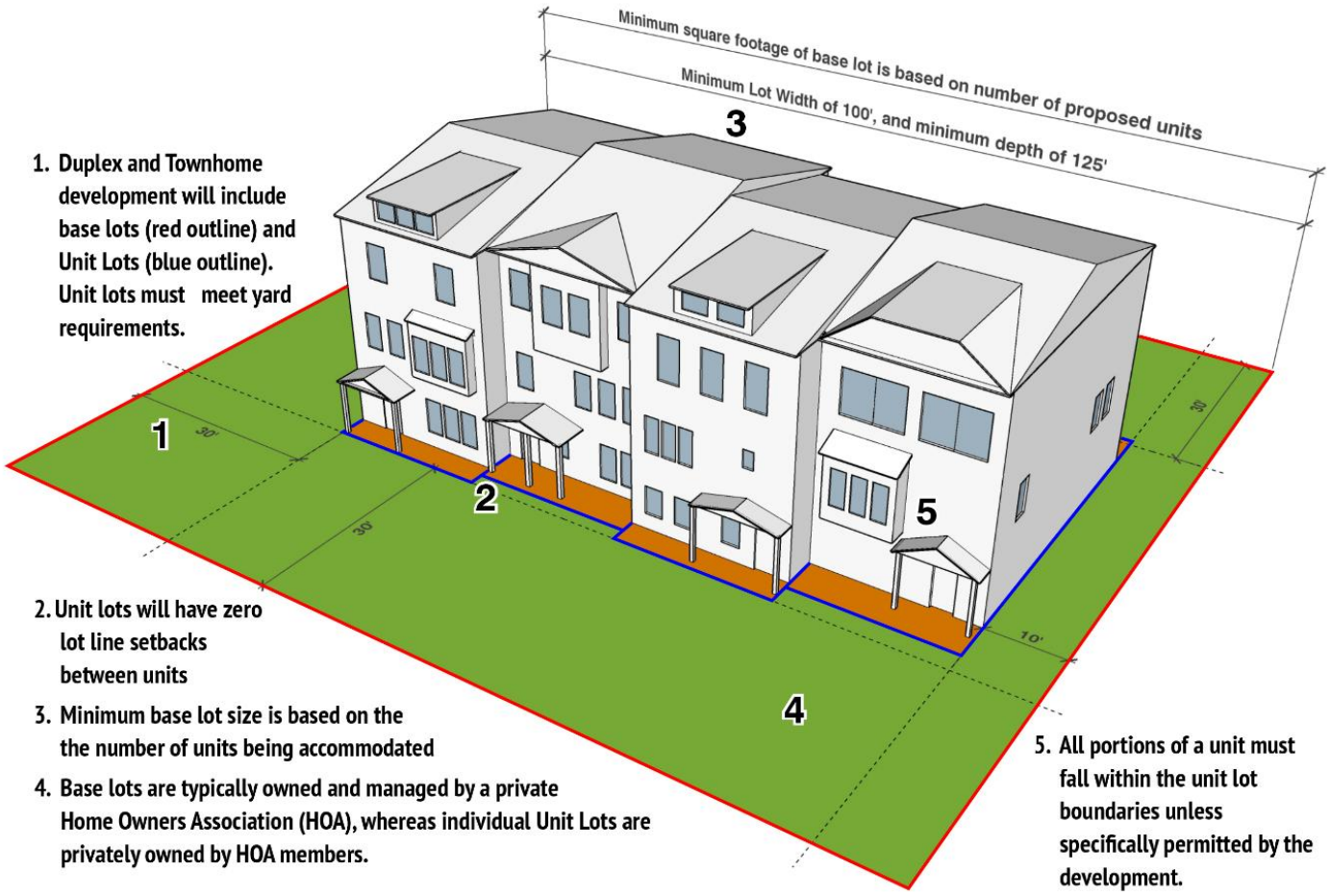


TABLE 3-8: RM-2 DEVELOPMENT STANDARDS

	REQUIRED YARDS (in feet) [1] [2]				Max Height (stories / feet)	Maximum Gross Impervious Surface Coverage	Maximum Gross Building Coverage	Maximum Floor Area Ratio
	Front	Interior Side	Street Side	Rear [3]				
All Structures and Buildings	30	10	30	30	Lesser of 3 stories or 30 feet	n/a	n/a	n/a
	[1]: Any principal structure or building other than a single-family or two-family residence shall be located at least 30 feet from any boundary line of an R-1 district, and at least 20 feet from any boundary line of an R-2 district. In each of these cases, the first 15 feet of the required setback shall be landscaped. [2]: In the case of duplex or townhome development, required setbacks shall apply to unit lots. [3]: Rear yard setbacks for lakeshore lots shall be as outlined in Section 3.8(C)(10).							

	Efficiency Unit	One Bedroom	Two Bedrooms	Three Bedrooms [4]
Minimum Gross Floor Area for Each Dwelling Unit	500 square feet	650 square feet	800 square feet	1000 square feet
	[4]: Add an additional 200 square feet to the minimum for each bedroom over three.			

Accessory Structures	▪ See Section 5.4(B) for all general standards and limitations on all accessory structures. ▪ See Section 5.4(E)(4)(a) for accessory structure limitations in residential districts. ▪ See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.
Other Regulations to Consult (not all inclusive)	▪ Section 3.3, Common District Requirements ▪ Section 3.4(B), Standards Applicable to All Residential Base Zoning Districts ▪ Section 4.1, Landscaping and Screening Standards ▪ Section 4.3, Fences and Walls ▪ Section 4.7, Parking (and Driveway Standards) ▪ Section 5.4(E)(15), Home Occupations

Typical RM-2 Lot



Section 3.4(G)

RM-3: Multi-Family High Density Residential District

(1) Purpose

The RM-3 District is intended to accommodate single-family homes, duplexes, townhomes, condominiums, and all types of multi-family buildings.

Typical RM-3 Lot



(2) Density	
Dwelling units/acre max	50

(3) Lot Dimensions [4-440(3). (4) (6). & (7)]	
(a) Lot Area, minimum (square feet)	
Any permitted use	12,500
(b) Lot Area minimum **per floor** (square feet)	
One Floor	3,000
Two Floors	2,800
Over Two Floors	2,500
(c) Lot Width, minimum	
At all points	100 feet
(d) Lot Depth, minimum	
All lots	125

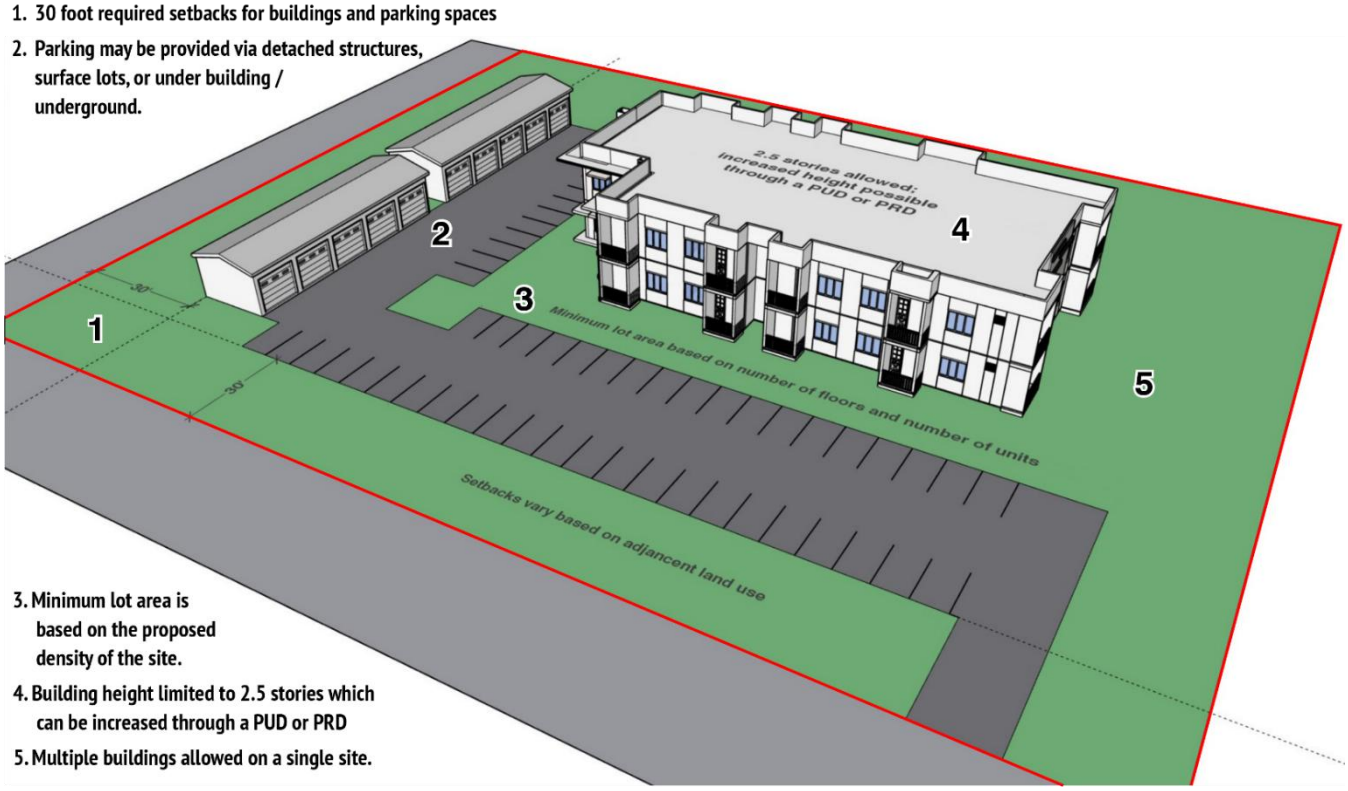


TABLE 3-9: RM-3 DEVELOPMENT STANDARDS

	REQUIRED YARDS (in feet) [1] [2]				Max Height (stories / feet)	Maximum Gross Impervious Surface Coverage	Maximum Gross Building Coverage	Maximum Floor Area Ratio
	Front	Interior Side	Street Side	Rear [3]				
All Structures and Buildings	30	5	30	30	Lesser of 3 stories or 30 feet	n/a	n/a	0.5
	[1]: Any principal structure or building other than a single-family residence shall be located at least 50 feet from any boundary line of an R-1 district. [2]: In the case of duplex or townhome development, required setbacks shall apply to unit lots. [3]: Rear yard setbacks for lakeshore lots shall be as outlined in Section 3.8(C)(10).							
Accessory Structures	▪ See Section 5.4(B) for all general standards and limitations on all accessory structures. ▪ See Section 5.4(E)(4)(a) for accessory structure limitations in residential districts. ▪ See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.							
Other Regulations to Consult (not all inclusive)	▪ Section 3.3, Common District Requirements ▪ Section 3.4(B), Standards Applicable to All Residential Base Zoning Districts ▪ Section 4.1, Landscaping and Screening Standards ▪ Section 4.3, Fences and Walls ▪ Section 4.7, Parking (and Driveway Standards) ▪ Section 5.4(E)(15), Home Occupations							

Section 3.4(H)

MHC: Manufactured Home Community District

(1) Purpose

The MHC District is intended to govern the placement of manufactured homes and the continuing development of Manufactured Home Parks established under Chapter 16 of the City Code.

(2) Density

Dwelling units/acre max	12

(3) Lot Dimensions

Establishment of a new Manufactured Home Community or expansion of an existing Manufactured Home Community is governed by Chapter 16 of the City Code. Setback requirements in Chapter 16 for initial development differ from the standards herein to ensure proper spacing for uses and accessory structures within the Manufactured Home Community.

Typical MHC Configuration



Typical MHC Buildout over time

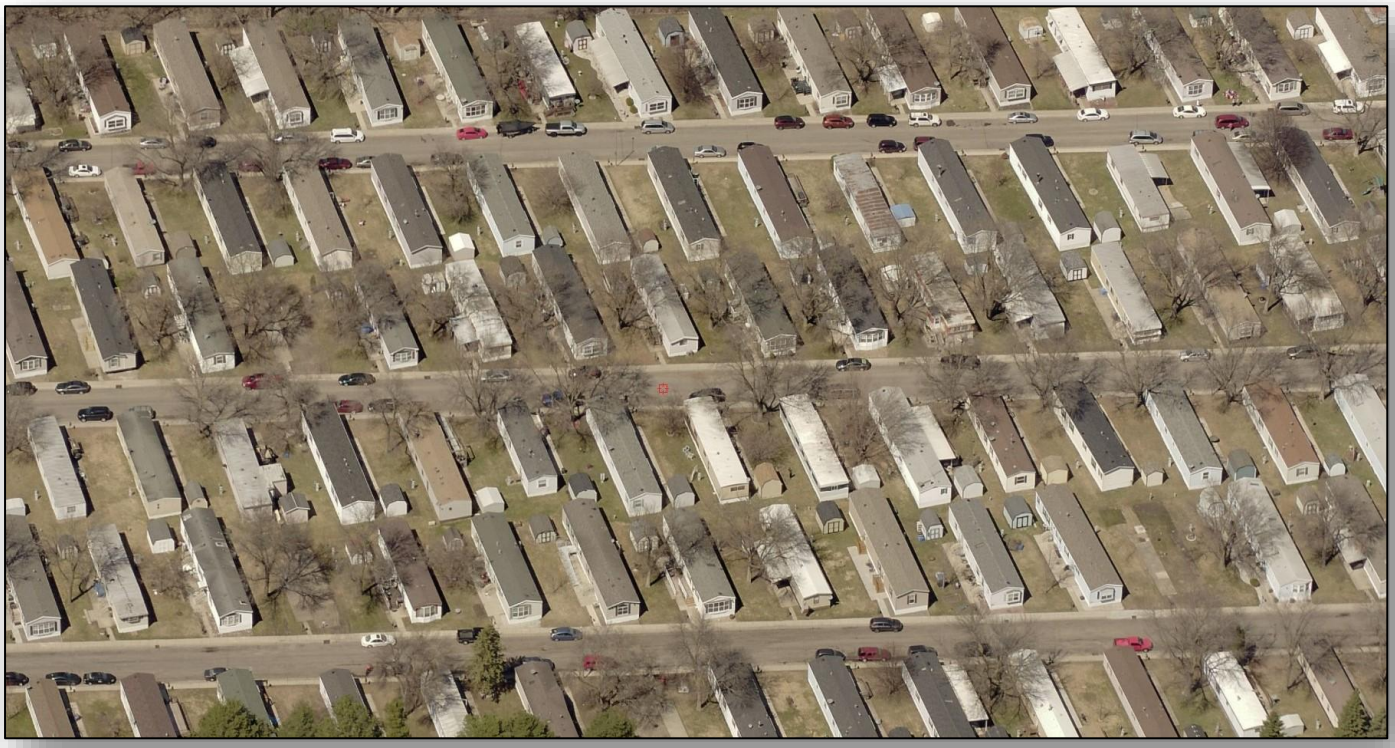


TABLE 3-10: RM-1 DEVELOPMENT STANDARDS
(1) Regulations For Parks Established AFTER May 3, 2021
a) Required EXTERNAL Setbacks from the Base Lot Perimeter
i. 30 feet from all adjacent public rights-of-way ii. 30 feet from all adjacent residentially zoned property having a different zoning classification than the manufactured home park iii. 5 feet from all side and rear property lines abutting other MHC zoned property or property zoned for commercial or industrial uses
b) Required INTERNAL Setbacks between Structures within a Manufactured Home Park's Base Lot
Required setbacks within a manufactured home park's base lot recognize that manufactured homes and their accessory structures can and do move from time to time. The following standards shall therefore be followed to always provide for adequate separation between units as such movement occurs.
i. 10 feet from all internal public streets or alleys.
ii. 5 feet from all internal private streets or alleys.
iii. 10 feet between the closest points of manufactured home perimeters along the long sides of both homes.
iv. 3 feet between the closest points of manufactured home perimeters along the short sides of both homes.
(2) Regulations For Parks Established BEFORE May 3, 2021
a) Required EXTERNAL Setbacks from the Base Lot Perimeter (except as may be exempted)
i. 30 feet from all adjacent public rights-of-way. ii. 30 feet from all adjacent residentially zoned property having a different zoning classification than the manufactured home park. iii. 5 feet from all side and rear property lines abutting other MHC zoned property or property zoned for commercial or industrial uses.
b) Required INTERNAL Setbacks between Structures within a Manufactured Home Park's Base Lot
Required setbacks within a manufactured home park's base lot recognize that manufactured homes and their accessory structures can and do move from time to time. The following standards shall therefore be followed to always provide for adequate separation between units as such movement occurs.
i. 10 feet from all internal public streets or alleys.
ii. 5 feet from all internal private streets or alleys.
iii. 10 feet between the closest points of manufactured home perimeters along the long sides of both homes.
iv. 3 feet between the closest points of manufactured home perimeters along the short sides of both homes.
v. 0 foot setback from unit lot lines.

c) Manufactured Homes between 4th Street Northwest and True Street

The historic placement of manufactured homes between 4th Street NW and True Street is recognized to include a significant number of intrusions into both the right-of-way for 4th Street NW to the north, and a normally required 5 foot setback from True Street to the south. To achieve the best possible outcomes for manufactured homes in this area and to minimize the need for variances any time changes occur, the following standards shall be followed;

i. No more than 38 manufactured homes shall be placed between these two roadways.

ii. At a minimum, a 0-foot lot line setback shall be maintained from the 4th Street NW right-of-way whenever possible. Replacement units in this area shall be placed as close to True Street as reasonably possible and as may be needed to avoid encroachment into the right-of-way.

iii. Units which are legal nonconforming to setbacks and extend into the 4th Street NW right-of-way as of May 3, 2021, must be replaced by shorter units whenever possible to eliminate the ROW encroachment. When elimination of an encroachment is not possible, a replacement unit shall not expand the legal nonconforming encroachment, and the new unit shall be required to enter into a right-of-way encroachment agreement with the City.

iv. No accessory structures of any kind shall be located within the right-of-way for 4th Street NW

v. There shall always be a minimum of 10 feet between the closest points of two manufactured home perimeters in this area

(3) Separation of Structures – Conflicts in Regulations

It is recognized that the unit separation requirements in the MHC district may conflict with spacing requirements adopted by the Minnesota Department of Health for manufactured home parks as may be amended from time to time. In the event of a conflict between the two sets of standards, the more restrictive separation requirements shall apply.

(4) Other Manufactured Home Requirements

a) In General

i. All manufactured homes within the MHC district shall be built in conformance with the Manufactured Home Building Code as defined by Minnesota Statutes Section 327.31, subdivision 3.

ii. No manufactured home shall be moved into the City that does not meet the Manufactured Home Building Code.

b) Tiny Homes

iii. The unit complies with all requirements of the Minnesota State Building Code (Minnesota Statutes Section 326B.121 as it may be amended from time to time).

iv. The unit must meet minimum separation and setback requirements for manufactured homes as required by the MHC District regulations.

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3.5 Business Base Zoning Districts

(A) General Purpose

The business base zoning districts established in Section 3.5 are intended to:

(1) Provide appropriately located lands for the full range of business uses needed by the City's residents, businesses, and workers, consistent with the Comprehensive Plan;

(2) Strengthen the City's economic base, and provide employment opportunities close to home for residents of the City;

(3) Attract new investment in desired locations;

(4) Create suitable environments for various types of business uses, and protect them from the adverse effects of incompatible uses;

(5) Create suitable environments for various types of mixed use development, where business, office, retail, and residential uses are designed and integrated in compatible ways;

(6) Establish a sense of place along the City's commercial corridors, with attractive shop fronts and streetscapes; and

(7) Minimize the impact of business development on residential districts and uses.

(B) Standards Applicable to All Business Base Zoning Districts

(1) Condominiums

(a) Industrial structures may be divided for the purpose of condominium ownership.

(b) Each condominium shall conform to all applicable building code requirements.

(2) Performance Standards

(a) Performance standards common to both Business and Industrial Districts are listed in Section 3.3(E), and shall apply to all development in Business Base Zoning Districts.

(b) All business, storage, service, repair or processing, or merchandising display shall be conducted wholly within an enclosed building or behind a solid fence not less than five feet high except for establishments of a drive-in type offering goods or services directly to customers and except for off-street parking and loading.

(c) Where a business structure or use directly abuts upon an RS-1, RS-2, or RM-1 Residential District, there shall be a buffer of type C or D installed in accordance with the provisions of Section 4.1(H).

(d) Where a business structure or use directly abuts upon an RM-2, RM-3 or MHC Residential District, there shall be a buffer of type B installed in accordance with the provisions of Section 4.1(H).

(e) When a business structure is across an alley or across the street from a residential district (see table 3-1), there shall be a buffer of type A or B installed in accordance with the provisions of Section 4.1(H).

Section 3.5(C)

BR: Residential Business District

(1) Purpose

The BR Residential Business District is intended to accommodate low impact, neighborhood-oriented businesses, potentially within residences, at a scale that blends into adjacent residential properties.

(2) Density	
Dwelling units/acre max	6

(3) Lot Dimensions for Existing Lots of Record

Lots of record existing prior to this code's effective date (Section 1.4) shall be treated as conforming lots.

(4) Lot Dimensions for New or Amended Lots of Record	
(a) Lot Area, minimum	
Any permitted use	10,000 square feet
(b) Lot Width, minimum	
At the front lot line	45 feet
At the front building setback line	75 feet
(c) Lot Depth, minimum	
All lots	n/a

Typical BR Lot Configuration



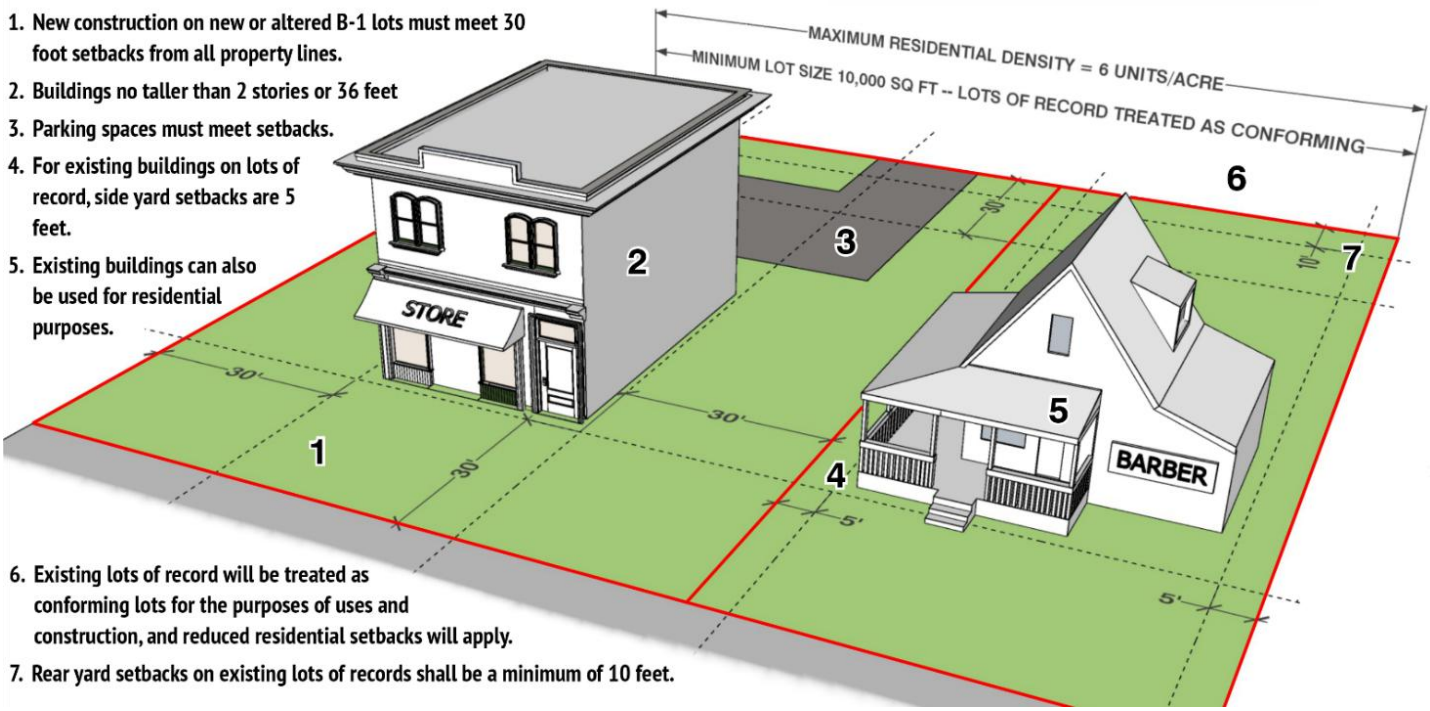


TABLE 3-11: BR DEVELOPMENT STANDARDS

	REQUIRED YARDS (in feet)				Max Height (stories / feet)	Maximum Gross Impervious Surface Coverage	Maximum Gross Building Coverage
	Front	Interior Side	Street Side	Rear [1]			
All Structures and Buildings on Lots Developed BEFORE the Effective Date of this Ordinance (Section 1.4)	30	5	30	10	Lesser of 2.0 stories or 36 feet	50%	30%
All Structures and Buildings on Lots Developed AFTER the Effective Date of this Ordinance (Section 1.4)	30	30	30	30	Lesser of 2.0 stories or 36 feet	50%	30%
	[1]: Rear yard setbacks for lakeshore lots shall be as outlined in Section 3.8(C)(10).						
Accessory Structures	▪ See Section 5.4(B) for all general standards and limitations on all accessory structures. ▪ See Section 5.4(E)(4)(a) for accessory structure limitations in residential districts. ▪ See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.						
Other Regulations to Consult (not all inclusive)	▪ Section 3.3, Common District Requirements ▪ Section 3.3(E), Common Business and Industrial District Performance Standards ▪ Section 3.4(B), Standards Applicable to All Residential Base Zoning Districts (includes the BR district) ▪ Section 4.1, Landscaping and Screening Standards ▪ Section 4.4, Exterior Lighting ▪ Section 4.5, Signs ▪ Section 4.7, Parking (and Driveway Standards) ▪ Section 5.4(E)(15), Home Occupations						

Section 3.5(D)

BN: Neighborhood Business District

(1) Purpose

The BN Neighborhood Business District is intended to accommodate low impact, neighborhood-oriented businesses offering retail and office space serving primarily local residents at a scale that blends into nearby residential properties.

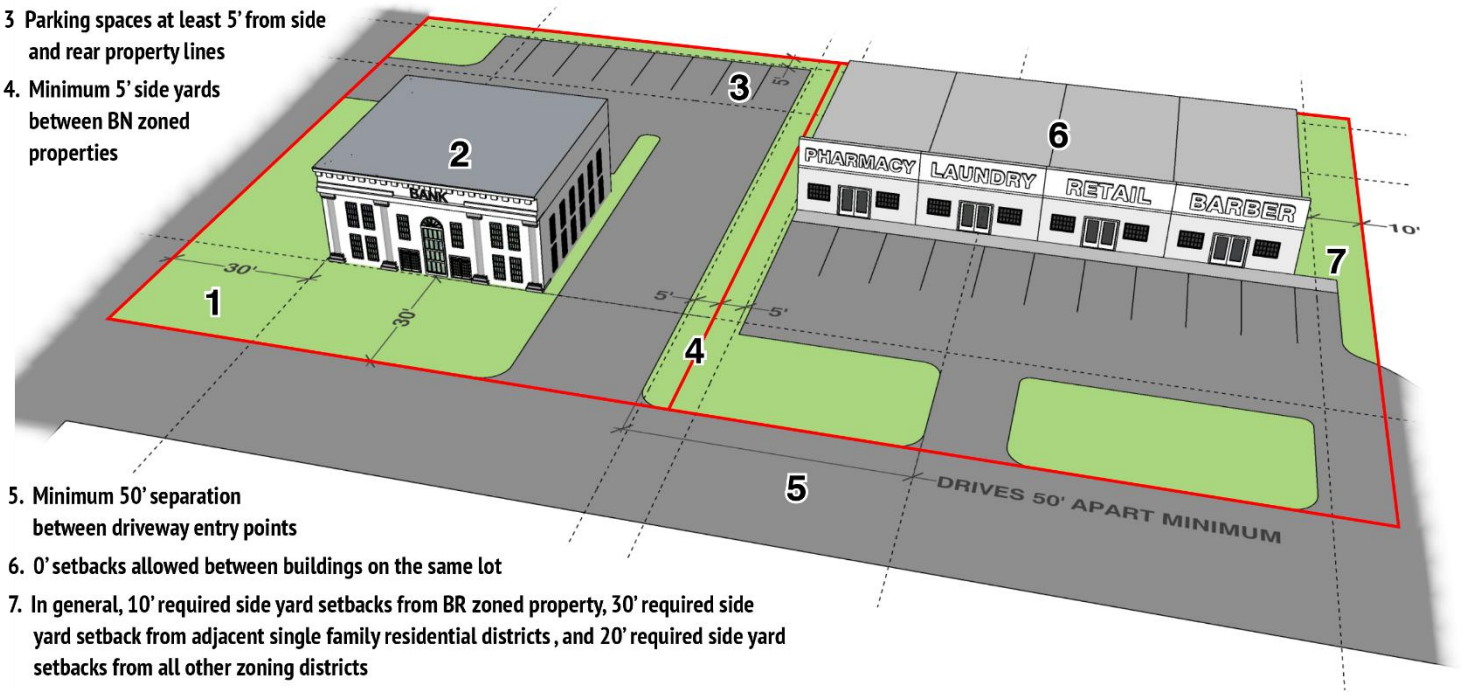
Typical BN Lot Configuration



(2) Density	
Dwelling units/acre max	0

(3) Lot Dimensions
Lot Area, Width, and Depth minimums
No minimum standards (structures and parking areas must meet all required setbacks)

1. 30' setbacks from streets
2. Lesser of 36' or two stories in height
3. Parking spaces at least 5' from side and rear property lines
4. Minimum 5' side yards between BN zoned properties



5. Minimum 50' separation between driveway entry points
6. 0' setbacks allowed between buildings on the same lot
7. In general, 10' required side yard setbacks from BR zoned property, 30' required side yard setback from adjacent single family residential districts, and 20' required side yard setbacks from all other zoning districts

TABLE 3-12: BN DEVELOPMENT STANDARDS

	REQUIRED YARDS (in feet)				Max Height (stories / feet)	Maximum Gross Impervious Surface Coverage	Maximum Floor Area Ratio
	Front	Interior Side	Street Side	Rear [1]			
All Structures and Buildings	30	[2]	30	30 [3]	Lesser of 2.0 stories or 36 feet	N / A	0.75 [4]

[1]: Rear yard setbacks for lakeshore lots shall be as outlined in Section 3.8(C)(10).

[2]: No side yards shall be required except as follows:

A. There shall be a side yard of not less than 30 feet along that side of every lot in a BN District bordering upon property in an RS-1 or RM-1 District; and, there shall be a side yard of not less than 20 feet where a BN District borders upon property in an RM-2 or RM-3 District.

B. A side street yard on a corner lot shall not be less than 30 feet.

[3]: An existing building on a BN zoned lot of record with a rear yard setbacks of less than 30 feet shall be treated as conforming to code at the existing setback.

[4]: A lot of record with a floor area ratio in excess of 0.75 shall be treated as conforming to code, but no further building expansion shall be permissible.

Accessory Structures	▪ See Section 5.4(B) for all general standards and limitations on all accessory structures. ▪ See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.
Other Regulations to Consult (not all inclusive)	▪ Section 3.3, Common District Requirements ▪ Section 3.3(E), Common Business and Industrial District Performance Standards ▪ Section 3.4(B), Standards Applicable to All Residential Base Zoning Districts (includes the BR district) ▪ Section 4.1, Landscaping and Screening Standards ▪ Section 4.4, Exterior Lighting ▪ Section 4.5, Signs ▪ Section 4.7, Parking (and Driveway Standards)

Section 3.5(E)

BG: General Business District

(1) Purpose

The BG General Business District, as distinguished from a Neighborhood Business District (BN), is intended to contains uses that include the sale of commodities or the performance of services for a larger segment of the population than the average neighborhood.

(2) Density	
Dwelling units/acre max	0

(3) Lot Dimensions
Lot Area, Width, and Depth minimums
No minimum standards (structures and parking areas must meet all required setbacks)

Typical BG Lot Configurations



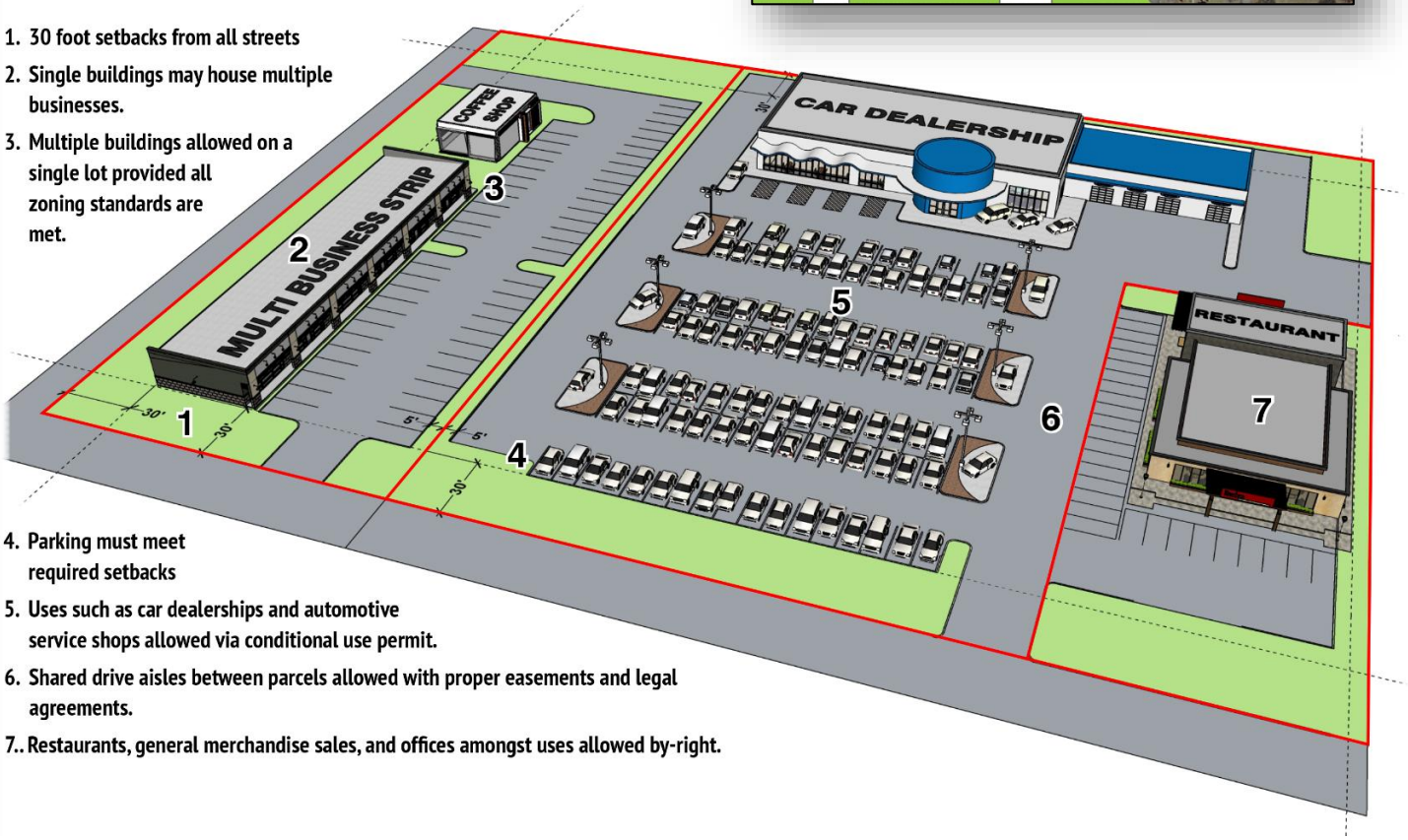


TABLE 3-13: BG DEVELOPMENT STANDARDS

	REQUIRED YARDS (in feet)				Max Height (stories / feet)	Maximum Gross Impervious Surface Coverage	Maximum Floor Area Ratio
	Front	Interior Side	Street Side	Rear [1]			
All Structures and Buildings	30	[2]	30	30	Lesser of 2.0 stories or 36 feet	N / A	1.0
	[1]: Rear yard setbacks for lakeshore lots shall be as outlined in Section 3.8(C)(10). [2]: No side yards shall be required except as follows: A. There shall be a side yard of not less than 30 feet along that side of every lot in a BG District bordering upon property in an RS-1 or RM-1 District; and, there shall be a side yard of not less than 20 feet where a BG District borders upon property in an RM-2 or RM-3 District. B. A side street yard on a corner lot shall not be less than 30 feet.						
Accessory Structures	▪ See Section 5.4(B) for all general standards and limitations on all accessory structures. ▪ See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.						
Other Regulations to Consult (not all inclusive)	▪ Section 3.3, Common District Requirements ▪ Section 3.3(E), Common Business and Industrial District Performance Standards ▪ Section 3.4(B), Standards Applicable to All Residential Base Zoning Districts (includes the BR district) ▪ Section 4.1, Landscaping and Screening Standards ▪ Section 4.4, Exterior Lighting ▪ Section 4.5, Signs ▪ Section 4.7, Parking (and Driveway Standards)						

3.6 Industrial Base Zoning Districts

(A) General Purpose

The industrial base zoning districts established in Section 3.6 are intended to provide locations for the retention, expansion, and creation of businesses that provide jobs for New Brighton residents, and expansion and diversification of the property tax base. More specifically, these districts are intended to:

(1) Provide locations for industrial development in the areas of manufacturing, processing, warehousing, distribution and related businesses consistent with the comprehensive plan;

(2) Allow non-industrial support businesses in industrial areas;

(3) Strengthen the City's economic base and provide employment opportunities;

(4) Attract new investment in desired locations;

(5) Create suitable environments for industrial uses, and protect them from the adverse effects of incompatible uses; and

(6) Minimize the impact of industrial development on residential districts and uses.

(B) Standards Applicable to All Industrial Base Zoning Districts

(1) Condominiums

(a) Industrial structures may be divided for the purpose of condominium ownership, but not for residential purposes unless specifically allowed by this ordinance.

(b) Each condominium shall conform to all applicable building code requirements as adopted in Chapter 7 of the New Brighton City Code.

(2) Performance Standards

Performance standards common to both Business and Industrial Districts are listed in Section 3.3(E), and shall apply to all development in Industrial Base Zoning Districts.

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Section 3.6(C)

IR: Restricted Industrial District

(1) Purpose

The IR Restricted Industrial District is intended to allow for industrial users that are sensitive to surrounding land uses. This District is typically found in transitional areas between more intense Industrial Districts and Residential or Recreational areas.

(2) Density	
Dwelling units/acre max	0 (residential uses prohibited)

(3) Lot Dimensions
Lot Area, Width, and Depth minimums
No minimum standards (lot minimums will be driven by required setbacks for buildings and parking, and allowed Floor Area Ratio standards)

Typical IR Lot Configuration



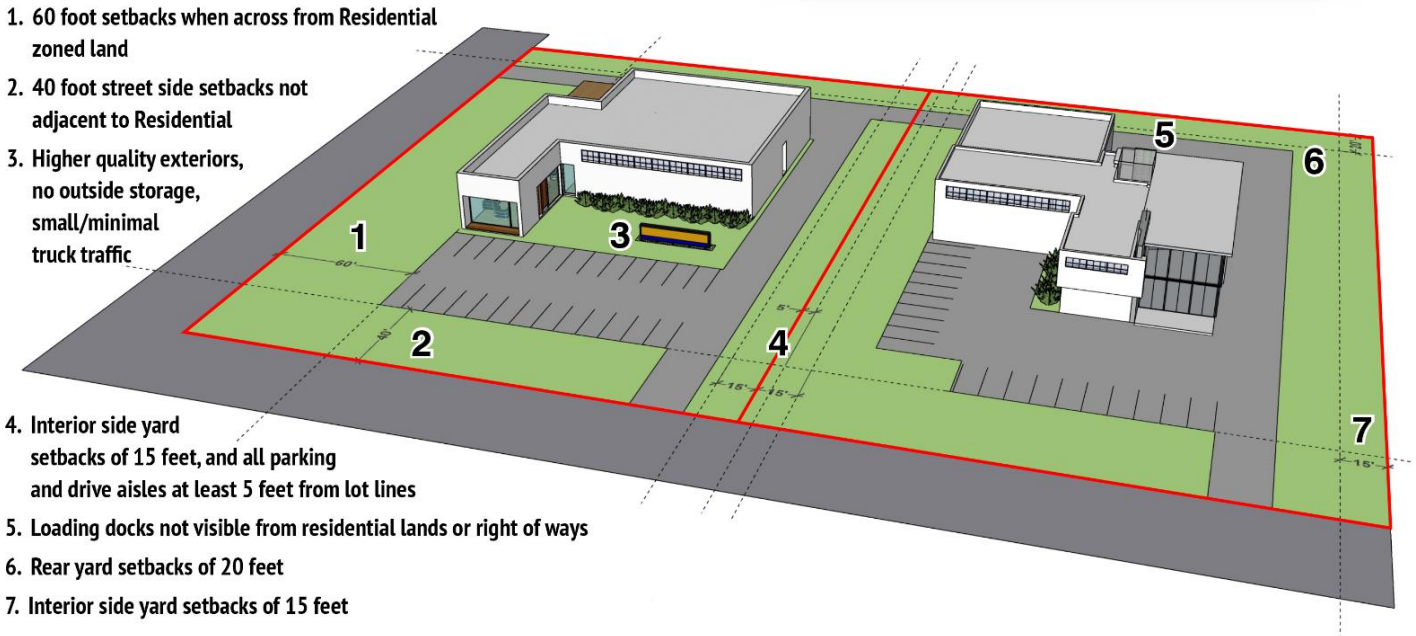


TABLE 3-14: IR DEVELOPMENT STANDARDS

	REQUIRED YARDS (in feet)				Max Height	Maximum Gross Impervious Surface Coverage	Maximum Floor Area Ratio
	Front [1]	Interior Side [2]	Street Side [1]	Rear [3] [4]			
All Structures and Buildings on Lots of Record	40	15	40	20 [3]	40 feet	N / A	0.4 for one story buildings 0.6 for two story buildings
	[1]: The setback from a property line abutting a street in an IR District shall be 60 feet whenever the IR District is directly across the street from a Residential Zoning District. [2]: A side yard in an IR District adjacent to a residential boundary line shall provide for a landscaped strip at least 60 feet in width along the boundary line. A portion of this landscaped strip shall be planted with a Type C or Type D buffer in accordance with Table 4-1. [3]: The required rear yard setback area may be used for parking meeting requirements of Section 4.7. The provisions of footnote 2 above shall apply if a rear yard abuts or is separated by right-of-way from a Residential District. [4]: Rear yard setbacks for lakeshore lots shall be as outlined in Section 3.8(C)(10).						
Accessory Structures	▪ See Section 5.4(B) for all general standards and limitations on all accessory structures. ▪ See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.						
Special **USE** restrictions in the IR District	All uses in the Restricted Industrial District are subject to the following standards: A. Development and/or uses shall have no adverse effect on adjacent land due to unsightliness, noise, odor, dust, smoke, glare, air pollution, excessive or heavy vehicular traffic, bulk chemical storage, or fire or safety hazards. B. There shall be only one outside storage area of materials, products, etc., and commercial semitrucks not to exceed twenty percent of the gross floor area of the building on the site. The storage area shall be screened with a Type D buffer. This storage area shall be located only in the rear yard. C. There shall be no external bulk chemical storage for either use or sale except as necessary for auxiliary heating. D. There shall be no more than six trips per day of commercial trucks with six or more wheels per vehicle per 10,000 square feet of building gross floor area. E. There shall be no excessive vehicular traffic between 8:00 p.m. and 6:00 a.m. as from shift changes. F. The buildings and grounds shall be of an appearance that is in harmony with surrounding land uses.						
Other Regulations to Consult (not all inclusive)	▪ Section 3.3, Common District Requirements ▪ Section 3.3(E), Common Business and Industrial District Performance Standards ▪ Section 3.4(B), Standards Applicable to All Residential Base Zoning Districts (includes the BR district) ▪ Section 4.1, Landscaping and Screening Standards ▪ Section 4.4, Exterior Lighting ▪ Section 4.5, Signs ▪ Section 4.7, Parking (and Driveway Standards)						

Section 3.6(D)

IL: Light Industrial District

(1) Purpose

The IL Light Industrial District is a general industrial district established to provide and encourage industrial uses that are aesthetically pleasing in appearance, have all processing within buildings, are complementary to surrounding land uses, and have a reasonable amount of truck traffic.

(2) Density	
Dwelling units/acre max	0 (residential uses prohibited)

(3) Lot Dimensions
Lot Area, Width, and Depth minimums
No minimum standards (lot minimums will be driven by required setbacks for buildings and parking, and allowed Floor Area Ratio standards)

Typical IL Lot Configuration



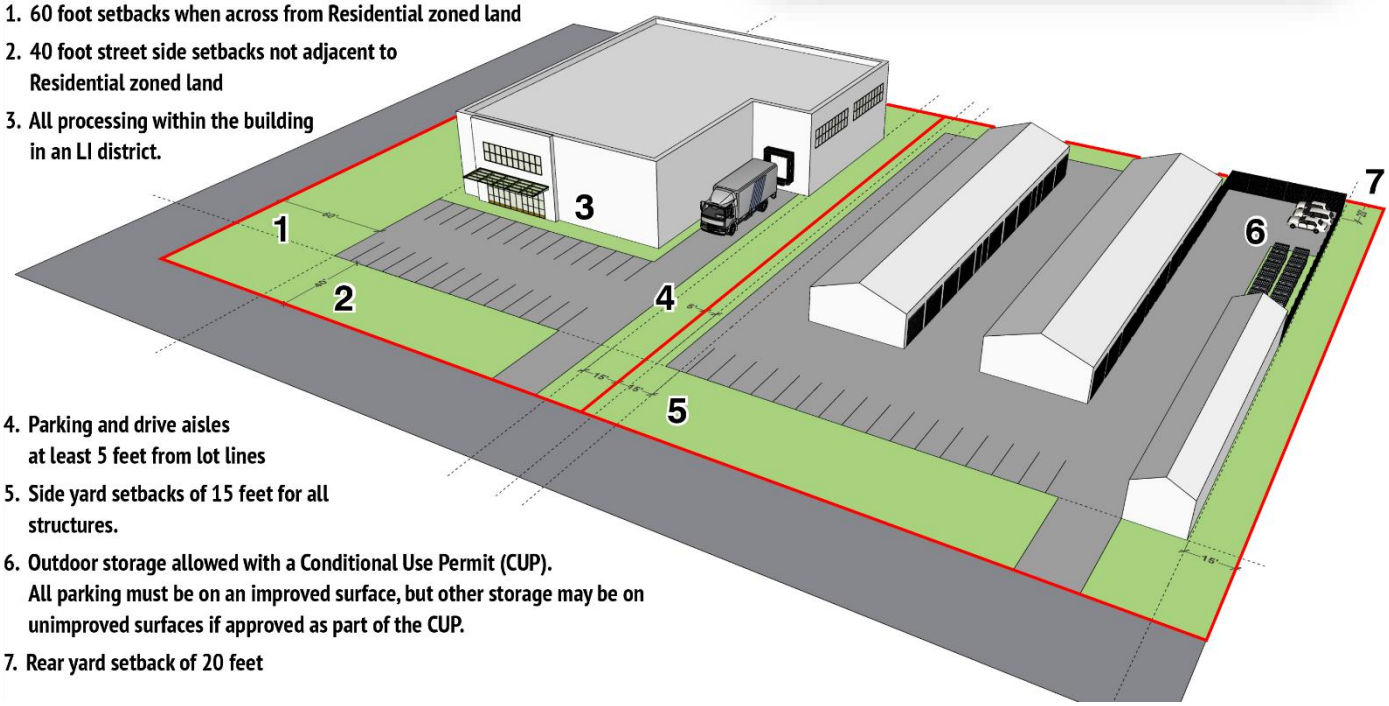


TABLE 3-15: IL DEVELOPMENT STANDARDS

	REQUIRED YARDS (in feet)				Max Height	Maximum Gross Impervious Surface Coverage	Maximum Floor Area Ratio
	Front [1]	Interior Side [2]	Street Side [1]	Rear [3] [4]			
All Structures and Buildings on Lots of Record	40	15	40	20	40 feet	N / A	0.4 for one story buildings 0.6 for two story buildings
	[1]: The setback from a property line abutting a street in an IL District shall be 60 feet whenever the IL District is directly across the street from a Residential Zoning District. [2]: A side yard in an IL District adjacent to a residential boundary line shall provide for a landscaped strip at least 60 feet in width along the boundary line. A portion of this landscaped strip shall be planted with a Type C or Type D buffer in accordance with Table 4-1. [3]: The required rear yard setback area may be used for parking meeting requirements of Section 4.7. The provisions of footnote 2 above shall apply if a rear yard abuts or is separated by right-of-way from a Residential District. [4]: Rear yard setbacks for lakeshore lots shall be as outlined in Section 3.8(C)(10).						
Accessory Structures	▪ See Section 5.4(B) for all general standards and limitations on all accessory structures. ▪ See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.						
Other Regulations to Consult (not all inclusive)	▪ Section 3.3, Common District Requirements ▪ Section 3.3(E), Common Business and Industrial District Performance Standards ▪ Section 3.4(B), Standards Applicable to All Residential Base Zoning Districts (includes the BR district) ▪ Section 4.1, Landscaping and Screening Standards ▪ Section 4.4, Exterior Lighting ▪ Section 4.5, Signs ▪ Section 4.7, Parking (and Driveway Standards)						

Section 3.6(E)

IH: Heavy Industrial District

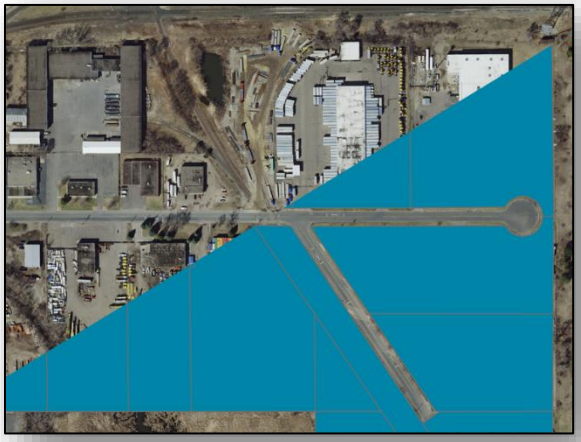
(1) Purpose

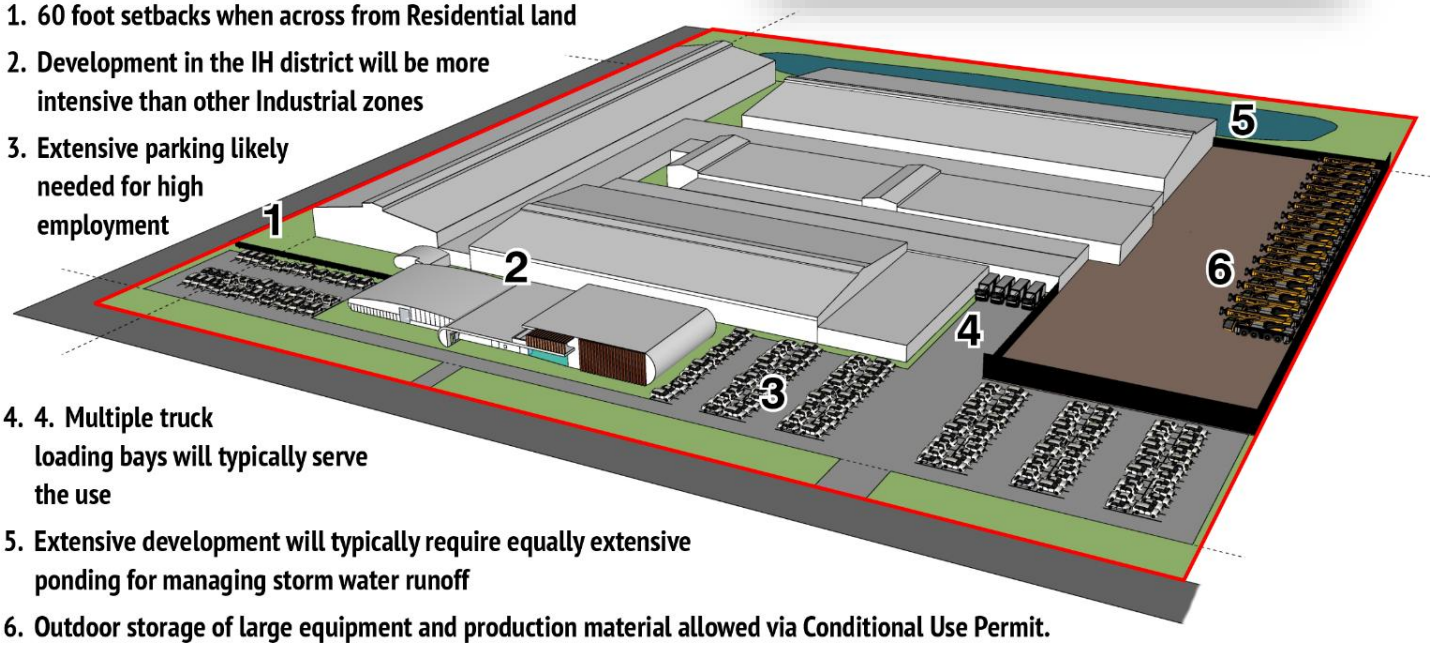
The IH Heavy Industrial District is intended to establish a District for industries that: manufacture and/or process products from large bulky materials; have a need for outside storage of large equipment, material and some outside processing or assembly; or transport large products.

(2) Density	
Dwelling units/acre max	0 (residential uses prohibited)

(3) Lot Dimensions
Lot Area, Width, and Depth minimums
No minimum standards (lot minimums will be driven by require setbacks for buildings and parking, and allowed Floor Area Ratio standards)

Typical IH Lot Configuration





1. 60 foot setbacks when across from Residential land
2. Development in the IH district will be more intensive than other Industrial zones
3. Extensive parking likely needed for high employment
4. 4. Multiple truck loading bays will typically serve the use
5. Extensive development will typically require equally extensive ponding for managing storm water runoff
6. Outdoor storage of large equipment and production material allowed via Conditional Use Permit.

TABLE 3-16: IH DEVELOPMENT STANDARDS

	REQUIRED YARDS (in feet)				Max Height	Maximum Gross Impervious Surface Coverage	Maximum Floor Area Ratio
	Front [1]	Interior Side [2]	Street Side [1]	Rear [3] [4]			
All Structures and Buildings on Lots of Record	40	15	40	20	40 feet	N / A	0.4 for one story buildings 0.6 for two story buildings
	[1]: The setback from a property line abutting a street in an IH District shall be 60 feet whenever the IH District is directly across the street from a Residential Zoning District. [2]: A side yard in an IH District adjacent to a residential boundary line shall provide for a landscaped strip at least 60 feet in width along the boundary line. A portion of this landscaped strip shall be planted with a Type C or Type D buffer in accordance with Table 4-1. [3]: The required rear yard setback area may be used for parking meeting requirements of Section 4.7. The provisions of footnote 2 above shall apply if a rear yard abuts or is separated by right-of-way from a Residential District. [4]: Rear yard setbacks for lakeshore lots shall be as outlined in Section 3.8(C)(10).						
Accessory Structures	▪ See Section 5.4(B) for all general standards and limitations on all accessory structures. ▪ See Section 5.4(E)(5) for regulations on "tall" buildings in the IH district. ▪ See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.						
Other Regulations to Consult (not all inclusive)	▪ Section 3.3, Common District Requirements ▪ Section 3.3(E), Common Business and Industrial District Performance Standards ▪ Section 3.4(B), Standards Applicable to All Residential Base Zoning Districts (includes the BR district) ▪ Section 4.1, Landscaping and Screening Standards ▪ Section 4.4, Exterior Lighting ▪ Section 4.5, Signs ▪ Section 4.7, Parking (and Driveway Standards)						

3.7 Mixed Use Zoning Districts

(A) Purpose

The purpose of the City's Mixed Use zoning classifications is to provide areas with a flexible approach to land uses that enhance the character and usability of land within specific areas along the City's primary commercial corridors. Development in these areas is intended to:

(1) Create a balanced mix of land uses;

(2) Support a sustainable and resilient local economy;

(3) Provide places to live, work, shop, and play;

(4) Improve the public realm though high quality architectural design and materials;

(5) Promote facilities to accommodate pedestrians, bicyclists, and transit users in addition to the automobile;

(6) Encourage public and quasi-public open spaces within the corridor by allowing and encouraging taller buildings for high-density uses;

(7) Encourage active lifestyles; and

(8) Maintain the character and integrity of adjacent residential neighborhoods.

(B) Districts Established

(1) **Downtown District (DT):** This district was created to encompass a unique area in the City that was developed in a manner that is now inconsistent with present zoning code requirements. Further, the nature of development in the downtown commercial area and certain zoning code requirements inhibit new development, redevelopment, or expansion of existing businesses. In order to facilitate such activity in the downtown commercial area, to recognize the unique character and circumstances of such an area, and to create a harmonious pattern and attractive development benefitting the downtown commercial area in particular and the City as a whole, the DT District is established.

(2) New Brighton Exchange District (NBE): This district provides for an intensely developed mixed use center that can be a vibrant and active place where people can live, work, shop, play and be entertained. The mixture of allowed land uses and design specifications in this area are specifically designed with flexibility to answer to market demands as they may change over time.

(3) Mixed Use Neighborhood District (MUN): These areas are located along minor arterial roadways in locations with high redevelopment potential. Each node of MUN is well situated for higher-intensity development of retail, entertainment, service, and residential uses.

(4) Mixed Use Regional District (MUR): These areas are located at the intersections of principal arterials and minor arterial roadways. Given their easy accessibility to the greater metropolitan area via the interstate highway system, these nodes are ideal to accommodate the City's highest intensity development accommodating civic, residential, retail, entertainment, and service opportunities.

(5) Mixed Use Exchange District (MUE): This area encompasses the original mixed use zoning lands adopted by the City. This classification is only assigned to mixed use areas existing prior to March 7, 2023.

Section 3.7(C)

DT: Downtown District

(1) Purpose

The City recognizes the DT Downtown District is a unique area within the City as it has developed in a manner that is inconsistent with present zoning code requirements, and such inconsistencies tend to inhibit new development, redevelopment, and the expansion of existing businesses. DT Downtown District standards are intended to facilitate investment while simultaneously creating a harmonious pattern of attractive development within this area of change.

Typical DT Lot Configurations







(2) Residential Density	
Maximum Dwelling units/acre	12

(3) Commercial Lot Dimensions
Lot Area, Width, and Depth minimums
No minimum standards (structures and parking areas must meet all required setbacks)

(4) Residential Lot Dimensions	
(a) Lot Area, minimum (square feet)	
Any permitted use	12,500
(b) Lot Area minimum **per dwelling unit** (square feet)	
Efficiency Unit	2,500
One (1) Bedroom Unit	3,500
Two (2) Bedroom Unit	4,375
Three (3) Bedroom Unit	5,625
(c) Green Area minimum per dwelling unit	
(can overlap with minimum lot area)	300 sq. ft.
(d) Lot Width, minimum	
At all points	100 feet
(e) Lot Depth, minimum	
All lots	125



TABLE 3-17: DT GUIDING DEVELOPMENT STANDARDS

COMMERCIAL AND INDUSTRIAL USES: Commercial and Industrial uses within the DT District shall comply with the following standards unless amended through an approved Planned Unit Development or Planned Residential Development.

	REQUIRED YARDS (in feet)				Max Height (stories / feet)	Maximum Gross Impervious Surface Coverage	Maximum Floor Area Ratio
	Front	Interior Side	Street Side	Rear			
All Structures and Buildings	30	[1]	30	30	Lesser of 2.0 stories or 36 feet	N / A	1.0
	[1]: No side yards shall be required except as follows: A. There shall be a side yard of not less than 30 feet along that side of every lot in a BN District bordering upon property in an RS-1 or RM-1 District; and, there shall be a side yard of not less than twenty feet where a BN District borders upon property in an RM-1 or RM-2 District. B. A side street yard on a corner lot shall not be less than 30 feet.						
Accessory Structures	▪ See Section 5.4(B) for all general standards and limitations on all accessory structures. ▪ See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.						

RESIDENTIAL USES: Residential uses within the DT District shall comply with the following standards unless amended through an approved Planned Unit Development or Planned Residential Development.

	REQUIRED YARDS (in feet) [2] [3]				Max Height (stories / feet)	Maximum Gross Impervious Surface Coverage	Maximum Gross Building Coverage	Maximum Floor Area Ratio
	Front	Interior Side	Street Side	Rear				
All Structures and Buildings	30	10	30	30	Lesser of 3 stories or 30 feet	n/a	n/a	n/a
	[2]: Any principal structure or building other than a single-family or two-family residence shall be located at least thirty feet from any boundary line of an RS-1 district, and at least 20 feet from any boundary line of an RM-1 district. In each of these cases, the first fifteen feet of the required setback shall be landscaped. [3]: In the case of duplex or townhome development, required setbacks shall apply to unit lots.							

	Efficiency Unit	One Bedroom	Two Bedrooms	Three Bedrooms [4]
Minimum Gross Floor Area for Each Dwelling Unit	500 square feet	650 square feet	800 square feet	1000 square feet
	[4]: Add an additional 200 square feet to the minimum for each bedroom over three.			
Residential Accessory Structures	▪ See Section 5.4(B) for all general standards and limitations on all accessory structures. ▪ See Section 5.4(E)(4)(a) for accessory structure limitations in residential districts. ▪ See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.			
Other Regulations to Consult for Residential Uses (not all inclusive)	▪ Section 3.3, Common District Requirements ▪ Section 3.4(B), Standards Applicable to All Residential Base Zoning Districts ▪ Section 4.1, Landscaping and Screening Standards ▪ Section 4.3, Fences and Walls ▪ Section 4.7, Parking (and Driveway Standards) ▪ Section 5.4(E)(15), Home occupations			

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Section 3.7(D)

NBE: New Brighton Exchange District

The New Brighton Exchange (NBE) district provides the greatest degree of by-right flexibility within the City to support establishment of a vibrant business and residential node within the community.

(1) Site Standard Guidelines

Lot Area, Lot Width, and Yard Requirements.

(a) Minimum lot width: 100 feet

(b) Minimum lot area: 20,000 square feet

(c) Setbacks – Principal Structure:

(i) Front: 10 feet minimum, 40' maximum unless a greater front setback is authorized by Conditional Use Permit

(ii) Side: Zero feet

(iii) Corner Side: same as Front

(iv) Rear: 15 feet minimum

(d) Setbacks – Accessory Structures

(i) Front: At least five feet greater than Principal Structure setback

(ii) Side: Zero feet

(iii) Corner Side: same as Front

(iv) Rear: Five feet minimum

(e) Setback – Parking

(i) Front: 10 feet

(ii) Side: Zero feet

(iii) Corner Side: same as Front

(iv) Rear: Five feet minimum

(f) Stormwater Treatment Requirements.

In order to ensure ecologically sound stormwater treatment throughout New Brighton Exchange, all development shall conform to a plan that meets the following requirements to the greatest extent possible, based on the recommendation of the City Engineer.

(i) The plan must strive to include stormwater management systems for all new development that incorporate conservation development or ecological stormwater management techniques. These techniques include the methods listed below:

1. Detention ponds
2. Infiltration systems including trenches, basins, pervious paving systems, and roof downspout systems.
3. Biofiltration systems including vegetated swales, vegetated filter strips, media filters, and catch basin filter inserts.
4. Multifunctional systems including enhanced swales and ponds and bioretention.
5. Rooftop collection and filtration systems.

(ii) The plan will minimize total impervious area of a development by one or a combination of the following:

1. Locating parking areas beneath buildings;
2. Minimizing building footprints by adding stories; or
3. Using pervious paving materials rather than traditional asphalt and concrete for parking lots, roads, sidewalks, and driveways.

(iii) The plan will limit the connectedness of impervious surfaces and direct runoff into vegetated landscaped areas. This may include sloping driveways, sidewalks, and streets to drain runoff to lawns or vegetated swales.

(iv) The plan will include a variety of trees and native plant materials such as Cattails, Blue Flag Iris, Sedge Grass, and Common Reed to capture rainfall through absorption or evaporation and provide roots for infiltration purposes.

(g) Screening of Parking Areas.

Wherever a parking lot faces street frontage, such frontage shall be screened by a combination of hedges, ornamental railings, walls, bollards, trees, and other methods to screen parking lots from pedestrian spaces while maintaining eye-level visibility. Such screening shall be maintained at a height of between 2-1/2 feet and 3-1/2 feet. Such screening shall be accommodated within the required parking setback area. Overstory trees are allowed within this screening area, as long as the canopy of the tree is at least seven feet above the ground to allow open visibility between the parking area and street frontage, under the tree canopy. If plantings are included in this screening area, the area must be a minimum of six feet in width to allow adequate room for plantings and snow storage.

(h) Parking structures.

(i) Parking structures shall maintain setbacks required for buildings as described in Section 3.7(D).

(ii) Openings in a parking lot structure that face a street or public open space, must be screened with slats, grating, screens, glass, or other architectural treatment to buffer substantially the visual impact of vehicles parked in the structure.

(i) Single Family Detached Site Standards.

For single family detached dwelling development, lot area, lot width, and yard requirements shall be established as part of the Planned Residential Development process specified in Section 2.4(N).

(2) Building Types.

Within the New Brighton Exchange District, certain building types are established and required. No building shall be constructed and occupied except with the land uses and characteristics described herein, on a block or portion of a block, designated for that Building Type on Figure 3-3.

(a) Building Type 2-Story Headquarters (2H).

(i) Building Type 2H shall include corporate headquarters/office uses.

(ii) Building Type 2H may have a flat or pitched roof.

(iii) At least 15 percent of the site area for a Type 2H building must be occupied by buildings at least two stories in height, with no maximum height requirement.

(iv) Commercial uses may occupy 10,000 square feet of floor area within a Type 2H building.

(b) Building Type 3-Story Headquarters (3H).

(i) Building Type 3H shall include corporate headquarters/office uses.

(ii) Building Type 3H may have a flat or pitched roof.

(iii) At least 15 percent of the site area for a Type 3H building must be occupied by buildings at least three stories in height, with no maximum height requirement.

(iv) Commercial uses may occupy 10,000 square feet of floor area within a Type 3H building.

(c) Building Type 2+ Story Multi-family (2MF). Type 2MF buildings shall include residential units on first and upper floors. Type 2MF buildings may have a flat or pitched roof and shall be 2 to 5 stories in height.

(d) Building Type 3+ Story Multi-family (3MF). Type 3MF buildings shall include residential units on first and upper floors. Type 3MF buildings shall place parking below ground. Type 3MF buildings may have a flat or pitched roof and shall be 3 to 5 stories in height.

(e) Building Type Single family (1SF) detached dwellings. Type 1SF buildings shall not exceed 2 ½ stories or 30' in height, whichever is greater, and shall be regulated as part of a Planned Residential Development per Section 2.4(N).

(f) Building Type P, Public parks/buildings. Type P buildings are permitted on publicly owned land with the NBE District, or in any other area within the NBE District with a conditional use permit.

(3) Parking Requirements.

(a) Off-street parking shall be provided at a ratio of four spaces per 1000 square feet of floor area of retail, commercial, and office development. For the purposes of Section 3.7(D), net floor area shall mean floor area minus hallways, bathrooms, lobby, lunch/break rooms, and the like.

(b) Parking for residential units in the NBE District shall be provided on site, and shall be calculated as follows:

(i) Townhouses: two spaces per unit plus one visitor space per four units, so that there are at least two visitor spaces within 200 feet of every unit.

(ii) Other multi-story multi-family: 1.5 spaces per unit, plus one visitor space per four units.

(iii) Multi-family devoted exclusively to seniors aged 55 years and older: 1.1 spaces per unit, plus one visitor space per four units, located so that the majority of visitor spaces are within 100 feet of the entrance to the building.

(iv) One family detached dwelling units: two enclosed per unit.

(c) Residential parking spaces shall be specifically reserved for the use of residents and visitors only, separate from any commercial, office, or other uses on site or nearby, and shall not be counted as part of any shared parking or joint parking arrangement.

(d) Parking for restaurants shall be calculated as required in Section 4.7 of this code.

(e) If present, on-street parking directly in front of a given building or lot shall count toward fulfilling the total parking requirement.

(4) General Provisions.

(a) Building Design

(i) All buildings in the NBE District shall be designed to accomplish the goals and policies of the Comprehensive Plan.

(ii) Façade treatments.

1. Buildings in the NBE District shall address the street with windows, prominent entrances, and unique corner treatments.
2. Buildings in the NBE District shall have a well-defined base, middle, and top.
3. The primary façade(s) of buildings of 40 feet or more in width shall be divided architecturally by means all or a combination of the following:
   a. Significantly different materials or textures, or
   b. Division into storefronts with separate display windows, or
   c. Ornamental features such as arcades or awnings, or
   d. Division of the building mass into several smaller segments, or
   e. Horizontal offsets of at least two feet in depth.

(iii) Ground level design. Buildings in the NBE District shall use a combination of the following methods to distinguish the ground floor from upper floors:

1. An intermediate cornice line,
2. Use of different building materials or detailing on the ground level,
3. Awnings, trellises or arcades,
4. Windows,
5. Clearly defined entrances, or
6. Pocket parks, outdoor café seating, and plantings.

(iv) Rear facades and entries.

1. Where parking is located in the interior of a block, rear entrances shall be designed and improved to create a safe and welcoming environment including the following elements:
   a. Lighting as regulated in Section 4.4,
   b. Signs as regulated in Section 4.5,
   c. Canopies,
   d. Windows.
2. Where parking is located in the interior of a block and no rear entrance is provided, a lighted walkway, small identification signs and a directional sign to the front of the building shall be provided.

(v) Roof design. To add visual interest and individuality to buildings, roofs shall use high quality durable materials and shall incorporate at least one of the following elements:

1. Varying roof heights and cornices within an otherwise unified design scheme.
2. Roof line changes to note entrances or commercial bays.
3. Contrasting roof lines at street corners.

(vi) Accessory structures shall be constructed from the same materials as the primary building in similar architectural quality and style.

(vii) Mechanical equipment. Rooftop and ground mounted mechanical equipment shall be completely screened from view from adjacent properties, streets, and open spaces. If a screening material other than the parapet wall is proposed, the equipment shall be grouped within a single enclosure and the screen shall be designed with durable materials compatible with the architectural treatment of the principal building.

(viii) Service, Loading, and Storage Areas. Loading docks, truck parking, mechanical equipment, trash and recycling collection, or other service functions shall be incorporated within a completely enclosed building. Alternatively, such features may be exterior to a building if screened from eye-level view of public streets, public open spaces, and adjacent properties with walls of similar materials and design as the principal building. The screening wall shall be complemented with landscape plantings. Adequate space shall be provided on site for recycling collection and equipment.

(ix) Residential Uses. Whenever residential uses are included on the first floor, the first-floor elevation shall be at least two feet above the street level adjacent to it. In addition, each first-floor unit must have an individual private entrance at street level.

(b) Building Materials

Exterior building materials. All buildings shall be constructed of high-quality materials and utilize green, sustainable building practices through the demolition, site preparation, construction, operation, and maintenance phases of the building cycle.

(i) Primary building materials. Primary building materials shall cover at least 60 percent of the façade. These materials may include brick, natural stone, precast concrete units, decorative block of dimension, color, and texture that resembles brick, or glass, and must be integrally colored.

(ii) Secondary building materials. Secondary building materials shall cover no more than 30 percent of the façade. These materials may include decorative block, stucco, cement board siding, or architectural metal panels.

(iii) Accent materials. Accent materials shall cover no more than 10 percent of any of the building facade. These materials may include door and window frames, lintels, cornices, architectural metalwork, glass block, copper flashing, or similar materials.

(iv) For townhouse and one family buildings the primary materials described above shall cover at least 30 percent of the façade, the secondary materials shall cover no more than 60 percent of the façade, and accent materials no more than 10 percent of the façade, except as otherwise permitted through a Planned Development.

(c) Specific NBE Landscaping Provisions

(i) All land area not occupied by buildings, parking, driveways, sidewalks, or other hard surface shall be sodded or mulched and landscaped with approved ground cover, flowers, shrubbery, and trees.

(ii) At least 10 percent of the total land area within the perimeter of private parking and driveway areas shall be landscaped.

(iii) Parking lot landscaped islands shall be a minimum of 150 square feet in area and include at least one overstory or evergreen tree meeting the requirements of this ordinance.

(iv) Where parking abuts the site perimeter there shall be provided at least one overstory tree per 25 feet of site perimeter.

(v) At least one overstory tree shall be provided for every 500 square feet of landscaped area on the entire site.

(vi) The landscape plan shall include a full complement of overstory, ornamental, and evergreen trees, shrubbery, and ground covers that are hardy and appropriate for the locations in which they are planted, and which provide year-round color and interest.

(vii) For parking areas abutting I-35W or I-694, there shall be a landscape buffer of type C or D installed in accordance with the provisions of Section 4.1(H), that will screen the view of automobile headlights from the highways.

(d) Resource efficiency

All buildings and site plans within the NBE District will be encouraged in the use of resource efficient building practices, including energy efficiency, water stewardship, waste reduction, use of recycled and non-toxic building materials, and recovery of waste materials through recycling or other beneficial use.

FIGURE 3-3


New Brighton EXCHANGE
1SF
2MF
3MF
2H
3H
P
1ST AVE NW
14TH ST NW
NORTHWEST PKWY
OLD HWY 8 NW
I-35W
I-694
3MF - Multi-Family Residential 3 Stories
2MF - Multi-Family Residential 2 Stories
1SF - Single Family Residential
3H - Office
2H - Office
P - Publicly Owned
Building Type

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Section 3.7(E)

MUR (Regional), MUN (Neighborhood), and MUE (Exchange) Nodes:

Because of their similarities, regulations for the Mixed Use Regional (MUR), Mixed Use Neighborhood (MUN), and Mixed Use Exchange (MUE) Districts are coordinated in Section 3.7(E).

(1) Applicability

(a) Expansion of Nonconforming Uses.

(i) Legal nonconforming uses existing prior to the effective date of this ordinance as documented in Section 1.4 may be maintained according to Chapter 6, Nonconformities.

(ii) The City Council may allow expansion of legal nonconforming uses in mixed use districts via issuance of a conditional use permit following the provisions of Section 2.4(D).

1. Expansions may be allowed up to 15 percent of the gross floor area provided the expansion meets all other applicable City requirements. Expansions in excess of 15 percent shall require adherence to the provisions of Section 3.7(E).
2. Any expansion or modification of a legal nonconforming use should not significantly impede implementation of goals and policies of the Comprehensive Plan.

(b) Expansion of Dimensional or Bulk Nonconformities.

(iii) Legally nonconforming buildings existing prior to March 7, 2023, that do not meet dimensional or bulk standards of the applicable Mixed Use zoning district may be expanded through review and approval of a conditional use permit following the provisions of Section 2.4(D).

(iv) Approval of a conditional use permit for expansion of a legally nonconforming building shall require the following tests to be met:

1. The expansion or modification does not increase the overall, site-wide degree of nonconformity;

2. The applicant can demonstrate that zoning and Comprehensive Plan requirements are met to the greatest degree practical. These requirements include, but are not limited to: parking, landscaping, architectural design and facade treatment, and site design;
3. Proposed departures from Zoning and Comprehensive Plan requirements are addressed through superior design and/or additional community/site amenities;
4. The expansion or modification will not:
    a. Significantly impede implementation of goals and policies of the Comprehensive Plan;
    b. Have undue adverse impacts on neighboring residential properties;
    c. Have undue adverse impacts on governmental facilities, utilities, services, or existing or proposed improvements; and
    d. Have undue adverse impacts on the public health, safety, or welfare.

(2) Conflicts.

Wherever specific provisions of Section 3.7(E) conflict with other sections in the zoning code, the provisions within Section 3.7(E) shall apply.

(3) Building Height.

Within the City's mixed use areas, it is recognized that taller buildings are necessary to allow for a range of uses within a structure and encourage a compact form of development that is focused on pedestrian connections. Buildings with a consistent range of heights also help to define the street wall and create an architectural identity for a corridor or area. Table 3-18 establishes required building heights in the City's mixed use districts necessary to achieve these goals.

Table 3-18. Building Height Requirements

	MUR	MUN	MUE
Allowed Building Height Ranges			
Minimum Height [1]	2 stories (20')	2 story (20')	1 story (12')
Maximum Height	6 stories (72') [2]	4 stories (48')	3 stories (40')
Individual Story Height Requirements			
Ground Story Minimum [3]	12 feet	12 feet	12 feet
Ground Story Maximum	na	na	na
Upper story Minimums [3]	8 feet	8 feet	8 feet
Upper Story Additional Setbacks (if directly adjacent to R-1 zoned property)			
5th story	Standard setback + 8 feet	na	na
6th story	Standard setback + 15 feet	na	na

[1] A parapet wall may be utilized to meet the minimum height requirement. Minimum height must be met on all sides of the building.

[2] Structures immediately adjacent to R-1 or R-2 zoned lots shall not exceed 3-stories (36' feet) in height.

[3] Finished floor to ceiling. Townhomes are exempt from the ground story minimum requirement.

(4) Building Placement, Orientation, and General Development Standards.

In order to activate streets and enhance the pedestrian experience, buildings within mixed use areas are encouraged to be placed close to the street and oriented toward the public realm.

(a) Building Setbacks

(i) Build To Areas. Build-to areas are intended to bring building façades toward the street. A build-to area requires that a minimum portion of each development site's street frontage is occupied by a building, encouraging an active and interesting street frontage. Table 3-19 establishes build-to requirements for each mixed use district.

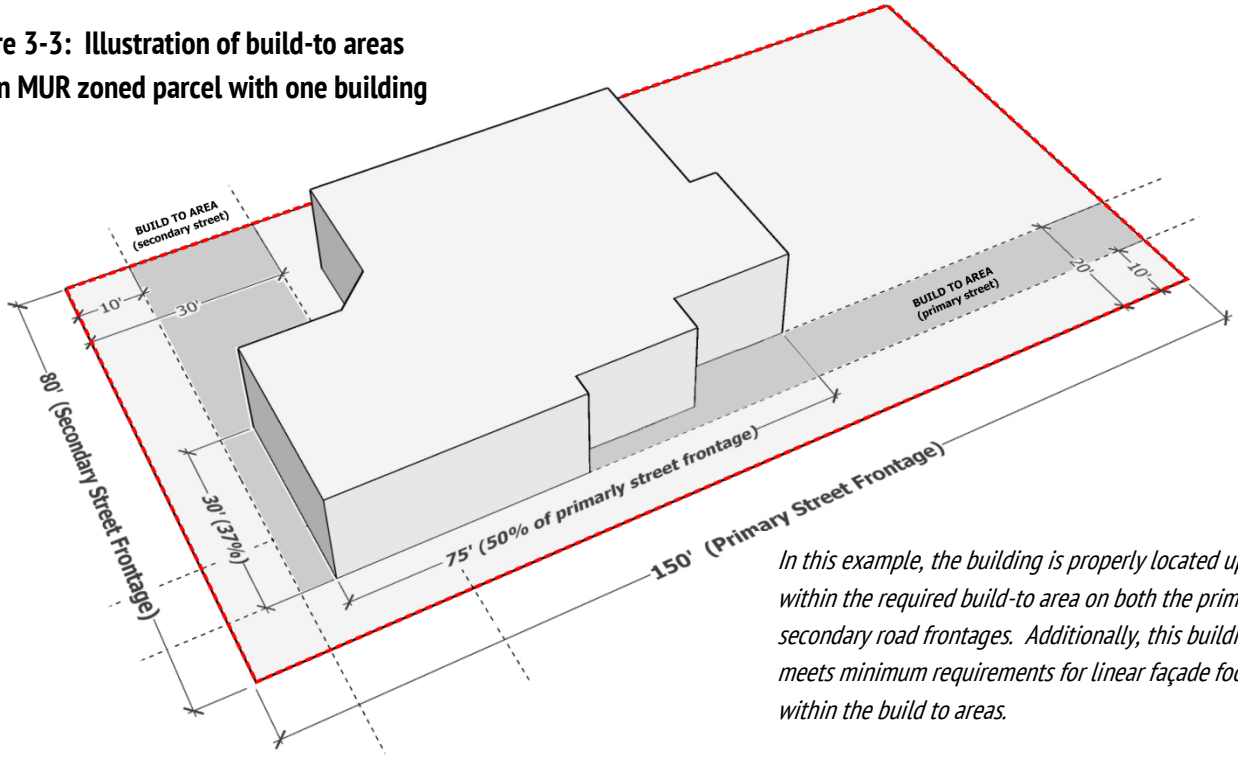
Table 3-19. Build-To Areas

	MUR	MUN	MUE
Primary Street Frontage Build-To Area [1]			
Minimum	**10 feet**	**10 feet**	**25 feet**
Maximum	**20 feet**	**20 feet**	**35 feet**
Linear portion of build-to area that must contain building façade (minimum) [2]	**50%**	**60%**	**50%**
Secondary Street Frontage Build-To Area			
Minimum	**10 feet**	**5 feet**	**25 feet**
Maximum	**30 feet**	**30 feet**	**35 feet**
Linear portion of build-to area that must contain building façade (minimum) [2]	**30%**	**30%**	**30%**

[1] *In all cases, buildings may be required to be further back than the listed minimum and maximum if deemed necessary to accommodate winter snow storage needs.*

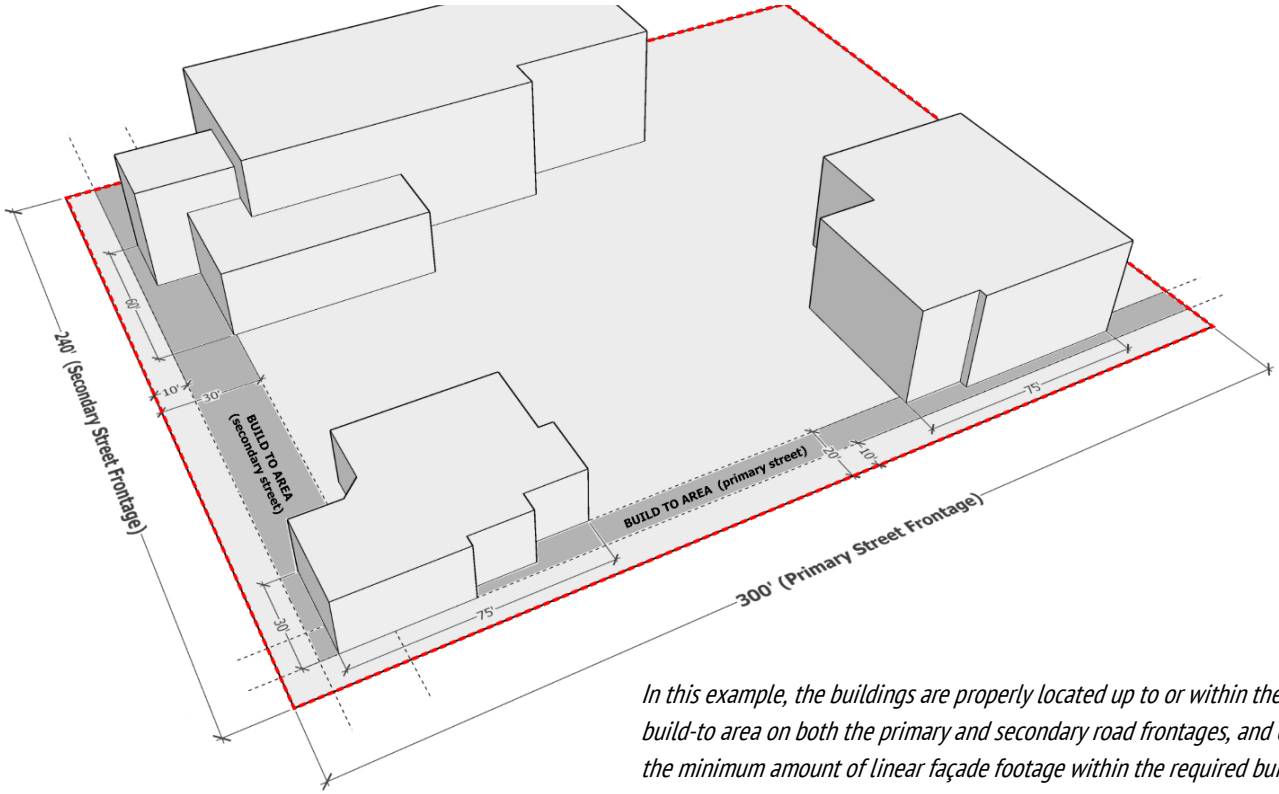
[2] *Where the provided primary street build-to exceeds the minimum requirement, the required secondary street build-to may be reduced by an equal or lesser amount, subject to approval by the Department of Community Assets & Development.*

Figure 3-3: Illustration of build-to areas for an MUR zoned parcel with one building



In this example, the building is properly located up to or within the required build-to area on both the primary and secondary road frontages. Additionally, this building meets minimum requirements for linear façade footage within the build to areas.

Figure 3-4: Illustration of build-to areas for an MUR zoned parcel with multiple buildings



In this example, the buildings are properly located up to or within the required build-to area on both the primary and secondary road frontages, and each street has the minimum amount of linear façade footage within the required build to areas.

(ii) Side and Rear Setbacks. Table 3-20 establishes minimum side and rear setback requirements for all structures in the mixed use districts. Front setbacks (or rear setbacks in the case of lakeshore lots) are not required; instead, the build-to requirements of Section 3.7(E)(4)(a)(i) above must be followed.

Table 3-20. Required Side and Rear Setbacks

	MUR	MUN	MUE
Minimum Side Setback	**10 feet**	**5 feet**	**5 feet**
Minimum Rear Setback [1]	**5 feet**	**5 feet**	**5 feet**

[1] *A minimum 25-foot rear yard setback shall be observed when the rear lot line is adjacent to R-1 or R-2 zoned property.*

(iii) Setback and Right-of-Way Encroachments. Architectural elements (such as window planter boxes, eaves, balconies, projecting wall signs, canopies, awnings, etc) attached to the building façade may encroach into a required setback or build-to area up to three feet on the ground floor, and up to five feet at upper levels.

(b) Public Entrances

(i) Unless deemed unfeasible through the site plan review process, all buildings in mixed use districts shall have at least one public entry that faces the primary or secondary street serving the development site. For corner lots with more than one street frontage, the public entry may be oriented towards the corner.

(ii) For development sites with more than one structure, those buildings that do not directly front a street shall have at least one primary entrance that adjoins a pedestrian walk. The primary entrance should be connected to the street by a walkway that is clearly defined and separated from parking areas.

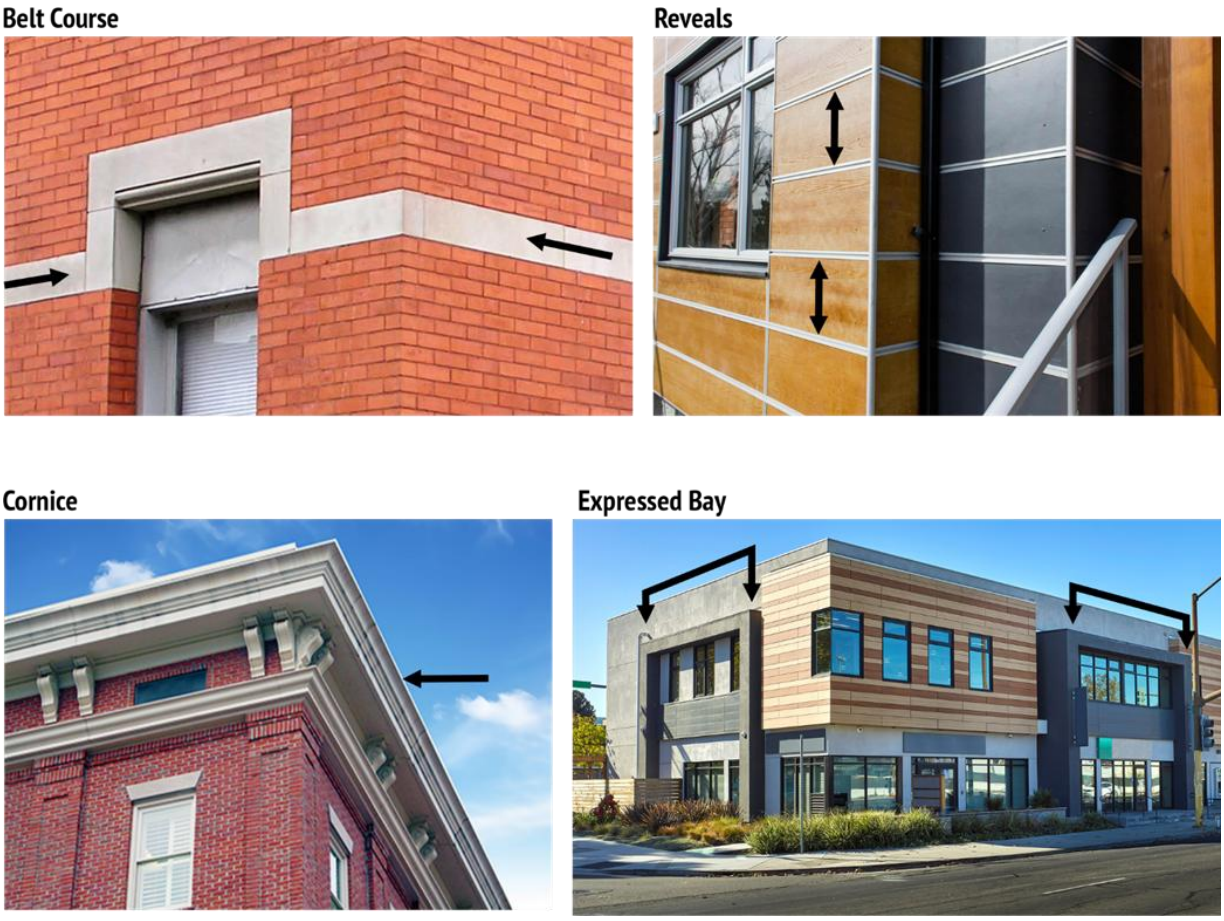
(c) Building Design

Quality architecture is a vital component to creating a unique sense of place. Creative design that pays careful attention to the building's contribution to the public realm – through massing, form, materials, and its relationship to the street – is encouraged.

(i) Façade Design and Articulation

1. Architectural quality and scale.
   a. The maximum linear building length on any given side of a building shall not exceed 350 feet unless:
      i. The applicant can demonstrate that additional length will contribute to the project's ability to fulfill the purpose and intent of mixed-use districts as outlined in Section 3.7(A); or
      ii. The building fronts a primary arterial roadway and will act as a sound wall for the surrounding area.
   b. All façades of a building shall provide a level of finished architectural quality and be designed to human scale. Each façade shall contain at least one change in color or texture. Additional detail should be incorporated into the façade design by the use of at least three of the following methods:
      i. Reveals.
      ii. Belt courses.
      iii. Cornices.
      iv. Expression of a structural or architectural bay.
      v. Articulation of windows and doorways, which may include sills, mullions, or pilasters that create a three-dimensional expression.
      vi. Change in material.
      vii. Variation in rooflines.
      viii. At the discretion of the Department of Community Assets & Development, other technique(s) proposed by an architect that accomplish similar results to options 1 – 7 above.

Figure 3-5: Examples of various architectural details for incorporation into building designs



2. Varying Plane Depth.
   a. All façades of a building that face a street or a public space shall have at least one variation in plane depth of at least one foot for every 50 linear feet of the length of the façade. All other façades shall have one variation in plane depth of at least one foot for every 100 linear feet of the length of the façade. Any portion of a façade that is a glass curtain wall shall be exempted from this requirement.
   b. For single-family attached dwellings, façade(s) containing front doors shall have a change in plane depth of at least one foot either between each unit (i.e. varying the plan depth of adjacent units), or changes within the frontal plane of every individual unit.

c. Non-permanent features such as canopies and awnings do not qualify as variation. Plane depth variation may be accomplished through elements such as:
   i. Recessed entries.
   ii. Porticos.
   iii. Projecting porches.
   iv. Upper level step backs.
   v. Dormers.
   vi. Offsets in the general plane of the façade, including columns, pilasters, protruding bays, reveals, fins, ribs, balconies, cornices, or eaves.

d. The primary entrance of buildings in the mixed use districts shall be emphasized through at least two of the following architectural elements:
   i. Changes in wall plane or building massing.
   ii. Differentiation in material and/or color.
   iii. Higher level of detail.
   iv. Enhanced lighting.

(d) Materials

(i) Only primary building materials shall be used for all façades. Primary building materials include but are not limited to:
1. Brick;
2. Stone;
3. Architectural pre-cast concrete;
4. Synthetic brick and masonry materials;
5. Hard coat stucco;
6. Integral textured colored concrete block; and
7. Architectural metal panels.

(ii) Materials that are not allowed include, but are not limited to:
1. Plywood paneling;
2. Vinyl and aluminum siding; and
3. Un-articulated large format concrete panels.

(iii) Exterior insulating finishing system (EIFS) may be used as an accent material subject to the following restrictions:

1. EIFS must have a textured finish.
2. EIFS may not be utilized below the height of eight feet on any building façade.
3. The total amount of EIFS may not exceed 25 percent per building façade.
4. The allowable amount of EIFS may be consolidated on a façade(s) that does not face a street or public space provided that the total amount of EIFS, calculated cumulatively for the entire building, does not exceed 25 percent.

(iv) Solar Installations: solar energy installations on buildings are allowed subject to the requirements of Section 5.4(E)(26). Passive solar energy design and building-integrated solar energy systems that are flush with the building are exempt from Section 5.4(E)(26), and will be regulated like any other allowed building element.

(v) Material variation: All building façades that face a street or public space shall have at least one variation in material to break the building up vertically. A change in material must be at least 12 inches in height. Masonry patterns, such as headers or rowlocks, can count as a change of material. Windows, canopies, and doorways will not count as a change in material.

(e) Ground floor transparency.

(i) Retail uses. The façade facing the primary street frontage shall be at least 60 percent transparent. All other façades facing a street or public space shall be at least 30 percent transparent.

(ii) All other nonresidential uses (excluding retail). The façade facing the primary street frontage shall be at least 40 percent transparent. All other façades facing a street or public space shall be at least 25 percent transparent.

(iii) Transparency shall be calculated as the percentage of clear, non-reflective glass within the area between three feet and eight feet above the first floor finished elevation.

(iv) Transparent doors and window mullions shall count as part of the transparent area. Structural elements and opaque or reflective glass shall not count toward the transparency requirement, except that up to 20 percent of the transparency requirement for any one façade may be fulfilled by spandrel glass.

(v) Glass display cases may count toward the transparency requirement only if they give the appearance of windows, are at least 18 inches deep, and are maintained with items of interest, including window display graphics.

(vi) For retail uses, windows at the ground floor shall be at least five feet high.

(vii) Residential only buildings are exempt from minimum ground floor transparency standards.

(f) Screening—Loading, service areas, and utilities.

(i) All loading docks, utility structures, and other service areas associated with a building shall be fully screened from view by walls or fences.

(ii) Screening elements shall be composed of materials consistent with the primary building. Wood and vinyl fences shall not be allowed as screening materials. Screen walls and fences over 10 feet in length shall be bordered by a four-foot-wide landscape buffer.

(iii) Trash enclosures shall be compatible with the building design and materials and screened with full wall enclosures. Such enclosures may not be located between the building façade and the street.

(iv) All screening elements shall be at least as tall as the object (e.g. trash enclosure, loading dock, or utility structure) being screened.

(v) Rooftop equipment shall be screened by parapets or enclosures. Screening elements shall be composed of forms, materials, and colors that are compatible with the architectural qualities of the building, including materials, scale, form, and color.

(vi) Wherever possible, exterior utility boxes and above-ground utility installations shall be located to the side or rear of buildings, and not visible from the street.

Figure 3-6: Screening walls with landscaped buffers are required around all otherwise visible loading docks, utility structures, and service areas. Creative integration of public art as part of the screening (as shown here) is encouraged.

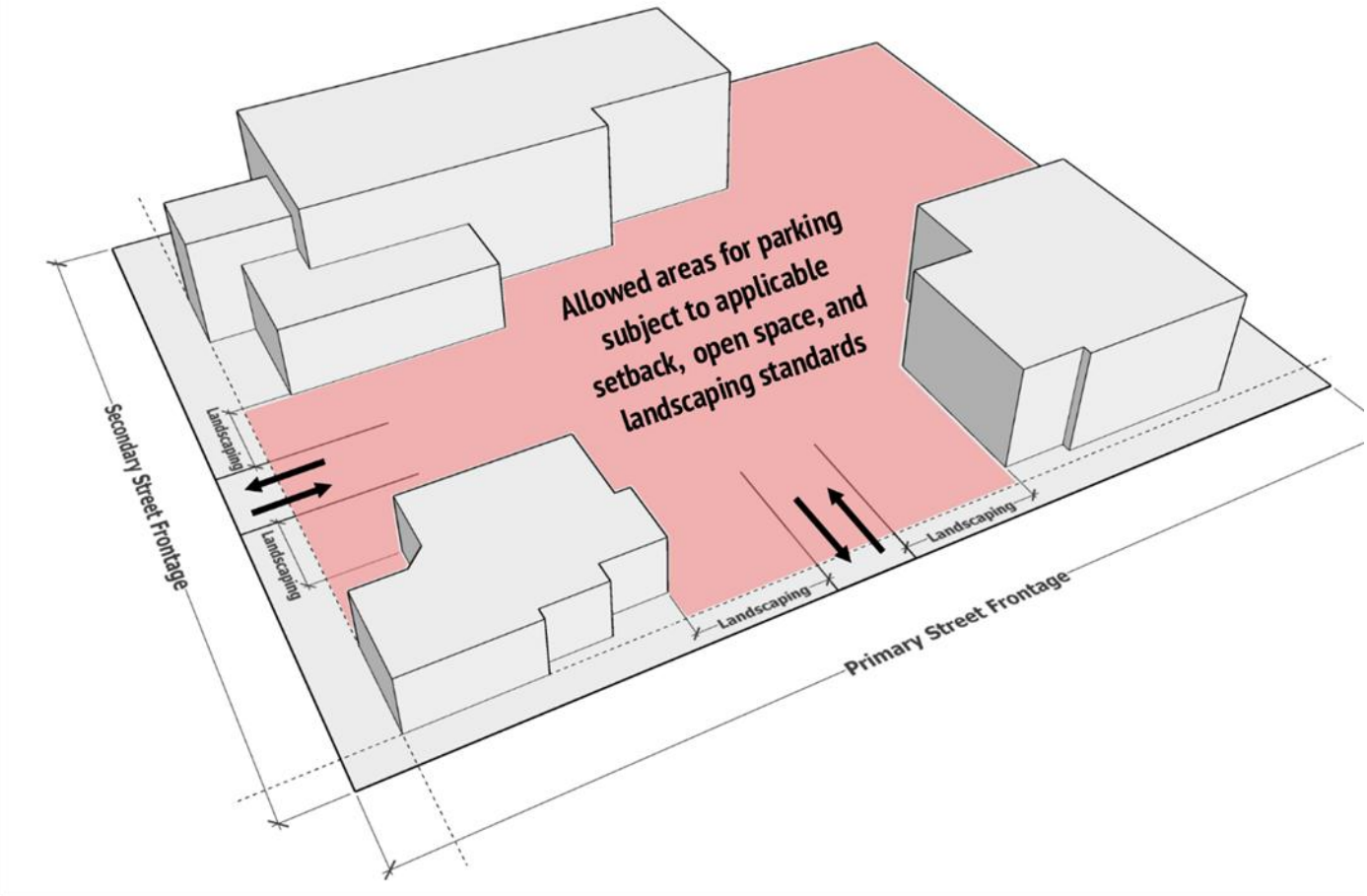


(5) Parking.

(a) Off-street parking placement and design. Streets are more vibrant and interesting to pedestrians if they are lined with buildings and active uses. Surface parking should be located behind buildings, toward the interior of lots, and should be screened from view from adjacent streets. Structured parking should be placed to minimize impacts on surrounding development and be designed to be compatible – in terms of form, materials, and architectural style – with adjacent development.

(i) Surface parking placement. Parking areas shall be located to the rear or side of the building. For development sites with more than one building, parking is not allowed in front of the building(s) closest to the street, but is allowed to their sides and in front of permitted buildings interior to the development site (Figure 3-7).

Figure 3-7: Allowed parking areas on a multi-building site



(ii) Surface parking buffers and screening.

1. Where a surface parking lot directly abuts a street or public space, one or more of the following screening elements shall be used
   a. Minimum five-foot wide landscape buffer with grass, or groundcover plantings, and trees located a minimum of 30 feet on center. The landscape buffer may also contain perennials and shrubs.
   b. A vertical screening device, 30 to 46 inches in height. The screening device may be a continuous masonry wall constructed of stone, brick, or split-face concrete block, a combination masonry pier and decorative iron railing, or any other decorative and durable screening device that is consistent with the materials of the primary building. Wood, chain link and vinyl picket fencing shall not be permitted.

c. Where a parking lot's frontage along the street or public space is greater than 20 linear feet, no more than 30 percent of the screening requirement may be fulfilled by a landscape buffer.

2. Any surface parking lot that abuts a residentially zoned lot shall incorporate the following screening elements:

   a. A screen wall, at least six feet in height, with materials that are consistent with the primary building.

   b. A landscaped buffer, at least six feet in width, between the property line and the required screen wall.

(iii) Surface parking design.

1. Parking areas shall meet the requirements for the design of off-street parking — including surfacing, landscaping, lighting, and space/aisle dimensions — as listed Section 4.7 of this ordinance.

2. Parking areas over 20,000 square feet shall contain a well-defined pedestrian walk, whether by change in paving material or landscaping, that connects the parking area to the adjacent street and the building(s) on site.

(iv) Parking structure design.

1. Parking garage design should be compatible with adjacent buildings in terms of form, massing, scale, materials, and façade articulation.

2. Spandrel panels or opaque screening systems, such as louvers, at least 36 inches in height shall be used to screen vehicles from view on all levels.

3. Any parking garage façade that is visible from public view shall be designed such that the internal ramping system is not visible.

4. Wherever possible, especially for parking garage façades that face a public street, the ground floor of the parking structure should incorporate retail, commercial, or other nonresidential uses to help activate the street.

5. Any ground-level façade of a parking garage that is visible from the street and does not provide retail, commercial, or other active ground floor uses shall include at least two of the following design features:

   a. Façade articulation through change in vertical plane or a change in building material.

b. The use of windows or false windows defined by frames, lintels, or sills.

c. Integration of multiple building entrances.

d. Buffering along the street edge with landscaping, street trees, green walls, or trellises with vines.

(b) Parking Requirements. Large areas of free parking encourage automobile use and detract from the land available for high quality development. Strategies to utilize parking areas effectively, such as shared parking and parking structures, are highly encouraged. Especially within areas adjacent to transit services as they may change over time, reduced parking requirements encourage transit and other alternative modes of transportation.

(i) Minimum and Maximum Spaces. Table 3-21 specifies the number of parking spaces required by general use groups**.**

Table 3-21. Minimum and Maximum Parking Standards in All Mixed Use Districts [1]

Use Group	Minimum Required Parking [4]	Maximum Allowed Parking [4]
Light Industrial/Accessory Manufacturing	1 space / 1000 sq ft	5 spaces / 1000 sq ft
Commercial Lodging (i.e. hotels)	1 space / room	1.5 spaces / room
Office, Bank, etc.	1 spaces / 1000 sq ft	5 spaces / 1000 sq ft
Residential [2]	1.5 spaces / unit	2.5 spaces / unit
Restaurant [3]	4 spaces / 1000 sq ft	10 spaces / 1000 sq ft
Retail [3]	3 spaces / 1000 sq ft	5 spaces / 1000 sq ft
Theater	1 space / 5 seats	1 space / 2 seats
All other uses	Uses not specifically listed above shall submit a parking analysis as part of development review for approval by the Department of Community Assets & Development.	

[1] *Square feet is measured as gross floor area.*

[2] *In the MUE district, 50 percent of the required parking shall be provided as underground parking.*

[3] *Maximum parking for these uses may be increased by two spaces per 1000 square feet in the MUR district.*

[4] *At the sole discretion of the City Council, minimum and maximum parking thresholds may be exceeded as needed if a parking study completed by a developer indicates fewer or additional spaces are justified to accommodate a proposed use.*

(ii) On-street parking. On-street parking spaces directly abutting a use may count toward the total number of required parking spaces for non-residential uses.

(iii) Off-site parking. Parking requirements may be met off-site, up to a walking distance of 1,000 feet via a publicly accessible route from the use, subject to an off-site parking agreement. The publicly accessible route must be approved by the Department of Community Assets & Development. The off-site parking agreement must be submitted for approval as part of a development proposal, and once approved, recorded against all properties subject to the agreement.

(iv) Shared parking. Shared parking is permitted and encouraged. Shared parking shall be approved subject to the review and approval of a shared parking study citing ULI accepted shared parking ratios, as may be amended.

(v) Off street loading. Provision of off-street loading spaces shall be guided by Section 4.7(E). Variations to required numbers and placement may be considered if justified by the proposed design and hidden by proposed screening methods. Special attention shall be placed on creating no conflicts of movement with vehicular traffic traveling to and from parking areas.

(vi) Bicycle parking. Bicycle racks or storage shall be provided.

(6) Site circulation and vehicular access.

Access and circulation for automobiles should be designed to minimize the number of curb cuts, increase connectivity, and encourage shared access points from streets so that disruptions to the pedestrian environment are minimized.

(a) Block sizes. Where new public or private streets are proposed, blocks with a perimeter of 1,600 feet or less are encouraged; no block shall exceed 2,000 feet in perimeter.

(b) Curb cuts. For new development along existing streets where curb cuts already exists, the number of curb cuts to the site shall not be increased. Where possible, existing curb cuts should be consolidated, and access points shared as much as possible.

(i) Wherever possible, vehicular access to a site or building shall occur through an alley or on-site private drive aisle rather than by a curb cut from the street.

(ii) Where an alley or on-site private drive aisle is not available, curb cuts along a secondary street, rather than the primary street, shall be utilized when possible.

(c) Building vehicular entrances. Vehicular entrances to buildings and parking garages that contain a ramp shall be screened from view of the street or adjacent public space in as much as possible. Where a vehicular entrance or ramp directly abuts a pedestrian walk, appropriate cautionary signs shall be used to alert pedestrians of the presence of vehicles and to inform drivers that pedestrians have the priority.

(d) Cross access and circulation. Cross access and circulation across adjoining parcels is required where appropriate and feasible. Joint circulation shall be documented in a cross access and circulation easement and agreement.

(7) Pedestrian & Trail Accommodations.

(a) Access. Pedestrian access points shall be provided at all pedestrian arrival points to the development including the property edges, adjacent lots, abutting street intersections, crosswalks, and at transit stops if applicable. Pedestrian access shall be coordinated with existing development to provide circulation patterns between developments.

(b) Trail Connections. Planned trail connections as identified in the City's Comprehensive Parks Plan shall be accommodated and incorporated into projects as may be necessary by the Department of Community Assets & Development.

(c) Conflicts. Pedestrian walkways and trails shall form an on-site circulation system that minimizes the conflict between pedestrians and traffic at all points of pedestrian access to on-site parking and building entrances, and between buildings.

(d) Design Standards. Pedestrian access and walkways shall meet the following minimum design standards:

(i) Access and walkways shall be well-lit and physically separated from driveways and parking spaces by landscaping, berms, barriers, grade separation or other means to protect pedestrians from vehicular traffic;

(ii) Access and walkways shall be a minimum of 6 feet of unobstructed width and meet City standards for surfacing of walkways or sidewalks;

(iii) Access shall be usable by mobility-impaired persons and shall be designed and constructed to be easily located by the sight-impaired pedestrian by either grade change, texture or other equivalent means;

(iv) A crosswalk shall be required when a walkway crosses a driveway or a paved area accessible to vehicles. Raised crosswalks or speed bumps may be required at all points where a walkway crosses the lane of vehicle travel; and

(v) Trail designs shall meet requirements as spelled out by the Department of Community Assets & Development.

(8) Open Space Requirements.

Parks, plazas, squares and other forms of public spaces play an important role in the quality of a place. Landscaped and hardscaped areas contribute to the public realm by providing places for people to gather, relax, and recreate.

(a) Open space required. The following table sets forth the minimum amount of open space required, measured as a percentage of the net development site area (total site area less public right-of-way).

Table 3-22. Minimum Required Open Space

	MUR	MUN	MUE
Single Use Development	**15%**	**15%**	**15%**
Mixed Use Development	**10%**	**10%**	**10%**

(b) Aggregated open space. Open space may be aggregated into larger parks, plazas, and squares for one development site, rather than calculated per parcel, subject to approval by the Department of Community Assets & Development. In such cases, the parcel(s) required to meet any open space requirement must be identified and noted on an approved site plan to be approved during the development process.

(c) Minimum landscaping. At least 30 percent of the required open space area shall be composed of landscaped materials, including grass, trees, bushes, or other plantings. Landscaped open space may also be useable open space as required by subsection (4) below.

(d) Usable open space. For all development sites, at least 75 percent of the required open space must be usable open space.

(i) Usable open space includes open space which, by its configuration, size, and design, can be used for passive or active recreation.

(ii) Usable open space includes plazas, parks, outdoor dining areas, courtyards and green roofs. Required buffers or parking lot landscaping shall not qualify as usable open space.

(iii) Land with a slope steeper than one foot (vertical) in three feet (horizontal) shall not qualify as usable open space.

(iv) Drainage ways, ponds, and other areas required for storm water quality or detention may qualify as usable open space if such areas are designed for passive or active use and are landscaped with grass, shrubs, or trees. Recommended plants for storm water detention areas is available through the Department of Community Assets & Development.

(v) Community gardens may count towards required & usable open space.

(e) Maintenance. The developer, its successor or the property owners shall be subject to a landscaping maintenance agreement making them responsible for regular weeding, irrigating, fertilizing, pruning, or other maintenance of all plantings as needed in order the ensure the survival of any required landscaping. The City may require the removal and replacement of such landscaping where dead, diseased, or damaged landscaping is found. All property owners/occupants shall be responsible for the maintenance of landscaping within the portion of the public right-of-way between the back of the curb or street pavement and adjacent private property.

(f) Landscaping Plan. Landscaping requirements in Section 4.1 shall not apply within the MUR, MUN, or MUE zones. Instead, a landscaping plan shall be submitted at the time development is proposed which shows the requirements of Section 3.7 are being met.

(9) Specific Additional Requirements for the Mixed Use Exchange (MUE) District.

(a) All buildings that are located on sites adjacent to Long Lake Regional Park shall take advantage of the views to Long Lake and shall provide site improvements that complement the natural features of Long Lake Regional Park.

(b) All developments shall provide pedestrian linkages to Long Lake Regional Park and neighboring developments for residents, employees, and shoppers, and provide integrated parking and transit elements whenever practical.

(c) All uses shall be complementary or integrated and buildings shall be related or connected in accordance with the vision of the adopted Highway 8 Corridor Study.

(d) All buildings and building sites shall be designed to encourage social interchange and a sense of community, provide sufficient residential amenities, and mitigate any adverse impacts of business and industrial uses on residential uses.

(10) General Requirements for Mixing of Uses.

Buildings and development sites that contain a mix of uses are strongly encouraged within each of the City's individual mixed use districts.

(a) Individual uses are allowed to encompass the entirety of individual buildings provided additional buildings being developed concurrently or previously in the district have resulted in the mixing of uses envisioned by the Comprehensive Plan.

(b) Domination of one particular use type in a given mixed use district may be used as valid grounds to deny future projects for that same use type unless the proposed new building is specifically designed with flexible spaces that can easily accommodate other uses in the future as markets change (i.e. the ground floor of a residential building includes large open areas capable of accommodating retail or restaurants in the future, but will instead be used as amenities for the residence building until such time as non-residential uses can be moved in).

(11) Administrative adjustment process.

(a) It is recognized that the variety of existing sites which make up the City's MUR, MUN, and MUE mixed use districts will likely dictate that not every standard in Section 3.7(E) will be able to be met to the full extent as required. At the discretion of the City Council, minor adjustments to certain standards within Section 3.7(E) may be permitted as part of a formal development review. Administrative adjustments are intended to provide limited relief for a practical difficulty absent a formal variance.

(b) Adjustments to the following standards shall be allowed through the administrative adjustment process.

Table 3-23. Allowed Administrative Adjustments

Standard	Maximum Allowed Administrative Adjustment
Build-to Requirements	10%
Setback Requirements	10%
Varying Plane Depth	Spacing and depth requirements may be modified or waived if other required architectural details considerably exceed minimum standards, or if the primary building materials are shown to be high-end within their market share
Transparency Requirements	10%
Maximum Number of Drive Up Lanes	One additional lane
Minimum Parking Requirements – nonresidential uses only	25% fewer spaces than required
Block Size Requirements	10%
Screening Standards	Alternative screening locations and/or materials may be allowed if such deviation(s) will be as good or better at accomplishing the identified screening objectives. Screening of solar energy installations may be relaxed where strict adherence to requirements would reduce the efficiency of the installation and no alternative installation options are available.

(c) Any proposed deviations in excess of that allowed through administrative adjustment may only be approved via a variance, a Planned Residential Development, or a Planned Unit Development process.

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3.8 Overlay Zoning Districts

(A) General Purpose

Overlay zoning districts are superimposed over portions of one or more base zoning districts in order to introduce additional zoning requirements necessary to address a specific issue.

(B) Relationship to Base Zoning Districts

(1) Regulations governing development in an overlay zoning district shall apply in addition to the regulations governing development in the underlying base zoning district unless expressly stated otherwise in these regulations.

Section 1.7(C): Conflicts Between Standards in this Ordinance

(2) Conflicts between overlay district standards and other standards in this ordinance shall be resolved as outlined in Section 1.7(C).

(C) Shoreland Overlay District

(1) Purpose and Intent

(a) Policy. The unregulated use of shorelands in the City affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety, and welfare to provide for the wise use and development of shorelands of public waters.

(b) Statutory Authorization. These shoreland regulations are adopted pursuant to the authorization and policies contained in Minnesota Statutes Chapter 103F, Minnesota Rules, Parts 6120.2500 through 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes Chapter 462.

(c) Jurisdiction. The provisions of this Code shall apply to shorelands of the public water bodies as classified in Section 3.8(C)(3). A body of water created by a private user where there was no previous shoreland may, at the discretion of the City Council, be exempt from this Code.

(d) Compliance. The use of any shoreland of public waters, the size and shape of lots, the use, size, type and location of structures on lots; the grading and filling of any shoreland area, and the cutting of shoreland vegetation shall be in full compliance with the terms of this Code and other applicable regulations.

(e) District Application. The shoreland overlay district shall be superimposed (overlaid) upon all the zoning districts as identified in Chapter 3 of the City Zoning Code as existing or amended by the text and map of this Code. The regulations and requirements imposed by the shoreland overlay district shall be in addition to those established by the base zoning district which jointly apply. Under joint application of the districts, the more restrictive requirements shall apply.

(f) Exemption. A structure or use which was lawful before adoption of this ordinance, but which is not in conformity with the provisions of the shoreland overlay district, may be continued subject to the requirements of Chapter 6, Nonconformities.

(2) District Boundaries

The boundaries of the shoreland overlay district within the City shall consist of all lands as described within the definition of "shoreland" in Chapter 8, Rules and Definitions.

(3) Waters Classification

The following waters in Table 3-24 have been given classifications and are regulated as such under state law.

TABLE 3-24: CLASSIFICATION OF WATERS IN NEW BRIGHTON

MN DNR Public Waters ID	NAME	DNR CLASSIFICAITON	ORDINARY HIGH WATER LEVEL (OHWL)
62-76 W	Jones Lake	Natural Environment	895.2 ft
62-67 P	Long Lake	General Development	864.93 ft
62-69 P	Pike Lake	General Development	867.77 ft
62-77 P	Poplar Lake	Natural Environment	Elevation not established *
62-68 P	Rush Lake	Natural Environment	870.4 ft
M-059	Rice Creek	Tributary Stream	Top of Bank

(4) Permits Required

(a) When a building permit is required for any activity regulated herein, no additional shoreland alteration permit shall be required. However, the standards for the activity as contained herein shall be applied to the issuance of that permit.

(b) A shoreland alteration permit shall be required for all construction and development activity regulated by Section 3.8(C) including for:

(i) All grading, filling and excavation activity as regulated within Section 3.8(C)(16).

(ii) All shoreland vegetation alteration activity regulated under Section 3.8(C)(15).

(5) DNR Notification & Approval Procedures

(a) Notification shall be provided to the DNR Area Hydrologist at least 10 days prior to a public hearing to consider variances, conditional use permits, planned developments, minor subdivisions, and plats within the shoreland area or amendments to the shoreland standards.

(b) With regard to planned developments, preliminary plans shall be approved by the DNR before final City Council approval.

(c) Notification shall occur 10 days after a final decision on all variances, conditional use permits, planned developments, minor subdivisions, and plats.

(6) Lot Area and Lot Width

Lot area and width standards shall be regulated per the underlying zoning district of the property, except that under no circumstance shall the minimum lot area be less than 20,000 square feet for riparian lots.

(7) Use

The use of all properties within the shoreland area shall be regulated per the underlying zoning district.

(8) Height

Height of structures and other facilities on lots shall be regulated per the underlying zoning district of the property, except for where specified herein.

(9) Impervious Surface

Impervious surface coverage shall be limited to 50 percent of any lot or parcel.

(10) Setback Requirements

(a) Where structures exist on the adjoining lots, structure setbacks may be altered allowing them closer to the water's edge without a variance to conform to the adjoining setbacks from the ordinary high water level. The distance shall be determined by the average setback of structures on the two immediately adjoining lots and shall be allowed only provided the proposed structure is not located in a shore impact zone.

(b) Along with the setback requirements in the underlying zoning district, the following setback requirements from the Ordinary High Water Level (OHWL) shall apply to all principal and accessory buildings which do not meet the provisions of subsection (a) above.

TABLE 3-25: SETBACKS BY WATER BODY

NAME	REQUIRED SETBACK
Jones Lake	50 feet
Long Lake	50 feet
Pike Lake	50 feet
Poplar Lake	50 feet
Rush Lake	150 feet
Rice Creek	50 feet

(c) Along with the setback requirements in the underlying zoning district, and where a bluff exists, all structures must meet a 30 foot setback from the top of bluff for all lake and stream waters classifications.

(d) The following types of structures are exempt from OHWL setbacks indicated in subsection (b) above, but are required to follow the standards contained in Section 3.8(C)(12) and Section 3.8(C)(14).

(i) Stairways, stairway landings, and pedestrian lifts;

(ii) Watercraft lifts, landing facilities and docks;

(iii) Fences, retaining walls, and ancillary recreational uses; and

(iv) Public park, beach, and marina facilities and other public improvements.

(11) Shore Impact Zone

The Shore Impact Zone shall consist of the following setbacks as measured from the OHWL.

TABLE 3-26: SHORE IMPACT ZONES	
NAME	REQUIRED SETBACK
Jones Lake	25 feet
Long Lake	25 feet
Pike Lake	25 feet
Poplar Lake	25 feet
Rush Lake	75 feet
Rice Creek	25 feet

(12) Fences and Wall Standards

(a) All fences must meet standards for fencing as outlined in Section 4.3, as well as the following standards:

(i) No fences shall be placed or constructed within the shore impact zone of any waterbody.

(ii) All fences shall meet the setback from the OHWL required for buildings, except fences 3 ½ feet in height or less which are comprised of a surface area of 30 percent or less solid material.

(b) The following standards shall be required for retaining walls:

(i) Only retaining walls which are part of an erosion and sediment control plan shall be permitted in the shore impact zone and must meet the standards contained in Section 3.8(C)(12) and Section 3.8(C)(18).

(ii) Any wall which does not meet the required structure setback from the OHWL shall be no more than 3 ½ feet in height.

(c) Any enclosure for the confinement of animals must meet principal structure setback requirements.

(13) Standards for Commercial, Industrial, Public, and Semi Public Uses.

Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, of located on lot or parcels with public waters frontage, must either be setback double the normal OHWL setback or be substantially screened from view from the water by vegetation or topography, assuming, summer, leaf-on conditions. Those with water-oriented needs must meet the following standards:

(a) In addition to meeting impervious coverage limits, setback, and other zoning standards presented elsewhere in Section 3.8(C), the uses must be designed to incorporate topographic and vegetative screening of parking area and structures.

(b) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.

(c) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

(i) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than 10 feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.

(ii) Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

(14) Stairways, Lifts, and Landings

Stairways, lifts and landings which do not meet the setback standards for principal structures shall meet the following standards:

(a) Stairways, stairway landings, and pedestrian lifts shall be located whenever reasonable in the most visually inconspicuous portions of lots, as viewed from the surface of the public waterbody, assuming summer, leaf- on conditions.

(b) Construction and Design:

(i) Stairways and pedestrian lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned developments where more than one lot or more than four dwelling units are served.

(ii) Landings for stairways and pedestrian lifts on residential lots must not exceed 32 square feet in area. Landings not exceeding 60 square feet may be used for commercial properties, public open-space recreational properties, and planned developments where more than one lot is served.

(iii) Canopies or roofs are not allowed on stairways, stairway landings, or pedestrian lifts.

(iv) Stairways, stairway landings, and pedestrian lifts 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.

(15) Shoreland Vegetation Alterations

In shore and bluff impact zones and on steep slopes, 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 dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water oriented accessory structures or facilities provided that:

(a) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced.

(b) Along rivers, existing shading of water surfaces is preserved.

(c) The vegetation alternations do not constitute intensive vegetation clearing as defined in Chapter 8, Rules and Definitions.

(d) The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards and the removal of plants deemed noxious under State or local noxious weed regulations.

(16) Shoreland Grading and Filling Alterations

(a) Grading and filling and excavations necessary for the construction of structures and driveways under validly issued building permits for these facilities do not require the issuance of a separate shoreland alteration permit however, considerations and conditions as stated in subdivisions (b) and (c) below must be adhered to during the issuance of building permits, land alteration permits, conditional use permits, variances, and subdivision approvals within the shoreland area.

(b) Notwithstanding subdivision (a) above, the movement of more than 10 cubic yards of material within shore or bluff impact zones and the movement of more than 50 cubic yards of material outside of shore and bluff impact zones will require a shoreland alteration permit unless a land alteration permit is required.

(c) Alteration Standards & Requirements

(i) No person may fill, drain, excavate, or otherwise alter the hydrology of a wetland without first obtaining a permit from the Rice Creek Watershed District.

(ii) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.

(iii) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible.

(iv) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.

(v) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service.

(vi) Fill or excavated material must not be placed in a manner that creates an unstable slope.

(vii) Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must create finished slopes of less than three feet horizontal to one foot vertical slope.

(viii) Fill or excavated material must not be placed in bluff impact zones.

(ix) Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under Minnesota Statutes Section 103G.245.

(x) Alterations of topography must only be allowed if they are accessory to permitted or conditionally permitted uses and do not adversely affect adjacent or nearby properties.

(xi) Placement of natural rock rip rap, including associated grading of the shoreline and placement of a filter blanket, is allowed if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the rip rap is within 10 feet of the ordinary high water level, and the height of the rip rap above the ordinary high water level does not exceed three feet. This must only be done in accordance with other State and Federal regulations.

(17) Roads and Impervious Surface

(a) Public and private roads, driveways, and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. They must be designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

(b) Roads, driveways, impervious surface, and parking areas must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

(18) Stormwater Management

(a) When possible, existing natural drainage-ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

(b) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.

(c) When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.

(d) New constructed stormwater outfall to public waters must provide for filtering or settling of suspended solids and skimming or surface debris before discharge.

(e) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

(f) A Rice Creek Watershed District permit is required for projects that create or reconstruct 10,000 square feet or more of impervious surface.

(19) Sanitary Provisions

All lots within the shoreland district shall be connected to the City water and sanitary sewer systems. Old sewer and water systems shall be abandoned in conformance with State law and City ordinances.

(D) Floodplain Overlay District

(1) Statutory Authorization, Findings of Fact, and Purpose

(a) Statutory Authority

The legislature of the State of Minnesota has, in Minnesota Statutes, Chapter 103F delegated responsibility to local government units to adopt regulations designed to minimize flood losses. Section 3.8(D) prescribes the regulations adopted by the City of New Brighton.

(b) Findings of Fact

(i) The flood hazard areas of New Brighton, Minnesota, are subject to periodic inundation that results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(ii) Section 3.8(D) is based upon a reasonable method of analyzing flood hazards that is consistent with the standards established by the Minnesota Department of Natural Resources.

(iii) Section 3.8(D) is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 – 78, as amended, so as to maintain the City's eligibility in the National Flood Insurance Program.

(iv) It is the purpose of Section 3.8(D) to promote the public health, safety, and general welfare and to minimize those losses described in subsection (i) above by the provisions contained herein.

(2) General Provisions

(a) Affected Lands

Section 3.8(D) shall apply to all lands within the jurisdiction of the City as shown on the Official Zoning Map and the attachments thereto as being located within the boundaries of the Floodway, Flood Fringe, or General Flood Plain Districts.

(b) Official Zoning Map Established

The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of Section 3.8(D). The attached material shall include the Flood Insurance Study for Ramsey County, Minnesota (All Jurisdictions), Flood Insurance Rate Map panel therein numbered 27123C0004G, 27123C0005G, 27123C0010G, 27123C0012G, 27123C0016G and the Flood Insurance Rate Map Index numbered 27123CIND0A, all dated June 4, 2010 and prepared by the Federal Emergency Management Agency. The Official Zoning Map shall be on file in the Office of the City Clerk and the Director of Community Assets and Development.

(c) Regulatory Flood Protection Elevation

The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

(d) Interpretation

(i) In their interpretation and application, the provisions of Section 3.8(D) shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

(ii) The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision by City staff, the City Council shall make the necessary interpretation. All decisions will be based on elevations on the regional 100 year flood profile, the ground elevations that existed on the site at the time of initial adoption of this floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area within the 100-year floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the City Council and to submit technical evidence.

(e) Abrogation and Greater Restrictions

It is not intended by Section 3.8(D) to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where Section 3.8(D) imposes greater restrictions, the provisions of Section 3.8(D) shall prevail. All other ordinances inconsistent with Section 3.8(D) are hereby repealed to the extent of the inconsistency only

(f) Warning and Disclaimer of Liability

Section 3.8(D) does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. Section 3.8(D) shall not create liability on the part of the City or any officer or employee thereof for any flood damage that results from reliance on Section 3.8(D) or any administrative decision lawfully made thereunder.

(g) Severability.

If any section, clause, provision, or portion of Section 3.8(D) is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of Section 3.8(D) shall not be affected thereby.

(h) Annexations.

The Flood Insurance Rate Map panels adopted by reference into Section 3.8(D)(2)(b) above may include floodplain areas that lie outside of the corporate boundaries of the City of New Brighton at the time of adoption of Section 3.8(D). If any of these floodplain land areas are annexed into the City of New Brighton after the date of adoption of Section 3.8(D), the newly annexed floodplain lands shall be subject to the provisions of Section 3.8(D) immediately upon the date of annexation into the City of New Brighton.

(3) Establishment of Flood Districts

(a) Districts

(i) Floodway District. The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 3.8(D)(2)(b). For lakes, wetlands and other basins, the Floodway District shall include those areas designated as Zone AE (that do not have a floodway designated) and Zone A on the Flood Insurance Rate Map panels adopted in Section 3.8(D)(2) that are below the ordinary high water level as defined in Minnesota Statute Section 103G.005, subdivision 14.

(ii) Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe which shall include the areas shown on the Flood Insurance Rate Map, adopted in Section 3.8(D)(2)(b), as being within Zone AE but being located outside of the floodway. For lakes, wetlands and other basins, the Flood Fringe District shall include those areas designated as Zone AE (that do not have a floodway designated) and Zone A on the Flood Insurance Rate Map panels adopted in Section 3.8(D)(2)(b) that are below the one percent annual chance flood elevation (100- year flood elevation) but above the ordinary high water level as defined in Minnesota Statute Section 103G.005, subdivision 14.

(iii) General Flood Plain District. The General Flood Plain District shall include those areas designated as Zone A and Zone AE (without a floodway designated) on the Flood Insurance Rate Map adopted in Section 3.8(D)(2)(b), which are not subject to criteria in subsections (i) and (ii) above.

(b) Compliance.

No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of Section 3.8(D) and other applicable regulations that apply to uses within the jurisdiction of Section 3.8(D). Within the Floodway, Flood Fringe, and General Flood Plain Districts, all uses not listed as permitted uses or conditional uses in Section 3.8(D)(4), Section 3.8(D)(5), and Section 3.8(D)(6), respectively, shall be prohibited. In addition, a caution is provided here that:

(i) New manufactured homes, replacement manufactured homes, and certain recreational vehicles are subject to the general provisions of Section 3.8(D) and specifically Section 3.8(D)(9);

(ii) Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of Section 3.8(D) and specifically Section 3.8(D)(11); and

(iii) As-built elevations for elevated or flood-proofed structures must be certified by ground surveys and flood-proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of Section 3.8(D) and specifically as stated in Section 3.8(D)(10).

(4) Floodway District (FW)

(a) Permitted Uses

(i) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

(ii) Industrial-commercial loading areas, parking areas, and airport landing strips.

(iii) Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, fishing areas, and single or multiple purpose recreational trails.

(iv) Residential lawns, gardens, parking areas, and play areas.

(b) Standards for Floodway Permitted Uses

(i) The use shall have a low flood damage potential.

(ii) The use shall be permissible in the underlying zoning district if one exists.

(iii) The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations, or storage of materials or equipment.

(c) Conditional Uses

(i) Structures accessory to the uses listed in Section 3.8(D)(4)(a) and the uses listed in subsections (ii) through (viii) below.

(ii) Extraction and storage of sand, gravel, and other materials.

(iii) Marinas, boat rentals, docks, piers, wharves, and water control structures.

(iv) Railroads, streets, bridges, utility transmission lines, and pipelines.

(v) Storage yards for equipment, machinery, or materials.

(vi) Placement of fill or construction of fences.

(vii) Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 3.8(D)(9)(c).

(viii) Structural works for flood control such as levees, dikes, and floodwalls constructed to any height where the intent is to protect individual structures, and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10 year frequency flood event.

(d) Standards for Floodway Conditional Uses.

(i) **All Uses.** No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100 year or regional flood or cause an increase in flood damage in the reach or reaches affected.

(ii) **Standards.** All floodway conditional uses shall be subject to the procedures and standards contained in Section 3.8(D)(10)(d).

(iii) **Underlying District.** The conditional use shall be permissible in the underlying zoning district if one exists.

(iv) Fill.

1. Fill, dredge spoil, and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap, or other acceptable method.
2. Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long term site development plan is submitted that includes an erosion/sedimentation prevention element.
3. As an alternative, and consistent with subsection 3.8(D)(4)(d)(iv)(2) above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials that would have caused an increase to the stage of the 100 year or regional flood but only after the Governing Body has received an appropriate plan that assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be recorded with the property records in the Office of the County Recorder or the Registrar of Titles.

(v) Accessory Structures.

1. Accessory structures shall not be designed for human habitation.
2. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.
   a. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and,
   b. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
3. Accessory structures shall be elevated on fill or structurally dry flood-proofed in accordance with the FB-1 or FP-2 flood-proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood-proofed to the FB-3 or FB- 4 flood-proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood-proofed accessory structures must meet the following additional standards:
   a. The structure must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;

b. Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood-proofed; and.

c. To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

(vi) Storage of Materials and Equipment

1. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
2. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the City Council.

(vii) Structural Works.

Structural works for flood control that will change the course, current, or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statutes, Chapter 103G. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

(viii) Levee Impact.

A levee, dike, or floodwall constructed in the floodway shall not cause an increase to the 100 year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

(5) Flood Fringe District (FF)

(a) Permitted Uses.

Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non-residential structure or use of a structure or land shall be a permitted use in the flood fringe provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for flood fringe "permitted uses" listed in Section 3.8(D)(5)(b) and the "standards for all flood fringe uses" listed in Section 3.8(D)(5)(e).

(b) Standards for Flood Fringe Permitted Uses.

(i) All structures, including accessory structures, must be elevated on fill so that the lowest floor including the basement floor is at or above the Regulatory Flood Protection Elevation. The finished fill elevation for structures shall be no lower than one foot below the Regulatory Flood Protection Elevation and the fill shall extend at such elevation at least 15 feet beyond the outside limits of the structure erected thereon.

(ii) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet at its largest projection may be internally flood-proofed in accordance with Section 3.8(D)(4)(d)(v)(3).

(iii) The cumulative placement of fill where at any one time in excess of 1,000 cubic yards of fill is located on the parcel shall be allowable only as a conditionally permitted use, unless said fill is specially intended to elevate a structure in accordance with Section 3.8(D)(5)(b)(1).

(iv) The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.

(v) The provisions of Section 3.8(D)(5)(e) shall also apply.

(c) Conditionally Permitted Uses

Any structure that is not elevated on fill or flood-proofed in accordance with subsection 3.8(D)(5)(b)(i & ii) above or any use of land that does not comply with the standards in 3.8(D)(5)(b)(iii & iv) above shall only be allowable via conditional use permit. An application for a conditional use permit shall be subject to the standards, criteria, and evaluation procedures specified in Section 2.4(D).

(d) Standards for Flood Fringe Conditional Use Permits

(i) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the Regulatory Flood Protection Elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck-under garages. The base or floor of an enclosed area shall be considered above- grade and not a structure's basement or lowest floor if:

1. The enclosed area is above-grade on at least one side of the structure;
2. It is designed to internally flood and is constructed with flood resistant materials; and
3. It is used solely for parking of vehicles, building access, or storage.

The noted alternative elevation methods are subject to the following additional standards:

a. Design and certification. The structure's design and as-built condition must be certified by a licensed professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities must be at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

b. Specific standards for above-grade, enclosed areas. Above-grade, fully enclosed areas such as crawl spaces or tuck-under garages must be designed to internally flood and the design plans must stipulate:

i. The minimum area of "automatic" openings in the walls where internal flooding is to be used as a flood-proofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one-foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a licensed professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of

human intervention; and.

ii. That the enclosed area must be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles, or storage.

(ii) Basements, as defined in Section 8.4 shall be subject to the following:

1. Residential basement construction shall not be allowed below the Regulatory Flood Protection Elevation.
2. Non-residential basements may be allowed below the Regulatory Flood Protection Elevation provided the basement is structurally dry flood-proofed in accordance with subsection (iii) below.

(iii) All areas of non-residential structures including basements to be placed below the Regulatory Flood Protection Elevation shall be flood-proofed in accordance with the structurally dry flood- proofing classifications in the State Building Code. Structurally dry flood-proofing must meet the FP-1 or FP-2 flood-proofing classification in the State Building Code. This shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood-proofed to the FP-3 and FP-4 classification shall not be permitted.

(iv) When at any one time more than 1,000 cubic yards of fill or other similar materials is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the City is enforcing a State approved shoreland management ordinance. In the absence of a State approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100 year or regional flood event. The professional plan must be prepared and certified by a licensed professional engineer or other qualified individual acceptable to the City Council. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

(v) Storage of materials and equipment.

1. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
2. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the City Council.

(vi) The provisions of Section 3.8(D)(5) shall also apply.

(e) Standards for All Flood Fringe Uses.

(i) All new principal structures must have vehicular access at or above an elevation not more than two feet below the Regulatory Flood Protection Elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

(ii) Commercial uses. Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater that two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.

(iii) Manufacturing and industrial uses. Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in subsection (ii) above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in the flood plain areas.

(iv) Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover, or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100 year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi- structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be required.

(v) Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

(vi) Standards for recreational vehicles are contained in Section 3.8(D)(9)(c).

(vii) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, 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.

(6) General Flood Plain District

(a) Permissible Uses.

(i) The uses listed in Section 3.8(D)(4)(a) shall be permitted uses.

(ii) All other uses shall be subject to the one percent annual change flood (100-Year Flood Elevations) or floodway/flood fringe determinations criteria pursuant to subsections (b) and (c) below. Section 3.8(D)(4) shall apply if the proposed use is in the Floodway District and Section 3.8(D)(5) shall apply if the proposed use is in the Flood Fringe District.

(b) Procedures for one percent annual chance flood (100-Year Flood Elevations) or Floodway and Flood Fringe Determinations for Streams Located Within the General Flood Plain District.

(i) Upon receipt of an application for a permit or other approval within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Director of Community Assets and Development for the determination of the Regulatory Flood Protection Elevation and whether the proposed use is within the Floodway or Flood Fringe District.

1. A typical valley cross-section(s) showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
2. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.
3. Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

(ii) The applicant shall submit a copy of the information required by subsection (i) above to a designated engineer or other expert person or agency for technical assistance in determining the one percent annual chance flood (100-Year Flood Elevations), if not available, whether the proposed use is in the Floodway or Flood Fringe District and to determine the Regulatory Flood Protection Elevation. Procedures consistent with Minnesota Rules Parts 6120.5000-6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

1. Estimate the peak discharge of the regional flood.
2. Calculate the water surface profile of the regional flood based upon hydraulic analysis of the stream channel and overbank areas.

3. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot shall be required if, as a result of the additional stage increase, increased flood damage would result. An equal degree of encroachment on both side of the stream within the reach shall be assumed in computing floodway boundaries.

(iii) The Director of Community Assets and Development shall present the technical evaluation and findings of the designated engineer or expert to the City Council. The City Council must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The City Council, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources, or the Planning Commission for review and comment. Once the Floodway and Flood Fringe boundaries have been determined, the City Council shall refer the matter back to the City staff who shall process the permit application consistent with the applicable provisions of Section 3.8(D)(4) and Section 3.8(D)(5).

(c) Procedures for determining one percent annual chance flood elevations (100-YR flood elevations) for lakes located in Zone A:

(i) Upon receipt of an application for a permit or other approval within a Zone A, the Director of Community Assets and Development will use the one percent annual chance flood elevation for that basin that has previously been determined in accordance with approved FEMA methods, if available. If the one percent annual chance flood elevation has not been previously determined, the applicant shall be required to furnish all necessary information as deemed necessary by the Director of Community Assets and Development for the determination for the one percent annual chance flood elevation in accordance with approved FEMA methods.

(ii) The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the one percent annual chance flood elevation (100-year flood elevations). Procedures consistent with Minnesota Rules Parts 6120.5000 – 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis.

(iii) Once the one percent annual chance flood elevation (100-year flood elevation) has been determined, the Zoning Administrator shall process the permit application consistent with the applicable provisions of Section 3.8(D)(4) and Section 3.8(D)(5).

(7) Subdivisions.

(a) Review Criteria. No land shall be subdivided which is unsuitable by reason of flooding, inadequate drainage, water supply, or sewage treatment facilities. All lots within the Flood Plain Districts shall contain a building site outside of the Floodway District at or above the Regulatory Flood Protection Elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of Section 3.8(D) and have road access both to the subdivision and to the individual building sites no lower than two feet below the Regulatory Flood Protection Elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe boundaries, the Regulatory Flood Protection Elevation, and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

(b) Floodway/Flood Fringe Determinations in the General Flood Plain District. In the General Flood Plain District, applicants shall provide the information required in Section 3.8(D)(6)(b) and Section 3.8(D)(6)(c) to determine the 100 year flood elevation, the Floodway and Flood Fringe District boundaries and the Regulatory Flood Protection Elevation for the subdivision site.

(c) Removal of Special Flood Hazard Area Designation. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100 year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

(8) Public Utilities, Railroads, Road, and Bridges.

(a) Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood-proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.

(b) Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the flood plain shall comply with Section 3.8(D)(4) and Section 3.8(D)(5). Elevation to the Regulatory Flood Protection Elevation shall 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.

(c) On-site Sewage Treatment and Water Supply Systems. Where public utilities are not provided:

(i) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and

(ii) 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 shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with the provisions in Section 3.8(D).

(9) Manufactured Homes and Manufactured Home Parks and Placement of Recreational Vehicles.

(a) New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Section 3.8(D)(7).

(b) The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Section 3.8(D)(5). If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 3.8(D)(5)(e)(i), then replacement manufactured homes will not be allowed until the property owner develops a flood warning emergency plan acceptable to the City Council.

(i) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, 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.

(c) Recreational vehicles that do not meet the exemption criteria specified in subsection (c) above shall be subject to the provisions of Section 3.8(D) and as specifically spelled out in subsection (b) above.

(i) *Exemption.* Recreational vehicles are exempt from the provisions of Section 3.8(D) if they are placed in any of the areas listed in subsection (ii) below and further they meet the following criteria:

1. Have current licenses required for highway use.
2. Are highway ready, meaning on wheels or the internal jacking system are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.
3. The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

(ii) *Areas Exempted for Placement of Recreational Vehicles.*

1. Individual lots or parcels or record.
2. Existing commercial recreational vehicle parks or campgrounds.
3. Existing condominium type associations.

(iii) Recreational vehicles exempted in subsection (i) above lose this exemption when development occurs on the parcel exceeding $500 for a structural addition to the travel recreational vehicle or an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood-proofing requirements and the use of land restrictions specified in Section 3.8(D)(4) and Section 3.8(D)(5). There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.

(iv) New commercial recreational vehicle parks, campgrounds, new residential subdivisions, condominiums, and the expansion of any existing similar use exceeding five units or dwelling sites shall be subject to the following:

1. Any new or replacement recreational vehicle will be allowed in the Floodway or Flood Fringe Districts provided said recreational vehicle and its contents are placed on fill above the Regulatory Flood Protection Elevation and proper elevated road access to the site exists in accordance with Section 3.8(D)(5)(e)(i). No fill placed in the floodway to meet the requirements of Section 3.8 shall increase flood stages of the 100 year or regional flood.
2. All new or replacement recreational vehicles not meeting the criteria of subsection (1) above may, as an alternative, be allowed via conditional use permit if in accordance with the following provisions and the provisions of Section 3.8(D)(4)(d). The applicant must submit an emergency plan for the safe evacuation of all vehicles prepared by a licensed professional engineer or other qualified individual that shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of Section 3.8(D)(9)(c)(i)(1 & 2) will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 3.8(D)(8)(c).

(10) Administration.

(a) City Staff. City staff shall administer and enforce the Floodplain Overlay provisions of Section 3.8(D). If a violation of the provisions of Section 3.8(D) is found, City staff shall notify the person responsible for such violation in accordance with the procedures stated in Section 3.8(D)(12).

(b) Permit Requirements.

(i) *Permit Required.* A permit issued by the City in conformity with the provisions of Section 3.8(D) shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.

(ii) *Application for Permit.* Application for a permit shall be made on forms as specified by the City and shall include the following where applicable: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

(iii) *State and Federal Permits.* Prior to granting a permit or processing an application for a conditional use permit or variance, the City shall determine that the applicant has obtained all necessary State and Federal permits.

(iv) *Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use.* It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance has been issued by the City stating that the use of the building or land conforms to the requirements of Section 3.8(D).

(v) *Construction and Use to be as Provided on Applications, Plans, Permits, Variances, and Certificates of Zoning Compliance.* Permits, conditional use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of Section 3.8(D) and punishable as provided by Section 3.8(D)(12).

(vi) *Certification.* The applicant shall be required to submit certification by a licensed professional engineer, licensed architect, or licensed land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of Section 3.8(D). Flood- proofing measures shall be certified by a licensed professional engineer or licensed architect.

(vii) *Record of lst Floor Elevation.* The City shall 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 flood plain. The City shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood-proofed.

(viii) *Notifications for Watercourse Alterations.* The Director of Community Assets and Development shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the City authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statutes Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

(ix) *Notification to FEMA When Physical Changes Increase or Decrease the 100-year Flood Elevation.* As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, City staff shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

(c) Appeal and Variance Procedure.

(i) *Administrative Review.* Appeals alleging an error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of the Floodplain Overlay District regulations shall be processed in accordance with the procedures outlined in Section 2.4(F).

(ii) *Appeals.* Appeals from decisions relating to the Floodplain Overlay District may be made in accordance with the provisions of Section 2.4(F).

(iii) *Variances.* The City Council may authorize upon appeal in specific cases such relief or variance from the terms of Section 3.8(D) as will not be contrary to the public interest and only for those circumstances where the variance request can satisfy all standards and criteria outlined in Section 2.4(C). In granting a variance to the provisions of the Floodplain Overlay District, the City shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in section, any other zoning regulations in the Community, and in the respective enabling legislation that have justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied in addition to the standard criteria of Section 2.4(C):

1. Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
2. Variances shall only be issued upon:
    a. a showing of good and sufficient cause,
    b. a determinations 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 shall only be issued upon a determinations that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(iv) *Hearings.*

1. Hearings for appeals shall be in accordance with the applicable provisions of Section 2.4(F), and hearings for variances shall be in accordance with the applicable provisions of Section 2.4(C).

