

ORDINANCE NO. 1711

AN ORDINANCE AMENDING CHAPTER 9 – LAND USE OF THE CITY CODE OF 2005  
TO AMEND 9.101 PURPOSE, 9.103 DEFINITIONS, 9.104 ADMINISTRATION AND ENFORCEMENT, 9.106  
GENERAL DEVELOPMENT STANDARDS, 9.107 SPECIFIC DEVELOPMENT STANDARDS, 9.109 RESIDENTIAL  
DISTRICTS, 9.110 COMMERCIAL DISTRICTS, 9.111 INDUSTRIAL DISTRICTS, 9.113 PLANNED UNIT  
DEVELOPMENT DISTRICTS, 9.114 OVERLAY DISTRICTS, AND 9.115 PUBLIC AND OPEN SPACE DISTRICTS.

The City of Columbia Heights does ordain:

**Section 1**

**The following language for Purpose, Authority, and Jurisdiction is amended as provided in Section 9.101 of the City Code of 2005, and hereby established to read as follows:**

(A) *Title*. This article shall be known, cited and referred to as the Columbia Heights Zoning and Development Ordinance, except as referred to herein, where it shall be known as “this article.”

(B) *Purpose*. The City Council of the City of Columbia Heights, Minnesota, adopts this article to accomplish the following:

(1) Protect the public health, safety, morals, aesthetics, comfort, convenience and general welfare of the community and its people;

(2) Implement the goals and policies included in the city's comprehensive plan, Energy Action Plan, and other guiding documents;

(3) Divide the city into districts restricting and regulating therein the location, construction, reconstruction, alteration and use of structures and land;

(4) Protect the stability and character of residential, commercial, industrial and public areas of the city and promote the orderly development of those areas;

(5) Provide and protect adequate light, air, privacy and convenience of access to property;

(6) Provide a safe and efficient traffic circulation system for all modes of transportation and limit congestion in the public rights-of-way;

(7) Prevent overcrowding of land and undue concentration of structures by regulating the use of land and buildings and the bulk of buildings in relation to the land and buildings surrounding them;

(8) Provide for the compatibility of different land uses and the most appropriate use of land throughout the city;

(9) Provide for the effective administration of this article, including powers and duties of officers and bodies, procedures and standards for land use approvals, and procedures for enforcement;

(10) Establish a continuing system of review of this article to ensure it will be amended to meet the changing needs of the city;

(11) Encourage and strengthen solar development and uses of renewable energy while protecting public health, safety, and welfare of its residents and furthering progress towards specific community goals and plans.

(C) *Authority*. This article is enacted under the authority granted to the City of Columbia Heights by the Municipal Planning Act, M.S. §§ 462.351 to 462.365, as they may be amended from time to time. If those statutes are amended to restrict or enlarge the authority delegated to the city, those amendments shall be incorporated into this article.

(D) *Jurisdiction*. This article governs the use of all land and structures within the corporate limits of the City of Columbia Heights, unless such regulation is specifically pre-empted by state or federal law or regulation.

(E) *Violations*. Any violation of any provision of this article shall be considered a misdemeanor and shall be subject to a fine and/or a jail term under state law plus the cost of prosecution. Each day a violation exists shall constitute a separate violation for the purposes of this section.

## **Section 2**

**The following definitions are amended or added as provided in Section 9.103 of the City Code of 2005, is hereby established to read as follows:**

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*ABANDONMENT*. To discontinue a use or activity for any reason, but excluding temporary interruptions to the use during periods of building or remodeling where a valid building permit has been issued or during periods of routine seasonal closure.

*ACCESSORY BUILDING OR STRUCTURE*. A building or structure or portion of a structure subordinate to and serving the principal structure on the same lot. Solar equipment and renewable energy installations are not considered to be structures.

*ACCESSORY USE*. A use that is reasonably necessary and incidental to the conduct of the primary use of the principal building or buildings.

*ADDITION*. Any change or modification in construction or occupancy of an existing structure. The enclosure of an existing screened porch, deck, roofed deck, patio, or roofed patio shall be considered an addition.

*ADJACENT* or *CONTIGUOUS*. Bordering, touching or adjoining. If two lots are separated by a public street, they shall not be deemed adjacent. If two lots are separated by a public walkway, they shall be deemed adjacent.

*ADULT USE*. Adult uses include adult bookstores, adult motion picture theaters, adult motion picture sales/rental, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse/sauna facilities, adult companionship establishments, adult conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, businesses or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction or description of “specified sexual activities” or “specified anatomical areas” which are capable of being seen by members of the public. Activities classified as obscene as defined by M.S. § 617.241, as it may be amended from time to time, are not included.

*ADULT USE, ACCESSORY*. The offering of retail goods for sale which are classified as adult uses on a limited scale and which are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include the sale of adult magazines, the sale or rental of adult motion pictures, the sale of adult novelties, and the like.

*ADULT USE, PRINCIPAL*. The offering of goods and/or services which are classified as adult uses as a primary or sole activity of a business or establishment and include, but are not limited to adult body painting studios, adult bookstores, adult cabarets, adult companionship establishments, adult conversation parlors, adult health clubs, adult theaters, adult modeling studios, and adult saunas and massage parlors.

*ALLEY*. A public right-of-way or private way that affords a secondary means of access to abutting property.

*ANNEXATION*. The incorporation of a land area into the city with a resulting change to the corporate limits of the city.

*ASSISTED LIVING*. A facility licensed by the MnDOH where individualized home care aide services or home management services are provided to residents either by management or by providers under contract with the management.

**AUTO REDUCTION YARD.** A lot or yard where one or more unlicensed motor vehicles or the remains thereof are kept for the purpose of dismantling, sale of parts, sale as scrap, storage or abandonment.

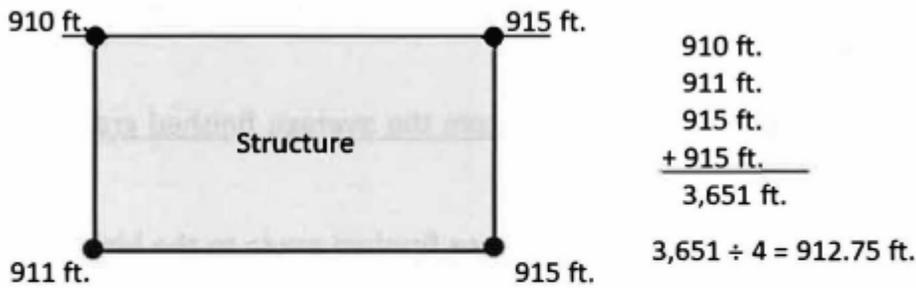
**AUTO AND TRUCK SALES LOT.** Buildings and premises for automobile/truck sales and show rooms with incidental and accessory sales and service facilities also permitted but not required.

**AUTO AND TRUCK SALES LOT, USED.** Any land used or occupied for the purpose of buying and selling secondhand passenger cars or trucks, and the storing of such vehicles prior to sale.

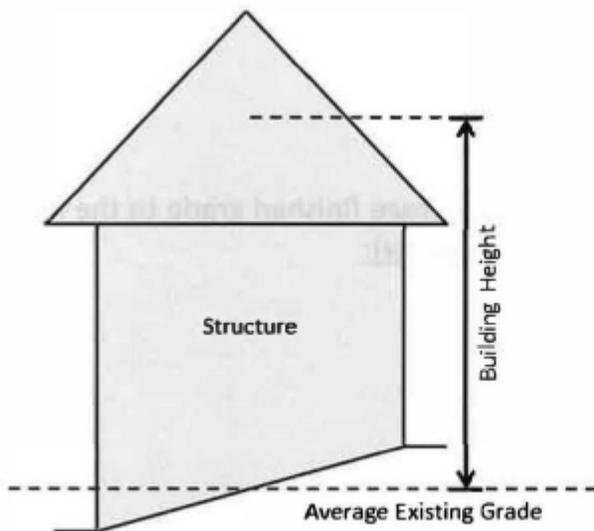
**AUTOMOBILE, USED.** Any secondhand, previously owned passenger vehicle, car, or truck.

**AVERAGE EXISTING GRADE.** The average existing grade is measured as the existing elevation (prior to any construction alterations) at each corner of the structure and calculating an average.

**AVERAGE FINISHED GRADE.** The average finished grade is measured by taking the finished elevation (after any construction alterations) at each corner of the structure and calculating an average; see example images below:



The structure's average existing grade is 912.75 feet



**BANNER, FLAG or PENNANT.** A sign made of a flexible material, such as cloth, paper, or plastic, however and wherever affixed.

**BANQUET HALL.** A building for the purpose of hosting a party, banquet, wedding, reception or other social events.

**BASEMENT.** A portion of a building located partially, up to 50% underground or below grade.

**BAY.** Cantilevered portion of a building.

**BED AND BREAKFAST RESIDENCE.** An owner-occupied, single-family residence that provides lodging and meals to registered guests.

**BEDROOM.** Any room used principally for sleeping purposes and does not contain separate kitchen and sanitary facilities.

**BOARD OF ADJUSTMENTS.** The Columbia Heights Planning Commission.

**BOARDING HOUSE.** A building other than a motel or hotel where, for compensation and by pre-arrangement for definite periods, meals and/or lodgings are provided for three or more persons, but not to exceed eight persons.

**BREW PUB.** A restaurant that conducts the retail of on-sale malt liquor consumed and brewed on the premise.

**BREWER TAPROOM.** A facility on the premises of, or adjacent to, a malt liquor manufacturer intended for on-sale and consumption of malt liquor produced by the brewer.

**BUFFER.** A landscaped area intended to separate and/or partially obstruct the view of adjacent land uses or properties from one another.

**BUILDABLE AREA.** The area of the lot remaining after the minimum yard or setback requirements of this article have been established.

**BUILDING.** Any roofed structure that may provide shelter or enclosure of persons, animals or chattel. Solar equipment and renewable energy installations are not considered to be structures.

**BUILDING LINE.** A line parallel with the street right-of-way, or any property line, at the foundation level of a building and representing the distance which the building is set back from the street right-of-way or other property line.

**BULK REGULATIONS.** Standards and controls that establish the maximum size of structures and the buildable area within which the structure can be located, including height, floor area ratio, gross floor area, lot area, lot coverage, impervious surface area and yard requirements, but excluding residential density regulations.

**BUSINESS.** Any occupation, employment, or enterprise wherein merchandise is exhibited, rented or sold or which occupies time, attention labor and/or materials or where services or goods are offered for compensation.

**BUSINESS FRONTAGE.** The property lines or lease lines at the front of the building or the location of the main public entrance of said building.

**CANOPY, AWNING or MARQUEE.** A projection or extension of a structure, building or place of assembly, erected in such a manner as to provide a shelter or cover over the approach to any entrance of such structure, building, or place of assembly.

**CARPORT.** An automobile shelter having one or more sides open.

**CARWASH.** A building that provides facilities for washing and cleaning motor vehicles, which may use production line methods with a conveyor, blower, or other mechanical devices, and which may employ some hand labor.

**CERTIFICATE OF OCCUPANCY.** A document issued by the Building Official allowing for the occupancy or use of a building, and certifying that the structure or use has been constructed or will be used in compliance with all the applicable codes and ordinances.

**CLINIC, MEDICAL.** A place used for the diagnosis and treatment of sick, ailing, infirm, injured persons, and those persons who are in need of medical attention. Overnight care facilities are not provided at the clinic.

**CLINIC, VETERINARY.** A place used for the diagnosis and treatment of sick or injured animals and those animals in need of medical attention.

**COFFEE SHOP.** An establishment engaged principally in the sale of coffee and other non-alcoholic beverages for consumption on the premises or for carryout, which may also include the sale of a limited number of food items.

**COLOR.** Any hue or combination of values of these. Black and white, shall not be considered colors.

**COMMERCIAL USE.** A use of land, building or structure intended, designed or arranged for a business, occupation, trade, or profession, including entertainment, services or sale of goods.

**COMMUNITY CENTER.** An establishment operated by a non-profit organization or government agency, which includes recreational facilities, meeting rooms, social service facilities, and public health facilities, or any combination thereof.

**Community-scale solar energy system.** A solar photovoltaic system that qualifies for the Community Solar Gardens identified by the State of Minnesota Commerce Department’s Energy and Utilities.

**COMPREHENSIVE PLAN.** The policies, statements, goals and interrelated plans for private and public use of land and water, transportation, and community facilities including recommendations for plan execution, documented texts, ordinances, maps which constitute the guide for the future development of the city.

**CONDITIONAL USE PERMIT.** A permit specially and individually granted by the City Council after public hearing thereon by the Planning Commission for any conditional use so permitted in any use district.

**CONVENIENCE STORE.** A retail establishment, having a maximum gross floor area of 7,500 square feet, offering for sale prepackaged food products, household items and other goods commonly associated with this type of store. This use may also be combined with a motor vehicle service station.

**COUNCIL.** The Columbia Heights City Council.

**CURB.** A stone, asphalt or concrete boundary marking the edge of a roadway or paved area.

**CURB LEVEL.** The grade elevation as established by the city, of the curb in front of the center of the building. Where no curb level has been established, the City Engineer shall determine a curb level or its equivalent for the purpose of this article.

**CURB LINE.** The line at the face of the curb nearest the street or roadway. In the absence of a curb, the curb line shall be established by the City Engineer.

**DAY CARE, ADULT.** A facility that provides care to functionally impaired adults on a regular basis for periods of less than 24 hours in a structure that is not the residence of the person being served or the facility operator.

**DAY CARE, FAMILY.** A facility that provides care, protection and supervision of children in a private residence for periods of less than 24 hours. The size of the outdoor play area, the maximum number of children who may be served, and the number and qualifications of required outside teachers and helpers are set forth in Minnesota Statutes. This use may be licensed by other agencies.

**DAY CARE, GROUP.** A non-residential facility where child care, protection and supervision services are provided on a regular basis for periods of less than 24 hours. A group day care facility may also be referred to as a **NURSERY**.

**DECK, ATTACHED.** A structure six feet or more attached to the main building that may or may not have a railing or access to the ground, but does not have a roof or contain walls.

**DECK, DETACHED.** A free-standing structure that is directly adjacent or attached to the principal building that may or may not have a railing, but does not have a roof or contain walls.

**DENSITY.** The number of dwellings or principal buildings or uses permitted per net acre of land. Net acre of land shall not include any land required for public streets or other rights-of-way.

**DEVELOPMENT.** All structures and other human modifications of the landscape.

**DRINKING ESTABLISHMENT.** Any premise where alcohol or non-alcoholic beverages are sold at retail for consumption on the premises.

**DRIP LINE.** A vertical line extending from the outermost branches of a tree to the ground.

**DRIVE-IN FACILITY.** Any portion of a building from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle. Such use may also be referred to as a drive-through.

**DRIVEWAY.** A private way used by vehicles to gain access to an individual lot or parcel of land. For one- and two-family dwellings, the driveway shall be defined as the length and width of a driving surface that is used to gain access to a private garage.

**DWELLING.** A building or one or more portions thereof occupied or intended to be occupied exclusively by a family, but not including rooms in motels, hotels, nursing homes, boardinghouses, nor trailers, tents, cabins, or trailer coaches.

*DWELLING, ATTACHED.* A dwelling that is joined to another dwelling on one or more sides by a common wall.

*DWELLING, DETACHED.* A dwelling that is surrounded by open space on the same lot.

*DWELLING, MULTIPLE.* A building so designed as to contain three or more dwellings as the principle use.

*DWELLING, TOWNHOUSE.* Attached dwelling units, each with a separate entrance to front and rear yards.

*EASEMENT, UTILITY.* A grant by a property owner for the use of a portion or strip of land for the purposes of constructing and maintaining utilities, including, but not limited to, sanitary sewers, water mains, electric lines, telephone lines, storm sewers or storm drainage ways, and gas lines.

*EMERGENCY SHELTER.* A non-profit, charitable, or religious organization providing boarding and/or lodging and ancillary services on the premises primarily to indigent, needy, homeless or transient persons.

*EQUAL DEGREE OF ENCROACHMENT.* A method of determining the location of encroachment lines so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows. This is determined by considering the effect of encroachment on the hydraulic efficiency of the flood plain along both sides of a stream for a significant reach.

*ESSENTIAL SERVICE.* Underground or overhead gas, electrical, steam, or water distribution systems; collection, communication, supply or disposal systems including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants or other similar equipment and accessories in conjunction therewith; but not including telecommunication towers.

*FACADE.* The exterior wall of a building exposed to public view.

*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 common household and using common cooking and kitchen facilities.

*FENCE.* A fence is any partition, structure, wall or gate erected as a dividing marker along property lines or within the required yard.

*FILLING.* The placement of sand, gravel, earth or other materials of any composition on a parcel of land.

*FIREARM.* Any device, designed to be used as a weapon, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive or other form of combustion, but excluding a stud or nail gun used in the construction industry or a toy gun.

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

*FLOOD FREQUENCY.* The average frequency, statistically determined, for which it is expected that a specific flood state or discharge may be equaled or exceeded.

*FLOOD FRINGE.* That portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term floodway fringe used in the Flood Insurance Study.

*FLOOD PLAIN.* The areas adjoining a watercourse that have been or hereafter may be covered by the regional flood.

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

*FLOODWAY.* The channel of the watercourse and those portions of the adjoining flood plain that is reasonably required to carry and discharge the regional flood.

*FLOOR AREA, GROSS.* The sum of the gross horizontal areas of the several floors measured to the outside of exterior walls.

*FLOOR AREA, NET.* The sum of the gross horizontal areas of the several floors of a building including interior balconies, mezzanines and basements, but excepting that area primarily devoted to window display, fitting rooms, stairs, escalators, unenclosed porches, dead storage, heating and utility rooms, inside off-street parking or loading space. Measurements shall be made from the outside of exterior walls.

*FLOOR AREA RATIO.* The numerical value obtained through dividing the gross floor area of a building or buildings by the lot area on which such building or buildings are located.

**FRONTAGE.** The distance for which a lot line coincides with the right-of-way line of a public street or the boundary of a private street.

**FUNERAL HOME.** A building or part of a building thereof used for human funeral services. Such building may contain space and facilities for embalming and other services used to prepare the dead for burial, performance of autopsies, storage of caskets, funeral urns and other related funeral supplies and the storage of other funeral supplies, but excluding crematoriums.

**GARAGE, PRIVATE.** A detached accessory building or portion of principal building, including a carport, which is used primarily for storing passenger vehicles, trailers or one truck of a rate capacity not in excess of 9,000 pounds.

**GARAGE SALE.** Any display of used goods and/or salesmen samples and sale of said goods on a property used primarily as a dwelling. The person conducting the sale shall be a member of the family occupying the dwelling.

**GLARE, DIRECT.** That part of the visible light reaching an observer directly in a straight line from the source of its principal diffuser and/or its associated focusing reflector.

**GLARE, INDIRECT.** Light described in the definition for direct glare, but reaching an observer by reflection from a surface or surfaced which either:

- (1) Move periodically under power of the wind, electricity, burning fossil fuel, or similar energy source; or
- (2) Reflect 70% or more of the light incident upon them; or
- (3) Produce by imaging the effect of the conditions of subdivision (a) above.

**GRADE.** The elevation or level of the street closest to the building, structure or sign to which reference is made, measured at the street's centerline.

**GRAPHICS.** An illustration or rendering which is not for an advertising purpose and which is applied directly to a building or structure.

**GRID-CONNECTED SOLAR ENERGY SYSTEM.** A solar photovoltaic system that is connected to an electric circuit served by an electric utility company.

**Ground-mounted solar energy system (Accessory Use):** A solar photovoltaic system mounted on a rack or pole that is ballasted on, or is attached to, the ground and the system is accessory to the primary use.

**Ground-mounted solar energy system (Primary Use):** A solar photovoltaic system mounted on a rack or pole that is ballasted on, or is attached to, the ground and is the primary land use for the parcel(s) on which it is located. Primary use systems are permitted through a discretionary approval process.

**HEIGHT, BUILDING.** Building height is measured as the distance from the average finished grade to the tallest point of a flat roof; or the peak of a pitched or mansard roof; or the highest point on all other roof types.

**HEIGHT, SIGN.** Sign height is measured as the distance from the average existing grade to the tallest point on the structure or sign, whichever is taller. For pylon signs, the average existing grade is taken from the elevation where the pole meets the existing grade.

**HEIGHT, STRUCTURE.** Structure height is measured as the distance from the average finished grade to the tallest point on the structure.

**HOME OCCUPATION.** Any gainful occupation or profession engaged in by an occupant of a dwelling unit. Such use must be clearly incidental and secondary to the principal use of the dwelling for residential purposes and shall not change the residential character of the dwelling or have an adverse effect on adjacent properties nor constitute a nuisance or safety hazard.

**HOTEL.** A building containing eight or more guest rooms in which lodging is provided with or without meals for compensation and which is open to transient, permanent guests or both, and where no provision is made for cooking in any guest room, and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge.

**IMPERVIOUS SERVICE.** A surface that is occupied by buildings or structures, or has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

**INDUSTRIAL USE.** The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities or other wholesale items.

**JUNK YARD.** An area where used, waste, discarded or salvaged materials are bought, sold, exchanged, stored baled, cleaned, packed, disassembled or handled including but not limited to scrap, iron, and other metals, paper, rags, rubber products, bottles and lumber. Storage of such material in conjunction with a permitted manufacturing process when within an enclosed area or building shall not be included.

**KENNEL.** Any premises where three or more non-caged domestic animals over six months of age are kept, except for an animal hospital, pet shop or veterinary clinic.

**LAND ALTERATION.** Depositing or removing 400 cubic yards or more of material after the effective date of this article so as to modify the existing grade, excluding excavations for the placement of footings or the construction of basements.

**LOT.** A parcel of land occupied or used or intended for occupancy or use by a use permitted in this article, abutting on a public street, and of sufficient size to provide the yard required by this article.

**LOT AREA.** The area of a lot in a horizontal plan bounded by the lot lines, but not including any area occupied by the waters of a duly recorded lake or area which has been dedicated as a public right-of-way.

**LOT AREA PER DWELLING UNIT.** The number of square feet of lot area required per dwelling unit.

**LOT, CORNER.** A lot situated at the junction of, and abutting on two or more intersecting streets or other public rights-of-way, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees.

**LOT DEPTH.** The mean horizontal distance between the front lot line and the rear lot line of a lot.

**LOT, INTERIOR.** A lot other than a corner lot.

**LOT LINE.** A lot line is the property line bounding a lot except that where any portion of a lot extends into the public right-of-way or a proposed public right-of-way shown on a recorded official map, the line of such public right-of-way shall be deemed the lot line.

**LOT LINE, FRONT.** That boundary of a lot that abuts a public street. In the case of a corner lot it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front lot line shall be designated by the owner and filed with the city.

**LOT LINE, REAR.** That boundary of a lot that is opposite the front lot line. If the rear lot line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

**LOT LINE, SIDE.** Any boundary of a lot that is not a front lot line or a rear lot line.

**LOT OF RECORD.** Any lot which is one unit of a plat heretofore or hereafter duly approved and filed, or one unit of an auditor's subdivision or a registered land survey, or a parcel of land not so platted, subdivided or registered for which a deed, auditor's subdivision or registered land survey has been recorded in the office of the Register of Deeds or Registrar of Titles for Anoka County, Minnesota prior to the effective date of this article.

**LOT, SUBSTANDARD.** A lot or parcel of land that has less than the required minimum area or width as established by this article as a buildable parcel.

**LOT, THROUGH.** A lot which has a pair of opposite lot lines abutting two substantially parallel streets, and which is not a corner lot. On a through lot, both street lines shall be front lot lines for applying this article.

**LOT WIDTH.** The minimum horizontal distance between the side lot lines as measured at the median point of the front yard setback line.

**MANUFACTURED HOME.** A manufactured home means a factory-built structure or structures equipped with the necessary service connections and made so as to be readily movable as a unit or units on its or their own running gear and designed to be used as a dwelling unit or units without a permanent foundation. The phrase "without a permanent foundation" indicates that the support system is constructed with the intent that the mobile home placed thereon will be moved from time to time at the convenience of the owner.

**MANUFACTURED HOME PARK.** A parcel of land so designed and improved with utilities, parking pads, walks, access roads, and other facilities to accommodate manufactured homes that are to be used as dwellings and that have received state approval.

**MOTEL.** A building containing eight or more guest rooms in which lodging is provided with or without meals for compensation and which is open to transient, permanent guests or both, and where no provision is made for cooking in any guest room, and in which ingress and egress to and from all rooms is made directly from the outside.

**MOTOR FREIGHT TERMINAL.** A building or area where freight arrives and/or is removed for routing in intra-state or inter-state shipment by motor truck.

**MOTOR FUEL STATION.** A retail place of business engaged primarily in the sale of motor fuels, but may also be engaged in supplying goods and services generally required in the operation and maintenance of motor vehicles.

**MOTOR FUEL STATION, MAJOR.** A primarily retail place of business which may engage in major motor vehicle repair and may include auto wash or convenience store as an accessory use.

**MOTOR FUEL STATION, MINOR.** A retail place of business which shall have no more than two service bays, and may engage in minor motor vehicle repair.

**MOTOR VEHICLE PARTS STORE.** Any building or premise used for the purpose of selling and storing any component, product or system of an automobile, motorcycle or truck vehicle.

**MOTOR VEHICLE REPAIR, MAJOR.** General repair, rebuilding or reconditioning of engines, motor vehicles or trailers, including body work, frame work and major painting service.

**MOTOR VEHICLE REPAIR, MINOR.** The replacement of any part or repair of any part including the removal of the engine head or pan, engine, transmission or differential; incidental body and fender work; minor painting and upholstery service when said service above stated is applied within an enclosed building.

**NONCONFORMITY.** Nonconformity shall have the meaning given in the M.S. § 394.22, subd. 8, or successor statutes.

**NOXIOUS MATTER OR MATERIAL.** Material capable of causing injury to living organisms by chemical reaction, or is capable of causing detrimental effects on the physical or economic well being of individuals.

**NURSING HOME.** A place, residence, or home used for the boarding and care of elderly or infirm that are dependent upon the services of others.

**OBSTRUCTION.** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood hazard area 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, or that is placed where the flow of water might carry the same downstream to the damage of life or property.

**OFFICE.** A building or portion of a building wherein services are performed involving predominantly administration, professional or clerical operations.

**OFFICIAL CONTROL.** Means legislatively defined and enacted policies, standards, precise detailed maps, and other criteria all of which control the physical development of a municipality or a county or any part thereof or any detail thereof, and are the means of translating into ordinances all or any part of the general objections of the comprehensive plan. Such official controls may include but are not limited to ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes, housing codes and official maps.

**OFFICIAL MAP.** Means a map adopted in accordance to Minnesota Statutes which may show existing roads and highways, future roads and highways and the area needed for widening existing public land and facilities and other land needed for future parks, playgrounds, schools, and other public buildings, civic centers, travel service facilities.

**OPAQUE.** Impervious to the passage of light.

**OPEN SALES LOT.** Land devoted to the display of goods for sale, rent, lease, advertising or trade where such goods are not enclosed within a building but not including new or used cars or trucks.

**OPEN SPACE, COMMON.** Open space within or related to a development designed and intended for the common use or enjoyment of the occupants of the development or the public at large.

*ORDINARY HIGH WATER MARK.* Shall have the meaning given in M.S. § 103G.005, subd. 14; or successor statutes.

*OUTSIDE STORAGE.* The keeping in an unroofed area of any goods, bulk material, other material, merchandise, or products for more than 24 hours.

*OVERLAY DISTRICT.* A zoning district that encompasses one or more primary zoning districts, or portions thereof, and that imposes additional requirements above and beyond those required by the primary zoning district.

*PARCEL.* An area of land that may be designated by platting, by metes and bounds descriptions, by a registered land survey, by auditor's subdivision, or other acceptable means, which distinguishes it from other parcels.

*PARKING, JOINT.* The development and use of a parking space or parking lot by two or more separate uses.

*PAWNBROKER.* A person who loans money on deposit or pledge of personal property or other valuable items or who deals in the purchasing of personal property or other valuable items on condition of selling the same back again at a stipulated price or who loans money secured by security interest on personal property or any part thereof.

*PAWN SHOP.* A business establishment operated by a pawnbroker.

*PEDESTRIAN WAY.* A public or private right-of-way, across or within a block that provides access for pedestrians.

*PERFORMANCE STANDARD.* Criterion established to control noise, odor, radiation, toxic or noxious matter, vibration, fire and explosive hazards, or glare or heat generated by or inherent in uses of land or buildings.

*PERSONS.* Any individual, firm, partnership, corporation, company, association, joint stock association or body politic; includes any trustee, receiver, assignee, or other similar representative thereof.

*PLACE OF WORSHIP.* A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which buildings and uses are maintained and controlled by a religious body organized to sustain regular public worship.

*PLANNED UNIT DEVELOPMENT.* Planned unit development means a type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent or lease, and usually involving a mix of land use, structure types and other design development details specific to the site or project goals.

*PLAT.* A map depicting the division or subdivision of land into lots, blocks, parcels, tracts or other portions thereof.

*PLAT, FINAL.* A drawing of a permanent nature showing the precise location and dimensions of such features as streets, lots, easements and other elements pertinent to transfer of ownership and prepared for permanent record.

*PLAT, PRELIMINARY.* A drawing showing the proposed general pattern of streets, lots, and land uses within a tract of land to be subdivided.

*PRECIOUS METALS.* Gold, silver or platinum.

*PRECIOUS METALS DEALER.* Any person, partnership or corporation, either as principal or agent, who engages in the business of buying or selling secondhand items containing precious metal, including but not limited to jewelry, watches, coins, eating utensils, candlesticks, decorative objects and ingots.

*PRECIOUS METALS DEALERSHIP.* Any business establishment operated by a precious metals dealer.

*PUBLIC WATERS.* Public waters shall have the meaning given in M.S. § 103G.005, subd. 15, or successor statutes.

*RAMP.* A structure attached to a principle or accessory building which is constructed at a slope that meets the Uniform Building Code requirements for the purposes of providing access to a building.

*REACH.* A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or manmade obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

*RECREATIONAL FACILITY (INDOOR AND OUTDOOR).* Clubhouses, swimming pools, tennis courts, trails and similar facilities used by the general public for exercise, sports or entertainment.

*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 100-year recurrence interval. Regional flood is synonymous with the term base flood used in the flood insurance study.

*RESIDENTIAL CARE FACILITY.* A licensed public or private facility, which, for gain or otherwise, regularly provides one or more dependents with 24-hour-a-day substitute for the care, food, lodging, training, supervision, rehabilitation,

and treatment they need, but which for any reason cannot be furnished in the dependent's own home. The term includes facilities that are licensed by the Minnesota Department of Health, foster homes, residential treatment facilities, maternity shelters, group homes, schools for challenged children, and homes for battered children or spouses. Such term shall not include any facility eligible for licensure by the Minnesota Department of Corrections.

*RESIDENTIAL CARE FACILITY, CORRECTIONAL.* A licensed public or private facility, which, for gain or otherwise, regularly provides one or more dependents with 24-hour-a-day substitute for the care, food, lodging, training, supervision, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the dependent's own home. The term includes facilities that are licensed by the Minnesota Department of Health, foster homes, residential treatment facilities, maternity shelters, group homes, schools for challenged children, and homes for battered children or spouses. Such term shall also include any facility eligible for licensure by the Minnesota Department of Corrections.

*RESIDENTIAL USE BUILDING.* A dwelling, boarding, lodging, rooming, fraternity or sorority house, or a dormitory unit.

*RESTAURANT.* An establishment engaged in the preparation and retail sale of food and beverages, which is characterized by table service to customers and does not meet the definition of a fast food restaurant.

*RESTAURANT, FAST FOOD.* An establishment whose design or principal method of operation includes at least five of the following characteristics.

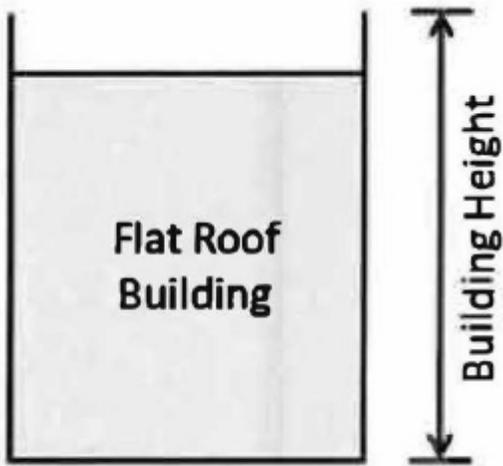
- (1) Less than 50% of the gross floor area is devoted to customer dining.
- (2) A permanent menu board is provided from which to select and order food.
- (3) If a chain or franchised restaurant, standardized floor plans are used over several locations.
- (4) Customers pay for food before consuming it.
- (5) A self-serve condiment bar is provided.
- (6) Trash receptacles are provided for self-serve bussing.
- (7) Furnishing plan indicates hard-finished stationary seating arrangement.
- (8) Most main course food items are substantially cooked on the premises and packaged in individual, non-reusable containers.
- (9) In addition, any restaurant with a drive-through facility shall be considered a fast food restaurant.

*RIGHT-OF-WAY.* An area or strip of land, either public or private, upon which a right-of-passage has been recorded for the use of vehicles, including trains, or pedestrians or both.

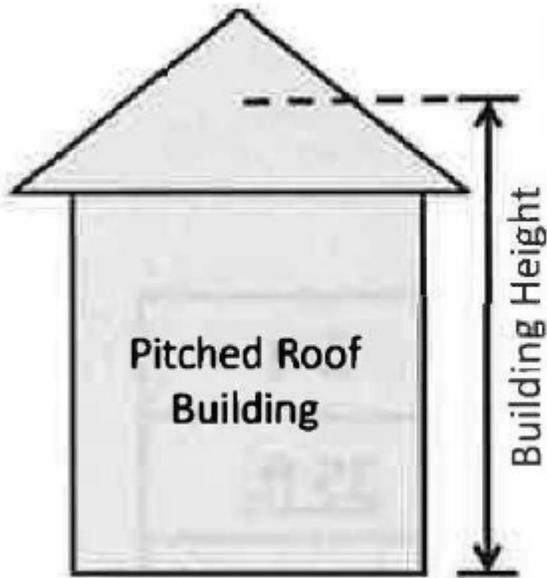
*ROAD.* A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, service road, place or however otherwise designated.

*ROOF-MOUNTED SOLAR ENERGY SYSTEM:* A solar photovoltaic system mounted on a rack that is ballasted on, or is attached to, the roof of a building or structure. Roof-mount systems are accessory to the primary use.

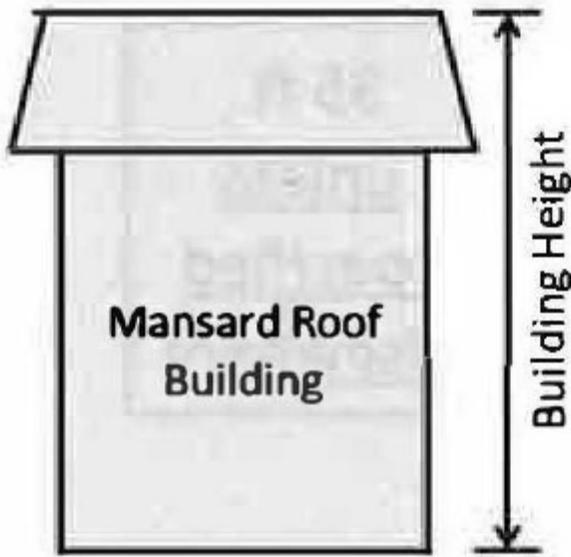
*ROOF HEIGHT, FLAT.* The height of a flat roof is measured as the average finished grade to the highest point on the roof (see example below):



*ROOF HEIGHT, PITCHED.* The height of a pitched roof is measured at the average finished grade to the mean distance between the eaves and the highest point of the roof (see example below):



*ROOF HEIGHT, MANSARD.* The height of a mansard roof is measured as the average finished grade to the highest peak on the mansard roof (see example below):



**ROOF HEIGHT, OTHER.** All other roof heights are measured as the average finished grade to the highest point or area on the roof.

**ROOF LINE.** The uppermost line of the roof of a building or, in the case of an extended facade, the uppermost height of said facade.

**ROOMER.** A person who is not a member of the family occupying a room for a charge.

**ROOMING HOUSE.** A residential structure that offers a room or rooms without kitchen facilities for rent.

**SAMPLING, TOBACCO.** The lighting, inhalation, or combination thereof of tobacco, tobacco paraphernalia, or tobacco-related products for the purpose of testing a tobacco product prior to the sale of such product.

**SEMI-PUBLIC USE.** The use of land by a private, non-profit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

**SETBACK.** The minimum horizontal distance between a building or structure and a right-of-way, property line, ordinary high water level, or other specified facility.

**SEWER SYSTEM.** Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial wastes or other wastes to a point of ultimate disposal and/or treatment.

**SHOPPING CENTER.** A group of four or more commercial uses that has either common management or ownership, or has a contiguous gross retail area of 20,000 square feet or more.

**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% of the required structure setback for the applicable lake or river classification.

**SHORELAND.** Shoreland shall have the meaning given in M.S. § 103F.205, subd. 4, or successor statutes.

**SIGN.** A structure, device, advertisement, advertising device or visual representation intended to advertise, identify or communicate information to attract the attention of the public for any purpose and without prejudice to the generality of the foregoing. A sign includes any symbols, letters, figures, graphics, or forms painted or otherwise affixed to a building or structure intended to attract the attention of the public for any purpose. This definition includes a structural or nonstructural device that borders, illuminates, animates or projects the visual representation.

(1) **SIGN AREA.** The entire area within a single continuous perimeter enclosing the extreme limits of such sign. Such perimeter shall, in no case, pass through or between any adjacent elements of such sign. In the case of a sign designed with more than one exterior surface, the area shall be computed as including only the maximum single

display surface, which is visible from any ground position at one time. The supports, uprights, or structures on which any sign is supported, which do not form an integral part of the display, are not included in the sign area.

(2) *SIGN, MAXIMUM HEIGHT.* Refers to the vertical distance measured from the nearest finished grade to the top of such a sign.

(3) *SIGN, MINIMUM HEIGHT.* Shall refer to the vertical distance measured from the nearest finished grade to the lower limit of such sign.

(4) *SIGN STRUCTURE.* The structure which supports or is capable of supporting any sign, including the framework, braces, uprights, and supports of such signs. Said definition shall not include a building to which the sign is attached.

*SIGN ALTERATION.* A change of copy area, size, or location exclusive of routine maintenance, painting or change of the copy itself.

*SIGN, ANIMATED.* A sign that includes action or motion effected through mechanical or electrical means or wind, exclusive of flashing, changing and indexing signs.

*SIGN, AREA IDENTIFICATION.* A sign identifying a shopping center or multiple dwelling units.

*SIGN, BILLBOARD.* A non-accessory sign for the purpose of advertising a product, event, person, subject or service not entirely or directly related to the premises on which said sign is located, including a sign for the purpose of advertising the availability for rental or sale of the sign itself.

*SIGN, CANOPY, AWNING OR MARQUEE.* A sign suspended from or forming part of the canopy, awning, or marquee that does not extend horizontally beyond such canopy, awning or marquee.

*SIGN, CHANGEABLE COPY.* A sign employing detachable copy, letters or symbols which may be altered, substituted or rearranged to convey varying messages, regardless of method of attachment.

*SIGN, CHANGING.* A sign which displays copy changes, such as an electronically or electrically controlled public service, time and temperature sign, message center or reader-board.

*SIGN, COPY.* The letters, symbols, or other representatives used on a sign to convey a message.

*SIGN, COPY AREA.* That portion of the sign which contains the copy and to which the copy is applied.

*SIGN, DIRECTIONAL.* An on-premise sign designed to guide or direct pedestrian or vehicular traffic.

*SIGN, DYNAMIC LED.* Any characteristics of a sign that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. This also includes any moving, flashing, blinking, or animated display and any display that incorporates LED lights manipulated through digital input, “digital ink” or any other method or technology that allows the sign face to present a series of images or displays.

*SIGN, ELECTRIC.* A sign that uses electrical wiring on, in or near such sign to effect illumination.

*SIGN, FLASHING.* A sign that contains flashing lights or exhibits discernable and purposeful changes in light intensity or color.

*SIGN, FREE-STANDING.* A permanent sign which is not affixed to any part of a building or structure and which is supported by upright brace(s) or post(s) placed in the ground.

*SIGN, IDENTIFICATION.* A sign which is limited to the name, address and number of a building, structure, institution, or person in addition to the activity carried on in the building, structure or institution, or the occupation of the person.

*SIGN, ILLUMINATED.* A sign designed to give forth or reflect any artificial light, either directly from a source of light incorporated in or connected with such sign, or indirectly from an artificial source in the immediate proximity thereof.

*SIGN, INCIDENTAL.* A small sign less than two square feet in area of a noncommercial nature, intended primarily for the convenience of the public, including signs designating rest areas and public telephones.

*SIGN, INSTITUTIONAL.* A sign used by an institution.

*SIGN, MONUMENT.* A permanent freestanding sign which is not affixed to any part of a building or structure and which is typically constructed of masonry, concrete, wood or other decorative type material to complement the surrounding area.

*SIGN, POLITICAL.* A sign which states the name, slogan and/or picture of an individual seeking election to a public office, or which pertains to a public election or referendum, or which relates to or advocates political views or policies.

*SIGN, PORTABLE.* A sign that is not permanently attached to the ground or to a building or structure.

*SIGN, PROJECTING.* A sign which extends outward from the wall of a building or structure more than 18 inches, and is supported by or suspended from such wall.

*SIGN, REAL ESTATE.* A sign offering land and/or buildings for sale, lease or rental, located on such property.

*SIGN, REVOLVING.* A sign, any part of which turns, rotates, or revolves.

*SIGN, ROOF.* A sign which is painted on, affixed to, or erected upon the roof or parapet of a building or structure of which any portion is situated on or above the roof level of such building or structure and is wholly or partially supported by said building or structure.

*SIGN, SANDWICH BOARD.* A freestanding “A” frame sign, not requiring staking to the ground, placed near the entrance of a retail store to direct pedestrians to that business.

*SIGN, TEMPORARY.* A sign, banner, pennant, valance, or advertising device intended to be displayed for a limited period of time, whether portable or attached to the principal structure.

*SIGN, TIME AND TEMPERATURE.* A sign that displays only time and temperature information.

*SIGN, VARIABLE ELECTRONIC MESSAGE.* A dynamic LED sign that changes its message more frequently than once every ten seconds for commercial and industrial properties located in the LB, GB, CBD, I-1 and I-2 zoning districts and a dynamic LED sign that changes its message more frequently than once every 10 minutes for religious and/or educational institutions located in the R-1, R-2A, R-2B, R-3, R-4, LB and PO zoning districts.

*SIGN, WALL.* An identification sign affixed to or painted on the wall of a building or structure with the exposed face of the sign in a plane parallel to the plane of said wall.

*SIGN, WINDOW.* A sign painted on, placed in, or affixed to any window, exclusive of merchandise on display.

*SIGNIFICANT HISTORIC SITE.* An 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 Historic Sites or is determined to be an unplatted cemetery that falls under the provisions of the M.S. § 307.08; or successor statutes. 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.

*SMOKE SHOP.* A retail establishment that has obtained an appropriate license, in which greater than 90% of the business’s gross revenue must be from the sale of tobacco, tobacco products or smoking related accessories.

*SOLAR ENERGY SYSTEM:* A device, array of devices, or structural design feature, the purpose of which is to provide for generation or storage of electricity from sunlight, or the collection, storage, and distribution of solar energy for space heating or cooling, daylight for interior lighting, or water heating.

*SOLAR PHOTOVOLTAIC SYSTEM:* A solar energy system that converts solar energy directly into electricity, the primary components of which are solar panels, mounting devices, inverters, and wiring.

