

CHAPTER 11

LAND USE REGULATIONS (ZONING)

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CHAPTER 11

LAND USE REGULATIONS (ZONING)

SECTION 11.01. OBJECTIVES.

This Chapter is adopted to protect and to promote the public health, safety, peace, comfort, convenience, prosperity, and general welfare, and specifically to achieve the following objectives: (1) to assist in the implementation of the City Comprehensive Guide Plan as amended; (2) to foster a harmonious, convenient workable relationship among land uses; (3) to promote the stability of existing land uses that conform with the Guide Plan and to protect them from inharmonious influences and harmful intrusions; (4) to insure that public and private lands ultimately are used for the purposes which are most appropriate and most beneficial from the standpoint of the City as a whole; (5) to prevent excessive population densities and over-crowding of the land with structures; (6) to promote a safe, effective traffic circulation system; (7) to foster the provision of adequate off-street parking and off-street truck loading facilities; (8) to facilitate the appropriate location of community facilities and institutions; (9) to provide human and physical resources of sufficient quantity and quality to sustain needed public services and facilities; (10) to protect and enhance real property values; and, (11) to safeguard and enhance the appearance of the City, including natural amenities of hills, woods, lakes, and ponds.

SECTION 11.02. DEFINITIONS.

For the purpose of this Chapter, the following terms shall have the meanings stated:

Source: City Code
Effective Date: 9-17-82

1. "Accessory Structure" - A detached structure, building or facility, which is located on the same lot as the main building and the use of which is clearly incidental to the use of the main building. Such accessory structures shall include but not be limited to pools, tennis courts, water oriented accessory structures, sculptures and statuary etc.

Source: Ordinance No. 20-2013
Effective Date: 12-12-2013

Source: Ordinance No. 16-96
Effective Date: 4-26-96

2. "Accessory Use" - A subordinate use which is clearly and customarily incidental to the principal use of a building or premises and which is located on the same lot as the principal building or lot.

3. "Agriculture" - The cultivation of the soil and all activities incident thereto, except that said term shall not include the raising and feeding of hogs, sheep, goats, cattle, poultry, and fur bearing animals and shall not include riding academies, commercial stables or kennels.

Source: City Code
Effective Date: 9-17-82

4. "Antenna" - Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.

Source: Ordinance No. 27-97
Effective Date: 6-13-97

5. "Base Area" - The "Base Area" of a building or buildings shall be the sum of the gross horizontal areas of the first floor of such building or buildings measured from the exterior faces of the exterior walls or from the centerline of party walls separating two buildings. In particular, "Base Area" shall include:

- a. Elevator shafts and stairwells on the first floor.
 - b. Floor space used for mechanical equipment where the structural headroom exceeds seven and one-half feet, except equipment, open or closed locked on the roof, i.e., bulkheads, water tanks and cooling towers.
 - c. 40% of the porch when the porch is completely enclosed.
6. "Base Area Ratio" - The ratio of total base area to total lot area.
- Source: Ordinance No. 9-87
Effective Date: 5-7-87
7. "Buffer" - The use of land, topography (difference in elevation), space, fences or landscape plantings to screen or partially screen a tract or property from another tract or property and thus reduce undesirable influences such as: sight, noise, dust, and other external effects which a land use may have upon other adjacent or nearby land uses.
8. "Building" - Any structure for the shelter, support or enclosure of persons, animals, chattels or property of any kind, and when separated by party walls without openings, each portion of such building so separated shall be deemed a separate building.
- Source: City Code
Effective Date: 9-17-82
9. "Building Height" - Is the vertical distance above a reference datum measured to the highest point of the coping of the highest flat roof or to the deck line of the highest mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following, whichever yields a greater height of building:
- a. The elevation of the highest adjoining ground surface within a 5 foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above lowest grade.
 - b. An elevation 10 feet higher than the lowest grade when the ground surface described in "a" above is more than 10 feet above lowest grade. The height of a stepped or terraced building is the maximum height of any segment of the building.
- Source: Ordinance No. 18-90
Effective Date: 9-21-90
10. "Building Length" - The length of a building as related to any property line is the length of that portion of the property line from which when viewed directly from above, lines drawn perpendicular to said line will intersect any wall of the building.
- Source: City Code
Effective Date: 9-17-82
11. "Commercial Wireless Telecommunication Services" - Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.
- Source: Ordinance No. 27-97
Effective Date: 6-13-97
12. "Conditional Use" - A use which is not permissible in a zoning district but which may under certain circumstances and with the application of certain conditions be suitable.

Source: Ordinance No. 30-83
Effective Date: 7-22-83

13. "Corner Lot" - A lot situated at the junction of and fronting on two or more streets.
14. "Court" - An open unoccupied space bounded on two or more sides by the exterior walls of a building or buildings on the same lot.

Source: City Code
Effective Date: 9-17-82
15. "Cul-de-sac" - A street closed on one end, with one point of entry, and a circular turnaround having a minimum radius of 50 feet.

Source: Ordinance No. 15-85
Effective Date: 5-30-85
16. "Depth of Lot" - The mean horizontal distance between the mean front street and the mean rear lot line. The greater frontage of a corner lot is its depth and its lesser frontage is its width.
17. "Depth of Rear Yard" - The mean horizontal distance between the rear line of the building and the rear lot line.
18. "District" - A portion or portions of the City for which land use regulations under this Chapter are the same.
19. "Dwelling" - Any building which is designed or used exclusively for residential purposes by one or more people, not including hotels, motels, rest homes, hospitals or nursing homes.
20. "Dwelling-Multiple Family" - A building designed for or occupied by two or more families.
21. "Dwelling-One or Single Family" - A building designed for or occupied exclusively by one family.
22. "Dwelling-Unit or Group" - Residential accommodation including kitchen facilities, permanently installed, which are arranged, designed, used or intended for use exclusively as living quarters for one family and not more than an aggregate of two roomers or boarders.
23. "Family" - One or more persons related by blood, marriage or adoption, including foster children, or a group of not more than five persons (excluding servants) some or all of whom are not related by blood, marriage, or adoption, living together and maintaining a common household but not including sororities, fraternities, or other similar organizations.
24. "Floor Area" - The floor area of a building or buildings shall be the sum of the gross horizontal areas of the several floors of such building or buildings measured from the exterior faces of exterior walls or from the centerline of party walls separating two buildings. In particular "floor area" shall include:
 - a. Elevator shafts and stairwells at each floor.
 - b. Floor space used for mechanical equipment where the structural headroom exceeds seven and one-half feet, except equipment, open or enclosed located on the roof, i.e., bulkheads, water tanks and cooling towers.
 - c. Interior balconies and mezzanines.
 - d. 40% of porch when the porch is completely enclosed.
25. "Floor Area Ratio" - The ratio of total floor area to total lot area.

26. "Garage Sale" - A sale of household or personal articles (including but not limited to furniture, tools, clothing, household appliances, books, sports equipment) held at the primary residence of the seller of the articles offered for sale or in the case of a multi-family sale at the primary residence of one of the individuals owning the articles held for sale.
- Source: Ordinance No. 9-2009
Effective Date: 10-15-2009
27. "Group Usable Open Space" - Land area and facilities specifically designated and developed for group recreational or social activities.
28. "Home Based Business" - Any occupation or service which is clearly secondary to the main use of the premises as a dwelling, and does not change the character thereof or have any exterior evidence of such secondary use.
- Source: Ordinance No. 1-2009
Effective Date: 02-26-2009
29. "Hotel" - (See Motel/Hotel)
30. "Loading Space" - A space accessible from a street, alley or way, in a building or on a lot, for the use of vehicles while loading or unloading merchandise or materials.
31. "Lot" - One unit of a recorded plat, subdivision, or registered land survey, or a recorded parcel described by metes and bounds.
32. "Lot Area" - The lot area is the land area within the lot lines.
33. "Lot, Depth" - The mean horizontal distance between the mean front street and the mean rear lot line. The greater frontage of a corner lot is its depth and its lessor frontage is its width.
34. "Lot-Interior" - A lot other than a corner lot.
35. "Lot Line" - The line bounding a lot as defined herein. When a lot line abuts on a street, avenue, park or other public property, such line shall be known as a street line.
36. "Lot Line, Corner" - A lot bounded by two or more intersecting streets.
37. "Lot Line, Front" - When a lot fronts on a public street, the street right of way shall be the front lot line.
38. "Lot Line, Rear" - That boundary of a lot which is most distant from and is or is approximately parallel to the front lot line. If the rear lot line is less than 10 feet in length or if the lot forms a point at the rear, the rear lot line shall be deemed to be a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line.
39. "Lot Line, Side" - Any boundary of a lot which is not a front or rear lot line.
40. "Lot-Through" - An interior lot having frontage on two streets.
41. "Lot, Width" - The width of a lot is its own mean width measured at right angles to its mean depth.
42. "Motel/Hotel" - A building or group of buildings used primarily for the temporary residence and supportive service of motorists or travelers.

43. "Non-Conforming Use" - A non-conforming use is the lawful use or occupation of land or premises existing at the time of the adoption of a provision of the City Code which, upon the adoption of the provision, the use or occupation of the land or premises is not in conformity.
- Source: Ordinance No.17-2005
Effective Date: 9-15-2005
44. "Nursing Homes" - A home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, which does not provide for hospital care.
- Source: City Code
Effective Date: 9-17-82
45. "Private School", A school which is not owned or operated by a public entity, and which offers general primary and/or secondary educational instruction equivalent to grades K through 12.
- Source: Ordinance No. 12-87
Effective Date: 3-17-88
46. "Public Infrastructure" - Infrastructure related to municipal utilities owned by any governmental unit including lift stations, well houses, water towers, sewer and water lines, manholes, storm sewer, street lights, stops signs and stop lights, bridges, trails, sidewalks, and infrastructure related to electric, gas, telephone and cablevision utilities lines, poles and boxes, but not including buildings except as specified above.
- Source: 3-2010
Effective Date: 1-28-2010
Source: City Code
Effective Date: 9-17-82
47. "Public Utility Structure" - A structure or pole supporting wires for communication or transmission of data or electricity.
- Source: Ordinance No. 27-97
Effective Date: 6-13-97
48. "Recreational Vehicle" - Any trailer, watercraft, snowmobile, pull camper, all terrain vehicle, motorhome, travel trailer or tent trailer, or other similar vehicle. A recreational vehicle upon a trailer shall constitute one recreational vehicle.
- Source: Ordinance No. 22-88
Effective Date: 4-27-89
49. "Related Boarding Facilities" - The term "related boarding facilities" as used in Section 11.35, Subd. 2, E in this Chapter means a structure which has as its sole function the boarding of students who are enrolled at a single private school, and which is located upon the same parcel of property as the private school for which is provided boarding.
- Source: Ordinance No. 12-87
Effective Date: 3-17-85
50. "Restaurant Type 1" – A restaurant, often referred to as a fast food or deli-style restaurant, where customers stand to order and wait for food preparation or where food is pre-prepared and packaged to go.
51. "Restaurant Type 2" – A sit-down restaurant, often referred to as a family-style restaurant, with no liquor sales and where customers typically stay for an hour or less.

52. "Restaurant Type 3" – A restaurant, often referred to as a bar or tavern, with a large bar or dancing area and amplified music used as entertainment; or a sit down restaurant, often referred to as a fine dining restaurant, where reservations are sometimes needed and the bar area is secondary to dining.
- Source: Ordinance No. 22-2007
Effective Date: 9-13-2007
53. "Right-of-Way Line" - The dividing line between the lot and the street.
54. "Sculptures and Statuary" - Sculptures and statuary are three-dimensional works of art, as representations or abstract forms, created by sculpturing, modeling, carving, casting or welding.
- Source: Ordinance No. 20-2013
Effective Date: 12-12-2013
55. "Setback" - The minimum horizontal distance between a building and the street or lot line.
56. "Stable-Private" - A stable is any building located on a lot on which a residence is located, designed, arranged, used or intended to be used, for not more than four horses for the private use of the residence, but shall not exceed 600 square feet in area.
- Source: City Code
Effective Date: 9-17-82
57. "Stable-Commercial" - A place where five or more equines are kept for remuneration or hire.
- Source: Ordinance No. 34-83
Effective Date: 8-26-83
58. "Story" - That portion of building included between the surface of any floor and the surface of the floor next above; or if there is not floor above, the space between the floor and the ceiling next above. A basement shall be counted as a story and a cellar shall not be counted as a story.
59. "Story-Half" - A portion of a building under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls, are not more than two feet above the floor of such story.
60. "Street" - A public thoroughfare for vehicular and pedestrian traffic.
61. "Street Line" - The dividing line between the lot and the street.
62. "Structure" - Anything constructed or erected, the use of which requires location on the ground or attachment to something having a location on the ground.
63. "Structure-Alterations" - Any change in the supporting members of a building such as bearing walls, columns, beams or girders.
- Source: City Code
Effective Date: 9-17-82
64. "Telecommunications mechanical equipment" – Mechanical equipment that is necessary for the operation of a tower for Commercial Wireless Telecommunications Services.
- Source: Ordinance No. 3-2014
Effective Date: 2-27-2014

65. "Tower" - Any (a) ground or roof mounted pole, spire, structure, or combination thereof, taller than fifteen (15) feet, including supporting lines, cables, wires, braces and masts, on which is mounted an antenna, meteorological device, or similar apparatus above grade, or (b) ground or roof mounted antennas taller than fifteen (15) feet.
 Source: Ordinance No. 27-97
 Effective Date: 6-13-97
66. "Use" - The purpose for which land or premises or a building thereof is designated, arranged or intended, or for which it is or may be occupied or maintained.
67. "Use Principal" - The main use of land or buildings as distinguished from a subordinate or accessory use.
68. "Variance" - A modification or variation of the provisions of this Chapter as applied to a specific piece of property, except that modification in the allowable uses within a district shall not be considered a variance.
69. "Yard" - That portion of a lot not occupied by a structure.
70. "Yard-Depth of Rear" - The mean horizontal distance between the rear line of the building and rear lot line.
 Source: City Code
 Effective Date: 9-17-82
71. "Yard-Front" - A yard extending across the front of the lot between the side lines of the lot and lying between the front line of the lot and the nearest line of a building.
 Source: Ordinance No. 1-90
 Effective Date: 2-1-90
72. "Yard-Rear" - An open space unoccupied except for accessory buildings on the same lot with a building between the rear lines of the building and the rear line of the lot, for the full width of the lot.
 Source: Ordinance No. 9-87
 Effective Date: 5-7-87
73. "Yard-Required" - That portion of a side, front, or rear yard, nearest the designated lot line and having the width or depth required in the district in which located.
74. "Yard-Side" - An open unoccupied space on the same lot with a building between the building and the side line of the lot, and extending from the front lot line to the rear of the back yard.
75. "Places of Worship" – a tax exempt institution that people regularly attend to participate in or hold religious services meetings, and other activities related to religious ceremonies.
76. Architectural Precast - a panel with a concrete backing with a veneer of brick, natural stone, or cast stone.
77. Cast Stone - a precast concrete building stone similar in appearance and manufactured to simulate the texture, color, and appearance of natural cut stone.
78. Cultured stone - a precast concrete veneer made to resemble natural cut stone in color, texture, and appearance.
79. Precast Concrete Panel- a panel made from a mix of cement, water, aggregate, and admixtures that is place in a form and cured.
80. "Aeronautical Uses and Aeronautical Development Project" - Any airfield project, hangar project, FBO

development project, FBO facility development project, airport roads or fencing, or other facilities or improvements at the Flying Cloud Airport that involve or are directly related to the operation of aircraft, including activities that make the operation of aircraft possible and safe, or that are directly and substantially related to the movement of passengers, baggage, mail and cargo.

Source: Ordinance No. 3-2013
Effective Date: 1-17-2013

Source: Ordinance No.7-2011
Effective Date: 5-26-2011

Source: Ordinance No.17-2005
Effective Date: 9-15-2005

Items renumbered:

Source: Ordinance No. 27-97
Effective Date: 6-13-97

Source: Ordinance No. 20-2013
Effective Date: 12-12-2013

Definition section amended
and renumbered:

Source: Ordinance No. 3-2014
Effective Date: 2-27-2014

Source: Ordinance No. 22-2007
Effective Date: 9-13-2007

Source: Ordinance No. 18-90
Effective Date: 9-21-90

Source: Ordinance No. 1-90
Effective Date: 2-1-90

Source: Ordinance No. 22-88
Effective Date: 4-27-89

Source: Ordinance No. 12-87
Effective Date: 3-17-88

Source: Ordinance No. 9-87
Effective Date: 5-7-87

Source: Ordinance No. 15-85
Effective Date: 5-30-85

Source: Ordinance No. 114-84
Effective Date: 11-1-84

Source: Ordinance No. 37-83
Effective Date: 9-30-83

Source: Ordinance No. 34-83
Effective Date: 8-26-83

SECTION 11.03. ESTABLISHMENT OF DISTRICT, SPECIAL REQUIREMENTS AND PERFORMANCE STANDARDS.

Source: City Code
Effective Date: 9-17-82

Subd. 1. Establishment of Districts.

- A. The following Districts, with the abbreviations stated, are hereby established. (Some Districts are subdivided for the purpose of this Chapter, in which case, only the abbreviations of such subdivisions may be shown.)

DISTRICT TITLE	ABBREVIATION
Rural District	R
One-Family Residential District	R-1 R1-44 R1-22 R1-13.5 R1-9.5
Multi-Family Residential District	RM RM-6.5 RM-2.5
Office District	OFC
Commercial District Neighborhood Commercial District Community Commercial District Regional Commercial District Regional Service District Highway Commercial District	C N-Com C-Com C-Reg C-Reg-Ser C-Hwy
Industrial District Industrial Park District Industrial Park District General Industrial District	I I-2 I-5 I-Gen
Public District	PUB
Golf Course	GC
Airport – Office	A - OFC
Airport – Commercial	A - C

Source: Ordinance No. 3-2013
Effective Date: 1-17-2013

Prev. Ordinance No.2-2007
Effective Date: 1-23-07

Prev. Ordinance No. 1-90, 137-84
Effective Date: 2-1-90, 1-17-85

- B. The location and boundaries of the Districts established in this ordinance are set forth on the zoning map entitled "Zoning Map of the City of Eden Prairie" and the legal description of the land in each District and the zoning map are on file and open to public inspection in the office of the City Manager. In case of discrepancy between legal description and zoning map, the legal description will prevail.
- C. For ease of reference ordinances changing District zoning between November 6, 1969, and April 3, 1984, are set forth in City Code Chapter 25.

Source: Ordinance No. 9-87
Effective Date: 5-7-87

Subd. 2. District Standards.

A. The following criteria shall apply to certain Districts:

1. In the RM 6.5 District, the maximum gross density is 6.7 units per acre.
2. In the RM 2.5 District, the maximum gross density is 17.4 units per acre.

Source: Ordinance No. 8-97
Effective Date: 3-14-97

3. In the R1-13.5 District, the maximum gross density is 2.5 units per acre.
4. In the R1-9.5 District, the maximum gross density is 3.5 units per acre.
5. In the Rural District, the minimum frontage on a street right of way is 100 feet.

Source: City Code
Effective Date: 9-17-82

6. In R1-13.5, R1-22 and R1-44 Districts, the minimum frontage on a cul de sac street right of way is 85 feet, 90 feet and 100 feet respectively, except for lots abutting entirely on the arc of the circular turnaround portion of the cul-de-sac, in which case the minimum frontage on a street right of way is 55 feet. (Preliminary plats approved prior to the effective date of Ord. 15-85 are exempt from these conditions.)

Source: Ordinance No. 1-90
Effective Date: 2-1-90

Prev. Ordinance No. 72-84
Effective Date: 4-5-84

7. In R1-9.5 Districts, the minimum frontage on a cul-de-sac street right of way is 70 feet, except for lots abutting entirely on the arc of the circular turnaround portion of the cul-de-sac, in which case the minimum frontage on a street right of way is 55 feet. (Preliminary plats approved prior to the effective date of Ord. 15-85 are exempt from these conditions.)

Source: Ordinance No. 15-85
Effective Date: 5-30-85

8. In the R1-9.5 District, the side yard setback on the garage side, where there is a double garage, is at least 5 feet, for a total of at least 15 feet on both sides, and where there is a single garage, the side yard setback on the garage side is at least 17 feet, for a total of at least 27 feet on both sides.
9. In the Rural, R1-44, R1-22, R1-13.5 and the R1-9.5 Districts, the total ratio of the total square footage of all garages (attached and detached), and all accessory buildings to the total lot area shall not exceed .075.
10. A minimum yard setback may be zero feet in RM Districts in any instance where a wall common to two or more dwelling units is situated on a lot line. All other setbacks provided in the Chapter shall apply, except in those instances where only one side yard setback may be zero feet, the other side yard setback shall be that required for "one side".

11. The edge of a driveway in the One Family Residential District shall not be closer than 3 feet to a side lot line and shall not cross the extension of a property line to the curb line.

12. In the RM 6.5 District, in the case of two abutting lots on which are situated duplex living units, the minimum lot size is 13,000 square feet. In the case of a duplex lot, the minimum lot size on which is situated one dwelling unit shall be no less than 3,000 square feet.

Source: Ordinance No. 8-97
Effective Date: 3-14-97

Source: City Code
Effective Date: 9-17-82

13. In the Public District, a private school and related boarding facility shall be located on a parcel of land of not less than 25 acres and shall have a floor-to-area ratio of 0.1 to 1.0. Such a use shall not include any outside storage.

Items renumbered:

Source: Ordinance No. 8-97
Effective Date: 3-14-97

(Prev. Ordinance No. 12-87
Effective Date: 3-17-88)

14. In the A-C, C-COM, C-REG, C-REG-SERV, C-HWY, AND N-COM Districts, in the case of a gasoline/convenience store, the following criteria shall apply:

- (a) All buildings and pump canopies should have peaked roofs and relate architecturally in scale, proportion, materials and detail, and color with the building.
- (b) Pump canopies shall be connected with the primary store structure. Pump canopies shall be located behind the store and oriented away from adjoining residential areas. Canopy ceiling should be textured or have a flat finish.
- (c) All site walls, screen walls and pump island canopies should be architecturally integrated with the building with similar materials, colors, and detailing.
- (d) Average horizontal luminance at grade shall not exceed 10 foot-candles, with individual lamps not to exceed 250 watts. The fascias of the canopy should extend at least 12 inches below the lens of the fixture to block the direct view of the light sources and lenses from property lines. Recessed non glare lighting shall be used under the canopy. Average horizontal luminance at grade at the property line shall not exceed 0.5 foot-candles.
- (e) Service areas, storage areas and refuse enclosures shall be screened from public view, adjacent streets and residential areas
- (f) A landscape buffer shall be required to provide screening from adjacent residential uses.

Source: Ordinance No. 3-2013 & 7-2013
Effective Date: 1-17-2013 & 4-25-13

B. The following criteria shall apply to all Districts:

(See Tables on City Code pages numbered 11-11a through 11-11e)

Source: Ordinance No. 72-84
Effective Date: 4-5-84

Residential Districts	Minimum Zone Area (Acreage/ Sq. Ft.)	Minimum Lot Size	Minimum Lot Width-Depth		Minimum Lot Width at Right of Way Line	Minimum Yard-Setback				Gross Site Area Per Dwelling Unit Sq. Ft. Or Acres	Group Usable Open Space Per Dwelling Unit Sq. Ft.	Max Floor Area Ratio (FAR)	Maximum Height of Main Structure (Ft.)
			Width Ft.	Depth Ft.		Front Ft.	One Side Ft.	Both Sides Ft.	Rear Ft.				
Rural	10 Acres	10 Acres	300	300	300	50	50	150	50	10 Acres	N/A	N/A	40
R1-44	44,000	44,000	100	150	100	30	15	30	30	44,000	Park Ded.	N/A	40
R1-22	22,000	22,000	90	125	90	30	15	30	25	22,000	Park Ded.	N/A	40
R1-13.5	13,500	13,500	85*	100	85	30	10	25	20	13,500	Park Ded.	N/A	40
R1-9.5	9,500	9,500	70*	100	70	30	(See Subd. 2 Item 8)	(See Subd. 2 Item 8)	20	9,500	Park Ded.	N/A	40
RM-6.5	13,000	3,000	24	100	24	30	10	20	20	6,500	Park Ded. Plus 1000 Sq. Ft./Unit	N/A	40
RM-2.5	25,000	25,000	150	150	150	35	25	50	30	2,500	Park Ded. Plus 600 Sq. Ft./Unit	N/A	45

Table 1 - Section 11.03

Source: Ordinance No. 8-97, Effective Date: 3-14-97

*(Prev. Ordinance No. 15-85
Effective Date: 5-30-85)

Source: Ordinance No. 3-2011
Effective Date: 3-24-11

RESIDENTIAL DISTRICTS	ACCESSORY STRUCTURE			OFF-STREET LOADING	SCREENING AND LANDSCAPING
	MAXIMUM HEIGHT	MINIMUM DISTANCE TO SIDE LOT LINE	MINIMUM DISTANCE TO REAR LOT LINE		
RURAL	30	30	30	N/A	N/A
R1-44	15	10	10	N/A	N/A
R1-22	15	10	10	N/A	N/A
R1-13.5	15	10	10	N/A	N/A
R1-9.5	15	5	5	N/A	N/A
RM-6.5	15	10	10	N/A	YES
RM-2.5	15	10	10	YES	YES

Table 2 - Section 11.03

OFFICE/ COMMERCIAL/ INDUSTRIAL/ DIST.	MINIMUM LOT SIZE			MINIMUM LOT WIDTH AT RIGHT OF WAY LINE	MINIMUM YARD-SETBACK				SITE AREA PER DWELLING UNIT SQ. FT. OR ACRES	MAX. FLOOR AREA RATIO (FAR)	MAXIMUM BASE AREA RATIO (BAR)*	HEIGHT OF MAIN STRUCTURE (FT.)
	Area S.F. of Acres	Width Ft.	Depth Ft.		Front Ft.	One Side Ft.	Both Sides Ft.	Rear Ft.				
C-REG	50 ACRES	N/A	N/A	N/A	80	80	160	60	Dwelling Not Permitted	0.2 - 1 Story 0.5- Multi Story	0.2	40
I-2 PARK	2 acres	200	300	200	50	20	40	25	Dwelling Not Permitted	0.3 - 1 Story 0.5- Multi Story	0.3	40
I-5 PARK	5 acres	300	300	300	75	30	60	25	Dwelling Not Permitted	0.3 - 1 Story 0.5- Multi Story	0.3	40
I-GEN	5 acres	300	300	300	75	30	60	50	Dwelling Not Permitted	0.3 - 1 Story 0.5- Multi Story	0.3	40
PUB	N/A	N/A	N/A	N/A	50	50	150	50	Dwelling Not Permitted	N/A	N/A	30

Table 3 - Section 11.03

*Source: Ordinance No. 9-87

Effective Date: 5-7-87

Source: Ordinance No. 3-2011

Effective Date: 3-24-11

OFFICE/ COMMERCIAL/ INDUSTRIAL/ DIST.	MINIMUM LOT SIZE			MINIMUM LOT WIDTH AT RIGHT OF WAY	MINIMUM YARD-SETBACK				SITE AREA PER DWELLING UNIT SQ. FT. OR ACRES	MAX. FLOOR AREA RATIO (FAR)	MAXIMUM BASE AREA RATIO (BAR)*	HEIGHT OF MAIN STRUCTURE (FT.)
	Area S.F. of Acres	Width Ft.	Depth Ft.		Front Ft.	One Side Ft.	Both Sides Ft.	Rear Ft.				
OFC	20,000	100	100	100	35	20	50	20	Dwelling Not Permitted	0.3 - 1 Story 0.5-Multi Story	0.3	30
N-COM	2 acres	200	200	200	35	20	40	10	Dwelling Not Permitted	0.2 - 1 Story 0.4-Multi Story	0.2	30
C-COM	5 acres	300	300	300	35	20	40	10	Dwelling Not Permitted	0.2 - 1 Story 0.4-Multi Story	0.2	30
C-HWY	20,000	100	130	100	35	20	40	10	Dwelling Not Permitted	0.3 - 1 Story 0.4-Multi Story	0.3	40
C-REG-SER	10,000	80	100	80	35	20	40	10	Dwelling Not Permitted	0.2 - 1 Story 0.4-Multi Story	0.2	40
GC	75 acres	100	300	100	35	20	40	10	Dwelling Not Permitted	0.3 - 1 Story 0.5-Multi Story	0.3	30
A-C	2 acres	200	200	200	35	20	40	10	Dwelling Not Permitted	0.2 - 1 Story 0.4 - 2 Story	0.2	30
A-OFC	20,000	100	100	100	35	20	50	20	Dwelling Not Permitted	0.3 - 1 Story 0.5- Multi Story	0.3	30

Table 4 - Section 11.03

Source: Ordinance No. 9-2014, Effective Date: 4-13-2014

Source: Ordinance No. 2-2007, Effective Date: 1-23-07

Source: Ordinance No. 9-87, Effective Date: 5-7-87

Source: Ordinance No. 3-201, Effective Date: 3-24-11

OFFICE/ COMMERCIAL/ INDUSTRIAL DISTRICTS	ACCESSORY STRUCTURES			OFF-STREET LOADING	SCREENING AND LANDSCAPING	MIN. ZONE AREA (ACRES)	MAX. ZONE AREA (ACRES)	FLOOR AREA PRIMARY USE (SQ. FT.)	MAX. TOTAL FLOOR AREA (SQ. FT.)
	Maximum Height	Min. Dist. to Side Lot Line	Min. Dist. to Rear Lot Line						
OFC	15	10	10	YES	YES	N/A	N/A	N/A	N/A
N-COM	15	10	10	YES	YES	2	15	20,000	50,000
C-COM	15	20	10	YES	YES	5	20	30,000	200,000
C-HWY	40	20	10	YES	YES	5	20	20,000	100,000
C-REG-SER	40	20	10	YES	YES	10	N/A	N/A	N/A
C-REG	40	50	50	YES	YES	60	N/A	N/A	N/A
I-2 PARK	40	20	25	YES	YES	40	N/A	N/A	N/A
I-5 PARK	40	20	25	YES	YES	40	N/A	N/A	N/A
I-GEN	40	20	50	YES	YES	80	N/A	N/A	N/A
PUB	30	30	30	YES	YES	N/A	N/A	N/A	N/A
GC	30	30	30	YES	YES	N/A	N/A	N/A	N/A
A-C	15	10	10	YES	YES	NA	NA	NA	NA
A-OFC	15	10	10	YES	YES	N/A	N/A	N/A	N/A

Table 5 - Section 11.03

Source: Ordinance No. 9-2014, Effective Date: 4-13-2014

Ordinance No. 2-2007, Effective Date: 1-23-07; Ordinance No. 18-90, Effective Date: 9-21-90

Tables redone under Ordinance No. 9-87, Effective Date: 5-7-87

Subd. 3. Special Requirements. The following special requirements shall apply to all Districts:

Source: City Code
Effective Date: 9-17-82

- A. Lots in all Districts except the RM Districts shall be required to have frontage on a public street. Corner lots shall have additional width equal to the minimum interior side yard requirement and shall in no case be less than 90 feet.

Source: Ordinance No. 72-84
Effective Date: 4-5-84

- B. Lots which rear on a railroad or freeway shall have at least 150 feet depth.

Source: City Code
Effective Date: 9-17-82

- C. Where 40% or more of a block is developed, the required setback shall be equal to or greater than the average of the principle structures on either side.

Source: Ordinance No. 47-96
Effective Date: 11-29-96

Source: Ordinance No. 72-84
Effective Date: 4-5-84

- D. Rear or side yard requirements for dissimilar abutting districts must meet the larger of the two requirements.

Source: City Code
Effective Date: 9-17-82

- E. Fences not over 7 feet in height may occupy any yard. No fence, hedge or other planting exceeding 30" in height or trees pruned even to a height less than 8 feet shall be permitted where there will be interference with traffic sight distance.

Source: Ordinance 4-2015
Effective Date: 5-14-2015

Source: City Code
Effective Date: 9-17-82

- F. Except towers for commercial wireless telecommunications services, towers, spires, chimneys, water tanks, flagpoles, radio and TV antennas, transmission towers and other structures and necessary mechanical appurtenances covering not more than 10% of the ground area may be erected to a height of not more than twenty-five (25) feet in addition to the maximum height permitted.

Source: Ordinance No. 27-97
Effective Date: 6-13-97

Source: City Code
Effective Date: 9-17-82

- G. Screening and Landscaping.

1. Definitions. For the purposes of this Section, the following terms shall have the meanings stated:

- (a) Caliper: The length of a straight line measured through the trunk of a tree twelve (12) inches above the base.