2. Upon the filing with the City Council of a variance, the procedures outlined in Section 2.4(C) shall be followed to process the request. The City shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least a ten (10) day notice of the hearing.

(v) *Decision.*

1. Decisions on appeals shall be in accordance with the applicable provisions of Section 2.4(F), and decisions for variances shall be in accordance with the applicable provisions of Section 2.4(C).
2. In granting a variance, the City Council may prescribe appropriate conditions and safeguards such as those specified in Section 3.8(D)(10)(d)(v) that are in conformity with the purposes of the Floodplain Overlay District. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of Section 3.8(D) punishable under Section 3.8(D)(12). A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

(vi) *Flood Insurance Notice and Recordkeeping.* The City shall notify the applicant for a variance that:

1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and
2. Such construction below the 100 year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. The City shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

(d) Conditional Uses. The City Council shall hear and decide applications for conditional uses permissible under Section 3.8(D). Applications for conditional use permits in the Floodplain Overlay District shall be processed in accordance with the provisions of Section 2.4(D).

(i) *Hearings.*

1. Hearings for conditional use permits in the Floodplain Overlay District shall be in accordance with the applicable provisions of Section 2.4(D).
2. Upon receipt of an application for a conditional use permit in the Floodplain Overlay District, the City shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the Commissioner will receive at least a ten (10) day notice of the hearing.

(ii) *Decision.*

1. Decisions on conditional use permits in the Floodplain Overlay District shall be in accordance with the applicable provisions of Section 2.4(D).
2. In granting approval of a conditional use permit in the Floodplain Overlay District, the City Council shall prescribe appropriate conditions and safeguards, in addition to those specified in Section 3.8(D)(10)(a) and Section 3.8(D)(10)(b), that are in conformity with the purposes of Section 3.8(D). Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of Section 3.8(D) punishable under Section 3.8(D)(12). A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

(iii) *Procedures to be Followed by the City Council in Passing Conditional Use Permit Applications Within All Flood Plain Districts.*

1. Require the applicant to furnish the following information and additional information as deemed necessary by City staff for determining the suitability of the particular site for the proposed use:
   a. Plans drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood- proofing measures, and the relationship of the above to the location of the stream channel.

b. Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply, and sanitary facilities.

2. Transmit a copy of the information described in subsection (1) above to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

3. Based upon the technical evaluation of the designated engineer or expert, the City shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

(iv) *Factors Upon Which the Decision of the City Council Shall Be Based.* In approving a conditional use permit application, the City Council shall consider all relevant factors specified section 2.4(D) as well as the following:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts, or other hydraulic structures.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
5. The importance of the services provided by the proposed facility to the community.
6. The requirements of the facility for a waterfront location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.

11. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
12. Such other factors as are relevant to the purposes of Section 3.8(D).

(v) *Conditions Attached to Conditional Use Permits.* Upon consideration of the factors listed in subsection (iv) above and the purpose of the Floodplain Overlay District, the City Council shall attach such conditions to the granting of a conditional use permit as it deems necessary to fulfill the purposes of Section 3.8(D). Such conditions may include, but are not limited to, the following:

1. Modifications of waste treatment and water supply facilities.
2. Limitations on period of use, occupancy, and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
5. Flood-proofing measures in accordance with the State Building Code and Section 3.8(D). The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

(11) Nonconforming Uses.

A structure or the use of a structure or premises that was lawful before the passage or amendment of the Floodplain Overlay District but that is not in conformity with the provisions of Section 3.8(D), may be continued subject to the provisions of Chapter 6 and the following additional requirements:

(a) No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

(b) Any structural alteration or addition to a nonconforming structure or nonconforming use that would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation-on-fill or flood-proofing techniques (i.e., FP-1 through FP-4 flood-proofing classifications) allowable in the State Building Code, except as further restricted in subsections (c) and (f) below.

(c) The cost of all structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed fifty percent of the market value of the structure unless the conditions of Section 3.8 are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds fifty percent of the market value of the structure, then the structure must meet the standards of Section 3.8(D)(4) or Section 3.8(D)(5) for new structures depending upon whether the structure is in the Floodway or Flood Fringe, respectively.

(d) If any nonconforming use is discontinued for twelve consecutive months, any future use of the building premises shall conform to all requirements of Section 3.8(D). The assessor shall notify the Department of Community Assets & Development in writing of instances of nonconforming uses that have been discontinued for a period of twelve months.

(e) If any nonconforming use or structure is substantially damaged, as defined in Section 8.4, it shall not be reconstructed except in conformity with the provisions of Section 3.8(D). The applicable provisions for establishing new uses or new structures in Sections 3.8(D)(4), 3.8(D)(5), and 3.8(D)(6) will apply depending upon whether the use or structure is in the Floodway, Flood Fringe, or General Flood Plain District, respectively.

(f) If a substantial improvement occurs, as defined in Section 8.4, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of Sections 3.8(D)(4) and 3.8(D)(5) for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

(g) Historic structures, as defined in Section 8.4, shall be subject to the provisions (a) through (f) above.

(12) Penalties for Violation.

(a) *Misdemeanor.* Violation of the provisions of Section 3.8(D) or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variances or a conditional use permit, shall constitute a misdemeanor and shall be punishable as defined by law.

(b) *Additional Actions.* Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

(i) In responding to a suspected ordinance violation, the City may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures, or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood insurance Program.

(ii) The City shall immediately investigate the situation when an ordinance violation is either discovered by or brought to the attention of the City. The nature and extent of the violation of the official control shall be documented. As soon as is reasonably possible, this information shall be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency Regional Office along with the City's plan of action to correct the violation to the degree possible.

(iii) The City shall notify the suspected party of the requirements of Section 3.8(D) and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the City may order the construction or development immediately halted until a proper permit or approval is granted by the City. If the construction or development is already completed then the City may either:

1. Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or
2. Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed thirty (30) days.

(iv) If the responsible party does not appropriately respond to the City within the specified period of time, each additional day that lapses shall constitute an additional violation of Section 3.8(D) and shall be prosecuted accordingly. The City shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of Section 3.8(D).

(13) Amendments.

(a) The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the regulatory flood protection elevation and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if the Commissioner determines that lands are adequately protected for the intended use through other measures.

(b) All amendments to Section 3.8(D), including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must give ten day written notice of all hearings to consider an amendment to Section 3.8(D). The notice shall include a draft of the amendment or technical study under consideration.

(E) Palmer Drive Overlay District

(1) Purpose and Intent

The area located at 1101 – 1151 Silver Lake Road was redeveloped in late 2007 and early 2008 through a Planned Unit Development. The City recognizes this site, currently known as Brighton Village, together with nearby properties, as a redevelopment area. Further, the City recognizes the need for in-fill development in this area and has determined that it is in the public interest to accommodate in-fill development that is consistent with the development parameters approved with the Brighton Village Planned Unit Development.

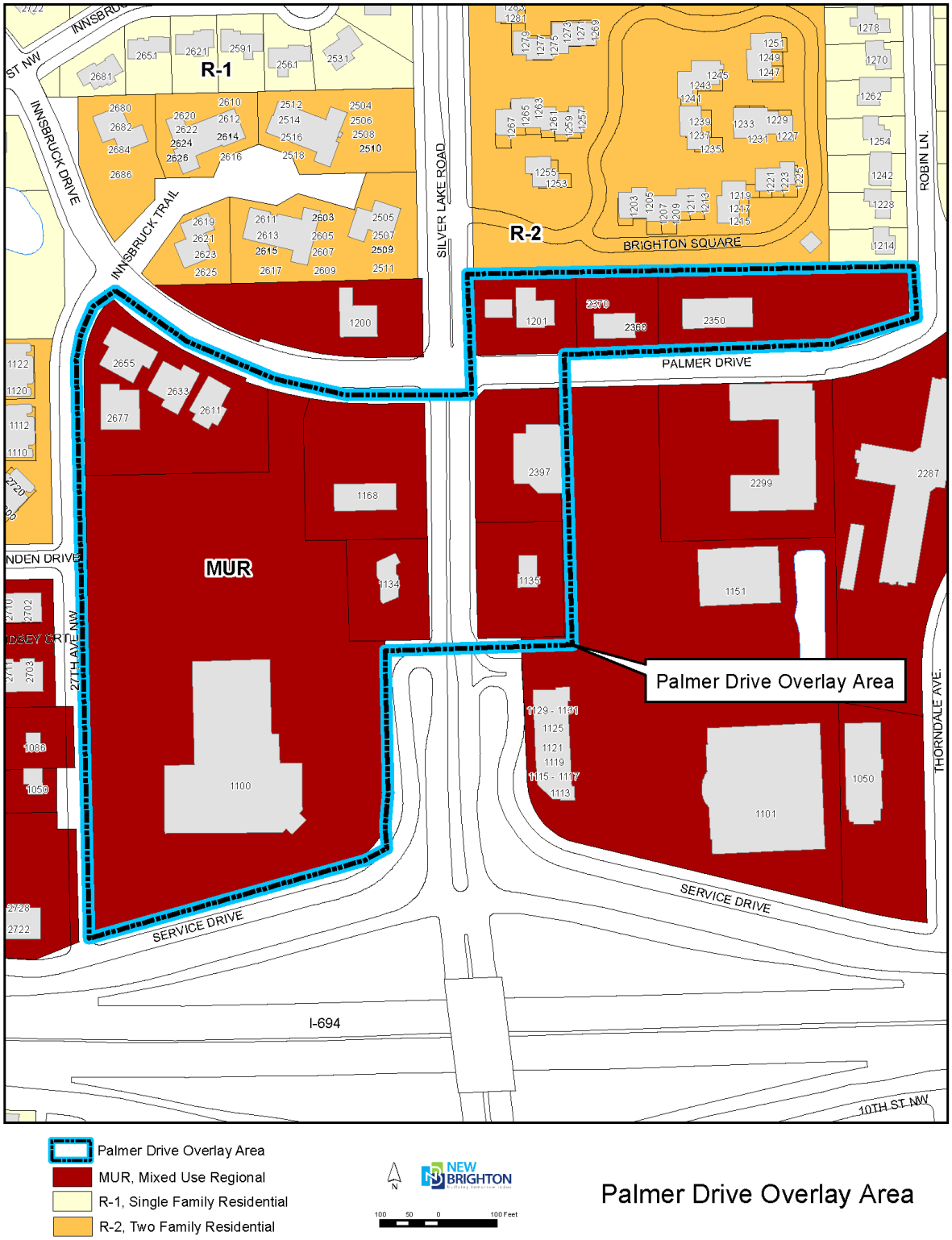
The City wishes to accomplish these goals through establishment of the Palmer Drive Overlay District. This will allow the City to specify the properties that may take advantage of such overlay standards without undermining the intent of the existing zoning regulations. A property lying within this overlay area may choose whether or not to take advantage of these overlay district allowances as the underlying zoning will remain in full force and effect.

The intent of the Council in establishing this overlay district is to allow variations from the underlying zoning standards through the Site Plan procedures of Section 2.4(G) and Conditional Use procedures of Section 2.4(D) when such variations are consistent with variations approved through the Brighton Village Planned Unit Development.

(2) Designation of the Palmer Drive Overlay Area

Figure 3-8 identifies land within the Palmer Drive Overlay Area.

Figure 3-8: Palmer Drive Overlay District Boundaries



(3) Permitted Variations

Any property in the Palmer Lake Overlay Area may take advantage of the following permitted Zoning Code variation:

(a) If no other variations are requested, a reduced parking setback of 15 feet can be allowed outright (as opposed to the setback required by Zoning Code Section 4.7) except when such setback is abutting property zoned for residential uses,.

(4) Special Variations

Any property in the Palmer Lake Overlay Area may take advantage of the following Zoning Code variations by review and approval of a Conditional Use Permit:

(a) A reduced parking setback of between 0 feet and 15 feet (as opposed to the setback required by Zoning Code Section 4.7) except when such setback is abutting property zoned for residential uses.

(b) A reduced building setback of between 0 feet and 30 feet (as opposed to the setback required by the underlying zoning district, except when such setback is abutting property zoned for residential uses.

(5) Conditional Use Standards and Procedures

The procedure for consideration of conditional uses within the Palmer Drive Overlay District is set forth in Section 2.4(D). In addition to the standards set forth in Section 2.4(D), the Council, with a recommendation from the Planning Commission, will approve such use only upon a finding that such variations are consistent with the development parameters of Brighton Village and of adjacent and nearby uses developed in accordance with Section 3.8(E) including, but not limited to, parameters relating to:

(a) Enhanced landscaping;

(b) Pedestrian linkages to neighboring developments for residents, employees, or shoppers that use decorative crosswalk treatment types; and

(c) Architectural styling compatible with Brighton Village at 1101 – 1151 Silver Lake Road or adjacent uses in the overlay area.

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(F) Environmental Constraint Overlay District

(1) Purpose and Intent

There are certain properties within the City with environmental constraints that were created by past land uses. The City recognizes in these situations that conformance with underlying zoning regulations may be difficult due to site characteristics that resulted from those environmental issues or remediation efforts. Further, the City recognizes that it may not be feasible to comply with underlying zoning designations due to these environmental characteristics.

Rather than leave these sites dormant or allow them to persist as unsightly or underutilized, the City wishes to provide a means to develop or use these properties that is both practical and economical. The City recognizes that certain deviations from the industrial district standards may be necessary for a viable use to develop and evolve so that landowners are able to make good use of their properties.

It is the intent of the Environmental Constraint Overlay Area to provide the legislative means to meet land use goals for these unique sites while also imposing such regulations and limitations on the uses, or the accumulation of those uses, that may occur within the area in order to ensure the adequate protection of the environment and the health, safety, and welfare of the surrounding properties.

(2) Designation of the Environmental Constraint Overlay Area

Properties included in the Environmental Constraint Overlay Area are illustrated in Figure 3-9.

Requests for additional property to be included by ordinance in the Environmental Constraint Overlay Area may be considered by following the procedures set forth in Section 2.4(B), provided the property meets all of the following requirements at the time of application:

(a) Underlying I-1, Light Industrial or I-2, Heavy Industrial zoning;

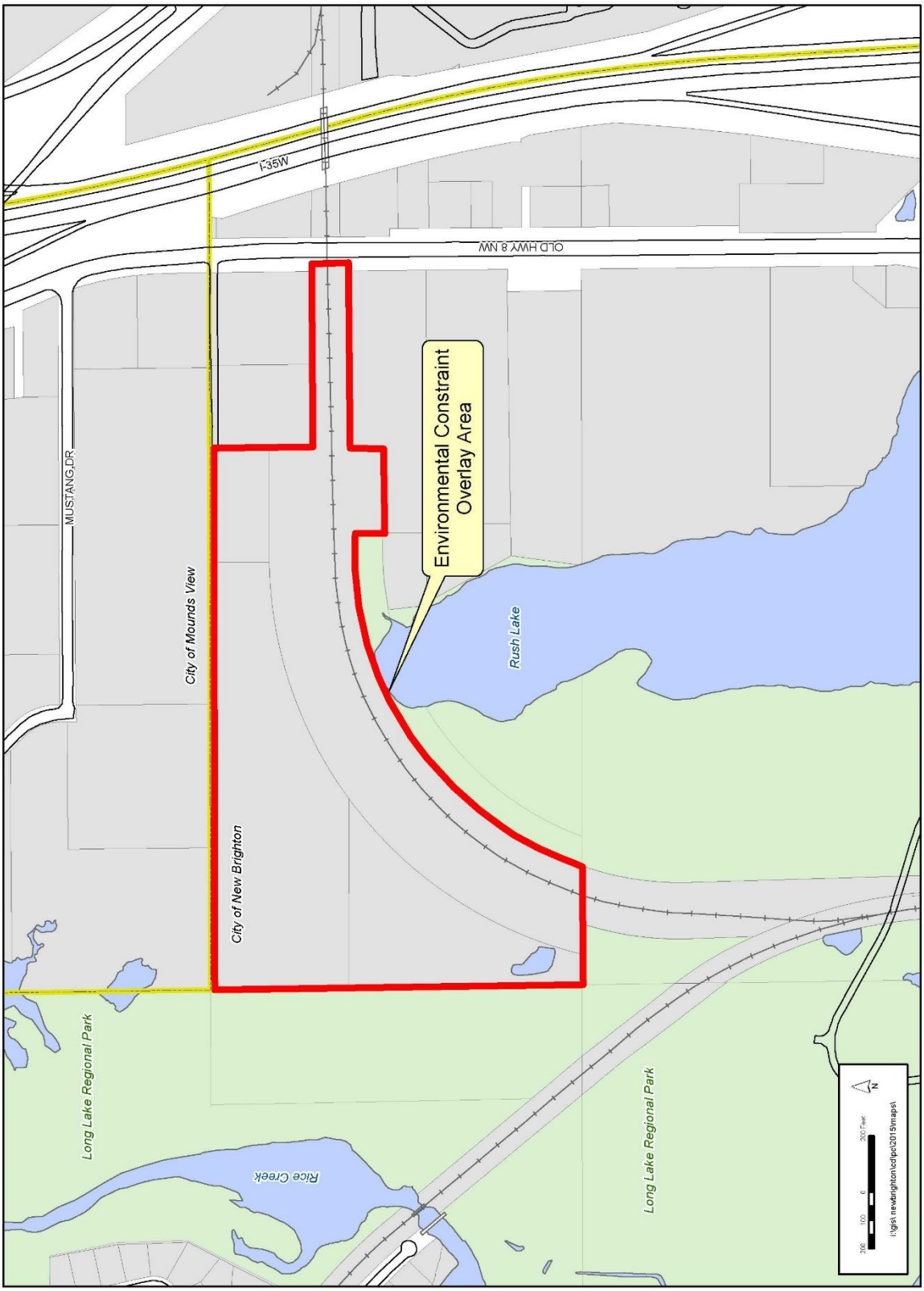
(b) Maximum lot area of 40 acres;

(c) Not adjacent to residential or commercial uses;

(d) The boundary of the site must be at least 800 feet from nearest residence;

(e) Primary access is served by a private roadway or a public roadway when a 650 foot road setback exists; and

Figure 3-9: Environmental Constraint Overlay District Boundaries



(f) There are documented environmental constraints that limit the use of the property for a typical industrial use that were not caused by the current landowner or user

(3) Permitted Uses

Any permitted use of the underlying zoning shall only be allowed in the Environmental Constraint Overlay Area upon issuance of a conditional use permit

(4) Accessory Uses

Only those accessory uses of the underlying zoning that are directly related to the permitted principal use on a property shall be an allowed accessory use on the property in the Environmental Constraint Overlay Area.

(5) Conditionally Permitted Uses

(a) Any permitted or conditionally permitted use of the underlying zoning district.

(b) Aggregate crushing and recycling with associated materials storage, subject to the following conditions:

(i) Noise generated on site shall not exceed the following decibel limits:

1. Measured at the lot line: 100 dBA.
2. Measured from the nearest residential use: 56.5 dBA.

(ii) Odor shall not be readily detectable beyond the lot line of the site on which such use is located.

(iii) Dust-mitigation shall be implemented so as to prevent dust from leaving the site boundaries, as practical. A dust mitigation plan shall be submitted as part of the conditional use permitting process.

(iv) Screening methods shall be implemented so as to prevent the use from being visible from properties that are occupied by residences or from public roadways to the extent reasonably possibly and in accordance with the applicable provisions of the Zoning Code and any approved screening plan. Any berming efforts must be constructed in a manner to adequately control drainage on site.

(v) Maximum pile height shall be determined at the time of the conditional use permit consideration. Site characteristics, including adjacent and nearby sites, will be considered to ensure compliance with subsection (iv) above.

(vi) No more than 37 percent of the available pile storage area may be utilized for piles. The available pile storage area shall be specified as part of the conditional use permitting process. The piles stored in the pile storage area shall consist of processed and unprocessed piled soils, concrete, and aggregate only. No more than 15 percent of the pile storage area shall be occupied by unprocessed rubble.

(vii) The site must have access to a street with a classification of minor arterial or greater either directly, or by private road, or by a street serving only industrial properties. Truck routes to and from the site within the municipal boundary shall not include use of any street with a classification less than minor arterial.

(viii) Dirt and aggregate are not deposited onto a public roadway.

(ix) Other conditions identified by the City Council.

(c) Yard Waste Transfer Facility

(i) The volume and height of piled yard waste shall be limited based on site characteristics (such as topography and vegetative covering), including characteristics of adjacent and nearby sites, to ensure no negative visual impacts result to residential property. The area designated to store yard waste material shall be depicted on a site plan and include a maximum volume amount not to exceed 400 cubic yards and a pile height not to exceed 12 feet.

(ii) Screening shall be implemented that prevents, to the extent reasonably possible and in accordance with the applicable provisions of the Zoning Code and any approved screening plan, the use from being visible from properties that are occupied by residences or from public roadways. Any berming must be designed to adequately control drainage on site.

(iii) All yard waste material is transferred off site within 24 hours of the time it is dumped and the yard waste area must be cleared of all yard waste material at least once in a 24 hour period.

(iv) Odor shall not be readily detectable beyond the lot line of the site on which such use is located.

(v) Dust-mitigation shall be implemented so as to prevent dust from leaving the site boundaries, as practical. A dust mitigation plan shall be submitted as part of the conditional use permitting process.

(vi) The site shall be designed to minimize leaves and other yard waste debris from blowing off site.

(vii) As a condition of approval, the yard waste facility shall have a contingency plan ready to control odor and decomposition should an unforeseen event prevent the material from being transferred off site within 24 hours. The Department of Community Assets & Development shall be notified of every occurrence where material is left on the property longer than 24 hours.

(viii) As a condition of approval, the yard waste facility shall agree that if the odor management contingency plan is implemented more than three times in any 365-day period, the yard waste facility consents to the CUP being re-evaluated and amended through a Conditional Use Permit amendment process.

(ix) Noise generated by the use shall not exceed the levels noted in Section 3.3(E)(3).

(x) Other conditions identified by the City Council.

(d) Road Salt Storage and Transfer Facility.

(i) The road salt must be covered on three sides, including a roof and solid impermeable floor, and the combined area of all salt sheds shall not exceed 10,000 square feet. The shed(s) shall be reasonably screened from adjacent and nearby residential uses and public rights-of-way. A grading plan for the salt shed(s) shall be submitted at the time of Conditional Use Permit submittal.

(ii) Salt delivered via rail shall be from bottom-drop rail cars and off-loaded into a concrete pit with containment slab. Only rubber-tired loaders equipped with OSHA approved "shoosh" back-up alarms shall be used to load salt into the shed and onto trucks.

(iii) Rail car off-loading shall not exceed six hours per delivery and uncoupling/coupling of rail cars shall be minimized so as not to unreasonably disturb adjacent and nearby uses.

(iv) The road salt pile must be included in the calculations for the amount of land area to be occupied by piles under Section 3.8(F)(5)(b)(vi) above if this use is utilized in conjunction with an aggregate crushing and recycling with associated materials storage use.

(v) No more than 13,500 tons of salt shall be brought onto the property in any calendar year.

(vi) Salt tonnage per delivery and delivery dates and times shall be logged and made available for review to ensure compliance with the Environmental Constraint Overlay District. No salt deliveries shall be made between the hours of 9 p.m. – 8 a.m. No weekend or holiday deliveries are permitted.

(vii) An Environmental Storm Water Sampling Program shall be reviewed and approved as part of the conditional use permit and shall be commissioned to ensure road salt activity is not negatively impacting down gradient storm water receptors. Such program shall be reopened or revised as necessary throughout the life of the conditional use permit to ensure salt storage activities do not negatively impact down gradient storm water receptors.

(viii) Failure to strictly comply with the specific requirements of Section 3.8(F)(5)(d) shall not constitute a violation if the item of noncompliance is, in the City's determination, nominal or is due to factors beyond the reasonable control of the business such as weather or equipment failures. However, no flexibility shall be allowed with respect to the total limits established in Section 3.8(F)(5)(d) for total square footage of sheds and total amount of salt brought onto a property.

(6) Section 6-810. Procedure and Amendments.

(a) The procedure for consideration of conditional uses within the Environmental Constraint Overlay District are set forth in Section 2.4(D).

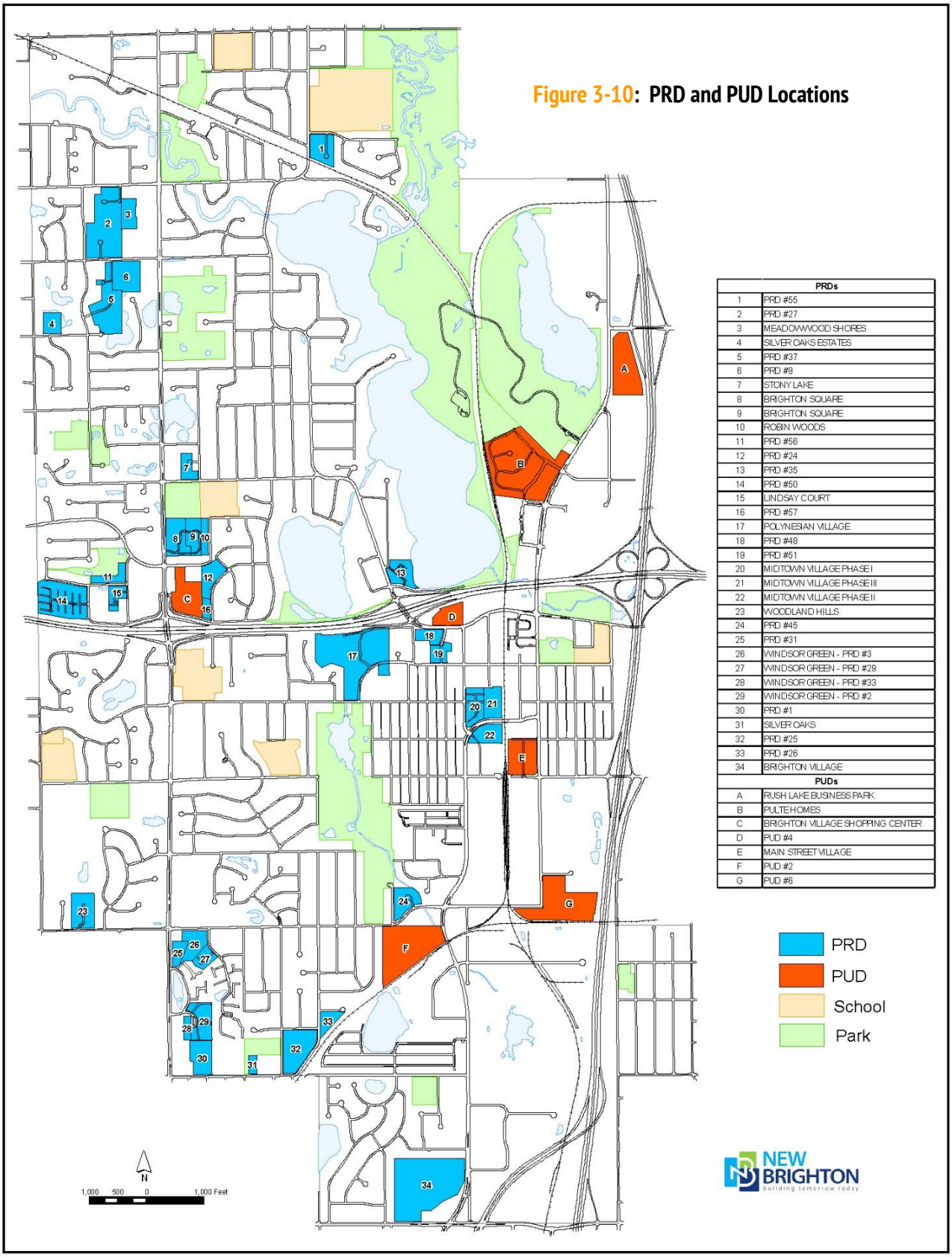
(b) A conditional use permit may be denied within the Environmental Constraint Overlay District if the City Council determines the potential impacts of the proposed use, when taken together with the existing uses on a property, would cumulatively result in negative impacts on the environment, surrounding properties, or public infrastructure that cannot be reasonably avoided or mitigated through the imposition of conditions.

(c) It is recognized that from time to time the nature of a use authorized within the Environmental Constraint Overlay District may need to be altered from the original approval. Any change in a use from the original approval shall be considered an amendment and shall be reviewed in accordance with procedure outlined in subsection (a) above.

(G) Planned Residential Development and Planned Unit Development Overlays

Figure 3-10 identifies all approved Planned Residential Developments and Planned Unit Developments governing lands within the City. Each area identified on this figure is subject to supplementary standards within the ordinance that established the PRD or PUD. Activities within any PRD or PUD area must conform to both this zoning ordinance as well as any special restrictions or requirements established by the PRD or PUD ordinance.

Figure 3-10: PRD and PUD Locations



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CHAPTER 4: FINISHING STANDARDS

4.1 Landscaping

(A) Section Organization

New Brighton landscaping and screening standards are organized into 12 main sub-sections:

(1) Section 4.1(B), Purpose and Intent

Sets out the purpose and intent for the City's landscaping standards.

(2) Section 4.1(C), Applicability of Landscaping Standards

Outlines when landscaping regulations apply, and when landscaping plans are required.

(3) Section 4.1(D), General Requirements for New Landscaping & Install

Focuses on minimum standards for landscaping at the time of install, how existing vegetation must be considered in landscape plans, etc.

(4) Section 4.1(E), Landscaping Plans

Outlines the specific information that must be supplied to the City any time a landscape plan is required by this ordinance.

(5) Section 4.1(F), Alternative Landscaping Plan

Includes the procedures and standards for review of alternative landscaping plans and when such are appropriate.

(6) Section 4.1(G), Standards for Vehicular Use Area Landscaping

Outlines standards for landscaping around the perimeter and within vehicular use areas.

(7) Section 4.1(H), Buffers

Includes the landscaping buffer standards applied to the edges of base zoning districts abutting other uses.

(8) Section 4.1(I), General Site Landscaping for New Development and Building Expansion

Establishes screening standards for new development and qualifying building and parking lot expansions.

(9) Section 4.1(J), Required Screening of Visual, Auditory, or Hazardous Concerns

Introduces standards for foundation plantings around some buildings.

(10) Section 4.1(K), Zoning District Specific Landscaping Standards

Outlines landscaping standards only applicable to specific zoning districts.

(11) Section 4.1(L), Landscaping Installation and Maintenance Standards

Includes the other standards for landscaping installation, timing, maintenance, monitoring for compliance, and incentives.

(12) Section 4.1(M), Appearance of Grounds over Time

Establishes requirements to maintain appropriate ground cover(s) over time.

(B) Purpose and Intent

It is the purpose of Section 4.1 to promote and protect the public health, safety, and general welfare by providing for the planting and maintenance of trees, shrubs, and other plants within the City. The intent of Section 4.1 is to promote this purpose by:

(1) Ensuring and encouraging the planting, maintenance, restoration, and survival of a variety of trees, shrubs, and groundcover;

(2) Striving to protect community residents and visitors from injury and property damage, and the protection of the City from property damage caused or threatened by the improper planting, maintenance, or removal of trees, shrubs, or other plants;

(3) Mitigating against erosion and sedimentation;

(4) Reducing stormwater runoff and the costs associated therewith;

(5) Preserving and protecting the water table and surface waters;

(6) Reducing audible noise from automobiles and land uses;

(7) Restoring soils and land impacted by construction or grading;

(8) Promoting compatibility between land uses;

(9) Protecting and enhancing property values and aesthetic qualities;

(10) Providing visual screening and year-round ornamental/visual interest, where appropriate;

(11) Preservation of existing vegetation and tree canopy when possible; and

(12) Promoting reestablishment of the vegetative environment for aesthetic, health, and wildlife reasons.

(C) Applicability of Landscaping Standards

(1) *General.* Except as specifically exempted, the standards in Section 4.1 shall apply to all development in the City.

(2) *Landscape Plan.* To ensure compliance with the standards of Section 4.1, a landscape plan demonstrating how landscaping will be planted on a development site shall be included as a part of any application when required by the Department of Community Assets & Development.

(D) General Standards for New Landscaping & Installation

(1) Planting Standards

Plantings provided in accordance with Section 4.1 shall comply with the following standards:

(a) Deciduous canopy or shade trees shall be a minimum of two (2.0) caliper inches in size at the time of planting. This may be reduced to 1.5 caliper inches at the discretion of the Department of Community Assets & Development provided availability is an issue, or provided the same number of caliper inches (or more) are planted.

(b) Evergreen canopy trees shall be a minimum of six feet in height above ground level at the time of planting.

(c) Understory or ornamental trees shall come in a 25-gallon pot and be a caliper of 1.5 inches at time of planting. This may be reduced to 1.25 caliper inches at the discretion of the Department of Community Assets & Development provided availability is an issue, or provided the same number of caliper inches (or more) are planted.

(d) Deciduous or evergreen shrubs shall be a minimum of 24 inches in height at the time of planting, and come in at least a 5 gallon pot.

(e) Fractional planting requirements.

(i) In cases where an Aggregate Caliper Inch (ACI) requirement is utilized to derive a required amount of vegetation and the ACI figure includes a fraction, an applicant may:

1. Utilize a tree or trees with a caliper inch measurement exceeding the minimum size at time of planting in order to meet the required ACI; or
2. Round the ACI figure upwards until the figure corresponds with a whole number of trees meeting minimum size requirements at time of planting standards. When trees exceeding the minimum size are proposed to be used, the minimum calipers of such trees shall be clearly noted on the landscaping plan.

(ii) In cases where a fractional number of shrubs must be provided, the minimum number of shrubs or trees to be provided shall be rounded upwards to the next highest whole number.

(f) All landscape plant materials shall conform to the latest version of the American Standard of Nursery Stock (ANSI Z60.1-2014, as amended). Plant material shall be of standard quality or better, true to name and type of species or variety.

(g) Special consideration for drought-tolerant plant species shall be implemented in areas not irrigated.

(h) To curtail the spread of disease or insect infestation in a plant species, not more than 30 percent of the required number of trees shall be composed of a single species.

(i) *Required Species*

1. All trees used in site developments shall be appropriate to the hardiness zone and physical characteristics of the site.
2. All deciduous trees proposed to satisfy the minimum requirements of this ordinance shall be long-lived hardwood species.

(j) *Substitution.* Up to 25 percent of the required number of canopy trees may be substituted with ornamental trees at a ratio of two ornamental trees to one canopy tree.

(2) Existing Vegetation

(a) It is the policy of the City of New Brighton to preserve the natural forest and woodland areas throughout the City; and with respect to specific site development, to retain, as far as practicable, substantial tree stands which should be incorporated into the site.

(b) Existing healthy, well-formed canopy and understory trees as well as healthy shrubs shall be credited toward the requirements of Section 4.1, provided the vegetation meets the minimum size standards of this Ordinance, is protected before and during development of the site, and is maintained thereafter in a healthy growing condition.

(3) Stabilization

All required landscape planting areas shall be stabilized and maintained with lawn, ground covers, mulches, or other approved materials to prevent soil erosion and allow rainwater infiltration.

(4) Berms

(a) The slope of all berms shall not exceed a 2:1 ratio (horizontal to vertical), shall have a top width at least one-half the berm height, and a maximum height of four feet above the toe of the berm.

(b) All berms, regardless of size, shall be stabilized with a ground cover or other suitable vegetation.

(c) Berms proposed to be placed along street right-of-way shall be designed and constructed to provide adequate sight distances at intersections and shall not impair safe operation of vehicles.

(d) Berms shall in no case damage the roots or trunks of existing healthy vegetation designated to be preserved.

(5) Easements

(a) No plants that would interfere with access and maintenance of the easement should be planted or installed within any underground or overhead utility, drainage, or gas easement, or within three feet of a fire protection system without the consent of the utility provider, easement holder, or the City, as appropriate.

(b) Property owners who choose to install more than basic groundcover (i.e. sod) within easements and without specific consent do so at their own risk. Should the easement holder need to access the easement to exercise its legal rights, only basic groundcover is required to replace what was removed.

(6) Sodding and Ground Cover when no Landscaping or Site Plan is Required

All areas not otherwise improved in accordance with approved site or landscaping plans shall be covered with sod or seeded with grass seed. Exceptions to this criterion may be approved by the Department of Community Assets & Development as follows:

(a) Undisturbed areas containing existing viable natural vegetation may be maintained provided they can be maintained free of noxious plant materials.

(b) Areas may be planted and maintained as a managed natural landscape in accordance with Minnesota Statutes Section 412.925 as it may be amended from time to time.

(c) Use of mulch materials such as bark, rock mulch over 4 mil poly or 3 oz. spunbond fabric, and/or wood chips when in support of shrubs, foundation plantings, or other formally planned out landscaped areas.

(E) Landscaping Plans

Detailed landscape plans, when required by this ordinance, shall illustrate planned development on the site; shall be produced on a separate sheet or sheets from other required plans such as grading, drainage, and utility plans; and shall include the following information:

(1) In general:

(a) Name and address of developer/owner.

(b) Name and address of architect/designer.

(c) Date of plan preparation.

(d) Dates and description of all revisions.

(e) Name of project or development.

(f) Scale of plan (engineering scale only, at 1-inch equals 50 feet or less).

(g) North point indication.

(2) Site Analysis:

(a) Boundary lines of property with dimensions based upon certified survey.

(b) Name and alignment of proposed and existing adjacent and on-site streets.

(c) Location of existing and proposed utility rights-of-way, easements, and lines (water, gas, electric).

(d) Location of existing and proposed buildings.

(e) Topographic contours of the minimum interval of two feet, extending at least 100 feet beyond the site boundaries.

(f) Location of existing and proposed parking facilities, including curbing detail and any proposed traffic islands.

(g) Location of existing and proposed water bodies.

(h) Location of existing and proposed sidewalks, trail corridors, and fire lanes.

(i) Other existing or proposed conditions which would be expected to affect landscaping.

(j) Percentage of the gross site area covered by impervious surfaces**.**

(3) Landscape Data:

(a) Planting schedule (table) containing symbols, quantities, common names, botanical names, sizes of plant material, root specification (bare root, balled and burlapped, balled and potted, etc.) and any special planting instructions.

(b) Existing trees and shrubbery, locations, common names, and approximate size.

(c) Planting detail (show all species to scale at normal mature crown diameter or spread for local hardiness zone).

(d) Locations and details of other landscaping features such as berms, walls, fences, sculptures, planters, etc.

(e) Typical sections of landscape islands and planter beds with identification of materials used.

(f) Details of proposed planting beds and foundation plantings.

(g) Note indicating how disturbed soil areas will be restored through the use of sodding, seeding, or other techniques.

(h) Delineation of both sodded and seeded areas.

(i) Coverage plan for underground irrigation system, if any.

(j) Exterior lighting plan (if landscaping is being specifically illuminated).

(k) All storm water management plan structures and facilities including, but not limited to, infiltration BMP's, permanent sedimentation and water quality ponds, detention basins, and any associated storm drain pipes as required by the City or the Rice Creek Watershed District.

(4) Special Conditions

Where landscape or man-made materials are used to provide ordinance or policy-required perimeter buffering/screening from adjacent and neighboring properties, a cross-through section may be required to show the perspective of the site from the neighboring property at the property line elevation.

(F) Alternative Landscaping Plan

(1) *Purpose.* In cases where development conditions require a deviation from the landscaping standards in Section 4.1 or the tree protection standards in Section 4.2, an alternative landscaping plan may be submitted in lieu of a standard landscaping plan. The alternative landscaping plan shall indicate how compliance with the standards in this ordinance is impossible or impractical and shall illustrate how compliance can be achieved by alternative means to the maximum extent practicable.

(2) *Justification.* Alternative plans, materials, or methods may be justified due to:

(a) Natural conditions, such as streams, natural rock formations, or topography;

(b) The likelihood that landscaping material would be ineffective at maturity due to topography, placement, or other existing site conditions;

(c) Lot size or lot configuration;

(d) The presence of utilities or other easements;

(e) The potential for interference with public safety;

(f) The desire to implement special design features such as xeriscaping (low water requirements), rain gardens, bioswales, roof top gardens, native landscapes, and integrated pedestrian facilities; and

(g) Other situations where strict adherence to the landscaping or tree protection standards in this ordinance are determined to be impractical by the Department of Community Assets & Development.

(3) *Allowable Deviations.* The Department of Community Assets & Development may accept an alternative landscape plan if it meets the purpose and intent of Section 4.1, Landscaping and Screening and/or Section 4.2, Tree Protection, as appropriate. Allowable deviations from the standards of Section 4.1 include, but are not limited to the following:

(a) *Reduced Planting Rates due to Public Facilities*. An adjustment to planting locations or reduction in the type or total number of required caliper inches may be allowed when underground connections to public facilities, public utilities, or public easements or right-of-way cause difficulty in meeting the required standards.

(b) *Reduction in Standards due to the Nature of the Parcel*. A reduction in the count, spacing, or species variety standards may be allowed where the proposed change is desirable in terms of protection of existing natural resources, better consistency with the goals of the Comprehensive Plan, or a site design that exceeds the quality of what would otherwise result under a strict application of the standards in this ordinance, in the opinion of the Department of Community Assets & Development.

(c) *Reduction in Standards in Recognition of Native Plantings or Restoration Plan*. A reduction in the type or total number of required caliper inches may be allowed where the reduction is desirable as an incentive to encourage the use of native plantings or the restoration of native plantings on lands dedicated for open space.

(d) *Planting on Adjacent or Alternative Sites*. In cases where required plantings cannot be easily sited on the subject parcel, alternative locations on adjacent or nearby parcels may be proposed.

(4) *Alternative Landscape Plan Informational Requirements*. Alternative landscape plans shall provide the same information required by a general landscape plan as outlined in Section 4.1(E).

(G) Standards for Vehicular Use Area Landscaping

See Section 4.7, Parking

(H) Buffers

(1) *Purpose and Intent.* Buffers are intended to mitigate potential negative effects of different contiguous uses.

(2) *Applicability.* Individual uses in Chapter 5 may require a specific buffer type for that use. In the event of a conflict between landscaping standards in this ordinance, the more opaque buffer shall apply.

(3) *Types of Buffers.* Table 4-1: Buffer Types, describes four different buffering types in terms of their function, opacity, width, and planting requirements. Where a particular buffer type is required by this ordinance, the requirement may be met with the combination of minimum buffer width and minimum screening requirements specified under either Option 1 or Option 2, or by adherence to a greater buffer standard. Where an option utilizing a fence or wall is selected, the fence or wall shall comply with the standards of Section 4.3, Fences and Walls.

(4) *Allowable Deviations.* The Department of Community Assets & Development may approve deviations to buffer planting standards if adherence to requirements is deemed to be impractical or unnecessary due to site conditions or context.

TABLE 4-1: BUFFER TYPES		
ACI = AGGREGATE CALIPER INCHES	Minimum Screening Requirements Within the Perimeter Buffer [1] [2] [3] [4]	
Buffer Type and Configuration	Option 1: Minimum Width of 20 feet	Option 2: Minimum Width of 10 feet
TYPE A – BASIC BUFFER		
A buffer that functions as basic edge demarcating individual properties with a slight visual obstruction	Landscaped with sod or other allowed plant materials	2 ACI of canopy trees + 10 ACI of understory trees + 15 shrubs per 100 linear feet
TYPE B – AESTHETIC BUFFER		
This perimeter buffer functions as an intermittent visual obstruction and creates the impression of separation without eliminating visual contact between uses.	8 ACI of canopy trees + 10 ACI of understory trees + 15 shrubs per 100 linear feet	2 ACI of canopy trees + 14 ACI of understory trees + 35 shrubs per 100 linear feet
TYPE C – SEMI-OPAQUE BUFFER		
This perimeter buffer functions as a semi-opaque screen from the ground to at least a height of six feet.	12 ACI of canopy trees + 14 ACI of understory trees + 25 small shrubs per 100 linear feet	One 4-foot high berm or one 4-foot high opaque fence + 2 ACI of canopy trees + 16 ACI of understory trees per 100 linear feet
TYPE D – OPAQUE BUFFER		
This perimeter buffer functions as an opaque screen from the ground to a height of at least six feet. This type of buffer prevents visual contact between uses and creates a strong impression of total separation.	18 ACI of canopy trees + 20 ACI of understory trees + 55 small shrubs per 100 linear feet	One 6-foot high opaque fence + 12 ACI of canopy trees per 100 linear feet

[1]: Any required perimeter buffer width can be reduced to five feet with the provision of a solid masonry wall at least five feet in height along with a minimum of 10 exterior shrubs per every 100 linear feet.

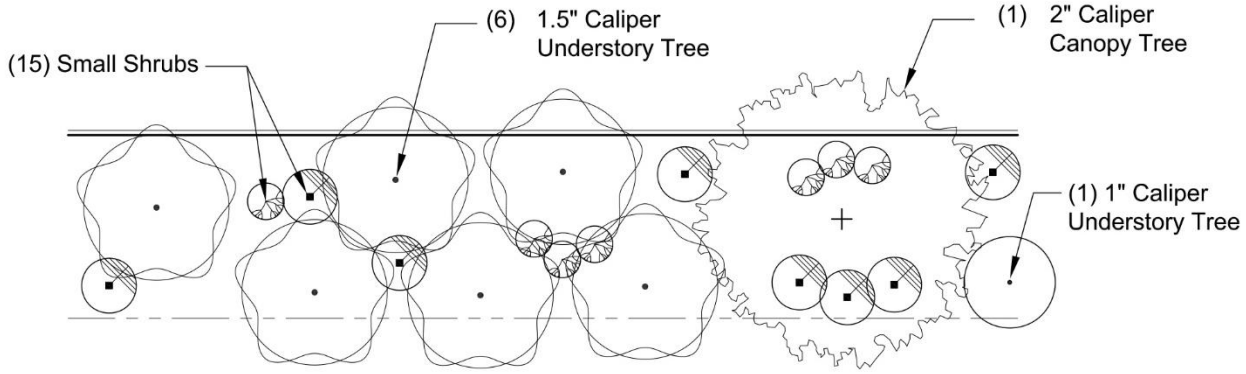
[2]: Perimeter buffer widths (but not vegetation amounts) may be reduced at the discretion of the Department of Community Assets & Development. Alternatively, applicants may submit an Alternate Landscape Plan under the provisions of Section 4.1(E) if adhering to these requirements is not possible.

[3]: In cases where an adjacent use is designed for solar access, understory trees can be substituted for canopy trees.

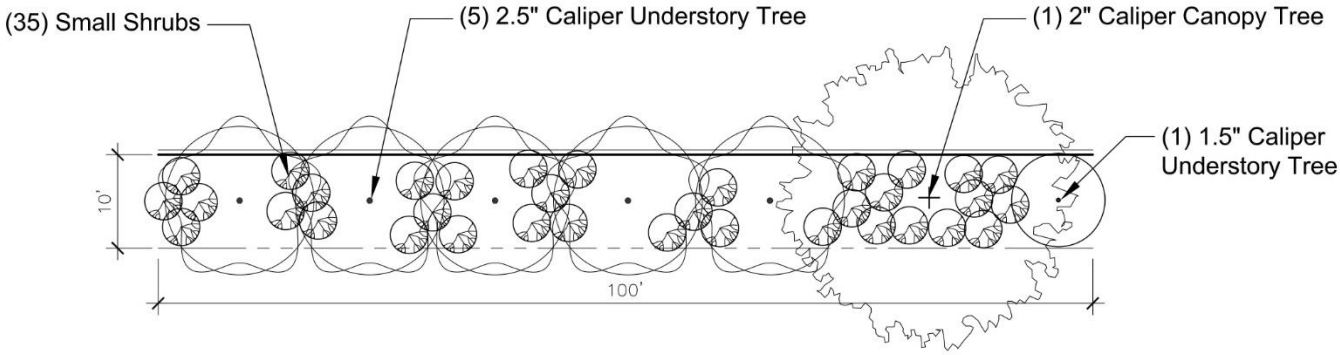
[4]: Required plantings shall conform to the planting standards outlined in Section 4.1(C)(2).

FIGURE 4-1: ILLUSTRATED BUFFER TYPES

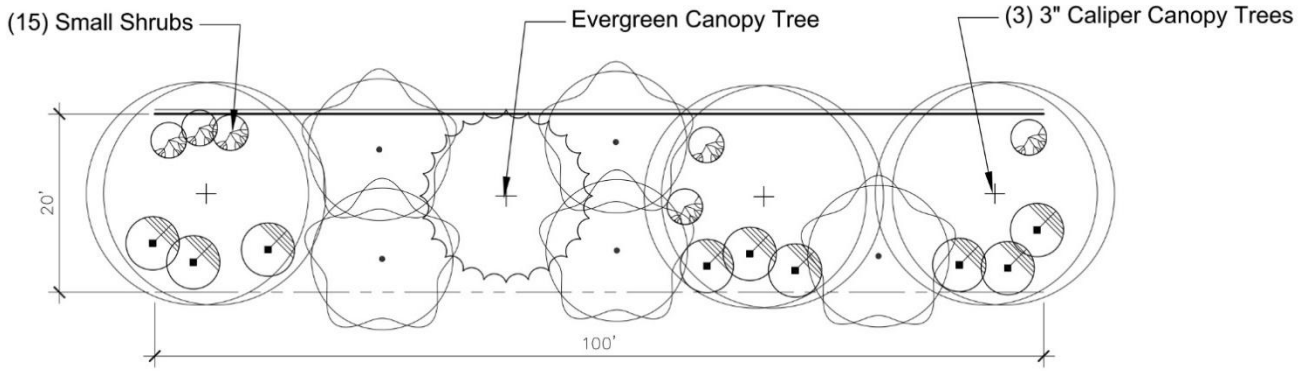
TYPE A – BASIC BUFFER



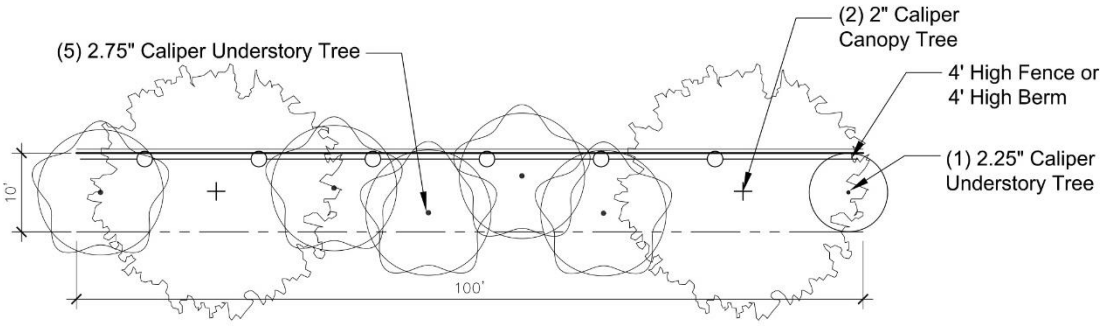
TYPE B – AESTHETIC BUFFER (10-foot buffer area)



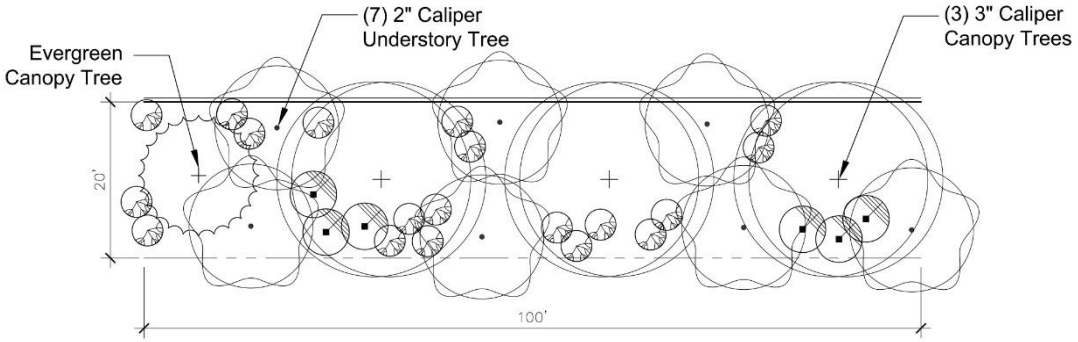
TYPE B – AESTHETIC BUFFER (20-foot buffer area)



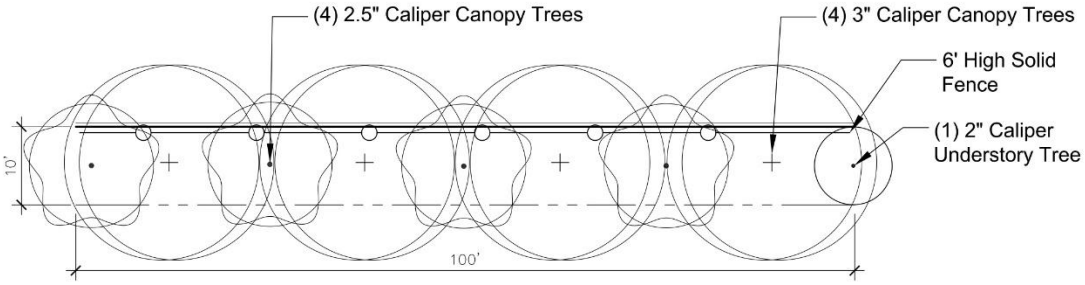
TYPE C – SEMI-OPAQUE BUFFER (10-foot buffer area with a berm or fence)



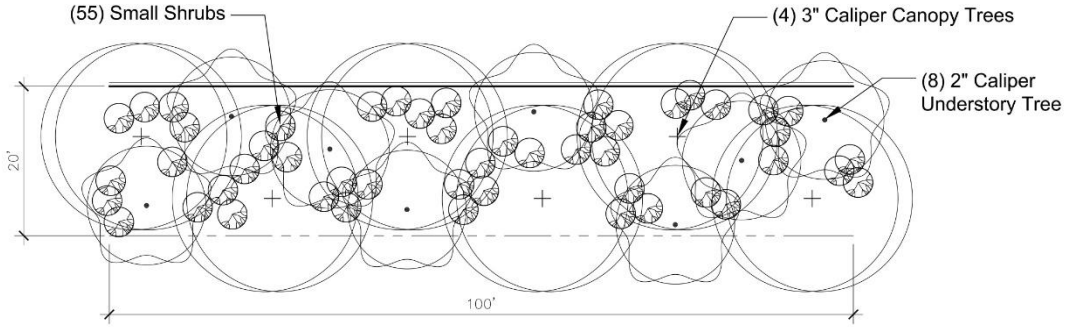
TYPE C – SEMI-OPAQUE BUFFER (20-foot buffer area)



TYPE D –OPAQUE BUFFER (10-foot buffer area with a fence)



TYPE D –OPAQUE BUFFER (20-foot buffer area)



(5) *Development within Required Buffers*

(a) Unless otherwise permitted in this ordinance, a required buffer shall not contain any development, impervious surfaces, or site features (except fences or walls) that do not function to meet the standards of Section 4.1 or that require removal of existing vegetation.

(b) Sidewalks, trails, and other elements associated with passive recreation may be placed in a required buffer if all required landscaping is provided and damage to existing vegetation is minimized to the maximum extent practicable.

(c) Overhead and underground utilities required or allowed by the City are permitted to cross a required buffer in a perpendicular fashion but shall minimize the impact to vegetation to the maximum extent practicable. Where required landscaping materials are damaged or removed due to utility activity within a required buffer, the landowner shall be responsible for replanting all damaged or removed vegetation necessary to ensure the buffer meets the standards in this ordinance.

(6) *Sight Triangles.* Fencing, berms, walls, and all other landscaping features shall adhere to the requirements of Section 3.3(D)(3), Corner Visibility.

(7) *Credit for Existing Vegetation.* Existing vegetation meeting the size standards of Section 4.1(D)(1), Planting Standards, located within a required buffer area may be preserved and credited toward the perimeter buffer standards.

(I) General Site Landscaping for New Development and Building Expansion

(1) *When Applicable*. The site landscaping provisions of Section 4.1(I) shall be required for:

(a) New development;

(b) Any redevelopment that includes an expansion in excess of 15 percent of the existing gross floor area (calculated over time);

(c) An expansion of a parking area by 20 stalls or more; or

(d) Specific uses or land use changes as specified in this ordinance or the Subdivision Ordinance.

(2) *Exceptions*. Single Family and double family residences.

(3) *Distinguished from Other Required Landscaping*. General site landscaping, for the purpose of Section 4.1, is exclusive of required buffer and/or screening landscaping which may also be required. Plantings required to meet a vehicular use landscaping standard can be counted towards meeting general site landscaping requirements.

(4) *Minimum Landscaping Requirements for New Developments:*

(a) Canopy Trees

(i) A minimum of one canopy tree per lot shall be planted within the boulevard area. In situations where there is only one lot, one deciduous tree and one coniferous tree shall be required in the boulevard area.

(ii) One canopy tree for every 1,000 square feet of building floor area or one canopy tree per 50 feet of site perimeter, whichever is greater.

(iii) The makeup of all canopy trees must be at least one-half deciduous and one-half coniferous. In the event there are an odd number of trees required, the applicant may choose either deciduous or coniferous to make up the difference.

(b) One shrub shall be provided for each 300 square feet of building area or every 30 feet of site perimeter, whichever is greater.

(c) At least 10 percent of the total site area shall be landscaped.

(d) All existing dead or diseased plant materials shall be removed.

(e) Preservation of an existing tree shall be credited towards two new trees with the greatest credit not to exceed 25 percent of the total required number of trees.

(5) *Minimum Landscaping Requirements for Qualifying Expansions:*

(a) Canopy Trees

(i) One canopy tree for every 1,000 square feet of expanded building floor area.

(ii) Up to 25 percent of the required number of canopy trees may be substituted with ornamental trees at a ratio of two ornamental trees to one canopy tree.

(iii) The makeup of all canopy trees must be at least one-half deciduous and one-half coniferous. In the event there are an odd number of trees required, the applicant may choose either deciduous or coniferous to make up the difference.

(b) One shrub shall be provided for each 300 square feet of added building floor area.

(J) Required Screening of Visual, Auditory, or Hazardous Concern Areas.

(1) *General Requirements*. In addition to the other forms of required landscaping, screening shall be required to conceal specific areas of high visual or auditory impact or hazardous areas from off-site views. Such areas shall be screened at all times, unless otherwise specified, regardless of adjacent uses, districts, or other proximate landscaping material.

(2) *Items to be Screened*. Unless otherwise authorized as part of an official approval, the following areas shall be screened in accordance with Section 4.1:

(a) Anything specifically called out by this ordinance as requiring screening.

(b) Large trash handling and recycling collection areas (e.g., dumpsters and cardboard recycling containers);

(c) All loading and service areas shall be screened and landscaped from abutting and surrounding residential uses and public rights of way;

(d) Allowed outdoor storage areas adjacent to residential uses and public rights of way; and

(e) New construction, demolition, or other site conditions that could be unsafe for pedestrians or vehicles.

(3) *Screening Methods*. The following items are permitted for use as screening materials, and more than one method may be used on a lot or site.

(a) Vegetative materials that can provide a 90 percent opacity year-round screen and which are the minimum height necessary to screen the facility from offsite views; or

(b) An opaque fence or wall meeting the following requirements:

(i) The fence or wall shall be consistent with the standards in Section 4.3, Fences and Walls.

(ii) The fence or wall shall provide a solid screening effect and not exceed the maximum height allowed for fences or walls in the underlying zoning district, or be less than six (6) feet in height.

(iii) The design and materials used in constructing a required screening fence shall be subject to the approval of the Department of Community Assets & Development.

(c) Alternative screening materials that are not listed above or alternative configurations may be proposed as part of an alternative landscaping plan (see Section 4.1(E)) if the alternative materials or configuration provide an equivalent or superior screening function.

(4) *Configuration of Vegetative Materials.* In cases where vegetative materials are used for screening in accordance with this subsection, the vegetative materials shall:

(a) Be planted around the perimeter of the site feature to be screened in a manner that screens the site feature from all off-site views;

(b) Be configured in two staggered rows or other arrangement that provides maximum screening;

(c) Be upright, large evergreen shrubs which are capable of reaching at least six feet in height within three years of planting; and

(d) Be spaced no farther than three feet on-center.

(5) *Roof-based Equipment and Penetrations*

(a) *General Roof Penetrations*. All roof vents, pipes or other roof penetrations (except chimneys) in all districts are encouraged to be screened, located on the rear elevations, or be otherwise configured to have a minimal visual impact as seen from a public street.

(b) *Roof-based Mechanical Equipment in the NBE District*

Screening of roof-based equipment is encouraged in all zoning districts but is only required in the NBE District.

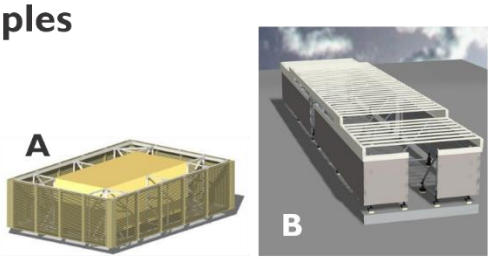
(i) Parapet walls or other techniques incorporated in a building's design shall be used to totally screen any roof-based mechanical equipment from public rights-of-way or adjacent lands in the NBE district.

(ii) In cases where roof-based mechanical equipment in the NBE district are too tall to be screened by a parapet wall, or if changes in the surrounding grade make rooftops with parapets visible from public rights-of-way or adjacent lands, a rooftop screening system shall be used for screening (see Figure 4-2).

(iii) The Department of Community Assets & Development may waive rooftop screening requirements in the NBE District when adherence to requirements would interfere with the operation of equipment providing safety to the facility.

Figure 4-2: Rooftop Screening System Examples

Rooftop screening systems shall be subject to approval of the Department of Community Assets & Development, and shall be of similar design to the examples shown here. Example "A" illustrates a metal louver wall for general screening from below. Example "B" illustrates the use of lattice to even screen from above. The before and after photos provide further illustration of proper rooftop screening design.





(K) Zoning District Specific Landscaping Standards

(1) Single-Family Low Density District (RS-1) Landscaping Requirements

RESERVED

(2) Single-Family Medium Density District (RS-2) Landscaping Requirements

RESERVED

(3) Multi-Family Low Density District (RM-1) Landscaping Requirements

RESERVED

(4) Multi-Family Medium Density District (RM-2) Landscaping Requirements

RESERVED

(5) Multi-Family High Density District (RM-3) Landscaping Requirements

RESERVED

(6) Manufactured Home Community District (MHC) Landscaping Requirements

RESERVED

(7) Residential Business District (BR) Landscaping Requirements

RESERVED

(8) Neighborhood Business District (BN) Landscaping Requirements

RESERVED

(9) General Business District (BG) Landscaping Requirements

RESERVED

(10) Light Industrial District (IL) Landscaping Requirements

RESERVED

(11) Heavy Industrial District (IH) Landscaping Requirements

RESERVED

(12) Restricted Industrial District (IR) Landscaping Requirements

RESERVED

(13) New Brighton Exchange District (NBE) Landscaping Requirements

RESERVED

(14) Mixed Use Downtown District (MUDT) Landscaping Requirements

RESERVED

(15) Mixed Use Neighborhood District (MUN) Landscaping Requirements

RESERVED

(16) Mixed Use Regional District (MUR) Landscaping Requirements

RESERVED

(L) Landscaping Installation and Maintenance Standards

(1) *Time for Installation of Required Landscaping.*

(a) *Time Limit*

All required landscaping (including mulching and seeding) shall be installed in accordance with the required planting standards set forth in Section 4.1 prior to issuance of a certificate of occupancy unless the Department of Community Assets & Department grants an extension to this time limit in accordance with Section 4.1(L)(1)(b) below.

(b) *Extensions*

(i) The Department of Community Assets & Department may, for good cause shown, grant extensions to the above time limit, allowing a developer/owner to delay the installation of required landscaping. Circumstances that may warrant an extension include but are not limited to the following:

1. Unusual environmental conditions such as drought, ice, or over-saturated soil (deep mud);
2. It is not yet the appropriate planting season for the approved plant species;
3. Credible evidence that the approved plant species or required plant sizes are not commercially available and cannot be substituted within a reasonable time despite an applicant's diligent effort to secure the required materials; or

4. Completion of utility work occurring in a proposed landscaped area is incomplete or delayed.

(ii) In the event occupancy is requested prior to completion of the landscaping requirements, a letter of credit equal to 125 percent of the total cost to complete the landscape plan must be submitted to the City. When occupancy of a building does not apply to a project, all required landscaping shall be completed within one year of the date of construction commencement.

(iii) Upon receipt of a performance guarantee satisfactory to the City, the City may issue a temporary certificate of occupancy for a maximum period of up to 180 days.

(2) *Maintenance of Landscaping Materials.* The owner shall be responsible for the maintenance of all required landscaping. Such areas shall be maintained in accordance with the approved landscape plan or alternative landscape plan and shall present a healthy and orderly appearance free from refuse and debris. All plant life shown on an approved landscape plan or alternative landscape plan shall be replaced if it dies, is seriously damaged, or removed.

(a) *Damage Due to Natural Occurrence*

In the event that any vegetation or physical element functioning to meet the standards of Section 4.1 is severely damaged due to an unusual weather occurrence or natural catastrophe, or other natural occurrence such as damage by wild or domestic animals, the owner or developer may be required to replant if the landscaping standards are not being met. The owner shall have one growing season to replace or replant. The Department of Community Assets & Development shall consider the type and location of the landscape buffer or required vegetation area as well as the propensity for natural re-vegetation in making a determination on the extent of replanting requirements.

(b) *Protection during Operations*

The owner or developer shall take actions to protect trees and landscaping from unnecessary damage during all facility and site maintenance operations. Plants shall be maintained in a way that does not obstruct sight distances at roadway and drive intersections, obstruct traffic signs or devices, or interfere with the use of sidewalks or pedestrian trails.

(c) *Maintain Shape*

All required trees (whether canopy, understory, or otherwise) shall be maintained in their characteristic natural shape, and shall not be severely pruned, sheared, topped, or shaped as shrubs. Required trees that have been severely pruned, sheared, topped, or shaped as shrubs which no longer serve the intended buffering or screening function shall be considered as damaged vegetation in need of replacement in accordance with Section 4.1(L)(2)(a) Damage Due to Natural Occurrence, and shall be replaced within one growing season.

(d) *Natural Death of Existing Vegetation*

The natural death of existing vegetation within any required landscape area does not necessarily constitute a violation and does not require re-vegetation to replace the plant material unless the required landscape area no longer complies with the required standards of Section 4.1. Further, the screening is expected to remain effective continually, so any plant material which dies or ceases to function as a screen shall be replaced or reinforced immediately to conform to City ordinance.

(3) *Agreement and Security.* A landscaping security shall be submitted with the building permit application. Such security guarantees that in exchange for building permit, the owner will construct, install and maintain all items shown on the approved plan and that they will replace and or correct any deficiencies or defaults that occur in the plan for a period of one complete year or two complete growing seasons subsequent to the complete installation according to approved landscaping plan.

(M) Appearance of Grounds over Time

(1) In all districts, the lot area remaining after providing for off-street parking, sidewalks, driveways, buildings, and other requirements, shall be planted and maintained in grass, sodding, shrubs, or other acceptable vegetation or treatment generally used in landscaping. All such landscaping shall be maintained.

(2) All landscaped areas as shown on an approved site or landscape plan (if previously required) shall be maintained.

(3) Plants and ground cover that were required by approved plans which later died shall be replaced within three months of notification by the City; however, the time for compliance may be extended up to nine months in order to allow for varying temperature and weather conditions.

(N) Topsoil Removal

No person, firm, or corporation shall strip, excavate, or otherwise remove topsoil specifically to sell from any site within the City unless such sale is in connection with the construction or alteration of a building, the excavation or grading is necessary to complete the project, and off-site sale is the only economically feasible option to deal with the topsoil being impacted by the project. On-site reuse or reuse within the community are the preferred options for impacted topsoil.

4.2 Tree Protection

Reserved.

4.3 Fences & Walls

(A) Purpose and Intent

The purpose and intent of Section 4.3 is to regulate the location, height, and appearance of fences and walls to maintain visual harmony within and between zoning districts; to protect adjacent properties from the indiscriminate placement and unsightliness of fences and walls; and to ensure the safety, security, and privacy of properties.

(B) Applicability

(1) *In General.* Unless specifically exempted by this ordinance, the provisions of Section 4.3 shall apply to the construction, reconstruction, or replacement of all fences or walls in the City.

(2) *Exemptions.* The following are exempted from the requirements of Section 4.3:

(a) *Recreational Fencing.* Fencing, if determined to be normal and customary by the Department of Community Assets & Development, meant to serve a permitted recreational court (tennis, pickle ball, etc.), athletic field, or other recreational facility.

(b) *Temporary Fencing.* Temporary fencing established around construction sites, demolitions, or other site conditions unsafe for pedestrians or vehicles, provided it is consistent with the building code.

(c) *Emergency Fencing.* Temporary fencing erected to address an urgent public safety matter or to protect public facilities during times of civil unrest.

(C) General Requirements for Fences and Walls

(1) Location

(a) Fences and walls are permitted anywhere on a lot subject to the following restrictions:

(i) The corner visibility requirements in Section 3.3(D)(3) shall be met.

(ii) Fences and walls shall not be located within public right-of-way unless permitted by the City via a written encroachment agreement.

(iii) Fences and walls that are located within City easements are subject to removal without compensation to the property owner if the City must access the area to utilize the easement for its intended purpose.

(iv) Retaining walls shall not be located within easements unless there is an encroachment agreement in place between the easement holder and the property owner.

(b) All fences shall be located entirely upon the private property of the person constructing the fence.

(2) Blocking Natural Drainage Flow

(a) No fence shall be installed so as to block or divert a natural drainage flow or to obstruct the flow of water upon a drainage or ponding easement unless specifically approved to do so by the Department of Community Assets & Development.

(b) Drainage swales may not be filled to accommodate the construction of fences or walls without alternate storm water provisions being reviewed and approved by the Department of Community Assets & Development.

(c) Nothing in subsection 4.3(C)(2) shall be construed to prevent the installation of temporary fencing to protect existing trees, limit sedimentation, or control erosion.

(3) Permit Requirements

(a) *Retaining Walls*

(i) Installation of retaining walls up to four feet high do not require a permit but are subject to review and approval by the Department of Community Assets & Development when such walls are proposed as a component of a project which needs a building or grading permit.

(ii) Retaining walls proposed to exceed four feet in height at any point shall require engineered plan sets and an approved building permit.

(b) *Permit Requirements -- Fences*

(i) Fences up to six feet in height do not require a building permit, but shall adhere to all fencing requirements in this ordinance.

(ii) Fences in excess of six feet in height are only permissible if approved as may be specifically allowed by this ordinance**.**

(4) Prohibited Fences

(a) Barbed or razor wire fencing unless specifically permitted as a component of a special purpose fence in an industrial zoning district.

(b) Fences or walls made of debris, junk, rolled plastic, sheet metal, plywood, wooden landscape lattice or waste materials are prohibited unless such materials have been recycled and reprocessed for marketing to the general public as building materials that resemble new building materials and are designed for use as a fencing material (e.g., picket fencing made from recycled plastic and fiber).

(c) No metal "t" posts shall be permitted for lot perimeter fencing.

(5) Appearance / Customary Materials

Every fence shall be constructed in a substantial skillful manner and of substantial material reasonably suitable for the purpose for which the fence is proposed to be used . Fences and walls shall be constructed of any combination of:

(a) Treated wood posts and vertically-oriented planks;

(b) Traditional chain link fencing, treated with factory-applied weather resistant coating or galvanized, with wires no smaller than 14-gauge;

(c) Rot-resistant wood;

(d) Wrought iron;

(e) Decorative metal materials;

(f) Brick;

(g) Stone;

(h) Masonry materials; or

(i) Other reliable products designed to resemble these materials if approved by the Department of Community Assets & Development.

(6) Finished Side to Outside

Wherever a fence or wall is installed, if one side of the fence or wall appears more "finished" than the other (e.g., one side has visible support framing and the other does not), then the more "finished" side of the fence shall face the perimeter of the lot rather than the interior of the lot.

(7) Compatibility of Materials along a Single Lot Side

All fencing or wall segments located along a single lot side shall be composed of a uniform style and colors compatible with other parts of the fence and with the associated buildings.

(8) Maintenance Required

(a) Every fence or wall must be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger or constitute a nuisance.

(b) A fence which is or has become dangerous to the public safety, health, or welfare is a public nuisance in accordance with Chapter 17 of the City Code.

(c) Fences or walls in a state of disrepair may be removed by the City as provided by the City Code and applicable Minnesota Statutes. The cost of removing fences shall be borne by the property owner.

(D) Specific Requirements for Fences and Walls by District

All fences and walls shall conform to applicable overlay district requirements (i.e. shoreland district standards) in addition to the following district-specific standards.

(1) Residential Districts (RS-1, RS-2, RM-1, RM-2, RM-3, MHC)

(a) Fences erected in the front yard of a lot within any residential district, shall not exceed 3.5 feet in height and shall have at least 50 percent of their vertical surface plane open when viewed from a point perpendicular to that plane.

(b) Fences in yards other than a front yard shall not exceed six feet in height and shall be constructed so as to permit a free flow of air.

(c) When a principal structure is located on a lot having more than one street side, the street side of the lot toward which the structure is oriented shall be considered the front lot line, and the yard on that side shall be considered the front yard for purposes of fence regulation.

(d) Chain link and other mesh fences in residential districts shall have knuckled ends at both top and bottom.

(2) Business Districts (BR, BN, BG)

(a) Fences erected in the front yard or in the street side yard of a lot shall not exceed 3.5 feet in height and shall have at least 75 percent of their vertical surface plane open when viewed from a point perpendicular to that plane. Where higher or more solid fences are required by other sections of the Zoning Code, the requirements of those other sections shall govern.

(b) Fences erected in other yards shall not exceed six feet in height.

(c) Chain link fencing shall be prohibited in business districts unless specifically authorized by site plan approval as being appropriate based on location and resulting site aesthetics.

(3) Industrial Districts (IL, IH, IR)

(a) Fences erected in the front yard or in the street side yard of a lot shall not exceed 3.5 feet in height and shall have at least 75 percent of their vertical surface plane open when viewed from a point perpendicular to that plane. Where higher or more solid fences are required by other sections of the Zoning Code, the requirements of those other sections shall govern.

(b) Fences erected in other yards shall not exceed eight feet in height.

(c) Fences may have arms on which barbed wire can be fastened commencing at a point at least seven feet above the ground provided such arms do not project outside the property line.

(4) Mixed Use Districts (NBE, MUDT, MUN, MUR)

(a) All fences and walls in mixed use districts shall conform to the general requirements for fences in Section 4.3, in addition to any district-specific fence standards listed in Section 3.7.

(b) Chain link fencing shall be prohibited in mixed use districts unless specifically authorized by site plan approval as being appropriate based on location and resulting site aesthetics.

(E) Special Purpose Fences

(1) Fences for special purposes and fences differing in construction, height, length, or location from the requirements of Section 4.3 may be permitted in any district in the City by the issuance of a conditional use permit approved by the City Council upon a finding that such special purpose fences:

(a) Are necessary to protect and buffer the premises for which such fences are intended or adjacent fences are intended for adjacent premises; and

(b) Would not be deleterious to adjacent property nor to the general public health, safety, or welfare; and

(c) Would be consistent with the intent and purpose of the fence regulations as stated in Section 4.3(A).

(2) A conditional use permit for a special purpose fence, if approved, may stipulate and provide for the height, location, and construction type of the special fence thereby permitted or any other condition deemed necessary to protect the public health, safety, and general welfare.

4.4 Exterior Lighting

(A) Purpose

The purpose of Section 4.4 is to regulate light spillage and glare to ensure the safety of motorists and pedestrians, and to ensure lighting does not adversely affect land uses on adjacent properties. More specifically, Section 4.4 is intended to:

(1) *Regulate Exterior Lighting to Mitigate Adverse Impacts.* Regulate exterior lighting to assure that excessive light spillage and glare are not directed at adjacent properties, neighboring areas, and motorists;

(2) *Ensure Proper Installation.* Ensure that all site lighting is designed and installed to maintain adequate lighting levels on a site while limiting negative lighting impacts on adjacent lands; and

(3) *Provide Security.* Provide security for persons and land.

(B) Applicability

(1) *In General.* The provisions of Section 4.4 shall apply to all development in the City unless exempted in accordance with Section 4.4(C) below.

(2) *Time of Compliance.* An exterior lighting plan shall be submitted and approved along with an application for a Site Plan [Section 2.4(G)], Subdivision [City Code Title 11, Chapter 1], Building Permit if required by the Building Official [Section 2.4(H)], or Temporary Use Permit [Section 2.4(L)], whichever occurs first.

(C) Exemptions

The following are exempted from the exterior lighting standards of Section 4.4:

(1) Single-family detached dwellings; and

(2) Publicly owned streetlights located within a street right-of-way or other easement granted to the City.

(D) General Standards for Exterior Lighting

(1) *Hours of Illumination.* Public and institutional uses, commercial uses, and industrial uses that are adjacent to existing residential development or vacant land in residential districts shall turn off all exterior lighting on the residential side(s)—except lighting necessary for security or emergency purposes—within one hour after closing. For the purposes of this subsection, lighting "necessary for security or emergency purposes" shall be construed to mean the minimum amount of exterior lighting necessary to illuminate possible points of entry or exit into a structure, to illuminate exterior walkways, or to illuminate outdoor storage areas. Such lighting may be activated by motion sensor devices.

(2) *Illumination Direction.*

(a) Lighting on the site and building shall be directed downward, and installed so as to prevent direct light from being detectable at the lot line of the site on which the light source is located.

(b) Lighting shall not shine directly into the public right-of-way or onto any residential use.

(3) *Parking Lot Lighting.*

(a) Lighting structures shall be located within a safety island or around the perimeter of the parking area and shall not be placed as freestanding structures within the parking area**.**

(b) In the NBE zoning district, parking lot lighting shall consist of cutoff fixtures and shall be located below the mature height of trees located in parking lot islands.

(E) Design Standards for Exterior Lighting

All exterior lighting shall meet the following standards:

(1) *Maximum Lighting Height.*

(a) Except for outdoor sports fields, performance areas, billboard signage, or other uses necessitating taller lighting as approved by the Department of Community Assets & Development; the height of outdoor lighting, whether mounted on poles or walls or by other means, shall be no greater than 15 feet in residential districts and no greater than 25 feet in business and industrial districts.

(b) Lighting located adjacent to walkways and entrances to buildings shall not exceed 15 feet in height.

(2) *Shielding.*

(a) *Exterior.* Light fixtures in excess of 60 watts or 100 lumens shall use full cut-off lenses or hoods to prevent glare or spillover from the project site onto adjacent lands and streets, and to direct the casting of light to the areas requiring illumination.

(b) *Interior.* No interior light source shall be positioned, aimed, or configured so as to result in the light source being visible from land occupied by existing residential development.

(c) *Canopies.* No light source in a canopy structure shall extend downward further than the lowest edge of the canopy ceiling.

(d) *Awnings.* Awnings or canopies used for building accents over doors, windows, etc., shall not be internally illuminated (i.e., from underneath or behind the awning).

(3) *Maximum Illumination Levels.*

Site illumination shall not exceed .4 foot-candles at ground level when measured at an adjoining residential property.

(4) *Character.*

All exterior lighting levels shall be consistent with the character and intensity of surrounding areas and designed to relate to building architecture and landscaping.

(F) Wall Pack Lights

Wall packs on buildings may be used at entrances to a building to light unsafe areas. They are not intended to draw attention to the building or provide general building or site lighting. Wall packs on the exterior of the building shall be fully shielded (e.g., true cut-off type bulb or light source not visible from off-site) to direct the light vertically downward and be of low wattage (preferably 100 watts or lower). Wall pack light sources visible from any location off the site are prohibited.

(G) Exemptions for a Security Plan

Government facilities, parks and open areas, public safety, and other uses where sensitive or dangerous materials are stored may submit to the Department of Community Assets & Development a site security plan proposing exterior lighting that deviates from the standards in this subsection. The Department of Community Assets & Development may approve, or approve with conditions, the site security plan and its proposed deviation from the standards of this subsection, upon finding that:

(1) *Deviation Necessary to Protect Public or Ensure Security.* The proposed deviation from the standards is necessary for the adequate protection of the public;

(2) *Significantly Greater Danger of Theft or Damage Without Additional Lighting.* The condition, location, or use of the land, or the history of activity in the area, indicates the land or any materials stored or used on it are in significantly greater danger of theft or damage, or members of the public are at greater risk for harm than on surrounding land; and

(3) *Deviation is Minimum Required and Will Not Have Adverse Effect.* The proposed deviation from the standards is the minimum required and will not have a significant adverse effect on neighboring lands.

Appeals to the decision of the Department of Community Assets & Development may be submitted following the procedures of Section 2.4(F).

(H) Illumination of Outdoor Sports Fields and Performance Areas

New lighting of outdoor sports fields and performance areas erected after the effective date of this ordinance as documented in Section 1.4 shall comply with the following standards:

(1) *Glare Control Package.* All lighting fixtures shall be equipped with an existing glare control package (e.g., louvers, shields, or similar devices) and aimed so that their beams are directed and fall within the primary playing area, performance area, or grounds which need to be illuminated for public safety purposes.

(2) *Hours of Operation.* The lighting system for any game or event shall be extinguished within 30 minutes of the conclusion of the game or event.

(I) Sign Lighting.

Lighting fixtures illuminating signs shall comply with the standards of Section 4.5.

4.5 Signs

(A) Findings, Purpose, and Effect of Sign Regulations

(1) Findings

The City Council finds:

(a) Exterior signs have a substantial impact on community appearance and quality of the environment.

(b) Signs provide an important medium through which individuals may convey a variety of messages.

(c) Signs can create traffic hazards, aesthetic concerns and detriments to property values, thereby threatening the public health, safety and welfare.

(d) The City's zoning regulations include the regulation of signs in an effort to provide adequate means of expression and to promote the economic viability of the business community, while protecting the City and its citizens from a proliferation of signs of a type, size, location, and character that would adversely impact upon the aesthetics of the community and threaten the health, safety, and welfare of the community.

(e) The regulation of the physical characteristics of signs within the City has had a positive impact on traffic safety and the appearance of the community.

(2) Purpose and Intent of Sign Regulations

(a) The purpose and intent of Section 4.5 is to:

(i) Regulate the number, location, size, type, illumination, and other physical characteristics of signs within the City in order to promote the public health, safety, and welfare.

(ii) Maintain, enhance, and improve the aesthetic environment of the City by preventing visual clutter that is harmful to the appearance of the community.

(iii) Improve the visual appearance of the City while providing for effective means of communication, consistent with constitutional guarantees and the City's goals of public safety and aesthetics.

(iv) Provide for both fair and consistent enforcement of sign regulations as set forth herein under the zoning authority of the City.

(b) It is not the purpose or intent of Section 4.5 to regulate the message displayed on any sign; nor is it the purpose or intent of Section 4.5 to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building.

(3) Effect of Sign Regulations

A sign may be erected, mounted, displayed, or maintained in the City if it is in conformance with the provisions of Section 4.5. The effect of Section 4.5, as more specifically set forth herein, is to:

(a) Allow a wide variety of sign types in commercial zones, and a more limited variety of signs in other zones, subject to the standards set forth in Section 4.5.

(b) Allow certain small, unobtrusive signs incidental to the principal use of a site in all zones when in compliance with the requirements of Section 4.5.

(c) Prohibit signs whose location, size, type, illumination, or other physical characteristics negatively affect the environment.

(d) Ensure that communication is accomplished through means that lessens the impact on the environment and the public health, safety, and welfare.

(e) Provide for the administration and enforcement of the provisions of Section 4.5.

(B) Scope and Applicability

(1) All signs on private property are subject to the sign regulations of Section 4.5 and all other applicable provisions of this code.

(2) Specific signs excluded from the regulations of Section 4.5 include:

(a) Official signs on public property and within rights-of way;

(b) Authorized signs affixed to bus stop benches provided such signs do not exceed 10 square feet in area;

(c) Architectural details of buildings including corner-stones, crosses, or other identifying details that are part of the buildings.

(C) Substitution Clause.

(1) The owner of any sign that is otherwise allowed by Section 4.5 may substitute noncommercial speech in lieu of any other commercial speech or noncommercial speech. This substitution of copy may be made without any additional approval or permitting.

(2) The purpose of this "substitution" provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial speech over any other noncommercial speech. This provision prevails over any more specific provision to the contrary.

(D) Permits

Except as may be exempted by Section 4.5, no sign may be erected, altered, reconstructed, maintained, or moved without first securing a permit from the City following the provisions of Section 2.4(K).

(E) Prohibited Signs

The following signs are prohibited in all zones:

(1) Any sign, signal, marking or device that purports to be or is an imitation of or resembles any official traffic control device or railroad sign or signal, or emergency vehicle signs, or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal;

(2) With the exception of approved billboards, individual signs over 250 square feet in area;

(3) Off-premises signs except for authorized billboards;

(4) Back-lit awnings;

(5) Flashing signs;

(6) Inflatable signs;

(7) Portable signs;

(8) Roof signs;

(9) Rotating or moving signs;

(10) Shimmering signs;

(11) Signs painted on, attached to or in any other manner affixed to trees or similar natural surfaces, or attached to utility poles, bridges, towers, transit shelters, benches or similar public structures, except for official signs; and

(12) Signs containing content classified as "obscene" as defined by Minnesota Statutes Section 617.241.

(F) Noncommercial Speech Signs During Elections

Notwithstanding any other provisions of Section 4.5 to the contrary, all signs of any size containing noncommercial speech may be posted in any zone from August 1 in any general election year until 10 days following the general election, and 13 weeks before any special election until 10 days following the special election, subject to the following requirements:

(1) Signs are permitted on private property only and may be placed only upon approval of the property owner.

(2) No such sign may be located closer than seven feet to the paved portion of a street.

(3) The property owner on which campaign signs are located shall be responsible for the removal of such signs within 10 days following the election.

(G) Generally Applicable Sign Standards

(1) Design Standards

Signs shall be designed and constructed to meet the standards of the International Building Code. All signs shall be constructed in such a manner and of such material that they shall be safe and substantial provided that nothing in Section 4.5 shall be interpreted as authorizing the erection or construction of any signs not now permissible under the City's zoning, building, or electrical codes. Signs that become unsafe shall be ordered repaired or removed by the City.

(2) Illumination

External illumination for signs must be constructed, aimed, shielded, and maintained so that the source of light is not visible from the public right-of-way, or from property used or zoned for residential purposes.

(3) Electric Signs

Electric signs must be installed in accordance with the current electrical code. In addition to a sign permit, a separate electrical permit must be obtained before placement of such a sign.

(4) Vertical Clearance

All signs mounted above sidewalks and other pedestrian walking surfaces must be mounted in a manner that ensures at least 8 feet of vertical clearance is provided between the walking surface and sign.

(5) Clearance from High-Voltage Power Lines

Signs shall be located no less than six feet horizontally or 12 feet vertically from overhead electrical conductors that are energized in excess of 750 volts. The term "overhead conductors" as used in this subsection means any electrical conductor, either bare or insulated, above the ground except such conductors that are enclosed in iron pipe or other material covering of equal strength.

(6) Sign Placement

(a) Signs must be located on private property, and may only be placed only upon approval of the property owner.

(b) Signs mounted on buildings may not block or obstruct design details or cornices of the building to which they are attached;

(c) No sign shall obstruct any opening to such an extent that light or ventilation is reduced to a point below that required by the International Building Code. Signs erected within five feet of an exterior wall in which there are openings within the area of the sign shall be constructed of noncombustible material or approved plastics;

(d) No sign shall be erected or maintained in such a manner that any portion of its surface or supports will interfere in any way with fire ingress or egress from any door, window or fire escape; and

(e) No sign shall be attached to a standpipe or fire escape.

(7) Maintenance

(a) The owner of any sign shall properly maintain and keep the sign in a safe, legible, and orderly condition; and keep such sign, including all parts and supports, properly painted and maintained.

(b) Signs that do not adhere to the standards of Section 4.5(G)(6) above shall be ordered repaired or removed by the City.

(H) Sign Types Allowed Without a Permit

The following signs are subject only to the generally applicable sign standards of Section 4.5(G) and do not require permits:

(1) House and building numbers for addressing purposes not exceeding 12 inches in height.

(2) Official governmental information signs.

(3) Interior signs and building directories not readily visible from a public right-of-way.

(4) Signs under four square feet in area either affixed to a building or located on the ground not exceeding a height of four feet and setback seven feet from a street right-of-way line.

(5) Up to two flags no larger than three feet by five feet may be flown on a private property. Size and number restrictions do not apply to allowed institutional and government uses.

(I) Sign Types Allowed With a Permit by District

Table 4-2 identifies the specific sign types allowed in each zoning district.

TABLE 4-2: SIGN TYPES ALLOWED WITH A PERMIT BY DISTRICT

P = Allowed with a Sign Permit C = Conditional Use I = Interim Use	Base Zoning Districts																	Additional Requirements
	RS1	RS2	RM1	RM2	RM3	MHC	BR	BN	BG	IR	IL	IH	MUDT	NBE	MUN	MUR	MUE	
Billboard													P					4.5(J)(1)
Drive Through Signs								C	C	C	C	C	C	C	C	C	C	4.5(J)(2)
Electronic and/or Dynamic Sign	C	C	C	C	C	C	C	P	P	P	P	P	C	C	C	C	C	4.5(J)(3)
Freestanding Sign	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	4.5(J)(4)
Manual Changeable Copy Sign	P	P	P	P	P	P	C	P	P	P	P	P	P					4.5(J)(5)
Projecting Sign													P	P	P	P	P	4.5(J)(6)
Sidewalk Sign								P	P	P	P	P	P	P	P	P	P	4.5(J)(7)
Temporary Sign	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	4.5(J)(8)
Wall Sign				P	P		P	P	P	P	P	P	P	P	P	P	P	4.5(J)(9)
Window Sign							P	P	P	P	P	P	P	P	P	P	P	4.5(J)(10)

(J) Specific Standards by Sign Type

(1) Billboards

(a) *New Billboards.* No billboard shall be erected within the City unless a permit has been issued for erection of the billboard prior to February 1, 1996. Billboards erected on or after the effective date of this ordinance as documented in Section 1.4 may be permitted, subject to the following standards:

(i) The underlying property zoning shall be DT, Downtown District;

(ii) The property has frontage abutting either Interstate 694 or Interstate 35W;

(iii) The billboard shall not exceed dimensions of 14 feet by 48 feet;

(iv) The maximum height of the billboard shall not exceed 75 feet;

(v) Only one billboard permitted per property, and

(vi) Compliance with Minnesota Department of Transportation standards and permitting requirements.

(b) *Existing Billboards.* Billboards that have been erected prior to February 13, 1996 or for which a permit has been issued for erection prior to February 13, 1996 are hereby deemed a legal nonconforming use unless they meet the requirements in 4.5(J)(1)(a)(i – vi) above.

(c) *Permit Required.* Existing billboards or new billboards meeting the requirements in 4.5(J)(1)(a)(i – vi) above must obtain a Sign Permit from the Department of Community Assets & Development in order to erect the sign or to alter or change a message to ensure compliance with Section 4.5(N).

(2) Drive-through Signs

Drive-through signs are permitted in conjunction with drive- through uses, in accordance with the following regulations.

(a) *Location.* Drive-through signs must be located within 10 feet of a drive-through lane.

(b) *Number and Dimensions.*

(i) One primary drive-through sign not to exceed 36 square feet in area or 8 feet in height is allowed per order station up to a maximum of 2 primary drive-through signs per lot.

(ii) One secondary drive-through sign not to exceed 15 square feet in area or 6 feet in height is allowed per lot.

(c) *Residential Separation.* Drive-through signs must be set back at least 50 feet from any abutting RS-1, RS-2, or RM-1 zoned lands.

(d) *Visibility.* Drive-through signs must be oriented to be visible by motorists in allowed drive-through lanes, and if illuminated, shall be directed away from or effectively screened from view from surrounding residential property.

(e) *Noise.* Any menu/ordering signage interior to the site with an intercom shall not be audible from any abutting RS-1, RS-2, or RM-1 zoned lands. Audio in mixed-use districts or adjacent to RM-2 or RM-3 lands must be adequately controlled so as not to cause a nuisance to adjacent residents.

(3) Electronic and/or Dynamic Displays

(a) *In General.* All dynamic displays installed as a part of allowed freestanding or wall signage are subject to the regulations of this subsection [4.5(J)(3)] except as may be amended by an approved area of special control per Section 4.5(L).

(b) Number. A single dynamic display per lot is allowed, except as may otherwise be allowed by Section 4.5(J)(3)(m).

(c) *Location.* Dynamic signs must be located on the site of the use identified or advertised by the sign and must be at least 35 feet from any other dynamic sign.

(d) *Orientation.* Dynamic signs must be positioned so as to limit their impact on adjacent residential uses. Unless otherwise authorized by the Department of Community Assets & Development, such signs must be positioned perpendicular to the adjacent public right-of-way when fronting a road.

(e) *Residential Zone Limitation.* Dynamic signs are limited to public, civic, or institutional uses in residential districts (RS-1, RS-2, RM-1, RM-2, RM-3, and MHC).

(f) *Text Size and Legibility.* The following minimum text size requirements apply to all dynamic signs intended to be viewed from adjacent roadways. If a sign is located on a corner with streets that have differing speed limits, the minimum required text size is based on the standard for the higher speed limit to ensure maximum legibility.

TABLE 4-3: DYNAMIC SIGN TEXT SIZE *

SPEED LIMIT OF ABUTTING STREET (MPH)	MINIMUM TEXT SIZE (INCHES)
25 – 34	7”
35 – 44	9”
45 – 54	11”
55 or higher	15”

* only applicable to NEW dynamic signs constructed after the effective date of this ordinance as identified in Section 1.4

(g) *Mode.* Dynamic signs may only operate in a static mode. Animation, motion or video displays are prohibited. Any change from one static display to another must be instantaneous and may not include any distracting effects, such as dissolving, spinning or fading. The images and messages displayed must be complete in and of themselves, without continuation in content to the next image or message or to any other sign.

(h) *Size of Dynamic Displays.* The dynamic portion of any sign may not exceed 80 percent of the total allowable area of the subject sign type (i.e. freestanding). The remaining 20 percent of the allowable sign area may not include dynamic capabilities even if it is not used.

(i) *Minimum Display Time.* The images and messages displayed on a dynamic sign must have a minimum dwell time of at least eight seconds, except for time, temperature, and fuel price signs.

(j) *Brightness.* As measured from the sign's face, dynamic signs may not exceed a maximum illumination of 5,000 to 7,000 nits during daylight hours, and a maximum illumination of 500 nits between dusk to dawn. All dynamic sign applications shall include certification from the sign manufacturer that the sign has the mechanical capabilities and will be preset to conform to the luminance levels noted above. In no instance shall the sign have the mechanical capabilities to exceed 7,000 nits.

(k) *Color.* Dynamic signs may use multiple colors within the display but the use of color must not create distraction or a hazard to the public health, safety or welfare. No portion of the display may change in color or color intensity in any manner. Each line of text in any direction must be uniform in color.

(l) *Operation.* All dynamic signs must be equipped with a means to immediately discontinue the display if it malfunctions. The owner of a dynamic sign must immediately cease operation of their sign when notified by the City that it fails to comply with the regulations of Section 4.5. The dynamic sign must remain inoperable until such time that the owner demonstrates to the City that the device is in satisfactory working condition and conforms to the regulations of Section 4.5. The City's decision regarding the operation of a dynamic sign may be appealed in accordance with the appeal procedures of Section 2.4(F).

(m) *Public, Civic, and Institutional Uses.* By conditional use permit; public, civic, or institutional uses in any zoning district may request authorization to construct multiple dynamic displays to serve the use, or a permitted accessory use, when it is normal and customary for dynamic signage to serve such a use (i.e. scoreboards for athletic stadiums). In these unique cases, the provisions of 4.5(J)(3) may be amended by the conditional use permit as appropriate for the proposed use.

(n) *Application to Existing Signs.* The dynamic sign standards of this subsection [4.5(J)(3)] apply to all existing and future dynamic signs, unless otherwise determined by the City that an existing sign qualifies as a nonconforming use under state statute or this development code. Any existing dynamic sign that cannot meet the minimum text size as required by the speed limit must use the largest size possible for one line of copy to fit in the available display space.

(4) Freestanding Signs

(a) *Number.* A single freestanding sign is permitted per street frontage unless otherwise indicated in this ordinance.

(b) *Area and Height.* Freestanding signs are subject to the following area and height limitations unless otherwise indicated in this ordinance:

TABLE 4-4: MAXIMUM FREESTANDING SIGN AREA AND HEIGHT		
ZONING DISTRICT	Area (Square Feet)	Height (feet)
RS-1, RS-2, RM-1, and MHC [1]	**6 sq ft** [2]	**4 ft**
RM-2, RM-3, BR	**35 sq ft**	**12 ft**
BN	**36 sq ft**	**20 ft**
BG	**64 sq ft** [3] [4]	**20 ft**
IR, IL, IH	**36 sq ft** [3] [4]	**20 ft**
DT, NBE, MUN, MUR, MUE	See Section 4.5(K)	

[1]: Residential freestanding signs may not be located closer than seven feet to the paved portion of a street and must be at least five feet from any other privately owned property.

[2]: Institutional and Governmental uses may have one freestanding sign not to exceed 32 square feet in area, not to exceed 10 feet in height, and be no closer than 10 feet from any street right-of-way.

[3]: Freestanding signs that qualify as a freeway sign shall not exceed 170 square feet in area and not exceed 35 feet in height.

[4]: On each street side of less than 100 feet, a single ground sign not exceeding 12 square feet in area shall be permitted.

(c) *Setbacks.* Freestanding signs, when allowed, must be set back from lot lines in accordance with the minimum requirements of Table 4-5.

TABLE 4-5: FREESTANDING SIGN MINIMUM SETBACK			
ZONING DISTRICT	STREET	SIDE	REAR
RS-1, RS-2, RM-1, RM-2, RM-3, MHC, BR, BN, BG	**10'**	**5'**	**5'**
IR, IL, IH	**13.5'**	**5'**	**5'**
DT, NBE, MUN, MUR, MUE	**No minimums, but placement is subject to approval by the Department of Community Assets & Development. Proposed locations may be denied if the proposed location is deemed unsafe to the general public, or the location would interfere with the site's use or future development.**		

(d) *Illumination.* Freestanding signs, if illuminated, may use only indirect light, with the light source fully diffused and aimed toward the ground.

(e) *Decorative Base.* All permanent freestanding signs must have a base made of decorative materials compatible with the exterior materials of the principal building on site. The width of the decorative sign base must be at least 50 percent of the greatest width of the sign face.

(5) Manual Changeable Copy Signs

(a) *Number.* Manual changeable copy signs (where allowed) are limited to one per lot, and count towards the maximum wall or freestanding signage allowed on the lot.

(b) *Residential Zone Limitation.* Manual changeable copy signs are limited to institutional and government uses in residential districts (RS-1, RS-2, RM-1, RM-2, RM-3, and MHC).

(c) *Size of Manual Changeable Copy Signs.* The manual changeable copy portion of any sign may not exceed 50 percent of the allowable sign area or 32 square feet, whichever is less.

(6) Projecting Signs

(a) *Where allowed.* Projecting signs are allowed in mixed-use zones, subject to compliance with the regulations of Section 4.5(J)(6).

(b) *Maximum Area.* Projecting signs count towards the maximum allowed wall signage and may not exceed 12 square feet in area or three feet in width.

(c) *Projection.*

(i) Projecting signs may not project more than two feet from the surface of the wall to which they are attached and no closer than 12 inches from the curb line.

(ii) Proof of liability insurance, a hold-harmless agreement indemnifying the City, and an encroachment agreement must be provided to the Department of Community Assets & Development before the issuance of any permit for a sign projecting into the public right-of-way.

(7) Sidewalk Signs

(a) Sidewalk signs are allowed in mixed-use zones without a sign permit. Such signs are not counted against the maximum signage limits for the property.

(b) Sidewalk signs are subject to the following regulations:

(i) Signs shall be limited to two feet in width and 3.5 feet in height, including support members.

(ii) No sign shall have more than two faces.

(iii) Signs may not limit the normal pedestrian use of the sidewalk, and a minimum passable contiguous space of three feet must be maintained at all times.

(iv) One sign is permitted for each building adjacent to the public right of way For buildings with multiple occupants, additional sidewalk signs are allowed only if such signs are spaced at least 30 feet apart.

(v) All sidewalk signs must be removed from the sidewalk at the end of each business day.

(vi) No sidewalk sign may be internally or externally illuminated.

(8) Temporary Signs

(a) In General.

(i) Temporary signs may not be placed in such a way as to affect public safety or necessary ingress or egress of a public building.

(ii) The provisions of Section 4.5(C) apply to permitted temporary signs allowed under subsection 4.5(J)(8).

(b) *Temporary Business Signs By Permit.* Each business may be issued four temporary sign permits during any calendar year without a triggering event.

(i) Such temporary signs shall not be on display more than 14 days, and shall not exceed 32 square feet in area.

(ii) If in the form of window signage (limited to business, industrial, and mixed use zoning districts), the total are of window signs (both permanent and temporary) may not exceed 50 percent of the area of the window in which they are displayed.

(iii) Temporary sign permits may be issued for consecutive periods, but only one temporary sign per business shall be displayed at a time.

(iv) Businesses that are not located in multiple occupancy buildings and that have an established dynamic sign shall not be permitted temporary business signs under 4.5(J)(8)(b).

(c) *Activity-Specific Sign Allowances.* The City recognizes that specific activities on a property may result in a property owner desiring more signage than is typically allowed under the provisions of Section 4.5.

(i) Each *property* is allowed a maximum of one activity-specific sign allowance at any one time regardless of the number of activity-triggering events may be occurring on the property at the same time.

(ii) *Triggering Activities.* The following activities will allow a property owner to have additional signage on their property either by right or through a temporary use permit subject to the review provisions of Section 2.4(L).

1. *For Sale or For Lease properties – allowed by right.*
    a. In residential districts, one freestanding sign of up to six square feet may be temporarily permitted when a property (building or land) is for sale or for lease until the property is sold or let.
    b. In business and industrial districts, one freestanding sign of up to 32 square feet may be temporarily permitted when a property (building or land) is for sale or for lease until the property is sold or let.
    c. During publicly advertised open house or building tour events, up to two additional freestanding signs meeting the size standards in subdivisions 1 or 2 above, may be used up to two hours before the open house or building tour. All additional signage erected under this subsection shall be removed upon completion of the advertised open house or building tour.

2. *Institution or Business Special Event – allowed via temporary use permit.* One freestanding sign of up to six square feet, not exceeding four feet in height, may be temporarily permitted when a special event is being held on the property.
   a. The temporary sign permit may allow additional signage up to seven days before the event. All temporary signage must be removed the day after the special event concludes. No more than four special event temporary sign permits may be issued for any given property in any calendar year.
   b. Sign numbers and sizes may be increased and authorized as part of a validly issued large event permit.
3. *New Subdivision – allowed by right.* One freestanding (unlighted) sign of up to 32 square feet may be permitted following approval and recording/construction of a residential project where 10 or more new dwelling units, vacant lots, or combination thereof are initially being offered for sale or rent. Such a sign shall not be more than 10 feet in height and must be removed at the sooner of two years, or once 80 percent of the new lots and/or units have been sold or are under contract. This temporary sign may be increased up to 64 square feet in size if the sign is situated at least 150 feet from every property line of an occupied residence that is not a part of the project.
4. *Valid Building Permit – allowed by right.* One freestanding sign of up to six square feet, not exceeding four feet in height, may erected following approval and issuance of a valid building permit. Such signage may remain provided the building permit is open, but must be removed once the building permit is closed or three months have elapsed since issuance of the building permit, whichever is less.
5. *Garage sales, Rummage Sales, and Produce Sales – allowed by right.* One freestanding sign of up to six square feet, not exceeding four feet in height, may be erected at the time of a garage sale, rummage sale, or produce sale operated in compliance with City Code standards for such events. Such signage may be displayed up to one day before the sale, and must be removed immediately upon conclusion of the sale.
6. *Business Grand Opening or Closing – allowed by right.* Up to 32 additional square feet of window or freestanding signage may be displayed for up to 30 days around a business' opening date, or within 30 days of a business's scheduled closing date. Height and placement requirements for such signage shall be in accordance with underlying requirements.

(9) Wall Signs

(a) *Calculation.* The "signable area" of a given wall is determined by calculating the square feet within an imaginary rectangle around a building's wall that is free of windows and doors.

(b) In the RS-1, RS-2, RM-1, and MHC zoning districts, wall signs are limited to institutional and government uses. Institutional and governmental wall signs authorized under this subsection shall not exceed 20 percent of the allowed signable area, or 200 square feet in area, whichever is less.

(c) In the RM-2 and RM-3 districts, a single wall sign or a single freestanding sign is permitted per street frontage. No wall sign, when used, shall exceed 30 percent of the signable area or 200 square feet in area, whichever is less.

(d) In the BN district, a single wall sign is permitted per street frontage. Such sign shall not exceed 30 percent of the signable area or 200 square feet in area, whichever is less.

(e) In the BG district, a single wall sign is permitted per street frontage. Such sign shall not exceed 40 percent of the selected signable area or 200 square feet in area, whichever is less.

(f) In the IL, IH, and IR districts, a single wall sign is permitted per street frontage. Such sign shall not exceed 20 percent of the signable area or 200 square feet in area, whichever is less.

(g) Wall signs in mixed use districts shall follow the provisions of Section 4.5(K).

(h) The top of any wall sign, including any superstructure, may not extend higher than the roof of the building to which such sign is attached

(i) *Building Sides not Abutting a Street.* A wall sign may be displayed on the side or rear of a building facing a yard not abutting a street under the following conditions:

(i) The sign shall be visible from a public roadway on which the building abuts.

(ii) The side or rear yard on the side to be signed shall meet district setback and buffering requirements.

(iii) The sign shall be no larger than the largest wall sign that would be permitted on the front of the building.

(iv) If the side or rear yard on the side of the building to be signed abuts park property or a residential district, such sign shall not be lighted.

(10) Window Signs

(a) Temporary or permanent window signs must be on the inside of the window.

(b) Permanent window signs are limited to 25 percent of the surface area of the window to which they are affixed.

(c) Temporary window signs are permitted and regulated as outlined in 4.5(J)(8)(b).

(K) Signs in Mixed Use Districts

(1) Signs in the DT, MUN, MUR, and MUE Districts:

(a) All signage shall complement the associated building and site design, and be strategically located to minimize the impact of advertising on the public realm.

(b) Signs should be oriented toward and scaled to the pedestrian.

(c) Signage shall comply with requirements for individual sign types and BG sign standards as outlined in Section 4.5 except as modified below.

(i) Wall signs placed on a vertical architectural element or above a pedestrian entrance may extend above the roof deck by up to 10 feet. This provision shall not apply to mansard roofs;

(ii) No new pole signs shall be allowed;

(iii) Monument signs shall not exceed seven feet in height, measured from the finished grade of the nearest adjacent pedestrian walk. The base of the monument sign shall be consistent with the materials of the building to which it is associated.

(2) Signs in the NBE District:

(a) Wall Signs

(i) Wall signage is allowed on buildings in the NBE District within a horizontal band no more than three feet in height, at least eight feet long, and no more than 15 feet above the ground. Exception: Wall signs erected on buildings with frontage on I-35W or I-694 may exceed a height of 15 feet above ground, but no higher than two feet below the top of the tallest wall, when mounted on a building façade facing I-35W and I-694.

(ii) Wall signage may be either:

1. Attached – flat and parallel to the surface of the building and projecting no more than one foot from it, or
2. Projecting – perpendicular to the surface of the building and no more than one foot in thickness.

(iii) Attached wall signage shall consist of individual letters or script logos mounted on the building

(iv) Projecting signs may project no more than four feet from the front edge of the building and be no more than 12 square feet in area.

(v) Projecting signs may not extend over a public right-of-way or public property unless proof of liability insurance, a hold-harmless agreement indemnifying the City, and an encroachment agreement are provided to the Department of Community Assets & Development before the issuance of any permit for such a projecting sign.

(vi) Projecting signs may not extend over a designated parking space or loading area.

(vii) Signs on canopies are allowed only if they are on a surface perpendicular to the ground and if all other requirements of Section 4.5 as to area and location are adhered to.

(viii) Allowable area of wall signs is one and one half square feet of signage per lineal foot of building frontage on a public street, public open space, or private parking area. Each wall shall be calculated individually and sign area may not be transferred to another side of the building. In calculating the total allowable area of wall signage, only one side of a two-sided projecting sign shall be counted.

(b) Freestanding Signs

(i) Freestanding monument signs are allowed within the NBE District if constructed of the same exterior building materials and colors as the principal structure.

(ii) Freestanding monuments signs may be no more than 10 feet in height and no more than 50 square feet in area per side.

(iii) One freestanding monument sign per lot per street frontage is allowed.

(iv) Freestanding signs in the NBE District must be solid and opaque from the ground to the top of the sign, and the base of the sign must be as wide or wider than the face of the sign.

(c) Box signs or cabinet signs, whether on a wall, projecting, or on canopies; are prohibited with an exception for logo signs which may be approved as part of the overall signage plan.

(L) Areas of Special Control

(1) It is recognized that regulations provided in Section 4.5 cannot sensitively handle every sign situation in the City. Therefore, the City Council may designate by resolution any of the following as areas of special control:

(a) *Scenic Areas.* Areas where special architectural or historical characteristics or where natural beauty requires special sign regulations to ensure that all signs used within the areas are compatible with each other.

(b) *Shopping Centers.* Areas of intense commercial development that naturally call for signs that differ from those that would otherwise be allowed under Section 4.5.

(c) *Renewal Areas.* Are areas designed for renewal, redevelopment, or as development districts in accordance with the procedures established in Minnesota Statutes.

(2) In areas of special control, the City Council may, by conditional use permit, establish special regulations for signs that are either more restrictive or less restrictive than those provided by Section 4.5, having regard for the character of the area of special control to which the conditional use permit will apply.

(a) In scenic areas, it is generally expected that sign regulations will be more restrictive than those that would otherwise be applicable under Section 4.5.

(b) For shopping centers, in addition to general standards in Section 4.5(G), the following shall apply:

(i) The shopping center should be identified by a single ground sign for the purpose of center identification.

(ii) The height and size limitations of a ground and wall sign shall follow the BG zoning requirements, unless approved otherwise through the conditional use permit provisions herein.

(iii) would be an identity sign only.

(c) In renewal areas, it is recognized that Zoning Code regulations may have to be varied to creatively and reasonably revitalize the area. It is the intent of this paragraph that a comprehensive sign plan shall be a component of an overall renewal plan and be sensitive to and compatible with the unique physical circumstances that may be created by a renewal project. The general purposes of sound identification, reduction or clutter, and aesthetic enhancement shall, however, be the controlling standard.

(3) Conditional use permits for signs in areas of special control shall be issued as part of an overall sign plan for that area. The plan, when approved by City Council, shall constitute the permitted signs for that area and any future change to the plan shall be submitted under the conditional use permit procedure and when adopted shall become part of the conditional use permit.

(4) The procedure for obtaining a conditional use permit under Section 4.5(L) shall be as set forth in Section 2.4(D) of the Zoning Code except that no conditional use permit establishing a sign plan shall be recommended by the Planning Commission unless it finds:

(a) That the sign plan provides sound identification, reduction of clutter, and aesthetic enhancement;

(b) That the sign plan is sensitive to and compatible with physical circumstances of the site and buildings;

(c) That the sign plan is not detrimental to public safety; and

(d) That the sign plan will not impede the normal and orderly placement of signs on surrounding properties.

(M) Multiple Occupancy Buildings (Other than Areas of Special Control)

(1) Multiple occupancy buildings not displaying any wall signs, except for those allowed under Section 4.5(H), may have a single freestanding sign meeting the requirements of the underlying zoning district, or comply with the requirements of Section 4.5(H)(1).

(2) *Buildings having multiple occupancy with individual entrances:* When a building contains two or more activities carried on by different occupants, each having a separate entrance, each occupant may display an individual wall sign containing a maximum of five words or numbers. However, the combined area of all wall signs shall not exceed the allowable percentage of the total selected signable area allowed. Wall signs must be placed within the selected signable area. Such buildings may be identified by a single ground sign only, except when the ground sign is a dynamic sign. Such ground sign shall conform to all applicable size, height, and setback requirements.

(3) *Buildings having multiple occupancy with shared entrances and buildings with both individual and shared entrances:* Such joint occupancy buildings may have a single ground or wall sign in conformance with all applicable size, height and setback requirements. Such sign must be in accordance with the overall sign area and height requirements, except that the ground or wall sign may be a dynamic sign.

(N) Nonconforming Signs

It is recognized that signs exist within the City that were lawful before current sign regulations were adopted, but are prohibited under the regulations of Section 4.5. Such nonconforming signs are allowed to continue as nonconforming signs provided that such signs are safe, are maintained so as not to be unsightly, and have not been abandoned or removed. Nonconforming signs are subject to compliance with the following provisions:

(1) Nonconforming signs may not be expanded or altered in a way that increases the sign's nonconformity.

(2) If the use of the nonconforming sign or sign structure is discontinued for a period of one year, the sign or sign structure may not be reconstructed or used except in compliance with the provisions of Section 4.5.

(3) Should a nonconforming sign or sign structure be damaged or structure be destroyed by any means to an extent greater than 50 percent of its market value and all required permits for its reconstruction have not been applied for within 180 days of when the sign or sign structure was damaged, it may not be reconstructed or used except in compliance with the provisions of Section 4.5.

(4) If a nonconforming sign or sign structure is moved for any reason for any distance whatsoever, it must thereafter comply with the regulations of Section 4.5.

(5) Existing signs on the site of a use that is not permitted in the zone in which the use is located may not be enlarged, expanded, or moved except in changing the sign to a sign permitted in the subject zone.

(6) When a building loses its nonconforming status, all signs devoted to the building must be removed and all signs painted directly on the building must be repainted in a neutral color or a color that matches the building.

4.6 Underground Utilities

Unless otherwise authorized by the Department of Community Assets and Development, all utilities [e.g. cable television, electrical (excluding transformers), gas, sewer, telephone, and water lines] within or serving newly created lots (this does not include the redevelopment of existing individual lots) shall be placed underground.

4.7 Parking

(A) General Requirements.

(1) ***Application.*** Off-street parking and loading regulations shall apply to all buildings and land uses established after the effective date of this ordinance as documented in Section 1.4.

(a) At the time a property is redeveloped where cumulatively half the property area or more is altered, or whenever an existing parking lot is expanded, the developer and/or property owner shall work with the Department of Community Assets and Development to bring all parking and loading areas into conformance with the regulations of Section 4.7 as much as possible.

(b) In the event a property owner is expanding parking through reconfiguration of existing parking areas or is taking actions to decrease an existing nonconformity, regulations from Section 4.7may be waived, subject to review and approval of the Department of Community Assets and Development.

(c) Any change in use that requires more parking under Section 4.7 may only be undertaken if the property owner or developer provides additional spaces to meet parking requirements for the new use.

(2) ***Purpose.*** Off-street parking and loading regulations are established to protect the health, safety, and welfare of residents and visitors. Furthermore, the standards of Section 4.7 promote beneficial and sustainable systems to:

(a) Improve and promote safe, attractive, and efficient parking areas;

(b) Improve drainage flow and infiltration opportunities to reduce non-point source pollutants, including chlorides;

(c) Reduce heat-island effects at the local scale;

(d) Promote alternative modes of transportation and connectivity to local and regional trail systems (transit, ride-share, bicycle/scooter, etc.);

(e) Increase availability of electric vehicle charging stations and proximity to facility entrances;

(f) Provide surmountable curb for wildlife migration and improved lighting that complies with dark-sky guidelines; and

(g) Improves accessibility and safety through improved line-of-sight and reduced issues due to winter freeze-thaw events.

(3) ***Required Plan.*** Except for single- and two-family residences, all applications for a building permit or for a certificate of occupancy (CO) shall include a site plan drawn to scale indicating the location of all off-street parking and loading spaces serving the property. Approval of the building permit or CO is subject to available parking being in compliance with Section 4.7.

(4) ***Use of Parking or Loading Space.*** Unless otherwise permitted by the City, required parking or loading spaces shall not be used for alternative purposes including but not limited to: the storage of goods or trash disposal containers, storage of inoperable vehicles, or the parking of vehicles for sale or lease. Up to 15 percent of parking spaces in parking areas may be used for snow storage during winter conditions.

(5) ***Location of Parking.*** Except as provided elsewhere in this ordinance, required off-street parking spaces shall be provided on the same lot as the principal building. Additionally:

(a) The location of parking in Mixed Use zoning districts shall be in accordance with the provisions of Section 6-530.

(b) Structured parking shall be placed to minimize impacts on surrounding development and be designed to be compatible – in terms of form, materials, and architectural style – with adjacent development.

(c) Parking lots are discouraged from locating within floodplain and flood-prone areas.

(6) ***Buffers and screens.*** Off-street parking for single- and two-family residences shall not be required to be screened. Off-street parking areas of four or more spaces and loading areas on properties shall be regulated by the following provisions:

(a) When directly abutting a street or public space, a minimum five-foot wide landscape buffer shall be adorned with groundcover plantings and trees located a minimum of 30 feet on center.

(b) When directly abutting any non-mixed-use residential district, the parking or loading area shall be screened from the residential district by an opaque fence, a planting screen, a land berm of appropriate height, or a combination of the foregoing.

(c) When directly abutting or within a mixed-use district, the required landscape buffer shall adhere to the requirements of Section 3.7(E)(5)(a)(ii).

(d) Screening shall be set back from parking areas and pedestrian pathways to not create winter shade on saltable surfaces. Deciduous trees shall be exempt from this requirement.

(7) ***Landscaping and Vegetation.*** Vegetation may be used for natural filtration as part of a site's drainage system where drainage patterns align to flow towards these areas prior to stormwater runoff reaching surface water resources.

(a) General Requirements:

(i) Trees planted on the south side or within parking areas shall be deciduous to improve sunlight reaching paved areas during winter months in order to improve surface melting.

(ii) Landscaping or plantings shall consist of native vegetation species and not require the use of pesticides, herbicides, insecticides, or other plant treatments, especially neonicotinoids.

(b) Landscaped parking lot islands shall be a minimum of nine feet wide and long enough to protect adjacent parking spaces shall be required at the beginning and end of each parking row to break up longer rows. This requirement may be waived if the parking lot design achieves all of the following:

(i) Consolidates landscape and stormwater management areas into large medians,

(ii) Demonstrates adequate traffic calming,

(iii) Implements design techniques for using less salt in winter conditions [Section 4.7(B)(13)], and

(iv) Medians can function as adequate snow storage as part of a snow storage plan.

(c) Parking spaces and rows shall be organized to provide consolidated landscaped areas and on-site stormwater management.

(8) ***Lighting.***

(a) Maximum site illumination shall be regulated as follows:

(i) Site illumination shall not exceed .5 foot-candles at ground level when measured at an adjoining residential property in residential areas and two footcandles in non-residential areas.

(ii) Lighting on the site and building shall be full cut-off directional lighting directed downward, and installed so as to prevent direct light from being detectable at the lot line of the site on which the light source is located.

(iii) The site plan or alternate design documentation must contain illuminance models showing light levels throughout the site as determined necessary by the City.

(b) Lighting structures shall be located around the perimeter of the parking area and shall not be placed as freestanding structures within the parking area. Lighting structures may be placed within a traffic safety island when the parking area is sufficiently large enough to allow snow plows unimpeded access around and between island during winter snow events.

(c) Light structures within parking lots may not exceed 20 feet in height in vehicular areas and a maximum of 15 feet in height in pedestrian areas.

(d) Lighting as described in this Subsection shall not shine directly into the public right-of-way, onto any residential use, or into any natural areas, including wetlands, ponds, prairies, and forested areas.

(B) Construction and Maintenance.

(1) ***Surfacing.*** All off-street driving, loading, and parking areas shall have a paved surface. No vehicle may be parked and no property owner shall allow a vehicle to be parked off-street unless the vehicle is on and over an approved bituminous, concrete, brick, or decorative block surface that spans the entire vehicle. Maintenance shall be required to eliminate potholes, excessive cracking, or other conditions which have the potential to threaten the lifespan of the paved surface or the condition of vehicles being parked. Permeable surfaces are allowed, such as permeable pavers, permeable asphalt, or other approved and improved permeable materials. Permeable surfaces must be designed, constructed, and maintained to allow infiltration or collection of stormwater in order to count as a permeable surface. For the purposes of calculating impervious surfaces, permeable surfaces allowed for parking areas may count against impervious surface maximums found in residential zoning districts and shoreland requirements. The definition of a "vehicle" in Minnesota Statutes Section §169.011 is hereby adopted for the purpose of this ordinance and includes any conveyance with an axle. Parking areas and driveways shall be kept free of dirt, dust, debris and waste. In winter months, required parking areas shall be cleared of snow and ice within a reasonable time.

(2) ***Curbing.*** All off-street driving, loading, and parking areas shall be constructed with poured-in-place concrete curb except for single- and two-family residences. Curbs shall be surmountable to allow for better snow management in addition to facilitating wildlife crossing areas to the extent practicable, especially in areas of park setting, natural vegetation, or water resource locations.

(3) ***Striping.*** All parking stalls shall be marked with white or yellow painted lines not less than four inches wide except for single- and two-family residences. Such markings shall be maintained in a clearly legible condition.

(4) ***Traffic Safety Islands.*** Traffic safety islands shall be used to maintain safe and orderly flow of traffic within the parking lot when deemed necessary by the Department of Community Assets and Development. Where a traffic safety island is installed, a drainage management plan shall be required and the meltwater from snow piled on the island must be controlled. Any lighting located within a parking area must be located within a traffic safety island.

(5) ***Boulevard Parking.*** The boulevard portion of the street right-of-way shall not be used for parking except for improved driveways serving single- and two-family residences.

(6) ***Required Setbacks for Parking Areas, Aisles, and Driveways.*** No parking area, aisle, or driveway shall be provided in the following setback areas measured to the lot line except for driveways needed to cross the setback area to provide access to a public right-of-way.

TABLE 4-6: REQUIRED SETBACKS FOR PARKING AREAS/AISLES/DRIVES			
YARD	RESIDENTIAL	BUSINESS	INDUSTRIAL
FRONT YARD	30 ft	30 ft	40 ft
SIDE YARD	5 ft (15 ft. if zoned RM-2 or RM-3 and abutting an RS-1 or RM-1 zoned property)	5 ft (25 ft. if abutting residentially zoned property; shared driveways may have no setback)	5 ft (60 ft. if abutting residentially zoned property; shared driveways may have no setback)
SIDE YARD (STREET)	30 ft	30 ft (*15 ft. by Conditional Use Permit)	40 ft (60 ft. if across from residentially zoned property; *20 ft. by Conditional Use Permit)
REAR YARD	5 ft (15 ft. if zoned RM-2 or RM-3 and abutting an RS-1 or RM-1 zoned property)	5 ft (25 ft. if abutting residentially zoned property)	5 ft (60 ft. if abutting residentially zoned property)

* *May be allowed by the City Council by approval of a Conditional Use Permit in accordance with the standards of Section 2.4(D) and where it is determined no adverse impact would be created and would be compatible with the planned and existing characteristics of the surrounding streets and land uses.*

(7) ***Parking Space and Aisle Standards.*** All parking spaces and aisles shall comply with the minimum standards specified in this Subsection. Spaces for accessible parking shall conform to U.S. Access Board Guide to the ADA Accessibility Standards, Chapter 5.

TABLE 4-7: STANDARD PARKING STANDARDS			
ANGLE (degrees)	STALL WIDTH (feet)	STALL LENGTH (feet)	AISLE WIDTH (feet)
90°	9	18	24
60°	9	19	15*
45°	9	18	13*

* *All angle parking requires one-way aisles.*

(8) ***Driveway and Curb Cut Standards.***

(a) In all districts except R-1 and R-2 and in all multiple family residential, commercial, and industrial uses, no driveway entrances shall be less than 50 feet from any right-of-way line of a street intersection.

(b) For single- and two-family residences located in R-1 and R-2 districts, no driveway entrances shall be less than 20 feet from any right-of-way line of a street intersection.

(c) Parking stalls may not obstruct access to enclosed parking spaces and be counted toward the minimum number of parking stalls required, except for single-family, two-family, and townhome residences.

(d) The distance between driveways on the same parcel for single family and two family residences shall be no less than 40 feet. In a "circle" or "loop" driveway situation, driveways may not be closer to a neighboring driveway than 50 feet along the right-of-way.

(e) In all other cases, the distances between single-family and two-family residential driveways shall be no less than 10 feet.

(f) Driveways shall intersect streets at a 90 degree angle.

(g) No property under common ownership and used as a single unified use shall be entitled to more than two curb cuts or access points, including shared accesses, unless a site plan or site plan amendment for a greater number is approved by the City Council.

(h) For new development along existing streets where curb cuts already exists, the number of curb cuts to the site shall not be increased. Where possible, existing curb cuts should be consolidated, and access points shared as much as possible.

(i) Wherever possible, vehicular access to a site or building shall occur through an alley or on-site private drive aisle rather than by a curb cut from the street.

(j) No curb cut or access point shall be created directly into any street of collector status or greater unless approved by the City or County.

(k) The minimum and maximum widths for curb cuts and driveways shall be as follows:

TABLE 4-8: CURB CUTS AND DRIVEWAYS

Single and Two Family Residences	Minimum	Maximum
Driveways (measured at the property line)	14 feet	30 feet
Curb cuts (measured along the curb)	14 feet	24 feet
Other Residential – Driveways & curb cuts *	Minimum	Maximum
One Way	14 feet	18 feet
Two Way	24 feet	30 feet
Non Residential – Driveways & curb cuts *		
One Way	14 feet	24 feet
Two Way	24 feet	36 feet

* *For driveways crossing existing or planned future public trails, along designated safe routes to school, and in areas designated as areas of high pedestrian and cyclist use, the Department of Community Assets and Development may require limiting driveways to the minimum width allowed.*

(9) ***Circulation.*** *Except in the case of single- and two-family residences:*

(a) For vehicles:

(i) Parking areas shall be designed so that circulation between parking stalls or aisles occurs within the designated parking lot and does not depend upon a public street or alley.

(ii) Parking area designs that require backing into the public street shall be prohibited, with the exception of emergency vehicles or vehicles plowing snow.

(iii) "Entrance only" and "exit only" signs may be required by the Department of Community Assets and Development where necessary to ensure sufficient circulation and access to a public street.

(iv) Cross access and circulation across adjoining parcels is required where appropriate and feasible, to be determined by the Department of Community Assets and Development Joint circulation shall be documented in a cross access and circulation easement and agreement, subject to approval by the City.

(b) For pedestrians:

(i) Pedestrian access points shall be provided at all pedestrian arrival points to the development including the property edges, adjacent lots, abutting street intersections, crosswalks, and at transit stops if applicable. Pedestrian access shall be coordinated with existing development to provide circulation patterns between developments.

(ii) Planned trail connections as identified in the City's Comprehensive Parks Plan shall be accommodated and incorporated into projects as may be necessary by the Department of Community Assets and Development.

(iii) Pedestrian walkways and trails shall form an on-site circulation system that minimizes the conflict between pedestrians and traffic at all points of pedestrian access to on-site parking and building entrances, and between buildings.

(iv) Pedestrian access and walkways shall meet the following minimum design standards:

1. Access and walkways shall be illuminated and physically separated from driveways and parking spaces by landscaping, berms, barriers, grade separation or other means to protect pedestrians from vehicular traffic;

2. Access and walkways shall be a minimum of six feet of unobstructed width and meet City standards for surfacing of walkways or sidewalks;
3. Access shall be usable by mobility-impaired persons and shall be designed and constructed to be easily located by the sight-impaired pedestrian by either grade change, texture or other equivalent means;
4. A clearly delineated crosswalk shall be required when a walkway crosses a driveway or a paved area accessible to vehicles. Raised crosswalks or speed bumps may be required at all points where a walkway crosses the lane of vehicle travel.
5. Parking stalls shall not be located where they obstruct doorways, driveways, or pedestrian walkways.
6. In large parking lots of over 60 stalls, a combination of traffic safety islands or landscape medians, with pedestrian circulation, shall be provided to divide the parking lot into sections. No parking stall shall be over 200 feet from a median or traffic safety island with pedestrian circulation.
7. Trail designs shall meet requirements as spelled out by the Department of Community Assets and Development.

(10) ***Drive Through Facilities.*** Commercial uses containing drive-in or drive-up facilities shall be permitted only by issuance of a conditional use permit. Such conditional uses shall be considered in accordance with Section 2.4(D) and the standards in Section 5.4(E)(12):

(11) ***Drainage and Stormwater Management.***

(a) All developments with parking lots, with the exception of single- and two-family residences, shall include plans and details of proposed drainage patterns.

(b) Parking lots must incorporate drainage standards to reduce non-point source pollution and improve capturing stormwater. Improved drainage should also include infiltration or natural treatment processes prior to outflow to creeks, streams, wetlands, or other bodies of water.

(12) ***Electric Vehicle (EV) Charging.***

(a) All developments with parking lots, with the exception of single- and two-family residences, may include one or more locations to allow for electric vehicle charging, or place infrastructure nearby to facilitate future charging station installation.

(b) The thresholds for adding EV charging spaces to new developments are as follows:

TABLE 4-9: EV CHARGING SPACE THRESHOLDS

# of Parking Spaces Planned/Existing	Required # of EV Spaces and Level of Charging
29 or fewer	None Required
30 to 49	Multi-family: 5% at Level 1 or greater Non-residential: 2 spaces at Level 2 charging or greater
50+	Multi-family: 10% at Level 1 or greater; 1 space at Level 2 or greater Non-residential: 5% at Level 2 charging or greater

(13) ***Snow and Snowmelt Management.*** All developments with parking lots, with the exception of single- and two-family residences, may include locations of proposed drainage patterns for snowmelt and adequate snow storage areas, subject to the following requirements:

(a) Parking lots must have a location for storing snow in a low area of the property towards areas of existing or proposed native vegetation for infiltration. An area for snow storage must be 15 percent of the size of the parking areas and walkways to be maintained in winter conditions.

(b) Drainage and stormwater management infrastructure and designated snow storage areas may not overlap with or impede the use of accessible spaces, transit stops, sidewalks, or other pedestrian access areas.

(c) Parking lots must incorporate drainage standards to reduce non-point source pollution and improve snow melt footprint to reduce salting. Drainage should also include infiltration or natural treatment processes prior to outflow to creeks, streams, wetlands, or other bodies of water.

(14) ***Parking Structure Design.*** All parking structures in developments shall conform to the following provisions:

(a) Parking garage design should be compatible with adjacent buildings in terms of form, massing, scale, materials, and façade articulation. Pedestrian-level lighting must be included on facades abutting pedestrian walkways.

(b) Spandrel panels or opaque screening systems, such as louvers, at least 36 inches in height shall be used to screen vehicles from view on all levels.

(c) Any parking garage façade that is visible from public view shall be designed such that the internal ramping system is not visible.

(d) Wherever possible, especially for parking garage façades that face a public street, the ground floor of the parking structure should incorporate retail, commercial, or other nonresidential uses to help activate the street.

(e) Any ground-level façade of a parking garage that is visible from the street and does not provide retail, commercial, or other active ground floor uses shall include at least two of the following design features:

(i) Façade articulation through change in vertical plane or a change in building material.

(ii) The use of windows or false windows defined by frames, lintels, or sills.

(iii) Integration of multiple building entrances.

(iv) Buffering along the street edge with landscaping, street trees, green walls, or trellises with vines.

(f) Vehicular entrances to buildings and parking garages that contain a ramp shall be screened from view of the street or adjacent public space as much as possible. Where a vehicular entrance or ramp directly abuts a pedestrian walk, appropriate cautionary signs shall be used to alert pedestrians of the presence of vehicles and to inform drivers that pedestrians have the priority.

(C) Minimum Number of Off-Street Parking Spaces Required.

(1) ***Computing Requirements.*** In computing the number of parking or loading spaces required the following rules shall govern:

(a) Gross floor area of the specific use is calculated on the basis of the exterior floor area dimensions of the building, structure, or use, multiplied by the number of floors.

(b) When determining the number of off-street parking spaces, fractional results are rounded up to the nearest whole number.

(c) Except as provided for under joint parking and shopping centers, if a structure contains two or more types of use, the area of each use shall be calculated separately in determining the total number of off-street parking stalls required.

(2) ***Accessible Parking.*** For all uses where automobile parking spaces are provided except single- and two-family residences, accessible parking facilities for persons with disabilities must be provided for accessible parking, and shall be identified for such use in accordance with all applicable state regulations.

(a) The number and type of accessible parking spaces to be provided shall be based upon the US Access Board Guide to the ADA Accessibility Standards, Chapter 5. Accessible parking spaces are required for each parking facility on a site, such as lots and garages. Requirements apply equally to public and employee or restricted parking. On sites with multiple parking facilities, the minimum number of accessible spaces must be calculated separately for each parking facility instead of on the combined total of parking spaces provided on the site.

(b) At least one of every six accessible spaces, or fraction of six, in each parking facility must be sized to accommodate vans.

(c) Such parking shall be located as close as practicable to a building entrance providing improved accessible ingress into the main lobby or corridor of the building. A continuous, permanently designated pathway at grade shall be provided which links the parking spaces to the building entrance. Such pathway shall be made of concrete, asphalt paving, or similar permanent material with a slip-resistant surface, at least forty-eight (48) inches wide and with a slope not to exceed one vertical to twenty horizontal.

(d) No parking area drainage patterns shall flow towards or be placed within accessible parking areas.

(e) See Minnesota Rules Part 1341.0502 for information regarding accessible parking symbols and signage.

(3) ***Number of Spaces Required.***

(a) The following table is the minimum required number of parking spaces per use.

TABLE 4-10: MINIMUM REQUIRED PARKING SPACES BY USE	
RESIDENTIAL USES	
Land Use	# of Spaces / Unit Ratio
Single-Family	2/DU
Two-Family	2/DU (1 Enclosed)
Townhouses	2.25/DU (Included: 1 Enclosed; .25 for Visitor Parking)
Multi-Family	1.85/DU (Included: 1 Enclosed; .25 for Visitor Parking)
Senior Housing	1.25/DU (Included: .5 Enclosed; .25 for Visitor Parking)
Sanitarium, Convalescent Home, Rest Home, Nursing Home, Congregate Care/Assisted Living	0.25/Bed (Visitors); 1/Employee on Shift
Group Homes, Nursing Homes, Boarding Houses	0.5/Bed
COMMUNITY & INSTITUTIONAL USES	
Land Use	# of Spaces / Unit Ratio
Places of Public Assembly	0.33/Seat
School (K-12, Primary/Secondary/Post-Secondary)	Parking Study Needed
Hospitals	3/Bed and 0.75/Employee
Libraries, Museums, Post Offices, Art Galleries	2/Employee and 2/1,000 sq ft GFA
Municipal Administration Buildings	1/200 sq ft Floor Space

(continued on next page)

COMMERCIAL USES	
Land Use	# of Spaces / Unit Ratio
Undertaking Establishments	20/Chapel or Parlor; and 1/Employee
Auto/Motor Fuel Stations and Convenience Stores	5/1000 sq ft GFA
Auto Repair, Auto Sales, Trailer Sales, Marine, Garden Center Sales	2/Employee
Beauty Shops, Barber Shops, Tanning Salons	2 Minimum and 1/Chair
Bowling Alleys	2/Lane
Car Wash (Automatic Drive-Through Service)	2 Minimum and 1/Attendant
Car Wash (Self-service)	10 Minimum and 1/Attendant
Cinemas and Theaters	0.33/seat
Clinics (Medical, Veterinary, Animal Hospital)	5/1000 sq ft Floor Space
Day Care/Montessori	0.3/Person
Commercial Lodging (Motels and Hotels)	1.25/Room; add 10/1000 sq ft GFA for lounge/restaurant; add 30/1,000 sq ft GFA for conference/banquet facilities
Banks, Offices	3.5/1,000 sq ft GFA
Restaurants (Drive-in/Fast Food)	15/1,000 sq ft GFA
Restaurants (Sit Down Full Service)	15/1,000 sq ft GFA
Nightclubs/Bars	20/1000 sq ft Floor Space
Retail	3/1,000 sq ft GFA
Shopping Centers	4/1,000 sq ft GFA
Supermarkets	4/1,000 sq ft GFA

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INDUSTRIAL USES	
Land Use	# of Spaces / Unit Ratio
Warehouse & Wholesale	1/1,000 sq ft GFA
Warehouse (30%-65% office or showroom space)	1/1,000 sq ft GFA and 1/Employee
Manufacturing or Processing Plants	2.5/1000 sq ft Floor Space or 1/Employee on Shift (Whichever is Greater); and 1/Company Vehicle
Light Industrial/Accessory Manufacturing	2.5/1,000 sq ft GFA
Indoor/Outdoor Self Storage	1.5/50 storage units

(b) The maximum parking allowed for non-residential and mixed-use developments shall be 10 percent over the minimum. Developments proposing more than the allowed maximum shall submit a parking study and provide parking area enhancements per Section 4.7(D)(2)(e) and be approved by the City Council.

(c) Non-residential uses may count on-street parking spaces in public right-of-way abutting the site towards satisfying off-street parking requirements. One on-street parking space credit may be taken for each 20 linear feet of abutting street where on-street parking is allowed. Only spaces on the same side of the street as the site may be counted.

(d) Non-residential uses and mixed-use developments not providing a minimum number of spaces within 10 percent of the minimum number of parking shall submit a parking study. The parking study shall include documenting that the number of spaces provided will not require off-site parking, not covered under joint parking and shopping centers, or on-street parking away from the property. Approval of the proposed parking ratio is subject to City Council approval, along with constructing elements or enhancements to parking areas per Section 4.7(D)(2).

(e) Residential uses not providing the minimum amount of parking shall submit a parking study documenting the number of spaces needed for the development, along with elements or enhancements to parking areas per Section 4.7(D)(2). Approval of the proposed parking ratio is subject to City Council approval.

(4) ***Bicycle and Scooter Parking***. For all uses where automobile parking spaces are provided except single- and two-family residences, parking facilities for bicycles and scooters must be provided and shall be regulated by the following provisions:

(a) The number of bicycle and scooter spaces to be provided shall be based upon the following chart:

TABLE 4-11: BICYCLE AND SCOOTER SPACES

Land use	Number of Spaces
Residential	1.0 per two dwelling units
Non Residential	Minimum of 1.0; and 1.0 per 20 vehicle parking spaces

(b) A bicycle or scooter space is equal to one-half bicycle rack. When calculating the number of spaces, the total number is rounded up to the nearest whole number. Long-term bicycle storage indoors may count towards no more than 80 percent of the required bicycle and scooter spaces.

(c) An acceptable bicycle rack is an inverted U shape made of bent metal with two points of contact with the ground. The rack must have a concrete footing or foundation, or similar method of installation affixing it to the ground. Long-term bicycle storage provided indoors is not restricted to a U-shaped rack.

(d) The area around bicycle or scooter spaces must have three feet of clearance measured from the furthest extent of the bicycle rack. This clearance may not conflict with pedestrian pathways or circulation. The area within this clearance and underneath the bicycle rack must be paved.

(e) Parking for bicycles and scooters must be illuminated at night with a dedicated lighting fixture and be located within 100 feet of the main public building entrance on the same property.

(5) ***On-demand and Ride-hailing Transportation Services.*** For all uses where automobile parking spaces are required except single-family, two-family, and townhome residences, parking facilities for transportation services using on-demand methods or platforms for ride-hailing and deliveries and shall be regulated by the following provisions:

(a) A business or single residential building may utilize one off-street parking spaces dedicated to ride-hailing and deliveries. A shopping center, residential complex, mixed-use development, or joint facility may utilize two off-street parking spaces dedicated to ride-hailing and deliveries.

(b) Businesses and commercial areas within a 1,000 foot radius may organize and designate a total of one on-street space per participating business, where available, for ride-hailing and delivery services.

(D) Special Circumstances.

(1) ***Proof of Parking for Delayed Construction.*** The City may approve a proof of parking plan that proposes to install initially only a portion of the required parking but that demonstrates that the full complement of required parking could be installed on the property in accordance municipal standards at a later date as determined by the City. In all instances where proof of parking is permitted, a legal instrument which is satisfactory to the City Attorney as to form and manner of execution shall be entered into by the parties concerned for a proof of parking agreement. Such instrument must be filed with the City and recorded with Ramsey County.

(2) ***Parking Space Reductions and Enhancements.*** The following off-street parking reductions may be utilized except as indicated otherwise, subject to a parking analysis and plan adopted by City Council, with a recorded agreement to ensure stipulations for reductions and enhancements are maintained and subject to a maximum reduction of 15 percent of required minimum parking spaces:

(a) Off-street parking facilities for existing uses as of the effective date of this ordinance, as documented in Section 1.4, shall not be reduced to an amount less than that required under Section 4.7.

(b) Transit. The minimum number of required spaces for use(s) may be reduced by five percent if the building is located within one-quarter of a mile from a qualified transit stop; to qualify, the transit stop must be served by regular transit service on all days of the week and adequate pedestrian access must be available between the transit stop and the use(s). Information about transit routes and schedules should be posted in public spaces within the building to encourage the use of transit.

(c) Car-share parking. A reduction of up to one required space per reserved parking space for car-share vehicles or five percent of the required parking spaces, whichever is greater, may be granted for any development that provides reserved parking for car-share vehicles. Reserved parking spaces for car-share vehicles may be provided in any required or non-required off-street parking space. Parking spaces for car-share vehicles shall be provided in convenient, accessible locations within 100 feet of a public entrance to a principal building.

(d) Ridesharing and Car Pooling. The City recognizes the benefit of ridesharing and carpooling. Any non-residential use that offers rideshare or carpooling to its employees may reduce the number of required spaces by five percent.

(e) Parking Enhancements. A percentage increase or decrease, depending on the use, in parking may be approved by the City, utilized jointly or separately except as indicated otherwise, provided that one of the following conditions are met. The following enhancements may be used to the benefit of the development:

(i) Incorporation of EV charging stations or installation of infrastructure for future installation, compliant with Section 4.7(B)(12), modifies the parking ratio by five percent.

(ii) Incorporation of snow and snowmelt management design principles for all surface parking areas, compliant with Section 4.7(B)(13), modifies the parking ratio by five percent.

(iii) Construction of structures covering 50 percent or more of provided surface parking spaces, when the structure is designed and built to hold solar panels and passively generate electricity, modifies the parking ratio by five percent.

(iv) The area which would have been occupied by the eliminated parking spaces in items (1) to (3) above must be devoted to pervious surfaces, stormwater facilities, tree retention, or native landscaping as directed by the Department of Community Assets and Development.

(3) ***Other Uses***. Parking requirements for unique uses or unique circumstances not specifically mentioned in Section 4.7 shall be determined on an individual basis. Factors to be considered shall include: size of building, type of use, number of employees, peak demand hour, expected volume and turnover of customer traffic, and expected frequency and number of delivery or service vehicles. The applicant shall be responsible for collecting, assimilating, and presenting the data to support the request. The data must be documented to the City's satisfaction.

(4) Joint Facilities. The City may approve a conditional use permit for one or more uses to provide the required off-street parking facilities by joint use of one or more sites if the total number of spaces provided is less than the sum of the total required for each business had they provided them separately. The City shall not approve such a conditional use permit unless the following conditions exist:

(a) No more than 50 percent of the parking facilities required for a theater, bowling alley, dance hall, bar or restaurant may be supplied by the off-street parking facilities provided by types of use specified as primarily daytime in Section 4.7(C)(3)(a).

(b) No more than fifty percent of the off-street parking facilities required by Section 4.7(C)(3)(a) for a primarily daytime use may be supplied by the parking facilities provided by the following nighttime or Sunday uses: auditoriums incidental to public or private schools, places of public assembly, bowling alleys, dance halls, theaters, bars, or restaurants.

(c) No more than 80 percent of the parking facilities required by Section 4.7(C)(3)(a) for places of public assembly or for auditoriums incidental to public or private schools may be supplied by the off-street parking facilities provided by uses specified in Section 4.7(C)(3)(a) as primarily daytime.

(d) For the purpose of Section 4.7, the following may be determined by the City Council to be primarily daytime uses: banks, business offices, manufacturing, wholesale and similar uses.

(e) Required accessible parking spaces and required parking for residential uses may not be located off site.