*SPECIFIED ANATOMICAL AREAS.* Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breasts below a point immediately above the top of the areola: and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*SPECIFIED SEXUAL ACTIVITIES.* Activities including: (1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or, (2) Clearly depicted human genitals in the

state of sexual stimulation, arousal or tumescence; or, (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation; or, (4) Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or, (5) Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such persons; or, (6) Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or, (7) Human excretion, urination, menstruation, vaginal or anal irrigation.

*STORY.* That portion of a building included between the surface of any floor and the surface of the floor next above it; or if there is no floor above, the space between the floor and the ceiling next above. A basement shall be counted as a story.

*STREET.* A public right-of-way not less than 50 feet in width which affords a primary means of access to abutting property.

*STRUCTURAL ALTERATION.* Any change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as bearing walls, column beams, girders, or foundations.

*STRUCTURE.* Anything constructed or erected, the use of which requires more or less permanent location on the ground or attachment to something having a permanent location on the ground. When a structure is divided into separate parts by an unpierced wall, each part shall be deemed a separate structure. Amending Accessory Building/Structure and Structure definitions to explicitly state that solar equipment and installations are not considered to be structures.

*SUBDIVISION.* Land that is divided for the purposes of sale, rent, or lease and including planned unit developments.

*SWIMMING POOL, ABOVE-GROUND.* All swimming pools that are constructed so that the edge of the pool is greater than three and one-half feet above ground grade or has a capacity of more than 3,000 gallons of water.

*SWIMMING POOL, HOT TUB.* All pools that are intended for hydro-therapeutic massage and relaxation purposes that have a capacity of less than 750 gallons of water, including such pools generally constructed with a filter unit(s), pump(s), water jet(s), molded seating and a heating unit(s). Any hot tub greater than 750 gallons of water shall be considered an above-ground pool for regulatory purposes.

*SWIMMING POOL, IN-GROUND.* All swimming pools constructed so that the pool edge is level with the ground grade.

*SWIMMING POOL, PORTABLE.* Any temporary pool designed for easy construction and removal with a maximum height of 3.5 feet or a capacity of less than 3,000 gallons of water.

*TWINHOME.* A single-family residential dwelling on an individual lot, sharing a common wall with another single-family residential dwelling.

*USE.* The purpose or activity for which the land, structure or building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

*USE, CONDITIONAL.* Either a public or private use as listed which, because of its unique characteristics, cannot be properly classified as a permitted use in a particular district.

*USE, INTERIM.* A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

*USE, PERMITTED.* A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and performance standards of such district.

*USE, PRINCIPAL.* The main use of land or buildings.

*VENDING MACHINE.* Any coin operated device that dispenses a product or service without an attendant.

*WALL SURFACE.* The total horizontal area of the building face, including windows and door areas, measured to the extreme outer limits of such wall surface.

*YARD.* A required open space on a lot, which is unoccupied and unobstructed by a structure from its lowest ground level to the sky except as expressly permitted in this article. A yard shall extend along a lot line and at right angles to such lot line to a depth or width specified in the yard regulations for the district in which such lot is located.

*YARD, FRONT.* A yard extending along the full width of the front lot line between side lot lines and extending from the abutting front street right-of-way line to a depth required in the yard regulations for the district in which such lot is located.

*YARD, REAR.* A yard extending along the full width of the rear lot line between the side lot lines and extending toward the front lot line for a depth as specified in the yard regulations for the district in which such lot is located.

*YARD, SIDE.* A yard extending along a side lot line between the front and rear yards, having a width as specified in the yard regulations for the district in which such lot is located.

*ZONING ADMINISTRATOR.* Person appointed by the City Manager as provided by this article.

*ZONING DISTRICT.* An area or areas within the limits of the city for which the regulations and requirements governing use are uniform.

### **Section 3.**

**The following language for General Development Standards is added, amended and deleted as provided in Section 9.106 of the City Code of 2005, is hereby established to read as follows:**

#### **§ 9.106 GENERAL DEVELOPMENT STANDARDS.**

##### **(A) General provisions.**

(1) Purpose. The purpose of this section is to establish regulations of general applicability to property throughout the city, to promote the orderly development and use of land, to minimize conflicts between uses of land, and to protect the public health, safety and welfare.

(2) Applicability. The regulations set forth in this section shall; apply to all structures and uses of land, except as otherwise provided in this article.

##### **(B) Lot controls.**

(1) Purpose. Lot controls are established to provide for the orderly development and use of land, and to provide for adequate light, air, open space and separation of uses.

(2) Use of lots. All lots shall be used in a manner consistent with the requirements of the zoning district in which the property is located. No part of any existing lot shall be used as a separate lot or for the use of another lot, except as otherwise provided in this article.

(3) Lot divisions. No lot shall be divided into two or more lots unless all lots resulting from such division conform to all applicable regulations of this article.

(4) Lots of record. A lot of record shall be deemed a buildable lot provided it has frontage on a public right-of-way and meets the setback and area requirements for the district in which it is located, or adjusted to conform as follows: a lot or lot of record upon the effective date of this article which is in a residential district and which does not meet the requirements of this article as to area or width, may be utilized for single-family detached dwelling purposes provided the measurements of such lot meets 100% of the front yard, side yard and rear yard setback requirements for the district in which it is located and 60% of the minimum lot area or lot width requirements for the district in which it is located.

(5) Principal buildings in residential districts. There shall be no more than one principal building on a lot in any residential district, unless otherwise provided for through a mixed use planned development.

(6) Principal buildings in non-residential districts. There may be more than one principal building on a lot in non-residential districts, provided each building meets all of the requirements, including setbacks, of the district in which it is located.

(7) Required yards. Yard requirements shall be as specified for the zoning district in which the lot is located. No yard or other open space shall be reduced in area or dimension so as to make such yard or other open space less than the minimum required by this article. If the existing yard or other open space is less than the minimum required, it shall not be further reduced. In addition, no required yard or other open space allocated to a building or dwelling group shall be used to satisfy yard, open space, or minimum lot area requirements for any other structure or lot.

(8) Setback exception in residential districts. In any residential district where the average depth of the front yard for buildings within 200 feet of the lot in question and within the same block front is lesser or greater than that required by article, the required front yard for the lot in question shall be the average plus or minus 10% of the depth; however, the depth of the required front yard shall not be less than 10 feet nor more than 50 feet.

(9) Corner lots. For corner lots, the shorter lot line abutting a public street shall be deemed the front lot line for purposes of this article, and the longer lot line abutting a public street shall be deemed a side lot line.

(10) Through lots. For through lots, both lot lines that abut a public street or other right-of-way shall be deemed front lot lines for purposes of this article, and the required front yard shall be provided along each front lot line.

(11) Yard encroachments. The following uses shall not be considered as encroachments into required yards, provided they are not located closer than one foot to the property line, except for fences:

(a) Cornices, canopies, awnings, eaves, bay windows and other ornamental features, provided they do not extend more than three feet into the required yard.

(b) Chimneys, air conditioning units, fire escapes, uncovered stairs, ramps and necessary landings, provided they do not extend more than four feet into the required yard.

(c) Fences constructed and maintained in accordance with the applicable provisions of this article.

(d) Driveways and parking areas constructed and maintained in accordance with the applicable provisions of this article.

(e) Accessory buildings constructed and maintained in accordance with the applicable provisions of this article.

(f) Mechanical equipment constructed and maintained in accordance with the applicable provisions of this article.

(g) Signs constructed and maintained in accordance with the applicable provisions of this article.

(h) Private swimming pools, tennis courts, basketball courts or other private recreational facilities constructed and maintained in accordance with the applicable provisions of this article. (12) Traffic visibility. No planting, structure or other obstruction shall be placed or allowed to grow on corner lots in a manner that will impede vision on the intersecting rights-of-way, in accordance with the following sight triangles:

(a) Street intersections. No planting or structure in excess of 30 inches above the abutting curb line shall be permitted within the sight triangle, defined as the area beginning at the intersection of the projected curb line of two intersecting streets, then 30 feet along one curb line, diagonally to a point 30 feet from the point of beginning on the other curb line, then back to a point of beginning.

(b) Street and alley intersections. No planting or structure in excess of 30 inches above the abutting curb line shall be permitted within the sight triangle, defined as the area beginning at the point of intersection of the projected curb line and the alley right-of-way, then 30 feet along the street curb line, diagonally to a point 15 feet from the point of beginning along said alley right-of-way or projection of the alley right-of-way, then back to the point of beginning.

(c) Alley and alley intersections. No planting or structure in excess of 30 inches above the nearest edge of the traveled right-of-way shall be permitted within the sight triangle, defined as the area beginning at the point of intersection of the two alley right-of-way lines, then 15 feet along one alley right-of-way line, then diagonally to a point 15 feet from the point of beginning along the second alley right-of-way line, then back to the point of beginning. Any structures existing within this sight triangle shall be deemed nonconforming structures in accordance with the provisions of § 9.105.

(13) Height limitations. The building and structure height limitations established for each zoning district shall apply to all buildings and structures, except that such height limitations may be increased by 50% when applied to the following:

(a) Church spires, steeples or belfries.

(b) Chimneys or flues.

(c) Cupolas and domes which do not contain usable space.

(d) Towers, poles or other structures for essential services.

(e) Flag poles.

(f) Mechanical or electrical equipment, provided said equipment does not occupy more than 25% of the roof area, with exception to solar and other renewable energy equipment.

(g) Television and ham radio antennas.

(h) Monuments.

(i) Telecommunication towers constructed in accordance with the provisions of § 9.106(O).

(C) Accessory uses and structures.

(1) Accessory structures, residential uses. The following standards shall regulate the construction and maintenance of residential accessory structures:

(a) Each residentially zoned parcel shall be allowed two detached accessory structures.

(b) No accessory structure shall be constructed or located within any front yard.

(c) Accessory structures for one- and two-family dwellings shall be set back a minimum of three feet from the side lot line, and a minimum of three feet from the rear lot line, a minimum of five feet from any other building or

structure on the same lot, and behind the principal structure building line in the front yard. Solar and other renewable energy equipment are subject to the setback requirements for accessory structures, but are not considered buildings or structures.

(d) An accessory structure shall be considered an integral part of the principal structure if it is connected to the principal building by a covered passageway.

(e) An accessory structure, or any combination of accessory structures, storage sheds and attached garages, shall not exceed 1,000 square feet in area.

(f) Unless a height limitation is specifically stated, the height of an accessory structure shall not exceed the lesser of:

1. The height of the principal structure;
2. 12 feet above average finished grade for flat roofs;
3. 18 feet above average finished grade for pitched roofs, mansard roofs, and all other roofs.

(g) Where the natural grade of the lot is 10 feet or more above or below the established curb level at the front building setback and access from an alley is not available, an accessory structure for the storage of not more than two automobiles may be constructed within any yard, provided that at least one-half of the height is below grade level and the accessory structure is set back a minimum of 20 feet from any right-of-way.

(h) The exterior color and design of an accessory structure shall be similar to the principal structure. Corrugated metal siding and roofs shall be prohibited.

(i) Whenever a garage is so designed that the vehicle entry door(s) are facing a street or alley, the distance between the door(s) and the lot line shall be no less than 20 feet for lots greater than 6,500 square feet, and shall be no less than 15 feet for lots 6,500 square feet or less.

(j) Accessory structures for multiple-family dwellings shall be placed in the rear yard and shall be subject to the same height and exterior finish regulations as the principal structure for the district in which it is located, in addition to the requirements of this section.

(k) Any accessory structure capable of storing one or more motorized vehicle shall be provided with a hard-surfaced access driveway, no less than 12 feet in width, to an adjacent public street or alley, and shall be no less than 20 by 20 in size.

(l) Accessory buildings shall not be located within any utility or drainage easement.

(2) Accessory structures, non-residential uses. The following standards shall regulate the construction and maintenance of non-residential accessory structures:

(a) All accessory structures shall be subject to the same setback, height and exterior finish regulations as a principal structure for the district in which it is located.

(b) The height of an accessory structure shall not exceed the height of the principal structure.

(c) All multiple story and accessory structures over 200-square feet in area shall require a building permit from the city.

(3) Home occupations. Home occupations are allowed in residential districts, subject to the following standards:

(a) The home occupation shall be clearly incidental and subordinate to the residential use of the property. Exterior alterations or modifications that change the residential character or appearance of the dwelling, any accessory building or the property itself shall not be allowed.

(b) Only persons residing on the premises and no more than one nonresident employee shall be engaged in the conduct of the home occupation on the premises at any given time.

(c) There shall be no outside storage of products, materials or equipment used in conjunction with the home occupation.

(d) The home occupation must be conducted within the principal residential structure and/or up to 30% of the floor area of an accessory building or attached garage.

(e) The required off-street parking for the residential use shall not be reduced or made unusable by the home occupation.

(f) The home occupation shall not generate excessive traffic or parking that is detrimental to the character of the neighborhood.

(g) Shipment and delivery of products, merchandise or supplies shall be by single rear axle straight trucks or similar delivery trucks normally used to serve residential neighborhoods.

(h) There shall be no indications of offensive noise, odor, smoke, heat, glare, vibration, or electrical interference at or beyond the property line of the home occupation.

(i) Signage for the home occupation shall be limited to one non-illuminated sign, not exceeding two square feet in area and attached to the wall of the residential dwelling.

(j) The home occupation shall meet all applicable fire and building codes, as well as any other applicable city, state or federal regulations.

(k) The following home activities shall be prohibited as home occupations:

1. The operation of any wholesale or retail business unless it is conducted entirely by mail and does not involve the sale, shipment or delivery of merchandise on the premises. The sale of products incidental to the delivery of a service is allowed.

2. Any manufacturing, welding, machine shop or similar use.

3. Motor vehicle repair, either major or minor.

4. The sale, lease, trade or transfer of firearms or ammunition.

5. Headquarters or dispatch centers where persons come to the site and are dispatched to other locations.

(l) All home occupations shall be subject to a one-time registration with the city, on a form as required by the Zoning Administrator and with a fee as determined by the City Council.

(4) Private swimming pools and courts. All private swimming pools, tennis courts, ball courts and other private recreational facilities are subject to the following standards:

- 
- (a) The facility is not operated as a business or private club.
  - (b) The facility is not located within any required front or side yard.
  - (c) The facility is set back at least five feet from any property line, including any walks, paved areas or related structures or equipment.
  - (d) For swimming pools, the pool itself, the rear yard, or the entire property shall be enclosed by a non-climbable wall, fence or combination thereof at least six feet in height, with a self-closing gate capable of being secured with a lock so as to prevent uncontrolled access by children. If the only access is through a principal or accessory structure, such point of access shall be lockable. In the case of above-ground pools, pool sides that are vertical may contribute to the required fencing, provided all points of access are controlled to prevent access by children, including the removal of all ladders or stairs whenever the pool is not in use.
  - (e) For in-ground pools, the pool is set back at least six feet from the principal structure.
  - (f) Hot tubs shall not be located within five feet of any side yard or rear lot line, or within any required front yard. Such pools may be equipped with a child-resistant, lockable cover in lieu of a six-foot tall fence. Hot tubs are permitted on attached or detached decks if it can be proven that the deck is engineered to be structurally sound enough to support the bearing load of the hot tub.
  - (g) Portable pools shall not be located within five feet of any side or rear lot line, or within any required front yard. Such pools may be equipped with a child-resistant cover in lieu of a six-foot tall fence. Any ladder or other means of entry into a portable pool shall be detachable and placed so that no child can gain entry into the pool without the owner's consent. Portable pools shall not be in place longer than six months in a calendar year.
  - (h) Lighting shall be so oriented so as not to cast light on adjacent properties.
  - (i) The facility shall not be located within any drainage or utility easement.
  - (j) Any accessory mechanical apparatus shall be located at least 30 feet from any residential structure on an adjacent lot.
  - (k) All swimming pools containing more than 3,000 gallons or with a depth in excess of 42 inches (3.5 feet) shall require a building permit from the city.
- (5) Trash handling equipment. For all uses other than one- and two-family dwellings, trash and/or recycling collection areas shall be enclosed on at least three sides by an opaque screening wall or fence no less than six feet in height. The open side of the enclosure shall not face any public street or the front yard of any adjacent property.
- (6) Mechanical equipment. Mechanical equipment, other than that accessory to one- and two-family dwellings, shall be placed and/or screened so as to minimize the visual impact on adjacent properties and from public streets. Screening may be accomplished through the use of walls or other design features that are architecturally compatible with the principal structure, screening vegetation, integrated parapet walls of sufficient height, or other means as approved by the Zoning Administrator.
- (D) Dwellings.
- (1) General requirements. The following standards shall apply to all dwelling units within the city:
    - (a) All single-family dwelling units shall be a minimum of 20 feet wide at the narrowest point.

(b) No recreational vehicle shall be used at any time as a dwelling unit.

(c) No basement dwelling (basements without upper floors) shall be used at any time as a dwelling unit.

(2) Floor area requirements. The following floor area requirements shall apply to all dwelling units within the city:

(a) One-story dwellings shall have a minimum floor area of 1,020 square feet, plus 120 square feet for each additional bedroom over three. The floor area may be reduced to 960 square feet if the lot size is 6,500 square feet or less.

(b) One and one-half and two story dwellings shall have a minimum floor area of 550 square feet on the main floor, with a total above grade minimum finished floor area of 1,020 square feet.

(c) Split-level dwellings shall have a minimum floor area of 1,020 square feet, plus 120 square feet for each additional bedroom over three. The floor area may be reduced to 960 square feet if the lot is 6,500 square feet or less.

(d) Split entry dwellings shall have a minimum floor area of 1,020 square feet, plus 120 square feet for each additional bedroom over three. The floor area may be reduced to 960 square feet if the lot is 6,500 square feet or less.

(e) Two-family dwellings (duplexes) and town homes shall have a minimum floor area of 750 square feet per unit, plus 120 square feet for each additional bedroom over two.

(f) Efficiency apartments shall have a minimum floor area of 400 square feet per unit.

(g) One-bedroom apartments shall have a minimum floor area of 600 square feet per unit.

(h) Two-bedroom apartments shall have a minimum floor area of 720 square feet per unit.

(i) Apartments with more than two bedrooms shall have a minimum floor area of 720 square feet per unit, plus 120 square feet for each additional bedroom over two.

### (3) *Accessory Dwelling Units*

(a) An accessory dwelling unit shall only be a permitted accessory use to any lot with a detached single-family dwelling.

(b) No accessory dwelling unit shall be permitted upon a lot on which more than one residential dwelling is located and no more than one accessory dwelling unit shall be permitted per lot.

(c) The accessory dwelling unit shall not be sold or conveyed independently of the principal residential dwelling and may not be on a separate tax parcel or subdivided through any means.

(d) Either the ADU or the principal dwelling shall be occupied by the property owner and a restriction shall be recorded against the property requiring owner occupancy for at least one of the units; a rental license for the non-owner-occupied unit is required.

(e) Both the single-family dwelling and the accessory dwelling unit, together, shall provide adequate off-street parking on the lot; parking spaces may be garage spaces or paved outside parking spaces.

- (f) Accessory dwelling units must contain habitable space based on the adopted MN Building Code and be a minimum of 250 square feet and a maximum of 50% of the total floor area of the principal dwelling up to 1,000 square feet.
- (g) ADUs in Minnesota must adhere to the Minnesota State Building Code, which includes fire separation for attached units, safe egress and entrances, and proper water and sewer connections.
- (h) Accessory dwelling units within or attached to the principal structure shall conform to Zoning Code standards for single family dwellings, including but not limited to setback, height, impervious surface, curb cut and driveway, and accessory structure standards if the unit is detached. The accessory dwelling unit is subject to current Building, Plumbing, Electrical, Mechanical, and Fire Code provisions including maintaining emergency access to both units.

(E) Fences.

- (1) General requirements. The following standards shall apply to all fences:

(a) Fences may be constructed, placed or maintained in any yard or adjacent to a lot line in accordance with the requirements of this section.

(b) The owner of the property upon which the fence is located shall be responsible for locating all property lines prior to constructing said fence.

(c) All fence posts and supporting members shall be placed within the property lines of the property on which they are located.

(d) All fences shall be situated so that they can be maintained from within the property boundaries of the property on which they are located.

(e) All fences shall be constructed so that the finished side or more attractive side of the fence faces the adjacent property or right-of-way.

(f) Fences, freestanding walls, and retaining walls shall be constructed in a substantial and workmanlike manner to withstand conditions of soil, weather and use, and of substantial material reasonably suited for the purpose for which the fence, freestanding wall or retaining wall is proposed to be used. No previously used materials may be used in any fence. All fences shall be constructed of the following approved fencing materials:

1. Galvanized or vinyl coated woven fabric - minimum 11 1/2 gauge, with two-inch minimum mesh, with knuckles up and cut edge down.
2. Approved vinyl fencing materials.
3. Treated wood or wood of natural materials resistant to decay.

- (g) Retaining walls or freestanding walls shall be constructed in the following manner:

1. Retaining walls and cribbing shall be used to stabilize steep slopes or prevent erosion.
2. They shall be designed in accordance with sound engineering practice; including, but not limited to, a minimum four-inch concrete footing of appropriate width and drains of appropriate type, size and spacing.

3. Cribbed slopes shall be appropriately planted if open-faced cribbing is used.

4. The retaining wall or freestanding wall shall be constructed in a manner that presents a finished appearance to the adjoining property where applicable.

(h) All fences shall be maintained and kept in good condition.

(i) Fence height shall be measured from the average grade to the top of the fence. In situations where a grade separation exists at the property line, the height of the fence shall be based on the measurement from the average point between the highest and lowest grade.

(j) Barbed wire, razor wire and electric fences shall not be permitted in any zoning district. However, barbed wire may be permitted in industrially zoned districts and property used for public purposes through a Conditional Use Permit process.

(k) Fences exceeding six feet in height shall require a building permit from the city.

(2) Residential fences. The following standards shall apply to all fences constructed in any residential zoning district or directly adjacent to any residential zoning district:

(a) No fence shall exceed seven feet in height. Fences exceeding six feet in height shall be deemed structures and shall require a Zoning Permit Review.

(b) Fences along any rear property line that abut a public alley or street shall be located no closer than three feet from the alley or street right-of-way.

(c) It shall be the responsibility of property owners with fences within recorded city easements to remove such fence at any time when access to the recorded city easement would require the removal of the fence.

(d) A fence extending across or into the required front yard setback shall not exceed 42 inches (3.5 feet) in height; however, fences that are less than 50% opaque may be up to 48 inches (4 feet) in height.

(3) Non-residential fences. The following standards shall apply to all fences constructed in any commercial or industrial zoning district:

(a) No fence shall exceed eight feet in height. Fences exceeding seven feet in height shall be deemed structures and shall require a Zoning Permit Review.

(b) A fence extending across or into the required front yard setback shall not exceed four feet in height.

(c) A fence required to screen a commercial or industrial use from an adjacent residential use shall not exceed eight feet in height or be less six feet in height. In addition, said screening fence shall be no less than 80% opaque on a year round basis.

(4) Fencing of play areas. For parks and playgrounds, either public or private and located adjacent to a public right-of-way or railroad right-of-way, a landscaped yard area no less than 30 feet in width, or a fence no less than 4 feet in height, shall be installed between the facility and the right-of-way.

(F) Essential services.

(1) Purpose. The purpose of this section is to provide for the installation of essential services in a manner that does not adversely affect the public health, safety or welfare.

(2) Essential services allowed by permit. The following essential services, when installed in any location in the city and installed primarily for the use of city residents, shall only require a permit from the City Engineer:

- (a) All communication lines.
- (b) Underground electrical transmission lines, overhead utility lines and electrical transmission lines intended to serve properties within the city.
- (c) Pipelines for distribution to individual properties within the city.
- (d) Substations with less than 33 KV.
- (e) Radio receivers and transmitters accessory to an essential service, when placed on an existing utility pole, tower or light standard.

(3) Essential services requiring conditional use permit. The following essential services, when installed in any location in the city and not primarily for the use of city residents, shall require a conditional use permit in accordance with the provisions of § 9.104:

- (a) All overhead and underground transmission lines not required for the local distribution network.
- (b) All transmission pipelines.
- (c) Substations in excess of 33 KV.
- (d) Any pole or tower used exclusively for the placement of radio receivers or transmitters accessory to an essential service.
- (e) Any essential service of which 75% of the service provided or produced is not intended to serve properties within the city.
- (f) Any essential service requiring a structure that exceeds the maximum height for the zoning district in which it is located.
- (g) Any essential service requiring easements other than easements granted to the public.

(G) Temporary uses and structures. The following temporary uses and structures shall be permitted in all zoning districts unless specified otherwise, provided such use or structure complies with the regulations of the zoning district in which it is located and all other applicable provisions of this article:

- (1) Garage sales. Residential garage sales shall be limited to no more than two garage sales per property per calendar year, with the duration of each garage sale not to exceed three consecutive days at any residential location.
- (2) Construction sites. Storage of building materials and equipment or temporary building for construction purposes may be located on the site under construction for the duration of the construction.
- (3) Amusement events. Temporary amusement events, including the placement of tents for such events, may be allowed as a temporary use for a maximum of 15 days per calendar year. In residential districts, such temporary amusements shall be located on public or semi-public property only.
- (4) Promotional activities. Promotional activities involving the outdoor sale or display of merchandise may be allowed as a temporary use in non-residential districts for a maximum of 30 days per calendar year.

(5) Other temporary uses. In addition to the temporary uses and structures listed above, the Zoning Administrator may allow other temporary uses and structures for a maximum of 15 days per calendar year, provided the said use or structure is substantially similar to the uses and structures listed herein.

(H) Performance standards.

(1) Purpose. These performance standards are established to minimize conflict between land uses, to preserve the use and enjoyment of property, and to protect the public health, safety and welfare. These standards shall apply to all uses of land and structures with the exception of solar and renewable energy equipment, and are in addition to any requirements applying to specific zoning districts.

(2) In general. No use or structure shall be operated or occupied so as to constitute a dangerous, injurious or noxious condition because of noise, odors, glare, heat, vibration, air emissions, electromagnetic disturbance, fire, explosion or other hazard, water or soil pollution, liquid or solid waste disposal, or any other substance or condition. No use or structure shall unreasonably interfere with the use or enjoyment of property by any person of normal sensitivities. In addition, no use or structure shall be operated or occupied in a manner not in compliance with any performance standard contained in this article or any other applicable regulation.

(3) Noise. All uses shall comply with the standards governing noise as adopted and enforced by the Minnesota Pollution Control Agency.

(4) Odor emissions. All uses shall comply with the standards governing the odor emissions as adopted and enforced by the Minnesota Pollution Control Agency.

(5) Vibration. Uses producing vibration shall be conducted in such a manner as to make the vibration completely imperceptible from any point along the property line. In addition, all uses shall comply with the standards governing vibrations as adopted and enforced by the Minnesota Pollution Control Agency.

(6) Air emissions. All uses shall comply with the standards governing air emissions as adopted and enforced by the Minnesota Pollution Control Agency.

(7) Glare and heat. Uses producing glare or heat shall be conducted within a completely enclosed building in such a manner as to make such glare and heat completely imperceptible from any point along the property line. In addition, all uses shall comply with the standards governing glare and heat as adopted and enforced by the Minnesota Pollution Control Agency.

(8) Radiation and electrical emissions. All uses shall comply with the standards governing radiation and electrical emissions as adopted and enforced by the Minnesota Pollution Control Agency.

(9) Waste material. All uses shall comply with the standards governing waste disposal as adopted and enforced by the Minnesota Pollution Control Agency.

(10) Explosive and flammable materials. All uses involving the manufacture, storage or use of explosive or flammable materials shall comply with all applicable regulations, including, but not limited to, the Minnesota Building Code and the Uniform Fire Code, and shall meet the following requirements:

(a) All uses involving the manufacture, storage or use of explosive or flammable materials shall employ best management practices and the provision of adequate safety devices to guard against the hazards of fire and explosion, and adequate fire-fighting and fire-suppression devices standard in the industry.

(b) The manufacture or storage of any explosive or blasting agent, as defined in the Uniform Fire Code, shall be prohibited in all districts except the I-2, General Industrial District.

(c) The storage of any flammable liquid shall be subject to the requirements established by the Uniform Fire Code and shall be reviewed by the State Fire Marshal.

(11) Hazardous materials. All uses shall comply with the standards governing hazardous waste as adopted and enforced by the Minnesota Pollution Control Agency.

(l) Storm water management.

(1) Purpose. The purpose of this division is to promote, preserve and enhance the natural resources within the city and protect them from adverse effects occasioned by poorly sited development or incompatible activities by regulating land alterations or development activities that would have an adverse and potentially irreversible impact on water quality and unique and fragile environmentally sensitive land; by minimizing conflicts and encouraging compatibility between land alterations and development activities and water quality and environmentally sensitive lands; and by requiring detailed review standards and procedures for land alterations or development activities proposed for such areas, thereby achieving a balance between urban growth and development and protection of water quality and natural areas.

(2) Definitions. For the purposes of this section, the following terms, phrases, words, and their derivatives shall have the meaning stated below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directive.

**APPLICANT.** Any person who wishes to obtain a building permit, preliminary plat approval or an excavation permit.

**CONTROL MEASURE.** A practice or combination of practices to control erosion and attendant pollution.

**DETENTION FACILITY.** A permanent natural or man-made structure, including wetlands, for the temporary storage of runoff which contains a permanent pool of water.

**EXCAVATION ACTIVITIES.** Any excavation or filling activity as regulated by § 9.106(J).

**FLOOD FRINGE.** The portion of the floodplain outside of the floodway.

**FLOODPLAIN.** The areas adjoining a watercourse or water basin that have been or may be covered by a regional flood.

**FLOODWAY.** The channel of the watercourse, the bed of water basins, and those portions of the adjoining floodplain that are reasonably required to carry and discharge floodwater and provide water storage during a regional flood.

**HYDRIC SOILS.** Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

**HYDROPHYTIC VEGETATION.** Macrophytic plantlife growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

**LAND ALTERATION.** Any change of the land surface including, but not limited to, removing vegetative cover, excavating, filling, grading, and the construction of utilities, roadways, parking areas and structures.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES).** The program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act (Sections 301, 318, 402, and 405) and United States Code of Federal Regulations Title 33, Sections 1317, 1328, 1342, and 1345.

**PERSON.** Any individual, firm, corporation, partnership, franchisee, association or governmental entity.

**PUBLIC WATERS.** Waters of the state as defined in M.S. § 1036.005, subd. 15, as it may be amended from time to time.

**REGIONAL FLOOD.** A flood that is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of a 100-year recurrence interval.

**RETENTION FACILITY.** A permanent natural or man-made structure that provides for the storage of storm water runoff by means of a permanent pool of water.

**SEDIMENT.** Solid matter carried by water, sewage, or other liquids.

**STRUCTURE.** Any manufactured, constructed or erected building including portable structures and earthen structures.

**SURFACE WATER MANAGEMENT DESIGN STANDARDS (SWMDS).** Document stating the design criteria and specifications for the city's storm water management program.

**WETLANDS.** Lands transitional between terrestrial and aquatic: systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following attributes:

1. Have a predominance of hydric soils;
2. Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
3. Under normal circumstances support a prevalence of such vegetation.

(3) Scope and effect.

(a) Applicability. This section shall apply to any land alteration requiring any of the following permits or approvals:

1. A building permit for new multiple-family residential (three or more attached dwelling units), commercial, industrial, or institutional development;
2. A preliminary plat;
3. Land alteration permit as regulated by § 9.106 (J);
4. A building permit for a single-family or two-family residential dwelling except that only subdivisions (3) through (7) of this division shall apply; or

5. Public improvement projects.

6. No building permit, preliminary plat, excavation permit or public improvement project shall be approved until approval of a storm water management plan has been obtained in strict conformance with the provisions of this section.

7. All projects disturbing one acre or greater of land will require the submittal of a storm water management plan.

(b) Exemptions. The provisions of this section do not apply to:

1. Construction of a single-family or two-family dwelling or any structure or land alteration accessory thereto except that the provisions of subdivisions (3) through (7) of this division shall apply;

2. Any currently valid building permit, preliminary plat, excavation permit, or public improvement project approved prior to the effective date of this article;

3. Construction of agricultural structures or land alterations associated with agricultural uses unless an excavation permit is required by § 9.106(J);

4. Installation of a fence, sign, telephone, and electric poles and other kinds of posts or poles; or

5. Emergency work to protect life, limb, or property.

(4) Submission requirements—storm water management plan. A storm water management plan shall be submitted with all permit applications identified in § 9.106(I)(3). Storm water management plan submittal requirements are outlined in the city's SWMDS. No building or land disturbing activity will be approved unless it includes a storm water management plan, detailing how runoff and associated water quality impacts resulting from development will be controlled or managed.

(5) Plan review procedure.

(a) Process. Storm water management plans meeting the requirements of § 9.106(I) and the city's SWMDS shall be reviewed by the Engineering Division in accordance with the standards of § 9.106(I)(6) and the city's SWMDS. The Director of Public Works, or designee, shall approve, approve with conditions, or deny the storm water management plan.

(b) Duration. A storm water plan approved in accordance with this section shall become void if the corresponding building permit, excavation permit, preliminary plat, or public improvement project expires or becomes invalid.

(c) Conditions. A storm water management plan may be approved, subject to compliance with conditions reasonable and necessary to insure that the requirements contained in this article are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities, storage basins and other facilities, require replacement of vegetation, establish required monitoring procedures, stage the work over time, require alteration of the site design to insure buffering, and require the conveyance, for storm water management purposes, to the city or other public entity of certain lands or interests therein.

(d) Letter of credit. Prior to approval of any storm water management plan, the applicant shall submit a letter of credit or cash escrow to cover the estimated cost of site restoration. The letter of credit or cash escrow amount shall be in the amount specified by the current city SWMDS.

(e) Amendment. A storm water management plan may be revised in the same manner as originally approved.

(6) Approval standards. No storm water management plan which fails to meet the standards contained in this section shall be approved by the city.

(a) General criteria for storm water management plans.

1. An applicant shall install or construct all storm water management facilities according the criteria outlined in the city's SWMDS.

2. The applicant shall give consideration to reducing the need for storm water management facilities by incorporating the use of natural topography and land cover, such as wetlands, ponds, natural swales and depressions, as they exist before development, to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of the wetland or pond.

3. The following storm water management practices shall be investigated in developing a storm water management plan in the following descending order of preference:

- a. Infiltration of runoff on-site, if suitable soil conditions are available for use;
- b. Flow attenuation by use of open vegetated swales and natural depressions;
- c. Storm water retention facilities; and
- d. Storm water detention facilities.

4. A combination of successive practices may be used to achieve the applicable minimum control requirements specified in subdivision 3. above. Justification shall be provided by the applicant for the method selected.

(b) Specifications. At a minimum, applicants shall comply with all of the NPDES general construction storm water permit requirements.

(c) Wetlands. Existing wetlands may be used for storm water management purposes, provided the following criteria are met:

1. The wetland shall not be classified as a Group I or II water within the City Water Resource Management Plan.
2. A protective buffer strip of natural vegetation, at least ten feet in width, shall surround all wetlands.
3. A sediment trapping device or area that is designed to trap sediments 0.5 millimeters in size or greater, with a trap volume size based upon a prescribed maintenance schedule, shall be installed prior to discharge of storm water into the wetlands.
4. The natural outlet control elevation of the wetlands, if it is not a DNR public water, shall not be changed, except when either i) the outlet is intended to restore the wetland to its original elevation, ii) the wetland basin is landlocked and the artificial outlet control is placed no lower than 1.5 feet below the ordinary high water mark, iii)

the proposed level control is identified in the City Water Resource Management Plan, or iv) the level change is approved by a technical evaluation panel convened pursuant to the state Wetland Conservation Act of 1991 (WCA).

5. The water fluctuation from storm water shall not be increased over what occurs naturally, except as provided in subdivision 4.c. above.

6. The wetland shall not be a protected fen.

7. Wetlands shall not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas in accordance with the WCA. When wetland replacement is required, it shall be guided by the following principles in descending order of priority:

a. Avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;

b. Minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;

c. Rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment;

d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity; and

e. Compensating for the impact by replacing or providing substitute wetland resources or environments.

8. If the wetland is a DNR public water, all necessary permits from the DNR shall be obtained.

(d) Models/methodologies/computations. Hydrologic models and design methodologies used for the determination of runoff and analysis of storm water management structures shall be approved by the Director of Public Works. Plans, specifications and computations for storm water management facilities submitted for review shall be sealed and signed by a registered professional engineer. All computations shall appear on the plans submitted for review, unless otherwise approved by the Director of Public Works.

(e) Watershed management plans/groundwater management plans. Storm water management plans shall be consistent with adopted watershed management plans and groundwater management plans prepared in accordance with M.S. §§ 103B.231 and 103B.255, respectively, as they may be amended from time to time, and as approved by the Minnesota Board of Water and Soil Resources in accordance with the state law.

(7) Storm water management fee.

(a) When required. In lieu of the storm water management facilities required in § 9.106(I), the city may allow an applicant to make a monetary contribution to the development and maintenance of community storm water management facilities, designed to serve multiple land disturbing and development activities, when consistent with the City's Water Resource Management Plan.

(b) Calculation of fee. The amount of monetary contribution shall be found in the SWMDS. For preliminary plats, an estimated impervious coverage per lot, subject to the approval of the Director of Public Works, shall be included in the total impervious surface area calculation.

(c) Payment of fee. Payment of a monetary contribution shall occur as follows:

1. Building permit—upon issuance of building permit.

2. Excavation permit—upon issuance of excavation permit.
3. Preliminary plat—upon approval of final plat or commencement of land alteration, whichever occurs first.

(8) Inspection and maintenance. All storm water management facilities shall be designed to minimize the need for maintenance, to provide access for maintenance purposes, and to be structurally sound. In addition, the following maintenance standards shall apply:

(a) All storm water detention periods shall be maintained to ensure continued effective removal of pollutants from storm water runoff. In addition, upon 50% of the pond's original design volume being filled with sediment, the sediment shall be removed and the pond restored to its original design.

(b) The Director of Public Works, or designated representative, shall inspect all storm water management facilities during construction, during the first year of operation, and at least once every five years thereafter.

(c) All permanent storm water management facilities must provide a maintenance agreement with the city that documents all responsibilities for operation and maintenance of long-term storm water management facilities. Such responsibilities shall be documented in a maintenance plan and executed through a maintenance agreement. All maintenance agreements must be approved by the city and recorded at the County Recorder's office prior to final plan approval. At a minimum, the maintenance agreement shall describe the inspection and maintenance obligations:

1. The responsible party who is permanently responsible for inspection and maintenance of the structural and nonstructural measures.
2. Pass responsibilities for such maintenance to successors in title.
3. Allow the city and its representatives the right of entry for the purposes of inspecting all permanent storm water management systems.
4. Allow the city the right to repair and maintain the facility, if necessary maintenance is not performed after proper and reasonable notice to the responsible party of the permanent storm water management system.
5. Include a maintenance plan that contains, but is not limited to, the following:
  - a. Identification of all structural permanent storm water management systems.
  - b. A schedule for regular inspections, monitoring, and maintenance for each practice. Monitoring shall verify whether the practice is functioning as designed and may include, but is not limited to, quality, temperature, and quantity of runoff.
  - c. Identification of the responsible party for conducting the inspection, monitoring and maintenance for each practice.
  - d. Include a schedule and format for reporting compliance with the maintenance agreement to the city.
  - e. Right of entry. The issuance of a permit constitutes a right of entry for the city or its contractor to enter upon the construction site. The applicant shall allow the city and its authorized representatives, upon presentation of credentials, to:

- i. Enter upon the permitted site for the purpose of obtaining information, examining records, conducting investigations or surveys.
- ii. Bring such equipment upon the permitted development as is necessary to conduct such surveys and investigations.
- iii. Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of the permit.
- iv. Inspect the storm water pollution control measures.
- v. Sample and monitor any items or activities pertaining to storm water pollution control measures.
- vi. Correct deficiencies in storm water, erosion and sediment control measures.

(d) Storm water management facilities serving a single-family residential area or subdivision, but more than one single-family lot, shall be maintained by the city. The cost incurred by the city for maintenance of said facilities shall be assessed, levied through a special storm water taxing district against the properties contributing storm water runoff to or through the facility, or by the city's storm water utility.

(e) Storm water management facilities serving a multiple-family residential building or development; a commercial, industrial or institutional building or development; or an individual parcel shall be maintained by the property owner on which the facility is located, unless it is determined by the Director of Public Works that it is in the best interests of the city for the city to maintain such facilities. If the city is to maintain the storm water management facilities, the cost incurred by the city for the maintenance may be assessed or levied as described in subsection (d) above.

(9) Penalty. Any person, firm or corporation violating any provision of this section shall be fined not less than deemed committed on each day during or on which a violation occurs or continues.

(10) Other controls. In the event of any conflict between the provisions of this section and the provisions of the city code, the more restrictive standard prevails.

(J) Land alterations.

(1) Purpose. The purpose of this section is to manage land alterations within the city and provide for the review and approval of proposed grades prior to land alteration activities.

(2) In general. No person, firm or corporation may engage in any excavation, grading or filling of any land in the city without first having secured a permit from the Public Works Director in accordance with this section.

(3) Exemption. The removal of material for the purpose of constructing a basement or placement of footings is exempt from the provisions of this section, provided a grading plan was submitted and approved as part of the review and approval process. Grading of new subdivisions or developments is also exempt from the provisions of this section, provided a grading plan was submitted and approved as part of the review and approval process.

(4) Land alteration permit required. A land alteration permit from the Public Works Director is required for any of the following activities:

(a) Placement, removal or grading of more than ten cubic yards of earthen material on steep slopes adjacent to a lake or wetland, or within the shore or bluff impact zone of a lake or wetland.

(b) Placement, removal or grading of more than 50 cubic yards of earthen material anywhere in the city.

(c) Placement, removal or grading of earthen material within ten feet of any property line, or when such activity alters the drainage patterns of adjacent property.

(d) Placement, removal or grading of any property for the purposes of installing artificial turf or other surface that may require additional review of permeability and potential for illicit discharge.

(5) Conditional use permit required. A conditional use permit is required for any of the following activities:

(a) Placement, removal or grading of more than 500 cubic yards of earthen material on developed property zoned R-1 or R-2.

(b) Placement, removal or grading of more than 1,000 cubic yards of earthen material on undeveloped property zoned R-1 or R-2.

(c) Placement, removal or grading of more than 1,500 cubic yards of earthen material on property zoned R-3, R-4 or LB.

(d) Placement, removal or grading of more than 2,000 cubic yards of earthen material on property zoned GB, CBD, I-1, I-2, or MXD.

(6) Submittal requirements. An application for a land alteration permit shall include the following:

(a) A legal description of the land to be altered.

(b) The nature of the proposed alteration and future use of the property.

(c) The starting date and completion date of the land alteration.

(d) The names and addresses of all the owners of all the land to be altered.

(e) Scaled plans, showing the existing and proposed topography with two-foot contour intervals, and signed by a registered surveyor or engineer in the State of Minnesota.

(f) A scaled plan, showing existing and proposed vegetation and ground cover.

(g) An erosion and sedimentation control plan.

(h) Product specification sheet showing permeability, materials used, and potential for illicit discharge.

(K) Exterior lighting.

(1) In general. No use shall be operated or occupied so as to create light or glare in such an amount or to such a degree of intensity as to constitute a hazardous condition or a public nuisance. Lighting shall not create a sense of brightness that is substantially greater than the ambient lighting conditions so as to cause annoyance, discomfort, decreased visibility or a hazard for vehicular or pedestrian traffic.

(2) Lighting fixtures. Lighting fixtures shall be of a downcast with flat lens, cut-off type that conceals the light source from view and prevents light from shining on adjacent property. At no time should a fixture be aimed and/or tilted above a horizontal plane in commercial or industrial districts, with the exception of architectural up-lighting or landscape lighting.

(3) Lighting intensity. Lighting shall not directly or indirectly cause illumination or glare in excess of one-half footcandle as measured at the closest residential property line and three footcandles as measured at the closest street curb line or non-residential property line. Lighting shall be maintained stationary and constant in intensity and color, and shall not be of a flashing, moving or intermittent type.