- (b) Coniferous/Evergreen Tree: A woody plant which, at maturity, is at least thirty (30) feet or more in height, with a single trunk, fully branched to the ground, having foliage on the outermost portion of the branches year round.
- (c) Clear Cutting: Removal of all existing significant natural vegetation on a particular piece of property.
- (d) Deciduous Overstory Shade Tree: A woody plant which, at maturity, is thirty (30) feet or more in height, with a single trunk, unbranched for several feet above the ground, having a defined crown, and which loses leaves annually.
- (e) Deciduous Understory Ornamental Tree: A woody plant which, at maturity, is less than thirty (30) feet in height, with a single trunk, unbranched for several feet above the ground, having a defined crown which loses leaves annually.
- (f) Fence: Any partition, structure, wall, or gate erected as a divider marker, barrier, or enclosure, and located along the boundary or within the required yard.
- (g) Landscape: Site amenities, including trees, shrubs, ground covers, flowers, fencing, berms, retaining walls, and other outdoor furnishings.
- (h) Performance Bond: A bond with good and sufficient sureties, approved by the City Manager, which is conditioned upon complete and satisfactory implementation of an approved landscape plan and which names the City as obligee.
- (i) Plant Material Average Size (Coniferous): The total height of all coniferous trees six (6) feet or over, divided by the total number of such trees.
- (j) Plant Material Average Size (Shade or Ornamental): The total diameter of all deciduous overstory trees two and one-half (2½) inches or more in diameter, divided by the total number of trees.
- (k) Mechanical Equipment: Heating, ventilation, exhaust, air conditioning, and communication units integral to and located on top of, beside or adjacent to a building and telecommunications mechanical equipment located on top of, beside or adjacent to a building.

Source: Ordinance No. 3-2014
Effective Date: 2-27-2014

Source: Ordinance No. 15-85
Effective Date: 5-30-85
- (l) Retaining Wall: A wall or structure constructed of stone, concrete, wood or other materials, used to retain soil, as a slope transition or edge of a planting area.

Source: Ordinance No. 15-85
Effective Date: 5-30-85
- (m) Screening: A barrier which blocks all views from public roads and adjacent differing land uses to off-street parking areas, loading areas, service and utility areas, and mechanical equipment.

Source: Ordinance No. 58-87
Effective Date: 1-7-88

2. Landscape Plan Required.

In every case where landscaping is required by provision of the City Code or by an approval granted by the City, for a building or structure to be constructed on any property, the applicant for the building permit shall submit a landscape plan prepared in accordance with the provisions of this Section. The landscape plan shall include the following information:

- (a) General: Name and address of developer/owner; Name and address of landscape architect/designer; Date of plan preparation; Date and description of all revisions; Name of project or development.
- (b) Site Map: One (1) scale drawing of the site based upon a survey of property lines with indication of scale and north point; Name and alignment of proposed and existing adjacent on-site streets; Location of all proposed utility easements and right of ways; Location of existing and proposed buildings; Topographic contours at two foot contour intervals; Existing and proposed location of parking areas; Water bodies; Proposed sidewalks; Percent of site not covered by impervious surface.
- (c) Landscape Proposal: Two (2) scale drawings of proposed landscaping for the site based upon a survey of property lines with indication of scale and north point; Existing and proposed topographic contours using mean sea level datum at two foot contour intervals; Details of proposed planting beds and foundation plantings; Delineation of both sodded and seeded areas; Location and identification of proposed landscape or man made materials used to provide screening from adjacent and neighboring properties, a separate cross section drawing of which shall be provided at legible scale illustrating the effectiveness of proposed screening; Location and identification of trees; Details of fences, tie walls, planting boxes, retaining walls, tot lots, picnic areas, berms, and other landscape improvements, including a separate drawing of typical sections of these details in legible scale; Location of landscape islands and planter beds with identification of plant materials used, including separate drawings of typical sections of these areas in legible scale.
- (d) Planting Schedule: A table containing the common names and botanical names, average size of plant materials, root specifications, quantities, special planting instructions, and proposed planting dates of all plant materials included in the Landscape Proposal.

3. Performance Bond Required. No building permit shall be issued until the applicant for the building permit shall file with the City Manager a performance bond, with a corporation approved by the City Manager as surety thereon, or other guarantee acceptable to the City, in an amount to be determined by the City Manager, but for no less than one and one-half (1½) times and no more than two (2) times the amount estimated by the City Manager as the cost of completing said landscaping and screening. The performance bond must cover two complete growing seasons or one full calendar year subsequent to the completion and must be conditioned upon complete and satisfactory implementation of the approved landscape plan.

4. All landscaping shall be implemented in accordance with the following:

- (a) Minimum Size Requirements for Plantings: Deciduous overstory plantings shall be a minimum of two and one-half (2½) caliper inches; deciduous understory trees shall be a minimum of one and one-half (1½) caliper inches; coniferous trees shall be a minimum of six (6) feet in height.
- (b) Total Caliper Inches Required: In order to achieve landscaping which is appropriate in scale with the size of a building and site, the minimum number of caliper inches of trees required

shall be determined by dividing the total gross square footage of all floors of a building by 320. A single story building in excess of 20 feet in height shall be considered a two story building for the purposes of determining its total gross square footage. A mixture of plant material sizes shall be required as follows:

PLANT MATERIAL SIZES (IN CALIPER INCHES)						
Building Height (Stories)	2.5	3.0	3.5	4.0	4.5	5.0
1	70%	10%	10%	10%	---	---
2	60%	10%	10%	10%	10%	---
3	50%	10%	10%	10%	10%	10%
4	40%	20%	10%	10%	10%	10%
5	30%	20%	20%	10%	10%	10%
5+	20%	20%	20%	20%	10%	10%
Percentage of trees required to be of this caliper size.						
For the purposes of satisfying the total caliper inch requirement, coniferous trees can be considered equivalent to overstory trees by dividing the height of a coniferous tree 6 ft. height minimum by 2.4 to determine equivalent caliper inches.						
NOTE: When determination of height results in a fractional foot, any fraction of 0.5 or less may be disregarded; a fraction in excess of 0.5 shall be counted as one foot.						

- (c) **Planting Islands:** Planting islands shall be required where necessary to visually break up expanses of hard surface parking areas, for safe and efficient traffic movement, and to define rows of parking. Planting islands shall occupy at least five (5) percent of the parking area.
- (d) **Method of Installation:** All deciduous and coniferous trees shall be balled and burlapped, staked, and guyed in accordance with national Nurseryman's standards. All shrubs shall be potted.
- (e) **Sodding and Ground Cover:** All open areas of a site not occupied by building, parking, or storage shall be sodded. Exceptions to this are seeding of future expansion areas as shown on approved plans; undisturbed areas containing existing natural vegetation which can be maintained free of foreign and noxious materials; and, areas designated as open space for future expansion area properly planted and maintained with prairie grass.
- (f) **Slopes and Berms:** Final slopes greater than the ratio of 3:1 will not be permitted without special approval or treatment, such as special seed mixtures or reforestation, terracing, or retaining walls. Berming used to provide required screening of parking lots and other open areas shall not have slopes in excess of 3:1.
- (g) **Maintenance:** The property owner shall be responsible for replacement of any dead trees, shrubs, ground covers, and sodding.
- (h) **Erosion Control:** All areas of any site shall be seeded or sodded within thirty (30) days on slopes of 3:1 or greater or in areas where storm runoff will drain into natural drainage basin or ponding areas.
- (i) **Preservation of Wetland and Woodland Areas:** It is the policy of the City to preserve the natural wetland and woodland areas throughout the City, and with respect to specific site

development, to retain as far as practical, substantial tree stands and wetlands which can be incorporated into the Landscape Plan. No clear cutting of woodland areas shall be permitted. Shade trees of six (6) inch or more caliper shall be saved unless it can be demonstrated that there is no other feasible way to develop the site. The Council may require replacement of any removed trees on a caliper inch for caliper inch basis.

- (j) Placement of Plant Materials: No landscaping shall be allowed within any drainage utility easements, road right of way, or immediately adjacent to any driveway or road intersection when it would interfere with motorists' views of the street or roadway.

Source: Ordinance No. 15-85
Effective Date: 5-30-85

- (k) Mechanical Equipment Screening:

- (1) All mechanical equipment mounted on the exterior of a building and possessing one or more of the characteristics listed below in k.3. shall be physically screened from all public roads and adjacent differing land uses with factory prefinished metal, wood laminated with metal, or other building material in a manner architecturally integral to the building or buildings on site.
- (2) All mechanical equipment located on the ground and possessing one or more of the characteristics listed below in k.3. shall be physically screened from all public roads and adjacent differing land uses with either plant material or factory prefinished metal, wood laminated with metal, or other building material in a manner architecturally integral to the building or buildings on site.
- (3) Irregular in size and shape; Exposed and/or protruding fans, grills, pipes, tubes, wires, vents; unfinished metal covering, exposed rivets, exposed seams.

Source: Ordinance No. 58-87
Effective Date: 1-7-88
Prev. Ordinance No. 15-85
Effective Date: 5-30-85
Prev. Ordinance No. 9-87
Effective Date: 5-7-87

- (l) General Screening: All parking, loading, service, utility, and outdoor storage areas shall be screened from all public roads and adjacent differing land uses. Screening shall consist of any combination of the following: earth mounds, fences, shrubs, compact evergreen trees, or dense deciduous hedge. Hedge materials must be at least three (3) feet in height, and trees must be at least twelve (12) feet in height at planting. The height and depth of the screening shall be consistent with the height and size of the area for which screening is required. When natural materials, such as trees or hedges, are used to meet the screening requirements of this subsection, density and species of planting shall be such to achieve seventy five percent (75) opacity year round.

Source: Ordinance No. 4-2015
Effective Date: 5-14-2015
Prev. Ordinance No. 15-85
Effective Date: 5-29-85

- (m) General Landscape for Residential Districts: In R1-44, R1-22, R1-13.5, R1-9.5 and RM-6.5 districts all exposed ground area surrounding the principal building and accessory buildings which are not devoted to driveways, sidewalks, or patios, shall be landscaped with grass,

shrubs, trees or other ornamental landscape material. No landscaped area shall be used for the parking of vehicles or storage or display of materials, supplies, or merchandise.

Source: Ordinance No. 9-87

Effective Date: 5-7-87

H. Off-Street Parking Facilities.

1. The purposes of this Subparagraph are to: (a) prevent a shortage of curb spaces where allowed; and (b) provide a sufficient amount of off-street parking so as to utilize the streets for their primary use - the safe and convenient movement of traffic.
2. Parking Spaces Defined. For purposes of this Chapter, a parking space shall be defined according to the following table of dimensions except that a parking space in a garage or carport shall not be less than 10 feet wide and 20 feet long.
3. Basic Requirements.
 - (a) Off-street parking facilities shall be provided at the time of initial occupancy or enlargement of a structure as required by Item 4 of this Subparagraph.
 - (b) The City Manager shall determine the requirements for any use not specifically required by Item 4 of this Subparagraph.
 - (c) Fractional numbers of spaces as per Item 4 of this Subparagraph shall be adjusted to the next higher number.
- (d) Dimensions of parking spaces.

Source: City Code

Effective Date: 9-17-82

Parking space and aisle width dimensions in relation to degree of parking angle	PARKING ANGLE =									
	0 Deg.	20 Deg.	30 Deg.	40 Deg.	45 Deg.	50 Deg.	60 Deg.	70 Deg.	80 Deg.	90 Deg.
Parking space width, perpendicular to angle	9'	9'	9'	9'	9'	9'	9'	9'	9'	9'
Parking space dimension perpendicular to aisle	9'	14'6"	16'10"	18'8"	19'5"	20'	20'8"	20'9"	20'2"	19'
Parking space dimension parallel to aisle	23'	24'8"	17'	13'2"	11'1"	9'10"	9'	9'	9'	9'
Aisle width	12'	11'	11'	12'	13'6"	16'	18'6"	19'6"	24'	25'

Source: Ordinance No. 1-90

Effective Date: 2-1-90

DISTRICT LAND USES	OFF-STREET PARKING SPACE REQUIREMENTS	
a. Rural	Same as b. below	
b. R1-44, R1-22, R1-13.5, R1-9.5	2/D.U. 1 enclosed minimum	
	4/D.U. - Maximum	
	Driveway Parking Acceptable	
	Source: Ordinance No. 72-84 Effective Date: 4-5-84	
c. RM-6.5 and RM-2.5	2/D.U. 2/1 enclosed	
d. *OFC, A-OFC Source: Ordinance No. 9-2014 Effective Date: 03/13/2014 Source: Ordinance No. 9-87 Effective Date: 5/7/87	G.F.A.	RATIO
	1-60,000 s.f.	5.0/1000 s.f.
	60,001-70,000 s.f.	4.9/1000 s.f.
	70,001-80,000 s.f.	4.8/1000 s.f.
	80,001-90,000 s.f.	4.7/1000 s.f.
	90,001-100,000 s.f.	4.6/1000 s.f.
	100,001-150,000 s.f.	4.2/1000 s.f.
150,001 PLUS s.f.	4.0/1000 s.f.	
e. COMM, A-C Source: Ordinance No. 9-2014 Effective Date: 03/13/2014		
Service Stations	10+ spaces where cars are serviced	
Motels, Hotels	1/guest room + 1/employee	
Restaurant Type 1 Restaurant Type 2 Restaurant Type 3 Source: Ordinance No. 22-2007 Effective Date: 9/13/2007	1/2.5 seats based on capacity 1/3 seats based on capacity 1/2 seats based on capacity	
**Banks Source: Ordinance No. 9-87 Effective Date: 5/7/87	6.0/1000 sq. ft. G.F.A.	
Retail Stores and Shops Source: Ordinance No. 22-2007 Effective Date: 9/13/2007	5/1000 sq. ft. G.F.A.	
Arenas, Theaters, Assembly Halls	1/3 seats	
Warehouses	1/2-1000 G.F.A.	
	Source: Ordinance No. 9-87 Effective Date: 5-7-87	
f. IND**		
Manufacturing	3/1000 sq. ft. G.F.A.	
Warehouses	1/2-1000 sq. ft. G.F.A.	
Office	5/1000 sq. ft. G.F.A.	
Gymnasium	5/1000 sq. ft. G.F.A.	
g. PUB		
Places of Worship	1/3 seats in largest assembly room	
h. Golf Course	1/3 seats in the clubhouse plus 72 spaces	

4. Parking Requirement/Use*

Source: Ordinance No. 2-2007
Effective Date: 1-23-07
Source: Ordinance No. 16-82
Effective Date: 1-14-83
Source: City Code
Effective Date: 9-17-82

*The requirements for any use not specifically mentioned shall be designated by the City Manager.

Source: City Code
Effective Date: 9-17-82

For supporting minor commercial uses within office/industrial buildings providing a supplemental function to the major office and/or industrial use, the number of parking spaces for such uses shall be not less than the minimum required for such uses in any other District.

Source: Ordinance No. 16-82
Effective Date: 1-14-83

5. Development and Maintenance of Parking Areas.

- (a) Screening and Landscaping. Off-street parking areas containing more than 5 stalls shall be screened on each side adjoining a residential use or public street.
- (b) Minimum Distance or Setbacks. Parking areas for 5 vehicles or more shall be at least 10 feet from any side or rear lot line and 5 feet from any building.
- (c) Parking areas, loading areas and driveways shall be surfaced with bituminous, concrete, pavers of brick, natural stone, or concrete placed with gaps not exceeding 1/4 inch, turf block, or grasscrete, and graded to dispose of or infiltrate all area surface water without damage to private or public properties, streets, or alleys. The use of gravel, crushed rock, sand, or dirt is prohibited except when used as gap material with pavers.

Source: Ordinance No. 16-2010
Effective Date: 11-25-2010

- (d) Location. Off-street parking facilities shall be on the same parcel of land as the structure they are intended to serve. Space for the required facilities shall not occupy the required front yard or on a corner lot more than 1/2 of the required side yard closest to the street.

Source: Ordinance No. 72-84
Effective Date: 4-5-84

6. Special Requirements.

- (a) Each parking space shall have an unobstructed access from a street or aisle without moving another vehicle. Exception is in an R1-44, R1-22, R1-13.5 and R1-9.5 District where parking in driveways is permitted.
- (b) Bumper rails and curbs shall be provided as determined by the City Manager.
- (c) No servicing of vehicles shall take place in any off-street parking area.

Source: City Code
Effective Date: 9-17-82

7. Connecting Parking Areas with Streets.

- (a) Vehicular traffic generated by any use shall be channeled and controlled so as to avoid congestion and traffic hazards.

- (b) The adequacy of any proposed traffic pattern shall be determined by the City Manager. Traffic control measures such as warning signs, directional signs, turn lanes, channelization, illumination, etc., may be required.
- (c) All driveways abutting public streets shall be subject to the following regulations:
Minimum distance between driveways - 20 feet.

Minimum driveway angle to street - 30 degrees for one way streets and 60 degrees for two way streets.

Driveway widths at street curb are:

DRIVEWAY WIDTH	MAXIMUM	MINIMUM
One Way	20 feet	12 feet
Two Way	30 feet	24 feet

Minimum Driveway Return Radius - 6 feet

Minimum distances between the end of a driveway at the intersection of a right of way line and the property line shall be 10 feet.

Source: Ordinance No. 9-87
Effective Date: 5-7-87

- (d) Parking areas, loading areas and driveways shall be surfaced with bituminous; concrete; pavers of brick, natural stone, or concrete placed with gaps not exceeding 1/4 inch; turf block; or grasscrete; and graded to dispose of or infiltrate all area surface water without damage to private or public properties, streets, or alleys. The use of gravel, crushed rock, sand, or dirt is prohibited except when used as gap material with pavers.

Source: Ordinance No. 16-2010
Effective Date: 11-25-2010

I. Off-Street Loading Facilities.

- 1. Purpose. The purpose of this Subparagraph is to provide a sufficient number of off-street loading facilities so as to allow the safe and convenient movement of traffic along the streets.
- 2. Basic Requirements.
 - (a) Off-street loading berths shall be provided at the time of initial occupancy or enlargement of a structure. The exact number of berths shall depend on the type of transport service utilized and the nature of the use itself.
 - (b) A loading facility includes the dock, the berth for the vehicle, maneuvering areas and the necessary screening walls.
 - (c) No loading facility shall be located on a street frontage nor within the required side or rear yard requirements.
- 3. Special Requirements.

- (a) All docks shall be located within the perimeter of the structure housing the principal or accessory use and shall be completely enclosed.
- (b) All berths shall be screened from views on the property's street frontages or from the district's boundary by solid wall earth berms or plant materials of at least a height of 10 feet. Such walls must be designed so as to be harmonious with the structure having the loading facility.
- (c) Each loading berth shall have an unobstructed access from a trafficway without moving another vehicle.
- (d) Parking areas, loading areas and driveways shall be surfaced with bituminous, concrete, pavers of brick, natural stone, or concrete placed with gaps not exceeding 1/4 inch, turf block, or grasscrete, and graded to dispose of or infiltrate all area surface water without damage to private or public properties, streets, or alleys. The use of gravel, crushed rock, sand, or dirt is prohibited except when used as gap material with pavers.

Source: Ordinance No. 16-2010
Effective Date: 11-25-2010

- (e) Bumper rails and curbs shall be provided at locations described by the City Manager when needed for safety or to protect property.

Source: City Code
Effective Date: 9-17-82

J. Outside Storage and Displays.

- 1. In all Districts except I-General, all raw materials, supplies, finished or semi-finished products and equipment shall be stored within a completely enclosed building; provided, however, that motor vehicles necessary to the operation of the principal use and of not more than three-quarter ton capacity may be stored or parked within the permitted parking lot areas. In I-Gen Districts, outside storage is permitted provided it is screened in accordance with this Section.

Source: Ordinance No. 3-91
Effective Date: 4-4-91

- 2. In all Commercial Districts, all materials, supplies, merchandise or other similar matter shall be stored within a completely enclosed building, except merchandise or equipment offered for sale, rental or lease displayed in accordance with the following limitations:

- (a) Temporary outdoor display area. Merchandise or equipment may be displayed and offered for sale, rental or lease outside the confines of a completely enclosed building ("temporary outdoor display area") for a combined time period of sixty (60) days or less of a calendar year provided the temporary outdoor display area:
 - (1) Is screened from public roads and adjacent land uses.
 - (2) Does not encompass an area greater than two percent (2%) of the base area of an enclosed building located on the lot on which the temporary outdoor display area is situated.
 - (3) Does not obstruct pedestrian use of a private sidewalk at least 5' wide.
 - (4) Is not located within the required front, rear or side yard setback of the lot on which it is located.

- (5) Is not located in the required parking except:
 - a. Not more than one-half of one percent (.005) of the required parking stalls may be utilized for the temporary outdoor display area.
 - b. No drive isle is utilized for the temporary outdoor display area.
- (6) Is not located on public sidewalks or streets.
- (7) Is not located on a vacant lot.
- (b) Permanent outdoor display area. Merchandise or equipment may be displayed and offered for sale, rental or lease within, but outside the confines of that part of the completely enclosed building, of which it is a part ("permanent outdoor display area") for a combined time period of sixty (60) days or greater of a calendar year provided:
 - (1) The building of which the permanent outdoor display area is a part does not exceed the base area ratio or floor area ratio permitted in the Commercial District.
 - (2) Material or equipment must be screened from public roads and adjacent land uses with a wall of the building.
 - (3) The permanent outdoor display area may not encompass an area greater than six percent (6%) of the base area of the completely enclosed building.
- (c) A temporary outdoor display area and permanent outdoor display area may not encompass an area greater than seven percent (7%) of the base area of the completely enclosed building.

Source: Ordinance No. 51-94
Effective Date: 1-26-95

Prev. Ordinance No. 3-91
Effective Date: 4-4-91

- (d) Exemption. The 60 day time period in this Section shall not apply to farmers who sell produce from the farm on land occupied and cultivated by themselves. For the purpose of this Section only, "farmer" shall be defined as one who engages, as an occupation, in farming operations as a distinct activity for the purpose of producing a farm crop.

Source: Ordinance No. 12-2003
Effective Date: 5-15-03

- 3. The parking or storing of recreational vehicles outside of an enclosed building or structure in all One-Family Residential Districts and all Multi-Family Residential Districts is prohibited, except as hereafter provided.
 - (a) No more than 2 recreational vehicles may be stored or parked outside upon a lot.
 - (b) Recreational vehicles not greater than 12 feet in height may be parked or stored on (i) that part of a front yard of a lot occupied by a driveway, provided no part of a recreational vehicle may be closer than 15 feet from the traveled portion of a street, (ii) that part of a side yard or rear yard of a lot not situated within 10 feet of a lot line, or (iii) that part of a side yard within 10 feet of a lot line which (a) abuts a front yard, (b) is occupied by a driveway, and (c) is not within 15 feet of the traveled portion of a street. In addition to the general 12-foot height

permitted, minor portions of accessory equipment not exceeding four square feet in vertical cross-section as viewed from the adjacent lot line is permitted.

- (c) Recreational vehicles parked or stored outside for a period in excess of 14 days must be owned by a person residing on the lot.
- (d) All recreation vehicles parked or stored outside must be in a safe, operable condition and exhibit current license or registration plates or tags if the vehicle is one for which a license or registration plate or tag is required by law for its operation.
- (e) No recreational vehicle shall be used for living, sleeping, or housekeeping purposes when parked or stored in a One-Family Residential District or a Multi-Family Residential District.
- (f) A recreational vehicle must not be parked or stored over or upon a bikeway, pathway, or sidewalk.

Source: Ordinance No. 22-88
Effective Date: 4-27-89

- 4. No storage or display of any type is permitted in any Commercial or Industrial District within the one-half of the front or side street setback nearest the street nor within any side or rear setback.

Source: Ordinance No. 3-91
Effective Date: 4-5-91

K. Architectural Standards. All structures within all districts except Rural, R1-44, R1-22, R1-13.5, R1-9.5 and RM-6.5 shall be developed in accordance with the following design standards:

- 1. Architectural plans shall be prepared by a registered architect and include: 1) elevations of all sides of the building; 2) type and color of exterior building materials; 3) a typical floor plan and dimensions of all structures; 4) location of trash containers, heating, air conditioning and ventilation systems; 5) proposed screening of trash containers, heating, air conditioning and ventilation systems.

Source: City Code
Effective Date: 9-17-82

- 2. In Districts N-Com, C-Com, C-Reg, C-Reg-Ser, C-Hwy, Ofc, Pub A-C, A-OFC, TC-C, TC-R, TC-MU, and RM-2.5, seventy-five percent, (75%), of the exterior building finish shall consist of materials comparable in grade and quality to the following: 1) face brick; 2) natural stone; 3) glass; 4) Cast Stone; 5) Cultured Stone; 6) Architectural Precast; 7) Precast Concrete Panel with an exposed aggregate of granite, marble, limestone, or other natural stone material with at least two architectural reveals per panel.

Source: Ordinance No. 3-2013
Effective Date: 1-17-2013

Source: Ordinance No. 7-2011
Effective Date: 5-26-2011

- 3. In Districts I-2, I-5, and I-Gen, seventy-five percent, (75%), of the exterior building finish shall consist of material comparable in grade and quality to the following: 1) face brick; 2) natural stone; 3) glass; 4) specially designed precast concrete units if the surfaces have been integrally treated with an applied decorative material or texture and smooth concrete block if scored at least twice; 5) rock face; 6) Cast Stone; 7) Cultured Stone; 8) Architectural Precast; 9) Precast Concrete Panel with an exposed aggregate of granite, marble, limestone, or other natural stone material with at least two architectural reveals per panel.

Source: Ordinance No. 7-2011
Effective Date: 5-26-2011

Source: Ordinance No. 1-90
Effective Date: 2-1-90

4. In all districts except Rural, R1-44, R1-22, R1-13.5, R1-9.5, and RM-6.5, wood stucco, vinyl, metal, plastic or a combination of all these materials, shall not comprise more than twenty-five percent, (25%), of a building's exterior finish.

Source: Ordinance No. 9-87
Effective Date: 5-7-87

Prev. Ordinance No. 72-84
Effective Date: 4-5-84

L. Garage Sales shall comply with the following conditions:

1. Garage sales may occur only on properties zoned Rural, R1 and RM that are improved with a dwelling unit or units erected and which have been issued a Certificate of Occupancy.
2. No more than four (4) garage sales may occur at a dwelling in a twelve (12) month period.
3. No sale shall exceed a period of four (4) consecutive days.
4. Garage sale signs must comply with Section 11.70 entitled sign permits.

Source: Ordinance No. 9-2009
Effective Date: 10-15-2009

M. Trash and Recycling. Implementation of a trash enclosure plan shall be required prior to issuance of any occupancy permit for a property located in zoning districts OFC, I-2, I-5, I-Gen, C-Com, N-Com, C-Reg, C-Reg-Ser, C-Hwy, and TC. This Section 11.03 Subd. 3, M is applicable to all properties which have been issued a building permit for new construction after the effective date of the ordinance.

1. Trash and Recycling Enclosure: All recyclable waste shall be kept within a completely enclosed building or within a trash enclosure constructed with face brick or natural stone to match the building with solid wood or metal gates that completely screen the interior of the enclosure.
2. Trash and Recycling Location: All trash, trash receptacles and recycling bins shall meet the setbacks for the underlying zoning district.

Source: Ordinance No. 10-2010
Effective Date: 06-24-2010

N. Sculptures and Statuary.

1. Setbacks. In all zoning districts accessory structures must meet the required setbacks, except for the following:
 - (a) The front yard setback for sculptures and statuary is 10 feet in the residential, office, industrial, golf course, airport and public districts.
 - (b) The front yard setback for statuary and sculptures is 20 feet in the commercial districts.
2. Height. In all zoning districts the maximum height allowed for sculptures and statuary is 15 feet.

3. One sculpture or statuary per street frontage in the commercial, office, industrial, public, and airport zoning districts.

Source: Ordinance No. 20-2013
Effective Date: 12-12-2013

Subd. 4. Performance Standards. Uses which because of the nature of their operation are accompanied by an excess of noise, vibration, dust, dirt, smoke, odor, noxious gases, glare or wastes shall not be permitted. These standards shall be considered "excessive when they exceed or deviate from the limitations set forth in the following performance specifications:

- A. **Vibration.** No activity or operation shall at any time cause earth vibrations perceptible beyond the limits of the immediate site on which the operation is located.
- B. **Dust and Dirt.** Solid or liquid particles shall not be emitted at any point in concentrations exceeding 0.3 grains per cubic foot of the conveying gas or air. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of 500 degrees Fahrenheit and 50% excess air.
- C. **Smoke.** Measurement shall be at the point of emission. The Ringelman Smoke Chart published by the United States Bureau of Mines shall be used for the measurement of smoke. Smoke not darker or more opaque than No. 1 of said chart may be emitted, provided that smoke not darker or more opaque than No. 2 of said chart may be emitted for periods not longer than four minutes in any 30-minute period. These provisions, applicable to visible grey smoke, shall also apply to visible smoke of a different color but with an equivalent apparent opacity.
- D. **Odor.** No activity or operation shall cause at any time the discharge of toxic, noxious, or odorous matter beyond the limited of the immediate site where it is located in such concentrations as to be detrimental to or endanger the public health, welfare, comfort or safety or cause injury to property or business.
- E. **Glare.** Glare, whether direct or reflected, such as from spotlights or high temperature processes, and as differentiated from general illumination, shall not be visible beyond the limits of the immediate site from which it originates.
- F. **Wastes.** All solid waste material, debris, refuse, or garbage shall be kept within a completely enclosed building or properly contained in a closed container designed for such purpose. All liquid wastes containing any organic or toxic matter shall be discharged with into a public sanitary sewer or treated in a manner prescribed by the City. The rate of liquid waste discharge into the City sanitary sewerage system shall not exceed 200 gallons per site acre per hour between the hours of 9:00 o'clock a.m. and noon. Use for the dumping or storage above ground or under the surface of chemical waste and other hazardous waste products will not be permitted because of the potential hazards that may be created to public health, safety, and welfare in all Districts.

Source: Ordinance No. 35-94
Effective Date: 9-30-94

Subd. 5. Performance Standards - Tests.

- A. **By Owner.** In order to assure compliance with the performance standards set forth above, the Council may require the owner or operator of any permitted use to have made such investigations and tests as may be required to show adherence to the performance standards. Such investigation and tests as are required to be made shall be carried out by an independent testing organization as may be agreed upon by all parties concerned, or if there is failure to agree, by such independent testing organization as may be selected by the Council after 30 days notice. The costs incurred in having such investigations and tests conducted shall be

shared equally by the owner or operator and the City, unless the investigation and tests disclose noncompliance with the performance standards, in which event the entire investigation or testing cost shall be paid by the owner or operator.

- B. By City. The procedure above stated shall not preclude the City from making any tests and investigations it finds appropriate to determine compliance with these performance standards.

Source: City Code
Effective Date: 9-17-82

Subd. 6. Site Plan and Architectural Design Review.

- A. Approval Required. No building permit, or land alteration permit for a parking lot, shall be issued for the construction of any (i) building, structure or parking area situated or to be constructed within any District, except, (a) those within the Rural District or One-Family Residential Districts, and (b) duplexes (dwellings designed for or occupied by two families), or (ii) building or structure constituting a public infrastructure, situated or to be constructed within any District, including but not limited to Rural and One-Family Residential Districts, unless it shall conform to a Site Plan and Architectural Design as described in C. hereof, or an amendment thereof, which has been approved by the Council and such approval is effective as hereinafter provided.

No building permit, or land alteration permit for a parking lot, shall be issued for the construction of an alteration or enlargement of a (i) building, structure or parking area situated within any District, except, (a) those within the Rural District or One-Family Residential Districts, and (b) duplexes (dwellings designed for or occupied by two families), or (ii) building or structure constituting a public infrastructure, including but not limited to Rural and One-Family Residential Districts, unless it shall conform to a Site Plan and Architectural Design as described in C. hereof, or an amendment thereof, which has been approved by the Council or the City Planner in accordance with the criteria set forth in Section 11.03, Subd 6. D and such approval is effective as herein after provided.

Source: Ordinance No. 1-16
Effective Date: 1-14-16

Source: Ordinance No. 25-89
Effective Date: 8-17-89

Source: Ordinance No. 1-89
Effective Date: 3-9-89

- B. Exceptions. The provisions of this subdivision shall not apply to the issuance of a building permit for (a) a building or structure to be built or constructed on land in conformity with a Site Plan approved prior to February 21, 1989, but not more than two years prior to issuance of the building permit by the City Council in connection with the rezoning or platting of the land, or (b) the building or alteration of an antenna or tower except an antenna or tower which is greater than eighty (80) feet in height.

Source: Ordinance No. 1-16
Effective Date: 1-14-16

Source: Ordinance No. 27-97
Effective Date: 6-13-97

Source: Ordinance No. 1-89
Effective Date: 3-9-89

- C. The terms "Site Plan and Architectural Design" as used in this subdivision mean a plan produced in written, graphic and/or pictorial form prepared by a registered architect, landscape architect or engineer which shall include the following: (1) a detailed natural systems analysis which documents existing physical features such as

vegetation, soil types, slopes, hydrologic systems, wildlife, and ecology, (2) proposed construction of all site alterations including grading, drainage, utilities, and storm sewer, (3) building locations, (4) landscaping and screening, (5) lighting, (6) plans for all pylon, monument, and building signs, (7) an architectural plan of the exterior of the building or structure intended to be constructed, altered, or enlarged situated on the site depicting the building elevation, including its height from the surface of the ground in its altered or finished condition; its width and depth, its location in relation to the land on which it is situated, and its external appearance such as materials, texture and color, and (8) such other information as may reasonably be required by the City.

- D. The owner of property for which approval of a Site Plan and Architectural Design is required by this subdivision may apply for Site Plan and Architectural Design review and approval by filing an application with the City Planner on the form provided by the City Planner and containing the information required by such form accompanied by a Site Plan and Architectural Design, together with such further information as may reasonably be required by the City Planner.