(f) Off-site parking areas much be located within a 1,000-foot radius of the use served by such parking, measured from the nearest public entrance door of the use.

(5) ***Conditions Required for Joint Use.*** The following conditions shall apply in all instances in which joint use of parking is permitted:

(a) The building or use for which an application is being made to utilize the off-street parking facilities provided by another building or use shall be located adjacent to such parking facilities.

(b) The applicant shall show that there is no substantial conflict in the principal operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed.

(c) A legal instrument, satisfactory to the City Attorney as to form and manner of execution, shall be executed by the parties concerned for joint use of off-street parking facilities and filed with the City. Such instrument also shall be recorded with Ramsey County.

(6) ***Setback exception.*** Joint or combined parking facilities or adjoining parking facilities on separate lots as authorized and when constructed adjacent to a common lot line separating two or more parking areas are not required to observe the parking area or driveway setback from the common lot line.

(E) Off-Street Loading/Unloading.

(1) ***Location.***

(a) All loading/unloading areas shall be off-street and located on the same lot as the building or use to be served.

(b) All loading/unloading space curb cuts shall be located a minimum of 50 feet from the intersection of two or more street rights-of-way.

(c) All loading/unloading spaces serving an industrial use shall not be located closer than 100 feet to a residential district.

(d) All loading/unloading spaces shall be in the side or rear yards.

(e) All loading/unloading docks and vehicular doors shall be, when facing a public right-of-way, 50 feet or more from said right-of-way.

(f) Each loading/unloading space shall be located so that it will not block or interfere with any traffic flow.

(g) On the same premises with commercial or industrial uses that require the shipping or receiving of goods or supplies, loading/unloading space shall be provided as follows:

TABLE 4-12: LOADING & UNLOADING SPACES

Land use	Number of Spaces
Residential	1.0 per two dwelling units
Non-Residential	Minimum of 1.0; and 1.0 per 20 vehicle parking spaces

(2) ***Accessory Use, Parking and Storage.*** Any space allocated as a required loading/unloading space or access drive shall not be used for the storage of goods, inoperable vehicles or snow and shall not be included as part of the space required for off-street parking.

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CHAPTER 5: USE STANDARDS

5.1 Use Tables

(A) Explanation of Use Table Structure

(1) Organization of Chapter 5 Use Tables

Tables in Chapter 5 are organized by Use Classifications or Use Types.

(a) Use Classifications

The Use Classifications are: Residential Uses; Civic and Institutional Uses; Office Use; Commercial Uses; Mixed Uses; and Industrial Uses. The Use Classifications provide a systematic basis for assigning present and future land uses into broad general classifications (e.g., residential and commercial uses). The Use Classifications then organize land uses and activities into specific "Use Types" based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered and site conditions.

(b) Use Types

The specific Use Types identify the specific uses that are considered to fall within characteristics identified in the use Classifications. For example; detached dwellings, parks and recreational areas, and schools are "Use Types" in the Single Family Residence District.

(2) Symbols used in Chapter 5 Use Tables

(a) Permitted Uses = P

A "P" indicates that a use is permitted by right, subject to compliance with all other applicable provisions of this ordinance. Uses may be subject to special regulations as referenced in the "Additional Requirements" column which may include triggers requiring a conditional use permit.

(b) Conditionally Permitted Uses = C

A "C" indicates that a use is permitted provided the City can establish conditions necessary to ensure the use is compatible to the proposed location and surrounding properties. Inability of the City to establish conditions to adequately control anticipated impacts is justification for denial of a conditionally permitted use. Conditional uses may also be subject to special regulations as referenced in the "Additional Requirements" column.

(c) Interim Permitted Uses = I

An "I" indicates that a use may be permitted for a brief period of time provided certain conditions are met, and a specific event or date can be established for discontinuance of the use. Inability of the City to establish conditions to adequately control anticipated impacts is justification for denial of an interim permitted use. Interim permitted uses may also be subject to special regulations as referenced in the "Additional Requirements" column.

(d) Prohibited Uses = Shaded Cells

A shaded cell indicates that the listed use is prohibited in the respective base zoning district.

(e) Unlisted Uses

(i) If an application is submitted for a use that is not listed in the Chapter 5 use tables, the Department of Community Assets and Development is authorized to classify the new or unlisted use into an existing Use Type that most closely fits the new or unlisted use. If no similar use determination can be made, the use will be considered prohibited in which case an amendment to the ordinance text would need to be initiated to clarify if, where, and how a proposed use could be established.

(ii) Accessory uses allowed in commercial and residential zones of the City that are not specifically addressed in this Chapter are presumptively allowed in the mixed-use district subject to the regulations governing said improvements elsewhere in this Code. Final determination of whether an unlisted accessory use shall be allowed and whether said use meets zoning standards shall be determined by the Department of Community Assets and Development.

TABLE 5-1: PRINCIPAL USES BY DISTRICT

Use Types P = Permitted C = Conditionally Permitted I = Interim Permitted	Base Zoning Districts																	Additional Requirements
	RS1	RS2	RM1	RM2	RM3	MHC	BR	BN	BG	IR	IL	IH	MUDT	NBE	MUN	MUR	MUE	
Residential Uses																		5.3(A)(1)
Assisted Living, Nursing and Rest Homes, etc				C	C		C	C	C	C			C	C	C	C	C	5.3(A)(2)
Attached Dwelling Types																		5.3(A)(3)
– Duplex and Twin Homes			P	P	P								P	P				5.3(A)(4)
– Townhomes			C	P	P								P	P	P	P	P	5.3(A)(5)
– Multiple Family					P								P	P	P	P	P	5.3(A)(6)
Community Gardens	P	P	P	P	P	P	P	P					P	P				5.3(A)(7)
Detached Dwelling	P	P	P	P	P	P	P						P	P				5.3(A)(8)
Group Residential Facility, Single Fam.	P	P	P	P	P		P						P	P				5.3(A)(9)
Group Residential Facility, Multi Fam.			P	P	P								P	P	P	P	P	5.3(A)(9)
Live-work Unit							C	C					C		P	P	P	5.3(A)(10)
Manufactured Home Community						P												5.3(A)(11)
Sacred Settlements	C	C	C	C	C			C	C				C		C	C	C	5.3(A)(12)
Short Term Rental (i.e. Air B&B)	P	P	P	P	P	P	P						P	P	P	P	P	5.3(A)(13)
Civic & Institutional Uses																		
Active Park Facility (public)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	5.3(B)(1)
Active Park Facility (private)	P	P	P	P	P	P							P	P	P	P	P	5.3(B)(1)
Cemeteries				C	C													5.3(B)(2)
Clinics/Medical Services				C	C			C	C	C			C	C	C	C	C	5.3(B)(3)

TABLE 5-1: PRINCIPAL USES BY DISTRICT

Use Types P = Permitted C = Conditionally Permitted I = Interim Permitted	Base Zoning Districts																	Additional Requirements
	RS1	RS2	RM1	RM2	RM3	MHC	BR	BN	BG	IR	IL	IH	MUDT	NBE	MUN	MUR	MUE	
Civic & Institutional Uses (continued)																		
Essential Services	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	5.3(B)(4)
Hospitals				C	C				C	C				C		C	C	5.3(B)(5)
Passenger Terminal									C	C	C	C	C			C	C	5.3(B)(6)
Passive Parks & Open Space	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	5.3(B)(7)
Place of Public Assembly	C	C	C	C	C			C	C				C		C	C	C	5.3(B)(8)
Public Buildings or Uses	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	5.3(B)(9)
Schools, K – 12	C	C	C	C	C			C	C				C		C	C	C	5.3(B)(10)
Schools, Higher Education	C	C	C	C	C			C	C				C	C	C	C	C	5.3(B)(11)
Utilities (major)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	5.3(B)(12)
Office Uses																		
Offices							P	P	P	P	P	P	P	P	P	P	P	5.3(C)
Commercial Uses																		5.3(D)(1)
Adult Uses										P	P	P						5.3(D)(2)
Auto Repair -- Minor									C	C	C	C	C		C	C	C	5.3(D)(3)
Automotive Car Wash									C	C	C	C			C	C	C	5.3(D)(4)
Brew Pub									C	C			C	P	P	P	P	5.3(D)(5)
Business Support Services									P	P	P	P	P	P	P	P	P	5.3(D)(6)
Cannabis Retailer									P		P	P			P	P		5.3(D)(7)
Commercial Lodging				C	C				C					C		C	C	5.3(D)(8)
Communications / Broadcasting								C	C	C	C	C		C				5.3(D)(9)
Convenience Retail								P	P	P	P	P	P	P	P	P	P	5.3(D)(10)

TABLE 5-1: PRINCIPAL USES BY DISTRICT

Use Types P = Permitted C = Conditionally Permitted I = Interim Permitted	Base Zoning Districts																	Additional Requirements
	RS1	RS2	RM1	RM2	RM3	MHC	BR	BN	BG	IR	IL	IH	MUDT	NBE	MUN	MUR	MUE	
Commercial Uses (continued)																		
Day Care Center				C	C	C	C	C	C				C	C	C	C	C	5.3(D)(11)
Entertainment/Rec Indoor Commercial								C	C	C	C		C	C		C	C	5.3(D)(12)
Entertainment/Rec Outdoor Com.								C	C	C	C		C	C		C	C	5.3(D)(13)
Event Center											C	C		C		C	C	5.3(D)(14)
Farmers Market	C	C	C	C	C	C	C	C	C				C	C	C	C	C	5.3(D)(15)
Financial Institution									P	P	P	P		P	P	P	P	5.3(D)(16)
Firearm Related Use											C	C						5.3(D)(17)
Funeral Services & Mortuaries*								C	C	C	C		C		C	C	C	5.3(D)(18)
Kennels, Pet Shops, Veterinary Facilities								C	C	C	C		C	C	C	C	C	5.3(D)(19)
Landscaping / Nursery Business									C	P	P	P	C	C	C	C	C	5.3(D)(20)
Parking Lot as a Principal Use								P	P	P	P	P	P	P	P	P	P	5.3(D)(21)
Personal / Professional Services							P	P	P	P	P	P	P	P	P	P	P	5.3(D)(22)
Production Brewery or Micro-Distillery										C	C			C		C	C	5.3(D)(23)
Recreational Vehicle Camp Site											C	C						5.3(D)(24)
Repair Establishment								P	P	P	P	P	P	P	P	P	P	5.3(D)(25)
Restaurants									P	P	P	P	P	P	P	P	P	5.3(D)(26)
Retail Commercial Uses								P	P	P	P	P	P	P	P	P	P	5.3(D)(27)
Specialty Eating Establishments								P	P	P	P	P	P	P	P	P	P	5.3(D)(28)

TABLE 5-1: PRINCIPAL USES BY DISTRICT

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	RS1	RS2	RM1	RM2	RM3	MHC	BR	BN	BG	IR	IL	IH	MUDT	NBE	MUN	MUR	MUE	
Commercial Uses (continued)																		
Vehicle Fuel Sales									C	C	C				C	C	C	5.3(D)(29)
Vehicle Sales and Rental									C	C	C					C		5.3(D)(30)
Wholesale Sales											P	P						5.3(D)(31)
Wireless Tele-communication Tower / Antenna / Support Structure	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	5.3(D)(32)
Industrial Uses																		5.3(E)(1)
Auto Repair – Major												C						5.3(E)(2)
Bulk Fuel Sales and Storage												C						5.3(E)(3)
Cannabis Cultivation & Product Creation											P	P						5.3(E)(4)
Corporate Headquarters														P				5.3(E)(5)
Extraction of Materials											I	I						5.3(E)(6)
General Warehousing											P	P						5.3(E)(7)
Industrial Services										C	P	P		P				5.3(E)(8)
Machinery/Truck Repair & Sales												C						5.3(E)(9)
Manufacturing, Light									C	P	P	P	C	P		C	C	5.3(E)(10)
Manufacturing, Heavy												P						5.3(E)(11)
Recycling and Salvage Center											C	C						5.3(E)(12)
Research Laboratory									C	C	P	P	C	P			C	5.3(E)(13)
Self-Storage Facilities										P	P	P						5.3(E)(14)
Truck or Freight Terminal												C						5.3(E)(15)

5.2 General Regulations for All Uses

(A) Combination Uses

In the BN, BG, IR, IL, IH, MUDT, NBE, MUN, MUR, and MUE districts, combination uses may be allowed within the principal building with each use subject to all regulations in this ordinance.

(B) Nuisances Prohibited

In addition to all nuisance provisions within City code, the following shall apply:

(1) Refuse and Garbage

(a) In all districts, all refuse, rubbish, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such a purpose.

(b) The owner of vacant land shall be responsible for keeping the land free of refuse, rubbish, or garbage.

(2) Smoke

The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 1-15.

(3) Dust and Other Particulated Matter

The emission of dust, fly ash, or other particulated matter by any use shall be in compliance with and regulated by the State of Minnesota Air Pollution Control Standards, Minnesota Regulation APC 1-15.

(4) Noise

Unless otherwise exempted in code, noises emanating from any use shall be in compliance with and regulated by the State of Minnesota pollution control standards and rules.

(5) Flammable liquids and Hazardous Materials

Storage and use of flammable liquids and hazardous material shall be subject to review and approval of the Fire Marshal, and shall only be done in accordance with applicable local, county, state, and federal regulations.

(C) Building and Structure Location

(1) Future Street Plans

All buildings and structures shall be placed so as not to obstruct planned future streets or improvements shown on the City's Official Map.

(2) Access Considerations

All structures shall be located on lots so as to provide safe and convenient access from adjacent public streets and sidewalks for servicing/maintenance, fire protection, and the accommodation of required off-street parking.

(D) Fire Protection

Fire protection measures within buildings shall meet applicable requirements for a property's use and for all commodities being stored. At the direction of the Fire Marshal, a fire protection engineer shall be hired by the property owner to document compliance to all applicable fire regulations.

(E) Surfacing

In all districts, surfaces devoted to parking, driving, and outdoor storage authorized by conditional use permit shall be designed to maintain proper drainage and stormwater treatment, and shall consist of an improved dustless surface not including include dirt, sand, or gravel.

5.3 Principal Uses

(A) Regulations for Residential Uses

(1) General Regulations for All Dwellings

(a) All dwellings located in any residence district shall conform to the following minimum requirements:

(i) All dwellings shall be placed on a permanent foundation which complies with the Minnesota State Building Code, and which are solid for the complete circumference of the dwelling.

(ii) All dwellings shall be served by public sanitary sewer and water.

(iii) Direct vehicular access to residential units from arterial or collector roadways shall be prohibited unless no other reasonable alternative exists as determined by the Department of Community Assets & Development.

(iv) In addition to standards applicable to all houses in residential districts, manufactured homes, as defined by Minnesota Statutes, shall be built in compliance with the Minnesota Manufactured Homes Building Code and all statutory requirements.

(v) No cellar, basement, garage, tent, trailer, motor vehicle, or accessory building shall at any time be used as an independent residence, either temporarily or permanently, unless expressly authorized by this ordinance, or expressly authorized as an accessory dwelling unit; tents, playhouses or similar structures may be used for play or recreational purposes.

(b) No manufactured home shall be moved into the City that does not meet the Manufactured Home Building Code as defined in Minnesota Statutes, Section 327.31, subdivision 3 which shall mean United Stated Department of Housing and Urban Development (HUD) certified.

(c) Opt-Out of Minnesota Statutes, Section 462.3593, Temporary Family Health Care Dwellings

Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City opts-out of the requirements of Minnesota Statutes, Section 462.3593, which defines and regulates temporary family health care dwellings as a permitted use. A temporary family healthcare dwelling is allowed in certain circumstances provided that a license has been obtained from the City and it meets the requirements of Article 18 of Chapter 15 of the City Code.

(2) Assisted Living facilities, Nursing Homes, Rest Homes, etc.

(a) The facility shall have direct or near-by access to a public park, or shall provide on-site, outdoor amenities adequate to serve the population of the facility.

(b) If possible, loading and refuse collection areas shall be located in such a manner that minimizes traffic through adjacent residential neighborhoods, and minimizes visibility from adjacent residential neighborhoods.

(c) In BG, IR, MUDT, NBE, MUN, MUR, and MUE districts, the main building shall not be less than 50 feet from any adjoining premises in a residential district not used for a similar purpose.

(3) General Regulations for All Attached Dwelling Types

None

(4) Duplex and Twin Homes

Twin home lots shall be considered conforming to minimum lot size requirements provided the combined size of the lot for each unit meets or exceeds the minimum requirements for the underlying zoning district.

(5) Townhomes

(a) MUN, MUR, and MUE Specific Regulations

(i) No building shall contain more than eight dwelling units.

(ii) Each dwelling unit shall have separate and individual front and rear entrances.

(iii) Private driveways for garages in townhouse developments shall provide a minimum of 20 feet worth of parking space which does not interfere with the use of public sidewalks or trails.

(b) Reserved

(6) Multiple Family Buildings

(a) MUN, MUR, and MUE Specific Regulations

(i) Density

1. Allowed densities in the MUR district are 12 to 50 units per acre by right, or up to 60 units per acre through the Planned Residential Development or Planned Unit Development process.
2. Allowed densities in the MUN and MUE districts are 8 to 40 units per acre.

(ii) Mixing of Uses

1. Commercial and residential development may be combined vertically in the same building, or horizontally on the same or adjacent sites.
2. When uses are mixed within a multiple family building; retail, service, offices, and civic uses should be focused on the ground floor and dwelling units focused on upper floors.

(b) Reserved

(7) Community Gardens

The purpose of permitting urban agriculture is to promote local food production for local consumption and promote the health, environmental, and economic benefits of having such uses. Where open space requirements are in place, community gardens may count towards required open space.

(a) Prior to a parcel being utilized as a community garden, the landowner shall be required to secure an annual community garden permit from the Department of Community Assets and Development. Application for the permit shall include at a minimum:

(i) A complete application form as provided by the Department of Community Assets and Development;

(ii) Proof of ownership, or approval to operate the community garden from the property owner of record;

(iii) An operating plan showing how the community garden will meet all minimum standards required by 5.3(A)(7)(b).

(iv) A to-scale site plan or survey showing the garden's location on the property, along with the dimensions and height of any proposed structures such as sheds or fencing; and

(v) Any additional information as required by the Department of Community Assets and Development.

(b) Community Garden Minimum Standards:

(i) Gardens shall be run by a nonprofit entity, community group, or neighborhood group acting as the garden coordinator to ensure code and permit guidelines are followed.

(ii) Gardens shall be limited to the cultivation of fruits, vegetables, herbs, plants, flowers, fungi, and mushrooms.

(iii) The garden shall be served by a metered water supply sufficient to support the cultivation practices on the site.

(iv) Containers, including water bins and planters, shall not hold standing water unless they are completely covered.

(v) One small storage shed, 100 square feet or less, may be permitted provide it meets all setbacks required by the underlying zoning district and does not exceed 15 feet in height.

(vi) Greenhouses or hoophouses associated with a community garden may only be authorized by conditional use permit and may be denied for any suspected negative impact to adjacent property. Low tunnels are permitted provided they are removed at the end of spring and fall.

(vii) Community gardens must be maintained in a clean and neat manner and be kept free of trash, weeds, and residual clippings, year-round, including times when the garden is fallow.

(viii) Community gardens shall only be open and active during the hours of 7:00 a.m. to 9:00 p.m.

(ix) Compost must be kept at least 20 feet away from adjacent single-family residential property lines.

(x) Incidental sales of harvested goods or plants are prohibited on-site, unless otherwise lawfully permitted in the underlying zoning district where the community garden is located.

(xi) Overhead lighting is prohibited.

(xii) Signage is limited to a single, non-illuminated, single sided sign of four-square feet.

(8) Detached Dwellings

The minimum width of the main portion of detached dwellings shall not be less than 20 feet as measured across the narrowest portion.

(9) Group Residential Facilities

All group residential facilities shall be issued and must maintain a valid state license to be in operation.

(10) Live/Work Units

The following limitations shall apply to live/work units:

(a) Live/work units shall not exceed 3,000 square feet in area.

(b) The nonresidential portion of a live/work unit shall not exceed 50 percent of unit's gross square footage.

(c) The nonresidential area of the unit shall be limited to the first or main floor only of the live/work unit.

(d) Not more than five nonresidential workers or employees are allowed to occupy the nonresidential area at any given time.

(11) Manufactured Home Community

Establishment of a new Manufactured Home Community or expansion of an existing Manufactured Home Community is governed by Chapter 16 of the City Code.

(12) Sacred Settlements

(a) Minimum standards for the overall sacred settlement shall include:

(i) The sacred settlement shall be covered by an appropriate level of insurance as determined by the City Attorney;

(ii) Between one-third and 40 percent of the tiny homes in the sacred settlement shall be occupied by designated volunteers who live in the settlement as their sole form of housing;

(iii) The settlement shall adhere to all laws governing landlord and tenants under Minnesota Statutes Chapter 504B.

(iv) A written plan, approved by the religious institution's governing board, shall be provided to the City complete with the following:

1. Plans for disposal of water and sewage from units if not plumbed, and septic tank drainage if plumbed units are not connected to the primary worship location's system.

2. Survey, or site plan based on survey data, showing adequate parking, lighting, and access to units by emergency vehicles is being provided.

3. A set of protocols covering security, how the institution will address conduct within the settlement, and safety protocols for severe weather.

(b) Minimum standards for sacred settlement tiny units are:

(i) All micro units must be built to the requirements of the American National Standards Institute (ANSI) Code 119.5, which includes standards for heating, electrical, fire, and life safety.

(ii) Tiny units shall be subject to yearly inspection for compliance with statutory standards and must meet the following minimum requirements:

1. Be no more than 400 gross square feet.

2. Be built on a permanent chassis and anchored to pin foundations with engineered fasteners.

3. Have exterior material compatible in composition, appearance, and durability to materials used in standard residential construction.

4. Meet minimum framing standards and insulation ratings for doors and windows and include a dry, compostable, or plumbed toilet meeting Minnesota Pollution Control Agency rules.

5. Include smoke and carbon monoxide detectors and comply with municipal setback requirements if established by ordinance or be set back on all sides by at least 10 feet if no ordinance exists.

6. Have access to water and electric utilities either by connecting the units to the principal building or by providing access to permanent common kitchen facilities and common facilities for toilet, bathing, and laundry consistent with boarding house requirements under Minnesota Rules, Part 1305.2902.

(13) Short Term Rentals

No short-term rental of a dwelling unit or portion of a dwelling unit shall occur until a short-term rental permit has been issued subject to the requirements of City Code Chapter 13.

(B) Regulations for Civic & Institutional Uses

(1) Active Park Facilities

(a) Private park facilities must be operated only for the enjoyment and convenience of the associated residents, members, and their guests.

(b) Golf courses included as part of an active park facility, shall require approval of a conditional use permit.

(2) Cemeteries

(a) Adequate landscaping shall be provided between the cemetery plots and all adjacent land in the district.

(b) New cemeteries shall be located on a site or parcel that fronts an arterial or collector street.

(c) Cemeteries shall include adequate space for the parking and maneuvering of funeral processions.

(d) Interments shall take place in locations which meet all underlying structural setbacks.

(3) Clinics / Medical Services

None.

(4) Essential Services

(a) Essential services may be located in any district subject to compliance with all applicable laws, regulations, and ordinances.

(b) Prior to the commencement of construction, installation, or condemnation of essential services, plans for the proposed essential service activity shall be submitted to and reviewed by the City Engineer.

(c) The City may require that the location and construction of essential services be made compatible with the existing and planned development including—without limitation—roads, parks, schools, and buildings.

(5) Hospitals

All principal buildings shall be no less than 50 feet from any adjoining property not used for a similar purpose whose zoning classification allows residential uses.

(6) Passenger Terminal

None

(7) Passive Parks & Open Space

None

(8) Places of Public Assembly

(a) Non-mixed use districts

(i) Along side lot lines, all buildings shall be set back from an adjoining residential district a distance no less than double the adjoining residential side yard setback.

(ii) When directly abutting a residential use in a residential use district, the property shall be screened with a Type-B aesthetic buffer in accordance with section 4.1(H) of this ordinance.

(b) Mixed Use Districts

(i) Institutions on parcels exceeding 20,000 square feet in area shall be located with direct frontage on, and access to, a collector or arterial street.

(ii) Building architecture shall be designed to reflect retail, street-level architecture that will complement and blend with current and anticipated development within the mixed use district.

(iii) Institutions abutting either R-1 or R-2 zoned property shall install all necessary soundproofing and screening measures as may be necessary to eliminate sound and lighting impacts to adjacent residential units.

(iv) Required parking shall be made available for sharing with surrounding uses during times the institution is not in business or in session. Parking and traffic studies shall be provided with any proposal for a place of public assembly to identify ways parking may be shared, and to demonstrate that peak hour traffic to the facility can be accommodated by the provided and surrounding roadway infrastructure.

(9) Public Buildings or Uses

None

(10) Schools, K through 12

(a) Principal structures shall not be located less than 30 feet from any boundary line used or intended to be used for residential purposes.

(b) Site design shall accommodate adequate space for parent pick-up/drop off queuing. If on-street queuing cannot be avoided, the school shall be responsible for modifications to the street design (if required by the Department of Community Assets & Development) to protect traffic flow on the affected road.

(c) A bus plan shall be prepared to show how bussing will be accommodated, and how students will safely access their bus.

(d) K – 12 Schools in mixed use districts must have a regional orientation and be part of a mixed-use development.

(11) Schools, Higher Education

(a) Principal structures shall not be located less than 30 feet from any boundary line used or intended to be used for residential purposes.

(b) Higher Education schools in a mixed-use district must have a regional orientation; be oriented to secondary, post-secondary, business, or vocational learning; and be part of a mixed-use development.

(12) Utilities (major)

(a) An electrical power facility, substation, or transmission station as a principal use of property shall be set back at least 100 feet from all lot lines.

(b) Service or storage yards shall be prohibited.

(c) When abutting a residential use, the major utility installation shall be screened with a Type-D buffer in accordance with section 4.1(H) of this ordinance.

(d) Floor area ratios of up to .35 for service structures may be authorized by conditional use permit.

(C) Regulations for Office Uses

(1) In General

(a) Outdoor storage shall be prohibited.

(b) The proper use classification of buildings or structures that combine office space with other uses shall be determined by the Department of Community Assets & Development.

Section 5.3(E)(17) Home Occupations

(c) Personal home offices are allowed in residential districts subject to any applicable home occupation regulations.

(2) BR and BN Districts

The architectural appearance of the building housing the office(s) shall reflect the building character of the adjacent residential area in terms of height, materials, and massing.

(D) Regulations for Commercial Uses

(1) General Regulations for All Commercial Uses

Please refer to the common business and industrial district performance standards listed in Section 3.3(E), and the standards applicable to all business base zoning districts in Section 3.5(B).

(2) Adult Uses

Prior to opening, adult uses shall need to be issued a license under the provisions of Chapter 15, Article 14 of the City Code.

(3) Auto Repair – Minor

(a) The use shall be designed to ensure proper functioning of the site as related to vehicle stacking, circulation, and turning movements.

(b) If the use site abuts a residentially zoned lot (not mixed use), a Type-C buffer (option 1 only) or either Type-D buffer shall be installed in accordance with section 4.1(H) of this ordinance.

(c) Vehicles that are waiting for repair shall be stored in appropriately designed and screened areas as approved by the City.

(d) Any repair, assembly, disassembly, or maintenance of vehicles shall occur within an enclosed building, except minor maintenance such as tire inflation, adding oil, or adding windshield wiper fluid.

(e) Garage doors leading to mechanics bays, wash bays, or other indoor servicing spaces shall be kept closed when not in use in order to allow the coming and going of vehicles.

(f) If gasoline is sold on-site, the use shall also comply with the standards for Vehicle Fuel Sales as regulated by this ordinance.

(g) Vehicles not being repaired but used as a source of parts shall be prohibited unless fully enclosed within a building.

(h) Within a mixed use district (MUN, MUR, or MUE), the minimum frontage on any street shall be 120 feet and the minimum area of the site shall be 20,000 square feet.

(4) Automotive Car Wash

(a) Unless otherwise authorized by the Department of Community Assets and Development based on specific and reliable business data, ample magazining or stacking space for customers shall be provided on-site to accommodate the maximum number of vehicles the facility can wash during a 30-minute period.

(b) When directly abutting a residential use, the property shall be screened with at least a Type-C buffer in accordance with section 4.1(H) of this ordinance.

(c) The entire site, where not occupied by buildings or plantings, shall be surfaced with material that will control dust and drainage to the satisfaction of the Department of Community Assets and Development.

(d) Vehicular access points shall be positioned to minimize conflict with through traffic movements on adjacent roadways, and shall be subject to approval by the Department of Community Assets and Development.

(e) The CUP may include conditions to control and reduce noise as may be needed given current, anticipated, or future surrounding land uses. Intermittent sounds produced by an automotive car wash operation, such as the sound of a vacuum or warning signal, shall not be audible to adjoining residential properties.

(5) Brew Pub

Prior to opening, brew pubs must be issued a license under the applicable provisions of Chapter 4 of the City Code.

(6) Business Support Services

None

(7) Cannabis Retailer

None

(8) Commercial Lodging

None

(9) Communications / Broadcasting

All buildings and structures except fences and barriers shall be located no less than 50 feet from a residential district.

(10) Convenience Retail

None

(11) Day Care Center

In all zoning districts, adequate provisions shall be made for drop-off and traffic circulation subject to approval by the Department of Community Assets & Development. Specific to mixed use districts, the following additional standards shall apply:

(a) Overnight facilities are prohibited.

(b) The site and related parking and service shall be served by an arterial or collector street of sufficient capacity to accommodate the traffic which will be generated.

(c) Parking and drive aisle design must be able to accommodate anticipated drop-off and pick-up traffic volumes on-site.

(d) All state laws and statutes governing such use are strictly adhered to and all required operating permits are secured.

(e) An outdoor recreational facility shall be provided which meets the following requirements:

(i) The facility shall be appropriately separated from the parking lot and driving areas by a fence not less than 4 feet in height;

(ii) Must be located continuous to the day-care facility;

(iii) Shall not be located in any yard abutting a major thoroughfare;

(iv) Shall not have an impervious surface for more than one-half of the playground area;

(v) Shall extend at least 60 feet from the wall of the building or to an adjacent property line, whichever is less, or shall be bound on not more than two sides by parking and driving areas; and

(vi) Shall be a minimum size of 2,000 sq. ft., or in the alternative 75 sq. ft. per child at licensed capacity, whichever figure is greater.

(12) Entertainment Recreation / Indoor Commercial

None

(13) Entertainment Recreation / Outdoor Commercial

None

(14) Event Center

(a) *Proximity to Residential Uses.* Property upon which event centers are located shall not directly abut residentially zoned property.

(b) *Event Parameters.* The conditional use permit (CUP) authorizing an event center shall, at a minimum, set specific parameters for the following based on factors of the proposed facility:

(i) *Event Size.* Factors including event space, available parking, distance to nearby residential uses, etc, shall be used to identify the maximum event size allowed under the CUP.

(ii) *Hours of Operation.* Earliest and latest hours of operation shall be established as part of the CUP.

(c) *Food regulations.* Event centers may serve food and beverages as an accessory activity in accordance with all applicable federal, state, and city regulations.

(d) *Overnight accommodations.* Overnight accommodations are prohibited.

(e) *Accessibility.* All buildings used in conjunction with event centers shall meet applicable accessibility requirements imposed by state or federal law.

(f) *Outdoor events.* All events shall take place within the event center building(s), unless specifically authorized by the CUP.

(15) Farmers Market

(a) Only the sale of crafts; agricultural products such as vegetables, fruits and flowers; and food trucks selling prepared food are permitted.

(b) Sales operations shall not occur more than once a week for not more than six hours per day.

(c) The operations shall be located in a suitable paved off-street location so as not to cause interruption of vehicular circulation or interfere with parking spaces required by the permanent use on the site.

(d) Such operations shall not be closer than 50 feet from the property line of any single-family residence and the minimum size of the site sponsoring the farmers market shall be 1.5 acres.

(e) The principal use of the property on which the farmers market is located shall be nonresidential.

(f) No permanent structure associated with the operations of the farmers market shall be built.

(g) Signs shall conform with Chapter 9 of the Zoning Code.

(h) The property owner shall cosponsor any request for a farmers market.

(i) All food vendors shall have the appropriate licenses.

(16) Financial Institution

None

(17) Firearm-Related Use

(a) Outdoor firearm-related uses are prohibited.

(b) Indoor firearm-related uses shall only be allowed in public buildings devoted to Public Safety, or in buildings located within the IL or IH zoning districts.

(c) Firearm-related uses shall only be allowed within an enclosed structure that is soundproofed to prevent the sound to be heard by persons on adjoining property.

(d) No firearm-related use shall be allowed in a trailer or other nonpermanent building.

(e) The design and construction of any firearm-related uses shall totally confine all ammunition rounds within the building and in a controlled manner. The design and construction of the firing range shall be certified by a licensed architect and engineer in the State of Minnesota. The certified plans shall include the specifications and construction of the bullet trap(s), ceilings, exterior and interior walls, and floors. The certified plans shall state what type and caliber of ammunition the range is designed to totally confine.

(f) No ammunition shall be used in any firearm-related use that exceeds the certified design and construction specifications of the firing range.

(g) A written log of users of any firearm-related use shall be maintained by the range operator. The log shall include the name and address of the range user, and the time and date the user was in the range. The name and address of the user shall be verified by photo identification.

(h) An alarm system, cut wire protected, shall be supplied to provide security for a building containing any firearm-related use.

(i) Firearms that are stored on the premises shall be stored in a vault when the range is closed for business. An alarm system, independent of the general alarm system and cut wire protected, shall be supplied for the firearm vault.

(j) Ammunition shall not be stored in the firearm vault.

(k) On site supervision at any firearm-related use shall be supplied at all times by an adult with credentials as qualified range master.

(l) An outside security plan for the general grounds of any firearm-related use shall be submitted to the City Manager or designee and the Director of Public Safety for review and approval.

(m) The transport of firearms on the premises shall conform to State law.

(n) Minors shall not be allowed in any firearm-related use unless accompanied by an adult at all times. This provision shall not be interpreted to prohibit minors from participating in a firearm safety class, which is supervised by an adult instructor.

(o) The City reserves the authority to review or modify the performance standards for a firing range based on specific needs for the proposed location.

(p) Any legally existing firearm-related use in the City on or prior to the effective date of this ordinance as documented in Section 1.4 shall be allowed to continue as a permitted use.

(18) Funeral Services and Mortuaries

(a) Funeral homes shall have their principal frontage, access, and orientation direction on an arterial or collector street.

(b) Facilities with cremation services shall be restricted to Industrial zoning districts only (IR, IL, and IH).

(19) Kennels, Pet Shops, and Veterinary Facilities

(a) Full soundproofing shall be installed on all interior walls (including ceilings).

(b) The business must be able to demonstrate the proposed available space per animal meets generally accepted industry standards.

(c) For any business incorporating extended stay or over-night animal care, an outdoor relief area shall be provided in accordance with the following:

(i) The outdoor relief area shall not be located in a front yard;

(ii) The outdoor relief area must meet setback requirements;

(iii) The outdoor relief area shall be screened from view of neighboring properties in a manner consistent with the surrounding area;

(iv) The outdoor relief area shall be for the use of dogs only;

(v) No dogs shall remain unattended in the outdoor relief area;

(vi) The outdoor relief area shall not be used as an outdoor kennel, animal run, animal play area or any other use not specifically identified in the conditional use permit if the outdoor area is located within 600 feet on a residential only zoned parcel;

(vii) The outdoor relief area shall be maintained in a clean and sanitary condition at all times;

(viii) Solid waste material shall be removed a minimum of once per day and disposed of in a sanitary manner;

(ix) If required by the Department of Community Assets and Development, a filtration bed shall be constructed to ensure that liquid waste will not enter into the ground or the City's storm water system.

(20) Landscaping / Nursery Business

(a) Outdoor garden sales areas shall adhere to the following standards:

(i) All outdoor garden sales areas shall have approved screening as deemed necessary by the City, shall contain no storage visible above the screening material unless specifically authorized, and satisfy any other conditions deemed necessary by the City Council.

(ii) All items stored or displayed outdoors shall be wholly within the garden sales area at all times, and all displays shall be maintained in an attractive, aesthetically pleasing manner.

(iii) Only plant and plant-related materials shall be allowed to be displayed and sold in the designated outdoor garden sales area.

(iv) Outdoor display of power and non-power equipment is prohibited.

(v) Additional seasonal sales items may be allowed in designated areas to be approved by the Department of Community Assets and Development on a case-by-case basis.

(b) Landscaping/nursery businesses with outdoor garden sales areas in existence prior to the effective date of this ordinance as documented in Section 1.4 shall be allowed to continue as a permitted use.

(i) The existing use shall be subject to conditions of previous approvals; and

(ii) Changes to the existing use shall strive to meet the requirements of subsection 5.3(D)(20)(a) above in as much as possible, subject to approval by the Department of Community Assets and Development.

(21) Parking Lot as a Principal Use

The parking lot must be accessory to an adjacent use or nearby use.

(22) Personal /Professional Services

(a) In the BR district, hours of operation for customer visits and/or deliveries shall be limited to 8:00 a.m. to 6:00 p.m.

(b) In the BR district, personal/professional service businesses shall be limited to operations that offer services to one individual customer at a time.

(c) In the BR and BN zoning districts, establishments shall be limited to no more than five on-site employees working at any given time.

(23) Production Brewery or Micro-Distillery.

(a) *License Needed.* Prior to opening, a production brewery or micro-distillery shall need to be issued a license under the applicable provisions of Chapter 4 of the City Code**.**

(b) *Off-street Loading.* The micro-production facility shall provide adequate space for off-street loading and unloading of all trucks greater than 22 feet in length. In the absence of off-street loading, the City may impose limits on deliveries or shipments using the public rights-of-way, including regulating the number of trucks per day and the hours that deliveries are permitted.

(c) *Odors.* No odors from the micro-production facility shall be perceivable beyond the property line. The micro-production facility operator shall take appropriate measures to reduce or mitigate any odors generated from the operation and be in compliance with any applicable Minnesota Pollution Control Standards.

(d) *Hours of Operation.* Micro-production facility operation hours shall be limited to the hours specified in Minnesota Statutes Chapter 340A for off-sale intoxicating liquor unless further limited by the City Council as part of a conditional use permit.

(e) *Food.* Production brewery or micro distilleries that include a tap room must either make food/meals available on site, or expressly allow patrons to carry in food.

(24) Recreational Vehicle Camp Site

(a) The site shall be served by a major collector or arterial street capable of accommodating traffic anticipated by the proposed use.

(b) All driveways and parking areas shall be surfaced with a dustless material.

(c) Plans for utilities and waste disposal shall be subject to approval by the Department of Community Assets and Development, and all applicable requirements of the Minnesota State Pollution Control Agency are met.

(d) Not more than five percent of the land area of the site shall be covered by buildings or structures.

(e) No such use shall be allowed within 100 feet of a surrounding residential district.

(25) Repair Establishment

(a) Outdoor storage shall be prohibited in all districts except IL and IH if such storage is authorized by a conditional use permit.

(b) No process of the repair operation may produce noise, vibration, air, pollution, fire hazard, or noxious emissions which will disturb or endanger neighboring properties.

(c) Gun repair facilities within any mixed use district shall adhere to the restrictions established for retail gun or ammunition sales listed in Section 5.3(D)(27).

(26) Restaurant

Cafeterias to serve employees of a primary business on a site may be allowed provided such facilities do not occupy more than 10 percent of the building floor area and are not directly open to or visible from the street.

(27) Retail Commercial Uses

(a) In general. Retail commercial uses are typically free to operate absent specific restrictions. Specific retail items or activities, however, may be subject to additional restrictions as listed below.

(b) Gun or Ammunition Sales / Gun repair. Within any mixed-use district, the sale of guns or ammunition including the repair of firearms shall be subject to the following additional conditions:

(i) Such a use shall be located at least 250 feet from non-mixed use, residentially zoned or used property;

(ii) Such a use shall be located at least 300 feet from any school, religious facility, licensed daycare center, public library, park, or regularly-occupied governmental building;

(iii) Such a use shall be located at least 1,000 feet from other gun or ammunition sales/repair businesses or firearms-related uses;

(iv) Such a use shall not operate before 8:00 a.m. or after 9:00 p.m.;

(v) Firing ranges shall be prohibited in mixed use zoning districts;

(vi) Federally-licensed firearms dealers in mixed use zoning districts who engage only in processing Internet-based or mail-order sales to other licensed dealers where neither the display, inspection, nor physical transfer of the firearm occurs on or near the premises are exempted from the provisions of Subsection 5.3(D)(27)(b).

(28) Specialty Eating Establishments

None.

(29) Vehicle Fuel Sales

(a) Outside storage of merchandise shall be prohibited.

(b) Non-attendant, credit card only vehicle fuel sales stations, shall be prohibited.

(c) Any car wash associated with a vehicle fuel sales establishment shall have a door or doors that must be closed during the operation of the car wash. Doors may not be opened until all car wash machinery, including dryers, are turned off.

(d) Any exterior speaker(s) shall not be audible from nearby residential units.

(e) Pump interactive screens, if illuminated, shall be screened from view from nearby residential units.

(f) Queuing space of at least 20 feet shall be provided in front of the pump island in each direction in which access can be gained to the pump — this required space shall not interfere with internal circulation patterns or with designated parking areas, and shall not be permitted in any public right-of-way, private easement, or within the required parking lot setback.

(g) Pump islands shall be located not less than 20 feet from any property line.

(30) Vehicle Sales and Rental

(a) Motor vehicle repair and service and sales of used vehicles are allowed when accessory to new vehicle sales. Used vehicle sales shall be permitted only as an integral part of a new vehicle sales business (from the same land parcel and in close proximity to the new vehicles) unless located in an IL or IH zoning district.

(b) The business shall be licensed as required by Chapter 15 of the City Code.

(c) The business shall be separated from adjacent uses by at least a Type-B buffer in accordance with section 4.1(H) of this ordinance.

(d) Inoperable vehicles shall not be stored on the premises, except in appropriately designed and screened areas as approved by the City.

(e) Parking of vehicles for sale or lease on public right-of-way shall be prohibited.

(f) All repair, assembly, disassembly, maintenance, and detailing of vehicles shall occur within an enclosed building, except minor maintenance such as tire inflation or adding windshield wiper fluid.

(g) Body shops for the repair of vehicular accidents, hail damage, or other major exterior damage shall be prohibited.

(31) Wholesale Sales

None.

(32) Telecommunication Towers/Antennas

(a) Conditional Use

Wireless telecommunication towers/antenna shall be subject to approval of a conditional use permit. A conditional use permit shall be considered provided it is determined that the location and size of the use and type of operation involved therein shall not be injurious to the public health, safety, convenience, or general welfare and shall not injure or adversely affect the adjacent area or property values. The Planning Commission, in making a recommendation, and the City Council, in acting upon the conditional use permit, shall consider the following factors:

(i) The application for conditional use permit shall be processed according to Section 2.4(D) of the Zoning Code.

(ii) Applications for conditional use permits must meet the standards of Section 2.4(D) of the Zoning Code.

(iii) Wireless telecommunication towers/antenna may be constructed to a height that exceeds the required setback up to 33 percent. As a condition of approval, the City must be provided with a licensed professional engineer's certification that the tower is designed to collapse or fail within a distance or zone shorter than the required setback distance as determined by the height of the structure or telecommunication tower. The required setback is specified in Section 3.8(D)(32)(b)(i & ii).

(iv) Certain telecommunication towers/antenna may be exempt from the setback requirement of Section 3.8(D)(32)(b) and instead subject to a 10 foot setback by authorization of the City Council and when all of the following criteria are met:

1. The tower/antenna is erected on a parcel zoned IL or IH.
2. The tower/antenna is located in a side or rear yard.
3. The reduced setback is measured only from the I-35W right-of-way.
4. The applicant submits a fall zone letter stating that tower is engineered to fall in a distance not impeding traffic on I-35W.

(b) Building Permits Required

Building permits are required for towers and antennas. Such structures shall meet the regulations specified in this Subsection.

(i) All towers and antennas shall have setbacks equal to or greater than the height of the proposed structure, unless otherwise reduced by action of the City Council in accordance with Section 5.3(D)(32)(a).

(ii) The distance of any guy anchorage or similar device shall be at least 10 feet from any property line.

(iii) Suitable protective anti-climb fencing and a landscape planting screen shall be provided and maintained around the structure and accessory attachments.

(iv) The applicant shall present documentation of the possession of any required license by any federal, state, or local agency.

(v) No structure shall be in excess of a height equal to the distance from the base of the structure to the nearest overhead electrical power line which serves more than one dwelling or place of business, less five feet.

(vi) Only one such structure exceeding the district height limitations shall exist at any one time on any residentially zoned and used lot or parcel.

(vii) Application for the permit must include construction drawings showing proposed method of installation, structural engineering analysis, and a site plan depicting structures and plantings on the property and all adjacent properties. At the request of the administrative authority, documentation of a maintenance program may be required.

(viii) If any modifications are made to the structure, the City shall have the authority to require proof that the addition, change, or modification is in conformity with the permit and the State Building Code.

(ix) The owner of such a structure shall assume complete liability in the case of personal or property damage. (Ord. 764 7-22-2008)

(c) Dish Diameter

No exterior dish antenna having a diameter in excess of thirty inches shall be allowed in an RS-l, RS-2, or RM-1 district unless it complies with the requirements of this subsection.

(i) Dish antennas shall not be located on the roof of any structure.

(ii) Ground mounted dish antennas shall only be located in a rear yard and shall not be located within five feet of any side lot line and five feet of any rear lot line.

(iii) Ground mounted dish antennas shall not be located within 10 feet of any principal structure.

(iv) Ground mounted dish antennas shall be located at least 25 feet from any adjacent residential structure.

(v) Ground mounted dish antennas shall be screened from adjacent residential properties. Screening techniques shall be such that screening is effective throughout all seasons of the year.

(E) Regulations for Industrial Uses

(1) General Regulations for All Industrial Uses

Please refer to the common business and industrial district performance standards listed in Section 3.3(E), and the standards applicable to all industrial base zoning districts in Section 3.6(B).

(2) Auto Repair – Major

(a) All vehicles being serviced and all vehicle parts must be stored indoors or within an approved vehicle storage area.

(b) Work on vehicles or vehicle parts shall occur within an enclosed building.

(c) Outdoor vehicle storage area(s) shall be enclosed by a six-foot high, 100 percent opaque fence designed to blend with the auto body shop structure, and that consists of materials treated to resist discoloration.

(d) The floor of all vehicle storage areas shall consist of asphalt or concrete paving.

(3) Bulk Fuel Sales and Storage

All requirements for accessory bulk fuel sales and storage outlined in section 5.4(E)(6) shall be met.

(4) Cannabis cultivation & product creation

None.

(5) Corporate Headquarters

All corporate headquarters in the NBE district shall be approved via PUD to identify general parameters for future expansions and changes. Future changes to the property that are substantially in line with the approved growth plan may be permitted administratively with no PUD amendment(s) required.

(6) Extraction of Materials

(a) All applicable regulations in Chapter 14 of City Code regarding excavations shall be met.

(b) Plans shall be provided to illustrate how the land will be left in a useable condition upon cessation of extraction activities, shall prove that the finished grade will not adversely affect the surrounding land or future development of the site on which the mining is being conducted, and the route of trucks moving to and from the site.

(c) The interim use permit authorizing the extraction of materials shall regulate:

(i) The type(s) of material being mined on the site;

(ii) A program for rodent control;

(iii) A plan for fire control and general maintenance of the site;

(iv) Controls for vehicular ingress and egress, and for control of material disbursed from wind or hauling of material to or from the site;

(v) A calendar of specific dates when mining operations will be conducted, including specific beginning and ending dates; and

(vi) The submission of a surety by the applicant in an amount determined by the Department of Community Assets & Development to be equal to 100% of the value of the cost of restoring land upon which mining is to occur, and repairing the degradation of roadways used to transport soils.

(d) On-site sales may be allowed as part of the interim use permit subject to all conditions established by the City Council to ensure the health, safety, and welfare of those visiting the site and of surrounding property owners.

(e) All applicable watershed district permits as may be required shall be obtained prior to the beginning of excavation activities.

(7) General Warehousing

(a) Any outdoor storage shall be screened with at least a Type-D buffer in accordance with section 4.1(H) of this ordinance.

(b) The storage of salt, sand, or other similar road treatment materials by a public road authority may be allowed by special use permit. Structures for such storage shall be exempt from any applicable building material requirements.

(8) Industrial Services

Any outdoor storage shall be screened with at least a Type-D buffer in accordance with section 4.1(H) of this ordinance.

(9) Machinery/Truck Repair and Sales

(a) A drainage system to control and treat potentially contaminated stormwater shall be designed and installed subject to the approval of the Department of Community Assets and Development.

(b) When abutting a residential use, the property shall be screened with at least a Type-D buffer in accordance with section 4.1(H) of this ordinance.

(10) Manufacturing, Light

In the MUR and MUE zoning districts:

(a) All light manufacturing must operate in a manner undetectable to surrounding areas with regards to noise, odors, vibrations, smoke, dust, and all other nuisance related impacts.

(b) Approval of a conditional use permit for light manufacturing shall require approval of plans which adequately demonstrate the use can operate undetected as required by subsection (a) above.

(c) Failure of the use to follow approved plans or failure of the approved plans to mitigate all nuisance issues shall be grounds for revocation of the conditional use permit if not corrected by the permit holder in a timeframe deemed acceptable by the Department of Community Assets and Development.

(11) Manufacturing, Heavy

None.

(12) Outdoor Storage as a Principal Use

All outdoor storage shall be screened with a Type-D buffer in accordance with section 4.1(H) of this ordinance, but such a buffer must include a minimum six foot high solid fence regardless of the buffer width.

(13) Recycling and Salvage Center

(a) The center shall be on a parcel with an area of at least five acres.

(b) The center shall be located at least 250 feet from any residential district, school, or day care.

(c) Except for a freestanding office, no part of the center shall be located within 50 feet of any property line.

(d) All recycling activities and storage areas shall be effectively screened from view by walls, fences, or buildings. Such screening shall be designed and installed to ensure that no part of recycling activities or a storage area can be seen from rights-of-way or adjacent lots.

(e) All outdoor storage areas shall be surrounded by a solid fence or wall that is at least eight feet high, located no less than 100 feet from any public right-of-way, and located no less than 50 feet from any adjacent property.

(f) Recyclable materials shall be contained within a leak-proof bin or trailer, and not stored on the ground.

(g) Only limited sorting, separation, or other processing of deposited materials shall occur on the site.

(h) There shall be no collection or storage of hazardous or biodegradable wastes (as defined by the PCA) on the site.

(i) Space shall be provided to park each commercial vehicle operated by the center.

(j) The facility shall be administered by on-site persons during the hours the facility is open.

(k) The site shall be maintained free of fluids, odors, litter, rubbish, and any other non-recyclable materials. The site shall be cleaned of debris on a daily basis and shall be secured from unauthorized entry and removal of materials when attendants are not present.

(l) Signage shall include the name and phone number of the facility operator and indicate any materials not accepted by the center.

(m) Access to the center shall be from a collector or arterial street.

(14) Research Laboratory

None.

(15) Self-Storage Facilities

(a) Site Layout

(i) The minimum lot area shall be at least two acres.

(ii) If separate buildings are constructed, there shall be a minimum separation of 25 feet between buildings.

(b) Operation

(i) The only commercial uses permitted on-site shall be the rental of storage bays and the pickup and deposit of goods or property in cold storage. Storage bays shall not be used to manufacture, fabricate, or process goods, to service or repair vehicles, small engines or electrical equipment, or conduct similar repair activities, to conduct garage sales or retail sales of any kind, or to conduct any other commercial or industrial activity on the site.

(ii) Individual storage bays or private postal boxes within a self-service storage facility use shall not be considered premises for the purpose of assigning a legal address.

(iii) No more than one security or caretaker quarters may be developed on the site which shall be integrated into the building's design.

(iv) Except as otherwise authorized in this subsection, all property stored on the site shall be enclosed entirely within enclosed buildings.

(v) If buildings or driving lanes are within 200 feet of a residential dwelling, the hours of public access to the self-storage use shall be restricted to the hours between 6:00 A.M. and 10:00 P.M.

(c) Parking and Circulation

(i) The one- or two-way traffic flow patterns in aisleways shall be clearly marked. Marking shall consist, at a minimum, of standard directional signage and painted lane markings with arrows.

(ii) Appropriate access and circulation by vehicles and emergency equipment shall be ensured through the design of internal turning radii of aisleways.

(iii) All access ways shall be paved with asphalt, concrete, or comparable paving materials.

(d) Building Appearance

(i) Garage doors serving individual storage units shall be perpendicular to a public or private street so as to not be visible from adjacent streets.

(ii) Outdoor lighting shall be the minimum necessary to discourage vandalism and theft, and shall be provided in accordance with Section 4.4, Exterior Lighting.

(e) Building Materials

(i) Windows may not exceed 20 percent of any street-facing façade and shall not be reflective.

(ii) A maximum of two colors (excluding roof colors) shall be used on wall facades visible from off-site areas. Colors shall be neutral, and shall not be used to call attention to the use.

(iii) Perimeter or exterior walls visible from a public street or detached residential dwelling shall not include metal as a primary material.

(iv) All mechanical equipment and dumpsters shall be fully screened from off-site views.

(f) Fencing

All areas adjacent to a street frontage not occupied by a building shall include fencing designed in accordance with the following standards:

(i) Fences shall be no shorter than six feet nor taller than eight feet.

(ii) Fencing shall be masonry, wrought iron, steel, or aluminum and shall be painted or vinyl coated with colors that complement the buildings.

(iii) Chain link fencing is prohibited except where the use abuts lots with a business or industrial zoning designation, but in no instance shall chain link fencing be prominently visible from a public street.

(iv) Metal fences shall include brick pilasters or supports located with consistent on-center spacing.

(v) Wooden or chain link entry gates into the use are prohibited.

(g) Open Storage

Open storage of recreational vehicles and travel trailers of the type customarily maintained by persons for their personal use shall be permitted within a self-service storage facility use, provided that the following standards are met:

(i) Outdoor storage areas shall be located to the rear of the principal structure and be screened from surrounding areas with a wooden fence or masonry wall at least eight feet high.

(ii) The size of the open storage area shall not exceed 25 percent of the buildable area of the site.

(iii) Open storage areas shall conform to minimum building setbacks.

(iv) No dry stacking of boats shall be permitted.

(v) Vehicles shall be allowed on the premises for storage only.

(16) Truck or Freight Terminal

None.

5.4 Accessory Use Standards

(A) Purpose

Section 5.4 authorizes the establishment of accessory uses that are incidental and customarily subordinate to principal uses. The purpose of Section 5.4 is to allow a broad range of accessory uses, so long as such uses are located on the same site as the principal use, and so long as they comply with the standards set forth herein to reduce potentially adverse impacts on surrounding lands.

(B) General Standards and Limitations for Accessory Uses and Structures

(1) Compliance with Ordinance Requirements

All accessory uses and accessory structures shall conform to all applicable requirements of this ordinance. The provisions of Section 5.4 establish additional standards and restrictions for particular accessory uses and structures.

(2) General Standards

All accessory uses and accessory structures shall meet the following standards:

(a) Directly serve the principal use or structure;

(b) Be customarily accessory and clearly incidental and subordinate to the principal use and structure;

(c) Be subordinate in area, extent, and purpose to the principal use or structure;

(d) Be owned or operated by the same person as the principal use or structure;

(e) Be located on the same lot as the principal use or structure;

(f) Be constructed with materials that match or compliment the materials on the primary structure; [(4-550)(1)(b)]

(g) It is necessary to have an allowed principal use on the same lot in order to have one or more accessory uses or structures on the lot;

(h) Not be located within platted or recorded easements or over underground public utilities unless specifically allowed by this ordinance or authorized via an encroachment agreement with the City;

(i) An accessory building shall be considered an integral part of the principal building if it is connected to the principal building either directly or by an enclosed passageway. Such accessory buildings shall adhere to requirements for the principal building.

(j) If a principal building is proposed to be removed with no immediate replacement, all accessory structures shall also be removed.

(3) Location of Accessory Structures

(a) Except as expressly allowed by code, accessory structures in all zoning districts shall not be located beyond the front building line established by the principal structure. [(4-550)(1)(a)]

(b) Accessory structures in all zoning districts shall adhere to the setback requirements of the underlying zoning district.

(4) Maximum Height

(a) Accessory buildings or detached garages in residential districts (see Table 3-1) shall match or compliment the existing primary residential structure in height. [(4-550)(1)(B)]

(b) Accessory buildings in all other districts shall not exceed the height maximums allowed in the underlying zoning district unless expressly allowed by this Ordinance.

(5) Maximum Number of Accessory Structures

(a) Within all residential districts (RS and RM), the combined size of any attached and detached accessory structures or garages shall not exceed 1,664 square feet. [(4-550)(1)(C)]

(b) The number of allowed accessory buildings in all other districts shall be limited by the combination of other lot requirements facing the property (i.e. required setbacks, allowable impervious surface, building separation requirements, required parking, required open space, required landscaping, etc).

(C) Table of Accessory Uses

TABLE 5-2: ACCESSORY USES BY DISTRICT

Accessory Types P = Permitted C = Conditionally Permitted I = Interim Permitted	Base Zoning Districts																	Additional Requirements
	RS1	RS2	RM1	RM2	RM3	MHC	BR	BN	BG	IR	IL	IH	MUDT	NBE	MUN	MUR	MUE	
Accessory Dwelling Unit (ADU)	P	P	P				P											5.4(E)(1)
Accessory Buildings																		5.4(E)(2)
– minor	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	5.4(E)(3)
– major	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	5.4(E)(4)
Boarder(s)	P	P	P	P	P													5.4(E)(5)
Bulk Fuel Sales / Storage											C	C						5.4(E)(6)
Cannabis delivery business									P		P	P			P	P		5.4(E)(7)
Commercial Canopy									C	C	C	C			C	C	C	5.4(E)(8)
Community Gardens	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	5.4(E)(9)
Day Care Facility, Licensed	C	C	P	P	P	P	C	C	P				P	P	P	P	P	5.4(E)(10)
Donation Drop off Containers									P	P	P		P		P	P	P	5.4(E)(11)
Drive Through Services								C	C	C	C	C	C	C	C	C	C	5.4(E)(12)
Driveways & Curb Cuts	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	See Section 4.7
Fences or Walls	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	See Section 4.3
Food Preparation & Sales, Accessory	P	P	P	P	P			P	P				P		P	P	P	5.4(E)(13)
Greenhouse / Conservatory (non-commercial)	P	P	P	P	P	P	P	P					P	P	P	P	P	5.4(E)(14)
Helipad														C				5.4(E)(15)

TABLE 5-2: ACCESSORY USES BY DISTRICT

Accessory Types P = Permitted C = Conditionally Permitted I = Interim Permitted	Base Zoning Districts																	Additional Requirements
	RS1	RS2	RM1	RM2	RM3	MHC	BR	BN	BG	IR	IL	IH	MUDT	NBE	MUN	MUR	MUE	
Home Occupations	P	P	P	P	P	P	P	P	P	P			P	P	P	P	P	5.4(E)(16)
Incidental Light Manufacturing							P	P	P	P	P	P	P	P	P	P	P	5.4(E)(17)
Landscaping	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	See Section 4.1
Live Events or entertainment								P	P	P	P	P	P	P	P	P	P	5.4(E)(18)
Mobile Food Unit									P	P	P	P	P	P	P	P	P	5.4(E)(19)
Off-street Parking or Loading Space	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	See Section 4.7
Outdoor Dining at a Licensed Food Establishment								P	P	P	P	P	P	P	P	P	P	5.4(E)(20)
Outdoor Storage	P	P	P	P	P	P	P	P		C	C	C	P					5.4(E)(21)
Outdoor Recreation Area/Court	P	P	P	P	P	P	P						P	P	P	P	P	5.4(E)(22)
Outdoor sidewalk Sales & Display (businesses)								P	P	P	P	P	P	P	P	P	P	5.4(E)(23)
Private Amateur Radio	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	5.4(E)(24)
Private Receiving Antennas (i.e. TV & Radio)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	5.4(E)(25)
Shelters (Storm or Fallout)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	5.4(E)(26)
Sign(s)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	See Section 4.5
Solar Energy System	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	5.4(E)(27)
Swimming Pool	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	See City Code Ch 27
Taproom, Cocktail Lounge, or Tasting Room										C	C			C		C	C	5.4(E)(28)

(D) Procedures for Establishing Accessory Uses

(1) Establishment of accessory uses may be reviewed and approved concurrently with permits needed for establishment of the principal structure.

(2) In the event a detached accessory structure is permitted as a component of a permit to build a principal structure, the principal structure shall be substantially complete prior to construction of the accessory structure beginning unless otherwise authorized by the Department of Community Assets and Development.

(E) Additional Specific Standards for Certain Accessory Uses

(1) Accessory Dwelling Unit

(a) The following shall apply to all ADUs:

(i) An ADU shall only be allowed on properties within the RS-1, RS-2, RM-1, or BR Zoning Districts which have a single-family home present.

(ii) Either the home or the ADU shall be occupied by the owner of the property. Proof of owner occupancy shall be recorded against the property.

(iii) Utilities for the primary home and ADU shall not be separately metered, and water and sewer for the ADU shall be connected to the existing principal structure. The ability to establish an ADU may be denied by the City of New Brighton if it is deemed that water or sewer capacities in the area are insufficient to serve the ADU.

(iv) An ADU shall require one additional off-street parking stall located on an improved surface in accordance with Section 4.7(B)(1).

(v) No more than one ADU shall be permitted on a property, and the primary home and ADU shall share the address number but may be designated as different units (i.e. Unit 1 and Unit 2).

(vi) An ADU shall be located on a permanent foundation.

(vii) An ADU shall meet all architectural standards of the zoning district including consistency in color and material to the home.

(viii) The gross floor area of an ADU shall not exceed the gross floor area of the principal structure, and may have no more than two bedrooms.

(ix) An ADU shall not be sold independently of the principal residential dwelling and may not be placed on a separate tax parcel.

(x) ADUs shall not be utilized for short-term rentals as defined in City Code Chapter 13, Article 1.

(xi) All yard setbacks required of the primary structure shall be met by an attached ADU.

(xii) All ADU dwellings shall require an annual ADU registration with the City.

(xiii) All ADU rental properties shall require a rental license in accordance with City Code Chapter 13, Article 3.

(xiv) All ADUs involving additional ground floor area will require a certificate of survey be submitted with the building permit application.

(b) The following shall apply to all detached ADUs:

(i) A detached ADU shall be located within a side yard or rear yard of a lot unless otherwise authorized by Conditional Use Permit.

(ii) The maximum floor area of a detached ADU shall not exceed the floor area of the principal structure or 1,064 square feet, whichever is less unless otherwise authorized by Conditional Use Permit.

(iii) A detached ADU shall adhere to the required side and rear yard setbacks of the underlying zoning district.

(iv) A detached ADU shall maintain a minimum 10-foot separation from the primary dwelling.

(v) The maximum height of a detached ADU shall not be greater than the height of the primary dwelling nor exceed the height maximum of the underlying zoning district.

(c) A Detached Accessory Dwelling Unit (Detached ADU) larger than 1,064 square feet in size or placed in the front yard may be permissible if a conditional use permit is approved and the following standards can be met:

(i) The detached ADU must be able to meet the requirements for all ADUs listed in Section 5.4(E)(1)(a).

(ii) A detached ADU proposed to be in a front yard must be able to meet a minimum front yard setback of 50 feet.

(2) Accessory Buildings – in general

(a) Must adhere to the general standards and limitations outlined in Section 5.4(B).

(b) Limitations on number and size of accessory buildings and structures shall not apply to public buildings and uses, or to active or passive public park facilities.

(3) Accessory Building – minor

(a) Minor accessory buildings do not require a building permit but shall comply with all applicable zoning regulations.

(b) Minor accessory buildings shall be limited to a single story and a height of 15 feet.

(4) Accessory Building – major

(a) Residential Districts

All accessory buildings or detached garages, and attached garages in residential districts shall conform to the following requirements:

(i) An accessory building or detached garage shall not be located within the front yard.

(ii) Accessory buildings or detached garages shall match or compliment the existing primary residential structure in height and materials and shall conform with all of the setback requirements for the zoning district where located.

(iii) The combined size of any attached and detached accessory structures or garages shall not exceed 1,664 sq ft.

(iv) An accessory building or detached garage may be constructed up to a maximum of 1,064 square feet. Any structure larger than 624 square feet up to 1,064 square feet shall be subject to approval of a conditional use permit.

(v) No attached garage shall exceed 1,064 square feet.

(vi) Accessory buildings exceeding 624 square feet in size shall be subject to approval of a conditional use permit under the provision of Section 2.4(D), and subject to compliance with the following conditions:

1. Roof and exterior color and material must be consistent and complimentary with the principal structure.
2. If deemed necessary by the City Council, landscape screening shall be provided to lessen visual impact from adjacent properties.
3. No commercial or home occupation activity shall be conducted within the accessory building.

(vii) Accessory structures under 624 square feet in size may be administratively approved by the Department of Community Assets and Development, but shall be subject to compliance with all applicable zoning standards.

(b) Light and Heavy Industrial Districts

Within the Light Industrial District (IL) and the Heavy Industrial District (IH), major accessory buildings or structures in excess of the district's height maximum may be permissible by conditional use permit subject to the following conditions:

(i) The property is located adjacent to the right of way of Interstate 35W.

(ii) The accessory structure is located in the rear or side yard.

(iii) The accessory structure meets setback requirements for principal structures.

(iv) No adjacent properties are zoned residential.

(v) The accessory structure is located at least 10 feet from the principal structure when measured at the closest point.

(vi) The accessory structure height is no more than 160 percent of the height of the principal structure, and in no case more than 50 feet tall.

(vii) The lot area of the property on which the accessory structure is located on is at least five acres.

(viii) The property is in compliance with the performance standards of Section 5.3(E)(1).

(5) Boarders

No more than two boarders may be kept by a resident family, whether for compensation or not for compensation.

(6) Bulk Fuel Sales / Storage

(a) Bulk fuel sales/storage shall not occur on any parcel prohibiting such activity under the provisions of Chapter 9, Article 3 of City Code (Fire Code).

(b) Allowed accessory use bulk fuel sales/storage shall adhere to all applicable requirements of the International Fire Code (IFC) and its respective chapters as may be amended.

(c) The class and/or type of flammable liquid(s) to be stored and the construction type of all buildings on the site shall be identified by the applicant and shared with the Building Official and Fire Marshal.

(d) Accessory use bulk fuel sales/storage may not be located within a required front yard setback.

(e) In the absence of any greater setback requirements imposed by the IFC or other regulations, accessory use bulk fuel sales/storage shall be located no less than 25 feet from all structures, 10 feet from all property lines, and 20 feet from any public right-of-way.

(f) The property owner must identify the nearest storm drain that would be impacted in the event of a tank breach, and have it clearly labeled as directed by the Department of Community Assets and Development.

(g) Accessory use bulk fuel sales/storage facilities shall comply with all MPCA and State Fire Marshal requirements, all other permit, testing and listing requirements, and all applicable codes and standards including but not limited to National Fire Protection Association 58, Liquefied Petroleum Gas Code.

(7) Cannabis Delivery Business

Use must be accessory to an authorized State licensed and locally registered cannabis retailer.

(8) Commercial Canopy

(a) Setbacks

(i) Within the General Business (BG) district or any Industrial zoning district (IR, IL, or IH), front yard and street side setbacks for commercial canopies may be reduced down to 10 feet from the required setback if permitted by a conditional use permit provided the industrial district is not separated from a residential zoning district by the street against which the reduction is sought. The extent of the allowed setback reduction via conditional use permit shall be at the discretion of the City Council.

(ii) Within a Mixed-Use District (MUN, MUR, or MUE), a commercial canopy may extend up to 12 feet beyond the centerline of the pump island toward the street, but in no instance shall a canopy be located closer than six feet from any lot line.

(b) Only one canopy shall be permitted per station, unless the station is located on a corner lot, in which case two canopies may be permitted.

(c) The canopy shall be at least 14 feet in height, but not greater than 16 feet in height.

(d) No signage of a permanent or temporary nature, including branded lighting like exposed neon, may be placed on a canopy.

(e) All canopy lighting shall be recessed into the canopy ceiling.

(9) Community Garden

Community gardens, as an accessory use to a lawfully permitted principal use, are permitted subject to the requirements of 5.3(A)(7). The business or property owner may take on the role of coordinator when a community garden is an accessory use.

(10) Day Care Facility, Licensed

If located within a place of public assembly, the facility must have a minimum of 5,000 square feet of non- residential building area, one acre of lot area, and at least 50 off-street parking stalls.

(11) Donation Drop off Containers

(a) No more than one container shall be located on a parcel.

(b) Must have only one sign, no more than four feet high and 16 square feet in area, that displays the name and telephone number of the party responsible for the donation container.

(c) The container shall not block access to required parking spaces or parking lot aisles.

(d) The container shall not be located within 50 feet of a residential dwelling.

(12) Drive Through Services

(a) Commercial uses containing drive-in or drive-up facilities shall be permitted only by issuance of a conditional use permit under the provision of Section 2.4(D).

(b) All drive through facilities outside of a mixed-use district shall adhere to the following standards:

(i) The drive through facility does not negatively impact traffic on public rights-of-way.

(ii) A stacking lane shall be provided with a minimum of four spaces per lane in addition to the number of required parking spaces.

(iii) The stacking lane shall be a minimum of 12 feet wide.

(iv) The vehicle stacking lane shall not extend beyond the street right-of-way line.

(v) The vehicle stacking lane shall be delineated so that vehicles waiting in line will not unreasonably interfere with the primary driving, entrance, exit, and parking facilities on site. Employee-only designated parking may be considered in an effort to comply with this condition.

(vi) Any pedestrian walkway that is adjacent to or crosses the stacking lane must be marked and clearly indicated with signage or painted crosswalk.

(vii) The drive through use may be limited so as not to unreasonably interfere with adjacent and nearby uses. Limits of use may include, but is not limited to, prohibition of certain uses that may be inappropriate due to their demand on parking and stacking needs, such as fast food establishments.

(viii) The following hours of operation shall be imposed:

1. For properties abutting an RS-1, RS-2, or RM-1 district: Sunday – Thursday 7:00 AM – 9:00 PM and Friday – Saturday 7:00 AM – 10:00 PM.

2. For properties abutting all other zoning districts: Sunday – Thursday 6:00 AM – 11:00 PM and Friday – Saturday 6:00 AM – 12:00 PM.

(ix) The City Council may impose different hours of operation based upon specific characteristics of adjacent and nearby uses.

(x) Any menu/ordering signage interior to the site with an intercom shall not be audible from residentially zoned property and, if illuminated, shall be directed away from residentially zoned property.

(xi) Fencing or landscaping may be required to shield headlight illumination from adjacent and nearby areas.

(c) Drive through facilities within a mixed-use district shall adhere to the following standards:

(i) Window Placement. When drive through windows are allowed in a mixed use district, the windows shall be placed at the side or rear of a building and shall not be located at street corners.

(ii) Number of lanes. In the MUR district, there is no limit; the MUN district is limited to one lane; and the MUE district is limited to three lanes.

(iii) Location of lanes. Drive-through lanes are prohibited between the building and the primary street, and must be located behind or to the side of buildings; queuing lanes shall not interfere with the pedestrian network or planned traffic circulation in the area.

(iv) Screening of lanes. Any drive-through lane that is visible from a street or public space shall incorporate the following screening elements:

1. A screen wall, at least thirty-six (36) inches in height, with materials that are consistent with the primary building.

2. A Type A buffer (see Section 4.1(H)) between the property line and the required screen wall.

3. Where there is more than one (1) drive-up lane, canopies or other structural elements shall be used for further screening. These screening elements shall be compatible with the architectural qualities of the main building, including materials, form, scale, and color.

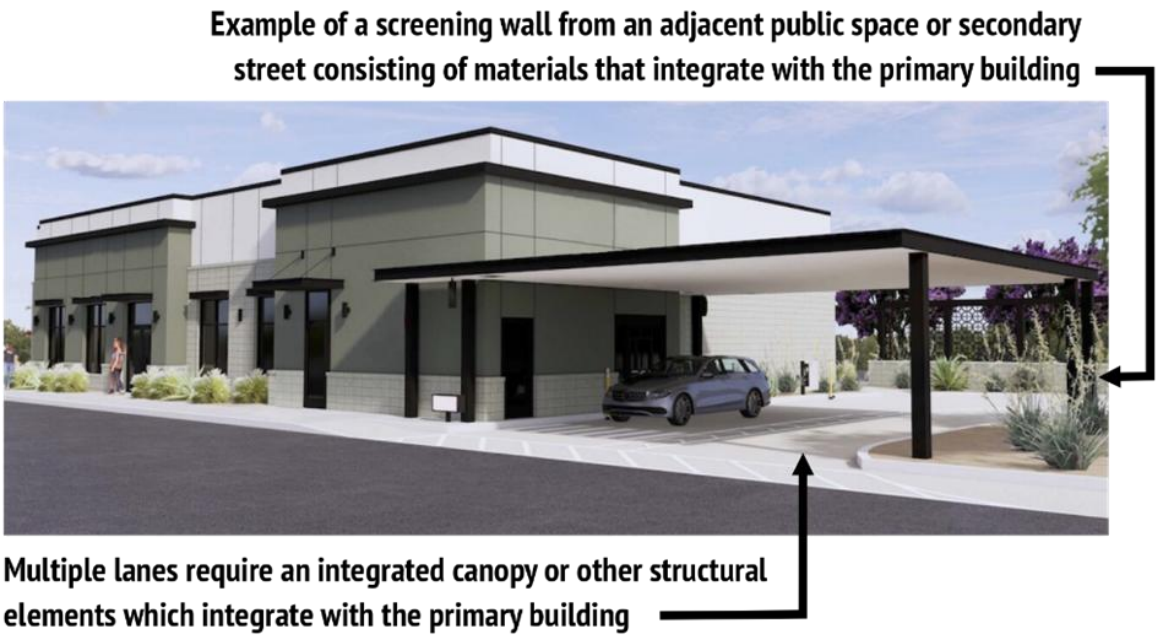
(v) Any drive-through lane that abuts a residentially zoned lot shall incorporate the following screening elements:

1. A screen wall, at least six (6) feet in height, with materials that are consistent with the primary building.

2. A landscaped buffer, at least six (6) feet in width, between the property line and the required screen wall.

3. Where there is more than one (1) drive-up lane, canopies or other structural elements shall be used for further screening. These screening elements shall be compatible with the architectural qualities of the main building, including materials, form, scale, and color.

Example of Required Drive-through Treatments in Mixed Use Districts



(13) Food Preparation & Sales, Accessory

Preparation of food by a third party using the facility for distribution off site may exist within the principal structure of an approved place of public assembly provided the following conditions are met:

(a) Preparation of food, with proper facilities and licenses approved by Ramsey County, shall be the sole aspect of the business.

(b) Overnight parking of vehicles or any outside storage of materials associated with the business is prohibited.

(c) Exterior signage is prohibited.

(d) Number of employees associated with the use shall be limited to two.

(e) Hours of operation shall not negatively impact surrounding residential uses.

(f) Both the property owner and business owner shall be co-applicants in review of the conditional use permit.

(14) Greenhouse/Conservatory (non-commercial)

Private conservatories for plants and flowers are allowed as accessory structures to single family, duplex, and manufactured homes provided no retail sales occur.

(15) Helipad

Helipads, defined for the purpose of this section as at-grade take-off and landing areas for helicopters, shall be subject to the following conditions:

(a) The helipad must be accessory to an office use.

(b) Permitted only on properties containing all of the following attributes:

(i) At least four acres in area or the principal use has been permitted via a Planned Development; and

(ii) Abutting Interstates 694 or 35W.

(c) Helipads shall meet the following setbacks:

(i) at least 320 feet from multi-family residential uses;

(ii) at least 820 feet from single family residential uses;

(iii) at least 800 feet from schools, places of public assembly for religious purposes, nursing homes, or similar types of public institutional uses; and

(iv) at least 2500 feet from another helipad.

(d) Helipads shall be reasonably screened from public rights-of-way of minor arterial status or greater and include a 36 inch high hedge or wall combination around the perimeter.

(e) The helipad shall allow for a maximum of 20 landings per calendar year. A landing shall be defined as an arrival and a departure associated with the same trip. Flight logs shall be kept and made available to City staff for review to confirm compliance with the provisions of Section 5.4(E)(14).

(f) Landings shall not be permitted during the hours of 7:00 p.m. to 7:00 a.m., Monday through Friday. Weekend and holiday landings are prohibited.

(g) Permitted flights paths, helicopter type, and decibel level standards shall be specified at the time of approval and be determined based on the characteristics of surrounding property, including but not limited to, vegetated cover, topography, and proximity to residential uses.

(h) The applicant secures all necessary permits from other state and federal authorities for use of the helipad, including but not limited to the Federal Aviation Administration and the Minnesota Department of Transportation.

(i) Because every property has a unique set of characteristics with regard to location of buildings, landscaping, and topography, the City Council may impose other conditions not specified herein that are deemed necessary to mitigate any negative impacts resulting from use of the helipad.

(j) Conditional use permit procedures of Section 2.4(D) shall be followed except that public hearing notice shall be mailed to each property owner within 1000 feet of the property under consideration.

(16) Home Occupation

(a) Home occupations shall conform to the standards set forth in Section 5.4(E)(15). These standards are intended to ensure that a home occupation is clearly secondary and incidental to the use of the dwelling unit for residential purposes and to ensure compatibility of the home occupation with the residential character of the neighborhood.

(b) Permitted home occupations shall not include the employment of more than one additional person on site who does not reside on the premises. Furthermore, not more than one room or 25 percent of the gross area of one floor, whichever is less, shall be used to conduct the home occupation. The appearance of a residential dwelling shall in no way be changed or altered in a manner which would cause the premises to differ from its residential character.

(c) Activities resulting from the operation of a home occupation shall be conducted entirely within the enclosed area of a dwelling unit or storage, shall have no exterior storage of equipment or materials, and shall not include the exterior display of anything except signs permitted by Section 4.5.

(d) Operation of any wholesale or retail business shall not be permitted unless conducted entirely by mail and does not included the sale, shipment, or delivery of merchandise on the premises. However, occasional sales shall be permitted when such occasional sales are incidental to and not the primary purpose of the home occupation.

(e) Not more than four additional vehicle trips per day shall be generated by a home occupation. Any need for parking generated by the conduct of the home occupation shall be met off of the street only on the driveway of the dwelling or in the garage and shall be consistent with residential parking requirements.

(f) No mechanical equipment or process shall be used which generates noise, fumes, odor, smoke, glare, vibration, electrical interference, waste, or puts strain on public utilities other than is reasonable for a residentially zoned district.

(g) No home occupation shall cause to be violated any other applicable statute, ordinance, or regulation of the City or the State of Minnesota including the Minnesota State Building Code and Minnesota State Fire Code.

(17) Incidental Light Manufacturing

(a) Light manufacturing or assembly are permitted accessory uses in all industrial zoning districts (IR, IL, and IH) subject to the restrictions for the primary use outlined in this ordinance.

(b) Light manufacturing or assembly of products in business zoning districts (BR, BN, and BG), Mixed Use Districts (MUD, MUN, MUR, and MUE), and the NBE district, shall only be conducted if:

(i) The manufacturing or assembly shall be related to the products or services being sold or offered by the Principal Use (i.e. authorization for making dental implants shall only be allowed as an accessory use to a dental operation. If the principal use changes to cell phone sales, the accessory use of manufacturing dental implants shall cease).

(ii) The light manufacturing or assembly shall have no negative impacts on adjacent property owners, tenants, and civic institutions; including future adjacent uses as may be allowed by zoning or the Comprehensive Plan.

(18) Live Events or Entertainment

(a) Permitted uses may host promotional events or entertainment like bingo, spoken word nights, or musical artists provided the event is not ticketed, creates no nuisances to adjacent tenants or properties, and operates clearly accessory to the primary use.

(b) Ticketed events or entertainment activities that could tend to supersede or supplant the primary use, even temporarily, are prohibited unless expressly authorized by a conditional use permit authorizing an event center.

(19) Mobile Food Unit

(a) All mobile food units must be properly licensed by the Minnesota Department of Health and/or any other applicable state or county agency with jurisdiction affecting mobile food sales.

(b) Mobile food units shall be compliant with State Fire Code requirements and are subject to inspection by the Fire Marshal when in operation within the City.

(c) Mobile food units are only allowed within Residential zoning districts (see table 3-1) as part of an approved outdoor event permit.

(d) Mobile food units are prohibited from operating within a public right-of-way unless specifically authorized to do so as part of an approved outdoor event permit.

(e) Mobile food units must obtain permission from a private property owner in order to operate on private property.

(f) The location of a mobile food unit shall not conflict with or limit required off-street parking or loading spaces, conflict with pedestrian flow, or obstruct ingress and egress from the building or the parking lot.

(g) Waste generated by a mobile food unit must be transported out of the City and disposed of in accordance with all federal, state, and local regulations. Grey water may not be drained into City stormwater drains

(h) Mobile food units and any associated equipment must be maintained and operated in a safe, working condition at all times and in a manner which minimizes noise, exhaust, and odors impacting the public and surrounding public and private properties so as not to create a public or private nuisance. The operation of any mobile food unit which fails to meet the standards of safety established by the laws of the State or the City, operates in a manner that creates a threat to the health, safety, and welfare of the public, or fails to obey a lawful order of law enforcement or licensing personnel, shall be discontinued until such time as the deficiency is eliminated.

(20) Outdoor Dining at a Licensed Food Establishment

(a) The outdoor dining area shall be adjacent to the principal building and primary access shall be provided from within the principal building.

(b) The design of the patio area and any fencing and landscaping shall be such that sight lines in and out of existing or proposed access points are not obstructed.

(c) Temporary structures shall not be allowed within the outdoor dining area.

(d) Banners, streamers, or other types of permanent or temporary signs shall not be placed or displayed in outdoor dining areas.

(e) The outdoor dining patio must not take on characteristics of a building having a roof or walls.

(f) Outdoor dining areas cannot be located within parking lots/spaces unless approved by conditional use permit. Conditional use permits for outdoor dining areas within parking lots or spaces may be denied if adequate measures cannot be taken to ensure the safety of customers and workers, or if the reduction in available parking spaces will result in a parking nonconformity.

(g) The Department of Community Assets and Development may require screening, fencing, or other improvements to ensure that an outdoor dining area does not have a detrimental impact on adjoining properties or the general public.

(21) Outdoor Storage [6-050(1) and 6-140(4)]

(a) In general.

In all zoning districts, all materials and equipment, except as denoted in this ordinance, shall be stored within a building or be fully screened so as not to be visible from adjoining properties.

(b) Detached Dwellings, Duplexes, Twin Homes, and Townhomes.

Items normally associated with residential property usage as determined by the Department of Community Assets and Development may be stored in visible locations outdoors. Such items, in reasonable numbers, include but are not limited to:

(i) Clothesline pole(s) and wire.

(ii) Recreational equipment and vehicles, subject to off-street parking regulations in Section 4.7 of this ordinance, and City Code Chapter 16, Article 3.

(iii) Construction and landscaping material currently being used on the premises.

(iv) Items normally associated with outdoor residential uses (e.g. lawn furniture, grills, etc).

(v) Recycling and trash containers as regulated by City Code.

(vi) Off-street parking of passenger vehicles, emergency vehicles and small commercial vehicles in residential areas, unless otherwise required to be screened according to Section 4.7 of this ordinance.

(vii) Propane tanks, fuel oil tanks, and other similar residential heating fuel storage tanks which do not exceed 1,000 gallons in capacity, are not in a front yard, and which are located at least five (5) feet of all property lines.

(viii) Wood piles in which wood is stored for fuel provided that not more than eight cords shall be stored on any property. A cord shall be four feet wide by four feet tall by eight feet long. All wood piles shall be five feet or more from the rear and side yard property lines and shall be stored behind the applicable front yard setback.

(ix) Solar energy systems.

(c) Multiple Family Buildings

Items normally associated with multiple family residential property usage as determined by the Department of Community Assets and Development may be stored in visible locations outdoors. Such items, in reasonable numbers, include but are not limited to:

(i) Construction and landscaping material currently being used on the premises.

(ii) Items normally associated with outdoor residential uses (e.g. lawn furniture, grills, etc.).

(iii) Recycling and trash containers as regulated by City Code.

(iv) Off-street parking of passenger vehicles, emergency vehicles and small commercial vehicles in residential areas, unless otherwise required to be screened according to Section 4.7 of this ordinance.

(v) Propane tanks, fuel oil tanks, and other similar residential heating fuel storage tanks which do not exceed 1,000 gallons in capacity and shall not be located within five feet of any property line.

(vi) Solar energy systems.

(d) Commercial and Mixed-Use Buildings

All business storage shall be conducted wholly within an enclosed building or behind a solid fence not less than five feet high except for establishments of a drive-in type offering goods or services directly to customers and except for off-street parking and loading.

(e) Industrial Buildings

Outside storage as an accessory use may be allowed by conditional use permit in the Industrial zoning districts subject to compliance with the following:

(i) Outside storage areas shall be screened from adjacent residential property and public rights- of-way by landscaping or an opaque fence six to eight feet tall.

(ii) Outside storage shall have no adverse effect on adjacent land due to unsightliness, noise, odor, dust, smoke, glare, air pollution, excessive or heavy vehicular traffic, bulk chemical storage, or fire or safety hazards.

(iii) Outside storage of large equipment, semi-cabs and trailers, or fleets of large vehicles shall be limited to IL and IH zoned properties.

(iv) A to-scale site plan or survey shall be provided to specifically identify the area(s) to be used for outdoor storage.

(v) A turning-movement plan shall be prepared by a qualified engineer or surveyor which confirms the City's largest emergency vehicle and the user's largest vehicle can make all necessary turning movements amongst the identified area(s) of outdoor storage.

(vi) If deemed necessary by the Department of Community Assets and Development, permanent ground markings or other physical indicators must be installed on-site to ensure outdoor storage is contained to authorized areas.

(f) For parcels in the IR District, there shall be only one outside storage area of materials, products, or trucks not to exceed 20 percent of the gross floor area of the building on the site. The storage area shall be screened with an opaque six to eight foot fence. This storage area shall be located only in the rear yard.

(22) Outdoor Recreation Area/Court

(a) For single family, duplex, and townhome units, outdoor recreation areas/courts must be located in the rear yard unless approved for a location in a side yard via a conditional use permit.

(b) For multiple family buildings or manufactured home parks, location of outdoor recreational areas/courts must be approved as part of a conditional use permit, Planned Unit Development, or Planned Residential Development.

(c) Outdoor recreational improvements for employees such as patios, pergolas, or barbeque/grill stations within required side or rear yard setbacks within an industrial district may be approved as an interim use provided the following conditions exist:

(i) The adjacent parcel is currently in a natural or undeveloped state within 40 feet of the proposed improvement; and

(ii) The applicant agrees to remove or protect the outdoor recreational improvement if directed by the Department of Community Assets and Development at such time as any development occurs on the adjacent parcel within 40 feet of the proposed improvement.

(23) Outdoor Sidewalk Sales & Display

Outdoor sidewalk sales and display areas associated with legally permitted retail uses shall:

(a) Not encroach into any right-of-way unless an encroachment agreement is in place, and not encroach into areas necessary for the safe ingress and egress into the retail structure;

(b) Maintain a minimum pedestrian walkway of at least five feet in width along the front of the display;

(c) Take place only on an improved dustless surface;

(d) May not extend into parking areas;

(e) The area of the site devoted to sidewalk sales and display under Section 5.4(E)(22) shall not exceed five percent of the gross floor area of the principal use. Sidewalk sales and display which exceed five percent of the gross floor area of the principal use may be allowed via a conditional use permit.

(24) Private Amateur Radio Antenna

Private Amateur Radio, for the purposes of this ordinance, shall mean equipment, including antennas, antenna support structures, and other related material, necessary to conduct Ham and Short-Wave Radio reception and transmissions, only for use by those persons properly licensed by the Federal Communications Commission for such reception and transmissions, and who are in full compliance with all licensing requirements.

(a) One antenna and associated antenna support structure shall be a permitted accessory use in all zoning districts, provided that:

(iii) The owner/operator has current versions of all required licenses to operate said equipment.

(iv) All equipment shall be installed in accordance with manufacturer's specifications, and pursuant to valid building and electrical permits, and any other applicable permit requirements.

(v) No freestanding antenna or antenna support structure shall be located within any required yard other than the rear yard of any parcel.

(vi) An antenna and its support structure may be located within a side yard only if mounted directly to the back-half of the principal structure.

(vii) Height standards of the underlying zoning district must be met subject to the height exceptions listed in Section 3.3(D)(4)(b).

(b) Any private amateur radio antenna or antenna support structure which is no longer in use, or for which the owner of property no longer has valid licenses, or which has fallen into disrepair to the extent that it can no longer serve its intended purpose, or which constitutes a hazard or nuisance, shall be considered a violation of the zoning ordinance, and shall be removed.

(25) Private Receiving Antennas

Private Receiving Antennas and their support structures, for the purposes of this ordinance, shall mean television and other electronic reception antennas for private use.

(a) Private antennas less than three meters in width and related support structures shall be a permitted accessory use in all zoning districts, provided that:

(i) Height standards of the underlying zoning district must be met subject to the height exceptions listed in Section 3.3(D)(4)(b).

(ii) No freestanding antenna or antenna support structure shall be located within any required yard other than the rear yard of any parcel.

(iii) A private receiving antenna and its support structure may be located within the buildable area of a lot if mounted directly to the principal structure.

(b) Any private receiving antenna or its support structure which is no longer in use, or which has fallen into disrepair to the extent that it can no longer serve its intended purpose, or which constitutes a hazard or nuisance, shall be considered a violation of the zoning ordinance, and shall be removed.

(26) Shelters (Storm or Fallout)

Storm and fallout shelters shall not alter the character of the premises with respect to the primary use of the site as permitted by the underlying zoning district.

(27) Solar Energy Systems

(a) *In General.* Solar energy systems shall be located on a lot with a building and shall be a secondary use for the lot.

(b) *Size and Screening.*

(i) The overall scope of solar energy installations on a building shall be limited by building's ability to screen the equipment from view so as not to be prominently visible from primary and secondary roadways;

(ii) Screening for solar energy systems may involve the strategic placement of equipment on buildings to limit visibility, use of architectural design to hide the equipment, or involve the use of walls, fences, or landscaping;

(c) *Height.* Roof-mounted solar energy systems shall comply with the maximum height requirements in the applicable zoning district. Ground-mounted solar energy systems shall not exceed 15 feet in height.

(d) *Setbacks.* Ground-mounted solar energy systems including any appurtenant equipment shall be set back a minimum of 15 feet from all property lines and a minimum of 30 feet from all dwellings located on adjacent lots. Roof-mounted systems shall comply with all building setbacks in the applicable zoning district and shall not extend beyond the exterior perimeter of the building on which the system is mounted.

(e) *Roof mounting.* Roof-mounted solar collectors shall be flush mounted on pitched roofs. Solar collectors may be bracket mounted on flat roofs.

(f) *Easements.* Solar energy systems shall not encroach on public drainage, utility, sidewalk, roadway, or trail easements.

(g) *Aesthetics.* All solar energy systems shall use colors that blend with the color of the roof or structure to which the system is accessory.

(h) *Feeder lines.* The electrical collection system shall be placed underground within the interior of each parcel. The collection system may be placed overhead near substations or points of interconnection to the electric grid.

(i) *Standards.* Solar energy systems shall meet the minimum standards outlined by the International Electrotechnical Commission (IEC), the American Society of Heating, Refrigerating, and Air-conditioning Engineers (ASHRAE), ASTM International, British Standards Institution (BSI), International Electrotechnical Commission (IEC), International Organization for Standardization (ISO), Underwriter's Laboratory (UL), the Solar Rating and Certification Corporation (SRCC) or other standards as determined by the Department of Community Assets and Development.

(j) *Certification.* Solar energy systems shall be certified by Underwriters Laboratories, Inc. and the National Renewable Energy Laboratory, the Solar Rating and Certification Corporation or other body as determined by the Department of Community Assets and Development. The City reserves the right to deny a building permit for proposed solar energy systems deemed to have inadequate certification.

(k) *Utility connection.* All grid connected systems shall have an agreement with the local utility prior to the issuance of a building permit. A visible external disconnect must be provided if required by the utility.

(l) *Abandonment.* If the solar energy system remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at their expense after a demolition permit has been obtained. Removal includes the entire structure including transmission equipment.

(m) *Permits.* A building permit shall be obtained for any solar energy system prior to installation.

(28) Taproom, Cocktail Lounge, or Tasting Room

(a) Taprooms, cocktail rooms, or tasting rooms must be accessory to an approved micro-production facility;

(b) Taprooms, cocktail rooms, or tasting rooms must either make food/meals available on-site or expressly allow patrons to carry in food.

5.5 Temporary Uses

(A) Purpose

Section 5.5 allows for the establishment of certain temporary uses of limited duration, provided that such uses comply with the standards in this subsection and are discontinued upon the expiration of a set time period. Temporary uses shall not involve the construction or alteration of any permanent building or structure unless expressly allowed herein.

(B) Permit Required

Temporary uses and structures that require a permit shall be reviewed in accordance with the process outlined in Section 2.4(L), Temporary Use Permits; and if a building permit is also necessary, in accordance with Section 2.4(H), Building Permits.

(C) General Standards for Temporary Uses

Temporary uses, structures, or events shall comply with the following:

(1) Obtain the appropriate permits (as required);

(2) Not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;

(3) Be compatible with the principal uses taking place on the site;

(4) Not have substantial adverse effects or noise impacts on nearby residential neighborhoods;

(5) Not include permanent alterations to the site;

(6) Meet all the setbacks of the underlying base and overlay zoning districts, unless expressly stated otherwise in this ordinance.

(7) Temporary signs permitted under the Code and associated with the use or structure shall be removed when the temporary activity ceases.

(8) Not violate the applicable conditions of approval that apply to a site or use on the site;

(9) Not interfere with the normal operations of any permanent use located on the property; and

(10) Contain sufficient land area to allow the temporary use to occur, as well as adequate land to accommodate the parking and traffic movement associated with the temporary use, without disturbing the surrounding neighborhood.

(D) Table of Allowed Temporary Uses and Structures

Table 5-3 summarizes allowed temporary uses and structures and any general or specific standards that apply. Temporary uses or structures not listed in the table are prohibited.

TABLE 5-3: TEMPORARY USES & STRUCTURES

Temporary Use or Structure	Allowable Duration (per site)	Permit Required	Additional Requirements
Temporary Use / Structure			
Accessibility Improvements	Until sunset of an approved IUP	Interim Use Permit	2.4(E) and 5.5(E)(1)
Construction Dumpster	Until issuance of certificate of occupancy for new homes, or three (3) days following completion of work for other permitted projects.	Building Permit	5.5(E)(2) and City Code 7-90
Construction trailer			5.5(E)(3)
Outdoor recreational improvements for employees such as patios, pergolas, or barbeque/grill stations within required side or rear yard setbacks	Upon development of adjacent land within 40 feet of the temporary feature	Interim Use Permit	5.5(E)(4)
Recreational vehicles and travel trailers (in use) not in an MHC district	90 days [City Code 16-75]	Temporary Use Permit	5.5(E)(5)
Real Estate Office / Model Sales Home	Until 85% occupancy of the development is reached	Building Permit	5.5(E)(6)
Temporary signs	varies	varies	See Section 4.5
Temporary Storage in a Portable Container	14 days	Temporary Use Permit	5.5(E)(7)

TABLE 5-3 (continued)			
Temporary Use or Structure	Allowable Duration (per site)	Permit Required	Additional Requirements
Temporary Use / Structure *(cont.)*			
Tents, canopies, tarp garages, and similar temporary shelters	30 days per calendar year. If being used in conjunction with an authorized construction project, not to exceed the time necessary for completion of the project.	Tent Permit	5.5(E)(8)
Temporary Sale			
Garage/Yard Sale	3 days per event; 3 events per calendar year	No	5.5(E)(9)

(E) Specific Standards for Temporary Uses

(1) Accessibility Improvements

Accessibility improvements may be temporarily allowed within a required setback provided the following conditions exist:

(a) The applicant can demonstrate the proposed location is the only reasonably available option to provide needed access to the intended structure or destination.

(b) The improvement is designed to eliminate or mitigate, in as much as possible, impacts on adjacent property.

(c) The applicant agrees to remove the accessibility improvement as directed by the Department of Community Assets and Development at such time as the residence no longer serves, in some capacity, the individual in need of the improvement.

(2) Construction Dumpster

(a) All temporary trash receptacles or dumpsters, regardless of location, shall adhere to the following standards:

(i) Not be placed within five feet of a fire hydrant or mailbox, or be within a required landscaping area;

(ii) Be secured with a cover to prevent litter and debris from escaping the dumpster;

(iii) Be promptly removed once full;

(iv) Be kept in good repair and shall be structurally sound and leakproof and shall be constructed to stand firmly upright; and

(v) Shall not impede the flow of pedestrian or vehicular traffic or safety sight lines.

(b) Temporary trash receptacles or dumpsters located outside public rights-of-way are not required to obtain a temporary use permit provided they are located on a driveway, or to the side or rear of the site to the maximum extent practicable.

(c) If, in the opinion of the Department of Community Assets and Development, there is no safe or practical place where a temporary trash receptacle or dumpster can be placed on private property, the temporary trash receptacle or dumpster may be placed in the right-of-way subject to the standards of Section 5.5(E)(2)(a) and the following additional requirements:

(i) A temporary use permit shall be obtained prior to placement of the dumpster.

(ii) Planking or other wood sheeting of sufficient size is required to be placed under the wheels or road contact areas to protect the roadway from damage. If the dumpster has wheels, they must be chocked to prevent movement.

(iii) Upon removal of the construction dumpster, the public right-of-way or the public area shall be swept clean of all loose debris and restored to its former condition to the satisfaction of the Department of Community Assets and Development.

(iv) The maximum timeframe for keeping a trash receptacle or dumpster within the right-of-way shall be seven calendar days, or if supported by the project, a longer timeframe as agreed to with the Department of Community Assets and Development.

(v) A surety acceptable to the City Attorney may be required by the Department of Community Assets and Development based on the length of time requested to store the trash receptacle or dumpster within the right-of-way, and the susceptibility of the right-of-way in question to be damaged by the proposed storage.

(3) Construction Trailer

(a) Construction trailers may be permitted on a construction site provided that the trailer is:

(i) Approved by the Department of Community Assets and Development for location, safety, and compatibility with adjacent properties;

(ii) Located on the same site or in the same development as the related construction;

(iii) Not located within a required landscape area; and

(iv) Associated with development for which a valid building permit has been or will be issued in the near future.

(b) The applicant shall be required to restore the trailer site to its previous condition when the trailer is moved off the construction site.

(4) Outdoor recreational improvements for employees

Outdoor recreational improvements for employees such as patios, pergolas, or barbeque/grill stations may be temporarily allowed within required side or rear yard setbacks provided the following conditions exist:

(a) The adjacent parcel is currently in a natural or undeveloped state within 40 feet of the proposed improvement; and

(b) The applicant agrees to remove or screen the outdoor recreational improvement as directed by the Department of Community Assets and Development at such time as any development occurs on the adjacent parcel within 40 feet of the proposed improvement.

(5) Mobile Homes, Travel Trailers, and Campers (in use) not in an MHC district

(a) A mobile home, travel trailer, or camper designed for habitation; owned by a non-resident, guest, or visitor; may be parked or occupied by the guest or visitor on private property containing a permanent dwelling unit for a period not to exceed 90 days if authorized via temporary use permit.

(b) The mobile home, travel trailer, or camper shall have self-contained sanitary facilities or standard on-site facilities meeting all requirements outlined by the Department of Community Assets and Development in the temporary use permit.

(c) The temporary use permit authorizing the use shall be displayed in a conspicuous location on the outside of the vehicle.

(6) Real Estate Sales Office/Model Sales Home

One temporary real estate sales office or model sales home per builder or developer may be temporarily permitted in a section or phase of a new residential or nonresidential development provided that the office or model home:

(a) Is aesthetically compatible with the character of surrounding development in terms of exterior color, predominant exterior building materials, and landscape;

(b) Complies with the applicable standards in the approved development plan (if applicable);

(c) Is operated by a developer or builder active in the same phase or section where the use is located; and

(d) Is removed or the model home is converted into permanent residential use once 85 percent occupancy in the section or phase of the development is reached.

(7) Temporary Storage in a Portable Container

Temporary storage in a portable shipping container may be allowed to serve an existing use subject to the following standards:

(a) Container placement shall be subject to approval by the Department of Community Assets and Development.

(b) The storage container shall not impede ingress, egress, or emergency access to the property or structure being served.

(c) Placement in a right-of-way is prohibited unless it can be shown that no other placement option exists due to the unique characteristics of the lot in question. Placement in a right-of-way under this provision shall be at the discretion of the Department of Community Assets and Development, shall require acquisition of a right-of-way permit, may require a damage deposit, and shall be limited to the shortest timespan possible with a maximum of three days.

(d) The storage container shall not be used as living quarters at any time.

(8) Tents, Canopies, Tarp Garages, and Similar Temporary Shelters

Tents, canopies, tarp garages, and similar temporary shelters may temporarily be erected subject to the following:

(a) Must secure a tent permit from the Fire Marshal;

(b) Maintain a minimum clearance of 20 feet from all other structures and tents;

(c) Be a minimum of eight feet from all side yards;

(d) Be limited to two on a single parcel unless more are approved as part of an Outdoor Event License issued under the provisions of City Code Chapter 15, Article 17. Outdoor Event Licenses.

(e) Not be erected for more than a total of 21 days in any calendar year;

(f) Be limited to a maximum of three occurrences per parcel per year;

(g) Cannot obstruct emergency vehicle access to adjacent lots;

(h) Habitation shall be limited to overnight hours, and shall only be allowed if the tent occupants have unfettered access to a primary dwelling and its sanitation and cooking facilities; and

(i) The lot or site shall be restored to its original condition within two days of removal of the tent, canopy, tarp garage, or similar temporary shelters.

(9) Garage/Yard Sales

(a) Garage or yard sales shall:

(i) Only be held on property occupied as a dwelling by the seller or on property owned, rented, or leased by a charitable or political organization;

(ii) Be limited to a maximum of four per dwelling per calendar year;

(iii) Not exceed a maximum duration of three consecutive days per sale;

(iv) The items offered for sale shall be owned by the occupant or a charitable or political organization running the sale;

(v) None of the items offered for sale shall have been purchased for resale or received on consignment for the purpose of resale;

(vi) Occur only between the hours of 7:00 A.M. and 6:00 P.M.;

(vii) Not allow unsold items or other sale-related materials to remain in public view following conclusion of the sale; and

(viii) Remove all sale related signage immediately upon conclusion of the sale.

(b) The owner or tenant of the premises on which a sale is conducted shall be responsible for the maintenance of good order and decorum on the premises during the hours of the sale.

CHAPTER 6: NONCONFORMITIES

6.1 Purpose and Intent

It is the purpose and intent of Chapter 6 is to:

(A) Allow nonconforming structures, uses, site characteristics and lots to continue to exist and be put to reasonable and productive use;

(B) Encourage nonconformities to be brought into compliance whenever reasonable to do so;

(C) Establish the requirements under which nonconformities may be operated and maintained;

(D) Diminish the impacts of nonconformities on adjacent properties by limiting the expansion of nonconformities; and

(E) To comply with Minnesota Statutes Section 462.357, subdivision 1e, as may be amended from time to time.

6.2 Authority to Continue

(A) Legal Non-Conforming Use

Legal conforming uses existing as of the effective date of this ordinance as documented in Section 1.4 (or in existence at the time of any subsequent update) that become non-conforming due to adoption or amendment of this ordinance shall be considered "legally non-conforming" as follows:

(1) A use which is no longer permitted due to a change in zoning shall be considered a legal non-conforming use subject to all conditions for such use as may be outlined in this ordinance.

(2) Legal nonconforming uses shall not be expanded to a greater intensity, nor shall they cover a greater extent of the land or occupy a greater extent of the structure hosting the legal nonconforming use.

(B) Legally Non-Conforming Structures

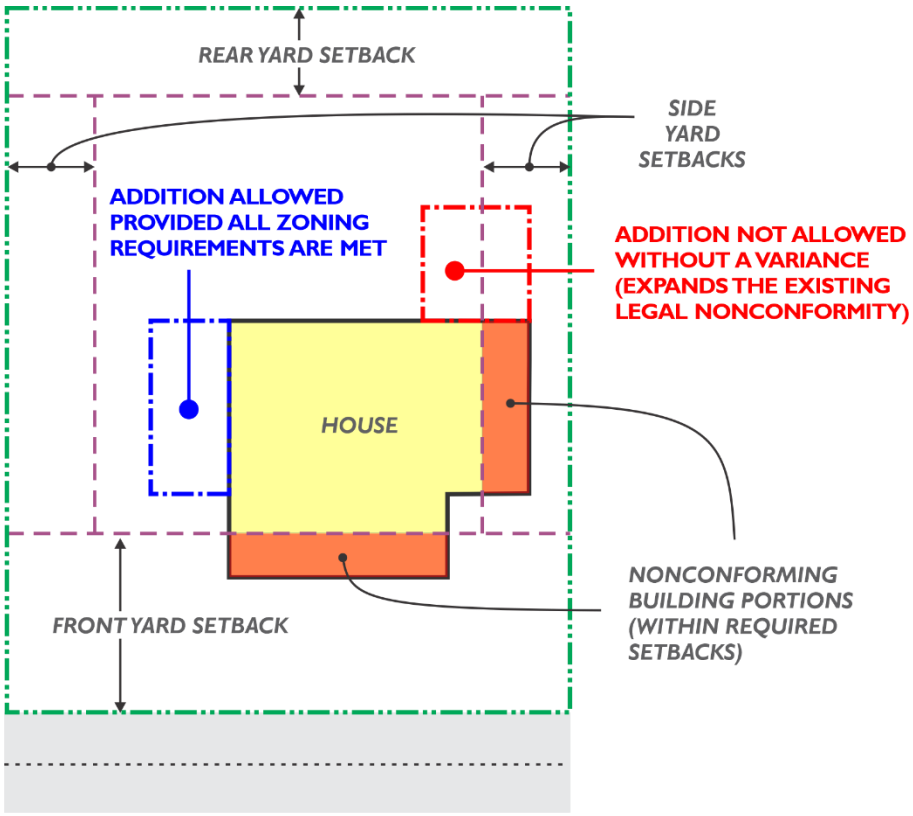
Legally conforming structures existing as of the effective date of this ordinance as documented in Section 1.4 (or in existence at the time of any subsequent update) that become non-conforming due to adoption or amendment of this ordinance shall be considered "legally non-conforming" as follows:

(1) The portion of a structure which becomes non-conforming to a required setback or height standard shall be viewed as legally non-conforming structure.

(2) Legal nonconforming structures shall not be expanded within the areas of nonconformity.

(3) A structure that is partially conforming (i.e. a portion of the structure meets all zoning requirements while the remainder of the structure is legal nonconforming as it falls within a setback) may be expanded if the addition conforms to all applicable zoning requirements.

Figure 6-1: Legal Nonconforming Building Expansion Types



(C) Continuance Stipulations

Legal nonconforming uses and structure may be continued—including through repair, replacement, restoration, maintenance, or improvement—unless:

(1) The nonconformity or occupancy has been discontinued (see Section 6.3).

(2) The overall structure which includes a nonconformity is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage; and no building permit has been applied for within 180 days of when the property suffered the damage.

(a) Upon written request, extensions to the deadline for building permit application may be granted by the City Council if the applicant can show good cause, and provided each extension does not extend the deadline beyond 365 days from when the property suffered the damage.

(b) In the case of a missed deadline under 6.2(C)(2):

(i) The City may impose reasonable conditions upon any subsequent zoning or building permit in order to mitigate any newly created impact on adjacent properties.

(ii) The start of discontinuance shall commence on the day the deadline expires.

(3) The structure which includes a nonconformity has less than 50 percent of a required setback from a designated water body, and 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. In such a case, the City may require the structure's setback from the designated water body be increased to a practical and reasonable amount in order to mitigate impacts to adjacent properties or the water body.

(4) Notwithstanding subsections (2) and (3) above, any nonconformity located in the floodplain overlay district that is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, as determined by the Building Official, shall be regulated to the extent necessary to maintain eligibility in the National Flood Insurance Program, and in no case shall the use be continued or re-established in a manner that results in potential flood damage or obstructs flood flows in the floodway.

(5) Nothing in this ordinance shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the Building Inspector.

(6) No non-conforming structure or use shall be relocated on-site or moved to another lot unless such movement shall bring the non-conformance into compliance with the requirements of this ordinance.

(7) Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not physically extend the building or structure containing the non-conforming use, nor allow intensification of the nonconforming use.

(8) Normal maintenance, necessary non-structural repairs, and incidental alteration of a lawful non-conforming sign includes repair or maintenance of existing lettering done without changing the form or design of the lawful non-conforming sign.

6.3 Discontinuance

(A) Re-establishment Not Allowed

A nonconforming use shall not be re-established after discontinuance of the use for a period of one year or more.

(B) Effect of Renovations and Repairs on Discontinuance

(1) Efforts to renovate or repair a nonconforming use or structure as allowed in Section 6.3 are not considered discontinuance provided all of the following conditions are met:

(a) All appropriate permits and development approvals are obtained;

(b) The renovation or repair is completed within one year from commencement of repair or renovation; and

(c) The nonconforming use is re-established within one month from the time the renovation or repairs are completed.

(2) Upon written request, extensions of up to one year may, but need not be granted by the City Council to complete renovations and repairs or re-establish a legal nonconforming use if the applicant can show good cause.

(3) Failure to complete repairs or renovations within one year, or to reestablish the legally nonconforming use within one month following repairs or renovation, shall constitute discontinuance, and the nonconforming use shall not be re-established.

6.4 Change in Use

(A) A lawful non-conforming use of a structure or parcel of land may be changed to lessen the non-conformity of use. Once a non-conforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the now-lessened non-conformity.

(B) When any lawful non-conforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any non-conforming use.

6.5 Building Permits and Ordinance Amendments

(A) Issued Building Permits

Provided the following conditions are met, any proposed structure for which a building permit has been lawfully granted may be completed in accordance with approved plans in the event that an ordinance amendment renders the pending structure non-conforming:

(1) Construction is started within 60 days of the effective date of the applicable ordinance which renders the new structure non-conforming;

(2) Activity to complete construction is not abandoned for a period of more than 120 days; and

(3) Construction is completed within two years of the building permit issuance.

(B) Resulting Status

Uses or structure rendered nonconforming due to ordinance changes which occur during construction shall thereafter be considered legally non-conforming as outlined in this ordinance.

6.6 Existing Nonconforming Lots

(A) Required Merger of Common Ownership Lots

(1) Except as may otherwise be provided for in this ordinance, when a group of two or more contiguous lots or parcels of land are owned or controlled by the same person, the following shall apply:

(a) If all lots are conforming to lot width, area, and frontage requirements, all lots may remain as separate parcels.

(b) If one or more of the contiguous lots or parcels of land do not conform to either lot width, area, or frontage requirements; but each lot contains a legally nonconforming residential dwelling or is a buildable lot of record; then all lots may remain as separate parcels.

(c) If one or more of the contiguous lots or parcels of land do not conform to either lot width, area, or frontage requirements; and the vacant parcels in contiguous ownership are not buildable lots of record; then the following shall apply:

(i) Such nonconforming lots shall not be sold or developed as a separate parcel of land; and

(ii) Such nonconforming lots shall be combined with adjacent lots or parcels under the same ownership or control so that the combination of lots will lessen the existing nonconformity, or will equal one or more lots each meeting the full lot requirements of this ordinance

(iii) The combination of lots shall be completed in accordance with applicable requirements of City Code Chapter 26, Subdivision.

City Code Chapter 26: Subdivision

(B) Vacant Legal Nonconforming Lots of Record

With the exclusion of parcels within the Floodplain Overlay District identified in Section 3.8(D) of this ordinance; vacant legal nonconforming lots of record may be developed provided the following conditions are satisfied:

(1) Legally Established

The lot in question was legally established in accordance with requirements of the New Brighton subdivision code existing at the time of its creation and is a separate, distinct tax parcel.

(2) Allowed Use

The proposed use is an allowed use within the base zoning district.

(3) Access

The lot in question has frontage on an improved public street, and the proposed use can directly access that street.

(4) Setback and Yard Requirements

The setback and yard requirements of the base zoning district can be met.

(5) Shoreland Requirements

Development can conform to the requirements of the Shoreland Overlay District in Section 3.8(C) if applicable.

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CHAPTER 7: ENFORCEMENT

7.1 Purpose

Chapter 7 establishes procedures through which the City seeks to ensure compliance with the provisions of this ordinance and obtain corrections for ordinance violations. It also sets forth the remedies and penalties that apply to violations of this ordinance. The provisions of Chapter 7 are intended to encourage the voluntary correction of violations whenever possible.

7.2 Compliance Required

(A) In General

Compliance with all the procedures, standards, and other provisions of this ordinance shall be required by all persons owning, developing, managing, using, or occupying land or structures in the City.

(B) Approvals Required

All persons shall obtain all necessary building permits and development approvals required by this ordinance prior to development.

7.3 Violations

(A) Failure to Comply with This Ordinance or Term or Any Condition of Approval Constitutes a Violation

Any failure to comply with a standard, requirement, prohibition, or limitation imposed by this ordnance; or the terms or conditions of any permit or other development approval or authorization granted in accordance with this ordinance; shall constitute a violation of this ordinance. Examples of violations include but shall not be limited to the following:

(1) Development of land without first obtaining all appropriate permits or development approvals, and complying with all applicable terms and conditions.

(2) Occupying or using land or a structure without first obtaining all appropriate permits or development approvals, and complying with all applicable terms and conditions.

(3) Engaging in any development or other activity of any nature in a way that is inconsistent with a permit or development approval, or other form of authorization granted for such activity by the City.

(4) Violating, by act or omission, any term, condition, or qualification placed by the City upon a required permit, certificate, or other form of authorization granted by the City to allow the development or other activity upon land.

(5) To alter, maintain, or use any building or structure or to use any land in violation of any provision of this ordinance.

(6) To install, create, erect, alter, or maintain any sign without first obtaining the appropriate permits or development approvals, and complying with their terms and conditions.

(7) Create, expand, replace, or change any nonconformity, except in accordance with this ordinance.

(8) Reduce or diminish the requirements of use, development, or dimensional standards below the minimum required by this ordinance.

(9) Through any act or omission, fail to comply with any other provisions, procedures, or standards, as required by this ordinance.

(10) To continue any of the above-stated violations.

(B) False Statements Constitute a Misdemeanor

Any person who knowingly makes or submits a false statement or document in connection with an application or procedure required by this ordinance is guilty of a misdemeanor.

(C) Development Shall Adhere to Approved Plans

(1) Permits or development approvals issued by a decision-making body or City official authorize only the use, density or intensity, location, design, and/or development set forth on the plans reviewed in issuing such permits or development approvals.

(2) Development that differs from that which was approved by a decision-making body in a permit or development approval is a violation of this ordinance.

7.4 Responsible Persons

The owner, tenant, or occupant of any land or structure, or an architect, engineer, builder, contractor, agent, or any other person who participates in, assists, directs, creates, or maintains a situation that constitutes a violation of this ordinance may be held responsible for the violation and be subject to the remedies and penalties set forth in Chapter 7.

7.5 Enforcement Generally

(A) Responsibility for Enforcement

The Department of Community Assets & Development shall be responsible for enforcing the provisions of this ordinance.

(B) General Inspection

(1) An authorized member of the Department of Community Assets & Development may enter upon land or inspect any structure to ensure compliance with the provisions of this ordinance provided permission has been granted by one of the following:

(a) An owner of the property in question;

(b) A licensee of the business being inspected;

(c) A resident of a dwelling on the property being inspected; or

(d) Any other person in control of the premises.

(2) If the owner, licensee, resident, or other person in control of a premises objects to the inspection of or entrance to the property, the City may petition a court of competent jurisdiction for a search warrant to authorize entrance to the property.

(3) Every owner, licensee, resident, or other person in control of a premises within the City shall permit, at reasonable times, inspections of or entrance to the property by the Department of Community Assets and Development to determine whether the provisions of this ordinance are being complied with and to enforce this ordinance. Unreasonable refusal to permit the inspection of or entrance to the property shall be grounds for termination of any and all permits, licenses, or City services to the property. Mailed notice shall be given to the owner, licensee, resident or other person in control of the property, stating the grounds for the termination, the scheduled date of termination, and the right to appeal in accordance with Section 2.4(F), Appeal of Administrative Decisions.

(4) Nothing in Chapter 7 shall be construed to limit the authority of the City to enter private property in urgent emergency situations where there is an imminent danger in order to protect public health, safety and welfare.

(C) Complaints Regarding Violations

Any person may notify the Department of Community Assets and Development of a suspected violation of this ordinance. In registering a complaint, the complaining party shall state, in writing, the cause and/or basis of the alleged violation. The identity of individuals registering complaints shall remain confidential as required by Minnesota State Statutes Section 13.44.

(D) Investigation of Complaints

Upon learning there is a potential violation of this ordinance, the Department of Community Assets and Development may conduct a general inspection to determine whether a violation of this ordinance exists.

(E) Notice of Violations

(1) On finding that a violation of this ordinance exists, the Department of Community Assets and Development or other City Official shall provide written notification of the violation to the owner of the property on which the violation exists and the person causing or maintaining the violation. The notification shall be delivered by personal service or through standard mail. The notice of violation shall:

(a) Describe the location and nature of the violation;

(b) State the actions necessary to abate the violation;

(c) Order that the violation be corrected within a specified reasonable time period not to exceed 30 days after receipt of the notice of violation; and

(d) State what course of action is intended if the violation is not corrected with the specified time limit; and advise the alleged violator(s) of their right to appeal the notice of violation to the Board of Adjustment and Appeals in accordance with Section 2.4(F).

(2) On receiving a written request for extension of the time limit for correction specified in the notice of violation, the Department of Community Assets and Development may, for good cause shown, administratively grant a single extension of the time for up to 30 days.

(3) If the owner of the property cannot be located or determined, the Department of Community Assets and Development shall post a copy of the notice of violation on the building, structure, sign, or site that is the subject of the violation. In such a case, the time limit for correction of the violation shall be deemed to begin five days after the notice is posted.

(F) Application of Penalties

(1) On determining that the violator has failed to correct the violation by the time limit set forth in the notice of violation, or any granted extension thereof, or has failed to timely appeal the notice of violation, the Department of Community Assets and Development shall take appropriate action, as provided in Section 7.6, to correct and abate the violation and to ensure compliance with this ordinance.

(2) Each day a violation continues is a separate offense.

(G) Emergency Enforcement without Notice

On determining that delay in correcting the violation would pose a danger to the public health, safety, or welfare, the Department of Community Assets and Development may seek immediate enforcement without prior written notice by invoking any of the remedies or penalties listed in Section 7.6.

7.6 Remedies and Penalties

(A) If the responsible person to whom the notice of violation was directed fails to comply with the applicable provisions of this ordinance, that person is guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than $300.00 for each offense or imprisoned for not more than 90 days or both.

(B) The City may also enforce any provision of this ordinance by mandamus, injunction, or any other appropriate remedy in any court of competent jurisdiction.

(C) A person who violates, fails to comply with or assists, directs, or permits the violation of a performance standard required by this ordinance must reimburse the City or its agent for the actual costs of the tests, measurements or other procedures necessary to demonstrate that violation.

(D) A person who conducts work prior to obtaining all necessary approvals may be subjected to double fees for any after-the-fact approval(s).

CHAPTER 8: RULES & DEFINITIONS

8.1 General Rules for Interpretation

The language set forth in the text of this ordinance shall be interpreted in accordance with the following rules of construction:

Section 1.3: Ordinance Purpose

(A) Meanings and Intent

All provisions, terms, phrases, and expressions contained in this ordinance shall be interpreted in accordance with the general purposes set forth in Section 1.3, Ordinance Purpose, and the specific purpose statements set forth throughout this ordinance. When a specific section of these regulations gives a different meaning than the general definition provided in Chapter 8, the specific section's meaning and application of the term shall control.

(B) Headings, Illustrations, and Text

In the event of a conflict or inconsistency between the text of this ordinance and any heading, caption, figure, illustration, table, or map, the text shall control. Graphics and other illustrations are provided for informational purposes only and should not be relied upon as a complete and accurate description of all applicable regulations or requirements.

(C) Lists and Examples

Unless otherwise specifically indicated, lists of items or examples that use terms such as "for example," "including," and "such as," or similar language are intended to provide examples and are not exhaustive lists of all possibilities.

(D) Computation of Time

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the City, the deadline or required date of action shall be the next day that is not a Saturday, Sunday, or holiday observed by the City. References to days are calendar days unless otherwise stated.

(E) References to Other Regulations/Publications

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

(F) Delegation of Authority

Any act authorized by this ordinance to be carried out by a specific official or department of the City may be carried out by a professional-level designee of such official or department.

(G) Technical and Non-Technical Terms

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

(H) Public Officials and Agencies

All public officials, bodies, and agencies to which references are made are those of the City of New Brighton, unless otherwise indicated.

(I) Mandatory and Discretionary Terms

(1) The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision.

(2) The words "may" and "should" are permissive in nature.

(J) Conjunctions

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

(1) "And" indicates that all connected items, conditions, provisions or events apply.

(2) "Or" indicates that one or more of the connected items, conditions, provisions, or events apply.

(K) Tenses, Plurals, and Gender

(1) Words used in the present tense include the future tense.

(2) Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise.

(3) Words used in the masculine gender include the feminine gender, and vice versa.

A Planners Dictionary (American Planning Association PAS Report 521/522)

Dictionary.com

(L) Terms Not Defined

If a term used in this ordinance is not defined in Section 8.4, the Department of Community Assets and Development shall have the authority to provide a definition based upon the definitions used in accepted sources including but not limited to "A Planners Dictionary" (APA PAS Report 521/522), or any standard dictionary.

(M) Boundary Interpretations

Where uncertainty exists with respect to the boundaries of any of the established districts as shown on the zoning map, the rules of Section 8.1(M) shall apply.

(1) **Boundaries of Public Right-of-Way.** Boundaries indicated as approximately following the center lines or street lines of streets, the center lines or alley lines of alleys, or the center lines or right-of-way lines of highways shall be construed to be such district boundaries.

(2) **Boundaries Parallel to the Right-of-Way.** Where district boundaries are so indicated that they are approximately parallel to the center lines or right-of-way lines of streets, alleys, highways, railroads, etc., the district boundaries shall be construed as being parallel thereto and distant therefrom as indicated on the zoning map.

(3) **Boundaries on Shorelines.** District boundaries following a stream, lake, or other body of water shall be construed to be at the limit of the jurisdiction of the City unless otherwise indicated.

(4) **Areas Under Water.** All areas within the corporate limits under water shall be subject to all of the regulations of the district which immediately adjoins the water area.

(5) Public or Semi-Public Property. Any areas shown on the zoning map as parks, playgrounds, schools, cemeteries, water, etc., shall be subject to the zoning regulations of the district in which they are located. In case of doubt, the zoning regulations of the most restricted adjoining district shall govern.

(6) Vacated Property. Whenever any street, alley, or other public way is vacated, the zoning district adjoining the vacated property shall be automatically extended to the center of the vacated area. Further, all area included therein shall be subject to all regulations of the extended district.

(7) Boundaries on Lot Lines. Boundaries indicated as approximately platted lot lines shall be construed as following such lot lines.

(8) Boundaries on City Limit Lines. Boundaries indicated as approximately following City limits shall be construed as following City limits.

8.2 Rules of Measurement

(A) Measurements, Generally

(1) Purpose

The purpose of Section 8.2 is to clarify the rules of measurement and exemptions that apply to all principal and accessory uses allowed in this ordinance. These standards may be modified by other applicable sections of this ordinance.

(2) Distance Measurements, Generally

(1) Unless otherwise expressly stated, distances specified in this ordinance are to be measured as the length of an imaginary straight line joining identified points on a horizontal plane.

(2) Measurements involving a structure are made to the closest support element of the structure.

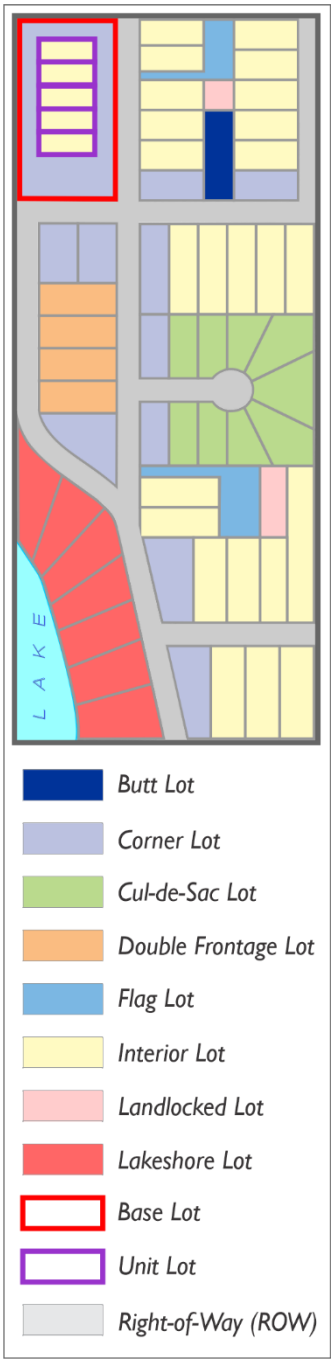
(3) Structures or portions of structures that are entirely underground are not included in measuring required distances.

(B) Lots and Yards

(1) Lot Types (see Figure 8-1)

Figure 8-1: Lot Types

The lots in this figure are color coded to illustrate the various lot types defined by code.



(a) Base Lot

A contiguous parcel of land making up the overall boundaries of an authorized development; may include individual "unit lots."

(b) Butt Lot

A lot at the end of a block and located between two corner lots.

(c) Corner Lot

A lot bordered on at least two adjacent sides by adjoining streets.

(d) Cul-de-Sac Lot

A lot located on the head or turnaround of a cul-de-sac with side lot lines on a tangent to the arc of the right-of-way.

(e) Double Frontage Lot

A lot, other than a corner lot, with frontage on more than one street.

(f) Flag Lot

A lot that does not abut or front a street where access is obtained by a narrow private right-of-way.

(g) Interior Lot

A lot other than a corner lot with only one frontage on a street other than an alley.

(h) Landlocked Lot

A lot bordered by public or private properties on all sides having no frontage on a public right-of-way.

(i) Lakeshore Lot

A lot bordered on one side by lakeshore, and the opposite side by a right-of-way. Lakeshore lots may also be corner lots.

(j) Unit Lot

A lot for individual units within a larger base lot.

(2) Lot Lines and Yards (see Figure 8-2)

(a) Front Lot Line

The boundary of a lot that abuts a road or roadway easement. In the case of a corner lot, it shall be the boundary with the shortest dimension along an abutting road.

(b) Side Lot Line

The side lot lines are the lot lines connecting the front and rear lot lines regardless of their orientation, or whether they abut a right-of-way or another lot line.

(c) Corner Side Lot Line

The corner side lot line is a side lot line that abuts a street or other right-of-way.

(d) Rear Lot Line

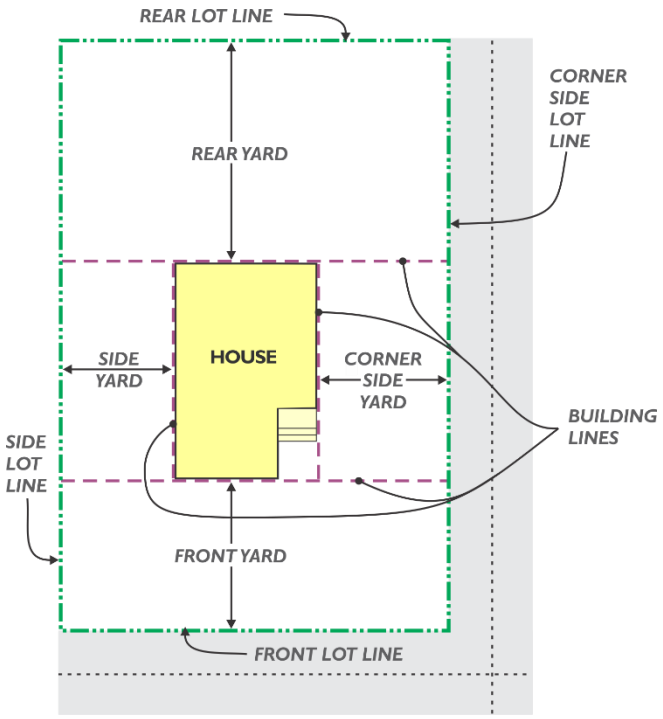
The boundary of a lot opposite of the front lot line or the Ordinary High Water Level of a lakeshore lot.

(e) Front Yard

A yard extending between side lot lines across the front of a lot between the front lot line and the front building line.

(f) Side Yard

A yard extending from the front building line to rear building line. In the case of double frontage lots, the side yard extends from the front building line to the opposing building line associated with the other yard.



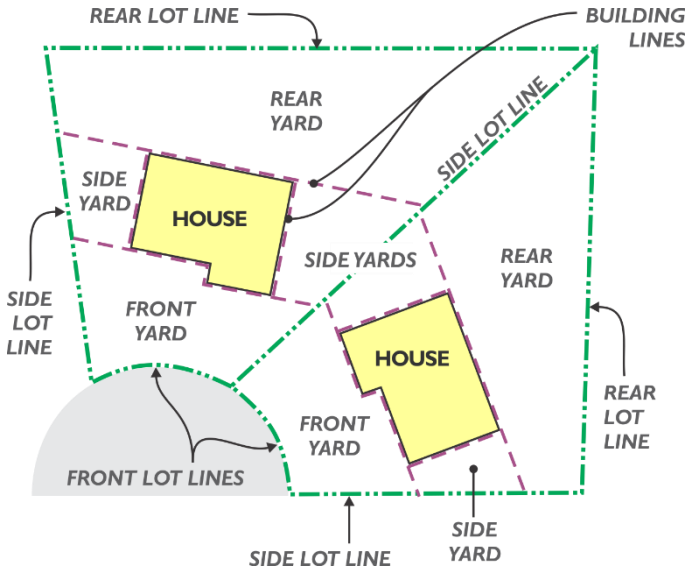
(g) Corner Side Yard

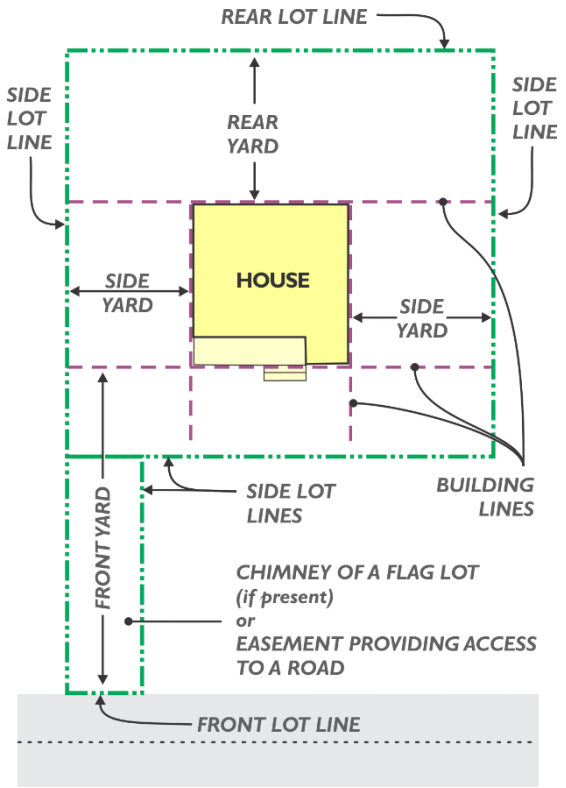
A side yard extending between the front and rear lot lines parallel to an abutting street or right-of-way.

(h) Rear Yard

A yard extending across the rear of the lot between the rear lot line and the rear building line. In the case of double frontage lots, there is no rear yard, and the requirements for the front yard shall apply to the front and rear.

Figure 8-2: Lot Lines & Yard Depictions





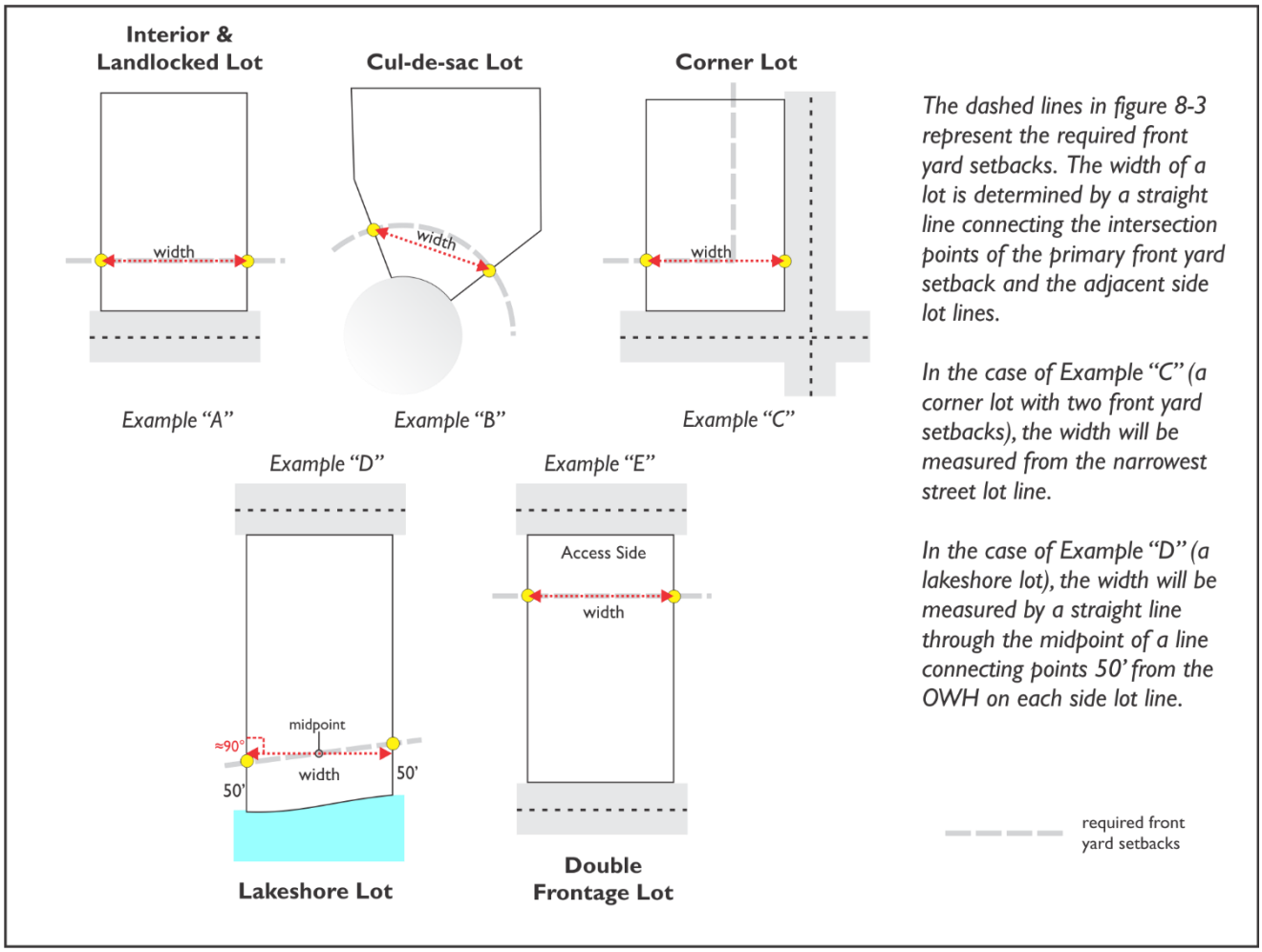
(3) Definitions/Measurement

(a) Lot Width (see Figure 8-3)

(i) Lot width shall be determined by a straight line connecting endpoints determined by the intersection of the side lot lines and the minimum front yard setback.

(ii) The width of a corner lot shall be calculated from the side with the least frontage on a right-of-way.

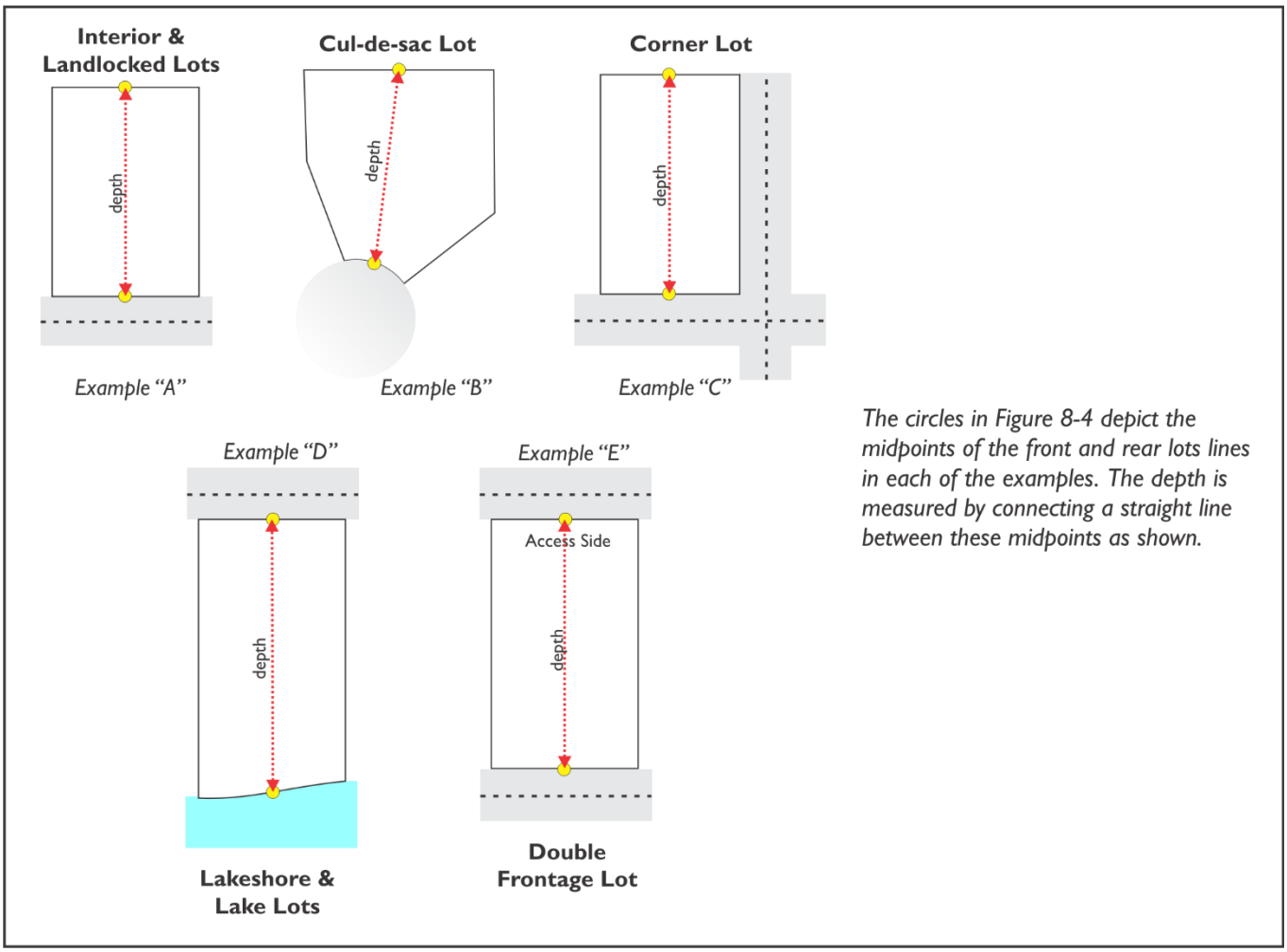
Figure 8-3: Measuring Width



(b) Lot Depth (see Figure 8-4)

Lot depth shall be determined by a straight line connecting the midpoint of the front lot line to the midpoint of the rear lot line (see Figure 8-4 for examples).

Figure 8-4: Measuring Depth



(c) Lot Area (see Figure 8-6)

The amount of land area, measured horizontally, included within the lines of a lot. Lands located within any private easements shall be included within the lot area. Public rights-of-way and areas below the ordinary high-water (OHW) mark of a lake are not to be included in calculating lot area, except where specifically allowed by this ordinance. The terms "lot size" and "lot area" shall be interchangeable.

(d) Building Line (see Figure 8-2)

A line formed by the outward most face or support structure for a building which is used to establish the yards around a building or structure.

(e) Setback Line

The minimum required distance prescribed by this ordinance between any property line, Ordinary High Water Level, or top of bluff; and the closest permissible point of an allowed improvement such as a foundation or any supporting post or pillar of a building or structure. Portions of a building, (e.g., an overhang, eave, entry stairs, bay windows, foundation planters, etc.) may encroach into a required yard as outlined in Table 3-5, Allowable Yard Encroachments.

Section 3.3(D)(2) Specialized Yard Standards

(f) Yard

A required open area unoccupied and unobstructed by any building or by any structure or portion of a structure except as allowed by this ordinance.

(g) Lot or Street Frontage

(i) In the case of a building lot abutting upon only one street, the frontage line is the line parallel to and common with the right-of-way.

(ii) In the case of a corner lot, that part of the building lot having the narrowest frontage on any street shall be considered the frontage line.

(iii) For the purpose of determining yard requirements on corner lots and double frontage lots, all lot lines adjacent to streets shall be considered frontage, and yards shall be provided as required in this ordinance.

(h) Right-of-Way (ROW)

Land dedicated, deeded, used, or intended to be used for a street, road, alley, sidewalk, trail, pedestrian way, crosswalk, bikeway, utilities, drainage facility, or other public uses.

(4) Height

(a) Definitions/Measurement

(i) Building Height

The vertical distance between the lowest ground level of the building and the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitched or hipped roof.

1. For a slab-on-grade building, a building with a full basement, or a lookout; the "lowest ground level of the building" shall be the lowest grade level adjacent to the building excluding window wells and other features necessary for safety and egress.
2. For a walkout building, height shall be measured from the lowest ground level adjacent to the street facing portion of the building. For a walkout building on a corner lot, height shall be measured from the lowest ground level adjacent the building facing the lot front.

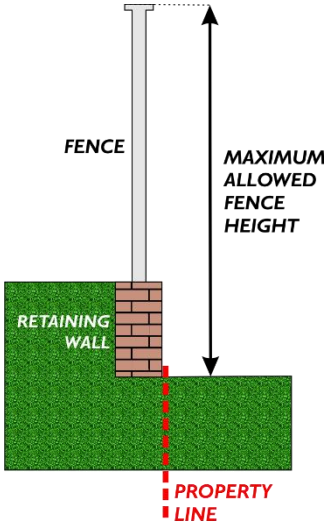


Figure 8-5:
Fence on Top of Wall Height

(ii) Building Story

That portion of the building included between the surface of any floor and the surface of the next floor above it or if there is no floor above it, the space between the floor and the ceiling next above it.

(iii) Fence and Wall Height

1. Fence height shall be measured as the vertical distance between the finished grade at the base of the fence to the top edge of the fence material.
2. The height of fencing atop a wall shall be measured from the base of the wall (see figure 8-5).

(5) Bulk and Coverage; Definitions & Measurements

(a) Building Coverage

Building coverage is a measure of intensity of a use of land that represents the portion of a site that is covered by building footprint, as well as attached porches, decks, and balconies. Building coverage does not include driveways, streets, sidewalks, and any other areas covered by an impervious surface material, including areas of outdoor storage (see Figure 8-6).

(b) Floor Area

The sum of gross horizontal area of the several floors of a building measured from the exterior walls, including basements and attached accessory buildings.