(4) Submission. Detailed plans showing fixture type, wattage, light source, location and elevation along with site point by point showing footcandles must be submitted.

(5) Lighting of buildings. Lighting of building facades or roofs shall be located, aimed and shielded so that the light is directed only onto the facade or roof.

(6) Exceptions. The following uses are exempt from the provisions of this section:

(a) Publicly controlled or maintained street lighting, warning lights, emergency lights, or traffic signals.

(b) Athletic fields and other outdoor recreational facilities serving or operated by an institutional or public use that is operated in accordance with all other applicable provisions of this article.

(L) Off-street parking and loading.

(1) Purpose. The purpose of off-street parking and loading requirements is to alleviate or prevent congestion of the public right-of-way, to provide for the parking and loading needs of specific uses, to minimize the incompatibility between parking and loading areas and adjacent uses, and to regulate the size, design, maintenance and location of required off street parking and loading areas.

(2) Change of use. If the use of a building or site is changed or intensified, parking and loading facilities shall be provided for the changed or intensified use in accordance with the provisions of this section.

(3) Existing facilities. Existing off-street parking and loading facilities shall not be reduced below the requirements for a similar new use or, if less than the requirements for a similar new use, shall not be reduced further.

(4) Use of facilities.

(a) Required parking and loading spaces and driveways providing access to such spaces shall not be used for storage, display, sales, rental or repair of motor vehicles or other goods, or for the storage of inoperable vehicles or snow.

(b) Off-street parking facilities accessory to residential uses shall be utilized solely for the parking of passenger automobiles and/or one truck not to exceed 9,000 pounds gross capacity for each dwelling unit. Under no circumstances, shall required parking facilities accessory to residential structures be used for the storage of commercial vehicles or for the parking of automobiles belonging to the employees, owners, tenants or customers of nearby business or manufacturing establishments.

(5) Location of facilities. Required off-street parking spaces in the R-1 and R-2 Zoning Districts shall be located on the same lot as the principal building. Required off-street parking and loading facilities in all other zoning districts shall be located on the same lot or development site as the use served, except as follows:

(a) Off-site parking for multiple-family and institutional uses shall be located no more than 200 feet from the main entrance of the use being served.

(b) Off-site parking for commercial or industrial uses shall be located no more than 400 feet from the main entrance of the use being served.

(c) Reasonable and improved access shall be provided from the off-site parking facility to the use being served.

(d) The site used for off-site parking shall be under the same ownership as the principal use being served or use of the off-site parking facility shall be protected by a recordable instrument acceptable to the city.

(6) Calculation of requirements. Calculating the number of parking or loading required shall be in accordance with the following:

(a) Gross floor area. The term “gross floor area” for the purpose of calculating the number of off-street parking spaces required shall be determined based on the exterior floor dimensions of the building, structure or use times the number of floors, minus 10%.

(b) Places of public assembly. In places of worship, stadiums, sports arenas and other places of public assembly in which patrons or spectators occupy benches, pews, or other similar seating facilities, each three feet of such seating facilities shall be counted as one seat for the purpose of determining requirements for off-street parking facilities under this section.

(c) Capacity. In cases where parking requirements are based on capacity of persons, the capacity shall be based on the maximum number of persons that may occupy a place, as determined under the building code and posted within the establishment.

(d) Employees. When parking requirements are based on employee counts, such calculations shall be based on the maximum number of employees on the premises at any one time.

(e) Calculating space. When calculating the number of off-street parking spaces required results in fraction, each fraction of one-half or more shall require another space. The Council, at its discretion, may reduce the minimum required parking to not less than 1.5 parking spaces per unit for multifamily structures with seven or more units, after consideration of factors including but not limited to the present or future availability of transit services, shared parking, pedestrian orientation, and occupancy characteristics.

(f) Garage or carport. A garage or carport shall be considered a parking space. However, a building permit shall not be granted to convert a garage or carport to living space unless other acceptable provisions are made to provide the required parking space.

(g) Joint parking. Except for shopping centers or where a shared parking arrangement has been approved by the city, the off-street parking requirements for each use in a multi-use structure or site shall be calculated separately in determining the total spaces required.

(h) Proof of parking. In cases where the future potential use of a building may generate additional parking demand, the city may require a proof of parking plan for the site that shows how the anticipated parking demand will be met.

(7) Design and maintenance of parking facilities. Off-street parking facilities are subject to the following design and maintenance requirements:

(a) Size of parking spaces. Each parking space shall be not less than 9 feet wide and 20 feet in length, exclusive of an adequately designed system of access drives. In the case where the parking space is abutting a curb at its narrowest dimension, the parking stall length may be reduced to 18 feet. In parking lots with more than 300 spaces,

up to 40% of such spaces may be designated and clearly marked as compact car parking spaces with signage that is reasonably visible year round. A compact car parking space shall not be less than 8 feet wide and 18 feet in length, exclusive of the adequately designed system of access drives.

(b) Access and circulation. Except for parking accessory to one- and two-family dwellings, each required off-street parking space shall have direct access to an aisle or driveway no less than 24 feet in width and designed to provide safe and efficient means of vehicular access to and from the parking space without using public right-of-way for maneuvering.

(c) Surfacing. All off-street parking areas, all driveways leading to such parking areas and all other areas upon which motor vehicles may be located shall be surfaced with a dustless all-weather hard surface material. Acceptable materials include asphalt, concrete, brick, cement pavers or similar material installed and maintained per industry standards. Crushed rock shall not be considered an acceptable surfacing material.

(d) Drainage. Driveways shall not exceed a grade of 6% and all parking lots except those for less than four vehicles shall be graded according to a drainage plan that has been approved by the City Engineer. Catch basins, sumps and underground storm sewers may be required.

(e) Curbing. Except for one-, two-, three- and four-family residential uses, all off-street parking areas, all driveways leading to such parking areas, landscape islands, and other areas upon which motor vehicles may be located shall have six-inch non-surmountable poured in place concrete perimeter curbing. In cases where existing circumstances or area practices make such curbing impractical, the requirement may be waived subject to submittal and approval of a parking area drainage plan by the City Engineer.

(f) Lighting. Lighting used to illuminate an off-street parking area shall comply with the performance requirements of this section. The height of parking lot light poles or standards shall be no less than 12 feet and no more than the maximum height established for structures in the district in which the lights will be installed.

(g) Setbacks. Except for one-, two-, three- and four-family residential uses, parking lots and loading areas shall be subject to the same setbacks as a structure for the district in which such parking is located. One-, two-, three- and four-family residential uses are subject to the following setback requirements:

1. Residential lots platted prior to the effective date of this section and having a lot width of 60 feet or less, shall maintain a minimum side yard setback of one foot in all districts.

2. Residential lots platted after the effective date of this section or having a lot width greater than 60 feet shall maintain a minimum side yard setback of three feet in all districts.

3. The creation of a joint driveway use between adjoining property owners shall require a conditional use permit.

4. No more than 50% of the front yard setback shall be paved for parking purposes.

(h) Residential driveway locations. Driveways may only lead directly to, or be contiguous to driveways leading to, and attached or detached garage.

(i) Minimum driveway widths. In all zoning districts, driveways shall be no less than 12 feet in width.

(j) Parking lots and loading areas shall be subject to the same setbacks as a structure for the district in which such parking is located.

(k) Signs. No sign shall be located in any parking area except as necessary for the orderly operation of traffic movement or parking regulation.

(l) Screening. All off-street parking areas containing six or more parking spaces and located next to a residential use shall be screened with fencing or landscaping no less than six feet in height that is 80% opaque on a year round basis.

(m) Landscaping. All setback areas shall be landscaped with grass, vegetation or other landscape material. The front yard setback area of all off-street parking areas containing six or more parking spaces shall have a vegetative screen no less than 30 inches in height that is 80% opaque on a year round basis.

(n) Striping. All off-street parking areas containing six or more parking spaces shall have the parking spaces and aisles clearly painted on the pavement according to the plan approved by the city.

(o) Maintenance. Parking areas and driveways shall be kept free of dirt, dust and debris, and the pavement shall be maintained in good condition. In winter months, required parking areas for commercial businesses shall be cleared of snow. Landscaping, lighting, fencing or other features installed in conjunction with parking areas shall also be maintained and kept in good condition at all times.

(8) Off-street parking district.

(a) Should the city establish a public off-street parking district, those uses located within the district shall be exempt from providing off-street parking spaces as required herein.

(b) The CBD, Central Business District, is established as a public off-street parking district, so that nonresidential uses are exempt from providing off-street parking spaces as required herein. Residential uses, including those in mixed-use buildings, shall provide off-street parking as required herein.

(9) Shared parking. The City Council may approve the use of a required off-street parking area for more than one principal use on the same or an adjacent site if the following conditions are met:

(a) Location. The use for which application for shared parking is being made is located within 300 feet of the use providing the parking facilities.

(b) Nighttime uses. Up to 50% of the off-street parking facilities required for a bowling alley, nightclub, school auditorium, theater or similar nighttime use may be supplied by off-street parking facilities provided primarily for a daytime use.

(c) Sunday use. Up to 75% of the off-street parking facilities required for a place of worship or similar Sunday use may be supplied by off-street parking facilities provided primarily for a daytime use.

(d) Daytime use. For the purposes of this provision, the following uses are considered primarily daytime uses: financial institutions, offices, retail stores, personal service facilities and similar uses.

(e) Contract. A legally binding instrument for the shared use of off-street parking facilities shall be approved by the City Attorney and filed with the Anoka County Recorder's Office within 60 days after approval of the shared parking use.

(10) *Off-street parking requirements.* Off-street parking shall be provided as specified in the following table, except as otherwise provided in this section.

<b>Use</b>	<b>Minimum Spaces Required</b>
<b>Use</b>	<b>Minimum Spaces Required</b>
<i>Residential Uses</i>	
Single-family	2 per unit, two must be enclosed (garage)
Accessory Dwelling Units	1 off-street parking space per unit
Two-family	2 per unit, two must be enclosed (garage)
Townhome/Twinhome	2 per unit, two must be enclosed (garage)
Multiple-family	
One-bedroom units	1 per unit, must be enclosed (garage)
Two-bedroom or larger units	2 per unit, one must be enclosed (garage)
Manufactured home park	2 per unit
Residential care facility (6 or fewer)	2 per unit, two must be enclosed (garage)
Residential care facility (7 or more)	1 per employee, 1 per every 6 residents
Convent/monastery	1 per every 3 beds
Rooming house/group living quarters	2 per every 3 residents
Nursing home	1 per every 2 beds
Senior housing/assisted living	1 per every 2 units
Transitional/emergency housing	1 per employee, plus 1 per every 6 residents
Bed and breakfast home	2 plus 1 per every room rented
<i>Public/Institutional Uses</i>	
Community center	Determined by staff-based on parking study
Drop-in facility	30% of building capacity
Golf course	5 per hole, plus 30% of capacity of club house
Government facility	Based on type of use
Religious facilities/places of worship	1 per every 3.5 seats, capacity of main assembly area
School–elementary/junior high	10 plus 1 per classroom
School–senior high	10 plus 1 per every 6 students
School–vocational or business	Determined by staff–based on parking study
School–performing/visual/martial arts	30% of building capacity
<i>Commercial Uses</i>	
Retail sales/services	1 per 300 sf, gross floor area
Retail sales, outdoor	1 per 1,000 sf of sales/display area

Auditorium/places of assembly	1 per 3.5 seats, based on design capacity
Automobile convenience facility	6 spaces, plus 1 per 300 sf, gross floor area
Automobile repair	1 per 300 sf, gross floor area, plus 2 per service bay
Automobile sales/rental	1 per 300 sf, gross floor area, plus 1 per 1,000 sf of outdoor sales/display area
Banquet hall	1 per 3.5 seats, based on design capacity
Billiards hall	30% of building capacity
Bowling alley	5 per lane, plus 30% of capacity for related uses
Car wash	2 spaces per bay, plus 4 stacking spaces per bay
Clinic, medical and dental	1 per 300 sf, gross floor area
Clinic, veterinary	6 per veterinarian
Club or lodge	30% of building capacity
Consignment/thrift store	1 per 300 sf, gross floor area
Currency exchange	1 per 300 sf, gross floor area
Day care center	1 per every employee, plus 1 drop off space for every 5 enrollees
Financial institution	1 per 300 sf, gross floor area, plus 6 stacking spaces for each drive-through lane
Food service, convenience	6 plus 1 per 40 sf of dining/service area, plus 6 stacking spaces for each drive-through lane
Food service, limited	30% of building capacity
Food service, full-service	30% of building capacity
Funeral home	1 per 5 seats, plus 1 per 300 sf of non-eating area
Greenhouse/garden center	1 per 300 sf, gross floor area, plus 1 per 1,000 sf of outside sales/display area
Health/fitness club	Determined by staff–based on parking study
Hospital	Determined by staff–based on parking study
Hotel/motel	1 per unit, plus 30% of capacity for meeting rooms
Laboratory, medical	1 per 300 sf, gross floor area
Liquor store, off-sale	1 per 300 sf, gross floor area
Museum/gallery	30% of building capacity
Office	1 per 300 sf, gross floor area
Pawnshop	1 per 300 sf, gross floor area
Personal services	1 per 300 sf, gross floor area or 2 per station, whichever is greater
Professional services	1 per 300 sf, gross floor area

Recreational facility, indoor	1 per 150 sf of rink, court, pool area, and the like
Recreational facility, outdoor	30% of facility capacity
Recreation vehicle sales	1 per 300 sf, gross floor area, plus 1 per 1,000 sf of outdoor sales/display area
Shopping center	1 per 300 sf, gross floor area
Studio, professional	1 per 300 sf, gross floor area
Studio, radio and television	Determined by staff–based on design capacity
Theater, live performance or movie	1 per 3.5 seat, based on design capacity
<i>Industrial Uses</i>	
Assembly/manufacturing/processing	2 per every 3 employees or 1 per 1,000 sf, gross floor area, whichever is greater
Concrete, asphalt or rock crushing	2 per every 3 employees
Freight terminal	1 per 3,000 sf, gross floor area of storage/warehousing, plus 1 per 300 sf, gross floor area of office area
Maintenance facility	1 per 3,000 sf, gross floor area, plus 1 per 300 sf, gross floor area of office
Office/showroom	1 per 300 sf, gross floor area of office/showroom, plus 1 per 3,000 sf, gross floor area of storage
Office/warehouse	1 per 300 sf, gross floor area of office, plus 1 per 3,000 sf, gross floor area of storage
Outdoor sales/display	1 per 1,000 sf of sales/display area
Outdoor storage	1 per 3,000 sf of storage area
Printing/publishing	2 per every 3 employees or 1 per 1,000 sf, gross floor area, whichever is greater
Salvage operation	2 per 3 employees
Self-service storage facility	1 per 3,000 sf, gross floor area of storage, plus 1 per 300 sfr, gross floor area of office
Warehouse/distribution	1 per 3,000 sf, gross floor area of storage/warehousing, plus 1 per 300 sf, gross floor area of office/sales area

(11) Stacking requirements. Drive-up and drive-through facilities shall provide adequate stacking space for vehicles in accordance with the following table. Stacking spaces shall require a minimum pavement width of 12 feet, a length of 20 feet per vehicle, and shall be exclusive of any other required parking spaces or drive aisles.

Use	Minimum Stacking Spaces
Automobile washing facility–self-service	4 spaces per bay at entrance, 1 space per bay at exit
Automobile washing facility–automatic	4 spaces per bay at entrance, 1 space per bay at exit

Food service—fast food drive-through	4 spaces behind menu board, 4 space behind first window
Financial institution	4 spaces per teller window, 2 spaces per ATM kiosk
Other drive-up or drive-through uses	2 spaces per window

(12) Off-street loading requirements. Off-street loading space shall be provided for any non-residential use that receives or distributes materials or merchandise by trucks or similar vehicles and has a gross floor area of 5,000 square feet or more, in accordance with the following standards:

(a) Dimensions. Loading berths shall be no less than 12 feet in width, 50 feet in length and 14 feet in height, exclusive of aisle and maneuvering space.

(b) Location. Loading berths shall be located on the site and shall be separate from any required off-street parking. Loading berths shall not be located less than 50 feet from the property line of any residential property or residentially zoned property. Loading berths shall not be located within the front yard setback area.

(c) Access. Each loading berth shall be located with appropriate means of vehicular access to and from a public street or alley and shall not interfere with automobile or pedestrian traffic either on the site or adjacent to the site.

(d) Surfacing. All loading berths and access driveways shall be surfaced with a dustless all-weather material and constructed to control drainage according to a plan approved by the City Engineer.

(e) Use. Any space designated as a loading berth or access drive in accordance with the terms of this section shall not be used for the storage of goods, inoperable vehicles or required off-street parking.

(f) Number. For facilities with less than 20,000 square feet gross floor area, the off-street loading requirements may be met by providing a designated loading zone on site, as opposed to constructing a loading berth. For facilities with 20,000 square feet gross floor area or greater, one off-street loading berth shall be provided for every 30,000 square feet gross floor area or fraction thereof.

(M) *Tree Preservation and Planting Standards for Landscaping and Screening.*

(1) *Purpose.* The City of Columbia Heights recognizes the great value trees, landscaping, and screening provide to all residents of the City. A healthy, resilient, and robust urban forest enhances the aesthetic, environmental, and economic well-being of the City. Tree preservation and planting standards, landscaping and screening requirements are established to buffer non-compatible land uses, screen unsightly views, reduce noise and glare, minimize storm water runoff, and generally enhance the quality and appearance of development within the community.

- a. Preserve and increase the tree canopy cover of Columbia Heights by protecting mature trees throughout the City.
- b. Protect and enhance property values by conserving trees.
- c. Improve quality of life for all stakeholders, including residents, visitors, and wildlife.
- d. Preserve and increase the environmental services provided by the urban forest including sequestration of CO<sub>2</sub>, erosion and stormwater mitigation, reduction of air pollutants, reduction of the urban heat island effect, and reduction of noise pollution.

- e. Protect and maintain healthy trees in the development and building permit process. Protect and maintain healthy trees by ensuring best tree protection practices during construction and development.
- (2) Preservation, protection, and replacement of Protected Trees:
- a. This ordinance applies to all demolition, building permit applications, and land alteration permits, public or private, that require a survey.
  - b. Definitions:
    - i. Protected Tree: Any tree variety on the List of Protected Tree Varieties as maintained and published by City staff with a diameter of 6" or greater as measured at 4.5' above ground (DBH, Diameter at Breast Height). The List of Protected Tree Varieties may be amended from time to time.
    - ii. Removable Tree: Any tree not defined as a Protected Tree.
    - iii. City-Owned Tree: Any tree originating within the City right-of-way or originating from a City park or City-owned property.
  - c. Demolition and building permit applications must include a construction tree inventory plan indicating the location, species, and diameter of the trunk at 4.5' above the ground (DBH) for all Protected Trees on the property and City-Owned Trees on or adjacent to the construction site. The plan must also indicate any Protected Trees that are proposed to be removed, as well as their replacement tree(s) location, species, and size. Applications must also include a tree protection plan describing in detail how Protected Trees and City-Owned Trees will be preserved and protected during construction. The tree protection plan shall follow the standards as presented in the most recent version of the following publications:
    - i. ANSI A300 Part 5- Management of Trees and Shrubs During Site Planning, Site Development, and Construction
    - ii. ISA Best Management Practices- Managing Trees During Construction
  - d. The construction tree inventory plan and tree protection plan must be reviewed and approved by the City Forester. Approved tree protection measures shall be fully installed and inspected by City staff prior to commencement of any construction activities or vehicular traffic on site.
  - e. During the demolition and building process, the permit holder shall not leave any Protected Tree or adjacent City-owned tree without sufficient guards and protections to prevent injury to the protected tree during construction. Tree protection shall follow the standards as presented in the publications listed above (3.b.). City Forestry Staff monitoring is required for all projects with affected Protected Trees and/or replacement trees. Replacement trees will be monitored for three (3) years to ensure proper establishment.
  - f. Protected Tree varieties that are less than 6" in caliper must be moved to another location on the property if possible. Exceptions must be granted in writing by the City Forester.
  - g. If a Protected Tree is removed, except as allowed for in paragraph 5 below, it is subject to a size-based replacement policy.
    - i. Protected trees with DBH 6"-15" are subject to a 2:1, "two for one" replacement requirement.
    - ii. Protected trees with DBH 15"-20" are subject to a 3:1, "three for one" replacement requirement.
    - iii. Protected trees with DBH 20"-25" are subject to a 4:1, "four for one" replacement requirement.
    - iv. Protected trees with DBH >25" are subject to a 5:1, "five for one" replacement requirement.

- v. Replacement trees must be varied by species and are subject to approval by the City Forester.
  - vi. Replacement trees are subject to the size and diversity requirements as outlined below.
  - vii. A payment of \$400 for each tree may be made to the City in lieu of planting replacement trees where sufficient space does not exist on the property. Payments will support the planting of replacement trees by City staff on City property.
  - viii. Replacement trees shall be planted according to the standards set forth in the MN Department of Natural Resources publication “A Pocket Guide to Planting Trees”. All replacement trees are subject to inspection by City staff for a period of 2 years beginning the day of planting. Any trees determined to be unhealthy or poorly established during this period shall be subject to replacement.
- (3) Removal of Protected and Removable Trees:
- a. Protected Trees may be removed in the following areas:
    - i. Within the footprint of the building pad of a new or remodeled building, or within a 10’ radius of the footprint.
    - ii. Within driveways and parking areas meeting all other City ordinance requirements.
  - b. Protected Trees removed in accordance with sections (i.) and (ii.) above are required to be replaced at a rate of 1:1, “one for one.” Replacement trees are subject to all requirements listed in paragraph (3.) above.
  - c. Removable Trees may be removed for any development or building permit without replacement.
  - d. If Protected Trees are dead, diseased, or hazardous their removal must be approved in writing by the City Forester before removal. Dead, diseased, or hazardous trees are not subject to replacement requirements.
- (4) Exemptions from Tree Preservation Ordinance: Tree removal on property with an existing building or structure that is not being modified is exempt from this ordinance.
- (5) Standards for Newly Planted Trees and Replacement Trees
- a. *Landscaping and screening.*
    - i. *Landscape plan required.* A landscape plan is required for all new commercial, industrial, institutional, and multi-family development. For development having an anticipated construction value in excess of \$750,000, the landscape plan must be prepared by a landscape architect registered in the State of Minnesota. Said landscape plan shall include the location, size, quantity, and species of all existing and proposed plant materials.
    - ii. *Design considerations.* The following design concepts and requirements should be considered when developing a landscape plan for submittal to the city:
      - 1. To the maximum extent possible, the landscape plan shall incorporate existing vegetative features on the site.
      - 2. The overall composition and location of landscaped areas should complement the scale of the development and its surroundings.
      - 3. The use of native species is preferred in all landscaping choices, and a minimum of 80% of all plants used shall be native to MN.
      - 4. The City of Columbia Heights is committed to enhancing the diversity and resiliency of its urban forest. A variety of trees and shrubs shall be used to provide visual interest year-round and meet diversity requirements. No

more than 25% of the required number of trees or shrubs may be comprised of any one species or genus. No less than 50% of the required number of trees shall be over-story deciduous trees and no less than 10% shall be coniferous. New trees and replacement trees shall be planted according to the standards set forth in the MN Department of Natural Resources publication “A Pocket Guide to Planting Trees”. All replacement trees are subject to inspection by City staff for a period of 3 years beginning the day of planting. Any trees determined to be unhealthy or poorly established during this period shall be subject to replacement.

5. Final slopes greater than 3:1 will not be permitted without special treatment such as terracing, retaining walls or special ground covers.
6. All plant materials shall meet the minimum size standards listed in Table 1; all planting locations shall meet the soil volume requirements for the plant material listed in Table 2. Soil volume requirements must be met by contiguous, uncompacted soil suitable for the plant type. Soil depth beyond 3 feet shall not be counted towards soil volume requirements. Landscaped areas should be of adequate size to allow proper plant growth, protect plantings from both pedestrian and vehicular traffic, and provide adequate area for plant maintenance. Definitions and rules for calculating soil volume provided in Appendix B. All exceptions to soil volume requirements must be approved by the City Forester in writing.

Table 1: Plant Size Requirements

Plant Type	Minimum Size at Planting
Trees	
Evergreen-over-story	6 feet in height
Evergreen—ornamental	6 feet in height
Deciduous—over-story	2.5 inches diameter, measured 2 feet from base
Deciduous—ornamental	2 inches diameter, measured 2 feet from base
Shrubs	
Evergreen	2 feet in height
Deciduous	2 feet in height
Screening shrubs—either	3 feet in height

Table 2: Soil Volume

Requirements

Expected Tree Size at Maturity	Minimum Soil Volume Requirement (ft <sup>3</sup> )
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Small trees: 10-25 ft crown spread, 8-12” mature DBH	300
Medium trees: 25-35 ft crown spread, 12-18” mature DBH	700
Large trees: 35+ ft crown spread, 18”+ mature DBH	1100

Appendix A: List of Protected Tree Varieties

Common Name	Botanical Name
Birch	<i>Betula spp.</i>
Buckeye, Ohio	<i>Aesculus glabra</i>
Catalpa, Northern	<i>Catalpa speciosa</i>
Cedar, Eastern Red	<i>Juniperus virginiana</i>
Cedar, Northern White	<i>Thuja occidentalis</i>
Elm (except Siberian/Asian elms)	<i>Ulmus spp. (Except U. pumila)</i>
Fir, White	<i>Abies concolor</i>
Hackberry	<i>Celtis occidentalis</i>
Hemlock, Eastern	<i>Tsuga canadensis</i>
Hickory	<i>Carya spp.</i>
Honey locust	<i>Gleditsia triacanthos</i>
Ironwood	<i>Ostrya virginiana</i>
Kentucky coffee	<i>Gymnocladus dioica</i>
Linden	<i>Tilia spp.</i>
Maple, Black	<i>Acer nigrum</i>
Maple, Red	<i>Acer rubrum</i>
Maple, Sugar	<i>Acer saccharum</i>
Mountain ash	<i>Sorbus spp.</i>
Oak	<i>Quercus spp.</i>
Pine, Red	<i>Pinus resinosa</i>
Pine, White	<i>Pinus strobus</i>
Spruce, Norway	<i>Picea abies</i>
Spruce, White	<i>Picea glauca</i>
Walnut, Black	<i>Juglans nigra</i>

Appendix B: Definitions and Rules for Calculating Soil Volume

The following definitions apply to soil media for newly planted trees in the City of Columbia Heights:

*Open soil.* Exclusively refers to either uncompacted native soils (no greater than 80% Proctor), or amended

soils meeting the Minnesota Department of Transportation standards for approved topsoil, that are not covered by hardscape or paved surfaces.

*Available open soil.* The uncovered length by width of a planting bed, multiplied by depth of preparation up to 36 inches deep. Most unprepared urban subgrade is highly compacted and does not qualify as available.

*Covered soil.* Soil volume provided below hardscape or paved surfaces in the form of suspended soil cells or structural soil. Only 25% of the volume of structural soils may be counted towards soil volume requirements. All covered soil used in cell-type systems or suspended pavement systems shall be loam.

*Shared soil.* Soil media shared by more than one tree in a planting bed sharing open soil, or an individual tree in a planting bed that is connected to other open soils via Soil Cells or Structural Soil. Areas of shared soil must have a continuous root path that does not restrict to less than 4 feet wide or 2 feet deep. Trees in shared soil spaces received a 30% credit towards total soil volume requirements.

*Isolated soil.* Soil media in a tree well or small enclosed planting bed that is not connected to other prepared soil volumes and is totally isolated by hardscape such as driveways, sidewalks, or vaults.

Connected soil. Two or more areas of open soil that are connected below hardscape with either soil cells or structural soil. These connected beds can now qualify as shared soil.

The following standards and exceptions apply to calculating soil volumes:

- 1) The total soil volume provided for a tree shall be calculated in cubic feet by adding the available open soil volume to the available covered soil volume within a 50-foot radius of the tree.
  - 2) When total soil volume consists of more than one planter bed or open soil area, those areas must be connected by continuous root paths at least 4 feet wide and 2 feet deep.
  - 3) Soil volumes for covered soil shall be calculated by using only the space available to roots and may not include the components providing structure. 90% of the volume of cell-type hardscape suspension systems may be counted towards total soil volume; 25% of the volume of structural soils may be counted towards total soil volume. A maximum depth of 36" may be used when calculating total soil volume; depths beyond 36" may not be counted towards soil volume requirements. Trees in shared soil spaces receive a 30% credit towards total soil volume requirements.
- (6) *Landscaping requirements.* Landscaping shall be provided in accordance with the following requirements:
- a. All required setbacks shall be landscaped with turf grass, native grasses, trees, shrubs, vines, perennial flowering plants, or other pervious ground cover. Artificial turf shall not be considered a pervious ground cover unless a land disturbance permit is issued and approved by the Public Work Director.
  - b. A minimum of one tree shall be planted for every 50 feet of street frontage or fraction thereof. The trees shall be planted within the front yard and may be arranged in a cluster or placed at regular intervals to best complement existing landscape design patterns in the area.

- c. A minimum of four trees shall be planted for every one acre of lot area covered by buildings, parking areas, loading areas, exterior storage areas and other impervious surfaces.
  - d. Parking areas shall have a minimum of 100 square feet of landscape area and one over-story tree for each 20 spaces or, fraction thereof. The remainder of the landscape area shall be covered with turf grass, native grasses, trees, shrubs, vines, perennial flowering plants, or other pervious ground cover.
- (7) *Screening requirements.* Screening shall be provided in accordance with the following requirements:
- a. All off-street parking areas containing six or more parking spaces and located adjacent to a residential or residentially zoned property, the parking area shall be screened along the boundary with the residential use. Where any commercial or industrial use is located adjacent to or across a public alley from a residential or a residentially zoned property, the commercial or industrial use shall be screened along the boundary with the residential use.
  - b. Exterior storage of materials or equipment, except for allowed retail sales and temporary placement of equipment, shall be screened from all adjacent non-industrial uses and from the public right-of-way.
  - c. Required screening shall consist of a fence, wall, earthen berming and/or vegetation no less than six feet in height and no less than 80% opaque on a year round basis. Said screening shall be located as close to the property line as practicable and no closer than 15 feet from the edge of a public right-of-way.
- (8) *Installation and maintenance.* The following regulations shall govern the installation and maintenance of landscaping and screening materials.
- a. All landscaping materials and screening materials shall be installed in conjunction with site development and prior to issuance of a final certificate of occupancy.
  - b. A letter of credit or other security as acceptable to the city shall be deposited with the Zoning Administrator, in an amount equal to 100% of the estimated cost of landscaping and/or screening. The letter of credit or other security as acceptable to the city, or portions thereof, shall be forfeited to maintain and/or replace materials for a period of time to include at least two growing seasons. A portion of the letter of credit or other security as acceptable to the city may be released after one growing season as determined by the Zoning Administrator. The property owner shall be responsible for continued maintenance of landscaping and screening materials to remain in compliance with the requirements of this section. Plant materials that show signs of disease or damage shall be promptly removed and replaced within the next planting season.
  - c. The property owner shall be responsible for continued maintenance of landscaping and screening materials to remain in compliance with the requirements of this section. Plant materials that show signs of disease or damage shall be promptly removed and replaced within the next planting season.
- (9) *Screening of parking areas from adjacent properties.* All parking and loading areas (including drive-through facilities, pump island service areas and stacking spaces) abutting a public street or sidewalk shall provide:
- a. A landscaped frontage strip at least five feet wide along the public street or sidewalk. If a parking area contains over 100 spaces, the minimum required landscaped frontage strip shall be increased to eight feet in width.

- b. Screening consisting of either a masonry wall, fence, berm or hedge or combination that forms a screen a minimum of three feet in height, a maximum of four and one half feet in height, and not less than 50% opaque on a year-round basis. For reasons of personal safety and security, parking lot screening should allow clear visibility of pedestrians above the three-foot high viewing range.
- c. Trees shall be planted at regular intervals of no greater than 50 feet within the frontage strip.

(N) Building design standards.

(1) Purpose. The purpose of this section is to promote quality development throughout the community that is attractive and visually compatible with adjacent development.

(2) Design review required. Approval of building elevations is required for all new commercial, industrial, institutional and multi-family development. Building design approval is also required for any remodeling or expansion activity that increases the overall size of the building by 10% or more.

(3) Building materials and design. The following material and design standards shall be adhered to:

(a) Building materials for all projects shall be durable, require low maintenance and be of the same or better quality than that used on surrounding properties; and shall consist of any of the following materials: Brick; natural stone; stone treated concrete panels; glass curtain wall panels; wood, provided surfaces are finished for exterior use and only woods of proven exterior durability are used such as cedar, redwood, and cypress; factory fabricated and finished metal frame paneling; or other materials of high architectural quality as approved by staff.

(b) Building elevations and facades should include a variety of architectural features and building materials to provide visual interest and give each project a distinct character. Building facades shall contain windows at the ground level or first floor in order to increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility. Special care should be given to building elevations that face a public right-of-way or a residential area. Doors, window frames, screening walls, and other architectural features should be finished to complement the color and material of the principal building. At least 20% of the first floor facade that faces a public street, sidewalk or parking lot shall be windows or doors for residential uses. At least 20% of the first floor facade that faces a public street, sidewalk or parking lot shall be windows or doors of clear or lightly tinted glass that allows views into and out of the building at eye level for non-residential uses. Windows shall be distributed in a more or less even manner. Minimum window area shall be measured between the height of two feet and ten feet above the finished level of the first floor.

(c) All additions, exterior alterations or accessory buildings constructed after the original buildings shall be of the same material and design as the original structure. However, this provision shall not prohibit the upgrading of the quality of materials used in a remodeling or expansion activity, provided said upgraded material complements the original.

(d) All structures over 120 square feet shall have full perimeter footings.

(e) Steel frame structures with metal siding and roof are allowed in commercial and industrial districts provided 50% or more of the front of the structure is masonry type veneer and windows, and the side walls shall be at least four feet from grade with the same type of masonry veneer.

(4) Application of master plan district provisions. Properties located within the district boundaries of master plan area shall also be subject to the district provisions of the master plan.

(5) Design guidelines. The City Council may adopt by resolution design guidelines that shall apply to designated areas or districts of the city with greater specificity than the standards in this section. Where there is a conflict between the design guidelines and the standards in this section, the guidelines shall apply. The design guidelines shall not prohibit public art. Public art shall be allowed to be incorporated into building design and may include but is not limited to; painted block, landscaping and tree plantings, and ornamental structures, etc. Public art shall be encouraged as an alternative to traditional design guideline requirements.

(O) Telecommunication towers/antennae.

(1) Purpose.

(a) The purpose of this division is to provide a uniform and comprehensive set of standards for the development and installation of wireless communications towers, antennas and related facilities. The regulations and requirements contained herein are intended to: (i) regulate the placement, construction and modification of wireless communications towers and related wireless communications facilities in order to protect the health, safety, and welfare of the public and the aesthetic quality of the city; and (ii) encourage managed development of wireless communications infrastructure, while at the same time not unreasonably interfering with the development of the competitive wireless communications marketplace in the City of Columbia Heights.

(b) It is intended that the city shall apply these regulations to accomplish the following:

1. Minimize the total number of towers throughout the community through siting standards;
2. Encourage the location of towers in non-residential areas and with compatible uses;
3. Provide for the appropriate location and development of wireless communications towers, antennas and related facilities within the city, to the extent possible, to minimize potential adverse impacts on the community;
4. Minimize adverse visual impacts of wireless communications towers and related facilities through careful design, siting, landscape screening, and innovative camouflaging techniques utilizing current and future technologies;
5. Promote and encourage shared use/co-location of towers and antenna support structures;
6. Maintain and preserve the existing residential character of the City of Columbia Heights and its neighborhoods and to promote the creation of a convenient, attractive and harmonious community;
7. Promote the public safety and avoid the risk of damage to adjacent properties by ensuring that wireless communications towers and related wireless communications facilities are properly designed, constructed, modified, maintained and removed;
8. Ensure that wireless communications towers and related wireless communications facilities are compatible with surrounding land uses;
9. Encourage the use of alternative support structures, co-location of new antennas on existing wireless communications towers, camouflaged towers, and construction of towers with the ability to locate three or more providers;

10. Maintain and ensure that a non-discriminatory, competitive and broad range of wireless communications services and high-quality wireless communications infrastructure consistent with federal law are provided to serve the community; and

11. Ensure that wireless communications facilities comply with radio frequency emissions standards as promulgated by the Federal Communications Commission.

(c) This section is not intended to regulate satellite dishes, satellite earth station antennas, residential television antennas in private use, multichannel multipoint distribution service antennas, or amateur radio antennas.

(2) Definitions. For the purposes of this division the following terms and phrases shall have the meaning ascribed to them herein:

**ACCESSORY STRUCTURE.** Means a structure or portion of a structure subordinate to and serving the principal structure on the same lot.

**ACCESSORY USE.** Shall have the meaning set forth in the Chapter 9.

**ANTENNA.** Means a device fabricated of fiberglass, metal or other material designed for use in transmitting and/or receiving communications signals and usually attached to a wireless communications tower or antenna support structure.

**ANTENNA SUPPORT STRUCTURE.** Any building or structure, excluding towers, used or useable for one or more wireless communications facilities.

**BUFFER or BUFFERING.** A natural or landscaped area or screening device intended to separate and/or partially obstruct the view of adjacent land uses or properties from one another so as to lessen the impact and adverse relationship between dissimilar, unrelated or incompatible land uses.

**CITY.** The City of Columbia Heights, Minnesota, and any and all departments, agencies and divisions thereof.

**CITY CODE.** The Columbia Heights City Code, as amended from time to time.

**CITY COUNCIL or COUNCIL.** The Columbia Heights City Council or its designee.

**CITY MANAGER.** The City Manager of the City of Columbia Heights, Minnesota or the City Manager's designee.

**CO-LOCATION.** The use of a single wireless communications tower, antenna support structure and/or site by more than one provider.

**CONDITIONAL USE.** Those uses that are generally compatible with other uses permitted in a zoning district, but that require individual review of their location, design, configuration, intensity and structures, and may require the imposition of conditions pertinent thereto in order to ensure the appropriateness of the use at a particular location. This definition shall only apply to this specific division and shall not apply to other sections or provisions of the land use and development regulations.

**CONDITIONAL USE PERMIT.** A permit specially and individually granted by the Council after a public hearing thereon by the Planning Commission for any conditional use so permitted in any zoning district. In approving a conditional use permit, the Council may impose reasonable conditions to accomplish the objectives of this division with respect to use, screening, lighting, hours of operation, noise control, maintenance, operation or other requirements.

**EQUIPMENT CABINET or SHELTER.** A structure located near a wireless communications facility that contains electronics, back-up power generators and/or other on-site supporting equipment necessary for the operation of the facility.

**EXISTING TOWER.** Any tower designated as an existing tower by division (O)(6) for which a permit has been properly issued prior to the effective date of this division, including permitted towers that have not yet been constructed so long as such approval is current and not expired. After the effective date of this division, any tower approved and constructed pursuant to the provisions of this division shall thereafter be treated as an existing tower for purposes of regulation pursuant to this division and the land use and development regulations.

**GUYED TOWER.** A wireless communications tower that is supported, in whole or in part, by guy wires and ground anchors or other means of support besides the superstructure of the tower itself.

**LAND USE AND DEVELOPMENT REGULATIONS.** Chapter 9 of the Columbia Heights Code, as it may be amended from time to time.

**MICROWAVE DISH ANTENNA.** A dish-like antenna used to transmit and/or receive wireless communications signals between terminal locations.

**MONOPOLE TOWER.** A wireless communications tower consisting of a single pole or spire supported by a permanent foundation, constructed without guy wires and ground anchors.

**NONCONFORMITY.** Shall have the meaning given in M.S. § 394.22, subd. 8, or successor statutes, and shall be governed by the provisions of the land use and development regulations (nonconformities).

**PANEL ANTENNA.** An array of antennas designed to direct, transmit or receive radio signals from a particular direction.

**PICO CELL.** A low-power cell whose coverage area extends 300 to 500 yards.

**PLANNING COMMISSION.** The Columbia Heights Planning and Zoning Commission.

**PROVIDER.** (When used with reference to a system) means a person or entity that provides wireless communications service over a wireless communications facility, whether or not the provider owns the facility. A person that leases a portion of a wireless communications facility shall be treated as a provider for purposes of this division.

**SATELLITE DISH.** An antenna device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, or cornucopia-shaped and is used to transmit and/or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVROs and satellite microwave antennas.

**SELF-SUPPORT/LATTICE TOWER.** A tower structure requiring no guy wires for support.

**STEALTH or CAMOUFLAGED TOWER, EQUIPMENT CABINET or FACILITY.** Any wireless communications tower, equipment cabinet or facility designed to hide, obscure or conceal the presence of the tower, antenna, equipment cabinet or other related facility. The stealth technology used must incorporate the wireless communications tower, equipment cabinet and facility into and be compatible with the existing or proposed uses of the site. Examples of stealth facilities include, but are not limited to: architecturally screened roof-mounted antennas, antennas

integrated into architectural elements, and wireless communications towers designed to look like light poles, power poles, trees, flag poles, clocks, steeples or bell towers.

**UTILITY POLE-MOUNTED FACILITY.** A wireless communications facility attached, without regard to mounting, to or upon an electric transmission or distribution pole, street light, traffic signal, athletic field light, utility support structure or other similar facility located within a public right-of-way or utility easement approved by the Planning Commission. The facility shall include any associated equipment shelters regardless of where they are located with respect to the mount.

**WHIP ANTENNA.** An omni-directional antenna used to transmit and/or receive radio signals.

**WIRELESS COMMUNICATIONS FACILITY.** A facility that is used to provide one or more wireless communications services, including, without limitation, arrays, antennas and associated facilities used to transmit and/or receive wireless communications signals. This term does not include wireless communications towers, over-the-air reception devices that deliver or receive broadcast signals, satellite dishes regulated by 47 C.F.R. § 25.104, devices that provide direct-to home satellite services (“DBS”) or devices that provide multichannel multi-point distribution services (“MMDS”) as defined and regulated by 47 C.F.R. § 1.4000, as amended.

**WIRELESS COMMUNICATIONS SERVICES.** Those services specified in 47 U.S.C. §§ 332(c)(7)(C) and 332(d)(1)-(2), and any amendments thereto.

**WIRELESS COMMUNICATIONS TOWER.** A guyed, monopole or self-support/lattice tower, or extension thereto, constructed as a freestanding structure, supporting one or more wireless communications facilities used in the provision of wireless communications services.

**ZONING ADMINISTRATOR.** The person appointed by the City Manager as provided in the land use and development regulations.

(3) **Applicability.** The requirements of this division apply to the extent provided herein to all new, existing, replacement, re-located or expanded and/or modified wireless communications towers and wireless communications facilities. The requirements of this division apply throughout the city. It is the express intent of the city to impose, to the extent permitted by applicable law, all requirements of this division to all land within the city, whether publicly or privately held, including, without limitation, private property, city property, church property, utility property and school property.

(a) **Non-essential services.** Wireless communications towers and wireless communications facilities will be regulated and permitted pursuant to this division and not regulated or permitted as essential services, public utilities or private utilities.

(b) **Attempt to locate on existing tower or antenna support structure.** Every owner/operator seeking to locate a wireless communications facility within the city must attempt to locate on an existing wireless communications tower or antenna support structure as required by division (O)(7) and (8).

(4) **Exempt from city review.** The following activities shall be permitted without city approvals:

(a) **Amateur radio.** The installation of any antenna and its supporting tower, pole or mast to the extent city regulation is preempted by state or federal law.

(b) **Residential television antennas.** The installation of residential television antennas in private use to the extent preempted by state and federal law.

(c) Satellite dishes. The installation of satellite dishes to the extent preempted by state or federal law.

(d) Mobile news. The use of mobile services equipment providing public information coverage of news events of a temporary or emergency nature.