The City Planner shall determine the level of review required for a new or amended Site Plan and Architectural Design based on the criteria set forth below. The City Planner may determine to refer an application to the City multi-department staff "Development Review Committee" for review and recommendation to the City Planner:

1. The following are considered administrative amendments to an approved Site Plan and Architectural Design and shall be subject to review and approval by the City Planner.
 - a. Reduction of parking which meets City Code requirements for size, number and aisle width. Reconfiguration of parking meeting City Code requirements for size, number and aisle width.
 - b. Changes to landscaping type, location and species that do not fall below the site requirements.
2. The following are considered Minor Amendments to an approved Site Plan and Architectural Design and shall be subject to review and consideration for approval by the City Council only without referral to the Planning Commission:
 - a. Alterations which are code compliant and are 10% or less of the Gross Floor Area of a building or 2,000 square feet whichever is less. The expansion or reduction shall be the cumulative total and/or cumulative reduction after adoption of this amendment to this Section 11.03, Subd. 6. D. 2. A.
 - b. Façade remodels which are code compliant.
3. All other amendments and alterations to an approved Site Plan and Architectural Design, are considered Major Amendments and are subject to review in accordance with Section 11.03, Subd. 6, E and F.
4. All new buildings, structures, and parking areas and all alterations to existing buildings, structures and parking areas that do not have an approved Site Plan and Architectural Design are subject to review in accordance with Section 11.03, Subd. 6, E and F.

A Zoning Certificate and Certificate of Occupancy shall be required in accordance with City Code Section 11.77.

Source: Ordinance No. 1-2016
Effective Date: 1-14-2016

- E. A Site Plan and Architectural Design may be evaluated according to its compliance with the following standards and provisions:

1. Adherence to, and consistency with, the City's policies and objectives as reflected in the Comprehensive Guide Plan;
2. Adherence to, and consistency with, the City's Code relating to zoning and the subdivision of land.
3. The preservation and enhancement of the natural and built environment as well as those modifications already effected by development and construction upon the land, including the minimization of: tree loss, soil removal, wetland, floodplain, lake and creek encroachment; and the maintenance of the general natural topography or physical grade of the land consistent with that of adjoining properties.
4. Maintenance of open space to provide a desirable environment both for occupants of the site and the general public.
5. Transitions where there are differences in land use, building mass, height, densities, and site intensity, in proximity to that which is the subject of the Site Plan and Architectural Design. Transitions may be accomplished by increased setbacks, berming, plantings, larger lot sizes, lower densities, lower flood area ratios, and smaller buildings.
6. Provision for safe and convenient vehicle and pedestrian traffic, including interior drives and parking arrangements which facilitate clear access to public streets, appropriate widths for drives and access points, and the separation of vehicular and pedestrian traffic.
7. The minimization of negative impacts upon other land uses of surface water run-off, noise, glare, odors, vibrations, dust, loading areas, parking areas, and refuse areas.
8. Compatibility of materials, textures, colors, and other construction details with other structures and uses in the vicinity.
9. Such other conditions and criteria as are reasonably related to the health, safety and welfare of the residents of the City and to preservation of the environment.

Source: Ordinance No. 1-89
Effective Date: 3-9-89

10. Preservation of Heritage Preservation Sites as designated by the Council pursuant to Section 11.05 and adherence to, and consistency with, the City's policies and objectives as reflected in the Heritage Preservation Site Program.

Source: Ordinance No. 38-90
Effective Date: 12-7-90

- F. Except as provided for in Subd 6, D. 1. and 2. a Site Plan and Architectural Design shall not be acted upon by the Council until it has received the recommendation of the Planning Commission or until sixty (60) days have elapsed from the date it has been referred to the Planning Commission for its study and report.

Source: Ordinance No. 1-2016
Effective Date: 1-14-2016

No approval shall be given until a public hearing has been held thereon by the Council. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the City at least ten (10) days before the day of the hearing. A notice shall be mailed at least ten (10) days before the day of the hearing to each owner of property situated wholly or partly within five hundred (500) feet of the property to which the requested approval relates. For the purpose of giving mailed notice, any appropriate records to determine the names and addresses of owners may be used. A copy of the notice and list of the owners and addresses to which

the notice was sent shall be attested to by the person giving the notice and shall be made a part of the records of the proceeding. The failure to give mailed notice to the property owners or defects in the notice shall not invalidate the proceeding provided a bonafide attempt to comply with this provision has been made.

Approval of the Council shall require a two-thirds vote of all the members of the Council.

Source: Ordinance No. 27-97
Effective Date: 6-13-97

Source: Ordinance No. 1-89
Effective Date: 3-9-89

SECTION 11.04. LIMITATION ON USES.

Uses in each District established in this Chapter shall be limited to those permitted uses authorized, and then only under the standards and conditions which are also stated herein.

Source: Ordinance No. 72-84
Effective Date: 4-5-84

SECTION 11.05. HERITAGE PRESERVATION SITES.

Source Ordinance No. 5-2010
Effective Date: 4-29-2010

Subd. 1. Declaration of Public Policy and Purpose. The Council of the City of Eden Prairie (hereinafter the "Council") declares as a matter of public policy that the preservation, protection, perpetuation and use of areas, places, buildings, structures, and other objects have historic, aesthetic or community interest or value, benefits the health, prosperity, education and welfare of the community. The purposes of this chapter are to: (1) Safeguard the heritage of the City by preserving sites and structures which reflect significant elements of the City's cultural, social, economic, political, visual or architectural history; (2) Promote the preservation and continued use of historic sites and structures for the education and general welfare of the people of the City; and (3) Foster civic pride in the beauty and notable accomplishments of the past.

Subd. 2. Definitions.

A. The following terms, as used in this Section, shall have the following meanings:

1. Alteration – means any act or process which changes one (1) or more of the exterior architectural features of a building, or landform.
2. Archaeological resources – means archaeological artifacts, objects, or sites as defined in regulations promulgated under the Archeological Resources Protection Act of 1979, 16 USC Section 470.
3. Building – means an enclosed structure with walls and a roof, consciously created to serve a residential, industrial, commercial, agricultural, or other human use.
4. Certificate of Appropriateness – means a certificate issued by the City Council authorizing alteration, construction, restoration, relocation or demolition of a designated Heritage Preservation Site in accordance with the provisions of this Chapter.
5. Commission – means the Heritage Preservation Commission of the City.

6. Cultural resource – means a building, object, monument, structure, site or geographically definable area, such as an historic district or archaeology site that possesses a significant concentration, linkage or continuity of historically significant resources.
7. Demolition – means any act or process that destroys in part or in whole a cultural resource including the removal of any material constituting part of a structure other than for the purposes of ordinary maintenance or repair, which if removed affects the exterior appearance of the structure, which reduces the stability or longevity of the structure and impairs its historic or architectural integrity.
8. Demolition by neglect – means any total or partial destruction of or damage to a structure or any portion thereof due to failure to adequately maintain or repair the structure.
9. Exterior appearance – means the design, architectural style, general arrangement, ornament, character and general composition of the exterior of a cultural resource, including but not limited to the kind, color and texture of the building material and type, design, style and character of all windows, doors, light fixtures, signs and appurtenant elements.
10. Historic District – means a geographically definable area designated by the City Council conveying a sense of time and place due to the historic and architectural merits of the area. A historic district may also comprise contributing and noncontributing elements separated geographically but linked by association or history.
11. Integrity – means the authenticity of a cultural resource’s historical identity evidenced by its survival of physical characteristics that existed during the property’s historic or prehistoric period.
12. Maintenance – means all activities necessary to prolong the useful life and aesthetic appearance of a cultural resource.
13. Minor work – means small scale repairs and ordinary maintenance to correct problems or damage to the exterior that does not include a change in design, material, or outward appearance of the cultural resource. Examples of minor work include, but are not limited to, touch-up painting, window and door repair, caulking, fastening loose materials and roofing repairs.
14. National Register of Historic Places – means the national list of districts, sites, buildings, structures and objects significant in American history, architecture, archaeology, engineering or culture maintained by the Secretary of the Interior under authority of Title 16 USC, Section 101(a)(1)(A) (National Historic Preservation Act) as amended
15. Object – means a material item of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.
16. Preservation – means the identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance and reconstruction of cultural resources. For the purposes of development of cultural resources, preservation means the act or process of applying measures to sustain the existing form, integrity and material of a building or structure and the existing form and vegetative cover of a site. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building materials.
17. Protection – means the act or process of applying measures designated to affect the physical condition of a cultural resource by defending or guarding it from deterioration, loss, or to cover or shield the cultural resource from danger or injury. In the case of buildings and structures, such treatment is generally of a temporary nature and anticipates future historic preservation treatment; in the case of archaeological sites, the protective measure may be temporary or permanent.

18. Reconstruction – means the act or process of reproducing by new construction the exact form and detail of a vanished cultural resource, or part thereof, as it appeared at a specific period of time.
19. Rehabilitation – means the act or process of returning a cultural resource to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the cultural resource which are significant to its historical, architectural and cultural values.
20. Repair – means the replacement of deteriorated materials which are impractical to save, such as broken window glass or severely rotted wood and the reclamation of items worn to the point that they can no longer perform their intended function. Material used for repairs on cultural resources should be as close as possible to the original in composition of materials, in method of fabrication and in manner of erection.
21. Restoration – means the act or process of accurately recovering the form and details of a cultural resource and its setting as it appeared at a particular period of time by means of the removal of later work or by replacement of missing earlier work.
22. Secretary of Interior Standards for treatment of historic properties – means the preservation, rehabilitation, restoration and reconstruction standards adopted by the U.S. Department of Interior codified in 36 CFR Part 68, as may be amended from time to time.
23. Site – means the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing structure.
24. Stabilization – means the act or process of applying measures designed to reestablish a weather resistant enclosure and the structural stability of an unsafe or deteriorated cultural resource while maintaining the essential form as it exists at present.
25. Structure – means a constructed work, usually immovable by nature or design, consciously created to serve some human activity. Examples are buildings of various kinds, monuments, dams, roads, railroad tracks, canals, millraces, bridges, tunnels, locomotives, nautical vessels, stockades, forts and associated earthworks, Indian mounds, ruins, fences, and outdoor sculpture. For purposes of Section 11.05 "structure" is limited to functional constructions other than buildings.

Subd. 3. Designation of Heritage Preservation Sites.

- A. Reports. The Council may direct the City staff to prepare studies which catalog buildings, land, areas, historic districts or other objects to be considered for designation as a Heritage Preservation Site.
- B. Criteria for Eligibility. The Commission shall recommend to the Council that an area, building, historic district, or object be designated a Heritage Preservation Site, when: (i) the quality in American history, architecture, archaeology, engineering, and culture is present in the historic district, site, building, structure or object and (ii) the historic district, site, building structure or object possess integrity of location, design, setting, materials, workmanship, feeling, and association and (iii) the historic district, site, building, structure or object meets one or more of the criteria listed below.
 1. It is associated with events that have made a significant contribution to the broad patterns of our history; or

2. It is associated with the lives of persons significant in our past; or
 3. It embodies the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
 4. It has yielded or may be likely to yield, information important in prehistory or history.
- C. **Planning Commission Review.** The Commission shall advise the Planning Commission of the proposed designation of a Heritage Preservation Site, including boundaries, and a program for the preservation of a Heritage Preservation Site, and secure the Planning Commission's recommendation with respect to the relationship of the proposed heritage preservation designation to the Comprehensive Plan of the City, and the City Planning Commission's opinion as to the effect of the proposed designation upon the surrounding neighborhood and any other planning consideration which may be relevant to the proposed designation. The Commission may make such modifications, changes, and alterations concerning the proposed designation as it deems necessary in consideration of the recommendation and opinion of the Planning Commission. The Planning Commission shall also give its recommendation of approval, rejection or modification of the proposed designation to the Council.
- D. **Communications with State Historical Society.** A copy of the Commission's proposed designation of a Heritage Preservation Site, including boundaries, and a program for the preservation of a Heritage Preservation Site, when received by the City, shall be sent to the State Historical Society in accordance with Minnesota Statutes.
- E. **Findings and Recommendations.** The Commission shall make findings as to whether a proposed Heritage Preservation Site is eligible for heritage preservation as determined by the criteria specified in Paragraph B of this subdivision. If the Commission determines the site meets the criteria in Paragraph B, it shall forward its findings to the Council with its recommendation that the site be designated for heritage preservation and its proposed program for the preservation of the site.
- F. **Council Designation.** The Council shall consider the Commission's recommendation that a site be designated for Heritage Preservation, together with the Planning Commission's recommendations, and may, upon the request of the Commission, by ordinance designate a Heritage Preservation Site.

Subd. 4. Amendment or Recession of Designation. A Heritage Preservation Site designation may be amended or rescinded following the same process for the original designation.

Subd. 5. Suffix "HP." For purposes solely of identification, a site designated by ordinance as a Heritage Preservation Site may be identified with the suffix "HP" following its underlying zoning classification and any other overlay zoning.

Subd. 6. Heritage Site Preservation Plan and Hearings.

- A. Within such time as is established by the City Council following City Council approval of the Heritage Preservation Site designation, the applicant shall prepare and submit to the Commission for approval a Heritage Site Preservation Plan, which sets forth necessary preservation guidelines, including identification of significant features.
- B. **Hearings.** Prior to the Commission recommending to the Council any building, historic district, or object for designation as a Heritage Preservation Site, the Commission shall hold a public hearing on the proposed designation. Prior to such hearing, the Commission shall cause to be published in a newspaper of general circulation notice of the hearing at least ten (10) days prior to the date of the hearing, and notice of the hearing shall be sent to all owners of the property proposed to be designated a Heritage Preservation Site and to all property owners within three hundred fifty (350) feet of the boundary of the area to be designated a Heritage Preservation Site.

Subd. 7. Additional Powers and Duties of the Commission.

- A. The Commission may recommend to the Council after review and comment by the City Planning Commission, that certain property eligible for designation as a Heritage Preservation Site be acquired by gift, negotiation or by eminent domain as provided for in Chapter 117 of the Minnesota Statutes.
- B. The Commission shall have the powers and duties specified in Chapter 2, Section 2.18 in addition to those otherwise specified in this chapter.

Subd. 8. Alterations.

- A. A Certificate of Appropriateness is required to do any of the following to a Heritage Preservation Site:
 - 1. Remodel, alter, or substantially change the exterior appearance of a historic building, site or landmark.
 - 2. Erect a building or any structure.
 - 3. Erect signs.
 - 4. Move from or to any building.
 - 5. Demolish any building in whole or in part. This does not apply to structures to be demolished in accordance with Minnesota Statutes, Chapter 463.
 - 6. Alter or remove a land form in whole or in part.

The application for a Certificate of Appropriateness shall be accompanied by detailed plans including a site plan, building elevations and design details, and materials necessary to evaluate the request. The Council shall make the determination whether to approve or disapprove the permit.

- B. Commission recommendation. The Commission shall review each application and make its recommendation to the Council relative to the request for a Certificate of Appropriateness. The Commission shall also review and make recommendations to the Council concerning City sponsored construction projects or development projects aided by the City that could change the nature or appearance of a Heritage Preservation Site.
- C. Criteria for Certificate of Appropriateness. All recommendations by the Commission and decisions by the Council to approve, disapprove, and/or impose conditions on a Certificate of Appropriateness shall be in accordance with the program approved by the Council and the State Historical Society for each Heritage Preservation Site. The following General Standards for Historic Preservation Projects issued by the Secretary of the Interior shall be used to evaluate applications of Certificate of Appropriateness:
 - 1. Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.
 - 2. The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive features should be avoided when possible.
 - 3. All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.

4. Changes which have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
5. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.
6. Deteriorated architectural features shall be repaired rather than replaced, whenever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage historic building materials shall not be undertaken.
8. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any acquisition, stabilization, preservation, rehabilitation, restoration or reconstruction project.
9. The Commission and the Council shall also consider, when appropriate, the Secretary of the Interior's Specific Standards for Preservation Projects.

D. Criteria for Certificate of Appropriateness for Demolition of Historic Preservation Site. In addition to the criteria listed in Subd. 7. C, the following criteria shall also apply to an application for demolition of a Heritage Preservation Site. A Certificate of Appropriateness for the demolition or partial demolition of a historic resource shall not be granted without the review and approval of a completed application. The review shall consider the following:

1. The public's interest in the preservation of the cultural resource.
2. The ability of the cultural resource to reasonably meet the National, State or local criteria for designation as a Heritage Preservation Site.
3. The age of the cultural resource, its significant features, unusual or uncommon design, texture, and/or material and its ability to be reproduced without unreasonable difficulty and/or expense.
4. The ability of the cultural resource to help preserve and protect a historic place or prehistoric site or area of historic interest in the City.
5. The ability of the historic resource to promote the general welfare of the City by:
 - a. encouraging the study of American history, architecture and design;
 - b. by developing an understanding of the importance and value of the American culture and heritage; and
 - c. by making the City a more attractive and desirable place in which to live.
6. The cost and economic feasibility of restoring the cultural resource.

- E. No owner or any other person shall demolish or undertake to demolish a Heritage Preservation Site without a Certificate of Appropriateness.
- F. Findings. The Council shall make findings as to whether a Certificate of Appropriateness application should be approved or disapproved, or conditions imposed, as determined by the criteria specified in Paragraphs C and D of this subdivision.
- G. Hearings. Prior to the Council making its decision regarding an application for a Certificate of Appropriateness for a Heritage Preservation Site, the Council shall hold a public hearing on the application. Prior to such hearing the Council shall cause to be published in a newspaper of general circulation notice of the hearing at least ten (10) days prior to the date of the hearing, and notice of the hearing shall be sent to all owners of the property for which a Heritage Preservation Site Certificate of Appropriateness application has been submitted and to all property owners within three hundred fifty (350) feet of such property.
- H. Limitations. If within sixty (60) days from the filing of a completed application for a Certificate of Appropriateness for site alteration the Commission has not made a recommendation of approval or disapproval to the Council, the application shall be forwarded to the Council for approval or disapproval of the permit without the Commission's recommendation.

Subd. 9. Minor Work.

- A. Nothing in this section shall be construed to prevent minor work. Minor work does not require a Certificate of Appropriateness. The criteria set forth in Subdivision 8 C shall be followed to the extent practicable.
- B. Minor work should replace like-with-like, using the same materials and the same construction methods as originally used.

Subd. 10. Archaeological Resources and Traditional Cultural Properties. Special Consideration. The City's archaeological resources are part of its heritage and community fabric. These resources are important to the City's past and are irreplaceable and need to be protected from deterioration and site damage. Though considered historic resources under this ordinance, the City acknowledges that archaeological resources have distinct differences. The City shall maintain an inventory of known archaeology sites and potentially sensitive areas.

Subd. 11. Demolition

- A. Except as otherwise provided in this Section, the Building Official shall not issue a permit to demolish a designated Heritage Preservation Site until after a Certificate of Appropriateness is issued. No owner or any other person shall demolish or undertake to demolish a designated Heritage Preservation Site or an element within a designated Heritage Preservation Site without a Certificate of Appropriateness.
- B. No owner or person with an interest in real property designated as a Heritage Preservation Site shall allow property to fall into a serious state of disrepair without obtaining a Certificate of Appropriateness.

Examples of such deterioration include, but are not limited to, the following:

1. Deterioration of exterior walls or other vertical supports.
2. Deterioration of roofs or other horizontal members.
3. Deterioration of exterior chimneys.
4. Deterioration, crumbling or spalling of exterior stucco, masonry or mortar.

5. Lack of waterproofing of exterior walls, roofs, or foundations; including broken windows or doors that prove ineffective.
6. Deterioration of any feature so as to create a hazardous condition that requires the demolition of the Property for public safety purposes.
7. Deterioration of ornamental features.

Subd. 12. Enforcement. If inspection finds that the work is not in compliance with the Certificate of Appropriateness the City may suspend the Certificate of Appropriateness and issue a “Stop Work Order”. No further work shall be undertaken on the project as long as a “Stop Work Order” is in effect except for work necessary to remedy the cause of the suspension.

Subd. 13. Emergency Repair. In emergency situations where immediate temporary repair is needed to protect the safety of the structure and its inhabitants, the Building Department, may approve the temporary repair without prior Commission or Council action.

Subd. 14. Repository for Documents. The office of the City Clerk is designated as the repository for at least one copy of all studies, reports, recommendations and programs required under this Section 11.05.

Subd. 15. Recording of Heritage Preservation Sites. The office of the City Clerk shall record the designation of buildings, lands or areas as Heritage Preservation Sites with the Hennepin County Recorder or the Hennepin County Registrar of Titles, unless the County Recorder or Registrar of Titles refuses to record such designation, and shall transmit a copy of the recording document to the Building Department.

SECTION 11.06. TOWERS AND ANTENNAS.

Source Ordinance No. 27-97
Effective Date: 6-13-97

Subd. 1. Purpose. In order to accommodate the communication needs of residents and business while protecting the public health, safety, and general welfare of the community, the Council finds that these regulations are necessary in order to:

- A. Facilitate the provision of commercial wireless telecommunications services to the residents and businesses of the City;
- B. Minimize adverse visual effects of towers through careful design and siting standards;
- C. Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and
- D. Maximize the use of existing and approved towers and buildings to accommodate new commercial wireless telecommunication antennas in order to reduce the number of towers needed to serve the community.

Subd. 2. Prohibition. No tower, antenna or telecommunications mechanical equipment shall be erected, constructed, maintained, altered or used unless in compliance with this section.

Source: Ordinance No. 3-2014
Effective Date: 2-27-2014

Subd. 3. Towers in Rural and Residential Zoning Districts. Towers shall be allowed in the Rural and Residential Zoning Districts only as follows:

- A. Towers for amateur radio communication and conforming to all applicable provisions of this Code shall be allowed only in the rear and side yards of rural and residential zoned lots.
- B. Towers for Commercial Wireless Telecommunications Services and conforming to all applicable provisions of this Code shall be allowed only in the following residentially-zoned locations:
 - 1. Parks, when compatible with the nature of the park;
 - 2. Schools; and
 - 3. Public streets and rights-of-way when attached to, or part of a public utility structure.

Subd. 4. Height.

- A. The height of a tower shall be determined by measuring the vertical distance from the point of contact with the ground of the tower or the structure to which it is attached (if attached) to the highest point of the tower, including all antennas and other attachments.
- B. In all zoning districts the maximum height of a tower, except those which are public utility structures located within a Public Street or right-of-way, shall not exceed one foot for each four feet the tower is set back from a Rural or Residential Zoning District up to a maximum height of 150 feet.
- C. No antenna shall extend more than 20 feet above the highest point of a public utility structure.

Subd. 5. Setbacks and Location. Towers shall conform with each of the following minimum requirements:

- A. Towers, except those which are public utility structures, located within a Public Street or right-of-way, shall meet the setbacks of the underlying zoning district, except industrial zoning districts where towers may encroach into the rear setback area, provided that the rear property line abuts another industrially zoned property and the tower does not encroach upon any easements.
- B. Towers, except those which are public utility structures, located within a Public Street or right-of-way shall not be located between a principal structure and a public street, with the following exceptions:
 - 1. In industrial zoning districts, towers may be placed within a side yard abutting an internal street.
 - 2. On sites adjacent to public streets on all sides, towers may be placed within a side yard abutting a street.
- C. Towers which are public utility structures located in a Public Street or right-of-way need not be set back from a street or right-of-way line.
- D. A tower's setback may be reduced or its location in relation to a public street varied, at the sole discretion of the City Council, to allow the integration of a tower into an existing or proposed structure such as a Place of Worship steeple, light standard, power line support device or similar structure. Integration may include replication of the existing or proposed structure by a new structure provided the new structure is substantially similar in design and color to the existing or proposed structure and extends no more than 20 feet above the highest point of the existing or proposed structure.

Subd. 6. Exceptions. The provisions of Subds. 4 and 5 shall not apply to the following:

- 1. Water towers and poles supporting emergency warning devices to which are attached antennas.
- 2. Place of Worship sanctuaries, steeples and bell towers to which are attached antennas.

3. In accordance with the preemption ruling PRB1 of the Federal Communications Commission, towers for amateur radio communication that comply with other provisions of City Code Chapter 11 relating to towers.

Subd. 7. Co-Location Requirements. All commercial wireless telecommunication towers erected, constructed, or located within the City shall comply with the following requirements:

- A. A proposal for a new commercial wireless telecommunication services tower shall not be approved unless the City Manager or his designee finds that the telecommunications equipment intended to be attached to the proposed tower cannot be accommodated on an existing or approved tower, public utility structure, or building within one mile (one-half mile for towers under 120 feet in height, one quarter mile for towers under 80 feet in height) of the proposed tower due to one or more of the following reasons:
 1. The planned equipment would exceed the structural capacity of the existing or approved tower, public utility structure or building, as documented at applicant's expense by a qualified registered professional engineer, and if owned by applicant the existing or approved tower, public utility structure or building, cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
 2. The planned equipment would cause interference materially impacting the usability of the existing or planned equipment at the tower, public utility structure or building as documented at applicant's expense by a qualified registered professional engineer and the interference cannot be prevented at a reasonable cost.
 3. Existing or approved towers, public utility structures and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented at applicant's expense by a qualified registered professional engineer.
 4. Other reasons (including but not limited to economic considerations) that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower, public utility structure or building.

Subd. 8. Tower and Antenna Design Requirements. Proposed or modified towers and antennas shall meet the following design requirements:

- A. Towers and antennas shall be designed to blend into the surrounding environment to the maximum extent possible through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.
- B. Commercial wireless telecommunication service towers, except those which are public utility structures, shall be of a monopole design unless the City Manager or his designee determines that an alternative design would better blend in to the surrounding environment.
- C. Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower and then only at such time or times required. Strobe lights shall not be permitted during the hours between sundown and sunrise. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.
- D. Metal towers shall be constructed of, or treated with, corrosive resistant material. Wood poles shall be impregnated with rot resistant substances.

- E. No antenna or tower shall have affixed or attached to it in any way, except during time of repair or installation, any lights, reflectors, flashers, or other illuminating device, except as required by the Federal Aviation Administration or the Federal Communications Commission, nor shall any tower have constructed thereon, or attached thereto, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair.
- F. The face of an antenna having one face shall not exceed 30 square feet. No face of an antenna having more than one face shall exceed 24 square feet per face.

Subd. 9. Telecommunications Mechanical Equipment in a Public Right of Way. Telecommunications mechanical equipment located in a public right of way must meet the following requirements:

- A. Location and Setbacks. Telecommunications mechanical equipment shall be located on the ground beside or adjacent to a tower for Commercial Wireless Telecommunications Services and shall meet the following minimum setback requirements:
 - 1. 10 feet from the existing or planned edge of the pavement;
 - 2. 3 feet from a sidewalk or trail;
 - 3. 50 feet from the nearest intersection right-of-way line; and
 - 4. 50 feet from the nearest principal residential structure.
- B. Screening. Telecommunications mechanical equipment located in a public right of way and possessing one or more of the following characteristics shall be physically screened from all public roads and adjacent differing land uses within a utility cabinet:
 - 1. Irregular in size and shape;
 - 2. Exposed and/or protruding fans, grills, pipes, tubes, wires, or vents;
 - 3. Unfinished metal covering, exposed rivets, or exposed seams.

Screening shall be required at the time of initial installation or at the time of antenna equipment upgrade.

- C. Permit. Telecommunications mechanical equipment located in a public right of way must receive a right-of-way permit from the appropriate road authority.

Source: Ordinance No. 3-2014

Effective Date: 2-27-2014

Subd. 10. Interference with Public Safety Telecommunications. No new or existing commercial wireless telecommunications services shall interfere with public safety wireless telecommunications.

Subd. 11. Required Approval. Except when review and approval is required pursuant to City Code Section 11.03, Subd. 6. B a tower may not be constructed or increased in size or capacity without the approval of the City Manager or his designee. In the event an application for a tower is disapproved by the City Manager or his designee, the City Manager or his designee shall state the decision, together with the reasons therefor in writing. A notice of, and the written decision shall be given to the applicant by mail at the address stated in the application or such other address as applicant directs by written request to City prior to the giving of such notice. Within thirty (30) days applicant may appeal the decision of the City Manager or his designee to the City's Board of Adjustments and Appeals in accordance with City Code Section 2.11.

Subd. 12. Application. An applicant for a permit for the construction of a tower shall make a written application to the City. The application shall include, but not be limited to the following:

1. Name, address, telephone and fax numbers of applicant.
2. Location of proposed tower, including the legal description.
3. The locations of all existing towers within one mile of the location of the proposed tower, together with the distances between the existing towers and the proposed tower.
4. Description of the tower, including its height, size of base, configuration, design, number of antennas to be attached to the tower, potential for additional antennas, color and camouflage treatment and lighting, if any, and materials out of which the tower will be constructed.
5. A certificate by a qualified registered professional engineer in such form as approved by the City Manager or his designee that the applicant's commercial wireless telecommunications services equipment cannot be accommodated on an existing tower in accordance with Subd. 7.A. hereof and a certificate by a qualified registered professional engineer selected or approved by the City Manager or his designee that the commercial wireless telecommunications services to be accommodated on the proposed tower or increase in size or capacity of an existing tower will not interfere with public safety wireless telecommunications.
6. The application shall be accompanied by payment of such fees as provided by City Council resolution. Fees shall include reimbursement to City of its costs, including those incurred for consulting and technical advice relating to the proposed tower.

(Sections 11.07 through 11.09, inclusive, reserved for future expansion.)

SECTION 11.10. R - RURAL DISTRICT.

Subd. 1. Purposes. The purposes of the R-Rural District are to: (1) Prevent premature urban development of certain lands which eventually will be appropriate for urban uses, until the installation of drainage works streets, utilities, and community facilities and the ability to objectively determine and project appropriate land use patterns makes orderly development possible; (2) Permit the conduct of certain agricultural pursuits on land in the City; (3) Ensure adequate light, air, and privacy for each dwelling unit, and to provide adequate separation between dwellings and facilities for housing animals.

Subd. 2. Permitted Uses.

- A. Agriculture, accessory and related uses.
- B. Public Infrastructure. Source: City Code
Effective Date: 9-17-82
- C. Single family detached dwellings and accessory structures on parcels of not less than 10 acres.
- D. Single family detached dwellings and accessory structures on parcels of five or more acres, as of July 6, 1982. Source: Ordinance No. 1-90
Effective Date: 2-1-90
- E. Commercial stables. Source: Ordinance No. 34-83
Effective Date: 8-26-83

- F. Antennas and Towers, in those locations and subject to the limitations contained in City Code Section 11.06.

Source: Ordinance No. 2-2007
Effective Date: 1-23-07

Ordinance No. 27-97
Effective Date: 6-13-97

SECTION 11.11. R-1 ONE FAMILY RESIDENTIAL DISTRICTS.

Subd. 1. Purposes. The purposes of the R-1 One Family Residential Districts are to (1) R1-44, reserve appropriately located areas for single family living on large lots where vegetation, slopes, water bodies or other significant natural features are best preserved through large lot development; (2) R1-22, R1-13.5, R1-9.5, reserve appropriately located areas for single family living at reasonable population densities consistent with sound standards of public health; (3) Ensure adequate light, air, privacy and open space for each dwelling; (4) minimize traffic congestion and avoid the overloading of utilities by preventing the construction of buildings of excessive size in relation to the land around them; and, (5) Protect residential properties from noise, illumination, unsightliness, odors, dust, dirt, smoke, vibration, heat, glare, and other objectionable influences.

Subd. 2. Permitted Uses.

- A. R1-44. Single family, detached dwellings, and accessory structures with sanitary sewer and water service, except sanitary sewer and water service shall not be required with respect to those lands which were situated within an R1-22 District on July 1, 1982.
- B. R1-22. Single family, detached dwellings, and accessory structures with sanitary sewer and water service, except sanitary sewer and water service shall not be required with respect to those lands which were situated within the R1-22 District on July 1, 1982.
- C. R1-13.5. Single family, detached dwellings and accessory structures with sanitary sewer and water service.
- D. R1-9.5. Single family, detached dwellings and accessory structures with sanitary sewer and water service.
- E. Public Infrastructure.
- F. Antennas and Towers, in those locations and subject to the limitations contained in City Code Section 11.06.

Source: Ordinance No. 27-97
Effective Date: 6-13-97

(Sections 11.12 through 11.14, inclusive, reserved for future expansion.)

SECTION 11.15. RM MULTI-FAMILY RESIDENTIAL DISTRICT.

Subd. 1. Purposes. The purposes of the RM Multi-Family Residential District are to: (1) Reserve approximately located areas for family living in a variety of types of dwellings at a reasonable range of population densities consistent with sound standards of public health and safety; (2) Preserve as many as possible of the desirable characteristics of the one-family residential district while permitting higher population densities; (3) Ensure adequate light, air, privacy, and open space for each dwelling unit; (4) Provide space for semi-public facilities needed to complement urban residential areas and space for institutions that require a residential environment; (5) Minimize traffic congestion and avoid the overloading of utilities by preventing the construction of buildings of excessive size in relation to the land around them; (6)

Provide necessary space for off-street loading of trucks; and, (7) Protect residential properties from noise, illumination, unsightliness, odors, dust, dirt, smoke, vibration, heat, glare, and other objectionable influences.

Subd. 2. Permitted Uses.