Figure 8-6: Coverage & Area Measurements

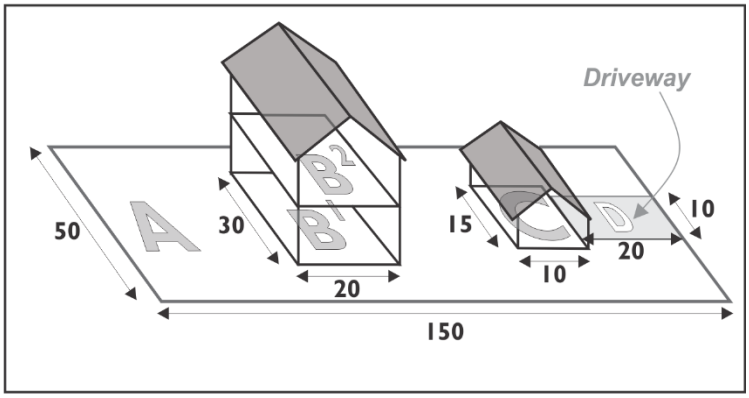
Figure 8-6 illustrates various area measurements:

Lot Area = Area of "A" *(150 x 50 = 7500)*

Building Coverage = Area of B^1 + C
[(30x20)+(15x10)] = 750

Impervious Surface Coverage = Area of B^1 + C + D
[(30x20)+(15x10)+(20x10)] = 950

Gross Floor Area = Area of B^1 + B^2 + C
[(30x20)+(30x20)+(15x10)] = 1350



(c) Impervious Surface Coverage

Impervious surface coverage shall be calculated as the total horizontal surface area of all impervious surfaces on a given lot (see Figure 8-6).

(d) Floor Area Ratio

The total floor area of all buildings or structures on a lot divided by the lot area (see Figure 8-6).

8.3 Glossary of Abbreviations

ADA..... The Americans with Disabilities Act

ACI..... Aggregate Caliper Inch

ADU..... Accessory Dwelling Unit

ANSI..... American National Standards Institute

APC..... Air Pollution Code

ASHRAE..... American Society of Heating, Refrigerating, & Air-conditioning Engineers

ASTM..... American Society for Testing and Materials

BMP..... Best Management Practice

BSI..... British Standards Institution

CO..... Certificate of Occupancy

CUP..... Conditional Use Permit

DCAD..... Department of Community Assets and Development

DNR..... Minnesota Department of Natural Resources

DU..... Dwelling Unit

EAW..... Environmental Assessment Worksheet

EFIS..... Exterior Insulating Finishing System

EIS..... Environmental Impact Statement

EQB..... Minnesota Environmental Quality Board

FAR..... Floor Area Ratio

FCC..... Federal Communications Commission

FEMA..... Federal Emergency Management Agency

GFA..... Gross Floor Area

HUD..... U.S. Department of Housing and Urban Development

IEC..... International Electrotechnical Commission

IFC..... International Fire Code

ISO..... International Organization for Standardization

IUP..... Interim Use Permit

MPCA..... Minnesota Pollution Control Agency

MN.....Minnesota

NB.....New Brighton

NFPA.....National Fire Protection Association

OHW/OHWL.....Ordinary High Water/Ordinary High-Water Level

OSHA.....Occupational Safety and Health Administration

PCA.....Pollution Control Agency

PRD.....Planned Residential Development

PUD.....Planned Unit Development

RCWD.....Rice Creek Watershed District

RLUIPA.....Religious Land Use and Institutionalized Persons Act

ROW.....Right of Way

SRCC.....Solar Rating and Certification Corporation

SQ FT.....Square Feet

SWPPP.....Storm Water Pollution Prevention Program

UL.....Underwriter's Laboratory

ULI.....Urban Land Institute

USDA.....United States Department of Agriculture

Zoning District Abbreviations are listed in Tables 3-1 and 3-2

8.4 Definitions

ACCESSIBILITY IMPROVEMENTS. Any special property improvements such as sidewalks, ramps, lifts, etc., that may be needed to ensure accessibility for people with disabilities.

ACCESSORY BUILDING – MAJOR. A building which is accessory to a principal structure and is required to be constructed with a building permit per Minnesota Rules Part 1300.0120.

ACCESSORY BUILDING – MINOR. A building which is accessory to a principal structure and exempt from a building permit per Minnesota Rules Part 1300.0120.

ACCESSORY BUILDING – TALL. A building which is accessory to a principal structure, is required to be constructed with a building permit per Minnesota Rules Part 1300.0120, and is allowed to exceed the underlying zoning district height maximum when authorized by conditional use permit.

ACCESSORY DWELLING UNIT (ADU). A smaller, independent residential dwelling unit located on the same lot as a single-family dwelling.

ACCESSORY DWELLING UNIT, ATTACHED. An accessory dwelling unit which involves placing an addition on a principal structure, or retrofitting of a portion of an existing home, to allow for the new secondary unit.

ACCESSORY DWELLING UNIT, DETACHED. An accessory dwelling unit which is separate from the principal structure.

ACCESSORY USE OR STRUCTURE. A use or structure subordinate to the principal use on the same premises and customarily incidental thereto.

ADULT USES. **"**Adult use" and related definitions shall be as spelled out in Section 15-511 of the New Brighton City Code.

AIRPORT. Any premises which are used, or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other structures or rights-of-way.

ALLEY. A public or private right-of-way not greater than 24 feet in width which affords a secondary means of access to abutting property.

ANCILLARY RECREATIONAL USES. Recreational elements which are portable and subordinate to a residential principal use on the property including play apparatus and sporting equipment with a 200 square feet footprint or smaller.

ANTENNA, PRIVATE AMATEUR RADIO. Equipment, including antennas, antenna support structures, and other related material, necessary to conduct Ham and Short Wave Radio reception and transmissions, only for use by those persons properly licensed by the Federal Communications Commission for such reception and transmissions, and who are in full compliance with all licensing requirements.

ANTENNA, PRIVATE RECEIVING. Television and other electronic reception antennas for private use.

ANTENNA, TELECOMMUNICATION. A device used for the transmission or reception of wireless communications, usually arranged on an antenna support structure or building, and consisting of a wire, a set of wires, or electromagnetically reflective or conductive rods, elements, arrays, or surfaces, inclusive of the following: Private Amateur Radio Antenna(s), Private Receiving Antenna(s), Commercial Transmission And Reception Antenna(s), and Wireless Telecommunications Service Antenna(s).

ANTENNA, WIRELESS TELECOMMUNICATIONS SERVICE. Shall mean any equipment necessary to provide or support all types of wireless electronic communications, including, but not necessarily limited to, wireless "cellular" telephone, radio, and internet transmission and reception communications between mobile communications providers and users, including public safety communications.

ANTENNA SUPPORT STRUCTURE. Any pole, telescoping mast, tower, tripod, or other structure which supports an antenna. Such structure may be freestanding or attached to a building or other device that conforms to this ordinance.

ASSISTED LIVING FACILITY. A multiple-family structure that includes a special combination of housing, supportive services, personalized assistance, and health care designed to respond to the individual needs of people who need help with activities of daily living, but where the emphasis of the facility remains residential. Residents of assisted living facilities do not require hospitalization or skilled or intermediate nursing care associated with nursing home facilities, but do, because of their advanced age, require assistance or supervision in matters such as dressing, bathing, diet, financial management, evacuation of a residence in the event of an emergency, or medication prescribed for self-administration.

AUTOMOBILE REPAIR, MAJOR. Includes all types of repair beyond minor automobile repair such as the rebuilding or reconditioning of engines, body work, frame work, and painting; and includes all work on vehicles exceeding 7,000 pounds gross weight.

AUTOMOBILE REPAIR, MINOR. Includes the replacement of any part or repair of any part that does not require removal of the engine head or pan, engine transmission, or differential; incidental body and fender work, minor painting, and upholstering service. Above stated is applied to passenger automobiles and trucks not in excess of 7,000 pounds gross weight.

AUTOMOTIVE CAR WASH. An area or structure equipped with automatic or self-service facilities for primarily washing automobiles.

BASE FLOOD – see "Regional Flood"

BASEMENT. Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

BEDROOM. A habitable room that is used for sleeping in any dwelling unit.

BEST MANAGEMENT PRACTICES (BMPs). Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

BLUFF. A topographic feature such as a hill, cliff, or embankment having all of the following characteristics (an area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff):

(A) Part or all of the feature is located in a shoreland area;

(B) The slope rises at least 25 feet above the ordinary high water level of the water body;

(C) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and

(D) The slope must drain toward the water body.

BLUFF, TOP OF. The higher point of a 50-foot segment with an average slope exceeding 18 percent.

BLUFF, TOE OF. The lower point of a 50-foot segment with an average slope exceeding 18 percent.

BLUFF IMPACT ZONE. The area between a bluff and land located within 20 feet from the top of the bluff.

BLUFFLINE. A line delineating the top of the bluff connecting the points at which the angle of ascent becomes less than 12 percent. More than one bluff line may be encountered.

BOARDER. A person who regularly receives lodging with or without meals at another's home in exchange for pay or services.

BOUNDARY LINES. Any line indicating the bounds or limits of any tract or parcel of land. Also, a line separating the various use districts as shown on the City's zoning map.

BREW PUB. A commercial business which conducts the retail sale of beer (malt beverages with alcohol content as defined by federal law) which is brewed on the premises in compliance with applicable local, state, and federal laws. Such establishments may also include restaurants as an accessory use. Live entertainment is subject to the use requirements of district in which the establishment is located.

BUILDABLE AREA. The space remaining on a lot after all applicable building restrictions, such as setbacks, are considered.

BUILDABLE LOT. Any platted lor or parcel of land which is entitled to a building permit under this ordinance.

BUILDING. Any structure for the shelter, support or enclosure of persons, animals, chattel, or property of any kind affixed to the land.

BUILDING PERMIT. A permit issued by the building official before a building or structure is started, improved, enlarged or altered which acknowledges that the proposed structure has been reviewed and approved for conformance with the zoning ordinance and the building code.

BUILDING, STORAGE. A building, other than a private garage, used for the storage of items which are customarily incidental to the principal permitted use of the property.

BULK FUEL SALES AND STORAGE. The commercial storage of gasses and fuels in above ground containers.

BUSINESS SUPPORT SERVICES. A subcategory of commercial land use that permits establishments primarily engaged in rendering services to other business establishments on a fee or contract basis, such as advertising and mailing; building maintenance; personnel and employment services; management and consulting services; protective services; equipment rental and leasing; photo finishing; copying and printing; travel; office supply; and similar services.

CANNABIS CULTIVATION BUSINESS. A business with a cannabis cultivator license, medical cannabis cultivator license, or cultivation endorsement from the State of Minnesota Office of Cannabis Management.

CANNABIS DELIVERY BUSINESS. A business with a cannabis delivery service license or delivery service endorsement from the State of Minnesota Office of Cannabis Management.

CANNABIS EVENT ORGANIZER. A business with a cannabis event organizer license or event organization endorsement from the State of Minnesota Office of Cannabis Management.

CANNABIS MANUFACTURING BUSINESS. A business with a cannabis manufacturer license, or manufacturing endorsement from the State of Minnesota Office of Cannabis Management.

CANNABIS RETAILER. A business with a cannabis retailer license, medical cannabis retailer license, lower-potency hemp edible retailer license, or retail endorsement from the State of Minnesota Office of Cannabis Management.

CANNABIS TESTING BUSINESS. A business with a cannabis testing facility license or testing endorsement from the State of Minnesota Office of Cannabis Management.

CANNABIS TRANSPORTATION BUSINESS. A business with a cannabis transporter license or transportation endorsement from the State of Minnesota Office of Cannabis Management.

CANNABIS WHOLESALING BUSINESS. A business with a cannabis wholesaler license or wholesaling endorsement from the State of Minnesota Office of Cannabis Management.

CEMETERY. Land used or intended to be used for burying the remains of human dead and related purposes, including mausoleums and mortuaries, when operated in conjunction with and within the boundaries of the cemetery.

CHURCH. (see "PLACE OF PUBLIC ASSEMBLY")

CLINIC/MEDICAL SERVICES. A structure intended for providing medical or dental examinations and service available to the public without overnight care. This category of use includes all forms of offender counseling and/or treatment services.

COCKTAIL LOUNGE. A room that is ancillary to the production of spirits where the public can purchase and/or consume mixed drinks produced by the micro-distillery on site as licensed and regulated by the City of New Brighton and the State of Minnesota.

COLLEGE. An institution of higher education which confers degrees in the advanced branches of knowledge including the professions.

COMMERCIAL CANOPY. A covering, intended to provide protection against the sun or weather, which is mounted on a rigid metal frame, and is supported in full or in part by posts attached to the ground, a deck, or a concrete slab. Attached canopies shall be supported, in part, by the wall of a permanent structure. "Freestanding" shall refer to canopies supported entirely by posts.

COMMERCIAL LODGING. A building or group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental for temporary occupation by persons on an overnight basis, not including bed and breakfast establishments or a rooming house. Such uses may include microwaves and refrigerators for each guest unit.

COMMON OPEN SPACE. All private land which is placed, by covenant or deed restrictions, in permanent custody of the owner or owners of any project which contains such space and is to be left substantially open for the private use and enjoyment of the residents of the project abutting or adjacent thereto.

COMMUNICATION ANTENNAS AND ANTENNA SUPPORT STRUCTURES. See ANTENNA, TELECOMMUNICATION.

COMMUNICATIONS/BROADCASTING. Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Associated antennas, antenna support structures and satellite dishes are included in this definition. Typical uses include television studios, telecommunication service centers, telegraph service offices, or film and sound recording facilities.

COMMUNITY GARDEN: An area of land managed and maintained by a group of individuals to grow and harvest food crops or non-food, ornamental crops, such as flowers, for personal or group use, consumption, or donation. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members.

CONDITIONAL USE. A specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that certain conditions as detailed in the zoning ordinance exist, that the structure or land use conforms to the comprehensive plan, and that the structure or land use is compatible with the existing neighborhood.

CONVENIENCE RETAIL. A retail store not more than 4,000 square feet in area that generally carries a reduced inventory of a variety of items such as dairy products, minor automobile related items, groceries, novelties, magazines, etc. Convenience retail may be combined with vehicle fuel sales where permitted.

CORPORATE HEADQUARTERS. A major corporation's most important location overall or regionally where executive management or key managerial and support staff are located. Such sites may include office, testing facilities, light manufacturing components, or other mission-critical components as may be approved by the Department of Community Assets and Development.

DAYCARE. A service provided to the public in which children of school or preschool age are cared for during established business hours, and which does not qualify as a group residential facility.

DECK. A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site.

DEVELOPMENT. The making of any material change in the use or appearance of any structure or land including reconstruction; alteration of the size of any structure; alteration of the land; alteration of a shore or bank of a river, stream, lake or pond; a commencement of drilling (except to obtain soil samples); mining or excavation; demolition of a structure; clearing of land as an adjunct to construction; deposit of refuse, solid or liquid waste, or fill on a parcel of land; or the dividing of land into two or more parcels.

DETACHED GARAGE. A detached major accessory building used primarily for parking or storing a motor vehicle and separated from the principal structure on the lot.

DNR COMMISSIONER. The Commissioner of the Department of Natural Resources of the State of Minnesota.

DOG KENNEL. Any premises where four or more dogs over six months of age are kept.

DONATION DROP-OFF CONTAINER. A receptacle designed with a door, slot, or other opening that is intended to accept and store donated items.

DRIVE-THROUGH SERVICE. A building opening, including windows, doors, or mechanical devices, through which occupants of a motor vehicle receive or obtain a product or service.

DRIVEWAY. An improved surface leading from a public street easement or public street right-of-way to a house, garage, or other vehicle storage area, or to a parking lot or parking area.

DWELLING. A building or portion thereof which is designed or used exclusively for human habitation.

DWELLING UNIT. One or more habitable rooms which are occupied, or which are intended or designed to be occupied as a residence by one family, with facilities for living, sleeping, cooking, and dining.

DWELLING UNIT, ACCESSORY (ADU). See "accessory dwelling unit."

DWELLING, ATTACHED. A dwelling which is joined to other dwellings units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall.

DWELLING, DETACHED. A residential building which is entirely surrounded by open space on the same lot.

DWELLING, DUPLEX. A residential building containing two dwelling units where both units share the same base lot.

DWELLING, LIVE-WORK UNIT. A personal residence that is specifically designed and located to allow accessory business use by the occupants of the residence. This may include office and service uses and retail sales of products produced on-site (arts, crafts, etc.).

DWELLING, MULTIPLE-FAMILY. A building or portion thereof containing three or more dwelling units.

DWELLING, SEMI-DETACHED. A dwelling which is joined to another dwelling at one side only by a party wall.

DWELLING, TOWNHOUSE. A group of three or more single-family residences attached one to the other with common sidewalls. These dwellings may be one or more story buildings, but each unit shall be designed and constructed to house single families. The design, construction, or use of multi-story units to house more than one family shall not be permitted.

DWELLING, TWIN HOME. Two separate homes that include a shared wall, but each dwelling unit is separated by a lot line running through the common wall allowing for separate ownership of both the unit and land upon which the unit sits.

EASEMENT, PUBLIC DRAINAGE & UTILITY. A limited ownership interest in land enabling the construction and maintenance of public services and utilities thereon including but not limited to sanitary sewers, water mains, electrical lines, gas lines, telephone lines, cable TV, and storm sewer or storm drainage facilities.

EFFICIENCY UNIT. A dwelling unit in a multiple-residence building providing complete dwelling facilities without a dedicated bedroom or bedrooms.

ENTERTAINMENT, INDOOR COMMERCIAL. An establishment providing completely enclosed recreation or entertainment activities. Accessory uses may include the preparation and serving of food or the sale of equipment related to the enclosed uses. Examples of indoor commercial entertainment businesses include bowling alleys, roller and ice-skating rinks, billiards halls, swimming pools, motion picture theaters, and similar amusements. Indoor commercial entertainment uses do not include event centers, firearm related uses, or adult uses.

ENTERTAINMENT, OUTDOOR COMMERCIAL. An establishment providing recreation or entertainment activities primarily occurring outdoors. Accessory uses may include the preparation and serving of food, the sale of equipment related to the outdoor uses, and complementary indoor entertainment facilities. Examples of outdoor commercial entertainment businesses include, but are not limited to, golf driving ranges, sand volleyball courts, go-carts, and miniature golf courses. Outdoor commercial entertainment uses do not include projectile weapon ranges (archery or firearm related uses), sports stadiums, or drive-in movie theaters.

EQUAL DEGREE OF ENCROACHMENT. A method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

ESSENTIAL SERVICES. Overhead or underground electrical, gas, steam or water transmission or distribution systems and structures for collection, communication, supply or disposal systems; and structures used by public or private utilities or governmental departments or commissions, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants or other similar equipment and accessories used in conjunction therewith.

EVENT CENTER. A multi-purpose commercial venue (public or privately owned) used for the purposes of performances, trade shows, corporate functions, sporting events, private receptions or parties, holiday gatherings, or similar attractions.

(A) Common characteristics of event centers, which differentiate such uses from places of public assembly, often include but are not limited to, the following:

(1) Varied or irregular activity schedules.

(2) The display or sale of retail commercial goods.

(3) The generation of high traffic volumes at varied time periods.

(4) Commercial activities and uses in coordination with the events.

(5) Locations in commercial districts.

(6) Alcohol service as licensed.

(B) Accessory uses may include food preparation facilities, concessions, offices, museums, parks, athletic training or practice facilities, stores, restaurants, structured parking facilities, and patron transportation facilities. Event centers do not include adult uses or places of public assembly.

EXTRACTION OF MATERIALS. The development or extraction of a natural resource from its natural occurrences on affected land without processing.

FAMILY. An individual; or two or more persons each related by blood, marriage or adoption, living together as a single housekeeping unit; or a group of not more than four persons not so related, maintaining a single housekeeping unit.

FARMERS MARKET. An occasional or periodic market held in an open area or in a structure where groups of individual sellers offer for sale to the public items such as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages (but not to include second-hand goods) dispensed from booths located on-site.

FENCE. A tangible barrier constructed of any allowable material erected to enclose, screen, or separate areas.

FINANCIAL INSTITUTION. An establishment that provides retail banking services, mortgage lending, or similar financial services to individuals and businesses. Financial institutions include those establishments engaged in the on-site circulation of cash money and check-cashing facilities but shall not include bail bond brokers. Financial institutions may also provide automated teller machine (ATM) services, located within a fully enclosed space or building, along an exterior building wall intended to serve walk-up customers only, or in a City authorized drive through lane.

FIREARM RELATED USE. A use operated by a private person or entity that involves the discharge of a firearm, including but not limited to shooting galleries, firing ranges, and fire-arms safety training centers.

FLAG. Any fabric, bunting, or other lightweight material that is secured or mounted so as to allow movement caused by the atmosphere.

FLOOD. A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

FLOOD FREQUENCY. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

FLOOD FRINGE. The portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for the City.

FLOOD PRONE AREA. Any land susceptible to being inundated by water from any source (see "Flood").

FLOODPLAIN. The beds proper and the areas adjoining a wetland, lake, or watercourse which have been or hereafter may be covered by the regional flood.

FLOODPROOFING. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damage.

FLOODWAY. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

FUNERAL SERVICES. An establishment that provides human funeral services, including embalming and memorial services. Crematories are accessory uses to a funeral home. Mortuaries are included in the definition of "funeral services."

GARAGE, PRIVATE. An accessory building of the type historically used for storage of self-propelled vehicles and tools and equipment maintained as incidental to a conforming use of the premises.

GAS (SERVICE) STATION. A place where gasoline, kerosene, or any other motor fuel, lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles.

GENERAL DEVELOPMENT LAKES. Lakes that have more than 225 acres of water per mile of shoreline and 25 dwellings per mile of shoreline, and are more than 15 feet deep.

GENERAL WAREHOUSING. The storage or distribution of goods where there is no sale of items to the general public.

GREEN AREA. A mandatory reservation of open space for the common use of the tenants on any lot or plot on which a multiple-family dwelling will be constructed. The amount of space to be reserved as green area shall be determined in proportion to the number and kinds of dwelling units to be constructed. The green area may be left in its natural state, may be seeded, landscaped with approval plantings, or developed for outdoor recreational purposes where such is stated and approved on the site plan.

GREENHOUSE/CONSERVATORY. A structure, primarily of glass, in which temperature and humidity can be controlled for the cultivation or protection of plants.

GROUP RESIDENTIAL FACILITY, SINGLE FAMILY: A state-licensed facility, public or private, which regularly provides a planned combination of living conditions, services, and resources for the treatment, rehabilitation, training, supervision, or care of persons residing on the premises which falls into one of the following categories: 1) a state licensed residential facility serving six or fewer persons; 2) registered housing with services establishment serving six or fewer persons; 3) a licensed day care facility serving 12 or fewer persons, or 4) a group family day care facility licensed to serve 14 or fewer children. This term does not include any type of residential or non-residential facility for persons convicted of crimes, or for persons accused of crimes who are diverted to the facility before conviction; nor does it include 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.

GROUP RESIDENTIAL FACILITY, MULTIFAMILY: A state-licensed facility, public or private, which regularly provides a planned combination of living conditions, services, and resources for the treatment, rehabilitation, training, supervision, or care of persons residing on the premises which falls into one of the following categories: 1) a state licensed residential facility serving between seven and sixteen persons, or 2) a licensed day care facility serving between thirteen and sixteen persons. This term does not include any type of residential or non-residential facility for persons convicted of crimes, or for persons accused of crimes who are diverted to the facility before conviction; nor does it include 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.

HARDCOVER (see IMPERVIOUS SURFACE)

HAZARDOUS MATERIALS. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

HELIPAD. A facility without the logistical support provided by a heliport where helicopters take off and land. Helipads do not include facilities for maintenance, repair, fueling, or storage of helicopters.

HOME OCCUPATION. An occupation carried on in a dwelling unit by the resident thereof; provided that the use is limited in extent and incidental and secondary to the use of the dwelling unit for residential purposes and does not change the character thereof.

HOSPITAL. A facility providing medical, psychiatric, or surgical services for sick or injured persons primarily on an inpatient basis, including ancillary facilities for outpatient and emergency treatment, diagnostic services, training, research, and administration, and services to patients, employees, or visitors.

HOTEL. See “Commercial Lodging”

IMPERVIOUS SURFACE (HARD COVER). A constructed hard surface that either prevents or retards the entry of water into the soil, and causes water to run off the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

INCIDENTAL LIGHT MANUFACTURING. A manufacturing or assembly process typically associated with a permitted use that does not have negative impacts on adjacent property owners, building tenants, or civic institutions.

INDUSTRIAL SERVICES (GENERAL). Businesses that are engaged in the repair or servicing of industrial, business, or consumer machinery, equipment, products, or by-products; or providing other related services primarily for businesses. Industrial service firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Includes firms such as contractor yards and building maintenance services and similar establishments engaged in performance of services off-site. Few customers, especially the general public, come to the site. Accessory activities may include retail sales, offices, parking, and storage.

INTENSIVE VEGETATION CLEARING. The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

INTERIM USE. A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

INFILTRATION. The downward entry of water into the surface of the soil through plants that are able to adequately produce evapotranspiration.

KENNEL. A facility or service where dogs, cats, or other small household pets as permitted by city code are kept or maintained (day or overnight), for the care, training, exercising and/or socializing by a person other than the owner of the animals for a fee. Kennels may include incidental grooming, dog walkers, or training services. Kennel does not include facilities that provide breeding of animals, selling of animals, or facilities whose primary source of revenue is licensed veterinarian services.

LANDSCAPING. The finishing and adornment of unpaved yard areas. Materials and treatment generally include naturally growing elements such as grass, trees, shrubs, and flowers. This treatment may also include the use of logs, rocks, water features, fences, walls, and contouring of the earth.

LANDSCAPING/NURSERY BUSINESS. A retail business devoted to the growth, display, or sale of plants, shrubs, trees; or landscaping materials and services.

LANDSCAPING PLAN. A plan which outlines, in detail, the proposed landscaping scheme for a property or a particular area.

LOADING SPACE. A space which is accessible from a street, alley, railroad, or right-of-way, in a building or on a lot, for the use of trucks while loading and unloading merchandise or materials.

LODGING ROOM. A room rented as sleeping and living quarters without cooking facilities. In a suite of rooms, without cooking facilities, each room which provides sleeping accommodations shall be counted as one lodging room.

LOT. The basic unit of land into which land is divided for uses. An area with fixed boundary lines, not including easements for publicly dedicated or accepted rights-of-way.

LOT TYPES [see Section 8.2(B)]

LOT OF RECORD. A parcel of land, the dimensions of which are shown on a document or map on file with the county recorder or registrar of titles or in common use by state, municipal, or county officials, and that actually exists as shown.

LOWER-POTENCY HEMP EDIBLE RETAILER. A business with a lower-potency hemp edible retailer license from the Office of Cannabis Management.

LOWER-POTENCY HEMP EDIBLE MANUFACTURER. A business with a lower-potency hemp edible manufacturer license from the Office of Cannabis Management.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including the 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.

LUMINANCE. The measure of the light emanating from an object with respect to its size and is the term used to quantify electronic sign brightness.

MACHINERY/TRUCK REPAIR. A business that performs mechanical, electrical, structural, or cosmetic repairs to trucks and heavy equipment. Allowed services under a conditional use permit may include but are not necessarily limited to: tune ups and adjustments; replacement of parts; rebuilding of parts or components when installation is available; body repair, collision service, and painting; frame straightening and repair; steam cleaning or sandblasting; undercoating and rust proofing; radiator repair; tire repair; wheel alignment and balancing; and washing, cleaning, and polishing.

MANAGED NATURAL LANDSCAPE. A planned, intentional, and maintained planting of native or nonnative grasses, wildflowers, forbs, ferns, shrubs, or trees, including but not limited to rain gardens, meadow vegetation, and ornamental plants. Managed natural landscape does not include turf-grass lawns left unattended for the purpose of returning to a natural state.

MANUFACTURED (MOBILE) HOME. A structure transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in it, and which complies with the Manufactured Home Building Code as defined by Minnesota Statutes Section 327.31, subdivision 3, as it may be amended from time to time.

MANUFACTURED HOME COMMUNITY. A contiguous parcel of land which has been developed for the placement of manufactured homes and is owned by an individual, firm, trust, partnership, public or private association, or corporation.

MANUFACTURED HOME PARK, BASE LOT. A contiguous parcel of land which has been developed for the placement of two or more manufactured homes and is owned by an individual, firm, trust, partnership, public or private association, company, or corporation.

MANUFACTURED HOME PARK, UNIT AREA. A section of ground in a manufactured home park of not less than 3,600 square feet of unoccupied space in an area designated as the location for one manufactured home, off-street parking space for one automobile, and other uses considered pertinent to the establishment and use of a manufactured home residence as permitted by this Zoning Code.

MANUFACTURED HOME'S PERIMETER. Means the entirety of the manufactured home, tiny home, mobile home, or similar dwelling unit plus any accessory structures directly serving the dwelling including decks or porches regardless of whether they are permanently attached to the dwelling. Sheds separated from the dwelling as required by the building code and fences shall not be included in a manufactured home's perimeter

MANUFACTURING, HEAVY. The manufacturing of products from raw or unprocessed materials, where the finished product may be combustible or explosive. This category shall also include any establishment or facility using large unscreened outdoor structures such as conveyor belt systems, cooling towers, cranes, storage silos, or similar equipment that cannot be integrated into the building design, or engaging in large-scale outdoor storage. Any industrial use that generates noise, odor, vibration, illumination, or particulate that may be offensive or obnoxious to adjacent land uses, or requires a significant amount of on-site hazardous chemical storage, shall be classified under this land use.

MANUFACTURING, LIGHT. The mechanical transformation of predominantly previously prepared materials into new products, including assembly of component parts and the creation of products for sale to the wholesale or retail markets or directly to consumers. Such uses are wholly confined within an enclosed building, do not include processing of hazardous gases and chemicals, and do not emit noxious noise, smoke, vapors, fumes, dust, glare, odor, or vibration.

MAYOR. The currently elected Mayor of the City of New Brighton

MICRO-DISTILLERY. A distillery that produces 40,000 proof gallons of liquor or less annually.

MOBILE FOOD UNIT. A food and beverage service establishment that is a vehicle mounted unit, either motorized or trailered, and readily movable, without disassembling, for transport to another location.

MOTEL. See definition of "Commercial Lodging"

MOTOR VEHICLE. Any self-propelled vehicle designed primarily for transportation of persons or goods along public streets or alleys, or other public ways.

NATURAL ENVIRONMENT LAKES. Lakes that have less than 150 total acres, less than 60 acres per mile of shoreline, and less than three dwellings per mile of shoreline. They may have some winter kill of fish; may have shallow, swampy shoreline; and are less than 15 feet deep.

NEW CONSTRUCTION. Structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of this ordinance as documented in Section 1.4.

NIT. A measure of luminance.

NONCONFORMING USE. The use of a structure, land, or both that was lawfully in existence on the effective date of this Ordinance as documented in Section 1.4, which does not conform to the requirements in this Ordinance and as subsequently amended.

NOXIOUS MATTER. Material which is capable of causing injury, is in any way harmful to living organisms, or is capable of causing detrimental effects upon the health, the psychological, social, or economic well-being of human beings.

NURSING HOME (CONVALESCENT/REST HOME). A facility that provides nursing services and custodial care generally on a 24-hour basis for two or more unrelated individuals who for reasons of illness, physical infirmity, or advanced age, require such services; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

OBSTRUCTION. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, 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.

OFFICE USE. An establishment primarily engaged in providing professional, financial, administrative, clerical, and similar services.

ONE HUNDRED YEAR FLOODPLAIN. Lands inundated by the "Regional Flood." (see "regional flood" definition).

OPACITY. The measurement of the screening effectiveness of landscaping, a fence or wall, expressed as the percent of vision the screen blocks.

ORDINARY HIGH WATER LEVEL (OHWL). The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel.

OUTDOOR STORAGE. Exterior depository, stockpiling, or safekeeping of all merchandise, materials, supplies, products (finished or unfinished), equipment, vehicles or trailers, or the like.

PARCEL. See definition for "lot."

PARK FACILITY, ACTIVE. A park or recreation facility that includes one or more of the following: buildings, lighting, ball field, tennis court, swimming pool, skate park, golf course, or other facilities or equipment encouraging activities. Active park facilities will commonly include benches, picnic areas, trails, sidewalks, and other similar features.

PARK FACILITY, PASSIVE. A park or recreational facility that does not include the construction of facilities, lighting, or development of ball fields or other active sports facilities. Passive parks may include benches, picnic areas, trails, and sidewalks.

PARKING LOT. A paved area outside of the public right-of-way where motor vehicles may be parked.

PARKING SPACE. An area exclusive of access drives, aisles, or ramps; to be used exclusively as a temporary storage space for a private motor vehicle.

PASSENGER TERMINAL. A place that receives and discharges passengers which generally includes facilities and equipment required for the operation. Examples include terminals for bus, taxi, railroad, shuttle van, train, or other similar vehicular services. This definition does not include bus stops or similar transfer points for passengers at which no facilities (excluding a bench or shelter) are provided.

PERMITTED USE. A use authorized by right, but which may be subject to restrictions as outlined in this ordinance.

PERSON. Any individual, firm, partnership, corporation, company, association, joint stock association, or other legal entity or body politic including any trustee, receiver, assignee, or other similar representative thereof.

PERSON, ELDERLY. A person who is at least 55 years of age.

PERSONAL/PROFESSIONAL SERVICES: Establishments that primarily engage in providing services generally involving the care of a person, service for a person, care of a person's possessions, or provision of professional services. Personal/Professional services may include but are not limited to accountant, advertising agency, architect, appraiser, artist, attorney, barber shops, beauty salons, bonding agency, broker, chiropractors, engineer, finance agency, health and fitness studios, informational and instructional services, insurance agency, investment agency, laundry services, mortgage agency, music schools, office business machine agency, physician/psychiatrist office, portrait studios, realtor, secretarial agency, shopping service, tanning salons, and travel agency. This definition does not include the shipping or warehousing of another person's possessions.

PERVIOUS SURFACE. A surface material that allows runoff to pass through it to the soil below.

PET SHOP. A retail sales establishment primarily involved in the sale of domestic animals, such as dogs, cats, fish, birds, and reptiles, excluding exotic animals and farm animals such as horses, goats, sheep, and poultry.

PLACE OF PUBLIC ASSEMBLY: An institution or facility that congregations of people regularly attend to participate in or hold meetings, workshops, lectures, civic activities, religious services, and other similar activities, including buildings in which such functions and activities are held, but not including event centers or adult uses.

PLANNED UNIT DEVELOPMENT (PUD). A tract of land developed as a unit under single ownership or unified control, which includes one or more principal buildings or uses, and is processed under the planned unit development provisions of this ordinance. Design flexibility from traditional siting regulations (such as side yards, setbacks, and height limitations) or land-use restrictions (such as prohibitions against mixing land uses within a development) are typical. Greater flexibility in locating buildings and in combining land uses often makes it possible to achieve economics in construction, preservation of open space, or the inclusion of amenities that would not otherwise be possible under standard zoning provisions, thereby providing a tailored pathway for implementation of the City's Comprehensive Plan.

PLAT. The map or plan of a subdivision showing the property boundaries, layout, dimensions, and legal descriptions of all lots, blocks, and rights-of-way.

POLLUTANT. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coli form and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PREMISES. A lot, together with all buildings and structures thereon.

PRINCIPAL USE OR STRUCTURE. All uses or structures that are not accessory uses or structures.

PRIVATE AMATEUR RADIO. Equipment, including antennas, antenna support structures, and other related material, necessary to conduct Ham and Short Wave Radio reception and transmissions, only for use by those persons properly licensed by the Federal Communications Commission for such reception and transmissions, and who are in full compliance with all licensing requirements.

PRIVATE RECEIVING ANTENNAS. Television and other electronic reception antennas for private use.

PRODUCTION BREWERY. A facility that manufactures, processes and warehouses beer for wholesale distribution in off-sale packages to retail liquor establishments and may retail beer product for on-site consumption in a taproom or for off-site consumption as growlers.

PUBLIC BUILDING OR USE. Any facility, including but not limited to buildings and property that are leased or otherwise operated or funded by a governmental body or public entity.

PUBLIC WATERS. Any waters as "public waters" or "public water wetlands" as defined in Minnesota Statutes, Section 103G.005, subdivisions 15(a) and 15a.

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

RECREATIONAL EQUIPMENT. Equipment, temporary or permanent, such as private playground equipment, tennis or other play courts, skating rinks, play areas, and other similar uses incidental to principal use of a residential district used for the recreational enjoyment and entertainment of the principal use's occupant or their guests.

RECREATIONAL VEHICLE. Any building, structure, or vehicle designed or used for living or sleeping or recreational purposes and equipped with wheels to facilitate movement from place to place. Recreational vehicles also include automobiles that are used for living or sleeping purposes and include pick-up coaches (campers), motorized homes, boats, travel trailers, and camping trailers not meeting the definition of a manufactured home or mobile home.

RECREATIONAL VEHICLE CAMP SITE. A lot or parcel of land occupied or intended for occupancy by recreational vehicles for travel, recreational, or vacation usage for short periods of stay.

RECYCLING AND SALVAGE CENTER. A facility engaged solely in the storage, processing, resale, or reuse of recyclable and recovered materials.

REGIONAL FLOOD. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the one percent chance or 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.

REGULATORY FLOOD PROTECTION ELEVATION (RFPE). The regulatory flood protection elevation shall be an elevation no lower one foot above the regional flood elevation plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

REMODELING. Any maintenance, repair, alteration or addition to all or any portion of a building or structure.

REPAIR ESTABLISHMENT. An establishment primarily engaged in the provision of repair services including but not limited to things such as TV's, bicycles, clocks, watches, shoes, guns, canvas products, appliances, and office equipment; including, but not limited to, tailors; locksmiths; and upholsterers.

RESTAURANT. An establishment where meals or prepared food, including beverages and confections, are served to customers for consumption on or off the premises. Such a facility may include indoor and outdoor seating or drive through services if allowed by underlying zoning.

RESEARCH LABORATORY. Buildings or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

RETAIL COMMERCIAL USE. A commercial enterprise that provides goods or services directly to the consumer, where such goods are generally available for immediate purchase and removal from the premises by the purchaser. Retail businesses may arrange for delivery of a good rather than deliver the good concurrent with the transaction, or may accept payment or orders electronically in advance, for delivery of the good or service at a later date. Retail commercial uses do not include those business engaged primarily in delivery of goods for further treatment or finishing (light industrial), the sale of goods to businesses for subsequent resale (wholesalers), the sale of goods from moveable motorized vehicles, or medical clinics. Where the zoning ordinance establishes a separate class of use for a specific business, such business shall be subject to the specific regulations applicable to such use. Retail commercial uses may include accessory warehousing space to maintain an inventory of goods for sale.

SACRED SETTLEMENT. A grouping of tiny homes on religious property dedicated to housing chronically homeless individuals or extremely low-income individuals, alongside units occupied by designated volunteers.

(A) An individual who meets the definition of being chronically homeless is someone who is unhoused and lives or resides in a place not meant for human habitation, a safe haven, or in an emergency shelter for at least one year, or on at least four separate occasions in the last three years.

(B) An individual who meets the definition of being extremely low income has an income that is equal to or less than 30 percent of the area median income, adjusted for family size, as estimated by the Department of Housing and Urban Development.

(C) A designated volunteer is an individual who has not experienced homelessness and is approved by the religious institution to live in the sacred settlement as their sole form of housing.

SCHOOL, HIGHER EDUCATION. A public or private non-profit institution for post-secondary education or a public or private school offering vocational or trade instruction to students. Such educational institutions operate in buildings or structures on land leased or owned by the educational institution for administrative purposes. Such uses include classrooms, vocational training (including that of an industrial nature for instructional purposes only), laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.

SCHOOL, PRE-K-12. A public or private school offering general, technical, or alternative instruction at the elementary, middle, or high school level that operates in buildings or structures on land leased or owned by the educational institution for administrative purposes. Such uses include classrooms, vocational training (including that of an industrial nature for instructional purposes only in middle or high schools), laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.

SCREENING. A partition of vegetation or fencing that visually separates land uses or objects of one property from adjacent properties and streets. Screening techniques shall be such that the screening is effective throughout all seasons of the year.

SELF-STORAGE FACILITY. A building or group of buildings that contains equal or varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the storage of residential or commercial customer's goods or wares.

SETBACK. See the definition for "setback line" in Section 8.2(B)(3)(e).

SETBACK AREA. The area between the lot line and principal use or accessory use setback.

SETBACK, MINIMUM FRONT. The minimum required distance between the front lot line and the closest point of a principal or accessory structure.

SETBACK, MINIMUM LAKE. The minimum required distance between the Ordinary High Water Level (OHWL) of a lake and the closest point of a principal or accessory structure.

SETBACK, MINIMUM REAR. The minimum required distance between the rear lot line and the closest point of a principal or accessory structure.

SETBACK, MINIMUM SIDE. The minimum required distance between a side lot line and the closest point of a principal or accessory structure.

SHELTER, STORM OR FALLOUT. A building or portion of a building designated for use during major storm events or from radioactive fallout after a nuclear explosion.

SHOPPING CENTER. A premises planned and developed as a unit, with an undivided or nonsegregated parking area that is advertised as a center and has multiple occupancy.

SHORE IMPACT ZONE. The land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.

SHORELAND. Land located within 1,000 feet from the normal high water level of a lake, pond, or flowage and land within 300 feet of a river or stream.

SHORT TERM RENTAL. A dwelling unit or portion of a dwelling unit rented for a period of 14 consecutive days or less.

SIGN. A name, identification, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure, or land in view of the general public and which directs attention to a product, place, activity, purpose, institution, or business.

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 a sign is located.

SIGN, ANIMATION. A sign that displays a collection of static images joined together and shown consecutively so that they appear to move.

SIGN AREA. A measurement of the area (size/square footage) within the frame of the sign, excluding any structural elements outside the limits of such sign and not forming an integral part of the display. When letters or graphics are mounted directly on a wall, canopy, or awning without a frame, the calculation of the sign's area shall be the smallest rectangle which encloses the sign message or logo. Each surface utilized to display a message or to attract attention must be measured as a separate sign. Symbols, flags, pictures, wording, figures, or other forms of graphics painted on or attached to windows, walls, awnings, free-standing structures, suspended by balloons, or kites or on persons, animals, or vehicles are considered a sign and are included in calculating total sign area.

SIGN, AWNING: A building sign or graphic printed on or in some fashion attached directly to the awning material.

SIGN, BILLBOARD. A free-standing sign that directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where the sign is located or to which it is affixed, or a structure designed to display or support such a sign.

SIGN, BUSINESS. A sign which directs attention to a business or profession or a commodity, service or entertainment sold or offered upon the premises where such a sign is located.

SIGN, DRIVE THROUGH. A type of sign that allows customers to access a service without leaving their vehicles. It typically indicates the location of a drive-through window or entrance, guiding drivers to the designated area for quick service, such as fast food or banking. Drive-thru signs are often illuminated to ensure visibility and are commonly used in businesses that offer take-out services.

SIGN, DYNAMIC. A sign that exhibits any characteristics of 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.

SIGN, ELECTRIC. Any sign containing electrical wiring, and/or is defined as dynamic, but not including signs illuminated by an exterior light source.

SIGN, FLASHING/SHIMMERING: A directly or indirectly illuminated sign or portion thereof that exhibits changing light or color effect by any means, so as to provide intermittent illumination that changes light intensity in sudden or slow transitory bursts, and creates the illusion of intermittent flashing or wavering light by streaming, graphic bursts showing movement, or any mode of lighting which resembles zooming, twinkling, or sparkling.

SIGN, FREESTANDING: Any sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.

SIGN, FREEWAY. Any sign which is oriented in such a way as to primarily display its contents to persons traveling on interstate highway I-35W and I-694 and Trunk Highway 88.

SIGN, GROUND. Any stationary sign placed upon the ground and not attached to a building, excluding billboards.

SIGN, MANUAL CHANGEABLE COPY. A sign or portion thereof on which numerals or letters can be changed or rearranged manually without altering the face or surface of the sign.
SIGN, NONCOMMERCIAL. A sign that does not advertise products, goods, businesses, or services.

SIGN, NONCONFORMING SIGN. Any sign or combination of signs that were lawfully established and that do not comply with all applicable provisions of this Ordinance.

SIGN, OFFICIAL: Signs of a public noncommercial nature including public notification signs, safety signs, traffic signs, direction to public facilities when erected by or on behalf of a public official or employee in the performance of official duty, or the like.

SIGN, OFF PREMISES: A commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same lot where such sign is located.

SIGN, PORTABLE. A mobile advertising device that is capable of being transported from one location to another and that is not permanently attached to the ground, a sign structure, or a building.

SIGN, PROJECTING. A sign attached to a building and projecting more than eighteen inches.

SIGN, ROOF. A sign, any portion of which is displayed above the peak of the roof-line or beyond the outline of the building or roof as viewed from the front of the sign.

SIGN, ROTATING/MOVING/SPINNING. Any sign that is animated or revolving, up and down or sideways, mechanically or otherwise.

SIGN, SIDEWALK (SANDWICH BOARD). A sign consisting of two boards connected at the top, displaying a front and back, and used to display speech that directs attention to a business, commodity, service or entertainment.

SIGN, TEMPORARY. A sign which is allowed to be utilized for a limited period of time.

SIGN, WALL. A sign painted or affixed to any exterior wall of a building that is projecting no more than eighteen inches.

WINDOW SIGN, PERMANENT. A sign placed in or on a window that is visible from a public right-of- way and that is more or less permanently attached in such a manner that it is clearly intended to be left in place for a period of more than thirty days.

WINDOW SIGN, TEMPORARY. A sign placed in or on a window that is readily removable and is designed for use for a limited period of time.

SITE, SIGNIFICANT HISTORIC. Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historical Sites, or is determined to be an un-platted cemetery that falls under the provisions of Minnesota Statutes Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All un-platted cemeteries are automatically considered to be significant historic sites.

SOLAR ENERGY SYSTEM. A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

SPECIAL FLOOD HAZARD AREA. A term used for flood insurance purposes synonymous with "One Hundred Year Floodplain."

SPECIALTY EATING ESTABLISHMENTS. Establishments selling specialty food items that normally do not constitute a full meal, including but not limited to ice cream parlors, dessert cafes, snack shops, juice and coffee houses, and bakeries.

STAIRWAY. Steps, including handrails, providing access to a building, a different level of land, or to a lake.

STEEP SLOPE. Lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more that are not bluffs.

STORMWATER. Surface water runoff and drainage associated with rain or snowstorm events.

STREET. A public right-of-way or public roadway easement which affords a primary means of access to abutting property.

STRUCTURE. Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, sheds, detached garages, cabins, manufactured homes, non-exempt recreational vehicles, and other similar items.

STRUCTURAL ALTERATION. Any change or addition, other than incidental repairs to the supporting members of a building, such as bearing walls, columns, beams, girders, or foundations, which would prolong the building's life.

STRUCTURE, PRINCIPAL. The predominant structure in which the principal use of the lot is conducted.

SUBDIVISION. A parcel of land divided into smaller parts such as blocks or lots, or a tract of land which is redivided after the first division.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure where the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, 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 structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

(A) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

(B) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure." For the purpose of this ordinance, "historic structure" is as defined in 44 Code of Federal Regulations, Part 59.1.

SWIMMING POOL. See City Code Chapter 27.

TAPROOM. A room that is ancillary to the production of beer at a brewery, microbrewery, or brewpub where the public can purchase or consume alcoholic beverages as licensed and regulated by the City of New Brighton and the State of Minnesota.

TASTING ROOM. A room that is ancillary to the production of spirits by a micro-distillery where the public can purchase or consume the spirits produced by the micro-distillery on site as licensed and regulated by the City of New Brighton and the State of Minnesota.

TELECOMMUNICATIONS ANTENNA. An exterior transmitting or receiving device mounted on a telecommunications tower, a building, utility pole or structure and used in telecommunications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, or other telecommunications signals (including those exclusively designed to provide Internet services); a device designed to transmit and receive signals as authorized by the FCC.

TELECOMMUNICATIONS CO-LOCATION. The location of transmitting facilities from a number of different service providers together on the same structure or on the same towers or monopoles. This term also includes the use of the same tower or pole for a number of different telecommunications services.

TELECOMMUNICATIONS TOWER. Any structure that is designed and constructed primarily for the purpose of supporting one or more telecommunications antennae for telephone, radio, and similar telecommunications purposes but excluding FCC licensed ham radio operators who reside in the building, including without limitation, self-supporting lattice tower, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular towers, alternative tower structures, and similar facilities. The term includes the structure and support facilities accessory to the telecommunications tower.

TELECOMMUNICATIONS TOWER AND ANTENNA HEIGHT. The vertical distance measured from the existing average elevation within a 50 foot radius of the base of the proposed telecommunications tower, antenna or to the highest point of the tower or antenna; or the distance measured from the ground elevation of an alternative support structure to its highest point including the antenna, whichever is greater.

TEMPORARY TELECOMMUNICATIONS TOWER. Any telecommunications tower constructed and operated in conjunction with emergency operations or temporary testing.

TINY HOUSE. A dwelling that is 400 square feet (37 m2) or less in floor area excluding lofts.

TOWER. Any pole, spire, or structure, or combination thereof, to which an antenna is attached and all supporting lines, cables, wires, braces, and masts.

TRAILER. Any vehicle or structure designed and constructed in such a manner as will permit occupancy thereof as sleeping quarters for one or more persons, or the conduct of any business or profession, and is so designed that it is or may be mounted on wheels or flat-bed trucks and moved on highways or streets propelled on its own or by other motive power. The word "trailer" shall be synonymous with "trailer coach" and "mobile home."

TRUCK OR FREIGHT TERMINAL. A use where buses, trucks, and cargo are stored; where loading and unloading may be carried on regularly; and where minor maintenance of these types of vehicles is performed. This use includes warehousing and distribution which entails transfer of goods and materials from trucks to a building, where the primary use is the storage of trucks and distribution and vice versa, and may or may not involve repackaging of such goods for transfer. Such use may also entail transfer of full trailers from one truck to another.

USE. The purpose for which land or premises or a building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

USE, CONFORMING. Any use of land, structure, or combination thereof which is in compliance with all applicable portions of the Zoning Code.

USE, DISCONTINUED. A use shall be considered discontinued when the premises are not regularly occupied or when the characteristic equipment and furnishings of such use have been removed from the premises.

USES, NONCONFORMING. Any use of land, structure, or combination thereof which was lawfully established and which does not comply with all applicable portions of the Zoning Code.

UTILITIES - MAJOR. Major utilities shall include the following:

(A) Public infrastructure services providing regional or community-wide service that have regular employees on site during common working hours, and entail the construction of new buildings or structures such as waste treatment plants, potable water treatment plants, and solid waste facilities.

(B) Commercial wind energy conversion systems (public or private).

(C) Commercial solar installations.

(D) Electrical substations.

(E) Gas pipelines and related infrastructure.

VARIANCE. A modification or variation of the provisions of this zoning code as applied to a specific piece of property.

VEHICLE FUEL SALES. Establishments engaged in retail sales of vehicle fuels for personal vehicles, but not including fleet fueling facilities and truck stops which will be treated as truck terminals. The establishment may dispense conventional vehicle fuels or alternative vehicle fuels. Vehicle fuel sales businesses may offer minor automobile repair, retail sales of packaged foods, prepared foods and other convenience goods for station customers, as accessory and incidental to principal operation; and the provision of restroom facilities, but not including showers.

VEHICLE SALES OR RENTAL. Establishments primarily engaged in the retail sale of new and used (in operating condition) automobiles, noncommercial trucks, motor homes, or recreational vehicles; including incidental storage, maintenance, and servicing.

VETERINARY FACILITY. An establishment for licensed practitioners engaged in practicing veterinary medicine, dentistry, or surgery for small household pets only.

WALKWAY. A private surface on a lot; usually made of concrete, brick, pavers, or other masonry materials; intended for use by pedestrians to access specific portions of a lot, or to connect yards around a principal structure.

WALL. A constructed solid barrier of concrete, stone, brick, tile, wood, or similar type of material that closes, marks, or borders a field, yard, or lot, and that limits visibility and restricts the flow of air and light. In the context of signs, all of the exterior surface of a building from ground level to the highest point of the roof.

WALL, RETAINING. Any fence or wall built or designed to retain or restrain lateral forces of soil or other materials, said materials being similar in height to the height of the wall.

WETLAND.

(A) Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this ordinance, wetlands must:

(1) Have a predominance of 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 typically adapted for life in saturated soil conditions; and

(3) Under normal circumstances, support a prevalence of hydrophytic vegetation.

(B) "A wetland" or "the wetland" means a distinct hydrologic feature with characteristics of paragraph A, surrounded by non-wetland and including all contiguous wetland types, except those connected solely by riverine wetlands. "Wetland area" means a portion of a wetland or the wetland.

(C) Wetlands do include public waters wetlands unless reclassified as shoreland by the commissioner of natural resources under Minnesota Statutes Section 103G.201.

(D) The wetland size is the area within its boundary. The boundary must be determined according to the United States Army Corps of Engineers Wetland Delineation Manual (January 1987). The wetland type must be determined according to Wetlands of the United States, (United States Fish and Wildlife Service Circular No. 39, 956 and 1971 editions). Both documents are incorporated by reference under Part 8420.0112 of Minnesota Rules, items A and B. The City may seek the advice of the technical evaluation panel as to the wetland size and type.

WHOLESALE SALES. Establishments or places of business that store or distribute goods in large quantities, principally to other commercial, manufacturing, or industrial businesses (rather than the general public). Wholesale sales does not include contractor's materials or retail sales of business supplies/office equipment.

WIND ENERGY CONVERSION SYSTEM (WECS). An electrical generating facility that consists of a wind turbine, feeder line(s), associated controls, and may include a tower.

YARD. [see Sections 8.2(B)(2) and 8.2(B)(3)(f)]

Zoning Districts

- RS-1
- RS-2
- RM-1
- RM-2
- RM-3
- MHC
- BN
- BG
- IR
- IL
- IH
- DT
- NBE
- MUN
- MUR
- MUE

A "Business Residential" zoning district (BR) also exists, but no properties carry that zoning as of <date of code adoption>

N

City of New Brighton Zoning Map (2025)

0 0.5 1 Miles

Updated: Aug 15, 025
Sources: DRAFT NB Zoning Map Update | NB GIS | Ramsey County

CITY OF NEW BRIGHTON
ZONING ORDINANCE UPDATE

ANNOTATED OUTLINE

FINAL DRAFT
August 20, 2025

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PROJECT OVERVIEW

Background & Process

On November 26, 2019, the Department of Community Assets & Development Department (DCAD) received initial authorization from the City Council to begin a zoning code rewrite process on behalf of the City. A change-over in the City Manager position dominated Council's time in early 2020, and the onset of the COVID-19 pandemic had a major impact on City priorities thereafter. The update project was re-introduced to Council on July 28, 2020, and staff was given the green light to proceed with preparation of this annotated outline that ultimately guided the update project. All work was to be done in-house as time permitted amongst multiple code updates, projects, and/or studies which ultimately fed into this overall ordinance update. These efforts included but were not limited to the complete revision of manufactured home codes, creation of short-term rental regulations, the Vision Silver Lake Road study, Mixed Use Zoning districts creation, the Exchange Apartments comp plan amendment and development review, rental licensing program expansion, parking regulations update, the accessory dwelling unit (ADU) study and ordinance creation, and drafting of new cannabis regulations.

City records suggest that the current zoning ordinance hasn't received a full rewrite in nearly half a century. Over the last 50 years, various sections of the code have been updated and new requirements have been added, but little has been done to modernize the organization, provide greater clarity for the end-user, and most importantly, eliminate the various inconsistencies created by the adoption of hundreds of ordinances since the initial code adoption. This update process has addressed these issues.

The update project sought to complete the following four (4) project tasks:

(1) Annotated Outline Creation

Creation of this document was the first task in the zoning ordinance update process. This document formalized the project's to-do list, pinpointed the ways the City planned to resolve issues, established an initial outline for the new code, and set up the new code's style template.

(2) Draft Zoning Ordinance Creation

To successfully navigate the drafting of the new ordinance in a manner that was easy for all parties to understand and follow, the new ordinance was prepared in three phases:

- **Phase 1: Administration** – this phase established provisions that are generally applicable throughout the code and/or are procedural in nature. Specific issues addressed include the purpose of the zoning code; transitional regulations between the old and new code (what happens to active applications); the code's relation to other laws, agreements, and state statutes; rules of construction; how nonconformities will be handled; description of application types; and establishment of specific review procedures.

- **Phase 2: Zoning Districts and Uses** – this phase resulted in new codes establishing the City's various zoning districts, the types of uses allowed in each district (permitted uses, "conditionally" permitted uses, interim permitted uses, accessory uses, and temporary uses), and all overlay district regulations. This phase reorganized and standardized the look and format of all City Districts and eliminated "cascading" regulations (i.e. requiring a reader to view multiple zoning districts to understand their district).

- **Phase 3: Development Standards** – this phase focused on reorganizing the existing language governing design standards that impact the visual character of the city. Example issues include landscaping standards, fences & walls, parking & loading areas, exterior lighting, signs, utilities, etc.

(3) Preparation of the Draft Zoning Ordinance for Review

Upon completion of the draft code, DCAD prepared a final draft for consideration at multiple public hearings (first one was held on 8/19/25, and the second will be held on 9/16/25).

(4) Adoption

The final task will be review and adoption of the final draft by the City Council under the rules established by State Law. Upon adoption by Council, staff will make all necessary revisions resulting from the adoption process, and will take all steps necessary to transition the new code to the City's new on-line platform for ordinances (Municode).

Public Input

A zoning code update steering committee was formed at the beginning of this process to guide the project from beginning to end. Representatives from each of the City's commissions were appointed to the steering committee to serve alongside citizens who represented a cross-section of the community (i.e. reps for single family homes, multi-family homes, business owners, industrial businesses, park advocates, minority group advocates, etc). In addition to steering committee meetings, staff also met with various commissions (primarily the Equity Commission, EDC, and Planning Commission) throughout the drafting process. The review process will conclude with public hearings to review the final chapters.

Note: while the Equity Commission was consulted during the drafting of this document, it would be incorrect to say that that the new language has gone through a full equity review. Because completion of this document will address numerous long-standing problems with the current zoning code, staff is recommending approval of the update at this time which should be followed up by a separate process specifically geared at examining these regulations through an equity lens.

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ZONING UPDATE GOALS

To ensure this zoning code would be a success and to avoid future arguments on the scope of work being undertaken, it was essential to identify all of the project goals and tasks from the outset. Finalization of this list guided staff throughout the update project and established the specific issues we addressed within the final product.

FORMATTING & ORGANIZATION GOALS

Goal	***Technique(s) Used to Address the Goal***
1. Use clear spacing and indentation to identify sections and subsections	▪ *The new code utilizes consistent hierarchy, spacing, and font sizes throughout the document*
2. Code needs to be more intuitive as to where information can be found	▪ *The new code is organized into distinct chapters of similar information, and dictionary-style headers allow for easy navigation.*
3. Simplify current language as necessary to add clarity	▪ *All code provisions were examined and edited (as needed) for clarity and ease of reading*
4. Break up long paragraphs of regulations into easy to read bullet points	▪ *The new code format allows for easy integration of numbered lists*
5. Update the table of contents to match new organization	▪ *Existing sections were condensed down into eight distinct chapters as planned.*

MAKING CODE USER-FRIENDLY

Goal	***Technique(s) Used to Address the Goal***
6. Use pictures and illustrations throughout as needed to clarify terms (i.e. height measurement, yard locations, etc)	▪ *Staff used pictures and illustrations throughout the new code to ensure clarity of regulations*
7. Add headers to every page to facilitate easy navigation of the new zoning code	▪ *The new code includes headers on every page indicating the chapter, section, and subsection present on the page to make navigation much easier than currently exists.*

Making Code User-Friendly (continued)		
Goal		***Technique(s) Used to Address the Goal***
8. Combine procedures into one code section for easy reference		▪ *Chapter 2 of the new code contains all code provisions on how applications will be reviewed, what information is necessary for an application, and how decisions will be made*
9. Convert all final documents into an easy to use web-ready format		▪ *The final step in the code revision process will entail transforming the new paper code into a web-ready .pdf with working links*
10. Add cross-references where needed/applicable		▪ *Cross-references were added to make it easy for readers to find related and/or other applicable regulations*
11. Ensure the new codes corresponds to or references the building code to eliminate conflicts		▪ *Legal review was completed to ensure the new ordinance correctly references outside documents*

MODERNIZING CODE		
Goal		***Technique(s) Used to Address the Goal***
12. Review application requirements; be detailed on what is required, but give staff the ability to waive unnecessary information		▪ *Staff included detailed lists of information required for applications to make the code defensible against a 60-day rule claim. Section 2.3(E)(2) gives staff the authority to waive requirements when specific information is unnecessary.*
13. Recommend ways to address modern home occupations		▪ *Regulations were reviewed, but no updates were offered by the steering committee. As they seem to be operating effectively, no changes were made.*
14. CUPs (in general): make sure all "specially" permitted uses are properly identified as "conditionally" permitted uses, and make sure each such use has specific review criteria in addition to the general review criteria		▪ *The new code has changed all references from "special" use to "conditional" use, and includes specific standards for all conditionally permitted uses.*
15. Revise and update the zoning map into a readable document showing all zoning and overlay districts		▪ *A new zoning map has been prepared for consideration during the public hearing process.*

Modernizing Code (continued)		
Goal		***Technique(s) Used to Address the Goal***
16. Review enforcement policies and applicable penalties for code infractions to reflect present-day operations and procedures		▪ *Chapter 7 of the new code covers the process of enforcement following the City's current practices*

SPECIFIC CODE ISSUES TO ADDRESS		
Goal		***Technique(s) Used to Address the Goal***
17. Review and update all definitions as needed • Make sure all terms that need a definition are present (i.e. lot front), • That defined terms are actually used in the code (i.e. "Kennel" is presently defined but is never used) • That outdated definitions are eliminated (i.e. Electronic Amusement Device or Game), • That definitions actually make sense (i.e. currently every road in the community is defined as an *alley* or a *highway* per the present ordinance) • That definitions only define the term and do not contain zoning standards (i.e. the definition for "parking space" goes beyond explaining what a parking space is and calls out minimum size standards) • Update terms per changes in state statute (i.e. statute allows Cities to establish "conditional" uses rather than "special" uses).		▪ *Chapter 8 (Rules & Definitions) was updated continuously throughout the update process, and final definitions are appropriate for the new code. Unused and antiquated definitions were eliminated.*
18. Update all broken references (i.e. the current zoning ordinance directs readers to Section 8-670 to determine the front lot line of lots fronting multiple streets, but Section 8-670 no longer exists).		▪ *All cross references were checked for accuracy.*

Specific Code Issues to Address (continued)		
Goal		***Technique(s) Used to Address the Goal***
19. Illustrations – existing ones need to be updated for clarity, and more should be included to increase user understanding of various regulations.		▪ *Illustrations were added to the new code as needed to provide clarity to various code provisions*
20. Eliminate code inconsistencies (i.e. the definition of a parking space states that all spaces shall be 20' long while the City's parking standards indicate the minimum space length is 18').		▪ *Existing code inconsistencies were eliminated through this process* ▪ *A core tenant of the new code is that zoning requirements are now only listed once in the proper location. When needed, references are then made to the regulation from other areas of code. This ensures that as changes to code are made, they will be universally applicable*
21. Extraction of materials (i.e. mining) should not be a special/conditionally permitted use, and instead should be interim permitted (only allowed if certain conditions exist, requires a sunset date, requires a restoration plan, etc).		▪ *Mining operations are now an interim permitted use in appropriate areas of the community*
22. Eliminate procedures not allowed by statute (i.e. Council granting "special permission" to change setback requirements outside of a variance procedure).		▪ *The new code was reviewed by the City's legal counsel to ensure the new provisions are in-line with current statutory language.*
23. Eliminate cascading zoning districts (i.e. permitted uses in the R-3B district reference uses in the R-2 district, and the R-2 district references the R-1 district. Accordingly, readers must consult all three districts to understand what is permitted in the R-3B district).		▪ *The new zoning ordinance employs tables to communicate where different uses are allowed, and what process must be completed prior to the use being established (i.e. permitted, CUP, IUP).*
24. Fill gaps in existing regulations (i.e. in the R-1A district, the City has a maximum hardcover of 55% for lots less than 7,500 square feet, but NO maximum for lots larger than 7,500 feet).		▪ *Each zoning district in the new code was reviewed to ensure all such gaps and problems were eliminated.*
25. Formatting: make sure tables spanning two or more pages include header information on each page, make sure column information is property lined up and spaced, etc.		▪ *The new ordinance was formatted for ease of reading. Work on the final .pdf will also ensure accessibility standards are met.*

Specific Code Issues to Address (continued)		
Goal		***Technique(s) Used to Address the Goal***
26. Correct all structural code problems • "Interim uses" are a use *type* like permitted uses and conditionally permitted uses, but the present code sets up interim regulations as a zoning district which makes no sense and is therefore unusable. • The current code establishes general performance standards for all industrial uses, but places the general standards as a subset of I-3 regulations. This placement in the current code exposes the City to a legal argument that general regulations are only apply to I-3 uses.		▪ *The new ordinance ensures that all regulations are properly placed, can be easily found, and are legally enforceable for the intended purpose*
27. Update or eliminate unused zoning districts (i.e. the R-4 District, the R-3B1 District, and the MX-G District all exist in the zoning code, but none are presently used on the City's zoning map). The R-4 district should specifically be updated to ensure we have a proper zoning district to govern the City's various mobile home parks.		▪ *The new ordinance only includes zoning districts that are actually being used by the City. All defunct districts were eliminated.*
28. Clearly document overlay districts in code and on the zoning map. Presently, there are arguably three overlay districts in the present code: the Palmer Drive Overlay area (which is not identified on the zoning map), the Shoreland District (which is not identified as an overlay district and is also not shown on the zoning map), and the Environmental Constraint Overlay Area (also not shown on the zoning map). The City has also adopted multiple PRDs and PUDs which arguably are also overlay districts over-riding underlying zoning in certain ways. All such matters should be cleaned up in as much as possible.		▪ *The new ordinance clearly identifies all overlay districts, and places each overlay into a coordinated location within the new code (Section 3.8).* ▪ *The new framework ensures that overlay regulations supersede underlying zoning, and anything not specifically addressed by an overlay district will be subject to the underlying zoning district regulation. This ensures there are no gaps in overlay zoning regulations.*

Specific Code Issues to Address (continued)		
Goal		***Technique(s) Used to Address the Goal***
29. Include "Incentive Zoning" as appropriate to encourage achievement of the City's various comprehensive plan goals (i.e. density increases in recognition of additional open space, greater pedestrian connections, and/or inclusion of affordable units).		▪ *Incentives were included where appropriate, but no major changes were made on this front. Additional work will need to be completed in the future if further incentives are deemed warranted.*
30. Procedures should be updated to be consistent throughout code for similar actions (i.e. Platting through a PRD process requires a public hearing before the Planning Commission, but standard platting requires a public hearing before the City Council).		▪ *Chapter 2 in the new code outlines all application requirements and review procedures to ensure the City is using a consistent approval process for its various application types.*
31. Nonconforming Use provisions must be updated to be consistent with State Statues and changes in law over the last 40 years. Current regulations do not properly reflect how the City should be treating nonconforming uses.		▪ *Chapter 6 of the new ordinance outlines all nonconforming use regulations consistent with State statute.*
32. Sign regulation updates. While the City did make needed updates in 2012, there appear to be additional changes needed to eliminate regulation based on the message of a sign.		▪ *Existing sign regulations were moved into Section 4.5, with updates as needed to comply with current laws.*
33. RLUIPA Updates. The Religious Land Use and Institutionalized Persons Act requires the City's zoning language to meet certain standards relating to places of worship.		▪ *"Places of Public Assembly" is a new use type describing institutions or facilities that congregate people regularly for meetings. By combining churches, social halls, etc into this one category, the City protects itself against a RLUIPA claim. Further legal review will ID any additional changes that may be needed.*
34. Parking standards. Maintain existing requirements for now, but acknowledge modern transportation changes (i.e. offering shared vehicles) as a potential avenue for reduced parking.		▪ *The City's new parking standards were moved into Section 4.7*

Specific Code Issues to Address (continued)		
Goal		***Technique(s) Used to Address the Goal***
35. Subdivision Standards. While a separate chapter of the City Code, subdivision standards are closely linked with zoning provisions. Staff will strive to review and update Chapter 26 of the City Code concurrent with this process or following this process.		▪ *This process will need to follow completion of the zoning code update. No work on this front is complete at this time.*

Guiding Themes

In addition to identifying the specific issues to be addressed, it was also important to identify themes to guide the City's decision making as changes were being debated and considered. The following hierarchy of guiding themes were used as debates arose:

- **Guiding Theme #1:** Utilize the 2040 Comprehensive Plan as a guide if/when questions arise regarding how to address a proposed change.
- **Guiding Theme #2:** Improve the overall organization and language of the ordinance to make it user-friendly. Incorporate tables, drawings, pictures and other graphics where appropriate.
- **Guiding Theme #3:** Modernize the existing zoning districts and allowable uses.
- **Guiding Theme #4:** When changing or adding new codes, err on the side of regulations that are business and property-owner friendly rather than overly-restrictive.

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STYLE TEMPLATE

The following documents the styles and hierarchy that were used when creating the new zoning code. Because they are readily available, the main fonts used throughout the code were Time New Roman for all main zoning code text, and Gill Sans for tables and graphics. The final zoning .doc will utilize assigned styles to ensure formatting throughout the document is consistent, and to allow for automatic creation of a self-updating table of contents. Numbers following each heading represent spacing before and after the paragraph.

Chapter Name (16 pt, Bold) (0/6)

1.1 Section Name (14 pt, Bold) (24/6)

Section text (11 pt, Normal) (0/6)

(A) Subsection Title (11 pt, Bold) (18/6)

Subsection main text (11 pt, Normal) (0/6)

(1) Subsection text 1 (11 pt, Bold) (12/6)

Subsection subtext (11 pt, Normal) (0/6)

(a) Subsection text 1a (11 pt, Normal) (12/3)
Subsection sub-subtext (11 pt, Normal) (0/3)

(b) Subsection text 1b (11 pt, Normal) (12/3)

(2) Subsection text 2 (11 pt, Bold) (12/6)

(a) Subsection text 2a (11 pt, Normal) (12/3)

(b) Subsection text 2b (11 pt, Normal) (12/3)

(i) Subsection text 2(b)(i) (11 pt, Normal) (0/3)

(ii) Subsection text 2(b)(ii) (11 pt, Normal) (0/3)

1. sub numbering (11 pt, Normal) (0/3)
2. sub numbering (11 pt, Normal) (0/3)
   a. sub lettering (11 pt, Normal) (0/3)
   b. sub lettering (11 pt, Normal) (0/3)
      i. sub lettering (11 pt, Normal) (0/3)
      ii. sub lettering (11 pt, Normal) (0/3)

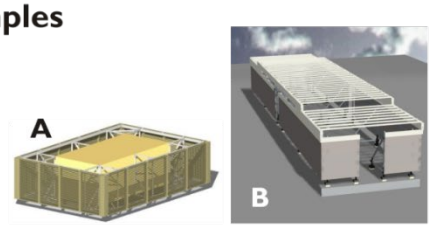
The formatting of tables follows these guidelines:

TABLE ##: TABLE TITLE (12 pt, Bold) (3/3)	
Column Headings (10 pt, Normal) (0/0)	Second Column Heading
Sub- Column Heading (10 pt, Bold) (0/0)	
Applicable Information (10 pt, Normal) (0/0)	Applicable Information
Applicable Information (10 pt, Normal) (0/0)	Applicable Information
Applicable Information (10 pt, Normal) (0/0)	Applicable Information
Applicable Information (10 pt, Normal) (0/0)	Applicable Information

The following is a representation of how figures were formatted to illustrate a specific concept:

Figure 4-4: Rooftop Screening System Examples

Rooftop screening systems shall be subject to approval of the Community Development Department, and shall be of similar design to the examples shown here. Example "A" illustrates a metal louver wall for general screening from below. Example "B" illustrates the use of lattice to even screen from above. The before and after photos provide further illustration of proper rooftop screening design.





CROSS-REFERENCE

To aid in the code transition, staff generated a code cross-reference to allow people to easily locate identical or similar regulations between the old and new code. The cross-reference (attached) follows this format:

Old Code Section	Topic		New Code section
	TITLE AND APPLICATION		
1-1:	Title		1.1
1-2:	Intent and Purpose		1.3
1-3:	Relation to Comprehensive Municipal Plan		1.6
1-4:	Standard Requirement		1.7
1-5:	Minimum Requirements		1.3
1-6:	Conformity with Provisions		1.5
1-7:	Conformity to Requirements		1.5
1-8:	Uses not Provided for within Zoning Districts		4.1(B)
1-9:	Authority		1.2
1-10:	Separability		1.9
	1-10(A):		1.9(A)
	1-10(B):		1.9(B)
	RULES AND DEFINITIONS		
2-1:	Rules of measurement		9.1

Per the table…

- …existing language on "Relation to [the] Comprehensive Municipal Plan" which is currently in Section 1-3 can be found in Section 1.6 in the new zoning code.
- …language on "uses not provided for within zoning districts" has been relocated from Section 1-8 in the existing code to Section 4.1(B) in the new code.
- …"Rules of measurement" have been moved from existing Section 2-1 to Section 9.1 in the new code.

Importantly, this cross-reference acted as a checklist to ensure that all regulations and concepts within the current zoning ordinance were successfully moved into the new zoning ordinance. While still a work in progress, it will be finalized prior to the new zoning ordinance coming forward for adoption.

NEW CODE OUTLINE

Within the adopted annotated outline, staff included a draft outline for the code that we intended to follow when preparing the document. That outline was followed throughout the project, and the end result is what you see in the final product.

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CHAPTER 1: GENERAL PROVISIONS

1.1 Title

This Ordinance shall be known as the "City of New Brighton Zoning Ordinance" except as referred to herein, where it shall be known as "this ordinance." [1-020]

1.2 Authority

MN Statutes Section 462

This ordinance is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, Sections 462.351 to 462.363.

1.3 Ordinance Purpose

This ordinance is adopted for the following purposes:

(A) To implement the policies of the City's Comprehensive Plan;

(B) To provide for optimum land use; [1-010(1)]

(C) To protect the public health, safety, and general welfare of the community and its people through the establishment of regulations governing development and land use; ~~Promote the health, safety, order, convenience, and general welfare~~ [1-010(2)]

(D) To promote the economic stability of existing land uses that are consistent with the Comprehensive Plan by protecting them from intrusions by incompatible land uses; ~~Preserve property values;~~ [1-010(3)]

(E) To provide for administration and enforcement of this ordinance;

(F) To provide for amendments;

(G) To prescribe penalties for violation of this ordinance; and

(H) To define powers and duties of the City staff, the Board of Adjustment and Appeals, the Planning Commission, and the City Council in relation to the Zoning Ordinance.

1.4 Effective Date

This ordinance shall be effective on and after <publication date>. The adoption of this ordinance shall not be construed to confer any protected legal status on uses in existence prior to the effective date that did not conform to previous ordinance provisions. Uses that were illegal under previous ordinance provisions shall not be converted to a legal non-conforming use by reason of adoption of this ordinance.

1.5 Applicability

(A) This ordinance is applicable to all land located within the City both now and as may be incorporated in the future. The use of land and buildings or structures, and the construction, reconstruction, alteration, expansion, or relocation of buildings or structures shall conform to the provisions of this ordinance.

(B) In their interpretation and application, the provisions of this ordinance shall be held as the minimum requirements for the promotion of public health, safety, and welfare.

1.6 Relation to the Comprehensive Plan

It is the policy of the City of New Brighton that the Comprehensive Plan is the City's guiding document for the regulation of land use and development. The enforcement, amendment, and administration of this ordinance is to be accomplished with due consideration of the recommendations contained in the Comprehensive Plan as developed and amended from time to time by the Planning Commission and City Council.

The Comp Plan is viewable on the City of New Brighton's web site

1.7 Relationship to Other Laws and Agreements

(A) Conflict with Other Public Laws, Chapters, Regulations, or Permits

(1) This ordinance is intended to complement other municipal, state, and federal regulations that affect land use. This ordinance is not intended to revoke or repeal any other public law, ordinance, regulation, or permit.

(2) Where the provisions of this ordinance impose greater restrictions than those of any statute, other chapter, or regulation; the provisions of this ordinance shall apply.

(3) Where the provisions of any statute, other chapter or regulation impose greater restrictions than this ordinance, the provisions of that statute, other chapter or regulation shall apply.

(B) Conflict with Private Agreements

(1) The existence of any easement, covenant, or other private agreement with respect to property affected by this ordinance shall not affect the duty of any interested person to comply with this ordinance.

(2) The City shall have no obligation to waive or modify the requirements of this ordinance to conform to private agreements, nor shall it be obligated to enforce private agreements.

(C) Conflict Between Standards in this Ordinance [1-050]

(1) Controlling Standards

In the event of conflict between one or more of the standards in this ordinance, priority shall be established based on the following descending hierarchy level:

(a) Overlay Zoning District Requirements

(b) Base Zoning District Requirements

(c) Section 8.2, Rules of Measurement; and

(d) Chapter 4: Finishing Standards

(Example: if an overlay district standard conflicts with a base district standard, the overlay district standard shall apply and take precedence).

(2) Conflicts at the Same Level

In cases where standards conflict within the same hierarchical category in Section 1.7(C)(1) above, this subsection [1.7(C)(2)] will be used by the Department of Community Assets & Development (DCAD) to determine which control applies. DCAD's decision shall be based on the control that best achieves the following goals:

(a) Greater consistency with the goals and objectives contained within the adopted Comprehensive Plan;

Section 1.3: Purpose

(b) More supportive of the purposes of this ordinance as described in Section 1.3, Purpose;

(c) Increased compatibility with adjacent development and surrounding community character;

(d) Enhanced environmental quality and natural resource protection;

(e) Greater protection and preservation of historic and cultural resources; and

(f) A superior level of building form, design, or architecture.

1.8 Transitional Regulations

(A) Purpose

The purpose of transitional regulations is to resolve the status of properties with pending applications or recent approvals, and properties with outstanding violations, at the time of the adoption of this ordinance.

(B) Violations Continue

Section 1.4: Effective Date

Any violation of previous versions of this ordinance existing as of the effective date of this ordinance shall continue to be a violation under this ordinance and shall be subject to the penalties and enforcement set forth in Chapter 7: Enforcement; unless the use, development, construction, or other activity complies with the provisions of this ordinance.

Chapter 7: Enforcement

(C) Uses, Structures, and Lots Rendered Nonconforming

Where any use, building, structure, or lot that legally existed on the effective date of this ordinance does not meet all standards set forth in this ordinance, such building, structure, lot or parcel shall be subject to the requirements of Chapter 6: Nonconformities.

Chapter 6: Nonconformities

(D) Existing Legal Nonconformities

Legal nonconforming lots of record and uses that existed on the effective date of this ordinance shall be controlled by Chapter 6: Nonconformities.

(E) Existing Special Use Permits transition to Conditional Use Permits

All valid Special Use Permits that existed on the effective date of this ordinance shall transition to valid Conditional Use Permits upon the effective date of this ordinance.

(F) Processing of Applications Commenced or Approved Under Previous Ordinances

(1) Pending Application

(a) Any complete application that has been submitted or accepted for review, but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of this ordinance, shall be reviewed in accordance with the provisions of ordinances in effect on the date the application was deemed complete by the City.

(b) An applicant with a pending application may waive the review available under the prior ordinance through a written letter to the Department of Community Assets & Development, and instead request review under the provisions of this ordinance.

(2) Approved Projects

(a) Approved land use and other related actions by the City of New Brighton authorized under the prior ordinance, including building permits that are valid on the effective date of this ordinance, shall remain valid until their expiration date.

(b) Projects with valid approvals or permits may be carried out in accordance with the zoning regulations in effect at the time of approval, provided that the permit or approval is valid and has not lapsed. Furthermore, no provision of this Ordinance shall require any change in the plans, construction, or designated use of any structure for which a building permit has been issued prior to the effective date of this ordinance, unless the building permit has expired.

Section 1.4: Effective Date

(c) Any re-application for an expired project approval shall meet the standards in effect at the time of re-application

(d) Building permits authorized in accordance with the ordinance existing prior to the effective date of this ordinance shall still be valid but shall not be renewed if the permit expires. All future building permits shall only be issued if in compliance with the requirements of this ordinance.

1.9 Severability

(A) It is expressly declared that this ordinance and each section, subsection, sentence, and phrase would have been adopted regardless of whether one or more other portions of the Ordinance is declared invalid or unconstitutional.

(B) If any section, subsection, sentence, or phrase of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction for any reason, the remaining portions of this ordinance shall not be affected. [1-040]

(C) If any court of competent jurisdiction invalidates the application of any provision of this ordinance, then such judgment shall not affect the application of that provision to any other building, structure, or use not specifically included in that judgment.

(D) If any court of competent jurisdiction judges invalidates any condition attached to the approval of an application for development, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment.

(E) No judgment of any court of competent jurisdiction shall be considered final until all appeals have been exhausted.

CHAPTER 2: APPLICATION REVIEWS AND PROCEDURES

2.1 Purpose

The purpose of Chapter 2 is to identify all decision-making bodies responsible for the review of applications, the common review requirements for all applications, and the specific requirements and review procedures for various application types.

2.2 Summary of Decision Making and Review Bodies

(A) Summary Table of Decision-Making and Review Bodies

New Brighton City Code

(1) Table 2-1 summarizes the general review and decision-making responsibilities of the bodies that have roles in the procedures set forth in this ordinance. Other duties and responsibilities of each review body are set forth in subsequent subsections of this ordinance or elsewhere within the City of New Brighton City Code.

(2) The City has discretion to ask other boards, commissions, government agencies, or non-government agencies to review applications as deemed appropriate prior to making decisions on such applications.

TABLE 2-1: SUMMARY OF THE ROLES OF DECISION-MAKING BODIES

H = Hearing (Public Hearing Required)
D = Decision (Responsible for Final Decision)
A = Appeal (Authority to Hear/Decide Appeals)
R = Recommendation (Responsible for Review and a Recommendation)
*** = Resolution Memorializing Decision Approved by the City Council**

Procedure	Subsection	City Council	Planning Commission	DCAD Staff	Zoning Board of Adjustment
Comp Plan Amendment	2.4(A)	D	H / R	R	–
Zoning Map or Text Change	2.4(B)	D	H /R	R	–
Variance	2.4(C)	A	–	R	H / D*
Conditional Use Permit	2.4(D)	D	H / R	R	–
Interim Use Permit	2.4(E)	D	H / R	R	–
Administrative Appeal	2.4(F)	A	–	R	H / D*
Site Plan Review	2.4(G)	D	R	R	–
Building Permits	2.4(H)	A	–	D	–
Certificate of Occupancy	2.4(I)	A	–	D	–
Grading Permit	2.4(J)	A	–	D	–
Sign Permit	2.4(K)	A	–	D	–
Temporary Use Permit	2.4(L)	A	–	D	–
Vacations	2.4(M)	H / D	–	R	–
PUD or PRD	2.4(N)	D	H / R	R	–
Subdivisions	City Code CH 26	D	H / R	R	–

At the discretion of the Department of Community Assets & Development, other City Commissions (i.e. the Economic Development Commission or the Public Safety Commission) may also be asked to make recommendations on individual applications as part of the review process

(B) City Council

In addition to any other authority granted to the City Council by the City Code or state law, the City Council shall have the following powers and duties related specifically to this ordinance:

(1) To enact amendments to the Comprehensive Plan, the text of this ordinance, and the Zoning Map.

(2) To hear, review, and make decisions on applications submitted to the City as identified on Table 2-1.

(C) Planning Commission

City Code Chapter 2, Article 4, Division 6: Planning Commission

(1) Establishment, Membership, Rules and Procedures

The establishment, membership, rules, and procedures for the Planning Commission are established in Chapter 2, Article 4, Division 4 of the City Code, as authorized by Minnesota State Statute Section 462.354, subdivision 1.

(2) Powers and Duties

In addition to any other authority granted to the Planning Commission by the New Brighton Code, the Planning Commission shall have the following additional powers and duties related to this ordinance:

(a) Comprehensive Plan Amendments, Zoning Map Amendments, and Zoning Text Amendments

(i) To propose amendments to the Comprehensive Plan, the text of this ordinance, the Official Zoning Map (rezoning of property), or other sections of the New Brighton Code; and

(ii) To hear, review, and make recommendations to the City Council on applications for amendments to the Comprehensive Plan, the text of this ordinance, or zoning map amendments.

(b) Land Use Applications

To hear, review, and make recommendations on the following Land Use Applications before the City:

(i) Comprehensive Plan Amendment;

(ii) Zoning Map Amendment;

(iii) Zoning Text Amendment;

(iv) Variances;

(v) Conditional Use Permits;

(vi) Interim Use Permits;

(vii) Site Plan Reviews

(viii) Planned Unit Development; and

(ix) Subdivisions.

(c) Other

To exercise such other powers and perform such other duties as provided by law.

(D) Board of Adjustments and Appeals

(1) Establishment

The Board of Adjustments and Appeals is hereby established.

(2) Membership

The Planning Commission shall act as the Board of Adjustments and Appeals.

(3) Rules

(a) The Board of Adjustment and Appeals may adopt rules for the conduct of business, and may exercise all of the powers conferred on such boards by state law.

(b) Staff services for the Board shall be furnished by City Staff as directed by the City Manager.

(4) Procedures

Unless a special meeting of the Board of Adjustment and Appeals is scheduled, proceedings of the Board of Adjustment and Appeals by the Planning Commission shall be undertaken as a component of a scheduled Planning Commission meeting. It shall not be necessary for the Planning Commission to adjourn and reconvene as the Board of Adjustment and Appeals to undertake such proceedings.

(5) Powers and Duties

The Board of Adjustment and Appeals shall have the following powers and duties related to this ordinance:

(a) To consider applications for variances; and

(b) To hear appeals of administrative discretionary decisions made by any administrative official in carrying out or enforcing any provision of this ordinance.

(E) Department of Community Assets & Development (DCAD)

(1) General Authorization

The Department of Community Assets & Development, under the supervision of the City Manager, shall administer the provisions of this ordinance.

(2) Powers and Duties

In addition to the jurisdiction, authority, and duties that may be conferred upon the Department of Community Assets & Development by other provisions of the New Brighton Code, the Department of Community Assets & Development shall have the following jurisdiction, powers, and duties under this ordinance:

(a) Interpretations

Render interpretations of all provisions of this ordinance, including but not limited to, interpretations of the text of this ordinance, interpretation of the zoning map, and interpretation of the comprehensive plan.

(b) Enforcement

Enforce the provisions of this ordinance.

(c) Administer Ordinance

Review, approve, conditionally approve, or deny applications for Building Permits and other administratively reviewed permits or applications as may be required by this ordinance.

(d) Application Tracking and Recommendations

Review, monitor, and provide recommendations on applications requiring approval by the City Council or other governmental bodies as directed by the City Manager.

(e) Provide Expertise and Technical Assistance

Provide expertise and technical assistance to the City Council and the City's commissions, boards, and other bodies.

(f) Maintain the Zoning Map

Update the City's official zoning map as it may be amended from time to time.

(g) Recommendations on Procedures

Review and provide comments or make recommendations to the appropriate decision-making and review body on the various procedures, requirements or appeals established by this ordinance.

(h) Recommendations on planning issues

Provide recommendations on planning issues, propose amendments and additions to zoning and planning ordinances, and recommend changes to the Comprehensive Plan.

2.3 Common Review Procedures & Requirements

(A) Applicability

The requirements of Section 2.3 shall apply to all applications subject to review under this ordinance unless otherwise stated.

(B) Authority to File Applications

(1) Unless otherwise specified in this ordinance, applications may be initiated by:

(a) The owner of the property that is the subject of the application; or

(b) The owner's authorized agent; or

(c) The City.

(2) When an authorized agent files an application under this ordinance on behalf of a property owner, the agent shall provide a signed authorization from the fee title property owner stating that the property owner agrees to be bound by all decisions, agreements, and related conditions agreed to by such agent.

(3) Application by multiple party ownership, at the sole discretion of the City, is acceptable when legally sufficient written consent from all persons and entities with an ownership interest is provided at the time of application.

(C) Application Submission Schedule

The schedule for the submission of applications in relation to scheduled meetings of the decision-making bodies shall be maintained by the City Clerk and be made available to the public.

(D) Application Contents

(1) Organization and Copies

The organization of applications and the number of copies of required information to be submitted shall be determined by the Department of Community Assets & Development.

(2) General Submittal Requirements

All applications shall include:

(a) A completed City of New Brighton application form;

(b) Verification of authority to file applications per the requirements of section 2.3(B);

(c) Supporting title information establishing ownership interests in the property (e.g. a title commitment and/or signature of fee title property owner);

(d) All submittal requirements outlined in this ordinance for the specific application type;

(e) Electronic copies of all written narratives and plan sets required by the Department of Community Assets & Development as part of the specific application;

(f) If requested by the Department of Community Assets & Development, applicants shall submit such technical studies as may be necessary to enable the City to evaluate the application. Such studies may include, but not be limited to, traffic studies, engineering studies, environmental reviews, and economic impact reports. The costs of such studies shall be borne by the applicant with the persons or firms preparing the study approved by the City.

(g) Any other information deemed necessary by the Department of Community Assets & Development or other City departments.

(3) Submission of Fees

Applications shall be accompanied by a fee as established by the City of New Brighton pursuant to the most recently adopted Fee Schedule.

Current Fee Schedule

(E) Application Acceptance

(1) Complete Application Required

The review and consideration of an application shall only occur if such application includes all items that are required in support of the application, and the application is deemed complete by the Department of Community Assets & Development.

MN Statute 15.99 subdivision (3)(a)

(2) Waiver of Application Requirements

Except for the required application form and the associated fee, the Department of Community Assets & Development may waive individual submittal requirements and deem an application complete for review if it is determined that such information will serve no purpose during the review process. However, it is the responsibility of the applicant to supply all information required by this ordinance, and a waiver issued by the Department of Community Assets & Development shall not eliminate the need to provide such information at a later time if it is ultimately deemed necessary to adequately review the application. During the review process, failure of an applicant to supply information in a timely manner may result in denial of the application due to the City's inability to comply with state mandated time deadlines.

(F) Simultaneous Processing of Applications

Whenever two or more forms of review and approval are required under this ordinance (e.g., a proposed rezoning and subdivision application), the applications for those approvals may, at the discretion of the Department of Community Assets & Development, be processed simultaneously, so long as all applicable requirements are satisfied for all applications.

(G) Pre-application Conferences

(1) All prospective applicants are encouraged to speak with someone from the Department of Community Assets & Development prior to submitting an application in order to review the proposal and to determine the specific materials to be submitted with the future application.

(2) Discussions that occur during a pre-application conference are not binding on the City and do not constitute official assurances, representations, or approvals by the City or its officials on any aspects of the plan or application discussed.

(H) Fees

(1) Determination of Fees

Current Fee Schedule

Fees required to accompany applications submitted under this ordinance shall be in accordance with pursuant to the most recently adopted Fee Schedule.

(2) Fees to be Paid

(a) No application, except as may be determined by the Department of Community Assets & Development, shall be accepted until all applicable application fees have been paid.

(b) Upon the termination of an application by approval, denial, withdrawal, or any other means, all consultation expenses incurred by the City due to the application shall be immediately payable in full.

(c) No permit or approval shall be issued and no construction or development shall commence until the total application fee and additional expenses for reviewing the application are paid in full.

(3) Refund of Application Fee

Application fees are not administratively refundable except when the Department of Community Assets & Development determines that an application was withdrawn prior to any consideration or review of the application.

(4) Escrow or Performance Agreement

(a) Application fees may also require payment of an escrow in favor of the City. The required escrow amount shall be in accordance with the approved fee schedule adopted by the City Council.

(b) As an alternative to an escrow and at the City's sole discretion, an applicant may enter into an alternative performance agreement acceptable to the City.

(5) Consultant Fee(s)

In order to defray the additional cost of processing applications submitted under this ordinance, all applicants shall pay the total cost of any applicable outside consultant time spent exclusively to review and/or produce materials related to the applicant's request.

(a) "Materials" shall include, but not be limited to, maps, graphs, charts, drawings, etc., and all printing and reproduction of same.

(b) "Consultant time" shall include any time spent by an outside consultant to research, analyze, or produce materials for the application review including legal expenses.

(c) The hourly rate for consulting time shall be in accordance with the approved contract or agreement the City has for the needed consulting services.

(I) Public Notification

Applications requiring public notification shall be noticed in compliance with the following provisions.

(1) Content

Notices for public hearings, whether by publication or mailed notice, shall contain at a minimum:

(a) A bold title referring to the content of the notice.

(b) Identification of the address or location of the property or properties subject to the application.

(c) Date, Time, and Place of the Public Hearing.

(d) Nature and Scope of the Application.

(e) Where to View the Application.

(f) Where the Public May be Heard.

(g) Provision for Written Comments. The notice should describe how written comments will be received prior to the public hearing.

(2) Timing of the Notice

Unless otherwise expressly provided or required by law, all statutorily or code required notices shall be postmarked or published at least 10 calendar days prior to the hearing or meeting at which the application will be considered.

(3) Responsibilities

(a) Published notice

When the provisions of this ordinance require that notice be published, the Department of Community Assets & Development shall be responsible for preparing the content of the notice and publishing the notice in the City's official newspaper. The content and form of the published notice shall be consistent with the requirements of Section 2.3(I)(1) and state law.

(b) Written (mailed) notice.

When the provisions of this ordinance require that written or mailed notice be provided, the Department of Community Assets & Development shall be responsible for preparing and mailing the written notice per the requirements outlined in Table 2-2.

TABLE 2-2: WRITTEN NOTIFICATION REQUIREMENTS	
Application Type:	Written Notice Provided to:
Comprehensive Plan Amendment	▪ For amendments which involve five acres of land or less, written notice shall be provided to all property owners within 350 feet ▪ For amendments which involve more than five acres of land, notice need only be published in the City's official newspaper
Zoning Map Amendment	All property owners within 350 feet
Variance	All property owners within 350 feet
Conditional Use Permit	All property owners within 350 feet
Interim Use Permit (new and renewal)	All property owners within 350 feet
Appeal of Administrative Decision	All property owners within 350 feet
CUP/IUP Revocation	All property owners within 350 feet
Planned Developments	All property owners within 600 feet
If the application type is not listed above	All property owners within 350 feet

(4) Notice Procedures

(a) The Department of Community Assets & Development may use property tax records to determine the names and addresses of affected property owners. A copy of the notice and a list of the owners and addresses to which the notice was sent must be attested to by the Department of Community Assets & Development and is considered to be part of the records of the proceedings.

(b) Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a good faith attempt has been made to comply with applicable notice requirements. Minor defects in notice are errors that do not affect the substance of the notice (e.g., errors in a legal description, typographical or grammatical errors, errors of actual acreage or dimensions, etc.). Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the notification requirements and information specifying the time, date, and place of a hearing shall be strictly construed.

(c) When the records of the City document the publication, mailing, and posting of notices as required by this subsection, it shall be presumed that notice of a public hearing was given as required by this subsection.

(J) Continuation of Public Hearings

A public hearing for which proper notice was given may be continued during the course of such hearing to a later date without again complying with the written notice requirements of Chapter 2, provided that the continuance date is announced at the meeting.

(K) Withdrawal of an Application

A request for withdrawal of an application shall be submitted in writing to the Department of Community Assets & Development by the applicant or the applicant's authorized representative.

(L) Required Action Deadline

(1) All applications for land use approvals shall be approved or denied within timeframes required by applicable laws, regulations, and the provisions of this ordinance in effect on the date the application was submitted.

(2) For applications that require recommendation by the Planning Commission or other recommending body, the Department of Community Assets & Development may forward such applications to the City Council or Board of Adjustment and Appeals without a recommendation when it is deemed necessary to ensure compliance with state mandated deadlines for application review.

MN Rules 4410

(M) Environmental Review

(1) No development project shall be approved prior to the Department of Community Assets & Development determining the necessity for completion of an Environmental Assessment worksheet (EAW) or Environmental Impact Statement (EIS). Procedures for when to require and how to administer EAWs and EISs are set forth in the Minnesota Environmental Quality Review Board (EQB) regulations for the Environmental Review Program authorized by Minnesota Statutes Sections 116D.04 and 116D.045 and specified in Minnesota Rules Parts 4410.0200 to 4410.7055.

(2) Environmental reviews (EAWs and EISs) shall be conducted as early as practical in the processing of a development project. No decision on granting of a permit or other approval required may be issued until the EAW/EIS process is completed.

(N) Reconsideration of Land Use Approval Applications

No application for land use approval which has been denied by the City Council, in whole or in part, shall be reconsidered for a period of six months from the date of City Council action on the application, except where there is substantial new evidence or proof of a change in conditions with respect to such application. Before such reconsideration, the City may require the submission of the appropriate application fee and the application may be considered as a new application.

2.4 Specific Review Procedures & Requirements



(A) Comprehensive Plan Amendments

(1) Purpose and Scope

Section 2.4(A) sets out the procedure to follow when considering a change/amendment to the Comprehensive Plan.

(2) Initiation of Proceedings

Proceedings for the amendment of the Comprehensive Plan shall be initiated by one of the following:

(a) An owner of the property or an authorized representative of an owner of the property pursuant to Section 2.3(B), Authority to File Applications;

(b) Recommendation of the Planning Commission; or

(c) Action of the City Council.

(3) Application

Section 2.3: Common Review Requirements

(a) All applications to amend the Comprehensive Plan shall be in accordance with Section 2.3, Common Review Procedures & Requirements.

(b) In addition to the common review requirements, applications for Comprehensive Plan amendments shall also include the following:

(i) The name of the applicant;

(ii) A narrative explaining the requested change and the reasons why the Comprehensive Plan should be amended per the request;

(iii) The legal description of all real property proposed for change;

(iv) The existing and proposed land use and zoning designations for all properties proposed to change (if applicable);

(v) A map of the properties to be modified to a different land use category, showing the addresses and land uses for adjacent properties (if applicable);

(vi) The proposed text and/or maps to be added, amended, or deleted from the Comprehensive Plan along with documentation as to the location of the text changes in the Comprehensive Plan (if applicable).

(4) Review

Section 2.3(I): Public Notification

(a) Planning Commission

(i) Before any amendment is adopted, the Planning Commission shall hold at least one public hearing after proper notice has been issued in accordance with Section 2.3(I).

(ii) Following the hearing, the Planning Commission shall adopt findings and recommendations on the proposed amendment as soon as practical.

(b) City Council

(i) The City Council may receive additional comments on the amendment if it deems them necessary prior to taking action on the proposed amendments.

(ii) After consideration of recommendations from the Department of Community Assets & Development, recommendations of the Planning Commission, and the comments received at the public hearing, the City Council may adopt the amendment or any part thereof in such form as it deems advisable.

(iii) In accordance with statutory requirements, approval of a comprehensive plan amendment shall require a two-thirds super-majority vote of all Council members.

(5) Approval Criteria

Recommendations and decisions on Comprehensive Plan amendments should take into consideration the following criteria:

(a) Whether the proposed amendment corrects an error or addresses something resulting from some changing condition, trend, or fact arising since the adoption of the Comprehensive Plan;

(b) Whether the proposed amendment is consistent with the guiding principles of the Comprehensive Plan;

(c) The extent to which the proposed amendment addresses a demonstrated community need;

(d) Whether the proposed amendment will protect the health, safety, morals, and general welfare of the public;

(e) The impacts on the natural and built environments, including air, water, noise, stormwater management, wildlife habitat, water quality, vegetation, drainage, streets, and other engineering design or environmental factors;

(f) Whether the proposed amendment is compatible with existing and proposed uses surrounding the subject property; whether the proposed design and land uses are appropriate for the land; and whether the proposed amendment will maintain or improve compatibility among uses and ensure efficient development within the City;

(g) Whether the proposed amendment will result in a logical, orderly and predictable development pattern; and

(h) Such other considerations as the Planning Commission and City Council deem reasonable and proper.

(6) Met Council Approval

Following local approval, all amendments to the Comprehensive Plan must be reviewed and approved by the Metropolitan Council for consistency with regional planning documents prior to taking effect.



(B) Zoning Ordinance Text and Zoning Map Amendments

(1) Purpose and Scope

Section 2.4(B) sets out the procedures to be followed in reviewing and considering a text change to this ordinance or an amendment to the zoning map (rezoning). Amendments to a planned unit development or planned residential development, which may be shown on the zoning map, shall be subject to the procedures in Section 2.4(N), Planned Developments.

(2) Initiation of Proceedings

Proceedings for the amendment of the text of this ordinance or the zoning map shall be initiated by one of the following:

(a) An owner of the property or an authorized representative of the property owner pursuant to Section 2.3(B), Authority to File Applications;

(b) Recommendation of the Department of Community Assets & Development, the City Manager, or City Attorney;

(c) Action of the Planning Commission; or

(d) Action of the City Council.

(3) Application

(a) All applications to amend the text of this ordinance or the zoning map shall be in accordance with Section 2.3, Common Review Procedures & Requirements.

Section 2.3: Common Review Requirements

(b) In addition to the common review requirements, applications for changes to the text of this ordinance or the Zoning Map shall also include the following:

(i) The name of the applicant;

(ii) A narrative explaining the requested modification and the reasons why the changes are supported by the Comprehensive Plan;

(iii) The legal description of all real property proposed for change (if applicable);

(iv) The existing and proposed land use and zoning designations for all properties proposed for change (if applicable);

(v) A map of the properties to be modified to a different zoning designation, showing the addresses and zoning designations for the subject properties and the adjacent properties (if applicable);

(vi) The location of the proposed text to be added, amended, or deleted in this ordinance (if applicable).

(4) Review

(a) Planning Commission

Section 2.3(I): Public Notification

(i) Before any amendment is adopted, the Planning Commission shall hold at least one public hearing after proper notice has been issued in accordance with Section 2.3(I).

(ii) Following the hearing, the Planning Commission shall adopt findings and recommendations on the proposed amendment as soon as practical.

(iii) The Department of Community Assets & Development may forward an application to the City Council without a recommendation from the Planning Commission if it is deemed necessary to ensure compliance with state mandated deadlines for application review.

(b) City Council

(i) The City Council may receive comments on the amendment if it deems them necessary prior to taking action on the proposed change.

(ii) After consideration of recommendations from the Department of Community Assets & Development, recommendations of the Planning Commission, and the comments received at the public hearing, the City Council may adopt the amendment or any part thereof in such form as it deems advisable

(iii) Approval of an amendment shall require a majority vote of all members of the City Council unless the rezoning is changing residential property to a commercial or industrial designation, in which case a super majority vote shall be required.

(5) Approval Criteria

Recommendations and decisions on zoning amendments shall include consideration of the following criteria:

(a) Whether the proposed amendment corrects an error in the original text or map; or

(b) Whether the proposed amendment addresses needs arising from a changing condition, trend, or fact affecting the subject property and surrounding area; or

(c) Whether the proposed amendment is consistent with achieving the goals and objectives outlined in the comprehensive plan; or

(d) Whether the proposed amendment addresses concerns or problems recognized by the Department of Community Assets & Development, the Planning Commission, or the City Council.

Variances



(C) Variances

(1) Purpose and Scope

Mn Statute 462.357

The City Council shall have the power to grant variances from the literal provisions of the City's Zoning Code as authorized by Minnesota Statutes, Section 462.357, Subd. 6, as may be amended. The variance process is intended to provide limited relief from the strict requirements of the Zoning Code in cases where strict application of a particular requirement will create practical difficulties due to circumstances unique to the individual property under consideration. It is not intended that variances be granted to allow a use not permitted by the underlying zoning district, nor to merely remove inconveniences or financial burdens that the requirements of the Zoning Code may impose on property owners in general. Variances are intended to address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission. (8-210)

(2) Initiation of Proceedings

Variances shall be initiated by an owner of the property or an authorized representative of the property owner pursuant to Section 2.3(B), Authority to File Applications.

(3) Application (8-220)

Section 2.3: Common Review Requirements

(a) All applications for a Variance shall be in accordance with Section 2.3, Common Review Procedures & Requirements.

(b) In addition to the common review requirements, applications for a Variance shall also include the following:

(i) A written narrative demonstrating that the criteria for a Variance as set out in subsection (4)(a) below have been met.

(ii) An up-to-date survey of the property showing all information necessary to allow the City to determine conformance with all zoning provisions, and to calculate the specific variance(s) being requested. Information shall include but not be limited to:

1. Property and structure dimensions;
2. Setback dimensions/measurements; and
3. Parking and access locations and dimensions;

(iii) Electronic copies of all documents required by the specific application;

(iv) Any other information deemed necessary by the City in order to review the application.

(4) Review (8-230)

(a) Variance Criteria

MN Statute 462.357 (6)(2) variances

Approval of a Variance requires that the City find that all of the following criteria are satisfied, as they may be modified from time to time by statute or interpretative court decisions:

(i) The request is in harmony with the general purposes and intent of this ordinance.

(ii) The Variance is consistent with the City's comprehensive plan.

(iii) The applicant can establish there are "practical difficulties" in complying with the zoning ordinance based on the following:

1. The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.
2. The plight of the landowner is due to circumstances unique to the property that are not created by the landowner.
3. A variance, if granted, will not alter the essential character of the locality.

(b) Practical Difficulties and Variance Guidelines

(i) Economic considerations alone shall not constitute a sufficient basis for granting a Variance if reasonable use for the property exists under the terms of the ordinance.

(ii) Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

(iii) Variances shall be granted for earth sheltered construction, as defined by State Statute, when in harmony with the ordinance.

(iv) A variance to permit a use that is not otherwise allowed by this ordinance is prohibited.

(c) Board of Adjustment and Appeals

(i) The Board of Adjustment and Appeals shall consider the applicant's submittals, City staff's recommendation, and the comments received at the public hearing against the variance review criteria outlined in Section 2.4(C)(4)(a), and take action on the request(s) as soon as practicable.

(ii) Approval or denial of a Variance shall require a majority vote of the Board of Adjustment and Appeals.

1. In approving a variance, the Board of Adjustment and Appeals may impose reasonable conditions on the approval as deemed appropriate to ensure compliance with the approval and to protect adjacent properties. Any conditions must be directly related to and must bear a rough proportionality to the impact created by the variance.
2. Denial of any request shall be accompanied by findings of fact as to how the request did not meet one or more of the review criteria.

(iii) The decision of the Board of Adjustment and Appeals shall take effect after the appeal timeframe has expired, and upon being memorialized in a resolution approved by the City Council at the first available Council meeting following action by the Board of Adjustment and Appeals.

(5) Appeal of Variance Decision

Decisions of the Board of Adjustment and Appeals are final unless the applicant or an affected party, including any member of the City Council, files a written appeal outlining the basis for the appeal within three business days of the decision. Variance appeals shall be reviewed by the City Council as outlined in Section 2.4(C)(4). Decisions by the City Council on appeal are final.

(6) Effect of a Variance (8-240)

(a) The issuance of a Variance shall authorize only the particular variation that is approved by the Board of Adjustment and Appeals.

(b) A Variance, including any conditions, shall run with the land and shall not be affected by a change in ownership.

(7) Subsequent Development (8-250)

Development authorized by the Variance shall not be carried out until the applicant has secured all other approvals required by this ordinance or any other applicable chapters or regulations. The granting of a Variance does not constitute, imply, or guarantee the granting of any other such required approval (e.g.: a building permit).

(8) Time Limit (8-260)

(a) Unless otherwise specified in the variance, if a building permit has not been applied for within one year of the date of the variance approval, the variance shall become invalid. Permitted timeframes do not change with successive owners.

(b) Upon written request, extensions of one year may, but need not, be granted by the City Council if the applicant can show good cause.

(9) Amendment (8-270)

(a) A variance may be amended, extended, or modified only in accordance with the procedures and standards established for originally securing the variance.

(b) A request for a change in the conditions of approval of a variance shall be considered an amendment and subject to the full review procedure set forth in Section 2.4(C).

(c) An additional application fee may be required before consideration of the amendment request.

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Conditional Use Permits



(D) Conditional Use Permits

(1) Purpose and Scope

The Conditional Use Permit process is intended to provide the City with an opportunity to review a use in order to establish reasonable conditions necessary to ensure compatibility between the proposed use and surrounding properties. Approval of a conditional use at a location within a zoning classification does not mean the same conditional use can be conducted on any other parcel with the same specific zoning classification. Every application for a Conditional Use Permit will be individually reviewed on its own merits, and the facts surrounding a subject property will determine the appropriateness of the proposed use. (8-110)

(2) Initiation of Proceedings

A request for a Conditional Use Permit shall be initiated by the owner of the property or an authorized representative of the property owner pursuant to Section 2.3(B), Authority to File Applications.

(3) Application

(a) All applications for a Conditional Use Permit shall be in accordance with Section 2.3, Common Review Requirements.

Section 2.3: Common Review Requirements

(b) In addition to general review requirements, applications for a Conditional Use Permit shall also include the following:

(i) A written narrative which includes:

1. A description of the proposed conditional use, how it will function on the property, hours of operation (if applicable), and any other information necessary to fully describe the request; and
2. An explanation of how the proposed conditional use will meet each of the criteria set forth in subsection (4)(a) below, as well as any additional criteria that may apply for the specific use as listed in Chapter 5.

Chapter 5: Use Standards

(ii) A location map showing the general location of the proposed use within the community and the principal land uses surrounding the parcel on which the conditional use is proposed;

(iii) Development plans for the proposed use showing all information deemed necessary by the Department of Community Assets and Development to ensure that the City can determine whether the proposed use will conform to all City Code standards. Such information may include, but shall not be limited to, the following:

1. Site plan drawn to scale showing parcel and existing topography;
2. Location of all existing and proposed buildings and the size of each (including square footage);
3. Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks;
4. Natural features such as woodlands, wetlands, shorelines, etc;
5. Landscaping and screening plans, including species and size of trees and shrubs proposed;
6. Proposed finished grading and drainage plan sufficient to drain and dispose of all surface water accumulated;
7. Type of business or activity and proposed number of employees (if applicable);
8. Proposed floor plan and elevations of any building with use indicated;

9. Proposed outdoor storage spaces (if applicable);
10. Signage plan.

(iv) If deemed necessary by the Department of Community Assets and Development, a survey may be required to be submitted with the application in addition to or in lieu of a site plan.

(v) Color profile elevation drawings of new structures to illustrate the proposed visual appearance of new construction.

(vi) Any other information that may be reasonably required by the City to evaluate the application.

(4) Review

(a) Conditional Use Permit Criteria (8-130)

Approval of a Conditional Use Permit application requires that the City find that conditions (if needed) can be established to ensure that all of the following criteria will always be met:

(i) The conditional use will not be detrimental to the health, safety, morals, or welfare of persons residing or working near the use;

(ii) The conditional use will not be injurious to the use and enjoyment of other properties in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;

(iii) The conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district;

(iv) The conditional use will not pose an undue burden on public utilities or roads, and adequate sanitary facilities are provided;

(v) The conditional use can provide adequate parking and loading spaces, and all storage on the site can be done in conformance with City code requirements;

(vi) The conditional use will not unnecessarily impact natural features such as woodlands, wetlands, and shorelines; and all erosion will be properly controlled;

(vii) The conditional use will adhere to any applicable additional criteria outlined in Chapter 5 for the proposed use.

(b) Planning Commission

(i) Before any conditional use permit is acted upon, the Planning Commission shall hold at least one public hearing after proper notice has been issued in accordance with Section 2.3(I).

Section 2.3(I): Public Notification

(ii) Following the hearing and subsequent discussion on the merits of the proposal, the Planning Commission shall adopt findings and recommendations on the general Conditional Use Permit review criteria and any specific criteria outlined for the specific use in Chapter 5.

General CUP review criteria: Section 2.4(D)(4)(a)

1. Recommendations for approval may include such conditions as deemed necessary to ensure compliance with each of the Conditional Use Permit review criteria, and shall be supported by findings of fact as to why the permit request should be approved.
2. Denial recommendations shall be supported by findings of fact as to why the permit request was denied.

(c) City Council

(i) The City Council shall consider recommendations from the Department of Community Assets and Development, recommendations from the Planning Commission, and the comments received at the public hearing to evaluate the request against the general and specific review criteria applicable to the use, and take action on the request(s).

(ii) Decisions on a Conditional Use Permit shall require a majority vote of the City Council.

1. In approving a Conditional Use Permit, the City Council shall support the decision with findings of fact as to why the permit request is being approved.
2. Denial of any request shall be accompanied by findings of fact as to why the requested permit cannot be approved.

(5) Reasonable Conditions

(a) In approving a CUP, the City may adopt and impose such reasonable conditions and requirements as it deems necessary and appropriate to ensure continued compliance with the Conditional Use Permit review criteria.

(b) Conditions pertaining to a site are subject to change when the Council, upon investigation into a formal request, finds that the general welfare and public betterment can be served as well or better by modifying the conditions.

(6) Effect of Conditional Use Permit Approval

(a) The issuance of a Conditional Use Permit shall authorize only the improvements and the uses approved by the City Council.

(b) A Conditional Use Permit, including any conditions, shall run with the land and shall not be affected by a change in ownership.

(7) Subsequent Development

Development authorized by the Conditional Use Permit shall not be carried out until the applicant has secured all other approvals required by this ordinance or any other applicable ordinances or regulations. The granting of a Conditional Use Permit does not constitute, imply, or guarantee the granting of any other such required approval (i.e. a building permit).

(8) Time Limit

(a) Unless a multi-year deadline is specifically included as part of a Conditional Use Permit approval, the operation of the use and/or issuance of building permits for permitted structures shall begin within one year of the date of the Conditional Use Permit approval. Failure to do so will invalidate the Conditional Use Permit. Permitted timeframes do not change with successive owners.

(b) If the operation of the use and/or issuance of building permits has not commenced within one year of the date of approval, the applicant may petition for an extension of time in which to commence the work that has been granted by the Conditional Use Permit. Such an extension shall be requested in writing and be filed with the City at least 30 days before the expiration of the one year period. The request for extension shall state facts supporting good cause for extension of the Conditional Use Permit. Such a petition shall be presented to the City Council for a decision.

(c) If a use operating pursuant to an approved Conditional Use Permit is discontinued for a period of at least one year, any further use of the property shall conform to the requirements of this ordinance. A discontinued conditional use shall not begin operations again without first obtaining approval of a new conditional use permit.

(9) Revocation

If any of the conditions set forth in the Conditional Use Permit are violated, the City Council shall have the authority to revoke the Conditional Use Permit. Before the revocation is considered, the City Council shall hold at least one public hearing after proper written notice has been issued in accordance with Section 2.3(I) and Table 2-2. Following the hearing and subsequent discussion, the City Council may revoke the Conditional Use Permit by adopting findings of fact showing there has not been substantial compliance with the required conditions.

(10) Amendments

(a) A Conditional Use Permit may be amended or modified only in accordance with the procedures and standards established when originally securing the Conditional Use Permit.

(b) A request for a change in the conditions of approval of a Conditional Use Permit shall be considered an amendment and be subject to the full review procedure set forth in this subsection.

(c) An additional application fee may be required before consideration of an amendment request.

Interim Use Permits



(E) Interim Use Permits

(1) Purpose and Scope [8-140(1)]

The purpose and intent of allowing interim uses is:

(a) To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction.

(b) To allow a use that is presently acceptable, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced by a permitted or conditional use allowed within the respective district.

(c) To allow a use which is reflective of anticipated long-range change to an area and which is in compliance with the comprehensive plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.

(2) Initiation of Proceedings

A request for an Interim Use Permit shall be initiated by the owner of the property or an authorized representative of the property owner pursuant to Section 2.3(B), Authority to File Applications.

(3) Application [8-145]

(a) All applications for an Interim Use Permit shall be in accordance with Section 2.3, Common Review Requirements.

Section 2.3: Common Review Requirements

(b) In addition to general review requirements, applications for an Interim Use Permit shall also include the following:

(i) A letter from the applicant explaining the proposed interim use, why it is needed, and stating the date or event that will terminate the use or trigger required changes;

(ii) A location map showing the general location of the proposed use within the community and the principal land uses surrounding the parcel on which the interim use is proposed;

(iii) Development plans for the proposed interim use showing all information deemed necessary by the Department of Community Assets and Development to ensure that it can be determined whether the proposed development will meet all applicable development standards. Such information may include but shall not be limited to the following:

1. Site plan drawn to scale showing parcel and existing topography;
2. Location of all buildings and the size of each, including square footage;
3. Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks;
4. Natural features such as woodlands, wetlands, shorelines, etc;
5. Landscaping and screening plans, including species and size of trees and shrubs proposed;
6. Proposed finished grading and drainage plan sufficient to drain and dispose of all surface water accumulated;
7. Type of business or activity and proposed number of employees;
8. Proposed floor plan and elevations of any building with use indicated;
9. Proposed outdoor storage spaces (if applicable); and
10. Signage plan.

Sec 4.7 Parking

(iv) If deemed necessary by the Department of Community Assets and Development, a survey may be required to be submitted with the application in addition to or in lieu of a site plan.

(v) A signed consent agreement, provided by the City of New Brighton, agreeing:

1. That the applicant, owner, operator, tenant and/or user has no entitlement to future re-approval of the Interim Use Permit;
2. That the interim use will not impose additional costs on the public if it is necessary for the City or another governmental entity to fully or partially take the property in the future; and
3. That the applicant, owner, operator, tenant and/or user will abide by conditions of approval that the City Council attaches to the Interim Use Permit.

(vi) Any other information that may be reasonably required by the City to evaluate the application.

(4) Review [8-150]

(a) Interim Use Permit Criteria

Approval of an Interim Use Permit application requires that the City find that conditions (if needed) can be established to ensure all of the following criteria will always be met:

(i) The use is allowed as an interim use in the respective zoning district and conforms to standard zoning regulations unless exempted by the specific interim use type;

(ii) The use will not adversely affect nearby properties through nuisance, noise, traffic, dust, odor, or unsightliness; and will not otherwise adversely affect the health, safety, and welfare of the community;

(iii) The use will not adversely impact implementation of the Comprehensive Plan;

(iv) The date, event, or change in circumstances that will terminate the use is identified with certainty;

(v) The applicant has signed a consent agreement stating that the applicant, owner, operator, tenant and/or user has no entitlement to future re-approval of the interim use permit as well as agreeing that the interim use will not impose additional costs on the public if it is necessary for the City or another government entity to fully or partially take the property in the future;

(vi) The applicant agrees to all conditions that the City Council deems appropriate to allow the interim use including, but not limited to, the requirement of appropriate financial surety to cover the cost of removing the interim use and any interim use-related structures upon the expiration of the interim use permit;

(vii) There are no delinquent property taxes, special assessments, or City utility charges due upon the subject parcel;

(viii) The interim use will adhere to any applicable additional criteria for the use required in the applicable zoning district; and

(ix) The term of the interim use does not exceed two years unless an end date for the use is attached to a specific triggering event

(b) Planning Commission

(i) Before any Interim Use Permit is considered by the City Council, the Planning Commission shall hold at least one public hearing after proper notice has been issued in accordance with Section 2.3(I).

Section 2.3(I): Public Notification

(ii) Following the hearing and subsequent discussion on the merits of the proposal, the Planning Commission shall adopt findings and recommendations on the general Interim Use Permit review criteria and any specific criteria outlined for the specific use in Chapter 5.

1. Recommendations for approval may include such conditions as are deemed necessary to ensure compliance with each of the Interim Use Permit review criteria and shall be supported by findings of fact as to why the permit request should be approved.
2. Denial recommendations shall be supported by findings of fact as to why the permit request was denied.

(iii) Applications may be forwarded to the City Council without a recommendation from the Planning Commission if it is deemed necessary to ensure compliance with state-mandated deadlines for application review.

(c) City Council

(i) The City Council shall consider recommendations from the Department of Community Assets & Development, recommendations from the Planning Commission, and the comments received at the public hearing to evaluate the request against the general and specific review criteria applicable to the use and take action on the request(s).

(ii) Decisions on an Interim Use Permit shall require a majority vote of the City Council.

a. In approving an Interim Use Permit, the City Council shall support the decision with findings of fact as to why the permit request is being approved.

b. Denial of any request shall be accompanied by findings of fact as to why the requested permit cannot be approved.

(5) Reasonable Conditions [8-155]

In approving an Interim Use Permit, the City may adopt and impose such reasonable conditions and requirements as it deems necessary and appropriate to ensure continued compliance with the Interim Use Permit review criteria.

(6) Effect of an Interim Use Permit Approval [8-160]

(a) The issuance of an Interim Use Permit shall authorize only the improvements and use approved by the City Council as an interim use over the specified timeframe.

(b) An interim use permit, including any conditions, shall run with the land and shall not be affected by a change in ownership of the property unless it is stated in the interim use permit that a change in ownership of the property will terminate the interim use permit.

(7) Subsequent Development [8-165]

Development authorized by the interim use permit shall not be carried out until the applicant has secured all other approvals required by this zoning ordinance or any other applicable chapters or regulations. The granting of an interim use permit by the City does not constitute, imply, or guarantee the granting of any other such required approvals (e.g., a building permit).

(8) Termination [8-170]

An interim use permit shall be terminated, and the interim use removed for any of the following reasons, whichever occurs first:

(a) The date, event, or circumstances occur as stated in the permit;

(b) Upon violation of a condition under which the permit was issued;

(c) Upon a change in the City's zoning regulations which renders the use nonconforming; or

(d) The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.

(9) Revocation [8-175]

The City Council may revoke an interim use permit upon finding that any of the conditions set forth in the permit are violated or if there are any other violations of federal, state, or local laws or regulations relating to the interim use permit. The City shall notify the holder of the interim use permit of the violation(s) in writing and provide a reasonable amount of time for the holder to correct the violation(s). If the violation(s) are not corrected within the time specified in the notice, the City Council may revoke the interim use permit. Before the revocation is considered, the City Council shall hold a public hearing after proper written notice has been issued in accordance with Section 2.3(I). Following the hearing and subsequent discussion, the City Council may revoke the interim use permit by adopting a resolution with findings of fact that include the basis for the revocation.

Section 2.3(I): Public Notification

(10) Amendments [8-180]

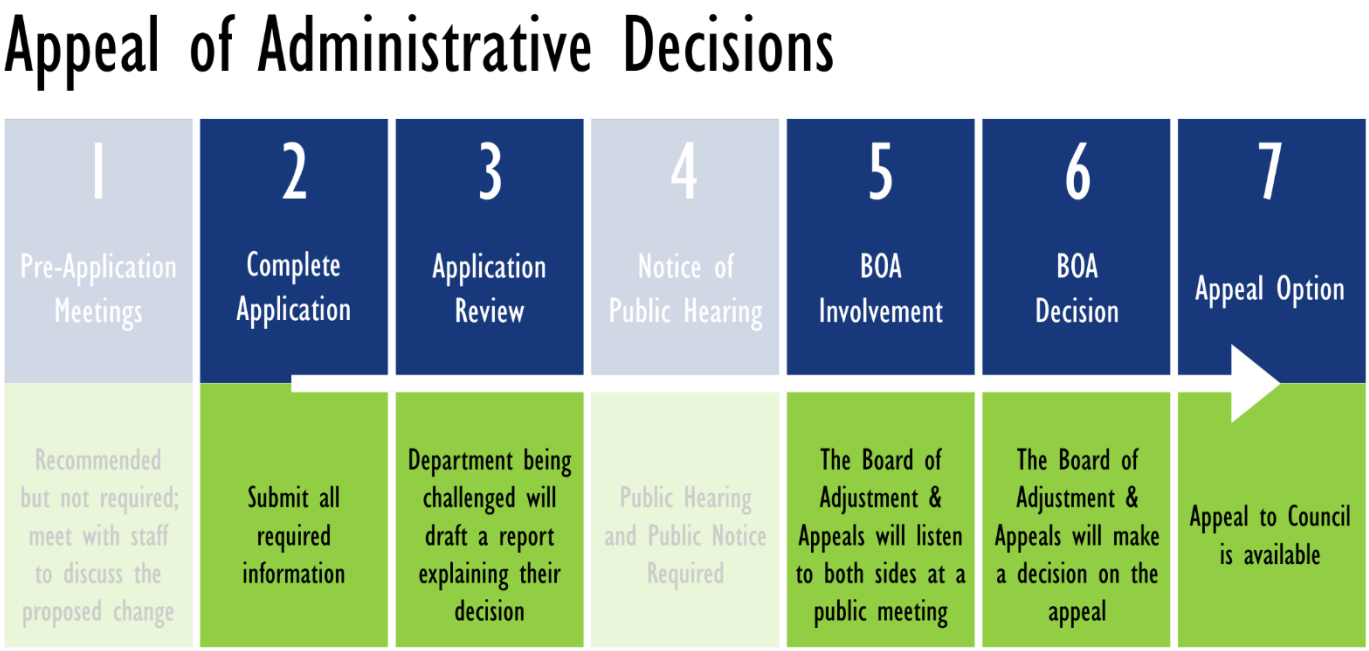
All requested amendments to an existing interim use permit shall be processed in the same manner as a new application.

(11) Renewal [8-185]

The following process must be used to renew an active interim use permit that is set to expire. Terminated interim use permits cannot be renewed.

(a) Application. Application requirements for renewal of an existing interim use permit shall be the same as for a new application.

(b) Review. Upon receiving a complete application for an interim use permit renewal, the Department of Community Assets & Development shall send notice of the requested renewal to all property owners within 350 feet of the parcel(s) containing the interim use. If any objections are raised within 10 days of the mailed notice, the application shall be processed in the manner of a new application. If no objections are raised, the Department of Community Assets & Development shall prepare a resolution of approval outlining the conditions and stipulations of the renewal for consideration by the City Council. The City Council at its discretion may approve or deny the request with findings. Denial of a renewal request does not constitute termination of the existing interim use permit.



(F) Appeal of Administrative Decisions

(1) Purpose and Scope

This subsection sets out the procedure to follow when a person claims to have been aggrieved or affected by an administrative decision made under this ordinance.

(2) Initiation of Proceedings

Appeals shall be initiated by the person aggrieved or affected by any order, decision, determination, or interpretation made by the Department of Community Assets & Development or other administrative official of the City charged with the administration or enforcement of this ordinance.

(3) Procedure

(a) Submission of Appeal (Application)

(i) An appeal pursuant to this subsection shall be initiated by filing a written appeal of the administrative decision or determination on an official form provided by the City.

(ii) All applications for an appeal shall be in accordance with Section 2.3, Common Review Requirements.

(iii) All appeals shall be submitted within one of the following timeframes to be valid:

1. Within 10 business days of the date the appellant was notified of the order, decision, determination, or interpretation they intend to appeal.
2. If the appellant was not notified of the order, decision, determination, or interpretation they intend to appeal; then within 30 calendar days of the initiation of activity which either alerted or could have alerted the appellant to the matter they wish to appeal.
3. If the appellant was not notified of the order, decision, determination, or interpretation they intend to appeal; and no household members were present in the community during the initiation of activity which could have alerted the appellant to the matter they wish to appeal (i.e. due to business trips or relocation during the winter months), then the appellant will have 10 business days to appeal from the date a household member returned to the property.

(b) Review by the Board of Adjustment and Appeals

[Section 2.3(I): Public Notification]

(i) Upon receiving the written appeal of the administrative decision or determination, the City Clerk shall place the matter on the next available agenda of the Board of Adjustment and Appeals that gives city staff and consultants enough time to prepare all required materials.

(ii) A report prepared by the Department of Community Assets & Development accompanied by all relevant papers, documents, and other materials relating to the order, decision, determination, or interpretation shall be provided to the Board of Adjustment and Appeals prior to the meeting. These materials shall be a part of the record of the appeal.

(iii) The City Attorney and/or involved City consultants may also submit materials in connection with any appeal considered by the Board of Adjustment and Appeals.

(iv) Following reports by the Department of Community Assets & Development and appellant(s), the Board of Adjustment and Appeals shall discuss the information presented by both sides and ask questions as necessary.

(v) Following discussion on the appeal, the Board of Adjustment and Appeals shall adopt findings of fact and make a decision on the appeal.

(vi) The decision of the Board of Appeals shall take effect after the allowed appeal timeframe has expired, and upon being memorialized in a resolution approved by the City Council at the first available Council meeting following action by the Board of Adjustment and Appeals.

(c) Appeal to the City Council

(i) Decisions of the Board of Adjustment and Appeals are final unless an affected party files a second written appeal to the City Council outlining the basis for the appeal within three business days of the decision by the Board of Adjustment and Appeals.

(ii) Upon receiving a second written appeal of the decision rendered by the Board of Adjustment and Appeals, the City Clerk shall place the matter on the next available agenda of the City Council.

(iii) Materials constituting the record of appeal from the Board of Adjustment and Appeals review shall be provided to the City Council for examination prior to the meeting.

(iv) Following review of the appeal, the City Council shall review and decide on the appeal in accordance with this ordinance and state law.

(d) Delivery of Decision

The City Clerk shall transmit a copy of the final decision to the appellant or Applicant by mail or email.

(4) Review Criteria

An order, decision, determination, or interpretation shall not be reversed or modified unless there is competent, material, and substantial evidence in the record that the order, decision, determination, or interpretation fails to comply with either the procedural requirements, substantive requirements, or intent of this ordinance or state law.

(5) Conditions

The Board of Adjustment and Appeals or City Council may impose conditions upon their decision to ensure that the requirements and purposes of this ordinance are followed.

(6) Effect of Decision

Determinations made by the Board of Adjustment and Appeals or the City Council shall be deemed to inform the Department of Community Assets & Development and other administrative officials on the exact meaning of zoning language or the process being questioned, and such direction shall be implemented thereafter until/unless the zoning language in question or procedure is amended by the City Council.



(G) Site Plan Review (updates Chapter 8, Article 1, 8-010)

(1) Purpose and Scope

The City Council declares it necessary and appropriate to require site plan approval of development in certain zoning districts to preserve and promote attractive, well-planned, and stable urban conditions. Site plan approval must be obtained before a building permit is issued in order to ensure the following:

(a) The project's compatibility with the surrounding environment and with other existing land uses and buildings in the area.

(b) The quantity, quality, utility, size, and type of a project's required open space and proposed landscaping improvements.

(c) The ability of a proposed project's traffic circulation system to provide for convenient and safe internal and external movement of vehicles and pedestrians.

(d) The quantity, quality, utility, size, and type of a project's required community facilities.

(e) The location and adequacy of a project's provision for drainage and utilities.

(f) Security, fire protection, and life/safety issues.

(2) Applicability

(a) Unless exempted pursuant to Section 2.4(G)(3) below, site plan review shall be required for all residential and nonresidential development (including changes to required parking areas, proposed changes to outside commercial sales or storage areas, etc) prior to the issuance of a building permit or other City approval.

(b) At the discretion of the Department of Community Assets & Development, site plan reviews may be completed concurrently with and as a component of other valid land use applications outlined in Section 2.4.

(3) Exemptions

(a) The following shall be exempted from site plan review:

(i) Detached residential uses (i.e. single-family homes) and their accessory buildings and structures.

(ii) Two-family residential uses (i.e. duplexes and twin homes) and their accessory buildings and structures.

(iii) The internal construction or change in floor area of a development that does not increase gross floor area, increase the intensity of use, or affect parking requirements on a site that meets all development and site design standards of this ordinance.

(iv) Any building exempted from permitting or review by state statute.

(v) Temporary uses.

(b) Revisions. The Department of Community Assets & Development is authorized to review and approve, approve with conditions, or deny revisions to previously approved site plans in accordance with the procedures and standards outlined in Section 2.4(G)(10).

(4) Initiation of Proceedings

An application for site plan review may be initiated by the property owner or other person with authority to file an application pursuant to Section 2.3(B), Authority to File Applications.

(5) Procedure

(a) Application

(i) All applications for site plan review shall be in accordance with Section 2.3, Common Review Requirements.

(ii) In addition to the Common Review application requirements noted above, applications for site plan review shall also include at least the following to be considered complete (except as exempted by the Department of Community Assets & Development). All documents shall be prepared by a registered land surveyor, registered professional engineer, or other qualified professional as determined by the Department of Community Assets & Development. A current certificate of survey must be presented with all required plans. [8-010(2)(G)(6)]

1. Name of the project;
2. Name, address and telephone number of applicant, engineer, architect, surveyor and owner of record;
3. Legal description of the property;
4. Date proposed, north arrow, engineering scale, number sheets and name of drawer;
5. Description of intended use of site, buildings, structures, including type of occupancy and occupancy load;
6. Tabulation box, indicating the following:
    a. Size of parcel in acres and square feet;
    b. Gross floor area of each building;
    c. Percent of site covered by impervious surface;
    d. Projected number of employees;
    f. Number of seats if intended use is a restaurant or place of assembly;
    g. Number of parking spaces required;
    h. Number of parking spaces provided, including accessible parking spaces;
    i. Dimension of parking spaces and aisles;
    j. Area of public open space (if applicable).

(iii) Property line dimensions, location of all existing and proposed structures with distance from boundaries, distance between structures, building dimensions and floor elevations within the proposed site plan boundary;

(iv) Topographic data shown in two-foot contours within the property and up to 200 feet beyond the property boundary if requested by the Department of Community Assets and Development. All areas with a slope greater than 25 percent must be clearly indicated;

(v) Grading, drainage and erosion control plan prepared by a licensed professional engineer;

(vi) Utility plans prepared by a licensed professional engineer consisting of the following:

1. Location, size and grades of all existing sanitary sewer, water main, hydrants, and storm sewer on site or adjacent to for proposed connection;
2. Location of all existing gas mains, electric and phone cables, light poles, power boxes, and the like;
3. Location, size, grades, and materials for all proposed public sanitary sewer, water main, hydrants, and storm sewer;
4. Supplemental calculations for trunk sanitary sewer and water main, if required by the Department of Community Assets & Development;
5. Supplemental storm sewer computation sheet verifying capacities and volumes for all pipe segments, if required by the Department of Community Assets & Development; and
6. Existing and proposed drainage and utility easements.

(vii) Vehicular circulation plan showing the location and dimensions for all driveways, parking spaces, parking lot aisles, service roads, loading areas, fire lanes, etc. Unless exempted by the Department of Community Assets & Development, a turning movement exhibit showing that emergency vehicles will be able to navigate the site when fully parked shall be submitted;

(viii) Landscape plan prepared by a qualified professional providing all information required by Section 4.1(E);

(ix) Location, access, and screening details for large trash handling and recycling collection areas;

(x) Building elevations (colored renderings) which detail all exterior materials being used;

(xi) Location and screening detail of roof top equipment (if required);

(xii) Location and detail of all proposed signage;

(xiii) Lighting location, style, mounting, and light distribution plan;

(xiv) Project narrative; and

(xv) Any other information that may be reasonably required by the City to evaluate the application including but not limited to floor plans, building elevations, rendered drawings, and materials samples.

(b) Site Plan Review Criteria

Recommendations and decisions on a site plan shall be based on consideration of the following criteria:

(i) Whether the proposed development is consistent with all the requirements of this ordinance and the City Code;

(ii) Whether the proposed development is in compliance with the applicable zoning district and overlay district(s);

(iii) Whether the proposed development is in compliance with other City approved planning documents; and

(iv) Whether the proposed development meets all the requirements or conditions of any applicable development approvals.

(c) Planning Commission Review

Before any site plan is considered by the City Council, the Planning Commission shall review the proposal and adopt findings as to whether the plans meet all zoning requirements and identify any changes that are necessary to eliminate or simplify future review procedures. Applications may be forwarded to the City Council without a recommendation from the Planning Commission if it is deemed necessary to ensure compliance with state-mandated deadlines for application review.

(d) City Council Review

(i) The City Council shall consider recommendations from the Department of Community Assets & Development and recommendations from the Planning Commission, and make a final determination as to whether the plans as presented are ready for approval.

(ii) Decisions on a site plan review shall require a majority vote of the City Council.

1. In approving a Site Plan, the City Council shall support the decision with findings of fact as to why the plan is being approved.
2. Denial of a site plan shall be accompanied by findings of fact as to why the requested plan cannot be approved.

(6) Reasonable Conditions

In approving a site plan, the City may adopt and impose such reasonable conditions and requirements as it deems necessary and appropriate to ensure compliance with code requirements.

(7) Effect of Decision.

(a) The approval of a site plan by the City does not in any way guarantee future approval of other applications that may be required by the regulations of the City (e.g. a building permit, certificate of occupancy, etc.).

(b) The approval of a site plan only verifies compliance with City regulations in effect at the time of site plan review.

(c) A site plan approved by the City, including any conditions, shall run with the land and shall not be affected by a change in ownership.

(8) Subsequent Development

Development authorized by site plan approval shall not be carried out until the applicant has secured all other approvals required by this ordinance or any other applicable ordinances or regulations.

(9) Time Limit

Site plan approvals do not expire; however, subsequent amendments to code may render specific portions of an approved site plan invalid if a proposed improvement is unrealized on the date a code change goes into effect. In such circumstances, any features made illegal by changes in code may no longer be implemented. [8-040]

(10) Amendments

(a) New construction of any building or site changes deemed significant by the Department of Community Assets & Development shall be required to obtain site plan authorization following the procedures of Section 2.4(G)(5).

(b) Minor amendments to the placement of buildings, arrangement of parking, or other aspects of a previously approved Site Plan may be authorized administratively by the Department of Community Assets & Development.

(i) Upon receiving a complete application to amend a previously approved site plan, the Department of Community Assets & Development shall review the plans to determine their conformance to all current ordinance requirements. The Department of Community Assets & Development may be assisted in conducting site plan reviews by representatives from other City departments, divisions, or partnering agencies.

(ii) Applications determined to conform with the approval criteria outlined in Section 2.4(G)(5)(b) shall be approved by the Department of Community Assets & Development with any conditions deemed necessary. A notice of site plan approval shall be provided to the applicant that includes all conditions, comments, and recommendations.

(iii) Applications not conforming with the approval criteria outlined in Section 2.4(G)(5)(b) shall be denied by the Department of Community Assets & Development. A notice of site plan denial shall be provided to the applicant that includes all identified reasons for denial. Applicants may either update their plans to address comments of the Department of Community Assets & Development, or they may appeal the decision following the provisions of Section 2.4(F).

Building Permits



(H) Building Permits [replaces 8-030]

(1) Purpose

Section 2.4(H) establishes when obtaining a building permit is required, how it will be reviewed, what surveys may be required to track construction, and how unauthorized work will be handled.

(2) In General

(a) No person, firm, or corporation shall erect, alter, construct, enlarge, expand, repair, move, improve, convert, demolish, equip, use, occupy, or maintain any building, structure, or portion thereof, within the City of New Brighton until proper permits have been issued by the City and partnering agencies.

(b) No building permit or other permit pertaining to the use of land or buildings shall be issued unless such building is designed and arranged to conform to the provisions of this ordinance.

(c) Building permits shall not be required for those structures and improvements specifically exempted by the adopted building code as may be amended.

Minnesota Rule 1300.0120, Subp. 4

(3) Surveys

DCAD Policy on Survey Requirement Thresholds

(a) Any application for building permit may need to be accompanied by a certified site survey (excluding interior remodels, re-roofs, re-siding and general maintenance) if deemed necessary by the Department of Community Assets & Development. Because the survey, if required, will be used to determine an application's conformance with City Code, it shall be the responsibility of the applicant to ensure information provided on the survey corresponds to submitted building plans (including existing and proposed topography). An issued building permit shall authorize only land alterations identified on the survey. Surveys shall include all information as deemed necessary by the Department of Community Assets & Development to provide for the enforcement of this ordinance.

(b) Any applicant for a building permit may be required to supply the City with an as-built foundation survey if deemed necessary by the Department of Community Assets & Development. If a foundation survey is required, the building permit holder shall obtain verification from a surveyor that the as-built foundation was located as proposed or still meets code requirements for placement. Failure to obtain surveyed verification of the foundation's compliance with code will result in the builder continuing with construction at their own risk. Expenditures incurred beyond the construction of the foundation will not be considered in determining the actions required to bring the building back into conformance if not built to approved plans.

(c) Any applicant for a building permit may be required to supply the City with an as-built grading survey if deemed necessary by the Department of Community Assets & Development. An as-built grading survey, if required, shall certify the final topography of the site and verify the drainage patterns existing upon completion of work. The City reserves the right to withhold the certificate of occupancy for a building until final grading addresses all problems that may be detrimental to adjacent properties.

(4) Review

(a) The Department of Community Assets & Development shall review all building permit applications for conformance to ordinance and building code requirements.

(b) The Department of Community Assets & Development may deem any building permit application incomplete if it is not accompanied by all information necessary to determine conformance with applicable rules and standards, or if it does not include detail necessary to show that the building project can proceed as proposed (i.e. a building permit application to relocate a building must be able to successfully demonstrate the building can physically make the proposed trip, coordinate any temporary disruptions to overhead utility services, etc).

(5) Unauthorized Work

Work done without the authorization of a permit or found to be out of conformance with approved plans shall be immediately halted and subject to the remedies and penalties described in Section 7.6 of this ordinance. Structures being built out of conformance shall be brought into conformance.



(I) Certificates of Occupancy

(1) Purpose

Section 2.4(I) establishes the requirement for City approval prior to the use or occupation of new buildings or structures, or prior to a change in use within an existing structure. Issuance of a certificate of occupancy signifies that the building or structure complies with all code requirements.

(2) Required

(a) No building or structure hereafter erected or moved, or that portion of an existing structure or building erected or moved, shall be occupied or used in whole or in part for any purpose whatsoever until a certificate of occupancy (or a conditional temporary certificate of occupancy) has been issued by the City stating that the building or structure complies with all provisions of this ordinance.

(b) No change in use of an existing building or structure shall take effect until a certificate of occupancy has been issued by the City stating that the updated building or structure complies with all provisions of this ordinance.

(3) Application

A certificate of occupancy shall be applied for coincident with an application for a building permit or prior to a proposed change in use.

(4) Issuance

(a) A certificate of occupancy will be issued within 10 days of the Building Official or their agents completing a final inspection and making findings that the building or structure conforms to all code requirements.

(b) If the Building Official or their agents find that no substantial hazard will result from occupancy of any building or portion thereof before all requirements are met, a conditional temporary certificate of occupancy may be issued for a period not to exceed six months, for the use of a portion or portions of a building or structure prior to the completion of the entire building or structure. Such conditional temporary certificate of occupancy shall not be construed as in any way as altering the respective rights, duties, or other obligations of the owners/tenants relating to the use or occupancy of the premises or any other provision of this Ordinance.

Grading Permits



(J) Grading Permits

(1) Purpose

Section 2.4(J) establishes when a grading permit is required, how it will be reviewed, information required with the application, and how unauthorized work will be handled. Requiring a grading permit enables the City to protect the public by ensuring resulting drainage works as intended, potential erosion issues are addressed, and to guard against unnecessary extra maintenance of sewers and ditches or the dredging of lakes and ponds. A grading permit promotes the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the City of New Brighton.

(2) In General

A Grading Permit shall be required when triggered by the provisions of the Shoreland Overlay District, or as may be required by other sections of this Zoning Ordinance or the City Code.

(3) Exceptions

(a) No grading permit is required for land disturbances necessary for the following activities:

(i) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

(ii) General lawn maintenance as authorized by the Department of Community Assets & Development.

(b) Grading specific to and in conjunction with an approved building permit shall not require a separate grading permit provided the proposed grading is approved by the Department of Community Assets & Development as part of the building permit review process.

(4) Application

(a) All applications for a grading permit shall be in accordance with Section 2.3, Common Review Requirements.

(b) In addition to general review requirements, applications for a grading permit shall also include all information as required by the provisions of the Shoreland Overlay District, Section 3.8(C)(16) except as exempted by the Department of Community Assets & Development.

(5) Review

(a) Grading Permit Review Criteria

Approval of a grading permit shall be based on the following criteria:

(i) Whether the proposed grading is consistent with all the requirements of Section 3.8(C)(16) and any other applicable City Code requirements.

(ii) Whether the proposed grading is in compliance with all engineering standards adopted by the City;

(iii) Whether the proposed grading is in compliance with any previous approvals for the property (e.g. grading required as a condition of approval for a variance).

(b) Grading Permit Review Process

(i) The Department of Community Assets & Development shall review all Grading Permit applications.

(ii) Applications determined to conform with the approval criteria outlined in Section 2.4(J)(5)(a) shall be approved by Department of Community Assets & Development with any conditions deemed necessary. A copy of the approved permit shall be provided to the applicant which includes all conditions and comments.

(iii) Applications not conforming with the approval criteria outlined in Section 2.4(J)(5)(a) shall be denied by Department of Community Assets & Development. A notice of denial shall be provided to the applicant which includes all identified reasons for denial.

(6) Reasonable Conditions

In approving a Grading Permit, the Department of Community Assets & Development may impose such reasonable conditions and requirements as it deems necessary and appropriate to ensure continued compliance with the Grading Permit review criteria and other city ordinances.

(7) Effect of Grading Permit Approval

The issuance of a Grading Permit shall authorize only the changes approved by the Department of Community Assets & Development as depicted by the application materials.

(8) Time Limit

(a) Failure to complete the authorized grading within six months of the date of approval will invalidate the permit.

(b) Upon written request, one extension of six months may be granted by the Department of Community Assets & Development if the applicant can show good cause.