(5) Permitted locations. The following applies to all wireless communications towers, including re-located or expanded and/or modified towers, but not to existing towers:

(a) Wireless communications towers less than 120 feet in height shall be a permitted use in the I-1 and I-2 zoning districts.

(b) Wireless communications towers greater than or equal to 120 feet in height shall be a conditional use in the I-1 and I-2 zoning districts.

(c) Wireless communications towers less than 80 feet in height shall be a permitted use in the RB, CBD and GB zoning districts.

(d) Wireless communications towers greater than or equal to 80 feet in height shall be a conditional use in the RB, CBD and GB zoning districts.

(e) Wireless communications towers less than 80 feet in height shall only be allowed as a conditional use in the R-1, R-2, R-3, R-4 and LB zoning districts.

(f) Wireless communications towers greater than or equal to 80 feet in height shall not be a permitted use in the R-1, R-2, R-3, R-4 and LB zoning districts.

(g) Except where superseded by the requirements of county, state or federal regulatory agencies possessing jurisdiction over wireless communications towers, equipment cabinets and wireless communications facilities, such towers, equipment cabinets and facilities shall be stealth towers, stealth equipment cabinets and stealth facilities camouflaged to blend into the surrounding environment using stealth technology in a manner pre-approved by the city on a case-by-case basis.

(h) Utility pole-mounted facilities shall be permitted as accessory uses in all zoning districts. Applications for such facilities shall be subject to the conditions set forth in this division.

(6) Existing towers.

(a) Except where otherwise noted, existing towers shall not be rendered nonconforming uses by this division. The city encourages the use of these existing towers for purposes of co-locating additional wireless communications facilities. Any and all towers erected and in use or approved on or before the effective date of this division shall be treated as existing towers. These towers shall be considered conforming uses with respect to this division and the city shall allow co-location on these towers subject to the requirements of division (O)(7) so long as the providers utilize the most visually unobtrusive equipment that is technologically feasible.

(b) Owners of existing towers shall be required to comply with the requirements and procedures set forth in division (O)(13) and (14) to replace an existing tower.

(c) Owners of existing towers shall be required to comply with the applicable requirements and procedures set forth in division (O)(6), (7), (8) and (13) to modify or relocate an existing tower or to co-locate a wireless communications facility on an existing tower.

(d) Increases in height of an existing wireless communications tower, modification of an existing wireless communications tower or conversion of an existing wireless communications tower to a stealth or camouflage structure shall be treated as a new tower and subject to all the applicable requirements of this division.

(e) Owners of existing wireless communications towers shall be required to comply with the requirements set forth in division (O)(15) and (16).

(7) Co-location use, modification and relocation of existing towers.

(a) Any owner of an existing tower or antenna support structure containing additional capacity suitable for installation or co-location of wireless communications facilities shall permit providers to install or co-locate said facilities on such towers or antenna support structures; provided that no existing tower or antenna support structure shall be used to support wireless communications facilities for more than three separate providers. Any co-location of wireless communications facilities shall be subject to mutually agreeable terms and conditions negotiated between the parties.

(b) Any existing tower may be modified or relocated to accommodate co-location of additional wireless communications facilities as follows:

1. An application for a wireless communications permit to modify or relocate a wireless communications tower shall be made to the Zoning Administrator. The application shall contain the information required by division (O)(14)(b) and (c). The Zoning Administrator shall have the authority to issue a wireless communications permit without further approval by the Council or the Planning Commission, except as provided in this division. Any denial of an application for a wireless communications permit to modify or relocate a wireless communications tower for purposes of co-location shall be made in accordance with division (O)(14)(e).

2. The total height of the modified tower and wireless communications facilities attached thereto shall not exceed the maximum height allowed for a permitted wireless communications tower in the zoning district in which the tower is located, unless a conditional use permit is granted by the city.

3. Permission to exceed the existing height shall not require an additional distance separation from designated areas as set forth in this division. The tower's pre-modification height shall be used to calculate such distance separations.

4. A tower which is being rebuilt to accommodate the co-location of additional wireless communications facilities may be moved on the same parcel subject to compliance with the requirements of this division.

5. A tower that is relocated on the same parcel shall continue to be measured from the original tower location for the purpose of calculating the separation distances between towers as provided herein.

(8) Application to locate wireless communications facility on existing tower.

(a) An application for a wireless communications permit to locate or re-locate a wireless communications facility on an existing tower must be submitted to the Zoning Administrator on the designated form and shall, at a minimum, contain the following:

1. Name, address and telephone number of the applicant;
2. Location of the existing tower, along with the tower owner's name and telephone number;
3. Number of applicant's wireless communications facilities to be located on the subject tower;

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4. A sworn and certified statement in writing by a qualified engineer that the wireless communications facility will conform to any and all other construction standards set forth by the city code, and federal and state law;
  5. An application fee in the amount set by the Council for each wireless communications facility listed on the application;
  6. A copy of all licenses and/or franchises required by federal, state or local law for the construction and/or operation of a wireless communications system in the city;
  7. A scaled site plan clearly indicating the location, type and height of the proposed wireless communications facility, on-site land uses and zoning, elevation and stealth design drawings of the proposed wireless communications facility and the supporting tower, topography, and any other information deemed by the city to be necessary to assess compliance with this division and the land use and development regulations;
  8. An inventory of the applicant's existing towers and wireless communications facilities, if any, that are either within the jurisdiction of the city or within one mile of the city limits, including specific information about the location, height, and design of each wireless communications facility or tower;
  9. A certification that the applicant will comply with all applicable federal, state or local laws including all the provisions of the land use and development regulations; and
  10. A certification that the site described in the application is located on an existing tower and the owner/operator agrees to the co-location of the subject wireless communications facility.
- (b) An application for a wireless communications permit to locate or re-locate a wireless communications facility that proposes to co-locate said facility on an existing tower and that satisfies the requirements set forth in this division, shall receive expedited treatment in the review process.
- (c) So as to further expedite the permitting process and to promote the efficient use of existing sites, the city encourages the users of existing towers to submit a single application for approval of multiple users on a single existing site. Applications for approval at multiple user sites shall be given priority in the review process. The fee to be submitted with a multiple user application shall be the fee specified in this subsection multiplied by the number of users listed in such application.
- (d) A petitioner shall submit any additional information requested by the city for purposes of evaluating the permit request.
- (e) In granting or denying a wireless communications permit to locate or re-locate a wireless communications facility on an existing tower, the Zoning Administrator shall prepare a written record of decision including findings of fact.
- (9) Wireless communications facilities on antenna support structures.
- (a) All wireless communications facilities to be located on antenna support structures shall be subject to the following minimum standards:
1. Wireless communications facilities shall only be permitted on buildings which are at least 35 feet tall.
  2. Wireless communications facilities shall be permitted on the city's water tower; provided that the city may impose reasonable conditions which ensure that such facilities do not interfere with access to or maintenance of the tower.

3. If an equipment cabinet associated with a wireless communications facility is located on the roof of a building, the area of the equipment cabinet shall not exceed 10 feet in height, 400 square feet in area nor occupy more than 10% of the roof area. All equipment cabinets shall be constructed out of nonreflective materials and shall be designed to blend with existing architecture and located or designed to minimize their visibility.

(b) Antenna dimensions.

1. Unless a conditional use permit is obtained from the city, whip antennas and their supports must not exceed 25 feet in height and 12 inches in diameter and must be constructed of a material or color which matches the exterior of the antenna support structure.

2. Unless a conditional use permit is obtained from the city, panel antennas and their supports must not exceed 8 feet in height or 2.5 feet in width and must be constructed of a material or color which matches the exterior of the building or structure, so as to achieve maximum compatibility and minimum visibility.

3. Unless a conditional use permit is obtained from the city, microwave dish antennas located below 65 feet above the ground may not exceed 6 feet in diameter. Microwave dish antennas located 65 feet and higher above the ground may not exceed 8 feet in diameter.

(c) Notwithstanding anything to the contrary, wireless communications facilities and related equipment shall not be installed on antenna support structures in residential zoning districts, unless a conditional use permit is obtained from the city.

(d) Wireless communications facilities located on antenna support structures, and their related equipment cabinets, shall be located or screened to minimize the visual impact of such facilities and equipment cabinets upon adjacent properties. Any such screening shall be of a material and color that matches the exterior of the building or structure upon which it is situated. Wireless communications facilities and related equipment cabinets shall be of a stealth design, and shall have an exterior finish and/or design as approved by the city.

(10) Application to locate wireless communications facility on antenna support structure.

(a) An application for a wireless communications permit to locate or re-locate a wireless communications facility on an antenna support structure must be submitted to the Zoning Administrator on the designated form and shall, at a minimum, contain the following:

1. Name, address and telephone number of the applicant;
2. Location of the antenna support structure, along with the property owner's name and telephone number;
3. Number of applicant's wireless communications facilities to be located on the subject property;
4. A sworn and certified statement in writing by a qualified engineer that the wireless communications facility will conform to any and all requirements and standards set forth in the city code, and federal and state law;
5. An application fee in an amount set by the Council for each wireless communications facility listed on the application;
6. A copy of all licenses and/or franchises required by federal, state or local law for the construction and/or operation of a wireless communications system in the city;
7. A scaled site plan clearly indicating the location, type and height of the proposed wireless communications facility, on-site land uses and zoning, elevation and stealth design drawings of the proposed wireless

communications facility and the rooftop and building, topography, a current survey, landscape plans, and any other information deemed by the city to be necessary to assess compliance with this division and the land use and development regulations;

8. An inventory of the applicant's existing towers and wireless communications facilities, if any, that are either within the jurisdiction of the city or within one mile of the city limits, including specific information about the location, height, and design of each wireless communications facility or tower;

9. A certification that the applicant will comply with all applicable federal, state or local laws including all the provisions of this division and the land use and development regulations; and

10. A certification that the site described in the application is located on an existing antenna support structure and the owner/operator agrees to the location or co-location of the subject wireless communications facility.

(b) An application for a wireless communications permit to locate or re-locate a wireless communications facility that proposes to co-locate said facility on an antenna support structure and that satisfies the requirements set forth in this division, shall receive expedited treatment in the review process.

(c) So as to further expedite the permitting process and to promote the efficient use of existing sites, the city encourages the users of antenna support structures to submit a single application for approval of multiple users on a single existing site. Applications for approval at multiple user sites shall be given priority in the review process. The fee to be submitted with a multiple user application shall be the fee described in this division multiplied by the number of users listed in such application.

(d) An applicant must submit a proposed stealth design for camouflaging its wireless communications facility, unless this requirement is preempted by the operation of applicable laws or regulations.

(e) A petitioner shall submit any additional information requested by the city for purposes of evaluating the permit request.

(f) In granting or denying a wireless communications permit to locate or re-locate a wireless communications facility on an antenna support structure, the Zoning Administrator shall prepare a written record of decision including findings of fact.

(11) Utility pole-mounted wireless communications facilities.

(a) Utility pole-mounted wireless communications facilities may be permitted as accessory uses in all zoning districts if the provider uses pico cell equipment. Such facilities shall only be permitted in public rights-of-way that are at least 100 feet in width. To the greatest practical extent, utility pole-mounted wireless communications facilities shall be sited where they are concealed from public view by other objects such as trees or buildings. When it is necessary to site such a facility in public view, to the greatest practical extent it shall be designed to limit visual impact on surrounding land uses, which design must be approved by the city.

(b) The height of a utility pole-mounted facility shall not exceed two feet above the pole structure.

(c) Equipment cabinets associated with utility pole-mounted wireless communications facilities which are located within the public right-of-way shall be of a scale and design that make them no more visually obtrusive than other types of utility equipment boxes normally located within the right-of-way and shall be located in a manner and location approved by the city. To the greatest practical extent, equipment cabinets associated with utility pole-

mounted facilities which are located outside of the public right-of-way shall be concealed from public view or shall be architecturally designed using stealth technology or buffered to be compatible with surrounding land uses, except that such shelters located in residential zoning districts must be screened from the view of residents and pedestrians.

(d) Equipment cabinets associated with utility pole-mounted wireless communications facilities which are located outside the public right-of-way shall meet the setback requirements for accessory buildings and structures for the zoning district in which the equipment cabinet is located.

(e) Generators associated with equipment shelters must meet with the requirements of the city code.

(12) Application for utility pole-mounted wireless communications facility.

(a) An application for a wireless communications permit to locate or re-locate a utility pole-mounted wireless communications facility must be submitted to the Zoning Administrator on the designated form and shall, at a minimum, contain the following:

1. Name, address and telephone number of the applicant;
2. Location of the utility pole-mount, along with the property owner's name and telephone number;
3. Number of applicant's wireless communications facilities to be located on the subject property;
4. A sworn and certified statement in writing by a qualified engineer that the wireless communications facility will conform to any and all requirements and standards set forth in the city code, and federal and state law;
5. An application fee in the amount set by the Council for each wireless communications facility listed on the application;
6. A copy of all licenses and/or franchises required by federal, state or local law for the construction and/or operation of a wireless communications system in the city;
7. A scaled site plan clearly indicating the location, type and height of the proposed wireless communications facility, on-site land uses and zoning, elevation and stealth design drawings of the proposed wireless communications facility and utility pole-mount, topography, a current survey, landscape plans, and any other information deemed by the city to be necessary to assess compliance with this division and the land use and development regulations;
8. An inventory of the applicant's existing towers and wireless communications facilities, if any, that are either within the jurisdiction of the city or within one mile of the city limits, including specific information about the location, height, and design of each wireless communications facility or tower;
9. A certification that the applicant will comply with all applicable federal, state or local laws including all the provisions of this division and the land use and development regulations; and
10. A certification that the site described in the application is located on a utility pole-mount and the owner/operator agrees to the location of the wireless communications facility.

(b) An application for a wireless communications permit to locate or re-locate a wireless communications facility that proposes to co-locate said facility on an already existing utility pole-mount and that satisfies the requirements set forth in this division, shall receive expedited treatment in the review process.

(c) A petitioner shall submit any additional information requested by the city for purposes of evaluating the permit request.

(d) In granting or denying a wireless communications permit to locate or re-locate a utility pole-mounted wireless communications facility, the Zoning Administrator shall prepare a written record of decision including findings of fact.

(13) Construction of new towers.

(a) Conditions of approval for wireless communications towers.

1. Setback.

a. The distance between the base of any proposed wireless communications tower, measured from the center of a tower, and the nearest lot line shall be at least equal to the height of the tower, provided that this distance may be reduced to a specified amount if an applicant provides a certification from the tower manufacturer or a qualified engineer stating that the tower is designed and constructed in such a way as to crumple, bend, collapse or otherwise fall within the specified distance.

b. In no event shall the distance between the base of a proposed wireless communications tower, measured from the center of the tower, and the nearest lot line be less than 20% of the tower height.

2. Structural requirements. All wireless communications tower designs must be certified by a qualified engineer specializing in tower structures and licensed to practice in the State of Minnesota. The certification must state the tower design is structurally sound and, at a minimum, in conformance with the city’s building code, the State Building Code, and any other standards outlined in the land use and development regulations, as amended from time to time.

3. Height. The height of permitted wireless communications towers shall be as specified in division (O)(5).

(b) Requirements for separation between towers.

1. Except for wireless communications facilities located on roof-tops or utility pole-mounted facilities, the minimum wireless communications tower separation distance shall be calculated and applied irrespective of jurisdictional boundaries.

2. Measurement of wireless communications tower separation distances for the purpose of compliance with this division shall be measured from the base of a wireless communications tower to the base of the existing or approved wireless communications tower.

3. Proposed towers must meet the following minimum separation requirements from existing towers or towers previously approved but not yet constructed at the time a development permit is granted pursuant to this division:

MINIMUM TOWER SEPARATION DISTANCE		
Height of Existing Tower	Height of Proposed Tower	Minimum Separation
MINIMUM TOWER SEPARATION DISTANCE		
Height of Existing Tower	Height of Proposed Tower	Minimum Separation
Less than 50 feet	Less than 50 feet	100 feet

	50–100 feet	200 feet
	101–150 feet	400 feet
	151–200 feet	800 feet
50–100 feet	Less than 50 feet	100 feet
	50–100 feet	400 feet
	101–150 feet	600 feet
	151–200 feet	800 feet
101–150 feet	Less than 50 feet	100 feet
	50–100 feet	400 feet
	101–150 feet	600 feet
	151–200 feet	800 feet
151–200 feet	Less than 50 feet	100 feet
	50–100 feet	600 feet
	101–150 feet	800 feet
	151–200 feet	1,000 feet

4. For the purpose of this subsection, the separation distances shall be measured by drawing or following a straight line between the center of the base of the existing or approved structure and the center of the proposed base, pursuant to a site plan of the proposed wireless communications tower.

(c) Standards for co-location. This subsection is designed to foster shared use of wireless communications towers.

1. Construction of excess capacity. Any owner of a wireless communications tower shall permit other providers to install or co-locate antennae or wireless communications facilities on such towers, if available space and structural capacity exists; provided, however, that no wireless communications tower shall be used to support wireless communications facilities for more than three separate providers. Any co-location of wireless communications facilities shall be subject to mutually agreeable terms and conditions negotiated between the parties. All new wireless communications towers shall be constructed with excess capacity for co-location as follows:

- Less than 80 feet in height    One additional user
- 80 feet to 119 feet in height    Two or more additional users (up to a maximum of three users)
- 120 feet in height or greater    Three additional users

2. Notwithstanding anything to the contrary, all new monopole towers over 80 feet in height and existing monopole towers that are extended to a height over 80 feet shall be designed and built to accommodate at least two providers, and up to a maximum of three providers if technically possible.

3. Notwithstanding anything to the contrary, all new guyed towers, and existing guyed towers that are replaced or modified shall be designed and built to accommodate three providers.

4. Site area. The site or leased footprint shall contain sufficient square footage to accommodate the equipment/mechanical facilities for all proposed providers based upon the structural capacity of the tower.

5. Setbacks. If it is determined that a proposed wireless communications tower cannot meet setback requirements due to increases in tower height to accommodate the co-location of at least one additional wireless communications service provider, minimum setback requirements may be reduced by a maximum of 15 feet, unless such a reduction would decrease the distance between the base of the tower and the nearest lot line to less than 20% of the tower height, in which case set-back requirements may be reduced to a distance that is equal to or greater than 20% of the tower height.

(d) Tower design and type.

1. All proposed wireless communications towers shall be monopole towers or stealth towers. Self-supporting towers or guyed lattice towers shall only be permitted as a replacement of like structures.

2. Utility pole-mounted facilities or extensions on utility poles to accommodate the mounting of wireless communications facilities shall be of the monopole type.

3. Antennas shall be of the uni-cell variety whenever feasible or mounted internal to the wireless communications tower structure.

4. Stealth wireless communications towers, equipment cabinets and related facilities shall be required in all zoning districts.

(e) Landscaping minimum requirements. Wireless communications towers shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from surrounding property. The standard buffer shall consist of a landscaped strip at least 10 feet wide outside the perimeter of the compound. Existing mature growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as wireless communications towers sited on large, wooded lots, natural growth around the property perimeter may be a sufficient buffer. All areas disturbed during project construction shall be replanted with vegetation. The owner of a wireless communications tower is responsible for all landscaping obligations and costs. A landscaping plan for the purpose of screening the base of the tower from view shall be submitted to the Zoning Administrator for approval prior to the issuance of a building permit for the tower. The city may waive the enforcement of this condition if it is deemed unnecessary.

(f) Visual impact standards. To assess the compatibility with and impact on adjacent properties of a proposed wireless communications tower site, an applicant seeking to construct, relocate or modify a wireless communications tower may be required to submit a visual impact analysis. The requirements of this subsection shall be required for any application to construct a tower greater than 80 feet in height. The applicant may request a review of a proposed wireless communications tower location, prior to submission of an application, to determine whether or not a visual impact analysis will be required. The applicant shall be advised of the requirement to submit

a visual impact analysis by the city within ten working days following the city's receipt of the applicant's application for construction of a new wireless communication tower or the relocation or modification of an existing tower.

1. Whenever a visual impact analysis is required, an applicant shall utilize digital imaging technology to prepare the analysis in a manner acceptable to the city. At a minimum, a visual impact analysis must provide the following information:

a. The location of the proposed wireless communications tower illustrated upon an aerial photograph at a scale of not more than one inch equals 300 feet (1 inch = 300 feet). All adjacent zoning districts within a 3,000-foot radius from all property lines of the proposed wireless communications tower site shall be indicated; and

b. A line of site analysis which shall include the following information:

i. Certification that the proposed wireless communications tower meets or exceeds standards contained in this division;

ii. Identification of all significant existing natural and manmade features adjacent to the proposed wireless communications tower site and identification of features which may provide buffering and screening for adjacent properties and public rights-of-way;

iii. Identification of at least three specific points within a 2,000-foot radius of the proposed wireless communications tower location, subject to approval by the Zoning Administrator, for conducting the visual impact analysis;

iv. Copies of all calculations and a description of the methodology used in selecting the points of view and collection of data submitted in the analysis;

v. Graphic illustration of the visual impact of the proposed wireless communications tower, at a scale that does not exceed five degrees of horizontal distance, presented from the specific identified points;

vi. Identification of all screening and buffering materials under the permanent control of the applicant (only screening and buffering materials located within the boundaries of the proposed site shall be considered for the visual impact analysis); and

vii. Identification of all screening and buffering materials that are not under the permanent control of the applicant but are considered of a permanent nature due to ownership or use patterns, such as a public park, vegetation preserve, required development buffer, and the like.

2. Screening and buffering materials considered in the visual impact analysis shall not be removed by future development on the site. However, screening and buffering materials considered in the visual impact analysis shall be replaced if they die.

3. An applicant shall provide any additional information that may be required by the Zoning Administrator to fully review and evaluate the potential impact of the proposed wireless communications tower.

(14) Application process for new towers.

(a) The use of existing structures to locate wireless communications facilities shall be preferred to the construction of new wireless communications towers. To be eligible to construct a new wireless communications tower within city limits, an applicant must establish to the satisfaction of the city that the applicant is unable to provide the service sought by the applicant from available sites, including co-locations within the city and in

neighboring jurisdictions; and the applicant must demonstrate to the reasonable satisfaction of the city that no other suitable existing tower or antenna support structure is available, including utility poles; and that no reasonable alternative technology exists that can accommodate the applicant's wireless communications facility due to one or more of the following factors:

1. The structure provides insufficient height to allow the applicant's facility to function reasonably in parity with similar facilities;
2. The structure provides insufficient structural strength to support the applicant's wireless communications facility;
3. The structure provides insufficient space to allow the applicant's wireless communications facility to function effectively and reasonably in parity with similar equipment;
4. Use of the existing structure would result in electromagnetic interference that cannot reasonably be corrected;
5. The existing structure is unavailable for lease under a reasonable leasing agreement;
6. Use of the structure would create a greater visual impact on surrounding land uses than the proposed alternative or otherwise would be less in keeping with the goals, objectives, intent, preferences, purposes, criteria or standards of this division, the land use and development regulations and land development regulations; and/or
7. Other limiting factors.

(b) An applicant must submit any technical information requested by the city or its designated engineering consultant as part of the review and evaluation process.

(c) An application for a wireless communications permit to construct a wireless communications tower must be submitted to the Zoning Administrator on the designated form and shall contain, at a minimum, the following information:

1. Name, address and telephone number of the applicant;
2. Proposed location of the wireless communications tower, along with all studies, maps and other information required by division (O)(13) and (14) (applicant shall submit information for only one proposed tower per application);
3. Number of applicant's wireless communications facilities to be located on the subject tower and the number of spaces available for co-location;
4. A sworn and certified statement in writing by a qualified engineer that the wireless communications tower will conform to all requirements set forth in the city code, and federal and state law;
5. An application fee in the amount set by the Council;
6. A copy of all licenses and/or franchises required by federal, state or local law for the construction and/or operation of a wireless communications system in the city;
7. A scaled site plan clearly indicating the location, type and height of the proposed wireless communications tower, on-site land uses and zoning, elevation and stealth design drawings of the proposed tower, topography, and

any other information deemed by the Zoning Administrator to be necessary to assess compliance with this division and the land use and development regulations;

8. An inventory of the applicant's existing towers and wireless communications facilities, if any, that are either within the jurisdiction of the city or within one mile of the city limits, including specific information about the location, height, and design of each wireless communications facility or tower;

9. The names, addresses and telephone numbers of all owners of existing towers or antenna support structures within an area equal to 100% of the search ring for the wireless communications facility proposed to be located on the proposed new tower;

10. Written documentation in the form of an affidavit that the applicant made diligent, but unsuccessful efforts for permission to install or co-locate the proposed wireless communications facility on all existing towers or antenna support structures located within an area equal to 100% of the search ring for the proposed site of the wireless communications facility;

11. Written, technical evidence from a qualified engineer that the proposed wireless communications facility cannot be installed or co-located on an existing tower or antenna support structure located within the city and must be located at the proposed site in order to meet the coverage requirements of the proposed wireless communications service, together with a composite propagation study which illustrates graphically existing and proposed coverage in industry-accepted median received signal ranges;

12. A written statement from a qualified engineer that the construction and placement of the proposed wireless communications tower will comply with Federal Communications Commission radiation standards for interference and safety and will produce no significant signal interference with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and non-residential properties; and

13. A certification that the applicant will comply with all applicable federal, state or local laws including all the provisions of this division and the land use and development regulations.

(d) A proposed wireless communications tower that exceeds the height limitations for a permitted tower in the GB, RB, CBD, I-1 or I-2 zoning districts, or any proposed wireless communications tower under 80 feet in the R-1, R-2, R-3, R-4, or LB districts, shall only be allowed upon approval of a conditional use permit. The City Council may establish any reasonable conditions for approval that are deemed necessary to mitigate adverse impacts associated with the conditional use, to protect neighboring properties, and to achieve the objectives of this division and the land use and development regulations. Such a conditional use permit shall be required in addition to a wireless communications permit.

(e) In granting or denying a wireless communications permit to construct a wireless communications tower, the Zoning Administrator shall prepare a written record of decision including findings of fact. Proposed wireless communication towers that meet the standards and requirements contained herein, including location and height limitations, may be approved administratively by the Zoning Administrator. Proposed wireless communication towers that do not meet the standards and requirements contained herein, including location and height limitations, may be denied administratively by the Zoning Administrator, provided that the written record of decision including findings of fact is accepted by the Council.

(15) Annual registration requirement.

(a) Wireless communications facilities.

1. To enable the city to keep accurate, up-to-date records of the location of wireless communications facilities within city limits, on an annual basis, no later than February 1 of each year, or upon change in ownership of wireless communications facilities, the owner/operator of such facilities shall submit documentation to the Zoning Administrator providing:

a. Certification in writing that the wireless communications facility conforms to the requirements, in effect at the time of construction of the facility, of the State Building Code and all other requirements and standards set forth in the city code, and federal and state law by filing a sworn and certified statement by a qualified engineer to that effect. A wireless communications facility owner/operator may be required by the city to submit more frequent certification should there be reason to believe that the structural and/or electrical integrity of the wireless communications facility is jeopardized. The city reserves the right upon reasonable notice to the owner/operator of the wireless communications facility to conduct inspections for the purpose of determining whether the wireless communications facility complies with the State Building Code and all requirements and standards set forth in local, state or federal laws; and

b. The name, address and telephone number of any new owner, if there has been a change of ownership of the wireless communications facility.

2. Annual payment of a registration fee, as set by the Council, for each wireless communications facility located within the city shall be submitted to the city at the time of submission of the documentation required above.

(b) Wireless communications towers.

1. To enable the city to keep accurate, up-to-date records of the location and continued use of wireless communications towers within city limits, on an annual basis, no later than February 1 of each year, or upon change in ownership of a wireless communications tower, the owner/operator of each tower shall submit documentation to the Zoning Administrator providing:

a. Certification in writing that the wireless communications tower is structurally sound and conforms to the requirements, in effect at the time of construction of the tower, of the State Building Code and all applicable standards and requirements set forth in the city code, and federal and state law, by filing a sworn and certified statement by a qualified engineer to that effect. The tower owner may be required by city to submit more frequent certifications should there be reason to believe that the structural and/or electrical integrity of the tower is jeopardized;

b. The number of providers located on the tower and their names, addresses and telephone numbers;

c. The type and use of any wireless communications facilities located on the tower; and

d. The name, address and telephone number of any new owner of the tower, if there has been a change of ownership of the tower.

2. An annual payment of a registration fee, as set by the Council, for each tower located within the city shall be submitted to the city at the time of submission of the documentation required above.

(16) General requirements. The following conditions apply to all wireless communications towers and wireless communications facilities in the city:

(a) Duration of permits. If substantial construction or installation has not taken place within one year after city approval of a wireless communications permit, the approval shall be considered void unless a petition for time extension has been granted by the City Council. Such a petition shall be submitted in writing at least 30 days prior to the expiration of the approval and shall state facts showing a good faith effort to complete the work permitted under the original permit.

(b) Assignment and subleasing. No wireless communications facility, tower or antenna support structure or wireless communications permit may be sold, transferred or assigned without prior notification to the city. No sublease shall be entered into by any provider until the sublessee has obtained a permit for the subject wireless communications facility or tower or antenna support structure. No potential provider shall be allowed to argue that a permit should be issued for an assigned or subleased wireless communications facility or tower or antenna support structure on the basis of any expense incurred in relation to the facility or site.

(c) Aesthetics. Wireless communications towers and wireless communications facilities shall meet the following requirements:

1. Signs. No commercial signs or advertising shall be allowed on a wireless communications tower or a wireless communications facility.

2. Lighting. No signals, lights, or illumination shall be permitted on a wireless communications tower or a wireless communications facility, unless required by the Federal Aviation Administration or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least obtrusiveness to the surrounding community. However, an applicant shall obtain approval from the city if the Federal Aviation Administration requires the addition of standard obstruction marking and lighting (i.e., red lighting and orange and white striping) to the tower. An applicant shall notify the Zoning Administrator prior to making any changes to the original finish of the tower.

3. Graffiti. Any graffiti or other unauthorized inscribed materials shall be removed promptly or otherwise covered in a manner substantially similar to, and consistent, with the original exterior finish. The city may provide a wireless communications tower or equipment cabinet owner and/or operator written notice to remove or cover graffiti within a specific period of time or as required by other appropriate sections of the city code as presently existing or as may be periodically amended. In the event the graffiti has not been removed or painted over by the owner and/or operator within the specified time period, the city shall have the right to remove or paint over the graffiti or other inscribed materials. In the event the city has to remove or paint over the graffiti, then the owner and/or operator of the wireless communications tower or equipment cabinet or structure on which the graffiti existed, shall be responsible for all costs incurred.

(d) Federal and state requirements. All wireless communications towers and wireless communications facilities must meet or exceed the standards and regulations of the Federal Aviation Administration, the Federal Communications Commission, and any other agency of the state or federal government with the authority to regulate wireless communications towers and facilities. If such standards and regulations change, then the owners of the wireless communications towers and wireless communications facilities subject to such standards and regulations must bring such towers and facilities into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to maintain or bring wireless communications towers and wireless communications facilities into compliance with such revised standards and regulations shall constitute a violation of this division and shall be subject to enforcement under the city code. Penalties for violation may include fines and removal of the tower or wireless communications facility at the owner's expense.

(e) Licenses or franchise. An owner of a wireless communications tower or wireless communications facility must notify the city in writing within 48 hours of any revocation or failure to renew any necessary license or franchise.

(f) Discontinued use. In the event the use of a wireless communications tower or wireless communications facility is discontinued, the owner and/or operator shall provide written notice to the city of its intent to discontinue use and the date when the use shall be discontinued.

(g) Abandoned tower or antenna. The city may require removal of any abandoned or unused wireless communications tower or wireless communications facility by the tower or facility owner within 30 days after notice from the city of abandonment. A wireless communications tower or wireless communications facility shall be considered abandoned if use has been discontinued for 180 consecutive days.

1. Removal by city. Where a wireless communications tower or wireless communications facility is abandoned but not removed within the specified time frame, the city may remove the facility or remove or demolish the tower and place a lien on the property following the procedures (but not the criteria) for demolition of an unsafe building/structure of the city's housing code.

2. Towers utilized for other purposes. Where a wireless communications tower is utilized for other purposes, including but not limited to light standards and power poles, it shall not be considered abandoned; provided, however, that the height of the tower may be reduced by the city so that the tower is no higher than necessary to accommodate previously established uses.

3. Restoration of area. Where a wireless communications tower or facility is removed by an owner, said owner, at no expense to the city, shall restore the area to as good a condition as prior to the placement of the tower or facility, unless otherwise instructed by the city.

4. Surety or letter of credit for removal. Prior to the issuance of a building permit, a surety or letter of credit shall be submitted by the property owners or tower operators to ensure the removal of abandoned wireless communications towers. The surety or letter of credit shall be utilized to cover the cost of removal and disposal of abandoned towers and shall consist of the following:

a. Submission of an estimate from a certified structural engineer indicating the cost to remove and dispose of the tower; and

b. Either a surety or a letter of credit, equivalent to 100% of the estimated cost to remove and dispose of the tower. The form of the surety or the letter of credit shall be subject to approval by the Zoning Administrator and the City Attorney.

(h) FCC emissions standards. At all times, owners and/or operators of wireless communications facilities shall comply with the radio frequency emissions standards of the Federal Communications Commission.

1. Testing required. All existing and future wireless communications facilities shall be tested in accordance with applicable laws and regulations. Such testing, to the extent it is required, shall comply with standards and procedures prescribed by the Federal Communications Commission.

2. Inspections. The city reserves the right to conduct random radio frequency emissions inspections. The cost for such random inspections shall be paid from the wireless communications annual registration fees, unless an owner and/or operator is found to be in noncompliance with Federal Communications Commission RF emissions

standards, whereupon the noncompliant owner and/or operator shall reimburse the city in full for the cost of the inspection.

(i) Maintenance. All wireless communications facilities, wireless communications towers and antenna support structures shall at all times be kept and maintained in good condition, order, and repair, and, maintained in stealth condition (if stealth or camouflage is a permit requirement). The same shall not menace or endanger the life or property of any person, and shall retain original characteristics. All maintenance or construction on a wireless communications tower, wireless communications facility or antenna support structure shall be performed by licensed maintenance and construction personnel. The city shall notify a provider in writing regarding any specific maintenance required under this division. A provider shall make all necessary repairs within 30 days of such notification. Failure to effect noticed repairs within 30 days may result in revocation of a tower owner's or provider's permit and/or removal of the tower, wireless communications facility or antenna support structure.

(j) Emergency. The city reserves the right to enter upon and disconnect, dismantle or otherwise remove any wireless communications tower or wireless communications facility should the same become an immediate hazard to the safety of persons or property due to emergency circumstances, as determined by the Zoning Administrator or his designee, such as natural or manmade disasters or accidents, when the owner of any such tower or facility is not available to immediately remedy the hazard. The city shall notify any said owner of any such action within 24 hours. The owner and/or operator shall reimburse the city for the costs incurred by the city for action taken pursuant to this subsection.

(k) Equipment cabinets. Equipment cabinets located on the ground shall be constructed out of non-reflective materials and shall be screened from sight by mature landscaping and located or designed to minimize their visibility. All equipment cabinets shall be no taller than ten feet in height, measured from the original grade at the base of the facility to the top of the structure, and occupy no more than 400 square feet in area, unless a waiver is granted by the city upon written request from a provider.

(l) Equipment on site. No mobile or immobile equipment or materials of any nature shall be stored or parked on the site of a wireless communications tower or wireless communications facility, unless used in direct support of a wireless communications tower or wireless communications facility or for repairs to the wireless communications tower or wireless communications facility currently underway.

(m) Inspections. The city reserves the right upon reasonable notice to the owner/operator of a wireless communications tower or antenna support structure, including utility poles and rooftops, to conduct inspections for the purpose of determining whether the tower or other support structure and/or related equipment cabinet complies with the State Building Code and all applicable requirements and standards set forth in local, state or federal law and to conduct radiation measurements to determine whether all antenna and transmitting equipment are operating within Federal Communications Commission requirements.

(n) Security.

1. An owner/operator of a wireless communications tower shall provide a security fence or equally effective barrier around the tower base or along the perimeter of the wireless communications tower compound.

2. If high voltage is necessary for the operation of the wireless communications tower or antenna support structure, "HIGH VOLTAGE - DANGER" warnings signs shall be permanently attached to the fence or barrier and shall be spaced no more than 20 feet apart, or on each fence or barrier frontage.

3. “NO TRESPASSING” warning signs shall be permanently attached to the fence or barrier and shall be spaced no more than 20 feet apart.

4. The letters for the “HIGH VOLTAGE - DANGER” and “NO TRESPASSING” warning signs shall be at least six inches in height. The two warning signs may be combined into one sign. The warning signs shall be installed at least 4.5 feet above the finished grade of the fence or barrier.

(o) Advances in technology. All providers shall use and apply any readily available advances in technology that lessen the negative aesthetic effects of wireless communications facilities and wireless communications towers to the residential communities within the city. Every five years, the city may review existing structures and compare the visual impact with available technologies in the industry for the purpose of removal, relocation or alteration of these structures in keeping with the general intent of this division. Such removal, relocation or alteration may be required by the city pursuant to its zoning power and authority.

(17) Review of applications. The city shall process all applications for wireless communications towers and wireless communications facilities in a timely manner and in accordance with established procedures. The reason for the denial of any application filed in accordance with this provision shall be set forth in writing, and shall be supported by substantial evidence in a written record.

(18) Appeals. At any time within 30 days after a written order, requirement, determination or final decision has been made by the Zoning Administrator or other official in interpreting or applying this division, except for actions taken in connection with prosecutions for violations thereof, the applicant or any other person affected by such action may appeal the decision in accordance with the provisions of the land use and development regulations.

(19) Revocation. A material breach of any terms and conditions of a permit issued for a wireless communications tower or wireless communications facility under this division and the land use and development regulations may result in the revocation by the city of the right to operate, utilize or maintain the particular tower or wireless communications facility within the city following written notification of the violation to the owner or operator, and after failure to cure or otherwise correct said violation within 30 days. A violation of this division shall be subject to enforcement in accordance with the land use and development regulations. Penalties for a violation of a permit or this division may include fines and removal of the wireless communications tower or wireless communications facility at the owner’s expense.

(Ord. 1424, passed 12-11-00)

(P) Sign regulations.

(1) Purpose. The purpose of this division is to allow effective signage appropriate to the character of each zoning district, to promote an attractive environment by minimizing visual clutter and confusion, to minimize adverse impacts on nearby property and protect the public health, safety and general welfare.

(2) Application. The sign regulations set forth in this division shall apply to all structures and all land uses, except as otherwise prohibited by this article. All signs allowed by this division shall be limited to on-premise signs.

(3) Permits.

(a) Permit required. It shall be unlawful for any person to erect, build, construct, attach, hang, place, suspend, affix, structurally alter, or relocate any sign within the city without having first obtained a permit from the city unless herein excluded.

(b) Application for sign permit. An application for a sign permit shall be filed with the Zoning Administrator on the approved form and shall be accompanied by such information as may be required to ensure compliance with the provisions of this division, including but not limited to, the following:

1. A drawing showing the proposed location of the sign for which the permit is being requested and the location of all existing signage on the premises.
2. A drawing indicating the size, color, content and materials of the sign, as well as the method of construction and attachment to the building or to the ground.
3. Engineering data showing the structure is designed to accommodate dead load and wind pressure, in any direction, in the amount required within this division, when specifically requested by the Zoning Administrator.

(c) Application fee. Fees for all sign permits shall be established by resolution of the City Council.

(d) Issuance of permit. Upon the filing of a completed application for a sign permit, the Zoning Administrator shall examine all accompanying drawing and supplemental data to determine compliance with the requirements of this division. Upon approval, the sign permit shall remain valid for a period of one year. If no work has commenced within such time period, a new permit shall be required even if no changes have been made to the original site plan.

(e) Exemptions. The following changes shall not require a sign permit. These exceptions shall not be construed as relieving the owner of the sign from the responsibility for its proper erection and maintenance and its compliance with the provisions of this article or any other law or ordinance regulating the same.

1. The changing of the advertising copy or message of a painted or printed sign. Except for theater marquees and changeable copy signs specifically designed for the use of replaceable copy, electric signs shall not be included in this exception.

2. Painting, repainting or cleaning of an advertising structure or the changing of the advertising copy or message thereon, unless a structural change is made.

(4) General sign standards.

(a) Construction requirements. All signs shall be constructed and maintained in such a manner so as to present a professional appearance and maintained in accordance with the applicable provisions of the Uniform Building and Electrical Codes. The site on which the sign is constructed shall utilize existing finished grade, and shall not be raised, bermed, or otherwise elevated above surrounding grade to achieve a greater height than allowed by this article.

(b) Maintenance. All signs, including temporary signs, together with all of their supports, braces, guys, and anchors, shall be kept in good repair and in proper state of preservation. The display surfaces of all signs shall be kept neatly painted or posted. Every sign and the immediate surrounding premises shall be maintained by the owner or person in charge thereof in a safe, clean, sanitary, and inoffensive condition, and free and clear of all obnoxious substances, rubbish and weeds.

(c) Inspection. All signs for which a permit is required shall be subject to inspection by the Zoning Administrator. The Zoning Administrator, or any other official of the municipality who may be appointed by him is hereby authorized to enter upon any property or premises to ascertain whether the provisions of this division are being obeyed.

(5) Exempt signs. In all districts, the provisions of this section shall not apply to the following signs:

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- (a) Signs of any governmental unit designed for regulatory and safety purposes;
  - (b) Memorial plaques, cornerstones and historical tablets;
  - (c) Political signs regulated per state statute;
  - (d) Direction signs not more than two in number identifying the location and nature of a building, structure, or use which is not readily visible from the street, serving such building, structure, or use on lands forming part of the site of such buildings, structure, or uses, provided that each such sign is not more than ten square feet in total area;
  - (e) Signs not exceeding nine square feet in area located upon private property and directed toward the prevention of trespassing;
  - (f) Temporary signs pertaining to drives or events of charitable, educational or religious organizations, and governmental signs used for the promotion of citywide functions and/or events, provided that such signs shall not be erected or posted for a period of more than 14 days prior to the date of the event and shall be removed within three days thereafter;
  - (g) Flags or emblems of political, civic, philanthropic, educational or religious organizations;
  - (h) In residential districts, one temporary on-site, freestanding real estate sign advertising the sale, lease, or rental of the lot or premises upon which such sign is situated, provided the sign does not exceed six feet in height and 15 square feet in area. On corner lots, a second such sign may be located on the property if said sign abuts a second street right-of-way. No such temporary on-site sign shall remain seven days past the date of termination of such offering.
  - (i) In commercial or industrial districts, one temporary on-site, freestanding real estate sign advertising the sale, lease, or rental of the lot or premises upon which such sign is situated, provided the sign does not exceed six feet in height and 32 square feet in area. On corner lots, a second such sign may be located on the property if said sign abuts a second street right-of-way. No such temporary on-site sign shall remain seven days past the date of termination of such offering.
  - (j) One on-site temporary sign advertising a group of lots for sale within a subdivision or a group of homes for sale within a project along each street frontage which bounds such subdivision or project, provided that the total area of such sign shall not exceed the greater of 64 square feet with no single dimension in excess of 16 feet or eight square feet per lot or house for sale. No such on-site temporary sign shall remain past the date of sale of the last lot within the subdivision or the last house within the housing project.
  - (k) Temporary on-site signs indicating the name and nature of a construction or demolition project, plus the names of the contractors, subcontractors and professional advisors, provided the combined area of such signs fronting upon each street which bounds such project shall not exceed a ratio of two square feet of sign area for each 1,000 square feet of lot area. In no case shall the combined area of such signs fronting upon each street exceed the greater of 64 square feet with no single dimension in excess of 16 or eight square feet per house or lot on which such construction or demolition is located. The display of such sign shall be limited to a period not to exceed the duration of the said construction or demolition project, at which time such signs shall be removed.
  - (l) Time and temperature signs not to exceed 20 square feet per sign and one sign per side of building.
  - (m) In commercial or industrial districts, one temporary on-site banner or pennant advertising the sale of the lot or premises on which such a banner or pennant is situated, or one temporary on-site banner or pennant

advertising the lease or rental of a tenant space, provided that the banner or pennant shall not exceed 48 square feet in area when advertising the sale of the lot or premises, and 32 square feet in area when advertising the lease or rental of a tenant space. No such banner or pennant shall remain past the date of the offering.