- A. RM-6.5. Attached dwelling units and accessory structures by platting or Planned Development.
- B. RM-2.5. Attached dwelling units and accessory structures by platting or Planned Development.
- C. Public Infrastructure.
- D. Antennas and Towers, in those locations and subject to the limitations contained in City Code Section 11.06.

Source: Ordinance No. 27-97
Effective Date: 6-13-97

Subd. 3. Required Conditions. Public sanitary sewer services must be provided to all occupied multiple units.

(Sections 11.16 through 11.19, inclusive, reserved for future expansion.)

SECTION 11.20. OFC - OFFICE DISTRICT.

Subd. 1. Purposes. The purpose of the OFC Office District are to: (1) Provide opportunities for offices of a semi-commercial character to locate outside of commercial districts; (2) Establish and maintain in portions of the City the high standards of site planning, architecture, and landscape design sought by many business and professional offices; (3) Provide adequate space to meet the needs of modern offices, including off-street parking of automobiles and, where appropriate, off-street loading of trucks; (4) Provide space for semi-public facilities and institutions appropriately may be located in office districts; (5) Minimize traffic congestion and avoid the over-loading of utilities by preventing the construction of buildings of excessive size in relation to the amount of land around them; and, (6) Protect offices from the noise, disturbance, traffic hazards, safety hazards, and other objectionable influences incidental to certain commercial uses.

Subd. 2. Permitted Uses.

- A. Business and professional offices and accessory uses.
Source: City Code
Effective Date: 9-17-82
- B. Supporting commercial sales and services to office users within large office structures of 100,000 square feet or more. The Commercial use is not to exceed fifteen percent, (15%), of the gross Floor Area Ratio.
Source: Ordinance No. 9-87
Effective Date: 5-7-87
- C. Public Infrastructure.
- D. Antennas and Towers, in those locations and subject to the limitations contained in City Code Section 11.06.

Source: Ordinance No. 27-97
Effective Date: 6-13-97

Subd. 3. Required Conditions.

- A. All professional pursuits and businesses shall be conducted entirely within a completely enclosed structure, except for off-street parking and loading areas.
- B. Acceptable, approved sanitary sewer service must be provided to all occupied structures.
- C. Zoning requests will be considered only on the basis of a Comprehensive Guide Plan for the entire area to be zoned and specific plans for initial structures and site development.

Subd. 4. Medical Cannabis.

Source: Ordinance No. 5-2015
Effective Date: 5-14-2015

- A. Findings and Purpose. The Minnesota Legislature in Minn. Stat. §152.22 through §152.37 has legalized the distribution of medical cannabis with significant restrictions. The Council finds that it is appropriate to identify in the City Code the zoning districts in which a medical cannabis distribution facility is an allowable use. The Council finds that as a unique and highly regulated use medical cannabis distribution requires specific regulations.
- B. Definitions. All definitions set forth in Minn. Stat. 152.22 through 152.37 and Minn. Rules Chap. 4770, as each may be amended from time to time apply to this Subdivision. In addition, as used in this Subdivision, the following term shall have the meaning stated:
 - 1. Medical Cannabis Distribution Facility (“Facility”) is a “Distribution Facility” as defined by Minn. Rule 4770.0200, Subp. 13 as in effect as of May 30, 2014.
- C. Permitted Use. Medical Cannabis Distribution Facility is a permitted use in the OFC Office District subject to the restrictions contained in this Subdivision.
- D. Performance Standards. All Medical Cannabis Distribution Facilities shall comply with all of the following performance standards.
 - 1. Distribution shall be permitted only for the Qualifying Medical Conditions defined in Minn. Stat. 152.22, Subd. 14 in effect as of May 30, 2014.
 - 2. The use shall comply with all provisions in Minn. Stat. 152.22 through 152.37 and Minn. Rules Chap. 4770 as each may be amended from time to time, including but not limited to the following:
 - a) Security requirements set forth in Minn. Stat. 152.29, Subd. 1 (d) and Minn. Rules Chap 4770.0700, 4770.0900, 4770.1000 and 4770.1400.
 - b) Prohibition against sharing space or a financial relationship with a health care practitioner set forth in Minn. Stat. 152.29, Subd. 1 (e).
 - c) Prohibition against consumption of medical cannabis on the property set forth in Minn. Stat. 152.29, Subd. 2 (f).
 - d) Inspections imposed pursuant to Minn. Stat. 152.29, Subd. 2 (g).
 - e) Personnel regulations, including prohibition against employing any person under the age of 21 and required background checks, set forth in Minn. Stat. 152.29, Subd. 2 (i).
 - f) Prohibition against operation within 1000 feet of a school set forth in Minn. Stat. 152.29, Subd. 2 (j) and Minn. Rule 4770.0600.
 - g) Licensing requirements set forth in Minn. Stat. 152.29, Subd. 3.
 - h) Prohibition against any displays of merchandise, interior signs, or other exhibits which are visible from outside of the Facility set forth in Minn. Rule 4770.0800, Subp 3.
 - 3. No manufacture or production of Medical Cannabis shall be permitted at the Facility.

4. No drive-thru shall be permitted at the Facility.
5. In lieu of the “Off-Street Parking Facilities” provisions set forth in City Code Section 11.03, Subd. 3 H., off street parking facilities located at the Facility shall provide a minimum of 5 parking spaces per 1,000 square feet of gross floor area.
6. Annually, within 15 days of receipt, a copy of the registration required by Minn. Stat. 152.25, Subd. 1 shall be provided to the Chief of Police.

(Section 11.21 through 11.24, inclusive, reserved for future expansion.)

SECTION 11.25. C- COMMERCIAL DISTRICTS.

Subd. 1. Purposes. The purposes of the C-Commercial District are to: (1) Provide appropriately located areas for retail stores, offices, service establishments, and amusement establishments; (2) Provide opportunities for retail stores, offices, service establishments, and amusement establishments, to concentrate for the convenience of the public and in mutually beneficial relationship to each other; (3) Provide space for community facilities and institutions that appropriately may be located in commercial areas; (4) Provide adequate space to meet the needs of modern commercial development, including off-street parking and truck loading areas; (5) Minimize traffic congestion and avoid the over-loading of utilities by preventing the construction of buildings of excessive size in relation to the amount of land around them; and, (6) Protect commercial properties from noise, odor, dust, dirt, smoke, vibration, heat, glare, traffic, fire, explosion, noxious fumes, and other hazards.

A. Special Purposes of N-Com Neighborhood Commercial District.

1. To provide appropriately located areas for retail stores, offices, and personal service establishments patronized by residents of the immediate neighborhood area.

Source: City Code
Effective Date: 9-17-82

2. To permit development of neighborhood shops and related office uses, which can be accommodated in less than 50,000 square feet of retail area, and are in the appropriate locations shown on the Guide Plan, according to standards that minimize adverse impact on adjoining residential uses.

Source: Ordinance No. 9-87
Effective Date: 5-6-87

B. Special Purposes of C-Com Community Commercial District.

1. To provide appropriately located areas for retail stores, offices, and personal service establishments patronized primarily by residents of the immediate community area.

Source: City Code
Effective Date: 9-17-82

2. To permit development of community shopping centers and related office uses, which can be accommodated in less than 200,000 square feet of retail area, and are in the appropriate locations shown on the Guide Plan according to standards that minimize adverse impact on adjoining residential use.

Source: Ordinance No. 9-87
Effective Date: 5-7-87

- C. Special Purposes of C-Reg Regional Commercial District.
 - 1. To provide a large site at an appropriate location for a major shopping center which serves a wider region than the City itself consistent with the intent of the Metropolitan Guide Plan.
 - 2. To ensure that a major center will be developed in accord with high standards of site planning, architecture, and landscape design.
 - 3. To minimize the adverse effect of major commercial facilities on nearby dwellings.

Subd. 2. Permitted Uses.

- A. All direct retail sales to users of goods and services conducted within structures and accessory uses, except:
 - 1. C-REG-SER uses are limited to sales and service operations which require relatively large sites, attract little or no pedestrian traffic and are not typically found in shopping center structures.
 - 2. C-HWY uses are limited to sales and service operations directly related to highway or freeway uses, tourists, and travelers.
- B. Related or supporting office and distribution uses.
- C. Public Infrastructure.
- D. Residential uses if provided for within a PUD, within commercial buildings in the N-Com and C-Com Districts.

Source: City Code
Effective Date: 9-17-82

- E. Antennas and Towers, in those locations and subject to the limitations contained in City Code Section 11.06.

Source: Ordinance No. 27-97
Effective Date: 6-13-97

Subd. 3. Required Conditions.

- A. Acceptable, approved sanitary sewer service must be provided to all occupied structures and uses.
- B. Zoning requests will be considered only on the basis of a Comprehensive Guide Plan for the entire area to be zoned and specific plans for initial structures and site development.

(Section 11.26 reserved for future expansion.)

SECTION 11.27. TC TOWN CENTER DISTRICT.

Subd. 1. Purposes. The intent of the Town Center (TC) zoning district is to provide an area for development of an attractive, compact, walkable, mixed-use town center that creates a live/work/play environment for the community. To support the intent of the Town Center, the purposes of the TC zoning district are to:

- A. Provide a mix of higher density regional uses, vertical mixed uses, more housing within walking distance of services, and a more efficient, compact and connected development pattern;

- B. Incorporate connections between the various land uses; including pedestrian, street and visual;
- C. Incorporate civic amenities such as urban parks and plazas, civic and cultural spaces, sidewalks and trails, and landscaped streetscapes;
- D. Promote land-efficient parking design, including structured parking, on-street parking, and shared parking;
- E. Locate and design buildings that are oriented to public spaces, including streets, sidewalks, plazas and open spaces, to create the feel and function of a traditional town center and to emphasize a pedestrian oriented environment; and
- F. Encourage non-automobile access and circulation, including transit, walking and biking.

The standards applicable to the TC zoning district are intended to implement the vision, goals and principles established in the Eden Prairie Major Center Area Framework Plan and Major Center Area Planning Principles and the Town Center Design Guidelines, which will be carried out through specific standards related to land use mix, site planning, building bulk & dimensions, architecture, building materials, transportation access, parking, landscaping, signage and lighting.

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

- A. “Building Break” – A recess in the building façade that provides façade articulation, creates the impression that one building is two or more buildings, incorporates a unique building element, and improves the building’s overall composition and aesthetic. Minimum requirements for a building break are a depth of two (2) feet and a width of four (4) feet.
- B. “Building Stepback” – A setback of a building’s upper floor(s) in order to reduce the building’s bulk, articulate the base of the building, ensure a more comfortable street environment, and provide light and air at street level.
- C. “Building Street Frontage” – The proportion of a lot’s frontage on a public street that is occupied by a building as measured at the required maximum front yard setback. Corner lots must meet maximum front yard setback requirements for both public street frontages.
- D. “Building Transparency” – Openings in the street-facing façade of a building which are transparent, including windows and doors, that enable increased physical and/or visual interaction between street/sidewalk/plaza activities and a building’s interior uses and activities.
- E. “Community Commercial” – Medium-scale retail stores and personal services primarily serving the residents and employees of the community. No individual building or tenant space shall exceed 60,000 sq. ft. in area.
- F. “Drive-Through Facilities” – Facilities that accommodate automobiles and from which the occupants of the automobiles may make purchases or transact business, including the stacking spaces needed for waiting vehicles. Examples of drive-through facilities include, but are not limited to, drive-up windows, menu boards, order boards or boxes, drive-in restaurants and drive-up banks.
- G. “Joint Use Parking” - A parking facility shared by two or more uses, or a parking facility that is shared by one or more uses and a unit of general purpose government or a public agency.
- H. “Mixed-Use Building” – A multi-story building that contains allowed retail and services on the ground floor and allowed residential and/or office uses on the upper floors.
- I. “Neighborhood Commercial” – Small-scale retail stores and personal services primarily serving nearby residential areas and nearby businesses and their employees and small-scale specialty shops and services that contribute to the uniqueness and vibrancy of Town Center and may attract a larger trade area. No individual

tenant space shall exceed 10,000 sq. ft. in area with the exception of grocery stores, which shall not exceed 25,000 sq. ft. in area. Drive-through facilities are prohibited as a neighborhood commercial use.

- J. “Usable Outdoor Open Space” – Planned and improved outdoor facilities and open spaces that provide active or passive recreational, relaxation or gathering opportunities, including, but not limited to, any one or more of the following: parks; plazas; play areas; maintained and landscaped lawn with trees and seating areas; natural or landscaped walking paths and running trails; pedestrian spaces; publicly accessible natural or wildlife viewing areas; gardens; ponds and water features; and other similar environments. Usable outdoor open space shall not include: landscape strips or enlargements/enhancements of landscaping areas adjacent to the sidewalk; shrubs, flowers and other low profile landscaping around buildings, sidewalks and parking areas; required minimum building setback areas; yards associated with private dwellings; or outdoor areas that prohibit public or resident access during normal business hours for the area. No areas of usable open space shall contain less than 2,000 contiguous square feet. Usable open space in Mixed Use and Commercial sub-districts should be located near primary building entrances and be accessible by the public from a public sidewalk or streetscape area at least during normal business hours of the surrounding area.

Subd. 3. Sub-Districts. The TC zoning district is divided into three (3) sub-districts:

- A. *Town Center Mixed Use (TC-MU):* Town Center Mixed-use requires higher intensity vertical mixed-use buildings with ground floor retail shops, services and restaurants that front onto Town Center’s “Main Streets” and are pedestrian-oriented. In order to support a live/work/play environment, the upper floors shall be primarily residential uses, both rental and ownership housing, with a minimal amount of office uses allowed.
- B. *Town Center Residential (TC-R):* Town Center Residential allows a mix of stacked housing types including high density high-rise residential and high density mid-rise residential. These higher density housing types, both rental and ownership, shall be designed to optimize the district’s walkable access to retail, services, restaurants, parks and trails, transit and community facilities. High rise buildings shall be located and designed to take advantage of views of nearby natural amenities and where significant shading of lower buildings will not occur.
- C. *Town Center Commercial (TC-C):* Town Center Commercial allows a mix of lower intensity commercial uses including community retail, services, restaurants, entertainment, office, and hospitality/lodging. Site layout, building design and parking strategies shall support the compact and pedestrian-oriented character of the district.

Subd. 4. Design Guidelines. All new development, redevelopment and subdivisions within the Town Center district shall be in substantial conformance with the Town Center Design Guidelines. Development proposals will be reviewed as part of the Site Plan and Architectural Design Review process for conformance with the City Codes and the Design Guidelines.

Subd. 5. Permitted Uses. Table 1 establishes the permitted and accessory uses in the TC zoning district.

Table 1: Permitted Uses in Town Center District (Permitted = P, Accessory = A)

Use	TC-MU	TC-R	TC-C
Commercial			
Neighborhood commercial	P		
Community commercial			P
Restaurants and food service w/o drive-thru facilities	P		P
Business and professional offices and clinics	A ¹		P
Hotels			P
Residential			
High-rise multiple-family attached dwelling units with minimum gross density of 60 units per acre		P	
Mid-rise multiple-family attached dwelling units with minimum gross density of 40 units per acre		P	

Mixed-Use			
Mid-rise multiple-family attached dwelling units w/ ground floor retail/restaurant/services ²	P		
Multi-story office w/ ground floor retail/restaurant/services ²			P
Public			
Public Infrastructure	P		P
Libraries	P		P
Parks	P	P	P
Transit facilities	P		P

¹ Business and professional offices and clinics shall be located in mixed-use building, shall not be located on the ground floor and shall not occupy more than 25% of upper floors' gross square footage.

² Ground floor uses with street frontage shall be 100% retail, restaurant and/or services.

Subd. 6. Permitted Building Types. The following building types are established as the only types of new buildings allowed within the TC district.

- A. Building Type A, Vertical Mixed-Use Residential/Commercial. Type A buildings shall have retail, restaurant and/or service uses on the ground floor with residential on the upper floors. Parking may be included below or above the ground floor.
- B. Building Type B, Vertical Mixed-Use Office/Commercial.
- C. Building Type C, High-Rise Residential.
- D. Building Type D, Mid-Rise Residential.
- E. Building Type E, Entertainment/Restaurant/Services. Type E buildings may include entertainment, restaurant and/or services uses
- F. Building Type F, Hospitality/Lodging.
- G. Building Type G, Community Retail.
- H. Building Type H, Parking Structure.

Table 2 establishes where the permitted building types can be located within the Town Center district.

Table 2: Permitted Building Types in Town Center District

Building Type	TC-MU	TC-R	TC-C
Type A	P		
Type B			P
Type C		P	
Type D		P	
Type E			P
Type F			P
Type G			P
Type H	P	P	P

Subd. 7. Required Conditions.

- A. Zoning requests will be considered only on the basis of a Comprehensive Guide Plan for the entire area to be zoned and specific plans for initial structures and site development.
- B. All zoning requests must include a trip generation analysis that indicates the traffic impacts on the overall Major Center Area (MCA) and demonstrates that the proposed development is not in conflict with the MCA traffic model.
- C. Acceptable, approved sanitary sewer and water services must be provided to all occupied structures.

Subd. 8. Building Bulk & Dimension Standards. Table 3 establishes specific bulk and dimension standards for new buildings in the Town Center District.

Table 3: Building Bulk & Dimension Standards for Town Center District

Standard	TC-MU		TC-R		TC-C	
Lot Size	None		None		None	
Lot Width	50 ft min		50 ft min		50 ft min	
Lot Depth	100 ft min		100 ft min		100 ft min	
Front Yard Setback (ft)	0 min	10 max	10 min	20 max	0 min	15 max
Side Yard Setback (ft)	0 min		10 min		5 min	
Rear Yard Setback (ft)	0 min		20 min		10 min	
Building Height ¹ (# of floors)	4 min	6 max	4 min	10 max	1 min	3 max ²
Building Footprint Coverage	50% min	75% max	40% min	60% max	30% min	50% max
Floor Area Ratio (FAR) ¹	2.25 max		2.25 max		0.5 max ²	
Building Street Frontage	75% min		60% min		50% min	
Impervious Surface Coverage	90% max		75% max		75% max	
Ground Floor Height	12 ft min		None		12 ft min	
Street Façade Building Stepback	8 ft min (above 4 floors)		8 ft min (above 6 floors)		N/A	
Street Façade Building Breaks ³	20% min		15% min		15% min	
Street Level Frontage Transparency	60% min		20% min		40% min	
Usable Open Space	5%		10%		N/A	

¹ Parking structures shall not be included in calculation of # of Floors, FAR and Building Footprint Coverage.

² Maximum building height and maximum FAR may be exceeded for permitted hotel, lodging and entertainment uses, when the peak period trips generated is in compliance with the MCA traffic model.

³ Buildings exceeding 40 feet in width along a street are required to incorporate building breaks in the street façade that break the building into smaller facades, which may be a maximum of 40 feet in width.

Subd. 9. Non-Residential Building Orientation to Street and Pedestrian Areas. All new mixed-use and commercial buildings shall provide a variety of active uses and pedestrian-oriented design features along streets and pedestrian areas. These design features include, but are not limited to, the use of multiple storefronts or businesses, multiple entrances into large single-tenant buildings, and design treatments of facades, entrances, windows, and other similar features. Buildings and developments shall comply with the following standards for building orientation:

- A. All new buildings shall have primary entrance doors facing a public sidewalk or public open space and spaced no more than sixty (60) feet apart. A primary entrance is defined as a principal entrance through which people enter the building. A building or individual business may have more than one primary entrance. Building entrances may include doors to individual businesses, lobby entrances, entrances to pedestrian-oriented plazas,

or courtyard entrances to a cluster of stores. Primary entrances shall be open to the public during all business hours.

- B. Primary building entrances shall be architecturally emphasized and visible from the street. Primary building entrances shall be clearly defined and highly visible utilizing design features such as awnings, canopies, pillars, unique building materials and/or architectural details.
- C. A minimum percentage of a mixed-use and commercial building’s street-facing ground level façade between two (2) feet and eight (8) feet in height shall be comprised of clear windows, as specified in the Street Level Frontage Transparency standard in Table 3 above, in order to allow views of indoor non-residential space or product display areas. Required windows shall have a sill no higher than four (4) feet above the adjacent sidewalk.

Subd. 10. Provision of Off-Street Parking Facilities.

- A. Due to the more urban pedestrian oriented character of the Town Center area, the location and quantity of off-street parking spaces will be reviewed on a case-by-case basis as part of the development review process. In general, the intent is for developments to provide a reduced number of off-street parking spaces to account for availability of joint and shared-use parking, parking efficiencies resulting from a compact mixed-use development pattern, on-street parking, transit, walking and bicycling. Off-street parking facilities shall be provided as established in Table 4 or as determined through the development review process, recognizing the potential for district, shared and public parking. Table 4 establishes minimum and maximum off-street parking standards for uses within the Town Center district.

Table 4: Off-Street Parking Space Standards for Town Center District

Use	TC-MU (# of spaces)		TC-R (# of spaces)		TC-C (# of spaces)	
	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
Multiple-Family Residential	1/d.u.	1/ bedroom	1/d.u.	1.25/ bedroom	N/A	N/A
Retail Stores & Services	3/1,000 sq ft	5/1,000 sq ft	N/A	N/A	4/1,000 sq ft	6/1,000 sq ft
Restaurant	1/3 seats	1/2.5 seats	N/A	N/A	1/3 seats	1/2 seats
Office	3/1,000 sq ft	4/1,000 sq ft	N/A	N/A	4/1,000 sf	5/1,000 sq ft
Hotel	N/A	N/A	N/A	N/A	1/guest room +1/employee	
Others	As determined by site plan review.					

- B. On-site parking is prohibited in the front yard directly in front of a building, except for frontage along Highway 212. Parking shall be provided to the rear or side of buildings.
- C. All parking in the TC-MU sub-district shall be in a parking structure or on the street.
- D. All off-street parking for residents in the TC-R sub-district shall be provided in an enclosed building or structure.
- E. Off-street surface parking for visitors in the TC-R sub-district may be provided up to a maximum of one space per five dwellings.

Subd. 11. Architectural Standards. All buildings shall comply with Architectural Standards established in Section 11.03 Subd 3(K) of Chapter 11 of the City Code and shall be in substantial conformance with the Town Center Design Guidelines.

Subd. 12. Landscaping.

- A. All sites and buildings within the TC district shall comply with Screening and Landscaping standards established in Section 11.03 Subd 3(G) of Chapter 11 of the City Code, except for Items 4. (a). Minimum Size Requirements for Plantings and 4. (b) Total Caliper Inches Required. The following standards apply within the TC district in lieu of said Item 4.(a):
1. Minimum Size Requirements for Plantings: Deciduous overstory plantings shall be a minimum of three (3) caliper inches; deciduous understory trees shall be a minimum of two (2) caliper inches; and coniferous trees shall be a minimum of eight (8) feet in height.
 2. Total Caliper Inches Required: A minimum of one (3) caliper inches of trees shall provided for every 500 square feet of on-site pervious surface area or portion thereof.
- B. Landscaping shall be in substantial conformance with the Town Center Design Guidelines. Due to the urban character of the Town Center District, less landscape space will be available than in other zoning districts. Therefore a higher level of design detail and level of landscaping is required for the concentrated open space, pervious surface areas, plazas, planters, screening areas and streetscape areas. Rooftop gardens and green roofs are encouraged. A detailed landscape plan prepared by a landscape architect shall be submitted with the development application.

Subd. 13. Signage. All sites and buildings shall comply with Sign Permits standards established in Section 11.70 and shall be in substantial conformance with the Town Center Design Guidelines.

Subd. 14. Lighting. All sites and buildings shall comply with Glare standards established in Section 11.03 Subd 4(E) and shall be in substantial conformance with the Town Center Design Guidelines.

Subd. 15. Mechanical Equipment, Trash, Loading Facilities. All sites and buildings shall comply with the Screening standards in Section 11.03 Subd 3(G), Off-Street Loading Facilities standards in Section 11.03 Subd 3(I) and Wastes standards in Section 11.03 Subd 4(F) of Chapter 11 of the City Code and shall be in substantial conformance with the Town Center Design Guidelines.

Source: Ordinance No. 28-2007
Effective Date: 12-27-2007

SECTION 11.28. AIRPORT C – COMMERCIAL DISTRICT

Subd. 1. Purposes of Airport C-Commercial. The purposes of the Airport C-Commercial District (A-C) are to: (1) Provide appropriately located areas for retail stores, offices, service establishments, restaurants, business and professional offices and accessory uses, gasoline/convenience stores and amusement establishments; (2) Provide opportunities for retail stores, offices, service establishments, and amusement establishments, to concentrate for the convenience of the public and in mutually beneficial relationship to each other; (3) Provide space for community facilities and institutions that appropriately may be located in commercial areas; (4) Provide adequate space to meet the needs of modern commercial development, including off-street parking and truck loading areas; (5) Minimize traffic congestion and avoid the over-loading of utilities by preventing the construction of buildings of excessive size in relation to the amount of land around them; and, (6) Protect commercial properties from noise, odor, dust, dirt, smoke, vibration, heat, glare, traffic, fire, explosion, noxious fumes, and other hazards.

Subd. 2. Permitted Uses in Airport – Commercial District.

- A. All direct retail sales to users of goods and services conducted within structures and accessory uses, including related or supporting office and distribution uses.
- B. Public Infrastructure.

Subd. 3. Required Conditions for Airport Commercial.

- A. Acceptable, approved sanitary sewer service must be provided to all occupied structures and uses.

Subd. 4. Aeronautical Uses. Aeronautical Uses and Aeronautical Development Projects are not subject to the terms or conditions of the City Code.

Subd. 5. Restrictions. In addition to the requirements set forth in this Section, construction of any building or structure situated within Airport – Commercial shall comply with all federal and state statutes, regulations, rules, laws, restrictions, guidance, and directives and Metropolitan Airports Commission rules and regulations concerning aeronautical safety and operation within the Flying Cloud Airport and runway protection zones.

Source: Ordinance No. 3-2013
Effective Date: 1-17-2013

SECTION 11.29. AIRPORT – OFFICE DISTRICT.

Subd. 1. Purposes of Airport - Office. The purposes of the Airport - Office District (A-OFC) are to: (1) Provide opportunities for offices of a semi-commercial character to locate outside of commercial districts; (2) Establish and maintain in portions of the City the high standards of site planning, architecture, and landscape design sought by many business and professional offices; (3) Provide adequate space to meet the needs of modern offices, including off-street parking of automobiles and, where appropriate, off-street loading of trucks; (4) Provide space for semi-public facilities and institutions appropriately may be located in office districts; (5) Minimize traffic congestion and avoid the overloading of utilities by preventing the construction of buildings of excessive size in relation to the amount of land around them; and, (6) Protect offices from the noise, disturbance, traffic hazards, safety hazards, and other objectionable influences incidental to certain commercial uses.

Subd. 2. Permitted Uses in Airport – Office District.

- A. Business and professional offices and accessory uses.
- B. Supporting commercial sales and services to office users within large office structures of 30,000 square feet or more. The Commercial use is not to exceed fifteen percent, (15%), of the gross Floor Area Ratio.
- C. Public Infrastructure.

Subd. 3. Required Conditions of Airport - Office.

- A. All professional pursuits and businesses shall be conducted entirely within a completely enclosed structure, except for off-street parking and loading areas.
- B. Acceptable, approved sanitary sewer service must be provided to all occupied structures.

Subd. 4. Aeronautical Uses. Aeronautical Uses and Aeronautical Development Projects are not subject to the terms or conditions of the City Code.

Subd. 5. Restrictions. In addition to the requirements set forth in this Section, construction of any building or structure situated within Airport – Commercial or Airport - Office District shall comply with all federal and state statutes, regulations, rules, laws, restrictions, guidance, and directives and Metropolitan Airports Commission rules and regulations concerning aeronautical safety and operation within the Flying Cloud Airport and runway protection zones.

Source: Ordinance No. 3-2013
Effective Date: 1-17-2013

SECTION 11.30. I - INDUSTRIAL DISTRICTS.

Subd. 1. Purposes. The purposes of the I-Industrial District are to: (1) Reserve appropriately located area for industrial and related activities; (2) Protect areas appropriate for industrial use from intrusion by inharmonious uses; (3) Protect residential and commercial properties and protect nuisance-free, non-hazardous, industrial uses from noise, odor, insect nuisance, dust, dirt, smoke, vibration, heat and cold, glare, truck and rail traffic, and other objectionable influences, and from fire, explosion, noxious fumes, radiation, and other hazards incidental to certain industrial uses; (4) Provide opportunities for certain types of industrial plants to concentrate in mutually beneficial relationship to each other; (5) Provide adequate space to meet the needs of modern industrial development including off-street parking and truck loading areas and landscaping; (6) Provide sufficient open space around industrial structures to protect them from the hazards of fire and minimize the impact of industrial plants on nearby uses; (7) Minimize traffic congestion and avoid the over-loading of utilities by preventing the construction of buildings of excessive size in relation to the amount of land around them; and, (8) Permit and reserve areas for employment activity and service to the public which do not materially detract from nearby industrial uses.

A. Special Purposes of Industrial Park Districts.

1. To establish and maintain high standards of site planning, architecture, and landscape design that will create an environment attractive to the most discriminating industries and research and development establishments seeking sites in the Metropolitan area.
2. Provide and ensure the continuity of locations for industries that can operate on small sites with minimum mutual adverse impact.

B. Special Purpose of the I-GEN General Industrial District. To provide locations where industries that desire larger sites and outside storage can operate with minimum restriction and without adverse effect on other uses.

Subd. 2. Permitted Uses.

- A. Manufacturing, warehousing, wholesale, distribution, processing, packaging, assembling, compounding, and accessory uses, conducted within a building.
- B. Office Uses.
- C. Public Infrastructure.
- D. Supporting minor commercial uses as contained within office/industrial buildings, providing a supplemental function to the major office and/or industrial use. The commercial use is not to exceed 15% of the gross Floor Area Ratio of the building it occupies.

Source: Ordinance No. 9-87
Effective Date: 5-7-87

E. Gymnasium.

Source: Ordinance No. 16-82
Effective Date: 1-14-83

- F. Funeral Homes. Source: Ordinance No. 17-94
Effective Date: 5-27-94
- G. Antennas and Towers, in those locations and subject to the limitations contained in City Code Section 11.06. Source: Ordinance No. 27-97
Effective Date: 6-13-97
- H. Showrooms, provided products are for display purposes only and not for direct retail sales. Source: Ordinance No. 13-2005
Effective Date: 7-19-2005

Subd. 3. Required Conditions.

- A. Acceptable, approved sanitary sewer service must be provided to all occupied structure.
- B. Zoning requests will be considered only on the basis of a Comprehensive Guide Plan for the entire area to be zoned and specific plans for initial structures and site development.
- C. Office uses as permitted in the Office District shall be permitted in the Industrial District. Office use in the Industrial District shall in no event exceed fifty percent (50%) of the total floor area of the structure. Such office use shall comply with all of the requirements of this Chapter. Source: City Code
Effective Date: 9-17-82

Subd. 4. Medical Cannabis.

- Source: 5-2015
Effective Date: 5-14-15
- A. Findings and Purpose. The Minnesota Legislature in Minn. Stat. §152.22 through §152.37 has legalized the distribution of medical cannabis with significant restrictions. The Council finds that it is appropriate to identify in the City Code the zoning districts in which a medical cannabis distribution facility is an allowable use. The Council finds that as a unique and highly regulated use medical cannabis distribution requires specific regulations.
- B. Definitions. All definitions set forth in Minn. Stat. 152.22 through 152.37 and Minn. Rules Chap. 4770, as each may be amended from time to time apply to this Subdivision. In addition, as used in this Subdivision, the following term shall have the meaning stated:
 - 1. Medical Cannabis Distribution Facility (“Facility”) is a “Distribution Facility” as defined by Minn. Rule 4770.0200, Subp. 13 as in effect as of May 30, 2014.
- C. Permitted Use. Medical Cannabis Distribution Facility is a permitted use in the I-2 Industrial Park District as identified on the Zoning Map of the City of Eden Prairie subject to the restrictions contained in this Subdivision.
- D. Performance Standards. All Medical Cannabis Distribution Facilities shall comply with all of the following performance standards.
 - 1. Distribution shall be permitted only for the Qualifying Medical Conditions defined in Minn. Stat. 152.22, Subd. 14 in effect as of May 30, 2014.

2. The use shall comply with all provisions in Minn. Stat. 152.22 through 152.37 and Minn. Rules Chap. 4770 as each may be amended from time to time, including but not limited to the following:
 - a) Security requirements set forth in Minn. Stat. 152.29, Subd. 1 (d) and Minn. Rules Chap 4770.0700, 4770.0900, 4770.1000 and 4770.1400.
 - b) Prohibition against sharing space or a financial relationship with a health care practitioner set forth in Minn. Stat. 152.29, Subd. 1 (e).
 - c) Prohibition against consumption of medical cannabis on the property set forth in Minn. Stat. 152.29, Subd. 2 (f).
 - d) Inspections imposed pursuant to Minn. Stat. 152.29, Subd. 2 (g).
 - e) Personnel regulations, including prohibition against employing any person under the age of 21 and required background checks, set forth in Minn. Stat. 152.29, Subd. 2 (i).
 - f) Prohibition against operation within 1000 feet of a school set forth in Minn. Stat. 152.29, Subd. 2 (j) and Minn. Rule 4770.0600.
 - g) Licensing requirements set forth in Minn. Stat. 152.29, Subd. 3.
 - h) Prohibition against any displays of merchandise, interior signs, or other exhibits which are visible from outside of the Facility set forth in Minn. Rule 4770.0800, Subp 3.
3. No manufacture or production of Medical Cannabis shall be permitted at the Facility.
4. No drive-thru shall be permitted at the Facility.
5. In lieu of the “Off-Street Parking Facilities” provisions set forth in City Code Section 11.03, Subd. 3 H., off street parking facilities located at the Facility shall provide a minimum of 5 parking spaces per 1,000 square feet of gross floor area.
6. Annually, within 15 days of receipt, a copy of the registration required by Minn. Stat. 152.25, Subd. 1 shall be provided to the Chief of Police.