(9) Amendments

All requested amendments to an existing grading permit shall be processed in the same manner as a new application.

(10) Unauthorized Work

Work done without the authorization of a grading permit or found to be out of conformance with approved plans shall be immediately halted and subject to the remedies and penalties described in Section 7.6 of this ordinance. Driveways or parking lots being built out of conformance shall be brought into conformance.

(11) Appeal

The applicant for a grading permit may appeal the decision of the Department of Community Assets & Development to the Board of Adjustment and Appeals per Section 2.4(F).



(K) Sign Permits (9-020)

(1) Purpose and Scope

This subsection sets out the procedures to follow when requesting a sign permit.

(2) Initiation of Proceedings

A request for a Sign Permit shall be initiated by application of the property owner or other person having authority to file an application pursuant to Section 2.3(B), Authority to File Applications.

(3) In General

A sign permit shall be required for specific sign types as identified in Section 4.5 Signs.

Section 4.5: Signs

(4) Application

(a) All applications for a sign permit shall be in accordance with Section 2.3, Common Review Requirements.

Section 2.3: Common Review Requirements

(b) In addition to general review requirements, applications for a sign permits shall also include at least the following to be considered complete (except as exempted by the Department of Community Assets & Development):

(i) Names and addresses of the applicant and the owners of the sign.

(ii) The address(es) at which the sign(s) are to be erected.

(iii) Indication of the street on which each sign is to front.

(iv) Type and size of sign.

(v) A site plan (or survey if required by the Department of Community Assets & Development) which is to-scale showing the location of lot lines, building structures, parking areas, the location of existing and proposed signs, and any other physical features on the site.

(vi) Plans showing sign locations, specifications, and method of construction and attachment to the buildings or placement method on the ground.

(vii) Copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction in the amount required by this and all other laws and ordinances of the City, if required.

(viii) Written consent of the owner or lessee of any site on which the sign is to be erected.

(ix) Any electrical permit required and issued for the sign.

(x) A detailed description of any electronic or electrical components that are proposed to be added to the sign.

(xi) Other information to demonstrate compliance with this and all other ordinances of the City.

(5) Review

(a) Sign Review Criteria

Approval of a sign permit application shall be based on the following criteria:

(i) Whether the proposed sign is consistent with all the requirements of this ordinance and any other City Code requirements;

(ii) Whether the proposed sign meets all the requirements or conditions of any applicable development approvals or agreements.

(b) Sign Review Process

(i) The Department of Community Assets & Development will review all sign permit requests.

(ii) Applications determined to conform with the approval criteria outlined in Section 2.4(K)(5)(a) shall be approved by the Department of Community Assets & Development with any conditions deemed necessary. A copy of the approved permit shall be provided to the applicant which includes all conditions and comments.

(iii) Applications not conforming with the approval criteria outlined in Section 2.4(K)(5)(a) shall be denied by the Department of Community Assets & Development. A notice of denial shall be provided to the applicant which includes all identified reasons for denial.

(6) Reasonable Conditions

In approving a sign permit, the Department of Community Assets & Development may impose such reasonable conditions and requirements as deemed necessary and appropriate to ensure continued compliance with the sign permit review criteria.

(7) Effect of a Sign Permit Approval

(a) The issuance of a sign permit shall authorize only the installation or replacement of signage approved by the Department of Community Assets & Development.

(b) A sign permit, including any conditions, shall run with the land and shall not be affected by a change in ownership.

(8) Time Limit

(a) Failure to install the approved signage within six months of the date of approval will automatically invalidate the permit.

(b) Upon written request, one extension of six months may be granted by the Department of Community Assets & Development if the applicant can show good cause.

(9) Amendments

All requested amendments to an existing sign permit shall be processed in the same manner as a new application.

(10) Appeal

The applicant for a sign permit may appeal the decision of the Department of Community Assets & Development to the Board of Adjustment and Appeals per Section 2.4(F).



(L) Temporary Use Permits [8-064]

(1) Purpose and Scope

The provisions of this Code cannot reasonably include all possible temporary uses which may be appropriate in various areas of the City, and the need for which may change very quickly due to unforeseen circumstances such as natural disasters or pandemics. Section 2.4(L) allows for the establishment of certain temporary uses for a limited duration. Temporary uses shall not involve the construction or alteration of any permanent building or structure.

(2) Establishment of Temporary Uses

(a) Temporary uses requiring a temporary use permit as listed in Table 5-3 are allowed as temporary uses on a yearly basis.

(b) Additional temporary uses may be identified and established by the City Council via resolution on a yearly basis. When establishing specific temporary uses allowed within the City, the City Council may identify the use as being allowed outright provided certain conditions are met, or it may require an administrative temporary use permit be acquired through the Department of Community Assets & Development before the temporary use is established.

(3) Overlap with Other Code Provisions

(a) Conditionally Permitted Uses

Uses authorized for approval as a temporary use by the City Council may overlap with uses identified as conditionally permitted within the zoning ordinance. In such cases, a landowner may choose to pursue a temporary use permit to authorize the use for a limited timeframe, or they may pursue a conditional use permit to secure permanent approval of the use.

(b) Prohibited Uses

In response to unforeseen circumstances, it may be necessary from time to time for the City Council to identify an otherwise prohibited use as an activity allowable via temporary use permit. In such cases, the use shall only be allowed as a temporary use while authorized by City Council via the most current resolution establishing temporary uses. Once removed from the list of allowed temporary uses, a prohibited use will once again be considered prohibited.

(4) Initiation of Proceedings

A request for a temporary use permit shall be initiated by application of the property owner or other person having authority to file an application pursuant to Section 2.3(B), Authority to File Applications.

(5) Application

(c) All applications for a temporary use permit shall be in accordance with Section 2.3, Common Review Requirements.

(d) In addition to general review requirements, applications for a temporary use permit shall also include at least the following to be considered complete (except as exempted by the Department of Community Assets & Development):

Section 2.3: Common Review Requirements

(i) A complete application form.

(ii) The required fee established for temporary use permits.

(iii) A written narrative which includes a description of the proposed temporary use, how it will function on the property, hours and dates of operation, and any other information necessary to fully describe the request; and an explanation of how the proposed temporary use will meet any special criteria established by the City Council for the proposed use.

(iv) A site plan of the property showing all information necessary to accurately depict how the proposed use will function on the site. Information required on the site plan shall include but not be limited to:

1. The location of all existing and proposed structures;
2. Driveways and parking areas;
3. Proposed storage areas;
4. Proposed additional parking spaces or number of spaces to be lost to the temporary use (as may be applicable).

(v) Any other information that may be reasonably required by the Department of Community Assets & Development to evaluate the application.

(6) Review

(a) Temporary Use Permit Review Criteria

Approval of a temporary use permit shall only be granted once the Department of Community Assets & Development has determined the use shall:

(i) Not be detrimental to the public health (per best practices), safety, or general welfare;

(ii) Be compatible with the principal use on the site, and not interfere with the normal operations of the property's permanent use(s);

(iii) Not have substantial adverse effects or noise impacts on nearby residential neighborhoods;

(iv) Not include permanent alterations to the site;

(v) Not maintain temporary signs associated with the use or structure after the activity ends;

(vi) Not violate the applicable conditions of approval that apply to the site or as may be established by the City Council for the specific use type;

(vii) Contain sufficient land area to allow the temporary use, structure, or special event to occur; as well as adequate land to accommodate the parking and traffic movement associated with the temporary use.

(b) Temporary Use Permit Review Process

(i) The Department of Community Assets & Development will review all temporary use permit applications.

(ii) Applications determined to conform with the approval criteria outlined in Section 2.4(L)(6)(a) shall be approved by the Department of Community Assets & Development with any conditions deemed necessary. A copy of the approved permit shall be provided to the applicant which includes all conditions and comments.

(iii) Applications not conforming with the approval criteria outlined in Section 2.4(L)(6)(a) shall be denied by the Department of Community Assets & Development. A notice of denial shall be provided to the applicant which includes all identified reasons for denial.

(7) Reasonable Conditions

In approving a temporary use permit, the Department of Community Assets & Development may impose such reasonable conditions and requirements as deemed necessary and appropriate to ensure continued compliance with requirements for the use.

(8) Effect of a Temporary Use Permit Approval

(a) The issuance of a temporary use permit shall authorize only the specific temporary use approved by the Department of Community Assets & Development over the timeframe specified within the permit or resolution authorizing the temporary use.

(b) Approval of a temporary use permit shall not require future approval of another temporary use permit or Conditional Use Permit for the same use at a later time.

(c) An authorized temporary use permit for a use that would otherwise be prohibited shall become void upon expiration of the permit, or removal of the use from the authorized temporary uses resolution.

(9) Time Limit

The time limit for each temporary use shall be as outlined in the Council resolution establishing allowed temporary uses, or for a timeframe specified by the Department of Community Assets & Development as a condition of permit approval.

(10) Amendments and Withdrawals

All requested amendments to a temporary use permit shall be processed in the same manner as a new application.

(11) Revocation

The City Council may revoke a temporary use permit if any of the conditions are being violated or there are any other violations of state, federal, or local laws or regulations. The City shall notify the holder of the temporary use permit of the violation in writing and provide a reasonable amount of time to the holder to correct the violation. If the violation is not corrected within the time specified in the notice, the City Council may revoke the temporary use permit after providing the holder with an opportunity to address the City Council.

(12) Appeals

The applicant for a temporary use permit may appeal the decision of the Department of Community Assets & Development to the Board of Adjustment and Appeals per Section 2.4(F).

Vacations



(M) Vacations

(1) Purpose and Scope

This subsection sets out the procedures to follow when requesting the vacation of any easement, alley, or right-of-way dedicated to the public.

(2) Initiation of Proceedings

A request to vacate public interest in an area of land may be initiated by:

(a) A petition of a majority of the owners of land abutting on the street, alley, public grounds, public way, or part thereof to be vacated; or

(b) Adoption of a resolution supported by at least four-fifths of all members of the City Council.

(3) Application

Section 2.3: Common Review Requirements

(a) All applications for a vacation shall be in accordance with Section 2.3, Common Review Requirements.

(b) In addition to general review requirements, applications for a vacation shall also include at least the following to be considered complete (except as exempted by the Department of Community Assets & Development):

(i) A written narrative which describes why the vacation is being requested, and why the public has no further interest in the subject area;

(ii) Legal description(s) prepared by a certified surveyor of the area(s) to be vacated, along with a visual depiction of the area(s) requested for vacation.

(iii) A valid petition showing that a majority of landowners abutting the area to be vacated support the requested vacation and that is signed by said majority.

(c) Any other information that may be reasonably required by the Department of Community Assets & Development to evaluate the application.

(4) Review

(a) Vacation Review Criteria

Approval of a vacation shall only be granted once the City has determined the area in question serves no present or future public interest of any kind, and the vacation appears to be in the interest of the public.

(b) Vacation Process

(i) Upon receipt of a vacation application, the Department of Community Assets & Development shall review the submittal for completeness, and if complete, prepare a resolution for Council consideration to set a public hearing date for Council to consider the vacation.

Section 2.3(I): Public Notification

(ii) Once the public hearing date is set, the Department of Community Assets & Development shall initiate public notices as follows:

1. Posted notice shall occur a minimum of fourteen calendar days prior to the public hearing.
2. Published notice shall occur two times: the first notice shall occur a minimum of fourteen calendar days prior to the public hearing, and

the second notice should occur at least one week after the first notice but prior to the public hearing.

3. Written notice to each affected property owner shall be sent at least 10 days before the public hearing. Affected property owners shall include all property owners that abut the area proposed for vacation, and shall include all property owners in the plat which created the area proposed for vacation. Written notice must contain a copy of the petition or resolution initiating the vacation as well as the time, place, and date of the hearing.
4. If the area to be vacated abuts or terminates on, or is adjacent to any public water, the city must also send written notice of the petition or vacation resolution to the Commissioner of Natural Resources, by certified mail, a minimum of 60 calendar days before the public hearing. In addition, the City Council or its designee must meet with the Commissioner of Natural Resources or their designee at least 15 days before the public hearing. The Commissioner will evaluate the proposed vacation according to state law, and will advise the council as to that evaluation.

(iii) The Department of Community Assets & Development shall review the vacation application, and make a recommendation of approval or denial for City Council consideration.

(iv) Before a vacation is considered, the City Council shall hold the scheduled public hearing after proper notice has been issued in accordance with Section 2.3(I) and the special vacation notice requirements of Section 2.4(M)(4)(b)(ii).

(v) Following the hearing and subsequent discussion on the merits of the proposal, the City Council shall take action on the request(s).

(5) Reasonable Conditions

As a condition of approval, the City may specify the extent to which a proposed vacation affects existing utility easements (including the right to maintain and continue utility easements), or can require dedication of new easements deemed necessary to protect a City interest.

(6) Effect of a Vacation

Once a resolution of vacation is adopted by the City Council, the City Clerk will prepare a notice of completion of vacation proceedings. The notice will then be recorded at Ramsey County which will put the vacation into effect.

(N) Planned Developments: PUDs and PRDs

(1) Purpose and Intent [7-020 & 7-210]

(a) Purpose. The purpose of a Planned Unit Development (PUD) or a Planned Residential Development (PRD) is to provide greater flexibility in the development of neighborhoods and non-residential areas in order to maximize public values and achieve more creative development outcomes while remaining economically viable and marketable. This is achieved by undertaking a process that results in a development outcome exceeding that which is typically achievable through conventional zoning. The City reserves the right to deny a PUD or PRD if desired outcomes are not achieved by the proposed plan, and instead direct a developer to re-apply under the standard applicable zoning district.

(b) Intent. Overarching goals (not requirements) of the City in approving a PUD or PRD include but are not limited to:

(i) Implementation of high-quality construction standards and the use of high quality construction materials;

(ii) Higher standards of site and building design such that a new development appears attractive and inviting from all surrounding parcels through four-sided architecture/articulation;

(iii) Facilitating a complementary mix of lifecycle housing;

(iv) Greater utilization of new technologies in building design, construction, and land development;

(v) A more creative and efficient use of land than would otherwise be possible;

(vi) Incorporation of extensive landscaping and site amenities in excess of what is required by code;

(vii) Provide high-quality park, open space, and trail opportunities that exceed the expectations established in the Comprehensive Plan and minimum required park dedication outlays;

(viii) Enhanced access to a convenient and efficient multi-modal transportation option to service the daily needs of residents at peak and non-peak use levels, with high connectivity to the larger metropolitan community;

(ix) Creative designs that reduce initial infrastructure costs as well as long-term maintenance and operational costs;

(x) The preservation and enhancement of desirable site characteristics (including flora and fauna, scenic views, and screening);

(xi) Flexibility in design and construction to alleviate anticipated impacts to nearby properties and to provide greater opportunity for increased buffers between uses of differing intensities;

(xii) Incorporation of structured parking to hide vehicle storage and to promote opportunities for improved buffering between intensive uses and sensitive areas;

(xiii) Elimination of repetition by encouraging a housing mixture that diversifies the architectural qualities of a neighborhood;

(xiv) Facilitation of a complementary mix of lifecycle housing; and

(xv) Accommodation of higher development intensity in areas where infrastructure and other systems are capable of providing appropriate levels of public services and subsequently lower intensity in areas where such services are inadequate or where natural features require protection and/or preservation.

(2) Project Designation

A Planned Development consisting solely of residential uses shall be designated a Planned Residential Development (PRD), while any non-residential or mixed use planned development shall be designated as a Planned Unit Development (PUD). Requirements specific to each project designation are contained herein.

(3) Initiation of Proceedings

Applications for any stage of a planned development shall be initiated by application of the property owner or other person having authority to file an application pursuant to Section 2.3(B), Authority to File Applications.

(4) Overlay District

Planned development provisions provide an optional method of regulating land use by authorizing flexibility in uses and other regulating provisions over a specific geographic area. In many circumstances, rules and regulations governing the underlying zoning district or other zoning regulations found elsewhere in the City's ordinances, will still be appropriate to apply within a proposed planned development. As such, approval of a planned development shall require establishment of a PUD or PRD overlay district.

(a) For each PUD or PRD Overlay District, a specific ordinance shall be adopted, and the boundaries of the overlay district shall be depicted on Figure 3-10: PRD and PUD Locations.

(b) Once a PUD or PRD has been granted and is in effect for a parcel, no building permit shall be issued for that parcel which is not in conformance with the approved PUD or PRD Plan, the current Minnesota State Building Code and all associated documents, and with all other applicable City Code provisions.

Section 1.4: Effective Date

(c) All PUDs and PRDs approved prior to the effective date of this ordinance shall continue to be governed by the ordinance or resolutions which created said areas and underlying zoning as may be applicable.

(5) Permitted Locations for PUDs or PRDs

Table 3-1: Zoning Districts Established

(a) A PUD overlay district may be proposed in any non-residential or mixed-use zoning district.

(b) A PRD overlay district may be proposed in any residential or mixed-use zoning district.

(6) Planned Development Qualifications

(a) Creation of a new planned development overlay district will be considered only for areas of land in single ownership or control unless multiple party ownership is adequately secured through a corporation, partnership, or other legal entity that will ensure the ability to fulfill all of the obligations of the planned development process, including approvals, development, and securities. [7-030(2) & 7-220(1) & 7-230(2)]

(b) The minimum acreage for a proposed PUD shall be 3.0 acres (currently 4), and the minimum acreage for a proposed PRD shall be 1.5 acres. (currently 2). At the complete discretion of the City Council, tracts not meeting these standards may still be eligible for a PUD or PRD overlay district if the applicant can demonstrate that a project of superior design can be achieved, or that greater compliance with the comprehensive plan goals and policies can be attained through use of the planned development process.

(7) Permitted Uses Within Planned Developments

(a) Uses within a planned development shall be governed by the ordinance establishing the PUD or PRD overlay district and by the conditions, if any, imposed by the City in the approval process and associated documents. If unaddressed by the overlay district, uses shall be dictated by underlying zoning. **[7-230(3)]**

(b) More than one building may be placed on one lot in an approved planned development. **[7-060(9)]** Nothing in Section 2.4(N) shall be construed to prohibit the approval of a planned unit development having only a single building. **[7-230(5)]**

(8) Areas of Flexibility

Flexibility provided through an approved planned development will not be approved simply to avoid adherence to underlying zoning regulations, but instead must be used as a springboard to new development that would not otherwise be possible utilizing existing zoning standards. Areas of possible flexibility include the following:

(a) Building Placement – including zero lot line construction subject to building code allowances. Specifications and standards for lots and setbacks shall be at the discretion of the City Council and shall encourage a desirable living or working environment which assists in achieving the goals set out in Section 2.4(N)(1)(b).

(b) Trees/Landscaping Requirements – requires specialized landscaping plans that better address on-site needs and adjacent property concerns than would otherwise be required.

(c) Open Spaces – provision of public open spaces that are enhanced with public art and other amenities to provide a congregation area and a unique sense of place within the development.

(d) Parking Standards – a change in stall or lot configuration requirements in exchange for structured parking, better screening of parking areas, or higher quality landscaping throughout a parking area.

(e) Exterior Materials – flexibility on exterior materials to allow for unique architectural expression via higher quality materials. Architectural styling shall not be the sole basis for denial of a planned development. [7-060(5) & 7-230(6)]

(f) Density – up to a 10 percent increase in residential density (compared to what is achievable under base zoning) if the PUD or PRD provides substantially more site amenities and achieves more comprehensive plan goals than would be achieved in a conventional development for the applicable land use zone. Applicant must illustrate that additional amenities are provided by comparing what is proposed against the general outline of a by-right development layout.

(g) Utilities – A planned development may include sizing for water supply, sanitary sewers, and storm sewers; the width and type of paving of streets, alleys, sidewalks, public ways, curbs, and gutters; and the width and type of public utility easements and street lighting, which do not meet the standards as provided for in other sections of the City or Zoning Codes. Whenever such a case arises, the City Council may modify these requirements in order to accommodate the planned development, provided that such modification, on the advice of the proper City officials, will not impair the preservation of the public health, safety, morals, and general welfare of the residents of the planned development or of the City. [7-060(16)]

(h) Other – the City Council reserves the right to consider other modifications to underlying zoning requirements not listed above (including uses) provided such changes are supportable under the applicable planned development review criteria listed in Section 2.4(N)(9)(b)(iii).

(9) Planned Development Procedure

All requests to create a PUD or PRD overlay district shall follow the steps outlined below.

(a) Concept Proposal

(i) Concept Purpose

Prior to submitting formal development stage PUD or PRD, preliminary plat (if applicable) and rezoning applications for the proposed development, the applicant may, at their option, prepare an informal Concept Proposal and present it to the Planning Commission and City Council for initial feedback. The purpose of the Concept Proposal is to:

1. Provide preliminary feedback on the concept plan in collaboration between the applicant, general public, Planning Commission, and City Council;
2. Provide a forum for public comment on the development prior to the preparation of extensive plan sets;

3. Provide a forum to identify potential issues and benefits of the proposal which can be addressed at succeeding stages of design and review.

(ii) Proposal Submittal

1. All proposals for a Planned Development Concept Proposal review shall be in accordance with Section 2.3, Common Review Requirements.
2. In addition to common review requirements, proposals for a Planned Development Concept Proposal review shall also include at least the information in Section 2.4(N)(9)(a)(iii) below to be considered complete (except as exempted by the Department of Community Assets & Development).

(iii) Specific Concept Proposal Submittal Requirements [7-030(3) & 7-220(2)(C)]

The following information shall be provided unless waived by staff:

1. A listing of contact information including name(s), address(es) and phone number(s) of: the owner of record, authorized agents or representatives, engineer, surveyor, and any other relevant associates;
2. A listing of the following site data: Address, current zoning, parcel size in acres and square feet and current legal description(s);
3. A narrative explaining the applicant's proposed objectives for the PUD or PRD, and public values that the applicant believes may be achieved by the project;
4. A listing of general information including the number of proposed residential units, commercial and industrial land uses by category of use, public use areas including a description of proposed use, and any other land use proposed as part of the PUD or PRD;
5. Calculation of the proposed density of the project compared to the potential/estimated density possible under standard zoning regulations;
6. Outline a conceptual development schedule indicating the approximate date when construction of the project, or stages of the same, can be expected to begin and be completed (including the proposed phasing of construction of public improvements and recreational and common space areas).

7. A Concept Proposal illustrating the nature and type of proposed development. At a minimum, the plan should show:
   a. Area calculations for gross land area;
   b. Existing zoning district(s);
   c. Layout of proposed lots and proposed uses. Denote outlots planned for public dedication and/or open space (schools, parks, etc.);
   d. Area calculations for each parcel;
   e. General location of wetlands and/or watercourses over the property and within 200 feet of the perimeter of the subdivision parcel;
   f. Location of existing and proposed streets within and immediately adjacent to the subdivision parcel;
   g. Proposed sidewalks and trails;
   h. Proposed parking areas;
   i. Proposed parks and common areas;
   j. General location of wooded areas or significant features (environmental, historical, cultural) of the parcel;
   k. Location of utility systems that will serve the property; and
   l. Other: An applicant may submit any additional information that may explain or support the proposed PUD.
8. A listing of the areas of flexibility from the standard zoning to be sought through the use of PUD or PRD provision.

(iv) Planned Development Concept Plan Proposal Review [7-040]

Table 2-2: Written Notification Requirements

1. Before any PUD/PRD Concept Plan is acted upon, the Planning Commission shall hold at least one public hearing after proper notice has been issued in accordance with Section 2.3(I).
2. Following the hearing and subsequent discussion on the merits of the proposal, the Planning Commission shall make comments on the merits of the proposal, needed changes, and suggested conditions that might be imposed to guide the applicant on their future application submittal. The Planning Commission shall make no formal decisions as part of their consideration.

3. The City Council shall consider recommendations from the Department of Community Assets & Development, recommendations from the Planning Commission, and the comments received at the public hearing to evaluate the Concept Plan. Following discussion, the City Council shall make comments on the merits of the proposal, needed changes, and suggested conditions that might be imposed to guide the applicant on their future application submittal. The City Council shall make no formal decisions as part of their consideration.

(b) Planned Development Preliminary Stage

(i) Concurrent Requests

The Planned Development Preliminary Stage includes review of a preliminary PUD/PRD development plan, review of a proposed ordinance to create a PUD/PRD overlay district, and in many cases, review of a preliminary plat. To constitute a complete application, each of these separate applications (as may be needed) must be submitted as a single package for review. All components of a PUD/PRD Preliminary Development application will be reviewed as a single, interconnected request unless specifically authorized to be considered individually by the Department of Community Assets & Development.

(ii) Application [7-030(3) & 7-220(2)(C)]

1. The application for Planned Development Preliminary stage shall be in accordance with Section 2.3, Common Review Requirements.
2. If the PUD or PRD is proposed to develop over a timeframe exceeding two years, a phasing plan for the entire project (to be completed in phases) must be submitted. Subsequent final plan applications can then grant approval for an individual phase or phases.
3. The portion of the application requesting creation of the PUD/PRD overlay district shall be in accordance with Section 2.4(B)(3), Zoning Ordinance Text and Zoning Map Amendments, Application Requirements.
4. The portion of the application requesting Preliminary Plat (if applicable) shall be in accordance with City Code Chapter 26, Subdivisions. [7-230(4)]

5. A Planned Development Preliminary Development Plan clearly delineating the proposed development and identifying all features not consistent with underlying zoning regulations (e.g. setback deviations) shall be submitted and include the following:
   a. Administrative information (including identification of the drawing as a "PUD/PRD Development Stage Plan," the proposed name of the project, contact information for the developer and individual preparing the plan, signature of the surveyor and civil engineer certifying the document, date of plan preparation or revision, and a graphic scale and true north arrow);
   b. Area calculations for gross land area, wetland areas, right-of-way dedications, conservation areas, and proposed public and private parks;
   c. Existing zoning district(s);
   d. Layout of proposed lots with future lot and block numbers. The perimeter boundary line of the subdivision should be distinguishable from the other property lines. Denote outlots planned for public dedication and/or open space (schools, parks, etc.);
   e. Area calculations for each parcel;
   f. Proposed setbacks on each lot (forming the building pad) and calculated buildable area;
   g. Proposed impervious surface allowance per lot (if applicable);
   h. Existing contours at intervals of two feet. Contours must extend a minimum of 200 feet beyond the boundary of the parcel(s) in question;
   i. Delineation of wetlands and/or watercourses over the property and within 200 feet of the perimeter of the subdivision parcel;
   j. Delineation of the ordinary high water levels of all water bodies;
   k. A grading, drainage, and erosion control plan prepared by a registered professional engineer;
   l. Location, width, and names of existing and proposed streets within and immediately adjacent to the subdivision parcel;
   m. Easements and rights-of-way within or adjacent to the subdivision parcel(s);

n. The location and orientation of proposed buildings;
o. Colored building elevations which detail the materials being used;
p. Proposed sidewalks and trails;
q. Vehicular circulation system showing locations and dimensions for all driveways, parking spaces, parking lot aisles, service roads, loading areas, fire lanes, emergency access (if necessary), public and private streets, alleys, sidewalks, bike paths, direction of traffic flow, and traffic control devices;
r. Lighting location, style, and mounting and light distribution plan.
s. Proposed parks, common areas, and preservation easements (indicate public vs. private if applicable);
t. Landscape plan prepared by a qualified landscaping professional providing all information required by Section 4.1, Landscaping.
u. Location and details of proposed signage.
v. Location, access, and screening detail of large trash handling and recycling collection areas.
w. Any other information as directed by the Department of Community Assets & Development.

(iii) Review

1. Planned Development Preliminary Stage Review General Criteria.

Approval of a Planned Development Preliminary Stage application requires that the City finds that all the following general criteria will always be met or can be met with conditions:

a. The plan is consistent with the City's Comprehensive Plan;
b. The plan is tailored to the specific characteristics of the site and achieves a higher quality of site planning and greater public benefits than would be achieved under conventional provisions of the zoning ordinance;
c. The plan successfully addresses the purpose and intent of a planned development as laid out in Section 2.4(N)(1);
d. The plan is consistent with allowed areas of flexibility as outlined in Section 2.4(N)(8);
e. The plan maintains or improves the efficiency of public streets, utilities, and other public services;

f. The plan results in development compatible with existing adjacent and future guided land uses;

g. The plan can be accommodated by existing public services, such as parks, police, fire, administration, and utilities, or the developer has provided for the growth and extension of such services as a component of the planned development; and

h. The plan is designed to take advantage of, and preserve, the natural features of the subject property, including waterways, forested areas, natural prairie, topography, views, etc.

2. Planned Residential Development (PRD) Specific Review Criteria.

Approval of a Planned Residential Development (PRD) requires that the City finds that all the following PRD specific criteria will also be met or can be met with conditions:

a. A planned residential development that includes only a single type of dwelling unit, such as all detached or all semi-detached shall not be deemed inconsistent with the stated purposes of this Chapter because it contains only a single type of dwelling unit. [7-060(4)]

b. The maximum ground floor area for the sum of all buildings in the project shall not exceed 25 percent of total land area in the planned residential development. [7-060(6)]

c. There shall be no height limitation for any buildings in a planned residential development except that all buildings and dwelling units shall observe the following setbacks and densities: [7-060(7)]

i. There shall be a minimum setback of the height of the building or 25 feet, whichever is less, from all property lines that form the perimeter of the entire plan of the planned residential development. Subject to approval of the City Council, building setbacks may be decreased from the perimeter setback requirement for any new planned residential development if pedestrian linkages to neighboring developments for residents, employees, or shoppers is provided along with an approved streetscape plan with enhanced landscaping.

ii. When any property line forming the perimeter of the plan for a planned residential development is in, abuts, or is less than 70 feet from an RS-1 or RM-1 district, the setback for each building in the planned residential development shall be at least its building height away from said line except where said abutting or adjacent property is publicly owned and is 70 feet or more in width, then the setback shall be a minimum of 25 feet.

iii. In accordance with, and to better meet the stated purpose of the Planned Residential Development Article of the Zoning Code, the dwelling unit density for a planned residential development within an RS-1, RM-1, RM-2 or RM-3 district may be computed on a basis of 80 percent of the required minimum lot area per unit as stipulated for the respective districts in the Zoning Code. Adjusted densities may be applied to any land within the district that will be developed in accordance with an approved site plan for a planned residential development.

iv. In order to provide for the unique characteristics of developments serving the elderly and in recognition of their reduced levels of population and activity, housing developments for elderly persons may have their density calculated on the basis of 50 percent of the minimum lot area per dwelling unit stipulated for the respective districts in this Zoning Code.

d. There shall be a minimum of two off-street parking spaces per dwelling unit in a planned residential development serviced by a private road. In addition, a minimum of 1/2 parking space per dwelling unit shall be provided for visitor parking and visitor parking shall be posted "visitor parking only". **[7-060(8)]**

e. Any and all common open space shall be labeled as such and as to its intent or design function. Provisions for maintenance, ownership, and preservation shall be made in accordance with the provisions of the "Minnesota Condominium Act," Minnesota Statutes, Sections 515.01 to 515.29. **[7-060(10)]**

3. Planned Unit Development (PUD) Specific Review Criteria.

a. A minimum of 30,000 square feet of gross floor area shall be provided within the proposed buildings making up the PUD [7-230(1)]

b. The maximum gross floor area for the sum of all buildings in a project shall not exceed 45 percent of the total land area in the planned unit development. For purposes of determining compliance with this provision, the first two aboveground floors of structures used exclusively for parking of vehicles shall not be included as part of the gross floor area of the development. Subject to approval of the City Council, the gross floor area may be increased for any new Planned Unit Development that is within the New Brighton Exchange (NBE) zoning district. [7-230(7)]

c. All buildings shall observe the following setbacks unless otherwise specified by the Council at the time of approval of the planned unit development: [7-230(8)]

i. There shall be a minimum setback of the height of the building, or 30 feet, whichever is greater, from all property lines that form the perimeter of the entire plan of the Planned Unit Development. Subject to approval of the City Council, building setbacks may be decreased from the perimeter setback requirement for any new Planned Unit Development if pedestrian linkages to neighboring developments for residents, employees, or shoppers are provided along with an approved streetscape plan with enhanced landscaping.

ii. There shall be a minimum setback of the height of the building, or 60 feet, whichever is greater, from any property zoned RS-1 or RM-1. Subject to approval of the City Council, the setbacks referenced in this sub-section may be decreased for any new Planned Unit Development that is located in the New Brighton Exchange (NBE) zoning district. (Ord. No. 747 05/08/2007)

iii. There shall be a minimum setback of the height of the building, or 60 feet, whichever is greater, from any public street. Subject to approval of the City Council, the setbacks referenced in this sub-section may be decreased for any new Planned Unit Development that is located in the New Brighton Exchange (NBE) zoning district. (Ord. 737 2-28-2006)

d. Any improvement, such as streets, sidewalks, or utilities to be located on or in land dedicated to the public, shall be ordered and financed in accordance with Sections 25-16 through 25-45 of the City Code. [7-230(9)]

4. Staff Review

a. The Department of Community Assets & Development shall generate an analysis of the proposal against the expectations for a PUD/PRD as outlined in Section 2.4(N)(9)(b)(iii) and formulate a recommendation regarding all requests for consideration by the Planning Commission and City Council.

b. An ordinance to establish the proposed PUD or PRD overlay district shall be prepared by the City as part of the PUD/PRD Development Stage Plan review. The ordinance shall lay out all special provisions being authorized by the PUD or PRD, and clearly lay out the framework of rules that will govern the PUD or PRD parcels moving forward. The draft ordinance shall be reviewed as a component of the Preliminary stage public hearing. Final adoption of the ordinance shall occur as part of the future Final Stage PUD/PRD approval.

5. Planning Commission

a. Before any PUD/PRD Development Stage Plan is acted upon, the Planning Commission shall hold at least one public hearing after proper notice has been issued in accordance with Section 2.3(I).

b. Following the public hearing and subsequent discussion on the merits of the proposal, the Planning Commission shall adopt findings and recommendations on the PUD/PRD Development Stage Plan review criteria.

i. Recommendations for approval may include conditions as deemed necessary to ensure compliance with each of the PUD/PRD Development Stage Plan review criteria and shall be supported by findings of fact as to why the PUD/PRD Development Stage Plan request is recommended for approval.

ii. Denial recommendations shall be supported by findings of fact as to why the PUD/PRD Development Stage Plan request should be denied.

6. City Council

a. The City Council shall consider recommendations from the Department of Community Assets & Development, recommendations from the Planning Commission, and the comments received at the public hearing to evaluate the request against all PUD/PRD review criteria and take action on the request.

b. Decisions on a PUD/PRD Development Stage Plan shall require a majority vote of the City Council.

(c) Planned Development Final Stage

(i) Initiation of Proceedings

The request for Planned Development final stage approval shall be initiated by application of the property owner or other person having authority to file an application pursuant to Section 2.3(B), Authority to File Applications.

(ii) Application

1. All applications for Planned Development final stage shall be in accordance with Section 2.3, Common Review Requirements.
2. Applications for Final Stage PUD or PRD approval shall also include at least the information in Section 2.4(N)(9)(c)(iii) below to be considered complete.

(iii) Specific Final Stage and Final Plat Submittal Requirements

1. If a Master Plan for the entire project was submitted and approved as part of the Preliminary Development Stage, an updated Master Plan shall be submitted incorporating all changes required by Preliminary Development Stage approval.
2. The Planned Development final stage application shall identify the specific stage or stages for which approval is currently being sought.
3. If applicable, an updated and finalized Final Plat shall be submitted in accordance with the provisions of City Code Chapter 26 along with up-to-date title work or title insurance acceptable to the City Attorney.
4. Developer shall provide warranty deeds for Property being dedicated to the City for all parks, Outlots, etc., free from all liens and encumbrances except as otherwise waived by the City Council.
5. Developer shall provide all easement dedication documents for easements not shown on the final plat including those for trails, ingress/egress, etc.
6. Any updates to preliminary stage documents as may be requested by the Department of Community Assets & Development.

(iv) Final Stage and Final Plat Review

1. The Department of Community Assets & Development shall analyze the Final Stage submittals against the requirements of Development Stage approval and formulate a recommendation regarding all requests for consideration by the City Council.
2. The City shall prepare, and the applicant shall be required to execute, a developer's agreement which references all PUD/PRD plans, development phasing, required improvements, completion dates for improvements, the required letter of credit, all required development fees, escrows, and warranties, and any other information deemed necessary by the City.
3. The City shall finalize the ordinance to establish the new PUD/PRD overlay district in accordance with development plan approval, and shall prepare the final ordinance and a summary publication resolution for consideration and approval by the City Council.

4. The application for Planned Development final stage and Final Plat shall be considered by the City Council once all materials are ready for consideration according to the Department of Community Assets & Development. Approval of the PUD Final Stage and Final Plat shall be by simple majority vote of the City Council, except where State law may specifically require a supermajority.
5. The City shall, upon approval of the PUD Final Stage, record the Final Plat, execute the PUD developer's agreement, and publish the approved and finalized PUD Ordinance or summary of the ordinance.

(10) Planned Development Amendments

Approved Planned Developments may be amended from time to time as a result of unforeseen circumstances, overlooked opportunities, or requests from a developer. At such a time, the applicant shall make an application to the City for a Planned Development amendment. All such amendments will be processed as one of the following:

(a) Administrative Fine-tuning – The Department of Community Assets & Development may approve minor changes in the location, placement, and height of buildings if such changes are required by engineering or other circumstances, provided the changes conform to the review criteria applied by the Planning Commission and City Council, and are consistent with all requirements of the PUD/PRD ordinance. Under no circumstances shall administrative fine-tuning allow for additional stories to buildings, additional lots, or changes to designated uses established as part of the Planned Development. Administrative fine-tuning shall be memorialized via letter signed by the Director of Community Assets & Development and recorded against the Planned Development property.

(b) Planned Development Adjustment – an adjustment to a Planned Development may be made through review and approval by a simple majority vote of the City Council with or without referral to the Planning Commission. For a Planned Development Adjustment, the applicant shall follow the procedures and requirements of the Planned Development Final Stage as identified in Section 2.4(N). A Planned Development Adjustment shall be memorialized with an amendment to the Development Agreement, executed by the City and applicant, and recorded against the Planned Development property. To qualify for this review, the adjustment shall not:

(i) Eliminate, diminish or be disruptive to the preservation and protection of sensitive site features.

(ii) Eliminate, diminish or compromise the high quality of site planning, design, landscaping or building materials.

(iii) Alter significantly the location of buildings, parking areas or roads.

(iv) Increase or decrease the number of residential dwelling units by more than five percent.

(v) Increase the gross floor area of non-residential buildings by more than three percent or increase the gross floor area of any individual building by more than five percent (residential lots not guided for specific structure sizes are excluded from this requirement).

(vi) Increase the number of stories of any building.

(vii) Decrease the amount of open space or alter it in such a way as to change its original design or intended function or use.

(viii) Create non-compliance with any condition attached to the approval of the Planned Development Final Stage.

(c) Planned Development Amendment – any change not qualifying for administrative fine-tuning, or a Planned Development Adjustment shall require a Planned Development amendment. An application to amend a PUD shall be administered in the same manner as that required for an initial PUD beginning at PUD Development Preliminary Stage.

(11) Planned Development Cancellation

A Planned Development shall only be cancelled and revoked upon the City Council adopting an ordinance rescinding the ordinance approving the Planned Development. Cancellation of a Planned Development shall include findings that demonstrate that the Planned Development is inconsistent with the Comprehensive Plan or other applicable land use regulations; why it threatens public safety, health, or welfare; or other applicable findings in accordance with law.

(12) Administration

In general, the following rules shall apply to all Planned Developments:

(a) Rules and regulations: No requirement outlined in the Planned Development process shall restrict the City Council from taking action on an application if necessary to meet state mandated time deadlines for a decision.

(b) Preconstruction: No building permit shall be granted for any building on land for which a Planned Development plan is in the process of review, unless the proposed building is allowed under the existing zoning and will not impact, influence, or interfere with the proposed Planned Development plan.

(c) Effect on Conveyed Property: In the event any real property is conveyed in total or in part as a component of a Planned Development, the buyers thereof shall be bound by the provisions of the approved Planned Development and ordinance.

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CHAPTER 3: ZONING DISTRICTS

3.1 General Provisions

Official Zoning Map

(A) Adoption of Zoning Map (3-020)

(1) The map entitled City of New Brighton Zoning Map, dated <date new map adopted> and as may be amended, hereinafter referred to as the "zoning map," and all explanatory matters thereon, is hereby adopted and made a part of this ordinance. [(3-020)(1)]

(2) Questions concerning a zoning designation, or boundaries of a zoning district shown on the zoning map, shall be resolved by referring to the originally adopted map and any subsequent ordinances amending the districts and boundaries. The Department of Community Assets & Development shall make the final determination in the event of a dispute or discrepancy. [(3-020)(3 & 4)]

(B) Types of Zoning Districts

Land within the City is generally classified by this ordinance to be within a specific base zoning district. Land within any base zoning district may also be classified into one or more overlay zoning districts, in which case regulations governing development in the overlay district shall apply in addition to the regulations governing development in the underlying base zoning district, unless expressly stated otherwise.

(C) District Boundaries

District boundary lines are the centerlines of highways, streets, alleys, easements, right-of-way lines of limited access roadways, lot lines, or such lines extended unless otherwise indicated. In the event of closure of a street or alley, the district boundary shall be construed as the centerline of such vacated street or alley unless a specific amendment is made otherwise. [(3-030)]

(D) Zoning Classifications for Newly Annexed Property

Any land annexed to the City in the future shall initially be placed in the RS-1 Single Family Residential District, unless placed in another district by action of the City Council after recommendation of the Planning Commission.

3.2 Districts Established

(A) Establishment of Base Districts

Table 3-1, Base Zoning Districts, sets out the base districts established by this ordinance.

TABLE 3-1: ZONING DISTRICTS ESTABLISHED			
DISTIRCT TYPE	OLD ABBREVIATION	NEW ABBREVIATION	DISTRICT NAME
Residential	R-1	RS - 1	Single-Family Low-Density District
	R-1A	RS - 2	Single-Family Medium-Density District
	R-2	RM - 1	Multi-Family Low-Density District
	R-3B	RM - 2	Multi-Family Medium-Density District
	R-3A	RM - 3	Multi-Family High-Density District
	R-4	MHC	Manufactured Home Community
Non-Residential	n/a	BR	Residential Business District
	B-1 & B-2	BN	Neighborhood Business
	B-3	BG	General Business
	I-1	IL	Light Industrial District
	I-2	IH	Heavy Industrial District
	I-3	IR	Restricted Industrial District
Mixed Use	B-4	DT	Downtown District
	NBE	NBE	New Brighton Exchange
	MUN	MUN	Mixed Use Neighborhood
	MUR	MUR	Mixed Use Regional
	MUE	MUE	Mixed Use Exchange

(B) Establishment of Overlay Districts

Table 3-2, Overlay Zoning Districts, sets out the overlay zoning districts established by this ordinance.

TABLE 3-2: OVERLAY DISTRICTS ESTABLISHED			
DISTIRCT TYPE	OLD ABBREVIATION	NEW ABBREVIATION	DISTRICT NAME
Overlays	--	SH	Shoreland Overlay District
	--	FP	Floodplain Overlay District
	--	PD	Palmer Drive Overlay District
	--	EC	Environmental Constraint Overlay District

(C) Classification of Districts

Section 2.4(B)

Land shall be classified or reclassified into a base or overlay zoning district only in accordance with the procedures and requirements set forth in Section 2.4(B), Zoning Ordinance Text and Zoning Map Amendments.

(D) Organization of Base Zoning District Regulations

Sections 3.4 through 3.6 establish the general purposes of each base zoning district along with the physical standards governing lot size and the placement of structures and buildings within each district. Most subsections have a common structure consisting of a purpose statement, density allowances, lot dimension requirements, and development standards; along with graphics showing typical lot configurations and a hypothetical graphic depicting the district's physical regulations. Finishing standards for lots (i.e. landscaping standards, parking requirements, etc.) can be found in Chapter 4. Uses allowed in each district can be found in Chapter 5.

3.3 Common District Requirements

The following regulations shall apply in all base zoning districts unless otherwise stated.

(A) Building within Public Easements Prohibited

No building or structure shall be placed within an easement dedicated for a public purpose unless expressly authorized by a variance issued in accordance with Section 2.4(C), a temporary use permit issued in accordance with Section 2.4(L), or by license/encroachment agreement if authorized by the City Manager.

(B) Outlots

No building permit or grading permit can be issued for a parcel of land designated in a plat as an Outlot unless specifically authorized by the City Council.

(C) Number of Principal Buildings or Uses per lot

(1) Only one principal building for single-family or duplex use, with permitted accessory buildings, may be located upon a lot.

(2) Where a lot is used for multifamily, mixed-use, commercial, or industrial purposes, more than one principal building may be located upon the lot but only when such buildings conform to all requirements of this Ordinance.

(3) No lot shall be divided to contain more dwelling units than are permitted by the Comprehensive Plan and the regulations of the zoning district in which they are located.

(D) Common Yard and Height Requirements

(1) In General

Unless otherwise authorized by variance, PUD, or PRD; no lot or yard shall be reduced in area or dimension so as to make such lot or yard less than the minimum required by this ordinance; or if the existing lot or yard is already less than the minimum required, it shall not be further reduced.

(2) Allowed Yard Encroachments

Architectural features listed in Table 3-3 may project into required yards as noted:

TABLE 3-3 ALLOWED YARD ENCROACHMENTS

Projecting Architectural and/or Other Feature	Allowed Projection into a Required Yard
Chimneys, flues, belt courses, leaders, sills, pilasters, lintels, cornices, eaves, gutters, and similar architectural features.	Up to 24 inches into a required yard.
Steps, walks, driveways, and similar features used as a means of getting from one place to another.	No required setback provided they do not extend above the height of the ground floor level of the principal structure.
Fences and walls meeting the standards of Section 4.3.	May encroach into required yards but shall be subject to corner visibility requirements outlined in Section 3.3(D)(3). [8-058]

(3) Corner Visibility (see Figure 3-1) [8-058]

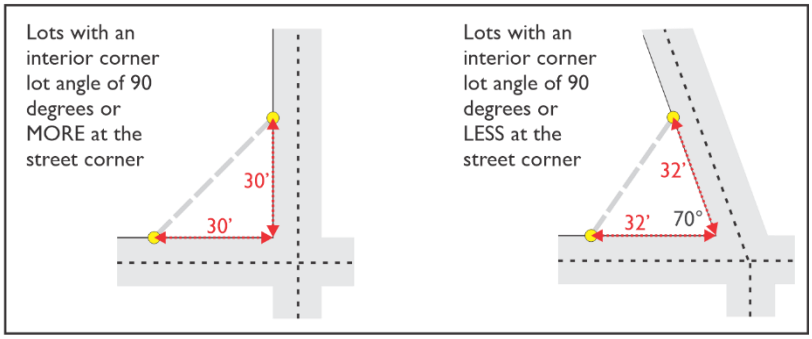
(a) Corner lots shall preserve areas necessary for intersection visibility by limiting the height of fences, walls, and all other obstructions to a maximum of two and one-half feet above grade in the following areas:

(i) For lots with an interior corner lot angle of 90 degrees or more at a street or railway corner, the protected corner area is defined by a triangle created by the two corner lot lines and an imaginary line between the corner lot lines at 30 feet from the corner on each property lot line.

(ii) For lots with an interior angle of less than 90 degrees at a street or railway corner, the protected corner area is defined by a triangle created by the two corner lot lines and drawing an imaginary line between the corner lot lines 30 feet from the corner on each property lot line plus one foot for every ten degrees or fraction thereof less than 90 degrees.

Figure 3-1: Corner Visibility (Protected Corner Area)

The dashed lines in figure 3-1 represent the hypotenuse of the protected corner area at street intersections. The protected corner area increases as the angle between the intersecting streets decreases.



(b) Corner visibility standards do not apply to United States mailboxes, police and fire alarm boxes, public utility poles, street name markers, official traffic signs and control devices, and fire hydrants.

(4) Height Requirements

(a) In general

The total height of any structure shall not exceed the maximum height limit established for the applicable zoning district unless expressly stated otherwise in this ordinance.

(b) Exceptions [4-600(1)]

Height limitations shall not apply to the following:

(i) Church spires, belfries, cupolas, and domes;

(ii) Chimneys and smokestacks;

(iii) Flagpoles;

(iv) Any antenna or combination of antenna and tower rigidly attached to a building provided that the combination of antenna and tower does not exceed a total height of 20 feet above the highest point of attachment;

(v) Any dish antenna thirty inches or less in diameter;

(vi) Roof-mounted mechanical equipment. Such equipment shall be either screened or completely enclosed and shall be exempted from the height limitations if the enclosure(s) does not occupy more than thirty percent of the roof area and does not extend more than twelve feet above the roof upon which it is located;

(vii) Elevator bulkheads with siding and roofing matching the building;

(viii) Water towers;

(ix) Parapet walls extending not more than three feet above the limiting height of the building;

(x) Fire escapes or roof access stairways; and

(xi) Features similar to those noted above if approved by the Department of Community Assets & Development.

(E) Common Business and Industrial District Performance Standards

Any use established in a Business or Industrial District after October 24, 1968, shall be operated in compliance with the performance standards of this subsection. No use established before October 24, 1968, shall be so altered or modified to conflict with the following performance standards. [6-390(1)]

(1) No activities involving the storage, utilization, or manufacturing of materials or products that could decompose by detonation shall be permitted unless specifically licensed by the City Council. These materials shall include but not be confined to all primary explosives such as lead oxide and lead sulfate; all high explosives and boosters such as TNT, RDS, tetryl and ammonia nitrates; propellants and components thereof, such as nitrocellulose, black powder, ammonium perchlorate, and nitroglycerine; blasting explosives such as dynamite, powdered magnesium, potassium chlorate, potassium permanganates, and potassium nitrates; and, nuclear fuels and reactor elements such as uranium 235 and plutonium. [6-390(2)]

(2) Screening shall be provided and maintained by the property owner for a parcel used for business purposes adjacent to a Residential District. The screening, either of plantings, a fence, or a wall, shall be designed to reduce noise and prohibit eye-level vision from the residential land to the Business District. [6-390(3)]

(3) Sound levels above the following figures in Table 3-4 are prohibited. Sound levels shall be measured by equipment meeting the specifications of the American Standards Association. [6-390(4)]

TABLE 3-4: PROHIBITED SOUND LEVELS

OCTAVE BAND CYCLES PER SECOND	ALONG RESIDENTIAL LOT LINE LEVELS IN DECIBELS	ALONG NONRESIDENTIAL LOT LINE LEVELS IN DECIBELS
0 TO 75	72	79
>75 TO 150	67	74
>150 TO 300	59 *	66
>300 TO 600	52	59
>600 TO 1200	46	53
>1200 TO 2400	40	47
>2400 TO 4800	34	41
OVER 4800	32	39

** changed from 39 in the existing code which was clearly a typo…59 is from an identical table in another zoning code.*

(4) Any use creating periodic earth-shaking vibrations, such as may be created from a drop forge, shall be prohibited if such vibrations are perceptible beyond the lot line of the site on which the use is located. This standard shall not apply to vibrations created during the process of construction. [6-390(5)]

(5) Any use shall be so operated as to permit no smoke or particulate to be discharged that is darker than No. 1 classification of the Ringelmann Smoke Chart furnished by the U.S. Bureau of Mines. Further, the emission shall not exceed more than 0.07 pounds per hour per acre of site occupied. [6-390(6)]

(6) Any use established shall be so operated as not to discharge across the boundaries of the lot or through percolation into the subsoil beyond the boundary of the lot where such use is located, toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety, comfort or welfare; or, cause injury or damage to property or businesses. [6-390(7)]

(7) Any use shall operate in a way so as to prevent the emission of odorous matter of such quality as to be readily detectable beyond the lot line of the site on which such use is located. [6-390(8)]

(8) Any use producing intense heat or direct light transmission shall have shielding to prevent the heat or direct light from being detectable at the lot line of the site on which the use is located. [6-390(9)]

(9) Any use established in a Residential, Industrial, or Business District which requires the storage of material or goods shall provide a six foot screen to shield the material or goods from sight by the public traveling on the public right-of-way. Also, if such material or goods extends to a height greater than six feet, it shall be subject to the same yard requirements as a building for the district in which it is located. Material stored in the open shall be in rows no greater than 50 feet in width with access drives not less than 18 feet between rows. [6-390(10)]

(10) All loading docks and vehicular doors established after October 24, 1968, shall be, when facing a public right-of-way, 50 feet or more from the public right-of-way but at no time shall trucks or trailers cross the property line when parked. No more than one loading dock accommodating one truck at a time shall face a public street. More than one loading dock, but no more than three, may face a public right-of- way when said loading facilities are screened from that public right-of-way by topography, landscaping and/or fence. If any part of the fence that provides such screening is a gate, the gate must have an automated control that keeps the gate closed except when vehicles are passing through. [6-390(11)]

(11) The exterior treatment on the street side of the structure shall be brick, stone, tilt-up slabs, architectural metal panels, decorative block, or the equivalent. The other sides of the structure shall not be raw block. [6-390(12)]

3.4 Residential Base Zoning Districts

(A) General Purpose

The residential base zoning districts established in Section 3.4 are intended to provide a variety of housing options in a comfortable, healthy, safe, and pleasant environment in which to live and recreate at a neighborhood level. More specifically, they are intended to:

(1) Promote strong residential neighborhoods with a sense of connection to the community;

(2) Foster citizen involvement in the community, interaction between neighbors and neighborhood-oriented support systems;

(3) Provide a range of housing choices and affordability through varying housing densities, types and designs including accessory dwelling units;

(4) Seek quality over quantity in new residential growth; and

(5) Maintain a connection to the natural environment by incorporation of natural characteristics into the development setting.

(B) Standards Applicable to All Residential Base Zoning Districts

The following standards shall be applicable to all residential zoning districts and the Residential Business District (see table 3-1).

(1) Zero Side Lot Line Development

(a) Residential unit lots containing duplexes or townhouses may be subdivided along the common wall in a "zero lot line" arrangement, provided:

(i) The combined area of the base lot and individual unit lots contains the required amount of lot area per unit as prescribed elsewhere in this ordinance;

(ii) Unit lots shall meet all required setbacks from the boundaries of the base lot;

(iii) Any shared wall facing on a zero side lot line is a structural wall capable of providing protection from fire, noise, and visual encroachment;

(iv) All applicable provisions of City Code Chapter 26, Subdivisions, and the MN Building code can be successfully met.

(2) Condominiums

Residential lots of non-single-family structures may be divided for the purpose of condominium ownership provided that:

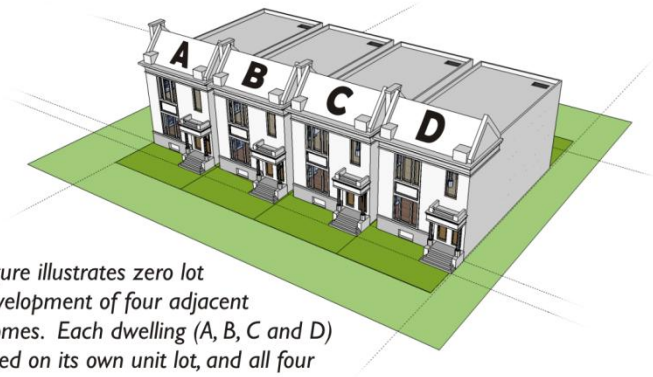
(a) The principal structure containing the housing units shall meet the setback distances of the applicable zoning district;

(b) The number of condominium units created is allowed by the comprehensive plan and base zoning district;

(c) Each condominium unit will conform to minimum zoning requirements as may be applicable (i.e. required parking spaces, minimum lot area, minimum usable open space, etc.); and

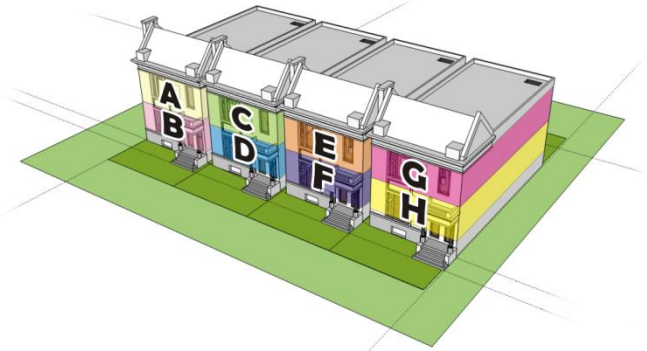
(d) Each condominium must conform with all applicable building code requirements.

Figure 3-2: Zero Lot Line Development vs Condominiums



This figure illustrates zero lot line development of four adjacent townhomes. Each dwelling (A, B, C and D) is located on its own unit lot, and all four unit lots are located on one base lot.

Comparatively, the figure below shows condominium ownership of the same development. Ownership is not defined by a unique lot, but rather a specified space within a building.



Section 3.4(C)

RS-1: Single-Family Low Density Residential District

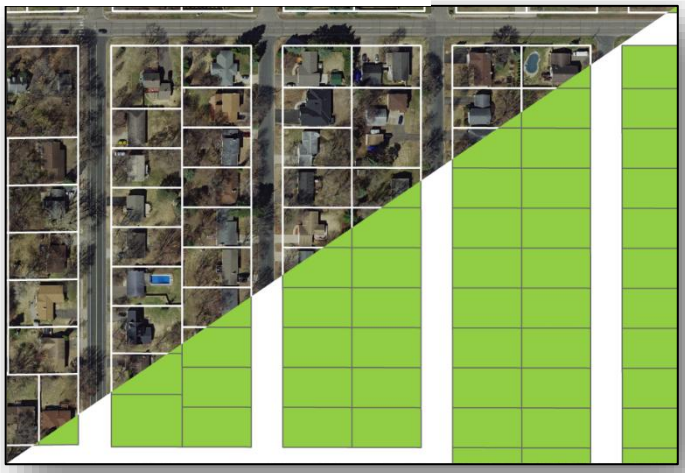
(1) Purpose

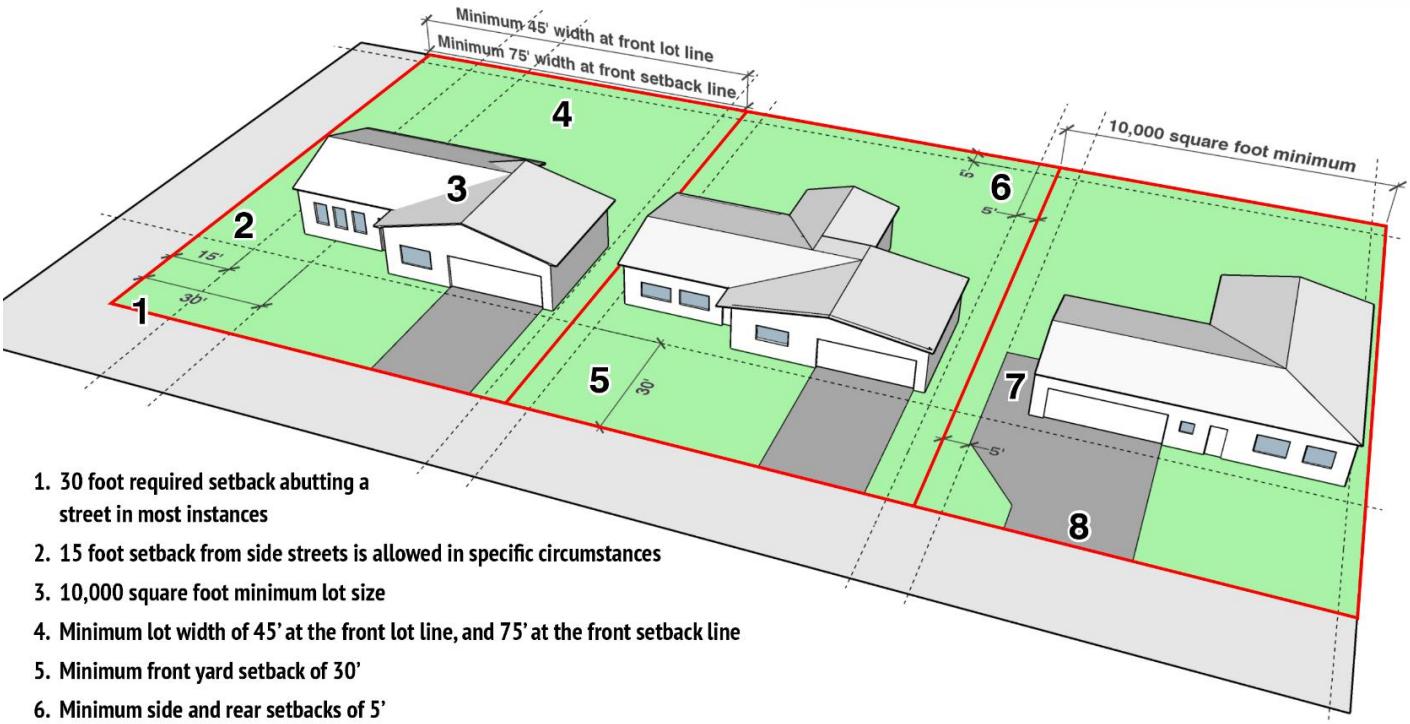
The RS-1 District is intended to accommodate single-family detached residential uses and typical accessory development at the City's lowest residential density.

(2) Density	
Dwelling units/acre max	6

(3) Lot Dimensions	
(a) Lot Area, minimum	
Any permitted use	10,000 square feet
(b) Lot Width, minimum	
At the front lot line	45 feet
At the front building setback line	75 feet
(c) Lot Depth, minimum	
All lots	n/a

Typical RS-1 Lot





1. 30 foot required setback abutting a street in most instances
2. 15 foot setback from side streets is allowed in specific circumstances
3. 10,000 square foot minimum lot size
4. Minimum lot width of 45' at the front lot line, and 75' at the front setback line
5. Minimum front yard setback of 30'
6. Minimum side and rear setbacks of 5'
7. Driveways are required to meet setback requirements
8. Driveways are not to exceed a width of 24' at the front lot line and through the right-of-way to the street.

TABLE 3-5: RS-1 DEVELOPMENT STANDARDS

	REQUIRED YARDS (in feet) [1]				Max Height (stories / feet)	Maximum Gross Impervious Surface Coverage	Maximum Gross Building Coverage
	Front [2]	Interior Side	Street Side [3]	Rear [4]			
All Structures and Buildings	30	5	30	5	Lesser of 2.5 stories or 30 feet	50%	30%

[1]: Any principal structure or building other than a single-family residence shall be located at least 30 feet from all property boundary lines. [4-040(1)]

[2]: A required front yard setback may be reduced to 24' for a portion of a principal dwelling. The portion of the dwelling within the standard setback shall: [4-040(3)(B)]

a) Not exceed 35 percent of the dwelling width (excluding an attached garage) or shall be no more than 12 feet in width, whichever is less.

b) Include a base that is consistent in appearance with the base of the rest of the dwelling.

c) Include a roof that is properly proportioned to and integrated with the roof of the larger dwelling.

d) Utilize the same exterior structure materials and colors as the principal structure and accessories

[3]: Any property already improved on August 21, 1981, by construction of a principal structure with a 15 foot side street yard setback shall not be considered nonconforming in regard to side street yard setback. In all cases, where adjacent properties are already improved, the City Council can grant special permission to change the setback requirements on a corner lot based on the criteria of visual compatibility with the surrounding properties. [4-040(3)(A)]

[4]: Rear yard setbacks for lakeshore lots shall be as outlined in Section 3.8(C)(10).

Accessory Structures	▪ See Section 5.4(B) for all general standards and limitations on all accessory structures. ▪ See Section 5.4(E)(4)(a) for accessory structure limitations in residential districts. ▪ See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.
Other Regulations to Consult (not all inclusive)	▪ Section 3.3, Common District Requirements ▪ Section 3.4(B), Standards Applicable to All Residential Base Zoning Districts ▪ Section 4.1, Landscaping and Screening Standards ▪ Section 4.3, Fences and Walls ▪ Section 4.7, Parking (and Driveway Standards) ▪ Section 5.4(E)(15), Home Occupations

Section 3.4(D)

RS-2: Single-Family Medium Density Residential District

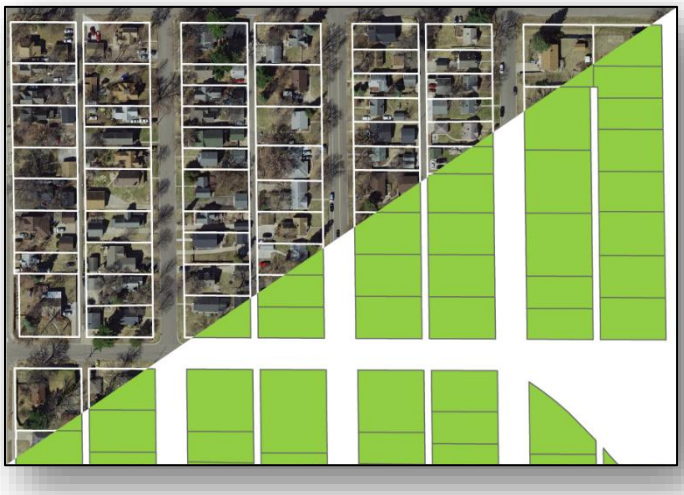
(1) Purpose

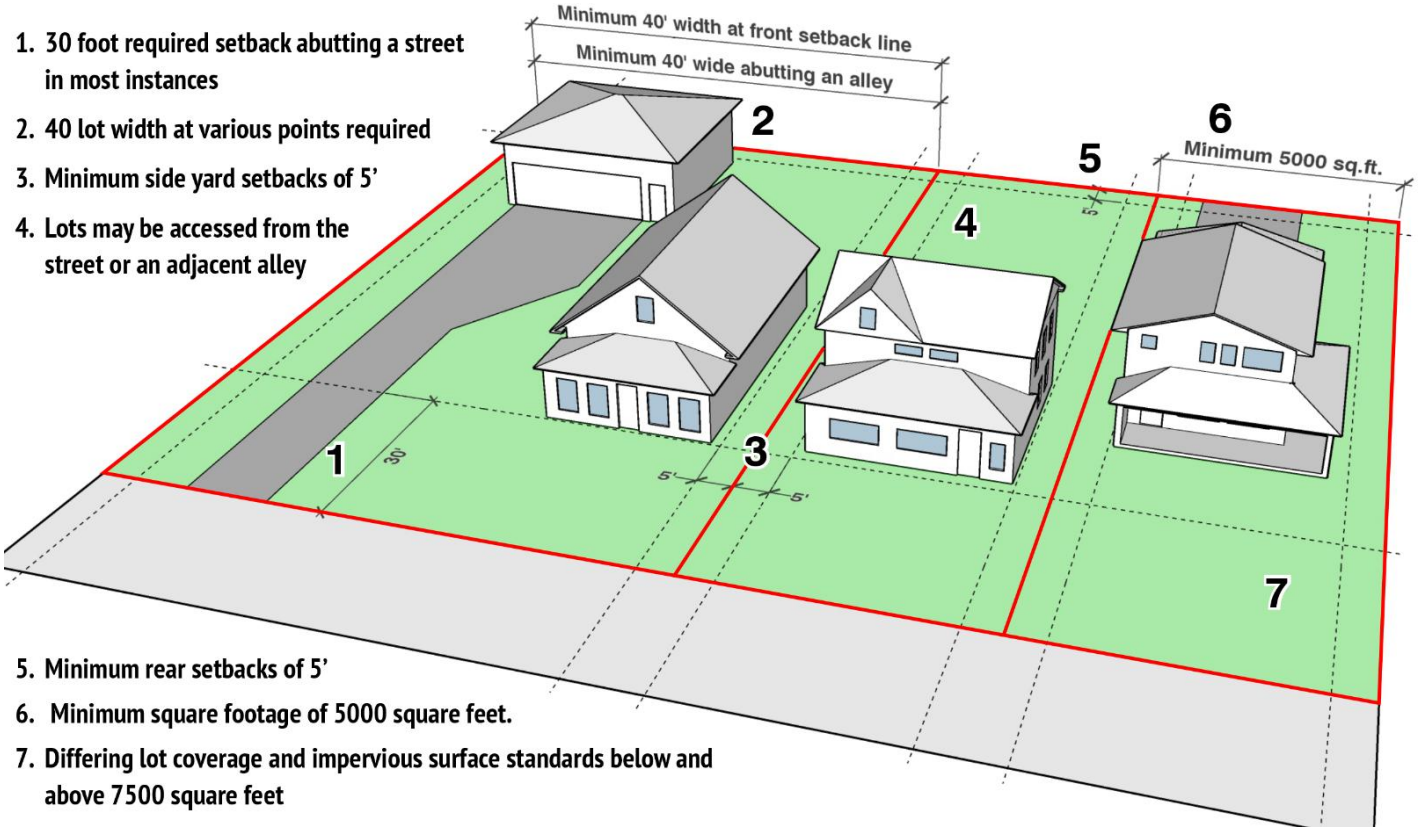
The RS-2 District is intended to accommodate dense single-family detached residential development and typical accessory uses on small lots.

(2) Density	
Dwelling units/acre max	12

(3) Lot Dimensions	
(a) Lot Area, minimum	
Any permitted use	5,000 square feet
(b) Lot Width, minimum	
At the front building setback line	40 feet
At the rear lot line	40 feet
(c) Lot Depth, minimum	
All lots	n/a

Typical RS-2 Lot





1. 30 foot required setback abutting a street in most instances
2. 40 lot width at various points required
3. Minimum side yard setbacks of 5'
4. Lots may be accessed from the street or an adjacent alley
5. Minimum rear setbacks of 5'
6. Minimum square footage of 5000 square feet.
7. Differing lot coverage and impervious surface standards below and above 7500 square feet

TABLE 3-6: RS-2 DEVELOPMENT STANDARDS

	REQUIRED YARDS (in feet) [1]				Max Height (stories / feet)	Maximum Gross Impervious Surface Coverage		Maximum Gross Building Coverage	
	Front [2]	Interior Side	Street Side [3]	Rear [4]		Lots less than 7500 sq ft	Lots 7500 sq ft and larger	Lots less than 7500 sq ft	Lots 7500 sq ft and larger
All Structures and Buildings	30	5	30	5	Lesser of 2.5 stories or 30 feet	55%	50%	40%	30%

[1]: Any principal structure or building other than a single-family residence shall be located at least 30 feet from all property boundary lines. [4-040(1)]

[2]: A required front yard setback may be reduced to 24' for a portion of a principal dwelling. The portion of the dwelling within the standard setback shall: [4-040(3)(B)]

a) Not exceed 35 percent of the dwelling width (excluding an attached garage) or shall be no more than 12 feet in width, whichever is less.

b) Include a base that is consistent in appearance with the base of the rest of the dwelling.

c) Include a roof that is properly proportioned to and integrated with the roof of the larger dwelling.

d) Utilize the same exterior structure materials and colors as the principal structure and accessories.

[3]: Any property already improved on August 21, 1981, by construction of a principal structure with a 15 foot side street yard setback shall not be considered nonconforming in regard to side street yard setback. In cases where adjacent properties are already improved, the City Council can grant special permission to change the setback requirements on a corner lot based on the criteria of visual compatibility with the surrounding properties. [4-040(3)(A)]

[4]: Rear yard setbacks for lakeshore lots shall be as outlined in Section 3.8(C)(10).

Accessory Structures	▪ See Section 5.4(B) for all general standards and limitations on all accessory structures. ▪ See Section 5.4(E)(4)(a) for accessory structure limitations in residential districts. ▪ See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.
Other Regulations to Consult (not all inclusive)	▪ Section 3.3, Common District Requirements ▪ Section 3.4(B), Standards Applicable to All Residential Base Zoning Districts ▪ Section 4.1, Landscaping and Screening Standards ▪ Section 4.3, Fences and Walls ▪ Section 4.7, Parking (and Driveway Standards) ▪ Section 5.4(E)(15), Home Occupations

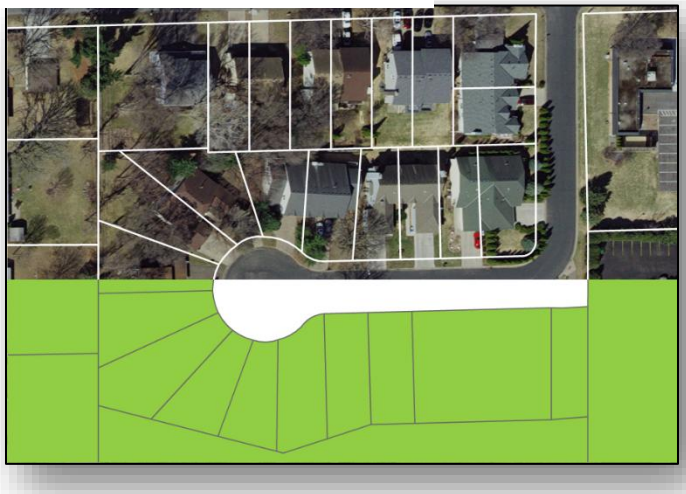
Section 3.4(E)

RM-1: Multi-Family Low Density Residential District

(1) Purpose

The RM-1 District is intended to accommodate both single-family homes and lower density multi-family options such as duplexes and townhomes.

Typical RM-1 Lot



(2) Density	
Maximum dwelling units/acre	12

(3) Lot Dimensions	
(a) Lot Area, minimum	
Any permitted use	12,500 square feet
(b) Lot Width, minimum	
At the front lot line	75 feet
At the front building setback line	85 feet
At the rear lot line	n/a
(c) Lot Depth, minimum	
All lots	n/a

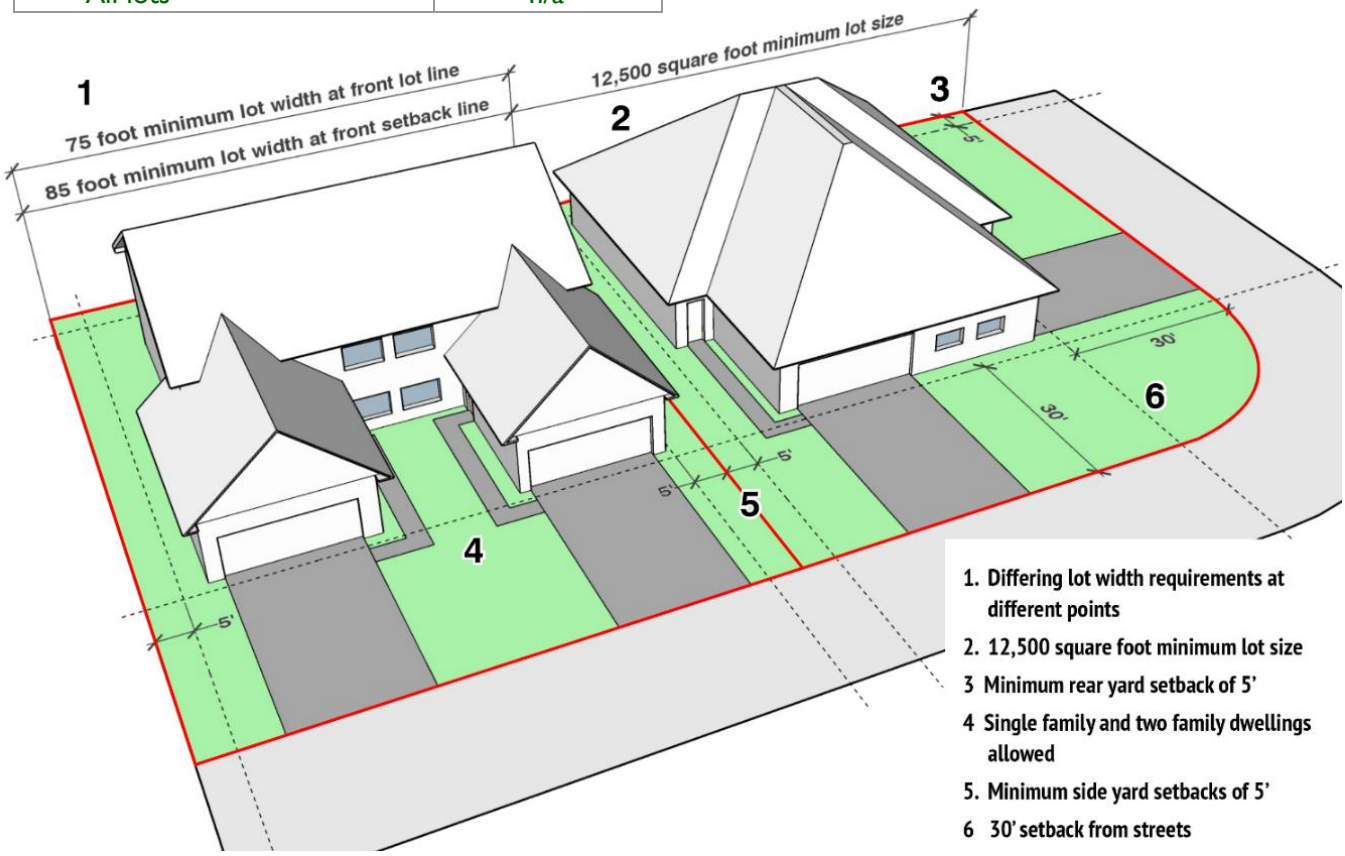


TABLE 3-7: RM-1 DEVELOPMENT STANDARDS

	REQUIRED YARDS (in feet) [1] [2]				Max Height (stories / feet)	Maximum Gross Impervious Surface Coverage	Maximum Gross Building Coverage	Maximum Floor Area Ratio
	Front	Interior Side	Street Side [3]	Rear [4]				
All Structures and Buildings	30	5	30	5	Lesser of 2.5 stories or 30 feet	n/a	n/a	0.4
	[1]: Any principal structure or building other than a single-family residence shall be located at least 15 feet from any boundary line of an R-1 district. [4-240(1)] [2]: In the case of duplex or townhome development, required setbacks shall apply to unit lots. [3]: Any property already improved on August 21, 1981, by construction of a principal structure with a 20 foot side street yard setback shall be considered conforming in regard to side street yard setback. [4-240(3)] [4]: Rear yard setbacks for lakeshore lots shall be as outlined in Section 3.8(C)(10).							
Accessory Structures	▪ See Section 5.4(B) for all general standards and limitations on all accessory structures. ▪ See Section 5.4(E)(4)(a) for accessory structure limitations in residential districts. ▪ See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.							
Other Regulations to Consult (not all inclusive)	▪ Section 3.3, Common District Requirements ▪ Section 3.4(B), Standards Applicable to All Residential Base Zoning Districts ▪ Section 4.1, Landscaping and Screening Standards ▪ Section 4.3, Fences and Walls ▪ Section 4.7, Parking (and Driveway Standards) ▪ Section 5.4(E)(15), Home Occupations							

Section 3.4(F)

RM-2: Multi-Family Medium Density Residential District

(1) Purpose

The RM-2 District is intended to accommodate single-family homes, duplexes, townhomes, and condominiums at a limited height.

(2) Density	
Maximum dwelling units/acre	12

(3) Lot Dimensions	
(a) Lot Area, minimum (square feet)	
Any permitted use	12,500
(b) Lot Area, minimum (square feet)	
Efficiency Unit	2,500
One (1) Bedroom Unit	3,500
Two (2) Bedroom Unit	4,375
Three (3) Bedroom Unit	5,625
(c) Green Area minimum per dwelling unit	
(can overlap with min lot area)	300 sq. ft.
(d) Lot Width, minimum	
At all points	100 feet
(e) Lot Depth, minimum	
All lots	125

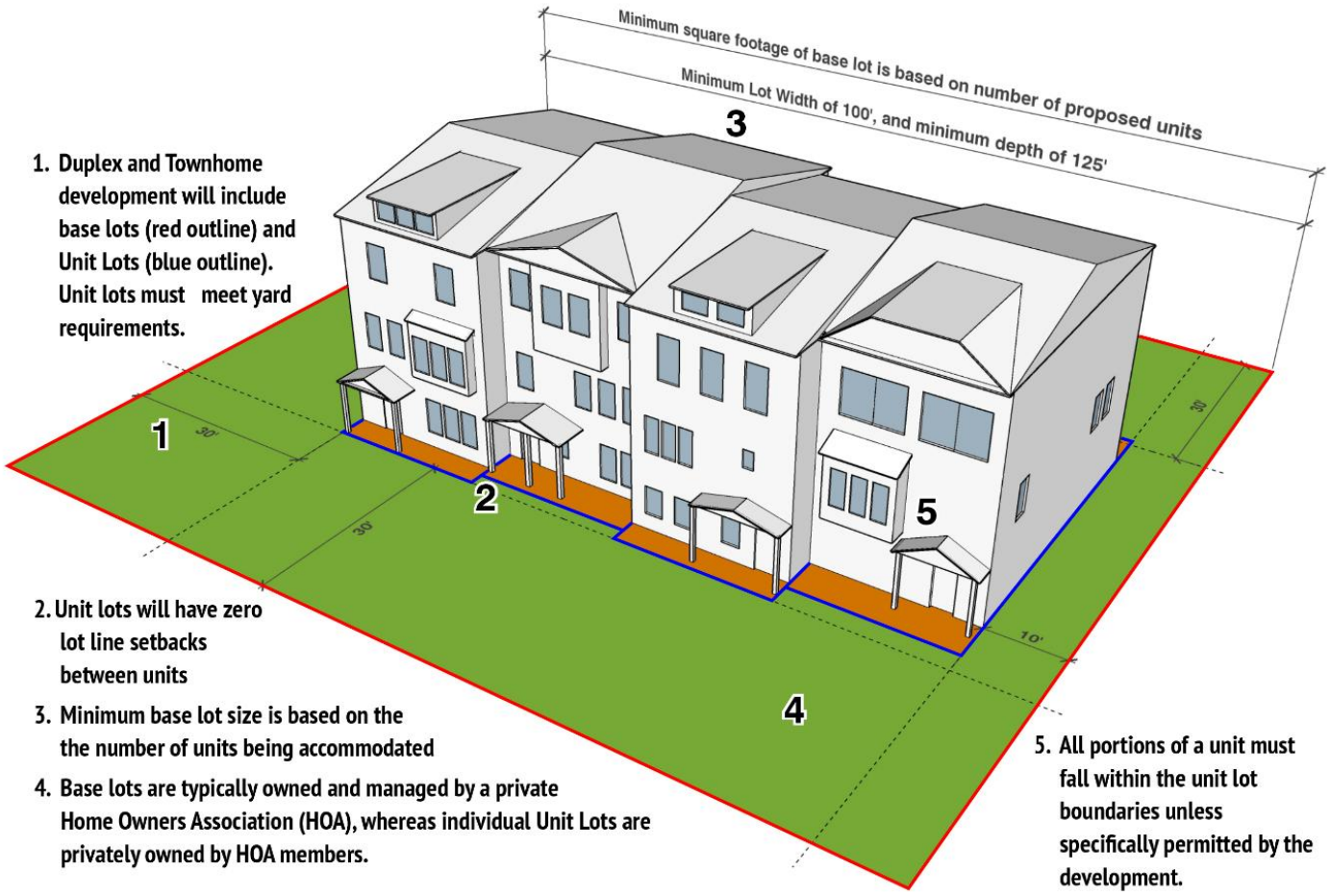


TABLE 3-8: RM-2 DEVELOPMENT STANDARDS

	REQUIRED YARDS (in feet) [1] [2]				Max Height (stories / feet)	Maximum Gross Impervious Surface Coverage	Maximum Gross Building Coverage	Maximum Floor Area Ratio
	Front	Interior Side	Street Side	Rear [3]				
All Structures and Buildings	30	10	30	30	Lesser of 3 stories or 30 feet [4-440(2)]	n/a	n/a	n/a

[1]: Any principal structure or building other than a single-family or two-family residence shall be located at least 30 feet from any boundary line of an R-1 district, and at least 20 feet from any boundary line of an R-2 district. In each of these cases, the first 15 feet of the required setback shall be landscaped. [4-440(1)]

[2]: In the case of duplex or townhome development, required setbacks shall apply to unit lots.

[3]: Rear yard setbacks for lakeshore lots shall be as outlined in Section 3.8(C)(10).

	Efficiency Unit	One Bedroom	Two Bedrooms	Three Bedrooms [4]
Minimum Gross Floor Area for Each Dwelling Unit	500 square feet	650 square feet	800 square feet	1000 square feet

[4]: Add an additional 200 square feet to the minimum for each bedroom over three. [4-440(7)]

Accessory Structures	▪ See Section 5.4(B) for all general standards and limitations on all accessory structures. ▪ See Section 5.4(E)(4)(a) for accessory structure limitations in residential districts. ▪ See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.
Other Regulations to Consult (not all inclusive)	▪ Section 3.3, Common District Requirements ▪ Section 3.4(B), Standards Applicable to All Residential Base Zoning Districts ▪ Section 4.1, Landscaping and Screening Standards ▪ Section 4.3, Fences and Walls ▪ Section 4.7, Parking (and Driveway Standards) ▪ Section 5.4(E)(15), Home Occupations

Typical RM-2 Lot



Section 3.4(G)

RM-3: Multi-Family High Density Residential District

(1) Purpose

The RM-3 District is intended to accommodate single-family homes, duplexes, townhomes, condominiums, and all types of multi-family buildings.

Typical RM-3 Lot



(2) Density	
Dwelling units/acre max	50

(3) Lot Dimensions [4-440(3). (4) (6). & (7)]	
(a) Lot Area, minimum (square feet)	
Any permitted use	12,500
(b) Lot Area minimum **per floor** (square feet)	
One Floor	3,000
Two Floors	2,800
Over Two Floors	2,500
(c) Lot Width, minimum	
At all points	100 feet
(d) Lot Depth, minimum	
All lots	125

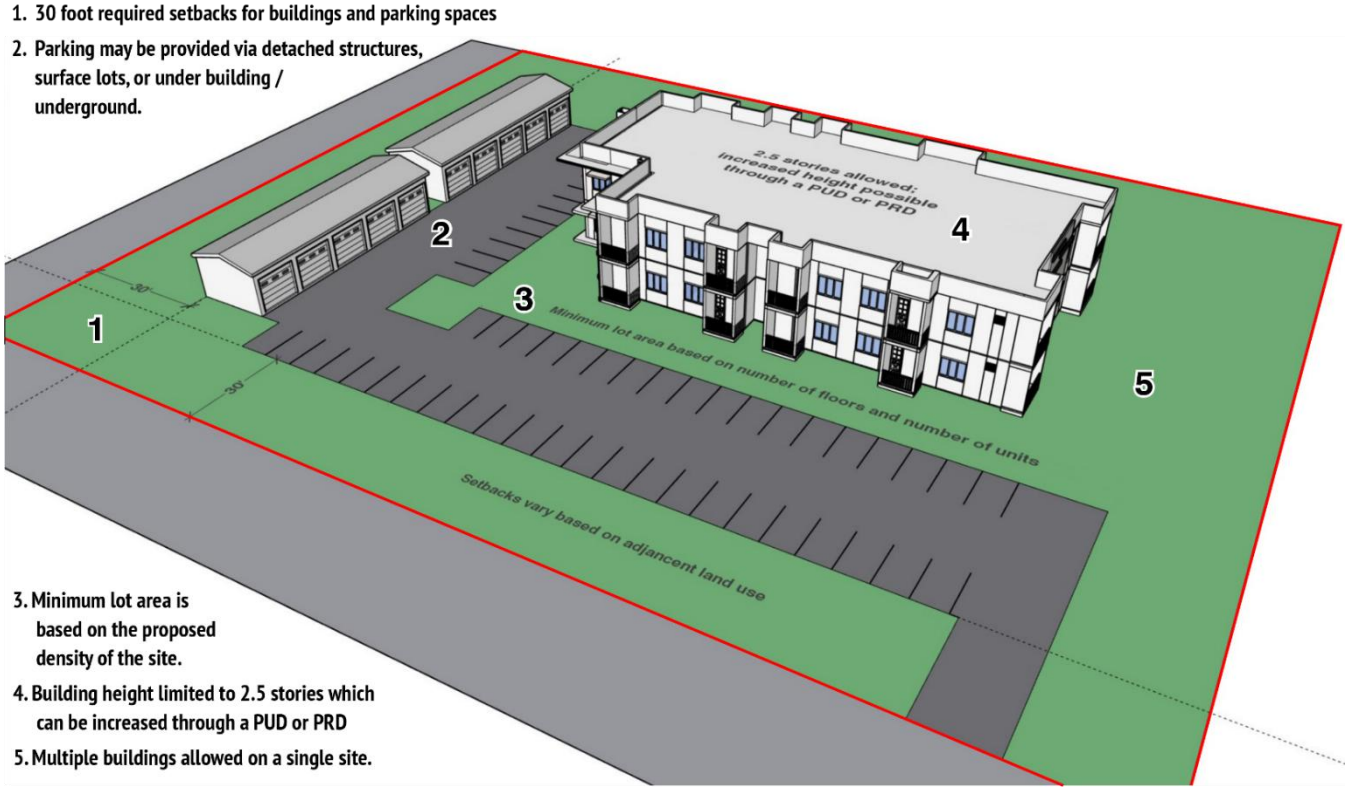


TABLE 3-9: RM-3 DEVELOPMENT STANDARDS

	REQUIRED YARDS (in feet) [1] [2]				Max Height (stories / feet)	Maximum Gross Impervious Surface Coverage	Maximum Gross Building Coverage	Maximum Floor Area Ratio
	Front	Interior Side	Street Side	Rear [3]				
All Structures and Buildings	30	5	30	30	Lesser of 3 stories or 30 feet *	n/a	n/a	0.5
	[1]: Any principal structure or building other than a single-family residence shall be located at least 50 feet from any boundary line of an R-1 district. [4-340(1)] [2]: In the case of duplex or townhome development, required setbacks shall apply to unit lots. [3]: Rear yard setbacks for lakeshore lots shall be as outlined in Section 3.8(C)(10).							
Accessory Structures	▪ See Section 5.4(B) for all general standards and limitations on all accessory structures. ▪ See Section 5.4(E)(4)(a) for accessory structure limitations in residential districts. ▪ See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.							
Other Regulations to Consult (not all inclusive)	▪ Section 3.3, Common District Requirements ▪ Section 3.4(B), Standards Applicable to All Residential Base Zoning Districts ▪ Section 4.1, Landscaping and Screening Standards ▪ Section 4.3, Fences and Walls ▪ Section 4.7, Parking (and Driveway Standards) ▪ Section 5.4(E)(15), Home Occupations							

** The existing standard of 2.5 stories is less than the RM-2 district that doesn't allow for multi-family buildings which makes no sense. We therefore elected to raise the height standard in the RM-3 district to 3 stories to match the existing multi-family district that allows townhomes.*

Section 3.4(H)

MHC: Manufactured Home Community District

(1) Purpose

The MHC District is intended to govern the placement of manufactured homes and the continuing development of Manufactured Home Parks established under Chapter 16 of the City Code.

(2) Density

Dwelling units/acre max	12

(3) Lot Dimensions

Establishment of a new Manufactured Home Community or expansion of an existing Manufactured Home Community is governed by Chapter 16 of the City Code. Setback requirements in Chapter 16 for initial development differ from the standards herein to ensure proper spacing for uses and accessory structures within the Manufactured Home Community.

Typical MHC Configuration



Typical MHC Buildout over time



TABLE 3-10: RM-1 DEVELOPMENT STANDARDS
(1) Regulations For Parks Established AFTER May 3, 2021
a) Required EXTERNAL Setbacks from the Base Lot Perimeter
i. 30 feet from all adjacent public rights-of-way ii. 30 feet from all adjacent residentially zoned property having a different zoning classification than the manufactured home park iii. 5 feet from all side and rear property lines abutting other MHC zoned property or property zoned for commercial or industrial uses
b) Required INTERNAL Setbacks between Structures within a Manufactured Home Park's Base Lot
Required setbacks within a manufactured home park's base lot recognize that manufactured homes and their accessory structures can and do move from time to time. The following standards shall therefore be followed to always provide for adequate separation between units as such movement occurs.
i. 10 feet from all internal public streets or alleys.
ii. 5 feet from all internal private streets or alleys.
iii. 10 feet between the closest points of manufactured home perimeters along the long sides of both homes.
iv. 3 feet between the closest points of manufactured home perimeters along the short sides of both homes.
(2) Regulations For Parks Established BEFORE May 3, 2021
a) Required EXTERNAL Setbacks from the Base Lot Perimeter (except as may be exempted)
i. 30 feet from all adjacent public rights-of-way. ii. 30 feet from all adjacent residentially zoned property having a different zoning classification than the manufactured home park. iii. 5 feet from all side and rear property lines abutting other MHC zoned property or property zoned for commercial or industrial uses.
b) Required INTERNAL Setbacks between Structures within a Manufactured Home Park's Base Lot
Required setbacks within a manufactured home park's base lot recognize that manufactured homes and their accessory structures can and do move from time to time. The following standards shall therefore be followed to always provide for adequate separation between units as such movement occurs.
i. 10 feet from all internal public streets or alleys.
ii. 5 feet from all internal private streets or alleys.
iii. 10 feet between the closest points of manufactured home perimeters along the long sides of both homes.
iv. 3 feet between the closest points of manufactured home perimeters along the short sides of both homes.
v. 0 foot setback from unit lot lines.

c) Manufactured Homes between 4th Street Northwest and True Street

The historic placement of manufactured homes between 4th Street NW and True Street is recognized to include a significant number of intrusions into both the right-of-way for 4th Street NW to the north, and a normally required 5 foot setback from True Street to the south. To achieve the best possible outcomes for manufactured homes in this area and to minimize the need for variances any time changes occur, the following standards shall be followed;

i. No more than 38 manufactured homes shall be placed between these two roadways.

ii. At a minimum, a 0-foot lot line setback shall be maintained from the 4th Street NW right-of-way whenever possible. Replacement units in this area shall be placed as close to True Street as reasonably possible and as may be needed to avoid encroachment into the right-of-way.

iii. Units which are legal nonconforming to setbacks and extend into the 4th Street NW right-of-way as of May 3, 2021, must be replaced by shorter units whenever possible to eliminate the ROW encroachment. When elimination of an encroachment is not possible, a replacement unit shall not expand the legal nonconforming encroachment, and the new unit shall be required to enter into a right-of-way encroachment agreement with the City.

iv. No accessory structures of any kind shall be located within the right-of-way for 4th Street NW

v. There shall always be a minimum of 10 feet between the closest points of two manufactured home perimeters in this area

(3) Separation of Structures – Conflicts in Regulations

It is recognized that the unit separation requirements in the MHC district may conflict with spacing requirements adopted by the Minnesota Department of Health for manufactured home parks as may be amended from time to time. In the event of a conflict between the two sets of standards, the more restrictive separation requirements shall apply.

(4) Other Manufactured Home Requirements

a) In General

i. All manufactured homes within the MHC district shall be built in conformance with the Manufactured Home Building Code as defined by Minnesota Statutes Section 327.31, subdivision 3.

ii. No manufactured home shall be moved into the City that does not meet the Manufactured Home Building Code.

b) Tiny Homes

iii. The unit complies with all requirements of the Minnesota State Building Code (Minnesota Statutes Section 326B.121 as it may be amended from time to time).

iv. The unit must meet minimum separation and setback requirements for manufactured homes as required by the MHC District regulations.

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3.5 Business Base Zoning Districts

(A) General Purpose

The business base zoning districts established in Section 3.5 are intended to:

(1) Provide appropriately located lands for the full range of business uses needed by the City's residents, businesses, and workers, consistent with the Comprehensive Plan;

(2) Strengthen the City's economic base, and provide employment opportunities close to home for residents of the City;

(3) Attract new investment in desired locations;

(4) Create suitable environments for various types of business uses, and protect them from the adverse effects of incompatible uses;

(5) Create suitable environments for various types of mixed use development, where business, office, retail, and residential uses are designed and integrated in compatible ways;

(6) Establish a sense of place along the City's commercial corridors, with attractive shop fronts and streetscapes; and

(7) Minimize the impact of business development on residential districts and uses.

(B) Standards Applicable to All Business Base Zoning Districts

(1) Condominiums

(a) Industrial structures may be divided for the purpose of condominium ownership.

(b) Each condominium shall conform to all applicable building code requirements.

(2) Performance Standards

(a) Performance standards common to both Business and Industrial Districts are listed in Section 3.3(E), and shall apply to all development in Business Base Zoning Districts. (6-390)

(b) All business, storage, service, repair or processing, or merchandising display shall be conducted wholly within an enclosed building or behind a solid fence not less than five feet high except for establishments of a drive-in type offering goods or services directly to customers and except for off-street parking and loading. [5-580(1)]

(c) Where a business structure or use directly abuts upon an RS-1, RS-2, or RM-1 Residential District, there shall be a buffer of type C or D installed in accordance with the provisions of Section 4.1(H). [5-580(2)]

(d) Where a business structure or use directly abuts upon an RM-2, RM-3 or MHC Residential District, there shall be a buffer of type B installed in accordance with the provisions of Section 4.1(H). [5-580(3)]

(e) When a business structure is across an alley or across the street from a residential district (see table 3-1), there shall be a buffer of type A or B installed in accordance with the provisions of Section 4.1(H). [5-580(2)]

~~Where a business structure or use abuts upon an R-1 or R-2 Residential District or is separated from such Residential District only by an alley or is across the street from such District, there shall be a protective strip of not less than 25 feet in width established as a buffer zone. This buffer zone shall be kept landscaped, contain no structures, and shall not be used as a parking lot, off-street loading, or storage. Except for buffer zones across the street from an R-1 or R-2 Residential District all other required buffer zones in accordance with this zoning code shall contain a compact evergreen hedge or fence but such hedge or fence shall not extend within fifteen feet of a street right-of-way. The planting or fence design must be approved by the City as being in harmony with a residential neighborhood and providing sufficient screening of the commercial area. The hedge or fence shall not be less than four and not more than six feet in height.~~

~~Where a business structure or use abuts any Residential Multi-Family District (RM designations), there shall be a buffer strip at least fifteen feet wide screened in accordance with Section 3.5(B)(3)(c) above.~~

Section 3.5(C)

BR: Residential Business District

(1) Purpose

The BR Residential Business District is intended to accommodate low impact, neighborhood-oriented businesses, potentially within residences, at a scale that blends into adjacent residential properties.

(2) Density	
Dwelling units/acre max	6

(3) Lot Dimensions for Existing Lots of Record

Lots of record existing prior to this code's effective date (Section 1.4) shall be treated as conforming lots.

(4) Lot Dimensions for New or Amended Lots of Record	
(a) Lot Area, minimum	
Any permitted use	10,000 square feet
(b) Lot Width, minimum	
At the front lot line	45 feet
At the front building setback line	75 feet
(c) Lot Depth, minimum	
All lots	n/a

Typical BR Lot Configuration



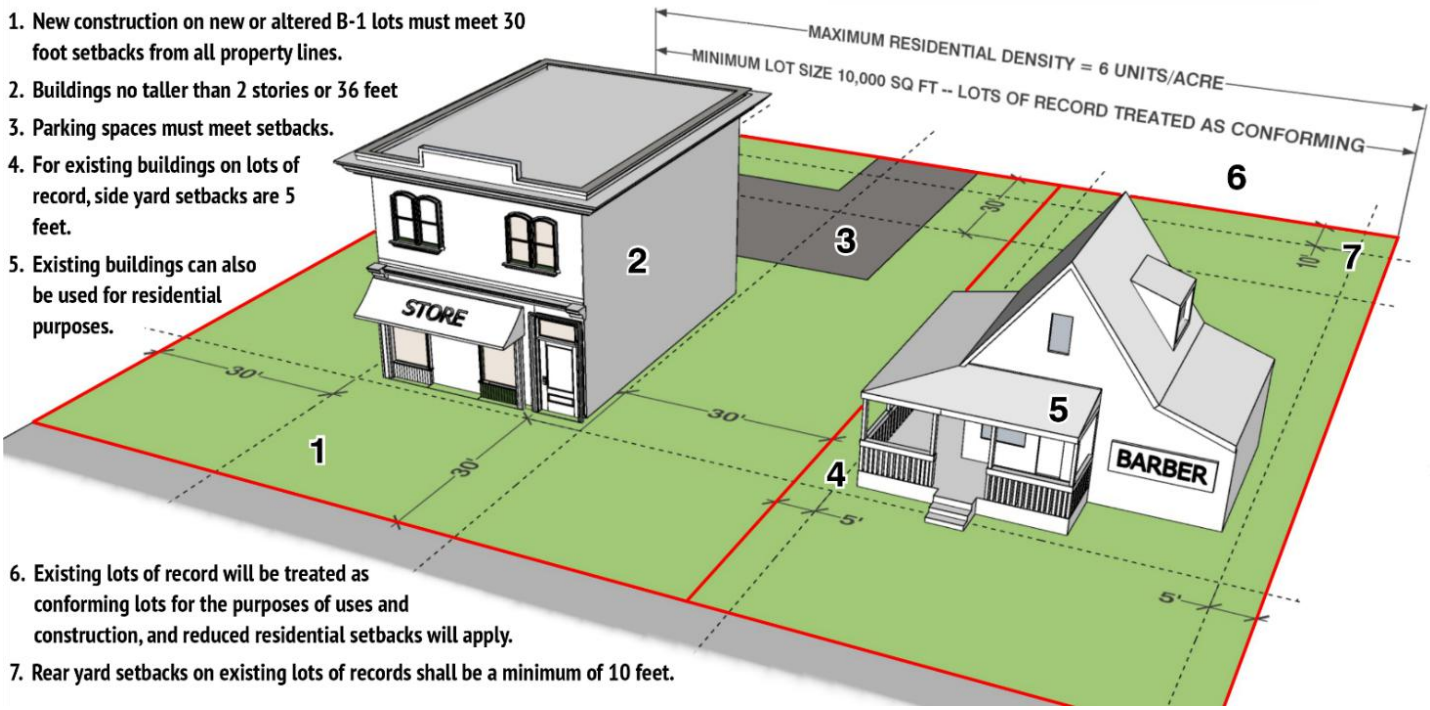


TABLE 3-11: BR DEVELOPMENT STANDARDS

	REQUIRED YARDS (in feet)				Max Height (stories / feet)	Maximum Gross Impervious Surface Coverage	Maximum Gross Building Coverage
	Front	Interior Side	Street Side	Rear [1]			
All Structures and Buildings on Lots Developed BEFORE the Effective Date of this Ordinance (Section 1.4)	30	5	30	10	Lesser of 2.0 stories or 36 feet	50%	30%
All Structures and Buildings on Lots Developed AFTER the Effective Date of this Ordinance (Section 1.4)	30	30	30	30	Lesser of 2.0 stories or 36 feet	50%	30%
	[1]: Rear yard setbacks for lakeshore lots shall be as outlined in Section 3.8(C)(10).						
Accessory Structures	▪ See Section 5.4(B) for all general standards and limitations on all accessory structures. ▪ See Section 5.4(E)(4)(a) for accessory structure limitations in residential districts. ▪ See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.						
Other Regulations to Consult (not all inclusive)	▪ Section 3.3, Common District Requirements ▪ Section 3.3(E), Common Business and Industrial District Performance Standards ▪ Section 3.4(B), Standards Applicable to All Residential Base Zoning Districts (includes the BR district) ▪ Section 4.1, Landscaping and Screening Standards ▪ Section 4.4, Exterior Lighting ▪ Section 4.5, Signs ▪ Section 4.7, Parking (and Driveway Standards) ▪ Section 5.4(E)(15), Home Occupations						

Section 3.5(D)

BN: Neighborhood Business District

(1) Purpose

The BN Neighborhood Business District is intended to accommodate low impact, neighborhood-oriented businesses offering retail and office space serving primarily local residents at a scale that blends into nearby residential properties.

Typical BN Lot Configuration



(2) Density

Dwelling units/acre max	0

(3) Lot Dimensions

Lot Area, Width, and Depth minimums
No minimum standards (structures and parking areas must meet all required setbacks)

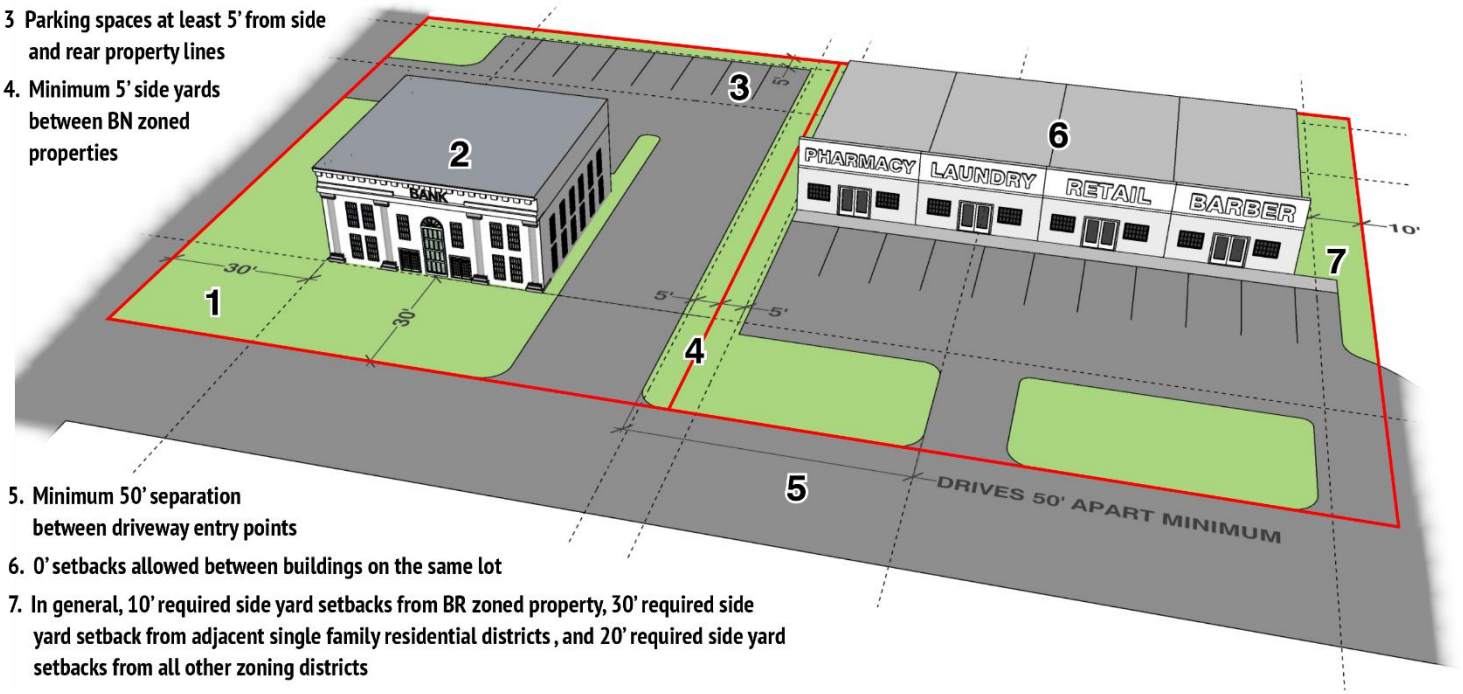


TABLE 3-12: BN DEVELOPMENT STANDARDS

	REQUIRED YARDS (in feet)				Max Height (stories / feet)	Maximum Gross Impervious Surface Coverage	Maximum Floor Area Ratio
	Front	Interior Side	Street Side	Rear [1]			
All Structures and Buildings	30	[2]	30	30 [3]	Lesser of 2.0 stories or 36 feet	N / A	0.75 [4]

[1]: Rear yard setbacks for lakeshore lots shall be as outlined in Section 3.8(C)(10).

[2]: No side yards shall be required except as follows: [5-150(3)]

~~A. There shall be a setback of not less than thirty feet from an adjacent butt lot being used for single family residential purposes.~~

A. There shall be a side yard of not less than 30 feet along that side of every lot in a BN District bordering upon property in an RS-1 or RM-1 District; and, there shall be a side yard of not less than 20 feet where a BN District borders upon property in an RM-2 or RM-3 District.

B. A side street yard on a corner lot shall not be less than 30 feet.

[3]: An existing building on a BN zoned lot of record with a rear yard setbacks of less than 30 feet shall be treated as conforming to code at the existing setback. (needed because of the rear yard setback difference between existing B-1 and B-2 zoned lots)

[4]: A lot of record with a floor area ratio in excess of 0.75 shall be treated as conforming to code, but no further building expansion shall be permissible. (needed because of the FAR difference between existing B-1 and B-2 zoned lots)

Accessory Structures	▪ See Section 5.4(B) for all general standards and limitations on all accessory structures. ▪ See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.
Other Regulations to Consult (not all inclusive)	▪ Section 3.3, Common District Requirements ▪ Section 3.3(E), Common Business and Industrial District Performance Standards ▪ Section 3.4(B), Standards Applicable to All Residential Base Zoning Districts (includes the BR district) ▪ Section 4.1, Landscaping and Screening Standards ▪ Section 4.4, Exterior Lighting ▪ Section 4.5, Signs ▪ Section 4.7, Parking (and Driveway Standards)

Section 3.5(E)

BG: General Business District

(1) Purpose

The BG General Business District, as distinguished from a Neighborhood Business District (BN), is intended to contains uses that include the sale of commodities or the performance of services for a larger segment of the population than the average neighborhood. (5-210)

(2) Density

Dwelling units/acre max	0

(3) Lot Dimensions

Lot Area, Width, and Depth minimums
No minimum standards (structures and parking areas must meet all required setbacks)

Typical BG Lot Configurations



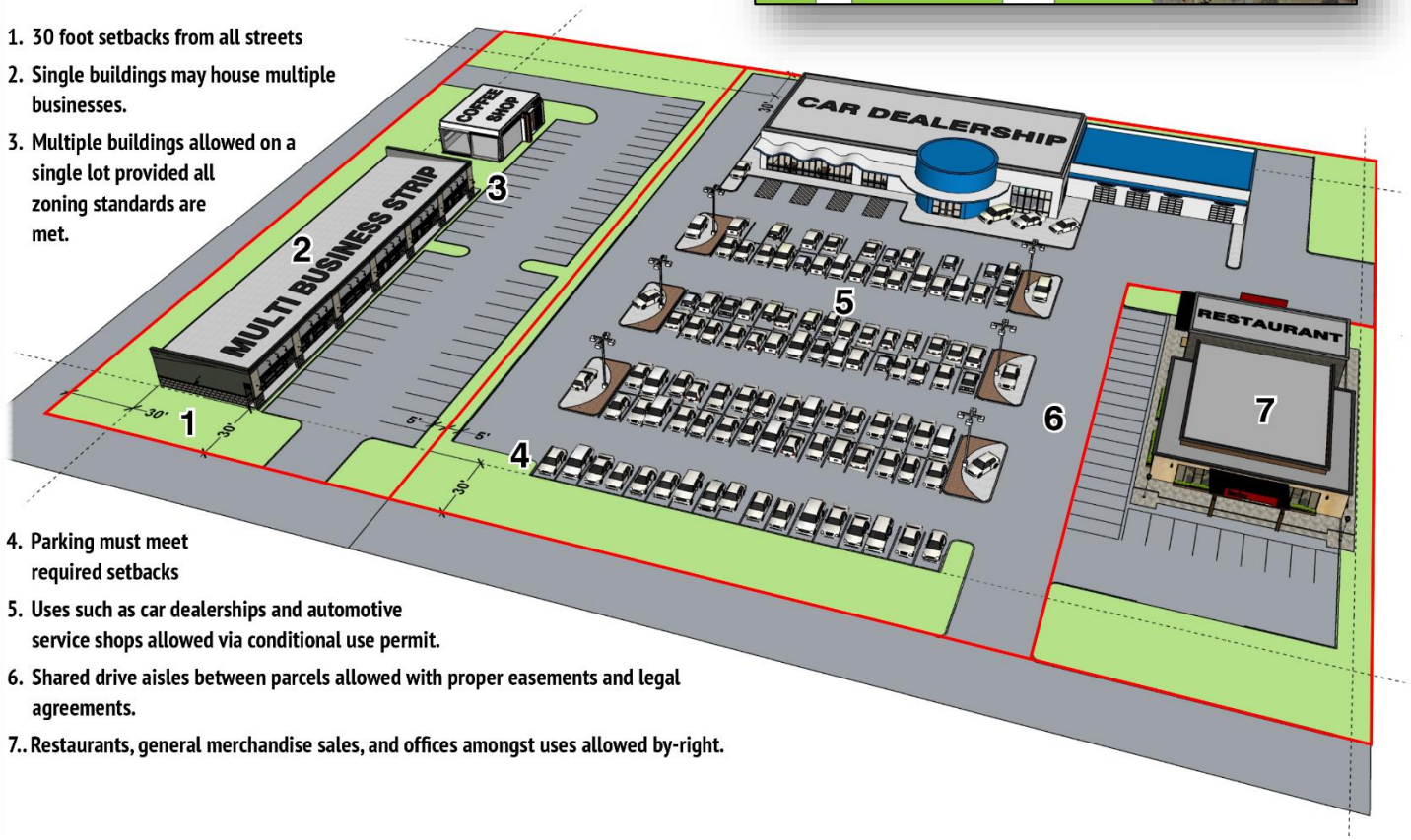


TABLE 3-13: BG DEVELOPMENT STANDARDS

	REQUIRED YARDS (in feet)				Max Height (stories / feet)	Maximum Gross Impervious Surface Coverage	Maximum Floor Area Ratio
	Front	Interior Side	Street Side	Rear [1]			
All Structures and Buildings	30	[2]	30	30	Lesser of 2.0 stories or 36 feet	N / A	1.0
	[1]: Rear yard setbacks for lakeshore lots shall be as outlined in Section 3.8(C)(10). [2]: No side yards shall be required except as follows: [5-250(2)] ~~A. There shall be a side yard of not less than thirty feet on a corner lot adjacent to a key lot in a residential district.~~ A. There shall be a side yard of not less than 30 feet along that side of every lot in a BG District bordering upon property in an RS-1 or RM-1 District; and, there shall be a side yard of not less than 20 feet where a BG District borders upon property in an RM-2 or RM-3 District. B. A side street yard on a corner lot shall not be less than 30 feet.						
Accessory Structures	▪ See Section 5.4(B) for all general standards and limitations on all accessory structures. ▪ See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.						
Other Regulations to Consult (not all inclusive)	▪ Section 3.3, Common District Requirements ▪ Section 3.3(E), Common Business and Industrial District Performance Standards ▪ Section 3.4(B), Standards Applicable to All Residential Base Zoning Districts (includes the BR district) ▪ Section 4.1, Landscaping and Screening Standards ▪ Section 4.4, Exterior Lighting ▪ Section 4.5, Signs ▪ Section 4.7, Parking (and Driveway Standards)						

3.6 Industrial Base Zoning Districts

(A) General Purpose

The industrial base zoning districts established in Section 3.6 are intended to provide locations for the retention, expansion, and creation of businesses that provide jobs for New Brighton residents, and expansion and diversification of the property tax base. More specifically, these districts are intended to:

(1) Provide locations for industrial development in the areas of manufacturing, processing, warehousing, distribution and related businesses consistent with the comprehensive plan;

(2) Allow non-industrial support businesses in industrial areas;

(3) Strengthen the City's economic base and provide employment opportunities;

(4) Attract new investment in desired locations;

(5) Create suitable environments for industrial uses, and protect them from the adverse effects of incompatible uses; and

(6) Minimize the impact of industrial development on residential districts and uses.

(B) Standards Applicable to All Industrial Base Zoning Districts

(1) Condominiums

(a) Industrial structures may be divided for the purpose of condominium ownership, but not for residential purposes unless specifically allowed by this ordinance.

(b) Each condominium shall conform to all applicable building code requirements as adopted in Chapter 7 of the New Brighton City Code.

(2) Performance Standards

Performance standards common to both Business and Industrial Districts are listed in Section 3.3(E), and shall apply to all development in Industrial Base Zoning Districts. (6-390)

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Section 3.6(C)

IR: Restricted Industrial District

(1) Purpose

The IR Restricted Industrial District is intended to allow for industrial users that are sensitive to surrounding land uses. This District is typically found in transitional areas between more intense Industrial Districts and Residential or Recreational areas. (6-220)

(2) Density	
Dwelling units/acre max	0 (residential uses prohibited)

(3) Lot Dimensions
Lot Area, Width, and Depth minimums
No minimum standards (lot minimums will be driven by required setbacks for buildings and parking, and allowed Floor Area Ratio standards)

Typical IR Lot Configuration



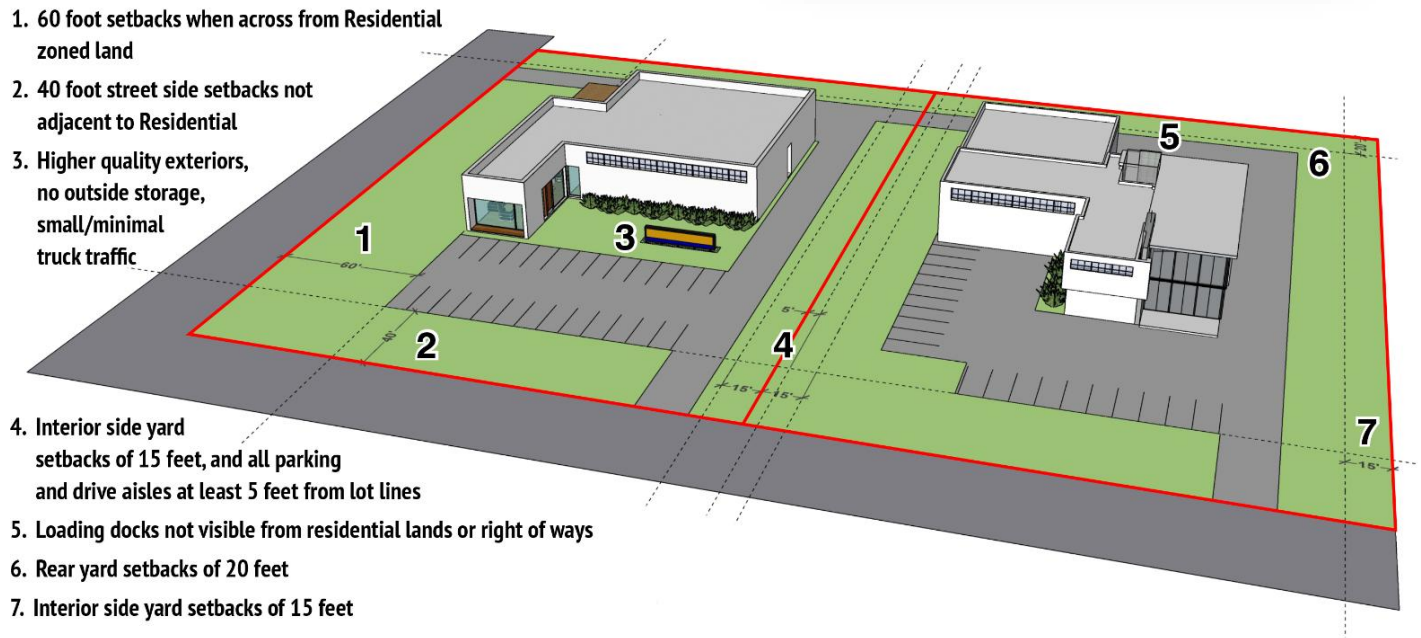


TABLE 3-14: IR DEVELOPMENT STANDARDS

[6-240]	*REQUIRED YARDS (in feet)*				Max Height	Maximum Gross Impervious Surface Coverage	Maximum Floor Area Ratio
	Front [1]	Interior Side [2]	Street Side [1]	Rear [3] [4]			
All Structures and Buildings on Lots of Record	40	15	40	20 [3]	40 feet	N / A	0.4 for one story buildings 0.6 for two story buildings
	[1]: The setback from a property line abutting a street in an IR District shall be 60 feet whenever the IR District is directly across the street from a Residential Zoning District. [6-060(1)] [2]: A side yard in an IR District adjacent to a residential boundary line shall provide for a landscaped strip at least 60 feet in width along the boundary line. A portion of this landscaped strip shall be planted with a Type C or Type D buffer in accordance with Table 4-1. [6-060(3)] [3]: The required rear yard setback area may be used for parking meeting requirements of Section 4.7. The provisions of footnote 2 above shall apply if a rear yard abuts or is separated by right-of-way from a Residential District. [6-060(4)] [4]: Rear yard setbacks for lakeshore lots shall be as outlined in Section 3.8(C)(10).						
Accessory Structures	▪ See Section 5.4(B) for all general standards and limitations on all accessory structures. ▪ See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.						
Special **USE** restrictions in the IR District	All uses in the Restricted Industrial District are subject to the following standards: A. Development and/or uses shall have no adverse effect on adjacent land due to unsightliness, noise, odor, dust, smoke, glare, air pollution, excessive or heavy vehicular traffic, bulk chemical storage, or fire or safety hazards. [6-230(2)(a)] B. There shall be only one outside storage area of materials, products, etc., and commercial semitrucks not to exceed twenty percent of the gross floor area of the building on the site. The storage area shall be screened with a Type D buffer. This storage area shall be located only in the rear yard. [6-230(2)(b)] C. There shall be no external bulk chemical storage for either use or sale except as necessary for auxiliary heating. [6-230(2)(c)] D. There shall be no more than six trips per day of commercial trucks with six or more wheels per vehicle per 10,000 square feet of building gross floor area. [6-230(2)(d)] E. There shall be no excessive vehicular traffic between 8:00 p.m. and 6:00 a.m. as from shift changes. […(e)] F. The buildings and grounds shall be of an appearance that is in harmony with surrounding land uses. […(f)]						
Other Regulations to Consult (not all inclusive)	▪ Section 3.3, Common District Requirements ▪ Section 3.3(E), Common Business and Industrial District Performance Standards ▪ Section 3.4(B), Standards Applicable to All Residential Base Zoning Districts (includes the BR district) ▪ Section 4.1, Landscaping and Screening Standards ▪ Section 4.4, Exterior Lighting ▪ Section 4.5, Signs ▪ Section 4.7, Parking (and Driveway Standards)						

Section 3.6(D)

IL: Light Industrial District

(1) Purpose

The IL Light Industrial District is a general industrial district established to provide and encourage industrial uses that are aesthetically pleasing in appearance, have all processing within buildings, are complementary to surrounding land uses, and have a reasonable amount of truck traffic. (6-020)

(2) Density	
Dwelling units/acre max	0 (residential uses prohibited)

(3) Lot Dimensions
Lot Area, Width, and Depth minimums
No minimum standards (lot minimums will be driven by required setbacks for buildings and parking, and allowed Floor Area Ratio standards)

Typical IL Lot Configuration



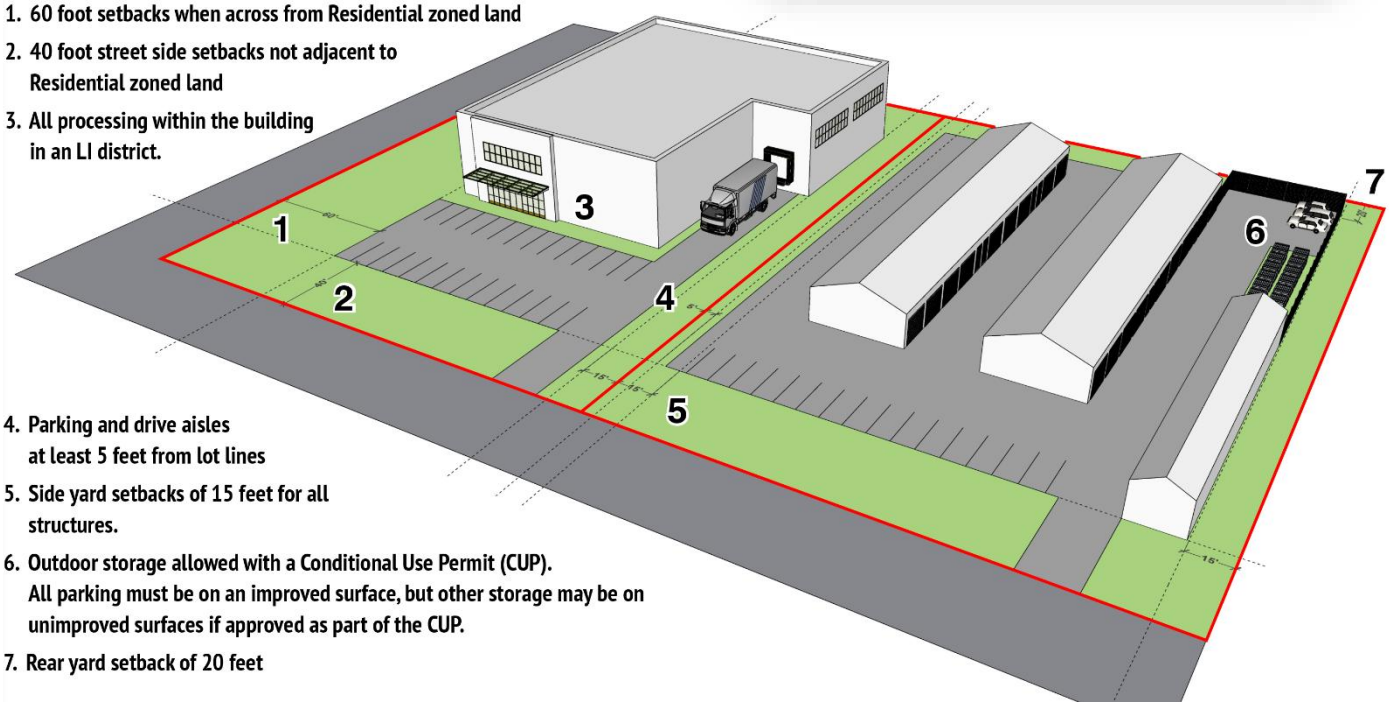


TABLE 3-15: IL DEVELOPMENT STANDARDS

[6-060]	*REQUIRED YARDS (in feet)*				Max Height	Maximum Gross Impervious Surface Coverage	Maximum Floor Area Ratio
	Front [1]	Interior Side [2]	Street Side [1]	Rear [3] [4]			
All Structures and Buildings on Lots of Record	40	15	40	20	40 feet	N / A	0.4 for one story buildings 0.6 for two story buildings
	[1]: The setback from a property line abutting a street in an IL District shall be 60 feet whenever the IL District is directly across the street from a Residential Zoning District. [6-060(1)] [2]: A side yard in an IL District adjacent to a residential boundary line shall provide for a landscaped strip at least 60 feet in width along the boundary line. A portion of this landscaped strip shall be planted with a Type C or Type D buffer in accordance with Table 4-1. [6-060(3)] [3]: The required rear yard setback area may be used for parking meeting requirements of Section 4.7. The provisions of footnote 2 above shall apply if a rear yard abuts or is separated by right-of-way from a Residential District. [6-060(4)] [4]: Rear yard setbacks for lakeshore lots shall be as outlined in Section 3.8(C)(10).						
Accessory Structures	▪ See Section 5.4(B) for all general standards and limitations on all accessory structures. ▪ See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.						
Other Regulations to Consult (not all inclusive)	▪ Section 3.3, Common District Requirements ▪ Section 3.3(E), Common Business and Industrial District Performance Standards ▪ Section 3.4(B), Standards Applicable to All Residential Base Zoning Districts (includes the BR district) ▪ Section 4.1, Landscaping and Screening Standards ▪ Section 4.4, Exterior Lighting ▪ Section 4.5, Signs ▪ Section 4.7, Parking (and Driveway Standards)						

Section 3.6(E)

IH: Heavy Industrial District

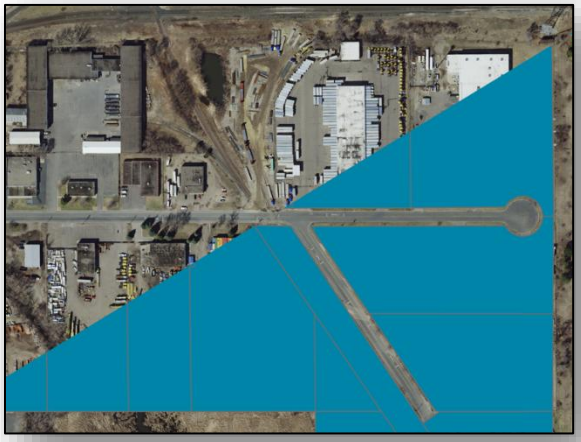
(1) Purpose

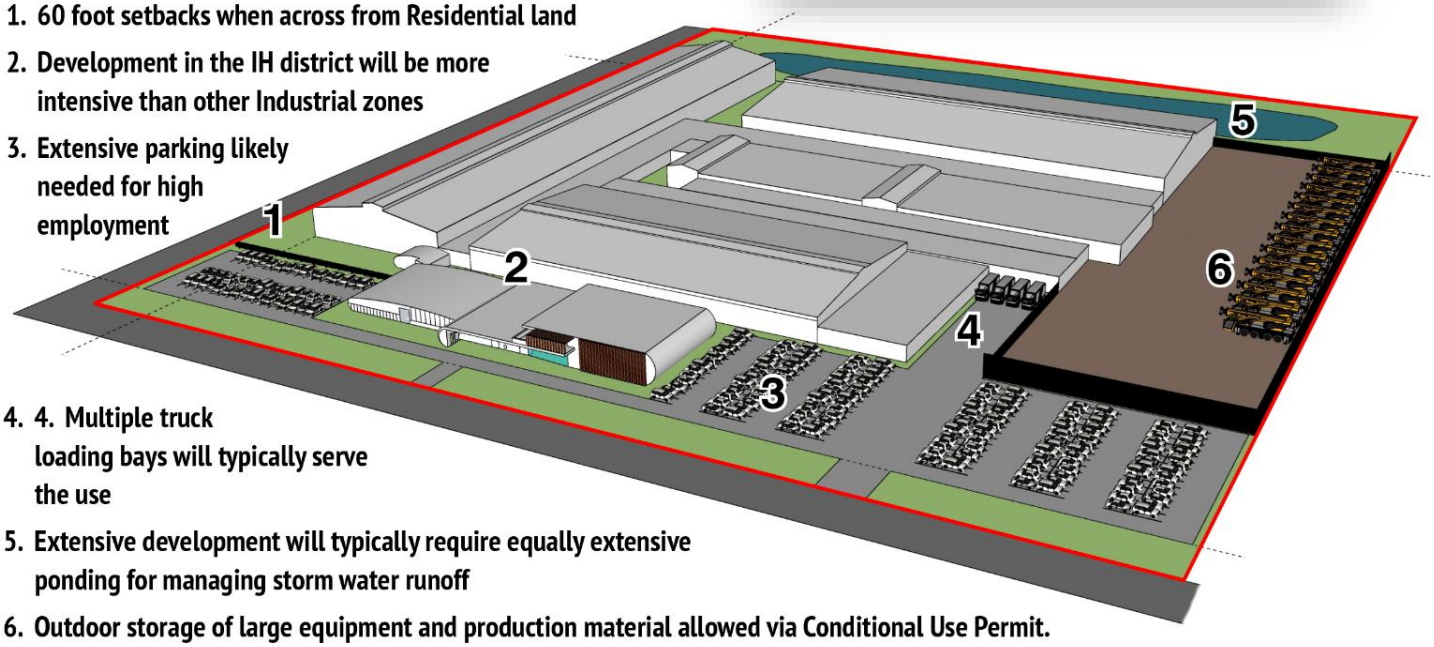
The IH Heavy Industrial District is intended to establish a District for industries that: manufacture and/or process products from large bulky materials; have a need for outside storage of large equipment, material and some outside processing or assembly; or transport large products. (6-120)

(2) Density	
Dwelling units/acre max	0 (residential uses prohibited)

(3) Lot Dimensions
Lot Area, Width, and Depth minimums
No minimum standards (lot minimums will be driven by require setbacks for buildings and parking, and allowed Floor Area Ratio standards)

Typical IH Lot Configuration





1. 60 foot setbacks when across from Residential land
2. Development in the IH district will be more intensive than other Industrial zones
3. Extensive parking likely needed for high employment
4. 4. Multiple truck loading bays will typically serve the use
5. Extensive development will typically require equally extensive ponding for managing storm water runoff
6. Outdoor storage of large equipment and production material allowed via Conditional Use Permit.

TABLE 3-16: IH DEVELOPMENT STANDARDS

[6-150]	*REQUIRED YARDS (in feet)*				Max Height	Maximum Gross Impervious Surface Coverage	Maximum Floor Area Ratio
	Front [1]	Interior Side [2]	Street Side [1]	Rear [3] [4]			
All Structures and Buildings on Lots of Record	40	15	40	20	40 feet	N / A	0.4 for one story buildings 0.6 for two story buildings
	[1]: The setback from a property line abutting a street in an IH District shall be 60 feet whenever the IH District is directly across the street from a Residential Zoning District. [6-060(1)] [2]: A side yard in an IH District adjacent to a residential boundary line shall provide for a landscaped strip at least 60 feet in width along the boundary line. A portion of this landscaped strip shall be planted with a Type C or Type D buffer in accordance with Table 4-1. [6-060(3)] [3]: The required rear yard setback area may be used for parking meeting requirements of Section 4.7. The provisions of footnote 2 above shall apply if a rear yard abuts or is separated by right-of-way from a Residential District. [6-060(4)] [4]: Rear yard setbacks for lakeshore lots shall be as outlined in Section 3.8(C)(10).						
Accessory Structures	▪ See Section 5.4(B) for all general standards and limitations on all accessory structures. ▪ See Section 5.4(E)(5) for regulations on "tall" buildings in the IH district. ▪ See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.						
Other Regulations to Consult (not all inclusive)	▪ Section 3.3, Common District Requirements ▪ Section 3.3(E), Common Business and Industrial District Performance Standards ▪ Section 3.4(B), Standards Applicable to All Residential Base Zoning Districts (includes the BR district) ▪ Section 4.1, Landscaping and Screening Standards ▪ Section 4.4, Exterior Lighting ▪ Section 4.5, Signs ▪ Section 4.7, Parking (and Driveway Standards)						

3.7 Mixed Use Zoning Districts

(A) Purpose [6-500]

The purpose of the City's Mixed Use zoning classifications is to provide areas with a flexible approach to land uses that enhance the character and usability of land within specific areas along the City's primary commercial corridors. Development in these areas is intended to:

(1) Create a balanced mix of land uses;

(2) Support a sustainable and resilient local economy;

(3) Provide places to live, work, shop, and play;

(4) Improve the public realm though high quality architectural design and materials;

(5) Promote facilities to accommodate pedestrians, bicyclists, and transit users in addition to the automobile;

(6) Encourage public and quasi-public open spaces within the corridor by allowing and encouraging taller buildings for high-density uses;

(7) Encourage active lifestyles; and

(8) Maintain the character and integrity of adjacent residential neighborhoods.

(B) Districts Established [6-505]

(1) **Downtown District (DT):** This district was created to encompass a unique area in the City that was developed in a manner that is now inconsistent with present zoning code requirements. Further, the nature of development in the downtown commercial area and certain zoning code requirements inhibit new development, redevelopment, or expansion of existing businesses. In order to facilitate such activity in the downtown commercial area, to recognize the unique character and circumstances of such an area, and to create a harmonious pattern and attractive development benefitting the downtown commercial area in particular and the City as a whole, the DT District is established. [5-320]

(2) New Brighton Exchange District (NBE): This district provides for an intensely developed mixed use center that can be a vibrant and active place where people can live, work, shop, play and be entertained. The mixture of allowed land uses and design specifications in this area are specifically designed with flexibility to answer to market demands as they may change over time.

(3) Mixed Use Neighborhood District (MUN): These areas are located along minor arterial roadways in locations with high redevelopment potential. Each node of MUN is well situated for higher-intensity development of retail, entertainment, service, and residential uses.

(4) Mixed Use Regional District (MUR): These areas are located at the intersections of principal arterials and minor arterial roadways. Given their easy accessibility to the greater metropolitan area via the interstate highway system, these nodes are ideal to accommodate the City's highest intensity development accommodating civic, residential, retail, entertainment, and service opportunities.

(5) Mixed Use Exchange District (MUE): This area encompasses the original mixed use zoning lands adopted by the City. This classification is only assigned to mixed use areas existing prior to March 7, 2023.

Section 3.7(C)

DT: Downtown District

(1) Purpose

The City recognizes the DT Downtown District is a unique area within the City as it has developed in a manner that is inconsistent with present zoning code requirements, and such inconsistencies tend to inhibit new development, redevelopment, and the expansion of existing businesses. DT Downtown District standards are intended to facilitate investment while simultaneously creating a harmonious pattern of attractive development within this area of change. (5-320)

Typical DT Lot Configurations







(2) Residential Density

Maximum Dwelling units/acre	12

(3) Commercial Lot Dimensions

Lot Area, Width, and Depth minimums
No minimum standards (structures and parking areas must meet all required setbacks)

(4) Residential Lot Dimensions

(a) Lot Area, minimum (square feet)	
Any permitted use	12,500
(b) Lot Area minimum **per dwelling unit** (square feet)	
Efficiency Unit	2,500
One (1) Bedroom Unit	3,500
Two (2) Bedroom Unit	4,375
Three (3) Bedroom Unit	5,625
(c) Green Area minimum per dwelling unit	
(can overlap with minimum lot area)	300 sq. ft.
(d) Lot Width, minimum	
At all points	100 feet
(e) Lot Depth, minimum	
All lots	125



TABLE 3-17: DT GUIDING DEVELOPMENT STANDARDS

COMMERCIAL AND INDUSTRIAL USES: Commercial and Industrial uses within the DT District shall comply with the following standards unless amended through an approved Planned Unit Development or Planned Residential Development.

	REQUIRED YARDS (in feet)				Max Height (stories / feet)	Maximum Gross Impervious Surface Coverage	Maximum Floor Area Ratio
	Front	Interior Side	Street Side	Rear			
All Structures and Buildings	30	[1]	30	30	Lesser of 2.0 stories or 36 feet	N / A	1.0
	[1]: No side yards shall be required except as follows: [5-150(3)] ~~A. There shall be a side yard of not less than thirty feet on a corner lot adjacent to a key lot in a residential district.~~ A. There shall be a side yard of not less than 30 feet along that side of every lot in a BN District bordering upon property in an RS-1 or RM-1 District; and, there shall be a side yard of not less than twenty feet where a BN District borders upon property in an RM-1 or RM-2 District. B. A side street yard on a corner lot shall not be less than 30 feet.						
Accessory Structures	▪ See Section 5.4(B) for all general standards and limitations on all accessory structures. ▪ See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.						

RESIDENTIAL USES: Residential uses within the DT District shall comply with the following standards unless amended through an approved Planned Unit Development or Planned Residential Development.

	REQUIRED YARDS (in feet) [2] [3]				Max Height (stories / feet)	Maximum Gross Impervious Surface Coverage	Maximum Gross Building Coverage	Maximum Floor Area Ratio
	Front	Interior Side	Street Side	Rear				
All Structures and Buildings	30	10	30	30	Lesser of 3 stories or 30 feet [4-440(2)]	n/a	n/a	n/a
	[2]: Any principal structure or building other than a single-family or two-family residence shall be located at least thirty feet from any boundary line of an RS-1 district, and at least 20 feet from any boundary line of an RM-1 district. In each of these cases, the first fifteen feet of the required setback shall be landscaped. [4-440(1)] [3]: In the case of duplex or townhome development, required setbacks shall apply to unit lots.							

	Efficiency Unit	One Bedroom	Two Bedrooms	Three Bedrooms [4]
Minimum Gross Floor Area for Each Dwelling Unit	500 square feet	650 square feet	800 square feet	1000 square feet
	[4]: Add an additional 200 square feet to the minimum for each bedroom over three. [4-440(7)]			
Residential Accessory Structures	▪ See Section 5.4(B) for all general standards and limitations on all accessory structures. ▪ See Section 5.4(E)(4)(a) for accessory structure limitations in residential districts. ▪ See Table 5-2 and Section 5.4(E) for specific requirements on various accessory structures.			
Other Regulations to Consult for Residential Uses (not all inclusive)	▪ Section 3.3, Common District Requirements ▪ Section 3.4(B), Standards Applicable to All Residential Base Zoning Districts ▪ Section 4.1, Landscaping and Screening Standards ▪ Section 4.3, Fences and Walls ▪ Section 4.7, Parking (and Driveway Standards) ▪ Section 5.4(E)(15), Home occupations			

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Section 3.7(D)

NBE: New Brighton Exchange District

The New Brighton Exchange (NBE) district provides the greatest degree of by-right flexibility within the City to support establishment of a vibrant business and residential node within the community.

(1) Site Standard Guidelines [6-710]

Lot Area, Lot Width, and Yard Requirements.

(a) Minimum lot width: 100 feet

(b) Minimum lot area: 20,000 square feet

(c) Setbacks – Principal Structure:

- **(i)** Front: 10 feet minimum, 40' maximum unless a greater front setback is authorized by Conditional Use Permit
- **(ii)** Side: Zero feet
- **(iii)** Corner Side: same as Front
- **(iv)** Rear: 15 feet minimum

(d) Setbacks – Accessory Structures

- **(i)** Front: At least five feet greater than Principal Structure setback
- **(ii)** Side: Zero feet
- **(iii)** Corner Side: same as Front
- **(iv)** Rear: Five feet minimum

(e) Setback – Parking

- **(i)** Front: 10 feet
- **(ii)** Side: Zero feet
- **(iii)** Corner Side: same as Front
- **(iv)** Rear: Five feet minimum

(f) Stormwater Treatment Requirements.

In order to ensure ecologically sound stormwater treatment throughout New Brighton Exchange, all development shall conform to a plan that meets the following requirements to the greatest extent possible, based on the recommendation of the City Engineer.

(i) The plan must strive to include stormwater management systems for all new development that incorporate conservation development or ecological stormwater management techniques. These techniques include the methods listed below:

1. Detention ponds
2. Infiltration systems including trenches, basins, pervious paving systems, and roof downspout systems.
3. Biofiltration systems including vegetated swales, vegetated filter strips, media filters, and catch basin filter inserts.
4. Multifunctional systems including enhanced swales and ponds and bioretention.
5. Rooftop collection and filtration systems.

(ii) The plan will minimize total impervious area of a development by one or a combination of the following:

1. Locating parking areas beneath buildings;
2. Minimizing building footprints by adding stories; or
3. Using pervious paving materials rather than traditional asphalt and concrete for parking lots, roads, sidewalks, and driveways.

(iii) The plan will limit the connectedness of impervious surfaces and direct runoff into vegetated landscaped areas. This may include sloping driveways, sidewalks, and streets to drain runoff to lawns or vegetated swales.

(iv) The plan will include a variety of trees and native plant materials such as Cattails, Blue Flag Iris, Sedge Grass, and Common Reed to capture rainfall through absorption or evaporation and provide roots for infiltration purposes.

(g) Screening of Parking Areas.

Wherever a parking lot faces street frontage, such frontage shall be screened by a combination of hedges, ornamental railings, walls, bollards, trees, and other methods to screen parking lots from pedestrian spaces while maintaining eye-level visibility. Such screening shall be maintained at a height of between 2-1/2 feet and 3-1/2 feet. Such screening shall be accommodated within the required parking setback area. Overstory trees are allowed within this screening area, as long as the canopy of the tree is at least seven feet above the ground to allow open visibility between the parking area and street frontage, under the tree canopy. If plantings are included in this screening area, the area must be a minimum of six feet in width to allow adequate room for plantings and snow storage.

(h) Parking structures.

(i) Parking structures shall maintain setbacks required for buildings as described in Section 3.7(D).

(ii) Openings in a parking lot structure that face a street or public open space, must be screened with slats, grating, screens, glass, or other architectural treatment to buffer substantially the visual impact of vehicles parked in the structure.

(i) Single Family Detached Site Standards.

For single family detached dwelling development, lot area, lot width, and yard requirements shall be established as part of the Planned Residential Development process specified in Section 2.4(N).

(2) Building Types. [6-720]

Within the New Brighton Exchange District, certain building types are established and required. No building shall be constructed and occupied except with the land uses and characteristics described herein, on a block or portion of a block, designated for that Building Type on Figure 3-3.

(a) Building Type 2-Story Headquarters (2H).

(i) Building Type 2H shall include corporate headquarters/office uses.

(ii) Building Type 2H may have a flat or pitched roof.

(iii) At least 15 percent of the site area for a Type 2H building must be occupied by buildings at least two stories in height, with no maximum height requirement.

(iv) Commercial uses may occupy 10,000 square feet of floor area within a Type 2H building.

(b) Building Type 3-Story Headquarters (3H).

(i) Building Type 3H shall include corporate headquarters/office uses.

(ii) Building Type 3H may have a flat or pitched roof.

(iii) At least 15 percent of the site area for a Type 3H building must be occupied by buildings at least three stories in height, with no maximum height requirement.

(iv) Commercial uses may occupy 10,000 square feet of floor area within a Type 3H building.

(c) Building Type 2+ Story Multi-family (2MF). Type 2MF buildings shall include residential units on first and upper floors. Type 2MF buildings may have a flat or pitched roof and shall be 2 to 5 stories in height.