(n) Public art shall not count towards any signage regulations and only the portion of the artwork displaying the name of the business shall count towards the overall signage area.

(6) Prohibited signs. Signs that are not specifically permitted in this division are hereby prohibited in all districts unless criteria is presented to allow the Planning Commission to deem that the sign design preserves and maintains the community's unique historical and cultural elements. Without restricting or limiting the generality of the provisions of the foregoing, the following signs are specifically prohibited:

- (a) A balcony sign and a sign mounted or supported on a balcony.
- (b) Any sign that obstructs any part of a doorway or fire escape.
- (c) Any sign which, because of its position, movement, shape, illumination or color constitutes a traffic hazard because it obstructs free and clear vision, or interrupts, confuses or misleads traffic.
- (d) A private sign containing words or symbols, which might reasonably be construed as traffic controls.
- (e) An animated or rotating sign, except barber poles and signs displaying time and temperature information only in the animated or rotating portion thereof.
- (f) A flashing sign, including indoor flashing, electrical signs visible from the public right-of-way, other than time and temperature signs limited to such time and temperature information.
- (g) Any roof sign, unless attached to mansard roof or similar decorative style roof that is vertical in nature.
- (h) A projecting sign which either extends more than 18 inches from the building or structure to which it is attached, or which is larger than three feet in vertical height, other than canopy or marquee signs.
- (i) Any sign that does not display the name of the manufacturer or maker permanently attached to, or painted or printed on, the exterior or structural supports of the sign.
- (j) Any sign that is erected, placed or maintained by any person on a rock, fence, or trees.
- (k) Any sign that interferes with any electric light, or power, telephone, telecommunications, or telegraph wires, or the supports thereof.
- (l) Any sign containing electrical wiring which does not conform to the Electrical Code or the components thereof do not bear the label of an approved testing agency.
- (m) Temporary signage stuck into the ground, excluding political signs regulated per state statute, professional real estate signs, garage sale signs, and any listed in division (P)(5).
- (n) Variable electronic message signs.
  - (o) If a parcel of land on which a building is located directly abuts residentially zoned land, no wall sign may be located on the side of the building that faces the abutting residential parcel.

(7) Temporary signs. The following standards shall apply to temporary signs in all zoning districts, as defined in the Sign Design Standards Table:

(a) Each temporary sign, with the exception of sandwich board signs, shall require a sign permit from the City of Columbia Heights. Signs not considered permanent shall be considered temporary and may not be used as permanent wall signage for the business.

(b) No temporary sign shall extend over or into any street, alley, sidewalk or other public thoroughfare, and may not cover more than 25% of window area such that 75% of the total window area is kept clear at all times.

(c) No temporary sign shall be erected so as to prevent free ingress to or egress from any door, window or fire escape, nor shall such sign be attached to any standpipe or fire escape.

(d) Unauthorized use of temporary signage shall be subject to the other sanctions as provided herein.

(8) Sign Design Standards Table. Any applicable signage allowed in Residential (R-1, R-2A, R-2B, R-3, R-4), Limited Business (LB), General Business (GB), Central Business District (CBD), Industrial (I-1 and I-2), and Public and Open Space (PO) shall follow the standards set forth in the design standards table described below:

9.106 Sign Design Standards Tables	Zoning Districts					
	Residential (R1, R-2A, R-2B, R-3, R-4)	Limited Business (LB)	General Business (GB)	Central Business (CBD)	Industrial (I-1, I-2)	Public and Open Space (PO)
Temp. Signs	Not Permitted	Permitted				
Max. Area	N/A	48 Sq. Ft.		32 Sq. Ft.	48 Sq. Ft.	
Duration & Quantity	Four (4) per year; limited to a 30-day period; no more than two temporary signs per business displayed at any time; if located within a shopping center, no more than four temporary signs may be displayed total.					
Grand Opening Signs	Permitted (no permit required)					
Max. Area	50 Sq. Ft.					
Duration	One sign for a max. of 60 consecutive days					
Sandwich Board Signs	Not Permitted	Permitted (no permit required)			Not Permitted	
Max. Area	N/A	8 Sq. Ft. per side			N/A	
Max. Height		5 Feet				
Setbacks		5 Feet		5 Feet		
Dynamic LED Signage	Conditional Use (Requires a Conditional Use Permit and only allowed on monument signs)					Conditional Use (allowed on existing pylon signs)
Max. Area	No more than 60% of the copy and graphic sign area.					
Frequency of Message Change	One message per 10 minutes of display time	One message per 10 minutes of display time for religious	One message change for each 10 seconds of display time for commercial.			One message per 10 minutes of display time used

	for religious and educational uses.	and educational uses. One message change for each 10 seconds of display time for commercial.				in conjunction with a government facility.
Max. illumination	5,000 nits (candelas per Sq. Ft.) during daylight; 500 nits between dusk to dawn measured from the sign face at maximum brightness.					
<b>Wall Signs</b>	Permitted					
Max. Area	16 Sq. Ft.	2 Sq. Ft. per front foot of the building; not to exceed 50 Sq. Ft.; if facing a public alley, an additional sign not to exceed 4 Sq. Ft. is allowed	2 Sq. Ft. per front foot of the building; not to exceed 200 Sq. Ft.; if facing a public alley, an additional sign not to exceed 4 Sq. Ft. is allowed	2 Sq. Ft. per front foot of the building; not to exceed 100 Sq. Ft.; if facing a public alley, an additional sign not to exceed 4 Sq. Ft. is allowed	2 Sq. Ft. per front foot of the building; not to exceed 100 Sq. Ft.	2 Sq. Ft. per front foot of the building; not to exceed 200 Sq. Ft.
Max. Height	Shall not extend above roof line					
Setback	N/A					
Lighting Source	External or internal					
<b>Identification Signs</b>	Permitted					
Max. Area	2 Sq. Ft.	50 Sq. Ft. per surface for area identification signs in shopping centers; in addition to one wall sign for each business not to exceed 50 Sq. Ft.  One identification sign for each use other than the primary use not to exceed 2 Sq. Ft.	100 Sq. Ft. per surface for area identification signs in shopping centers; in addition to one wall sign for each business not to exceed 100 Sq. Ft.  One identification sign for each use other than the primary use not to exceed 2 Sq. Ft.		One identification sign for each use other than the primary use not to exceed 2 Sq. Ft.	Any number of identification signs limited to 40 Sq. Ft. per service
Max. Height	Shall not extend above roof line					10 Feet
Setbacks	N/A					5 feet from any property lines.
Lighting Source	External or internal					
<b>Pylon Sign</b>	Not Permitted	Permitted	Permitted	Not Permitted	Permitted	Permitted
Maximum Area	N/A	40 Sq. Ft.	75 Sq. Ft.	N/A	100 Sq. Ft.	Any number of freestanding identification signs limited to 40 Sq. Ft. per

						service	
Maximum Height		20 Feet above grade at street level or the base of the sign, whichever is greater.	25 Feet above the grade at street level or at the base of the sign, whichever is greater.		25 Feet above the grade at street level or at the base of the sign, whichever is greater.	10 Feet	
Setback		20 Feet from front lot line; 5 Feet from any building or structure on the same lot			20 Feet from front lot line; 5 Feet from any building or structure on the same lot	5 feet from any property lines.	
Lighting Source		External or internal			External or internal		
<b>Monument Sign</b>	Not Permitted	Permitted					
Maximum Area		40 Sq. Ft.	50 Sq. Ft.				
Maximum Height	N/A	8 Feet above grade at street level or at the base of the sign, whichever is greater			10 Feet above grade at street level or at the base of the sign, whichever is greater	10 Feet	
Setback		5 Feet from all property lines and any buildings on the same lot					
Lighting Source		External or internal					
<b>Institutional Signs</b>	Permitted		Not Permitted			Permitted	
Maximum Area	40 sq. ft.		N/A			Any number of freestanding identification signs limited to 40 Sq. Ft. per service	
Maximum Height	Wall signs shall not extend above roof line; pylon shall not extend beyond 25 feet; monument sign shall not exceed 10 feet.					10 Feet	
Setback	10 feet from all property lines; if there are multiple structures, a second institutional sign may be installed if there is 75 feet between the two signs.					5 feet from any property lines.	
Lighting Source	External or internal					External or Internal	
<b>Window Signs</b>	Permitted (exempt)						
Maximum Area	No more than 25% of window area						

(9) Dynamic LED signage.

(a) Regulations. Dynamic LED signage is allowed as a conditional use in those zoning districts specified in this code. All dynamic LED signage is subject to the following conditions:

1. Motor fuel stations may display dynamic LED signs as part of the pylon sign to promote motor fuel prices only. Such motor fuel price signs do not require a conditional use permit. All dynamic LED signs may occupy no more than 60% of the actual copy and graphic area. The remainder of the sign must not have the capability to have dynamic LED signs, even if not used. Only one, contiguous dynamic display area is allowed on a sign face.

2. Changes necessary to correct hour-and-minute, date, or temperature information may change as frequently as once every five seconds.

3. The images and messages displayed must be static, and the transition from one state display to another must be instantaneous without any special effects. Motion, animation and video images are prohibited on dynamic LED sign displays.

4. Dynamic LED signs must be designed and equipped to freeze the device in one position if a malfunction shall occur. The displays must also be equipped with a means to immediately discontinue the display if it malfunctions, and the sign owner must immediately stop the dynamic display when notified by the city that it is not complying with the standards of this section.

5. LED signs must have an automatic dimmer control to produce a distinct illumination change from a higher illumination level to a lower level for the time period between one-half hour before sunset and one half-hour after sunrise.

6. Dynamic LED signs existing on the effective date of Ordinance 1593, passed April 25, 2011, must comply with the operational standards listed above. An existing dynamic LED sign that does not meet the structural requirements may continue as a non-conforming sign subject to § 9.105(E).

(10) Signs in LB, Limited Business District.

(a) Restrictions on permitted signs. In the LB, Limited Business District, permitted signs are subject to the following restrictions:

1. One freestanding pylon sign only if the building or structure is located adjacent to a state trunk highway and located 20 feet or more from the front lot line, not to exceed 40 square feet per surface, and limited to two surfaces.

2. If not located adjacent to a state trunk highway and/or where the 20-foot setback cannot be met, one monument sign not to exceed 40 square feet in size, limited to two sides, not to exceed 8 feet in height, and set a minimum of 5 feet from any property line.

3. One wall sign per building with an area of the lesser of 20 square feet or 1/2 square foot for each front foot of a building or structure provided that the said sign is located on the same side of the building as an entrance approved by the City Building Official as a public entrance and provided that the said public entrance and sign faces a parking facility designated by the city as approved public parking.

(11) Signs in CBD, Central Business District.

(a) Permitted signs. In the CBD, Central Business District, permitted signs shall be subject to the following restrictions:

(12) Signs in the GB, General Business District.

(a) Permitted signs. In the GB, General Business District, permitted signs shall be subject to the following restrictions:

1. One freestanding pylon sign is allowed only if the building or structure is located adjacent to a state trunk highway and located 20 feet or more from the front lot line, provided, however, that:

a. If the building contains more than 80,000 square feet of gross floor area or the site on which the building is located contains more than 90,000 square feet of surface area;

b. If the street frontage of the site on which the building or structure is located exceeds 150 feet in length; and

c. If the building is located 20 feet or more from the front lot line and is located adjacent to a state trunk highway, a second freestanding sign not to exceed 75 square feet and limited to two surfaces shall be permitted at a location at least 50 feet distant from any other freestanding sign and at least 25 feet distant from the lot line of any adjoining parcel of and other than a street or alley.

2. One wall sign per building with an area of the lesser of 20 square feet or 1/2 square foot for each front foot of a building or structure provided that the said sign is located on the same side of the building as an entrance approved by the City Building Official as a public entrance and provided that the said public entrance and sign faces a parking facility designated by the city as approved public parking.

3. The maximum height of a monument sign, including its structures, shall not exceed eight feet above grade at street level or at the base of the sign, whichever is greater, unless the monument sign is located in the Design Overlay Highway District. In this case, the maximum height may be increased to ten feet above grade at street level or at the base of the sign, whichever is greater, if the principal structure is greater than or equal to 22 feet in height.

(13) Signs in I-1 and I-2 Industrial Districts.

(a) Permitted signs. In the I-1, Light Industrial District, and the I-2, General Industrial District, permitted signs shall be subject to the following restrictions:

1. Billboards located adjacent to public streets with speed limits of 45 miles per hour or more, placed at a minimum of 1,500-foot intervals, not to exceed 100 square feet per surface and limited to two surfaces.

(14) Signs for nonconforming residential uses. Sign number and area for residential uses in commercial, business or industrial zones are limited to the maximum number and area for the actual use of the subject property.

(15) Minimum yard requirements—freestanding signs. The minimum front, side and rear yard requirements for freestanding signs shall be ten feet from any property line or as otherwise stated in this article. When the bottom edge of the freestanding pylon sign is eight feet or more above grade, the leading edge of the sign may extend within one foot of the property line. Provided, however, no freestanding sign shall invade the area required for traffic visibility by this division.

(Q) Erosion and sediment control.

(1) Purpose.

(a) During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches and the dredging of lakes.

(b) As a result, the purpose of this local regulation is to safeguard persons, protect property, and prevent damage to the environment in the city. This division will also promote 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. This division is to be used in supplement to the City Zoning Code, § 9.106 and to any other regulations as required by state agencies.

(2) Definitions. For the purpose of this division, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**AS-BUILT PLANS.** Record drawings of approved and as-constructed improvements.

**BEST MANAGEMENT PRACTICES (BMPs).** Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water, including avoidance of impacts, construction phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies.

**CLEARING.** Any activity that removes the vegetative surface cover.

**CONSERVATION EASEMENT.** Legal land preservation agreement between a landowner and a municipality or a qualified land protection organization. The easement confers the transfer of usage rights from one party to another.

**CONSTRUCTION ACTIVITY.** A disturbance to the land that results in a change in the topography, or the existing soil cover (both vegetative and non-vegetative). Examples of construction activity may include clearing, grading, filling and excavating.

**CONTRACTOR.** The party who signs the construction contract. Where the construction project involves more than one contractor, the general contractor shall be the contractor that is responsible pursuant to the obligations set forth in this division.

**DEVELOPER.** The party who signs the development agreement with the city to construct a project.

**DEWATERING.** The removal of water for construction activity. It can be a discharge of appropriated surface or groundwater to dry and/or solidify a construction site. Minnesota Department of Natural Resources permits are required to be appropriated, and if contaminated, may require other MPCA permits to be discharged.

**EROSION.** The wearing away of the ground surface as a result of movement of wind, water, ice and/or land disturbance activities.

**EROSION CONTROL.** A measure that prevents erosion, including, but not limited to: soil stabilization practices, limited grading, mulch, temporary or permanent cover, and construction phasing.

**EROSION CONTROL INSPECTOR.** A designated agent given authority by the city to inspect and maintain erosion and sediment control practices.

**FINAL GRADE.** Excavation or fill of material to final plan elevation. Final grade completed as part of individual site development.

**FINAL STABILIZATION.** All soil disturbing activities at the site have been completed and a uniform (evenly distributed, without large bare areas) perennial vegetative cover, with a density of 70% of approved vegetative cover, for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures have been employed.

**GRADING.** Excavation or fill of material, including the resulting conditions thereof.

**GRADING, DRAINAGE AND EROSION CONTROL PERMIT.** A permit issued by the municipality for the construction or alteration of the ground and for the improvements and structures for the control of erosion, runoff, and grading. Hereinafter referred to as GRADING PERMIT.

**GRADING, DRAINAGE AND EROSION CONTROL PLANS.** A set of plans prepared by or under the direction of a licensed professional engineer. Plans are required to indicate the specific measures and sequencing to be used to control grading, sediment and erosion on a development site during and after construction as detailed in the "Zoning Ordinance" and City SWPPP.

**IMPERVIOUS SURFACE.** 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 prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

**LAND DISTURBING ACTIVITY.** Any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within the city's jurisdiction, including, but not limited to, clearing, grubbing, grading, excavating, transporting and filling.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES).** The program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act (Sections 301, 318, 402, and 405) and United States Code of Federal Regulations Title 33, Sections 1317, 1328, 1342, and 1345.

**PERIMETER SEDIMENT CONTROL.** A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

**PERMANENT COVER.** Final site stabilization. Examples include turf, gravel, asphalt, and concrete.

**PHASING.** Clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

**PUBLIC WATERWAY.** Any body of water, including, but not limited to, lakes, ponds, rivers, streams, and bodies of water delineated by the city or other state or federal agency.

**PUBLIC WORKS DIRECTOR.** A registered professional engineer with the State of Minnesota who has received training and is given authority by the city to review, authorize, approve, inspect, and maintain erosion and sediment control plans and practices.

**ROUGH GRADE.** Excavation or fill of material to a condition suitable for general maintenance.

**SEDIMENT.** The product of an erosion process; solid material, both mineral and organic, that is in suspension, is being transported, or has been moved by water, air, or ice, and has come to rest on the earth's surface, either above or below water level.

**SEDIMENT CONTROL.** Measures and methods employed to prevent sediment from leaving the site. Sediment control practices may include, but are not limited to, silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

**SITE.** A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

**STABILIZED.** The exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, wood fiber blanket, or other material that prevents erosion from occurring. Grass seeding is not stabilization.

**STANDARD PLATES.** General drawings having or showing similar characteristics or qualities that are representative of a construction practice or activity.

**START OF CONSTRUCTION.** The first land-disturbing activity associated with a development, including land preparation such as clearing, grading, excavation and filling.

**STORM WATER.** Defined under Minn. Rules, part 7077.0105, subp. 41(b), and includes precipitation runoff, storm water runoff, snow melt runoff, and any other surface runoff and drainage.

**STORM WATER POLLUTION PREVENTION PROGRAM (SWPPP).** A program for managing and reducing storm water discharge that includes erosion prevention measures and sediment controls that, when implemented, will decrease soil erosion on a parcel of land and decrease off-site nonpoint pollution.

**SURFACE WATER or WATERS.** All streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems, whether natural or artificial, public or private.

**TEMPORARY EROSION CONTROL.** Methods employed to prevent erosion. Examples of temporary cover include: straw, wood fiber blanket, wood chips, and erosion netting.

**WATERWAY.** A channel that directs surface runoff to a watercourse or to the public storm drain.

**WATER CONVEYANCE SYSTEM.** Any channel that conveys surface runoff throughout the site.

**WETLAND or WETLANDS.** Defined in Minn. Rules, part 7050.0130, subp. F, and includes those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Constructed wetlands designed for wastewater treatment are not waters of the state.

**ZONING ORDINANCE.** City code detailing city specifications for all plan requirements.

(3) Permits.

(a) Approval. No person shall be granted a grading permit for land-disturbing activity that would require the uncovering or distributing of material in excess of any of the following measurements without the approval of a Grading, Erosion and Sediment Control, and Storm Water Management Plan by the city.

1. Ten thousand square feet.
2. Five hundred cubic yards undeveloped land, or 50 cubic yards developed land.
3. Within 1,000 feet of a waterway.

(b) Exception. No grading permit is required for land disturbances under the amounts specified above, or for the following activities:

1. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
2. General establishment of new construction lawns, or the addition of four or fewer inches of topsoil.
3. Existing nursery and agricultural operations conducted as a permitted main or accessory use.

(c) Application requirements.

1. Each application shall bear the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm.
2. A filing fee and security as outlined by the city's Zoning Ordinance and subdivision (d) below.
3. A Grading, Erosion and Sediment Control, and Storm Water Management Plan meeting the requirements of this division. Each application shall include the required number of plans and other required materials as specified on the application form.
4. The application form shall include a statement by the applicant that any land clearing, construction, or development involving the movement of earth shall be in accordance with the approved Grading, Erosion and Sediment Control, and Storm Water Management Plan.

(d) Security.

1. The permittee will be required to file with the city an irrevocable, automatically renewing letter of credit, or other improvement security in the amount specified by the current city SWMDS for fee schedule.
  - a. The security shall cover all costs of engineering and inspection, site improvements, street sweeping, repairs to erosion control measures, and maintenance of improvements for such period as specified by the city. Such deposit shall be provided prior to the release of the grading permit.
  - b. Deposit shall be released after final stabilization is complete, erosion control measures have been removed, and their removal area inspected.
2. Individual lot developers shall be required to provide a bond with a building permit application.
  - a. The security shall cover city costs for street sweeping, installation, maintenance and repairs to erosion control measures. The bond will be in an amount as specified by the current city SWMDS for fee schedule.
  - b. The security shall be released after turf is established as specified in the City Zoning Ordinance.

(e) Procedure. The city will review each application for grading permit to determine its conformance with the provisions of this regulation and other applicable requirements. The city requires complete application no less than 15 working days in advance of the desired grading permit date. Upon complete application, the city shall, in writing:

1. Approve the permit application;
  2. Approve the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
  3. Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission;
  4. Appeals of denial of permit shall be processed in accordance with appeal to the City Zoning Ordinance.
- (4) Grading, Erosion and Sediment Control, and Storm Water Management Plan requirements.
- (a) Plan requirements. Grading, erosion control practices, sediment control practices, storm water management practices, and waterway crossings shall meet the design criteria set forth in the Grading, Erosion and Sediment Control, and Storm Water Management Plan, and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the city. No land shall be disturbed until the plan is approved by the Public Works Director, and conforms to the standards set forth herein.
  - (b) The Grading, Erosion and Sediment Control, and Storm Water Management Plan shall comply with all of the NPDES general construction storm water permit requirements and the city's SWMDS for temporary erosion and sediment control, waste control, final stabilization and permanent water quality.
- (5) Construction requirements. Construction specifications, waterway and watercourse protections requirements, and pollution prevention management measures shall comply, at a minimum, with all of the NPDES general construction storm water permit requirements, in addition to the city's SWMDS.
- (6) Inspection. Notification, procedures, material requirements, permittee inspection, authorization, and record keeping shall comply, at a minimum, with all of the NPDES general construction storm water permit requirements, in addition to the city's SWMDS.
- (7) Site maintenance. Responsibilities, maintenance requirements, and lapses regarding site maintenance shall comply, at a minimum, with all of the NPDES general construction storm water permit requirements, in addition to the city's SWMDS.
- (8) Final stabilization requirements. Final stabilization is not complete until the criteria laid out in the NPDES general construction storm water permit and the city's SWMDS are met.
- (9) Post-construction storm water management. All post-construction storm water management plans must be submitted to the Public Works Director prior to the start of construction activity. Standards for post-construction storm water management shall be as follows:
- (a) Specifications. At a minimum, applicants shall comply with all of the NPDES general construction storm water permit requirements.
  - (b) Design criteria. Permanent storm water management systems shall meet the design criteria as provided in the city's SWMDS.
  - (c) Maintenance agreement. The applicant shall enter into a maintenance agreement with the city that documents all responsibilities for operation and maintenance of long-term storm water treatment BMPs. Such responsibilities shall be documented in a maintenance plan and executed through a maintenance agreement. All maintenance agreements must be approved by the city and recorded at the County Recorder's office prior to final

plan approval. At a minimum, the maintenance agreement shall describe the following inspection and maintenance obligations:

1. The responsible party who is permanently responsible for inspection and maintenance of the structural and nonstructural measures.
  2. Pass responsibilities for such maintenance to successors in title.
  3. Allow the city and its representatives the right of entry for the purposes of inspecting all permanent storm water management systems.
  4. Allow the city the right to repair and maintain the facility, if necessary maintenance is not performed, after proper and reasonable notice to the responsible party of the permanent storm water management system.
  5. Include a maintenance plan that contains, but is not limited to, the following:
    - a. Identification of all structural permanent storm water management systems.
    - b. A schedule for regular inspections, monitoring, and maintenance for each practice. Monitoring shall verify whether the practice is functioning as designed and may include, but is not limited to, quality, temperature, and quantity of runoff.
    - c. Identification of the responsible party for conducting the inspection, monitoring, and maintenance for each practice.
    - d. Include a schedule and format for reporting to the city compliance with the maintenance agreement.
  6. The issuance of a permit constitutes a right of entry for the city or its contractor to enter upon the construction site. The applicant shall allow the city and its authorized representatives, upon presentation of credentials, to:
    - a. Enter upon the permitted site for the purpose of obtaining information, examining records, conducting investigations or surveys.
    - b. Bring such equipment upon the permitted development as is necessary to conduct such surveys and investigations.
    - c. Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of the permit.
    - d. Inspect the storm water pollution control measures.
    - e. Sample and monitor any items or activities pertaining to storm water pollution control measures.
    - f. Correct deficiencies in storm water and erosion and sediment control measures.
- (10) Certification.
- (a) Approved Grading, Erosion and Sediment Control, and Storm Water Management Plan. Plans for grading, stripping, excavating, and filling work, bearing the approval of the Public Works Director, shall be maintained at the site during the progress of the work.

(b) Procedure. The city will withhold issuance of building permits until the approved certified Grading Plan and Site Development Plan are on file with the city, all securities as required by this division are received, conservation posts are installed, and all erosion control measures are in place as determined by the Public Works Director.

(c) As-built Grading Plan and Development Plan. Within 60 days after completion of site development, as per the approved Grading, Erosion and Sediment, and Storm Water Management Plan, the developer shall provide the city with an As-built Grading Plan and Development Plan as defined in the City Zoning Ordinance.

(d) Removal of erosion control measures. The above-specified requirements will be authorized for removal upon the sodding of the rear yards, completion of punch list items involving ponds and slopes, final stabilization, completion of proper turf establishment, and placement of the proper conservation easement posts and signs as specified. Inspection is required after the removal of erosion control measures to verify proper restoration. Please refer to City Zoning Ordinance for specifications.

(11) Enforcement.

(a) Notice of violation.

1. In the event that any work on the site does not conform to the approved erosion and sediment control plan, or any of the requirements listed in the provisions of this article, the Public Works Director, or his or her designee, shall issue a written notice of violation to the applicant, detailing the corrective actions necessary for compliance.

2. The applicant shall conduct the corrective actions within the time period determined by the city and stated in the notice.

3. If an imminent hazard exists, the city may require that the corrective work begin immediately.

(b) Stop work order/revocation of site development permit.

1. In the event that any person holding a site development permit pursuant to this article violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, environment, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the city may suspend or revoke the site development permit through the issuance of a stop work order, or the revocation of the site development or building permit.

2. The city may draw down on the grading permit security, with 30 days written notice to developer, for any violation of the terms of this contract related to landscaping, if the violation is not cured within such 30-day period, or if the security is allowed to lapse prior to the end of the required term. If the security is drawn down, the proceeds shall be used to cure the default.

3. No development, utility or street construction will be allowed and no building permits will be issued unless the development is in full compliance with the requirements of this subdivision.

(c) Violation and penalties.

1. No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this division. Any person violating any of the provisions

of this division shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this division is committed, continued, or permitted, shall constitute a separate offense.

2. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine as specified by the city ordinance for fee schedule for each offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this division shall be required to bear the expense of such restoration.

(R) Small wireless facilities.

(1) Purpose.

(a) The purpose of this division is to establish specific requirements for obtaining a small wireless facility permit for the installation, mounting, modification, operation, and replacement of small wireless facilities and installation or replacement of wireless support structures by commercial wireless providers on public and private property, including in the public right-of-way.

(b) This division does not apply to any wireline facilities, including wireline backhaul facilities. A wireless provider must obtain a small cell pole attachment permit pursuant to or other applicable authorization for use of the public right-of-way to construct, install, replace, or modify any wireline backhaul facility, such as fiber optic cable. The granting of a small wireless facility permit pursuant to this division is not a grant of such authorization.

(2) Definitions. In this division, the following terms shall have the meaning ascribed to them below:

**APPLICABLE LAW.** All applicable federal, state, and local laws, codes, rules, regulations, orders, and ordinances, as the same be amended or adopted from time to time.

**APPLICANT.** Any person submitting a small wireless facility permit application under this division.

**CITY.** The City of Columbia Heights, Minnesota.

**COLLOCATE or COLLOCATION.** To install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within, or adjacent to an existing wireless support structure that is owned privately or by the city.

**DAYS.** Counted in calendar days unless otherwise specified. When the day, or the last day, for taking any action or paying any fee falls on Saturday, Sunday, or a federal holiday, the action may be taken, or the fee paid, on the next succeeding secular or business day.

**DECORATIVE POLE.** A utility pole owned, managed, or operated by or on behalf of the city or any other governmental entity that:

1. Is specifically designed and placed for an aesthetic purpose; and
2. a. On which a nondiscriminatory rule or code prohibits an appurtenance or attachment, other than:
  - i. A small wireless facility;
  - ii. A specialty designed informational or directional sign; or
  - iii. A temporary holiday or special event attachment; or
- b. On which no appurtenance or attachment has been placed, other than:

- i. A small wireless facility;
- ii. A specialty designed informational or directional sign; or
- iii. A temporary holiday or special event attachment.

DEPARTMENT. The Department of Public Works of the city.

DESIGN DISTRICT. Any district within the city within which architectural design elements are required.

DIRECTOR. The Director of the department.

EXCAVATE. To dig into or in any way remove, physically disturb, or penetrate a part of a public right-of-way.

FCC and COMMISSION. The Federal Communications Commission.

HISTORIC DISTRICT. A geographically definable area, urban or rural, that possesses a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically during the period of significance but linked by association or function.

MICRO WIRELESS FACILITY. A small wireless facility that is no larger than 24 inches long, 15 inches wide, and 12 inches high, and whose exterior antenna, if any, is no longer than 11 inches.

OBSTRUCT. To place a tangible object in a public right-of-way so as to hinder free and open passage over that or any part of the public right-of-way.

PERMITTEE. A person that has been granted a small wireless facility permit by the department.

PERSON. Any individual, group, company, partnership, association, joint stock company, trust, corporation, society, syndicate, club, business, or governmental entity. PERSON shall not include the city.

PUBLIC RIGHT-OF-WAY. The area on, below, or above a public roadway, highway, street, cartway, bicycle lane, and public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easement of the city.

SMALL WIRELESS FACILITY.

1. A wireless facility that meets both of the following qualifications:
  - a. Each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all its exposed elements could fit within an enclosure of no more than six cubic feet; and
  - b. All other wireless equipment associated with the small wireless facility, excluding electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment, is in aggregate no more than 28 cubic feet in volume; or
2. A micro wireless facility.

**SMALL WIRELESS FACILITY PERMIT.** A permit issued by the department authorizing the installation, mounting, maintenance, modification, operation, or replacement of a small wireless facility or installation or replacement of a wireless support structure in addition to collocation of a small wireless facility on the wireless support structure.

**UTILITY POLE.** A pole that is used in whole or in part to facilitate telecommunications or electric service. It does not include a traffic signal pole.

**WIRELINE BACKHAUL FACILITY.** A facility used to transport communications data by wire from a wireless facility to a communications network.

**WIRELESS FACILITY.**

1. Equipment at a fixed location that enables the provision of wireless service between user equipment and a wireless service network, including:

- a. Equipment associated with wireless service;
- b. A radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration; and
- c. A small wireless facility.

2. WIRELESS FACILITY does not include:

- a. Wireless support structures;
- b. Wireline backhaul facilities; or
- c. Coaxial or fiber-optic cables between utility poles or wireless support structures, or that are not otherwise immediately adjacent to or directly associated with a specific antenna.

**WIRELESS PROVIDER.** A provider of wireless service, including, but not limited to, radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves and which permits a user generally to receive a call that originates and/or terminates on the public switched network or its functional equivalent, regardless of the radio frequencies used.

**WIRELESS SERVICE.** Any service using licensed or unlicensed wireless spectrum, including the use of wi-fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. WIRELESS SERVICE does not include services regulated under Title VI of the Communications Act of 1934, as amended, including a cable service under United States Code, Title 47, Section 522, Clause (6).

**WIRELESS SUPPORT STRUCTURE.** A new or existing structure in a public right-of-way designed to support or capable of supporting small wireless facilities, including, but not limited to, a utility pole or a building, as reasonably determined by the department.

(3) Small wireless facility permit applications.

(a) Application form. The Director shall develop and make publicly available a form application. To the extent possible, the Director shall allow for applications to be consolidated pursuant to this division. A complete application must be submitted for each small wireless facility permit desired.

(b) Consolidated applications. A wireless provider may apply for up to 15 small wireless facility permits in a consolidated application, provided all small wireless facilities in the consolidated application are located within a two-mile radius, consist of substantially similar equipment, and are to be collocated on similar types of wireless support structures. The department shall review a consolidated application as allowed by this division. If necessary, the applied-for small wireless facility permits in a consolidated application may be approved or denied individually, but the department may not use the denial of one or more permits as a basis to deny all small wireless facility permits in a consolidated application. Any small wireless facility permits denied in a consolidated application shall be subject to a single appeal.

(c) Information not required. The department shall not require an applicant to provide any information that:

1. Has previously been provided to the department by the applicant in a small wireless facility permit application, if the applicant provides specific reference to the previous application containing the information sought by the department and the previous information remains unchanged; and

2. Is not reasonably necessary to review a small wireless facility permit application for compliance with generally applicable and reasonable health, safety, and welfare regulations, and to demonstrate compliance with applicable Federal Communications Commission regulations governing audio frequency exposure, or other information required by this division.

(4) Establishment of general standards.

(a) General standards. The Director shall establish and maintain a set of standards for the installation, mounting, maintenance, modification, operation, or replacement of small wireless facilities and placing new or replacement wireless support structures in the public right-of-way applicable to all permittees under this division. The general standards shall include, but not be limited to, information to be required in a small wireless facility permit application, design standards, construction standards, aesthetic standards, a form application, permitting conditions, insurance and security requirements, and rates and fees.

(b) Design standards. Any design standards established by the Director shall be:

1. Reasonable and nondiscriminatory; and

2. Include additional installation and construction details that do not conflict with this division, including, but not limited to, a requirement that:

a. An industry standard pole load analysis be completed and submitted to the city, indicating that the wireless support structure to which the small wireless facility is to be attached will safely support the load; and

b. Small wireless facility equipment on new and existing wireless support structures be placed higher than 15 feet above ground level.

3. The Director shall additionally include the following in any design standards established under this division.

a. Any wireless support structure installed in the public right-of-way after May 31, 2017, may not exceed 50 feet above ground level, unless the city agrees to a greater height, subject to local zoning regulations, and may be subject to separation requirements in relation to other wireless support structures;

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- b. Any wireless support structure replacing an existing wireless support structure that is more than 50 feet above ground level may be placed at the height of the existing wireless support structure, unless the city agrees to a greater height, subject to zoning regulations;
- c. Wireless facilities constructed in the public right-of-way after May 31, 2017, may not extend more than ten feet above an existing wireless support structure in place as of May 31, 2017;
- d. If necessary to collocate a small wireless facility, a wireless provider may replace a decorative pole if the replacement pole reasonably conforms to the design and aesthetic qualities of the displaced decorative pole, subject to the approval of the Director of Public Works;
- e. A wireless provider shall comply with the city's requirements to install facilities underground, including, without limitation, in compliance with § 6.301 of the City Code; and
- f. All small wireless facilities collocated or wireless support structures installed in a Design District or Historic District shall comply with any design or concealment or other measures required by the city.
- (c) Construction standards. Any construction standards established by the Director shall include at least the following terms and conditions:
1. Compliance with applicable law. To the extent this requirement is not preempted or otherwise legally unenforceable, a permittee shall comply with all applicable law and applicable industry standards.
  2. Prevent interference. A permittee shall collocate, install, and continuously operate any authorized small wireless facilities and wireless support structures in a manner that prevents interference with other wireless facilities and other facilities in the right-of-way and the operation thereof. With appropriate permissions from the department, a permittee shall, as is necessary for the safe and reliable operation, use, and maintenance of an authorized small wireless facility or wireless support structure, maintain trees as prescribed by standards promulgated by the department.
  3. Other rights not affected. A permittee shall not construe a contract, permit, correspondence, or other communication from the city as affecting a right, privilege, or duty previously conferred or imposed by the department to or on another person.
  4. Restoration. A permittee, after any excavation of a public right-of-way, shall provide for restoration of the affected public right-of-way and surrounding areas, including the pavement and its foundation, to the same condition that existed before the excavation. If a permittee fails to adequately restore the public right-of-way within a specified date, the department may:
    - a. Itself restore the public right-of-way and recover from the permittee the reasonable costs of the surface restoration; or
    - b. Recover from the permittee a reasonable degradation fee associated with a decrease in the useful life of the public right-of-way caused by the excavation.
  5. A permittee that disturbs uncultivated sod in the excavation or obstruction of the public right-of-way shall plant grasses that are native to Minnesota and, wherever practicable, that are of the local eco-type, as part of the restoration required under this division, unless the owner of the real property over which the public right-of-way traverses objects. In restoring the public right-of-way, the permittee shall consult with the Department of Wildlife Conservation regarding the species of native grasses that conform to the requirements of this division.

6. Permittee's liability. A permittee is solely responsible for the risk and expense of the collocation of the permittee's small wireless facility and installing or replacing the permittee's wireless support structure. The city neither warrants nor represents that any area within the public right-of-way is suitable for such collocation or installation or replacement. A permittee shall accept the public right-of-way as is and where is and assumes all risks related to any use. The city is not liable for damage to small wireless facilities due to an event of damage to a wireless support structure in the public right-of-way.

(5) Small wireless facility application review process.

(a) Eligibility for review. An application shall be eligible for review if the application conforms to the general standards adopted by the Director.

(b) Authorization. A small wireless facility permit issued pursuant to any application processed hereunder shall authorize:

1. The installation, mounting, modification, operation, and replacement of a small wireless facility in the public right-of-way or city-owned property; or

2. Construction of a new, or replacement of an existing, wireless support structure, and collocation of a small wireless facility on the wireless support structure.

(c) Review process. An application submitted pursuant to this section shall be reviewed as follows:

1. Submission of application. Applicant shall submit a complete application accompanied by the appropriate application fee as set forth in § 9.106(R)(15) to the department. Prior to submitting a small wireless facility permit application, an applicant shall inspect any wireless support structure on which it proposes to collocate a small wireless facility and determine, based on a structural engineering analysis by a Minnesota registered professional engineer, the suitability of the wireless support structure for the proposed collocation. The structural engineering analysis shall be submitted to the department with the application, and shall certify that the wireless support structure is capable of safely supporting the proposed small wireless facility considering conditions at the proposed location, including the condition of the public right-of-way, hazards from traffic, exposure to wind, snow and/or ice, and other conditions affecting the proposed small wireless facility that may be reasonably anticipated.

2. Application review period. The department shall, within 60 days after the date a complete application for the collocation is submitted to the department, issue or deny a small wireless facility permit pursuant to the application. The department shall, within 90 days after the date a complete application for a new or replacement wireless support structure in addition to the collocation of a small wireless facility is submitted to the department, issue or deny a small wireless facility permit pursuant to the application. If the department receives applications within a single seven-day period from one or more applicants seeking approval of small wireless facility permits for more than 30 small wireless facilities or ten wireless support structures, the department may extend the 90-day review period of this division by an additional 30 days. If the department elects to invoke this extension, it must inform in writing any applicant to whom the extension will be applied.

3. Completeness determination. The department shall review a small wireless facility permit application for completeness following submittal. The department shall provide a written notice of incompleteness to the applicant within ten days of receipt of the application, clearly and specifically delineating all missing documents or information. Information delineated in the notice is limited to documents or information publicly required as of the date of application and reasonably related to the department's determination of whether the proposed equipment falls within the definition of a small wireless facility and whether the proposed deployment satisfies all health,

safety, and welfare regulations applicable to the small wireless facility permit request and complies with this division and applicable standards promulgated by the department. If an applicant fails to respond to the department's notice of incompleteness within 90 days, the application shall be deemed expired and no small wireless facility permit shall be issued. Upon an applicant's submittal of additional documents or information in response to a notice of incompleteness, the department shall within ten days of submission notify the applicant in writing of any information requested in the initial notice of incompleteness that is still missing. Second or subsequent notices of incompleteness may not specify documents or information that were not delineated in the original notice of incompleteness.

4. Reset and tolling of review period. In the event that a small wireless facility permit application is incomplete, and the department has provided a timely and complete written notice of incompleteness, then the applicable review period shall be reset, pending the time between when a notice is mailed and the submittal of information in compliance with the notice. Subsequent notices shall toll the applicable review period. An applicant and the department can mutually agree in writing to toll the applicable review period at any time.

5. Moratorium prohibited. Notwithstanding any applicable law to the contrary, including, but not limited to, M.S. §§ 394.34 and 462.355, the department shall not establish any moratorium with respect to the filing, receiving, or processing of applications for small wireless facility permits, or issuing or approving small wireless facility permits.

6. Nondiscriminatory processing of applications. The department shall ensure that any application processed under this division is performed on a nondiscriminatory basis.

7. Permit not required. A permittee shall provide 30 days advance written notice to the department, but shall not be required to obtain a small wireless facility permit, or pay an additional small wireless facility permit fee for:

a. Routine maintenance;

b. The replacement of a small wireless facility with a small wireless facility that is substantially similar to or smaller in size; or

c. The installation, placement, maintenance, operation, or replacement of a micro wireless facility that is strung on a cable between existing utility poles, in compliance with the National Electrical Safety Code.

(6) Small wireless facility permit conditions.

(a) General conditions of approval. In processing and approving a small wireless facility permit, the department shall condition its approval on compliance with:

1. Generally applicable and reasonable health, safety, and welfare regulations consistent with the city's public right-of-way management;

2. Reasonable accommodations for a decorative pole;

3. Any reasonable restocking, replacement, or relocation requirements when a new wireless support structure is placed in the public right-of-way;

4. Construction of the proposed small wireless facility within six months from the date the small wireless facility permit is issued;

5. Obtaining additional authorization for use of the public right-of-way for the construction of wireline backhaul facilities or any other wired facilities;
6. Compliance with the city's general standards; and
7. Compliance with all applicable law.

(b) Generally applicable and reasonable health, safety, and welfare regulations. Generally applicable and reasonable health, safety, and welfare regulations for the purposes of this division include, without limitation, the following:

1. A structural engineering analysis by a Minnesota registered professional engineer certifying that a wireless support structure can reasonably support a proposed small wireless facility considering the conditions of the street, the anticipated hazards from traffic to be encountered at the proposed location, and any wind, snow, ice, or other conditions that may be reasonably anticipated at the proposed location;
2. A determination by the department that, based upon reasonable engineering judgment, a proposed small wireless facility is of excessive size or weight or would otherwise subject a wireless support structure to an unacceptable level of stress;
3. A determination by the department that, based upon reasonable engineering judgment, a proposed small wireless facility would cause undue harm to the reliability or integrity of the city's electrical infrastructure or would likely violate generally applicable electrical or engineering principles;
4. A determination by the department that a proposed small wireless facility presents an unreasonable safety hazard as specifically and reasonably identified by the department;
5. A determination by the department that a proposed small wireless facility impairs the city's ability to operate or maintain the public right-of-way;
6. A determination by the department that a proposed small wireless facility cannot be placed due to insufficient capacity and the infrastructure cannot be modified or enlarged consistent with the requirements of this division and the department's general standards; or
7. A determination by the department that a proposed small wireless facility is in violation of the National Electric Safety Code or applicable law.

(c) Authorized use. An approval of a small wireless facility permit under this division authorizes the collocation of a small wireless facility on an existing wireless support structure to provide wireless services, or the installation or replacement of a wireless support structure and collocation of a small wireless facility, and shall not be construed to confer authorization to:

1. Provide any service other than wireless service;
2. Construct, install, maintain, or operate any small wireless facility or wireless support structure in a right-of-way other than the approved small wireless facility or wireless support structure; or
3. Install, place, maintain, or operate a wireline backhaul facility in the right-of-way.