(Sections 11.31 through 11.34, inclusive, reserved for future expansion.)

SECTION 11.35. PUB - PUBLIC.

Subd. 1. Purposes. The purposes of the PUB - Public District are to provide a procedure for the orderly establishment of public facilities, expansion of their operations, or change in the use of lands owned by governmental agencies and for the identification of drainage ways and flood plains.

Subd. 2. Permitted Uses.

- A. Public Infrastructure.
- B. Drainage ways and flood plains approved by the Council.

Source: City Code
Effective Date: 9-17-82
- C. Places of Worship.

Source: Ordinance No. 137-84
Effective Date: 1-17-85
- D. Cemeteries.
- E. Private schools and related boarding facilities which have public sanitary sewer and water service and which are located within the area described in Ordinance No. 12-87.

Source: Ordinance No. 12-87
Effective Date: 3-17-88

F. Antennas and Towers, in those locations and subject to the limitations contained in City Code Section 11.06.

Source: Ordinance No. 27-97
Effective Date: 6-13-97

G. Governmental offices in buildings of less than 6,000 square feet.

Source: Ordinance No. 1-2011
Effective Date: 1-27-2011

SECTION 11.36 GC-GOLF COURSE.

Subd. 1. Purposes. The purpose of the GC-Golf Course District is to specify a land use district applicable and consistent with the historical and contractual development and use of the City's golf courses.

Subd. 2. Permitted Uses.

A. Golf, golf holes, practice ranges and greens, tennis courts, club houses, swimming pools, maintenance and storage buildings, pump houses and wells, shelter houses, cart paths, irrigation facilities, croquet, lawn bowling, platform tennis, cross country skiing, snow shoeing, ice skating and other passive recreational activities with non-motorized use, provided however motorized golf carts are permitted. The term "golf course" does not include permanent or temporary residential use or transient hotel use.

(Sections 11.37 through 11.39, inclusive, reserved for future expansion.)

SECTION 11.40. PLANNED UNIT DEVELOPMENT (PUD) CONCEPT.

Subd. 1. PUD Concept Review. Any person or persons who may apply for a PUD may request a concept review ("PUD Concept Review") with respect to land which may be subject to a PUD. The purpose of a PUD Concept Review is to afford such persons an opportunity, without incurring substantial expense, to have the general feasibility of a PUD proposal considered. PUD Concept Review shall consist generally of an informal consideration by the Planning Commission and the Council of such person's PUD proposal. PUD Concept Review may be held with a public hearing. An application of PUD Concept Review may provide such information with respect to the request as the applicant shall deem appropriate in consultation with the City Planner. An applicant for PUD Concept Review shall pay all fees and costs provided for in this Chapter. Upon conclusion of a PUD Concept Review the Planning Commission and Council may make such recommendations and comments and take such action with respect to the proposal as they deem appropriate, provided, however, no approval under this Section shall constitute, or in the future require, approval or formal establishment or designation of a PUD, zoning or subdivision by the Council of the land which is the subject of the PUD Concept Review.

Subd. 2. Definition. As used in this Section, the term "original district" means a zoning district described in this Chapter.

Subd. 3. Zoning District Supplement. Planned Unit Development District ("PUD") is supplementary to a zoning district within or encompassing all or a portion or portions of one or more original districts in accordance with the provisions of this Chapter.

Subd. 4. Purpose. The purpose of this Section is to: (1) Encourage a more creative and efficient approach to the use of land in the City; (2) Allow variety in the types of environment available to the people of the City; (3) Encourage more efficient allocation and maintenance of privately controlled common open space through the distribution of overall

density of population and intensity of land use where such arrangement is desirable and feasible; and, (4) Provide the means for greater creativity and flexibility in environmental design than is provided under the strict application of the provisions of this Chapter and Chapter 12 (relating to subdivisions) of this Code while at the same time preserving the health, safety, order, convenience, prosperity, and general welfare of the City and its inhabitants.

Subd. 5. Designation. All PUD's shall be designated in the legal description of the original district being supplemented.

Source: City Code
Effective Date: 9-17-82

Subd. 6. Repealed.

Source: Ordinance No. 3-2000
Effective Date: 1-27-2000

Subd. 7. Permitted Uses. The permitted uses set forth in this Chapter pertaining to the original district or districts within a PUD shall apply to and be permitted uses in that part of a PUD in which such a district is encompassed, except as such use or uses may be limited by a development plan, an agreement or imposed by the City as a condition to approval of the PUD.

Subd. 8. Zoning and Subdivision Standards and Requirements. All standards and provisions relating to an original district as set forth in this Chapter and to the subdivision of land as set forth in Chapter 12 (if land which is the subject of a PUD is or will be subdivided in connection with a PUD) shall apply to an original district situated within a PUD and to such land subdivided or to be subdivided unless any such standards or requirement has been modified or waived as provided in Subparagraph A and B hereof.

- A. Any standard or provision, except permitted uses, set forth in this Chapter relating to an original district may be waived or modified by the City provided the ordinance relating to such PUD sets forth specifically or by reference to a development plan or an agreement such modification or waiver.
- B. Any standard or provision set forth in Chapter 12 relating to the subdivision of land which is the subject of a PUD and is being or will be subdivided in connection with a PUD may be waived or modified as provided in Chapter 12.

Subd. 9. Application. An applicant for a PUD shall submit in the application all of the material required by this Chapter for rezoning and if land encompassed within the PUD is to be subdivided, all of the material required by Chapter 12 of this Code relating to the subdivision of land. In addition, an applicant shall submit the following information:

- A. Project Identification. The following and such other information as is necessary to clearly and completely describe the project shall be provided:
 - 1. Ownership. Identify all owners legal and equitable of and all encumbrances and easements upon the land within the proposed PUD.
 - 2. Developer. Identify all parties involved in the development, including their previous experience and the nature and extent of their participation.
 - 3. Financing of Project. Identify the source and type of financing of the project, including financing such as: Municipal Industrial Development Revenue Bonds, Housing Revenue Bonds, or otherwise.
 - 4. Development Method. Describe what will be done with the project, if approved, and who will do it. Will the property be marketed undeveloped; rough graded; developed; or will the developer carry the project through actual construction of structures? Will structures be retained, sold, or leased?

5. **Development Timing.** Specify timing of each stage of development from initial site development through building construction. Any phasing of different portions of the project should be clearly explained.
 6. **Critical Public Decisions.** Identify all governmental agencies which have review authority over any portion of the development, what aspect of the project required their review, and what approvals are necessary. Explain what public improvements would be necessary to serve the project, such as: utilities, roads, road improvements, parks, schools, etc.
 7. **Other Information.** Include any other information necessary to explain the unique characteristics of the project.
- B. **Plan Area Identification.** Provide the following to identify the land included in the proposed PUD.
1. **PUD Boundaries.** A plan clearly denoting overall project boundaries.
 2. **PUD Area.** A plan which shows the overall PUD area as well as all parcels and their ownership within 1000 feet of the PUD.
 3. **Regional Relationships.** A description of regional factors the plan is predicated upon such as: market area, population centers, major roads, railroad, airport, proximity to Regional Services, etc. Also describe any impact the PUD would have on Regional Services and Systems.
 4. **Existing Land Use and Occupancy.**
 5. **Existing Transportation Systems.** Describe how the land within the PUD will be served by transportation systems and provide an analysis of the PUD's impact upon such transportation systems. If transportation systems are not adequate to accommodate the traffic expected from the development, describe improvements necessary. Illustrate how the plan provides for pedestrian and bicycle sidewalks and trails and how they tie into the City-wide system.
 6. **Existing Zoning.** A map which shows the existing zoning and zoning of adjacent parcels. A listing of any zoning district changes or variances from City Code provisions should be provided.
 7. **Guide Plan and PUD Concept Framework.** A map which shows the Guide Plan Designation of the project and surrounding uses. If the plan was originally part of a PUD Concept Review, the plan reviewed should be submitted together with a comparative analysis of the proposed PUD.
 8. **General Analysis and Conclusions.**
- C. **Plan Area Analysis.** Provide the following relating to analysis of the plan:
1. Two-foot contour topographic map depicting existing and proposed contours should be submitted at a scale of 1" = 100'.
 2. A soils map depicting surface and subsurface conditions that may affect construction.
 3. A map depicting vegetation of the site with detailed locations of trees 12" or over in diameter.
 4. All water, streams, lakes, marsh, ponds, drainage, subsurface, flood plains, should be denoted on a site plan.
 5. Photographs of the site sufficient to convey its general visual qualities and relationship to area and proposed development.

6. A general discussion of natural ecological factors, analysis and conclusions.
7. A utility plan which illustrates the easements, and general sewer, water, and power services to all uses.
8. Preliminary architectural drawings depicting normal detail achieved during "design development phase" of architectural design process (does not include single family detached housing).
9. Legal instruments for plan implementation including homeowner's association documents, scenic, pathway, drainage, or other easements and private documents, etc.
10. Housing or land/building use profile including computations of gross/leasable square footage, housing unit breakdown to square foot, bedrooms, persons/unit, parking requirements, etc.
11. A map drawn to scale of 1" = 200' showing roads, structures, lakes, streams, ponds, wetlands, floodplains, vegetation, topography, utilities, sidewalks, trails, parks, zoning, and land use within 1,000 feet of the boundaries of a proposed PUD and an analysis of the impact the PUD would have on the above referenced items.

D. Fees and Costs. Applications for a PUD shall be filed at the office of the City Planner. A non-refundable application fee in the amount established by the Council by resolution to defray administrative costs shall accompany each application. A deposit established by the City Planner shall accompany the application. The deposit or a portion thereof, will be refunded after final Council action on the proposal if the total sum is greater than the administrative review cost, which may include, but not be limited to:

1. Consultant fees assisting in City review.
2. City Staff time expended in specific development review.
3. Mailing, legal notices and other administrative costs.
4. Any other reasonable costs incurred by the City in review of the proposal. Full payment by the proponent of all fees and costs for City review must be made prior to consideration of the application.

Subd. 10. Public Hearing. A public hearing on an application for a PUD and any PUD amendment other than a Minor PUD Amendment as defined in Subd. 10. C. below shall be held before both the Planning Commission and the Council. An application for a Minor PUD Amendment shall require a public hearing only before the Council. When a PUD involves changes in district boundaries, a similar notice shall be mailed at least ten days before the day of the hearing to each owner of affected property and property situated wholly or partly within 500 feet of the property to which the PUD relates. For the purpose of giving mailed notice, the person responsible for mailing the notice may use any appropriate records to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this Subdivision has been made.

Source: Ordinance No. 1-2016
Effective Date: 1-14-2016

A. An application for a PUD and all applications for amendment of a PUD may not be acted upon by the Council until it has received the recommendation of the Planning Commission or until 60 days have elapsed from the date of referral to the Planning Commission.

- B. In the event land within a PUD is or will be subdivided in connection with a PUD, such subdivision pursuant to, or any waiver or modification of any provision of, Chapter 12 may be approved only upon compliance with such additional procedures as are set forth in Chapter 12.

Source: City Code
Effective Date: 9-17-82

- C. Minor PUD Amendment is:

1. Additions or reductions which require PUD waivers and are 10% or less of the Gross Floor Areas of building or 2,000 square feet whichever is less. The addition or reduction shall be the cumulative total or cumulative reduction after adoption if this Section 11.40, Subd. 10, C. 1.
2. Façade remodels which are require a PUD waiver.

Source: Ordinance No. 1-2016
Effective Date: 1-14-2016

- D. A Zoning Certificate and Certificate of Occupancy shall be required in accordance with City Code Section 11.77.

Subd. 11 Findings Required. The findings necessary for approval of a PUD shall be as follows:

- A. The proposed development is not in conflict with the goals of the Guide Plan of the City.
- B. The proposed development is designed in such a manner to form a desirable and unified environment within its own boundaries.
- C. Any exceptions to the standard requirements of this Chapter and Chapter 12 of this Code are justified by the design of the development.
- D. The PUD is of composition, and arrangement that its construction, marketing, and operation are feasible as a complete unit without dependence upon any subsequent unit, and the PUD shall be consistent with an approved PUD Concept.

Source: Ordinance No. 24-91
Effective Date: 12-5-91

Subd. 12. Revisions and Amendments.

- A. Minor changes in the location, placement and height of buildings or structures as well as other matters set forth in the development plan, or any agreement, except as described in Subparagraph B below, may be authorized by the City Planner if required by engineering or other circumstances not foreseen at the time the final development plan was approved.
- B. Changes in uses as well as any modification or waiver of any standard or requirement relating to an original district or amendment of any waiver or modification thereof granted in connection with a PUD may be made only in accordance with the procedures applicable to amendments of this Chapter pertaining to zoning. Changes relating to any standard or requirement set forth in Chapter 12 pertaining to the subdivision of land or amendment of any waiver or modification thereof granted in connection with a PUD may be made only in accordance with the procedures provided in Chapter 12 of this Code pertaining to subdivision of land.

Source: City Code
Effective Date: 9-17-82

SECTION 11.41. CONDITIONAL USE PERMITS.

Subd. 1. Categories of Conditional Use.

A. Major Center Area.

1. Declaration of Policy and Purpose. It is hereby found and declared that certain lands within the City have been included within and designated as the "Major Center Area", (MCA), and are the subject of the "Eden Prairie Major Center Area Planned Unit Development", (MCA-PUD), adopted by the Council on July 10, 1973, as an amendment to the Comprehensive Guide Plan. The MCA-PUD as well as the Comprehensive Guide Plan contemplate multiple uses, including office uses, of the lands within the MCA-PUD. Some of the lands intended for office use are situated in the R1-22 (Residential) or the Rural District and have dwellings situated thereon. Development of some of the lands within the MCA for the uses intended has occurred. Development of some of such land has not and may not occur in the immediate future because of time, economic and other constraints. Thus, use of lands in the MCA have been and are in a state of transition. The development and use of some of the lands for the purposes intended may adversely affect the use of certain dwellings for residential purposes situated on some of the lands within the MCA. It is, therefore, advisable to enable the owners of lands on which are situated such dwellings to temporarily use or permit use of the same for other purposes under proper and specific conditions to ameliorate the impact of the transition of uses within the MCA. In order to accomplish such purposes the following provisions relating to the issuance of conditional use permits are adopted.
2. Areas Where Conditional Use Permits May Be Granted. That part of the following described lands situated within either the R1-22 or Rural District may be used for those permitted uses described in Section 11.20 (Office District) hereof upon issuance of a conditional use permit in accordance with and subject to the provisions and conditions contained in this Section.

Sec. 14, T. 116, R.22
NW-1/4 of the NE-1/4
SW-1/4 of the NW-1/4
SE-1/4 of the NW-1/4
NE-1/4 of the NE-1/4
SE-1/4 of the SW-1/4
SW-1/4 of the SE-1/4
SW-1/4 of the SW-1/4
Sec. 23, T. 116, R.22
The South 650 feet of the NW-1/4 of the NE-1/4
3. Duration of Permits. A Major Center Area conditional use permit shall be for a period not in excess of three years, provided, however, after a permit expires, the Council may grant another conditional use permit effective subsequent to the expiration of a previously granted conditional use permit.

B. Historic Properties.

1. Policy and Purpose. Certain buildings within the City have been included within and designated by the City as Heritage Preservation Sites pursuant to Section 11.05 of this chapter, or are listed in the National Register of Historic Places. The intent of this Section is to encourage preservation, revitalization and adaptive reuse of the many Historic Properties located in the City of Eden Prairie. The permitted uses are intended to promote preservation of the historic and architectural character by encouraging retention and appropriate use of existing structures as civic, retail, restaurant, personal service and office establishments. The conditional uses listed in this Section must be reviewed by the Heritage Preservation Commission and approved by the City Council after consideration in each case, of the impact of such uses upon the property, neighboring uses, the surrounding area and the public need for the particular use at the particular location. Limitations and standards are herein established to insure the use's consistency with the character, uses and activities in the rural district. In order to

accomplish such purposes, the following provisions relating to the issuance of conditional use permits are adopted.

2. Areas Where Conditional Use Permits May Be Granted for Adaptive Reuse. Conditional use permits for the adaptive use of a Heritage Preservation Site, is limited to historic properties situated within an R-Rural District.
3. Permitted Uses for Adaptive Reuse of Heritage Preservation Sites. The adaptive use proposed for the property must be a permitted use in either the Office District, Section 11.20, Subd. 2(A) or (B), or the Commercial Districts, Section 11.25, Subd. 2(A). Examples include: restaurants, bakeries, cafes, delicatessens, coffee houses, ice cream parlors, bed and breakfasts, reception facilities, meeting or conference facilities, professional office uses, museums, art galleries, antique shops, craft boutiques, or retail stores or shops.
4. Duration of Permits. An Historic Properties conditional use permit shall be for a period not in excess of five years, provided, however, after a permit expires, the Council may grant another conditional use permit effective subsequent to the expiration of a previously granted conditional use permit.

Subd. 2. Standard for All Conditional Use Permits. A conditional use permit may be granted subject to the City Council making the following findings:

- A. The land subject to the conditional use permit shall abut on a public street.
- B. The conditional use will have available to it adequate and safe supply of water and shall have available and use sanitary sewer which shall adequately and safely, without harm to other lands or persons in the area, dispose of all sanitary sewage generated on the land subject to the conditional use permit.
- C. The conditional use will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the area.
- D. The conditional use will be sufficiently separated by distance or screening from adjacent lands so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
- E. The structure and site for the conditional use shall not be altered in appearance so as to have an adverse effect upon adjacent residential properties.
- F. The conditional use will not cause traffic hazard or congestion.
- G. Neighboring land and dwellings will not be adversely affected because of traffic generation, noise, glare, or other nuisance characteristics.
- H. Any other conditions deemed appropriate for the purpose of protecting the public health, safety and welfare.
- I. The land subject to the conditional use permit shall meet the requirements of Section 11.03, Subd. 6, Site Plan and Architectural Design Review.
- J. Applicants must comply with Section 11 requirements for the district in which the property is located.

Subd. 3. Additional Conditions. All conditional uses are subject to the criteria established in Subdivision 2 above. In granting a conditional use permit the Council may impose conditions, including the furnishing of a bond containing such terms and provisions and in such amount as may be provided by the Council, to ensure the prevention of or the compliance with those matters specified in Subdivisions 2 and 3 hereof or otherwise as the Council may determine to be

advisable or appropriate to achieve the policies and purposes of this Section. Additional criteria must be met in each of the following categories of conditional use:

A. Major Center Area.

1. The conditional use will not be in conflict with the MCA-PUD or the Comprehensive Guide Plan.
2. The conditional use is reasonably related to the overall needs of the City and to the existing land use in the MCA.
3. No permit shall be granted unless the minimum standards set forth in this Chapter relating to lands within the Office District are met, unless a variance has been granted therefore by the Board of Adjustments and Appeals.
4. There shall be no business or advertising sign in excess of 8 square feet.
5. The conditional use will not require construction on the land of, a new, or enlargement of an existing building by more than five percent of the total cubic feet of the existing building.

B. Historic Properties. To be considered eligible for an historic properties conditional use permit, properties must be in conformance with the following:

1. Applicant must demonstrate that the historic characteristics of the property cannot be maintained reasonably and economically unless the conditional use permit is granted.
2. Property is designated by the City as a Heritage Preservation Site or listed on the National Register of Historic Places.
3. The property is adequately sized to meet the proposed use.
4. In conformance with all applicable building and fire codes and ADA requirements.
5. In conformance with all State and County health regulations.
6. One advertising sign is permitted not to exceed thirty-two (32) square feet, and six feet in height.
7. Site improvements meet the City's historic preservation standards and guidelines.
8. Applications for conditional use permits shall be reviewed by the Heritage Preservation Commission.
9. If an application is reviewed by the Heritage Preservation Commission, and approved by the City Council, applicant shall receive a conditional use permit. However, in addition to the conditional use permit, applicants shall also obtain a Heritage Preservation Site Alteration Permit pursuant to this Chapter.

Subd. 4. Procedure. An application for a conditional use permit shall be in writing signed by the owner of the land for which the conditional use permit is sought. The procedures applicable to an amendment of Chapter 2 of the City Code, including notice and public hearing, shall be required prior to the issuance of a conditional use permit.

Subd. 5. Revisions and/or Changes.

A. Major Center Area.

1. Minor revisions and/or changes in site or remodeling plans on which the granting of a conditional use permit has been conditioned may be approved by the City Planner if they are required by engineering or other circumstances which were not foreseen at the time the conditional use permit was approved.
 2. Major revisions and/or changes in site or remodeling plans on which the granting of a conditional use permit has been conditioned may be approved by the Council only pursuant to the procedures applicable to an application for a conditional use permit. Any change in a site or remodeling plan the cost of which change shall exceed 10 percent of the market value of the land and any improvements thereon, for which a conditional use permit has been granted, as determined by the City Assessor shall constitute a major revision or change.
- B. Historic Properties. Any revisions and/or changes to site or remodeling plans after a Heritage Preservation Site Alteration Permit has been granted, shall require approval by the City Planner and comply with Section 11.05, Subd. 5 criteria.

Subd. 6. Cancellation of Conditional Use Permits. Unless otherwise specified by the Council at the time it is authorized a conditional use permit shall expire if the applicant fails to utilize such conditional use permit by obtaining a building permit or otherwise within one year from the date of its authorization.

Subd. 7. Conditional Use Permit Required. It is unlawful for any person to engage in a conditional use without having first obtained a conditional use permit therefore.

Source: Ordinance No. 14-2002

Effective Date: 5-30-02

Ordinance No. 30-83

Effective Date: 7-22-83

(Sections 11.42 through 11.44, inclusive, reserved for future expansion.)

SECTION 11.45. FLOOD PLAINS REGULATION.

Source: Ordinance No. 25-2004

Effective Date: 8-26-2004

Subd.1. Statutory Authorization, Purpose, and Disclaimer. The Legislature of the State of Minnesota has, in Minnesota Statutes Chapters 103F delegated the authority to local governmental units to adopt regulations designed to minimize flood losses. Minnesota Statute, Chapter 103F further stipulates that communities subject to recurrent flooding must participate and maintain eligibility in the National Flood Insurance Program. Therefore the City does ordain as follows:

- A. Statement of Purpose. The purpose of this Section is to maintain the City's eligibility in the National Flood Insurance Program and to minimize potential losses due to periodic flooding including loss of life, loss of 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, all of which adversely affect the public health, safety and general welfare.
- B. Warning of Disclaimer of Liability. This Section does not imply that areas outside of the flood plain district or land uses permitted within such district will be free from flooding and flood damages. This Section shall not create liability on the part of the City or any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decisions lawfully made thereunder.
- C. 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 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the city's eligibility in the National Flood Insurance Program.

Subd. 2. General Provisions.

- A. Adoption of Flood Insurance Study and Flood Insurance Rate Map. The Flood Insurance Study, Volume 1 of 2 and Volume 2 of 2, Hennepin County, Minnesota, All Jurisdictions and the Flood Insurance Rate Map panels numbered 27053C0319 E, 27053C0338 E, 27053C0339 E, 27053C0343 E, 27053C0344 E, 27053C0410 E, 27053C0420 E, 27053C0430 E, 27053C0432 E, 27053C0434 E, 27053C0435 E, 27053C0440 E, 27053C0442 E, and 27053C0445 E for the City, dated September 2, 2004, as developed by the Federal Emergency Management Agency, are hereby adopted by reference as the Official Flood Plain Zoning District Map and made a part of this Section.
- B. Lands to Which Ordinance Applies. This Section shall apply to all lands designated as flood plain within the jurisdiction of the City. Flood plain areas within the City shall encompass all areas designated as Zone A, Zone AE, Zone AO, or Zone AH as shown on the Flood Insurance Rate Map adopted in Subd. 2. A. of this Section.
- C. Interpretation. The boundaries of the flood plain district shall be determined by scaling distances on the Official Flood Plain Zoning District Map. When interpretation is needed as to the exact location of the boundaries of the flood plain district, the City Engineer shall make the necessary interpretation based on the ground elevations that existed on the site at the time the City adopted its initial floodplain ordinance and the regional (100-year) flood profile, if available. If 100-year flood elevations are not available, the City shall: 1) Require a flood plain evaluation consistent with Subd. 5.C of this Section to determine a 100-year flood elevation for the site; or 2) base its decision on available hydraulic/hydrologic or site elevation survey data which demonstrates the likelihood the site is within or outside of the flood plain.

Subd. 3. Definitions.

- A. Unless specifically defined below, words or phrases used in this Section shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Section its most reasonable application.
 - 1. Accessory Use or Structure - a use or structure on the same lot or parcel of land with, and of a nature customarily incidental and subordinate to, the principal use or structure.
 - 2. Basement - means 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.
 - 3. Flood Fringe - that portion of the flood plain outside of the floodway.
 - 4. Flood Plain - the channel or beds proper and the areas adjoining a wetland, lake or watercourse that has been or hereafter may be covered by the regional flood. Flood plain areas within the City of Eden Prairie shall encompass all areas designated as Zone A, Zone AE, Zone AO, or Zone AH on the Flood Insurance Rate Map adopted in Subd. 2.A. of this Section.
 - 5. Flood Plain District – those areas constituting the flood plain.
 - 6. Floodway - the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain that are reasonably required to carry or store the regional flood discharge.
 - 7. Lowest Floor – the lowest floor of the lowest enclosed area (including basement).
 - 8. 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.”

9. Obstruction - any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, dredged spoil, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, stockpile of sand or gravel or other material, or matter in, along, across, or projecting into any channel, watercourse, lake bed, or flood plain which may impede, retard, or change the direction of flow, either in itself or by catching or collecting debris carried by floodwater.
10. Recreational Vehicle – a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest 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 shall be synonymous with the term travel trailer/travel vehicle.
11. Regional Flood - a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristics of what can be expected to occur on an average frequency in magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used on the Flood Insurance Rate Map.
12. Regulatory Flood Protection Elevation. The regulatory flood protection elevation shall be an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.
13. 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, travel trailers/vehicles not meeting the exemption criteria specified in Subd. 13.A of this Section and other similar items.
14. Substantial Damage – means damage of any origin sustained by a structure where the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
15. Substantial Improvement – within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:
 - (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
 - (b) Any alteration of an "historic structure," provided that the alteration will not preclude the structure's continued designation as an "historic structure." For the purpose of this Section, "historic structure" shall be as defined in Code of Federal Regulations, Part 59.1.

Subd. 4. General Compliance.

- A. The Flood Plain District as Overlay Zoning District. The flood plain zoning district shall be considered an overlay zoning district to all existing land use regulations of the City. The uses permitted in Subd. 5. of this Section shall be permitted only if not prohibited by any established, underlying zoning district. The requirements of this Section shall apply in addition to other legally established regulations of the City and where this Section imposes greater restrictions, the provisions of this Section shall apply.

- B. Compliance: No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, repaired, maintained, or structurally altered without full compliance with the terms of this Section and other applicable regulations which apply to uses within the jurisdiction of this Section. Within the Floodway and Flood Fringe, all uses not listed as permitted uses in Subd. 5 shall be prohibited.
- C. New manufactured homes, replacement manufactured homes and certain recreational vehicles are subject to the general provisions of this Section.
- D. Modifications, repair and maintenance, additions, structural alterations 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 Subd. 10; and
- E. As-built elevations for elevated structures must be certified by elevation surveys as stated in Subd. 8 of this Section.

Subd. 5. Permitted Uses, Standards, and Flood Plain Evaluation Criteria.

- A. Permitted Uses in the Flood Plain. The following uses of land are permitted uses in the flood plain district:
 1. Any use of land which does not involve a structure, a fence, an addition to the outside dimensions to an existing structure (including a fence) or an obstruction to flood flows such as fill, excavation, or storage of materials or equipment.
 2. Any use of land involving the construction of new structures, a fence, the placement or replacement of manufactured homes, the addition to the outside dimensions of an existing structure (including a fence) or obstructions such as fill or storage of materials or equipment, provided these activities are located in the flood fringe portion of the flood plain. These uses shall be subject to the development standards in Subd. 4.B of this Section and the flood plain evaluation criteria in Subd. 4.C of this Section for determining floodway and flood fringe boundaries.
- B. Standards for Flood Plain Permitted Uses.
 1. Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
 2. 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) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning or if placed on fill to the regulatory flood protection elevation.
 3. No use shall be permitted which will adversely affect the capacity of the channels or floodways of any tributary to the main stream, or of any drainage ditch, or any other drainage facility or system.
 4. All structures, including accessory structures, additions to existing structures and manufactured homes, shall be constructed on fill so that the lowest floor, including basement floor, is at or above the regulatory

flood protection elevation. The finished fill elevation must be no lower than one foot below the regulatory flood protection elevation and shall extend at such elevation at least 15' beyond the limits of the structure constructed thereon.

5. All Uses. Uses that do not have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation to lands outside of the flood plain shall not be permitted unless granted a variance by the Planning Commission. In granting a variance, the Planning Commission shall specify limitations on the period of use or occupancy of the use and only after determining that adequate flood warning time and local emergency response and recovery procedures exist.
6. Commercial and Manufacturing Uses. Accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood.
7. On-site Sewage Treatment and Water Supply 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 shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.
8. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

C. Flood Plain Evaluation

1. Upon receipt of an application for a permit for a use or other approval within the Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the floodway or flood fringe.
 - (a) A typical valley cross-section(s) showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.
 - (b) Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets.
 - (c) Photographs showing existing land uses, vegetation upstream and downstream, and soil types.
 - (d) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.
3. The applicant shall be responsible to submit one copy of the above information to the City Engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe and to determine the regulatory flood protection elevation. Procedures consistent

with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:

- (a) Estimate the peak discharge of the regional 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 0.5 foot. A lesser stage increase than .5' shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.
4. The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the City Council. The City Council must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The City Council, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe District Boundaries have been determined, the City Council shall refer the matter back to the Zoning Administrator who shall process the permit application consistent with the applicable provisions of this Section.

Subd. 6. Utilities, Railroads, Roads and Bridges in the Flood Plain District.

All utilities and transportation facilities, including railroad tracks, roads and bridges, shall be constructed in accordance with state flood plain management standards contained in Minnesota Rules 1983 Parts 6120.5000 - 6120.6200.

Subd. 7 Subdivisions.

- A. No land shall be subdivided and no manufactured home park shall be developed or expanded where the site is determined to be unsuitable by the Council for reason of flooding, inadequate drainage, and water supply or sewage treatment facilities. The Council shall review the subdivision/development proposal to insure that each lot or parcel contains sufficient area outside of the floodway for fill placement for elevating structures, sewage systems and related activities.
- B. In the flood plain district, applicants for subdivision approval or development of a manufactured home park or manufactured home park expansion shall provide the information required in Subd. 5.C.1 of this Ordinance. The Council shall evaluate the proposed subdivision or mobile home park development in accordance with the standards established in Subs. 5.B, 5.C, and 6 of this Ordinance.
- C. For all subdivisions in the flood plain, the floodway and flood fringe boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.
- D. Removal of Flood Plan Designation: The Federal Emergency Management Agency (FEMA) has established criteria for removing flood plan designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of flood plan designation will be requested.

Subd. 8. Administration.

- A. Permit Required. A Permit issued by the Chief Building Official shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building or structure or portion thereof; prior to the use or change of use of a building or structure; prior to the construction of a dam, fence, or on-site septic system, prior to the change or extension of a nonconforming use, prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source, and prior to the placement of fill, excavation of materials or the storage of materials or equipment within the flood plain.
- B. State and Federal Permits. Prior to granting a permit or processing an application for a variance, the City Engineer shall determine that the applicant has obtained all necessary state and federal permits.
- C. Certification of Lowest Floor Elevations. The applicant shall be 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. The City Engineer shall maintain a record of the elevation of the lowest floor (including basement) for all new structures and alterations or additions to existing structures in the flood plain district.
- D. Notifications for Watercourse Alterations. The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the City authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
- E. Notification to FEMA when physical changes increase or decrease the 100-year Flood Elevation. As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.

Subd. 9. Variances.

- A. A variance means a modification of a specific permitted development standard required in an official control including this Section to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon the City's respective planning and zoning enabling legislation and this Section.
- B. The Planning Commission may authorize upon appeal in specific cases such relief or variance from the terms of this Section as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities. In the granting of such variance, the Planning Commission shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this Section, any other zoning regulations of the City, and the criteria specified in the respective enabling legislation which justified the granting of the variance. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
- C. Variances shall not be issued by the City within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- D. Variances shall only be issued 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.

- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances from the provisions of this Section may be authorized when the Planning Commission has determined the variance will not be contrary to the public interest and the spirit and intent of this Section. No variance shall allow in any district a use prohibited in that district or permit a lower degree of flood protection than the regulatory flood protection elevation. Variances may be used to modify permissible methods of flood protection.
- G. The Planning Commission shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variance sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing. A copy of all decisions granting a variance shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
- H. Appeals. Appeals from any decision of the Planning Commission shall be made in accordance with the procedures set forth in Section 2.26.

Source: Ordinance No. 14-2011
Effective Date: 10-27-2011

- I. Flood Insurance Notice and Record Keeping. The Zoning Administrator shall notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and 2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. The City shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

Subd. 10. Nonconformities.

- A. A structure or the use of a structure or premises 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 Subd. 3. A. 15 (b) of this Section, shall be subject to the provisions of Subd. 10.A.1.-4.
 - 1. No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity.
 - 2. A structural alteration within the inside dimensions of a nonconforming use or structure is permissible provided it utilizes flood resistant materials so as not to result in increasing the flood damage potential of that use or structure. A structural addition to a structure must be elevated to the regulatory flood protection elevation in accordance with Subd. 5. B. 4. of this Section.
 - 3. The cost of all structural alterations or additions both inside and outside of a structure to any nonconforming structure within any consecutive 365 days shall not exceed 50 percent of the market value of the structure unless the conditions of this Subdivision are satisfied. The cost of all structural alterations and additions must be calculated in today's current cost which will include all costs such as construction materials and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions within any consecutive 365 days exceeds 50 percent of the current market value of the structure, then the structure must meet the standards of Subd. 5 of

this Section for new structures.

4. If any nonconforming use of a structure or land or nonconforming structure is substantially damaged, as defined by Subd. 3. A. 14. of this Section, it shall not be reconstructed except in conformity with the provisions of this Section. The City may issue a permit for reconstruction if the use is located outside the floodway and, upon reconstruction, is adequately elevated on fill in conformity with the provisions of this Section.
5. Substantial improvement, as defined in Subd 3.A.15., of a structure must meet the requirements of Subd 5 of this Section for new structures.

Subd. 11. Penalties for Violation.

- A. A 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 variance) shall constitute a misdemeanor.
 1. In responding to a suspected ordinance violation, the Zoning Administrator and the Community 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.
 2. When an ordinance 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 is reasonably possible, this information will be submitted to the appropriate Department of Natural Resources' and Federal Emergency Management Agency Regional Office along with the City's plan of action to correct the violation to the degree possible.
 3. The Zoning Administrator shall notify the suspected party of the requirements of this Section 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, then the Zoning Administrator may either (1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls, or (2) notify the responsible party to apply for an after-the-fact permit/development approval within a specified period of time not to exceed 30-days.
 4. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses shall constitute an additional violation of this Section and shall be prosecuted accordingly. The Zoning Administrator shall also upon the lapse of the specified response period notify the landowner to restore the land to the condition that existed prior to the violation of this Section.

Subd. 12. Amendments.

All amendments to this section, including revisions to the Official Flood Plain Zoning District Map, shall be submitted to and approved by the Commissioner of Natural Resources prior to adoption. The flood plain designation on the Official Flood Plain Zoning District Map shall not be removed unless the area is filled to an elevation at or above the regulatory flood protection elevation and is contiguous to lands outside of the flood plain. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA)

Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this Section and said notice shall include a draft of the ordinance amendment or technical study under consideration.

Subd. 13. Travel Trailers and Travel Vehicles.

Recreational vehicles that do not meet the exemption criteria specified in Subd. 13.A below shall be subject to the provisions of this Ordinance and as specifically spelled out in Subd. 13.C below.

- A. Exemption – Recreational vehicles are exempt from the provisions of this Ordinance if they are placed in any of the areas listed in Subd. 13.B below and further they meet the following criteria:
 - 1. Have current licenses required for highway use.
 - 2. Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.
 - 3. The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.

- B. Areas Exempted For Placement of Recreational Vehicles:
 - 1. Individual lots or parcels of record.
 - 2. Existing commercial recreational vehicle parks or campgrounds.
 - 3. Existing condominium type associations.

- C. Recreational vehicles exempted in Subd. 13.A lose this exemption when development occurs on the parcel exceeding \$500.00 for a structural addition to the recreational vehicle or exceeding \$500.00 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation requirements and the use of land restrictions specified in Subd. 5 of this Ordinance. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.

(Section 11.46 through 11.49, inclusive, reserved for future expansion.)

SECTION 11.50. SHORELAND MANAGEMENT.

Subd. 1. Authorization and Jurisdiction.

- A. Statutory Authorization. These Shoreland regulations are adopted pursuant to the authorization and policies contained in Minn. Stat. Section 103F.201-103F.221 and Minn. Stat. Section 462.

- B. Jurisdiction. The provisions of this Section shall apply to the shorelands of the public waters as classified in Subd.7 of this Section. Pursuant to Minnesota Regulations, Parts 6120.2500-6120.3900. no lake, pond, or flowage less than 10 acres in size in municipalities need be regulated in a local government's shoreland regulations. 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 section.

Subd. 2. Declaration of Policy and Procedures. Declaration of Policy. It is hereby found and declared that shorelands of public waters are, or may be, subject to uncontrolled use resulting in: Health and safety hazards, pollution of public waters, loss of property, destruction of fish and wildlife, impairment of natural beauty, and impairment of local tax base all of which adversely affect the public health, safety, and welfare. It is, therefore, the purpose of this Section to provide standards and criteria for the subdivision, use and development of the shorelands of public waters in order to preserve and enhance the quality of public waters, conserve the economic and natural environmental values of shorelands, and provide for wise utilization of water and related land resources, and thereby promote and protect the public health, safety, and welfare.

Subd. 3. Interpretation and Severability. In interpreting and applying the provisions of this Section, such provisions shall be held to be minimum requirements for the promotion of the public health, safety, prosperity and general welfare. It is not the intention of this Section to interfere with any other provision of the City Code, however, where this Section imposes a greater restriction upon the use or improvement of any premises than those imposed or required by other City Code provisions, rules, regulations or permits of the City, State, or appropriate Watershed District, the provisions of this Section shall govern.

Subd. 4. Definitions. The following terms, as used in this Section, shall have the meanings stated:

1. "Bluff" - A topographic feature such as a hill, cliff, or embankment having all the following characteristics (an area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff):
 - a. Part or all of the feature is located in a shoreland area;
 - b. The slope rises at least 25 feet above the ordinary high water level of the waterbody;
 - c. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and
 - d. The slope must drain toward the waterbody.
2. "Bluff impact zone" - A bluff and land located within 20 feet beyond the top of a bluff.
3. "Building line" - A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.
4. "Clear cutting" - Removal of all existing significant natural vegetation on a lot.
5. "Commissioner" - The Commissioner of the Department of Natural Resources.
6. "Lot Abutting" - Any lot directly abutting the Ordinary High Water Level or within 150 feet thereof shall be considered an abutting lot.
7. "Ordinary high water level" - The boundary of public waters and wetlands, and shall be at an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowage, the ordinary high water level is the operating elevation of the normal summer pool.
8. "Public waters" - Any waters as defined in Minnesota Statutes, 103.G.005 Sub. 15 and Sub. 18.

9. "Setback" - The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.
10. "Sewage treatment system" - A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Subdivision 17 of this ordinance.
11. "Sewer system" - Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.
12. "Shore impact zone" - Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the required structure setback.
13. "Shoreland" - Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by code on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner.
14. "Shoreline" - The shoreline for public waters is defined as the normal ordinary high water level.
15. "Toe of the bluff" - The lower point of a 50-foot segment with an average slope exceeding 18 percent.
16. "Top of the bluff" - The higher point of a 50-foot segment with an average slope exceeding 18 percent.
17. "Water-oriented accessory structure" - A structure used solely for watercraft storage including storage of related boating and water-oriented sporting equipment.
18. "100-Year Frequency Flood Level" - The elevation that a creek, pond, or lake can be expected to reach once in 100 years.

Subd. 5. Administration, Application and Issuance of Certain Permits.

- A. Permit Required. A permit issued by the City shall be applied for and obtained prior to construction, installation of sewer and water facilities, and grading and filling within any part of shoreland area.
- B. Applications for permit. Application for permit within any part of a shoreland area shall be made in conformance with procedures set forth in Section 11.55, subd. 5 A. Application for Land Alteration Permit, Fees, Council Action, Bond in addition to the requirements of this subdivision.

Ordinance No. 14-2004
Effective Date: 6-10-2004

- C. Factors Considered Prior to Granting Permit. In exercising its discretion to grant or deny permits, the Council may consider, among other things, the following:
 1. Adequacy of lot size and building setbacks.
 2. Adequacy of sewer and water facilities.
 3. Adequacy of grading, filling and restoration.
 4. Whether the structures will be structurally safe for use by the intended users.

5. Whether the facility will comply with the regulations and shoreland protection measures contained in this Section.
 6. Whether the proposed structure will create a volume of traffic on the public water in the vicinity of the facility which will tend to be unsafe.
 7. Whether the proposed facility will be compatible with adjacent development.
 8. Whether the proposed facility will be compatible with the maintenance of the natural beauty of the public water.
 9. Whether the proposed facility will affect the quality, or ecology of the public water.
 10. Whether the proposed facility, by reason of noise, fumes or other nuisance characteristics, will tend to be a source of nuisance or annoyance to persons in the vicinity of the facility.
 11. Whether adequate sanitary and parking facilities will be provided in connection with the proposed facility.
- D. Permit Conditions. The Council may impose written conditions on the issuance of a permit. A violation of the terms and conditions of a permit is a violation of this Section and grounds for revocation of the permit.
- Ordinance No. 14-2004
Effective Date: 6-10-2004
- E. Notification Procedures.
1. Copies of all notices of any public hearing to consider variances, amendments or conditional uses under any provision of this section must be sent to the Commissioner or the Commissioner's designated representative and post-marked at least ten days before the hearing. Notices of hearings to consider proposed plats must include copies of the plats.
 2. A copy of approved amendments and plats, and final decision granting variances or conditional uses under this section must be sent to the Commissioner or the Commissioner's designated representative and post-marked within ten days of final action.
- Ordinance No. 14-2004
Effective Date: 6-10-2004

Subd. 6. Variance Standards.

- A. Procedures for Considering Variance Application. A variance from strict conformity with the terms of this section may be granted in conformance with the provisions for granting variances set forth in Section 11.76 of this Chapter. Upon receiving an application for a variance, the Board of Adjustments and Appeals, prior to rendering a decision thereon, may require the applicant to furnish the following information, as deemed necessary by the Board, for determining the suitability of a particular site for the proposed use:
1. Plans showing elevation of the ground water supply, sanitation facilities, photographs showing existing land uses, vegetation upstream and downstream and soil types.
 2. Specification for building construction (including lot size and setbacks), filling, and grading, water supply, and sanitary facilities.
 3. Such other information as may bear on the suitability of the proposed structure or development. In considering variance requests, the Boards of Adjustment and Appeals must also consider whether the property owner has reasonable use of the lands without the variance, whether the existing sewage

treatment system on the property needs upgrading before additional development is approved, whether the property is used seasonally or year-round, whether the variances is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

Ordinance No. 14-2004
Effective Date: 6-10-2004

B. Provisions of the variance regulations contained in this section shall apply.

For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

C. Administration of Variance. Refer to Subdivision 5 entitled Administration, Application and Issuance of Certain Permits.

Subd. 7. Shoreland Classification System and Profile.

A. The public waters of the City are as set forth below:

1.	<u>Natural Environment Waters</u>	<u>Protected Water Inventory I.D.#</u>
	Grass Lake	27-80P
	McCoy Lake	27-77W
	Mitchell Lake	27-70P
	Neill Lake	27-79P
	Rice Marsh Lake	10-1P
	Rice Lake	27-132P
	Round Lake	27-71W
	School Pond	27-75W
	Smetana Lake	27-73W
	Super Valu Pond (unnamed pond)	27-72P
2.	<u>Recreational Development Waters</u>	<u>Protected Waters Inventory I.D.#</u>
	Anderson Lake	27-62P
	Birch Island Lake	27-81P
	Bryant Lake	27-67P
	Duck Lake	27-69P
	Idlewild Lake	27-74P
	Riley Lake	10-2P
	Red Rock Lake	27-76P
	Staring Lake	27-78P
3.	<u>General Development Waters</u>	<u>General Legal Description</u>
		<u>From: Sec/T/R</u> <u>To: Sec/T/R</u>
	Minnesota River	31/116/22(City Limit) 36/116/22(City Limit)
	Nine Mile Creek	02/116/22(City Limit) 12/116/22(City Limit)
		03/116/22(City Limit) 02/116/22(27-67-P)
	Purgatory Creek	06/116/22(City Limit) 06/116/22(City Limit)
		05/116/22(City Limit) 36/116/22(MN River)
	Riley Creek	18/116/22(10-1P) 32/116/22(MN River)

Subd. 8. Zoning Restrictions. No building permit shall be issued for any lots zoned as rural, residential, commercial, office, industrial, public or any sub-zoning district thereof which are within the Shoreland unless the use is in conformance with this Chapter and conforms to the following lot size dimensions and setbacks.

A. Natural Environment Waters.

1. Single Family Housing Detached Dwellings.

a. Lots abutting without public sewer:

- (1) Minimum lot size - 5 acres.
- (2) Minimum width at building line - 300 feet.
- (3) Minimum width at Ordinary High Water Level - 200 feet.
- (4) Minimum setback from Ordinary High Level - 200 feet.

b. Lots abutting with public sewer and water:

- (1) Minimum lot size - 40,000 square feet.
- (2) Minimum width at building line - 150 feet.
- (3) Minimum width at Ordinary High Water Level - 150 feet.
- (4) Minimum setback from Ordinary High Water Level - 150 feet.

2. Multiple Housing Attached Dwellings.

a. Lots must have public sewer and water.

b. Lots abutting:

- (1) Minimum lot size - 30,000 sq. ft./unit.
- (2) Minimum width at building line - 150 feet.
- (3) Minimum width at Ordinary High Water Level - 150 feet.
- (4) Minimum setback from Ordinary High Water Level - 150 feet.
- (5) Structures shall not comprise more than 50% of the length of the shoreland within the lot.

3. Office and Institutional.

a. Lots must have public sewer and water.

b. Lots abutting:

- (1) Minimum lot size - 10 acres.
- (2) Minimum width at building line - 200 feet.
- (3) Minimum width at Ordinary High Water Level - 200 feet.
- (4) Minimum setback from Ordinary High Water Level - 200 feet.

4. Commercial and Industrial (no outside storage allowed).

a. Lots must have public sewer and water.

b. Lots abutting:

- (1) Minimum lot size - 10 acres.

- (2) Minimum width at building line - 200 feet.
- (3) Minimum width at Ordinary High Water Level - 200 feet.
- (4) Minimum setback from Ordinary High Water Level - 200 feet.

B. Recreational Development Waters.

1. Single Family Housing Detached Dwellings.

a. Lots abutting without public sewer:

- (1) Minimum lot size - 5 acres.
- (2) Minimum width at building line - 300 feet (Rural - 300 feet).
- (3) Minimum width at Ordinary High Water Level - 150 feet.
- (4) Minimum setback from Ordinary High Water Level - 100 feet.

b. Lots abutting with public sewer and water:

- (1) Minimum lot size - 20,000 square feet.
- (2) Minimum width at building line - 120 feet.
- (3) Minimum width at Ordinary High Water Level - 120 feet.
- (4) Minimum setback from Ordinary High Water Level - 100 feet.

2. Multiple Housing Attached Dwellings.

a. Lots must have public sewer and water.

b. Lots abutting:

- (1) Minimum lot size - 15,000 sq. ft./unit.
- (2) Minimum width at building line - 120 feet.
- (3) Minimum width at Ordinary High Water Level - 120 feet.
- (4) Minimum setback from Ordinary High Water Level - 150 feet.
- (5) Structures shall not comprise more than 50% of the length of the shoreland within the lot.

3. Office and Institutional.

a. Lots must have public sewer and water.

b. Lots abutting:

- (1) Minimum lot size - 5 acres.
- (2) Minimum width at building line - 200 feet.
- (3) Minimum setback from Ordinary High Water Level - 200 feet.
- (4) Minimum width at Ordinary High Water Level - 200 feet.

4. Commercial and Industrial (no outside storage allowed).

a. Lots must have public sewer and water.

b. Lots abutting:

- (1) Minimum lot size - 10 acres.
- (2) Minimum width at building line - 200 feet.
- (3) Minimum width at Ordinary High Water Level - 200 feet.

- (4) Minimum setback from Ordinary High Water Level - 200 feet.

C. General Development Waters.

1. Single Family Housing Detached Dwellings.

a. Lots abutting without public sewer:

- (1) Minimum lot size - 5 acres.
- (2) Minimum width at building line - 120 feet.
- (3) Minimum width at Ordinary High Water Level - 120 feet.
- (4) Minimum setback from Ordinary High Water Level - 100 feet.

b. Lots abutting with public sewer and water:

- (1) Minimum lot size - 13,500 square feet.
- (2) Minimum width at building line - 120 feet.
- (3) Minimum width at Ordinary High Water Level - 120 feet.
- (4) Minimum setback from Ordinary High Water Level - 100 feet.

2. Multiple Housing Attached Dwellings.

a. Lots must have public sewer and water.

b. Lots abutting:

- (1) Minimum lot size - 10,000 square feet/unit
- (2) Minimum width at building line - 100 feet.
- (3) Minimum width at Ordinary High Water Level - 120 feet.
- (4) Minimum setback from Ordinary High Water Level - 150 feet.
- (5) Structures shall not comprise more than 50% of the length of the shoreland within the lot.

3. Office and Institutional.

a. Lots must have public water and sewer.

b. Lots abutting:

- (1) Minimum lot size - 2 acres.
- (2) Minimum width at building line - 150 feet.
- (3) Minimum width at Ordinary High Water Level - 150 feet.
- (4) Minimum setback from Ordinary High Water Level - 150 feet.

4. Commercial.

a. Lots must have public water and sewer.

b. Lots abutting:

- (1) Minimum lot size - 2 acres.
- (2) Minimum width at building line - 150 feet.
- (3) Minimum width at Ordinary High Water Level - 150 feet.

(4) Minimum setback from Ordinary High Water Level - 150 feet.

5. Industrial.

a. Lots must have public water and sewer.

b. Lots abutting:

(1) Minimum lot size - 5 acres.

(2) Minimum width at building line - 150 feet.

(3) Minimum width at Ordinary High Water Level - 150 feet.

(4) Minimum setback from Ordinary High Water Level - 150 feet.

D. Additional Special Provisions.

1. Where development exists on both sides of a proposed building site within the same lot as the proposed building site, structural setbacks may be altered to take setbacks of existing structures into account if approved by the City Manager or designee, provided the proposed building site is not within a shore or bluff impact zone.

2. Commercial, industrial, or permitted open space uses requiring location on or near public waters may be allowed as a variance closer to such waters than the setbacks specified in this Section.

3. Septic tanks and soil absorption systems shall be setback from the ordinary high water level in accordance with the class of public water:

a. Natural Environment Waters, at least 150 feet.

b. Recreational Development Waters, at least 100 feet.

c. General Development Waters, at least 100 feet.

E. Additional Structure Setbacks. The following additional structure setbacks apply, regardless of the classification of the waterbody:

<u>Setback From:</u>	<u>Setback (in feet):</u>
1. top of bluff;	30 for principle structure
2. unplatted cemetery;	50
3. right-of-way line of public street, or other roads or streets not classified;	20

F. Bluff Impact Zones. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

G. Steep Slopes. The City Manager or designee shall required soil erosion protection and must evaluate possible soil erosion impacts, soil protection and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve

existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

- H. Uses Without Water-oriented Needs. Commercial, industrial, public and semi-public uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view as determined by the City Manager or designee from the water by vegetation or topography, assuming summer, leaf-on conditions as determined by the City Manager or designee.

Subd. 9. Design Criteria for Structures.

- A. High Water Elevation. Structures shall be placed such that the lowest floor elevation is at least two feet above the 100-Year Frequency Flood Level.
- B. Water-oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Subdivision 8 of this section if this water-oriented accessory structure complies with the following provisions:
 - 1. The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet;
 - 2. The setback of the structure or facility from the ordinary high water level must be at least ten feet;
 - 3. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
 - 4. The roof of any water-oriented structure may not be used as a storage area;
 - 5. The structure or facility must not be designed or used for human habitation and must not contain water supply, or sewage treatment facilities.
- C. Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:
 - 1. Stairways and lifts must not exceed 4 feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties.
 - 2. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings greater than 32 square feet but less than 64 square feet may be used for commercial properties, and public open-space recreational properties.
 - 3. Canopies or roofs are not allowed on stairways, lifts, or landings.
- D. Controlled Access. Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards:
 - 1. The lot must meet the width and size requirements for residential lots as required by subd. 8 of this section.

2. If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by 25 percent of the requirements for riparian residential lots for each watercraft beyond six.
3. The lot must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot.
4. Covenants must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. The covenants must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the nonsignificant conflict activities include but are not limited to, swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. The covenants must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions. The covenants must be filed with the County Recorder or the Registrar of Titles for Hennepin County.

Subd. 10. Placement 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 or in a bluff impact zone. Structures shall be located as follows:
 1. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.
 2. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, so as to minimize the view from the surface of the public water assuming summer, leaf-on conditions, whenever practical.
 3. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of Subd. 9B and 9C are complied with in addition to the requirements as contained in Minnesota Rules, Chapter 1340 a copy of which is hereby adopted by reference and declared to be a part of this ordinance.
- B. Height of Structures. All structures in residential districts, must not exceed 35 feet in height.

Subd. 11. Shoreland Alterations. Alterations of vegetation and topography is regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

- A. Vegetation Alterations.
 1. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads, utilities, and parking areas shall be regulated by this Section and this Chapter.

2. Removal or alteration of vegetation, except for agricultural uses as regulated in Subd. 14 is allowed subject to the following standards:
 - a. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed.
 - b. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
 - (1) The minimal amount of vegetation is altered;
 - (2) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
 - (3) Along rivers, existing shading of water surfaces is preserved;
 - (4) The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards; and
 - (5) All disturbed areas are restored to prevent erosion potential.

B. Topographic Alterations/Grading and Filling.

1. A grading and filling permit will be required for the movement of more than ten (10) cubic yards of material within steep slopes and shore and bluff impact zones.
2. The issuance of construction permits, grading and filling permits, variances and subdivision approvals are subject to evaluation based on the following criteria:
 - a. Grading or filling in any type 2,3,4,5,6,7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland:
 - (1) sediment and pollutant trapping and retention;
 - (2) storage of surface runoff to prevent or reduce flood damage;
 - (3) fish and wildlife habitat;
 - (4) recreational use;
 - (5) shoreline or bank stabilization; and
 - (6) 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 registered Engineer for continued slope stability and must not create finished slopes of 30 percent or greater;
 - h. Fill or excavated material must not be placed in bluff impact zones;
 - i. Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner of Department of Natural Resources under Minnesota Statutes, section 103G.245;
 - j. 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; and
 - k. Placement of natural rock riprap, 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 riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.
3. Alteration of Beds of Public Waters.
- a. Any work which will change or diminish the course, current or cross section of a public water shall be approved by the Commissioner of the Department of Natural Resources before the work is begun. This includes construction of channels, ditches, lagooning, dredging of lakes or stream bottoms or removal of muck, silt, or weeds and filling in the lake or stream bed. Approval shall be construed to mean the issuance, by the Commissioner, or a permit under the procedures of Minnesota Statute, Sec 103G.245 and other related statutes.
 - b. Permission for excavation on shorelands where the intended purpose is connection to protected water, such as boat slips, canals, lagoons, and harbors, may be given only after the Commissioner of the Department of Natural Resources has approved the proposed connection. Approval shall only be given if the proposed work is consistent with applicable State regulations for work in beds of public waters.

Subd. 12. Placement and Design of Roads, Driveways, and Parking Areas.

- A. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a registered architect, registered landscape architect, or registered professional that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
- B. All roads and parking areas shall meet the setback requirements established for structures in Subdivision 8 of this Section.
- C. Roads, driveways, parking areas and any other impervious surfaces must not be placed within bluff and shore impact zones. If no alternatives exist, they may be placed within these areas, but shall not be placed closer than 50 feet of the Ordinary High Water Level, and must be designed to minimize adverse impacts. Exceptions to this requirement include recreation trails and boat launch ramps.

- D. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. Grading and filling provisions of City Code must be met for these facilities.
- E. Natural vegetation shall be used in order to screen parking areas when viewed from a public water.

Subd. 13. Stormwater Management.

- A. Existing natural drainageways, wetlands, and vegetated soil surfaces should be used to convey, store, filter, and retain stormwater runoff before discharge to public waters, unless an improved drainage system meets all necessary regulations.
- 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 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.
- D. The installation of any erosion control measures are subject to the Minnesota Pollution Control Agency's Urban Best Management Practices, a copy of which is hereby adopted by reference and declared to be a part of this ordinance.
- E. Impervious Surfaces. The total area of all impervious surfaces on a lot shall not exceed 30% of the total lot area.
- F. When proposed facilities are used for stormwater management, documentation must be provided by a registered Engineer that they will be designed and installed consistent with the field office technical guide of the local soil and water conservation districts of Hennepin County, and United States Soil Conservation Service.
- G. Newly constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

Subd. 14. Agriculture Use Standards. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting may be conducted if steep slopes and shore and bluff impact zones are maintained in accordance with this chapter and such use otherwise conforms to the requirements of this chapter.

Subd. 15. Water and Waste Systems. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Subd.16 of this section.

- A. Sanitary Restrictions.
 - 1. A public or private supply of water for domestic purposes shall conform to Minnesota Rules Chapter 4720 and 4725 and 7048-7100.
 - 2. Private wells shall be placed in areas not subject to flooding and upslope from any source of contamination. Wells already existing in areas subject to flooding shall be flood proofed in accordance with accepted engineering standards.
- B. Water Supply and Sewage Treatment.

1. Water Supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.
 2. Sewage treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:
 - a. Publicly-owned sewer systems must be used where available.
 - b. All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards, Minnesota Rules Chapter 7080" a copy of which is hereby adopted by reference and declared to be a part of this ordinance.
 - c. On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Subd. 8 of this Section.
 - d. Public sewage disposal and commercial, agricultural, solid waste, and industrial waste disposal, shall be subject to the standards of the Minnesota Rules Chapters 7020 Animal Feedlots, 7035 Solid Waste, 7040 Sewage Sludge Management, 7048 Waste Disposal - Operators, Inspections, 7060 Underground Waters, 7065 Effluent standards for Disposal Systems, 7077 Wastewater Treatment Assistance, a copy of which is hereby adopted by reference and declared to be a part of this ordinance.
- C. Septic Tank and Soil Absorption System.
1. Location and installation of septic tanks and/or soil absorption systems shall be such that, with reasonable maintenance, it will function in a sanitary manner and will not create a nuisance, endanger the domestic water supply, nor pollute or contaminate any waters in the State. In determining a suitable location for the tank or system, consideration shall be given to the size and shape of the lot, slope of natural grade, soil permeability, high ground water elevation, geology, proximity to existing and future water supplies, accessibility for maintenance and possible expansion of system.
 2. Soil absorption systems shall not be allowed in the following areas for disposal of domestic sewage: low swampy areas or areas subject to recurrent flooding; areas where the highest known ground water table, bedrock, or impervious soil conditions are within 4 feet of the bottom of the systems; and area of ground slope which create a danger of seepage of the effluent onto the surface of the ground.
- D. Permits shall stipulate that any identified nonconforming sewage treatment system, as defined by Minnesota Rules 7080, Individual Sewage Treatment Systems, shall be reconstructed or replaced in accordance to the standards found in Minnesota Rules 7080.
- E. Inspection. The Building Inspector shall make such inspection or inspections as are necessary to determine compliance with this Section. No part of any soil absorption system or septic tank shall be covered until it has been inspected and accepted by the Building Inspector and a permit has been obtained from the City pursuant to Subdivision 5 of this Section. It shall be the responsibility of the applicant for the permit to notify the Inspector that the job is ready for inspection or reinspection, and it shall be the duty of the Inspector to make the indicated inspection within a reasonable time after such notice has been given. It shall be the duty of the owner or occupant of the property to give the Inspector free access to the property at reasonable times for the purpose of making such inspections. If upon inspection the Inspector discovers that any part of the system is not constructed in accordance with the minimum standards in this Section, he shall give the applicant written notification describing defects. The applicant shall be responsible for correction or elimination of all defects,

and no system shall be placed or replaced in service until all defects have been corrected or eliminated. Upon final inspection approval, the Inspector shall so notify the applicant in writing.

Subd. 16. Non-Conforming Structures, Lots, or Sewage Treatment Systems. An existing structure or use which was lawful before adoption of this Section, but which is not in conformity with the provisions of this Section, may be continued subject to the following conditions:

- A. No structure or use shall be expanded, changed, enlarged, or altered in any way without complying in all respects with this Section.
- B. If any non-conforming structure is destroyed or damaged by any means, to the extent that the cost of repairing or restoring such destroyed or damaged non-conforming structure would be 50% or more of the Assessor's Market Value for tax purposes at the time of damage, then it shall not be reconstructed except in full compliance in all respects with the provisions of this Section, including, but not limited to, the obtaining of all required permits.
- C. **Substandard Lots.** The City may issue a building permit for a lot of record in the office of the County Recorder prior to the date of enactment of this Section which does not meet the lot size requirements of this Subdivision, provided the lot complies with setback provisions and sanitary restrictions of this Section, and is in separate ownership from abutting lands, except those lots not in separate ownership.
- D. **Nonconforming sewage treatment systems.**
 - 1. A sewage treatment system not meeting the requirement of Minnesota Rules 7080, entitled Individual Sewage Treatment Systems, must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.
 - 2. The City will require upgrading or replacement of any nonconforming system within a reasonable period of time which will not exceed 2-years. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, section 103F.201, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Rules Chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.

Subd. 17. Subdivision Restrictions.

- A. **Land Suitability.** No permit shall be granted for land to be subdivided which the City finds to be unsuitable for the proposed use because of wetlands, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, flooding, inadequate drainage, soil and rock formation, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, or any other feature likely to be harmful to the health, safety or welfare of future residents.
- B. **Inconsistent Plats.** All plats which are inconsistent with this Section shall be received and reviewed by the Commissioner 10 days before a hearing is called by the City for consideration of approval of a preliminary plat.
- C. **Copies of Plats.** The Commissioner shall receive all plats within shoreland areas within 10 days of final approval by the City.

Subd. 18. Information Requirements. Sufficient information must be submitted by the applicant for the city to make a determination of land development suitability. The information shall include at least the following:

- A. Topographic contours at two-foot intervals showing limiting site characteristics;
- B. The surface water features required in Minnesota Statutes, section 505.02, subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
- C. Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil boring, percolation tests, or other methods;
- D. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
- E. Location of shoreland areas, 100-year flood plain areas from existing adopted maps or data; and
- F. A line or contour representing the ordinary high water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.
- G. When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.
- H. Controlled Access or Recreational Lots. Lots Intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in Subd. 8 of this Section.

Subd. 19. Planned Unit Development (PUD). For PUD developments within a shoreland area as defined, the provisions of Section 11.40 shall apply.

Ordinance No. 16-96
Effective Date: 4-26-96

Subd. 20. Conditional Uses. The following standards must be used for reviewing conditional uses located in shoreland areas:

- A. A thorough evaluation of the topographic, vegetation, and soil conditions on the site to ensure:
 - 1. Prevention of soil erosion or other possible pollution of public waters, both during and after construction;
 - 2. Limiting visibility of structures and other facilities as viewed from the public waters; and
 - 3. Adequacy of the site for water supply and on-site sewage treatment; and
- B. An assessment of the types, uses, and numbers of watercraft that the project will generate in relation to the suitability of public waters to safely accommodate these watercraft.

The City Council may impose some or any of the following conditions when granting conditional use permits that specify: increased setbacks from public waters; vegetation allowed to be removed or required to be established; sewage treatment system location, design or use; location, design, and use requirements for watercraft launching or docking, and for vehicular parking; structure or other facility design, use, and location; phasing of construction; and other conditions considered necessary by the City Council.

- C. Administration of Conditional Use. Refer to Subdivision 5 entitled Administration, Application and Issuance of Certain Permits.

Ordinance No. 14-2004
Effective Date: 6-10-2004

SECTION 11.51. STANDARDS FOR THE PROTECTION OF WETLANDS

Subd. 1. Preamble.

This Code hereby incorporates by reference the Wetlands Conservation Act [Minnesota Statutes 103G.221 et seq. (herein after referred to as the WCA)] and Minnesota Rules Chapter 8420. All wetlands, as defined in Section 11.51, Subd. 3 of this Code, including Public Waters and Public Waters Wetlands governed by Minn. Stat. 103G.005 and those governed by the U.S. Army Corps of Engineers, are covered by this Code. Standards outlined in this Code have precedence over WCA in situations where the City Code is more restrictive than WCA. The following watershed districts are located in the City:

1. Lower Minnesota River
2. Nine Mile Creek
3. Riley Purgatory Bluff Creek

The City is the acting Local Government Unit (LGU) for the Lower Minnesota River and Riley Purgatory Bluff Creek Watershed Districts.