(d) Building Type 3+ Story Multi-family (3MF). Type 3MF buildings shall include residential units on first and upper floors. Type 3MF buildings shall place parking below ground. Type 3MF buildings may have a flat or pitched roof and shall be 3 to 5 stories in height.

(e) Building Type Single family (1SF) detached dwellings. Type 1SF buildings shall not exceed 2 ½ stories or 30' in height, whichever is greater, and shall be regulated as part of a Planned Residential Development per Section 2.4(N).

(f) Building Type P, Public parks/buildings. Type P buildings are permitted on publicly owned land with the NBE District, or in any other area within the NBE District with a conditional use permit.

(3) Parking Requirements. [6-740]

(a) Off-street parking shall be provided at a ratio of four spaces per 1000 square feet of floor area of retail, commercial, and office development. For the purposes of Section 3.7(D), net floor area shall mean floor area minus hallways, bathrooms, lobby, lunch/break rooms, and the like.

(b) Parking for residential units in the NBE District shall be provided on site, and shall be calculated as follows:

(i) Townhouses: two spaces per unit plus one visitor space per four units, so that there are at least two visitor spaces within 200 feet of every unit.

(ii) Other multi-story multi-family: 1.5 spaces per unit, plus one visitor space per four units.

(iii) Multi-family devoted exclusively to seniors aged 55 years and older: 1.1 spaces per unit, plus one visitor space per four units, located so that the majority of visitor spaces are within 100 feet of the entrance to the building.

(iv) One family detached dwelling units: two enclosed per unit.

(c) Residential parking spaces shall be specifically reserved for the use of residents and visitors only, separate from any commercial, office, or other uses on site or nearby, and shall not be counted as part of any shared parking or joint parking arrangement.

(d) Parking for restaurants shall be calculated as required in Section 4.7 of this code.

(e) If present, on-street parking directly in front of a given building or lot shall count toward fulfilling the total parking requirement.

(4) General Provisions. [6-750]

(a) Building Design

(i) All buildings in the NBE District shall be designed to accomplish the goals and policies of the Comprehensive Plan.

(ii) Façade treatments.

1. Buildings in the NBE District shall address the street with windows, prominent entrances, and unique corner treatments.
2. Buildings in the NBE District shall have a well-defined base, middle, and top.
3. The primary façade(s) of buildings of 40 feet or more in width shall be divided architecturally by means all or a combination of the following:
    a. Significantly different materials or textures, or
    b. Division into storefronts with separate display windows, or
    c. Ornamental features such as arcades or awnings, or
    d. Division of the building mass into several smaller segments, or
    e. Horizontal offsets of at least two feet in depth.

(iii) Ground level design. Buildings in the NBE District shall use a combination of the following methods to distinguish the ground floor from upper floors:

1. An intermediate cornice line,
2. Use of different building materials or detailing on the ground level,
3. Awnings, trellises or arcades,
4. Windows,
5. Clearly defined entrances, or
6. Pocket parks, outdoor café seating, and plantings.

(iv) Rear facades and entries.

1. Where parking is located in the interior of a block, rear entrances shall be designed and improved to create a safe and welcoming environment including the following elements:
   a. Lighting as regulated in Section 4.4,
   b. Signs as regulated in Section 4.5,
   c. Canopies,
   d. Windows.
2. Where parking is located in the interior of a block and no rear entrance is provided, a lighted walkway, small identification signs and a directional sign to the front of the building shall be provided.

(v) Roof design. To add visual interest and individuality to buildings, roofs shall use high quality durable materials and shall incorporate at least one of the following elements:

1. Varying roof heights and cornices within an otherwise unified design scheme.
2. Roof line changes to note entrances or commercial bays.
3. Contrasting roof lines at street corners.

(vi) Accessory structures shall be constructed from the same materials as the primary building in similar architectural quality and style.

(vii) Mechanical equipment. Rooftop and ground mounted mechanical equipment shall be completely screened from view from adjacent properties, streets, and open spaces. If a screening material other than the parapet wall is proposed, the equipment shall be grouped within a single enclosure and the screen shall be designed with durable materials compatible with the architectural treatment of the principal building.

(viii) Service, Loading, and Storage Areas. Loading docks, truck parking, mechanical equipment, trash and recycling collection, or other service functions shall be incorporated within a completely enclosed building. Alternatively, such features may be exterior to a building if screened from eye-level view of public streets, public open spaces, and adjacent properties with walls of similar materials and design as the principal building. The screening wall shall be complemented with landscape plantings. Adequate space shall be provided on site for recycling collection and equipment.

(ix) Residential Uses. Whenever residential uses are included on the first floor, the first-floor elevation shall be at least two feet above the street level adjacent to it. In addition, each first-floor unit must have an individual private entrance at street level.

(b) Building Materials

Exterior building materials. All buildings shall be constructed of high-quality materials and utilize green, sustainable building practices through the demolition, site preparation, construction, operation, and maintenance phases of the building cycle.

(i) Primary building materials. Primary building materials shall cover at least 60 percent of the façade. These materials may include brick, natural stone, precast concrete units, decorative block of dimension, color, and texture that resembles brick, or glass, and must be integrally colored.

(ii) Secondary building materials. Secondary building materials shall cover no more than 30 percent of the façade. These materials may include decorative block, stucco, cement board siding, or architectural metal panels.

(iii) Accent materials. Accent materials shall cover no more than 10 percent of any of the building facade. These materials may include door and window frames, lintels, cornices, architectural metalwork, glass block, copper flashing, or similar materials.

(iv) For townhouse and one family buildings the primary materials described above shall cover at least 30 percent of the façade, the secondary materials shall cover no more than 60 percent of the façade, and accent materials no more than 10 percent of the façade, except as otherwise permitted through a Planned Development.

(c) Specific NBE Landscaping Provisions

(i) All land area not occupied by buildings, parking, driveways, sidewalks, or other hard surface shall be sodded or mulched and landscaped with approved ground cover, flowers, shrubbery, and trees.

(ii) At least 10 percent of the total land area within the perimeter of private parking and driveway areas shall be landscaped.

(iii) Parking lot landscaped islands shall be a minimum of 150 square feet in area and include at least one overstory or evergreen tree meeting the requirements of this ordinance.

(iv) Where parking abuts the site perimeter there shall be provided at least one overstory tree per 25 feet of site perimeter.

(v) At least one overstory tree shall be provided for every 500 square feet of landscaped area on the entire site.

(vi) The landscape plan shall include a full complement of overstory, ornamental, and evergreen trees, shrubbery, and ground covers that are hardy and appropriate for the locations in which they are planted, and which provide year-round color and interest.

(vii) For parking areas abutting I-35W or I-694, there shall be a landscape buffer of type C or D installed in accordance with the provisions of Section 4.1(H), that will screen the view of automobile headlights from the highways.

(d) Resource efficiency

All buildings and site plans within the NBE District will be encouraged in the use of resource efficient building practices, including energy efficiency, water stewardship, waste reduction, use of recycled and non-toxic building materials, and recovery of waste materials through recycling or other beneficial use.

FIGURE 3-3


New Brighton EXCHANGE
1SF
2MF
3MF
2H
3H
P
14TH ST NW
1ST AVE NW
NORTHWEST PKWY
OLD HWY 8 NW
I-35W
I-694
3MF - Multi-Family Residential 3 Stories
2MF - Multi-Family Residential 2 Stories
1SF - Single Family Residential
3H - Office
2H - Office
P - Publicly Owned
Building Type

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Section 3.7(E)

MUR (Regional), MUN (Neighborhood), and MUE (Exchange) Nodes:

Because of their similarities, regulations for the Mixed Use Regional (MUR), Mixed Use Neighborhood (MUN), and Mixed Use Exchange (MUE) Districts are coordinated in Section 3.7(E).

(1) Applicability [6-510]

(a) Expansion of Nonconforming Uses.

(i) Legal nonconforming uses existing prior to the effective date of this ordinance as documented in Section 1.4 may be maintained according to Chapter 6, Nonconformities.

(ii) The City Council may allow expansion of legal nonconforming uses in mixed use districts via issuance of a conditional use permit following the provisions of Section 2.4(D).

1. Expansions may be allowed up to 15 percent of the gross floor area provided the expansion meets all other applicable City requirements. Expansions in excess of 15 percent shall require adherence to the provisions of Section 3.7(E).
2. Any expansion or modification of a legal nonconforming use should not significantly impede implementation of goals and policies of the Comprehensive Plan.

(b) Expansion of Dimensional or Bulk Nonconformities.

(iii) Legally nonconforming buildings existing prior to March 7, 2023, that do not meet dimensional or bulk standards of the applicable Mixed Use zoning district may be expanded through review and approval of a conditional use permit following the provisions of Section 2.4(D).

(iv) Approval of a conditional use permit for expansion of a legally nonconforming building shall require the following tests to be met:

1. The expansion or modification does not increase the overall, site-wide degree of nonconformity;

2. The applicant can demonstrate that zoning and Comprehensive Plan requirements are met to the greatest degree practical. These requirements include, but are not limited to: parking, landscaping, architectural design and facade treatment, and site design;
3. Proposed departures from Zoning and Comprehensive Plan requirements are addressed through superior design and/or additional community/site amenities;
4. The expansion or modification will not:
    a. Significantly impede implementation of goals and policies of the Comprehensive Plan;
    b. Have undue adverse impacts on neighboring residential properties;
    c. Have undue adverse impacts on governmental facilities, utilities, services, or existing or proposed improvements; and
    d. Have undue adverse impacts on the public health, safety, or welfare.

(2) Conflicts. [6-515]

Wherever specific provisions of Section 3.7(E) conflict with other sections in the zoning code, the provisions within Section 3.7(E) shall apply.

~~Illustrations that appear in Section 3.7(E) are for illustrative purposes only. In the event of a conflict between illustrations and text of the zoning code, the zoning code text shall apply.~~ [addressed in 8.1(B)]

(3) Building Height. [6-520]

Within the City's mixed use areas, it is recognized that taller buildings are necessary to allow for a range of uses within a structure and encourage a compact form of development that is focused on pedestrian connections. Buildings with a consistent range of heights also help to define the street wall and create an architectural identity for a corridor or area. Table 3-18 establishes required building heights in the City's mixed use districts necessary to achieve these goals.

Table 3-18. Building Height Requirements

	MUR	MUN	MUE
Allowed Building Height Ranges			
Minimum Height [1]	2 stories (20')	2 story (20')	1 story (12')
Maximum Height	6 stories (72') [2]	4 stories (48')	3 stories (40')
Individual Story Height Requirements			
Ground Story Minimum [3]	12 feet	12 feet	12 feet
Ground Story Maximum	na	na	na
Upper story Minimums [3]	8 feet	8 feet	8 feet
Upper Story Additional Setbacks (if directly adjacent to R-1 zoned property)			
5th story	Standard setback + 8 feet	na	na
6th story	Standard setback + 15 feet	na	na

[1] A parapet wall may be utilized to meet the minimum height requirement. Minimum height must be met on all sides of the building.

[2] Structures immediately adjacent to R-1 or R-2 zoned lots shall not exceed 3-stories (36' feet) in height.

[3] Finished floor to ceiling. Townhomes are exempt from the ground story minimum requirement.

(4) Building Placement, Orientation, and General Development Standards. [6-525]

In order to activate streets and enhance the pedestrian experience, buildings within mixed use areas are encouraged to be placed close to the street and oriented toward the public realm.

(a) Building Setbacks

(i) Build To Areas. Build-to areas are intended to bring building façades toward the street. A build-to area requires that a minimum portion of each development site's street frontage is occupied by a building, encouraging an active and interesting street frontage. Table 3-19 establishes build-to requirements for each mixed use district.

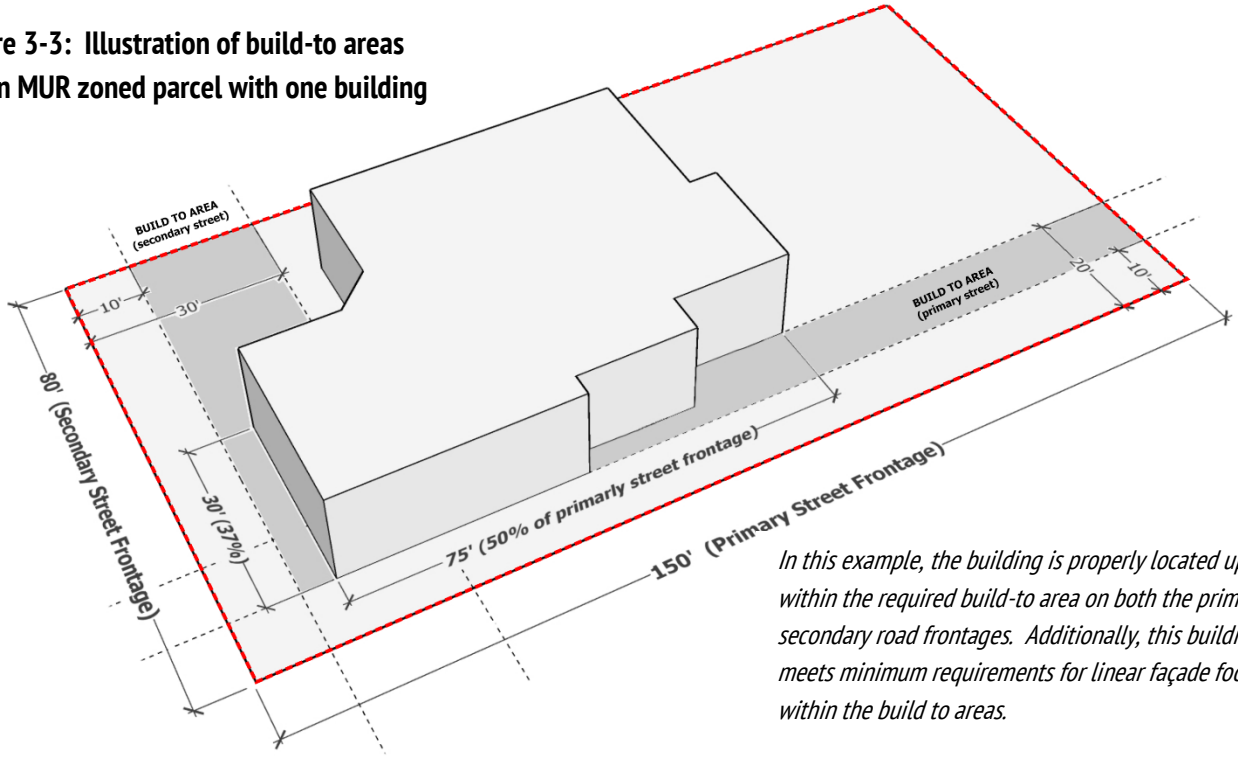
Table 3-19. Build-To Areas

	MUR	MUN	MUE
Primary Street Frontage Build-To Area [1]			
Minimum	**10 feet**	**10 feet**	**25 feet**
Maximum	**20 feet**	**20 feet**	**35 feet**
Linear portion of build-to area that must contain building façade (minimum) [2]	**50%**	**60%**	**50%**
Secondary Street Frontage Build-To Area			
Minimum	**10 feet**	**5 feet**	**25 feet**
Maximum	**30 feet**	**30 feet**	**35 feet**
Linear portion of build-to area that must contain building façade (minimum) [2]	**30%**	**30%**	**30%**

[1] *In all cases, buildings may be required to be further back than the listed minimum and maximum if deemed necessary to accommodate winter snow storage needs.*

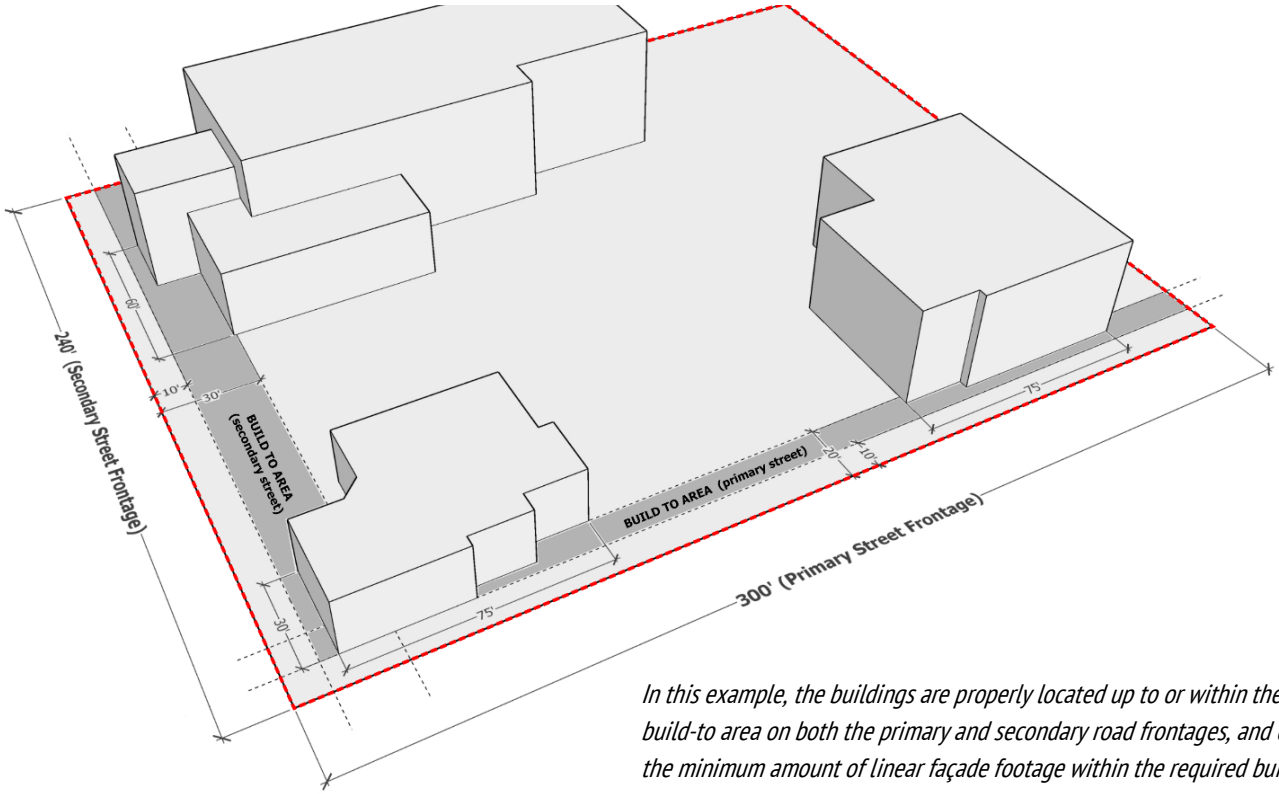
[2] *Where the provided primary street build-to exceeds the minimum requirement, the required secondary street build-to may be reduced by an equal or lesser amount, subject to approval by the Department of Community Assets & Development.*

Figure 3-3: Illustration of build-to areas for an MUR zoned parcel with one building



In this example, the building is properly located up to or within the required build-to area on both the primary and secondary road frontages. Additionally, this building meets minimum requirements for linear façade footage within the build to areas.

Figure 3-4: Illustration of build-to areas for an MUR zoned parcel with multiple buildings



In this example, the buildings are properly located up to or within the required build-to area on both the primary and secondary road frontages, and each street has the minimum amount of linear façade footage within the required build to areas.

(ii) Side and Rear Setbacks. Table 3-20 establishes minimum side and rear setback requirements for all structures in the mixed use districts. Front setbacks (or rear setbacks in the case of lakeshore lots) are not required; instead, the build-to requirements of Section 3.7(E)(4)(a)(i) above must be followed.

Table 3-20. Required Side and Rear Setbacks

	MUR	MUN	MUE
Minimum Side Setback	**10 feet**	**5 feet**	**5 feet**
Minimum Rear Setback [1]	**5 feet**	**5 feet**	**5 feet**

[1] *A minimum 25-foot rear yard setback shall be observed when the rear lot line is adjacent to R-1 or R-2 zoned property.*

(iii) Setback and Right-of-Way Encroachments. Architectural elements (such as window planter boxes, eaves, balconies, projecting wall signs, canopies, awnings, etc) attached to the building façade may encroach into a required setback or build-to area up to three feet on the ground floor, and up to five feet at upper levels.

(b) Public Entrances

(i) Unless deemed unfeasible through the site plan review process, all buildings in mixed use districts shall have at least one public entry that faces the primary or secondary street serving the development site. For corner lots with more than one street frontage, the public entry may be oriented towards the corner.

(ii) For development sites with more than one structure, those buildings that do not directly front a street shall have at least one primary entrance that adjoins a pedestrian walk. The primary entrance should be connected to the street by a walkway that is clearly defined and separated from parking areas.

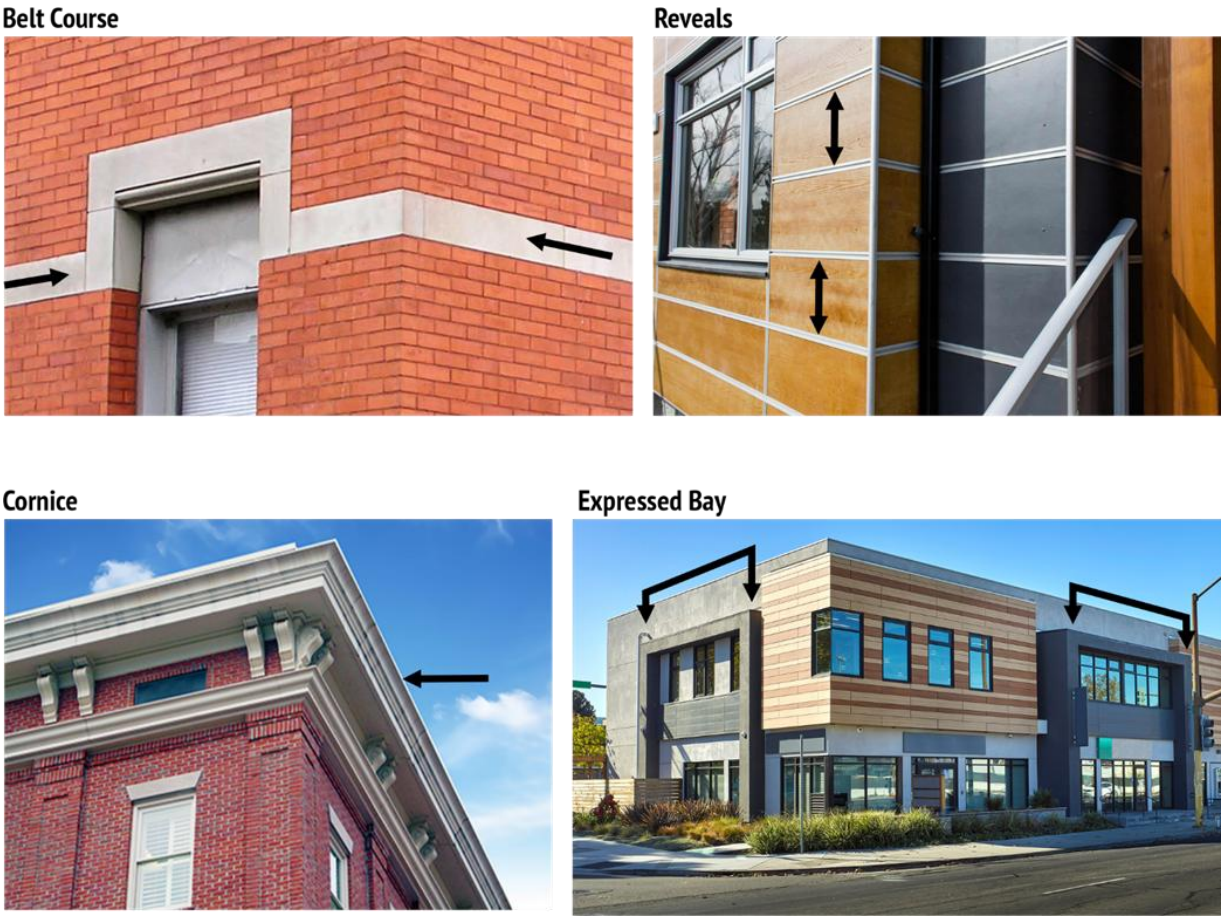
(c) Building Design

Quality architecture is a vital component to creating a unique sense of place. Creative design that pays careful attention to the building's contribution to the public realm – through massing, form, materials, and its relationship to the street – is encouraged.

(i) Façade Design and Articulation

1. Architectural quality and scale.
    a. The maximum linear building length on any given side of a building shall not exceed 350 feet unless:
        i. The applicant can demonstrate that additional length will contribute to the project's ability to fulfill the purpose and intent of mixed-use districts as outlined in Section 3.7(A); or
        ii. The building fronts a primary arterial roadway and will act as a sound wall for the surrounding area.
    b. All façades of a building shall provide a level of finished architectural quality and be designed to human scale. Each façade shall contain at least one change in color or texture. Additional detail should be incorporated into the façade design by the use of at least three of the following methods:
        i. Reveals.
        ii. Belt courses.
        iii. Cornices.
        iv. Expression of a structural or architectural bay.
        v. Articulation of windows and doorways, which may include sills, mullions, or pilasters that create a three-dimensional expression.
        vi. Change in material.
        vii. Variation in rooflines.
        viii. At the discretion of the Department of Community Assets & Development, other technique(s) proposed by an architect that accomplish similar results to options 1 – 7 above.

Figure 3-5: Examples of various architectural details for incorporation into building designs



2. Varying Plane Depth.
   a. All façades of a building that face a street or a public space shall have at least one variation in plane depth of at least one foot for every 50 linear feet of the length of the façade. All other façades shall have one variation in plane depth of at least one foot for every 100 linear feet of the length of the façade. Any portion of a façade that is a glass curtain wall shall be exempted from this requirement.
   b. For single-family attached dwellings, façade(s) containing front doors shall have a change in plane depth of at least one foot either between each unit (i.e. varying the plan depth of adjacent units), or changes within the frontal plane of every individual unit.

c. Non-permanent features such as canopies and awnings do not qualify as variation. Plane depth variation may be accomplished through elements such as:
   i. Recessed entries.
   ii. Porticos.
   iii. Projecting porches.
   iv. Upper level step backs.
   v. Dormers.
   vi. Offsets in the general plane of the façade, including columns, pilasters, protruding bays, reveals, fins, ribs, balconies, cornices, or eaves.

d. The primary entrance of buildings in the mixed use districts shall be emphasized through at least two of the following architectural elements:
   i. Changes in wall plane or building massing.
   ii. Differentiation in material and/or color.
   iii. Higher level of detail.
   iv. Enhanced lighting.

(d) Materials

(i) Only primary building materials shall be used for all façades. Primary building materials include but are not limited to:
1. Brick;
2. Stone;
3. Architectural pre-cast concrete;
4. Synthetic brick and masonry materials;
5. Hard coat stucco;
6. Integral textured colored concrete block; and
7. Architectural metal panels.

(ii) Materials that are not allowed include, but are not limited to:
1. Plywood paneling;
2. Vinyl and aluminum siding; and
3. Un-articulated large format concrete panels.

(iii) Exterior insulating finishing system (EIFS) may be used as an accent material subject to the following restrictions:

1. EIFS must have a textured finish.
2. EIFS may not be utilized below the height of eight feet on any building façade.
3. The total amount of EIFS may not exceed 25 percent per building façade.
4. The allowable amount of EIFS may be consolidated on a façade(s) that does not face a street or public space provided that the total amount of EIFS, calculated cumulatively for the entire building, does not exceed 25 percent.

(iv) Solar Installations: solar energy installations on buildings are allowed subject to the requirements of Section 5.4(E)(26). Passive solar energy design and building-integrated solar energy systems that are flush with the building are exempt from Section 5.4(E)(26), and will be regulated like any other allowed building element.

(v) Material variation: All building façades that face a street or public space shall have at least one variation in material to break the building up vertically. A change in material must be at least 12 inches in height. Masonry patterns, such as headers or rowlocks, can count as a change of material. Windows, canopies, and doorways will not count as a change in material.

(e) Ground floor transparency.

(i) Retail uses. The façade facing the primary street frontage shall be at least 60 percent transparent. All other façades facing a street or public space shall be at least 30 percent transparent.

(ii) All other nonresidential uses (excluding retail). The façade facing the primary street frontage shall be at least 40 percent transparent. All other façades facing a street or public space shall be at least 25 percent transparent.

(iii) Transparency shall be calculated as the percentage of clear, non-reflective glass within the area between three feet and eight feet above the first floor finished elevation.

(iv) Transparent doors and window mullions shall count as part of the transparent area. Structural elements and opaque or reflective glass shall not count toward the transparency requirement, except that up to 20 percent of the transparency requirement for any one façade may be fulfilled by spandrel glass.

(v) Glass display cases may count toward the transparency requirement only if they give the appearance of windows, are at least 18 inches deep, and are maintained with items of interest, including window display graphics.

(vi) For retail uses, windows at the ground floor shall be at least five feet high.

(vii) Residential only buildings are exempt from minimum ground floor transparency standards.

(f) Screening—Loading, service areas, and utilities.

(i) All loading docks, utility structures, and other service areas associated with a building shall be fully screened from view by walls or fences.

(ii) Screening elements shall be composed of materials consistent with the primary building. Wood and vinyl fences shall not be allowed as screening materials. Screen walls and fences over 10 feet in length shall be bordered by a four-foot-wide landscape buffer.

(iii) Trash enclosures shall be compatible with the building design and materials and screened with full wall enclosures. Such enclosures may not be located between the building façade and the street.

(iv) All screening elements shall be at least as tall as the object (e.g. trash enclosure, loading dock, or utility structure) being screened.

(v) Rooftop equipment shall be screened by parapets or enclosures. Screening elements shall be composed of forms, materials, and colors that are compatible with the architectural qualities of the building, including materials, scale, form, and color.

(vi) Wherever possible, exterior utility boxes and above-ground utility installations shall be located to the side or rear of buildings, and not visible from the street.

Figure 3-6: Screening walls with landscaped buffers are required around all otherwise visible loading docks, utility structures, and service areas. Creative integration of public art as part of the screening (as shown here) is encouraged.

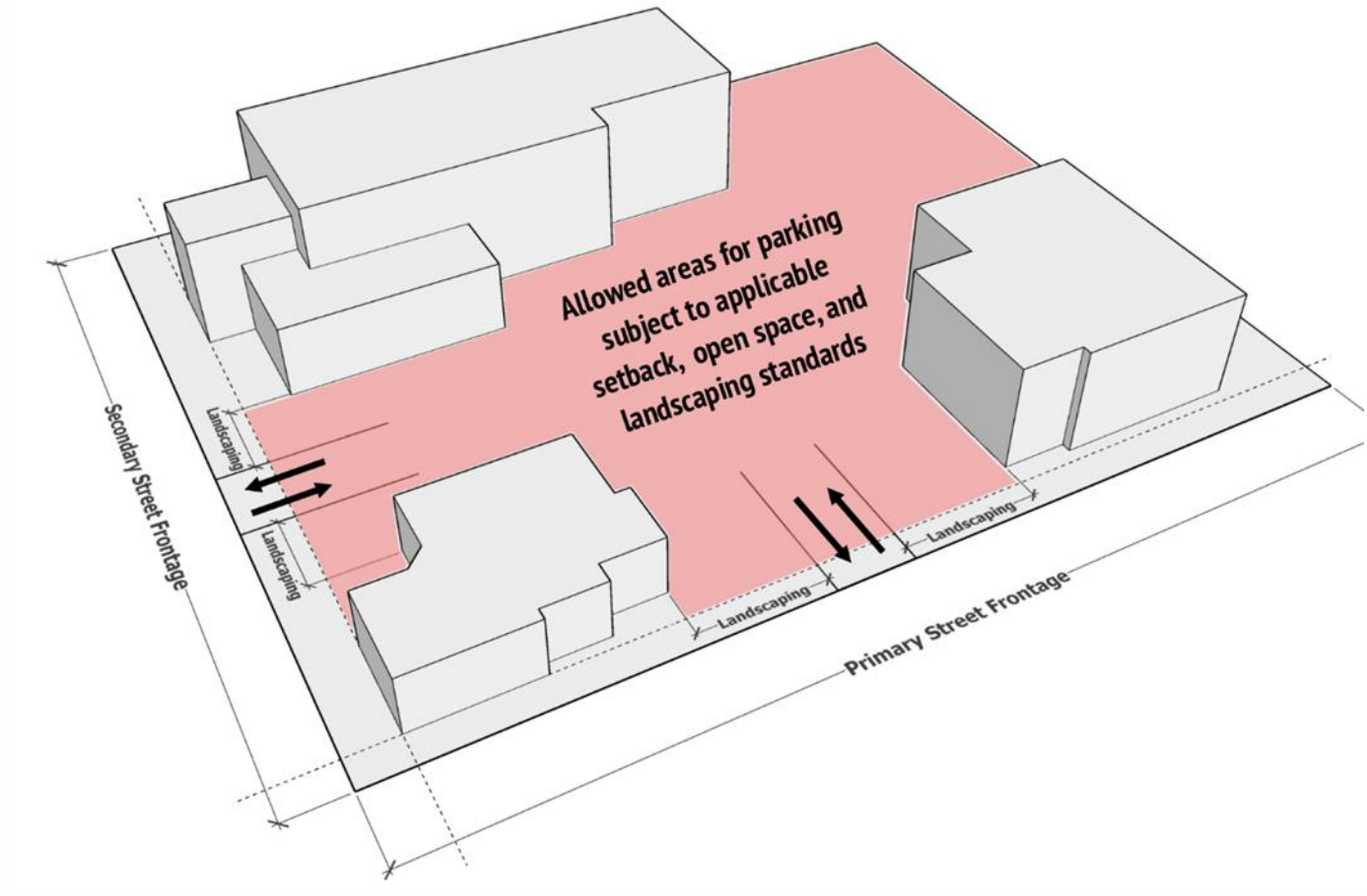


(5) Parking. [6-530]

(a) Off-street parking placement and design. Streets are more vibrant and interesting to pedestrians if they are lined with buildings and active uses. Surface parking should be located behind buildings, toward the interior of lots, and should be screened from view from adjacent streets. Structured parking should be placed to minimize impacts on surrounding development and be designed to be compatible – in terms of form, materials, and architectural style – with adjacent development.

(i) Surface parking placement. Parking areas shall be located to the rear or side of the building. For development sites with more than one building, parking is not allowed in front of the building(s) closest to the street, but is allowed to their sides and in front of permitted buildings interior to the development site (Figure 3-7).

Figure 3-7: Allowed parking areas on a multi-building site



(ii) Surface parking buffers and screening.

1. Where a surface parking lot directly abuts a street or public space, one or more of the following screening elements shall be used
   a. Minimum five-foot wide landscape buffer with grass, or groundcover plantings, and trees located a minimum of 30 feet on center. The landscape buffer may also contain perennials and shrubs.
   b. A vertical screening device, 30 to 46 inches in height. The screening device may be a continuous masonry wall constructed of stone, brick, or split-face concrete block, a combination masonry pier and decorative iron railing, or any other decorative and durable screening device that is consistent with the materials of the primary building. Wood, chain link and vinyl picket fencing shall not be permitted.

c. Where a parking lot's frontage along the street or public space is greater than 20 linear feet, no more than 30 percent of the screening requirement may be fulfilled by a landscape buffer.

2. Any surface parking lot that abuts a residentially zoned lot shall incorporate the following screening elements:

   a. A screen wall, at least six feet in height, with materials that are consistent with the primary building.

   b. A landscaped buffer, at least six feet in width, between the property line and the required screen wall.

(iii) Surface parking design.

1. Parking areas shall meet the requirements for the design of off-street parking — including surfacing, landscaping, lighting, and space/aisle dimensions — as listed Section 4.7 of this ordinance.

2. Parking areas over 20,000 square feet shall contain a well-defined pedestrian walk, whether by change in paving material or landscaping, that connects the parking area to the adjacent street and the building(s) on site.

(iv) Parking structure design.

1. Parking garage design should be compatible with adjacent buildings in terms of form, massing, scale, materials, and façade articulation.

2. Spandrel panels or opaque screening systems, such as louvers, at least 36 inches in height shall be used to screen vehicles from view on all levels.

3. Any parking garage façade that is visible from public view shall be designed such that the internal ramping system is not visible.

4. Wherever possible, especially for parking garage façades that face a public street, the ground floor of the parking structure should incorporate retail, commercial, or other nonresidential uses to help activate the street.

5. Any ground-level façade of a parking garage that is visible from the street and does not provide retail, commercial, or other active ground floor uses shall include at least two of the following design features:

   a. Façade articulation through change in vertical plane or a change in building material.

b. The use of windows or false windows defined by frames, lintels, or sills.

c. Integration of multiple building entrances.

d. Buffering along the street edge with landscaping, street trees, green walls, or trellises with vines.

(b) Parking Requirements. Large areas of free parking encourage automobile use and detract from the land available for high quality development. Strategies to utilize parking areas effectively, such as shared parking and parking structures, are highly encouraged. Especially within areas adjacent to transit services as they may change over time, reduced parking requirements encourage transit and other alternative modes of transportation.

(i) Minimum and Maximum Spaces. Table 3-21 specifies the number of parking spaces required by general use groups.

Table 3-21. Minimum and Maximum Parking Standards in All Mixed Use Districts [1]

Use Group	Minimum Required Parking [4]	Maximum Allowed Parking [4]
Light Industrial/Accessory Manufacturing	1 space / 1000 sq ft	5 spaces / 1000 sq ft
Commercial Lodging (i.e. hotels)	1 space / room	1.5 spaces / room
Office, Bank, etc.	1 spaces / 1000 sq ft	5 spaces / 1000 sq ft
Residential [2]	1.5 spaces / unit	2.5 spaces / unit
Restaurant [3]	4 spaces / 1000 sq ft	10 spaces / 1000 sq ft
Retail [3]	3 spaces / 1000 sq ft	5 spaces / 1000 sq ft
Theater	1 space / 5 seats	1 space / 2 seats
All other uses	Uses not specifically listed above shall submit a parking analysis as part of development review for approval by the Department of Community Assets & Development.	

[1] Square feet is measured as gross floor area.

[2] In the MUE district, 50 percent of the required parking shall be provided as underground parking.

[3] Maximum parking for these uses may be increased by two spaces per 1000 square feet in the MUR district.

[4] At the sole discretion of the City Council, minimum and maximum parking thresholds may be exceeded as needed if a parking study completed by a developer indicates fewer or additional spaces are justified to accommodate a proposed use.

(ii) On-street parking. On-street parking spaces directly abutting a use may count toward the total number of required parking spaces for non-residential uses.

(iii) Off-site parking. Parking requirements may be met off-site, up to a walking distance of 1,000 feet via a publicly accessible route from the use, subject to an off-site parking agreement. The publicly accessible route must be approved by the Department of Community Assets & Development. The off-site parking agreement must be submitted for approval as part of a development proposal, and once approved, recorded against all properties subject to the agreement.

(iv) Shared parking. Shared parking is permitted and encouraged. Shared parking shall be approved subject to the review and approval of a shared parking study citing ULI accepted shared parking ratios, as may be amended.

(v) Off street loading. Provision of off-street loading spaces shall be guided by Section 4.7(E). Variations to required numbers and placement may be considered if justified by the proposed design and hidden by proposed screening methods. Special attention shall be placed on creating no conflicts of movement with vehicular traffic traveling to and from parking areas.

(vi) Bicycle parking. Bicycle racks or storage shall be provided.

(6) Site circulation and vehicular access. [6-535]

Access and circulation for automobiles should be designed to minimize the number of curb cuts, increase connectivity, and encourage shared access points from streets so that disruptions to the pedestrian environment are minimized.

(a) Block sizes. Where new public or private streets are proposed, blocks with a perimeter of 1,600 feet or less are encouraged; no block shall exceed 2,000 feet in perimeter.

(b) Curb cuts. For new development along existing streets where curb cuts already exists, the number of curb cuts to the site shall not be increased. Where possible, existing curb cuts should be consolidated, and access points shared as much as possible.

(i) Wherever possible, vehicular access to a site or building shall occur through an alley or on-site private drive aisle rather than by a curb cut from the street.

(ii) Where an alley or on-site private drive aisle is not available, curb cuts along a secondary street, rather than the primary street, shall be utilized when possible.

(c) Building vehicular entrances. Vehicular entrances to buildings and parking garages that contain a ramp shall be screened from view of the street or adjacent public space in as much as possible. Where a vehicular entrance or ramp directly abuts a pedestrian walk, appropriate cautionary signs shall be used to alert pedestrians of the presence of vehicles and to inform drivers that pedestrians have the priority.

(d) Cross access and circulation. Cross access and circulation across adjoining parcels is required where appropriate and feasible. Joint circulation shall be documented in a cross access and circulation easement and agreement.

(7) Pedestrian & Trail Accommodations. [6-540]

(a) Access. Pedestrian access points shall be provided at all pedestrian arrival points to the development including the property edges, adjacent lots, abutting street intersections, crosswalks, and at transit stops if applicable. Pedestrian access shall be coordinated with existing development to provide circulation patterns between developments.

(b) Trail Connections. Planned trail connections as identified in the City's Comprehensive Parks Plan shall be accommodated and incorporated into projects as may be necessary by the Department of Community Assets & Development.

(c) Conflicts. Pedestrian walkways and trails shall form an on-site circulation system that minimizes the conflict between pedestrians and traffic at all points of pedestrian access to on-site parking and building entrances, and between buildings.

(d) Design Standards. Pedestrian access and walkways shall meet the following minimum design standards:

(i) Access and walkways shall be well-lit and physically separated from driveways and parking spaces by landscaping, berms, barriers, grade separation or other means to protect pedestrians from vehicular traffic;

(ii) Access and walkways shall be a minimum of 6 feet of unobstructed width and meet City standards for surfacing of walkways or sidewalks;

(iii) Access shall be usable by mobility-impaired persons and shall be designed and constructed to be easily located by the sight-impaired pedestrian by either grade change, texture or other equivalent means;

(iv) A crosswalk shall be required when a walkway crosses a driveway or a paved area accessible to vehicles. Raised crosswalks or speed bumps may be required at all points where a walkway crosses the lane of vehicle travel; and

(v) Trail designs shall meet requirements as spelled out by the Department of Community Assets & Development.

(8) Open Space Requirements. [6-545]

Parks, plazas, squares and other forms of public spaces play an important role in the quality of a place. Landscaped and hardscaped areas contribute to the public realm by providing places for people to gather, relax, and recreate.

(a) Open space required. The following table sets forth the minimum amount of open space required, measured as a percentage of the net development site area (total site area less public right-of-way).

Table 3-22. Minimum Required Open Space

	MUR	MUN	MUE
Single Use Development	**15%**	**15%**	**15%**
Mixed Use Development	**10%**	**10%**	**10%**

(b) Aggregated open space. Open space may be aggregated into larger parks, plazas, and squares for one development site, rather than calculated per parcel, subject to approval by the Department of Community Assets & Development. In such cases, the parcel(s) required to meet any open space requirement must be identified and noted on an approved site plan to be approved during the development process.

(c) Minimum landscaping. At least 30 percent of the required open space area shall be composed of landscaped materials, including grass, trees, bushes, or other plantings. Landscaped open space may also be useable open space as required by subsection (4) below.

(d) Usable open space. For all development sites, at least 75 percent of the required open space must be usable open space.

(i) Usable open space includes open space which, by its configuration, size, and design, can be used for passive or active recreation.

(ii) Usable open space includes plazas, parks, outdoor dining areas, courtyards and green roofs. Required buffers or parking lot landscaping shall not qualify as usable open space.

(iii) Land with a slope steeper than one foot (vertical) in three feet (horizontal) shall not qualify as usable open space.

(iv) Drainage ways, ponds, and other areas required for storm water quality or detention may qualify as usable open space if such areas are designed for passive or active use and are landscaped with grass, shrubs, or trees. Recommended plants for storm water detention areas is available through the Department of Community Assets & Development.

(v) Community gardens may count towards required & usable open space.

(e) Maintenance. The developer, its successor or the property owners shall be subject to a landscaping maintenance agreement making them responsible for regular weeding, irrigating, fertilizing, pruning, or other maintenance of all plantings as needed in order the ensure the survival of any required landscaping. The City may require the removal and replacement of such landscaping where dead, diseased, or damaged landscaping is found. All property owners/occupants shall be responsible for the maintenance of landscaping within the portion of the public right-of-way between the back of the curb or street pavement and adjacent private property.

(f) Landscaping Plan. Landscaping requirements in Section 4.1 shall not apply within the MUR, MUN, or MUE zones. Instead, a landscaping plan shall be submitted at the time development is proposed which shows the requirements of Section 3.7 are being met.

(9) Specific Additional Requirements for the Mixed Use Exchange (MUE) District. [6-555]

(a) All buildings that are located on sites adjacent to Long Lake Regional Park shall take advantage of the views to Long Lake and shall provide site improvements that complement the natural features of Long Lake Regional Park.

(b) All developments shall provide pedestrian linkages to Long Lake Regional Park and neighboring developments for residents, employees, and shoppers, and provide integrated parking and transit elements whenever practical.

(c) All uses shall be complementary or integrated and buildings shall be related or connected in accordance with the vision of the adopted Highway 8 Corridor Study.

(d) All buildings and building sites shall be designed to encourage social interchange and a sense of community, provide sufficient residential amenities, and mitigate any adverse impacts of business and industrial uses on residential uses.

(10) General Requirements for Mixing of Uses. [6-560]

Buildings and development sites that contain a mix of uses are strongly encouraged within each of the City's individual mixed use districts.

(a) Individual uses are allowed to encompass the entirety of individual buildings provided additional buildings being developed concurrently or previously in the district have resulted in the mixing of uses envisioned by the Comprehensive Plan.

(b) Domination of one particular use type in a given mixed use district may be used as valid grounds to deny future projects for that same use type unless the proposed new building is specifically designed with flexible spaces that can easily accommodate other uses in the future as markets change (i.e. the ground floor of a residential building includes large open areas capable of accommodating retail or restaurants in the future, but will instead be used as amenities for the residence building until such time as non-residential uses can be moved in).

(11) Administrative adjustment process. [6-565]

(a) It is recognized that the variety of existing sites which make up the City's MUR, MUN, and MUE mixed use districts will likely dictate that not every standard in Section 3.7(E) will be able to be met to the full extent as required. At the discretion of the City Council, minor adjustments to certain standards within Section 3.7(E) may be permitted as part of a formal development review. Administrative adjustments are intended to provide limited relief for a practical difficulty absent a formal variance.

(b) Adjustments to the following standards shall be allowed through the administrative adjustment process.

Table 3-23. Allowed Administrative Adjustments

Standard	Maximum Allowed Administrative Adjustment
Build-to Requirements [6-525(1)(A)]	**10%**
Setback Requirements [6-525(1)(B)]	**10%**
Varying Plane Depth [6-525(3)(A)(2)]	**Spacing and depth requirements may be modified or waived if other required architectural details considerably exceed minimum standards, or if the primary building materials are shown to be high-end within their market share**
Transparency Requirements [6-525(5)]	**10%**
Maximum Number of Drive Up Lanes [6-550(8)(C)(2)]	**One additional lane**
Minimum Parking Requirements – nonresidential uses only [6-530(2)(A)]	**25% fewer spaces than required**
Block Size Requirements [6-535(1)]	**10%**
Screening Standards [in general]	**Alternative screening locations and/or materials may be allowed if such deviation(s) will be as good or better at accomplishing the identified screening objectives. Screening of solar energy installations may be relaxed where strict adherence to requirements would reduce the efficiency of the installation and no alternative installation options are available.**

(c) Any proposed deviations in excess of that allowed through administrative adjustment may only be approved via a variance, a Planned Residential Development, or a Planned Unit Development process.

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3.8 Overlay Zoning Districts

(A) General Purpose

Overlay zoning districts are superimposed over portions of one or more base zoning districts in order to introduce additional zoning requirements necessary to address a specific issue.

(B) Relationship to Base Zoning Districts

(1) Regulations governing development in an overlay zoning district shall apply in addition to the regulations governing development in the underlying base zoning district unless expressly stated otherwise in these regulations.

Section 1.7(C): Conflicts Between Standards in this Ordinance

(2) Conflicts between overlay district standards and other standards in this ordinance shall be resolved as outlined in Section 1.7(C).

(C) Shoreland Overlay District (Chapter 12)

(1) Purpose and Intent (12-010)

(a) Policy. The unregulated use of shorelands in the City affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety, and welfare to provide for the wise use and development of shorelands of public waters.

(b) Statutory Authorization. These shoreland regulations are adopted pursuant to the authorization and policies contained in Minnesota Statutes Chapter 103F, Minnesota Rules, Parts 6120.2500 through 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes Chapter 462.

(c) Jurisdiction. The provisions of this Code shall apply to shorelands of the public water bodies as classified in Section 3.8(C)(3). A body of water created by a private user where there was no previous shoreland may, at the discretion of the City Council, be exempt from this Code.

(d) Compliance. The use of any shoreland of public waters, the size and shape of lots, the use, size, type and location of structures on lots; the grading and filling of any shoreland area, and the cutting of shoreland vegetation shall be in full compliance with the terms of this Code and other applicable regulations.

(e) District Application. The shoreland overlay district shall be superimposed (overlaid) upon all the zoning districts as identified in Chapter 3 of the City Zoning Code as existing or amended by the text and map of this Code. The regulations and requirements imposed by the shoreland overlay district shall be in addition to those established by the base zoning district which jointly apply. Under joint application of the districts, the more restrictive requirements shall apply.

(f) Exemption. A structure or use which was lawful before adoption of this ordinance, but which is not in conformity with the provisions of the shoreland overlay district, may be continued subject to the requirements of Chapter 6, Nonconformities.

(2) District Boundaries (12-110)

The boundaries of the shoreland overlay district within the City shall consist of all lands as described within the definition of "shoreland" in Chapter 8, Rules and Definitions.

(3) Waters Classification (12-120)

The following waters in Table 3-24 have been given classifications and are regulated as such under state law.

TABLE 3-24: CLASSIFICATION OF WATERS IN NEW BRIGHTON

MN DNR Public Waters ID	NAME	DNR CLASSIFICAITON	ORDINARY HIGH WATER LEVEL (OHWL)
62-76 W	Jones Lake	Natural Environment	895.2 ft
62-67 P	Long Lake	General Development	864.93 ft
62-69 P	Pike Lake	General Development	867.77 ft
62-77 P	Poplar Lake	Natural Environment	Elevation not established *
62-68 P	Rush Lake	Natural Environment	870.4 ft
M-059	Rice Creek	Tributary Stream	Top of Bank

(4) Permits Required (12-310)

(a) When a building permit is required for any activity regulated herein, no additional shoreland alteration permit shall be required. However, the standards for the activity as contained herein shall be applied to the issuance of that permit.

(b) A shoreland alteration permit shall be required for all construction and development activity regulated by Section 3.8(C) including for:

(i) All grading, filling and excavation activity as regulated within Section 3.8(C)(16).

(ii) All shoreland vegetation alteration activity regulated under Section 3.8(C)(15).

(5) DNR Notification & Approval Procedures (12-320)

(a) Notification shall be provided to the DNR Area Hydrologist at least 10 days prior to a public hearing to consider variances, conditional use permits, planned developments, minor subdivisions, and plats within the shoreland area or amendments to the shoreland standards.

(b) With regard to planned developments, preliminary plans shall be approved by the DNR before final City Council approval.

(c) Notification shall occur 10 days after a final decision on all variances, conditional use permits, planned developments, minor subdivisions, and plats.

(6) Lot Area and Lot Width (12-410)

Lot area and width standards shall be regulated per the underlying zoning district of the property, except that under no circumstance shall the minimum lot area be less than 20,000 square feet for riparian lots.

(7) Use (12-420)

The use of all properties within the shoreland area shall be regulated per the underlying zoning district.

(8) Height (12-430)

Height of structures and other facilities on lots shall be regulated per the underlying zoning district of the property, except for where specified herein.

(9) Impervious Surface (12-440)

Impervious surface coverage shall be limited to 50 percent of any lot or parcel.

(10) Setback Requirements (12-450)

(a) Where structures exist on the adjoining lots, structure setbacks may be altered allowing them closer to the water's edge without a variance to conform to the adjoining setbacks from the ordinary high water level. The distance shall be determined by the average setback of structures on the two immediately adjoining lots and shall be allowed only provided the proposed structure is not located in a shore impact zone.

(b) Along with the setback requirements in the underlying zoning district, the following setback requirements from the Ordinary High Water Level (OHWL) shall apply to all principal and accessory buildings which do not meet the provisions of subsection (a) above.

TABLE 3-25: SETBACKS BY WATER BODY

NAME	REQUIRED SETBACK
Jones Lake	50 feet
Long Lake	50 feet
Pike Lake	50 feet
Poplar Lake	50 feet
Rush Lake	150 feet
Rice Creek	50 feet

(c) Along with the setback requirements in the underlying zoning district, and where a bluff exists, all structures must meet a 30 foot setback from the top of bluff for all lake and stream waters classifications.

(d) The following types of structures are exempt from OHWL setbacks indicated in subsection (b) above, but are required to follow the standards contained in Section 3.8(C)(12) and Section 3.8(C)(14).

(i) Stairways, stairway landings, and pedestrian lifts;

(ii) Watercraft lifts, landing facilities and docks;

(iii) Fences, retaining walls, and ancillary recreational uses; and

(iv) Public park, beach, and marina facilities and other public improvements.

(11) Shore Impact Zone (12-460)

The Shore Impact Zone shall consist of the following setbacks as measured from the OHWL.

TABLE 3-26: SHORE IMPACT ZONES	
NAME	REQUIRED SETBACK
Jones Lake	25 feet
Long Lake	25 feet
Pike Lake	25 feet
Poplar Lake	25 feet
Rush Lake	75 feet
Rice Creek	25 feet

(12) Fences and Wall Standards (12-470)

(a) All fences must meet standards for fencing as outlined in Section 4.3, as well as the following standards:

(i) No fences shall be placed or constructed within the shore impact zone of any waterbody.

(ii) All fences shall meet the setback from the OHWL required for buildings, except fences 3 ½ feet in height or less which are comprised of a surface area of 30 percent or less solid material.

(b) The following standards shall be required for retaining walls:

(i) Only retaining walls which are part of an erosion and sediment control plan shall be permitted in the shore impact zone and must meet the standards contained in Section 3.8(C)(12) and Section 3.8(C)(18).

(ii) Any wall which does not meet the required structure setback from the OHWL shall be no more than 3 ½ feet in height.

(c) Any enclosure for the confinement of animals must meet principal structure setback requirements.

(13) Standards for Commercial, Industrial, Public, and Semi Public Uses. (12-480)

Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, of located on lot or parcels with public waters frontage, must either be setback double the normal OHWL setback or be substantially screened from view from the water by vegetation or topography, assuming, summer, leaf-on conditions. Those with water-oriented needs must meet the following standards:

(a) In addition to meeting impervious coverage limits, setback, and other zoning standards presented elsewhere in Section 3.8(C), the uses must be designed to incorporate topographic and vegetative screening of parking area and structures.

(b) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.

(c) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

(i) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than 10 feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.

(ii) Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

(14) Stairways, Lifts, and Landings (12-490)

Stairways, lifts and landings which do not meet the setback standards for principal structures shall meet the following standards:

(a) Stairways, stairway landings, and pedestrian lifts shall be located whenever reasonable in the most visually inconspicuous portions of lots, as viewed from the surface of the public waterbody, assuming summer, leaf- on conditions.

(b) Construction and Design:

(i) Stairways and pedestrian lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned developments where more than one lot or more than four dwelling units are served.

(ii) Landings for stairways and pedestrian lifts on residential lots must not exceed 32 square feet in area. Landings not exceeding 60 square feet may be used for commercial properties, public open-space recreational properties, and planned developments where more than one lot is served.

(iii) Canopies or roofs are not allowed on stairways, stairway landings, or pedestrian lifts.

(iv) Stairways, stairway landings, and pedestrian lifts 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.

(15) Shoreland Vegetation Alterations (12-500)

In shore and bluff impact zones and on steep slopes, 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 dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water oriented accessory structures or facilities provided that:

(a) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced.

(b) Along rivers, existing shading of water surfaces is preserved.

(c) The vegetation alternations do not constitute intensive vegetation clearing as defined in Chapter 8, Rules and Definitions.

(d) The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards and the removal of plants deemed noxious under State or local noxious weed regulations.

(16) Shoreland Grading and Filling Alterations (12-510)

(a) Grading and filling and excavations necessary for the construction of structures and driveways under validly issued building permits for these facilities do not require the issuance of a separate shoreland alteration permit however, considerations and conditions as stated in subdivisions (b) and (c) below must be adhered to during the issuance of building permits, land alteration permits, conditional use permits, variances, and subdivision approvals within the shoreland area.

(b) Notwithstanding subdivision (a) above, the movement of more than 10 cubic yards of material within shore or bluff impact zones and the movement of more than 50 cubic yards of material outside of shore and bluff impact zones will require a shoreland alteration permit unless a land alteration permit is required.

(c) Alteration Standards & Requirements

(i) No person may fill, drain, excavate, or otherwise alter the hydrology of a wetland without first obtaining a permit from the Rice Creek Watershed District.

(ii) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.

(iii) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible.

(iv) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.

(v) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service.

(vi) Fill or excavated material must not be placed in a manner that creates an unstable slope.

(vii) Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must create finished slopes of less than three feet horizontal to one foot vertical slope.

(viii) Fill or excavated material must not be placed in bluff impact zones.

(ix) Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under Minnesota Statutes Section 103G.245.

(x) Alterations of topography must only be allowed if they are accessory to permitted or conditionally permitted uses and do not adversely affect adjacent or nearby properties.

(xi) Placement of natural rock rip rap, including associated grading of the shoreline and placement of a filter blanket, is allowed if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the rip rap is within 10 feet of the ordinary high water level, and the height of the rip rap above the ordinary high water level does not exceed three feet. This must only be done in accordance with other State and Federal regulations.

(17) Roads and Impervious Surface (12-520)

(a) Public and private roads, driveways, and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. They must be designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

(b) Roads, driveways, impervious surface, and parking areas must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

(18) Stormwater Management (12-530)

(a) When possible, existing natural drainage-ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

(b) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.

(c) When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.

(d) New constructed stormwater outfall to public waters must provide for filtering or settling of suspended solids and skimming or surface debris before discharge.

(e) Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

(f) A Rice Creek Watershed District permit is required for projects that create or reconstruct 10,000 square feet or more of impervious surface.

(19) Sanitary Provisions (12-540)

All lots within the shoreland district shall be connected to the City water and sanitary sewer systems. Old sewer and water systems shall be abandoned in conformance with State law and City ordinances.

(D) Floodplain Overlay District (Chapter 10)

(1) Statutory Authorization, Findings of Fact, and Purpose (10-010)

(a) Statutory Authority

The legislature of the State of Minnesota has, in Minnesota Statutes, Chapter 103F delegated responsibility to local government units to adopt regulations designed to minimize flood losses. Section 3.8(D) prescribes the regulations adopted by the City of New Brighton.

(b) Findings of Fact

(i) The flood hazard areas of New Brighton, Minnesota, are subject to periodic inundation that results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(ii) Section 3.8(D) is based upon a reasonable method of analyzing flood hazards that is consistent with the standards established by the Minnesota Department of Natural Resources.

(iii) Section 3.8(D) is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 – 78, as amended, so as to maintain the City's eligibility in the National Flood Insurance Program.

(iv) It is the purpose of Section 3.8(D) to promote the public health, safety, and general welfare and to minimize those losses described in subsection (i) above by the provisions contained herein.

(2) General Provisions (10-020)

(a) Affected Lands

Section 3.8(D) shall apply to all lands within the jurisdiction of the City as shown on the Official Zoning Map and the attachments thereto as being located within the boundaries of the Floodway, Flood Fringe, or General Flood Plain Districts.

(b) Official Zoning Map Established

The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of Section 3.8(D). The attached material shall include the Flood Insurance Study for Ramsey County, Minnesota (All Jurisdictions), Flood Insurance Rate Map panel therein numbered 27123C0004G, 27123C0005G, 27123C0010G, 27123C0012G, 27123C0016G and the Flood Insurance Rate Map Index numbered 27123CIND0A, all dated June 4, 2010 and prepared by the Federal Emergency Management Agency. The Official Zoning Map shall be on file in the Office of the City Clerk and the Director of Community Assets and Development.

(c) Regulatory Flood Protection Elevation

The Regulatory Flood Protection Elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

(d) Interpretation

(i) In their interpretation and application, the provisions of Section 3.8(D) shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

(ii) The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision by City staff, the City Council shall make the necessary interpretation. All decisions will be based on elevations on the regional 100 year flood profile, the ground elevations that existed on the site at the time of initial adoption of this floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area within the 100-year floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the City Council and to submit technical evidence.

(e) Abrogation and Greater Restrictions

It is not intended by Section 3.8(D) to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where Section 3.8(D) imposes greater restrictions, the provisions of Section 3.8(D) shall prevail. All other ordinances inconsistent with Section 3.8(D) are hereby repealed to the extent of the inconsistency only

(f) Warning and Disclaimer of Liability

Section 3.8(D) does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. Section 3.8(D) shall not create liability on the part of the City or any officer or employee thereof for any flood damage that results from reliance on Section 3.8(D) or any administrative decision lawfully made thereunder.

(g) Severability.

If any section, clause, provision, or portion of Section 3.8(D) is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of Section 3.8(D) shall not be affected thereby.

(h) Annexations.

The Flood Insurance Rate Map panels adopted by reference into Section 3.8(D)(2)(b) above may include floodplain areas that lie outside of the corporate boundaries of the City of New Brighton at the time of adoption of Section 3.8(D). If any of these floodplain land areas are annexed into the City of New Brighton after the date of adoption of Section 3.8(D), the newly annexed floodplain lands shall be subject to the provisions of Section 3.8(D) immediately upon the date of annexation into the City of New Brighton.

(3) Establishment of Flood Districts (10-030)

(a) Districts

(i) Floodway District. The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 3.8(D)(2)(b). For lakes, wetlands and other basins, the Floodway District shall include those areas designated as Zone AE (that do not have a floodway designated) and Zone A on the Flood Insurance Rate Map panels adopted in Section 3.8(D)(2) that are below the ordinary high water level as defined in Minnesota Statute Section 103G.005, subdivision 14.

(ii) Flood Fringe District. The Flood Fringe District shall include those areas designated as floodway fringe which shall include the areas shown on the Flood Insurance Rate Map, adopted in Section 3.8(D)(2)(b), as being within Zone AE but being located outside of the floodway. For lakes, wetlands and other basins, the Flood Fringe District shall include those areas designated as Zone AE (that do not have a floodway designated) and Zone A on the Flood Insurance Rate Map panels adopted in Section 3.8(D)(2)(b) that are below the one percent annual chance flood elevation (100- year flood elevation) but above the ordinary high water level as defined in Minnesota Statute Section 103G.005, subdivision 14.

(iii) General Flood Plain District. The General Flood Plain District shall include those areas designated as Zone A and Zone AE (without a floodway designated) on the Flood Insurance Rate Map adopted in Section 3.8(D)(2)(b), which are not subject to criteria in subsections (i) and (ii) above.

(b) Compliance.

No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of Section 3.8(D) and other applicable regulations that apply to uses within the jurisdiction of Section 3.8(D). Within the Floodway, Flood Fringe, and General Flood Plain Districts, all uses not listed as permitted uses or conditional uses in Section 3.8(D)(4), Section 3.8(D)(5), and Section 3.8(D)(6), respectively, shall be prohibited. In addition, a caution is provided here that:

(i) New manufactured homes, replacement manufactured homes, and certain recreational vehicles are subject to the general provisions of Section 3.8(D) and specifically Section 3.8(D)(9);

(ii) Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of Section 3.8(D) and specifically Section 3.8(D)(11); and

(iii) As-built elevations for elevated or flood-proofed structures must be certified by ground surveys and flood-proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of Section 3.8(D) and specifically as stated in Section 3.8(D)(10).

(4) Floodway District (FW) (10-040)

(a) Permitted Uses

(i) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

(ii) Industrial-commercial loading areas, parking areas, and airport landing strips.

(iii) Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, fishing areas, and single or multiple purpose recreational trails.

(iv) Residential lawns, gardens, parking areas, and play areas.

(b) Standards for Floodway Permitted Uses

(i) The use shall have a low flood damage potential.

(ii) The use shall be permissible in the underlying zoning district if one exists.

(iii) The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations, or storage of materials or equipment.

(c) Conditional Uses

(i) Structures accessory to the uses listed in Section 3.8(D)(4)(a) and the uses listed in subsections (ii) through (viii) below.

(ii) Extraction and storage of sand, gravel, and other materials.

(iii) Marinas, boat rentals, docks, piers, wharves, and water control structures.

(iv) Railroads, streets, bridges, utility transmission lines, and pipelines.

(v) Storage yards for equipment, machinery, or materials.

(vi) Placement of fill or construction of fences.

(vii) Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 3.8(D)(9)(c).

(viii) Structural works for flood control such as levees, dikes, and floodwalls constructed to any height where the intent is to protect individual structures, and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10 year frequency flood event.

(d) Standards for Floodway Conditional Uses.

(i) All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100 year or regional flood or cause an increase in flood damage in the reach or reaches affected.

(ii) Standards. All floodway conditional uses shall be subject to the procedures and standards contained in Section 3.8(D)(10)(d).

(iii) Underlying District. The conditional use shall be permissible in the underlying zoning district if one exists.

(iv) Fill.

1. Fill, dredge spoil, and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap, or other acceptable method.
2. Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long term site development plan is submitted that includes an erosion/sedimentation prevention element.
3. As an alternative, and consistent with subsection 3.8(D)(4)(d)(iv)(2) above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials that would have caused an increase to the stage of the 100 year or regional flood but only after the Governing Body has received an appropriate plan that assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be recorded with the property records in the Office of the County Recorder or the Registrar of Titles.

(v) Accessory Structures.

1. Accessory structures shall not be designed for human habitation.
2. Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters.
    a. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and,
    b. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
3. Accessory structures shall be elevated on fill or structurally dry flood-proofed in accordance with the FB-1 or FP-2 flood-proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood-proofed to the FB-3 or FB- 4 flood-proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood-proofed accessory structures must meet the following additional standards:
    a. The structure must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;

b. Any mechanical and utility equipment in a structure must be elevated to or above the Regulatory Flood Protection Elevation or properly flood-proofed; and.

c. To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

(vi) Storage of Materials and Equipment

1. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
2. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the City Council.

(vii) Structural Works.

Structural works for flood control that will change the course, current, or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statutes, Chapter 103G. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.

(viii) Levee Impact.

A levee, dike, or floodwall constructed in the floodway shall not cause an increase to the 100 year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

(5) Flood Fringe District (FF) (10-050)

(a) Permitted Uses.

Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non-residential structure or use of a structure or land shall be a permitted use in the flood fringe provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for flood fringe "permitted uses" listed in Section 3.8(D)(5)(b) and the "standards for all flood fringe uses" listed in Section 3.8(D)(5)(e).

(b) Standards for Flood Fringe Permitted Uses.

(i) All structures, including accessory structures, must be elevated on fill so that the lowest floor including the basement floor is at or above the Regulatory Flood Protection Elevation. The finished fill elevation for structures shall be no lower than one foot below the Regulatory Flood Protection Elevation and the fill shall extend at such elevation at least 15 feet beyond the outside limits of the structure erected thereon.

(ii) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet at its largest projection may be internally flood-proofed in accordance with Section 3.8(D)(4)(d)(v)(3).

(iii) The cumulative placement of fill where at any one time in excess of 1,000 cubic yards of fill is located on the parcel shall be allowable only as a conditionally permitted use, unless said fill is specially intended to elevate a structure in accordance with Section 3.8(D)(5)(b)(1).

(iv) The storage of any materials or equipment shall be elevated on fill to the Regulatory Flood Protection Elevation.

(v) The provisions of Section 3.8(D)(5)(e) shall also apply.

(c) Conditionally Permitted Uses

Any structure that is not elevated on fill or flood-proofed in accordance with subsection 3.8(D)(5)(b)(i & ii) above or any use of land that does not comply with the standards in 3.8(D)(5)(b)(iii & iv) above shall only be allowable via conditional use permit. An application for a conditional use permit shall be subject to the standards, criteria, and evaluation procedures specified in Section 2.4(D).

(d) Standards for Flood Fringe Conditional Use Permits

(i) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the Regulatory Flood Protection Elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck-under garages. The base or floor of an enclosed area shall be considered above- grade and not a structure's basement or lowest floor if:

1. The enclosed area is above-grade on at least one side of the structure;
2. It is designed to internally flood and is constructed with flood resistant materials; and
3. It is used solely for parking of vehicles, building access, or storage.

The noted alternative elevation methods are subject to the following additional standards:

a. Design and certification. The structure's design and as-built condition must be certified by a licensed professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities must be at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

b. Specific standards for above-grade, enclosed areas. Above-grade, fully enclosed areas such as crawl spaces or tuck-under garages must be designed to internally flood and the design plans must stipulate:

i. The minimum area of "automatic" openings in the walls where internal flooding is to be used as a flood-proofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one-foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a licensed professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of

human intervention; and.

ii. That the enclosed area must be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles, or storage.

(ii) Basements, as defined in Section 8.4 shall be subject to the following:

1. Residential basement construction shall not be allowed below the Regulatory Flood Protection Elevation.
2. Non-residential basements may be allowed below the Regulatory Flood Protection Elevation provided the basement is structurally dry flood-proofed in accordance with subsection (iii) below.

(iii) All areas of non-residential structures including basements to be placed below the Regulatory Flood Protection Elevation shall be flood-proofed in accordance with the structurally dry flood- proofing classifications in the State Building Code. Structurally dry flood-proofing must meet the FP-1 or FP-2 flood-proofing classification in the State Building Code. This shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood-proofed to the FP-3 and FP-4 classification shall not be permitted.

(iv) When at any one time more than 1,000 cubic yards of fill or other similar materials is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the City is enforcing a State approved shoreland management ordinance. In the absence of a State approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100 year or regional flood event. The professional plan must be prepared and certified by a licensed professional engineer or other qualified individual acceptable to the City Council. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.

(v) Storage of materials and equipment.

1. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
2. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the City Council.

(vi) The provisions of Section 3.8(D)(5) shall also apply.

(e) Standards for All Flood Fringe Uses.

(i) All new principal structures must have vehicular access at or above an elevation not more than two feet below the Regulatory Flood Protection Elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

(ii) Commercial uses. Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the Regulatory Flood Protection Elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth greater that two feet or be subject to flood velocities greater than four feet per second upon occurrence of the regional flood.

(iii) Manufacturing and industrial uses. Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in subsection (ii) above. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in the flood plain areas.

(iv) Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover, or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100 year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi- structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be required.

(v) Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

(vi) Standards for recreational vehicles are contained in Section 3.8(D)(9)(c).

(vii) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, 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.

(6) General Flood Plain District (10-060)

(a) Permissible Uses.

(i) The uses listed in Section 3.8(D)(4)(a) shall be permitted uses.

(ii) All other uses shall be subject to the one percent annual change flood (100-Year Flood Elevations) or floodway/flood fringe determinations criteria pursuant to subsections (b) and (c) below. Section 3.8(D)(4) shall apply if the proposed use is in the Floodway District and Section 3.8(D)(5) shall apply if the proposed use is in the Flood Fringe District.

(b) Procedures for one percent annual chance flood (100-Year Flood Elevations) or Floodway and Flood Fringe Determinations for Streams Located Within the General Flood Plain District.

(i) Upon receipt of an application for a permit or other approval within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Director of Community Assets and Development for the determination of the Regulatory Flood Protection Elevation and whether the proposed use is within the Floodway or Flood Fringe District.

1. A typical valley cross-section(s) showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
2. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.
3. Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.

(ii) The applicant shall submit a copy of the information required by subsection (i) above to a designated engineer or other expert person or agency for technical assistance in determining the one percent annual chance flood (100-Year Flood Elevations), if not available, whether the proposed use is in the Floodway or Flood Fringe District and to determine the Regulatory Flood Protection Elevation. Procedures consistent with Minnesota Rules Parts 6120.5000-6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

1. Estimate the peak discharge of the regional flood.
2. Calculate the water surface profile of the regional flood based upon hydraulic analysis of the stream channel and overbank areas.

3. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot shall be required if, as a result of the additional stage increase, increased flood damage would result. An equal degree of encroachment on both side of the stream within the reach shall be assumed in computing floodway boundaries.

(iii) The Director of Community Assets and Development shall present the technical evaluation and findings of the designated engineer or expert to the City Council. The City Council must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The City Council, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources, or the Planning Commission for review and comment. Once the Floodway and Flood Fringe boundaries have been determined, the City Council shall refer the matter back to the City staff who shall process the permit application consistent with the applicable provisions of Section 3.8(D)(4) and Section 3.8(D)(5).

(c) Procedures for determining one percent annual chance flood elevations (100-YR flood elevations) for lakes located in Zone A:

(i) Upon receipt of an application for a permit or other approval within a Zone A, the Director of Community Assets and Development will use the one percent annual chance flood elevation for that basin that has previously been determined in accordance with approved FEMA methods, if available. If the one percent annual chance flood elevation has not been previously determined, the applicant shall be required to furnish all necessary information as deemed necessary by the Director of Community Assets and Development for the determination for the one percent annual chance flood elevation in accordance with approved FEMA methods.

(ii) The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the one percent annual chance flood elevation (100-year flood elevations). Procedures consistent with Minnesota Rules Parts 6120.5000 – 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis.

(iii) Once the one percent annual chance flood elevation (100-year flood elevation) has been determined, the Zoning Administrator shall process the permit application consistent with the applicable provisions of Section 3.8(D)(4) and Section 3.8(D)(5).

(7) Subdivisions. (10-070)

(a) Review Criteria. No land shall be subdivided which is unsuitable by reason of flooding, inadequate drainage, water supply, or sewage treatment facilities. All lots within the Flood Plain Districts shall contain a building site outside of the Floodway District at or above the Regulatory Flood Protection Elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of Section 3.8(D) and have road access both to the subdivision and to the individual building sites no lower than two feet below the Regulatory Flood Protection Elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe boundaries, the Regulatory Flood Protection Elevation, and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.

(b) Floodway/Flood Fringe Determinations in the General Flood Plain District. In the General Flood Plain District, applicants shall provide the information required in Section 3.8(D)(6)(b) and Section 3.8(D)(6)(c) to determine the 100 year flood elevation, the Floodway and Flood Fringe District boundaries and the Regulatory Flood Protection Elevation for the subdivision site.

(c) Removal of Special Flood Hazard Area Designation. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100 year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

(8) Public Utilities, Railroads, Road, and Bridges. (10-080)

(a) Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood-proofed in accordance with the State Building Code or elevated to above the Regulatory Flood Protection Elevation.

(b) Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the flood plain shall comply with Section 3.8(D)(4) and Section 3.8(D)(5). Elevation to the Regulatory Flood Protection Elevation shall 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.

(c) On-site Sewage Treatment and Water Supply Systems. Where public utilities are not provided:

(i) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and

(ii) 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 shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with the provisions in Section 3.8(D).

(9) Manufactured Homes and Manufactured Home Parks and Placement of Recreational Vehicles. (10-090)

(a) New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Section 3.8(D)(7).

(b) The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Section 3.8(D)(5). If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 3.8(D)(5)(e)(i), then replacement manufactured homes will not be allowed until the property owner develops a flood warning emergency plan acceptable to the City Council.

(i) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, 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.

(c) Recreational vehicles that do not meet the exemption criteria specified in subsection (c) above shall be subject to the provisions of Section 3.8(D) and as specifically spelled out in subsection (b) above.

(i) *Exemption.* Recreational vehicles are exempt from the provisions of Section 3.8(D) if they are placed in any of the areas listed in subsection (ii) below and further they meet the following criteria:

1. Have current licenses required for highway use.
2. Are highway ready, meaning on wheels or the internal jacking system are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.
3. The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

(ii) *Areas Exempted for Placement of Recreational Vehicles.*

1. Individual lots or parcels or record.
2. Existing commercial recreational vehicle parks or campgrounds.
3. Existing condominium type associations.

(iii) Recreational vehicles exempted in subsection (i) above lose this exemption when development occurs on the parcel exceeding $500 for a structural addition to the travel recreational vehicle or an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood-proofing requirements and the use of land restrictions specified in Section 3.8(D)(4) and Section 3.8(D)(5). There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.

(iv) New commercial recreational vehicle parks, campgrounds, new residential subdivisions, condominiums, and the expansion of any existing similar use exceeding five units or dwelling sites shall be subject to the following:

1. Any new or replacement recreational vehicle will be allowed in the Floodway or Flood Fringe Districts provided said recreational vehicle and its contents are placed on fill above the Regulatory Flood Protection Elevation and proper elevated road access to the site exists in accordance with Section 3.8(D)(5)(e)(i). No fill placed in the floodway to meet the requirements of Section 3.8 shall increase flood stages of the 100 year or regional flood.
2. All new or replacement recreational vehicles not meeting the criteria of subsection (1) above may, as an alternative, be allowed via conditional use permit if in accordance with the following provisions and the provisions of Section 3.8(D)(4)(d). The applicant must submit an emergency plan for the safe evacuation of all vehicles prepared by a licensed professional engineer or other qualified individual that shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of Section 3.8(D)(9)(c)(i)(1 & 2) will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 3.8(D)(8)(c).

(10) Administration. (10-100)

(a) City Staff. City staff shall administer and enforce the Floodplain Overlay provisions of Section 3.8(D). If a violation of the provisions of Section 3.8(D) is found, City staff shall notify the person responsible for such violation in accordance with the procedures stated in Section 3.8(D)(12).

(b) Permit Requirements.

(i) *Permit Required.* A permit issued by the City in conformity with the provisions of Section 3.8(D) shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.

(ii) *Application for Permit.* Application for a permit shall be made on forms as specified by the City and shall include the following where applicable: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

(iii) *State and Federal Permits.* Prior to granting a permit or processing an application for a conditional use permit or variance, the City shall determine that the applicant has obtained all necessary State and Federal permits.

(iv) *Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use.* It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance has been issued by the City stating that the use of the building or land conforms to the requirements of Section 3.8(D).

(v) *Construction and Use to be as Provided on Applications, Plans, Permits, Variances, and Certificates of Zoning Compliance.* Permits, conditional use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of Section 3.8(D) and punishable as provided by Section 3.8(D)(12).

(vi) *Certification.* The applicant shall be required to submit certification by a licensed professional engineer, licensed architect, or licensed land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of Section 3.8(D). Flood- proofing measures shall be certified by a licensed professional engineer or licensed architect.

(vii) *Record of lst Floor Elevation.* The City shall 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 flood plain. The City shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood-proofed.

(viii) *Notifications for Watercourse Alterations.* The Director of Community Assets and Development shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the City authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statutes Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

(ix) *Notification to FEMA When Physical Changes Increase or Decrease the 100-year Flood Elevation.* As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, City staff shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

(c) Appeal and Variance Procedure.

(i) *Administrative Review.* Appeals alleging an error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of the Floodplain Overlay District regulations shall be processed in accordance with the procedures outlined in Section 2.4(F).

(ii) *Appeals.* Appeals from decisions relating to the Floodplain Overlay District may be made in accordance with the provisions of Section 2.4(F).

(iii) *Variances.* The City Council may authorize upon appeal in specific cases such relief or variance from the terms of Section 3.8(D) as will not be contrary to the public interest and only for those circumstances where the variance request can satisfy all standards and criteria outlined in Section 2.4(C). In granting a variance to the provisions of the Floodplain Overlay District, the City shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in section, any other zoning regulations in the Community, and in the respective enabling legislation that have justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area, or permit standards lower than those required by State law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied in addition to the standard criteria of Section 2.4(C):

1. Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
2. Variances shall only be issued upon:
    a. a showing of good and sufficient cause,
    b. a determinations 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 shall only be issued upon a determinations that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(iv) *Hearings.*

1. Hearings for appeals shall be in accordance with the applicable provisions of Section 2.4(F), and hearings for variances shall be in accordance with the applicable provisions of Section 2.4(C).

2. Upon the filing with the City Council of a variance, the procedures outlined in Section 2.4(C) shall be followed to process the request. The City shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least a ten (10) day notice of the hearing.

(v) *Decision.*

1. Decisions on appeals shall be in accordance with the applicable provisions of Section 2.4(F), and decisions for variances shall be in accordance with the applicable provisions of Section 2.4(C).
2. In granting a variance, the City Council may prescribe appropriate conditions and safeguards such as those specified in Section 3.8(D)(10)(d)(v) that are in conformity with the purposes of the Floodplain Overlay District. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of Section 3.8(D) punishable under Section 3.8(D)(12). A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

(vi) *Flood Insurance Notice and Recordkeeping.* The City shall notify the applicant for a variance that:

1. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and
2. Such construction below the 100 year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. The City shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

(d) Conditional Uses. The City Council shall hear and decide applications for conditional uses permissible under Section 3.8(D). Applications for conditional use permits in the Floodplain Overlay District shall be processed in accordance with the provisions of Section 2.4(D).

(i) *Hearings.*

1. Hearings for conditional use permits in the Floodplain Overlay District shall be in accordance with the applicable provisions of Section 2.4(D).
2. Upon receipt of an application for a conditional use permit in the Floodplain Overlay District, the City shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the Commissioner will receive at least a ten (10) day notice of the hearing.

(ii) *Decision.*

1. Decisions on conditional use permits in the Floodplain Overlay District shall be in accordance with the applicable provisions of Section 2.4(D).
2. In granting approval of a conditional use permit in the Floodplain Overlay District, the City Council shall prescribe appropriate conditions and safeguards, in addition to those specified in Section 3.8(D)(10)(a) and Section 3.8(D)(10)(b), that are in conformity with the purposes of Section 3.8(D). Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of Section 3.8(D) punishable under Section 3.8(D)(12). A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.

(iii) *Procedures to be Followed by the City Council in Passing Conditional Use Permit Applications Within All Flood Plain Districts.*

1. Require the applicant to furnish the following information and additional information as deemed necessary by City staff for determining the suitability of the particular site for the proposed use:
   a. Plans drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill, storage of materials, flood- proofing measures, and the relationship of the above to the location of the stream channel.

b. Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply, and sanitary facilities.

2. Transmit a copy of the information described in subsection (1) above to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.
3. Based upon the technical evaluation of the designated engineer or expert, the City shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

(iv) *Factors Upon Which the Decision of the City Council Shall Be Based.* In approving a conditional use permit application, the City Council shall consider all relevant factors specified section 2.4(D) as well as the following:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments.
2. The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts, or other hydraulic structures.
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
5. The importance of the services provided by the proposed facility to the community.
6. The requirements of the facility for a waterfront location.
7. The availability of alternative locations not subject to flooding for the proposed use.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.

11. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
12. Such other factors as are relevant to the purposes of Section 3.8(D).

(v) *Conditions Attached to Conditional Use Permits*. Upon consideration of the factors listed in subsection (iv) above and the purpose of the Floodplain Overlay District, the City Council shall attach such conditions to the granting of a conditional use permit as it deems necessary to fulfill the purposes of Section 3.8(D). Such conditions may include, but are not limited to, the following:

1. Modifications of waste treatment and water supply facilities.
2. Limitations on period of use, occupancy, and operation.
3. Imposition of operational controls, sureties, and deed restrictions.
4. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
5. Flood-proofing measures in accordance with the State Building Code and Section 3.8(D). The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the Regulatory Flood Protection Elevation and associated flood factors for the particular area.

(11) Nonconforming Uses. (10-110)

A structure or the use of a structure or premises that was lawful before the passage or amendment of the Floodplain Overlay District but that is not in conformity with the provisions of Section 3.8(D), may be continued subject to the provisions of Chapter 6 and the following additional requirements:

(a) No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.

(b) Any structural alteration or addition to a nonconforming structure or nonconforming use that would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation-on-fill or flood-proofing techniques (i.e., FP-1 through FP-4 flood-proofing classifications) allowable in the State Building Code, except as further restricted in subsections (c) and (f) below.

(c) The cost of all structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed fifty percent of the market value of the structure unless the conditions of Section 3.8 are satisfied. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds fifty percent of the market value of the structure, then the structure must meet the standards of Section 3.8(D)(4) or Section 3.8(D)(5) for new structures depending upon whether the structure is in the Floodway or Flood Fringe, respectively.

(d) If any nonconforming use is discontinued for twelve consecutive months, any future use of the building premises shall conform to all requirements of Section 3.8(D). The assessor shall notify the Department of Community Assets & Development in writing of instances of nonconforming uses that have been discontinued for a period of twelve months.

(e) If any nonconforming use or structure is substantially damaged, as defined in Section 8.4, it shall not be reconstructed except in conformity with the provisions of Section 3.8(D). The applicable provisions for establishing new uses or new structures in Sections 3.8(D)(4), 3.8(D)(5), and 3.8(D)(6) will apply depending upon whether the use or structure is in the Floodway, Flood Fringe, or General Flood Plain District, respectively.

(f) If a substantial improvement occurs, as defined in Section 8.4, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of Sections 3.8(D)(4) and 3.8(D)(5) for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

(g) Historic structures, as defined in Section 8.4, shall be subject to the provisions (a) through (f) above. (10-110)(1)

(12) Penalties for Violation. (10-120)

(a) *Misdemeanor.* Violation of the provisions of Section 3.8(D) or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variances or a conditional use permit, shall constitute a misdemeanor and shall be punishable as defined by law.

(b) *Additional Actions.* Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include but are not limited to:

(i) In responding to a suspected ordinance violation, the City may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures, or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood insurance Program.

(ii) The City shall immediately investigate the situation when an ordinance violation is either discovered by or brought to the attention of the City. The nature and extent of the violation of the official control shall be documented. As soon as is reasonably possible, this information shall be submitted to the appropriate Department of Natural Resources and Federal Emergency Management Agency Regional Office along with the City's plan of action to correct the violation to the degree possible.

(iii) The City shall notify the suspected party of the requirements of Section 3.8(D) and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the City may order the construction or development immediately halted until a proper permit or approval is granted by the City. If the construction or development is already completed then the City may either:

1. Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or
2. Notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed thirty (30) days.

(iv) If the responsible party does not appropriately respond to the City within the specified period of time, each additional day that lapses shall constitute an additional violation of Section 3.8(D) and shall be prosecuted accordingly. The City shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition which existed prior to the violation of Section 3.8(D).

(13) Amendments. (10-130)

(a) The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the regulatory flood protection elevation and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if the Commissioner determines that lands are adequately protected for the intended use through other measures.

(b) All amendments to Section 3.8(D), including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must give ten day written notice of all hearings to consider an amendment to Section 3.8(D). The notice shall include a draft of the amendment or technical study under consideration.

(E) Palmer Drive Overlay District

(1) Purpose and Intent (5-610)

The area located at 1101 – 1151 Silver Lake Road was redeveloped in late 2007 and early 2008 through a Planned Unit Development. The City recognizes this site, currently known as Brighton Village, together with nearby properties, as a redevelopment area. Further, the City recognizes the need for in-fill development in this area and has determined that it is in the public interest to accommodate in-fill development that is consistent with the development parameters approved with the Brighton Village Planned Unit Development.

The City wishes to accomplish these goals through establishment of the Palmer Drive Overlay District. This will allow the City to specify the properties that may take advantage of such overlay standards without undermining the intent of the existing zoning regulations. A property lying within this overlay area may choose whether or not to take advantage of these overlay district allowances as the underlying zoning will remain in full force and effect.

The intent of the Council in establishing this overlay district is to allow variations from the underlying zoning standards through the Site Plan procedures of Section 2.4(G) and Conditional Use procedures of Section 2.4(D) when such variations are consistent with variations approved through the Brighton Village Planned Unit Development.

(2) Designation of the Palmer Drive Overlay Area (5-620)

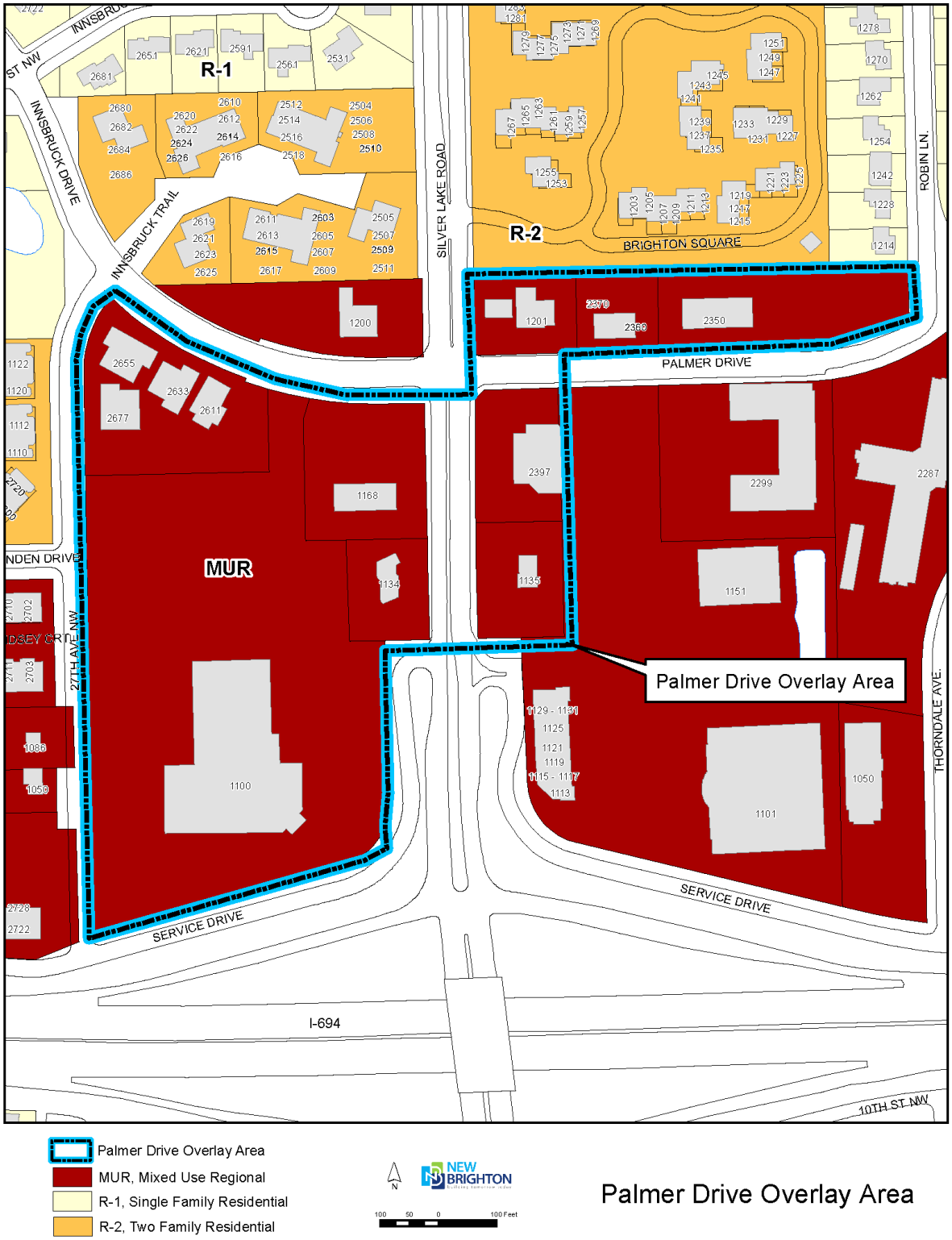
Figure 3-8 identifies land within the Palmer Drive Overlay Area.

~~**(a)** Any property with a zoning designation of B-3, General Business and abutting Brighton Village at 1101 – 1151 Silver Lake Road.~~

~~**(b)** Any property with a zoning designation of B-3, General Business and located on the north side of Palmer Drive, east of Silver Lake Road.~~

~~**(c)** Any property with a zoning designation of B-3, General Business on the west side of Silver Lake Road, north of Interstate 694, east of 27th Avenue NW, and south of Innsbruck Drive subject to Council discretion.~~

Figure 3-8: Palmer Drive Overlay District Boundaries



(3) Permitted Variations (5-630)

Any property in the Palmer Lake Overlay Area may take advantage of the following permitted Zoning Code variation:

(a) If no other variations are requested, a reduced parking setback of 15 feet can be allowed outright (as opposed to the setback required by Zoning Code Section 4.7) except when such setback is abutting property zoned for residential uses,.

(4) Special Variations (5-640)

Any property in the Palmer Lake Overlay Area may take advantage of the following Zoning Code variations by review and approval of a Conditional Use Permit:

(a) A reduced parking setback of between 0 feet and 15 feet (as opposed to the setback required by Zoning Code Section 4.7) except when such setback is abutting property zoned for residential uses.

(b) A reduced building setback of between 0 feet and 30 feet (as opposed to the setback required by the underlying zoning district, except when such setback is abutting property zoned for residential uses.

(5) Conditional Use Standards and Procedures (5-650)

The procedure for consideration of conditional uses within the Palmer Drive Overlay District is set forth in Section 2.4(D). In addition to the standards set forth in Section 2.4(D), the Council, with a recommendation from the Planning Commission, will approve such use only upon a finding that such variations are consistent with the development parameters of Brighton Village and of adjacent and nearby uses developed in accordance with Section 3.8(E) including, but not limited to, parameters relating to:

(a) Enhanced landscaping;

(b) Pedestrian linkages to neighboring developments for residents, employees, or shoppers that use decorative crosswalk treatment types; and

(c) Architectural styling compatible with Brighton Village at 1101 – 1151 Silver Lake Road or adjacent uses in the overlay area.

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(F) Environmental Constraint Overlay District

(1) Purpose and Intent (6-760)

There are certain properties within the City with environmental constraints that were created by past land uses. The City recognizes in these situations that conformance with underlying zoning regulations may be difficult due to site characteristics that resulted from those environmental issues or remediation efforts. Further, the City recognizes that it may not be feasible to comply with underlying zoning designations due to these environmental characteristics.

Rather than leave these sites dormant or allow them to persist as unsightly or underutilized, the City wishes to provide a means to develop or use these properties that is both practical and economical. The City recognizes that certain deviations from the industrial district standards may be necessary for a viable use to develop and evolve so that landowners are able to make good use of their properties.

It is the intent of the Environmental Constraint Overlay Area to provide the legislative means to meet land use goals for these unique sites while also imposing such regulations and limitations on the uses, or the accumulation of those uses, that may occur within the area in order to ensure the adequate protection of the environment and the health, safety, and welfare of the surrounding properties.

(2) Designation of the Environmental Constraint Overlay Area (6-770)

Properties included in the Environmental Constraint Overlay Area are illustrated in Figure 3-9.

Requests for additional property to be included by ordinance in the Environmental Constraint Overlay Area may be considered by following the procedures set forth in Section 2.4(B), provided the property meets all of the following requirements at the time of application:

(a) Underlying I-1, Light Industrial or I-2, Heavy Industrial zoning;

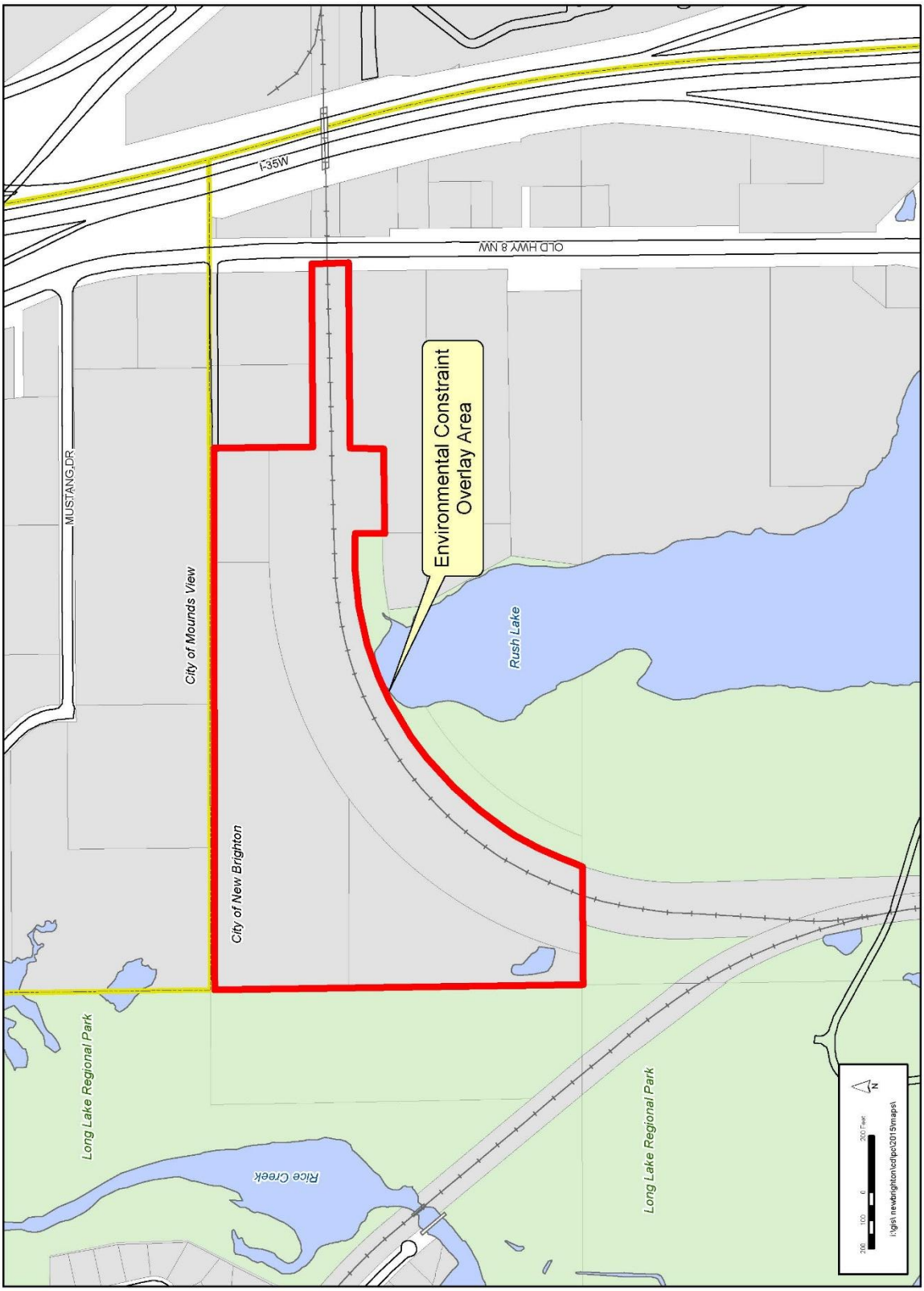
(b) Maximum lot area of 40 acres;

(c) Not adjacent to residential or commercial uses;

(d) The boundary of the site must be at least 800 feet from nearest residence;

(e) Primary access is served by a private roadway or a public roadway when a 650 foot road setback exists; and

Figure 3-9: Environmental Constraint Overlay District Boundaries



(f) There are documented environmental constraints that limit the use of the property for a typical industrial use that were not caused by the current landowner or user

(3) Permitted Uses (6-780)

Any permitted use of the underlying zoning shall only be allowed in the Environmental Constraint Overlay Area upon issuance of a conditional use permit

(4) Accessory Uses (6-790)

Only those accessory uses of the underlying zoning that are directly related to the permitted principal use on a property shall be an allowed accessory use on the property in the Environmental Constraint Overlay Area.

(5) Conditionally Permitted Uses (6-800)

(a) Any permitted or conditionally permitted use of the underlying zoning district.

(b) Aggregate crushing and recycling with associated materials storage, subject to the following conditions:

(i) Noise generated on site shall not exceed the following decibel limits:

1. Measured at the lot line: 100 dBA.
2. Measured from the nearest residential use: 56.5 dBA.

(ii) Odor shall not be readily detectable beyond the lot line of the site on which such use is located.

(iii) Dust-mitigation shall be implemented so as to prevent dust from leaving the site boundaries, as practical. A dust mitigation plan shall be submitted as part of the conditional use permitting process.

(iv) Screening methods shall be implemented so as to prevent the use from being visible from properties that are occupied by residences or from public roadways to the extent reasonably possibly and in accordance with the applicable provisions of the Zoning Code and any approved screening plan. Any berming efforts must be constructed in a manner to adequately control drainage on site.

(v) Maximum pile height shall be determined at the time of the conditional use permit consideration. Site characteristics, including adjacent and nearby sites, will be considered to ensure compliance with subsection (iv) above.

(vi) No more than 37 percent of the available pile storage area may be utilized for piles. The available pile storage area shall be specified as part of the conditional use permitting process. The piles stored in the pile storage area shall consist of processed and unprocessed piled soils, concrete, and aggregate only. No more than 15 percent of the pile storage area shall be occupied by unprocessed rubble.

(vii) The site must have access to a street with a classification of minor arterial or greater either directly, or by private road, or by a street serving only industrial properties. Truck routes to and from the site within the municipal boundary shall not include use of any street with a classification less than minor arterial.

(viii) Dirt and aggregate are not deposited onto a public roadway.

(ix) Other conditions identified by the City Council.

(c) Yard Waste Transfer Facility

(i) The volume and height of piled yard waste shall be limited based on site characteristics (such as topography and vegetative covering), including characteristics of adjacent and nearby sites, to ensure no negative visual impacts result to residential property. The area designated to store yard waste material shall be depicted on a site plan and include a maximum volume amount not to exceed 400 cubic yards and a pile height not to exceed 12 feet.

(ii) Screening shall be implemented that prevents, to the extent reasonably possible and in accordance with the applicable provisions of the Zoning Code and any approved screening plan, the use from being visible from properties that are occupied by residences or from public roadways. Any berming must be designed to adequately control drainage on site.

(iii) All yard waste material is transferred off site within 24 hours of the time it is dumped and the yard waste area must be cleared of all yard waste material at least once in a 24 hour period.

(iv) Odor shall not be readily detectable beyond the lot line of the site on which such use is located.

(v) Dust-mitigation shall be implemented so as to prevent dust from leaving the site boundaries, as practical. A dust mitigation plan shall be submitted as part of the conditional use permitting process.

(vi) The site shall be designed to minimize leaves and other yard waste debris from blowing off site.

(vii) As a condition of approval, the yard waste facility shall have a contingency plan ready to control odor and decomposition should an unforeseen event prevent the material from being transferred off site within 24 hours. The Department of Community Assets & Development shall be notified of every occurrence where material is left on the property longer than 24 hours.

(viii) As a condition of approval, the yard waste facility shall agree that if the odor management contingency plan is implemented more than three times in any 365-day period, the yard waste facility consents to the CUP being re-evaluated and amended through a Conditional Use Permit amendment process.

(ix) Noise generated by the use shall not exceed the levels noted in Section 3.3(E)(3).

(x) Other conditions identified by the City Council.

(d) Road Salt Storage and Transfer Facility.

(i) The road salt must be covered on three sides, including a roof and solid impermeable floor, and the combined area of all salt sheds shall not exceed 10,000 square feet. The shed(s) shall be reasonably screened from adjacent and nearby residential uses and public rights-of-way. A grading plan for the salt shed(s) shall be submitted at the time of Conditional Use Permit submittal.

(ii) Salt delivered via rail shall be from bottom-drop rail cars and off-loaded into a concrete pit with containment slab. Only rubber-tired loaders equipped with OSHA approved "shoosh" back-up alarms shall be used to load salt into the shed and onto trucks.

(iii) Rail car off-loading shall not exceed six hours per delivery and uncoupling/coupling of rail cars shall be minimized so as not to unreasonably disturb adjacent and nearby uses.

(iv) The road salt pile must be included in the calculations for the amount of land area to be occupied by piles under Section 3.8(F)(5)(b)(vi) above if this use is utilized in conjunction with an aggregate crushing and recycling with associated materials storage use.

(v) No more than 13,500 tons of salt shall be brought onto the property in any calendar year.

(vi) Salt tonnage per delivery and delivery dates and times shall be logged and made available for review to ensure compliance with the Environmental Constraint Overlay District. No salt deliveries shall be made between the hours of 9 p.m. – 8 a.m. No weekend or holiday deliveries are permitted.

(vii) An Environmental Storm Water Sampling Program shall be reviewed and approved as part of the conditional use permit and shall be commissioned to ensure road salt activity is not negatively impacting down gradient storm water receptors. Such program shall be reopened or revised as necessary throughout the life of the conditional use permit to ensure salt storage activities do not negatively impact down gradient storm water receptors.

(viii) Failure to strictly comply with the specific requirements of Section 3.8(F)(5)(d) shall not constitute a violation if the item of noncompliance is, in the City's determination, nominal or is due to factors beyond the reasonable control of the business such as weather or equipment failures. However, no flexibility shall be allowed with respect to the total limits established in Section 3.8(F)(5)(d) for total square footage of sheds and total amount of salt brought onto a property.

(6) Section 6-810. Procedure and Amendments. (6-810)

(a) The procedure for consideration of conditional uses within the Environmental Constraint Overlay District are set forth in Section 2.4(D).

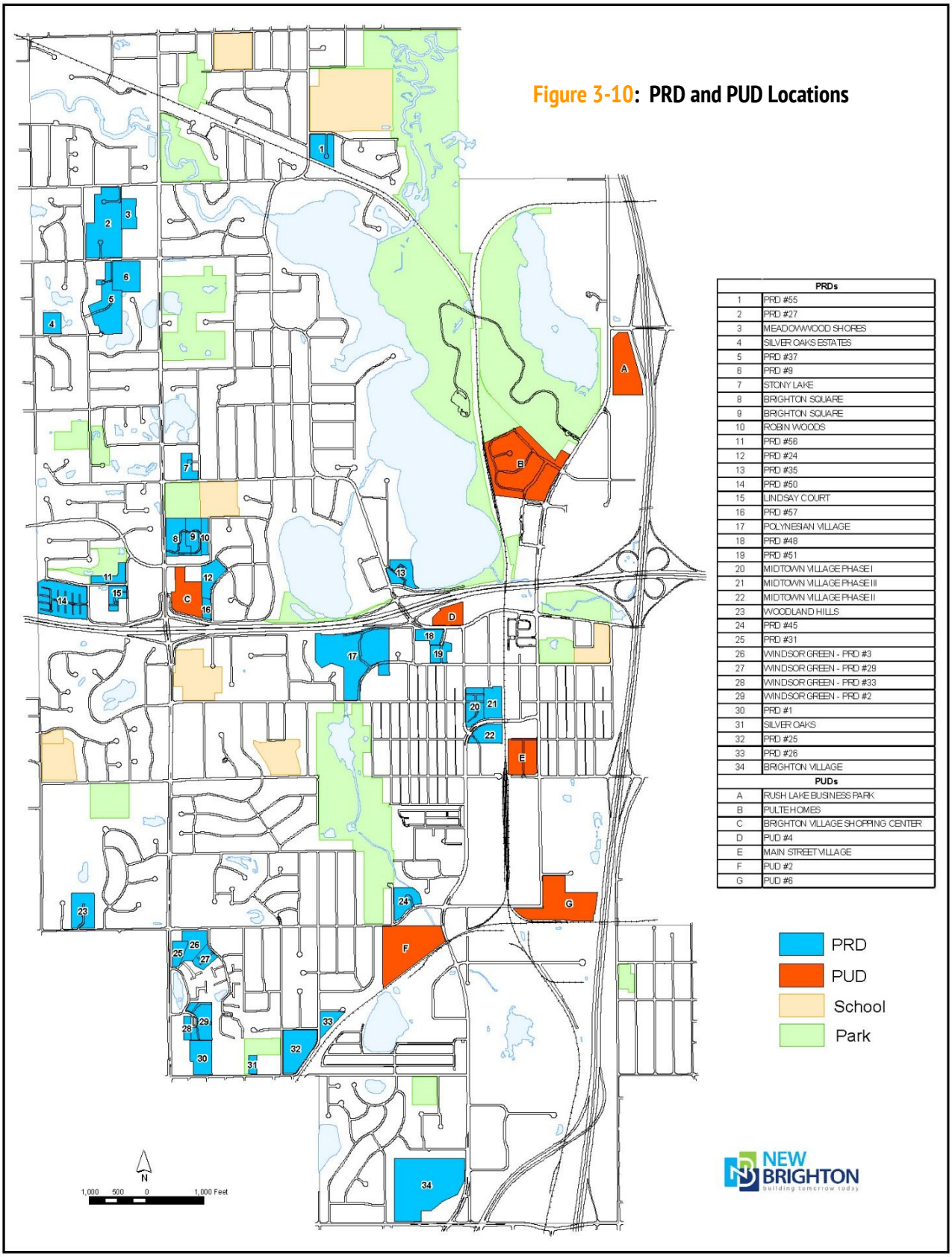
(b) A conditional use permit may be denied within the Environmental Constraint Overlay District if the City Council determines the potential impacts of the proposed use, when taken together with the existing uses on a property, would cumulatively result in negative impacts on the environment, surrounding properties, or public infrastructure that cannot be reasonably avoided or mitigated through the imposition of conditions.

(c) It is recognized that from time to time the nature of a use authorized within the Environmental Constraint Overlay District may need to be altered from the original approval. Any change in a use from the original approval shall be considered an amendment and shall be reviewed in accordance with procedure outlined in subsection (a) above.

(G) Planned Residential Development and Planned Unit Development Overlays

Figure 3-10 identifies all approved Planned Residential Developments and Planned Unit Developments governing lands within the City. Each area identified on this figure is subject to supplementary standards within the ordinance that established the PRD or PUD. Activities within any PRD or PUD area must conform to both this zoning ordinance as well as any special restrictions or requirements established by the PRD or PUD ordinance.

Figure 3-10: PRD and PUD Locations



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CHAPTER 4: FINISHING STANDARDS

4.1 Landscaping

(A) Section Organization

New Brighton landscaping and screening standards are organized into 12 main sub-sections:

(1) Section 4.1(B), Purpose and Intent

Sets out the purpose and intent for the City's landscaping standards.

(2) Section 4.1(C), Applicability of Landscaping Standards

Outlines when landscaping regulations apply, and when landscaping plans are required.

(3) Section 4.1(D), General Requirements for New Landscaping & Install

Focuses on minimum standards for landscaping at the time of install, how existing vegetation must be considered in landscape plans, etc.

(4) Section 4.1(E), Landscaping Plans

Outlines the specific information that must be supplied to the City any time a landscape plan is required by this ordinance.

(5) Section 4.1(F), Alternative Landscaping Plan

Includes the procedures and standards for review of alternative landscaping plans and when such are appropriate.

(6) Section 4.1(G), Standards for Vehicular Use Area Landscaping

Outlines standards for landscaping around the perimeter and within vehicular use areas.

(7) Section 4.1(H), Buffers

Includes the landscaping buffer standards applied to the edges of base zoning districts abutting other uses.

(8) Section 4.1(I), General Site Landscaping for New Development and Building Expansion

Establishes screening standards for new development and qualifying building and parking lot expansions.

(9) Section 4.1(J), Required Screening of Visual, Auditory, or Hazardous Concerns

Introduces standards for foundation plantings around some buildings.

(10) Section 4.1(K), Zoning District Specific Landscaping Standards

Outlines landscaping standards only applicable to specific zoning districts.

(11) Section 4.1(L), Landscaping Installation and Maintenance Standards

Includes the other standards for landscaping installation, timing, maintenance, monitoring for compliance, and incentives.

(12) Section 4.1(M), Appearance of Grounds over Time

Establishes requirements to maintain appropriate ground cover(s) over time.

(B) Purpose and Intent

It is the purpose of Section 4.1 to promote and protect the public health, safety, and general welfare by providing for the planting and maintenance of trees, shrubs, and other plants within the City. The intent of Section 4.1 is to promote this purpose by:

(1) Ensuring and encouraging the planting, maintenance, restoration, and survival of a variety of trees, shrubs, and groundcover; [8-010(2)(A)(12)]

(2) Striving to protect community residents and visitors from injury and property damage, and the protection of the City from property damage caused or threatened by the improper planting, maintenance, or removal of trees, shrubs, or other plants;

(3) Mitigating against erosion and sedimentation;

(4) Reducing stormwater runoff and the costs associated therewith; [8-010(2)(A)(5)]

(5) Preserving and protecting the water table and surface waters; [8-010(2)(A)(4)]

(6) Reducing audible noise from automobiles and land uses;

(7) Restoring soils and land impacted by construction or grading;

(8) Promoting compatibility between land uses; [8-010(2)(A)(6)]

(9) Protecting and enhancing property values and aesthetic qualities; [8-010(2)(A)(8)]

(10) Providing visual screening and year-round ornamental/visual interest, where appropriate; [8-010(2)(A)(13)]

(11) Preservation of existing vegetation and tree canopy when possible; and [8-010(2)(A)(11)]

(12) Promoting reestablishment of the vegetative environment for aesthetic, health, and wildlife reasons. [8-010(2)(A)(3)]

(C) Applicability of Landscaping Standards

(1) *General.* Except as specifically exempted, the standards in Section 4.1 shall apply to all development in the City.

(2) *Landscape Plan.* To ensure compliance with the standards of Section 4.1, a landscape plan demonstrating how landscaping will be planted on a development site shall be included as a part of any application when required by the Department of Community Assets & Development.

(D) General Standards for New Landscaping & Installation

Current standard of 3.0 caliper inch is no longer viable per expert review as such materials are very tough to find, and 1.5 to 2.0 is still considered big in the modern industry

(1) Planting Standards

Plantings provided in accordance with Section 4.1 shall comply with the following standards:

(a) Deciduous canopy or shade trees shall be a minimum of two (2.0) caliper inches in size at the time of planting. This may be reduced to 1.5 caliper inches at the discretion of the Department of Community Assets & Development provided availability is an issue, or provided the same number of caliper inches (or more) are planted. [8-010(2)(E)(1)]

(b) Evergreen canopy trees shall be a minimum of six feet in height above ground level at the time of planting. [8-010(2)(E)(3)]

(c) Understory or ornamental trees shall come in a 25-gallon pot and be a caliper of 1.5 inches at time of planting. This may be reduced to 1.25 caliper inches at the discretion of the Department of Community Assets & Development provided availability is an issue, or provided the same number of caliper inches (or more) are planted. [8-010(2)(E)(2)]

(d) Deciduous or evergreen shrubs shall be a minimum of 24 inches in height at the time of planting, and come in at least a 5 gallon pot. [8-010(2)(E)(4)]

(e) Fractional planting requirements.

(i) In cases where an Aggregate Caliper Inch (ACI) requirement is utilized to derive a required amount of vegetation and the ACI figure includes a fraction, an applicant may:

1. Utilize a tree or trees with a caliper inch measurement exceeding the minimum size at time of planting in order to meet the required ACI; or
2. Round the ACI figure upwards until the figure corresponds with a whole number of trees meeting minimum size requirements at time of planting standards. When trees exceeding the minimum size are proposed to be used, the minimum calipers of such trees shall be clearly noted on the landscaping plan.

(ii) In cases where a fractional number of shrubs must be provided, the minimum number of shrubs or trees to be provided shall be rounded upwards to the next highest whole number.

(f) All landscape plant materials shall conform to the latest version of the American Standard of Nursery Stock (ANSI Z60.1-2014, as amended). Plant material shall be of standard quality or better, true to name and type of species or variety.

(g) Special consideration for drought-tolerant plant species shall be implemented in areas not irrigated. [8-010(2)(D)(8)]

(h) To curtail the spread of disease or insect infestation in a plant species, not more than 30 percent of the required number of trees shall be composed of a single species [8-010(2)(C)(5)]

(i) *Required Species*

1. All trees used in site developments shall be appropriate to the hardiness zone and physical characteristics of the site.
2. All deciduous trees proposed to satisfy the minimum requirements of this ordinance shall be long-lived hardwood species.

(j) *Substitution.* Up to 25 percent of the required number of canopy trees may be substituted with ornamental trees at a ratio of two ornamental trees to one canopy tree. [8-010(2)(C)(3)]

(2) Existing Vegetation

(a) It is the policy of the City of New Brighton to preserve the natural forest and woodland areas throughout the City; and with respect to specific site development, to retain, as far as practicable, substantial tree stands which should be incorporated into the site.

(b) Existing healthy, well-formed canopy and understory trees as well as healthy shrubs shall be credited toward the requirements of Section 4.1, provided the vegetation meets the minimum size standards of this Ordinance, is protected before and during development of the site, and is maintained thereafter in a healthy growing condition.

(3) Stabilization

All required landscape planting areas shall be stabilized and maintained with lawn, ground covers, mulches, or other approved materials to prevent soil erosion and allow rainwater infiltration.

(4) Berms

(a) The slope of all berms shall not exceed a 2:1 ratio (horizontal to vertical), shall have a top width at least one-half the berm height, and a maximum height of four feet above the toe of the berm.

(b) All berms, regardless of size, shall be stabilized with a ground cover or other suitable vegetation.

(c) Berms proposed to be placed along street right-of-way shall be designed and constructed to provide adequate sight distances at intersections and shall not impair safe operation of vehicles.

(d) Berms shall in no case damage the roots or trunks of existing healthy vegetation designated to be preserved.

(5) Easements

(a) No plants that would interfere with access and maintenance of the easement should be planted or installed within any underground or overhead utility, drainage, or gas easement, or within three feet of a fire protection system without the consent of the utility provider, easement holder, or the City, as appropriate.

(b) Property owners who choose to install more than basic groundcover (i.e. sod) within easements and without specific consent do so at their own risk. Should the easement holder need to access the easement to exercise its legal rights, only basic groundcover is required to replace what was removed.

(6) Sodding and Ground Cover when no Landscaping or Site Plan is Required

All areas not otherwise improved in accordance with approved site or landscaping plans shall be covered with sod or seeded with grass seed. Exceptions to this criterion may be approved by the Department of Community Assets & Development as follows:

(a) Undisturbed areas containing existing viable natural vegetation may be maintained provided they can be maintained free of noxious plant materials.

(b) Areas may be planted and maintained as a managed natural landscape in accordance with Minnesota Statutes Section 412.925 as it may be amended from time to time.

(c) Use of mulch materials such as bark, rock mulch over 4 mil poly or 3 oz. spunbond fabric, and/or wood chips when in support of shrubs, foundation plantings, or other formally planned out landscaped areas.

(E) Landscaping Plans [8-010(1)]

Detailed landscape plans, when required by this ordinance, shall illustrate planned development on the site; shall be produced on a separate sheet or sheets from other required plans such as grading, drainage, and utility plans; and shall include the following information: [8-010(2)(B)…amended to list more detail to give us the ability to deem submittals incomplete when necessary]

(1) In general:

(a) Name and address of developer/owner.

(b) Name and address of architect/designer.

(c) Date of plan preparation.

(d) Dates and description of all revisions.

(e) Name of project or development.

(f) Scale of plan (engineering scale only, at 1-inch equals 50 feet or less).

(g) North point indication.

(2) Site Analysis:

(a) Boundary lines of property with dimensions based upon certified survey.

(b) Name and alignment of proposed and existing adjacent and on-site streets.

(c) Location of existing and proposed utility rights-of-way, easements, and lines (water, gas, electric).

(d) Location of existing and proposed buildings.

(e) Topographic contours of the minimum interval of two feet, extending at least 100 feet beyond the site boundaries.

(f) Location of existing and proposed parking facilities, including curbing detail and any proposed traffic islands.

(g) Location of existing and proposed water bodies.

(h) Location of existing and proposed sidewalks, trail corridors, and fire lanes.

(i) Other existing or proposed conditions which would be expected to affect landscaping.

(j) Percentage of the gross site area covered by impervious surfaces**.**

(3) Landscape Data: [8-010(2)(B)]

(a) Planting schedule (table) containing symbols, quantities, common names, botanical names, sizes of plant material, root specification (bare root, balled and burlapped, balled and potted, etc.) and any special planting instructions.

(b) Existing trees and shrubbery, locations, common names, and approximate size.

(c) Planting detail (show all species to scale at normal mature crown diameter or spread for local hardiness zone).

(d) Locations and details of other landscaping features such as berms, walls, fences, sculptures, planters,etc.

(e) Typical sections of landscape islands and planter beds with identification of materials used.

(f) Details of proposed planting beds and foundation plantings.

(g) Note indicating how disturbed soil areas will be restored through the use of sodding, seeding, or other techniques.

(h) Delineation of both sodded and seeded areas.

(i) Coverage plan for underground irrigation system, if any.

(j) Exterior lighting plan (if landscaping is being specifically illuminated).

(k) All storm water management plan structures and facilities including, but not limited to, infiltration BMP's, permanent sedimentation and water quality ponds, detention basins, and any associated storm drain pipes as required by the City or the Rice Creek Watershed District.

(4) Special Conditions

Where landscape or man-made materials are used to provide ordinance or policy-required perimeter buffering/screening from adjacent and neighboring properties, a cross-through section may be required to show the perspective of the site from the neighboring property at the property line elevation.

(F) Alternative Landscaping Plan [8-010(G)…concept is the same; language is new]

(1) *Purpose.* In cases where development conditions require a deviation from the landscaping standards in Section 4.1 or the tree protection standards in Section 4.2, an alternative landscaping plan may be submitted in lieu of a standard landscaping plan. The alternative landscaping plan shall indicate how compliance with the standards in this ordinance is impossible or impractical and shall illustrate how compliance can be achieved by alternative means to the maximum extent practicable.

(2) *Justification.* Alternative plans, materials, or methods may be justified due to:

(a) Natural conditions, such as streams, natural rock formations, or topography;

(b) The likelihood that landscaping material would be ineffective at maturity due to topography, placement, or other existing site conditions;

(c) Lot size or lot configuration;

(d) The presence of utilities or other easements;

(e) The potential for interference with public safety;

(f) The desire to implement special design features such as xeriscaping (low water requirements), rain gardens, bioswales, roof top gardens, native landscapes, and integrated pedestrian facilities; and

(g) Other situations where strict adherence to the landscaping or tree protection standards in this ordinance are determined to be impractical by the Department of Community Assets & Development.

(3) *Allowable Deviations.* The Department of Community Assets & Development may accept an alternative landscape plan if it meets the purpose and intent of Section 4.1, Landscaping and Screening and/or Section 4.2, Tree Protection, as appropriate. Allowable deviations from the standards of Section 4.1 include, but are not limited to the following:

(a) *Reduced Planting Rates due to Public Facilities*. An adjustment to planting locations or reduction in the type or total number of required caliper inches may be allowed when underground connections to public facilities, public utilities, or public easements or right-of-way cause difficulty in meeting the required standards.

(b) *Reduction in Standards due to the Nature of the Parcel*. A reduction in the count, spacing, or species variety standards may be allowed where the proposed change is desirable in terms of protection of existing natural resources, better consistency with the goals of the Comprehensive Plan, or a site design that exceeds the quality of what would otherwise result under a strict application of the standards in this ordinance, in the opinion of the Department of Community Assets & Development.

(c) *Reduction in Standards in Recognition of Native Plantings or Restoration Plan*. A reduction in the type or total number of required caliper inches may be allowed where the reduction is desirable as an incentive to encourage the use of native plantings or the restoration of native plantings on lands dedicated for open space.

(d) *Planting on Adjacent or Alternative Sites*. In cases where required plantings cannot be easily sited on the subject parcel, alternative locations on adjacent or nearby parcels may be proposed.

(4) *Alternative Landscape Plan Informational Requirements*. Alternative landscape plans shall provide the same information required by a general landscape plan as outlined in Section 4.1(E).

(G) Standards for Vehicular Use Area Landscaping

See Section 4.7, Parking

(H) Buffers

(1) *Purpose and Intent.* Buffers are intended to mitigate potential negative effects of different contiguous uses.

(2) *Applicability.* Individual uses in Chapter 5 may require a specific buffer type for that use. In the event of a conflict between landscaping standards in this ordinance, the more opaque buffer shall apply.

(3) *Types of Buffers.* Table 4-1: Buffer Types, describes four different buffering types in terms of their function, opacity, width, and planting requirements. Where a particular buffer type is required by this ordinance, the requirement may be met with the combination of minimum buffer width and minimum screening requirements specified under either Option 1 or Option 2, or by adherence to a greater buffer standard. Where an option utilizing a fence or wall is selected, the fence or wall shall comply with the standards of Section 4.3, Fences and Walls.

(4) *Allowable Deviations.* The Department of Community Assets & Development may approve deviations to buffer planting standards if adherence to requirements is deemed to be impractical or unnecessary due to site conditions or context.

TABLE 4-1: BUFFER TYPES		
ACI = AGGREGATE CALIPER INCHES	Minimum Screening Requirements Within the Perimeter Buffer [1] [2] [3] [4]	
Buffer Type and Configuration	Option 1: Minimum Width of 20 feet	Option 2: Minimum Width of 10 feet
TYPE A – BASIC BUFFER		
A buffer that functions as basic edge demarcating individual properties with a slight visual obstruction	Landscaped with sod or other allowed plant materials	2 ACI of canopy trees + 10 ACI of understory trees + 15 shrubs per 100 linear feet
TYPE B – AESTHETIC BUFFER		
This perimeter buffer functions as an intermittent visual obstruction and creates the impression of separation without eliminating visual contact between uses.	8 ACI of canopy trees + 10 ACI of understory trees + 15 shrubs per 100 linear feet	2 ACI of canopy trees + 14 ACI of understory trees + 35 shrubs per 100 linear feet
TYPE C – SEMI-OPAQUE BUFFER		
This perimeter buffer functions as a semi-opaque screen from the ground to at least a height of six feet.	12 ACI of canopy trees + 14 ACI of understory trees + 25 small shrubs per 100 linear feet	One 4-foot high berm or one 4-foot high opaque fence + 2 ACI of canopy trees + 16 ACI of understory trees per 100 linear feet
TYPE D – OPAQUE BUFFER		
This perimeter buffer functions as an opaque screen from the ground to a height of at least six feet. This type of buffer prevents visual contact between uses and creates a strong impression of total separation.	18 ACI of canopy trees + 20 ACI of understory trees + 55 small shrubs per 100 linear feet	One 6-foot high opaque fence + 12 ACI of canopy trees per 100 linear feet

[1]: Any required perimeter buffer width can be reduced to five feet with the provision of a solid masonry wall at least five feet in height along with a minimum of 10 exterior shrubs per every 100 linear feet.

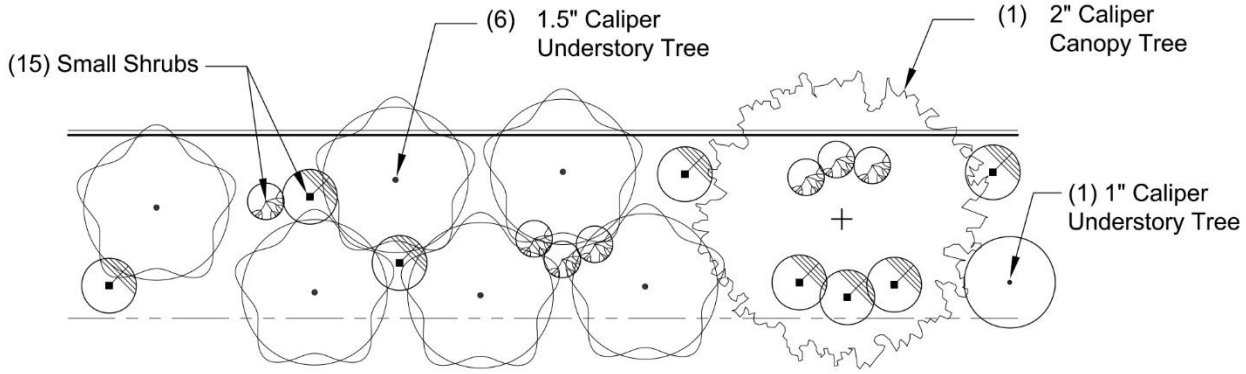
[2]: Perimeter buffer widths (but not vegetation amounts) may be reduced at the discretion of the Department of Community Assets & Development. Alternatively, applicants may submit an Alternate Landscape Plan under the provisions of Section 4.1(E) if adhering to these requirements is not possible.

[3]: In cases where an adjacent use is designed for solar access, understory trees can be substituted for canopy trees.

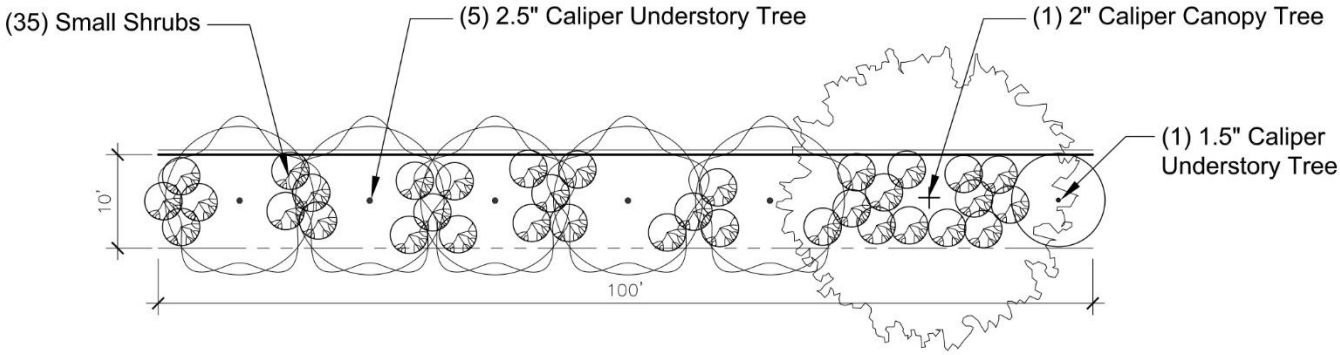
[4]: Required plantings shall conform to the planting standards outlined in Section 4.1(C)(2).

FIGURE 4-1: ILLUSTRATED BUFFER TYPES

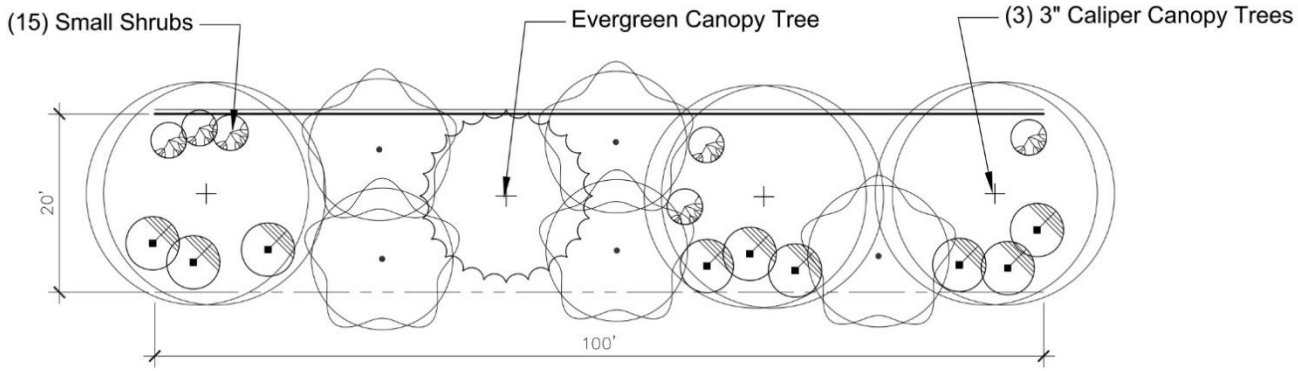
TYPE A – BASIC BUFFER



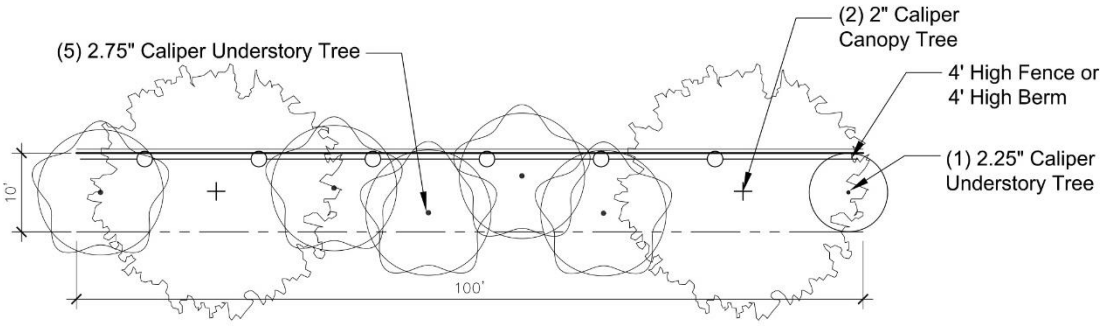
TYPE B – AESTHETIC BUFFER (10-foot buffer area)



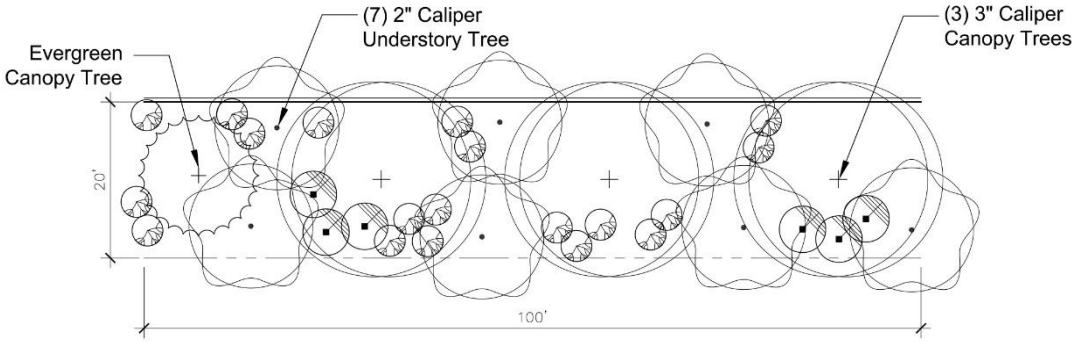
TYPE B – AESTHETIC BUFFER (20-foot buffer area)



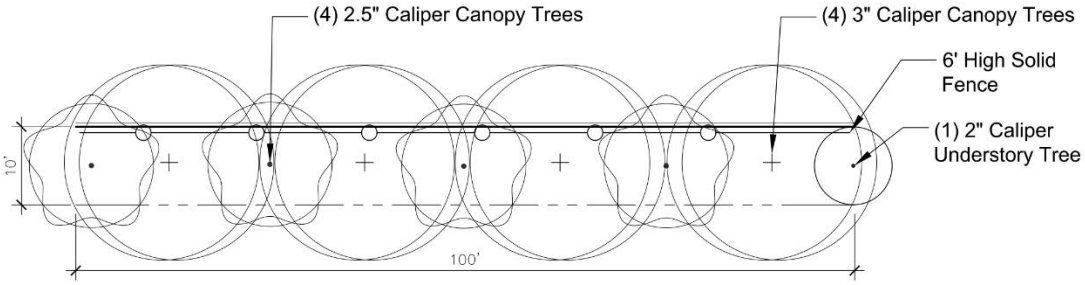
TYPE C – SEMI-OPAQUE BUFFER (10-foot buffer area with a berm or fence)



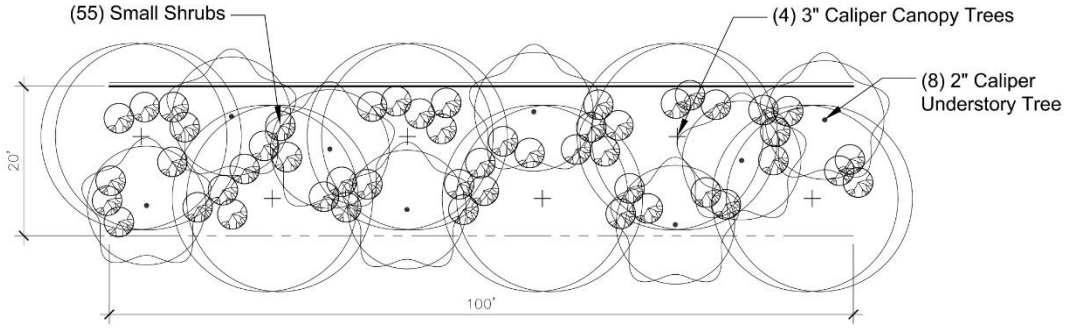
TYPE C – SEMI-OPAQUE BUFFER (20-foot buffer area)



TYPE D –OPAQUE BUFFER (10-foot buffer area with a fence)



TYPE D –OPAQUE BUFFER (20-foot buffer area)



(5) *Development within Required Buffers*

(a) Unless otherwise permitted in this ordinance, a required buffer shall not contain any development, impervious surfaces, or site features (except fences or walls) that do not function to meet the standards of Section 4.1 or that require removal of existing vegetation.

(b) Sidewalks, trails, and other elements associated with passive recreation may be placed in a required buffer if all required landscaping is provided and damage to existing vegetation is minimized to the maximum extent practicable.

(c) Overhead and underground utilities required or allowed by the City are permitted to cross a required buffer in a perpendicular fashion but shall minimize the impact to vegetation to the maximum extent practicable. Where required landscaping materials are damaged or removed due to utility activity within a required buffer, the landowner shall be responsible for replanting all damaged or removed vegetation necessary to ensure the buffer meets the standards in this ordinance.

(6) *Sight Triangles.* Fencing, berms, walls, and all other landscaping features shall adhere to the requirements of Section 3.3(D)(3), Corner Visibility.

(7) *Credit for Existing Vegetation.* Existing vegetation meeting the size standards of Section 4.1(D)(1), Planting Standards, located within a required buffer area may be preserved and credited toward the perimeter buffer standards.

(I) General Site Landscaping for New Development and Building Expansion

(1) *When Applicable*. The site landscaping provisions of Section 4.1(I) shall be required for:

(a) New development;

(b) Any redevelopment that includes an expansion in excess of 15 percent of the existing gross floor area (calculated over time);

(c) An expansion of a parking area by 20 stalls or more; or [8-010(2)(B)]

(d) Specific uses or land use changes as specified in this ordinance or the Subdivision Ordinance.

(2) *Exceptions*. Single Family and double family residences. [8-010(2)(B)]

(3) *Distinguished from Other Required Landscaping*. General site landscaping, for the purpose of Section 4.1, is exclusive of required buffer and/or screening landscaping which may also be required. Plantings required to meet a vehicular use landscaping standard can be counted towards meeting general site landscaping requirements.

(4) *Minimum Landscaping Requirements for New Developments:*

(a) Canopy Trees

(i) A minimum of one canopy tree per lot shall be planted within the boulevard area. In situations where there is only one lot, one deciduous tree and one coniferous tree shall be required in the boulevard area. [8-010(2)(C)(1)]

(ii) One canopy tree for every 1,000 square feet of building floor area or one canopy tree per 50 feet of site perimeter, whichever is greater. [8-010(2)(C)(2)]

(iii) The makeup of all canopy trees must be at least one-half deciduous and one-half coniferous. In the event there are an odd number of trees required, the applicant may choose either deciduous or coniferous to make up the difference. [8-010(2)(C)(4)]

(b) One shrub shall be provided for each 300 square feet of building area or every 30 feet of site perimeter, whichever is greater. [8-010(2)(C)(7)]

(c) At least 10 percent of the total site area shall be landscaped. [8-010(2)(C)(8)]

(d) All existing dead or diseased plant materials shall be removed. [8-010(2)(C)(10)]

(e) Preservation of an existing tree shall be credited towards two new trees with the greatest credit not to exceed 25 percent of the total required number of trees. [8-010(2)(C)(6)]

(5) *Minimum Landscaping Requirements for Qualifying Expansions:*

(a) Canopy Trees

(i) One canopy tree for every 1,000 square feet of expanded building floor area.

(ii) Up to 25 percent of the required number of canopy trees may be substituted with ornamental trees at a ratio of two ornamental trees to one canopy tree.

(iii) The makeup of all canopy trees must be at least one-half deciduous and one-half coniferous. In the event there are an odd number of trees required, the applicant may choose either deciduous or coniferous to make up the difference.

(b) One shrub shall be provided for each 300 square feet of added building floor area.

(J) Required Screening of Visual, Auditory, or Hazardous Concern Areas.

(1) *General Requirements*. In addition to the other forms of required landscaping, screening shall be required to conceal specific areas of high visual or auditory impact or hazardous areas from off-site views. Such areas shall be screened at all times, unless otherwise specified, regardless of adjacent uses, districts, or other proximate landscaping material.

(2) *Items to be Screened*. Unless otherwise authorized as part of an official approval, the following areas shall be screened in accordance with Section 4.1:

(a) Anything specifically called out by this ordinance as requiring screening.

(b) Large trash handling and recycling collection areas (e.g., dumpsters and cardboard recycling containers);

(c) All loading and service areas shall be screened and landscaped from abutting and surrounding residential uses and public rights of way;

(d) Allowed outdoor storage areas adjacent to residential uses and public rights of way; and

(e) New construction, demolition, or other site conditions that could be unsafe for pedestrians or vehicles.

(3) *Screening Methods*. The following items are permitted for use as screening materials, and more than one method may be used on a lot or site.

(a) Vegetative materials that can provide a 90 percent opacity year-round screen and which are the minimum height necessary to screen the facility from offsite views; or

(b) An opaque fence or wall meeting the following requirements:

(i) The fence or wall shall be consistent with the standards in Section 4.3, Fences and Walls.

(ii) The fence or wall shall provide a solid screening effect and not exceed the maximum height allowed for fences or walls in the underlying zoning district, or be less than six (6) feet in height.

(iii) The design and materials used in constructing a required screening fence shall be subject to the approval of the Department of Community Assets & Development.

(c) Alternative screening materials that are not listed above or alternative configurations may be proposed as part of an alternative landscaping plan (see Section 4.1(E)) if the alternative materials or configuration provide an equivalent or superior screening function.

(4) *Configuration of Vegetative Materials.* In cases where vegetative materials are used for screening in accordance with this subsection, the vegetative materials shall:

(a) Be planted around the perimeter of the site feature to be screened in a manner that screens the site feature from all off-site views;

(b) Be configured in two staggered rows or other arrangement that provides maximum screening;

(c) Be upright, large evergreen shrubs which are capable of reaching at least six feet in height within three years of planting; and

(d) Be spaced no farther than three feet on-center.

(5) *Roof-based Equipment and Penetrations*

(a) *General Roof Penetrations*. All roof vents, pipes or other roof penetrations (except chimneys) in all districts are encouraged to be screened, located on the rear elevations, or be otherwise configured to have a minimal visual impact as seen from a public street.

(b) *Roof-based Mechanical Equipment in the NBE District*

Screening of roof-based equipment is encouraged in all zoning districts but is only required in the NBE District.

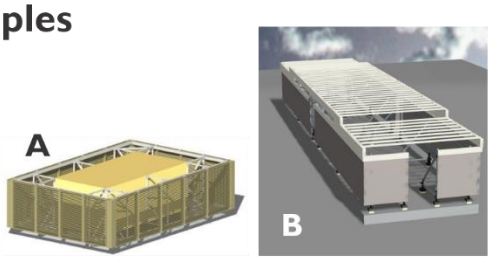
(i) Parapet walls or other techniques incorporated in a building's design shall be used to totally screen any roof-based mechanical equipment from public rights-of-way or adjacent lands in the NBE district.

(ii) In cases where roof-based mechanical equipment in the NBE district are too tall to be screened by a parapet wall, or if changes in the surrounding grade make rooftops with parapets visible from public rights-of-way or adjacent lands, a rooftop screening system shall be used for screening (see Figure 4-2).

(iii) The Department of Community Assets & Development may waive rooftop screening requirements in the NBE District when adherence to requirements would interfere with the operation of equipment providing safety to the facility.

Figure 4-2: Rooftop Screening System Examples

Rooftop screening systems shall be subject to approval of the Department of Community Assets & Development, and shall be of similar design to the examples shown here. Example "A" illustrates a metal louver wall for general screening from below. Example "B" illustrates the use of lattice to even screen from above. The before and after photos provide further illustration of proper rooftop screening design.