(d) Other permits required. Any person desiring to obstruct or perform excavation in a public right-of-way within the city for purposes of collocating a small wireless facility or installing or replacing a wireless support

structure shall, consistent with § 6.301 of City Code, obtain the necessary permit from the city prior to conducting any such activities.

(e) Exclusive arrangements prohibited. The city shall not enter into an exclusive arrangement with any person for use of a public right-of-way for the collocation of a small wireless facility or for the installation or operation of a wireless support structure.

(f) Unauthorized small wireless facility. No person shall install, mount, modify, operate, or replace a small wireless facility in the public right-of-way or on city-owned property, or install or replace a wireless support structure without first obtaining a small wireless facility permit from the city.

1. If an unauthorized small wireless facility or wireless support structure is discovered, the department shall provide written notice to the owner of the unauthorized small wireless facility within five days of discovery of the unauthorized small wireless facility. If an owner of an unauthorized small wireless facility or wireless support structure cannot be reasonably identified, the department need not provide any written notice.

2. If the owner of an unauthorized small wireless facility or wireless support structure can be reasonably identified, the department may remove the unauthorized small wireless facility or wireless support structure without incurring liability to the owner of the small wireless facility or wireless support structure and at the owner's sole expense no sooner than five days after providing notice of the department's discovery of the unauthorized small wireless facility or wireless support structure to the owner.

3. If the owner of an unauthorized small wireless facility or wireless support structure cannot be reasonably identified, the department may remove the unauthorized small wireless facility or wireless support structure without incurring liability to the owner of the small wireless facility or wireless support structure and at the owner's sole expense.

(g) Relocation. The department may require a permittee to relocate or modify a small wireless facility or wireless support structure in a public right-of-way or on city-owned property in a timely manner and at the permittee's cost if the department determines that such relocation or modification is required to protect public health, safety and welfare, or to prevent interference with other facilities authorized pursuant to this division, or to prevent interference with public works projects of the department.

(h) Security required. Each permittee shall submit and maintain with the department a bond, cash deposit, or other security acceptable to the department, in a form and amount determined by the department in accordance with the general standards, securing the faithful performance of the obligations of the permittee and its agents under any and all small wireless facility permits issued to the permittee under this division. If, in accordance with this division, the department deducts any amounts from such security, the permittee must restore the full amount of the security prior to the department's issuance of any subsequent small wireless facility permit. The department shall return or cancel the security should the permittee cease to operate any small wireless facilities in the right-of-way.

(i) Payment of fees required. A small wireless facility permit shall not be issued prior to the complete payment of all applicable fees.

(j) Notice of assignment required. A permittee upon or within ten calendar days after transfer, assignment, conveyance, or sublet of an attachment that changes the permit and/or billing entity or ownership responsibilities shall provide written notification to the department.

(7) Small wireless facility permit term. A small wireless facility permit for a small wireless facility in the public right-of-way shall have a term equal to the length of time that the small wireless facility is in use, unless the small

wireless facility permit is revoked under this division or is otherwise allowed to be limited by applicable law. The term for all other small wireless facility permits shall be for a period of up to ten years.

(8) Denial or revocation of a small wireless facility permit.

(a) Permit denial. The department may deny any small wireless facility permit if the applicant does not comply with all provisions of this division, or if the department determines that the denial is necessary to protect public health, safety, and welfare, or when necessary to protect the public right-of-way and its current use.

(b) Permit revocation. The department may revoke a small wireless facility permit, with or without refund, in the event of a substantial breach of the terms and conditions of any statute, ordinance, rule, or regulation, or any material condition of the small wireless facility permit. A substantial breach includes, but is not limited to, the following:

1. A material violation by act or omission of a provision of a small wireless facility permit;
2. An evasion or attempt to evade any material provision of a small wireless facility permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
3. A material misrepresentation of fact in a small wireless facility permit application;
4. A failure to correct, in a timely manner, collocation of a small wireless facility or installation or replacement of a wireless support structure that does not conform to applicable standards, conditions, or codes, upon inspection and notification by the department of the faulty condition;
5. A permittee fails to make timely payments of any fees due, and does not correct such failure within 20 days after receipt of written notice by the city of such failure;
6. A permittee becomes insolvent, unable or unwilling to pay its debts, is adjudged bankrupt, or all or part of its small wireless facilities or wireless support structures are sold under an instrument to secure a debt and is not redeemed by the permittee within 60 days; or
7. A failure to complete collocation of a small wireless facility or installation, modification, or replacement of a wireless support structure within 270 days of the date a small wireless facility permit authorizing such activity is granted, unless the department and the permittee agree to extend the 270 day period or there is a lack of commercial power or communications transport infrastructure to the installation site.

(c) Written notice required. Any denial or revocation of a small wireless facility permit shall be made in writing and shall document the basis for the denial or revocation. The department shall notify the applicant or permittee in writing within three days of a decision to deny or revoke a small wireless facility permit. If a small wireless facility permit application is denied, the applicant may cure the deficiencies identified by the department and submit its application. If the applicant resubmits the application within 30 days of receiving written notice of the denial, it may not be charged an additional filing or processing fee. The department must approve or deny the revised application within 30 days after the revised application is submitted. If small wireless facility permit or wireless support structure permit is revoked, the small wireless facility or wireless support structure shall be subject to removal in accordance with § 9.106(R)(11).

(9) City inspection of a small wireless facility or wireless support structure.

(a) Inspection permitted. The department may inspect, at any time, a permittee's collocation of a small wireless facility or installation or replacement of a wireless support structure. The department shall determine

during an inspection whether the permittee's small wireless facility or wireless support structure is in accordance with the requirements of the permittee's applicable small wireless facility permit and other applicable law.

(b) Suspension of activities. During an inspection, if the department determines that a permittee has violated any material term of the permittee's small wireless facility permit or this division, the department may suspend the permittee's small wireless facility permit. The department shall provide prompt written notice of any suspension to a permittee, including the violations giving rise to the suspension. A suspension under this division is effective until a permittee corrects the alleged violation(s), at the permittee's sole expense. If the violation(s) are not corrected within 30 days after the date of such notice, the small wireless facility or wireless support structure shall be subject to removal in accordance with § 9.106(R)(11). A permittee may appeal any suspension issued under this division to the department as provided in § 9.106(R)(12).

(10) Abandoned small wireless facilities and wireless support structures. Where a small wireless facility or wireless support structure is not properly maintained or has not been used for the primary purpose of providing wireless services for 12 consecutive months, the department may designate the small wireless facility or wireless support structure as abandoned. The department shall provide written notice to a permittee within ten days of the permittee's small wireless facility or wireless support structure being designated as abandoned.

(11) Removal of a small wireless facility or wireless support structure.

(a) Removal permitted. The department may remove, at permittee's expense, or require a permittee to remove, any small wireless facility or wireless support structure if:

1. The small wireless facility permit or wireless support structure permit is revoked under this division or expires without renewal; or
2. The small wireless facility or wireless support structure is designated by the department as abandoned under § 9.106(R)(10).

(b) Notice to permittee; time to remove. The department shall provide written notice to the permittee that it must remove a small wireless facility or wireless support structure under this division, including the reasons therefor. If the permittee does not remove the small wireless facility or wireless support structure within 30 days after the date of such notice, the department may remove it at the permittee's expense without further notice to the permittee.

(12) Appeals. An applicant or permittee may have the denial or revocation of a small wireless facility permit, or fees and costs required by this division reviewed, upon written request, by the City Council or its designee. The City Council or its designee shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council or its designee affirming a denial, revocation, or fee shall be in writing and supported by written findings establishing the reasonableness of the decision.

(13) Insurance.

(a) Minimum coverage. The department shall require that each permittee maintain in full force and effect, throughout the term of a small wireless facility permit, an insurance policy or policies issued by an insurance company or companies satisfactory to the city's Risk Manager. Such policy or policies shall, at a minimum, afford insurance covering all of the permittee's operations, vehicles, employees, agents, subcontractors, successors, and assigns as follows:

1. Workers' compensation, in statutory amounts, with employers' liability limits not less than \$1,000,000 each accident, injury, or illness;

2. Commercial general liability insurance with limits not less than \$2,000,000 each occurrence combined single limit for bodily injury and property damage, including contractual liability, personal injury, products and completed operations;

3. Commercial automobile liability insurance with limits not less than \$2,000,000 each occurrence combined single limit for bodily injury and property damage, including owned, non-owned and hired auto coverage, as applicable; and

(b) Insurance requirements. Each permittee's insurance policy or policies are subject to the following:

1. Said policy or policies shall include the city and its officers and employees jointly and severally as additional insureds, shall apply as primary insurance, shall stipulate that no other insurance effected by the city will be called on to contribute to a loss covered thereunder, and shall provide for severability of interests.

2. Said policy or policies shall provide that an act or omission of one insured, which would void or otherwise reduce coverage, shall not reduce or void the coverage as to any other insured. Said policy or policies shall afford full coverage for any claims based on acts, omissions, injury, or damage which occurred or arose, or the onset of which occurred or arose, in whole or in part, during the policy period.

3. Said policy or policies shall be endorsed to provide 30 calendar days advance written notice of cancellation or any material change to the department.

4. Should any of the required insurance be provided under a claims-made form, a permittee shall maintain such coverage continuously throughout the term of a small wireless facility permit, and, without lapse, for a period of three years beyond the expiration or termination of the small wireless facility permit, to the effect that, should occurrences during the term of the small wireless facility permit give rise to claims made after expiration or termination of the small wireless facility permit, such claims shall be covered by such claims-made policies.

5. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general aggregate limit shall be double the occurrence or claims limits specified herein.

(c) Indemnity obligation. Such insurance shall in no way relieve or decrease a permittee's or its agent's obligation to indemnify the city pursuant to this division.

(d) Proof of insurance. Before the department will issue a small wireless facility permit, an applicant shall furnish to the department certificates of insurance and additional insured policy endorsements with insurers that are authorized to do business in the State of Minnesota and that are satisfactory to the department evidencing all coverages set forth herein.

(14) Indemnification and defense of city.

(a) Indemnification of city. As a condition of issuance of a small wireless facility permit, each permittee agrees on its behalf and on behalf of its agents, successors, or assigns to indemnify, defend, protect, and hold harmless the city from and against any and all claims of any kind arising against the city as a result of the issuance of the small wireless facility permit including, but not limited to, a claim allegedly arising directly or indirectly from the following:

1. Any act, omission, or negligence of a permittee or its any agents, successors, or assigns while engaged in the permitting or collocation of any small wireless facility or installation or replacement of any wireless support structure, or while in or about the public right-of-way that are subject to the small wireless facility permit for any reason connected in any way whatsoever with the performance of the work authorized by the small wireless facility permit, or allegedly resulting directly or indirectly from the permitting or collocation of any small wireless facility or installation or replacement of any wireless support structure authorized under the small wireless facility permit;

2. Any accident, damage, death, or injury to any of a permittee's contractors or subcontractors, or any officers, agents, or employees of either of them, while engaged in the performance of collocation of any small wireless facility or installation or replacement of any wireless support structure authorized by a small wireless facility permit, or while in or about the public right-of-way that are subject to the small wireless facility permit, for any reason connected with the performance of the work authorized by the small wireless facility permit, including from exposure to radio frequency emissions;

3. Any accident, damage, death, or injury to any person or accident, damage, or injury to any real or personal property in, upon, or in any way allegedly connected with the collocation of any small wireless facility or installation or replacement of any wireless support structure authorized by a small wireless facility permit, or while in or about the public right-of-way that are subject to the small wireless facility permit, from any causes or claims arising at any time, including any causes or claims arising from exposure to radio frequency emissions; and

4. Any release or discharge, or threatened release or discharge, of any hazardous material caused or allowed by a permittee or its agents about, in, on, or under the public right-of-way.

(b) Defense of city. Each permittee agrees that, upon the request of the department, the permittee, at no cost or expense to the city, shall indemnify, defend, and hold harmless the city against any claims as set forth in this division, regardless of the alleged negligence of the city or any other party, except only for claims resulting directly from the sole negligence or willful misconduct of the city. Each permittee acknowledges and agrees that it has an immediate and independent obligation to defend the city from any claims that actually or potentially fall within the indemnity provision, even if the allegations are or may be groundless, false, or fraudulent, which obligation arises at the time such claim is tendered to the permittee or its agent by the city and continues at all times thereafter. Each permittee further agrees that the city shall have a cause of action for indemnity against the permittee for any costs the city may be required to pay as a result of defending or satisfying any claims that arise from or in connection with a small wireless facility permit, except only for claims resulting directly from the sole negligence or willful misconduct of the city. Each permittee further agrees that the indemnification obligations assumed under a small wireless facility permit shall survive its expiration or completion of collocation of any small wireless facility authorized by the small wireless facility permit.

(c) Additional requirements. The department may specify in a small wireless facility permit such additional indemnification requirements as are necessary to protect the city from risks of liability associated with the permittee's collocation of any small wireless facility or installation or replacement of any wireless support structure.

(15) Fees and costs.

(a) Application fees. The department shall charge a fee for reviewing and processing a small wireless facility permit application. The purpose of this fee is to enable the department to recover its costs directly associated with reviewing a small wireless facility permit application.

1. The department shall charge a fee of \$500 for a small wireless facility permit application seeking to collocate up to five small wireless facilities. This fee shall increase by \$100 for each additional small wireless facility that an applicant seeks to collocate.

2. The department shall charge a fee of \$850 for a small wireless facility permit application seeking to install or replace a wireless support structure in addition to collocating of a small wireless facility on the wireless support structure.

(b) Annual small wireless facility permit fee. The department shall charge an annual small wireless permit fee for each small wireless facility permit issued to a permittee. The annual small wireless permit fee shall be determined by the Director and listed in the city's fee schedule. The annual small wireless permit fee shall be based upon the recovery of the city's rights-of-way management costs.

(c) City-owned wireless support structure fees. The department shall charge the following fees to the owner of any small wireless facility collocated on a wireless support structure owned by the city or its assigns located in the public right-of-way:

1. \$150 per year for rent to occupy space on the wireless support structure;
2. \$25 per year for maintenance associated with the space occupied on the wireless support structure; and
3. A monthly fee for electricity used to operate the small wireless facility, if not purchased directly from a utility, at the rate of:
  - a. \$73 per radio node less than or equal to 100 max watts;
  - b. \$182 per radio node over 100 max watts; or
  - c. The actual costs of electricity, if the actual costs exceed the above.

(d) City-owned property fees. The department shall charge an annual fee for collocating small wireless facilities on city-owned property not located in the public right-of-way. The department shall determine a reasonable and nondiscriminatory annual fee on a per location and per request basis.

(e) Discretion to require additional fees. In instances where the review of a small wireless facility permit application is or will be unusually costly to the department, the Director, in his or her discretion, may, after consulting with other applicable city departments, agencies, boards, or commissions, require an applicant to pay a sum in excess of the other fee amounts charged pursuant to this division. This additional sum shall be sufficient to recover the actual, reasonable costs incurred by the department and/or other city departments, agencies, boards, or commissions, in connection with a small wireless facility permit application and shall be charged on a time and materials basis. Whenever additional fees are charged, the Director, upon request, shall provide in writing the basis for the additional fees and an estimate of the additional fees. The department may not require a fee imposed under this division through the provision of in-kind services by an applicant as a condition of consent to use to city's public right-of-ways or to obtain a small wireless facility permit.

(f) Reimbursement of city costs. The department may determine that it requires the services of an expert in order to evaluate a small wireless facility permit application. In such cases, the department shall not issue a small wireless facility permit pursuant to the application unless the applicant agrees to reimburse the department for the actual, reasonable costs incurred for the services of a technical expert.

(S) Table of Uses. The following tables include the permitted, conditional, and accessory uses for all residential, commercial, industrial, and public zoning districts; numbers indicate additional conditions for approval of use which can be found in City Code 9.107 Specific Development Standards.

<b>1. RESIDENTIAL ZONING DISTRICTS</b>					
<b>A = Accessory Use C = Conditional Use P = Permitted Use PUD = Planned Unit Development</b>					
<b>Numbers indicate additional conditions for approval of use which can be found in City Code 9.107 Specific Development Standards.</b>					
<b>ZONING DISTRICTS</b>	<b>R-1 SINGLE-FAMILY RESIDENTIAL</b>	<b>R-2A/R-2B: TWO-FAMILY RESIDENTIAL</b>	<b>R-3: LIMITED MULTIPLE FAMILY RESIDENTIAL</b>	<b>R-4: MULTIPLE FAMILY RESIDENTIAL</b>	<b>P: PUBLIC AND OPEN SPACE</b>
<b>USE CLASSIFICATION</b>					
Accessory building/structure.	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	
Accessory dwelling unit on a single-family property.	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	
Bed and breakfast home, accessory to a single-family dwelling.			<b>C</b>	<b>C</b>	
Cemeteries.					<b>P</b>
Community center.			<b>C</b>	<b>C</b>	<b>C</b>
Congregate living facilities, including rooming houses, group living quarters, nursing homes (27), senior housing, assisted living facilities, transitional housing and emergency housing (44).			<b>C</b>	<b>C</b>	
Convent or monastery, when accessory to a religious facility.	<b>C</b>	<b>C</b>	<b>C</b>	<b>C</b>	
County, regional, and city parks.	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>
Day care center, adult or child.			<b>C</b>	<b>C</b>	
Decorative landscaping, gardening and other horticultural uses.	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	
Essential services.					<b>P</b>
Fences greater than six feet in height.	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	
Golf course.	<b>C</b>	<b>C</b>			
Government office.	<b>C</b>	<b>C</b>	<b>C</b>	<b>C</b>	
Government protective service facility.	<b>C</b>	<b>C</b>	<b>C</b>	<b>C</b>	
Greenhouses (residential). (24)	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	
Ground-mounted solar energy system (accessory use). (51)	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>
Ground-mounted solar energy system (primary use). (51)	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>
Home occupations.	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	
Joint driveway use between adjoining property owners.	<b>C</b>	<b>C</b>	<b>C</b>	<b>C</b>	
Licensed day care facility serving 12 or fewer persons. (16)	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	
Licensed day care facility serving more than 12 persons.				<b>C</b>	
Licensed group family day care facility serving 14 or fewer children.	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	
Living quarters for persons employed on the premises.					<b>A</b>

Manufactured home park.				<b>C</b>	
Multiple-family dwelling.				<b>P</b>	
Multiple-family dwelling with up to eight units per structure.			<b>P</b>		
Non-city governmental and public regulated utility buildings and structures necessary for health, safety, and general welfare of the community.					<b>C</b>
Off-street parking for an adjacent conforming commercial or industrial use, provided the lots are under common ownership, is not separated by a public right-of-way and front on the same public right-of-way.		<b>C</b>	<b>C</b>	<b>C</b>	
Operation and storage of such vehicles, equipment and machinery, which are incidental to the permitted or conditional uses allowed in the district.					<b>A</b>
Other accessory uses as determined by the Zoning Administrator.	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	
Playgrounds, athletic fields, recreational areas, and parking areas.	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>
Private garages, carports, and parking spaces.	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	
Private swimming pools, tennis courts, and private recreational facilities operated for the sole use and convenience of the residents and their guests.	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	
Public parks and playgrounds.	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>
Publicly owned and operated facilities.					<b>P</b>
Recreational facility, indoor.			<b>C</b>	<b>C</b>	<b>C</b>
Recreational facility, outdoor.			<b>C</b>	<b>C</b>	<b>C</b>
Recreational vehicles and equipment.					<b>A</b>
Religious facility/ place of worship. (35)	<b>C</b>	<b>C</b>	<b>C</b>	<b>C</b>	
Roof-mounted solar energy system. (50)	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>
Shared family living arrangements.	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	
Signs as regulated by 9.106.	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>
Single-family dwelling, detached.	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	
School, public or private, K-12. (39)	<b>C</b>	<b>C</b>		<b>C</b>	
School, vocational or business. (40)				<b>C</b>	
State licensed residential care facility serving six or fewer persons. (36)	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	
State licensed residential care facility serving 7 to 16 persons. (36)			<b>C</b>	<b>C</b>	
Temporary construction buildings.	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	
Town home dwelling with up to eight units per structure.			<b>P</b>	<b>P</b>	
Two-family dwelling. (45)		<b>P</b>	<b>P</b>	<b>P</b>	
Twinhome dwelling. (45)		<b>P</b>	<b>P</b>	<b>P</b>	

**2. COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS**

**A = Accessory Use C = Conditional Use P = Permitted Use PUD = Planned Unit Development**

**Numbers indicate additional conditions for approval of use which can be found in City Code 9.107 Specific**

<b>Development Standards (C)</b>					
<b>ZONING DISTRICTS</b>	<b>LB: LIMITED BUSINESS</b>	<b>GB: GENERAL BUSINESS</b>	<b>CBD: CENTRAL BUSINESS</b>	<b>I-1: LIGHT INDUSTRIAL</b>	<b>I-2: GENERAL INDUSTRIAL</b>
<b>USE CLASSIFICATION</b>					
Accessory building.	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>	<b>A</b>
Adult entertainment use. (1)				<b>C</b>	<b>C</b>
Animal kennel and/or shelter. (2)		<b>C</b>		<b>C</b>	
Arcade.		<b>P</b>	<b>P</b>		
Assembly, manufacturing and/or processing.		<b>C</b>		<b>P</b>	<b>P</b>
Auditorium/place of assembly.		<b>P</b>	<b>P</b>		
Automobile convenience facility. (3)		<b>P</b>			
Automobile and motorcycle repair, minor. (5)		<b>C</b>		<b>C</b>	<b>C</b>
Automobile and motorcycle repair, major. (4)				<b>C</b>	<b>C</b>
Automobile and motorcycle sales/rentals, new. (6)		<b>C</b>			
Automobile and motorcycle sales/rentals, used (in building). (7)		<b>C</b>			
Banquet hall. (47)		<b>C</b>	<b>C</b>		
Barbed wire fences. (8)				<b>C</b>	<b>C</b>
Bed and breakfast home, when accessory to a single-family dwelling. (9)	<b>C</b>				
Billiards hall.		<b>P</b>	<b>P</b>		
Body piercing shops.				<b>P</b>	<b>P</b>
Bowling alley.		<b>P</b>	<b>P</b>		
Brew pub. (46)		<b>P</b>	<b>C</b>		
Brew pub, not exceeding 2,000 barrels of malt liquor a year. (46)	<b>C</b>				
Brewer taproom. (46)		<b>P</b>	<b>C</b>	<b>P</b>	
Brewer taproom, not exceeding 2,000 barrels of malt liquor a year. (46)	<b>C</b>				
Car Wash. (10)		<b>C</b>			
Caretaker's residence.				<b>A</b>	
Clinic, medical or dental.	<b>P</b>	<b>P</b>	<b>P</b>		
Clinic, veterinary.	<b>P</b>	<b>P</b>	<b>P</b>		
Club or lodge.		<b>P</b>	<b>P</b>		
Community center. (12)		<b>C</b>	<b>C</b>	<b>P</b>	<b>P</b>
Concrete, asphalt or rock crushing operation. (11)				<b>C</b>	<b>C</b>
Congregate living facilities, including rooming houses, group living quarters, nursing homes (27), senior housing, assisted living facilities, transitional housing and emergency housing (44).	<b>C</b>				
Consignment/secondhand store. (13)		<b>C</b>			
Currency exchange. (14)		<b>C</b>			
Day care facility, adult or child. (15)		<b>P</b>			
Drive-up facility. (17)		<b>A</b>	<b>A</b>		
Drop-in facility. (18)		<b>C</b>			
Fences greater than six feet in height.	<b>A</b>	<b>A</b>	<b>A</b>		
Fences greater than seven feet in height.				<b>A</b>	<b>A</b>
Financial institution.		<b>P</b>	<b>P</b>		
Firearms dealer/shooting range. (20)		<b>C</b>			
Food service, convenience (fast food). (21)		<b>P</b>	<b>P</b>		
Food service, limited (coffee shop/deli).	<b>P</b>	<b>P</b>	<b>P</b>		

Food service, full service (restaurant/nightclub).		P	P		
Freight terminal. (22)				P	P
Funeral home. (23)	P	P			
Ground-mounted solar energy system (accessory use). (51)	A	A	A	A	A
Ground-mounted solar energy system (primary use). (51)	P	P	P	P	P
Government maintenance facility.	C	C		P	P
Government office.	P	P	P	P	P
Government protective service facility.	P	P	P	P	P
Greenhouse/garden center.		P			
Health/fitness club.		P	P		
Health/fitness clubs, not exceeding 4,000 gross square feet in area. (48)	C				
Hospital. (25)	C	C			
Hotel or motel.	C	P	P		
Incidental repair or processing necessary to conduct the permitted principal use, provided the accessory use does not exceed 30% of the floor area.		A	A		
Laboratory, medical.		P	P	P	P
Landscaping and other horticultural uses.	A	A	A	A	A
Licensed day care facility, child or adult. (16)	C		P		
Liquor store, off-sale.		P	P		
Maintenance facility.				P	P
Motor vehicle parts store.		P		P	P
Museum/gallery.	P	P	P		
Multiple-family dwelling.	P				
Multiple-family residential, when located above a first floor commercial use. (26)			P		
Off-street parking and loading areas.				A	A
Office.	P	P	P	P	P
Office/showroom.				P	P
Office/warehouse.				P	P
Outdoor sales or display. (28)		C	C	C	C
Outdoor storage. (29)		C	C	C	C
Parking ramp.		P	P	P	P
Pawnshop. (30)		C		P	P
Precious metal dealerships. (31)		C			
Printing/publishing.		P	P	P	P
Private garages, carports, and parking spaces.	A	A	A		
Private swimming pools, tennis courts, and private recreational facilities operated for the sole use and convenience of the residents and their guests.	A				
Public parks and playgrounds.	P	P	P	P	P
Recreational facility, indoor. (33)	C	C	C	P	P
Recreational facility, outdoor. (34)	C	C	C	P	P
Recreational vehicles sales, new. (32)		C			
Recreational vehicles sales, used (in building). (32)		C			
Retail sales.	P	P	P	P	P
Roof-mounted solar energy system. (50)	A	A	A	A	A
Salvage operation/transfer station. (38)				C	C
Seasonal sales stands. (49)	A	A	A		
Self-service storage facility.				P	P
Service, professional. (19)	P	P	P		

School, performing/visual/marital arts. (41)	C	P	P		
School, vocational or business. (40)	C	P	P		
Shopping center. (42)		P			
Signs as regulated by 9.106.	A	A	A	A	A
Single-family dwelling, when accessory to a commercial use.	C				
Smoke Shops (43)	P	P	P	P	P
State licensed residential care facility, correctional. (37)				C	C
State licensed residential care facility. (36)	C				
Studio, professional.	P	P	P		
Studio, radio and television.		P	P	P	P
Tattoo shops.				P	P
Temporary construction buildings.	A	A	A	A	A
Theater, live performance.			P		
Theater, movie.			P		
Warehousing and/or distribution.				P	P

(T) Prohibited uses. Any use not listed as either permitted, conditional or accessory in a particular district or any use not determined by the Zoning Administrator to be substantially similar to a use listed as permitted, conditional or accessory shall be prohibited in that district.

**Section 4**

**The following language for Specific Development Standards is added, amended and deleted as provided in Section 9.107 of the City Code of 2005, is hereby established to read as follows:**

(A) Purpose. The purpose of this section is to establish specific development standards that provide supplemental regulations to address the unique characteristics of certain land use.

(B) Applicability. The regulations set forth in this section shall apply to the specific use listed, whether it is identified as permitted, conditional or accessory within the applicable zoning district. These regulations shall be in addition to all other applicable regulations.

(C) Specific development standards. The following uses are subject to specific development standards:

(1) Adult entertainment use.

(a) Activities classified as obscene as defined by M.S. § 617.241 or successor statute, are prohibited.

(b) The use shall be located at least 1,000 feet from any other adult entertainment use.

(c) The use shall be located at least 1,000 feet from any facility with an on- or off-sale liquor, wine or beer license.

(d) The use shall be located at least 500 feet from any of the following protected uses: residentially-zoned property or residential use; licensed day care facility; public or private educational facility classified as an elementary, middle or junior high or senior high school; public library; public park; or religious institution or place of worship.

(e) An adult entertainment use lawfully operating as a conforming use is not rendered nonconforming by the subsequent location of any use listed above within 500 feet. If the adult entertainment use is abandoned for a period of 90 days or more, it shall be deemed discontinued and subsequent use of the premises for adult entertainment will be required to meet the separation requirement.

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- (f) No more than one adult entertainment use shall be located on the property.
  - (g) The use shall not be located on any property that has a liquor license.
  - (h) Sign messages shall be generic in nature and shall only identify the type of business which is being conducted; signs shall not contain material classified as advertising.
- (2) Animal kennel or shelter.
- (a) Any activity conducted outdoors, including but not limited to play areas, outdoor runs, etc. shall be approved by the City Council through a Conditional Use Permit on a case-by-case basis.
  - (b) Outdoor kennels shall be prohibited.
  - (c) Outdoor activity spaces shall meet the following requirements:
    - 1. The space shall be completely screened from abutting neighboring residential zoning districts or uses by a six-foot tall privacy fence that is at least 80 percent opaque.
    - 2. The space shall be cleaned regularly so as not to create a nuisance as defined by the City Code.
    - 3. Animal waste produced within the space shall not be allowed to directly enter the City's storm sewer system.
  - (d) All indoor activity shall include soundproofing and odor control.
  - (e) The kennel or shelter shall provide a minimum floor area of 48 square feet per dog and 20 square feet per cat or any other animal boarded at any one time, exclusive of office or storage area.
  - (f) Air temperature within the kennel or shelter shall be maintained between 60 degrees and 80 degrees Fahrenheit.
  - (g) Within the kennel area, wall finish material below 48 inches in height shall be impervious, washable materials such as sealed masonry, ceramic tile, glass board, or fiberglass reinforced plastic (FRP) panels.
  - (h) Floor finishes shall be sealed concrete, or another impervious surface approved by the City.
  - (i) Animal waste shall be immediately cleaned up with solid wastes being enclosed in a container of sufficient construction to eliminate odors and organisms. All animal waste shall be disposed of on a daily basis.
  - (j) The kennel or shelter shall provide sufficient, uniformly distributed lighting to the kennel area.
- (3) Automobile convenience facility.
- (a) The use shall be served by a major collector or higher functional classification of roadway.
  - (b) All buildings, canopies and pump islands shall meet the setback requirements for a principal structure in the zoning district in which the use is located.
  - (c) The storage of inoperable vehicles on the site is prohibited.
  - (d) The sale or repair of vehicles shall be prohibited.

(e) A landscape buffer with a minimum depth of ten feet shall be installed and maintained along all abutting public rights-of-way.

(f) Canopy light fixtures shall be completely recessed within the canopy so that the lenses do not extend below the bottom surface of the canopy.

(g) Wherever fuel pumps are installed, pump islands shall be installed.

(h) A transportation management plan shall be submitted to address off-street parking, bus loading and unloading, traffic control, and the impact of the facility on surrounding roadways.

(i) An environmental management plan, including a storm water management and drainage plan, shall be submitted to address the impact of the facility on the environment.

(j) The use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vapor-tight fittings to eliminate the escape of gas vapors.

(k) There shall be no exterior display of merchandise for sale exceeding 50 square feet in area.

(l) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing any litter found thereon.

(m) A minimum of two access points for vehicular traffic shall be provided. Curb cuts shall be located no less than 50 feet from the intersecting right-of-way line on collector roadways and no less than 80 feet from the intersecting right-of-way line on arterial roadways.

(n) All new automobile convenience facilities must be located on a minimum of one acre of land.

(4) Automobile and motorcycle repair, major.

(a) All vehicles waiting for repair or pick-up shall be stored within an enclosed building or in designated off-street parking spaces.

(b) All work shall be performed within a completely enclosed building.

(c) All vehicles parked or stored on site shall display a current license plate with a current license tab. Outside storage of automobile and motorcycle parts or storage of inoperable or salvage vehicles shall be prohibited.

(d) The sale of vehicles shall be prohibited, unless permitted by this article or allowed by conditional use.

(e) The use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten feet above grade and shall be directed away from, residential uses. All storage tanks shall be equipped with vapor-tight fittings to eliminate the escape of gas vapors.

(f) An environmental management plan, including a storm water management and drainage plan, shall be submitted to address the impact of the facility on the environment.

(g) Any fuel sales or automobile convenience activities shall be subject to the applicable standards for automobile convenience facilities.

(h) All new major automobile and motorcycle repair facilities must be located on a minimum of one acre of land.

(5) Automobile and motorcycle repair, minor.

(a) All vehicles waiting for repair or pick-up shall be stored within an enclosed building or in designated off-street parking spaces.

(b) All work shall be performed within a completely enclosed building.

(c) All vehicles parked or stored on site shall display a current license plate with a current license tab. Outside storage of automobile and motorcycle parts or storage of inoperable or salvage vehicles shall be prohibited.

(d) The sale of vehicles shall be prohibited, unless permitted by this article or allowed by conditional use.

(e) The use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vapor-tight fittings to eliminate the escape of gas vapors.

(f) An environmental management plan, including a storm water management and drainage plan, shall be submitted to address the impact of the facility on the environment.

(g) Any fuel sales or automobile convenience activities shall be subject to the applicable standards for automobile convenience facilities.

(h) All new minor automobile and motorcycle repair facilities must be located on a minimum of one acre of land.

(6) Automobile and motorcycle sales/rental, new.

(a) The use shall be served by a major collector or higher classification of roadway.

(b) Outdoor vehicle display for used cars and motorcycles shall be limited to 30% of the total outdoor display area for a new car or motorcycle dealership. The display area shall be defined as the total number of parking spaces devoted to the sale of vehicles only, not including the required off-street parking spaces needed for the public and employees.

(c) Outdoor vehicle display areas shall meet the setback requirements for a principal structure in the zoning district in which the use is located.

(d) Outdoor vehicle display areas within the public right-of-way are prohibited.

(e) A landscape buffer with a minimum depth of ten feet shall be installed and maintained along all abutting public rights-of-way.

(f) Outdoor vehicle display shall be within a designated area that is hard-surfaced.

(g) Outdoor vehicle display shall be in an orderly fashion, with access aisles provided as needed. The storage of inoperable, junk vehicles with expired tabs is prohibited.

(h) Music or amplified sounds shall not be audible from adjacent residential properties.

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- (i) Outdoor vehicle display shall not reduce the amount of off-street parking provided on site below the level required for the principal use.
- (j) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.
- (k) Fuel pumps for the purpose of retail sale and dispensing of fuel to the general public shall be prohibited. If the use includes dispensing of fuel for the automobiles maintained on site, the use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vapor-tight fittings to eliminate the escape of gas vapors.
- (l) All new automobile and motorcycle sales/rental, (new) facilities must be located on a minimum of one acre of land.
- (7) Automobile and motorcycle sales/rental, used.
- (a) The use shall be served by a major collector or higher classification or roadway.
- (b) An open-aired used auto, motorcycle and truck sales or rental lot as a stand-alone business is prohibited.
- (c) Used automobiles and motorcycles may be sold or rented as a stand-alone business if the business if the used automobiles, motorcycles and associated business are contained within a building.
- (d) Used automobiles and motorcycles may not be sold accessory to businesses other than new car and motorcycle dealerships.
- (e) Outdoor vehicle display areas within the public right-of-way are prohibited.
- (f) A landscape buffer with a minimum depth of ten feet shall be installed and maintained along all abutting public rights-of-way.
- (g) The outdoor storage of inoperable, junk vehicles and vehicles with expired tabs is prohibited.
- (h) Music or amplified sounds shall not be audible from adjacent residential properties.
- (i) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.
- (j) Fuel pumps for the purpose of retail sale and dispensing of fuel to the general public shall be prohibited. If the use included dispensing of fuel for the automobiles maintained on site, the use shall employ best management practices regarding the venting of odors, gas, and fumes. Such vents shall be located a minimum of ten feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vapor-tight fittings to eliminate the escape of gas vapors.
- (k) All new automobile and motorcycle sales/rental, (used) facilities must be located on a minimum of one acre of land.
- (8) Barbed wire fences.
- (a) Barbed wire fences may only utilize a projecting arm to support the barbed wire, commencing at a point no less than six feet above the ground.

(b) At no point shall the projecting arm encroach into the city right-of-way or neighboring properties.

(9) Bed and breakfast home.

(a) The bed and breakfast home shall be part of an owner occupied residential structure and be operated by the property owner.

(b) No more than one non-resident shall be employed in the operation of the facility.

(c) The exterior appearance of the structure shall not be altered from its single-family residential character.

(d) The total number of guestrooms shall not exceed four in the R-3 and R-4 Zoning Districts and six in the LB Zoning District. All guest rooms shall be located within the principal structure.

(e) Separate kitchen facilities shall not be available for guests. Meals shall be prepared and served by the operator and shall be available to registered guests only.

(f) Guest stays shall be limited to no more than 14 consecutive days.

(g) Parking shall be accommodated on the property. Parking requirements for guests are in addition to those required for the principal residential use.

(h) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(i) The facility shall meet all applicable housing, building and fire codes and be licensed as required by the State of Minnesota.

(10) Car wash.

(a) Water from the car wash shall not drain across any sidewalk or into any public right-of-way.

(b) Vacuum facilities shall be located in an enclosed structure or located at least 50 feet from any residential property line to avoid noise impacts.

(c) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing litter found thereon.

(d) A sound study is required to determine the overall impact upon the surrounding properties and ensure compliance with performance standards and MPCA sound requirements.

(e) All new car washes must be located on a minimum of one acre of land.

(11) Concrete, asphalt, rock crushing operation.

(a) The use shall be located a minimum of 1,000 feet from any residentially-zoned property or any residential use.

(b) An air quality plan shall be submitted describing stationary and mobile source air emissions, their quantities and compositions, and indicating conformance with all applicable regulation.

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- (c) A dust management plan shall be submitted describing dust emissions sources, their quantities and compositions, how dust will be collected, managed and disposed of and indicating conformance with all applicable regulations.
- (d) A sound attenuation plan shall be submitted describing sources of sound and indicating conformance with all applicable regulations.
- (e) A vibration-dampening plan shall be submitted describing sources of vibration and indicating conformance with all applicable regulations.
- (f) A transportation management plan shall be submitted to address off-street parking, bus loading and unloading, traffic control, and the impact of the facility on surrounding roadways.
- (g) An environmental management plan, including a storm water management and drainage plan, shall be submitted to address the impact of the facility on the environment.
- (12) Community center.
- (a) The use shall be served by a minor collector or higher functional classification of roadway.
- (b) The parcel upon which the use is located shall have a lot area no less than four times the area of the building footprint.
- (c) To the extent practical, new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.
- (d) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening and other site improvements consistent with the character of the community.
- (e) All accessory residential, school or day care uses shall be subject to the provisions of this article.
- (13) Consignment/secondhand store.
- (a) Consignment/secondhand stores shall be identified as stores whose primary existence is derived from more than 50% used, consigned, or secondhand merchandise. The use shall be located at least 3,000 feet from all existing consignment/secondhand stores, currency exchanges, pawnshops and precious metal dealerships.
- (b) The window and door area of any existing first floor facade along a public street or sidewalk shall not be reduced, nor shall changes be made to such windows and doors that block views into and out of the building at eye level.
- (c) For new construction, at least 30% of the first floor facade along a public street or sidewalk shall be windows or doors of clear or lightly tinted glass that allows views into and out of the building at eye level.
- (d) The use of bars, chains or similar security devices that are visible from a public street or sidewalk shall be prohibited.
- (e) Consignors shall not be paid for merchandise until the merchandise has been sold to a third party.
- (f) An appointment or set hours shall be required for the acceptance of consignment or donated merchandise.

(g) All receipt, sorting and processing of goods shall occur within a completely enclosed building.

(h) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing litter found thereon.

(14) Currency exchange.

(a) The use shall be located at least 3,000 feet from all existing currency exchanges, consignment/secondhand stores, pawnshops and precious metal dealerships.

(b) The window and door area of any existing first floor facade along a public street or sidewalk shall not be reduced, nor shall changes be made to such windows and doors that block views into and out of the building at eye level.

(c) For new construction, at least 30% of the first floor facade along a public street or sidewalk shall be windows or doors of clear or lightly tinted glass that allows views into and out of the building at eye level.

(d) The use of bars, chains or similar security devices that are visible from a public street or sidewalk shall be prohibited.

(e) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing litter found thereon.

(15) Day care center.

(a) The building and any exterior fenced areas shall meet the setback requirements for a principal structure in the zoning district in which the use is located.

(b) The play area shall be located away from the main entrance to day care, and shall be contained with a fence constructed of masonry, painted or treated wood or metal, at least five feet in height.

(c) For child day care facilities, at least 75 square feet of outside play area shall be provided for each child under care. If there is not sufficient space for an outdoor play area on-site, then the property owner must submit a written proposal that demonstrates recreational activities for children under the facility's care will be provided off-site within 1,500 feet of the facility. The City Manager, or his or her designee, is authorized to approve or deny this proposal.

(d) For adult day care facilities, at least 150 square feet of outdoor area for seating or exercise shall be provided. If 150 square feet of outdoor is not available on the site, the property owner must submit a written proposal that demonstrates that recreational activities for adults under the facility's care will be provided off-site. The City Manager, or his or her designee, is authorized to approve or deny this proposal.

(e) The use shall provide a designated area for the short-term parking of vehicles engaged in loading and unloading of children or adults under care. The designated area shall be located as close as practical to the principal entrance of the building and shall be connected to the building by a sidewalk.

(f) To the extent practical, new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

(g) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(h) The facility shall meet all applicable housing, building and fire codes and be licensed as required by the State of Minnesota.

(i) Day care centers located in a school or religious institution building originally constructed for use as a school or religious institution shall be considered a permitted accessory use, provided the standards contained herein are met.

(j) Day care centers located within an existing commercial or industrial facility and used only by employees of the operation conducted on the site shall be considered a permitted accessory use, provided the standards contained herein are met.

(16) Day care, home.

(a) The building and any exterior fenced areas shall meet the setback requirements for a principal structure in the zoning district in which the use is located.

(b) The designated play area shall be contained with a fence constructed of masonry, painted or treated wood or metal, at least five feet in height.

(c) The exterior appearance of the structure shall not be altered from its single-family residential character.

(d) For child day care facilities, at least 50 square feet of outside play area shall be provided for each child under care.

(e) For adult day care facilities, at least 150 square feet of outdoor area for seating or exercise shall be provided for each adult under care.

(f) If there is not sufficient space for an outdoor play area on-site, then the property owner must submit a written proposal that demonstrates recreational activities for children under the facility's care will be provided off-site within 1,500 feet of the facility.

(g) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(h) The facility shall meet all applicable housing, building and fire codes and be licensed as required by the State of Minnesota.

(17) Drive-up facility.

(a) The drive-up function shall be accessory to a conforming use.

(b) The use shall be served by a major collector or higher functional classification of roadway.

(c) The site shall accommodate vehicle stacking in accordance with the provisions of this article.

(d) Any speaker system shall not be audible from any residentially zoned property or any residential use.

(18) Drop-in facility.

(a) The use shall be located at least 3,000 feet from all existing drop-in facilities, consignment/secondhand stores, currency exchanges and pawnshops.

(b) The use shall conspicuously post legible signs at the public entrance advising patrons of the hours of operation of the facility and its meal service, if applicable.

(c) A waiting area for clients shall be provided which shall be available to clients one hour prior to the posted opening of the use and shall include toilet facilities.

(d) Trash receptacles shall be located at the public entrances.

(e) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing litter found thereon.

(19) Employment agencies—temporary (day labor). The use shall be located at least 3,000 feet from all existing temporary employment agencies, consignment/secondhand stores, currency exchanges and pawnshops.

(20) Firearms dealer/shooting range.

(a) The use shall be located at least 300 feet from any residentially zoned property or any residential use.