Each reference in this Section to statutes, codes, regulations or rules constitutes a reference to the statute, code, regulation or rule as may be amended from time to time.

Subd. 2. Purpose.

Through the adoption and enforcement of this Code, the City shall promote the general health, safety, and welfare of its residents by both conserving and protecting wetlands and requiring sound management practices as provided for in the WCA when development occurs in the vicinity of wetlands. The intent of this Code is to avoid alteration and destruction of wetlands. By implementation of this Code, the City seeks to accomplish the following:

1. Balance the need to preserve and protect natural resources and systems with both the rights of private property owners and the need to support the efficient use of developable land within the City;
2. Promote water quality by maintaining the ability of wetlands to recharge ground water and receive the discharge of ground water, to prevent soil erosion, and to retain sediment, nutrients and toxicants in wetland buffer strip areas before it discharges into community wetlands, lakes and streams, thus avoiding the contamination and eutrophication of these water features;
3. Reduce human disturbances to wetlands by providing a visual and physical transition from surrounding yards; and
4. Provide wildlife habitat and thereby support the maintenance of diversity of both plant and animal species within the City.

Subd. 3. Definitions.

The following terms, as used in this Section, shall have the meanings stated. Terms not defined shall have the meaning as stated in Section 11.02 of this Code:

- A. “Applicant” – The “Applicant” means the person submitting a Development Application to the City.
- B. “City Engineer” – The "City Engineer" means the City Engineer or his/her designee."
- C. “City Wetland Map” – The “City Wetland Map” is referenced as the City’s Water Body Map as developed for the City’s Local Water Management Plan and as amended from time to time as wetland, lake and stormwater pond conditions change or new information is collected. The City map adopted by this ordinance shall be prima facie evidence of the location and classification of a wetland.
- D. Combined Wetland Permit Application – An application form provided by the Minnesota Board of Water and Soil Resources (BWSR) for water and wetland projects affecting lakes, rivers, streams or wetlands. The Combined Wetland Permit Application is a single form that is completed and submitted to the Local Government Unit (LGU), the Department of Natural Resources (DNR), the Hennepin Conservation District (Hennepin County) and the U.S. Army Corps of Engineers (USACOE) for review and approval.
- E. “Development Application” – “Development Application” includes but is not limited to applications for Land Development, Site Plan Review, Planned Unit Development, rezoning, platting, land alteration, wetland alteration, wetland no-loss determination or Wetland Replacement.
- F. “Environmental Coordinator” – The “Environmental Coordinator” means the Environmental Coordinator or his/her designee.
- G. “Local Government Unit” – The “Local Government Unit” (LGU) is a city council, town board, watershed management organization under Minnesota Statutes Section 103B.205, soil and water conservation district or their delegate. In cases where activity or replacement will occur on state or federal land, the agency with administrative responsibility for that land is the LGU.
- H. “MinRAM” – The Minnesota Routine Assessment Methodology (MinRAM) as referenced in Minnesota Rules Chapter 8420. MinRAM is a field tool used to assess wetland functions on a qualitative basis. Functions include items such as vegetative diversity and integrity; wildlife habitat; water quality protection; flood & stormwater attenuation; recreation, aesthetics, education & science; fishery habitat; shoreline protection; groundwater interaction; and commercial uses.
- I. “Native Vegetation” - Plant species indigenous to Minnesota, or that expand their range into Minnesota without being intentionally or unintentionally introduced by human activity, and are classified as native in the Minnesota Plant Database (Minnesota DNR, 2002 or as amended). Native Vegetation does not include Weeds.
- J. “No-Loss Determination” – An application to the Local Government Unit (LGU) to evaluate whether the proposed work will result in a loss of wetland within the property. This would include activities listed in Minnesota Rules Section 8420.0415. The landowner is responsible for submitting the proof necessary to show qualification for the claim. The LGU may evaluate evidence for a no-loss claim without making a determination.
- K. “Public Value Credit (PVC)” – Wetland replacement credit that can only be used for the portion of wetland replacement requiring greater than a 1:1 ratio of wetland fill to wetland replacement as allowed by Minnesota Rules 8420.
- L. “Setback” – The minimum horizontal distance between a structure and the nearest edge of the wetland buffer strip.
- M. “Sequencing Flexibility” – Sequencing Flexibility is implemented after all alternatives have been considered in accordance with Minnesota Rules 8420.0520 and Subd. 11.51, Section 4 of this Code. A “Sequencing Flexibility Report” must be provided if sequencing flexibility is requested to document that these conditions

have been met and the proposed action or alternative.

- N. “Structure” – A “Structure” means a Structure as defined in Section 11.02, 62 of this Code.
- O. “Technical Evaluation Panel” – A “Technical Evaluation Panel” (TEP) is established for each LGU under Minnesota Rules 8420.0240. The TEP assists the LGU in making technical findings and provides recommendations for projects involving wetland alteration or wetland impacts at the request of the LGU, landowner or a member of the TEP.

The TEP must include at least one technical representative from each of the following:

- Board of Water and Soil Resources (BWSR)
- Hennepin Conservation District (Hennepin County)
- Local Government Unit (LGU)

For projects involving public wetlands or affecting wetlands adjacent to public waters or public waters wetlands, the TEP shall include a technical professional employee of the DNR. The LGU or TEP may invite additional expertise to assist in the decisions. The TEP shall be coordinated by the LGU.

- P. “Weeds” - Weeds are (i) noxious weeds as defined and designated pursuant to the “Minnesota noxious weed law”, Minnesota Statutes, Sections 18.76-18.88, or (ii) any volunteer plants, such as but not limited to spotted knapweed (*Centaurea maculosa*) or burdock (*Arctium minus*). For the purposes of this definition, weeds do not include dandelions or clover. The City Weed Inspector and/or Assistant City Weed Inspector shall maintain a current list of volunteer plants that are prohibited.
- Q. “Wetland” - Lands transitional between terrestrial and aquatic systems, either created or natural, 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 a predominance of hydric soils;
 - Be 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
 - Under normal circumstances support a prevalence of hydrophytic vegetation.
- R. “Wetland Alteration” – Alteration of a wetland includes changes to the wetland and/or wetland buffer strip in regards to size, depth or contour; dredging; tilling; damming; alteration of the watercourse; ditching; tiling; grading; draining; discharge of water; appropriation of water; changes in vegetation; or otherwise altering or destroying a wetland or wetland buffer or their functions. Alterations would not include Native Vegetation plantings or selective clearing or pruning of prohibited or restricted noxious weeds as defined in Minnesota Rules Sections 1505.0730 to 1505.0750, unless within a Conservation Easement in which case submission of and written approval by the City of a Vegetation Management Plan on a form provided by the City is required.
- S. “Wetland Buffer Strip” - An area of vegetated ground cover around the perimeter of a wetland that, either in its natural condition or through intervention, has the characteristics of a Buffer as defined in Section 11.02, Subd. 7 of this Code, “Buffer”. A “Wetland Buffer Strip Evaluation Report” is a report summarizing the results of an evaluation of the wetland and Wetland Buffer Strip in relation to the requirements defined in Section 11.51 Subd. 8 of this Code.
- T. “Wetland Delineation” – An assessment tool utilized to determine the boundary of a wetland using the US Army Corps of Engineers Wetland Delineation Manual (January 1987) as well as any additional boundary determination requirements established in Minnesota Rules Chapter 8420. A “Wetland Delineation Report” is a document that summarizes the observations, results and conclusions performed during the assessment when wetlands are present on the property.

- U. “Wetland Determination” – An assessment conducted utilizing the US Army Corps of Engineers Wetland Delineation Manual (January 1987) to determine whether a wetland is present within the property that may be impacted by a proposed project. A “Wetland Determination Report” documents the conditions that lead to the conclusion that wetlands may or may not be present on the property.
- V. “Wetland Plan” – A summary of all work items to be completed in relation to any wetland alteration, hydrology monitoring, or wetland or wetland buffer strip restoration, replacement, or construction and the estimated cost for each item. Work items include, but are not limited to, wetland buffer strip monument purchase and installation; Weed control; landscaping within the wetland or wetland buffer strip; wetland or wetland buffer strip restoration; wetland and wetland buffer strip monitoring; wetland replacement monitoring; or any items determined to be incomplete during the development review process.
- W. “Wetland Replacement” – Wetland habitat enhancement; wetland creation; restoration of wetland habitat or functions; wetland construction; wetland replacement; wetland banking; wetland buffer habitat creation; wetland enhancement; or stormwater system construction to enhance water quality. As a result New Wetland Credit (NWC) and/or Public Value Credit (PVC) are established for replacement of wetland impacts, loss of public values of the wetland functions or Wetland Alterations. A Wetland Replacement Plan summarizes the Wetland Alteration and the method in which the Wetland Alteration and/or loss of wetland function will be replaced as required in Minnesota Rules 8420.
- X. “Wetlands, Exceptional Quality” - Exceptional Quality wetlands have an exceptional vegetative diversity and integrity function, based on the results of MinRAM. They typically have an undisturbed plant community or a plant community that is sufficiently recovered from past disturbances such that it closely represents pre-European settlement conditions. The wetlands contain an abundance of different plant species with dominance evenly spread among several species. They will contain very few non-native species and they may have or previously had rare, threatened or endangered plant species. Invasive or exotic plant species are either absent or limited to small areas where some disturbance has occurred. These wetlands exhibit no evidence of significant man-induced water level fluctuation. Reference wetlands established in the City’s “Comprehensive Wetland Protection and Management Plan” or “Local Water Management Plan” are also included in this category.
- Y. “Wetlands, High Quality” - High quality wetlands have a high vegetative diversity and integrity function, based on the results of MinRAM, and are still generally in their natural state. They tend to show less evidence of adverse effects of surrounding land uses. Exotic and invasive plant species may be present and species dominance may not be evenly distributed among several species. There tends to be little evidence of water level fluctuation due to storms and their shorelines are stable with little evidence of erosion. They show little if any evidence of human influences resulting in higher levels of species diversity, wildlife habitat and ecological stability.
- Z. “Wetlands, Moderate Quality” - Moderate quality wetlands have a moderate vegetative diversity and integrity function, based on the results of MinRAM. They have a slightly higher number of native, non-invasive plant species present than low quality wetlands, often with small pockets of indigenous species within larger areas dominated by non-native, invasive, exotic or weed species. Their relatively greater species diversity results in slightly better wildlife habitat. They exhibit evidence of relatively less fluctuation in water level in response to storms and less evidence of shoreline erosion than low quality wetlands. They also exhibit relatively less evidence of human influences and therefore, tend to be of a higher aesthetic quality than low quality wetlands.
- AA. “Wetlands, Low Quality” - Wetlands included in this category have a low vegetative diversity and integrity functions, based on MinRAM, and have been substantially altered by activities such as agricultural or urban development that caused over-nitrification, soil erosion, sedimentation and/or water quality degradation. As a result of these factors these wetlands exhibit low levels of vegetation diversity; overcrowding and dominance of invasive or non-native species such as reed canary grass, cattails and purple loosestrife; and a related reduction in the quality of wildlife habitat. These wetlands may also tend to exhibit extreme water level fluctuations in

response to rain events and show evidence of shoreline erosion. These wetlands do provide for water quality and serve an important role in protecting water quality downstream.

- BB. “Wetland Type” – The “Wetland Type” for each water regime will be determined in accordance with United States Fish and Wildlife Service Circular No. 30 (1971 Edition), Classification of Wetlands and Deepwater Habitats of the United States (Cowardin et al. 1979), Eggers and Reed (1997) and Minnesota Rules Chapter 8420. Each wetland type, which represents at least 10% of the vegetated wetland, including submergent vegetation, must be classified. For Wetland Replacement Plans, the wetland community classification listed in Minnesota Rules 8420.0111 Subp. 75 must be used to determine wetland replacement ratios.
- CC. “Wildlife Habitat” - Plant communities that support wildlife in a natural, undomesticated state.
- DD. “Yard” – That portion of a lot not occupied by a Structure. Yard does not include any wetlands or wetland buffer strips on the property.

Subd. 4. General Provisions – Identification, Evaluation, Delineation, Replacement, Testing and Reporting Requirements.

- A. This Code shall apply to all lands containing wetlands and lands within the setback and wetland buffer strips required by this Code. Wetlands shall be subject to the requirements established herein, as well as restrictions and requirements established by other applicable Federal, State, and City ordinances and regulations. Nothing herein shall be construed to allow anything otherwise prohibited in the zoning district where the wetland is located. This Code establishes four wetland classifications as defined in Section 11.51, Subd. 3 of this Code; Exceptional Quality, High Quality, Moderate Quality, and Low Quality.
- B. The presence or absence of a wetland on the City Wetland Map does not represent a definitive determination as to whether a wetland covered by this Code is or is not present. Wetlands that are identified during site specific delineation activities but do not appear on the City Wetland Map are still subject to the provisions of this Code.
- C. Additional requirements for wetland identification, delineation, replacement, testing, reporting and bonding within areas where the City is the acting LGU shall be in accordance with the requirements outlined in Section 11.51, Subd. 11 of this Code as well as those set forth in Section 11.51, Subd. 4 of this Code.
- D. Activities including, but not limited to, Wetland Alteration, digging, building, paving, mowing, cutting, dumping, yard waste disposal, fertilizer application, placing of debris, planting of non-native vegetation and removal of vegetation are prohibited in wetland areas. Invasive non-Native Vegetation, such as European or glossy buckthorn and noxious weeds may be removed unless the area is in a Conservation Easement, in which case a Vegetation Management Plan on a form provided by the City is required.
- E. An Applicant must determine whether a wetland exists on a subject property or within the setback from a wetland on an adjacent property. The following report(s) must be provided based on site conditions.
 - 1. If no wetlands are present, the Applicant must document site conditions in a Wetland Determination Report that includes evaluation of vegetation, hydrology and soil conditions.
 - 2. If a wetland is present, the Applicant must delineate and document the boundary of the wetland(s) and the Wetland Type(s) in a Wetland Delineation Report in accordance with City and WCA requirements and document the conditions of the wetland buffer strip in a Wetland Buffer Strip Evaluation Report in accordance with Section 11.51, Subd. 8 of this Code.
- F. If a wetland(s) is present, a determination of the function and value of the wetland(s) using the most recent version of MinRAM or other approved assessment methodology under Minnesota Rules Chapter 8420 must be completed by the Applicant.

The MinRAM assessment must be submitted to the Environmental Coordinator with the Wetland Delineation Report.

- G. Wetland Determination, Wetland Delineation and Wetland Buffer Strip Evaluation Reports shall be valid for 3 years from the date of the field delineation for these reports unless the Environmental Coordinator determines that the report is no longer valid on a sooner date due to changes in site conditions such as in hydrology, soils or vegetation.
- H. Wetland Delineation and Wetland Determination Reports shall be prepared as outlined in Minnesota Rules Chapter 8420 and in the U.S. Army Corps of Engineers “Guidelines for Submitting Wetland Delineations to the St. Paul District Corps of Engineers and Local Units of Government in the State of Minnesota” (Publication 96-01078-SDE) and the 2010 “Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Midwest Region, Version 2” (Publication ERDC/EL TR-10-16) and must include information necessary for the City to determine the wetland boundary and Wetland Type, including wetland delineation field data sheets, survey of the wetland evaluation area, soil analysis data, vegetation data and hydrology information both within and outside of the proposed wetland boundary.
- I. Wetland Delineation, Wetland Delineation Reports, Wetland Determination Reports and MinRAM assessments conducted or completed outside of the growing season will not be accepted for final review and approval by the City until the following growing season. Determination of non-growing season conditions will be in accordance with the “Guidelines for Submitting Wetland Delineations to the St. Paul District Corps of Engineers (COE) and Local Units of Government in the State of Minnesota” issued on April 17, 1996 (Publication 96-01078-SDE), unless the vegetation cataloging or hydrology conditions are, in the judgment of the Environmental Coordinator, unreliable.

Approvals may be granted for Wetland Delineation, Wetland Delineation Reports, Wetland Determination Reports and MinRAM assessments conducted during the growing season, but submitted during the non-growing season, if the Environmental Coordinator determines there is sufficient information in the report and visible in the field at the time of the field verification to assess the three wetland parameters (hydrophytic vegetation, hydric soils and hydrology) in relation to placement of the wetland delineation line. If proper assessment of the delineation is not possible during the non-growing season, the City would consider the Development Application incomplete until such time that appropriate field verification is possible. A Preliminary Approval may be requested during the non-growing season. Preliminary Approvals must be verified during the growing season before any work on the project may commence. The applicant bears all risk that revisions may be required to Development Application and the Preliminary Approval due to the fact that the review occurred during the non-growing season.

If a MinRAM assessment is not conducted during the growing season or if it is determined to be incomplete, the quality will be assumed as High Quality.

- J. An Applicant shall not be required to field delineate wetlands on adjacent property. An Applicant will be required to review available information, including but not limited to the City Wetland Map, County Soil Survey Map, U.S. Fish and Wildlife Service National Wetland Inventory (NWI) Maps, and visual information such as the presence of wetland vegetation and hydrologic evidence on an adjacent property which can be viewed from the subject property, to estimate the wetland boundary and Wetland Type.
- K. Prior to submission of the Wetland Determination Report or Wetland Delineation Report the Applicant must contact the Environmental Coordinator to obtain a wetland or water body identification number and any information regarding the documented wetland, including any existing MinRAM information, for inclusion with documentation provided to the City. The Applicant must also contact the Environmental Coordinator to obtain a water body identification number for any existing or proposed stormwater pond, stormwater infiltration areas, or wetland replacement areas within the Development.

- L. Water quality testing results must be provided by the Applicant for any Development Application involving a wetland buffer strip of less than 100 feet for Exceptional Quality Wetlands which contain standing water during the growing season. One water sample must be collected each month between June and August from the surface water (within the upper 12 inches of water) and analyzed using a methodology pre-approved in writing by the City by an accredited laboratory for pH, conductivity, total phosphorus, soluble reactive phosphorus, total dissolved solids, total suspended solids and chlorides. The water quality testing results must be submitted to the Environmental Coordinator with the Wetland Delineation Report.
- M. For Development Applications involving Wetland Alteration, the Applicant must provide written documentation to the Environmental Coordinator with the Development Application that the sequencing steps set forth in Minnesota Rule 8420.0520 have been met. In following these steps, the Applicant must first demonstrate that alternatives to avoid and minimize wetland impacts have been evaluated. A minimum of three alternative plans must be evaluated and provided to the Environmental Coordinator for review, one of which must be a “no-impact” alternative. Wetland restoration or expansion of existing or historic wetlands is preferred rather than creation of new wetlands or other methods of Wetland Replacement.
- N. Unavoidable impacts to wetlands must be restored or replaced on-site unless the alternatives are not reasonably or practically available from an engineering standpoint or if the only feasible and prudent sites available have greater ecosystem function and public value than the proposed wetland and it is an area that is to be preserved by a Conservation Easement or other such instrument. If impacts cannot be restored or replaced on-site, the Applicant must evaluate alternate sites in the following order of priority:
1. Within the City of Eden Prairie
 2. Within the same subwatershed
 3. Within the same watershed (Nine Mile Creek, Lower Minnesota River, Riley Creek, Purgatory Creek, or Bluff Creek watershed)
 4. Within the seven-county metropolitan area of the Minnesota River – Shakopee major surface water watershed (No. 33)
 5. Within the Minnesota River – Shakopee major surface water watershed (No. 33)
- Wetland restoration or replacement must at a minimum meet the ratio requirements under Minnesota Rules 8420.0522 to achieve full replacement of wetland function and value unless minimum replacement ratios established by the Watershed Districts or USACOE are greater than the WCA requirements.
- O. Sequencing flexibility will not be implemented unless alternatives have been considered and unless the proposed replacement wetland will provide equal or greater functions and public values as determined based on a functional assessment reviewed by the Technical Evaluation Panel using a methodology approved by the Minnesota Board of Water and Soil Resources (BWSR). If sequencing flexibility is requested, the Applicant must provide all necessary information to the Environmental Coordinator with the Wetland Replacement Plan. Flexibility in application of the sequencing steps will be considered only if the criterion set forth in Minnesota Rule 8420.0520 Subp. 7a are met and the wetland to be impacted has been degraded to the point where replacement would result in a gain in function and public value or preservation of the wetland would result in degradation of the wetland’s function and values.
- P. Conceptual Wetland Replacement Plans for any proposed impacts that require replacement under WCA or U.S. Army Corps of Engineers regulatory programs must be provided to the City by the Applicant with the Development Application. The Applicant must contact the Environmental Coordinator to obtain a water body identification number for use in the Wetland Replacement Plans for any replacement wetlands constructed

within the City. Final Wetland Replacement Plans must be submitted to the Environmental Coordinator for review and approval prior to submission of the Development Plans to the City Council for review and approval or, if the plans are not submitted to the City Council, prior to issuance of a Building Permit for the property.

- Q. If the Applicant disputes whether a wetland exists or its classification, the Applicant has the burden to supply detailed information to the Environmental Coordinator supporting the Applicant's assertion. This includes, but is not limited to, historical aerial photography, topographic, hydrologic, floristic, and/or soil data deemed necessary by the City or LGU under the WCA to determine the jurisdictional status of the wetland, its exact boundary and its classification.
- R. Wetland Buffer Strip Evaluation, Wetland Delineation, Wetland Determination, No-Loss Determination, and Sequencing Flexibility Reports and Wetland Replacement Plans supplied by the Applicant shall be prepared by a Minnesota Certified Wetland Delineator in accordance with current state and federal regulations. Wetland delineators must satisfy all certification requirements that are established by the U.S. Army Corps of Engineers and/or BWSR or, in the absence of such certification, are determined by the Environmental Coordinator to be a qualified wetland delineator.
- S. An Annual Wetland and Wetland Buffer Strip Evaluation Report ("Annual Buffer Report") is required if a wetland or any wetland buffer required by Section 11.51 of this Code is located on the subject property. The Annual Buffer Report shall include an evaluation of the Wetland and Wetland Buffer and a plan for resolving any insufficiencies including any information the Environmental Coordinator specifically requests. If an Annual Buffer Report is required the Developer shall submit an executed contract with a qualified wetland consultant, as determined by the Environmental Coordinator, who will prepare the Annual Buffer Report which evaluates the condition of the wetland(s) and wetland buffer strip(s) prior to release of the final plat for any portion of the subject property, or if there is no plat prior to approval of the Development Application. . The Annual Buffer Report shall provide both an action plan and proposed cost for correction of all problems identified. The first Annual Buffer Report shall be submitted no later than November 1 of the calendar year in which construction, preparation, grading, seeding, planting and/or monumentation of the wetland(s) and/or wetland buffer strip(s) is completed. Thereafter, this report shall be submitted by November 1 each year until two full growing seasons following completion of the development have passed, at which point a Final Annual Buffer Report shall be submitted. The Final Annual Buffer Report shall evaluate the wetland(s) and /or wetland buffer strip(s) to determine if the wetland(s) and/or wetland buffer strip(s) remain in compliance with all City requirements. If any unacceptable conditions or vegetation are identified within the Annual Buffer Reports or the Final Annual Buffer Report, the Developer shall correct the area(s) identified within ninety (90) days of submission of the Report, or by June 15th of the following year if submitted during the non-growing season.
- T. Wetland Replacement Monitoring Reports are due by November 1 each year until the wetland replacement is determined to be complete by the LGU with advice from the Technical Evaluation Panel as outlined in Minnesota Rules Chapter 8420 and Section 11.51, Subd. 11 of this Code.
- U. It is unlawful for any person to make a false statement or omission on any application or report. Any false statement in such application or report shall be grounds for denial of the application or report, or if already approved, shall be grounds for revocation of the approval.

Subd. 5. General Standards.

The following standards apply to all lands that contain and/or abut a wetland or a wetland buffer strip:

- A. Structures intended to provide access to or across a wetland or wetland buffer strip shall be prohibited unless a permit is obtained from the City and is in conformance with Minnesota Statutes and applicable state rules and regulations.
- B. The Minnesota Pollution Control Agency's Urban Best Management Practices shall be followed to avoid

erosion and sedimentation during the construction process. In addition, the Applicant shall follow the regulations set forth in Section 11.55 of this Code.

- C. Where wetland replacement or a wetland buffer strip is required, the Applicant shall, before the City releases the final plat or, if there is no plat approval involved, the first building permit for the entire subject property:
1. Submit to the City Engineer and receive the City Engineer's approval of a conservation easement for protection of the wetland and approved wetland buffer strip. The easement must describe the boundaries of the wetland and wetland buffer strips, monuments and monument locations and prohibit any Structures, paving, mowing, introduction of non-native vegetation, cutting, filling, dumping, yard waste disposal, fertilizer application or removal of the wetland buffer strip monuments within the wetland buffer strip or wetland.
 2. Submit evidence to the City Engineer that the approved easement document has been recorded in the Hennepin County Recorder's/Registrar of Titles' office.
 3. Submit a duplicate original of the easement document executed and acknowledged and otherwise in form and substance acceptable for filing with the Hennepin County Recorder/Registrar of Titles office.
 4. Submit to the City Engineer and receive City Engineer's approval of a Declaration of Covenants and Restrictions for any wetland replacement in accordance with Minnesota Rules Chapter 8420.
 5. Submit evidence to the City Engineer that the approved Declaration of Covenants and Restrictions has been recorded in the Hennepin County Recorder's / Registrar of Title's office.
- D. Yards shall be sodded, seeded and/or mulched within six months of ceasing land alterations in accordance with Section 11.55, Subd. 5.H of this Code. Wetlands, wetland buffer strips and wetland replacement areas shall be seeded and/or planted in accordance with Section 11.51, Subd. 8 of this Code within sixty (60) days of completion of land alteration. All sodding, seeding or planting must be completed prior to removal of any erosion control. If construction is completed after the end of the growing season, erosion control shall be left in place and all disturbed areas shall be mulched to protect these areas over the winter or during the non-growing season.
- Variances for sod outside of the wetland buffer strip areas, in accordance with City Code Section 9.71, shall be considered on a case by case basis.
- E. Stormwater shall not be discharged directly into any natural water bodies such as wetlands, lakes or creeks without pre-settlement, infiltration, filtration or other pre-approved method. The pre-treatment must be approved in writing by the Environmental Coordinator.

Subd. 6. Wetland Buffer Strips and Setbacks.

- A. For a Lot of record or a Development Application approved by the City Council after February 1, 2000, the Applicant shall maintain a wetland buffer strip around the perimeter of all wetlands and all stormwater ponds which are constructed as part of a Wetland Replacement Plan. The setback and wetland buffer strip provisions of this Code shall not apply to a Lot of record as of February 1, 2000 or for Development Applications for which site plans, preliminary plats, final plats or planned unit development plans have been approved by the City Council prior to this date. The City strongly encourages the use of a wetland buffer strip and setback on all lots in the City. In addition, any property located in the Nine Mile Creek or Riley Purgatory Bluff Creek Watershed Districts shall comply with any additional buffer requirements imposed by the Watershed Districts.
- B. Wetland buffer strips and structure setbacks shall apply regardless of whether or not the wetland is on the same parcel as a proposed Development Application. For parcels in which the wetland is on an adjacent parcel, the setback and wetland buffer strip requirements for the parcel shall be reduced by the distance between the

property line of the parcel and the wetland on the adjacent parcel. This provision in no way reduces or eliminates any other setbacks required by the City Code or any other law or regulation.

- C. The Applicant shall establish and maintain wetland and wetland buffer strip vegetation in accordance with the requirements found in Section 11.51, Subd. 8 of this Code. Wetland buffer strips shall be identified within each Lot by permanent monumentation approved by the Environmental Coordinator in accordance with Section 11.51, Subd. 7 of this Code.
- D. Non-native or invasive vegetation, such as European buckthorn, purple loosestrife and reed canary grass, or dead or diseased trees that pose a hazard may be removed as long as a Vegetation Management Plan is submitted to the Environmental Coordinator on a form provided by the City for review and written approval. The Vegetation Management Plan must maintain the wetland and wetland buffer strip standards found in Section 11.51, Subd. 8 or as required by the Environmental Coordinator. The Vegetation Management Plan form must be obtained from the City.
- E. All other Structures, including retaining walls, roadways and trails, shall meet the setbacks and wetland buffer strip standards established in Table 1 below. The use of a meandering wetland buffer strip to maintain a natural appearance is preferred.
- F. For roadways where the City determines that there is no practical alternative except to be aligned either adjacent to or across wetlands, additional wetland filling to create a wetland buffer strip shall not be required.
- G. Trails that are intended to serve an interpretive function, as determined by the Environmental Coordinator, are exempted from the wetland buffer strip requirement.
- H. An existing Structure, driveway or parking area would be considered a legal nonconforming Structure if a later WCA delineation shows that the wetland is closer than the required setback.

Table 1 - Wetland Buffer Strips and Setbacks

	<u>Exceptional</u>	<u>High</u>	<u>Moderate</u>	<u>Low</u>
Wetland Buffer Strip Minimum Width	40'	30'	20'	10'
Wetland Buffer Strip Minimum Average Width	60'	60'	40'	20'
Structure Setback (from Wetland Buffer Strip)	25'	25'	15'	15'
Total Minimum Average	85'	85'	55'	35'

- I. The wetland buffer strip width for constructed stormwater ponds or infiltration areas utilized for Public Value (PVC) or New Wetland (NWC) Credit shall be measured from the Ordinary High Water Level (OHWL) of the pond or infiltration area and shall be considered of moderate quality.

Subd. 7. Monumentation.

A monument is required at each Lot line where it crosses a wetland buffer strip and shall have a maximum spacing of 200 feet along the edge of the wetland buffer strip. Additional monuments shall be placed as necessary to accurately define the edge of the wetland buffer strip. If no wetland buffer strip is required, monuments shall be placed at the wetland boundary. The monument shall consist of a post and a wetland buffer strip sign. The post shall be a 1.12 to 2.0 pounds per foot (1.12 pounds per foot is preferred) green steel channel post or other material pre-approved in writing by the Environmental Coordinator. The post shall be a minimum of 2.25 inches wide and 6 feet 6 inches long (2.25" x 6.5'). The sign shall have a minimum size of 3 inch by 8 inch (3" x 8"). The sign shall be mounted flush with the top of the post and shall include the statement "Wetland Buffer: No Mowing Allowed" or "Wetland Buffer: Vegetation Clearing Limit" or other statement approved in writing by the Environmental Coordinator. The post shall be mounted to a height of four feet above grade and set at least 2.5 feet in the ground. Monuments may be waived in unusual circumstances where the Environmental Coordinator determines that such signs would not serve a practical purpose.

Subd. 8. Vegetation Performance Standards.

- A. Where acceptable native, non-invasive vegetation exists in wetland, wetland replacement and wetland buffer strip areas, the retention of such vegetation in an undisturbed state is required unless an Applicant receives written approval from the Environmental Coordinator or any other agency which may regulate the removal or replacement of such vegetation. A wetland and/or wetland buffer strip has acceptable natural vegetation if it:
1. Has a continuous, dense layer of perennial grasses that have been uncultivated or unbroken for at least 5 consecutive years, or
 2. Has an overstory of trees and/or shrubs with at least 80 percent canopy closure that have been uncultivated or unbroken for at least 5 consecutive years, or
 3. Contains a mixture of the plant communities described in (1) and (2) above that have been uncultivated or unbroken for at least 5 consecutive years.
- B. Notwithstanding the performance standards set forth above in Section 11.51, Subd. 8 (A) of this Code, the Environmental Coordinator may determine existing wetland and/or wetland buffer strip vegetation to be unacceptable if the wetland and/or wetland buffer:
1. Is composed of Weeds (including, but not limited to common buckthorn, purple loosestrife, leafy spurge and/or noxious weeds as defined by Minnesota Statutes, Sections 18.76-18.88), or
 2. Has topography that tends to channelize the flow of surface runoff, or
 3. For some other reason it is unlikely to retain nutrients and sediment.
- C. Areas with unacceptable vegetation shall be re-graded, re-seeded and/or re-planted as needed and maintained in accordance with Section 11.51, Subd. 8 of this Code. The wetland, wetland replacement and wetland buffer strip planting requirements must be included in the Wetland Delineation, Wetland Buffer Strip Evaluation or Wetland Replacement Plan Monitoring Report. Wetland, wetland alteration, wetland replacement and wetland buffer strip landscaping shall be according to the following standards:
1. Planted with a diverse native, non-invasive seed mix appropriate for the specific site conditions that contains 100 percent perennial native vegetation. A one-time planting of an annual nurse or cover crop such as oats or rye may be included.
 2. Seed mix used shall be a BWSR seed mix appropriate for the area requiring reseeding or other alternative pre-approved in writing by the Environmental Coordinator. The seeding rate shall be at the rate recommended by the BWSR seed mix criteria or other pre-approved alternative.
 3. Native shrubs may be substituted for the native seed mix where appropriate. All substitutions must be pre-approved in writing by the Environmental Coordinator. Such shrubs may be bare root seedlings and shall be planted at a minimum rate of 60 plants per acre. Shrubs shall be distributed so as to provide a natural appearance and shall not be planted in rows.
 4. Any groundcover or shrub plantings installed within the wetland or wetland buffer strip are independent of landscaping required elsewhere by the City Code.
 5. Native prairie grasses and forbs shall be seeded or planted in accordance with "Restoring & Managing Native Wetland & Upland Vegetation" (published January 2006 by the Minnesota Department of Transportation (MnDOT) and BWSR) or other alternate method pre-approved by the Environmental

Coordinator by a qualified contractor. Determination of the contractor's qualifications shall be made by the Environmental Coordinator. It is the responsibility of the Applicant to have the contractor and method used approved by the Environmental Coordinator prior to planting or seeding.