(K) Zoning District Specific Landscaping Standards

(1) Single-Family Low Density District (RS-1) Landscaping Requirements

RESERVED

(2) Single-Family Medium Density District (RS-2) Landscaping Requirements

RESERVED

(3) Multi-Family Low Density District (RM-1) Landscaping Requirements

RESERVED

(4) Multi-Family Medium Density District (RM-2) Landscaping Requirements

RESERVED

(5) Multi-Family High Density District (RM-3) Landscaping Requirements

RESERVED

(6) Manufactured Home Community District (MHC) Landscaping Requirements

RESERVED

(7) Residential Business District (BR) Landscaping Requirements

RESERVED

(8) Neighborhood Business District (BN) Landscaping Requirements

RESERVED

(9) General Business District (BG) Landscaping Requirements

RESERVED

(10) Light Industrial District (IL) Landscaping Requirements

RESERVED

(11) Heavy Industrial District (IH) Landscaping Requirements

RESERVED

(12) Restricted Industrial District (IR) Landscaping Requirements

RESERVED

(13) New Brighton Exchange District (NBE) Landscaping Requirements

RESERVED

(14) Mixed Use Downtown District (MUDT) Landscaping Requirements

RESERVED

(15) Mixed Use Neighborhood District (MUN) Landscaping Requirements

RESERVED

(16) Mixed Use Regional District (MUR) Landscaping Requirements

RESERVED

(L) Landscaping Installation and Maintenance Standards

(1) *Time for Installation of Required Landscaping.*

(a) *Time Limit*

All required landscaping (including mulching and seeding) shall be installed in accordance with the required planting standards set forth in Section 4.1 prior to issuance of a certificate of occupancy unless the Department of Community Assets & Department grants an extension to this time limit in accordance with Section 4.1(L)(1)(b) below. [8-010(2)(F)(1 first sentence)]

(b) *Extensions*

(i) The Department of Community Assets & Department may, for good cause shown, grant extensions to the above time limit, allowing a developer/owner to delay the installation of required landscaping. Circumstances that may warrant an extension include but are not limited to the following:

1. Unusual environmental conditions such as drought, ice, or over-saturated soil (deep mud);
2. It is not yet the appropriate planting season for the approved plant species;
3. Credible evidence that the approved plant species or required plant sizes are not commercially available and cannot be substituted within a reasonable time despite an applicant's diligent effort to secure the required materials; or

4. Completion of utility work occurring in a proposed landscaped area is incomplete or delayed.

(ii) In the event occupancy is requested prior to completion of the landscaping requirements, a letter of credit equal to 125 percent of the total cost to complete the landscape plan must be submitted to the City. When occupancy of a building does not apply to a project, all required landscaping shall be completed within one year of the date of construction commencement. [8-010(2)(F)(1 second sentence) and 8-010(7)]

(iii) Upon receipt of a performance guarantee satisfactory to the City, the City may issue a temporary certificate of occupancy for a maximum period of up to 180 days.

(2) *Maintenance of Landscaping Materials.* The owner shall be responsible for the maintenance of all required landscaping. Such areas shall be maintained in accordance with the approved landscape plan or alternative landscape plan and shall present a healthy and orderly appearance free from refuse and debris. All plant life shown on an approved landscape plan or alternative landscape plan shall be replaced if it dies, is seriously damaged, or removed.

(a) *Damage Due to Natural Occurrence*

In the event that any vegetation or physical element functioning to meet the standards of Section 4.1 is severely damaged due to an unusual weather occurrence or natural catastrophe, or other natural occurrence such as damage by wild or domestic animals, the owner or developer may be required to replant if the landscaping standards are not being met. The owner shall have one growing season to replace or replant. The Department of Community Assets & Development shall consider the type and location of the landscape buffer or required vegetation area as well as the propensity for natural re-vegetation in making a determination on the extent of replanting requirements.

(b) *Protection during Operations*

The owner or developer shall take actions to protect trees and landscaping from unnecessary damage during all facility and site maintenance operations. Plants shall be maintained in a way that does not obstruct sight distances at roadway and drive intersections, obstruct traffic signs or devices, or interfere with the use of sidewalks or pedestrian trails.

(c) *Maintain Shape*

All required trees (whether canopy, understory, or otherwise) shall be maintained in their characteristic natural shape, and shall not be severely pruned, sheared, topped, or shaped as shrubs. Required trees that have been severely pruned, sheared, topped, or shaped as shrubs which no longer serve the intended buffering or screening function shall be considered as damaged vegetation in need of replacement in accordance with Section 4.1(L)(2)(a) Damage Due to Natural Occurrence, and shall be replaced within one growing season.

(d) *Natural Death of Existing Vegetation*

The natural death of existing vegetation within any required landscape area does not necessarily constitute a violation and does not require re-vegetation to replace the plant material unless the required landscape area no longer complies with the required standards of Section 4.1. Further, the screening is expected to remain effective continually, so any plant material which dies or ceases to function as a screen shall be replaced or reinforced immediately to conform to City ordinance.

(3) *Agreement and Security.* A landscaping security shall be submitted with the building permit application. Such security guarantees that in exchange for building permit, the owner will construct, install and maintain all items shown on the approved plan and that they will replace and or correct any deficiencies or defaults that occur in the plan for a period of one complete year or two complete growing seasons subsequent to the complete installation according to approved landscaping plan. [8-010(7)]

(M) Appearance of Grounds over Time [8-020]

(1) In all districts, the lot area remaining after providing for off-street parking, sidewalks, driveways, buildings, and other requirements, shall be planted and maintained in grass, sodding, shrubs, or other acceptable vegetation or treatment generally used in landscaping. All such landscaping shall be maintained.

(2) All landscaped areas as shown on an approved site or landscape plan (if previously required) shall be maintained.

(3) Plants and ground cover that were required by approved plans which later died shall be replaced within three months of notification by the City; however, the time for compliance may be extended up to nine months in order to allow for varying temperature and weather conditions.

(N) Topsoil Removal [8-057]

No person, firm, or corporation shall strip, excavate, or otherwise remove topsoil specifically to sell from any site within the City unless such sale is in connection with the construction or alteration of a building, the excavation or grading is necessary to complete the project, and off-site sale is the only economically feasible option to deal with the topsoil being impacted by the project. On-site reuse or reuse within the community are the preferred options for impacted topsoil.

4.2 Tree Protection

Reserved (we currently have no standards and aren't proposing any, but future regulations (if ever desired) would go here.

4.3 Fences & Walls

(A) Purpose and Intent

The purpose and intent of Section 4.3 is to regulate the location, height, and appearance of fences and walls to maintain visual harmony within and between zoning districts; to protect adjacent properties from the indiscriminate placement and unsightliness of fences and walls; and to ensure the safety, security, and privacy of properties. [4-560(1)]

(B) Applicability

(1) *In General.* Unless specifically exempted by this ordinance, the provisions of Section 4.3 shall apply to the construction, reconstruction, or replacement of all fences or walls in the City.

(2) *Exemptions.* The following are exempted from the requirements of Section 4.3:

(a) *Recreational Fencing.* Fencing, if determined to be normal and customary by the Department of Community Assets & Development, meant to serve a permitted recreational court (tennis, pickle ball, etc.), athletic field, or other recreational facility.

(b) *Temporary Fencing*. Temporary fencing established around construction sites, demolitions, or other site conditions unsafe for pedestrians or vehicles, provided it is consistent with the building code.

(c) *Emergency Fencing.* Temporary fencing erected to address an urgent public safety matter or to protect public facilities during times of civil unrest.

(C) General Requirements for Fences and Walls

(1) Location

(a) Fences and walls are permitted anywhere on a lot subject to the following restrictions:

(i) The corner visibility requirements in Section 3.3(D)(3) shall be met. [4-540(3)(E)]

(ii) Fences and walls shall not be located within public right-of-way unless permitted by the City via a written encroachment agreement. [4-540(3)(B part 2)]

(iii) Fences and walls that are located within City easements are subject to removal without compensation to the property owner if the City must access the area to utilize the easement for its intended purpose.

(iv) Retaining walls shall not be located within easements unless there is an encroachment agreement in place between the easement holder and the property owner.

(b) All fences shall be located entirely upon the private property of the person constructing the fence. [4-540(3)(B part 1)]

(2) Blocking Natural Drainage Flow

(a) No fence shall be installed so as to block or divert a natural drainage flow or to obstruct the flow of water upon a drainage or ponding easement unless specifically approved to do so by the Department of Community Assets & Development.

(b) Drainage swales may not be filled to accommodate the construction of fences or walls without alternate storm water provisions being reviewed and approved by the Department of Community Assets & Development.

(c) Nothing in subsection 4.3(C)(2) shall be construed to prevent the installation of temporary fencing to protect existing trees, limit sedimentation, or control erosion.

(3) Permit Requirements

(a) *Retaining Walls*

(i) Installation of retaining walls up to four feet high do not require a permit but are subject to review and approval by the Department of Community Assets & Development when such walls are proposed as a component of a project which needs a building or grading permit.

(ii) Retaining walls proposed to exceed four feet in height at any point shall require engineered plan sets and an approved building permit.

(b) *Permit Requirements -- Fences*

(i) Fences up to six feet in height do not require a building permit, but shall adhere to all fencing requirements in this ordinance.

(ii) Fences in excess of six feet in height are only permissible if approved as may be specifically allowed by this ordinance, [4-540(3)(A)]

(4) Prohibited Fences

(a) Barbed or razor wire fencing unless specifically permitted as a component of a special purpose fence in an industrial zoning district. [4-540(3)(D)]

(b) Fences or walls made of debris, junk, rolled plastic, sheet metal, plywood, wooden landscape lattice or waste materials are prohibited unless such materials have been recycled and reprocessed for marketing to the general public as building materials that resemble new building materials and are designed for use as a fencing material (e.g., picket fencing made from recycled plastic and fiber).

(c) No metal "t" posts shall be permitted for lot perimeter fencing.

(5) Appearance / Customary Materials

Every fence shall be constructed in a substantial skillful manner and of substantial material reasonably suitable for the purpose for which the fence is proposed to be used . Fences and walls shall be constructed of any combination of: [4-540(3)(C sentence 1)]

(a) Treated wood posts and vertically-oriented planks;

(b) Traditional chain link fencing, treated with factory-applied weather resistant coating or galvanized, with wires no smaller than 14-gauge;

(c) Rot-resistant wood;

(d) Wrought iron;

(e) Decorative metal materials;

(f) Brick;

(g) Stone;

(h) Masonry materials; or

(i) Other reliable products designed to resemble these materials if approved by the Department of Community Assets & Development.

(6) Finished Side to Outside

Wherever a fence or wall is installed, if one side of the fence or wall appears more "finished" than the other (e.g., one side has visible support framing and the other does not), then the more "finished" side of the fence shall face the perimeter of the lot rather than the interior of the lot. [4-560(4)(D)]

(7) Compatibility of Materials along a Single Lot Side

All fencing or wall segments located along a single lot side shall be composed of a uniform style and colors compatible with other parts of the fence and with the associated buildings.

(8) Maintenance Required

(a) Every fence or wall must be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger or constitute a nuisance. [4-540(3)(C sentence 2)]

(b) A fence which is or has become dangerous to the public safety, health, or welfare is a public nuisance in accordance with Chapter 17 of the City Code. [4-540(3)(C sentence 3)]

(c) Fences or walls in a state of disrepair may be removed by the City as provided by the City Code and applicable Minnesota Statutes. The cost of removing fences shall be borne by the property owner.

(D) Specific Requirements for Fences and Walls by District

All fences and walls shall conform to applicable overlay district requirements (i.e. shoreland district standards) in addition to the following district-specific standards.

(1) Residential Districts (RS-1, RS-2, RM-1, RM-2, RM-3, MHC)

(a) Fences erected in the front yard of a lot within any residential district, shall not exceed 3.5 feet in height and shall have at least 50 percent of their vertical surface plane open when viewed from a point perpendicular to that plane. [4-540(4)(A)]

(b) Fences in yards other than a front yard shall not exceed six feet in height and shall be constructed so as to permit a free flow of air. [4-540(4)(B)]

(c) When a principal structure is located on a lot having more than one street side, the street side of the lot toward which the structure is oriented shall be considered the front lot line, and the yard on that side shall be considered the front yard for purposes of fence regulation. [4-540(4)(C)]

(d) Chain link and other mesh fences in residential districts shall have knuckled ends at both top and bottom. [4-540(4)(D second sentence)]

(2) Business Districts (BR, BN, BG)

(a) Fences erected in the front yard or in the street side yard of a lot shall not exceed 3.5 feet in height and shall have at least 75 percent of their vertical surface plane open when viewed from a point perpendicular to that plane. Where higher or more solid fences are required by other sections of the Zoning Code, the requirements of those other sections shall govern. [4-550(1)(A)]

(b) Fences erected in other yards shall not exceed six feet in height. [4-550(1)(B)]

(c) Chain link fencing shall be prohibited in business districts unless specifically authorized by site plan approval as being appropriate based on location and resulting site aesthetics.

(3) Industrial Districts (IL, IH, IR)

(a) Fences erected in the front yard or in the street side yard of a lot shall not exceed 3.5 feet in height and shall have at least 75 percent of their vertical surface plane open when viewed from a point perpendicular to that plane. Where higher or more solid fences are required by other sections of the Zoning Code, the requirements of those other sections shall govern. [6-400(1)(A)]

(b) Fences erected in other yards shall not exceed eight feet in height. [4-550(1)(B)]

(c) Fences may have arms on which barbed wire can be fastened commencing at a point at least seven feet above the ground provided such arms do not project outside the property line. [6-400(1)(C)]

(4) Mixed Use Districts (NBE, MUDT, MUN, MUR)

(a) All fences and walls in mixed use districts shall conform to the general requirements for fences in Section 4.3, in addition to any district-specific fence standards listed in Section 3.7.

(b) Chain link fencing shall be prohibited in mixed use districts unless specifically authorized by site plan approval as being appropriate based on location and resulting site aesthetics.

(E) Special Purpose Fences [4-560(3)(F)]

(1) Fences for special purposes and fences differing in construction, height, length, or location from the requirements of Section 4.3 may be permitted in any district in the City by the issuance of a conditional use permit approved by the City Council upon a finding that such special purpose fences:

(a) Are necessary to protect and buffer the premises for which such fences are intended or adjacent fences are intended for adjacent premises; and

(b) Would not be deleterious to adjacent property nor to the general public health, safety, or welfare; and

(c) Would be consistent with the intent and purpose of the fence regulations as stated in Section 4.3(A).

(2) A conditional use permit for a special purpose fence, if approved, may stipulate and provide for the height, location, and construction type of the special fence thereby permitted or any other condition deemed necessary to protect the public health, safety, and general welfare.

4.4 Exterior Lighting

(A) Purpose

The purpose of Section 4.4 is to regulate light spillage and glare to ensure the safety of motorists and pedestrians, and to ensure lighting does not adversely affect land uses on adjacent properties. More specifically, Section 4.4 is intended to:

(1) *Regulate Exterior Lighting to Mitigate Adverse Impacts.* Regulate exterior lighting to assure that excessive light spillage and glare are not directed at adjacent properties, neighboring areas, and motorists;

(2) *Ensure Proper Installation.* Ensure that all site lighting is designed and installed to maintain adequate lighting levels on a site while limiting negative lighting impacts on adjacent lands; and

(3) *Provide Security.* Provide security for persons and land.

(B) Applicability

(1) *In General.* The provisions of Section 4.4 shall apply to all development in the City unless exempted in accordance with Section 4.4(C) below.

(2) *Time of Compliance.* An exterior lighting plan shall be submitted and approved along with an application for a Site Plan [Section 2.4(G)], Subdivision [City Code Title 11, Chapter 1], Building Permit if required by the Building Official [Section 2.4(H)], or Temporary Use Permit [Section 2.4(L)], whichever occurs first.

(C) Exemptions

The following are exempted from the exterior lighting standards of Section 4.4:

(1) Single-family detached dwellings; and

(2) Publicly owned streetlights located within a street right-of-way or other easement granted to the City.

(D) General Standards for Exterior Lighting

(1) *Hours of Illumination.* Public and institutional uses, commercial uses, and industrial uses that are adjacent to existing residential development or vacant land in residential districts shall turn off all exterior lighting on the residential side(s)—except lighting necessary for security or emergency purposes—within one hour after closing. For the purposes of this subsection, lighting "necessary for security or emergency purposes" shall be construed to mean the minimum amount of exterior lighting necessary to illuminate possible points of entry or exit into a structure, to illuminate exterior walkways, or to illuminate outdoor storage areas. Such lighting may be activated by motion sensor devices.

(2) *Illumination Direction.*

(a) Lighting on the site and building shall be directed downward, and installed so as to prevent direct light from being detectable at the lot line of the site on which the light source is located. [11-010(1)(A)(2)]

(b) Lighting shall not shine directly into the public right-of-way or onto any residential use. [11-010(1)(C)]

(3) *Parking Lot Lighting.*

(a) Lighting structures shall be located within a safety island or around the perimeter of the parking area and shall not be placed as freestanding structures within the parking area**.** [11-010(1)(B)]

(b) In the NBE zoning district, parking lot lighting shall consist of cutoff fixtures and shall be located below the mature height of trees located in parking lot islands. [6-750(5)(A)]

(E) Design Standards for Exterior Lighting

All exterior lighting shall meet the following standards:

(1) *Maximum Lighting Height.*

(a) Except for outdoor sports fields, performance areas, billboard signage, or other uses necessitating taller lighting as approved by the Department of Community Assets & Development; the height of outdoor lighting, whether mounted on poles or walls or by other means, shall be no greater than 15 feet in residential districts and no greater than 25 feet in business and industrial districts. [current NBE standard is 15 feet [4-490(6)(e)], and there is no standard for general residential, commercial, or industrial zones].

(b) Lighting located adjacent to walkways and entrances to buildings shall not exceed 15 feet in height. [6-750(5) – extended from NBE only to all areas]

(2) *Shielding.*

(a) *Exterior.* Light fixtures in excess of 60 watts or 100 lumens shall use full cut-off lenses or hoods to prevent glare or spillover from the project site onto adjacent lands and streets, and to direct the casting of light to the areas requiring illumination.

(b) *Interior.* No interior light source shall be positioned, aimed, or configured so as to result in the light source being visible from land occupied by existing residential development.

(c) *Canopies.* No light source in a canopy structure shall extend downward further than the lowest edge of the canopy ceiling.

(d) *Awnings.* Awnings or canopies used for building accents over doors, windows, etc., shall not be internally illuminated (i.e., from underneath or behind the awning).

(3) *Maximum Illumination Levels.*

Site illumination shall not exceed .4 foot-candles at ground level when measured at an adjoining residential property. [11-010(1)(A)(1)]

(4) *Character.*

All exterior lighting levels shall be consistent with the character and intensity of surrounding areas and designed to relate to building architecture and landscaping. [11-010(1)(A)(1) – extended from NBE only to all areas]

(F) Wall Pack Lights

Wall packs on buildings may be used at entrances to a building to light unsafe areas. They are not intended to draw attention to the building or provide general building or site lighting. Wall packs on the exterior of the building shall be fully shielded (e.g., true cut-off type bulb or light source not visible from off-site) to direct the light vertically downward and be of low wattage (preferably 100 watts or lower). Wall pack light sources visible from any location off the site are prohibited.

(G) Exemptions for a Security Plan

Government facilities, parks and open areas, public safety, and other uses where sensitive or dangerous materials are stored may submit to the Department of Community Assets & Development a site security plan proposing exterior lighting that deviates from the standards in this subsection. The Department of Community Assets & Development may approve, or approve with conditions, the site security plan and its proposed deviation from the standards of this subsection, upon finding that:

(1) *Deviation Necessary to Protect Public or Ensure Security.* The proposed deviation from the standards is necessary for the adequate protection of the public;

(2) *Significantly Greater Danger of Theft or Damage Without Additional Lighting.* The condition, location, or use of the land, or the history of activity in the area, indicates the land or any materials stored or used on it are in significantly greater danger of theft or damage, or members of the public are at greater risk for harm than on surrounding land; and

(3) *Deviation is Minimum Required and Will Not Have Adverse Effect.* The proposed deviation from the standards is the minimum required and will not have a significant adverse effect on neighboring lands.

Appeals to the decision of the Department of Community Assets & Development may be submitted following the procedures of Section 2.4(F).

(H) Illumination of Outdoor Sports Fields and Performance Areas

New lighting of outdoor sports fields and performance areas erected after the effective date of this ordinance as documented in Section 1.4 shall comply with the following standards:

(1) *Glare Control Package.* All lighting fixtures shall be equipped with an existing glare control package (e.g., louvers, shields, or similar devices) and aimed so that their beams are directed and fall within the primary playing area, performance area, or grounds which need to be illuminated for public safety purposes.

(2) *Hours of Operation.* The lighting system for any game or event shall be extinguished within 30 minutes of the conclusion of the game or event.

(I) Sign Lighting.

Lighting fixtures illuminating signs shall comply with the standards of Section 4.5.

4.5 Signs

(A) Findings, Purpose, and Effect of Sign Regulations [9-010]

(1) Findings

The City Council finds:

(a) Exterior signs have a substantial impact on community appearance and quality of the environment.

(b) Signs provide an important medium through which individuals may convey a variety of messages.

(c) Signs can create traffic hazards, aesthetic concerns and detriments to property values, thereby threatening the public health, safety and welfare.

(d) The City's zoning regulations include the regulation of signs in an effort to provide adequate means of expression and to promote the economic viability of the business community, while protecting the City and its citizens from a proliferation of signs of a type, size, location, and character that would adversely impact upon the aesthetics of the community and threaten the health, safety, and welfare of the community.

(e) The regulation of the physical characteristics of signs within the City has had a positive impact on traffic safety and the appearance of the community.

(2) Purpose and Intent of Sign Regulations [9-010]

(a) The purpose and intent of Section 4.5 is to:

(i) Regulate the number, location, size, type, illumination, and other physical characteristics of signs within the City in order to promote the public health, safety, and welfare.

(ii) Maintain, enhance, and improve the aesthetic environment of the City by preventing visual clutter that is harmful to the appearance of the community.

(iii) Improve the visual appearance of the City while providing for effective means of communication, consistent with constitutional guarantees and the City's goals of public safety and aesthetics.

(iv) Provide for both fair and consistent enforcement of sign regulations as set forth herein under the zoning authority of the City.

(b) It is not the purpose or intent of Section 4.5 to regulate the message displayed on any sign; nor is it the purpose or intent of Section 4.5 to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building.

(3) Effect of Sign Regulations

A sign may be erected, mounted, displayed, or maintained in the City if it is in conformance with the provisions of Section 4.5. The effect of Section 4.5, as more specifically set forth herein, is to:

(a) Allow a wide variety of sign types in commercial zones, and a more limited variety of signs in other zones, subject to the standards set forth in Section 4.5.

(b) Allow certain small, unobtrusive signs incidental to the principal use of a site in all zones when in compliance with the requirements of Section 4.5.

(c) Prohibit signs whose location, size, type, illumination, or other physical characteristics negatively affect the environment.

(d) Ensure that communication is accomplished through means that lessens the impact on the environment and the public health, safety, and welfare.

(e) Provide for the administration and enforcement of the provisions of Section 4.5.

(B) Scope and Applicability

(1) All signs on private property are subject to the sign regulations of Section 4.5 and all other applicable provisions of this code.

(2) Specific signs excluded from the regulations of Section 4.5 include:

(a) Official signs on public property and within rights-of way; [9-040(2)(C)]

(b) Authorized signs affixed to bus stop benches provided such signs do not exceed 10 square feet in area; [9-040(2)(B)]

(c) Architectural details of buildings including corner-stones, crosses, or other identifying details that are part of the buildings. [9-040(2)(A)]

(C) Substitution Clause. [9-047]

(1) The owner of any sign that is otherwise allowed by Section 4.5 may substitute noncommercial speech in lieu of any other commercial speech or noncommercial speech. This substitution of copy may be made without any additional approval or permitting.

(2) The purpose of this "substitution" provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial speech over any other noncommercial speech. This provision prevails over any more specific provision to the contrary.

(D) Permits [9-020]

Except as may be exempted by Section 4.5, no sign may be erected, altered, reconstructed, maintained, or moved without first securing a permit from the City following the provisions of Section 2.4(K).

(E) Prohibited Signs [9-040(1)]

The following signs are prohibited in all zones:

"Projecting Sign" and "Portable sign" were removed from the prohibited list as both sign types have been allowed in various capacities within the City over time.

(1) Any sign, signal, marking or device that purports to be or is an imitation of or resembles any official traffic control device or railroad sign or signal, or emergency vehicle signs, or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal; [9-040(4)(F)]

(2) With the exception of approved billboards, individual signs over 250 square feet in area;

(3) Off-premises signs except for authorized billboards;

(4) Back-lit awnings;

(5) Flashing signs;

(6) Inflatable signs;

(7) Portable signs; [9-040(1)(f)]

(8) Roof signs; [9-040(1)(b)]

(9) Rotating or moving signs; [9-040(1)(c & d)]

(10) Shimmering signs;

(11) Signs painted on, attached to or in any other manner affixed to trees or similar natural surfaces, or attached to utility poles, bridges, towers, transit shelters, benches or similar public structures, except for official signs; and

(12) Signs containing content classified as "obscene" as defined by Minnesota Statutes Section 617.241.

(F) Noncommercial Speech Signs During Elections [9-044]

Notwithstanding any other provisions of Section 4.5 to the contrary, all signs of any size containing noncommercial speech may be posted in any zone from August 1 in any general election year until 10 days following the general election, and 13 weeks before any special election until 10 days following the special election, subject to the following requirements:

(1) Signs are permitted on private property only and may be placed only upon approval of the property owner. [9-040(3)(E)(1)]

(2) No such sign may be located closer than seven feet to the paved portion of a street. [9-040(3)(E)(2)]

(3) The property owner on which campaign signs are located shall be responsible for the removal of such signs within 10 days following the election. [9-040(3)(E)(3)]

(G) Generally Applicable Sign Standards

(1) Design Standards

Signs shall be designed and constructed to meet the standards of the International Building Code. All signs shall be constructed in such a manner and of such material that they shall be safe and substantial provided that nothing in Section 4.5 shall be interpreted as authorizing the erection or construction of any signs not now permissible under the City's zoning, building, or electrical codes. Signs that become unsafe shall be ordered repaired or removed by the City. [9-040(4)(A)]

(2) Illumination

External illumination for signs must be constructed, aimed, shielded, and maintained so that the source of light is not visible from the public right-of-way, or from property used or zoned for residential purposes.

(3) Electric Signs

Electric signs must be installed in accordance with the current electrical code. In addition to a sign permit, a separate electrical permit must be obtained before placement of such a sign. [9-040(4)(B)]

(4) Vertical Clearance

All signs mounted above sidewalks and other pedestrian walking surfaces must be mounted in a manner that ensures at least 8 feet of vertical clearance is provided between the walking surface and sign.

(5) Clearance from High-Voltage Power Lines

Signs shall be located no less than six feet horizontally or 12 feet vertically from overhead electrical conductors that are energized in excess of 750 volts. The term "overhead conductors" as used in this subsection means any electrical conductor, either bare or insulated, above the ground except such conductors that are enclosed in iron pipe or other material covering of equal strength. [9-040(4)(C)]

(6) Sign Placement

(a) Signs must be located on private property, and may only be placed only upon approval of the property owner. [9-040(3)(G)(1)]

(b) Signs mounted on buildings may not block or obstruct design details or cornices of the building to which they are attached;

(c) No sign shall obstruct any opening to such an extent that light or ventilation is reduced to a point below that required by the International Building Code. Signs erected within five feet of an exterior wall in which there are openings within the area of the sign shall be constructed of noncombustible material or approved plastics; [9-040(4)(E)]

(d) No sign shall be erected or maintained in such a manner that any portion of its surface or supports will interfere in any way with fire ingress or egress from any door, window or fire escape; and [9-040(4)(D)]

(e) No sign shall be attached to a standpipe or fire escape.

(7) Maintenance [9-040(4)(G)]

(a) The owner of any sign shall properly maintain and keep the sign in a safe, legible, and orderly condition; and keep such sign, including all parts and supports, properly painted and maintained.

(b) Signs that do not adhere to the standards of Section 4.5(G)(6) above shall be ordered repaired or removed by the City.

(H) Sign Types Allowed Without a Permit

The following signs are subject only to the generally applicable sign standards of Section 4.5(G) and do not require permits:

(1) House and building numbers for addressing purposes not exceeding 12 inches in height. [9-040(3)(A)]

(2) Official governmental information signs. [9-040(3)(B)]

(3) Interior signs and building directories not readily visible from a public right-of-way. [9-040(3)(C)]

(4) Signs under four square feet in area either affixed to a building or located on the ground not exceeding a height of four feet and setback seven feet from a street right-of-way line. [9-040(3)(D)]

(5) Up to two flags no larger than three feet by five feet may be flown on a private property. Size and number restrictions do not apply to allowed institutional and government uses.

(I) Sign Types Allowed With a Permit by District

Table 4-2 identifies the specific sign types allowed in each zoning district.

TABLE 4-2: SIGN TYPES ALLOWED WITH A PERMIT BY DISTRICT

P = Allowed with a Sign Permit C = Conditional Use I = Interim Use	Base Zoning Districts																	Additional Requirements
	RS1	RS2	RM1	RM2	RM3	MHC	BR	BN	BG	IR	IL	IH	MUDT	NBE	MUN	MUR	MUE	
Billboard													P					4.5(J)(1)
Drive Through Signs								C	C	C	C	C	C	C	C	C	C	4.5(J)(2)
Electronic and/or Dynamic Sign	C	C	C	C	C	C	C	P	P	P	P	P	C	C	C	C	C	4.5(J)(3)
Freestanding Sign	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	4.5(J)(4)
Manual Changeable Copy Sign	P	P	P	P	P	P	C	P	P	P	P	P	P					4.5(J)(5)
Projecting Sign													P	P	P	P	P	4.5(J)(6)
Sidewalk Sign								P	P	P	P	P	P	P	P	P	P	4.5(J)(7)
Temporary Sign	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	4.5(J)(8)
Wall Sign				P	P		P	P	P	P	P	P	P	P	P	P	P	4.5(J)(9)
Window Sign							P	P	P	P	P	P	P	P	P	P	P	4.5(J)(10)

(J) Specific Standards by Sign Type

(1) Billboards [9-045]

(a) *New Billboards.* No billboard shall be erected within the City unless a permit has been issued for erection of the billboard prior to February 1, 1996. Billboards erected on or after the effective date of this ordinance as documented in Section 1.4 may be permitted, subject to the following standards:

(i) The underlying property zoning shall be DT, Downtown District (formerly B-4);

(ii) The property has frontage abutting either Interstate 694 or Interstate 35W;

(iii) The billboard shall not exceed dimensions of 14 feet by 48 feet;

(iv) The maximum height of the billboard shall not exceed 75 feet; (70' now)

(v) Only one billboard permitted per property, and

(vi) Compliance with Minnesota Department of Transportation standards and permitting requirements.

(b) *Existing Billboards.* Billboards that have been erected prior to February 13, 1996 or for which a permit has been issued for erection prior to February 13, 1996 are hereby deemed a legal nonconforming use unless they meet the requirements in 4.5(J)(1)(a)(i – vi) above.

(c) *Permit Required.* Existing billboards or new billboards meeting the requirements in 4.5(J)(1)(a)(i – vi) above must obtain a Sign Permit from the Department of Community Assets & Development in order to erect the sign or to alter or change a message to ensure compliance with Section 4.5(N).

(2) Drive-through Signs

Drive-through signs are permitted in conjunction with drive- through uses, in accordance with the following regulations.

(a) *Location.* Drive-through signs must be located within 10 feet of a drive-through lane.

(b) *Number and Dimensions.*

(i) One primary drive-through sign not to exceed 36 square feet in area or 8 feet in height is allowed per order station up to a maximum of 2 primary drive-through signs per lot.

(ii) One secondary drive-through sign not to exceed 15 square feet in area or 6 feet in height is allowed per lot.

(c) *Residential Separation.* Drive-through signs must be set back at least 50 feet from any abutting RS-1, RS-2, or RM-1 zoned lands.

(d) *Visibility.* Drive-through signs must be oriented to be visible by motorists in allowed drive-through lanes, and if illuminated, shall be directed away from or effectively screened from view from surrounding residential property.

(e) *Noise.* Any menu/ordering signage interior to the site with an intercom shall not be audible from any abutting RS-1, RS-2, or RM-1 zoned lands. Audio in mixed-use districts or adjacent to RM-2 or RM-3 lands must be adequately controlled so as not to cause a nuisance to adjacent residents.

Audio standards as shown in sub (e) are currently the extent of drive through sign regulation in the current code

(3) Electronic and/or Dynamic Displays [9-050(4), 9-060(7), 9-070(5), 9-100(5)]

(a) *In General.* All dynamic displays installed as a part of allowed freestanding or wall signage are subject to the regulations of this subsection [4.5(J)(3)] except as may be amended by an approved area of special control per Section 4.5(L).

(b) Number. A single dynamic display per lot is allowed, except as may otherwise be allowed by Section 4.5(J)(3)(m).

(c) *Location.* Dynamic signs must be located on the site of the use identified or advertised by the sign and must be at least 35 feet from any other dynamic sign.

(d) *Orientation.* Dynamic signs must be positioned so as to limit their impact on adjacent residential uses. Unless otherwise authorized by the Department of Community Assets & Development, such signs must be positioned perpendicular to the adjacent public right-of-way when fronting a road.

(e) *Residential Zone Limitation.* Dynamic signs are limited to public, civic, or institutional uses in residential districts (RS-1, RS-2, RM-1, RM-2, RM-3, and MHC).

(f) *Text Size and Legibility.* The following minimum text size requirements apply to all dynamic signs intended to be viewed from adjacent roadways. If a sign is located on a corner with streets that have differing speed limits, the minimum required text size is based on the standard for the higher speed limit to ensure maximum legibility.

TABLE 4-3: DYNAMIC SIGN TEXT SIZE *

SPEED LIMIT OF ABUTTING STREET (MPH)	MINIMUM TEXT SIZE (INCHES)
25 – 34	7”
35 – 44	9”
45 – 54	11”
55 or higher	15”

* only applicable to NEW dynamic signs constructed after the effective date of this ordinance as identified in Section 1.4

(g) *Mode.* Dynamic signs may only operate in a static mode. Animation, motion or video displays are prohibited [9-040(E)]. Any change from one static display to another must be instantaneous and may not include any distracting effects, such as dissolving, spinning or fading. The images and messages displayed must be complete in and of themselves, without continuation in content to the next image or message or to any other sign.

(h) *Size of Dynamic Displays.* The dynamic portion of any sign may not exceed 80 percent of the total allowable area of the subject sign type (i.e. freestanding). The remaining 20 percent of the allowable sign area may not include dynamic capabilities even if it is not used.

(i) *Minimum Display Time.* The images and messages displayed on a dynamic sign must have a minimum dwell time of at least eight seconds, except for time, temperature, and fuel price signs.

(j) *Brightness.* As measured from the sign's face, dynamic signs may not exceed a maximum illumination of 5,000 to 7,000 nits during daylight hours, and a maximum illumination of 500 nits between dusk to dawn. All dynamic sign applications shall include certification from the sign manufacturer that the sign has the mechanical capabilities and will be preset to conform to the luminance levels noted above. In no instance shall the sign have the mechanical capabilities to exceed 7,000 nits.

(k) *Color.* Dynamic signs may use multiple colors within the display but the use of color must not create distraction or a hazard to the public health, safety or welfare. No portion of the display may change in color or color intensity in any manner. Each line of text in any direction must be uniform in color.

(l) *Operation.* All dynamic signs must be equipped with a means to immediately discontinue the display if it malfunctions. The owner of a dynamic sign must immediately cease operation of their sign when notified by the City that it fails to comply with the regulations of Section 4.5. The dynamic sign must remain inoperable until such time that the owner demonstrates to the City that the device is in satisfactory working condition and conforms to the regulations of Section 4.5. The City's decision regarding the operation of a dynamic sign may be appealed in accordance with the appeal procedures of Section 2.4(F).

(m) *Public, Civic, and Institutional Uses.* By conditional use permit; public, civic, or institutional uses in any zoning district may request authorization to construct multiple dynamic displays to serve the use, or a permitted accessory use, when it is normal and customary for dynamic signage to serve such a use (i.e. scoreboards for athletic stadiums). In these unique cases, the provisions of 4.5(J)(3) may be amended by the conditional use permit as appropriate for the proposed use.

(n) *Application to Existing Signs.* The dynamic sign standards of this subsection [4.5(J)(3)] apply to all existing and future dynamic signs, unless otherwise determined by the City that an existing sign qualifies as a nonconforming use under state statute or this development code. Any existing dynamic sign that cannot meet the minimum text size as required by the speed limit must use the largest size possible for one line of copy to fit in the available display space.

(4) Freestanding Signs

(a) *Number.* A single freestanding sign is permitted per street frontage unless otherwise indicated in this ordinance. [multiple references…9-040(G)]

(b) *Area and Height.* Freestanding signs are subject to the following area and height limitations unless otherwise indicated in this ordinance:

TABLE 4-4: MAXIMUM FREESTANDING SIGN AREA AND HEIGHT		
ZONING DISTRICT	Area (Square Feet)	Height (feet)
RS-1, RS-2, RM-1, and MHC [1]	**6 sq ft** [2]	**4 ft**
RM-2, RM-3, BR [9-060(2)]	**35 sq ft**	**12 ft** *
BN [9-070(1)]	**36 sq ft**	**20 ft**
BG [9-080(1)]	**64 sq ft** [3] [4]	**20 ft**
IR, IL, IH [9-100(1)]	**36 sq ft** [3] [4]	**20 ft**
DT, NBE, MUN, MUR, MUE	See Section 4.5(K)	

[1]: Residential freestanding signs may not be located closer than seven feet to the paved portion of a street and must be at least five feet from any other privately owned property. [9-040(G)(3)]

[2]: Institutional and Governmental uses may have one freestanding sign not to exceed 32 square feet in area, not to exceed 10 feet in height, and be no closer than 10 feet from any street right-of-way. [9-050(1)(A) and 9-060(1)(A)]

[3]: Freestanding signs that qualify as a freeway sign shall not exceed 170 square feet in area and not exceed 35 feet in height. [9-080(1)]

[4]: On each street side of less than 100 feet, a single ground sign not exceeding 12 square feet in area shall be permitted. [9-080(1)]

*** The existing 10 foot height restriction for Institutional signs was eliminated.**

(c) *Setbacks.* Freestanding signs, when allowed, must be set back from lot lines in accordance with the minimum requirements of Table 4-5.

TABLE 4-5: FREESTANDING SIGN MINIMUM SETBACK			
ZONING DISTRICT	STREET	SIDE	REAR
RS-1, RS-2, RM-1, RM-2, RM-3, MHC, BR, BN, BG, ~~NBE, MUDT, MUN, MUR~~	**10'**	**5'**	**5'**
IR, IL, IH	**13.5'**	**5'**	**5'**
DT, NBE, MUN, MUR, MUE	**No minimums, but placement is subject to approval by the Department of Community Assets & Development. Proposed locations may be denied if the proposed location is deemed unsafe to the general public, or the location would interfere with the site's use or future development.**		

(d) *Illumination.* Freestanding signs, if illuminated, may use only indirect light, with the light source fully diffused and aimed toward the ground.

(e) *Decorative Base.* All permanent freestanding signs must have a base made of decorative materials compatible with the exterior materials of the principal building on site. The width of the decorative sign base must be at least 50 percent of the greatest width of the sign face.

(5) Manual Changeable Copy Signs [9-050(5), 9-060(8), 9-070(9), 9-100(9)]

(a) *Number.* Manual changeable copy signs (where allowed) are limited to one per lot, and count towards the maximum wall or freestanding signage allowed on the lot.

(b) *Residential Zone Limitation.* Manual changeable copy signs are limited to institutional and government uses in residential districts (RS-1, RS-2, RM-1, RM-2, RM-3, and MHC).

(c) *Size of Manual Changeable Copy Signs.* The manual changeable copy portion of any sign may not exceed 50 percent of the allowable sign area or 32 square feet, whichever is less.

(6) Projecting Signs [removes prohibition and expands what is currently allowed in MU districts]

(a) *Where allowed.* Projecting signs are allowed in mixed-use zones, subject to compliance with the regulations of Section 4.5(J)(6).

(b) *Maximum Area.* Projecting signs count towards the maximum allowed wall signage and may not exceed 12 square feet in area or three feet in width.

(c) *Projection.*

(i) Projecting signs may not project more than two feet from the surface of the wall to which they are attached and no closer than 12 inches from the curb line.

(ii) Proof of liability insurance, a hold-harmless agreement indemnifying the City, and an encroachment agreement must be provided to the Department of Community Assets & Development before the issuance of any permit for a sign projecting into the public right-of-way.

(7) Sidewalk Signs [replaces 9-046(5) sandwich board signs]

(a) Sidewalk signs are allowed in mixed-use zones without a sign permit. Such signs are not counted against the maximum signage limits for the property.

(b) Sidewalk signs are subject to the following regulations:

(i) Signs shall be limited to two feet in width and 3.5 feet in height, including support members.

(ii) No sign shall have more than two faces.

(iii) Signs may not limit the normal pedestrian use of the sidewalk, and a minimum passable contiguous space of three feet must be maintained at all times.

(iv) One sign is permitted for each building adjacent to the public right of way For buildings with multiple occupants, additional sidewalk signs are allowed only if such signs are spaced at least 30 feet apart.

(v) All sidewalk signs must be removed from the sidewalk at the end of each business day.

(vi) No sidewalk sign may be internally or externally illuminated.

(8) Temporary Signs

(a) In General.

(i) Temporary signs may not be placed in such a way as to affect public safety or necessary ingress or egress of a public building.

(ii) The provisions of Section 4.5(C) apply to permitted temporary signs allowed under subsection 4.5(J)(8).

(b) *Temporary Business Signs By Permit.* Each business may be issued four temporary sign permits during any calendar year without a triggering event. [9-046(1 & 2), 9-070(8), 9-080(8), 9-100(8)]

(i) Such temporary signs shall not be on display more than 14 days, and shall not exceed 32 square feet in area. [9-046(3)]

(ii) If in the form of window signage (limited to business, industrial, and mixed use zoning districts), the total are of window signs (both permanent and temporary) may not exceed 50 percent of the area of the window in which they are displayed. [9-070(7), 9-080(7), 9-100(7)]

(iii) Temporary sign permits may be issued for consecutive periods, but only one temporary sign per business shall be displayed at a time. [9-046(2)]

(iv) Businesses that are not located in multiple occupancy buildings and that have an established dynamic sign shall not be permitted temporary business signs under 4.5(J)(8)(b). [9-046(4)]

(c) *Activity-Specific Sign Allowances.* The City recognizes that specific activities on a property may result in a property owner desiring more signage than is typically allowed under the provisions of Section 4.5.

(i) Each *property* is allowed a maximum of one activity-specific sign allowance at any one time regardless of the number of activity-triggering events may be occurring on the property at the same time.

(ii) *Triggering Activities.* The following activities will allow a property owner to have additional signage on their property either by right or through a temporary use permit subject to the review provisions of Section 2.4(L).

1. *For Sale or For Lease properties – allowed by right.*

   a. In residential districts, one freestanding sign of up to six square feet may be temporarily permitted when a property (building or land) is for sale or for lease until the property is sold or let. [9-040(3)(F)]

   b. In business and industrial districts, one freestanding sign of up to 32 square feet may be temporarily permitted when a property (building or land) is for sale or for lease until the property is sold or let. [9-040(3)(F)]

c. During publicly advertised open house or building tour events, up to two additional freestanding signs meeting the size standards in subdivisions 1 or 2 above, may be used up to two hours before the open house or building tour. All additional signage erected under this subsection shall be removed upon completion of the advertised open house or building tour. [9-046(8)]

2. *Institution or Business Special Event – allowed via temporary use permit.* One freestanding sign of up to six square feet, not exceeding four feet in height, may be temporarily permitted when a special event is being held on the property.

   a. The temporary sign permit may allow additional signage up to seven days before the event. All temporary signage must be removed the day after the special event concludes. No more than four special event temporary sign permits may be issued for any given property in any calendar year. [9-046(9)]

   b. Sign numbers and sizes may be increased and authorized as part of a validly issued large event permit.

3. *New Subdivision – allowed by right.* One freestanding (unlighted) sign of up to 32 square feet may be permitted following approval and recording/construction of a residential project where 10 or more new dwelling units, vacant lots, or combination thereof are initially being offered for sale or rent. Such a sign shall not be more than 10 feet in height and must be removed at the sooner of two years, or once 80 percent of the new lots and/or units have been sold or are under contract. This temporary sign may be increased up to 64 square feet in size if the sign is situated at least 150 feet from every property line of an occupied residence that is not a part of the project. [9-050(2); 9-060(5)]

4. *Valid Building Permit – allowed by right.* One freestanding sign of up to six square feet, not exceeding four feet in height, may erected following approval and issuance of a valid building permit. Such signage may remain provided the building permit is open, but must be removed once the building permit is closed or three months have elapsed since issuance of the building permit, whichever is less.

5. *Garage sales, Rummage Sales, and Produce Sales – allowed by right.* One freestanding sign of up to six square feet, not exceeding four feet in height, may be erected at the time of a garage sale, rummage sale, or produce sale operated in compliance with City Code standards for such events. Such signage may be displayed up to one day before the sale, and must be removed immediately upon conclusion of the sale. [9-046(7)]
6. *Business Grand Opening or Closing – allowed by right.* Up to 32 additional square feet of window or freestanding signage may be displayed for up to 30 days around a business' opening date, or within 30 days of a business's scheduled closing date. Height and placement requirements for such signage shall be in accordance with underlying requirements. [9-046(6)]

(9) Wall Signs

(a) *Calculation.* The "signable area" of a given wall is determined by calculating the square feet within an imaginary rectangle around a building's wall that is free of windows and doors.

(b) In the RS-1, RS-2, RM-1, and MHC zoning districts, wall signs are limited to institutional and government uses. Institutional and governmental wall signs authorized under this subsection shall not exceed 20 percent of the allowed signable area, or 200 square feet in area, whichever is less. [9-050(1)(B)]

(c) In the RM-2 and RM-3 districts, a single wall sign or a single freestanding sign is permitted per street frontage. No wall sign, when used, shall exceed 30 percent of the signable area or 200 square feet in area, whichever is less. [9-060(3 & 4)]

(d) In the BN district, a single wall sign is permitted per street frontage. Such sign shall not exceed 30 percent of the signable area or 200 square feet in area, whichever is less. [9-070(2)]

(e) In the BG district, a single wall sign is permitted per street frontage. Such sign shall not exceed 40 percent of the selected signable area or 200 square feet in area, whichever is less. [9-080(2)]

(f) In the IL, IH, and IR districts, a single wall sign is permitted per street frontage. Such sign shall not exceed 20 percent of the signable area or 200 square feet in area, whichever is less. [9-100(2)]

(g) Wall signs in mixed use districts shall follow the provisions of Section 4.5(K).

(h) The top of any wall sign, including any superstructure, may not extend higher than the roof of the building to which such sign is attached

(i) *Building Sides not Abutting a Street.* A wall sign may be displayed on the side or rear of a building facing a yard not abutting a street under the following conditions: [9-120]

(i) The sign shall be visible from a public roadway on which the building abuts.

(ii) The side or rear yard on the side to be signed shall meet district setback and buffering requirements.

(iii) The sign shall be no larger than the largest wall sign that would be permitted on the front of the building.

(iv) If the side or rear yard on the side of the building to be signed abuts park property or a residential district, such sign shall not be lighted.

(10) Window Signs

(a) Temporary or permanent window signs must be on the inside of the window.

(b) Permanent window signs are limited to 25 percent of the surface area of the window to which they are affixed. [9-070(6)]

(c) Temporary window signs are permitted and regulated as outlined in 4.5(J)(8)(b). [9-070(8), 9-080(8), 9-100(8)]

(K) Signs in Mixed Use Districts

(1) Signs in the DT, MUN, MUR, and MUE Districts:

(a) All signage shall complement the associated building and site design, and be strategically located to minimize the impact of advertising on the public realm. [6-550(8)(F)(1)]

(b) Signs should be oriented toward and scaled to the pedestrian. [6-550(8)(F)(2)]

(c) Signage shall comply with requirements for individual sign types and BG sign standards as outlined in Section 4.5 except as modified below. [6-550(8)(F)(3)]

(i) Wall signs placed on a vertical architectural element or above a pedestrian entrance may extend above the roof deck by up to 10 feet. This provision shall not apply to mansard roofs;

(ii) No new pole signs shall be allowed;

(iii) Monument signs shall not exceed seven feet in height, measured from the finished grade of the nearest adjacent pedestrian walk. The base of the monument sign shall be consistent with the materials of the building to which it is associated.

(2) Signs in the NBE District: [6-750(4)]

(a) Wall Signs

(i) Wall signage is allowed on buildings in the NBE District within a horizontal band no more than three feet in height, at least eight feet long, and no more than 15 feet above the ground. Exception: Wall signs erected on buildings with frontage on I-35W or I-694 may exceed a height of 15 feet above ground, but no higher than two feet below the top of the tallest wall, when mounted on a building façade facing I-35W and I-694.

(ii) Wall signage may be either:

1. Attached – flat and parallel to the surface of the building and projecting no more than one foot from it, or
2. Projecting – perpendicular to the surface of the building and no more than one foot in thickness.

(iii) Attached wall signage shall consist of individual letters or script logos mounted on the building

(iv) Projecting signs may project no more than four feet from the front edge of the building and be no more than 12 square feet in area.

(v) Projecting signs may not extend over a public right-of-way or public property unless proof of liability insurance, a hold-harmless agreement indemnifying the City, and an encroachment agreement are provided to the Department of Community Assets & Development before the issuance of any permit for such a projecting sign.

(vi) Projecting signs may not extend over a designated parking space or loading area.

(vii) Signs on canopies are allowed only if they are on a surface perpendicular to the ground and if all other requirements of Section 4.5 as to area and location are adhered to.

(viii) Allowable area of wall signs is one and one half square feet of signage per lineal foot of building frontage on a public street, public open space, or private parking area. Each wall shall be calculated individually and sign area may not be transferred to another side of the building. In calculating the total allowable area of wall signage, only one side of a two-sided projecting sign shall be counted.

(b) Freestanding Signs

(i) Freestanding monument signs are allowed within the NBE District if constructed of the same exterior building materials and colors as the principal structure.

(ii) Freestanding monuments signs may be no more than 10 feet in height and no more than 50 square feet in area per side.

(iii) One freestanding monument sign per lot per street frontage is allowed.

(iv) Freestanding signs in the NBE District must be solid and opaque from the ground to the top of the sign, and the base of the sign must be as wide or wider than the face of the sign.

(c) Box signs or cabinet signs, whether on a wall, projecting, or on canopies; are prohibited with an exception for logo signs which may be approved as part of the overall signage plan.

(L) Areas of Special Control [9-041]

(1) It is recognized that regulations provided in Section 4.5 cannot sensitively handle every sign situation in the City. Therefore, the City Council may designate by resolution any of the following as areas of special control:

(a) *Scenic Areas.* Areas where special architectural or historical characteristics or where natural beauty requires special sign regulations to ensure that all signs used within the areas are compatible with each other.

(b) *Shopping Centers.* Areas of intense commercial development that naturally call for signs that differ from those that would otherwise be allowed under Section 4.5.

(c) *Renewal Areas.* Are areas designed for renewal, redevelopment, or as development districts in accordance with the procedures established in Minnesota Statutes.

(2) In areas of special control, the City Council may, by conditional use permit, establish special regulations for signs that are either more restrictive or less restrictive than those provided by Section 4.5, having regard for the character of the area of special control to which the conditional use permit will apply.

(a) In scenic areas, it is generally expected that sign regulations will be more restrictive than those that would otherwise be applicable under Section 4.5.

(b) For shopping centers, in addition to general standards in Section 4.5(G), the following shall apply:

(i) The shopping center should be identified by a single ground sign for the purpose of center identification.

(ii) The height and size limitations of a ground and wall sign shall follow the BG zoning requirements, unless approved otherwise through the conditional use permit provisions herein.

(iii) would be an identity sign only.

(c) In renewal areas, it is recognized that Zoning Code regulations may have to be varied to creatively and reasonably revitalize the area. It is the intent of this paragraph that a comprehensive sign plan shall be a component of an overall renewal plan and be sensitive to and compatible with the unique physical circumstances that may be created by a renewal project. The general purposes of sound identification, reduction or clutter, and aesthetic enhancement shall, however, be the controlling standard.

(3) Conditional use permits for signs in areas of special control shall be issued as part of an overall sign plan for that area. The plan, when approved by City Council, shall constitute the permitted signs for that area and any future change to the plan shall be submitted under the conditional use permit procedure and when adopted shall become part of the conditional use permit.

(4) The procedure for obtaining a conditional use permit under Section 4.5(L) shall be as set forth in Section 2.4(D) of the Zoning Code except that no conditional use permit establishing a sign plan shall be recommended by the Planning Commission unless it finds:

(a) That the sign plan provides sound identification, reduction of clutter, and aesthetic enhancement;

(b) That the sign plan is sensitive to and compatible with physical circumstances of the site and buildings;

(c) That the sign plan is not detrimental to public safety; and

(d) That the sign plan will not impede the normal and orderly placement of signs on surrounding properties. (Ord. No. 534, 9-24-85; Previously was Section 9-150; Code of 2001)

(M) Multiple Occupancy Buildings (Other than Areas of Special Control) [9-110]

(1) Multiple occupancy buildings not displaying any wall signs, except for those allowed under Section 4.5(H), may have a single freestanding sign meeting the requirements of the underlying zoning district, or comply with the requirements of Section 4.5(H)(1).

(2) *Buildings having multiple occupancy with individual entrances:* When a building contains two or more activities carried on by different occupants, each having a separate entrance, each occupant may display an individual wall sign containing a maximum of five words or numbers. However, the combined area of all wall signs shall not exceed the allowable percentage of the total selected signable area allowed. Wall signs must be placed within the selected signable area. Such buildings may be identified by a single ground sign only, except when the ground sign is a dynamic sign. Such ground sign shall conform to all applicable size, height, and setback requirements.

(3) *Buildings having multiple occupancy with shared entrances and buildings with both individual and shared entrances:* Such joint occupancy buildings may have a single ground or wall sign in conformance with all applicable size, height and setback requirements. Such sign must be in accordance with the overall sign area and height requirements, except that the ground or wall sign may be a dynamic sign.

(N) Nonconforming Signs [replaces 9-043]

It is recognized that signs exist within the City that were lawful before current sign regulations were adopted, but are prohibited under the regulations of Section 4.5. Such nonconforming signs are allowed to continue as nonconforming signs provided that such signs are safe, are maintained so as not to be unsightly, and have not been abandoned or removed. Nonconforming signs are subject to compliance with the following provisions:

(1) Nonconforming signs may not be expanded or altered in a way that increases the sign's nonconformity.

(2) If the use of the nonconforming sign or sign structure is discontinued for a period of one year, the sign or sign structure may not be reconstructed or used except in compliance with the provisions of Section 4.5.

(3) Should a nonconforming sign or sign structure be damaged or structure be destroyed by any means to an extent greater than 50 percent of its market value and all required permits for its reconstruction have not been applied for within 180 days of when the sign or sign structure was damaged, it may not be reconstructed or used except in compliance with the provisions of Section 4.5.

(4) If a nonconforming sign or sign structure is moved for any reason for any distance whatsoever, it must thereafter comply with the regulations of Section 4.5.

(5) Existing signs on the site of a use that is not permitted in the zone in which the use is located may not be enlarged, expanded, or moved except in changing the sign to a sign permitted in the subject zone.

(6) When a building loses its nonconforming status, all signs devoted to the building must be removed and all signs painted directly on the building must be repainted in a neutral color or a color that matches the building.

4.6 Underground Utilities

Unless otherwise authorized by the Department of Community Assets and Development, all utilities [e.g. cable television, electrical (excluding transformers), gas, sewer, telephone, and water lines] within or serving newly created lots (this does not include the redevelopment of existing individual lots) shall be placed underground.

4.7 Parking

(A) General Requirements. [11-010]

(1) ***Application.*** Off-street parking and loading regulations shall apply to all buildings and land uses established after the effective date of this ordinance as documented in Section 1.4.

(a) At the time a property is redeveloped where cumulatively half the property area or more is altered, or whenever an existing parking lot is expanded, the developer and/or property owner shall work with the Department of Community Assets and Development to bring all parking and loading areas into conformance with the regulations of Section 4.7 as much as possible.

(b) In the event a property owner is expanding parking through reconfiguration of existing parking areas or is taking actions to decrease an existing nonconformity, regulations from Section 4.7may be waived, subject to review and approval of the Department of Community Assets and Development.

(c) Any change in use that requires more parking under Section 4.7 may only be undertaken if the property owner or developer provides additional spaces to meet parking requirements for the new use.

(2) ***Purpose.*** Off-street parking and loading regulations are established to protect the health, safety, and welfare of residents and visitors. Furthermore, the standards of Section 4.7 promote beneficial and sustainable systems to:

(a) Improve and promote safe, attractive, and efficient parking areas;

(b) Improve drainage flow and infiltration opportunities to reduce non-point source pollutants, including chlorides;

(c) Reduce heat-island effects at the local scale;

(d) Promote alternative modes of transportation and connectivity to local and regional trail systems (transit, ride-share, bicycle/scooter, etc.);

(e) Increase availability of electric vehicle charging stations and proximity to facility entrances;

(f) Provide surmountable curb for wildlife migration and improved lighting that complies with dark-sky guidelines; and

(g) Improves accessibility and safety through improved line-of-sight and reduced issues due to winter freeze-thaw events.

(3) ***Required Plan.*** Except for single- and two-family residences, all applications for a building permit or for a certificate of occupancy (CO) shall include a site plan drawn to scale indicating the location of all off-street parking and loading spaces serving the property. Approval of the building permit or CO is subject to available parking being in compliance with Section 4.7.

(4) ***Use of Parking or Loading Space.*** Unless otherwise permitted by the City, required parking or loading spaces shall not be used for alternative purposes including but not limited to: the storage of goods or trash disposal containers, storage of inoperable vehicles, or the parking of vehicles for sale or lease. Up to 15 percent of parking spaces in parking areas may be used for snow storage during winter conditions.

(5) ***Location of Parking.*** Except as provided elsewhere in this ordinance, required off-street parking spaces shall be provided on the same lot as the principal building. Additionally:

(a) The location of parking in Mixed Use zoning districts shall be in accordance with the provisions of Section 6-530.

(b) Structured parking shall be placed to minimize impacts on surrounding development and be designed to be compatible – in terms of form, materials, and architectural style – with adjacent development.

(c) Parking lots are discouraged from locating within floodplain and flood-prone areas.

(6) ***Buffers and screens.*** Off-street parking for single- and two-family residences shall not be required to be screened. Off-street parking areas of four or more spaces and loading areas on properties shall be regulated by the following provisions:

(a) When directly abutting a street or public space, a minimum five-foot wide landscape buffer shall be adorned with groundcover plantings and trees located a minimum of 30 feet on center.

(b) When directly abutting any non-mixed-use residential district, the parking or loading area shall be screened from the residential district by an opaque fence, a planting screen, a land berm of appropriate height, or a combination of the foregoing. [old Section 11-010(5) pre-Ord 909]

(c) When directly abutting or within a mixed-use district, the required landscape buffer shall adhere to the requirements of Section 3.7(E)(5)(a)(ii).

(d) Screening shall be set back from parking areas and pedestrian pathways to not create winter shade on saltable surfaces. Deciduous trees shall be exempt from this requirement.

(7) ***Landscaping and Vegetation.*** Vegetation may be used for natural filtration as part of a site's drainage system where drainage patterns align to flow towards these areas prior to stormwater runoff reaching surface water resources.

(a) General Requirements:

(i) Trees planted on the south side or within parking areas shall be deciduous to improve sunlight reaching paved areas during winter months in order to improve surface melting.

(ii) Landscaping or plantings shall consist of native vegetation species and not require the use of pesticides, herbicides, insecticides, or other plant treatments, especially neonicotinoids.

(b) Landscaped parking lot islands shall be a minimum of nine feet wide and long enough to protect adjacent parking spaces shall be required at the beginning and end of each parking row to break up longer rows. This requirement may be waived if the parking lot design achieves all of the following:

(i) Consolidates landscape and stormwater management areas into large medians,

(ii) Demonstrates adequate traffic calming,

(iii) Implements design techniques for using less salt in winter conditions [Section 4.7(B)(13)], and

(iv) Medians can function as adequate snow storage as part of a snow storage plan.

(c) Parking spaces and rows shall be organized to provide consolidated landscaped areas and on-site stormwater management.

(8) ***Lighting.***

(a) Maximum site illumination shall be regulated as follows:

(i) Site illumination shall not exceed .5 foot-candles at ground level when measured at an adjoining residential property in residential areas and two footcandles in non-residential areas.

(ii) Lighting on the site and building shall be full cut-off directional lighting directed downward, and installed so as to prevent direct light from being detectable at the lot line of the site on which the light source is located.

(iii) The site plan or alternate design documentation must contain illuminance models showing light levels throughout the site as determined necessary by the City.

(b) Lighting structures shall be located around the perimeter of the parking area and shall not be placed as freestanding structures within the parking area. Lighting structures may be placed within a traffic safety island when the parking area is sufficiently large enough to allow snow plows unimpeded access around and between island during winter snow events.

(c) Light structures within parking lots may not exceed 20 feet in height in vehicular areas and a maximum of 15 feet in height in pedestrian areas.

(d) Lighting as described in this Subsection shall not shine directly into the public right-of-way, onto any residential use, or into any natural areas, including wetlands, ponds, prairies, and forested areas.

(B) Construction and Maintenance. [11-020]

(1) ***Surfacing.*** All off-street driving, loading, and parking areas shall have a paved surface. No vehicle may be parked and no property owner shall allow a vehicle to be parked off-street unless the vehicle is on and over an approved bituminous, concrete, brick, or decorative block surface that spans the entire vehicle. Maintenance shall be required to eliminate potholes, excessive cracking, or other conditions which have the potential to threaten the lifespan of the paved surface or the condition of vehicles being parked. Permeable surfaces are allowed, such as permeable pavers, permeable asphalt, or other approved and improved permeable materials. Permeable surfaces must be designed, constructed, and maintained to allow infiltration or collection of stormwater in order to count as a permeable surface. For the purposes of calculating impervious surfaces, permeable surfaces allowed for parking areas may count against impervious surface maximums found in residential zoning districts and shoreland requirements. The definition of a

"vehicle" in Minnesota Statutes Section §169.011 is hereby adopted for the purpose of this ordinance and includes any conveyance with an axle. Parking areas and driveways shall be kept free of dirt, dust, debris and waste. In winter months, required parking areas shall be cleared of snow and ice within a reasonable time.

(2) ***Curbing.*** All off-street driving, loading, and parking areas shall be constructed with poured-in-place concrete curb except for single- and two-family residences. Curbs shall be surmountable to allow for better snow management in addition to facilitating wildlife crossing areas to the extent practicable, especially in areas of park setting, natural vegetation, or water resource locations.

(3) ***Striping.*** All parking stalls shall be marked with white or yellow painted lines not less than four inches wide except for single- and two-family residences. Such markings shall be maintained in a clearly legible condition.

(4) ***Traffic Safety Islands.*** Traffic safety islands shall be used to maintain safe and orderly flow of traffic within the parking lot when deemed necessary by the Department of Community Assets and Development. Where a traffic safety island is installed, a drainage management plan shall be required and the meltwater from snow piled on the island must be controlled. Any lighting located within a parking area must be located within a traffic safety island.

(5) ***Boulevard Parking.*** The boulevard portion of the street right-of-way shall not be used for parking except for improved driveways serving single- and two-family residences.

(6) ***Required Setbacks for Parking Areas, Aisles, and Driveways.*** No parking area, aisle, or driveway shall be provided in the following setback areas measured to the lot line except for driveways needed to cross the setback area to provide access to a public right-of-way.

TABLE 4-6: REQUIRED SETBACKS FOR PARKING AREAS/AISLES/DRIVES			
YARD	RESIDENTIAL	BUSINESS	INDUSTRIAL
FRONT YARD	30 ft	30 ft	40 ft
SIDE YARD	5 ft (15 ft. if zoned RM-2 or RM-3 and abutting an RS-1 or RM-1 zoned property)	5 ft (25 ft. if abutting residentially zoned property; shared driveways may have no setback)	5 ft (60 ft. if abutting residentially zoned property; shared driveways may have no setback)
SIDE YARD (STREET)	30 ft	30 ft (*15 ft. by Conditional Use Permit)	40 ft (60 ft. if across from residentially zoned property; *20 ft. by Conditional Use Permit)
REAR YARD	5 ft (15 ft. if zoned RM-2 or RM-3 and abutting an RS-1 or RM-1 zoned property)	5 ft (25 ft. if abutting residentially zoned property)	5 ft (60 ft. if abutting residentially zoned property)

* *May be allowed by the City Council by approval of a Conditional Use Permit in accordance with the standards of Section 2.4(D) and where it is determined no adverse impact would be created and would be compatible with the planned and existing characteristics of the surrounding streets and land uses.*

(7) ***Parking Space and Aisle Standards.*** All parking spaces and aisles shall comply with the minimum standards specified in this Subsection. Spaces for accessible parking shall conform to U.S. Access Board Guide to the ADA Accessibility Standards, Chapter 5.

TABLE 4-7: STANDARD PARKING STANDARDS			
ANGLE (degrees)	STALL WIDTH (feet)	STALL LENGTH (feet)	AISLE WIDTH (feet)
90°	9	18	24
60°	9	19	15*
45°	9	18	13*

* *All angle parking requires one-way aisles.*

(8) ***Driveway and Curb Cut Standards.***

(a) In all districts except R-1 and R-2 and in all multiple family residential, commercial, and industrial uses, no driveway entrances shall be less than 50 feet from any right-of-way line of a street intersection.

(b) For single- and two-family residences located in R-1 and R-2 districts, no driveway entrances shall be less than 20 feet from any right-of-way line of a street intersection.

(c) Parking stalls may not obstruct access to enclosed parking spaces and be counted toward the minimum number of parking stalls required, except for single-family, two-family, and townhome residences.

(d) The distance between driveways on the same parcel for single family and two family residences shall be no less than 40 feet. In a "circle" or "loop" driveway situation, driveways may not be closer to a neighboring driveway than 50 feet along the right-of-way.

(e) In all other cases, the distances between single-family and two-family residential driveways shall be no less than 10 feet.

(f) Driveways shall intersect streets at a 90 degree angle.

(g) No property under common ownership and used as a single unified use shall be entitled to more than two curb cuts or access points, including shared accesses, unless a site plan or site plan amendment for a greater number is approved by the City Council.

(h) For new development along existing streets where curb cuts already exists, the number of curb cuts to the site shall not be increased. Where possible, existing curb cuts should be consolidated, and access points shared as much as possible.

(i) Wherever possible, vehicular access to a site or building shall occur through an alley or on-site private drive aisle rather than by a curb cut from the street.

(j) No curb cut or access point shall be created directly into any street of collector status or greater unless approved by the City or County.

(k) The minimum and maximum widths for curb cuts and driveways shall be as follows:

TABLE 4-8: CURB CUTS AND DRIVEWAYS

Single and Two Family Residences	Minimum	Maximum
Driveways (measured at the property line)	14 feet	30 feet
Curb cuts (measured along the curb)	14 feet	24 feet
Other Residential – Driveways & curb cuts *	Minimum	Maximum
One Way	14 feet	18 feet
Two Way	24 feet	30 feet
Non Residential – Driveways & curb cuts *		
One Way	14 feet	24 feet
Two Way	24 feet	36 feet

* *For driveways crossing existing or planned future public trails, along designated safe routes to school, and in areas designated as areas of high pedestrian and cyclist use, the Department of Community Assets and Development may require limiting driveways to the minimum width allowed.*

(9) ***Circulation.*** *Except in the case of single- and two-family residences:*

(a) For vehicles:

(i) Parking areas shall be designed so that circulation between parking stalls or aisles occurs within the designated parking lot and does not depend upon a public street or alley.

(ii) Parking area designs that require backing into the public street shall be prohibited, with the exception of emergency vehicles or vehicles plowing snow.

(iii) "Entrance only" and "exit only" signs may be required by the Department of Community Assets and Development where necessary to ensure sufficient circulation and access to a public street.

(iv) Cross access and circulation across adjoining parcels is required where appropriate and feasible, to be determined by the Department of Community Assets and Development Joint circulation shall be documented in a cross access and circulation easement and agreement, subject to approval by the City.

(b) For pedestrians:

(i) Pedestrian access points shall be provided at all pedestrian arrival points to the development including the property edges, adjacent lots, abutting street intersections, crosswalks, and at transit stops if applicable. Pedestrian access shall be coordinated with existing development to provide circulation patterns between developments.

(ii) Planned trail connections as identified in the City's Comprehensive Parks Plan shall be accommodated and incorporated into projects as may be necessary by the Department of Community Assets and Development.

(iii) Pedestrian walkways and trails shall form an on-site circulation system that minimizes the conflict between pedestrians and traffic at all points of pedestrian access to on-site parking and building entrances, and between buildings.

(iv) Pedestrian access and walkways shall meet the following minimum design standards:

1. Access and walkways shall be illuminated and physically separated from driveways and parking spaces by landscaping, berms, barriers, grade separation or other means to protect pedestrians from vehicular traffic;

2. Access and walkways shall be a minimum of six feet of unobstructed width and meet City standards for surfacing of walkways or sidewalks;
3. Access shall be usable by mobility-impaired persons and shall be designed and constructed to be easily located by the sight-impaired pedestrian by either grade change, texture or other equivalent means;
4. A clearly delineated crosswalk shall be required when a walkway crosses a driveway or a paved area accessible to vehicles. Raised crosswalks or speed bumps may be required at all points where a walkway crosses the lane of vehicle travel.
5. Parking stalls shall not be located where they obstruct doorways, driveways, or pedestrian walkways.
6. In large parking lots of over 60 stalls, a combination of traffic safety islands or landscape medians, with pedestrian circulation, shall be provided to divide the parking lot into sections. No parking stall shall be over 200 feet from a median or traffic safety island with pedestrian circulation.
7. Trail designs shall meet requirements as spelled out by the Department of Community Assets and Development.

(10) ***Drive Through Facilities.*** Commercial uses containing drive-in or drive-up facilities shall be permitted only by issuance of a conditional use permit. Such conditional uses shall be considered in accordance with Section 2.4(D) and the standards in Section 5.4(E)(12):

(11) ***Drainage and Stormwater Management.***

(a) All developments with parking lots, with the exception of single- and two-family residences, shall include plans and details of proposed drainage patterns.

(b) Parking lots must incorporate drainage standards to reduce non-point source pollution and improve capturing stormwater. Improved drainage should also include infiltration or natural treatment processes prior to outflow to creeks, streams, wetlands, or other bodies of water.

(12) ***Electric Vehicle (EV) Charging.***

(a) All developments with parking lots, with the exception of single- and two-family residences, may include one or more locations to allow for electric vehicle charging, or place infrastructure nearby to facilitate future charging station installation.

(b) The thresholds for adding EV charging spaces to new developments are as follows:

TABLE 4-9: EV CHARGING SPACE THRESHOLDS

# of Parking Spaces Planned/Existing	Required # of EV Spaces and Level of Charging
29 or fewer	None Required
30 to 49	Multi-family: 5% at Level 1 or greater Non-residential: 2 spaces at Level 2 charging or greater
50+	Multi-family: 10% at Level 1 or greater; 1 space at Level 2 or greater Non-residential: 5% at Level 2 charging or greater

(13) ***Snow and Snowmelt Management.*** All developments with parking lots, with the exception of single- and two-family residences, may include locations of proposed drainage patterns for snowmelt and adequate snow storage areas, subject to the following requirements:

(a) Parking lots must have a location for storing snow in a low area of the property towards areas of existing or proposed native vegetation for infiltration. An area for snow storage must be 15 percent of the size of the parking areas and walkways to be maintained in winter conditions.

(b) Drainage and stormwater management infrastructure and designated snow storage areas may not overlap with or impede the use of accessible spaces, transit stops, sidewalks, or other pedestrian access areas.

(c) Parking lots must incorporate drainage standards to reduce non-point source pollution and improve snow melt footprint to reduce salting. Drainage should also include infiltration or natural treatment processes prior to outflow to creeks, streams, wetlands, or other bodies of water.

(14) ***Parking Structure Design.*** All parking structures in developments shall conform to the following provisions:

(a) Parking garage design should be compatible with adjacent buildings in terms of form, massing, scale, materials, and façade articulation. Pedestrian-level lighting must be included on facades abutting pedestrian walkways.

(b) Spandrel panels or opaque screening systems, such as louvers, at least 36 inches in height shall be used to screen vehicles from view on all levels.

(c) Any parking garage façade that is visible from public view shall be designed such that the internal ramping system is not visible.

(d) Wherever possible, especially for parking garage façades that face a public street, the ground floor of the parking structure should incorporate retail, commercial, or other nonresidential uses to help activate the street.

(e) Any ground-level façade of a parking garage that is visible from the street and does not provide retail, commercial, or other active ground floor uses shall include at least two of the following design features:

(i) Façade articulation through change in vertical plane or a change in building material.

(ii) The use of windows or false windows defined by frames, lintels, or sills.

(iii) Integration of multiple building entrances.

(iv) Buffering along the street edge with landscaping, street trees, green walls, or trellises with vines.

(f) Vehicular entrances to buildings and parking garages that contain a ramp shall be screened from view of the street or adjacent public space as much as possible. Where a vehicular entrance or ramp directly abuts a pedestrian walk, appropriate cautionary signs shall be used to alert pedestrians of the presence of vehicles and to inform drivers that pedestrians have the priority.

(C) Minimum Number of Off-Street Parking Spaces Required. [11-030]

(1) ***Computing Requirements.*** In computing the number of parking or loading spaces required the following rules shall govern:

(a) Gross floor area of the specific use is calculated on the basis of the exterior floor area dimensions of the building, structure, or use, multiplied by the number of floors.

(b) When determining the number of off-street parking spaces, fractional results are rounded up to the nearest whole number.

(c) Except as provided for under joint parking and shopping centers, if a structure contains two or more types of use, the area of each use shall be calculated separately in determining the total number of off-street parking stalls required.

(2) ***Accessible Parking.*** For all uses where automobile parking spaces are provided except single- and two-family residences, accessible parking facilities for persons with disabilities must be provided for accessible parking, and shall be identified for such use in accordance with all applicable state regulations.

(a) The number and type of accessible parking spaces to be provided shall be based upon the US Access Board Guide to the ADA Accessibility Standards, Chapter 5. Accessible parking spaces are required for each parking facility on a site, such as lots and garages. Requirements apply equally to public and employee or restricted parking. On sites with multiple parking facilities, the minimum number of accessible spaces must be calculated separately for each parking facility instead of on the combined total of parking spaces provided on the site.

(b) At least one of every six accessible spaces, or fraction of six, in each parking facility must be sized to accommodate vans.

(c) Such parking shall be located as close as practicable to a building entrance providing improved accessible ingress into the main lobby or corridor of the building. A continuous, permanently designated pathway at grade shall be provided which links the parking spaces to the building entrance. Such pathway shall be made of concrete, asphalt paving, or similar permanent material with a slip-resistant surface, at least forty-eight (48) inches wide and with a slope not to exceed one vertical to twenty horizontal.

(d) No parking area drainage patterns shall flow towards or be placed within accessible parking areas.

(e) See Minnesota Rules Part 1341.0502 for information regarding accessible parking symbols and signage.

(3) ***Number of Spaces Required.***

(a) The following table is the minimum required number of parking spaces per use.

TABLE 4-10: MINIMUM REQUIRED PARKING SPACES BY USE	
RESIDENTIAL USES	
Land Use	# of Spaces / Unit Ratio
Single-Family	2/DU
Two-Family	2/DU (1 Enclosed)
Townhouses	2.25/DU (Included: 1 Enclosed; .25 for Visitor Parking)
Multi-Family	1.85/DU (Included: 1 Enclosed; .25 for Visitor Parking)
Senior Housing	1.25/DU (Included: .5 Enclosed; .25 for Visitor Parking)
Sanitarium, Convalescent Home, Rest Home, Nursing Home, Congregate Care/Assisted Living	0.25/Bed (Visitors); 1/Employee on Shift
Group Homes, Nursing Homes, Boarding Houses	0.5/Bed
COMMUNITY & INSTITUTIONAL USES	
Land Use	# of Spaces / Unit Ratio
Places of Public Assembly	0.33/Seat
School (K-12, Primary/Secondary/Post-Secondary)	Parking Study Needed
Hospitals	3/Bed and 0.75/Employee
Libraries, Museums, Post Offices, Art Galleries	2/Employee and 2/1,000 sq ft GFA
Municipal Administration Buildings	1/200 sq ft Floor Space

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COMMERCIAL USES	
Land Use	# of Spaces / Unit Ratio
Undertaking Establishments	20/Chapel or Parlor; and 1/Employee
Auto/Motor Fuel Stations and Convenience Stores	5/1000 sq ft GFA
Auto Repair, Auto Sales, Trailer Sales, Marine, Garden Center Sales	2/Employee
Beauty Shops, Barber Shops, Tanning Salons	2 Minimum and 1/Chair
Bowling Alleys	2/Lane
Car Wash (Automatic Drive-Through Service)	2 Minimum and 1/Attendant
Car Wash (Self-service)	10 Minimum and 1/Attendant
Cinemas and Theaters	0.33/seat
Clinics (Medical, Veterinary, Animal Hospital)	5/1000 sq ft Floor Space
Day Care/Montessori	0.3/Person
Commercial Lodging (Motels and Hotels)	1.25/Room; add 10/1000 sq ft GFA for lounge/restaurant; add 30/1,000 sq ft GFA for conference/banquet facilities
Banks, Offices	3.5/1,000 sq ft GFA
Restaurants (Drive-in/Fast Food)	15/1,000 sq ft GFA
Restaurants (Sit Down Full Service)	15/1,000 sq ft GFA
Nightclubs/Bars	20/1000 sq ft Floor Space
Retail	3/1,000 sq ft GFA
Shopping Centers	4/1,000 sq ft GFA
Supermarkets	4/1,000 sq ft GFA

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INDUSTRIAL USES	
Land Use	# of Spaces / Unit Ratio
Warehouse & Wholesale	1/1,000 sq ft GFA
Warehouse (30%-65% office or showroom space)	1/1,000 sq ft GFA and 1/Employee
Manufacturing or Processing Plants	2.5/1000 sq ft Floor Space or 1/Employee on Shift (Whichever is Greater); and 1/Company Vehicle
Light Industrial/Accessory Manufacturing	2.5/1,000 sq ft GFA
Indoor/Outdoor Self Storage	1.5/50 storage units

(b) The maximum parking allowed for non-residential and mixed-use developments shall be 10 percent over the minimum. Developments proposing more than the allowed maximum shall submit a parking study and provide parking area enhancements per Section 4.7(D)(2)(e) and be approved by the City Council.

(c) Non-residential uses may count on-street parking spaces in public right-of-way abutting the site towards satisfying off-street parking requirements. One on-street parking space credit may be taken for each 20 linear feet of abutting street where on-street parking is allowed. Only spaces on the same side of the street as the site may be counted.

(d) Non-residential uses and mixed-use developments not providing a minimum number of spaces within 10 percent of the minimum number of parking shall submit a parking study. The parking study shall include documenting that the number of spaces provided will not require off-site parking, not covered under joint parking and shopping centers, or on-street parking away from the property. Approval of the proposed parking ratio is subject to City Council approval, along with constructing elements or enhancements to parking areas per Section 4.7(D)(2).

(e) Residential uses not providing the minimum amount of parking shall submit a parking study documenting the number of spaces needed for the development, along with elements or enhancements to parking areas per Section 4.7(D)(2). Approval of the proposed parking ratio is subject to City Council approval.

(4) ***Bicycle and Scooter Parking***. For all uses where automobile parking spaces are provided except single- and two-family residences, parking facilities for bicycles and scooters must be provided and shall be regulated by the following provisions:

(a) The number of bicycle and scooter spaces to be provided shall be based upon the following chart:

TABLE 4-11: BICYCLE AND SCOOTER SPACES

Land use	Number of Spaces
Residential	1.0 per two dwelling units
Non Residential	Minimum of 1.0; and 1.0 per 20 vehicle parking spaces

(b) A bicycle or scooter space is equal to one-half bicycle rack. When calculating the number of spaces, the total number is rounded up to the nearest whole number. Long-term bicycle storage indoors may count towards no more than 80 percent of the required bicycle and scooter spaces.

(c) An acceptable bicycle rack is an inverted U shape made of bent metal with two points of contact with the ground. The rack must have a concrete footing or foundation, or similar method of installation affixing it to the ground. Long-term bicycle storage provided indoors is not restricted to a U-shaped rack.

(d) The area around bicycle or scooter spaces must have three feet of clearance measured from the furthest extent of the bicycle rack. This clearance may not conflict with pedestrian pathways or circulation. The area within this clearance and underneath the bicycle rack must be paved.

(e) Parking for bicycles and scooters must be illuminated at night with a dedicated lighting fixture and be located within 100 feet of the main public building entrance on the same property.

(5) ***On-demand and Ride-hailing Transportation Services.*** For all uses where automobile parking spaces are required except single-family, two-family, and townhome residences, parking facilities for transportation services using on-demand methods or platforms for ride-hailing and deliveries and shall be regulated by the following provisions:

(a) A business or single residential building may utilize one off-street parking spaces dedicated to ride-hailing and deliveries. A shopping center, residential complex, mixed-use development, or joint facility may utilize two off-street parking spaces dedicated to ride-hailing and deliveries.

(b) Businesses and commercial areas within a 1,000 foot radius may organize and designate a total of one on-street space per participating business, where available, for ride-hailing and delivery services.

(D) Special Circumstances. [11-040]

(1) ***Proof of Parking for Delayed Construction.*** The City may approve a proof of parking plan that proposes to install initially only a portion of the required parking but that demonstrates that the full complement of required parking could be installed on the property in accordance municipal standards at a later date as determined by the City. In all instances where proof of parking is permitted, a legal instrument which is satisfactory to the City Attorney as to form and manner of execution shall be entered into by the parties concerned for a proof of parking agreement. Such instrument must be filed with the City and recorded with Ramsey County.

(2) ***Parking Space Reductions and Enhancements.*** The following off-street parking reductions may be utilized except as indicated otherwise, subject to a parking analysis and plan adopted by City Council, with a recorded agreement to ensure stipulations for reductions and enhancements are maintained and subject to a maximum reduction of 15 percent of required minimum parking spaces:

(a) Off-street parking facilities for existing uses as of the effective date of this ordinance, as documented in Section 1.4, shall not be reduced to an amount less than that required under Section 4.7.

(b) Transit. The minimum number of required spaces for use(s) may be reduced by five percent if the building is located within one-quarter of a mile from a qualified transit stop; to qualify, the transit stop must be served by regular transit service on all days of the week and adequate pedestrian access must be available between the transit stop and the use(s). Information about transit routes and schedules should be posted in public spaces within the building to encourage the use of transit.

(c) Car-share parking. A reduction of up to one required space per reserved parking space for car-share vehicles or five percent of the required parking spaces, whichever is greater, may be granted for any development that provides reserved parking for car-share vehicles. Reserved parking spaces for car-share vehicles may be provided in any required or non-required off-street parking space. Parking spaces for car-share vehicles shall be provided in convenient, accessible locations within 100 feet of a public entrance to a principal building.

(d) Ridesharing and Car Pooling. The City recognizes the benefit of ridesharing and carpooling. Any non-residential use that offers rideshare or carpooling to its employees may reduce the number of required spaces by five percent.

(e) Parking Enhancements. A percentage increase or decrease, depending on the use, in parking may be approved by the City, utilized jointly or separately except as indicated otherwise, provided that one of the following conditions are met. The following enhancements may be used to the benefit of the development:

(i) Incorporation of EV charging stations or installation of infrastructure for future installation, compliant with Section 4.7(B)(12), modifies the parking ratio by five percent.

(ii) Incorporation of snow and snowmelt management design principles for all surface parking areas, compliant with Section 4.7(B)(13), modifies the parking ratio by five percent.

(iii) Construction of structures covering 50 percent or more of provided surface parking spaces, when the structure is designed and built to hold solar panels and passively generate electricity, modifies the parking ratio by five percent.

(iv) The area which would have been occupied by the eliminated parking spaces in items (1) to (3) above must be devoted to pervious surfaces, stormwater facilities, tree retention, or native landscaping as directed by the Department of Community Assets and Development.

(3) ***Other Uses***. Parking requirements for unique uses or unique circumstances not specifically mentioned in Section 4.7 shall be determined on an individual basis. Factors to be considered shall include: size of building, type of use, number of employees, peak demand hour, expected volume and turnover of customer traffic, and expected frequency and number of delivery or service vehicles. The applicant shall be responsible for collecting, assimilating, and presenting the data to support the request. The data must be documented to the City's satisfaction.

(4) Joint Facilities. The City may approve a conditional use permit for one or more uses to provide the required off-street parking facilities by joint use of one or more sites if the total number of spaces provided is less than the sum of the total required for each business had they provided them separately. The City shall not approve such a conditional use permit unless the following conditions exist:

(a) No more than 50 percent of the parking facilities required for a theater, bowling alley, dance hall, bar or restaurant may be supplied by the off-street parking facilities provided by types of use specified as primarily daytime in Section 4.7(C)(3)(a).

(b) No more than fifty percent of the off-street parking facilities required by Section 4.7(C)(3)(a) for a primarily daytime use may be supplied by the parking facilities provided by the following nighttime or Sunday uses: auditoriums incidental to public or private schools, places of public assembly, bowling alleys, dance halls, theaters, bars, or restaurants.

(c) No more than 80 percent of the parking facilities required by Section 4.7(C)(3)(a) for places of public assembly or for auditoriums incidental to public or private schools may be supplied by the off-street parking facilities provided by uses specified in Section 4.7(C)(3)(a) as primarily daytime.

(d) For the purpose of Section 4.7, the following may be determined by the City Council to be primarily daytime uses: banks, business offices, manufacturing, wholesale and similar uses.

(e) Required accessible parking spaces and required parking for residential uses may not be located off site.

(f) Off-site parking areas much be located within a 1,000-foot radius of the use served by such parking, measured from the nearest public entrance door of the use.

(5) ***Conditions Required for Joint Use.*** The following conditions shall apply in all instances in which joint use of parking is permitted:

(a) The building or use for which an application is being made to utilize the off-street parking facilities provided by another building or use shall be located adjacent to such parking facilities.

(b) The applicant shall show that there is no substantial conflict in the principal operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed.

(c) A legal instrument, satisfactory to the City Attorney as to form and manner of execution, shall be executed by the parties concerned for joint use of off-street parking facilities and filed with the City. Such instrument also shall be recorded with Ramsey County.

(6) ***Setback exception.*** Joint or combined parking facilities or adjoining parking facilities on separate lots as authorized and when constructed adjacent to a common lot line separating two or more parking areas are not required to observe the parking area or driveway setback from the common lot line.

(E) Off-Street Loading/Unloading. [11-050]

(1) ***Location.***

(a) All loading/unloading areas shall be off-street and located on the same lot as the building or use to be served.

(b) All loading/unloading space curb cuts shall be located a minimum of 50 feet from the intersection of two or more street rights-of-way.

(c) All loading/unloading spaces serving an industrial use shall not be located closer than 100 feet to a residential district.

(d) All loading/unloading spaces shall be in the side or rear yards.

(e) All loading/unloading docks and vehicular doors shall be, when facing a public right-of-way, 50 feet or more from said right-of-way.

(f) Each loading/unloading space shall be located so that it will not block or interfere with any traffic flow.

(g) On the same premises with commercial or industrial uses that require the shipping or receiving of goods or supplies, loading/unloading space shall be provided as follows:

TABLE 4-12: LOADING & UNLOADING SPACES	
Land use	Number of Spaces
Residential	1.0 per two dwelling units
Non-Residential	Minimum of 1.0; and 1.0 per 20 vehicle parking spaces

(2) ***Accessory Use, Parking and Storage.*** Any space allocated as a required loading/unloading space or access drive shall not be used for the storage of goods, inoperable vehicles or snow and shall not be included as part of the space required for off-street parking.

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CHAPTER 5: USE STANDARDS

5.1 Use Tables

(A) Explanation of Use Table Structure

(1) Organization of Chapter 5 Use Tables

Tables in Chapter 5 are organized by Use Classifications or Use Types.

(a) Use Classifications

The Use Classifications are: Residential Uses; Civic and Institutional Uses; Office Use; Commercial Uses; Mixed Uses; and Industrial Uses. The Use Classifications provide a systematic basis for assigning present and future land uses into broad general classifications (e.g., residential and commercial uses). The Use Classifications then organize land uses and activities into specific "Use Types" based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered and site conditions.

(b) Use Types

The specific Use Types identify the specific uses that are considered to fall within characteristics identified in the use Classifications. For example; detached dwellings, parks and recreational areas, and schools are "Use Types" in the Single Family Residence District.

(2) Symbols used in Chapter 5 Use Tables

(a) Permitted Uses = P

A "P" indicates that a use is permitted by right, subject to compliance with all other applicable provisions of this ordinance. Uses may be subject to special regulations as referenced in the "Additional Requirements" column which may include triggers requiring a conditional use permit.

(b) Conditionally Permitted Uses = C

A "C" indicates that a use is permitted provided the City can establish conditions necessary to ensure the use is compatible to the proposed location and surrounding properties. Inability of the City to establish conditions to adequately control anticipated impacts is justification for denial of a conditionally permitted use. Conditional uses may also be subject to special regulations as referenced in the "Additional Requirements" column.

(c) Interim Permitted Uses = I

An "I" indicates that a use may be permitted for a brief period of time provided certain conditions are met, and a specific event or date can be established for discontinuance of the use. Inability of the City to establish conditions to adequately control anticipated impacts is justification for denial of an interim permitted use. Interim permitted uses may also be subject to special regulations as referenced in the "Additional Requirements" column.

(d) Prohibited Uses = Shaded Cells

A shaded cell indicates that the listed use is prohibited in the respective base zoning district.

(e) Unlisted Uses

(i) If an application is submitted for a use that is not listed in the Chapter 5 use tables, the Department of Community Assets and Development is authorized to classify the new or unlisted use into an existing Use Type that most closely fits the new or unlisted use. If no similar use determination can be made, the use will be considered prohibited in which case an amendment to the ordinance text would need to be initiated to clarify if, where, and how a proposed use could be established. [8-061]

(ii) Accessory uses allowed in commercial and residential zones of the City that are not specifically addressed in this Chapter are presumptively allowed in the mixed-use district subject to the regulations governing said improvements elsewhere in this Code. Final determination of whether an unlisted accessory use shall be allowed and whether said use meets zoning standards shall be determined by the Department of Community Assets and Development. [6-550(8)(A)]

TABLE 5-1: PRINCIPAL USES BY DISTRICT

Use Types P = Permitted C = Conditionally Permitted I = Interim Permitted	Base Zoning Districts																	Additional Requirements
	RS1	RS2	RM1	RM2	RM3	MHC	BR	BN	BG	IR	IL	IH	MUDT	NBE	MUN	MUR	MUE	
Residential Uses																		5.3(A)(1)
Assisted Living, Nursing and Rest Homes, etc				C	C		C	C	C	C			C	C	C	C	C	5.3(A)(2)
Attached Dwelling Types																		5.3(A)(3)
– Duplex and Twin Homes			P	P	P								P	P				5.3(A)(4)
– Townhomes			C	P	P								P	P	P	P	P	5.3(A)(5)
– Multiple Family					P								P	P	P	P	P	5.3(A)(6)
Community Gardens	P	P	P	P	P	P	P	P					P	P				5.3(A)(7)
Detached Dwelling	P	P	P	P	P	P	P						P	P				5.3(A)(8)
Group Residential Facility, Single Fam.	P	P	P	P	P		P						P	P				5.3(A)(9)
Group Residential Facility, Multi Fam.			P	P	P								P	P	P	P	P	5.3(A)(9)
Live-work Unit							C	C					C		P	P	P	5.3(A)(10)
Manufactured Home Community						P												5.3(A)(11)
Sacred Settlements	C	C	C	C	C			C	C				C		C	C	C	5.3(A)(12)
Short Term Rental (i.e. Air B&B)	P	P	P	P	P	P	P						P	P	P	P	P	5.3(A)(13)
Civic & Institutional Uses																		
Active Park Facility (public)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	5.3(B)(1)
Active Park Facility (private)	P	P	P	P	P	P							P	P	P	P	P	5.3(B)(1)
Cemeteries				C	C													5.3(B)(2)
Clinics/Medical Services				C	C			C	C	C	X	X	C	C	C	C	C	5.3(B)(3)

TABLE 5-1: PRINCIPAL USES BY DISTRICT

Use Types P = Permitted C = Conditionally Permitted I = Interim Permitted	Base Zoning Districts																	Additional Requirements
	RS1	RS2	RM1	RM2	RM3	MHC	BR	BN	BG	IR	IL	IH	MUDT	NBE	MUN	MUR	MUE	
Civic & Institutional Uses (continued)																		
Essential Services	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	5.3(B)(4)
Hospitals				C	C				C	C	X	X		C		C	C	5.3(B)(5)
Passenger Terminal									C	C	C	C	C			C	C	5.3(B)(6)
Passive Parks & Open Space	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	5.3(B)(7)
Place of Public Assembly	C	C	C	C	C			C	C	X	X	X	C		C	C	C	5.3(B)(8)
Public Buildings or Uses	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	5.3(B)(9)
Schools, K – 12	C	C	C	C	C			C	C	X	X	X	C		C	C	C	5.3(B)(10)
Schools, Higher Education	C	C	C	C	C			C	C	X	X	X	C	C	C	C	C	5.3(B)(11)
Utilities (major)	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	5.3(B)(12)
Office Uses																		
Offices							P	P	P	P	P	P	P	P	P	P	P	5.3(C)
Commercial Uses																		5.3(D)(1)
Adult Uses										P	P	P						5.3(D)(2)
Auto Repair -- Minor									C	C	C	C	C		C	C	C	5.3(D)(3)
Automotive Car Wash									C	C	C	C			C	C	C	5.3(D)(4)
Brew Pub									C	C			C	P	P	P	P	5.3(D)(5)
Business Support Services									P	P	P	P	P	P	P	P	P	5.3(D)(6)
Cannabis Retailer									P		P	P			P	P		5.3(D)(7)
Commercial Lodging				C	C				C	X				C		C	C	5.3(D)(8)
Communications / Broadcasting								C	C	C	C	C		C				5.3(D)(9)
Convenience Retail								P	P	P	P	P	P	P	P	P	P	5.3(D)(10)

TABLE 5-1: PRINCIPAL USES BY DISTRICT

Use Types P = Permitted C = Conditionally Permitted I = Interim Permitted	Base Zoning Districts																	Additional Requirements
	RS1	RS2	RM1	RM2	RM3	MHC	BR	BN	BG	IR	IL	IH	MUDT	NBE	MUN	MUR	MUE	
Commercial Uses (continued)																		
Day Care Center				C	C	C	C	C	C	X			C	C	C	C	C	5.3(D)(11)
Entertainment/Rec Indoor Commercial								C	C	C	C		C	C		C	C	5.3(D)(12)
Entertainment/Rec Outdoor Com.								C	C	C	C		C	C		C	C	5.3(D)(13)
Event Center									X	X	C	C	X	C	X	C	C	5.3(D)(14)
Farmers Market	C	C	C	C	C	C	C	C	C	X			C	C	C	C	C	5.3(D)(15)
Financial Institution									P	P	P	P		P	P	P	P	5.3(D)(16)
Firearm Related Use											C	C						5.3(D)(17)
Funeral Services & Mortuaries*								C	C	C	C		C		C	C	C	5.3(D)(18)
Kennels, Pet Shops, Veterinary Facilities								C	C	C	C		C	C	C	C	C	5.3(D)(19)
Landscaping / Nursery Business									C	P	P	P	C	C	C	C	C	5.3(D)(20)
Parking Lot as a Principal Use								P	P	P	P	P	P	P	P	P	P	5.3(D)(21)
Personal / Professional Services							P	P	P	P	P	P	P	P	P	P	P	5.3(D)(22)
Production Brewery or Micro-Distillery										C	C			C	X	C	C	5.3(D)(23)
Recreational Vehicle Camp Site											C	C						5.3(D)(24)
Repair Establishment								P	P	P	P	P	P	P	P	P	P	5.3(D)(25)
Restaurants									P	P	P	P	P	P	P	P	P	5.3(D)(26)
Retail Commercial Uses								P	P	P	P	P	P	P	P	P	P	5.3(D)(27)
Specialty Eating Establishments								P	P	P	P	P	P	P	P	P	P	5.3(D)(28)

TABLE 5-1: PRINCIPAL USES BY DISTRICT

Use Types P = Permitted C = Conditionally Permitted I = Interim Permitted	Base Zoning Districts																	Additional Requirements
	RS1	RS2	RM1	RM2	RM3	MHC	BR	BN	BG	IR	IL	IH	MUDT	NBE	MUN	MUR	MUE	
Commercial Uses (continued)																		
Vehicle Fuel Sales									C	C	C				C	C	C	5.3(D)(29)
Vehicle Sales and Rental									C	C	C					C		5.3(D)(30)
Wholesale Sales											P	P						5.3(D)(31)
Wireless Tele-communication Tower / Antenna / Support Structure	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	5.3(D)(32)
Industrial Uses																		5.3(E)(1)
Auto Repair – Major												C						5.3(E)(2)
Bulk Fuel Sales and Storage											X	C						5.3(E)(3)
Cannabis Cultivation & Product Creation											P	P						5.3(E)(4)
Corporate Headquarters														P				5.3(E)(5)
Extraction of Materials	X	X	X	X	X						I	I						5.3(E)(6)
General Warehousing											P	P						5.3(E)(7)
Industrial Services										C	P	P		P				5.3(E)(8)
Machinery/Truck Repair & Sales												C						5.3(E)(9)
Manufacturing, Light									C	P	P	P	C	P		C	C	5.3(E)(10)
Manufacturing, Heavy												P						5.3(E)(11)
Recycling and Salvage Center											C	C						5.3(E)(12)
Research Laboratory									C	C	P	P	C	P			C	5.3(E)(13)
Self-Storage Facilities										P	P	P						5.3(E)(14)
Truck or Freight Terminal												C						5.3(E)(15)

5.2 General Regulations for All Uses

(A) Combination Uses

In the BN, BG, IR, IL, IH, MUDT, NBE, MUN, MUR, and MUE districts, combination uses may be allowed within the principal building with each use subject to all regulations in this ordinance. [6-550(3)(A)]

(B) Nuisances Prohibited

In addition to all nuisance provisions within City code, the following shall apply:

(1) Refuse and Garbage

(a) In all districts, all refuse, rubbish, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such a purpose.

(b) The owner of vacant land shall be responsible for keeping the land free of refuse, rubbish, or garbage.

(2) Smoke

The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 1-15.

(3) Dust and Other Particulated Matter

The emission of dust, fly ash, or other particulated matter by any use shall be in compliance with and regulated by the State of Minnesota Air Pollution Control Standards, Minnesota Regulation APC 1-15.

(4) Noise

Unless otherwise exempted in code, noises emanating from any use shall be in compliance with and regulated by the State of Minnesota pollution control standards and rules.

(5) Flammable liquids and Hazardous Materials

Storage and use of flammable liquids and hazardous material shall be subject to review and approval of the Fire Marshal, and shall only be done in accordance with applicable local, county, state, and federal regulations.

(C) Building and Structure Location

(1) Future Street Plans

All buildings and structures shall be placed so as not to obstruct planned future streets or improvements shown on the City's Official Map. [8-059 & 6-550(3)(c)]

(2) Access Considerations

All structures shall be located on lots so as to provide safe and convenient access from adjacent public streets and sidewalks for servicing/maintenance, fire protection, and the accommodation of required off-street parking.

(D) Fire Protection

Fire protection measures within buildings shall meet applicable requirements for a property's use and for all commodities being stored. At the direction of the Fire Marshal, a fire protection engineer shall be hired by the property owner to document compliance to all applicable fire regulations.

(E) Surfacing

In all districts, surfaces devoted to parking, driving, and outdoor storage authorized by conditional use permit shall be designed to maintain proper drainage and stormwater treatment, and shall consist of an improved dustless surface not including include dirt, sand, or gravel.

5.3 Principal Uses

(A) Regulations for Residential Uses

(1) General Regulations for All Dwellings

(a) All dwellings located in any residence district shall conform to the following minimum requirements:

(i) All dwellings shall be placed on a permanent foundation which complies with the Minnesota State Building Code, and which are solid for the complete circumference of the dwelling.

(ii) All dwellings shall be served by public sanitary sewer and water.

(iii) Direct vehicular access to residential units from arterial or collector roadways shall be prohibited unless no other reasonable alternative exists as determined by the Department of Community Assets & Development.

(iv) In addition to standards applicable to all houses in residential districts, manufactured homes, as defined by Minnesota Statutes, shall be built in compliance with the Minnesota Manufactured Homes Building Code and all statutory requirements.

(v) No cellar, basement, garage, tent, trailer, motor vehicle, or accessory building shall at any time be used as an independent residence, either temporarily or permanently, unless expressly authorized by this ordinance, or expressly authorized as an accessory dwelling unit; tents, playhouses or similar structures may be used for play or recreational purposes.

(b) No manufactured home shall be moved into the City that does not meet the Manufactured Home Building Code as defined in Minnesota Statutes, Section 327.31, subdivision 3 which shall mean United Stated Department of Housing and Urban Development (HUD) certified. [from current definition of "manufactured dwelling"]

(c) Opt-Out of Minnesota Statutes, Section 462.3593, Temporary Family Health Care Dwellings

Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City opts-out of the requirements of Minnesota Statutes, Section 462.3593, which defines and regulates temporary family health care dwellings as a permitted use. A temporary family healthcare dwelling is allowed in certain circumstances provided that a license has been obtained from the City and it meets the requirements of Article 18 of Chapter 15 of the City Code. [4-610]

(2) Assisted Living facilities, Nursing Homes, Rest Homes, etc.

(a) The facility shall have direct or near-by access to a public park, or shall provide on-site, outdoor amenities adequate to serve the population of the facility.

(b) If possible, loading and refuse collection areas shall be located in such a manner that minimizes traffic through adjacent residential neighborhoods, and minimizes visibility from adjacent residential neighborhoods.

(c) In BG, IR, MUDT, NBE, MUN, MUR, and MUE districts, the main building shall not be less than 50 feet from any adjoining premises in a residential district not used for a similar purpose. [5-240(9)]

(3) General Regulations for All Attached Dwelling Types

None

(4) Duplex and Twin Homes

Twin home lots shall be considered conforming to minimum lot size requirements provided the combined size of the lot for each unit meets or exceeds the minimum requirements for the underlying zoning district.

(5) Townhomes

(a) MUN, MUR, and MUE Specific Regulations [6-550(4)(C)]

(i) No building shall contain more than eight dwelling units.

(ii) Each dwelling unit shall have separate and individual front and rear entrances.

(iii) Private driveways for garages in townhouse developments shall provide a minimum of 20 feet worth of parking space which does not interfere with the use of public sidewalks or trails.

(b) Reserved

(6) Multiple Family Buildings

(a) MUN, MUR, and MUE Specific Regulations

(i) Density [6-550(4)(B)(1)]

1. Allowed densities in the MUR district are 12 to 50 units per acre by right, or up to 60 units per acre through the Planned Residential Development or Planned Unit Development process.
2. Allowed densities in the MUN and MUE districts are 8 to 40 units per acre.

(ii) Mixing of Uses [6-550(4)(B)(2)]

1. Commercial and residential development may be combined vertically in the same building, or horizontally on the same or adjacent sites.
2. When uses are mixed within a multiple family building; retail, service, offices, and civic uses should be focused on the ground floor and dwelling units focused on upper floors.

(b) Reserved

(7) Community Gardens

The purpose of permitting urban agriculture is to promote local food production for local consumption and promote the health, environmental, and economic benefits of having such uses. Where open space requirements are in place, community gardens may count towards required open space.

(a) Prior to a parcel being utilized as a community garden, the landowner shall be required to secure an annual community garden permit from the Department of Community Assets and Development. Application for the permit shall include at a minimum:

- **(i)** A complete application form as provided by the Department of Community Assets and Development;
- **(ii)** Proof of ownership, or approval to operate the community garden from the property owner of record;
- **(iii)** An operating plan showing how the community garden will meet all minimum standards required by 5.3(A)(7)(b).
- **(iv)** A to-scale site plan or survey showing the garden's location on the property, along with the dimensions and height of any proposed structures such as sheds or fencing; and
- **(v)** Any additional information as required by the Department of Community Assets and Development.

(b) Community Garden Minimum Standards:

- **(i)** Gardens shall be run by a nonprofit entity, community group, or neighborhood group acting as the garden coordinator to ensure code and permit guidelines are followed.
- **(ii)** Gardens shall be limited to the cultivation of fruits, vegetables, herbs, plants, flowers, fungi, and mushrooms.
- **(iii)** The garden shall be served by a metered water supply sufficient to support the cultivation practices on the site.
- **(iv)** Containers, including water bins and planters, shall not hold standing water unless they are completely covered.
- **(v)** One small storage shed, 100 square feet or less, may be permitted provide it meets all setbacks required by the underlying zoning district and does not exceed 15 feet in height.

(vi) Greenhouses or hoophouses associated with a community garden may only be authorized by conditional use permit and may be denied for any suspected negative impact to adjacent property. Low tunnels are permitted provided they are removed at the end of spring and fall.

(vii) Community gardens must be maintained in a clean and neat manner and be kept free of trash, weeds, and residual clippings, year-round, including times when the garden is fallow.

(viii) Community gardens shall only be open and active during the hours of 7:00 a.m. to 9:00 p.m.

(ix) Compost must be kept at least 20 feet away from adjacent single-family residential property lines.

(x) Incidental sales of harvested goods or plants are prohibited on-site, unless otherwise lawfully permitted in the underlying zoning district where the community garden is located.

(xi) Overhead lighting is prohibited.

(xii) Signage is limited to a single, non-illuminated, single sided sign of four-square feet.

(8) Detached Dwellings

The minimum width of the main portion of detached dwellings shall not be less than 20 feet as measured across the narrowest portion. [4-010(1)(A)]

(9) Group Residential Facilities

All group residential facilities shall be issued and must maintain a valid state license to be in operation.

(10) Live/Work Units [6-550(4)(D)]

The following limitations shall apply to live/work units:

(a) Live/work units shall not exceed 3,000 square feet in area.

(b) The nonresidential portion of a live/work unit shall not exceed 50 percent of unit's gross square footage.

(c) The nonresidential area of the unit shall be limited to the first or main floor only of the live/work unit.

(d) Not more than five nonresidential workers or employees are allowed to occupy the nonresidential area at any given time.

(11) Manufactured Home Community

Establishment of a new Manufactured Home Community or expansion of an existing Manufactured Home Community is governed by Chapter 16 of the City Code.

(12) Sacred Settlements

(a) Minimum standards for the overall sacred settlement shall include:

(i) The sacred settlement shall be covered by an appropriate level of insurance as determined by the City Attorney;

(ii) Between one-third and 40 percent of the tiny homes in the sacred settlement shall be occupied by designated volunteers who live in the settlement as their sole form of housing;

(iii) The settlement shall adhere to all laws governing landlord and tenants under Minnesota Statutes Chapter 504B.

(iv) A written plan, approved by the religious institution's governing board, shall be provided to the City complete with the following:

1. Plans for disposal of water and sewage from units if not plumbed, and septic tank drainage if plumbed units are not connected to the primary worship location's system.

2. Survey, or site plan based on survey data, showing adequate parking, lighting, and access to units by emergency vehicles is being provided.

3. A set of protocols covering security, how the institution will address conduct within the settlement, and safety protocols for severe weather.

(b) Minimum standards for sacred settlement tiny units are:

(i) All micro units must be built to the requirements of the American National Standards Institute (ANSI) Code 119.5, which includes standards for heating, electrical, fire, and life safety.

(ii) Tiny units shall be subject to yearly inspection for compliance with statutory standards and must meet the following minimum requirements:

1. Be no more than 400 gross square feet.

2. Be built on a permanent chassis and anchored to pin foundations with engineered fasteners.

3. Have exterior material compatible in composition, appearance, and durability to materials used in standard residential construction.

4. Meet minimum framing standards and insulation ratings for doors and windows and include a dry, compostable, or plumbed toilet meeting Minnesota Pollution Control Agency rules.

5. Include smoke and carbon monoxide detectors and comply with municipal setback requirements if established by ordinance or be set back on all sides by at least 10 feet if no ordinance exists.

6. Have access to water and electric utilities either by connecting the units to the principal building or by providing access to permanent common kitchen facilities and common facilities for toilet, bathing, and laundry consistent with boarding house requirements under Minnesota Rules, Part 1305.2902.

(13) Short Term Rentals

No short-term rental of a dwelling unit or portion of a dwelling unit shall occur until a short-term rental permit has been issued subject to the requirements of City Code Chapter 13.

(B) Regulations for Civic & Institutional Uses

(1) Active Park Facilities

(a) Private park facilities must be operated only for the enjoyment and convenience of the associated residents, members, and their guests.

(b) Golf courses included as part of an active park facility, shall require approval of a conditional use permit. [4-330(4)]

(2) Cemeteries

(a) Adequate landscaping shall be provided between the cemetery plots and all adjacent land in the district. [4-330(5) and 4-430(5)]

(b) New cemeteries shall be located on a site or parcel that fronts an arterial or collector street.

(c) Cemeteries shall include adequate space for the parking and maneuvering of funeral processions.

(d) Interments shall take place in locations which meet all underlying structural setbacks.

(3) Clinics / Medical Services

None.

~~All principal buildings shall be no less than fifty (50) feet from any adjoining property not used for a similar purpose whose zoning classification allows residential uses.~~ [5-240(9)]

(4) Essential Services

(a) Essential services may be located in any district subject to compliance with all applicable laws, regulations, and ordinances.

(b) Prior to the commencement of construction, installation, or condemnation of essential services, plans for the proposed essential service activity shall be submitted to and reviewed by the City Engineer.

(c) The City may require that the location and construction of essential services be made compatible with the existing and planned development including—without limitation—roads, parks, schools, and buildings.

(5) Hospitals

All principal buildings shall be no less than 50 feet from any adjoining property not used for a similar purpose whose zoning classification allows residential uses. [5-240(9)]

(6) Passenger Terminal

None

(7) Passive Parks & Open Space

None

(8) Places of Public Assembly (new standards for consideration)

(a) Non-mixed use districts

(i) Along side lot lines, all buildings shall be set back from an adjoining residential district a distance no less than double the adjoining residential side yard setback.

(ii) When directly abutting a residential use in a residential use district, the property shall be screened with a Type-B aesthetic buffer in accordance with section 4.1(H) of this ordinance.

(b) Mixed Use Districts

(i) Institutions on parcels exceeding 20,000 square feet in area shall be located with direct frontage on, and access to, a collector or arterial street.

(ii) Building architecture shall be designed to reflect retail, street-level architecture that will complement and blend with current and anticipated development within the mixed use district.

(iii) Institutions abutting either R-1 or R-2 zoned property shall install all necessary soundproofing and screening measures as may be necessary to eliminate sound and lighting impacts to adjacent residential units.

(iv) Required parking shall be made available for sharing with surrounding uses during times the institution is not in business or in session. Parking and traffic studies shall be provided with any proposal for a place of public assembly to identify ways parking may be shared, and to demonstrate that peak hour traffic to the facility can be accommodated by the provided and surrounding roadway infrastructure.

(9) Public Buildings or Uses

None

(10) Schools, K through 12

(a) Principal structures shall not be located less than 30 feet from any boundary line used or intended to be used for residential purposes. (current code only requires increased setback from single family in R-1 or R-2 districts).

(b) Site design shall accommodate adequate space for parent pick-up/drop off queuing. If on-street queuing cannot be avoided, the school shall be responsible for modifications to the street design (if required by the Department of Community Assets & Development) to protect traffic flow on the affected road.

(c) A bus plan shall be prepared to show how bussing will be accommodated, and how students will safely access their bus.

(d) K – 12 Schools in mixed use districts must have a regional orientation and be part of a mixed-use development. [6-550(5)(B)]

(11) Schools, Higher Education

(a) Principal structures shall not be located less than 30 feet from any boundary line used or intended to be used for residential purposes. (current code only requires increased setback from single family in R-1 or R-2 districts)

(b) Higher Education schools in a mixed-use district must have a regional orientation; be oriented to secondary, post-secondary, business, or vocational learning; and be part of a mixed-use development. [6-550(5)(B)]

(12) Utilities (major)

(a) An electrical power facility, substation, or transmission station as a principal use of property shall be set back at least 100 feet from all lot lines.

(b) Service or storage yards shall be prohibited.

(c) When abutting a residential use, the major utility installation shall be screened with a Type-D buffer in accordance with section 4.1(H) of this ordinance.

(d) Floor area ratios of up to .35 for service structures may be authorized by conditional use permit. [4-030(2)]

(C) Regulations for Office Uses

(1) In General

(a) Outdoor storage shall be prohibited.

(b) The proper use classification of buildings or structures that combine office space with other uses shall be determined by the Department of Community Assets & Development.

(c) Personal home offices are allowed in residential districts subject to any applicable home occupation regulations.

Section 5.3(E)(17) Home Occupations

(2) BR and BN Districts

The architectural appearance of the building housing the office(s) shall reflect the building character of the adjacent residential area in terms of height, materials, and massing.

(D) Regulations for Commercial Uses

(1) General Regulations for All Commercial Uses

Please refer to the common business and industrial district performance standards listed in Section 3.3(E), and the standards applicable to all business base zoning districts in Section 3.5(B).

(2) Adult Uses

Prior to opening, adult uses shall need to be issued a license under the provisions of Chapter 15, Article 14 of the City Code.

(3) Auto Repair – Minor

(a) The use shall be designed to ensure proper functioning of the site as related to vehicle stacking, circulation, and turning movements.

(b) If the use site abuts a residentially zoned lot (not mixed use), a Type-C buffer (option 1 only) or either Type-D buffer shall be installed in accordance with section 4.1(H) of this ordinance. [6-550(6)(B)(1)]

(c) Vehicles that are waiting for repair shall be stored in appropriately designed and screened areas as approved by the City. [6-550(6)(B)(2)]

(d) Any repair, assembly, disassembly, or maintenance of vehicles shall occur within an enclosed building, except minor maintenance such as tire inflation, adding oil, or adding windshield wiper fluid. [6-550(6)(B)(3)]

(e) Garage doors leading to mechanics bays, wash bays, or other indoor servicing spaces shall be kept closed when not in use in order to allow the coming and going of vehicles. [6-550(6)(B)(4)]

(f) If gasoline is sold on-site, the use shall also comply with the standards for Vehicle Fuel Sales as regulated by this ordinance.

(g) Vehicles not being repaired but used as a source of parts shall be prohibited unless fully enclosed within a building.

(h) Within a mixed use district (MUN, MUR, or MUE), the minimum frontage on any street shall be 120 feet and the minimum area of the site shall be 20,000 square feet. [6-550(6)(B)(5)]

(4) Automotive Car Wash

(a) Unless otherwise authorized by the Department of Community Assets and Development based on specific and reliable business data, ample magazining or stacking space for customers shall be provided on-site to accommodate the maximum number of vehicles the facility can wash during a 30-minute period.

(b) When directly abutting a residential use, the property shall be screened with at least a Type-C buffer in accordance with section 4.1(H) of this ordinance.

(c) The entire site, where not occupied by buildings or plantings, shall be surfaced with material that will control dust and drainage to the satisfaction of the Department of Community Assets and Development.

(d) Vehicular access points shall be positioned to minimize conflict with through traffic movements on adjacent roadways, and shall be subject to approval by the Department of Community Assets and Development.

(e) The CUP may include conditions to control and reduce noise as may be needed given current, anticipated, or future surrounding land uses. Intermittent sounds produced by an automotive car wash operation, such as the sound of a vacuum or warning signal, shall not be audible to adjoining residential properties.

(5) Brew Pub

Prior to opening, brew pubs must be issued a license under the applicable provisions of Chapter 4 of the City Code.

(6) Business Support Services

None

(7) Cannabis Retailer

None

(8) Commercial Lodging

None

(9) Communications / Broadcasting

All buildings and structures except fences and barriers shall be located no less than 50 feet from a residential district [5-240(8)]

(10) Convenience Retail

None

(11) Day Care Center

In all zoning districts, adequate provisions shall be made for drop-off and traffic circulation subject to approval by the Department of Community Assets & Development. [6-6939(A)] Specific to mixed use districts, the following additional standards shall apply:

(a) Overnight facilities are prohibited. [6-550(6)(D)(1)]

(b) The site and related parking and service shall be served by an arterial or collector street of sufficient capacity to accommodate the traffic which will be generated. [6-550(6)(D)(2)]

(c) Parking and drive aisle design must be able to accommodate anticipated drop-off and pick-up traffic volumes on-site. [6-550(6)(D)(3)]

(d) All state laws and statutes governing such use are strictly adhered to and all required operating permits are secured. [6-550(6)(D)(4)]

(e) An outdoor recreational facility shall be provided which meets the following requirements: [6-550(6)(D)(5)]

(i) The facility shall be appropriately separated from the parking lot and driving areas by a fence not less than 4 feet in height;

(ii) Must be located continuous to the day-care facility;

(iii) Shall not be located in any yard abutting a major thoroughfare;

(iv) Shall not have an impervious surface for more than one-half of the playground area;

(v) Shall extend at least 60 feet from the wall of the building or to an adjacent property line, whichever is less, or shall be bound on not more than two sides by parking and driving areas; and

(vi) Shall be a minimum size of 2,000 sq. ft., or in the alternative 75 sq. ft. per child at licensed capacity, whichever figure is greater.

(12) Entertainment Recreation / Indoor Commercial

None

(13) Entertainment Recreation / Outdoor Commercial

None

(14) Event Center

(a) *Proximity to Residential Uses.* Property upon which event centers are located shall not directly abut residentially zoned property.

(b) *Event Parameters.* The conditional use permit (CUP) authorizing an event center shall, at a minimum, set specific parameters for the following based on factors of the proposed facility:

(i) *Event Size.* Factors including event space, available parking, distance to nearby residential uses, etc, shall be used to identify the maximum event size allowed under the CUP.

(ii) *Hours of Operation.* Earliest and latest hours of operation shall be established as part of the CUP.

(c) *Food regulations.* Event centers may serve food and beverages as an accessory activity in accordance with all applicable federal, state, and city regulations.

(d) *Overnight accommodations.* Overnight accommodations are prohibited.

(e) *Accessibility.* All buildings used in conjunction with event centers shall meet applicable accessibility requirements imposed by state or federal law.

(f) *Outdoor events.* All events shall take place within the event center building(s), unless specifically authorized by the CUP.

(15) Farmers Market [4-030(6)]

(a) Only the sale of crafts; agricultural products such as vegetables, fruits and flowers; and food trucks selling prepared food are permitted.

(b) Sales operations shall not occur more than once a week for not more than six hours per day.

(c) The operations shall be located in a suitable paved off-street location so as not to cause interruption of vehicular circulation or interfere with parking spaces required by the permanent use on the site.

(d) Such operations shall not be closer than 50 feet from the property line of any single-family residence and the minimum size of the site sponsoring the farmers market shall be 1.5 acres.

(e) The principal use of the property on which the farmers market is located shall be nonresidential.

(f) No permanent structure associated with the operations of the farmers market shall be built.

(g) Signs shall conform with Chapter 9 of the Zoning Code.

(h) The property owner shall cosponsor any request for a farmers market.

(i) All food vendors shall have the appropriate licenses.

(16) Financial Institution

None

(17) Firearm-Related Use (new…uses involving the DISCHARGE of weapons)

(a) Outdoor firearm-related uses are prohibited.

(b) Indoor firearm-related uses shall only be allowed in public buildings devoted to Public Safety, or in buildings located within the IL or IH zoning districts.

(c) Firearm-related uses shall only be allowed within an enclosed structure that is soundproofed to prevent the sound to be heard by persons on adjoining property.

(d) No firearm-related use shall be allowed in a trailer or other nonpermanent building.

(e) The design and construction of any firearm-related uses shall totally confine all ammunition rounds within the building and in a controlled manner. The design and construction of the firing range shall be certified by a licensed architect and engineer in the State of Minnesota. The certified plans shall include the specifications and construction of the bullet trap(s), ceilings, exterior and interior walls, and floors. The certified plans shall state what type and caliber of ammunition the range is designed to totally confine.

(f) No ammunition shall be used in any firearm-related use that exceeds the certified design and construction specifications of the firing range.

(g) A written log of users of any firearm-related use shall be maintained by the range operator. The log shall include the name and address of the range user, and the time and date the user was in the range. The name and address of the user shall be verified by photo identification.

(h) An alarm system, cut wire protected, shall be supplied to provide security for a building containing any firearm-related use.

(i) Firearms that are stored on the premises shall be stored in a vault when the range is closed for business. An alarm system, independent of the general alarm system and cut wire protected, shall be supplied for the firearm vault.

(j) Ammunition shall not be stored in the firearm vault.

(k) On site supervision at any firearm-related use shall be supplied at all times by an adult with credentials as qualified range master.

(l) An outside security plan for the general grounds of any firearm-related use shall be submitted to the City Manager or designee and the Director of Public Safety for review and approval.

(m) The transport of firearms on the premises shall conform to State law.

(n) Minors shall not be allowed in any firearm-related use unless accompanied by an adult at all times. This provision shall not be interpreted to prohibit minors from participating in a firearm safety class, which is supervised by an adult instructor.

(o) The City reserves the authority to review or modify the performance standards for a firing range based on specific needs for the proposed location.

(p) Any legally existing firearm-related use in the City on or prior to the effective date of this ordinance as documented in Section 1.4 shall be allowed to continue as a permitted use.

(18) Funeral Services and Mortuaries

(a) Funeral homes shall have their principal frontage, access, and orientation direction on an arterial or collector street. [6-550(6)(E)(1)]

(b) Facilities with cremation services shall be restricted to Industrial zoning districts only (IR, IL, and IH). [6-550(6)(E)(2)]

(19) Kennels, Pet Shops, and Veterinary Facilities [6-550(6)(A)]

(a) Full soundproofing shall be installed on all interior walls (including ceilings).

(b) The business must be able to demonstrate the proposed available space per animal meets generally accepted industry standards.

(c) For any business incorporating extended stay or over-night animal care, an outdoor relief area shall be provided in accordance with the following:

(i) The outdoor relief area shall not be located in a front yard;

(ii) The outdoor relief area must meet setback requirements;

(iii) The outdoor relief area shall be screened from view of neighboring properties in a manner consistent with the surrounding area;

(iv) The outdoor relief area shall be for the use of dogs only;

(v) No dogs shall remain unattended in the outdoor relief area;

(vi) The outdoor relief area shall not be used as an outdoor kennel, animal run, animal play area or any other use not specifically identified in the conditional use permit if the outdoor area is located within 600 feet on a residential only zoned parcel;

(vii) The outdoor relief area shall be maintained in a clean and sanitary condition at all times;

(viii) Solid waste material shall be removed a minimum of once per day and disposed of in a sanitary manner;

(ix) If required by the Department of Community Assets and Development, a filtration bed shall be constructed to ensure that liquid waste will not enter into the ground or the City's storm water system.

(20) Landscaping / Nursery Business

(a) Outdoor garden sales areas shall adhere to the following standards: (former MX standards…district was repealed when mixed use districts were created)

(i) All outdoor garden sales areas shall have approved screening as deemed necessary by the City, shall contain no storage visible above the screening material unless specifically authorized, and satisfy any other conditions deemed necessary by the City Council.

(ii) All items stored or displayed outdoors shall be wholly within the garden sales area at all times, and all displays shall be maintained in an attractive, aesthetically pleasing manner.

(iii) Only plant and plant-related materials shall be allowed to be displayed and sold in the designated outdoor garden sales area.

(iv) Outdoor display of power and non-power equipment is prohibited.

(v) Additional seasonal sales items may be allowed in designated areas to be approved by the Department of Community Assets and Development on a case-by-case basis.

(b) Landscaping/nursery businesses with outdoor garden sales areas in existence prior to the effective date of this ordinance as documented in Section 1.4 shall be allowed to continue as a permitted use.

(i) The existing use shall be subject to conditions of previous approvals; and

(ii) Changes to the existing use shall strive to meet the requirements of subsection 5.3(D)(20)(a) above in as much as possible, subject to approval by the Department of Community Assets and Development.

(21) Parking Lot as a Principal Use

The parking lot must be accessory to an adjacent use or nearby use.

(22) Personal /Professional Services

(a) In the BR district, hours of operation for customer visits and/or deliveries shall be limited to 8:00 a.m. to 6:00 p.m.

(b) In the BR district, personal/professional service businesses shall be limited to operations that offer services to one individual customer at a time.

(c) In the BR and BN zoning districts, establishments shall be limited to no more than five on-site employees working at any given time. [5-120(2)(F)(1)]

(23) Production Brewery or Micro-Distillery.

(a) *License Needed.* Prior to opening, a production brewery or micro-distillery shall need to be issued a license under the applicable provisions of Chapter 4 of the City Code**.** [6-540(6)(H)(1)]

(b) *Off-street Loading.* The micro-production facility shall provide adequate space for off-street loading and unloading of all trucks greater than 22 feet in length. In the absence of off-street loading, the City may impose limits on deliveries or shipments using the public rights-of-way, including regulating the number of trucks per day and the hours that deliveries are permitted. [6-540(6)(H)(2)]

(c) *Odors.* No odors from the micro-production facility shall be perceivable beyond the property line. The micro-production facility operator shall take appropriate measures to reduce or mitigate any odors generated from the operation and be in compliance with any applicable Minnesota Pollution Control Standards. [6-540(6)(H)(3)]

(d) *Hours of Operation.* Micro-production facility operation hours shall be limited to the hours specified in Minnesota Statutes Chapter 340A for off-sale intoxicating liquor unless further limited by the City Council as part of a conditional use permit. [6-540(6)(H)(4)]

(e) *Food.* Production brewery or micro distilleries that include a tap room must either make food/meals available on site, or expressly allow patrons to carry in food. [6-550(8)(H)(1)].

(24) Recreational Vehicle Camp Site (new…for consideration)

(a) The site shall be served by a major collector or arterial street capable of accommodating traffic anticipated by the proposed use.

(b) All driveways and parking areas shall be surfaced with a dustless material.

(c) Plans for utilities and waste disposal shall be subject to approval by the Department of Community Assets and Development, and all applicable requirements of the Minnesota State Pollution Control Agency are met.

(d) Not more than five percent of the land area of the site shall be covered by buildings or structures.

(e) No such use shall be allowed within 100 feet of a surrounding residential district.

(25) Repair Establishment

(a) Outdoor storage shall be prohibited in all districts except IL and IH if such storage is authorized by a conditional use permit.

(b) No process of the repair operation may produce noise, vibration, air, pollution, fire hazard, or noxious emissions which will disturb or endanger neighboring properties.

(c) Gun repair facilities within any mixed use district shall adhere to the restrictions established for retail gun or ammunition sales listed in Section 5.3(D)(27).

(26) Restaurant

Cafeterias to serve employees of a primary business on a site may be allowed provided such facilities do not occupy more than 10 percent of the building floor area and are not directly open to or visible from the street. [5-030(2)].

(27) Retail Commercial Uses

(a) In general. Retail commercial uses are typically free to operate absent specific restrictions. Specific retail items or activities, however, may be subject to additional restrictions as listed below.

(b) Gun or Ammunition Sales / Gun repair. Within any mixed-use district, the sale of guns or ammunition including the repair of firearms shall be subject to the following additional conditions:

(i) Such a use shall be located at least 250 feet from non-mixed use, residentially zoned or used property;

(ii) Such a use shall be located at least 300 feet from any school, religious facility, licensed daycare center, public library, park, or regularly-occupied governmental building;

(iii) Such a use shall be located at least 1,000 feet from other gun or ammunition sales/repair businesses or firearms-related uses;

(iv) Such a use shall not operate before 8:00 a.m. or after 9:00 p.m.;

(v) Firing ranges shall be prohibited in mixed use zoning districts;

(vi) Federally-licensed firearms dealers in mixed use zoning districts who engage only in processing Internet-based or mail-order sales to other licensed dealers where neither the display, inspection, nor physical transfer of the firearm occurs on or near the premises are exempted from the provisions of Subsection 5.3(D)(27)(b).

(28) Specialty Eating Establishments

None.

(29) Vehicle Fuel Sales

(a) Outside storage of merchandise shall be prohibited. (former MX-G standard)

(b) Non-attendant, credit card only vehicle fuel sales stations, shall be prohibited. (former MX-G standard).

(c) Any car wash associated with a vehicle fuel sales establishment shall have a door or doors that must be closed during the operation of the car wash. Doors may not be opened until all car wash machinery, including dryers, are turned off. (former MX-G standard).

(d) Any exterior speaker(s) shall not be audible from nearby residential units. [6-550(6)(B)(6)].

(e) Pump interactive screens, if illuminated, shall be screened from view from nearby residential units. [6-550(6)(B)(7)]

(f) Queuing space of at least 20 feet shall be provided in front of the pump island in each direction in which access can be gained to the pump — this required space shall not interfere with internal circulation patterns or with designated parking areas, and shall not be permitted in any public right-of-way, private easement, or within the required parking lot setback. [6-550(6)(B)(8)]

(g) Pump islands shall be located not less than 20 feet from any property line. [6-550(6)(B)(9)]

(30) Vehicle Sales and Rental [6-550(6)(C)]

(a) Motor vehicle repair and service and sales of used vehicles are allowed when accessory to new vehicle sales. Used vehicle sales shall be permitted only as an integral part of a new vehicle sales business (from the same land parcel and in close proximity to the new vehicles) unless located in an IL or IH zoning district.

(b) The business shall be licensed as required by Chapter 15 of the City Code.

(c) The business shall be separated from adjacent uses by at least a Type-B buffer in accordance with section 4.1(H) of this ordinance.

(d) Inoperable vehicles shall not be stored on the premises, except in appropriately designed and screened areas as approved by the City.

(e) Parking of vehicles for sale or lease on public right-of-way shall be prohibited.

(f) All repair, assembly, disassembly, maintenance, and detailing of vehicles shall occur within an enclosed building, except minor maintenance such as tire inflation or adding windshield wiper fluid.

(g) Body shops for the repair of vehicular accidents, hail damage, or other major exterior damage shall be prohibited.

(31) Wholesale Sales

None.

(32) Telecommunication Towers/Antennas

(a) Conditional Use [4-600(4)]

Wireless telecommunication towers/antenna shall be subject to approval of a conditional use permit. A conditional use permit shall be considered provided it is determined that the location and size of the use and type of operation involved therein shall not be injurious to the public health, safety, convenience, or general welfare and shall not injure or adversely affect the adjacent area or property values. The Planning Commission, in making a recommendation, and the City Council, in acting upon the conditional use permit, shall consider the following factors:

(i) The application for conditional use permit shall be processed according to Section 2.4(D) of the Zoning Code.

(ii) Applications for conditional use permits must meet the standards of Section 2.4(D) of the Zoning Code.

(iii) Wireless telecommunication towers/antenna may be constructed to a height that exceeds the required setback up to 33 percent. As a condition of approval, the City must be provided with a licensed professional engineer's certification that the tower is designed to collapse or fail within a distance or zone shorter than the required setback distance as determined by the height of the structure or telecommunication tower. The required setback is specified in Section 3.8(D)(32)(b)(i & ii).

(iv) Certain telecommunication towers/antenna may be exempt from the setback requirement of Section 3.8(D)(32)(b) and instead subject to a 10 foot setback by authorization of the City Council and when all of the following criteria are met:

1. The tower/antenna is erected on a parcel zoned IL or IH.
2. The tower/antenna is located in a side or rear yard.
3. The reduced setback is measured only from the I-35W right-of-way.
4. The applicant submits a fall zone letter stating that tower is engineered to fall in a distance not impeding traffic on I-35W.

(b) Building Permits Required [4-600(2)]

Building permits are required for towers and antennas. Such structures shall meet the regulations specified in this Subsection.

(i) All towers and antennas shall have setbacks equal to or greater than the height of the proposed structure, unless otherwise reduced by action of the City Council in accordance with Section 5.3(D)(32)(a).

(ii) The distance of any guy anchorage or similar device shall be at least 10 feet from any property line.

(iii) Suitable protective anti-climb fencing and a landscape planting screen shall be provided and maintained around the structure and accessory attachments.

(iv) The applicant shall present documentation of the possession of any required license by any federal, state, or local agency.

(v) No structure shall be in excess of a height equal to the distance from the base of the structure to the nearest overhead electrical power line which serves more than one dwelling or place of business, less five feet.

(vi) Only one such structure exceeding the district height limitations shall exist at any one time on any residentially zoned and used lot or parcel.

(vii) Application for the permit must include construction drawings showing proposed method of installation, structural engineering analysis, and a site plan depicting structures and plantings on the property and all adjacent properties. At the request of the administrative authority, documentation of a maintenance program may be required.

(viii) If any modifications are made to the structure, the City shall have the authority to require proof that the addition, change, or modification is in conformity with the permit and the State Building Code.

(ix) The owner of such a structure shall assume complete liability in the case of personal or property damage. (Ord. 764 7-22-2008)

(c) Dish Diameter [4-600(3)]

No exterior dish antenna having a diameter in excess of thirty inches shall be allowed in an RS-l, RS-2, or RM-1 district unless it complies with the requirements of this subsection.

(i) Dish antennas shall not be located on the roof of any structure.

(ii) Ground mounted dish antennas shall only be located in a rear yard and shall not be located within five feet of any side lot line and five feet of any rear lot line.

(iii) Ground mounted dish antennas shall not be located within 10 feet of any principal structure.

(iv) Ground mounted dish antennas shall be located at least 25 feet from any adjacent residential structure.

(v) Ground mounted dish antennas shall be screened from adjacent residential properties. Screening techniques shall be such that screening is effective throughout all seasons of the year.

(E) Regulations for Industrial Uses

(1) General Regulations for All Industrial Uses

Please refer to the common business and industrial district performance standards listed in Section 3.3(E), and the standards applicable to all industrial base zoning districts in Section 3.6(B).

(2) Auto Repair – Major

(a) All vehicles being serviced and all vehicle parts must be stored indoors or within an approved vehicle storage area.

(b) Work on vehicles or vehicle parts shall occur within an enclosed building.

(c) Outdoor vehicle storage area(s) shall be enclosed by a six-foot high, 100 percent opaque fence designed to blend with the auto body shop structure, and that consists of materials treated to resist discoloration.

(d) The floor of all vehicle storage areas shall consist of asphalt or concrete paving.

(3) Bulk Fuel Sales and Storage

All requirements for accessory bulk fuel sales and storage outlined in section 5.4(E)(6) shall be met.

(4) Cannabis cultivation & product creation

None.

(5) Corporate Headquarters

All corporate headquarters in the NBE district shall be approved via PUD to identify general parameters for future expansions and changes. Future changes to the property that are substantially in line with the approved growth plan may be permitted administratively with no PUD amendment(s) required.

(6) Extraction of Materials

(a) All applicable regulations in Chapter 14 of City Code regarding excavations shall be met.

(b) Plans shall be provided to illustrate how the land will be left in a useable condition upon cessation of extraction activities, shall prove that the finished grade will not adversely affect the surrounding land or future development of the site on which the mining is being conducted, and the route of trucks moving to and from the site. [4-030(3) part 1]

(c) The interim use permit authorizing the extraction of materials shall regulate:

(i) The type(s) of material being mined on the site;

(ii) A program for rodent control;

(iii) A plan for fire control and general maintenance of the site;

(iv) Controls for vehicular ingress and egress, and for control of material disbursed from wind or hauling of material to or from the site;

(v) A calendar of specific dates when mining operations will be conducted, including specific beginning and ending dates; and

(vi) The submission of a surety by the applicant in an amount determined by the Department of Community Assets & Development to be equal to 100% of the value of the cost of restoring land upon which mining is to occur, and repairing the degradation of roadways used to transport soils. [4-030(3) part 2]

(d) On-site sales may be allowed as part of the interim use permit subject to all conditions established by the City Council to ensure the health, safety, and welfare of those visiting the site and of surrounding property owners.

(e) All applicable watershed district permits as may be required shall be obtained prior to the beginning of excavation activities.

(7) General Warehousing

(a) Any outdoor storage shall be screened with at least a Type-D buffer in accordance with section 4.1(H) of this ordinance.

(b) The storage of salt, sand, or other similar road treatment materials by a public road authority may be allowed by special use permit. Structures for such storage shall be exempt from any applicable building material requirements. [6-140(6)]

(8) Industrial Services

Any outdoor storage shall be screened with at least a Type-D buffer in accordance with section 4.1(H) of this ordinance.

(9) Machinery/Truck Repair and Sales

(a) A drainage system to control and treat potentially contaminated stormwater shall be designed and installed subject to the approval of the Department of Community Assets and Development.

(b) When abutting a residential use, the property shall be screened with at least a Type-D buffer in accordance with section 4.1(H) of this ordinance.

(10) Manufacturing, Light

In the MUR and MUE zoning districts: [6-550(7)]

(a) All light manufacturing must operate in a manner undetectable to surrounding areas with regards to noise, odors, vibrations, smoke, dust, and all other nuisance related impacts.

(b) Approval of a conditional use permit for light manufacturing shall require approval of plans which adequately demonstrate the use can operate undetected as required by subsection (a) above.

(c) Failure of the use to follow approved plans or failure of the approved plans to mitigate all nuisance issues shall be grounds for revocation of the conditional use permit if not corrected by the permit holder in a timeframe deemed acceptable by the Department of Community Assets and Development.

(11) Manufacturing, Heavy

None.

(12) Outdoor Storage as a Principal Use

All outdoor storage shall be screened with a Type-D buffer in accordance with section 4.1(H) of this ordinance, but such a buffer must include a minimum six foot high solid fence regardless of the buffer width.

(13) Recycling and Salvage Center

(a) The center shall be on a parcel with an area of at least five acres.

(b) The center shall be located at least 250 feet from any residential district, school, or day care.

(c) Except for a freestanding office, no part of the center shall be located within 50 feet of any property line.

(d) All recycling activities and storage areas shall be effectively screened from view by walls, fences, or buildings. Such screening shall be designed and installed to ensure that no part of recycling activities or a storage area can be seen from rights-of-way or adjacent lots.

(e) All outdoor storage areas shall be surrounded by a solid fence or wall that is at least eight feet high, located no less than 100 feet from any public right-of-way, and located no less than 50 feet from any adjacent property.

(f) Recyclable materials shall be contained within a leak-proof bin or trailer, and not stored on the ground.

(g) Only limited sorting, separation, or other processing of deposited materials shall occur on the site.

(h) There shall be no collection or storage of hazardous or biodegradable wastes (as defined by the PCA) on the site.

(i) Space shall be provided to park each commercial vehicle operated by the center.

(j) The facility shall be administered by on-site persons during the hours the facility is open.

(k) The site shall be maintained free of fluids, odors, litter, rubbish, and any other non-recyclable materials. The site shall be cleaned of debris on a daily basis and shall be secured from unauthorized entry and removal of materials when attendants are not present.

(l) Signage shall include the name and phone number of the facility operator and indicate any materials not accepted by the center.

(m) Access to the center shall be from a collector or arterial street.

(14) Research Laboratory

None.

(15) Self-Storage Facilities

(a) Site Layout

(i) The minimum lot area shall be at least two acres.

(ii) If separate buildings are constructed, there shall be a minimum separation of 25 feet between buildings.

(b) Operation

(i) The only commercial uses permitted on-site shall be the rental of storage bays and the pickup and deposit of goods or property in cold storage. Storage bays shall not be used to manufacture, fabricate, or process goods, to service or repair vehicles, small engines or electrical equipment, or conduct similar repair activities, to conduct garage sales or retail sales of any kind, or to conduct any other commercial or industrial activity on the site.

(ii) Individual storage bays or private postal boxes within a self-service storage facility use shall not be considered premises for the purpose of assigning a legal address.

(iii) No more than one security or caretaker quarters may be developed on the site which shall be integrated into the building's design.

(iv) Except as otherwise authorized in this subsection, all property stored on the site shall be enclosed entirely within enclosed buildings.

(v) If buildings or driving lanes are within 200 feet of a residential dwelling, the hours of public access to the self-storage use shall be restricted to the hours between 6:00 A.M. and 10:00 P.M.

(c) Parking and Circulation

(i) The one- or two-way traffic flow patterns in aisleways shall be clearly marked. Marking shall consist, at a minimum, of standard directional signage and painted lane markings with arrows.

(ii) Appropriate access and circulation by vehicles and emergency equipment shall be ensured through the design of internal turning radii of aisleways.

(iii) All access ways shall be paved with asphalt, concrete, or comparable paving materials.

(d) Building Appearance

(i) Garage doors serving individual storage units shall be perpendicular to a public or private street so as to not be visible from adjacent streets.

(ii) Outdoor lighting shall be the minimum necessary to discourage vandalism and theft, and shall be provided in accordance with Section 4.4, Exterior Lighting.

(e) Building Materials

(i) Windows may not exceed 20 percent of any street-facing façade and shall not be reflective.

(ii) A maximum of two colors (excluding roof colors) shall be used on wall facades visible from off-site areas. Colors shall be neutral, and shall not be used to call attention to the use.

(iii) Perimeter or exterior walls visible from a public street or detached residential dwelling shall not include metal as a primary material.

(iv) All mechanical equipment and dumpsters shall be fully screened from off-site views.

(f) Fencing

All areas adjacent to a street frontage not occupied by a building shall include fencing designed in accordance with the following standards:

(i) Fences shall be no shorter than six feet nor taller than eight feet.

(ii) Fencing shall be masonry, wrought iron, steel, or aluminum and shall be painted or vinyl coated with colors that complement the buildings.

(iii) Chain link fencing is prohibited except where the use abuts lots with a business or industrial zoning designation, but in no instance shall chain link fencing be prominently visible from a public street.

(iv) Metal fences shall include brick pilasters or supports located with consistent on-center spacing.

(v) Wooden or chain link entry gates into the use are prohibited.

(g) Open Storage

Open storage of recreational vehicles and travel trailers of the type customarily maintained by persons for their personal use shall be permitted within a self-service storage facility use, provided that the following standards are met:

(i) Outdoor storage areas shall be located to the rear of the principal structure and be screened from surrounding areas with a wooden fence or masonry wall at least eight feet high.

(ii) The size of the open storage area shall not exceed 25 percent of the buildable area of the site.

(iii) Open storage areas shall conform to minimum building setbacks.

(iv) No dry stacking of boats shall be permitted.

(v) Vehicles shall be allowed on the premises for storage only.

(16) Truck or Freight Terminal

None.

5.4 Accessory Use Standards

(A) Purpose

Section 5.4 authorizes the establishment of accessory uses that are incidental and customarily subordinate to principal uses. The purpose of Section 5.4 is to allow a broad range of accessory uses, so long as such uses are located on the same site as the principal use, and so long as they comply with the standards set forth herein to reduce potentially adverse impacts on surrounding lands.

(B) General Standards and Limitations for Accessory Uses and Structures

(1) Compliance with Ordinance Requirements

All accessory uses and accessory structures shall conform to all applicable requirements of this ordinance. The provisions of Section 5.4 establish additional standards and restrictions for particular accessory uses and structures.

(2) General Standards

All accessory uses and accessory structures shall meet the following standards:

(a) Directly serve the principal use or structure;

(b) Be customarily accessory and clearly incidental and subordinate to the principal use and structure;

(c) Be subordinate in area, extent, and purpose to the principal use or structure;

(d) Be owned or operated by the same person as the principal use or structure;

(e) Be located on the same lot as the principal use or structure;

(f) Be constructed with materials that match or compliment the materials on the primary structure; [(4-550)(1)(b)]

(g) It is necessary to have an allowed principal use on the same lot in order to have one or more accessory uses or structures on the lot;

(h) Not be located within platted or recorded easements or over underground public utilities unless specifically allowed by this ordinance or authorized via an encroachment agreement with the City;

(i) An accessory building shall be considered an integral part of the principal building if it is connected to the principal building either directly or by an enclosed passageway. Such accessory buildings shall adhere to requirements for the principal building.

(j) If a principal building is proposed to be removed with no immediate replacement, all accessory structures shall also be removed.

(3) Location of Accessory Structures

(a) Except as expressly allowed by code, accessory structures in all zoning districts shall not be located beyond the front building line established by the principal structure. [(4-550)(1)(a)]

(b) Accessory structures in all zoning districts shall adhere to the setback requirements of the underlying zoning district.

(4) Maximum Height

(a) Accessory buildings or detached garages in residential districts (see Table 3-1) shall match or compliment the existing primary residential structure in height. [(4-550)(1)(B)]

(b) Accessory buildings in all other districts shall not exceed the height maximums allowed in the underlying zoning district unless expressly allowed by this Ordinance.

(5) Maximum Number of Accessory Structures

(a) Within all residential districts (RS and RM), the combined size of any attached and detached accessory structures or garages shall not exceed 1,664 square feet. [(4-550)(1)(C)]

(b) The number of allowed accessory buildings in all other districts shall be limited by the combination of other lot requirements facing the property (i.e. required setbacks, allowable impervious surface, building separation requirements, required parking, required open space, required landscaping, etc).