(b) The use shall be located at least 500 feet from the following protected uses: licensed daycare facility; public or private educational facility classified as an elementary, middle or junior high or senior high school; public library; public park; or religious institution or place of worship.

(c) No firearms or ammunition shall be displayed in window areas or any area where they can be viewed from any public street or sidewalk.

(21) Food service, convenience (fast food).

(a) The use shall be served by a major collector or higher functional classification of roadway.

(b) A landscape buffer with a minimum depth of ten feet shall be installed and maintained along all abutting public rights-of-way.

(c) A transportation management plan shall be submitted to address off-street parking, bus loading and unloading, traffic control, and the impact of the facility on surrounding roadways.

(d) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing any litter found thereon.

(e) Curb cuts shall be located no less than 50 feet from the intersecting right-of-way line on collector roadways and no less than 80 feet from the intersecting right-of-way line on arterial roadways.

(f) A drive-up facility shall also be subject to the standards for a drive-up facility.

(22) Freight terminal.

(a) Loading and unloading activities shall be located no less than 200 feet from any residential zoning district or residential use.

(b) Overnight facilities for drivers shall provide on-site management 24 hours a day. The name and telephone number of the on-site manager shall be filed with the city.

(23) Funeral home.

(a) The use shall be served by a minor collector or higher functional classification of roadway.

(b) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(24) Greenhouses (residential).

(a) A residential greenhouse shall only be allowed for one- and two-family dwellings.

(b) A residential greenhouse structure shall not count against the total number of detached accessory structures allowed on a residential property.

(c) A residential greenhouse structure shall not count against the total allowable combined square footage of accessory structures allowed on a residential property.

(d) A residential greenhouse shall be allowed during the normal growing season only.

(e) When not in use, a residential greenhouse shall be dismantled.

(25) Hospital.

(a) The use shall be served by a minor collector or higher functional classification of roadway.

(b) Emergency vehicle access shall not be adjacent to or located across the street from any residential use.

(c) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(26) Multi-family in CBD.

(a) The residential use is secondary to and located above the ground floor commercial use.

(b) The maximum number of units allowed shall be limited to the area of the parcel divided by 2,000, times the number of floors above the ground floor commercial use.

(c) A minimum of one parking space shall be provided per residential unit within 400 feet of the most commonly used entrance.

(27) Nursing home.

(a) The use shall be served by a minor collector or higher functional classification of roadway.

(b) On-site services shall be for residents of the facility only.

(c) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(28) Outdoor sales/display.

(a) The outdoor sales/display use shall be accessory to a commercial use.

(b) All outdoor sales/display areas shall meet the setback requirements for a principal structure in the zoning district in which it is located.

(c) Outdoor sales/display areas within the public right-of-way are prohibited.

(d) A landscape buffer with a minimum depth of ten feet shall be installed and maintained along all abutting public rights-of-way.

(e) All goods shall be displayed in a designated area that is hard-surfaced.

(f) All goods shall be displayed in an orderly fashion, with access aisles provided as needed.

(g) Music or amplified sounds shall not be audible from adjacent residential properties.

(h) The outdoor sales/display area shall not reduce the amount of off-street parking provided on-site below the level required for the principal use.

(i) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(29) Outdoor storage.

(a) The outdoor storage area shall be accessory to a commercial or industrial use.

(b) Outdoor storage within the public right-of-way is prohibited.

(c) All outdoor storage areas shall meet the setback requirements for a principal structure in the zoning district in which the use is located.

(d) Outdoor storage areas shall be located in rear yards or in the side yard behind the front building line of the principal structure.

(e) The storage area shall be fenced and screened from adjacent uses and the public right-of-way. Required screening shall consist of a fence, wall, earth berming and/or vegetation no less than six feet in height and no less than 80% opaque on a year round basis.

(f) All goods, materials and equipment shall be stored on an impervious surface.

(g) All goods, materials and equipment shall be stored in an orderly fashion, with access aisles of sufficient width to accommodate emergency vehicles as needed.

(h) The height of materials stored, excluding operable vehicles and equipment, shall not exceed the height of the screening provided.

(30) Pawnshop.

(a) The use shall be located at least 3,000 feet from all existing pawnshops, currency exchanges, consignment/secondhand stores and precious metal dealerships.

(b) The window and door area of any existing first floor facade along a public street or sidewalk shall not be reduced, nor shall changes be made to such windows and doors that block views into and out of the building at eye level.

(c) For new construction, at least 30% of the first floor facade along a public street or sidewalk shall be windows or doors of clear or lightly-tinted glass that allows views into and out of the building at eye level.

(d) The use of bars, chains or similar security devices that are visible from a public street or sidewalk shall be prohibited.

(e) All receipt, sorting and processing of goods shall occur within a completely enclosed building.

(f) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing litter found thereon.

(31) Precious metal dealership.

(a) The use shall be located at least 3,000 feet from all existing precious metal dealerships, pawnshops, currency exchanges and consignment/secondhand stores.

(b) The window and door area of any existing first floor façade along a public street or sidewalk shall not be reduced, nor shall changes be made to such windows and doors that block views into and out of the building at eye level.

(c) For new construction, at least 30% of the first floor façade along a public street or sidewalk shall be windows or doors of clear or lightly-tinted glass that allows views into and out of the building at eye level.

(d) The use of bars, chains or similar security devices that are visible from a public street or sidewalk is prohibited.

(e) All receipt, sorting and processing of goods shall occur within a completely enclosed building.

(32) Recreational vehicle sales.

(a) The use shall be served by a major collector or higher classification of roadway.

(b) Outdoor vehicle display areas shall meet the setback requirements for a principal structure in the zoning district in which the use is located.

(c) Outdoor vehicle display areas within the public right-of-way are prohibited.

(d) A landscape buffer with a minimum depth of ten feet shall be installed and maintained along all abutting public rights-of-way.

(e) Outdoor vehicle display shall be within a designated area that is hard-surfaced.

(f) Outdoor vehicle display shall be in an orderly fashion, with access aisles provided as needed.

(g) Music or amplified sounds shall not be audible from adjacent residential properties.

(h) Outdoor vehicle display shall not reduce the amount of off-street parking provided on site below the level required for the principal use.

(i) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(j) Fuel pumps for the purpose of retail sale and dispensing of fuel to the general public shall be prohibited. If the use includes dispensing of fuel for the automobiles maintained on site, the use shall employ best management

practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vapor-tight fittings to eliminate the escape of gas vapors.

(k) All new recreational vehicle sales facilities must be located on a minimum of one acre of land.

(33) Recreational facility, indoor.

(a) The use shall be served by a minor collector or higher classification of roadway.

(b) The parcel upon which the use is located shall have a lot area no less than four times the area of the building footprint.

(c) To the extent practical, new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

(d) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(34) Recreational facility, outdoor.

(a) The use shall be served by a minor collector or higher classification of roadway.

(b) The site shall be no less than five acres in size.

(c) The principal use of the site shall be the outdoor recreation facility, except for athletic fields that are accessory to an educational or community facility.

(d) The use shall be situated in such a way as to minimize the effects of lighting and noise on surrounding properties.

(e) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(f) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing litter found thereon.

(35) Religious institution/place of worship.

(a) The facility shall be served by a minor collector or higher functional classification of roadway.

(b) The parcel upon which the use is located shall have a lot area no less than four times the area of the building footprint.

(c) To the extent practical, new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

(d) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(e) All accessory residential, school or day care uses shall be subject to the provisions of this article.

(36) Residential care facility.

(a) If serving more than six residents, the use shall be located at least 1/4 mile (1,320 feet) from all existing residential care facilities or correctional residential care facilities, regardless of the licensing status of such facilities. Residential care facilities serving six or fewer residents shall be exempted from the distance radius and zoning regulations except as otherwise required by law.

(b) The use shall not be located in a two-family or multiple-family dwelling unless it occupies the entire structure.

(c) The facility shall be located on a parcel meeting the minimum lot size for a single-family dwelling plus an area of 300 square feet for each resident over six. The maximum number of residents may be specified as a condition of the conditional use permit in order to meet this requirement.

(d) On-site services shall be for residents of the facility only.

(e) The building and any exterior fenced areas shall meet the setback requirements of the zoning district in which the use is located.

(f) To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of the surroundings, and exterior building materials shall be compatible with other buildings in the neighborhood.

(g) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening and other site improvements consistent with the character of the neighborhood.

(h) The primary purpose of the facility cannot be to treat juveniles who have violated criminal statutes relating to sex offenses or who have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses.

(i) The facility shall not provide accommodations to treat persons whose tenancy would constitute a direct threat to the health and safety of other individuals.

(j) The facility shall not accept court ordered referrals for treatment in lieu of incarceration without adequate security.

(k) The facility shall meet all applicable housing, building and fire codes and be licensed as required by the State of Minnesota.

(l) If the size, location, licensing or purpose of the facility changes, a new or amended conditional use permit may be required.

(37) Residential care facility, correctional.

(a) The use shall be located at least 1/4 mile (1,320 feet) from all existing residential care facilities and correctional residential care facilities, regardless of the licensing status of such facilities measured from property line to property line.

(b) The use shall only be located in the I-1, Light Industrial District and the I-2, General Industrial District parcels throughout the city.

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- (c) The use shall not be located in a two-family or multiple-family dwelling unless it occupies the entire structure.
- (d) The facility shall be located on a parcel meeting the minimum lot size for single-family dwelling plus an area of 300 square feet for each resident over two. The maximum number of residents shall not exceed four.
- (e) On-site services shall be for residents of the facility only.
- (f) The building and any exterior fenced areas shall meet the setback requirements of the zoning district in which the use is located.
- (g) To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of the surroundings, and exterior building materials shall be compatible with other buildings in the neighborhood.
- (h) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening and other site improvements consistent with the character of the neighborhood.
- (i) The facility shall meet all applicable housing, building and fire codes and be licensed as required by the State of Minnesota.
- (j) If the size, location, licensing or purpose of the facility changes, a new or amended conditional use permit may be required.
- (38) Salvage operation/transfer station.
- (a) The use shall be located at least 500 feet from any residentially zoned property or any residential use.
- (b) The use must comply with the minimum standards for operation, safety, storage and all waste management as identified in the most current version of MPCA Motor Vehicle Salvage Facility Environmental Compliance Manual or successor manual.
- (c) The use must be served by a minor collector or higher functional classification of roadway.
- (d) Buildings, parking areas, loading areas and any exterior storage shall meet the setback requirements for a principal structure in the zoning district in which the use is located.
- (e) No vehicles or vehicle parts may be placed within the public right-of-way or on public property.
- (f) Exterior storage shall be limited to a maximum height of 12 feet and shall be fully screened so that items stored do not exceed the height of the screening provided.
- (g) An environmental management plan, including a storm water management and drainage plan, shall be submitted to address the impact of the facility on the environment.
- (h) The salvage facility operator shall maintain a written record of all vehicles received, including the date received, date when fluids were removed and date removed from the facility. The record shall also include the vehicle identification number, make and model and shall be initiated on the date the vehicle is received at the facility.

(i) All fluids, including but not limited to motor oil, transmission and/or transfer case lubricants, differential lubricants, fuel, antifreeze, refrigerants and window washing fluids shall be removed from the vehicle within three days of receipt.

(j) All lead acid batteries, mercury containing devices and other hazardous materials shall be removed from the vehicle within three days of receipt.

(k) On-site burning of trash, refuse, garbage or other waste materials is prohibited.

(l) Salvage of materials by fire, burning, explosives or chemical decomposition is prohibited.

(39) School, K-12.

(a) The use shall include a regular course of study accredited by the State of Minnesota.

(b) The site shall be served by a major collector or higher classification of roadway.

(c) The parcel upon which the use is located shall have a lot area no less than four times the area of the building footprint.

(d) A transportation management plan shall be submitted to address off-street parking, bus loading and unloading, traffic control, and the impact of the facility on surrounding roadways.

(e) To the extent practical, all new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

(f) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(40) School, vocational/business.

(a) The site shall be served by a minor arterial or higher classification of roadway.

(b) The parcel upon which the use is located shall have a lot area no less than four times the area of the building footprint.

(c) A master plan shall be submitted that describes proposed physical development for the next five years and for the following five years. Said plan shall include a description of proposed development phases and plans, development priorities, the probable sequence of proposed development, estimated dates of construction and the anticipated interim use of property waiting to be developed.

(d) A transportation management plan shall be submitted to address off-street parking, bus loading and unloading, traffic control, and the impact of the facility on surrounding roadways.

(e) New construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

(f) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(41) School, performing/visual/martial arts.

(a) The site shall be served by a minor collector or higher classification of roadway.

(b) A transportation management plan shall be submitted to address off-street parking, bus loading and unloading, traffic control, and the impact of the facility on surrounding roadways.

(c) To the extent practical, all new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

(d) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(42) Shopping center.

(a) Only uses that are allowed within the zoning district in which the shopping center is located, shall be allowed in the shopping center.

(b) Uses that require a conditional use permit, site plan review or other land use approval shall comply with all review and approval requirements of this article.

(c) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet shall be inspected regularly for purposes of removing any litter found thereon.

(43) Smoke shops.

(a) The smoke shop must have an entrance door opening directly to the outdoors.

(b) Greater than 90% of the business's gross revenue must be from the sale of tobacco, tobacco products or smoking related accessories.

(c) A tobacco department or section of any individual business establishment with any type of liquor, food or restaurant license shall not be considered a smoke shop.

(d) The total number of city-issued smoke shop licenses shall at no time exceed five.

(e) Any existing smoke shops at the time of the passage of Ord. 1570 shall comply fully with the ordinance by December 31, 2010.

(44) Transitional/emergency housing.

(a) Transitional/emergency housing shall be located at least 1/4 mile from all existing transitional/emergency housing.

(b) The maximum number of persons served shall not exceed 32.

(c) On-site services shall be for residents of the facility only, except where part of a regimen of scheduled post-residential treatment/service.

(d) To the extent practical, all new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

(e) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(45) Two-family and twinhome dwellings.

(a) Street-facing garage doors must be recessed behind either the front facade of the living area portion of the dwelling or a covered porch, measuring at least six feet by eight feet, by at least five feet.

(b) If located on a corner lot, each unit of the duplex or twinhome shall have its address and entrance oriented to a separate street frontage.

(c) Vehicle access to a lot must be from an alley if the lot abuts an alley.

(46) Brewer taprooms and brew pubs.

(a) All malt liquor production shall be within a completely enclosed structure.

(b) Mechanical equipment shall be placed and/or screened so as to minimize the visual impact on adjacent properties and from public streets.

(c) In zoning districts where off-street parking is required, a transportation management plan shall be submitted to address off-street parking, bus and freight loading, and traffic control.

(d) Loading areas shall not be oriented toward a public street, nor shall loading docks be located on the side of any building facing an adjacent lot that is zoned residential. Where these districts or streets abut all sides of the property, the loading areas shall be screened by a solid wall or opaque fence with a minimum height of six feet, in addition to any required landscape buffer.

(e) Trash and/or recycling collection areas shall be enclosed on at least three sides by an opaque screening wall or fence no less than six feet in height. The open side of the enclosure shall not face any public street or the front yard of any adjacent property.

(f) By-products and waste from the production of malt liquor shall be properly disposed of off the property.

(g) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing litter found thereon.

(h) The facility shall meet all applicable building and fire codes, and shall be licensed as required by the state or county.

(47) Banquet halls.

(a) To the extent practical, new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings, and exterior materials shall be compatible with those used in the immediate neighborhood.

(b) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening and other site improvements consistent with the character of the community.

(c) The facility shall meet all applicable building and fire codes, and shall be licensed as required by the state or county.

(d) A transportation management plan shall be submitted to address off-street parking, bus loading and unloading, traffic control, and the impact of the facility on surrounding roadways.

(e) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing any litter found thereon.

(f) Music or amplified sounds shall not be audible from adjacent residential uses and must meet the requirements of city ordinances, to ensure consistent enforcement by the Police Department.

(48) Health/fitness clubs in LB, Limited Business districts.

(a) The health/fitness club shall not exceed 4,000 gross square feet in area.

(b) The use shall be served by a minor collector or higher classification roadway.

(c) To the extent practical, new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

(d) An appropriate transition area shall be provided between the use and adjacent property by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(e) The parking supply requirements of § 9.105(L)(10) shall be satisfied via off-street parking or a combination of off-street parking and off-site parking. Off-site parking shall be located no more than 400 feet from the main entrance of the use being served.

(f) The City Council may establish limited business hours as a means of ensuring compatibility with surrounding uses.

(49) Seasonal Sales Stands

(a) The fireworks tent, display area, access aisles, and surrounding area shall be reviewed by the Community Development Department and the Fire Department and sale of fireworks shall meet all requirements of Chapter 24 of the Fire Code and NFPA Chapter 1124.

(c) Seasonal sales stands shall be accessory to a commercial use.

(d) Seasonal sales stands located within the public right-of-way are prohibited.

(e) All goods shall be displayed on a designated impervious surface area.

(f) All goods shall be displayed in an orderly fashion, with access aisles provided as needed.

(g) Music or amplified sounds shall not be audible from adjacent residential properties.

(h) The seasonal sales stand shall not reduce the amount of off-street parking provided one-site below the level required for the principal use.

(i) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(j) Signage shall be limited to two professionally made signs, with a combined square footage not exceeding 48 square feet.

(k) Seasonal sales stands may be allowed for a maximum of 90 days per calendar year.

(50) Roof-Mounted Solar Energy System

(a) The system shall comply with applicable state and local fire codes to ensure emergency access to the roof, provide pathways to specific areas of the roof, provide areas for smoke ventilation, and provide emergency egress from the roof.

(51) Ground-Mounted Solar Energy Systems.

(a) If the area under the system contains vegetative ground cover such as grass, native planting and vegetations, or pollinator habitats as the tilt and spacing allows for precipitation to drain into the pervious ground cover, then it is not considered to be impervious surface coverage.

**Section 5**

**The following language for Residential Districts is added, amended and deleted as provided in Section 9.109 of the City Code of 2005, is hereby established to read as follows:**

(A) Purpose. The residential zoning districts are established to preserve and enhance the quality of living in residential neighborhoods; provide a range of housing types and densities consistent with the comprehensive plan; regulate structures and uses which may affect the character or desirability of these residential areas; and provide directly related complementary uses that support the residential areas while safeguarding the residential character of these areas.

(B) General provisions.

(1) Compliance with applicable regulations. Any use established in a residential district after the effective date of this article shall comply with all applicable local, state and federal standards for such uses.

(2) Administration. The administration and enforcement of this section shall be in accordance with the provisions of § 9.104, Administration and Enforcement.

(3) Nonconformities. Nonconforming uses, structures, lots and signs within a residential district shall be subject to the provisions of § 9.105, Nonconformities.

(4) Compliance with general development standards. Any use established, expanded or modified in a residential district after the effective date of this article shall comply with the applicable provisions of § 9.106, General Provisions, including the Table of Uses defining the allowed uses in residential and public zoning districts.

(5) Compliance with specific development standards. Any use established, expanded or modified in a residential district after the effective date of this article that is identified in § 9.107, Specific Development Standards, shall comply with the applicable provisions of that section.

(6) State licensed residential facility. State licensed residential facilities are allowed in all residential districts pursuant to M.S. § 462.357, as it may be amended from time to time.

(C) *Lot dimension, height, and bulk requirements.* Lot area, setback, height and lot coverage requirements for uses in the residential districts shall be as specified in the following table:

	<i>R-1</i>	<i>R-2A</i>	<i>R-2B</i>	<i>R-3</i>	<i>R-4</i>
Minimum Lot Area					

Single-family dwelling	8,400 sq. ft.	Existing on January 1, 2005 – 5,100 sq. ft. Established after January 1, 2005 - 6,500 sq. ft.	Existing on January 1, 2005 – 5,100 sq. ft. Established after January 1, 2005 - 6,500 sq. ft.	Existing on January 1, 2005 – 5,100 sq. ft. Established after January 1, 2005 - 6,500 sq. ft.	Existing on January 1, 2005 – 5,100 sq. ft. Established after January 1, 2005 - 6,500 sq. ft.
Two-family and twinhome dwellings		12,000 sq. ft.	Existing on January 1, 2005 - 5,100 sq. ft. Established after January 1, 2005 - 12,000 sq. ft.	8,400 sq. ft.	8,400 sq. ft.
Multiple-family dwelling				10,000 sq. ft.	10,000 sq. ft.
Non-residential structure	8,400 sq. ft.	6,500 sq. ft.	6,500 sq. ft.	10,000 sq. ft.	10,000 sq. ft.
Lot Area Per Dwelling Unit					
Multiple-family dwelling					
Kitchen				1,200 sq. ft.	800 sq. ft.
Bedroom				1,800 sq. ft.	1,000 sq. ft.
Bedroom				2,000 sq. ft.	1,200 sq. ft.
Bedroom				2,500 sq. ft.	1,500 sq. ft.
Additional bedroom				400 sq. ft.	200 sq. ft.
Regate living units				400 sq. ft.	400 sq. ft.
Minimum Lot Width	70 ft.	Existing on January 1, 2005 – 40 ft. Established after January 1, 2005 - 60 ft.	Existing on January 1, 2005 – 40 ft. Established after January 1, 2005 - 60 ft.	Existing on January 1, 2005 – 40 ft. Established after January 1, 2005 - 70 ft.	Existing on January 1, 2005 – 40 ft. Established after January 1, 2005 - 70 ft.

	<i>R-1</i>	<i>R-2A</i>	<i>R-2B</i>	<i>R-3</i>	<i>R-4</i>
Minimum Lot Depth					
Residential Building Setbacks					
Front yard	25 ft.	25 ft.	25 ft.	1 & 2 Family - 25 ft. Multi- Family - 30 ft.	15 ft.
Side yard	7 ft.*	5 ft.*	5 ft.*	1 & 2 Family - 5 ft. Multi- Family - 20 ft.	10 ft.
Rear side yard	12 ft.	10 ft.	10 ft.	1 & 2 Family - 10 ft. Multi- Family - 30 ft.	15 ft.
Back yard	20% of lot depth	20% of lot depth	20% of lot depth	1 & 2 Family - 25 ft. Multi- Family - 30 ft.	15 ft.
Non-Residential Building Setbacks					
Front yard	25 ft.	25 ft.	25 ft.	30 ft.	15 ft.
Side yard	40 ft.	30 ft.	30 ft.	25 ft.	10 ft.
Rear side yard	12 ft.	10 ft.	10 ft.	30 ft.	15 ft.
Back yard	40 ft.	30 ft.	30 ft.	25 ft.	10 ft.

Single- and Two-Family Parking Setbacks					
yard (excluding drives/pads)	25 ft.	25 ft.	25 ft.	30 ft.	30 ft.
yard	3 ft.				
r side yard	3 ft.				
yard	3 ft.				
Multiple-Family Parking Setbacks					
yard				30 ft.	30 ft.
yard				10 ft.	10 ft.
r side yard				30 ft.	30 ft.
yard				10 ft.	10 ft.

	<i>R-1</i>	<i>R-2A</i>	<i>R-2B</i>	<i>R-3</i>	<i>R-4</i>
Non-Residential Parking Setbacks					
Front yard	25 ft.	25 ft.	25 ft.	30 ft.	30 ft.
yard	10 ft.				
r side yard	25 ft.	25 ft.	25 ft.	30 ft.	30 ft.
yard	10 ft.				
Maximum Height					
Residential buildings	30 ft.	30 ft.	30 ft.	35 ft.	35 ft.
Non-residential buildings	35 ft.				
Residential structures	30 ft. unless specified elsewhere	30 ft. unless specified elsewhere	30 ft. unless specified elsewhere	35 ft. unless specified elsewhere	35 ft. unless specified elsewhere
Non-residential structures	35 ft. unless specified elsewhere				
Non-Residential Floor Area Ratio					2.2
Impervious surface coverage maximum for residential lots	35% for lots less than 6,500 sq. ft.	35% for lots less than 6,500 sq. ft.	35% for lots less than 6,500 sq. ft.	35% for lots less than 6,500 sq. ft.	35% for lots less than 6,500 sq. ft.
	30% for lots greater than 6,500 sq. ft.	30% for lots greater than 6,500 sq. ft.	30% for lots greater than 6,500 sq. ft.	30% for lots greater than 6,500 sq. ft.	30% for lots greater than 6,500 sq. ft.
* The side yard setback for structures in excess of two stories shall be increased to 10 feet.					

(D) Zero lot line setback provisions. In the R-2, R-3 and R-4 districts, the yard for a single-family attached dwelling may be reduced to zero feet, provided that the following conditions are satisfactorily met:

(1) The wall of the dwelling unit shall be placed upon said property line in a manner that does not encroach upon another property.

(2) The applicant records all required agreements, easements and deed restrictions against all properties that abut the zero lot line.

(3) The minimum front, side and rear building setbacks shall be applied to the structure as a whole, rather than to individual units.

(4) The minimum lot area requirement shall be applied by dividing the sum of the area of all parcels occupied by the structure by the total number of dwelling units.

(E) R-1, Single-Family Residential District.

(1) Purpose. The purpose of the R-1, Single-Family Residential District is to provide appropriately located areas for detached single-family dwellings and directly related complementary uses. Permitted, conditional, and accessory uses can be found in City Code 9.106 General Development Standards (S) Table of Uses.

(F) R-2A and R-2B, Two-Family Residential District.

(1) Purpose. The purpose of the R-2A and R-2B Two-Family Residence District is to provide appropriately located areas for single-family dwellings, two-family dwellings (duplexes) and directly related complementary uses. Permitted, conditional, and accessory uses can be found in City Code 9.106 General Development Standards (S) Table of Uses.

(G) R-3, Limited Multiple-Family Residential District.

(1) Purpose. The purpose of the R-3, Limited Multiple-Family Residential District is to provide appropriately located areas for small lot single-family dwellings, multiple-family dwellings with up to eight units per structure (town homes, condominiums and apartments), congregate living arrangements and directly related complementary uses. Permitted, conditional, and accessory uses can be found in City Code 9.106 General Development Standards (S) Table of Uses.

(H) R-4, Multiple-Family Residential District.

(1) Purpose. The purpose of the R-4, Multiple-Family Residential District is to provide for appropriately located areas for high density multiple-family dwellings, congregate living arrangements and directly related complementary uses. Permitted, conditional, and accessory uses can be found in City Code 9.106 General Development Standards (S) Table of Uses.

## Section 6

**The following language for Commercial Districts is added, amended and deleted as provided in Section 9.110 of the City Code of 2005, is hereby established to read as follows:**

(A) Purpose. The commercial districts are established to provide for a wide range of goods and services in locations throughout the community; provide employment opportunities; and enhance the livability of the community by providing convenient access to goods and services.

(B) General provisions.

(1) Compliance with applicable regulations. Any use established in a commercial district after the effective date of this article shall comply with all applicable local, state and federal standards for such uses.

(2) Administration. The administration and enforcement of this section shall be in accordance with the provisions of § 9.104, Administration and Enforcement.

(3) Nonconformities. Nonconforming uses, structures, lots and signs within a commercial district shall be subject to the provisions of § 9.105, Nonconformities.

(4) Compliance with general development standards. Any use established, expanded or modified in a commercial district after the effective date of this article shall comply with the applicable provisions of § 9.106, General Development Standards , including the Table of Uses defining the allowed uses in commercial districts.

(5) Compliance with specific development standards. Any use established, expanded or modified in a commercial district after the effective date of this article shall comply with the applicable provisions of § 9.107, Specific Development Standards.

(C) *Lot dimension, height, and bulk requirements.* Lot area, setback, height and lot coverage requirements for uses in the commercial districts shall be as specified in the following table.

	<i>LB</i>	<i>GB</i>	<i>CBD</i>
Minimum Lot Area	6,000 sq. ft.	6,000 sq. ft.	
Minimum Lot Width	50 ft.	40 ft.	20 ft.

	<i>LB</i>	<i>GB</i>	<i>CBD</i>
<b>Minimum Lot Depth</b>			
Lot area per dwelling unit			
Single-family dwelling	6,500 sq. ft.		
Multiple-family dwelling			
Efficiency	1,200 sq. ft.		1,200 sq. ft.
One bedroom	1,800 sq. ft.		1,800 sq. ft.
Two bedroom	2,000 sq. ft.		2,000 sq. ft.
Three bedroom	2,500 sq. ft.		2,500 sq. ft.
Additional bedroom	400 sq. ft.		400 sq. ft.
Congregate living units	400 sq. ft.		400 sq. ft.
Hotel or motel	400 sq. ft.		
Hospital	600 sq. ft.		
<b>Building Setback Requirements</b>			
Nonresidential/mixed-use front yard	none		
Residential front yard	5 ft.		
Front yard		15 ft.	none

Side yard	15 ft.	none	none
Corner side yard	10 ft.	15 ft.	1 ft.
Rear yard	20 ft.	20 ft.	10 ft.
<b>Parking Setback Requirements</b>			
Front yard	12 ft.	15 ft.	1 ft.
Side yard	5 ft.	5 ft.	none
Corner side yard	12 ft.	15 ft.	1 ft.
Rear yard	5 ft.	5 ft.	5 ft.
Maximum Building Height	35 ft.	35 ft.	none
Maximum Structure Height	35 ft. unless specified elsewhere	35 ft. unless specified elsewhere	none, unless specified elsewhere
<b>Maximum Lot Coverage</b>			
Floor area ratio		1.0	6.0

(D) LB, Limited Business District.

(1) Purpose. The purpose of the LB, Limited Business District is to provide appropriate locations for limited retail sales and services for the convenience of adjacent residential neighborhoods. These areas are located along collector or arterial roadways in close proximity to residential neighborhoods, arranged and designed to be a functional and harmonious part of the neighborhood, and accessible by public sidewalks or trails as well as by roadways. Permitted, conditional, and accessory uses can be found in City Code 9.106 General Development Standards (S) Table of Uses.

(E) GB, General Business District.

(1) Purpose. The purpose of the GB General Business District is to provide appropriate locations for general retail sales, services and other commercial developments that benefit from their proximity to other commercial uses. These areas are located away from residential neighborhoods, along arterial roadways and are accessible primarily by automobile. Permitted, conditional, and accessory uses can be found in City Code 9.106 General Development Standards (S) Table of Uses.

(F) CBD, Central Business District.

(1) Purpose. The purpose of the CBD, Central Business District is to provide for the development and redevelopment of the established downtown core, including a mix of retail, financial, office, service and entertainment uses. Residential units are allowed within this district when located above a first floor commercial use. Permitted, conditional, and accessory uses can be found in City Code 9.106 General Development Standards (S) Table of Uses.

(2) Off-street parking. The CBD, Central Business District, shall be considered an off-street parking district in which off-street parking is not required for nonresidential land uses. Residential uses, including those in mixed-use buildings, shall meet the parking requirements of § 9.106.

**Section 7**

**The following language for Industrial Districts is added, amended and deleted as provided in Section 9.111 of the City Code of 2005, is hereby established to read as follows:**

(A) Purpose. The industrial districts are established to enhance the community’s tax base; provide employment opportunities; and accommodate industrial development while maintaining compatibility with surrounding areas.

(B) General provisions.

(1) Compliance with applicable regulations. Any use established in an industrial district after the effective date of this chapter shall comply will all applicable local, state and federal standards for such uses.

(2) Administration. The administration and enforcement of this section shall be in accordance with the provisions of § 9.104, Administration and Enforcement.

(3) Nonconformities. Nonconforming uses, structures, lots and signs within an Industrial District shall be subject to the provisions of § 9.105, Nonconformities.

(4) Compliance with general development standards. Any use established, expanded or modified in an industrial district after the effective date of this article shall comply with the applicable provisions of § 9.106, General Development Standards, including the Table of Uses defining the allowed uses in industrial districts.

(5) Compliance with specific development standards. Any use established, expanded or modified in an industrial district after the effective date of this chapter that is identified in § 9.107, Specific Development Standards, shall comply with the applicable provisions of that section.

(C) *Lot dimension, height, and bulk requirements.* Lot area, setback, height and lot coverage requirements for uses in the industrial districts shall be as specified in the following table:

	<i>I-1</i>	<i>I-2</i>
	<i>I-1</i>	<i>I-2</i>
Minimum Lot Area	10,000 sq. ft.	10,000 sq. ft.
Minimum Lot Width	80 ft.	80 ft.
Minimum Lot Depth		
Building Setback Requirements		
Front yard	20 ft.	20 ft.
Side yard	12 ft.	12 ft.

Corner side yard	15 ft.	15 ft.
Rear yard	24 ft.	24 ft.
Parking Setback Requirements		
Front yard	20 ft.	20 ft.
Side yard	5 ft.	5 ft.
Corner side yard	20 ft.	20 ft.
Rear yard	5 ft.	5 ft.
Maximum Height		
Maximum Lot Coverage		
Floor Area Ratio	1.0	1.0

(D) I-1, Light Industrial District.

(1) Purpose. The purpose of the I-1, Light Industrial District is to provide appropriate locations for industrial enterprises engaged in activities such as assembly, storage, warehousing and light manufacturing and further processing of materials first handled by general industry. These areas are located with easy access to arterial roadways and should be separated from residential uses by natural or manmade barriers. Permitted, conditional, and accessory uses can be found in City Code 9.106 General Development Standards (S) Table of Uses.

(E) I-2, General Industrial District.

(1) Purpose. The purpose of the I-2, General Industrial District is to provide appropriate locations for industrial enterprises engaged in activities such as manufacturing, processing, assembly, storage and warehousing, which, because of their size and/or nature, require isolation from non- industrial uses. These areas are located with easy access to arterial roadways or railroads and should be separated from non-industrial uses by natural or manmade barriers. Permitted, conditional, and accessory uses can be found in City Code 9.106 General Development Standards (S) Table of Uses.

**Section 8**

**The following language for Planned Unit Development Districts is added and amended as provided in Section 9.111 of the City Code of 2005, is hereby established to read as follows:**

(A) *Purpose.* The purpose of the PUD, Planned Unit Development District is to provide greater flexibility with development and redevelopment; preserve historical, environmental, and aesthetically significant features; promote a high quality of design; and encourage more technological and energy efficient developments. This is achieved by undertaking a process that results in a development outcome that exceeds the typical development achievable through standard zoning controls.

(B) *General provisions.*

(1) *Relationship to other applicable regulations.*

(a) Property located within a PUD District shall be subject to the land use controls described in the primary zoning district, as well as the rules and regulations prescribed in the PUD District plan. Where the provisions of the primary zoning district and the PUD District plan are in conflict, the PUD District plan shall govern.

(b) The PUD District plan review process, in accordance with the provisions of this section, constitute and supersede the requirements set forth in § [9.104\(N\)\(2\)](#).

(2) *Right of application.* Any person having a legal interest in the property may file an application for the establishment of a PUD District with the Zoning Administrator.

(3) *Authority.* The city retains absolute authority and discretion to establish a PUD District, and reserves the right to deny the establishment of a PUD District if the City Council determines that the proposed benefits of the development do not justify the requested flexibilities of a PUD District.

(4) *Administration.* The administration and enforcement of this section shall be in accordance with the provisions of § [9.104](#).

(5) *Application.* An application for establishment of a PUD District shall be filed with the Zoning Administrator on the approved form, and shall be accompanied by an application fee as set forth in § [9.104](#) (C)(5). An application shall include a narrative; a vicinity map; an accurately scaled site plan showing the locations of proposed and existing buildings, existing and proposed topography, vehicular access and parking areas, landscaping, and other site features; a stormwater management plan; elevation views of all proposed buildings and structures; and any other information determined by the Zoning Administrator to be necessary.

(6) *Approval.* Approval of a PUD District plan shall be by ordinance, a simple majority vote, and in full force and effect from and after 30 days after its passage.

(7) *Physical development contract.* After City Council approval of a PUD District plan, a physical development contract shall be required prior to site development. The physical development contract shall reference all the approved plans and specify permitted uses; allowable densities; development phasing if applicable; required public improvements; construction commencement and completion dates of the minimum improvements; an irrevocable letter of credit, or cash deposit in an amount sufficient to ensure the provision or development of public improvements; and any other requirements determined by the Zoning Administrator to be necessary. The physical development contract shall be signed by the applicant or an authorized representative within 60 days after its approval by City Council.

(8) *Time limits.* An established PUD District shall be validated by the construction commencement of the minimum improvements pursuant to the physical development contract. If the construction commencement fails to meet the deadline specified in the physical development contract, the approval of the PUD District plan by the City Council shall be rendered invalid and void. Notwithstanding the construction commencement time limitations, the City Council may, at its own discretion, approve an extension by approval of an amendment to the physical development contract if requested by the applicant in writing.

(C) *Areas of flexibility.* Development flexibility provided through the establishment of a PUD District will not be approved in avoidance of the regulations set forth by the primary zoning district. However, if a development is able to achieve a higher quality of design, efficiency, and technology than what current market conditions allow, the establishment of a PUD District will provide flexibility to the following areas:

- (1) Building heights;
- (2) Building materials;
- (3) Building and parking setbacks;
- (4) Landscaping requirements;
- (5) Multiple building placement;
- (6) Parking and vehicular requirements;
- (7) Public art requirements;
- (8) Public spaces;
- (9) Signage requirements;
- (10) Site density.
- (11) Solar, renewable energy systems, and beneficial electrification.

(D) *Review procedure.*

(1) *Pre-application meeting.* Prior to filing an application with the Zoning Administrator for the establishment of a PUD District, the applicant shall meet with city staff for a pre-application meeting. The primary purpose of the pre-application meeting is to allow the applicant and city staff to discuss land use controls, appropriate uses of the site, specific development design standards, the application process, and required information that shall be submitted with an application, as well as evaluating how the development will achieve a higher quality of design, efficiency and technology in relation to guiding documents.

(2) *Development Review Committee.* After a completed application has been filed, the Development Review Committee, comprised of the Zoning Administrator, Building Official, Fire Chief, City Engineer, and his or her appointee, shall conduct an administrative review of the application. All findings and determinations by the Development Review Committee shall be forwarded to the Planning Commission.

(3) *Neighborhood meeting.* Prior to the consideration of a PUD District plan or a major amendment to a PUD District plan by the Planning Commission, the applicant shall hold a neighborhood meeting within city limits, and mail a notification of the neighborhood meeting to all property owners and tenants within 350 feet surrounding the proposed PUD District. The purpose of the meeting is to inform the neighborhood of the proposed development, and to obtain input from the affected property owners and tenants.

(4) *Planning Commission.*

(a) *Informal public hearing.* The Planning Commission shall hold an informal public hearing for the consideration of a completed application for the establishment of a PUD District in accordance with the requirements of this section. The Planning Commission shall make the following findings of fact before approving the establishment of a PUD District:

1. The PUD District plan conforms to all applicable requirements of this article;
2. The PUD District plan is consistent with the applicable provisions of the comprehensive plan;
3. The PUD District plan is consistent with any applicable area plan;
4. The PUD District plan minimizes any adverse impacts on property in the immediate vicinity and the public right-of-way.

(b) *Recommendation.* The findings and recommendation of the Planning Commission shall be forwarded to the City Council. The Planning Commission may impose conditions of recommended approval or modifications to any PUD District plan, and require guarantees deemed necessary to ensure compliance with the requirements of this section.

(5) *City Council.*

(a) *Formal public hearing.* The City Council shall hold a formal public hearing for the consideration of a completed application for the establishment of a PUD District in accordance with the requirements of this section.

(b) *Action.* The City Council shall review and consider the recommendations of the Planning Commission, the Development Review Committee, and the public before approval or denial, in whole or in part, is made for establishment of the PUD District. A denial shall only be based on findings of fact that the PUD District plan is not in substantial compliance with the provisions of this section, or if the City Council determines that the proposed benefits of the development do not justify the requested flexibilities of a PUD District.

(E) *Amendments.* An approved PUD District plan may not be changed or modified without prior approval by City Council. A request for an amendment to an approved PUD District plan shall be submitted and reviewed by the Zoning Administrator to determine if it is a minor or major amendment.

(1) *Minor amendments.*

1. An amendment shall be deemed minor in nature if a change or modification to the approved PUD District plan increases or decreases a provision to be in conformance with the primary zoning district; increases the density of units per acre or gross floor area in any structure by less than or equal to 10%; demolishes or adds an accessory structure; significantly alters the original intent of the landscape plans or elevation views; or is not determined by the Zoning Administrator to be major in nature.

2. A minor amendment shall be placed on the consent agenda of City Council without the review by the Planning Commission. The City Council may remove the minor amendment from the consent agenda for discussion before approval or denial.

(2) *Major amendments.*

(a) An amendment shall be deemed major in nature if a change or modification to the approved PUD District plan increases or decreases a provision to not be in conformance with the primary zoning district; increases the density of units per acre or gross floor area in any structure by more than 10%; demolishes or adds a principal structure; alters the placement of buildings or roads; introduces a new use; decreases the amount of public spaces by more than or equal to 3%, or alters it in such a way to change its original intent; creates a conflict with the original conditions of recommended approval; eliminates, substantially diminishes, or compromises the original intent of the PUD District as prescribed in division (A) of this section; or is not determined by the Zoning Administrator to be minor in nature.

(b) A major amendment shall require the submittal of a revised PUD District plan to the Zoning Administrator for full review and approval in accordance with the provisions of this section.

(F) *Cancellations.* An approved PUD District plan shall be cancelled and revoked only upon City Council approving a resolution rescinding the PUD District. Cancellation of a PUD District plan shall include findings of fact that demonstrate that the district is no longer necessary due to changes in local regulations; has become inconsistent with the comprehensive plan of the city; threatens public safety, health, or welfare; or at the request of the applicant or assignee in writing.

## Section 9

**The following language for Overlay Districts is added and amended as provided in Section 9.114 of the City Code of 2005, is hereby established to read as follows:**

(A) *General provisions.*

(1) *Purpose.* Overlay districts are established in recognition of the unique characteristics of land and land use within certain parts of the city, including those properties within flood-prone areas and shoreland areas. Overlay districts are further intended to protect the public health, safety, and welfare by preserving environmentally sensitive and unique areas of the community.

(2) *Relationship to other applicable regulations.* Property located within an overlay district shall be subject to the provisions of both the primary zoning district and the overlay district. Where the provisions of the primary zoning district and the overlay zoning district are in conflict, the most restrictive provisions shall govern.

(3) *Establishment of boundaries.* Overlay district boundaries shall be as specified in the individual overlay district regulations.

(4) *Establishment of overlay district.* The following overlay districts are established:

- (a) Floodplain Management Overlay District.
- (b) Shoreland Management Overlay District.
- (c) Design Overlay District.

(B) *Floodplain Management Overlay District.*

(1) *Statutory authorization, findings of fact and purpose.*

(a) *Statutory authorization.* The legislature of the state has, in M.S. Chapter 103F and Chapter 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of the city, does ordain as follows.

(b) *Purpose.*

1. This section regulates development in the flood hazard areas of the city. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this section to promote the public health, safety, and general welfare by minimizing these losses and disruptions.

2. *National Flood Insurance Program compliance.* This section is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 C.F.R. Parts 59 through 78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

3. This section is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and storm water impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

(2) *General provisions.*

(a) *How to use this section.* This section adopts the floodplain maps applicable to the city and includes three floodplain districts: Floodway, Flood Fringe, and General Floodplain.

1. Where Floodway and Flood Fringe districts are delineated on the floodplain maps, the standards in divisions (B)(4) or (B)(5) will apply, depending on the location of a property.

2. Locations where Floodway and Flood Fringe districts are not delineated on the floodplain maps are considered to fall within the General Floodplain district. Within the General Floodplain district, the Floodway District standards in division (B)(4) apply unless the floodway boundary is determined, according to the process outlined in division (B)(6). Once the floodway boundary is determined, the Flood Fringe District standards in division (B)(5) may apply outside the floodway.

(b) *Lands to which section applies.* This section applies to all lands within the jurisdiction of the City of Columbia Heights shown on the Official Zoning Map and/or the attachments to the map as being located within the boundaries of the Floodway, Flood Fringe, or General Floodplain Districts.