(C) Table of Accessory Uses

TABLE 5-2: ACCESSORY USES BY DISTRICT

Accessory Types P = Permitted C = Conditionally Permitted I = Interim Permitted	Base Zoning Districts																	Additional Requirements
	RS1	RS2	RM1	RM2	RM3	MHC	BR	BN	BG	IR	IL	IH	MUDT	NBE	MUN	MUR	MUE	
Accessory Dwelling Unit (ADU)	P	P	P				P											5.4(E)(1)
Accessory Buildings																		5.4(E)(2)
– minor	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	5.4(E)(3)
– major	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	5.4(E)(4)
Boarder(s)	P	P	P	P	P													5.4(E)(5)
Bulk Fuel Sales / Storage											C	C						5.4(E)(6)
Cannabis delivery business									P		P	P			P	P		5.4(E)(7)
Commercial Canopy									C	C	C	C			C	C	C	5.4(E)(8)
Community Gardens	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	5.4(E)(9)
Day Care Facility, Licensed	C	C	P	P	P	P	C	C	P				P	P	P	P	P	5.4(E)(10)
Donation Drop off Containers									P	P	P		P		P	P	P	5.4(E)(11)
Drive Through Services								C	C	C	C	C	C	C	C	C	C	5.4(E)(12)
Driveways & Curb Cuts	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	See Section 4.7
Fences or Walls	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	See Section 4.3
Food Preparation & Sales, Accessory	P	P	P	P	P			P	P	X	X	X	P		P	P	P	5.4(E)(13)
Greenhouse / Conservatory (non-commercial)	P	P	P	P	P	P	P	P					P	P	P	P	P	5.4(E)(14)
Helipad														C				5.4(E)(15)

TABLE 5-2: ACCESSORY USES BY DISTRICT

Accessory Types P = Permitted C = Conditionally Permitted I = Interim Permitted	Base Zoning Districts																	Additional Requirements
	RS1	RS2	RM1	RM2	RM3	MHC	BR	BN	BG	IR	IL	IH	MUDT	NBE	MUN	MUR	MUE	
Home Occupations	P	P	P	P	P	P	P	P	P	P			P	P	P	P	P	5.4(E)(16)
Incidental Light Manufacturing							P	P	P	P	P	P	P	P	P	P	P	5.4(E)(17)
Landscaping	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	See Section 4.1
Live Events or entertainment								P	P	P	P	P	P	P	P	P	P	5.4(E)(18)
Mobile Food Unit									P	P	P	P	P	P	P	P	P	5.4(E)(19)
Off-street Parking or Loading Space	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	See Section 4.7
Outdoor Dining at a Licensed Food Establishment								P	P	P	P	P	P	P	P	P	P	5.4(E)(20)
Outdoor Storage	P	P	P	P	P	P	P	P		C	C	C	P					5.4(E)(21)
Outdoor Recreation Area/Court	P	P	P	P	P	P	P						P	P	P	P	P	5.4(E)(22)
Outdoor sidewalk Sales & Display (businesses)								P	P	P	P	P	P	P	P	P	P	5.4(E)(23)
Private Amateur Radio	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	5.4(E)(24)
Private Receiving Antennas (i.e. TV & Radio)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	5.4(E)(25)
Shelters (Storm or Fallout)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	5.4(E)(26)
Sign(s)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	See Section 4.5
Solar Energy System	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	5.4(E)(27)
Swimming Pool	P	P	P	P	P	P	P	P	P	P	P		P	P	P	P	P	See City Code Ch 27
Taproom, Cocktail Lounge, or Tasting Room										C	C			C		C	C	5.4(E)(28)

(D) Procedures for Establishing Accessory Uses

(1) Establishment of accessory uses may be reviewed and approved concurrently with permits needed for establishment of the principal structure.

(2) In the event a detached accessory structure is permitted as a component of a permit to build a principal structure, the principal structure shall be substantially complete prior to construction of the accessory structure beginning unless otherwise authorized by the Department of Community Assets and Development.

(E) Additional Specific Standards for Certain Accessory Uses

(1) Accessory Dwelling Unit [4-020(4)]

(a) The following shall apply to all ADUs:

(i) An ADU shall only be allowed on properties within the RS-1, RS-2, RM-1, or BR Zoning Districts which have a single-family home present.

(ii) Either the home or the ADU shall be occupied by the owner of the property. Proof of owner occupancy shall be recorded against the property.

(iii) Utilities for the primary home and ADU shall not be separately metered, and water and sewer for the ADU shall be connected to the existing principal structure. The ability to establish an ADU may be denied by the City of New Brighton if it is deemed that water or sewer capacities in the area are insufficient to serve the ADU.

(iv) An ADU shall require one additional off-street parking stall located on an improved surface in accordance with Section 4.7(B)(1).

(v) No more than one ADU shall be permitted on a property, and the primary home and ADU shall share the address number but may be designated as different units (i.e. Unit 1 and Unit 2).

(vi) An ADU shall be located on a permanent foundation.

(vii) An ADU shall meet all architectural standards of the zoning district including consistency in color and material to the home.

(viii) The gross floor area of an ADU shall not exceed the gross floor area of the principal structure, and may have no more than two bedrooms.

(ix) An ADU shall not be sold independently of the principal residential dwelling and may not be placed on a separate tax parcel.

(x) ADUs shall not be utilized for short-term rentals as defined in City Code Chapter 13, Article 1.

(xi) All yard setbacks required of the primary structure shall be met by an attached ADU.

(xii) All ADU dwellings shall require an annual ADU registration with the City.

(xiii) All ADU rental properties shall require a rental license in accordance with City Code Chapter 13, Article 3.

(xiv) All ADUs involving additional ground floor area will require a certificate of survey be submitted with the building permit application.

(b) The following shall apply to all detached ADUs:

(i) A detached ADU shall be located within a side yard or rear yard of a lot unless otherwise authorized by Conditional Use Permit.

(ii) The maximum floor area of a detached ADU shall not exceed the floor area of the principal structure or 1,064 square feet, whichever is less unless otherwise authorized by Conditional Use Permit.

(iii) A detached ADU shall adhere to the required side and rear yard setbacks of the underlying zoning district.

(iv) A detached ADU shall maintain a minimum 10-foot separation from the primary dwelling.

(v) The maximum height of a detached ADU shall not be greater than the height of the primary dwelling nor exceed the height maximum of the underlying zoning district.

(c) A Detached Accessory Dwelling Unit (Detached ADU) larger than 1,064 square feet in size or placed in the front yard may be permissible if a conditional use permit is approved and the following standards can be met:

(i) The detached ADU must be able to meet the requirements for all ADUs listed in Section 5.4(E)(1)(a).

(ii) A detached ADU proposed to be in a front yard must be able to meet a minimum front yard setback of 50 feet.

(2) Accessory Buildings – in general

(a) Must adhere to the general standards and limitations outlined in Section 5.4(B).

(b) Limitations on number and size of accessory buildings and structures shall not apply to public buildings and uses, or to active or passive public park facilities.

(3) Accessory Building – minor

(a) Minor accessory buildings do not require a building permit but shall comply with all applicable zoning regulations.

(b) Minor accessory buildings shall be limited to a single story and a height of 15 feet.

(4) Accessory Building – major

(a) Residential Districts [4-550(1)]

All accessory buildings or detached garages, and attached garages in residential districts shall conform to the following requirements:

(i) An accessory building or detached garage shall not be located within the front yard.

(ii) Accessory buildings or detached garages shall match or compliment the existing primary residential structure in height and materials and shall conform with all of the setback requirements for the zoning district where located.

(iii) The combined size of any attached and detached accessory structures or garages shall not exceed 1,664 sq ft.

(iv) An accessory building or detached garage may be constructed up to a maximum of 1,064 square feet. Any structure larger than 624 square feet up to 1,064 square feet shall be subject to approval of a conditional use permit.

(v) No attached garage shall exceed 1,064 square feet.

(vi) Accessory buildings exceeding 624 square feet in size shall be subject to approval of a conditional use permit under the provision of Section 2.4(D), and subject to compliance with the following conditions:

1. Roof and exterior color and material must be consistent and complimentary with the principal structure.
2. If deemed necessary by the City Council, landscape screening shall be provided to lessen visual impact from adjacent properties.
3. No commercial or home occupation activity shall be conducted within the accessory building.

(vii) Accessory structures under 624 square feet in size may be administratively approved by the Department of Community Assets and Development, but shall be subject to compliance with all applicable zoning standards.

(b) Light and Heavy Industrial Districts [6-050(4) & 6-140(7)]

Within the Light Industrial District (IL) and the Heavy Industrial District (IH), major accessory buildings or structures in excess of the district's height maximum may be permissible by conditional use permit subject to the following conditions:

(i) The property is located adjacent to the right of way of Interstate 35W.

(ii) The accessory structure is located in the rear or side yard.

(iii) The accessory structure meets setback requirements for principal structures.

(iv) No adjacent properties are zoned residential.

(v) The accessory structure is located at least 10 feet from the principal structure when measured at the closest point.

(vi) The accessory structure height is no more than 160 percent of the height of the principal structure, and in no case more than 50 feet tall.

(vii) The lot area of the property on which the accessory structure is located on is at least five acres.

(viii) The property is in compliance with the performance standards of Section 5.3(E)(1).

(5) Boarders

No more than two boarders may be kept by a resident family, whether for compensation or not for compensation. [4-020(3)]

(6) Bulk Fuel Sales / Storage

(a) Bulk fuel sales/storage shall not occur on any parcel prohibiting such activity under the provisions of Chapter 9, Article 3 of City Code (Fire Code).

(b) Allowed accessory use bulk fuel sales/storage shall adhere to all applicable requirements of the International Fire Code (IFC) and its respective chapters as may be amended.

(c) The class and/or type of flammable liquid(s) to be stored and the construction type of all buildings on the site shall be identified by the applicant and shared with the Building Official and Fire Marshal.

(d) Accessory use bulk fuel sales/storage may not be located within a required front yard setback.

(e) In the absence of any greater setback requirements imposed by the IFC or other regulations, accessory use bulk fuel sales/storage shall be located no less than 25 feet from all structures, 10 feet from all property lines, and 20 feet from any public right-of-way.

(f) The property owner must identify the nearest storm drain that would be impacted in the event of a tank breach, and have it clearly labeled as directed by the Department of Community Assets and Development.

(g) Accessory use bulk fuel sales/storage facilities shall comply with all MPCA and State Fire Marshal requirements, all other permit, testing and listing requirements, and all applicable codes and standards including but not limited to National Fire Protection Association 58, Liquefied Petroleum Gas Code.

(7) Cannabis Delivery Business

Use must be accessory to an authorized State licensed and locally registered cannabis retailer.

(8) Commercial Canopy

(a) Setbacks

(i) Within the General Business (BG) district or any Industrial zoning district (IR, IL, or IH), front yard and street side setbacks for commercial canopies may be reduced down to 10 feet from the required setback if permitted by a conditional use permit provided the industrial district is not separated from a residential zoning district by the street against which the reduction is sought. The extent of the allowed setback reduction via conditional use permit shall be at the discretion of the City Council. [6-050(3), 6-060(7) and 5-240(14)]

(ii) Within a Mixed-Use District (MUN, MUR, or MUE), a commercial canopy may extend up to 12 feet beyond the centerline of the pump island toward the street, but in no instance shall a canopy be located closer than six feet from any lot line. [6-550(6)(B)(10)(i)]

(b) Only one canopy shall be permitted per station, unless the station is located on a corner lot, in which case two canopies may be permitted. [6-550(6)(B)(10)(ii)]

(c) The canopy shall be at least 14 feet in height, but not greater than 16 feet in height. [6-550(6)(B)(10)(iii)]

(d) No signage of a permanent or temporary nature, including branded lighting like exposed neon, may be placed on a canopy. [6-550(6)(B)(10)(iv)]

(e) All canopy lighting shall be recessed into the canopy ceiling. [6-550(6)(B)(10)(v)]

(9) Community Garden

Community gardens, as an accessory use to a lawfully permitted principal use, are permitted subject to the requirements of 5.3(A)(7). The business or property owner may take on the role of coordinator when a community garden is an accessory use.

(10) Day Care Facility, Licensed

If located within a place of public assembly, the facility must have a minimum of 5,000 square feet of non- residential building area, one acre of lot area, and at least 50 off-street parking stalls. [4-030(7)]

(11) Donation Drop off Containers [new]

(a) No more than one container shall be located on a parcel.

(b) Must have only one sign, no more than four feet high and 16 square feet in area, that displays the name and telephone number of the party responsible for the donation container.

(c) The container shall not block access to required parking spaces or parking lot aisles.

(d) The container shall not be located within 50 feet of a residential dwelling.

(12) Drive Through Services [11-020(10)]

(a) Commercial uses containing drive-in or drive-up facilities shall be permitted only by issuance of a conditional use permit under the provision of Section 2.4(D).

(b) All drive through facilities outside of a mixed-use district shall adhere to the following standards:

(i) The drive through facility does not negatively impact traffic on public rights-of-way.

(ii) A stacking lane shall be provided with a minimum of four spaces per lane in addition to the number of required parking spaces.

(iii) The stacking lane shall be a minimum of 12 feet wide.

(iv) The vehicle stacking lane shall not extend beyond the street right-of-way line.

(v) The vehicle stacking lane shall be delineated so that vehicles waiting in line will not unreasonably interfere with the primary driving, entrance, exit, and parking facilities on site. Employee-only designated parking may be considered in an effort to comply with this condition.

(vi) Any pedestrian walkway that is adjacent to or crosses the stacking lane must be marked and clearly indicated with signage or painted crosswalk.

(vii) The drive through use may be limited so as not to unreasonably interfere with adjacent and nearby uses. Limits of use may include, but is not limited to, prohibition of certain uses that may be inappropriate due to their demand on parking and stacking needs, such as fast food establishments.

(viii) The following hours of operation shall be imposed:

1. For properties abutting an RS-1, RS-2, or RM-1 district: Sunday – Thursday 7:00 AM – 9:00 PM and Friday – Saturday 7:00 AM – 10:00 PM.

2. For properties abutting all other zoning districts: Sunday – Thursday 6:00 AM – 11:00 PM and Friday – Saturday 6:00 AM – 12:00 PM.

(ix) The City Council may impose different hours of operation based upon specific characteristics of adjacent and nearby uses.

(x) Any menu/ordering signage interior to the site with an intercom shall not be audible from residentially zoned property and, if illuminated, shall be directed away from residentially zoned property.

(xi) Fencing or landscaping may be required to shield headlight illumination from adjacent and nearby areas.

(c) Drive through facilities within a mixed-use district shall adhere to the following standards: [6-550(8)(C)]

(i) Window Placement. When drive through windows are allowed in a mixed use district, the windows shall be placed at the side or rear of a building and shall not be located at street corners.

(ii) Number of lanes. In the MUR district, there is no limit; the MUN district is limited to one lane; and the MUE district is limited to three lanes.

(iii) Location of lanes. Drive-through lanes are prohibited between the building and the primary street, and must be located behind or to the side of buildings; queuing lanes shall not interfere with the pedestrian network or planned traffic circulation in the area.

(iv) Screening of lanes. Any drive-through lane that is visible from a street or public space shall incorporate the following screening elements:

1. A screen wall, at least thirty-six (36) inches in height, with materials that are consistent with the primary building.

2. A Type A buffer (see Section 4.1(H)) between the property line and the required screen wall.

3. Where there is more than one (1) drive-up lane, canopies or other structural elements shall be used for further screening. These screening elements shall be compatible with the architectural qualities of the main building, including materials, form, scale, and color.

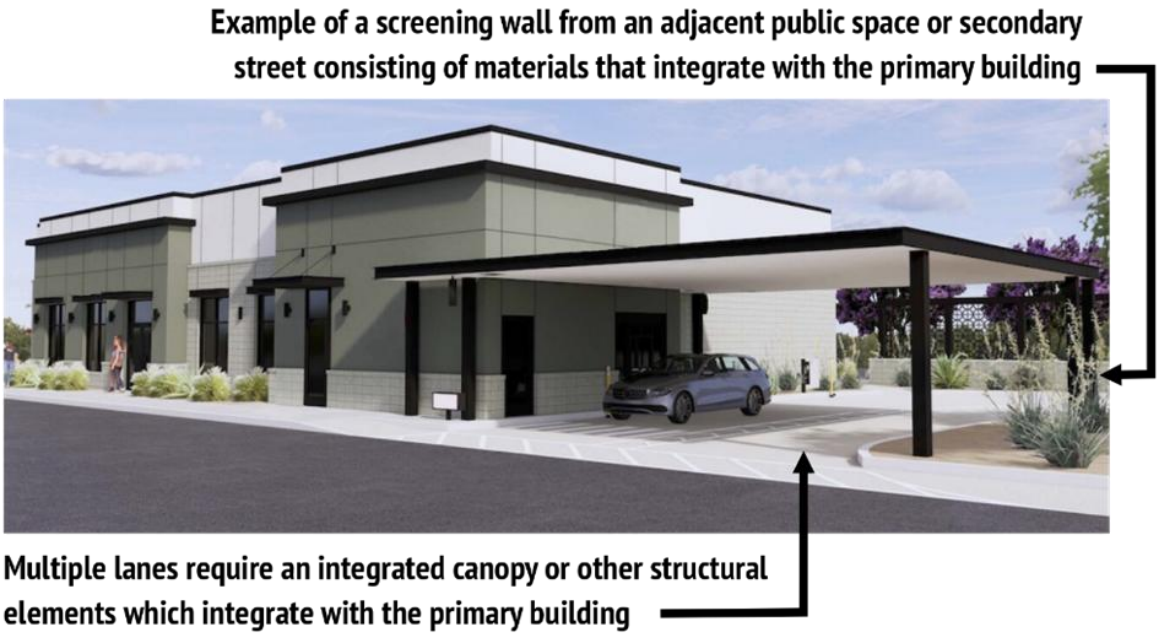
(v) Any drive-through lane that abuts a residentially zoned lot shall incorporate the following screening elements:

1. A screen wall, at least six (6) feet in height, with materials that are consistent with the primary building.

2. A landscaped buffer, at least six (6) feet in width, between the property line and the required screen wall.

3. Where there is more than one (1) drive-up lane, canopies or other structural elements shall be used for further screening. These screening elements shall be compatible with the architectural qualities of the main building, including materials, form, scale, and color.

Example of Required Drive-through Treatments in Mixed Use Districts



(13) Food Preparation & Sales, Accessory [4-030(1)(A)]

Preparation of food by a third party using the facility for distribution off site may exist within the principal structure of an approved place of public assembly provided the following conditions are met:

(a) Preparation of food, with proper facilities and licenses approved by Ramsey County, shall be the sole aspect of the business.

(b) Overnight parking of vehicles or any outside storage of materials associated with the business is prohibited.

(c) Exterior signage is prohibited.

(d) Number of employees associated with the use shall be limited to two.

(e) Hours of operation shall not negatively impact surrounding residential uses.

(f) Both the property owner and business owner shall be co-applicants in review of the conditional use permit.

(14) Greenhouse/Conservatory (non-commercial)

Private conservatories for plants and flowers are allowed as accessory structures to single family, duplex, and manufactured homes provided no retail sales occur. [4-020(2), 4-320(1), 4-420(1)]

(15) Helipad [6-693(C)]

Helipads, defined for the purpose of this section as at-grade take-off and landing areas for helicopters, shall be subject to the following conditions:

(a) The helipad must be accessory to an office use.

(b) Permitted only on properties containing all of the following attributes:

(i) At least four acres in area or the principal use has been permitted via a Planned Development; and

(ii) Abutting Interstates 694 or 35W.

(c) Helipads shall meet the following setbacks:

(i) at least 320 feet from multi-family residential uses;

(ii) at least 820 feet from single family residential uses;

(iii) at least 800 feet from schools, places of public assembly for religious purposes, nursing homes, or similar types of public institutional uses; and

(iv) at least 2500 feet from another helipad.

(d) Helipads shall be reasonably screened from public rights-of-way of minor arterial status or greater and include a 36 inch high hedge or wall combination around the perimeter.

(e) The helipad shall allow for a maximum of 20 landings per calendar year. A landing shall be defined as an arrival and a departure associated with the same trip. Flight logs shall be kept and made available to City staff for review to confirm compliance with the provisions of Section 5.4(E)(14).

(f) Landings shall not be permitted during the hours of 7:00 p.m. to 7:00 a.m., Monday through Friday. Weekend and holiday landings are prohibited.

(g) Permitted flights paths, helicopter type, and decibel level standards shall be specified at the time of approval and be determined based on the characteristics of surrounding property, including but not limited to, vegetated cover, topography, and proximity to residential uses.

(h) The applicant secures all necessary permits from other state and federal authorities for use of the helipad, including but not limited to the Federal Aviation Administration and the Minnesota Department of Transportation.

(i) Because every property has a unique set of characteristics with regard to location of buildings, landscaping, and topography, the City Council may impose other conditions not specified herein that are deemed necessary to mitigate any negative impacts resulting from use of the helipad.

(j) Conditional use permit procedures of Section 2.4(D) shall be followed except that public hearing notice shall be mailed to each property owner within 1000 feet of the property under consideration.

~~**(k)** Compliance with the conditional use permit standards of Section 8-130.~~

(16) Home Occupation [4-550]

(a) Home occupations shall conform to the standards set forth in Section 5.4(E)(15). These standards are intended to ensure that a home occupation is clearly secondary and incidental to the use of the dwelling unit for residential purposes and to ensure compatibility of the home occupation with the residential character of the neighborhood.

(b) Permitted home occupations shall not include the employment of more than one additional person on site who does not reside on the premises. Furthermore, not more than one room or 25 percent of the gross area of one floor, whichever is less, shall be used to conduct the home occupation. The appearance of a residential dwelling shall in no way be changed or altered in a manner which would cause the premises to differ from its residential character.

(c) Activities resulting from the operation of a home occupation shall be conducted entirely within the enclosed area of a dwelling unit or storage, shall have no exterior storage of equipment or materials, and shall not include the exterior display of anything except signs permitted by Section 4.5.

(d) Operation of any wholesale or retail business shall not be permitted unless conducted entirely by mail and does not included the sale, shipment, or delivery of merchandise on the premises. However, occasional sales shall be permitted when such occasional sales are incidental to and not the primary purpose of the home occupation.

(e) Not more than four additional vehicle trips per day shall be generated by a home occupation. Any need for parking generated by the conduct of the home occupation shall be met off of the street only on the driveway of the dwelling or in the garage and shall be consistent with residential parking requirements.

(f) No mechanical equipment or process shall be used which generates noise, fumes, odor, smoke, glare, vibration, electrical interference, waste, or puts strain on public utilities other than is reasonable for a residentially zoned district.

(g) No home occupation shall cause to be violated any other applicable statute, ordinance, or regulation of the City or the State of Minnesota including the Minnesota State Building Code and Minnesota State Fire Code.

(17) Incidental Light Manufacturing [new]

(a) Light manufacturing or assembly are permitted accessory uses in all industrial zoning districts (IR, IL, and IH) subject to the restrictions for the primary use outlined in this ordinance.

(b) Light manufacturing or assembly of products in business zoning districts (BR, BN, and BG), Mixed Use Districts (MUD, MUN, MUR, and MUE), and the NBE district, shall only be conducted if:

(i) The manufacturing or assembly shall be related to the products or services being sold or offered by the Principal Use (i.e. authorization for making dental implants shall only be allowed as an accessory use to a dental operation. If the principal use changes to cell phone sales, the accessory use of manufacturing dental implants shall cease).

(ii) The light manufacturing or assembly shall have no negative impacts on adjacent property owners, tenants, and civic institutions; including future adjacent uses as may be allowed by zoning or the Comprehensive Plan.

(18) Live Events or Entertainment

(a) Permitted uses may host promotional events or entertainment like bingo, spoken word nights, or musical artists provided the event is not ticketed, creates no nuisances to adjacent tenants or properties, and operates clearly accessory to the primary use.

(b) Ticketed events or entertainment activities that could tend to supersede or supplant the primary use, even temporarily, are prohibited unless expressly authorized by a conditional use permit authorizing an event center.

(19) Mobile Food Unit

(a) All mobile food units must be properly licensed by the Minnesota Department of Health and/or any other applicable state or county agency with jurisdiction affecting mobile food sales.

(b) Mobile food units shall be compliant with State Fire Code requirements and are subject to inspection by the Fire Marshal when in operation within the City.

(c) Mobile food units are only allowed within Residential zoning districts (see table 3-1) as part of an approved outdoor event permit.

(d) Mobile food units are prohibited from operating within a public right-of-way unless specifically authorized to do so as part of an approved outdoor event permit.

(e) Mobile food units must obtain permission from a private property owner in order to operate on private property.

(f) The location of a mobile food unit shall not conflict with or limit required off-street parking or loading spaces, conflict with pedestrian flow, or obstruct ingress and egress from the building or the parking lot.

(g) Waste generated by a mobile food unit must be transported out of the City and disposed of in accordance with all federal, state, and local regulations. Grey water may not be drained into City stormwater drains

(h) Mobile food units and any associated equipment must be maintained and operated in a safe, working condition at all times and in a manner which minimizes noise, exhaust, and odors impacting the public and surrounding public and private properties so as not to create a public or private nuisance. The operation of any mobile food unit which fails to meet the standards of safety established by the laws of the State or the City, operates in a manner that creates a threat to the health, safety, and welfare of the public, or fails to obey a lawful order of law enforcement or licensing personnel, shall be discontinued until such time as the deficiency is eliminated.

(20) Outdoor Dining at a Licensed Food Establishment [5-240(15)]

(a) The outdoor dining area shall be adjacent to the principal building and primary access shall be provided from within the principal building.

(b) The design of the patio area and any fencing and landscaping shall be such that sight lines in and out of existing or proposed access points are not obstructed.

(c) Temporary structures shall not be allowed within the outdoor dining area.

(d) Banners, streamers, or other types of permanent or temporary signs shall not be placed or displayed in outdoor dining areas.

(e) The outdoor dining patio must not take on characteristics of a building having a roof or walls.

(f) Outdoor dining areas cannot be located within parking lots/spaces unless approved by conditional use permit. Conditional use permits for outdoor dining areas within parking lots or spaces may be denied if adequate measures cannot be taken to ensure the safety of customers and workers, or if the reduction in available parking spaces will result in a parking nonconformity.

(g) The Department of Community Assets and Development may require screening, fencing, or other improvements to ensure that an outdoor dining area does not have a detrimental impact on adjoining properties or the general public.

~~**(h)** The City Council may impose additional conditions as deemed necessary to protect the public health, safety and welfare.~~

[6-695(3)…NBE specific regs]

~~**(a)** A sidewalk area at least six feet wide is maintained free of seating, and;~~

~~**(b)** An outdoor seating plan is prepared and approved by the City Council on the recommendation of the city staff and Planning Commission, with the finding that the plan will not compromise public health, safety, or welfare.~~

(21) Outdoor Storage [6-050(1) and 6-140(4)]

(a) In general.

In all zoning districts, all materials and equipment, except as denoted in this ordinance, shall be stored within a building or be fully screened so as not to be visible from adjoining properties.

(b) Detached Dwellings, Duplexes, Twin Homes, and Townhomes.

Items normally associated with residential property usage as determined by the Department of Community Assets and Development may be stored in visible locations outdoors. Such items, in reasonable numbers, include but are not limited to:

(i) Clothesline pole(s) and wire.

(ii) Recreational equipment and vehicles, subject to off-street parking regulations in Section 4.7 of this ordinance, and City Code Chapter 16, Article 3.

(iii) Construction and landscaping material currently being used on the premises.

(iv) Items normally associated with outdoor residential uses (e.g. lawn furniture, grills, etc).

(v) Recycling and trash containers as regulated by City Code.

(vi) Off-street parking of passenger vehicles, emergency vehicles and small commercial vehicles in residential areas, unless otherwise required to be screened according to Section 4.7 of this ordinance.

(vii) Propane tanks, fuel oil tanks, and other similar residential heating fuel storage tanks which do not exceed 1,000 gallons in capacity, are not in a front yard, and which are located at least five (5) feet of all property lines.

(viii) Wood piles in which wood is stored for fuel provided that not more than eight cords shall be stored on any property. A cord shall be four feet wide by four feet tall by eight feet long. All wood piles shall be five feet or more from the rear and side yard property lines and shall be stored behind the applicable front yard setback.

(ix) Solar energy systems.

(c) Multiple Family Buildings

Items normally associated with multiple family residential property usage as determined by the Department of Community Assets and Development may be stored in visible locations outdoors. Such items, in reasonable numbers, include but are not limited to:

(i) Construction and landscaping material currently being used on the premises.

(ii) Items normally associated with outdoor residential uses (e.g. lawn furniture, grills, etc.).

(iii) Recycling and trash containers as regulated by City Code.

(iv) Off-street parking of passenger vehicles, emergency vehicles and small commercial vehicles in residential areas, unless otherwise required to be screened according to Section 4.7 of this ordinance.

(v) Propane tanks, fuel oil tanks, and other similar residential heating fuel storage tanks which do not exceed 1,000 gallons in capacity and shall not be located within five feet of any property line.

(vi) Solar energy systems.

(d) Commercial and Mixed-Use Buildings

All business storage shall be conducted wholly within an enclosed building or behind a solid fence not less than five feet high except for establishments of a drive-in type offering goods or services directly to customers and except for off-street parking and loading. [5-580(1)]

(e) Industrial Buildings [6-050(1)]

Outside storage as an accessory use may be allowed by conditional use permit in the Industrial zoning districts subject to compliance with the following:

(i) Outside storage areas shall be screened from adjacent residential property and public rights- of-way by landscaping or an opaque fence six to eight feet tall.

(ii) Outside storage shall have no adverse effect on adjacent land due to unsightliness, noise, odor, dust, smoke, glare, air pollution, excessive or heavy vehicular traffic, bulk chemical storage, or fire or safety hazards.

(iii) Outside storage of large equipment, semi-cabs and trailers, or fleets of large vehicles shall be limited to IL and IH zoned properties.

(iv) A to-scale site plan or survey shall be provided to specifically identify the area(s) to be used for outdoor storage.

(v) A turning-movement plan shall be prepared by a qualified engineer or surveyor which confirms the City's largest emergency vehicle and the user's largest vehicle can make all necessary turning movements amongst the identified area(s) of outdoor storage.

(vi) If deemed necessary by the Department of Community Assets and Development, permanent ground markings or other physical indicators must be installed on-site to ensure outdoor storage is contained to authorized areas.

(f) For parcels in the IR District, there shall be only one outside storage area of materials, products, or trucks not to exceed 20 percent of the gross floor area of the building on the site. The storage area shall be screened with an opaque six to eight foot fence. This storage area shall be located only in the rear yard. [6-230(2)(B)]

(22) Outdoor Recreation Area/Court

(a) For single family, duplex, and townhome units, outdoor recreation areas/courts must be located in the rear yard unless approved for a location in a side yard via a conditional use permit [4-020(10) and 4-030(5)]

(b) For multiple family buildings or manufactured home parks, location of outdoor recreational areas/courts must be approved as part of a conditional use permit, Planned Unit Development, or Planned Residential Development.

(c) Outdoor recreational improvements for employees such as patios, pergolas, or barbeque/grill stations within required side or rear yard setbacks within an industrial district may be approved as an interim use provided the following conditions exist: [6-055(1)]

(i) The adjacent parcel is currently in a natural or undeveloped state within 40 feet of the proposed improvement; and [6-055(1)(A)]

(ii) The applicant agrees to remove or protect the outdoor recreational improvement if directed by the Department of Community Assets and Development at such time as any development occurs on the adjacent parcel within 40 feet of the proposed improvement. [6-055(1)(B)]

(23) Outdoor Sidewalk Sales & Display [New -- optional]

Outdoor sidewalk sales and display areas associated with legally permitted retail uses shall:

(a) Not encroach into any right-of-way unless an encroachment agreement is in place, and not encroach into areas necessary for the safe ingress and egress into the retail structure;

(b) Maintain a minimum pedestrian walkway of at least five feet in width along the front of the display;

(c) Take place only on an improved dustless surface;

(d) May not extend into parking areas;

(e) The area of the site devoted to sidewalk sales and display under Section 5.4(E)(22) shall not exceed five percent of the gross floor area of the principal use. Sidewalk sales and display which exceed five percent of the gross floor area of the principal use may be allowed via a conditional use permit.

(24) Private Amateur Radio Antenna

Private Amateur Radio, for the purposes of this ordinance, shall mean equipment, including antennas, antenna support structures, and other related material, necessary to conduct Ham and Short-Wave Radio reception and transmissions, only for use by those persons properly licensed by the Federal Communications Commission for such reception and transmissions, and who are in full compliance with all licensing requirements.

(a) One antenna and associated antenna support structure shall be a permitted accessory use in all zoning districts, provided that:

(iii) The owner/operator has current versions of all required licenses to operate said equipment.

(iv) All equipment shall be installed in accordance with manufacturer's specifications, and pursuant to valid building and electrical permits, and any other applicable permit requirements.

(v) No freestanding antenna or antenna support structure shall be located within any required yard other than the rear yard of any parcel.

(vi) An antenna and its support structure may be located within a side yard only if mounted directly to the back-half of the principal structure.

(vii) Height standards of the underlying zoning district must be met subject to the height exceptions listed in Section 3.3(D)(4)(b).

(b) Any private amateur radio antenna or antenna support structure which is no longer in use, or for which the owner of property no longer has valid licenses, or which has fallen into disrepair to the extent that it can no longer serve its intended purpose, or which constitutes a hazard or nuisance, shall be considered a violation of the zoning ordinance, and shall be removed.

(25) Private Receiving Antennas

Private Receiving Antennas and their support structures, for the purposes of this ordinance, shall mean television and other electronic reception antennas for private use.

(a) Private antennas less than three meters in width and related support structures shall be a permitted accessory use in all zoning districts, provided that:

(i) Height standards of the underlying zoning district must be met subject to the height exceptions listed in Section 3.3(D)(4)(b).

(ii) No freestanding antenna or antenna support structure shall be located within any required yard other than the rear yard of any parcel.

(iii) A private receiving antenna and its support structure may be located within the buildable area of a lot if mounted directly to the principal structure.

(b) Any private receiving antenna or its support structure which is no longer in use, or which has fallen into disrepair to the extent that it can no longer serve its intended purpose, or which constitutes a hazard or nuisance, shall be considered a violation of the zoning ordinance, and shall be removed.

(26) Shelters (Storm or Fallout)

Storm and fallout shelters shall not alter the character of the premises with respect to the primary use of the site as permitted by the underlying zoning district.

(27) Solar Energy Systems [6-550(8)(G)]

(a) *In General.* Solar energy systems shall be located on a lot with a building and shall be a secondary use for the lot.

(b) *Size and Screening*.

(i) The overall scope of solar energy installations on a building shall be limited by building's ability to screen the equipment from view so as not to be prominently visible from primary and secondary roadways;

(ii) Screening for solar energy systems may involve the strategic placement of equipment on buildings to limit visibility, use of architectural design to hide the equipment, or involve the use of walls, fences, or landscaping;

(c) *Height.* Roof-mounted solar energy systems shall comply with the maximum height requirements in the applicable zoning district. Ground-mounted solar energy systems shall not exceed 15 feet in height.

(d) *Setbacks.* Ground-mounted solar energy systems including any appurtenant equipment shall be set back a minimum of 15 feet from all property lines and a minimum of 30 feet from all dwellings located on adjacent lots. Roof-mounted systems shall comply with all building setbacks in the applicable zoning district and shall not extend beyond the exterior perimeter of the building on which the system is mounted.

(e) *Roof mounting.* Roof-mounted solar collectors shall be flush mounted on pitched roofs. Solar collectors may be bracket mounted on flat roofs.

(f) *Easements.* Solar energy systems shall not encroach on public drainage, utility, sidewalk, roadway, or trail easements.

(g) *Aesthetics.* All solar energy systems shall use colors that blend with the color of the roof or structure to which the system is accessory.

(h) *Feeder lines.* The electrical collection system shall be placed underground within the interior of each parcel. The collection system may be placed overhead near substations or points of interconnection to the electric grid.

(i) *Standards.* Solar energy systems shall meet the minimum standards outlined by the International Electrotechnical Commission (IEC), the American Society of Heating, Refrigerating, and Air-conditioning Engineers (ASHRAE), ASTM International, British Standards Institution (BSI), International Electrotechnical Commission (IEC), International Organization for Standardization (ISO), Underwriter's Laboratory (UL), the Solar Rating and Certification Corporation (SRCC) or other standards as determined by the Department of Community Assets and Development.

(j) *Certification.* Solar energy systems shall be certified by Underwriters Laboratories, Inc. and the National Renewable Energy Laboratory, the Solar Rating and Certification Corporation or other body as determined by the Department of Community Assets and Development. The City reserves the right to deny a building permit for proposed solar energy systems deemed to have inadequate certification.

(k) *Utility connection.* All grid connected systems shall have an agreement with the local utility prior to the issuance of a building permit. A visible external disconnect must be provided if required by the utility.

(l) *Abandonment.* If the solar energy system remains nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at their expense after a demolition permit has been obtained. Removal includes the entire structure including transmission equipment.

(m) *Permits.* A building permit shall be obtained for any solar energy system prior to installation.

(28) Taproom, Cocktail Lounge, or Tasting Room

(a) Taprooms, cocktail rooms, or tasting rooms must be accessory to an approved micro-production facility;

(b) Taprooms, cocktail rooms, or tasting rooms must either make food/meals available on-site or expressly allow patrons to carry in food.

5.5 Temporary Uses

(A) Purpose

Section 5.5 allows for the establishment of certain temporary uses of limited duration, provided that such uses comply with the standards in this subsection and are discontinued upon the expiration of a set time period. Temporary uses shall not involve the construction or alteration of any permanent building or structure unless expressly allowed herein.

(B) Permit Required

Temporary uses and structures that require a permit shall be reviewed in accordance with the process outlined in Section 2.4(L), Temporary Use Permits; and if a building permit is also necessary, in accordance with Section 2.4(H), Building Permits.

(C) General Standards for Temporary Uses

Temporary uses, structures, or events shall comply with the following:

(1) Obtain the appropriate permits (as required);

(2) Not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;

(3) Be compatible with the principal uses taking place on the site;

(4) Not have substantial adverse effects or noise impacts on nearby residential neighborhoods;

(5) Not include permanent alterations to the site;

(6) Meet all the setbacks of the underlying base and overlay zoning districts, unless expressly stated otherwise in this ordinance.

(7) Temporary signs permitted under the Code and associated with the use or structure shall be removed when the temporary activity ceases.

(8) Not violate the applicable conditions of approval that apply to a site or use on the site;

(9) Not interfere with the normal operations of any permanent use located on the property; and

(10) Contain sufficient land area to allow the temporary use to occur, as well as adequate land to accommodate the parking and traffic movement associated with the temporary use, without disturbing the surrounding neighborhood.

(D) Table of Allowed Temporary Uses and Structures

Table 5-3 summarizes allowed temporary uses and structures and any general or specific standards that apply. Temporary uses or structures not listed in the table are prohibited.

TABLE 5-3: TEMPORARY USES & STRUCTURES

Temporary Use or Structure	Allowable Duration (per site)	Permit Required	Additional Requirements
Temporary Use / Structure			
Accessibility Improvements	Until sunset of an approved IUP	Interim Use Permit	2.4(E) and 5.5(E)(1)
Construction Dumpster	Until issuance of certificate of occupancy for new homes, or three (3) days following completion of work for other permitted projects.	Building Permit	5.5(E)(2) and City Code 7-90
Construction trailer			5.5(E)(3)
Outdoor recreational improvements for employees such as patios, pergolas, or barbeque/grill stations within required side or rear yard setbacks	Upon development of adjacent land within 40 feet of the temporary feature	Interim Use Permit	5.5(E)(4)
Recreational vehicles and travel trailers (in use) not in an MHC district	90 days [City Code 16-75]	Temporary Use Permit	5.5(E)(5)
Real Estate Office / Model Sales Home	Until 85% occupancy of the development is reached	Building Permit	5.5(E)(6)
Temporary signs	varies	varies	See Section 4.5
Temporary Storage in a Portable Container	14 days	Temporary Use Permit	5.5(E)(7)

TABLE 5-3 (continued)			
Temporary Use or Structure	Allowable Duration (per site)	Permit Required	Additional Requirements
Temporary Use / Structure *(cont.)*			
Tents, canopies, tarp garages, and similar temporary shelters	30 days per calendar year. If being used in conjunction with an authorized construction project, not to exceed the time necessary for completion of the project. [4-020(6)]	Tent Permit	5.5(E)(8)
Temporary Sale			
Garage/Yard Sale	3 days per event; 3 events per calendar year	No	5.5(E)(9)

(E) Specific Standards for Temporary Uses

(1) Accessibility Improvements

Accessibility improvements may be temporarily allowed within a required setback provided the following conditions exist:

(a) The applicant can demonstrate the proposed location is the only reasonably available option to provide needed access to the intended structure or destination.

(b) The improvement is designed to eliminate or mitigate, in as much as possible, impacts on adjacent property.

(c) The applicant agrees to remove the accessibility improvement as directed by the Department of Community Assets and Development at such time as the residence no longer serves, in some capacity, the individual in need of the improvement.

(2) Construction Dumpster

(a) All temporary trash receptacles or dumpsters, regardless of location, shall adhere to the following standards:

(i) Not be placed within five feet of a fire hydrant or mailbox, or be within a required landscaping area;

(ii) Be secured with a cover to prevent litter and debris from escaping the dumpster;

(iii) Be promptly removed once full;

(iv) Be kept in good repair and shall be structurally sound and leakproof and shall be constructed to stand firmly upright; and

(v) Shall not impede the flow of pedestrian or vehicular traffic or safety sight lines.

(b) Temporary trash receptacles or dumpsters located outside public rights-of-way are not required to obtain a temporary use permit provided they are located on a driveway, or to the side or rear of the site to the maximum extent practicable.

(c) If, in the opinion of the Department of Community Assets and Development, there is no safe or practical place where a temporary trash receptacle or dumpster can be placed on private property, the temporary trash receptacle or dumpster may be placed in the right-of-way subject to the standards of Section 5.5(E)(2)(a) and the following additional requirements:

(i) A temporary use permit shall be obtained prior to placement of the dumpster.

(ii) Planking or other wood sheeting of sufficient size is required to be placed under the wheels or road contact areas to protect the roadway from damage. If the dumpster has wheels, they must be chocked to prevent movement.

(iii) Upon removal of the construction dumpster, the public right-of-way or the public area shall be swept clean of all loose debris and restored to its former condition to the satisfaction of the Department of Community Assets and Development.

(iv) The maximum timeframe for keeping a trash receptacle or dumpster within the right-of-way shall be seven calendar days, or if supported by the project, a longer timeframe as agreed to with the Department of Community Assets and Development.

(v) A surety acceptable to the City Attorney may be required by the Department of Community Assets and Development based on the length of time requested to store the trash receptacle or dumpster within the right-of-way, and the susceptibility of the right-of-way in question to be damaged by the proposed storage.

(3) Construction Trailer

(a) Construction trailers may be permitted on a construction site provided that the trailer is:

(i) Approved by the Department of Community Assets and Development for location, safety, and compatibility with adjacent properties;

(ii) Located on the same site or in the same development as the related construction;

(iii) Not located within a required landscape area; and

(iv) Associated with development for which a valid building permit has been or will be issued in the near future.

(b) The applicant shall be required to restore the trailer site to its previous condition when the trailer is moved off the construction site.

(4) Outdoor recreational improvements for employees

Outdoor recreational improvements for employees such as patios, pergolas, or barbeque/grill stations may be temporarily allowed within required side or rear yard setbacks provided the following conditions exist:

(a) The adjacent parcel is currently in a natural or undeveloped state within 40 feet of the proposed improvement; and

(b) The applicant agrees to remove or screen the outdoor recreational improvement as directed by the Department of Community Assets and Development at such time as any development occurs on the adjacent parcel within 40 feet of the proposed improvement.

(5) Mobile Homes, Travel Trailers, and Campers (in use) not in an MHC district

(a) A mobile home, travel trailer, or camper designed for habitation; owned by a non-resident, guest, or visitor; may be parked or occupied by the guest or visitor on private property containing a permanent dwelling unit for a period not to exceed 90 days if authorized via temporary use permit. [old city code 16-75]

(b) The mobile home, travel trailer, or camper shall have self-contained sanitary facilities or standard on-site facilities meeting all requirements outlined by the Department of Community Assets and Development in the temporary use permit.

(c) The temporary use permit authorizing the use shall be displayed in a conspicuous location on the outside of the vehicle.

NOTE: *Old City Code Section 16-75, repealed in 2021 with the approval of temporary use provisions during COVID, allowed for a temporary use permit to be renewed at the end of 90 days and set no conditions for when the "temporary" use must come to an end. As COVID temporary uses have ended, this allowance no longer exists at the moment. Suggested option is to maintain the prohibition, or limit such a use to 90 days as proposed above.*

Previous language: A temporary special permit may be issued by the City Council for the temporary use of a mobile home as a dwelling or an office when the mobile home is located outside of an authorized mobile home park. The temporary special permit shall be limited to a period of not more than ninety days and must be renewed at the end of each period. The application fee for a temporary permit shall be established by resolution. The temporary special permit shall be displayed in a conspicuous location on the outside of the mobile home.

(6) Real Estate Sales Office/Model Sales Home

One temporary real estate sales office or model sales home per builder or developer may be temporarily permitted in a section or phase of a new residential or nonresidential development provided that the office or model home:

(a) Is aesthetically compatible with the character of surrounding development in terms of exterior color, predominant exterior building materials, and landscape;

(b) Complies with the applicable standards in the approved development plan (if applicable);

(c) Is operated by a developer or builder active in the same phase or section where the use is located; and

(d) Is removed or the model home is converted into permanent residential use once 85 percent occupancy in the section or phase of the development is reached.

(7) Temporary Storage in a Portable Container

Temporary storage in a portable shipping container may be allowed to serve an existing use subject to the following standards:

(a) Container placement shall be subject to approval by the Department of Community Assets and Development.

(b) The storage container shall not impede ingress, egress, or emergency access to the property or structure being served.

(c) Placement in a right-of-way is prohibited unless it can be shown that no other placement option exists due to the unique characteristics of the lot in question. Placement in a right-of-way under this provision shall be at the discretion of the Department of Community Assets and Development, shall require acquisition of a right-of-way permit, may require a damage deposit, and shall be limited to the shortest timespan possible with a maximum of three days.

(d) The storage container shall not be used as living quarters at any time.

(8) Tents, Canopies, Tarp Garages, and Similar Temporary Shelters

Tents, canopies, tarp garages, and similar temporary shelters may temporarily be erected subject to the following:

(a) Must secure a tent permit from the Fire Marshal;

(b) Maintain a minimum clearance of 20 feet from all other structures and tents;

(c) Be a minimum of eight feet from all side yards;

(d) Be limited to two on a single parcel unless more are approved as part of an Outdoor Event License issued under the provisions of City Code Chapter 15, Article 17. Outdoor Event Licenses.

(e) Not be erected for more than a total of 21 days in any calendar year;

(f) Be limited to a maximum of three occurrences per parcel per year;

(g) Cannot obstruct emergency vehicle access to adjacent lots;

(h) Habitation shall be limited to overnight hours, and shall only be allowed if the tent occupants have unfettered access to a primary dwelling and its sanitation and cooking facilities; and

(i) The lot or site shall be restored to its original condition within two days of removal of the tent, canopy, tarp garage, or similar temporary shelters.

(9) Garage/Yard Sales

(a) Garage or yard sales shall:

(i) Only be held on property occupied as a dwelling by the seller or on property owned, rented, or leased by a charitable or political organization; [city code 15-453(1)(a)]

(ii) Be limited to a maximum of four per dwelling per calendar year; [city code 15-453(1)(d)]

(iii) Not exceed a maximum duration of three consecutive days per sale; [city code 15-453(1)(c)]

(iv) The items offered for sale shall be owned by the occupant or a charitable or political organization running the sale; [city code 15-453(1)(b)]

(v) None of the items offered for sale shall have been purchased for resale or received on consignment for the purpose of resale; [city code 15-453(1)(e)]

(vi) Occur only between the hours of 7:00 A.M. and 6:00 P.M.;

(vii) Not allow unsold items or other sale-related materials to remain in public view following conclusion of the sale; and

(viii) Remove all sale related signage immediately upon conclusion of the sale.

(b) The owner or tenant of the premises on which a sale is conducted shall be responsible for the maintenance of good order and decorum on the premises during the hours of the sale.

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CHAPTER 6: NONCONFORMITIES

6.1 Purpose and Intent

It is the purpose and intent of Chapter 6 is to:

(A) Allow nonconforming structures, uses, site characteristics and lots to continue to exist and be put to reasonable and productive use;

(B) Encourage nonconformities to be brought into compliance whenever reasonable to do so;

(C) Establish the requirements under which nonconformities may be operated and maintained;

(D) Diminish the impacts of nonconformities on adjacent properties by limiting the expansion of nonconformities; and

(E) To comply with Minnesota Statutes Section 462.357, subdivision 1e, as may be amended from time to time.

6.2 Authority to Continue

(A) Legal Non-Conforming Use

Legal conforming uses existing as of the effective date of this ordinance as documented in Section 1.4 (or in existence at the time of any subsequent update) that become non-conforming due to adoption or amendment of this ordinance shall be considered "legally non-conforming" as follows:

(1) A use which is no longer permitted due to a change in zoning shall be considered a legal non-conforming use subject to all conditions for such use as may be outlined in this ordinance.

(2) Legal nonconforming uses shall not be expanded to a greater intensity, nor shall they cover a greater extent of the land or occupy a greater extent of the structure hosting the legal nonconforming use.

(B) Legally Non-Conforming Structures

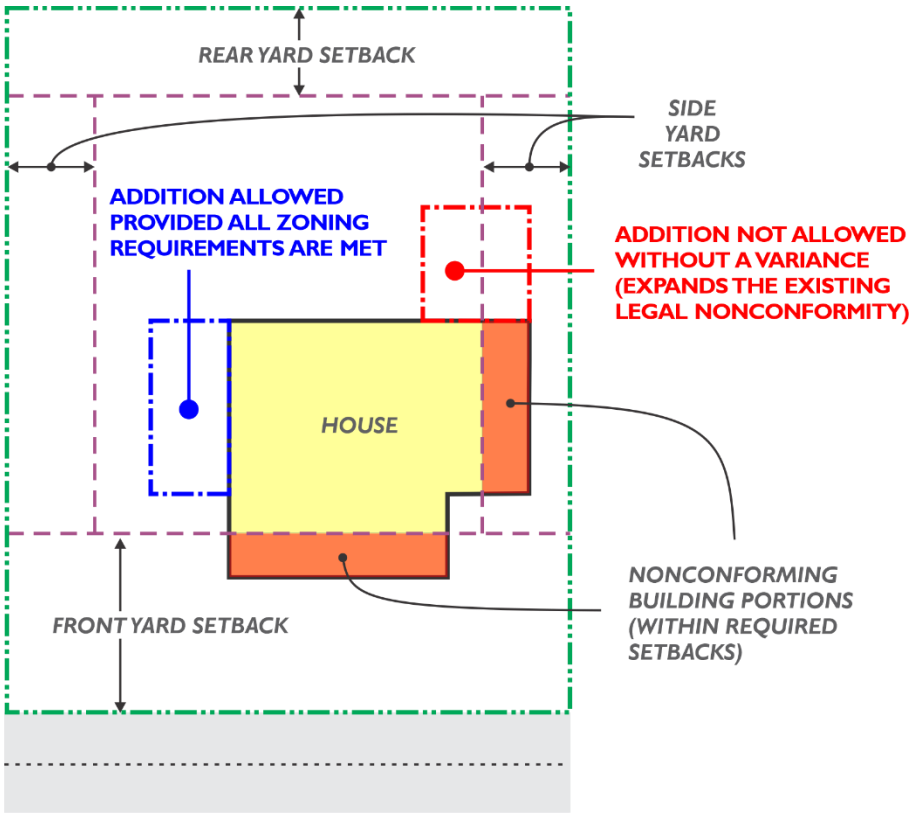
Legally conforming structures existing as of the effective date of this ordinance as documented in Section 1.4 (or in existence at the time of any subsequent update) that become non-conforming due to adoption or amendment of this ordinance shall be considered "legally non-conforming" as follows:

(1) The portion of a structure which becomes non-conforming to a required setback or height standard shall be viewed as legally non-conforming structure.

(2) Legal nonconforming structures shall not be expanded within the areas of nonconformity.

(3) A structure that is partially conforming (i.e. a portion of the structure meets all zoning requirements while the remainder of the structure is legal nonconforming as it falls within a setback) may be expanded if the addition conforms to all applicable zoning requirements.

Figure 6-1: Legal Nonconforming Building Expansion Types



(C) Continuance Stipulations

Legal nonconforming uses and structure may be continued—including through repair, replacement, restoration, maintenance, or improvement—unless:

(1) The nonconformity or occupancy has been discontinued (see Section 6.3).

(2) The overall structure which includes a nonconformity is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage; and no building permit has been applied for within 180 days of when the property suffered the damage.

(a) Upon written request, extensions to the deadline for building permit application may be granted by the City Council if the applicant can show good cause, and provided each extension does not extend the deadline beyond 365 days from when the property suffered the damage.

(b) In the case of a missed deadline under 6.2(C)(2):

(i) The City may impose reasonable conditions upon any subsequent zoning or building permit in order to mitigate any newly created impact on adjacent properties.

(ii) The start of discontinuance shall commence on the day the deadline expires.

(3) The structure which includes a nonconformity has less than 50 percent of a required setback from a designated water body, and 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. In such a case, the City may require the structure's setback from the designated water body be increased to a practical and reasonable amount in order to mitigate impacts to adjacent properties or the water body.

(4) Notwithstanding subsections (2) and (3) above, any nonconformity located in the floodplain overlay district that is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, as determined by the Building Official, shall be regulated to the extent necessary to maintain eligibility in the National Flood Insurance Program, and in no case shall the use be continued or re-established in a manner that results in potential flood damage or obstructs flood flows in the floodway.

(5) Nothing in this ordinance shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the Building Inspector. [8-053]

(6) No non-conforming structure or use shall be relocated on-site or moved to another lot unless such movement shall bring the non-conformance into compliance with the requirements of this ordinance.

(7) Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not physically extend the building or structure containing the non-conforming use, nor allow intensification of the nonconforming use.

(8) Normal maintenance, necessary non-structural repairs, and incidental alteration of a lawful non-conforming sign includes repair or maintenance of existing lettering done without changing the form or design of the lawful non-conforming sign.

6.3 Discontinuance

(A) Re-establishment Not Allowed

A nonconforming use shall not be re-established after discontinuance of the use for a period of one year or more.

(B) Effect of Renovations and Repairs on Discontinuance

(1) Efforts to renovate or repair a nonconforming use or structure as allowed in Section 6.3 are not considered discontinuance provided all of the following conditions are met:

(a) All appropriate permits and development approvals are obtained;

(b) The renovation or repair is completed within one year from commencement of repair or renovation; and

(c) The nonconforming use is re-established within one month from the time the renovation or repairs are completed.

(2) Upon written request, extensions of up to one year may, but need not be granted by the City Council to complete renovations and repairs or re-establish a legal nonconforming use if the applicant can show good cause.

(3) Failure to complete repairs or renovations within one year, or to reestablish the legally nonconforming use within one month following repairs or renovation, shall constitute discontinuance, and the nonconforming use shall not be re-established.

6.4 Change in Use

(A) A lawful non-conforming use of a structure or parcel of land may be changed to lessen the non-conformity of use. Once a non-conforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the now-lessened non-conformity.

(B) When any lawful non-conforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any non-conforming use.

6.5 Building Permits and Ordinance Amendments

(A) Issued Building Permits

Provided the following conditions are met, any proposed structure for which a building permit has been lawfully granted may be completed in accordance with approved plans in the event that an ordinance amendment renders the pending structure non-conforming:

(1) Construction is started within 60 days of the effective date of the applicable ordinance which renders the new structure non-conforming;

(2) Activity to complete construction is not abandoned for a period of more than 120 days; and

(3) Construction is completed within two years of the building permit issuance.

(B) Resulting Status

Uses or structure rendered nonconforming due to ordinance changes which occur during construction shall thereafter be considered legally non-conforming as outlined in this ordinance.

6.6 Existing Nonconforming Lots

(A) Required Merger of Common Ownership Lots

(1) Except as may otherwise be provided for in this ordinance, when a group of two or more contiguous lots or parcels of land are owned or controlled by the same person, the following shall apply:

(a) If all lots are conforming to lot width, area, and frontage requirements, all lots may remain as separate parcels.

(b) If one or more of the contiguous lots or parcels of land do not conform to either lot width, area, or frontage requirements; but each lot contains a legally nonconforming residential dwelling or is a buildable lot of record; then all lots may remain as separate parcels.

(c) If one or more of the contiguous lots or parcels of land do not conform to either lot width, area, or frontage requirements; and the vacant parcels in contiguous ownership are not buildable lots of record; then the following shall apply:

(i) Such nonconforming lots shall not be sold or developed as a separate parcel of land; and

(ii) Such nonconforming lots shall be combined with adjacent lots or parcels under the same ownership or control so that the combination of lots will lessen the existing nonconformity, or will equal one or more lots each meeting the full lot requirements of this ordinance

(iii) The combination of lots shall be completed in accordance with applicable requirements of City Code Chapter 26, Subdivision.

City Code Chapter 26: Subdivision

(B) Vacant Legal Nonconforming Lots of Record

With the exclusion of parcels within the Floodplain Overlay District identified in Section 3.8(D) of this ordinance; vacant legal nonconforming lots of record may be developed provided the following conditions are satisfied:

Lot of Record definition

(1) Legally Established

The lot in question was legally established in accordance with requirements of the New Brighton subdivision code existing at the time of its creation and is a separate, distinct tax parcel.

(2) Allowed Use

The proposed use is an allowed use within the base zoning district.

(3) Access

The lot in question has frontage on an improved public street, and the proposed use can directly access that street.

(4) Setback and Yard Requirements

The setback and yard requirements of the base zoning district can be met.

(5) Shoreland Requirements

Development can conform to the requirements of the Shoreland Overlay District in Section 3.8(C) if applicable.

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CHAPTER 7: ENFORCEMENT

7.1 Purpose

Chapter 7 establishes procedures through which the City seeks to ensure compliance with the provisions of this ordinance and obtain corrections for ordinance violations. It also sets forth the remedies and penalties that apply to violations of this ordinance. The provisions of Chapter 7 are intended to encourage the voluntary correction of violations whenever possible.

7.2 Compliance Required

(A) In General

Compliance with all the procedures, standards, and other provisions of this ordinance shall be required by all persons owning, developing, managing, using, or occupying land or structures in the City.

(B) Approvals Required

All persons shall obtain all necessary building permits and development approvals required by this ordinance prior to development.

7.3 Violations

(A) Failure to Comply with This Ordinance or Term or Any Condition of Approval Constitutes a Violation

Any failure to comply with a standard, requirement, prohibition, or limitation imposed by this ordnance; or the terms or conditions of any permit or other development approval or authorization granted in accordance with this ordinance; shall constitute a violation of this ordinance. Examples of violations include but shall not be limited to the following:

(1) Development of land without first obtaining all appropriate permits or development approvals, and complying with all applicable terms and conditions.

(2) Occupying or using land or a structure without first obtaining all appropriate permits or development approvals, and complying with all applicable terms and conditions.

(3) Engaging in any development or other activity of any nature in a way that is inconsistent with a permit or development approval, or other form of authorization granted for such activity by the City.

(4) Violating, by act or omission, any term, condition, or qualification placed by the City upon a required permit, certificate, or other form of authorization granted by the City to allow the development or other activity upon land.

(5) To alter, maintain, or use any building or structure or to use any land in violation of any provision of this ordinance.

(6) To install, create, erect, alter, or maintain any sign without first obtaining the appropriate permits or development approvals, and complying with their terms and conditions.

(7) Create, expand, replace, or change any nonconformity, except in accordance with this ordinance.

(8) Reduce or diminish the requirements of use, development, or dimensional standards below the minimum required by this ordinance.

(9) Through any act or omission, fail to comply with any other provisions, procedures, or standards, as required by this ordinance.

(10) To continue any of the above-stated violations.

(B) False Statements Constitute a Misdemeanor

Any person who knowingly makes or submits a false statement or document in connection with an application or procedure required by this ordinance is guilty of a misdemeanor.

(C) Development Shall Adhere to Approved Plans

(1) Permits or development approvals issued by a decision-making body or City official authorize only the use, density or intensity, location, design, and/or development set forth on the plans reviewed in issuing such permits or development approvals.

(2) Development that differs from that which was approved by a decision-making body in a permit or development approval is a violation of this ordinance.

7.4 Responsible Persons

The owner, tenant, or occupant of any land or structure, or an architect, engineer, builder, contractor, agent, or any other person who participates in, assists, directs, creates, or maintains a situation that constitutes a violation of this ordinance may be held responsible for the violation and be subject to the remedies and penalties set forth in Chapter 7.

7.5 Enforcement Generally

(A) Responsibility for Enforcement

The Department of Community Assets & Development shall be responsible for enforcing the provisions of this ordinance.

(B) General Inspection

(1) An authorized member of the Department of Community Assets & Development may enter upon land or inspect any structure to ensure compliance with the provisions of this ordinance provided permission has been granted by one of the following:

(a) An owner of the property in question;

(b) A licensee of the business being inspected;

(c) A resident of a dwelling on the property being inspected; or

(d) Any other person in control of the premises.

(2) If the owner, licensee, resident, or other person in control of a premises objects to the inspection of or entrance to the property, the City may petition a court of competent jurisdiction for a search warrant to authorize entrance to the property.

(3) Every owner, licensee, resident, or other person in control of a premises within the City shall permit, at reasonable times, inspections of or entrance to the property by the Department of Community Assets and Development to determine whether the provisions of this ordinance are being complied with and to enforce this ordinance. Unreasonable refusal to permit the inspection of or entrance to the property shall be grounds for termination of any and all permits, licenses, or City services to the property. Mailed notice shall be given to the owner, licensee, resident or other person in control of the property, stating the grounds for the termination, the scheduled date of termination, and the right to appeal in accordance with Section 2.4(F), Appeal of Administrative Decisions.

(4) Nothing in Chapter 7 shall be construed to limit the authority of the City to enter private property in urgent emergency situations where there is an imminent danger in order to protect public health, safety and welfare.

(C) Complaints Regarding Violations

Any person may notify the Department of Community Assets and Development of a suspected violation of this ordinance. In registering a complaint, the complaining party shall state, in writing, the cause and/or basis of the alleged violation. The identity of individuals registering complaints shall remain confidential as required by Minnesota State Statutes Section 13.44.

(D) Investigation of Complaints

Upon learning there is a potential violation of this ordinance, the Department of Community Assets and Development may conduct a general inspection to determine whether a violation of this ordinance exists.

(E) Notice of Violations

(1) On finding that a violation of this ordinance exists, the Department of Community Assets and Development or other City Official shall provide written notification of the violation to the owner of the property on which the violation exists and the person causing or maintaining the violation. The notification shall be delivered by personal service or through standard mail. The notice of violation shall:

(a) Describe the location and nature of the violation;

(b) State the actions necessary to abate the violation;

(c) Order that the violation be corrected within a specified reasonable time period not to exceed 30 days after receipt of the notice of violation; and

(d) State what course of action is intended if the violation is not corrected with the specified time limit; and advise the alleged violator(s) of their right to appeal the notice of violation to the Board of Adjustment and Appeals in accordance with Section 2.4(F).

(2) On receiving a written request for extension of the time limit for correction specified in the notice of violation, the Department of Community Assets and Development may, for good cause shown, administratively grant a single extension of the time for up to 30 days.

(3) If the owner of the property cannot be located or determined, the Department of Community Assets and Development shall post a copy of the notice of violation on the building, structure, sign, or site that is the subject of the violation. In such a case, the time limit for correction of the violation shall be deemed to begin five days after the notice is posted.

(F) Application of Penalties

(1) On determining that the violator has failed to correct the violation by the time limit set forth in the notice of violation, or any granted extension thereof, or has failed to timely appeal the notice of violation, the Department of Community Assets and Development shall take appropriate action, as provided in Section 7.6, to correct and abate the violation and to ensure compliance with this ordinance.

(2) Each day a violation continues is a separate offense.

(G) Emergency Enforcement without Notice

On determining that delay in correcting the violation would pose a danger to the public health, safety, or welfare, the Department of Community Assets and Development may seek immediate enforcement without prior written notice by invoking any of the remedies or penalties listed in Section 7.6.

7.6 Remedies and Penalties

(A) If the responsible person to whom the notice of violation was directed fails to comply with the applicable provisions of this ordinance, that person is guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than $300.00 for each offense or imprisoned for not more than 90 days or both.

(B) The City may also enforce any provision of this ordinance by mandamus, injunction, or any other appropriate remedy in any court of competent jurisdiction.

(C) A person who violates, fails to comply with or assists, directs, or permits the violation of a performance standard required by this ordinance must reimburse the City or its agent for the actual costs of the tests, measurements or other procedures necessary to demonstrate that violation.

(D) A person who conducts work prior to obtaining all necessary approvals may be subjected to double fees for any after-the-fact approval(s).

CHAPTER 8: RULES & DEFINITIONS

8.1 General Rules for Interpretation

The language set forth in the text of this ordinance shall be interpreted in accordance with the following rules of construction:

Section 1.3: Ordinance Purpose

(A) Meanings and Intent

All provisions, terms, phrases, and expressions contained in this ordinance shall be interpreted in accordance with the general purposes set forth in Section 1.3, Ordinance Purpose, and the specific purpose statements set forth throughout this ordinance. When a specific section of these regulations gives a different meaning than the general definition provided in Chapter 8, the specific section's meaning and application of the term shall control.

(B) Headings, Illustrations, and Text

In the event of a conflict or inconsistency between the text of this ordinance and any heading, caption, figure, illustration, table, or map, the text shall control. Graphics and other illustrations are provided for informational purposes only and should not be relied upon as a complete and accurate description of all applicable regulations or requirements.

(C) Lists and Examples

Unless otherwise specifically indicated, lists of items or examples that use terms such as "for example," "including," and "such as," or similar language are intended to provide examples and are not exhaustive lists of all possibilities.

(D) Computation of Time

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the City, the deadline or required date of action shall be the next day that is not a Saturday, Sunday, or holiday observed by the City. References to days are calendar days unless otherwise stated.

(E) References to Other Regulations/Publications

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

(F) Delegation of Authority

Any act authorized by this ordinance to be carried out by a specific official or department of the City may be carried out by a professional-level designee of such official or department.

(G) Technical and Non-Technical Terms

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

(H) Public Officials and Agencies

All public officials, bodies, and agencies to which references are made are those of the City of New Brighton, unless otherwise indicated.

(I) Mandatory and Discretionary Terms

(1) The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision.

(2) The words "may" and "should" are permissive in nature.

(J) Conjunctions

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

(1) "And" indicates that all connected items, conditions, provisions or events apply.

(2) "Or" indicates that one or more of the connected items, conditions, provisions, or events apply.

(K) Tenses, Plurals, and Gender

(1) Words used in the present tense include the future tense.

(2) Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise.

(3) Words used in the masculine gender include the feminine gender, and vice versa.

A Planners Dictionary (American Planning Association PAS Report 521/522)

Dictionary.com

(L) Terms Not Defined

If a term used in this ordinance is not defined in Section 8.4, the Department of Community Assets and Development shall have the authority to provide a definition based upon the definitions used in accepted sources including but not limited to "A Planners Dictionary" (APA PAS Report 521/522), or any standard dictionary.

(M) Boundary Interpretations [3-040]

Where uncertainty exists with respect to the boundaries of any of the established districts as shown on the zoning map, the rules of Section 8.1(M) shall apply.

(1) **Boundaries of Public Right-of-Way.** Boundaries indicated as approximately following the center lines or street lines of streets, the center lines or alley lines of alleys, or the center lines or right-of-way lines of highways shall be construed to be such district boundaries.

(2) **Boundaries Parallel to the Right-of-Way.** Where district boundaries are so indicated that they are approximately parallel to the center lines or right-of-way lines of streets, alleys, highways, railroads, etc., the district boundaries shall be construed as being parallel thereto and distant therefrom as indicated on the zoning map.

(3) **Boundaries on Shorelines.** District boundaries following a stream, lake, or other body of water shall be construed to be at the limit of the jurisdiction of the City unless otherwise indicated.

(4) **Areas Under Water.** All areas within the corporate limits under water shall be subject to all of the regulations of the district which immediately adjoins the water area.

(5) Public or Semi-Public Property. Any areas shown on the zoning map as parks, playgrounds, schools, cemeteries, water, etc., shall be subject to the zoning regulations of the district in which they are located. In case of doubt, the zoning regulations of the most restricted adjoining district shall govern.

(6) Vacated Property. Whenever any street, alley, or other public way is vacated, the zoning district adjoining the vacated property shall be automatically extended to the center of the vacated area. Further, all area included therein shall be subject to all regulations of the extended district.

(7) Boundaries on Lot Lines. Boundaries indicated as approximately platted lot lines shall be construed as following such lot lines.

(8) Boundaries on City Limit Lines. Boundaries indicated as approximately following City limits shall be construed as following City limits.

8.2 Rules of Measurement

(A) Measurements, Generally

(1) Purpose

The purpose of Section 8.2 is to clarify the rules of measurement and exemptions that apply to all principal and accessory uses allowed in this ordinance. These standards may be modified by other applicable sections of this ordinance.

(2) Distance Measurements, Generally

(1) Unless otherwise expressly stated, distances specified in this ordinance are to be measured as the length of an imaginary straight line joining identified points on a horizontal plane.

(2) Measurements involving a structure are made to the closest support element of the structure.

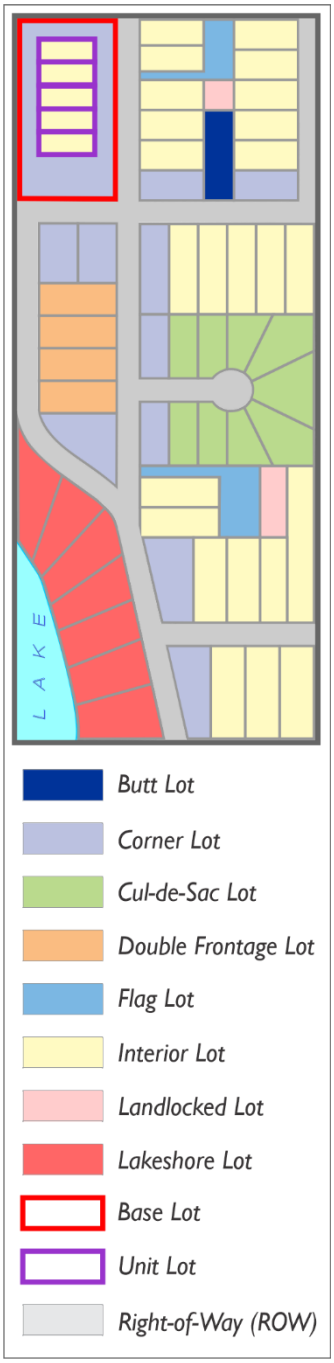
(3) Structures or portions of structures that are entirely underground are not included in measuring required distances.

(B) Lots and Yards

(1) Lot Types (see Figure 8-1)

Figure 8-1: Lot Types

The lots in this figure are color coded to illustrate the various lot types defined by code.



(a) Base Lot

A contiguous parcel of land making up the overall boundaries of an authorized development; may include individual "unit lots."

(b) Butt Lot

A lot at the end of a block and located between two corner lots.

(c) Corner Lot

A lot bordered on at least two adjacent sides by adjoining streets.

(d) Cul-de-Sac Lot

A lot located on the head or turnaround of a cul-de-sac with side lot lines on a tangent to the arc of the right-of-way.

(e) Double Frontage Lot

A lot, other than a corner lot, with frontage on more than one street.

(f) Flag Lot

A lot that does not abut or front a street where access is obtained by a narrow private right-of-way.

(g) Interior Lot

A lot other than a corner lot with only one frontage on a street other than an alley.

(h) Landlocked Lot

A lot bordered by public or private properties on all sides having no frontage on a public right-of-way.

(i) Lakeshore Lot

A lot bordered on one side by lakeshore, and the opposite side by a right-of-way. Lakeshore lots may also be corner lots.

(j) Unit Lot

A lot for individual units within a larger base lot.

(2) Lot Lines and Yards (see Figure 8-2)

(a) Front Lot Line

The boundary of a lot that abuts a road or roadway easement. In the case of a corner lot, it shall be the boundary with the shortest dimension along an abutting road.

(b) Side Lot Line

The side lot lines are the lot lines connecting the front and rear lot lines regardless of their orientation, or whether they abut a right-of-way or another lot line.

(c) Corner Side Lot Line

The corner side lot line is a side lot line that abuts a street or other right-of-way.

(d) Rear Lot Line

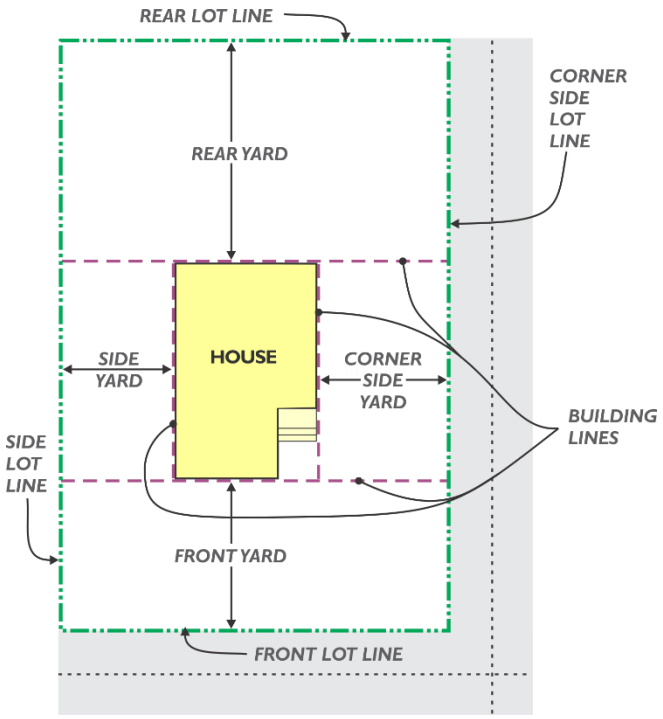
The boundary of a lot opposite of the front lot line or the Ordinary High Water Level of a lakeshore lot.

(e) Front Yard

A yard extending between side lot lines across the front of a lot between the front lot line and the front building line.

(f) Side Yard

A yard extending from the front building line to rear building line. In the case of double frontage lots, the side yard extends from the front building line to the opposing building line associated with the other yard.



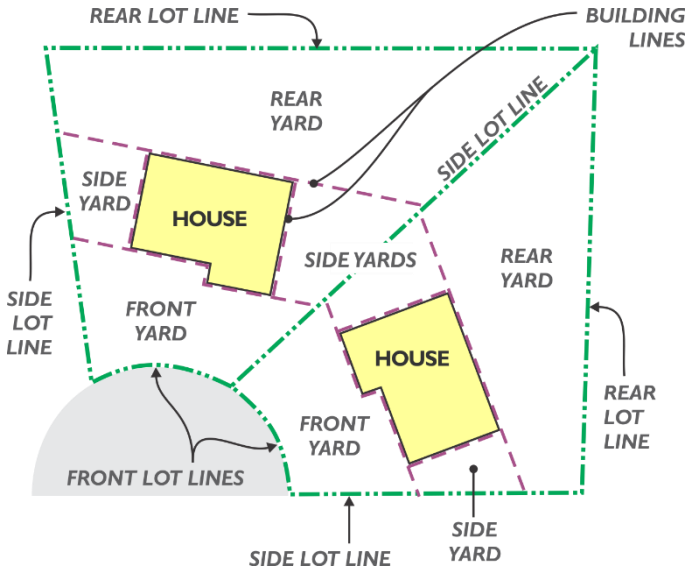
(g) Corner Side Yard

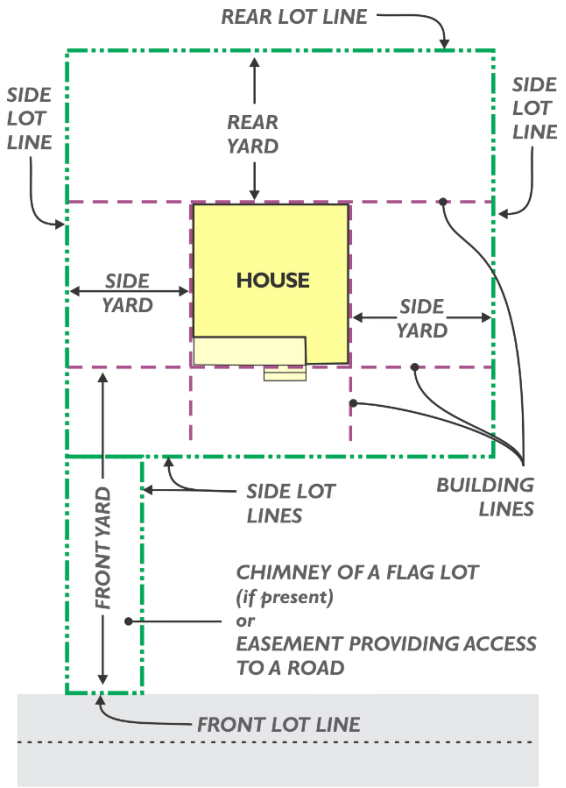
A side yard extending between the front and rear lot lines parallel to an abutting street or right-of-way.

(h) Rear Yard

A yard extending across the rear of the lot between the rear lot line and the rear building line. In the case of double frontage lots, there is no rear yard, and the requirements for the front yard shall apply to the front and rear.

Figure 8-2: Lot Lines & Yard Depictions





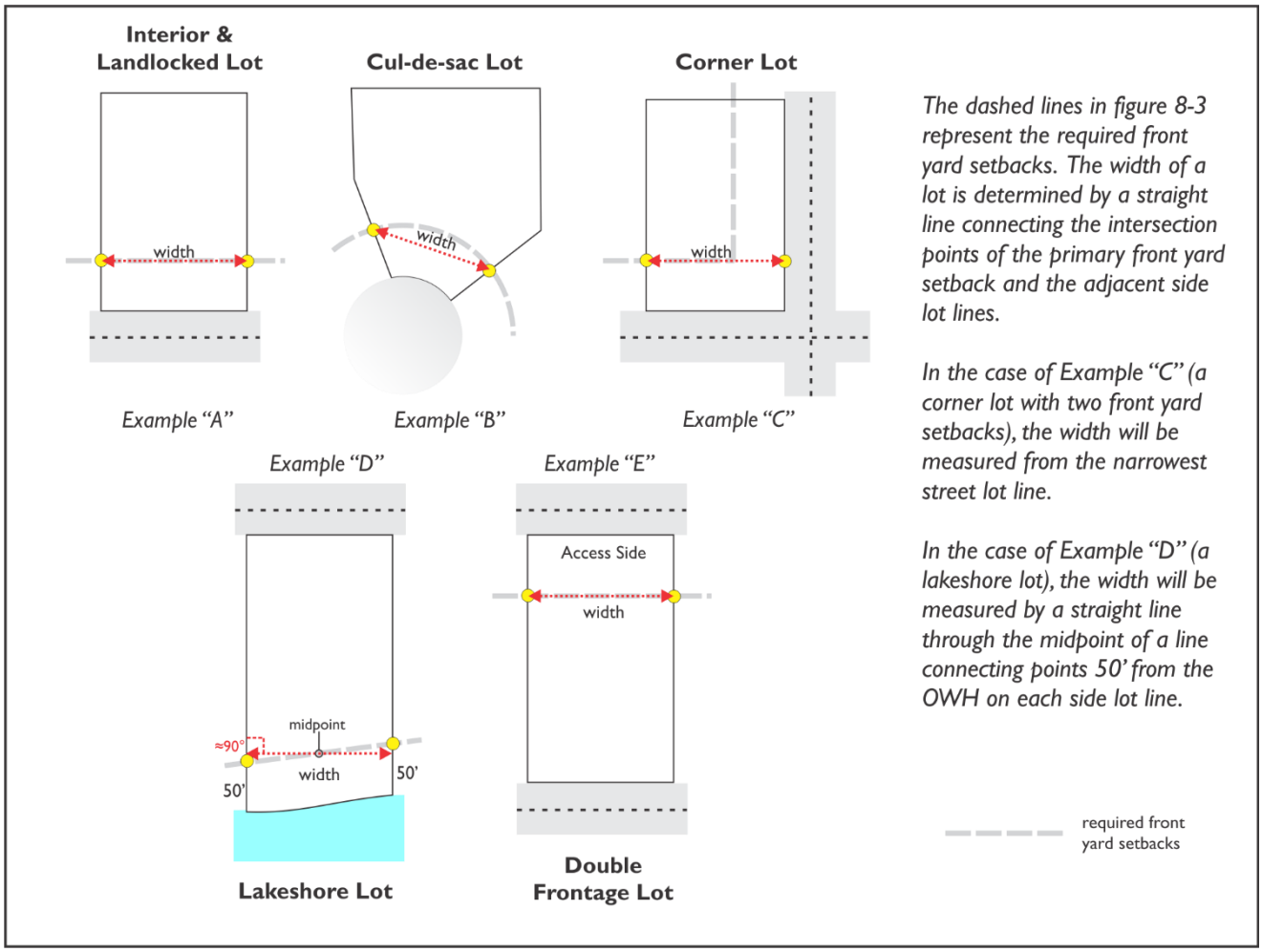
(3) Definitions/Measurement

(a) Lot Width (see Figure 8-3)

(i) Lot width shall be determined by a straight line connecting endpoints determined by the intersection of the side lot lines and the minimum front yard setback.

(ii) The width of a corner lot shall be calculated from the side with the least frontage on a right-of-way.

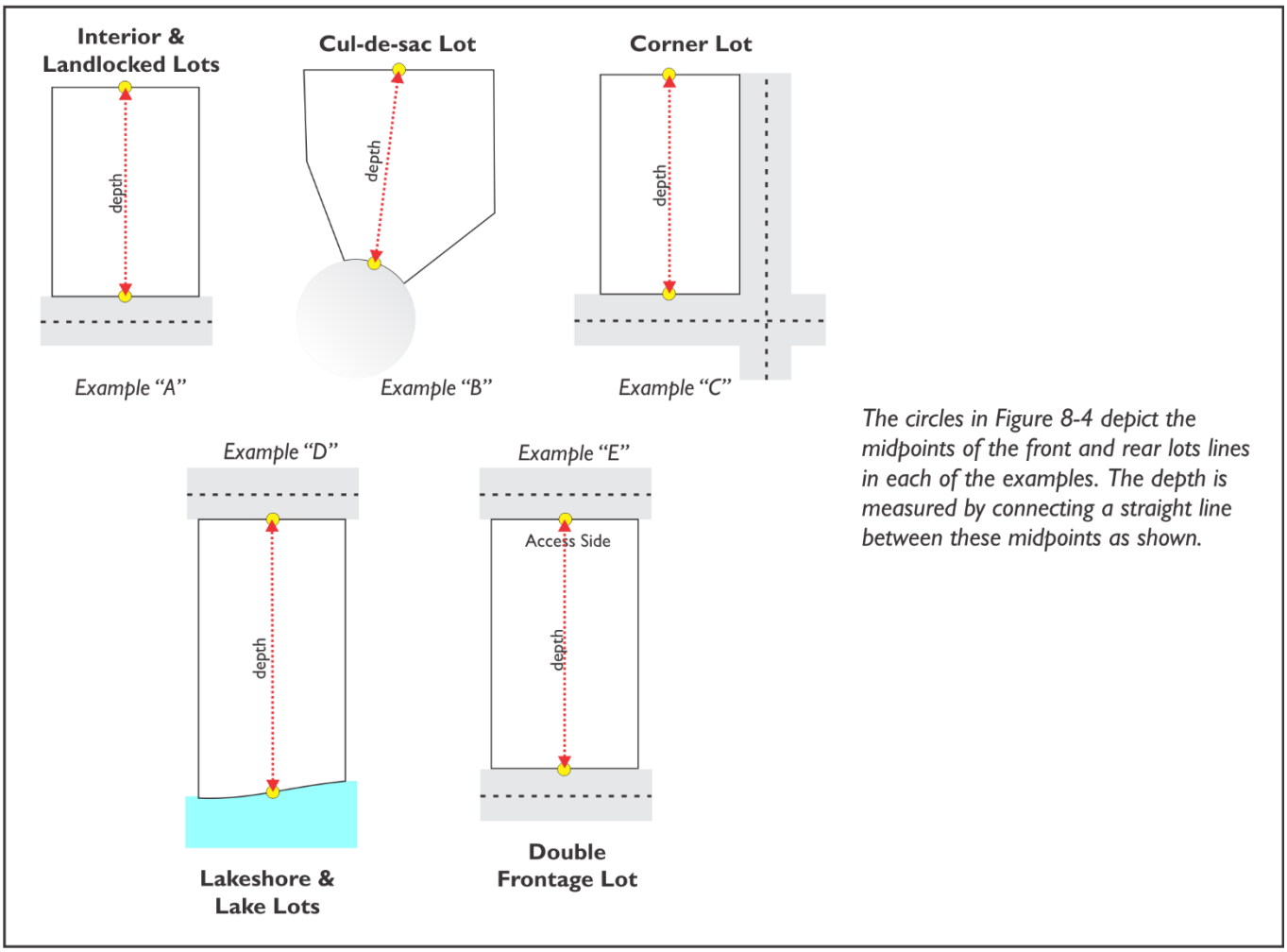
Figure 8-3: Measuring Width



(b) Lot Depth (see Figure 8-4)

Lot depth shall be determined by a straight line connecting the midpoint of the front lot line to the midpoint of the rear lot line (see Figure 8-4 for examples).

Figure 8-4: Measuring Depth



(c) Lot Area (see Figure 8-6)

The amount of land area, measured horizontally, included within the lines of a lot. Lands located within any private easements shall be included within the lot area. Public rights-of-way and areas below the ordinary high-water (OHW) mark of a lake are not to be included in calculating lot area, except where specifically allowed by this ordinance. The terms "lot size" and "lot area" shall be interchangeable.

(d) Building Line (see Figure 8-2)

A line formed by the outward most face or support structure for a building which is used to establish the yards around a building or structure.

(e) Setback Line

The minimum required distance prescribed by this ordinance between any property line, Ordinary High Water Level, or top of bluff; and the closest permissible point of an allowed improvement such as a foundation or any supporting post or pillar of a building or structure. Portions of a building, (e.g., an overhang, eave, entry stairs, bay windows, foundation planters, etc.) may encroach into a required yard as outlined in Table 3-5, Allowable Yard Encroachments.

Section 3.3(D)(2) Specialized Yard Standards

(f) Yard

A required open area unoccupied and unobstructed by any building or by any structure or portion of a structure except as allowed by this ordinance.

(g) Lot or Street Frontage

(i) In the case of a building lot abutting upon only one street, the frontage line is the line parallel to and common with the right-of-way.

(ii) In the case of a corner lot, that part of the building lot having the narrowest frontage on any street shall be considered the frontage line.

(iii) For the purpose of determining yard requirements on corner lots and double frontage lots, all lot lines adjacent to streets shall be considered frontage, and yards shall be provided as required in this ordinance.

(h) Right-of-Way (ROW)

Land dedicated, deeded, used, or intended to be used for a street, road, alley, sidewalk, trail, pedestrian way, crosswalk, bikeway, utilities, drainage facility, or other public uses.

(4) Height

(a) Definitions/Measurement

(i) Building Height

The vertical distance ~~above grade~~ between the lowest ground level of the building and the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitched or hipped roof.

1. For a slab-on-grade building, a building with a full basement, or a lookout; the "lowest ground level of the building" shall be the lowest grade level adjacent to the building excluding window wells and other features necessary for safety and egress.
2. For a walkout building, height shall be measured from the lowest ground level adjacent to the street facing portion of the building. For a walkout building on a corner lot, height shall be measured from the lowest ground level adjacent the building facing the lot front.

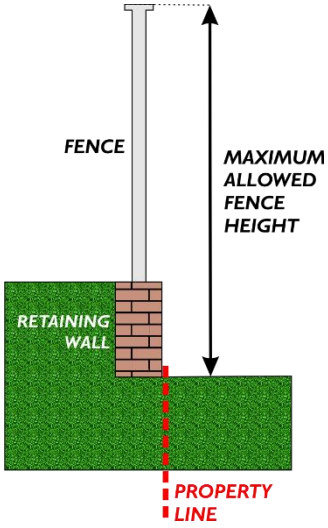


Figure 8-5:
Fence on Top of Wall Height

(ii) Building Story

That portion of the building included between the surface of any floor and the surface of the next floor above it or if there is no floor above it, the space between the floor and the ceiling next above it.

(iii) Fence and Wall Height

1. Fence height shall be measured as the vertical distance between the finished grade at the base of the fence to the top edge of the fence material.
2. The height of fencing atop a wall shall be measured from the base of the wall (see figure 8-5).

(5) Bulk and Coverage; Definitions & Measurements

(a) Building Coverage

Building coverage is a measure of intensity of a use of land that represents the portion of a site that is covered by building footprint, as well as attached porches, decks, and balconies. Building coverage does not include driveways, streets, sidewalks, and any other areas covered by an impervious surface material, including areas of outdoor storage (see Figure 8-6).

(b) Floor Area

The sum of gross horizontal area of the several floors of a building measured from the exterior walls, including basements and attached accessory buildings.

Figure 8-6: Coverage & Area Measurements

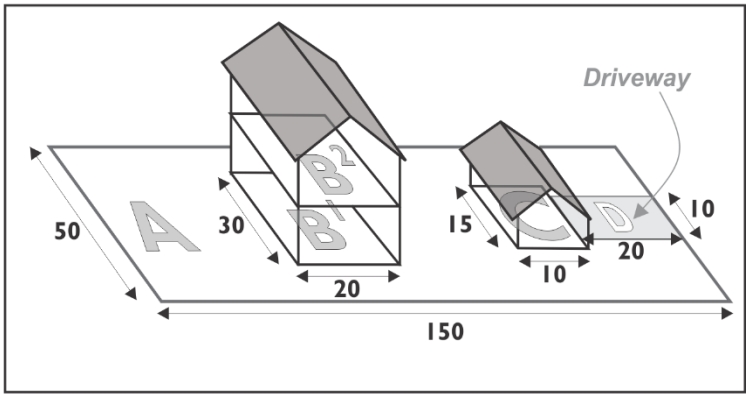
Figure 8-6 illustrates various area measurements:

Lot Area = Area of "A" *(150 x 50 = 7500)*

Building Coverage = Area of B^1 + C
[(30x20)+(15x10)] = 750

Impervious Surface Coverage = Area of B^1 + C + D
[(30x20)+(15x10)+(20x10)] = 950

Gross Floor Area = Area of B^1 + B^2 + C
[(30x20)+(30x20)+(15x10)] = 1350



(c) Impervious Surface Coverage

Impervious surface coverage shall be calculated as the total horizontal surface area of all impervious surfaces on a given lot (see Figure 8-6).

(d) Floor Area Ratio

The total floor area of all buildings or structures on a lot divided by the lot area (see Figure 8-6).

8.3 Glossary of Abbreviations

ADA..... The Americans with Disabilities Act

ACI..... Aggregate Caliper Inch

ADU..... Accessory Dwelling Unit

ANSI..... American National Standards Institute

APC..... Air Pollution Code

ASHRAE..... American Society of Heating, Refrigerating, & Air-conditioning Engineers

ASTM..... American Society for Testing and Materials

BMP..... Best Management Practice

BSI..... British Standards Institution

CO..... Certificate of Occupancy

CUP..... Conditional Use Permit

DCAD..... Department of Community Assets and Development

DNR..... Minnesota Department of Natural Resources

DU..... Dwelling Unit

EAW..... Environmental Assessment Worksheet

EFIS..... Exterior Insulating Finishing System

EIS..... Environmental Impact Statement

EQB..... Minnesota Environmental Quality Board

FAR..... Floor Area Ratio

FCC..... Federal Communications Commission

FEMA..... Federal Emergency Management Agency

GFA..... Gross Floor Area

HUD..... U.S. Department of Housing and Urban Development

IEC..... International Electrotechnical Commission

IFC..... International Fire Code

ISO..... International Organization for Standardization

IUP..... Interim Use Permit

MPCA..... Minnesota Pollution Control Agency

MN.....Minnesota

NB.....New Brighton

NFPA.....National Fire Protection Association

OHW/OHWL.....Ordinary High Water/Ordinary High-Water Level

OSHA.....Occupational Safety and Health Administration

PCA.....Pollution Control Agency

PRD.....Planned Residential Development

PUD.....Planned Unit Development

RCWD.....Rice Creek Watershed District

RLUIPA.....Religious Land Use and Institutionalized Persons Act

ROW.....Right of Way

SRCC.....Solar Rating and Certification Corporation

SQ FT.....Square Feet

SWPPP.....Storm Water Pollution Prevention Program

UL.....Underwriter's Laboratory

ULI.....Urban Land Institute

USDA.....United States Department of Agriculture

Zoning District Abbreviations are listed in Tables 3-1 and 3-2

8.4 Definitions

ACCESSIBILITY IMPROVEMENTS. Any special property improvements such as sidewalks, ramps, lifts, etc., that may be needed to ensure accessibility for people with disabilities.

ACCESSORY BUILDING – MAJOR. A building which is accessory to a principal structure and is required to be constructed with a building permit per Minnesota Rules Part 1300.0120.

ACCESSORY BUILDING – MINOR. A building which is accessory to a principal structure and exempt from a building permit per Minnesota Rules Part 1300.0120.

ACCESSORY BUILDING – TALL. A building which is accessory to a principal structure, is required to be constructed with a building permit per Minnesota Rules Part 1300.0120, and is allowed to exceed the underlying zoning district height maximum when authorized by conditional use permit.

ACCESSORY DWELLING UNIT (ADU). A smaller, independent residential dwelling unit located on the same lot as a single-family dwelling.

ACCESSORY DWELLING UNIT, ATTACHED. An accessory dwelling unit which involves placing an addition on a principal structure, or retrofitting of a portion of an existing home, to allow for the new secondary unit.

ACCESSORY DWELLING UNIT, DETACHED. An accessory dwelling unit which is separate from the principal structure.

~~Accessory Building. A subordinate building, excluding a private garage, the use of which is incidental to that of the main building or to the use of the premises.~~ (removed – replaced with major and minor distinctions to draw differences between accessory buildings needing a building permit and those which do not require a building permit).

ACCESSORY USE OR STRUCTURE. A use or structure subordinate to the principal use on the same premises and customarily incidental thereto.

ADULT USES. **"**Adult use" and related definitions shall be as spelled out in Section 15-511 of the New Brighton City Code.

AIRPORT. Any premises which are used, or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other structures or rights-of-way.

ALLEY. A public or private right-of-way not greater than 24 feet in width which affords a secondary means of access to abutting property.

~~**AMUSEMENT CENTER.** A business/principal use devoted primarily to the operation of electronic amusement devices or games and open for public use and participation. (Ord. No. 499, 9-15-82; Code of 2001)~~ (removed – antequated term)

ANCILLARY RECREATIONAL USES. Recreational elements which are portable and subordinate to a residential principal use on the property including play apparatus and sporting equipment with a 200 square feet footprint or smaller. (Shoreland CH 12)

~~**ANTENNAE.** That portion of equipment located on the exterior or outside of a structure used for transmitting or receiving radio or television waves~~ (removed – expanded definitions proposed)

ANTENNA, PRIVATE AMATEUR RADIO. Equipment, including antennas, antenna support structures, and other related material, necessary to conduct Ham and Short Wave Radio reception and transmissions, only for use by those persons properly licensed by the Federal Communications Commission for such reception and transmissions, and who are in full compliance with all licensing requirements.

ANTENNA, PRIVATE RECEIVING. Television and other electronic reception antennas for private use.

ANTENNA, TELECOMMUNICATION. A device used for the transmission or reception of wireless communications, usually arranged on an antenna support structure or building, and consisting of a wire, a set of wires, or electromagnetically reflective or conductive rods, elements, arrays, or surfaces, inclusive of the following: Private Amateur Radio Antenna(s), Private Receiving Antenna(s), Commercial Transmission And Reception Antenna(s), and Wireless Telecommunications Service Antenna(s).

ANTENNA, WIRELESS TELECOMMUNICATIONS SERVICE. Shall mean any equipment necessary to provide or support all types of wireless electronic communications, including, but not necessarily limited to, wireless "cellular" telephone, radio, and internet transmission and reception communications between mobile communications providers and users, including public safety communications.

ANTENNA SUPPORT STRUCTURE. Any pole, telescoping mast, tower, tripod, or other structure which supports an antenna. Such structure may be freestanding or attached to a building or other device that conforms to this ordinance.

ASSISTED LIVING FACILITY. A multiple-family structure that includes a special combination of housing, supportive services, personalized assistance, and health care designed to respond to the individual needs of people who need help with activities of daily living, but where the emphasis of the facility remains residential. Residents of assisted living facilities do not require hospitalization or skilled or intermediate nursing care associated with nursing home facilities, but do, because of their advanced age, require assistance or supervision in matters such as dressing, bathing, diet, financial management, evacuation of a residence in the event of an emergency, or medication prescribed for self-administration.

AUTOMOBILE REPAIR, MAJOR. Includes all types of repair beyond minor automobile repair such as the rebuilding or reconditioning of engines, body work, frame work, and painting; and includes all work on vehicles exceeding 7,000 pounds gross weight.

AUTOMOBILE REPAIR, MINOR. Includes the replacement of any part or repair of any part that does not require removal of the engine head or pan, engine transmission, or differential; incidental body and fender work, minor painting, and upholstering service. Above stated is applied to passenger automobiles and trucks not in excess of 7,000 pounds gross weight.

AUTOMOTIVE CAR WASH. An area or structure equipped with automatic or self-service facilities for primarily washing automobiles.

BASE FLOOD – see "Regional Flood"

~~**BASEMENT**. That portion of a building between floor and ceiling that is partly below and partly above grade but so located that the vertical distance from grade to the floor below is less than the vertical distance from grade to ceiling~~

BASEMENT. Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

BEDROOM. A habitable room that is used for sleeping in any dwelling unit.

BEST MANAGEMENT PRACTICES (BMPs). Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

BLUFF. A topographic feature such as a hill, cliff, or embankment having all of the following characteristics (an area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff): (Shoreland CH 12)

(A) Part or all of the feature is located in a shoreland area;

(B) The slope rises at least 25 feet above the ordinary high water level of the water body;

(C) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and

(D) The slope must drain toward the water body.

BLUFF, TOP OF. The higher point of a 50-foot segment with an average slope exceeding 18 percent. (Shoreland CH 12)

BLUFF, TOE OF. The lower point of a 50-foot segment with an average slope exceeding 18 percent. (Shoreland CH 12)

BLUFF IMPACT ZONE. The area between a bluff and land located within 20 feet from the top of the bluff. (Shoreland CH 12)

BLUFFLINE. A line delineating the top of the bluff connecting the points at which the angle of ascent becomes less than 12 percent. More than one bluff line may be encountered. (Shoreland CH 12)

BOARDER. A person who regularly receives lodging with or without meals at another's home in exchange for pay or services.

BOUNDARY LINES. Any line indicating the bounds or limits of any tract or parcel of land. Also, a line separating the various use districts as shown on the City's zoning map.

BREW PUB. A commercial business which conducts the retail sale of beer (malt beverages with alcohol content as defined by federal law) which is brewed on the premises in compliance with applicable local, state, and federal laws. Such establishments may also include restaurants as an accessory use. Live entertainment is subject to the use requirements of district in which the establishment is located.

BUILDABLE AREA. The space remaining on a lot after all applicable building restrictions, such as setbacks, are considered.

BUILDABLE LOT. Any platted lor or parcel of land which is entitled to a building permit under this ordinance.

BUILDING. Any structure for the shelter, support or enclosure of persons, animals, chattel, or property of any kind affixed to the land.

BUILDING PERMIT. A permit issued by the building official before a building or structure is started, improved, enlarged or altered which acknowledges that the proposed structure has been reviewed and approved for conformance with the zoning ordinance and the building code.

BUILDING, STORAGE. A building, other than a private garage, used for the storage of items which are customarily incidental to the principal permitted use of the property.

BULK FUEL SALES AND STORAGE. The commercial storage of gasses and fuels in above ground containers.

BUSINESS SUPPORT SERVICES. A subcategory of commercial land use that permits establishments primarily engaged in rendering services to other business establishments on a fee or contract basis, such as advertising and mailing; building maintenance; personnel and employment services; management and consulting services; protective services; equipment rental and leasing; photo finishing; copying and printing; travel; office supply; and similar services.

CANNABIS CULTIVATION BUSINESS. A business with a cannabis cultivator license, medical cannabis cultivator license, or cultivation endorsement from the State of Minnesota Office of Cannabis Management.

CANNABIS DELIVERY BUSINESS. A business with a cannabis delivery service license or delivery service endorsement from the State of Minnesota Office of Cannabis Management.

CANNABIS EVENT ORGANIZER. A business with a cannabis event organizer license or event organization endorsement from the State of Minnesota Office of Cannabis Management.

CANNABIS MANUFACTURING BUSINESS. A business with a cannabis manufacturer license, or manufacturing endorsement from the State of Minnesota Office of Cannabis Management.

CANNABIS RETAILER. A business with a cannabis retailer license, medical cannabis retailer license, lower-potency hemp edible retailer license, or retail endorsement from the State of Minnesota Office of Cannabis Management.

CANNABIS TESTING BUSINESS. A business with a cannabis testing facility license or testing endorsement from the State of Minnesota Office of Cannabis Management.

CANNABIS TRANSPORTATION BUSINESS. A business with a cannabis transporter license or transportation endorsement from the State of Minnesota Office of Cannabis Management.

CANNABIS WHOLESALING BUSINESS. A business with a cannabis wholesaler license or wholesaling endorsement from the State of Minnesota Office of Cannabis Management.

CEMETERY. Land used or intended to be used for burying the remains of human dead and related purposes, including mausoleums and mortuaries, when operated in conjunction with and within the boundaries of the cemetery.

CHURCH. (see "PLACE OF PUBLIC ASSEMBLY")

CLINIC/MEDICAL SERVICES. A structure intended for providing medical or dental examinations and service available to the public without overnight care. This category of use includes all forms of offender counseling and/or treatment services.

COCKTAIL LOUNGE. A room that is ancillary to the production of spirits where the public can purchase and/or consume mixed drinks produced by the micro-distillery on site as licensed and regulated by the City of New Brighton and the State of Minnesota.

COLLEGE. An institution of higher education which confers degrees in the advanced branches of knowledge including the professions.

COMMERCIAL CANOPY. A covering, intended to provide protection against the sun or weather, which is mounted on a rigid metal frame, and is supported in full or in part by posts attached to the ground, a deck, or a concrete slab. Attached canopies shall be supported, in part, by the wall of a permanent structure. "Freestanding" shall refer to canopies supported entirely by posts.

COMMERCIAL LODGING. A building or group of buildings in which sleeping accommodations are offered to the public and intended primarily for rental for temporary occupation by persons on an overnight basis, not including bed and breakfast establishments or a rooming house. Such uses may include microwaves and refrigerators for each guest unit.

COMMON OPEN SPACE. All private land which is placed, by covenant or deed restrictions, in permanent custody of the owner or owners of any project which contains such space and is to be left substantially open for the private use and enjoyment of the residents of the project abutting or adjacent thereto.

COMMUNICATION ANTENNAS AND ANTENNA SUPPORT STRUCTURES. See ANTENNA, TELECOMMUNICATION.

COMMUNICATIONS/BROADCASTING. Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Associated antennas, antenna support structures and satellite dishes are included in this definition. Typical uses include television studios, telecommunication service centers, telegraph service offices, or film and sound recording facilities.

COMMUNITY GARDEN: An area of land managed and maintained by a group of individuals to grow and harvest food crops or non-food, ornamental crops, such as flowers, for personal or group use, consumption, or donation. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members.

CONDITIONAL USE. A specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that certain conditions as detailed in the zoning ordinance exist, that the structure or land use conforms to the comprehensive plan, and that the structure or land use is compatible with the existing neighborhood. (Formerly special use)

CONVENIENCE RETAIL. A retail store not more than 4,000 square feet in area that generally carries a reduced inventory of a variety of items such as dairy products, minor automobile related items, groceries, novelties, magazines, etc. Convenience retail may be combined with vehicle fuel sales where permitted.

CORPORATE HEADQUARTERS. A major corporation's most important location overall or regionally where executive management or key managerial and support staff are located. Such sites may include office, testing facilities, light manufacturing components, or other mission-critical components as may be approved by the Department of Community Assets and Development.

DAYCARE. A service provided to the public in which children of school or preschool age are cared for during established business hours, and which does not qualify as a group residential facility.

DECK. A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site.

DEVELOPMENT. The making of any material change in the use or appearance of any structure or land including reconstruction; alteration of the size of any structure; alteration of the land; alteration of a shore or bank of a river, stream, lake or pond; a commencement of drilling (except to obtain soil samples); mining or excavation; demolition of a structure; clearing of land as an adjunct to construction; deposit of refuse, solid or liquid waste, or fill on a parcel of land; or the dividing of land into two or more parcels. (Shoreland CH 12)

DETACHED GARAGE. A detached major accessory building used primarily for parking or storing a motor vehicle and separated from the principal structure on the lot.

DNR COMMISSIONER. The Commissioner of the Department of Natural Resources of the State of Minnesota. (Shoreland CH 12)

DOG KENNEL. Any premises where ~~more than three~~ four or more dogs over six months of age are kept.

DONATION DROP-OFF CONTAINER. A receptacle designed with a door, slot, or other opening that is intended to accept and store donated items.

DRIVE-THROUGH SERVICE. A building opening, including windows, doors, or mechanical devices, through which occupants of a motor vehicle receive or obtain a product or service.

DRIVEWAY. An improved surface leading from a public street easement or public street right-of-way to a house, garage, or other vehicle storage area, or to a parking lot or parking area.

DWELLING. A building or portion thereof which is designed or used exclusively for human habitation.

DWELLING UNIT. One or more habitable rooms which are occupied, or which are intended or designed to be occupied as a residence by one family, with facilities for living, sleeping, cooking, and dining.

DWELLING UNIT, ACCESSORY (ADU). See "accessory dwelling unit."

DWELLING, ATTACHED. A dwelling which is joined to other dwellings units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall.

DWELLING, DETACHED. A residential building which is entirely surrounded by open space on the same lot.

DWELLING, DUPLEX. A residential building containing two dwelling units where both units share the same base lot.

DWELLING, LIVE-WORK UNIT. A personal residence that is specifically designed and located to allow accessory business use by the occupants of the residence. This may include office and service uses and retail sales of products produced on-site (arts, crafts, etc.).

DWELLING, MULTIPLE-FAMILY. A building or portion thereof containing three or more dwelling units.

DWELLING, SEMI-DETACHED. A dwelling which is joined to another dwelling at one side only by a party wall.

DWELLING, TOWNHOUSE. A group of three or more single-family residences attached one to the other with common sidewalls. These dwellings may be one or more story buildings, but each unit shall be designed and constructed to house single families. The design, construction, or use of multi-story units to house more than one family shall not be permitted.

DWELLING, TWIN HOME. Two separate homes that include a shared wall, but each dwelling unit is separated by a lot line running through the common wall allowing for separate ownership of both the unit and land upon which the unit sits.

EASEMENT, PUBLIC DRAINAGE & UTILITY. A limited ownership interest in land enabling the construction and maintenance of public services and utilities thereon including but not limited to sanitary sewers, water mains, electrical lines, gas lines, telephone lines, cable TV, and storm sewer or storm drainage facilities.

EFFICIENCY UNIT. A dwelling unit in a multiple-residence building providing complete dwelling facilities without a dedicated bedroom or bedrooms.

ENTERTAINMENT, INDOOR COMMERCIAL. An establishment providing completely enclosed recreation or entertainment activities. Accessory uses may include the preparation and serving of food or the sale of equipment related to the enclosed uses. Examples of indoor commercial entertainment businesses include bowling alleys, roller and ice-skating rinks, billiards halls, swimming pools, motion picture theaters, and similar amusements. Indoor commercial entertainment uses do not include event centers, firearm related uses, or adult uses.

ENTERTAINMENT, OUTDOOR COMMERCIAL. An establishment providing recreation or entertainment activities primarily occurring outdoors. Accessory uses may include the preparation and serving of food, the sale of equipment related to the outdoor uses, and complementary indoor entertainment facilities. Examples of outdoor commercial entertainment businesses include, but are not limited to, golf driving ranges, sand volleyball courts, go-carts, and miniature golf courses. Outdoor commercial entertainment uses do not include projectile weapon ranges (archery or firearm related uses), sports stadiums, or drive-in movie theaters.

EQUAL DEGREE OF ENCROACHMENT. A method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

ESSENTIAL SERVICES. Overhead or underground electrical, gas, steam or water transmission or distribution systems and structures for collection, communication, supply or disposal systems; and structures used by public or private utilities or governmental departments or commissions, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants or other similar equipment and accessories used in conjunction therewith.

EVENT CENTER. A multi-purpose commercial venue (public or privately owned) used for the purposes of performances, trade shows, corporate functions, sporting events, private receptions or parties, holiday gatherings, or similar attractions.

(A) Common characteristics of event centers, which differentiate such uses from places of public assembly, often include but are not limited to, the following:

(1) Varied or irregular activity schedules.

(2) The display or sale of retail commercial goods.

(3) The generation of high traffic volumes at varied time periods.

(4) Commercial activities and uses in coordination with the events.

(5) Locations in commercial districts.

(6) Alcohol service as licensed.

(B) Accessory uses may include food preparation facilities, concessions, offices, museums, parks, athletic training or practice facilities, stores, restaurants, structured parking facilities, and patron transportation facilities. Event centers do not include adult uses or places of public assembly.

EXTRACTION OF MATERIALS. The development or extraction of a natural resource from its natural occurrences on affected land without processing.

FAMILY. An individual; or two or more persons each related by blood, marriage or adoption, living together as a single housekeeping unit; or a group of not more than four persons not so related, maintaining a single housekeeping unit.

FARMERS MARKET. An occasional or periodic market held in an open area or in a structure where groups of individual sellers offer for sale to the public items such as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages (but not to include second-hand goods) dispensed from booths located on-site.

FENCE. A tangible barrier constructed of any allowable material erected to enclose, screen, or separate areas.

FINANCIAL INSTITUTION. An establishment that provides retail banking services, mortgage lending, or similar financial services to individuals and businesses. Financial institutions include those establishments engaged in the on-site circulation of cash money and check-cashing facilities but shall not include bail bond brokers. Financial institutions may also provide automated teller machine (ATM) services, located within a fully enclosed space or building, along an exterior building wall intended to serve walk-up customers only, or in a City authorized drive through lane.

FIREARM RELATED USE. A use operated by a private person or entity that involves the discharge of a firearm, including but not limited to shooting galleries, firing ranges, and fire-arms safety training centers.

FLAG. Any fabric, bunting, or other lightweight material that is secured or mounted so as to allow movement caused by the atmosphere.

FLOOD. A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

FLOOD FREQUENCY. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

FLOOD FRINGE. The portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for the City.

FLOOD PRONE AREA. Any land susceptible to being inundated by water from any source (see "Flood").

FLOODPLAIN. The beds proper and the areas adjoining a wetland, lake, or watercourse which have been or hereafter may be covered by the regional flood.

FLOODPROOFING. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damage.

FLOODWAY. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

FUNERAL SERVICES. An establishment that provides human funeral services, including embalming and memorial services. Crematories are accessory uses to a funeral home. Mortuaries are included in the definition of "funeral services."

GARAGE, PRIVATE. An accessory building of the type historically used for storage of self-propelled vehicles and tools and equipment maintained as incidental to a conforming use of the premises.

GAS (SERVICE) STATION. A place where gasoline, kerosene, or any other motor fuel, lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles.

GENERAL DEVELOPMENT LAKES. Lakes that have more than 225 acres of water per mile of shoreline and 25 dwellings per mile of shoreline, and are more than 15 feet deep. (Shoreland CH 12)

GENERAL WAREHOUSING. The storage or distribution of goods where there is no sale of items to the general public.

GREEN AREA. A mandatory reservation of open space for the common use of the tenants on any lot or plot on which a multiple-family dwelling will be constructed. The amount of space to be reserved as green area shall be determined in proportion to the number and kinds of dwelling units to be constructed. The green area may be left in its natural state, may be seeded, landscaped with approval plantings, or developed for outdoor recreational purposes where such is stated and approved on the site plan.

GREENHOUSE/CONSERVATORY. A structure, primarily of glass, in which temperature and humidity can be controlled for the cultivation or protection of plants.

GROUP RESIDENTIAL FACILITY, SINGLE FAMILY: A state-licensed facility, public or private, which regularly provides a planned combination of living conditions, services, and resources for the treatment, rehabilitation, training, supervision, or care of persons residing on the premises which falls into one of the following categories: 1) a state licensed residential facility serving six or fewer persons; 2) registered housing with services establishment serving six or fewer persons; 3) a licensed day care facility serving 12 or fewer persons, or 4) a group family day care facility licensed to serve 14 or fewer children. This term does not include any type of residential or non-residential facility for persons convicted of crimes, or for persons accused of crimes who are diverted to the facility before conviction; nor does it include 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.

GROUP RESIDENTIAL FACILITY, MULTIFAMILY: A state-licensed facility, public or private, which regularly provides a planned combination of living conditions, services, and resources for the treatment, rehabilitation, training, supervision, or care of persons residing on the premises which falls into one of the following categories: 1) a state licensed residential facility serving between seven and sixteen persons, or 2) a licensed day care facility serving between thirteen and sixteen persons. This term does not include any type of residential or non-residential facility for persons convicted of crimes, or for persons accused of crimes who are diverted to the facility before conviction; nor does it include 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.

HARDCOVER (see IMPERVIOUS SURFACE)

HAZARDOUS MATERIALS. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

HELIPAD. A facility without the logistical support provided by a heliport where helicopters take off and land. Helipads do not include facilities for maintenance, repair, fueling, or storage of helicopters.

HOME OCCUPATION. An occupation carried on in a dwelling unit by the resident thereof; provided that the use is limited in extent and incidental and secondary to the use of the dwelling unit for residential purposes and does not change the character thereof.

HOSPITAL. A facility providing medical, psychiatric, or surgical services for sick or injured persons primarily on an inpatient basis, including ancillary facilities for outpatient and emergency treatment, diagnostic services, training, research, and administration, and services to patients, employees, or visitors.

HOTEL. See “Commercial Lodging”

IMPERVIOUS SURFACE (HARD COVER). A constructed hard surface that either prevents or retards the entry of water into the soil, and causes water to run off the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads. (Shoreland CH 12)

INCIDENTAL LIGHT MANUFACTURING. A manufacturing or assembly process typically associated with a permitted use that does not have negative impacts on adjacent property owners, building tenants, or civic institutions.

INDUSTRIAL SERVICES (GENERAL). Businesses that are engaged in the repair or servicing of industrial, business, or consumer machinery, equipment, products, or by-products; or providing other related services primarily for businesses. Industrial service firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Includes firms such as contractor yards and building maintenance services and similar establishments engaged in performance of services off-site. Few customers, especially the general public, come to the site. Accessory activities may include retail sales, offices, parking, and storage.

INTENSIVE VEGETATION CLEARING. The complete removal of trees or shrubs in a contiguous patch, strip, row, or block. (Shoreland CH 12)

INTERIM USE. A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

INFILTRATION. The downward entry of water into the surface of the soil through plants that are able to adequately produce evapotranspiration.

KENNEL. A facility or service where dogs, cats, or other small household pets as permitted by city code are kept or maintained (day or overnight), for the care, training, exercising and/or socializing by a person other than the owner of the animals for a fee. Kennels may include incidental grooming, dog walkers, or training services. Kennel does not include facilities that provide breeding of animals, selling of animals, or facilities whose primary source of revenue is licensed veterinarian services.

LANDSCAPING. The finishing and adornment of unpaved yard areas. Materials and treatment generally include naturally growing elements such as grass, trees, shrubs, and flowers. This treatment may also include the use of logs, rocks, water features, fences, walls, and contouring of the earth.

LANDSCAPING/NURSERY BUSINESS. A retail business devoted to the growth, display, or sale of plants, shrubs, trees; or landscaping materials and services.

LANDSCAPING PLAN. A plan which outlines, in detail, the proposed landscaping scheme for a property or a particular area.

LOADING SPACE. A space which is accessible from a street, alley, railroad, or right-of-way, in a building or on a lot, for the use of trucks while loading and unloading merchandise or materials.

LODGING ROOM. A room rented as sleeping and living quarters without cooking facilities. In a suite of rooms, without cooking facilities, each room which provides sleeping accommodations shall be counted as one lodging room.

LOT. The basic unit of land into which land is divided for uses. An area with fixed boundary lines, not including easements for publicly dedicated or accepted rights-of-way.

LOT TYPES [see Section 8.2(B)]

LOT OF RECORD. A parcel of land, the dimensions of which are shown on a document or map on file with the county recorder or registrar of titles or in common use by state, municipal, or county officials, and that actually exists as shown.

LOWER-POTENCY HEMP EDIBLE RETAILER. A business with a lower-potency hemp edible retailer license from the Office of Cannabis Management.

LOWER-POTENCY HEMP EDIBLE MANUFACTURER. A business with a lower-potency hemp edible manufacturer license from the Office of Cannabis Management.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including the 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.

LUMINANCE. The measure of the light emanating from an object with respect to its size and is the term used to quantify electronic sign brightness.

MACHINERY/TRUCK REPAIR. A business that performs mechanical, electrical, structural, or cosmetic repairs to trucks and heavy equipment. Allowed services under a conditional use permit may include but are not necessarily limited to: tune ups and adjustments; replacement of parts; rebuilding of parts or components when installation is available; body repair, collision service, and painting; frame straightening and repair; steam cleaning or sandblasting; undercoating and rust proofing; radiator repair; tire repair; wheel alignment and balancing; and washing, cleaning, and polishing.

MANAGED NATURAL LANDSCAPE. A planned, intentional, and maintained planting of native or nonnative grasses, wildflowers, forbs, ferns, shrubs, or trees, including but not limited to rain gardens, meadow vegetation, and ornamental plants. Managed natural landscape does not include turf-grass lawns left unattended for the purpose of returning to a natural state.

MANUFACTURED (MOBILE) HOME. A structure transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in it, and which complies with the Manufactured Home Building Code as defined by Minnesota Statutes Section 327.31, subdivision 3, as it may be amended from time to time.

MANUFACTURED HOME COMMUNITY. A contiguous parcel of land which has been developed for the placement of manufactured homes and is owned by an individual, firm, trust, partnership, public or private association, or corporation.

MANUFACTURED HOME PARK, BASE LOT. A contiguous parcel of land which has been developed for the placement of two or more manufactured homes and is owned by an individual, firm, trust, partnership, public or private association, company, or corporation.

MANUFACTURED HOME PARK, UNIT AREA. A section of ground in a manufactured home park of not less than 3,600 square feet of unoccupied space in an area designated as the location for one manufactured home, off-street parking space for one automobile, and other uses considered pertinent to the establishment and use of a manufactured home residence as permitted by this Zoning Code.

MANUFACTURED HOME'S PERIMETER. Means the entirety of the manufactured home, tiny home, mobile home, or similar dwelling unit plus any accessory structures directly serving the dwelling including decks or porches regardless of whether they are permanently attached to the dwelling. Sheds separated from the dwelling as required by the building code and fences shall not be included in a manufactured home's perimeter

MANUFACTURING, HEAVY. The manufacturing of products from raw or unprocessed materials, where the finished product may be combustible or explosive. This category shall also include any establishment or facility using large unscreened outdoor structures such as conveyor belt systems, cooling towers, cranes, storage silos, or similar equipment that cannot be integrated into the building design, or engaging in large-scale outdoor storage. Any industrial use that generates noise, odor, vibration, illumination, or particulate that may be offensive or obnoxious to adjacent land uses, or requires a significant amount of on-site hazardous chemical storage, shall be classified under this land use.

MANUFACTURING, LIGHT. The mechanical transformation of predominantly previously prepared materials into new products, including assembly of component parts and the creation of products for sale to the wholesale or retail markets or directly to consumers. Such uses are wholly confined within an enclosed building, do not include processing of hazardous gases and chemicals, and do not emit noxious noise, smoke, vapors, fumes, dust, glare, odor, or vibration.

MAYOR. The currently elected Mayor of the City of New Brighton

MICRO-DISTILLERY. A distillery that produces 40,000 proof gallons of liquor or less annually.

MOBILE FOOD UNIT. A food and beverage service establishment that is a vehicle mounted unit, either motorized or trailered, and readily movable, without disassembling, for transport to another location.

MOTEL. See definition of "Commercial Lodging"

MOTOR VEHICLE. Any self-propelled vehicle designed primarily for transportation of persons or goods along public streets or alleys, or other public ways.

NATURAL ENVIRONMENT LAKES. Lakes that have less than 150 total acres, less than 60 acres per mile of shoreline, and less than three dwellings per mile of shoreline. They may have some winter kill of fish; may have shallow, swampy shoreline; and are less than 15 feet deep. (Shoreland CH 12)

NEW CONSTRUCTION. Structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of this ordinance as documented in Section 1.4.

NIT. A measure of luminance.

NONCONFORMING USE. The use of a structure, land, or both that was lawfully in existence on the effective date of this Ordinance as documented in Section 1.4, which does not conform to the requirements in this Ordinance and as subsequently amended.

NOXIOUS MATTER. Material which is capable of causing injury, is in any way harmful to living organisms, or is capable of causing detrimental effects upon the health, the psychological, social, or economic well-being of human beings.

NURSING HOME (CONVALESCENT/REST HOME). A facility that provides nursing services and custodial care generally on a 24-hour basis for two or more unrelated individuals who for reasons of illness, physical infirmity, or advanced age, require such services; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

OBSTRUCTION. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, 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.

OFFICE USE. An establishment primarily engaged in providing professional, financial, administrative, clerical, and similar services.

ONE HUNDRED YEAR FLOODPLAIN. Lands inundated by the "Regional Flood." (see "regional flood" definition).

OPACITY. The measurement of the screening effectiveness of landscaping, a fence or wall, expressed as the percent of vision the screen blocks.

ORDINARY HIGH WATER LEVEL (OHWL). The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. (Shoreland CH 12)

OUTDOOR STORAGE. Exterior depository, stockpiling, or safekeeping of all merchandise, materials, supplies, products (finished or unfinished), equipment, vehicles or trailers, or the like.

PARCEL. See definition for "lot."

PARK FACILITY, ACTIVE. A park or recreation facility that includes one or more of the following: buildings, lighting, ball field, tennis court, swimming pool, skate park, golf course, or other facilities or equipment encouraging activities. Active park facilities will commonly include benches, picnic areas, trails, sidewalks, and other similar features.

PARK FACILITY, PASSIVE. A park or recreational facility that does not include the construction of facilities, lighting, or development of ball fields or other active sports facilities. Passive parks may include benches, picnic areas, trails, and sidewalks.

PARKING LOT. A paved area outside of the public right-of-way where motor vehicles may be parked.

PARKING SPACE. An area exclusive of access drives, aisles, or ramps; to be used exclusively as a temporary storage space for a private motor vehicle.

PASSENGER TERMINAL. A place that receives and discharges passengers which generally includes facilities and equipment required for the operation. Examples include terminals for bus, taxi, railroad, shuttle van, train, or other similar vehicular services. This definition does not include bus stops or similar transfer points for passengers at which no facilities (excluding a bench or shelter) are provided.

PERMITTED USE. A use authorized by right, but which may be subject to restrictions as outlined in this ordinance.

PERSON. Any individual, firm, partnership, corporation, company, association, joint stock association, or other legal entity or body politic including any trustee, receiver, assignee, or other similar representative thereof.

PERSON, ELDERLY. A person who is at least 55 years of age.

PERSONAL/PROFESSIONAL SERVICES: Establishments that primarily engage in providing services generally involving the care of a person, service for a person, care of a person's possessions, or provision of professional services. Personal/Professional services may include but are not limited to accountant, advertising agency, architect, appraiser, artist, attorney, barber shops, beauty salons, bonding agency, broker, chiropractors, engineer, finance agency, health and fitness studios, informational and instructional services, insurance agency, investment agency, laundry services, mortgage agency, music schools, office business machine agency, physician/psychiatrist office, portrait studios, realtor, secretarial agency, shopping service, tanning salons, and travel agency. This definition does not include the shipping or warehousing of another person's possessions.

PERVIOUS SURFACE. A surface material that allows runoff to pass through it to the soil below.

PET SHOP. A retail sales establishment primarily involved in the sale of domestic animals, such as dogs, cats, fish, birds, and reptiles, excluding exotic animals and farm animals such as horses, goats, sheep, and poultry.

PLACE OF PUBLIC ASSEMBLY: An institution or facility that congregations of people regularly attend to participate in or hold meetings, workshops, lectures, civic activities, religious services, and other similar activities, including buildings in which such functions and activities are held, but not including event centers or adult uses.

PLANNED UNIT DEVELOPMENT (PUD). A tract of land developed as a unit under single ownership or unified control, which includes one or more principal buildings or uses, and is processed under the planned unit development provisions of this ordinance. Design flexibility from traditional siting regulations (such as side yards, setbacks, and height limitations) or land-use restrictions (such as prohibitions against mixing land uses within a development) are typical. Greater flexibility in locating buildings and in combining land uses often makes it possible to achieve economics in construction, preservation of open space, or the inclusion of amenities that would not otherwise be possible under standard zoning provisions, thereby providing a tailored pathway for implementation of the City's Comprehensive Plan.

PLAT. The map or plan of a subdivision showing the property boundaries, layout, dimensions, and legal descriptions of all lots, blocks, and rights-of-way.

POLLUTANT. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coli form and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PREMISES. A lot, together with all buildings and structures thereon.

PRINCIPAL USE OR STRUCTURE. All uses or structures that are not accessory uses or structures. (kept floodplain definition and deleted Ch 2 definition)

PRIVATE AMATEUR RADIO. Equipment, including antennas, antenna support structures, and other related material, necessary to conduct Ham and Short Wave Radio reception and transmissions, only for use by those persons properly licensed by the Federal Communications Commission for such reception and transmissions, and who are in full compliance with all licensing requirements.

PRIVATE RECEIVING ANTENNAS. Television and other electronic reception antennas for private use.

PRODUCTION BREWERY. A facility that manufactures, processes and warehouses beer for wholesale distribution in off-sale packages to retail liquor establishments and may retail beer product for on-site consumption in a taproom or for off-site consumption as growlers.

PUBLIC BUILDING OR USE. Any facility, including but not limited to buildings and property that are leased or otherwise operated or funded by a governmental body or public entity.

PUBLIC WATERS. Any waters as "public waters" or "public water wetlands" as defined in Minnesota Statutes, Section 103G.005, subdivisions 15(a) and 15a. (Shoreland CH 12)

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

RECREATIONAL EQUIPMENT. Equipment, temporary or permanent, such as private playground equipment, tennis or other play courts, skating rinks, play areas, and other similar uses incidental to principal use of a residential district used for the recreational enjoyment and entertainment of the principal use's occupant or their guests.

RECREATIONAL VEHICLE. Any building, structure, or vehicle designed or used for living or sleeping or recreational purposes and equipped with wheels to facilitate movement from place to place. Recreational vehicles also include automobiles that are used for living or sleeping purposes and include pick-up coaches (campers), motorized homes, boats, travel trailers, and camping trailers not meeting the definition of a manufactured home or mobile home.

RECREATIONAL VEHICLE CAMP SITE. A lot or parcel of land occupied or intended for occupancy by recreational vehicles for travel, recreational, or vacation usage for short periods of stay.

RECYCLING AND SALVAGE CENTER. A facility engaged solely in the storage, processing, resale, or reuse of recyclable and recovered materials.

REGIONAL FLOOD. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the one percent chance or 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.

REGULATORY FLOOD PROTECTION ELEVATION (RFPE). The regulatory flood protection elevation shall be an elevation no lower one foot above the regional flood elevation plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

REMODELING. Any maintenance, repair, alteration or addition to all or any portion of a building or structure.

REPAIR ESTABLISHMENT. An establishment primarily engaged in the provision of repair services including but not limited to things such as TV's, bicycles, clocks, watches, shoes, guns, canvas products, appliances, and office equipment; including, but not limited to, tailors; locksmiths; and upholsterers.

RESTAURANT. An establishment where meals or prepared food, including beverages and confections, are served to customers for consumption on or off the premises. Such a facility may include indoor and outdoor seating or drive through services if allowed by underlying zoning.

RESEARCH LABORATORY. Buildings or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

RETAIL COMMERCIAL USE. A commercial enterprise that provides goods or services directly to the consumer, where such goods are generally available for immediate purchase and removal from the premises by the purchaser. Retail businesses may arrange for delivery of a good rather than deliver the good concurrent with the transaction, or may accept payment or orders electronically in advance, for delivery of the good or service at a later date. Retail commercial uses do not include those business engaged primarily in delivery of goods for further treatment or finishing (light industrial), the sale of goods to businesses for subsequent resale (wholesalers), the sale of goods from moveable motorized vehicles, or medical clinics. Where the zoning ordinance establishes a separate class of use for a specific business, such business shall be subject to the specific regulations applicable to such use. Retail commercial uses may include accessory warehousing space to maintain an inventory of goods for sale.

SACRED SETTLEMENT. A grouping of tiny homes on religious property dedicated to housing chronically homeless individuals or extremely low-income individuals, alongside units occupied by designated volunteers.

(A) An individual who meets the definition of being chronically homeless is someone who is unhoused and lives or resides in a place not meant for human habitation, a safe haven, or in an emergency shelter for at least one year, or on at least four separate occasions in the last three years.

(B) An individual who meets the definition of being extremely low income has an income that is equal to or less than 30 percent of the area median income, adjusted for family size, as estimated by the Department of Housing and Urban Development.

(C) A designated volunteer is an individual who has not experienced homelessness and is approved by the religious institution to live in the sacred settlement as their sole form of housing.

SCHOOL, HIGHER EDUCATION. A public or private non-profit institution for post-secondary education or a public or private school offering vocational or trade instruction to students. Such educational institutions operate in buildings or structures on land leased or owned by the educational institution for administrative purposes. Such uses include classrooms, vocational training (including that of an industrial nature for instructional purposes only), laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.

SCHOOL, PRE-K-12. A public or private school offering general, technical, or alternative instruction at the elementary, middle, or high school level that operates in buildings or structures on land leased or owned by the educational institution for administrative purposes. Such uses include classrooms, vocational training (including that of an industrial nature for instructional purposes only in middle or high schools), laboratories, auditoriums, libraries, cafeterias, after school care, athletic facilities, dormitories, and other facilities that further the educational mission of the institution.

SCREENING. A partition of vegetation or fencing that visually separates land uses or objects of one property from adjacent properties and streets. Screening techniques shall be such that the screening is effective throughout all seasons of the year.

SELF-STORAGE FACILITY. A building or group of buildings that contains equal or varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the storage of residential or commercial customer's goods or wares.

SETBACK. See the definition for "setback line" in Section 8.2(B)(3)(e). (Shoreland CH 12)

SETBACK AREA. The area between the lot line and principal use or accessory use setback.

SETBACK, MINIMUM FRONT. The minimum required distance between the front lot line and the closest point of a principal or accessory structure.

SETBACK, MINIMUM LAKE. The minimum required distance between the Ordinary High Water Level (OHWL) of a lake and the closest point of a principal or accessory structure.

SETBACK, MINIMUM REAR. The minimum required distance between the rear lot line and the closest point of a principal or accessory structure.

SETBACK, MINIMUM SIDE. The minimum required distance between a side lot line and the closest point of a principal or accessory structure.

SHELTER, STORM OR FALLOUT. A building or portion of a building designated for use during major storm events or from radioactive fallout after a nuclear explosion.

SHOPPING CENTER. A premises planned and developed as a unit, with an undivided or nonsegregated parking area that is advertised as a center and has multiple occupancy. [9-041(1)(b)]

SHORE IMPACT ZONE. The land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback. (Shoreland CH 12)

SHORELAND. Land located within 1,000 feet from the normal high water level of a lake, pond, or flowage and land within 300 feet of a river or stream. (Shoreland CH 12)

SHORT TERM RENTAL. A dwelling unit or portion of a dwelling unit rented for a period of 14 consecutive days or less.

SIGN. A name, identification, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure, or land in view of the general public and which directs attention to a product, place, activity, purpose, institution, or business.

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 a sign is located.

SIGN, ANIMATION. A sign that displays a collection of static images joined together and shown consecutively so that they appear to move.

SIGN AREA. A measurement of the area (size/square footage) within the frame of the sign, excluding any structural elements outside the limits of such sign and not forming an integral part of the display. When letters or graphics are mounted directly on a wall, canopy, or awning without a frame, the calculation of the sign's area shall be the smallest rectangle which encloses the sign message or logo. Each surface utilized to display a message or to attract attention must be measured as a separate sign. Symbols, flags, pictures, wording, figures, or other forms of graphics painted on or attached to windows, walls, awnings, free-standing structures, suspended by balloons, or kites or on persons, animals, or vehicles are considered a sign and are included in calculating total sign area.

SIGN, AWNING: A building sign or graphic printed on or in some fashion attached directly to the awning material.

SIGN, BILLBOARD. A free-standing sign that directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where the sign is located or to which it is affixed, or a structure designed to display or support such a sign.

SIGN, BUSINESS. A sign which directs attention to a business or profession or a commodity, service or entertainment sold or offered upon the premises where such a sign is located.

SIGN, DRIVE THROUGH. A type of sign that allows customers to access a service without leaving their vehicles. It typically indicates the location of a drive-through window or entrance, guiding drivers to the designated area for quick service, such as fast food or banking. Drive-thru signs are often illuminated to ensure visibility and are commonly used in businesses that offer take-out services.

SIGN, DYNAMIC. A sign that exhibits any characteristics of 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.

SIGN, ELECTRIC. Any sign containing electrical wiring, and/or is defined as dynamic, but not including signs illuminated by an exterior light source.

SIGN, FLASHING/SHIMMERING: A directly or indirectly illuminated sign or portion thereof that exhibits changing light or color effect by any means, so as to provide intermittent illumination that changes light intensity in sudden or slow transitory bursts, and creates the illusion of intermittent flashing or wavering light by streaming, graphic bursts showing movement, or any mode of lighting which resembles zooming, twinkling, or sparkling.

SIGN, FREESTANDING: Any sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.

SIGN, FREEWAY. Any sign which is oriented in such a way as to primarily display its contents to persons traveling on interstate highway I-35W and I-694 and Trunk Highway 88.

SIGN, GROUND. Any stationary sign placed upon the ground and not attached to a building, excluding billboards.

SIGN, MANUAL CHANGEABLE COPY. A sign or portion thereof on which numerals or letters can be changed or rearranged manually without altering the face or surface of the sign.
SIGN, NONCOMMERCIAL. A sign that does not advertise products, goods, businesses, or services.

SIGN, NONCONFORMING SIGN. Any sign or combination of signs that were lawfully established and that do not comply with all applicable provisions of this Ordinance.

SIGN, OFFICIAL: Signs of a public noncommercial nature including public notification signs, safety signs, traffic signs, direction to public facilities when erected by or on behalf of a public official or employee in the performance of official duty, or the like.

SIGN, OFF PREMISES: A commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same lot where such sign is located.

SIGN, PORTABLE. A mobile advertising device that is capable of being transported from one location to another and that is not permanently attached to the ground, a sign structure, or a building.

SIGN, PROJECTING. A sign attached to a building and projecting more than eighteen inches.

SIGN, ROOF. A sign, any portion of which is displayed above the peak of the roof-line or beyond the outline of the building or roof as viewed from the front of the sign.

SIGN, ROTATING/MOVING/SPINNING. Any sign that is animated or revolving, up and down or sideways, mechanically or otherwise.

SIGN, SIDEWALK (SANDWICH BOARD). A sign consisting of two boards connected at the top, displaying a front and back, and used to display speech that directs attention to a business, commodity, service or entertainment.

SIGN, TEMPORARY. A sign which is allowed to be utilized for a limited period of time.

SIGN, WALL. A sign painted or affixed to any exterior wall of a building that is projecting no more than eighteen inches.

WINDOW SIGN, PERMANENT. A sign placed in or on a window that is visible from a public right-of- way and that is more or less permanently attached in such a manner that it is clearly intended to be left in place for a period of more than thirty days.

WINDOW SIGN, TEMPORARY. A sign placed in or on a window that is readily removable and is designed for use for a limited period of time.

SITE, SIGNIFICANT HISTORIC. Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historical Sites, or is determined to be an un-platted cemetery that falls under the provisions of Minnesota Statutes Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All un-platted cemeteries are automatically considered to be significant historic sites.

SOLAR ENERGY SYSTEM. A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

SPECIAL FLOOD HAZARD AREA. A term used for flood insurance purposes synonymous with "One Hundred Year Floodplain."

SPECIALTY EATING ESTABLISHMENTS. Establishments selling specialty food items that normally do not constitute a full meal, including but not limited to ice cream parlors, dessert cafes, snack shops, juice and coffee houses, and bakeries.

STAIRWAY. Steps, including handrails, providing access to a building, a different level of land, or to a lake.

STEEP SLOPE. Lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more that are not bluffs. (Shoreland CH 12)

STORMWATER. Surface water runoff and drainage associated with rain or snowstorm events.

STREET. A public right-of-way or public roadway easement which affords a primary means of access to abutting property.

STRUCTURE. Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, sheds, detached garages, cabins, manufactured homes, non-exempt recreational vehicles, and other similar items.

STRUCTURAL ALTERATION. Any change or addition, other than incidental repairs to the supporting members of a building, such as bearing walls, columns, beams, girders, or foundations, which would prolong the building's life.

STRUCTURE, PRINCIPAL. The predominant structure in which the principal use of the lot is conducted.

SUBDIVISION. A parcel of land divided into smaller parts such as blocks or lots, or a tract of land which is redivided after the first division.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure where the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, 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 structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

(A) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

(B) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure." For the purpose of this ordinance, "historic structure" is as defined in 44 Code of Federal Regulations, Part 59.1.

SWIMMING POOL. See City Code Chapter 27.

TAPROOM. A room that is ancillary to the production of beer at a brewery, microbrewery, or brewpub where the public can purchase or consume alcoholic beverages as licensed and regulated by the City of New Brighton and the State of Minnesota.

TASTING ROOM. A room that is ancillary to the production of spirits by a micro-distillery where the public can purchase or consume the spirits produced by the micro-distillery on site as licensed and regulated by the City of New Brighton and the State of Minnesota.

TELECOMMUNICATIONS ANTENNA. An exterior transmitting or receiving device mounted on a telecommunications tower, a building, utility pole or structure and used in telecommunications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals, or other telecommunications signals (including those exclusively designed to provide Internet services); a device designed to transmit and receive signals as authorized by the FCC.

TELECOMMUNICATIONS CO-LOCATION. The location of transmitting facilities from a number of different service providers together on the same structure or on the same towers or monopoles. This term also includes the use of the same tower or pole for a number of different telecommunications services.

TELECOMMUNICATIONS TOWER. Any structure that is designed and constructed primarily for the purpose of supporting one or more telecommunications antennae for telephone, radio, and similar telecommunications purposes but excluding FCC licensed ham radio operators who reside in the building, including without limitation, self-supporting lattice tower, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular towers, alternative tower structures, and similar facilities. The term includes the structure and support facilities accessory to the telecommunications tower.

TELECOMMUNICATIONS TOWER AND ANTENNA HEIGHT. The vertical distance measured from the existing average elevation within a 50 foot radius of the base of the proposed telecommunications tower, antenna or to the highest point of the tower or antenna; or the distance measured from the ground elevation of an alternative support structure to its highest point including the antenna, whichever is greater.

TEMPORARY TELECOMMUNICATIONS TOWER. Any telecommunications tower constructed and operated in conjunction with emergency operations or temporary testing.

TINY HOUSE. A dwelling that is 400 square feet (37 m2) or less in floor area excluding lofts.

TOWER. Any pole, spire, or structure, or combination thereof, to which an antenna is attached and all supporting lines, cables, wires, braces, and masts.

TRAILER. Any vehicle or structure designed and constructed in such a manner as will permit occupancy thereof as sleeping quarters for one or more persons, or the conduct of any business or profession, and is so designed that it is or may be mounted on wheels or flat-bed trucks and moved on highways or streets propelled on its own or by other motive power. The word "trailer" shall be synonymous with "trailer coach" and "mobile home."

TRUCK OR FREIGHT TERMINAL. A use where buses, trucks, and cargo are stored; where loading and unloading may be carried on regularly; and where minor maintenance of these types of vehicles is performed. This use includes warehousing and distribution which entails transfer of goods and materials from trucks to a building, where the primary use is the storage of trucks and distribution and vice versa, and may or may not involve repackaging of such goods for transfer. Such use may also entail transfer of full trailers from one truck to another.

USE. The purpose for which land or premises or a building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

USE, CONFORMING. Any use of land, structure, or combination thereof which is in compliance with all applicable portions of the Zoning Code.

USE, DISCONTINUED. A use shall be considered discontinued when the premises are not regularly occupied or when the characteristic equipment and furnishings of such use have been removed from the premises.

USES, NONCONFORMING. Any use of land, structure, or combination thereof which was lawfully established and which does not comply with all applicable portions of the Zoning Code.

UTILITIES - MAJOR. Major utilities shall include the following:

(A) Public infrastructure services providing regional or community-wide service that have regular employees on site during common working hours, and entail the construction of new buildings or structures such as waste treatment plants, potable water treatment plants, and solid waste facilities.

(B) Commercial wind energy conversion systems (public or private).

(C) Commercial solar installations.

(D) Electrical substations.

(E) Gas pipelines and related infrastructure.

VARIANCE. A modification or variation of the provisions of this zoning code as applied to a specific piece of property.

VEHICLE FUEL SALES. Establishments engaged in retail sales of vehicle fuels for personal vehicles, but not including fleet fueling facilities and truck stops which will be treated as truck terminals. The establishment may dispense conventional vehicle fuels or alternative vehicle fuels. Vehicle fuel sales businesses may offer minor automobile repair, retail sales of packaged foods, prepared foods and other convenience goods for station customers, as accessory and incidental to principal operation; and the provision of restroom facilities, but not including showers.

VEHICLE SALES OR RENTAL. Establishments primarily engaged in the retail sale of new and used (in operating condition) automobiles, noncommercial trucks, motor homes, or recreational vehicles; including incidental storage, maintenance, and servicing.

VETERINARY FACILITY. An establishment for licensed practitioners engaged in practicing veterinary medicine, dentistry, or surgery for small household pets only.

WALKWAY. A private surface on a lot; usually made of concrete, brick, pavers, or other masonry materials; intended for use by pedestrians to access specific portions of a lot, or to connect yards around a principal structure.

WALL. A constructed solid barrier of concrete, stone, brick, tile, wood, or similar type of material that closes, marks, or borders a field, yard, or lot, and that limits visibility and restricts the flow of air and light. In the context of signs, all of the exterior surface of a building from ground level to the highest point of the roof.

WALL, RETAINING. Any fence or wall built or designed to retain or restrain lateral forces of soil or other materials, said materials being similar in height to the height of the wall.

WETLAND.

(A) Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this ordinance, wetlands must:

(1) Have a predominance of 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 typically adapted for life in saturated soil conditions; and

(3) Under normal circumstances, support a prevalence of hydrophytic vegetation.

(B) "A wetland" or "the wetland" means a distinct hydrologic feature with characteristics of paragraph A, surrounded by non-wetland and including all contiguous wetland types, except those connected solely by riverine wetlands. "Wetland area" means a portion of a wetland or the wetland.

(C) Wetlands do include public waters wetlands unless reclassified as shoreland by the commissioner of natural resources under Minnesota Statutes Section 103G.201.

(D) The wetland size is the area within its boundary. The boundary must be determined according to the United States Army Corps of Engineers Wetland Delineation Manual (January 1987). The wetland type must be determined according to Wetlands of the United States, (United States Fish and Wildlife Service Circular No. 39, 956 and 1971 editions). Both documents are incorporated by reference under Part 8420.0112 of Minnesota Rules, items A and B. The City may seek the advice of the technical evaluation panel as to the wetland size and type.

WHOLESALE SALES. Establishments or places of business that store or distribute goods in large quantities, principally to other commercial, manufacturing, or industrial businesses (rather than the general public). Wholesale sales does not include contractor's materials or retail sales of business supplies/office equipment.

WIND ENERGY CONVERSION SYSTEM (WECS). An electrical generating facility that consists of a wind turbine, feeder line(s), associated controls, and may include a tower.

YARD. [see Sections 8.2(B)(2) and 8.2(B)(3)(f)]