1. The Floodway, Flood Fringe and General Floodplain Districts are overlay districts that are superimposed on all existing zoning districts.

2. The standards imposed in the overlay districts are in addition to any other requirements in this section. In case of a conflict, the more restrictive standards will apply.

(c) *Incorporation of maps by reference.* The following maps together with all attached material are hereby adopted by reference and declared to be a part of the Official Zoning Map and this section. The attached material

includes the Flood Insurance Study for Anoka County, Minnesota, and Incorporated Areas and the Flood Insurance Rate Map enumerated below, all dated December 16, 2015 and all prepared by the Federal Emergency Management Agency. These materials are on file in the Office of the City Planner.

1. 27003C0384E.
2. 27003C0392E.
3. 27003C0403E.
4. 27003C0411E.

(d) *Regulatory flood protection elevation.* The regulatory flood protection elevation (RFPE) is 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 floodplain that result from designation of a floodway.

(e) *Interpretation.* The boundaries of the zoning districts are determined by scaling distances on the Flood Insurance Rate Map.

1. Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations shall be the governing factor. The Zoning Administrator must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.

2. Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.

(f) *Abrogation and greater restrictions.* It is not intended by this section to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this section imposes greater restrictions, the provisions of this section prevail. All other ordinances inconsistent with this section are hereby repealed to the extent of the inconsistency only.

(g) *Warning and disclaimer of liability.* This section does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This section does not create liability on the part of the city or its officers or employees for any flood damages that result from reliance on this section or any administrative decision lawfully made hereunder.

(h) *Severability.* If any section, clause, provision, or portion of this section is adjudged unconstitutional or invalid by a court of law, the remainder of this section shall not be affected and shall remain in full force.

(i) *Definitions.* Unless specifically defined below, words or phrases used in this section must be interpreted according to common usage and so as to give this section its most reasonable application.

**ACCESSORY USE OR STRUCTURE.** A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

**BASE FLOOD ELEVATION.** The elevation of the "regional flood." The term *BASE FLOOD ELEVATION* is used in the flood insurance survey.

**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.

**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:

- a. Certain conditions as detailed in the zoning ordinance exist.
- b. The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

**CRITICAL FACILITIES.** Facilities necessary to a community's public health and safety, those that store or produce highly volatile, toxic or water-reactive materials, and those that house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correctional facilities, schools,

daycare facilities, nursing homes, fire and police stations, wastewater treatment facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage facilities.

*DEVELOPMENT.* Any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

*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.

*FARM FENCE.* A fence as defined by M.S. § 344.02, subd. 1(a)-(d). An open type fence of posts and wire is not considered to be a structure under this section. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are regulated as structures under this section.

*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.* That portion of the floodplain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for Anoka County, Minnesota.

*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 damages.

*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.

*LOWEST FLOOR.* The lowest floor of the lowest enclosed area (including 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.

*MANUFACTURED HOME.* A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term *MANUFACTURED HOME* does not include the term "recreational vehicle."

*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.

*ONE HUNDRED YEAR FLOODPLAIN.* Lands inundated by the "regional flood" (see definition).

*PRINCIPAL USE OR STRUCTURE.* All uses or structures that are not accessory uses or structures.

*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 VEHICLE.* A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this section, the term *RECREATIONAL VEHICLE* is synonymous with the term "travel trailer/travel vehicle."

*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 1% chance or 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.

*REGULATORY FLOOD PROTECTION ELEVATION (RFPE).* An elevation not less than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

*REPETITIVE LOSS.* Flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.

*SPECIAL FLOOD HAZARD AREA.* A term used for flood insurance purposes synonymous with "one hundred year floodplain."

*STRUCTURE.* Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in division (B)(9)(b)2. of this section and other similar items.

*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% 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% 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 C.F.R. Part 59.1.

(j) *Annexations.* The Flood Insurance Rate Map panels adopted by reference into division (B)(2)(c) above may include floodplain areas that lie outside of the corporate boundaries of the City of Columbia Heights at the time of adoption of this section. If any of these floodplain land areas are annexed into the city after the date of adoption of this section, the newly annexed floodplain lands will be subject to the provisions of this section immediately upon the date of annexation.

(3) *Establishment of zoning districts.*

(a) *Districts.*

1. *Floodway District.* The Floodway District includes those areas designated as floodway on the Flood Insurance Rate Map adopted in division (B)(2)(c). For lakes, wetlands and other basins, the Floodway District includes those areas designated as Zone A on the Flood Insurance Rate Map that are at or below the ordinary high water level as defined in M.S. § 103G.005, subd. 14.

2. *Flood Fringe District.* The Flood Fringe District includes those areas designated as floodway fringe on the Flood Insurance Rate Map adopted in division (B)(2)(c), as being within Zone AE but being located outside of the floodway. For lakes, wetlands and other basins (that do not have a floodway designated), the Flood Fringe District includes those areas designated as Zone A on the Flood Insurance Rate Map panels adopted in division (B)(2)(c) that are below the 1% annual chance (100-year) flood elevation but above the ordinary high water level as defined in M.S. § 103G.005, subd. 14.

3. *General Floodplain District.* The General Floodplain District includes those areas designated as Zone A or Zone AE without a floodway on the Flood Insurance Rate Map adopted in division (B)(2)(c), but not subject to the criteria in divisions (B)(3)(a)1. and 2. above.

(b) *Compliance.* Within the floodplain districts established in this section, the use of any land, the use, size, type and location of structures on lots, the installation and maintenance of transportation, utility, water supply and waste treatment facilities, and the subdivision of land must comply with the terms of this section and other applicable regulations. All uses not listed as permitted uses or conditional uses in division (B)(4), (5) and (6), respectively, are prohibited. In addition, a caution is provided here that:

1. New and replacement manufactured homes and certain recreational vehicles are subject to the general provisions of this section and specifically division (B)(9).

2. 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 this section and specifically division (B)(11).

3. All structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

4. As-built elevations for elevated or floodproofed 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 this ordinance and specifically as stated in division (B)(10) of this section.

5. Critical facilities, as defined in division (B)(2)(i), are prohibited in all floodplain districts.

(4) *Floodway District (FW).*

(a) *Permitted uses.* The following uses, subject to the standards set forth in division (B)(4)(b), are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:

1. General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

2. Industrial-commercial loading areas, parking areas, and airport landing strips.

3. Open space uses, including but not limited to 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, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails.

4. Residential lawns, gardens, parking areas, and play areas.

5. Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources' Area Hydrologist is notified at least ten days prior to issuance of any permit, and that the standards in divisions (B)(4)(d)1., (d)3.a. and (d)6. of this section are met.

(b) *Standards for floodway permitted uses.*

1. The use must have a low flood damage potential.

2. With the exception of the uses listed in division (B)(4)(a)5., the use must not obstruct flood flows or increase flood elevations and must not involve structures, fill, obstructions, excavations or storage of materials or equipment.

3. Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

(c) *Conditional uses.* The following uses may be allowed as conditional uses following the standards and procedures set forth in division (B)(10)(d) of this section and further subject to the standards set forth in division (B)(4)(d), if otherwise allowed in the underlying zoning district or any applicable overlay district.

1. Structures accessory to the uses listed in division (B)(4)(a) above and the uses listed in division (B)(4)(c)2. through 7. below.

2. Extraction and storage of sand, gravel, and other materials.

3. Marinas, boat rentals, docks, piers, wharves, and water control structures.

4. Storage yards for equipment, machinery, or materials.

5. Placement of fill or construction of fences that obstruct flood flows. Farm fences, as defined in division (B)(2)(i), are permitted uses.

6. Travel-ready recreational vehicles meeting the exception standards in division (B)(9)(b).

7. Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the ten-year frequency flood event.

(d) *Standards for floodway conditional uses.*

1. *All uses.* A conditional use must not cause any increase in the stage of the 1% chance or regional flood or cause an increase in flood damages in the reach or reaches affected.

2. *Fill; storage of materials and equipment.*

a. 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.

b. Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.

c. Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% chance or regional flood may only be allowed if the City Council has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.

3. *Accessory structures.*

a. Accessory structures must not be designed for human habitation.

b. Accessory structures, if permitted, must be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:

i. Whenever possible, structures must be constructed with the longitudinal axis parallel to the direction of flood flow; and

ii. So far as practicable, structures must be placed approximately on the same flood flow lines as those of adjoining structures.

c. Accessory structures must be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the State Building Code. All floodproofed accessory structures must meet the following additional standards:

i. The structure must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls; and

ii. Any mechanical and utility equipment in the structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed.

d. As an alternative, an accessory structure may be internally/wet floodproofed to the FP-3 or FP-4 floodproofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment and does not exceed 576 square feet in size. A detached garage may only be used for parking of vehicles and limited storage. All structures must meet the following standards:

i. To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

ii. 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.

4. Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of M.S. § 103G.245.

5. A levee, dike or floodwall constructed in the floodway must not cause an increase to the 1% chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.

6. Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

(5) *Flood Fringe District (FF).*

(a) *Permitted uses.* Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in division (B)(5)(b). If no pre-existing, underlying zoning districts exist, then any residential or nonresidential structure or use of a structure or land is a permitted use provided it does not constitute a public nuisance.

(b) *Standards for flood fringe permitted uses.*

1. All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure.

a. All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.

b. As an alternative to elevation on fill, an accessory structure that constitutes a minimal investment and that does not exceed 576 square feet in size may be internally floodproofed in accordance with division (B)(4)(d)3.

2. The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with division (B)(5)(b)1. of this section, or if allowed as a conditional use under division (B)(5)(c)3. below.

3. The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.

4. 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.

5. Fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.

6. All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning/emergency evacuation plan acceptable to the City Council.

7. Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

8. Interference with normal manufacturing/industrial plant operations must be minimized, especially along streams having protracted flood durations. In considering permit applications, due consideration must be given to the needs of industries with operations that require a floodplain location.

9. Flood fringe developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

10. Manufactured homes and recreational vehicles must meet the standards of division (B)(9) of this section.

(c) *Conditional uses.* The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning district(s) or any applicable overlay district, following the procedures in division (B)(10)(d) of this section. Conditional uses must meet the standards in divisions (B)(5)(b)4. through 10. and division (B)(5)(d).

1. Any structure that is not elevated on fill or floodproofed in accordance with division (B)(5)(b)1. of this section.
2. Storage of any material or equipment below the regulatory flood protection elevation.
3. The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with division (B)(5)(b)1. of this section.

(d) *Standards for flood fringe conditional uses.*

1. The standards listed in divisions (B)(5)(b)4. through 10. apply to all conditional uses.
2. Basements, as defined by division (B)(2)(i) of this section, are subject to the following:
  - a. Residential basement construction is not allowed below the regulatory flood protection elevation.
  - b. Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with division (B)(5)(d)4. of this section.
3. All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code. Structurally dry floodproofing must meet the FP-1 or FP-2 floodproofing classification in the State Building Code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures wet floodproofed to the FP-3 or FP-4 classification are not permitted.
4. The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.
  - a. The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.
  - b. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City Council.
  - c. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.
5. Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.
6. 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, and the like, 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 above-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 registered 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 openings in the walls where internal flooding is to be used as a floodproofing 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 registered 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 will 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.

(6) *General Floodplain District (GF).*

(a) *Permitted uses.*

1. The uses listed in division (B)(4)(a) of this section, Floodway District permitted uses, are permitted uses.
2. All other uses are subject to the floodway/flood fringe evaluation criteria specified in division (B)(6)(b) below. Division (B)(4) applies if the proposed use is determined to be in the Floodway District. Division (B)(5) applies if the proposed use is determined to be in the Flood Fringe District.

(b) *Procedures for floodway and flood fringe determinations.*

1. Upon receipt of an application for a permit or other approval within the General Floodplain District, the Zoning Administrator must obtain, review and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.
2. If regional flood elevation and floodway data are not readily available, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within the Floodway or Flood Fringe District. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in division (B)(6)(b)3. below.
3. The determination of floodway and flood fringe must include the following components, as applicable:
  - a. Estimate the peak discharge of the regional (1% chance) flood.
  - b. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
  - c. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half (0.5) foot. A lesser stage increase than 0.5 foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.
4. The Zoning Administrator will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Zoning Administrator may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the Zoning Administrator may approve or deny the application.
5. Once the Floodway and Flood Fringe District boundaries have been determined, the Zoning Administrator must process the permit application consistent with the applicable provisions of divisions (B)(4) and (5) of this section.

(7) *Land development standards.*

- (a) *In general.* Recognizing that flood prone areas may exist outside of the designated floodplain districts, the requirements of this section apply to all land within the City of Columbia Heights.
- (b) *Subdivisions.* No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this section.

1. All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.

2. All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the City Council. The plan must be prepared by a registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.

3. For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.

4. In the General Floodplain District, applicants must provide the information required in division (B)(6)(b) of this section to determine the regional flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.

5. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal must be reviewed to assure that:

- a. All such proposals are consistent with the need to minimize flood damage within the flood prone area;
- b. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
- c. Adequate drainage is provided to reduce exposure of flood hazard.

(c) *Building sites.* If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:

1. Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. Constructed with materials and utility equipment resistant to flood damage;
3. Constructed by methods and practices that minimize flood damage; and
4. Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(8) *Public utilities, railroads, roads, and bridges.*

(a) *Public utilities.* All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.

(b) *Public transportation facilities.* Railroad tracks, roads, and bridges to be located within the floodplain must comply with divisions (B)(4) and (5) of this section. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these 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 water supply and sewage treatment systems.* Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they must not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the state's current statewide standards for on-site sewage treatment systems is considered to be in compliance with this section.

(9) *Manufactured homes, manufactured home parks, and recreational vehicles.*

(a) *Manufactured homes.* New manufactured home parks and expansions to existing manufactured home parks are prohibited in any floodplain district. For existing manufactured home parks or lots of record, the following requirements apply:

1. Placement or replacement of manufactured home units is prohibited in the Floodway District.
2. If allowed in the Flood Fringe District, placement or replacement of manufactured home units is subject to the requirements of division (B)(5) of this section and the following standards.

- a. New and replacement manufactured homes must be elevated in compliance with division (B)(5) of this section and 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.

- b. New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in division (B)(7)(b)2.

(b) *Recreational vehicles.* New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Placement of recreational vehicles in existing recreational vehicle parks or campgrounds in the floodplain must meet the exemption criteria below or be treated as new structures meeting the requirements of this section.

1. Recreational vehicles are exempt from the provisions of this section if they are placed in any of the following areas and meet the criteria listed in division (B)(9)(b)2.:

- a. Individual lots or parcels of record.
- b. Existing commercial recreational vehicle parks or campgrounds.
- c. Existing condominium-type associations.

2. Criteria for exempt recreational vehicles:

- a. The vehicle must have a current license required for highway use.
- b. The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.
- c. No permanent structural type additions may be attached to the vehicle.
- d. The vehicle and associated use must be permissible in any pre-existing, underlying zoning district.
- e. Accessory structures are not permitted within the Floodway District. Any accessory structure in the Flood Fringe District must be constructed of flood-resistant materials and be securely anchored, meeting the requirements applicable to manufactured homes in division (B)(9)(b)2.

- f. An accessory structure must constitute a minimal investment.

3. Recreational vehicles that are exempt in division (B)(9)(b)2. lose this exemption when development occurs on the site that exceeds a minimal investment for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as new structures subject to the elevation and floodproofing requirements of division (B)(5) of this section. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle should flooding occur.

(10) *Administration.*

- (a) *Zoning Administrator.* A Zoning Administrator or other official designated by the City Council must administer and enforce this section.

- (b) *Permit requirements.*

1. *Permit required.* A permit must be obtained from the Zoning Administrator prior to conducting the following activities:

- a. The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this section.
- b. The use or change of use of a building, structure, or land.
- c. The construction of a dam, fence, or on-site septic system, although a permit is not required for a farm fence as defined in this section.
- d. The change or extension of a nonconforming use.
- e. The repair of a structure that has been damaged by flood, fire, tornado, or any other source.
- f. The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.
- g. Relocation or alteration of a watercourse - including new or replacement culverts and bridges, unless a public waters work permit has been applied for.
- h. Any other type of "development" as defined in this section.

2. *Application for permit.* Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application must include the following as applicable:

- a. A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.
- b. Location of fill or storage of materials in relation to the stream channel.
- c. Copies of any required municipal, county, state or federal permits or approvals.
- d. Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.

3. *Certificate of zoning compliance for a new, altered, or nonconforming use.* No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this section.

4. *Certification.* The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this section. Floodproofing measures must be certified by a registered professional engineer or registered architect.

5. *Record of first floor elevation.* The Zoning Administrator must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.

6. *Notifications for watercourse alterations.* Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to M.S. § 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

7. *Notification to FEMA when physical changes increase or decrease base flood elevations.* As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

(c) *Variances.*

1. *Variance applications.* An application for a variance to the provisions of this section will be processed and reviewed in accordance with applicable state statutes and § [9.104](#)(G) of the Zoning Ordinance.

2. *Adherence to state floodplain management standards.* A variance must not allow a use that is not allowed 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.

3. *Additional variance criteria.* The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

- a. Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
  - b. Variances may only be issued by a community upon:
    - i. A showing of good and sufficient cause;
    - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
- and
- iii. 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.

c. Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4. *Flood insurance notice.* The Zoning Administrator must notify the applicant for a variance that:

- a. 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
- b. Such construction below the base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.

5. *General considerations.* The community may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:

- a. The potential danger to life and property due to increased flood heights or velocities caused by encroachments;
- b. The danger that materials may be swept onto other lands or downstream to the injury of others;
- c. The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;
- d. The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;
- e. The importance of the services to be provided by the proposed use to the community;
- f. The requirements of the facility for a waterfront location;
- g. The availability of viable alternative locations for the proposed use that are not subject to flooding;
- h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;
- i. The relationship of the proposed use to the Comprehensive Land Use Plan and flood plain management program for the area;
- j. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- k. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.

6. *Submittal of hearing notices to the Department of Natural Resources (DNR).* The Zoning Administrator must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

7. *Submittal of final decisions to the DNR.* A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

8. *Record-keeping.* The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

(d) *Conditional uses.*

1. *Administrative review.* An application for a conditional use permit under the provisions of this section will be processed and reviewed in accordance with § [9.104](#)(H) of the Zoning Ordinance.

2. *Factors used in decision-making.* In passing upon conditional use applications, the City Council must consider all relevant factors specified in other sections of this section, and those factors identified in division (B)(10)(c)5. of this section.

3. *Conditions attached to conditional use permits.* The City Council may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this section. Such conditions may include, but are not limited to, the following:

a. Modification of waste treatment and water supply facilities.

b. Limitations on period of use, occupancy, and operation.

c. Imposition of operational controls, sureties, and deed restrictions.

d. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

e. Floodproofing measures, in accordance with the State Building Code and this section. The applicant must submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

4. *Submittal of hearing notices to the Department of Natural Resources (DNR).* The Zoning Administrator must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

5. *Submittal of final decisions to the DNR.* A copy of all decisions granting conditional uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(11) (a) *Nonconformities.*

(b) *Continuance of nonconformities.* A use, structure, or occupancy of land which was lawful before the passage or amendment of this section but which is not in conformity with the provisions of this section may be continued subject to the following conditions. Historic structures, as defined in division (B)(2)(i) of this section, are subject to the provisions of divisions (B)(11)(b)1. through 6. of this section.

1. A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows except as provided in division (B)(11)(b)2. below. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.

2. Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in divisions (B)(11)(b)3. and 7. below.

3. If the cost of all previous and proposed alterations and additions exceeds 50% of the market value of any nonconforming structure, then the entire structure must meet the standards of division (B)(4) or (5) of this section for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

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.

4. If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this section. The Assessor must notify the Zoning Administrator in writing of instances of nonconformities that have been discontinued for a period of more than one year.

5. If any nonconformity is substantially damaged, as defined in division (B)(2)(i) of this section, it may not be reconstructed except in conformity with the provisions of this ordinance. The applicable provisions for establishing new uses or new structures in divisions (B)(4) or (5) will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.

6. If any nonconforming use or structure experiences a repetitive loss, as defined in division (B)(2)(i) of this section, it must not be reconstructed except in conformity with the provisions of this section.

7. Any substantial improvement, as defined in division (B)(2)(i) of this section, to a nonconforming structure requires that the existing structure and any additions must meet the requirements of division (B)(4) or (5) of this section for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District.

(12) *Penalties and enforcement.*

(a) *Violation constitutes a misdemeanor.* Violation of the provisions of this section or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will be punishable as defined by law.

(b) *Other lawful action.* Nothing in this section restricts the city from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this section and will be prosecuted accordingly.

(c) *Enforcement.* In responding to a suspected ordinance violation, the Zoning Administrator and City Council 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.

1. When a violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as it is reasonably possible, this information will be submitted to the appropriate State 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.

2. The Zoning Administrator shall notify the suspected party of the requirements of this chapter 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 Zoning Administrator 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, the Zoning Administrator may either:

a. 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

b. Notify the responsible party to apply for an after the fact permit/development approval within a specified period of time not to exceed 30 days.

(13) *Amendments.*

(a) *Floodplain designation - restrictions on removal.* The floodplain designation on the Official Zoning Map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area

has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of the Department of Natural Resources (DNR) if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.

(b) *Amendments require DNR approval.* All amendments to this section must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner must approve the amendment prior to community approval.

(c) *Map revisions require ordinance amendments.* The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in division (B)(2)(c) of this section.

(C) *Shoreland Management Overlay District.*

(1) *Purpose.*

(a) 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 M.S. Chapter 103F, Minnesota Regulations, Parts 6120.2500 through 6120.3900, and the planning and zoning enabling legislation in M.S. Chapter 462.

(c) *Jurisdiction.* The provisions of this division shall apply to shorelands of the public water bodies as classified in subdivision (4)(b) of this division. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, 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 9 of this 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) *Exemptions.*

1. A structure or use which was lawful before adoption of this article, but which is not in conformity with the provisions of the Shoreland Overlay District, may be continued subject to § [9.105](#) of this code.

2. A property located within the Shoreland Overlay District that does not drain into a body of water listed in subdivision (4)(b) of this division.

(2) *District boundaries.* The boundaries of the Shoreland Overlay District within the city consist of the first tier of riparian lots abutting a protected lake or tributary identified in subdivision (4)(b) of this division. The specific boundaries of the Shoreland Overlay District are shown on the official Shoreland Overlay District Map in the Zoning Code.

(3) *Definitions.* For the purpose of this division, certain terms and words are hereby defined: Words use in the present tense shall include the future; words in the singular include the plural, and the plural the singular; the word *BUILDING* shall include the word *STRUCTURE*; and the word *LOT* shall include the word *PLOT*; and the word *SHALL* is mandatory and not directory; and the word *INCLUDING* shall mean "including, but not limited to". For the purpose of this district, the following definitions shall apply:

*ACCESSORY BUILDING.* A subordinate building or use, which is located on the same, lot as the principal building or use and is necessary or incidental to the conduct of the principal building or use.

*COMMISSION.* The City of Columbia Heights Planning Commission.

*COMMISSIONER.* The Commissioner of the Department of Natural Resources of the State of Minnesota.

*COUNCIL.* The Columbia Heights City Council.

*DEVELOPMENT.* The making of any material change in the use or appearance of any structure of 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; the dividing of land into two or more parcels.

*IMPERVIOUS SURFACE.* 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 increase rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt roads and gravel areas.

*LOT COVERAGE.* The amount of impervious surface on a lot.

*ORDINARY HIGH WATER LEVEL.* M.S. § 103G.005, subd. 14 defines ordinary high water level as the boundary of waterbasins, watercourses, public waters, and public waters wetlands and:

1. The ordinary high water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominately aquatic to predominately terrestrial;
2. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel; and
3. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

*SHORELAND.* Land located within the following distances from the ordinary high water elevation of public waters:

1. Land within 1,000 feet from the normal high watermark of a lake, pond, or flowage; and
2. Land within 300 feet if a river or stream or the landward side of a floodplain delineated by ordinance on the river or stream, whichever is greater.

*SHORE IMPACT ZONE.* The area between the ordinary high water mark and 50 feet inland from the ordinary high water mark.

*STRUCTURE.* Anything constructed or erected which requires location on or underground or attachment to something having location on or underground. This includes an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, whether of a temporary or permanent character.

(4) *Shoreland classification system.*

(a) *Public waters.* The public waters of the city have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the DNR Protected Waters Inventory Map for Anoka County, Minnesota.

(b) *Official Map.* The shoreland permit district for the waterbodies listed below shall be shown on the Columbia Heights Map.

Recreational Development Lakes	Protected Waters Inventory ID. #
Silver Lake	83P

General Development Lakes	Protected Waters Inventory I.D. #
Sullivan Lake	80P

Highland Lake	79P
Hart Lake	81P
Clover Pond	686W
LaBelle Pond	687P

(5) *Administration.*

(a) *Building permit required.* A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), and those grading and filling activities not exempted by this code that occur within the shoreland district. Application for a building permit shall be filed with the Zoning Administrator or any staff persons designated by the City Manager on an official application form of the city, accompanied by a fee as set forth in Chapter 6, Article II of the city code. Where required by law, the building permit application shall be forwarded to the applicable watershed district for review and comment. The application shall include the necessary information so that the Zoning Administrator can determine the site's suitability for the intended use.

(b) *Variance.* Variances may only be granted in accordance with § [9.104\(G\)](#) of this code. A variance may not circumvent the general purposes and intent of this code. No variance may be granted that would allow any use that is prohibited in the underlying zoning district in which the subject property is located.

(c) *Conditional use permit.* Conditional use permits may only be granted in accordance with § [9.014\(H\)](#) of this code. Conditional use permits are required to ensure specific development standards within the Shoreland Overlay Districts.

(d) *Notifications to the Department of Natural Resources.*

1. *Public hearings.* Copies of all notices of any public hearings to consider variances, amendments, conditional uses, or special uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked at least ten days prior to the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

2. *Approval.* A copy of approved amendments and subdivisions/plats, and final decisions granting variances and conditional use permits under local shoreland management controls must be sent by the city to the Commissioner or the Commissioner's designated representative and postmarked within ten days of the final action.

(6) *Land use district descriptions.* Allowed land uses within the Shoreland District shall be determined by the underlying zoning district, as listed within [Chapter 9](#) of the city code.

(7) *Lot area and width standards.* Lot area and width standards for residential development shall be regulated per the underlying zoning district in [Chapter 9](#) of the city code.

(8) *Placement, design, and height of structures.*

(a) *Placement of structures on lots.* When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone. Structures shall be located as follows:

1. *Required setbacks.* All required rear yard, side yard and front yard setbacks shall be met per the underlying zoning district.

2. *Ordinary high water level setback.* Structure setbacks (in feet) from the ordinary high water level are:

Classes of Public Waters	Structure Setbacks
General Development Lake	50 feet

Recreational Development Lake	75 feet
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3. *Height of structures.* Maximum allowable height for all structures shall be regulated per underlying zoning districts in [Chapter 9](#) of the city code.

(b) *Shoreland alterations.* Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

1. *Vegetation alteration.* Removal or alteration of vegetation is allowed subject to the following standards:

a. Intensive vegetation clearing within the shore impact zones and on steep slopes is not allowed.

b. In shore 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:

(i) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced.

(ii) 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 the Minnesota Noxious Weed Law.

2. *Building permit.* 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 grading and filling permit.

3. *Conditional use permit.* Notwithstanding subdivision 2 above, a conditional use permit will be required for those properties located in the Shoreland Overlay District for:

a. Placement, removal or grading of more than 250 cubic yards of earthen material on developed property zoned R-1, R-2A or R-2B.

b. Placement, removal or grading of more than 500 cubic yards of earthen material on undeveloped property zoned R-1, R-2A or R-2B.

c. Placement, removal or grading of more than 750 cubic yards of earthen material on property zoned R-3, R-4 or LB.

d. Placement, removal or grading of more than 1,000 cubic yards of earthen material on property zoned GB, CBD, I-1, I-2, MXD, or PO.

4. *Land alteration permit.* Notwithstanding subdivision 2 above, a land alteration permit will be required for:

a. The movement of more than ten cubic yards of material on steep slopes or within shore impact zones.

b. The movement of more than 50 cubic yards of material outside of steep slopes and shore impact zones.

5. *Conditions.* The following considerations and conditions must be adhered to during the issuance of building permits, land alteration permits, variances, conditional use permits, and subdivision approvals:

a. Grading or filling in any type 2-8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland (This evaluation shall also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers):

(i) Sediment and pollutant trapping and retention.

(ii) Storage of surface runoff to prevent or reduce flood damage.

(iii) Fish and wildlife habitat.

(iv) Recreational use.

(v) Shoreline or bank stabilization.

(vi) Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

b. 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.

c. 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.

d. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.

e. 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.

f. Fill or excavated material must not be placed in a manner that creates an unstable slope.

g. 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 3:1 slope.

h. Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under M.S. § 103G.245.

i. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.

j. Placement of natural rock rip rap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the rip rap is within ten 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. Must be done in accordance with other state and federal regulations. A permit from the DNR is required.

6. *Connections to public waters.* Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after written authorization has been obtained from the Minnesota Department of Natural Resources approving the proposed connection to public waters.

(c) *Stormwater management.* The following general and specific standards shall apply:

1. *General standards.*

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. 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 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.

c. 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.

2. *Specific standards.*

a. Impervious surface lot coverage shall not exceed 35% of the lot area for all zoning districts with exception of the CBD, Central Business District in which impervious surface lot coverage shall not exceed 90%. These requirements may be amended through the variance process and shall comply with the following standards:

(i) All structures, additions or expansions shall meet setback and other requirements of this code.

(ii) The lot shall be served with municipal sewer and water.

(iii) The lot shall provide for the collection and treatment of stormwater in compliance with Chapter 9 of the city code if determined that the site improvements will result in increased runoff directly entering a public water. All development plans shall require review and approval by the City Engineer and the underlying watershed district.

(iv) Measures will be taken for the treatment of stormwater runoff and/or prevention of stormwater from directly entering a public water. The measures may include, but not limited to the following:

- A. Appurtenances as sedimentation basins, debris basins, desilting basins, or silt traps.
- B. Installation of debris guards and microsilt basins on store sewer inlets.
- C. Use where practical, oil skimming devices or sump catch basins.
- D. Direct drainage away from the lake and into pervious, grassed yards through site grading, use of gutters and down spouts.
- E. Construction of sidewalks of partially pervious raised materials such as decking, which has natural earth or other pervious material beneath or between the planking.
- F. Use grading and construction techniques that encourage rapid infiltration, such as sand and gravel under impervious materials with adjacent infiltration swales graded to lead into them.
- G. Install berms, water bars, or terraces, which temporarily detain water before dispersing it into the pervious area.

b. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that the constructed facilities are designed and installed consistent with the field office technical guide for the local soil and water conservation districts.

c. Newly constructed stormwater outfall to public waters must provide for filtering or settling or suspended solids and skimming or surface debris before discharge.

3. *Nonconformities.* All legally established nonconformities as of the date of this section may continue, but they will be managed according to § [9.105](#) of this code with the following exceptions:

- a. Decks are allowed as a conforming use provided all of the following criteria and standards are met:
  - (i) The principal structure existed on the date the structure setbacks were established.
  - (ii) No other reasonable location for the deck exists.
  - (iii) The deck encroachment toward the ordinary high water level maintains a minimum setback in accordance with applicable code sections and a maximum encroachment of ten feet into the Shore Impact Zone.

(9) *Public nuisance: penalty.*

(a) Any person who violates any provisions of this district or fails to comply with any of its terms or requirements shall be guilty of a misdemeanor, punishable by a fine of not more than \$500 or imprisoned for not more than 90 days, or both, and in addition shall pay all costs of prosecution and expenses involved in the case. Each day the violation continues shall be considered a separate offence.

(b) Every obstruction or use placed or maintained in the Shoreland Overlay District in violation of this division is hereby declared to be a public nuisance and creation thereof may be enjoined and the maintenance thereof abated by appointed judicial action.

(c) Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent, remedy or remove any violation.

(D) *Design Overlay District.*

(1) *Purpose.* The Design Overlay Districts are established to increase the visual appeal and pedestrian orientation of certain major street corridors within the city, thereby increasing the economic vitality of these corridors, and to support the goals of the comprehensive plan, Energy Action Plan, Safe Streets for All, and the City's Complete Streets Policy.

(2) *Establishment.* The following Design Overlay Districts are established.

(a) Central Avenue Design District. The Central Business District, extending from 37th to 42nd Avenues, includes a number of historic or architecturally interesting buildings, including the Heights Theatre. Most office and storefront buildings meet the sidewalk, while shopping centers and franchise buildings are set back behind parking lots. Architectural styles are diverse, from historic commercial or Mediterranean Revival (the theater) to 20th century modern. Several off-street ramps help to reduce the need for surface parking. Recent streetscape improvements and developments of the Public Safety building as well as the mixed-use City Hall redevelopment project have enhanced the pedestrian character of this district. This district contains numerous neighborhood oriented multi-tenant shopping centers including restaurants, personal and professional services, retail, and multi-family developments. Redevelopment of the City's Public Safety and City Hall has contributed to the character of this district.

(b) 40th Avenue Design District. Fortieth Avenue has its own character, combining housing with institutions such as City Hall John P. Murzyn Hall, smaller commercial businesses including restaurants, multi-tenant buildings with professional and personal services, as well as housing and places of worship. Commercial buildings tend to be single-story, set back 5 to 10 feet from the sidewalk, and have extremely limited parking options that causes some properties to have legal nonconforming status. Housing is predominantly single-family, although additional townhouse and multifamily development is envisioned in the Downtown Master Plan (2000). Future redevelopment and reconfiguration of 40th should take into consideration of the parking needs of the existing businesses and seek opportunities to enhance street parking.

(c) Highway Design District. The Highway District extends along Central Avenue from 42nd Avenue north to the City boundary. This segment has a distinctly different character than the CBD: most buildings are set far back from the street behind large parking lots or along frontage roads. Central Avenue is a six-lane highway through most of this area, and the road width and traffic speeds combine to make the area less pedestrian-friendly. The Highway District has issues related to stormwater quality and quantity that are apparent when there is significant or torrential rainfalls. With these conditions in mind for future redevelopment and reconfiguration of Central Avenue, Complete Streets elements shall be implemented when these are feasible and there are identified conflict points, stormwater issues, areas that are "under-lit", barriers to pedestrian/bicyclist movements, or referenced in guiding documents such as Complete Streets, ADA Transition Plan, and Safe Streets for All.

(3) *Design guidelines.* The city design guidelines shall apply to development within the design districts. The city design guidelines are hereby incorporated into this section by reference in order to:

(a) Guide developers or business owners wishing to propose expansions, renovations or new construction of buildings or parking within the design districts; and

(b) Assist city officials and staff in reviewing development proposals.

(c) Support the implementation of city-wide guiding documents and standards.

(4) *Applicability of design guidelines.*

(a) Design guidelines shall apply to all nonresidential, mixed-use and/or multi-family buildings, and to the following activities:

1. New construction;

2. Any exterior changes, including repainting, with the exception of replacement or repair of existing materials;

3. Any internal remodeling or expansion activity that increases the overall size of the building by 10% or more;

4. Any development or expansion of parking areas that would result in a lot with more than four parking spaces; and

5. Minor alterations such as repainting, and the installation of new signage on existing buildings may be handled administratively, as determined by the City Planner.

(b) The guidelines are intended to be mandatory. It is assumed that the intent of the guidelines shall be met; however, it is understood that there may be ways to achieve the same design objective. The city may permit alternative approaches that in its determination, meet the objective(s) of the guideline(s) equally well.

(c) The guidelines shall apply only to the building or site elements being developed or altered. That is, a proposal for changes to a building would be required to meet only those standards that pertain to buildings, while changes to a parking area would be required to meet all standards for parking areas, but not for buildings. The City Planner will make the initial determination as to which standards are applicable.

(d) Design review shall be conducted as part of the site plan review process, as specified in § [9.104](#).

**Section 10**

**The following language for Public and Open Space Districts is added and amended as provided in Section 9.115 of the City Code of 2005, is hereby established to read as follows:**

(A) *Purpose.* The "P" Public and Open Space District is intended to provide a district which will allow areas of the city to be retained and utilized for, non-local jurisdiction public uses, open space, and provide a "holding" zone for future development to ensure that development will be staged to maintain reasonable economy in public expenditures for public utilities and services. Permitted, conditional, and accessory uses can be found in City Code 9.106 General Development Standards (S) Table of Uses.

(B) *General provisions.*

(1) *Compliance with applicable regulations.* Any use established in a public district after the effective date of this article shall comply with all applicable local, state and federal standards for such uses.

(2) *Administration.* The administration and enforcement of this article shall be in accordance with the provisions of § [9.104](#), Administration and Enforcement.

(3) *Nonconformities.* Nonconforming uses, structures, lots and signs within a public district shall be subject to the provisions of § [9.105](#), Nonconformities.

(4) *Compliance with general development standards.* Any use established, expanded or modified in a public district after the effective date of this article shall comply with the applicable provisions of § [9.106](#), General Provisions, including the Table of Uses defining the allowed uses in the Public and Open Space district.

(5) *Compliance with specific development standards.* Any use established, expanded or modified in a public district after the effective date of this article that is identified in § [9.107](#), Specific Development Standards, shall comply with the applicable provisions of that article.

(C) *Lot dimension, height, and bulk requirements.* Lot area, setback, height and lot coverage requirements for uses in the public district shall be as specified in the following table:

	Public and Open Space
Minimum Lot Area	
All uses	None
Minimum Lot Width	
All uses	None
Building Setbacks	
Front yard	25 feet
Side yard	5 feet
Corner side yard	10 feet
Rear yard	20% of lot depth

Parking Setbacks	
Front yard	5 feet
Side yard	3 feet
Corner side yard	3 feet
Rear yard	3 feet
Maximum Height	
All structures	None
Floor Area Ratio	1.0

**Section 11**

This Ordinance shall be in full force and effect from and after 30 days after its passage.

First Reading: February 10, 2025

Offered by: Deneen

Seconded by: Buesgens

Roll Call: All Ayes

Second Reading: February 24, 2025

Offered by: Buesgens

Seconded by: Deneen

Roll Call: All Ayes

Date of Passage: February 24, 2025

  
 Amada Márquez Simula, Mayor

Attest:



Sara Ion, City Clerk/Council Secretary

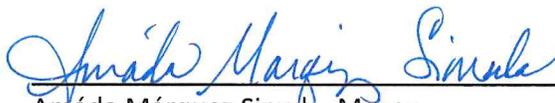
**SUMMARY OF ORDINANCE NO. 1711**

**BEING AN ORDINANCE AMENDING CHAPTER 9 LAND USE OF THE CITY CODE OF 2005  
TO AMEND 9.101 PURPOSE, 9.103 DEFINITIONS, 9.104 ADMINISTRATION AND ENFORCEMENT, 9.106  
GENERAL DEVELOPMENT STANDARDS, 9.107 SPECIFIC DEVELOPMENT STANDARDS, 9.109 RESIDENTIAL  
DISTRICTS, 9.110 COMMERCIAL DISTRICTS, 9.111 INDUSTRIAL DISTRICTS, 9.113 PLANNED UNIT  
DEVELOPMENT DISTRICTS, 9.114 OVERLAY DISTRICTS, AND 9.115 PUBLIC AND OPEN SPACE DISTRICTS.**

The City Council for the City of Columbia Heights, Minnesota adopted Ordinance No. 1711 on February 24, 2025.

The purpose of this ordinance is to update, upon passage, Chapter 9 of Columbia Heights City Code to include the sections of code above. These updates include changes to 9.101 Purpose to encourage solar and renewable energy development and reflect other city-wide guiding documents. The definitions of accessory structure, structure, and building in 9.103 Definitions to explicitly state that solar equipment and installations are not structures and include definitions for Community-scale solar energy system; Grid-connected solar energy system; Ground-mounted solar energy system (Accessory Use) and (Primary Use); roof-mounted solar energy system; Solar energy system; and Solar photovoltaic system. Changes to 9.106 General Development Standards include allowing solar and renewable energy equipment to exceed the maximum height by up to 50%, subject this equipment to accessory structure setbacks, and exempt from performance standards. Other changes to 9.106 include removing specific sign regulations and relocating these to (8) Sign Design Standards Table containing standards related to types of signage allowed by zoning district, maximum area, height, illumination, setbacks and all other applicable information in a form-based table as well as doing the same for permitted, conditional, and accessory uses in all zoning districts in (S) Table of Uses. Specific Development Standards in 9.107 are included for roof-mounted solar energy systems and ground-mounted solar energy systems. 9.109 Residential Districts, 9.110 Commercial Districts, 9.111 Industrial Districts, and 9.115 Public and Open Space Districts all have had their uses relocated to 9.106 (S) Table of Uses. 9.113 Planned Unit Development amended to include "solar, renewable energy systems, and beneficial electrification" as part of (C) Areas of Flexibility and (D) Review Procedure to include references to guiding documents in PUD consideration. 9.114 Overlay Districts (D) Design Overlay Districts to include descriptions of the Central Avenue, 40<sup>th</sup> Avenue, and Highway Design Districts.

This is a summary of Ordinance No. 1711. A copy of the entire text of the Ordinance is available for public inspection during regular office hours at City Hall, by standard or electronic mail, or at [www.columbiaheightsmn.gov](http://www.columbiaheightsmn.gov)

  
Amada Márquez Simula, Mayor

Attest:

  
Sara Ion, City Clerk/Council Secretary

# AFFIDAVIT OF PUBLICATION

STATE OF MINNESOTA ) ss  
COUNTY OF ANOKA

I do solemnly swear that the notice, as per the proof, was published in the edition of the

BSLP Col Hght Frid Life

with the known office of issue being located in the county of:

ANOKA

with additional circulation in the counties of:  
RAMSEY

and has full knowledge of the facts stated below:

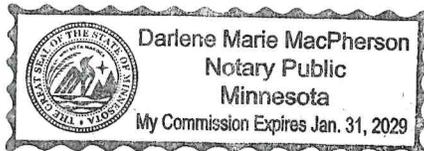
- (A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper as provided by Minn. Stat. §331A.02.
- (B) This Public Notice was printed and published in said newspaper(s) once each week, for 1 successive week(s); the first insertion being on 02/28/2025 and the last insertion being on 02/28/2025.

**MORTGAGE FORECLOSURE NOTICES Pursuant to Minnesota Stat. §580.033** relating to the publication of mortgage foreclosure notices: The newspaper complies with the conditions described in §580.033, subd. 1, clause (1) or (2). If the newspaper's known office of issue is located in a county adjoining the county where the mortgaged premises or some part of the mortgaged premises described in the notice are located, a substantial portion of the newspaper's circulation is in the latter county.

By   
Designated Agent

Subscribed and sworn to or affirmed before me on 02/28/2025

  
Notary Public



### Rate Information:

(1) Lowest classified rate paid by commercial users for comparable space:  
\$999.99 per column inch

Ad ID 1453897

## CITY OF COLUMBIA HEIGHTS SUMMARY OF ORDINANCE NO. 1711

**BEING AN ORDINANCE AMENDING CHAPTER 9 LAND USE OF THE CITY CODE OF 2005 TO AMEND 9.101 PURPOSE, 9.103 DEFINITIONS, 9.104 ADMINISTRATION AND ENFORCEMENT, 9.106 GENERAL DEVELOPMENT STANDARDS, 9.107 SPECIFIC DEVELOPMENT STANDARDS, 9.109 RESIDENTIAL DISTRICTS, 9.110 COMMERCIAL DISTRICTS, 9.111 INDUSTRIAL DISTRICTS, 9.113 PLANNED UNIT DEVELOPMENT DISTRICTS, 9.114 OVERLAY DISTRICTS, AND 9.115 PUBLIC AND OPEN SPACE DISTRICTS.**

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Procedure to include references to guiding documents in PUD consideration. 9.114 Overlay Districts (D) Design Overlay Districts to include descriptions of the Central Avenue, 40th Avenue, and Highway Design Districts.

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Amada Márquez Simula, Mayor  
Attest:  
Sara Ion, City Clerk/Council Secretary

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