6. No fertilizer shall be used in establishing new wetland buffer strips, except when deemed necessary to establish acceptable wetland and/or wetland buffer strip vegetation and then limited to amounts indicated by an accredited soil testing laboratory. Determination of proper accreditation shall be made by the Environmental Coordinator.
 7. All seeded areas shall be mulched immediately with clean straw at a rate of 1.5 tons per acre. Mulch shall be anchored with a disk or tackifier.
 8. Wetland, wetland replacement and wetland buffer strip areas (both natural and created), shall be protected by erosion control during construction in accordance with Section 11.55, Subd. 5 of this Code.
 9. The erosion control shall remain in place until the cover crop is established.
- D. The Applicant shall establish and maintain the wetland and wetland buffer strip vegetation in accordance with the requirements found in this Section, both during development and for two full growing seasons after completion of the development. During this time, the Applicant must replant or reseed any wetland and/or wetland buffer strip vegetation that does not survive.
- E. After the second full growing season following completion of the development, if the condition of the wetland and/or wetland buffer strip diminishes, the Applicant shall not be required to reestablish the wetland and/or wetland buffer strip to meet the standards contained in Section 11.51, Subd. 8 of this Code. However, wetlands created for Wetland Replacement must be monitored and maintained by the Applicant until the wetland is reviewed and approved by the LGU in accordance with the requirements established by Section 11.51, Subd. 11 of this Code and Minnesota Rules Chapter 8420.

After such times, the property owner on which the wetland and/or wetland buffer strip is located shall be responsible for the maintenance of the wetland, wetland alteration, wetland replacement and/or wetland buffer strip areas and must:

1. Maintain and repair damage to wetland and/or wetland buffer strip areas from activities such as mowing, cutting, grading or other prohibited activities unless approved by the City in writing as a Vegetation Management Plan.
2. Maintain only vegetation permitted in the Vegetation Management Plan or as found in Section 11.51, Subd. 8 of this Code in the wetland and wetland buffer strip, including the removal of all Weeds, unless allowed otherwise in writing by the Environmental Coordinator.
3. Ensure that all soil surfaces in wetland and wetland buffer strip areas are planted with permitted vegetation and that there are no open soil surfaces that may result in erosion.
4. Maintain the wetland and wetland buffer strip as a "no mow" area.

Subd. 9. Encroachment in Required Setback and Wetland Buffer Strip Areas.

- A. Wetlands, wetland buffer strips and structure setback areas must be kept free of all Structures. A maximum of ten percent (10%) of the Structure Setback area may be occupied by any Structures. The acceptability of the proposed Structures within the Structure Setback area shall be made by the Environmental Coordinator.

- B. Wetlands and wetland buffer strips must not be mown except as pre-approved in writing by the Environmental Coordinator for maintenance practices. The acceptability of the proposed maintenance practices shall be made by the Environmental Coordinator.
- C. Variances / Waivers
 - 1. Only variances meeting the standards and criteria set forth in Section 11.76, Subd. 1 of this Code and waivers approved pursuant to Section 11.40, Subd. 8 of this Code for a Planned Unit Development (PUD) process shall be granted. All variance requests must be made to the Board of Adjustments and Appeals. All waiver requests must be made to the Planning Commission and the City Council.
 - 2. Variances or waivers shall not be granted which would circumvent the intent and purposes of Section 11.51 of this Code.

Subd. 10. Surety Required.

If a Development Application includes wetland alteration, wetland or wetland buffer strip landscaping or construction of a wetland buffer strip the Applicant must file with the Environmental Coordinator prior to release of the final plat, or, if there is no plat approval involved, prior to the first building permit for the entire subject property, a performance bond, cash escrow or letter of credit with a corporation approved by the Environmental Coordinator, as surety thereon, or other guarantee acceptable to the Environmental Coordinator and in an amount determined by the Environmental Coordinator as set forth below (“Surety”). Surety requirements for Development Applications for areas where the City is the LGU are set forth in Section 11.51 Subd. 11 of this Code.

- A. Amount - The amount shall be for no less than one and one-half (1 ½) times the amount estimated by the Environmental Coordinator as the cost of completing a Wetland Plan for monument installation and replacement and restoration and/or correction of the wetland and/or wetland buffer strip.
- B. Schedule - The Surety for the Wetland Plan must cover two complete growing seasons following completion of the development and full and final restoration of all corrective actions identified in the Final Annual Report and is conditioned upon complete and satisfactory implementation of the approved Wetland Plan or Vegetation Management Plan and final inspection of the wetland and wetland buffer strip by the City.
- C. Submissions – The Applicant shall provide one copy of a signed contract with an environmental consultant to monitor construction activities and annual compliance and certify final completion of the wetland, wetland buffer strip and wetland replacement requirements to the Environmental Coordinator.
- D. Form of Application – The Surety Environmental Coordinator shall be posted within 10 days of approval of the Development Application and prior to the commencement of the Development or the preparations thereof.

Subd. 11 - Special Requirements for Wetland Conservation Act (WCA) Services.

The following provisions apply to areas for which the City of Eden Prairie is Local Government Unit (LGU). All survey information must be provided in the Minnesota County Coordinate System, Hennepin County North American Datum 1983 (NAD83) (1996) projection in U.S. Survey feet. All vertical elevations shall be in North American Datum 1988 (NAVD88).

- A. Wetland Evaluation / Wetland Determination Review – An Applicant submitting a Development Application must provide a report documenting site conditions; wetland delineation review procedures; a statement as to whether wetlands are present on site; whether an exemption is requested; and whether the development proposal will result in a loss of wetland. Reports must be prepared in accordance with paragraph B.
- B. Wetland Delineation, Wetland Determination, Wetland Exemption and No Loss Determination Review

Application – The Applicant shall complete and file with the Environmental Coordinator an Application for Review of Wetland Determinations in the form required by the Environmental Coordinator. The Application, including the following information, must be filed with the Environmental Coordinator a minimum of one week prior to scheduling a field review by the Environmental Coordinator:

1. Wetland Delineation Report, Wetland Determination, Wetland Exemption or No Loss Determination Report, one print copy and one electronic (PDF) version in color (all maps in the PDF version need to be developed for an 11” x 17” printable format with sufficient detail so all features are legible);
2. Wetland Buffer Strip Report, one print and one electronic copy (PDF) must be submitted with the Wetland Delineation Report;
3. Scaled public land survey map of the wetland delineation and boundary, transect locations and sample points;
4. Survey data in a format compatible with ArcView software;
5. A minimum of two wetland field data forms per wetland representing the wetland parameters at two locations along with a data form documenting upland conditions at each location;
6. Color copies of current and historical aerial photographs as required to define current and historic wetland conditions or wetland boundaries and
7. Such other information as required by the Environmental Coordinator.

An Applicant may request an exemption or no-loss determination in accordance with Minnesota Rules 8420.0315, 8420.0320, 8420.0410, 8420.0415 and 8420.0420.

- C. Permit Application Requirements – Wetland Alteration, constructing boardwalks, removing healthy native vegetation or otherwise altering or destroying any wetland or wetland function, either wholly or partially, by any person requires submission of a Combined Wetland Permit Application for review and approval by the City. Except for those wetlands exempt under Minnesota Rule 8420.0420, any alteration to a wetland must result in a zero net loss.
- D. Wetland Replacement Plan Application – A Combined Wetland Permit Application for Wetland Replacement shall be made in writing to the City. The Application shall set forth the location and plan for the proposed project. The Applicant must provide one printed and one electronic (PDF) version in color (all maps in PDF version need to be developed for an 11” x 17” printable format with sufficient detail so all features are legible). The Application must include:
 1. The name and address of the person(s) applying for the permit (Applicant).
 2. The name and address of the owner(s) of the land where the project will occur.
 3. The name and address of the managing agents or consultants that are or may be involved with the wetland alteration and/or replacement activities.
 4. The estimated period of time within which the project will be conducted.
 5. A topographic map of the proposed project area(s) to a minimum scale of one inch equals 50 feet showing existing ground elevation contours at two-foot intervals. The map shall show:

- a. The size and location of the wetland in relation to the property boundaries, including a scaled public land survey with the coordinates of the approximate wetland center and sample locations.
 - b. The property and a minimum of 50 feet of land abutting the property, as it existed prior to the proposed land alteration.
 - c. The proposed ground elevation contours at 2 foot intervals on the property when the land alteration is completed.
 - d. Locations of any surface inlets or outlets draining into or out of the wetlands.
 - e. Pre- and post-drainage areas for all existing and proposed wetlands.
 - f. Photographic reference points and proposed transect or sampling locations for wetland replacement or wetland banking plans.
 - g. Survey data in a digital shapefile or comma delimited ASCII file format compatible with ArcView software.
6. Wetland Type of all existing and proposed wetlands, including a comparison to the Eggers and Reed “Wetland Plant Community Types” document.
 7. Recent color aerial photograph of the proposed impact area.
 8. Grading plan of the proposed project area(s) to a minimum scale of one inch equals 50 feet prepared by a registered professional engineer that includes appropriate drainage areas and drainage calculations, proposed two-foot contours of the land when the project is complete and erosion control to be used during construction. Construction details, including the proposed elevations and contours, for any control structures must be included on the plans.
 9. A list of dominant or abundant vegetation in each stratum, utilizing the “50/20 rule” in the proposed impacted/altered wetland areas, including scientific and common names, and of vegetation exceeding 10% coverage and an estimated percentage of coverage for each.
 10. A soils map of the site showing soil type and substrate.
 11. Landscaping or revegetation plan at the same scale as the topographic map.
 12. Such other information as may be necessary to evaluate the proposed wetland alteration and wetland replacement plans and to determine the amount and types of wetland to be impacted.
 13. Evidence of ownership or property rights to the affected area.
 14. Such other information as required by Minnesota Rule 8420.0330 and the City.
- E. Wetland Replacement Plan Approval - Wetland Replacement Plan Applications shall be allowed subject to approval by the Environmental Coordinator. If the City determines that a feasible and prudent alternative exists that would avoid or minimize impacts to the wetland it shall deny the Application.

The City shall make its decision regarding the Wetland Replacement Plans in accordance with Minnesota Statutes 15.99, Subd. 3.

Approval of the Application shall be valid for a period of no more than three years. If the work has not begun within three years of the date of approval of the Application, the approval shall be void.

Approval of an Application for Wetland Alteration and/or Wetland Replacement does not exempt the Applicant from obtaining any and all other necessary permits for work within a wetland and/or wetland buffer.

F. Wetland Replacement Annual Reports – Annual reports shall be prepared in accordance with Minnesota Rules 8420.0810 and must include the following information:

1. Reference photographs taken within 4 weeks of completion of the grading and within 4 weeks of completion of the landscaping.
2. A description of activities completed in the current year
3. A list of activities planned for the following year
4. As-built plans (for the first year only) to a minimum scale of one inch equals 50 feet showing existing ground elevation contours at two-foot intervals
5. A comparison of actual conditions with the as-built specifications and proposed plans
6. Monthly hydrology measurements from April through October
7. A list of vegetation that have 10% coverage or more
8. A comparison of proposed versus actual Wetland Types within the wetland and wetland replacement areas
9. Map of the plant communities within the wetland, wetland replacement and wetland buffer areas included in the Wetland Replacement Plan. The map shall be overlain on the topographic map provided for the Wetland Replacement Plan.
10. Monthly color photographs from the photographic reference points from April to October.
11. All information required by Minnesota Rules 8420 for wetland replacement reporting.

Wetland Replacement Annual Reports must be submitted by November 1 each monitoring year. If the City does not receive either: 1) an annual monitoring report; or 2) notification that the report will be provided prior to December 31st by the November 1st deadline the City will charge the Applicant for cost incurred by the City, including staff time, to collect the information needed to complete the Wetland Replacement Annual Report. One print and one electronic (PDF) copy in color (all maps in PDF version need to be developed for an 11” x 17” printable format with sufficient detail so all features are legible) shall be submitted for review.

G. Fees – Submission of requests for wetland determinations, sequencing flexibility, wetland delineation reviews, field or technical reviews of current or historic wetland and/or wetland buffer conditions, or an application for a Wetland Replacement Plan shall be accompanied by a non-refundable application fee and a cash deposit in such amounts as determined by the City Council and fixed by Ordinance. The cash deposit, or a portion thereof, will be refunded after completion of City review and approval of the submittal, unless the total sum is greater than the administrative review cost. Costs may include, but are not limited to:

1. Consultant fees assisting in City review, providing technical assistance or other services required to meet WCA requirements.
2. City staff time expended in review, approval and processing of the Application or other services required to meet WCA requirements.
3. Consultant fees or City staff time expended in coordinating and holding Technical Evaluation Panel meetings.

4. Mailing, legal notices and other administrative costs.
5. Any other reasonable costs incurred by the City in review of the proposal.

Full payment of the fees and cash deposit must be made by the Applicant prior to consideration of the Development Application. All costs incurred by the City greater than the cash deposit balance will be billed to the permit holder.

- H. Surety – The Surety required in Section 11.51, Subd. 10 shall include costs associated with the City and WCA requirements for Wetland Alteration or Wetland Replacement projects, including but not limited to construction, seeding, planting, monument installation and annual monitoring. The Surety shall be retained by the City until the later of (i) approval of the project as final by the Environmental Coordinator; or (ii) a minimum period of 5 years. The Surety must include costs associated with re-grading or purchase of off-site Wetland Replacement if on-site Wetland Replacement is unsuccessful. The Surety shall be extended beyond the required monitoring period for up to an additional five-year period if, in the written opinion of the Technical Evaluation Panel, the goal of the replacement plan has not been achieved but may be achieved with more time. The amount of security shall be 150% of the estimated cost to complete the scope of work associated with the Wetland Plan and Wetland Replacement Plan.
- I. Wetland construction or replacement must be conducted as required in Minnesota Rules 8420 and the Minnesota Wetland Restoration Guide (BWSR).

Subd. 12 – Submissions, Decisions, and Appeals.

- A. All applications, information, analyses and reports required pursuant to City Code Section 11.51 shall be in the form required by the City and shall be submitted to the Environmental Coordinator by the Applicant in conjunction with the submission of the Development Application.
- B. All applications, information, analyses and reports required pursuant to City Code Section 11.51 shall be subject to review and approval by the Environmental Coordinator in accordance with the procedures set forth in Minnesota Rules 8420.0255. All decisions made by the Environmental Coordinator are final unless a timely appeal is filed with the City Council.
- C. All decisions made by the Environmental Coordinator may be appealed to the City Council in accordance with Minnesota Rules 8420.0905. The appeal must be in writing, must be accompanied by payment of all applicable fees, and must be filed with the City Engineer within 30 days of the date the Notice of Decision is sent. The City Council shall make a ruling on the appeal within 30 days of the date of the filing of the appeal unless the City Council and the appellant mutually agree in writing to an extension.
- D. A decision of the City Council may be appealed to the Minnesota Board of Water and Soil Resources (BWSR) pursuant to Minnesota Rules 8420.0905.
- E. An applicant proceeds at their own risk if they proceed prior to expiration of the 30-day appeal window. If the decision is reversed or revised under appeal, the Applicant is responsible for restoring and replacing all wetland impacts.

Subd. 13 – Enforcement and Remedy.

In addition to the remedy provided for in City Code Section 11.99, the provisions of City Code Section 11.51 may be enforced in accordance with Minnesota Rule 8420.0900, or any other remedy provided for in law or equity.

Source: Ordinance No 14-2014

Effective Date: 5-29-2014

Source: Ordinance No.9-2008

Effective Date: 3-27-2008

Prev. Source: Ordinance No. 6-2003

Effective Date: 4-10-2003

Prev. Source: Ordinance No. 6-2000

Effective Date: 2-10-2000

(Sections 11.52 through 11.54, inclusive, reserved for future expansion.)

SECTION 11.55 - LAND ALTERATION, TREE PRESERVATION AND STORMWATER MANAGEMENT REGULATIONS.

Ordinance No. 7-2015

Effective Date: 6-25-2015

Prev. Ordinance No. 2-2006

Effective Date: 2-16-2006

Subd. 1. Declaration of Policy and Purpose.

- A. Land Alterations are inherently accompanied by noise and dust, may create hazardous conditions and may result in lasting disfigurement of the places where they are carried on and thus may affect existing land uses in nearby areas, discourage further permanent development of the surrounding properties, impair adequate planning or municipal development, and diminish public health, safety, and general welfare. It is, therefore, desirable to regulate Land Alterations in the City.
- B. Tree removal, damage, and destruction tends to endanger the natural character of the land from which the trees have been removed and surrounding lands, and to diminish and impair the public health, safety and general welfare. The Council desires to protect the integrity of the natural environment and finds that trees do so by providing for better air quality, scenic beauty, protection against wind and water erosion, and natural insulation for energy preservation. Further, the Council finds that trees protect privacy and provide enhancement of property values. It is, therefore, the further purpose of this Section to provide regulations relating to the cutting, removal or killing of trees, with the consequent damage and destruction of the wooded and forested areas of the City, to promote the orderly development of such areas and thereby minimize public and private losses; to insure maintenance of the natural vegetation and topography; to encourage protection and preservation of the natural environment and beauty of the City; to encourage a resourceful and prudent approach to urban development of wooded areas which provides for minimal tree loss and mitigation of tree removal resulting from development; to provide an objective method to evaluate a development's impact on trees and wooded areas and identify whether and how the impact may be reduced; to provide incentive for creative land use and good site design which preserves trees while allowing development in wooded areas with mitigation of tree removal and destruction; and to provide for enforcement and administration thereby promoting and protecting the public health, safety and welfare.
- C. The Council seeks to promote, preserve and enhance the natural resources within the City and protect them from adverse effects of stormwater runoff by providing site design standards that minimize stormwater runoff to meet the requirements of appropriate regulatory agencies.

Subd. 2. Definitions. For the purposes of this Section, the following terms, phrases, and words shall have the meanings stated below.

- A. Applicant. A Person submitting an application for a Permit.
- B. Best Management Practices. Best Management Practices or BMPs (defined under Minnesota Rules 4001.1020, subp. 5) are practices to prevent or reduce the pollution of the waters of the state, including schedules of

activities, prohibitions of practices, and other management practices, and also includes treatment requirements, operation procedures and practices to control plant site runoff, spillage or leaks, sludge, or waste disposal or drainage from raw material storage. BMPs are effective and practicable means of controlling, preventing, and minimizing degradation of surface water from Stormwater runoff.

- C. Building Permit. A Building Permit is a Permit issued pursuant to Minn. Stat. chap. 326, the State Building Code.
- D. Caliper Inches. The length, in inches, of a straight line measured through the Tree Trunk of a certified nursery raised tree at 12 inches above the ground.
- E. Canopy of a Tree. The horizontal extension of a tree's branches in all directions from the Tree Trunk.
- F. Certified Contractor. An individual who has received training and is licensed by the State of Minnesota to inspect and maintain erosion control practices.
- G. Construction Activity. A disturbance to the land that results in a change to the topography or existing soil cover (both vegetative and non-vegetative) that may result in accelerated stormwater runoff. Examples of Construction Activity may include clearing, grading, filling and excavation.
- H. Control Measure. The practice or combination of practices to control Erosion, Sedimentation and Pollution.
- I. Detention Basin. A Detention Basin is a natural or man-made structure, facility or basin for the temporary storage of Stormwater to allow settling of Pollutants while delaying Discharge of water so that water slowly empties from the area, including but not limited to, wetlands, dry ponds, Vegetated Swales, Infiltration trenches and Infiltration basins.
- J. Development Plan – A contiguous area that includes a common plan of development or sale where multiple separate and distinct land disturbing activities, including New Development or Redevelopment, may be taking place at different times, or different schedules, but under one proposed plan. One Development Plan is broadly defined to include design, Permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.
- K. Discharge. The conveyance, channeling, runoff, or drainage of Stormwater or any substance which enters a Stormwater Facility.
- L. DNR Catchment Area. The Hydrologic Unit 08 drainage areas that drain to a river, stream or lake as delineated and digitized by the Minnesota Department of Natural Resources (DNR) Watershed Delineation Project. The mapping information for the DNR Catchment Areas is available at the DNR Data Deli web site (deli.dnr.state.mn.us).
- M. Drip Line of a Tree. An imaginary vertical line which extends from the outermost branches of the Canopy of a Tree to the ground.
- N. Diameter. Wherever this term is used in reference to the measurement of a tree it shall mean a Tree Trunk as measured 4.5 feet above the ground.
- O. Erosion. Any process that wears away the surface of the land by the action of water, wind, ice or gravity.
- P. Erosion Control Systems. Methods, measures or systems employed to prevent soil Erosion.
- Q. Filtration. Filtration means the process by which Pollutants are removed through filtering and settling of stormwater runoff, biological and microbiological uptake, and/or soil adsorption. Filtering practices include

media filters (surface, underground, perimeter), vegetative filters (filter strips, grass channels), and combination media/vegetative filters (dry swales).

- R. Final Stabilization. All Land Alteration has been completed and a uniform perennial vegetative cover with a density of seventy (70) percent of the cover for unpaved areas and areas not covered by permanent structures has been established on the land or equivalent permanent cover or stabilization measures have been employed as approved by the City. Sowing grass seed or an annual cover crop is not considered Final Stabilization.
- S. Green Infrastructure. A wide array of practices at multiple scales that manage wet weather and maintains or restores natural hydrology by infiltrating, evapotranspiring, or harvesting and using stormwater. On a regional scale, green infrastructure is the preservation or restoration of natural landscape features, such as forests, floodplains and wetlands, coupled with policies such as infill and redevelopment that reduce overall imperviousness in a watershed. On a local scale, green infrastructure consists of site and neighborhood-specific practices, such as bioretention, trees, green roofs, permeable pavements and cisterns.
- T. Infiltration. Infiltration is the capture and temporary storage of water to allow passage or movement of the water into the soil through the use of techniques such as Infiltration basins, Infiltration trenches, rainwater gardens, underground Infiltration systems, or natural or enhanced swales.
- U. Land. Land shall mean and include an entire Lot (as defined in Section 11.02 of the City Code) on or within the boundaries of which Land Alteration has occurred, or is to occur.
- V. Land Alteration Permit. A Permit to allow Land Alteration. This would include Grading and Filling Permit referenced in Section 11.50 Subd. 11.
- W. Land Alteration. Any land disturbing activity, including: excavating, grading, digging, cutting, scraping, clearing; removal of trees, filling or other change or movement of earth which may result in diversion of a man-made or natural water course or Erosion of Sediments.
- X. Maximum Extent Practicable. Maximum Extent Practicable or MEP means the statutory standard (33 U.S.C. 1342(p)(3)(B)(iii)) that establishes the level of Pollutant reductions that the Permittee must achieve. Determination of the appropriate BMPs required to satisfy the Land Alteration Permit requirements to the MEP will be completed by the City Engineer.
- Y. New Development. All Construction Activity that is not defined as Redevelopment.
- Z. NPDES. NPDES means the National Pollutant Discharge Elimination System as established pursuant to 33 USC § 1342 (b) to regulate Discharges of Pollutants to waters of the United States.
- AA. NPDES Permit. A NPDES stormwater discharge permit that is issued by the Minnesota Pollution Control Agency (MPCA) to regulate Discharges of Pollutants to waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.
- BB. Owner. Any person having a sufficient proprietary interest in the land for which a permit is or may be issued under this Section.
- CC. Permit. A Land Alteration Permit or a Building Permit.
- DD. Permittee. The holder of a Permit pursuant to this Section.
- EE. Pollutant. Pollutant means: (i) toxic or hazardous substances, wastes, or contaminants (including, without limitation, asbestos, urea formaldehyde, the group of organic compounds known as polychlorinated biphenyls, petroleum products including gasoline, fuel oil, crude oil and various constituents of such products, and any

hazardous substance as defined in Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“CERCLA”), 42 U.S.C. §9601-9657, as amended); (ii) substances that would require a permit for their Discharge into any water source or system or the air under the Federal Water Pollution Control Act, 33 U.S. C. §1251 et Seq., or the Clean Air Act, 42 U.S.C. §7401 et Seq.; (iii) hazardous substances, Pollutants or contaminants defined in Minnesota Statutes Chapter 115B; (iv) litter, yard waste, garbage, liquid and solid wastes, fertilizers, pesticides, herbicides, paints, solvents, automotive fluids, wastes and residues that result from constructing a building or structure, and (iv) any other similar state law or ordinance. A Pollutant of Concern is a Pollutant specifically identified in a USEPA-approved Total Maximum Daily Load (TMDL) report as causing a water quality impairment.

- FF. Redevelopment. Any Construction Activity where, prior to start of construction, the areas to be disturbed have 15% or more of impervious surface(s).
- GG. Retention Basin. A retention basin is a temporary or permanent natural or man-made structure, facility or basin that provides for storage of Stormwater where water is allowed to empty through evapotranspiration, Infiltration, Filtration or evaporation, including but not limited to wet, dry or National Urban Runoff Program (NURP) ponds.
- HH. Root Zone. The area under a tree which is at and within the Drip Line of a Canopy of a Tree.
- II. Saturated Soil. The highest seasonal elevation in the soil that is in a reduced chemical state because of soil voids being filled with water. Saturated soil is evidenced by the presence of redoximorphic features or other information.
- JJ. Sediment. The product of an Erosion process, including solid matter both mineral and organic, that is in suspension, is being transported, or has been moved by water, air, gravity or ice and has come to rest on the earth’s surface either above or below the normal water level.
- KK. Sedimentation. The process or action of depositing Sediment.
- LL. Significant Tree. Any deciduous hardwood tree (except elm, willow, box elder and aspen) measuring 12 inches in Diameter or greater, or a coniferous tree measuring 8 inches in Diameter or greater.
- MM. Site. The area of Land within which Land Alteration occurs or is to occur.
- NN. Stormwater. Any form of natural precipitation which causes water to runoff or flow from one place to another and includes Stormwater runoff, snow melt runoff, and surface runoff and drainage.
- OO. Stormwater Facility. A stationary and permanent Stormwater BMP designed, constructed and operated to prevent or reduce the Discharge of Pollutants in Stormwater as well as structures built to collect, convey, or store Stormwater, including but not limited to, inlets, pipes, storm drains, pumping facilities, Retention Basins, Detention Basins, drainage channels, reservoirs, and other drainage structures.
- PP. Stormwater Management. The use of structural or non-structural practices that are designed to reduce the movement of Stormwater, including Stormwater Discharge volumes, and peak flow Discharge rates.
- QQ. Stormwater Pollution Prevention Plan (SWPPP). A plan described in Subd. 8.E of this Section. A SWPPP also refers to that SWPPP required by the MPCA under the NPDES Permit program to manage and reduce the Discharge of Pollutants in Stormwater.
- RR. Tree Trunk. The stem portion of a tree from the ground to the first branch thereof.

- SS. Vegetated Swales. A vegetated earthen channel that conveys Stormwater while treating the Stormwater with biofiltration. Such swales may be designed to pretreat surface runoff by removing Pollutants through Filtration and Infiltration.
- TT. WMZ. The WMZ (Wellhead Management Zone) is the area within a fifty (50) foot radius from any municipal well.

Subd. 3. Permit Requirements and Exemptions.

- A. **Permit Required.** Except as hereafter provided, it is unlawful for any person to use Land for, or to engage directly or indirectly in, Land Alteration unless such person shall first have applied to and obtained from the City, in the manner hereinafter provided, a Permit authorizing the same.
- B. **Single Family Dwelling.** At a minimum, a person engaging in Land Alteration in connection with construction of a Single Family Dwelling must obtain a Building Permit from the City. In addition, a Land Alteration Permit may be required if the City Engineer or his/her designee determines that site conditions require a Permit or if a Land Alteration Permit is required in other Sections of the City Code. The Permittee who conducts Land Alterations pursuant to a Building Permit shall be required to comply with Subds. 5, and 7 of this Section. In the event more than 10% of the Significant Trees on the Site are to be removed, the Permittee shall also comply with Subd. 4 of this Section. Failure to comply with Subds. 4, 5, and 7 of this Section if applicable, will subject the Permittee to the provisions of Subd. 7.J of this Section. The application for the Building Permit shall include a Certificate of Survey, including a map of the Erosion Control Measures which will be provided, and must be pre-approved in writing by the City. Single Family Dwelling construction includes construction of a single family dwelling, garage, pool, addition, driveway or deck.
- C. **General Exemptions.** The following Land Alterations are exempt from the requirements for a Permit:
1. Any Land Alteration occurring pursuant to a Land Alteration or Building Permit which was approved by the City prior to April 21, 2015 and which has not expired.
 2. Movement of less than 100 cubic yards of earth.
 3. For all lots except residential lots, the cutting, removal or killing of less than 10% of the Significant Trees on any Land within a period of five years. For residential lots, the cutting, removal or killing of less than 10% of the Significant Trees or 1 Significant Tree, whichever is greater, on any land within a period of five years.
 4. Any destruction or disruption of vegetation covering an area equal to or less than 10% of any Land.
 5. Installation of a fence, sign, telephone or electric poles and other posts or poles which result in less than 1,000 square feet of exposed soil.
 6. Home gardens, turf or an individual's home landscaping, installation, repairs and/or maintenance work.
 7. Retaining walls less than four (4) feet in height and twenty-five (25) feet in length that are constructed in a manner which does not change the existing Stormwater Drainage. This would include a single or tiered retaining wall system.
 8. Existing agricultural, horticultural or silvicultural operations.
 9. Opening and closing graves.

10. Emergency work to prevent or alleviate immediate dangers to life, limb, property or natural resources. In such an event, if a Permit had been required but for the emergency, the obligations of this Section shall apply and shall be performed at the earliest reasonable time thereafter.
 11. Excavations for tunnels, wells, utilities, trails, sidewalks, roads or other public work projects which are undertaken by the City, unless the disturbance meets the criteria established in Subd. 6 of this Section.
- D. **Other Requirements.** Neither this Section nor any administrative decision made under it exempts a person from other requirements of this Code, from procuring permits required by other agencies (including but not limited to the Watershed District, Hennepin County, Minnesota Pollution Control Agency (MPCA), the Minnesota Department of Natural Resources (DNR) or the U.S. Army Corps of Engineers (USACE) or from complying with the requirements and conditions of such permits. A copy of any permits related to Wetlands, Land Alteration or Stormwater received from another federal, state or local authority must be provided to the City Engineer prior to issuance of a Permit from the City.

Subd. 4. Tree Replacement Plan Requirements.

The issuance of a Land Alteration Permit or Building Permit shall be further subject to and conditioned upon compliance by the Permittee with the following:

- A. **Tree Inventory.** A Tree Inventory certified by a registered land surveyor, landscape architect or forester must be provided to the City Forester. The Tree Inventory must depict the following:
1. The size, species, condition and location on the Site of all Significant Trees. On large wooded areas, forest mensuration methods may be used to determine the total Diameter inches of trees outside the area of the proposed Land Alteration.
 2. A list of Significant Trees which will be lost due to the proposed Land Alteration. Significant Trees shall be considered lost as a result of:
 - a. grade change or Land Alteration, whether temporary or permanent, of greater than one (1) foot measured vertically, affecting 60% (as measured on a horizontal plane) or more of the tree's Root Zone;
 - b. utility construction (i.e., sewer, water, storm sewer, gas, electric, telephone and cable TV) resulting in the cutting of 60% or more of the tree's roots within the Root Zone;
 - c. mechanical injury to the Tree Trunk of a Significant Tree causing loss of more than 40% of the bark at any given Diameter location along the trunk; or,
 - d. compaction to a depth of 6 inches or more of 60% or more of the surface of the soil within a Significant Tree's Root Zone.
 3. The number, type and size of trees required to be replaced pursuant to this Section.
 4. The location of the replacement trees.
- B. **Tree Replacement Requirements.** The Permittee shall replace Significant Trees lost or reasonably anticipated to be lost as a result of Construction Activity or Land Alteration immediately upon the occurrence of a loss, whether the loss occurs during Construction Activity, Land Alteration or thereafter, by the Permittee, his agent, or successor in interest by planting that number of trees (Replacement Trees) determined in accordance with the following formula:

- A = Total Diameter Inches of Significant Trees Lost as a Result of the Land Alteration
- B = Total Diameter Inches of Significant Trees Situated on the Land
- C = Tree Replacement Constant (1.33)
- D = Replacement Trees (Number of Caliper Inches)

$$[(A/B) \times C] \times A = D$$

EXAMPLE

$$A = 337$$

$$B = 943$$

$$C = 1.33$$

$$D = 160$$

$$[(337/943) \times 1.33] \times 337 = 160$$

The trees required to be replaced pursuant to this Section shall be in addition to any other trees required to be planted pursuant to any other provision of the Code. A Financial Security is required as described in Subdivision 12 of this Section.

- C. **Location of Replacement Trees.** Replacement Trees shall be planted in one or more of the following areas on the Land:
 1. Restoration areas including steep slopes.
 2. Outlots or common areas.
 3. Buffer zones between different land uses and/or activities.
 4. Project entrance areas.
 5. Wetland Buffer Areas
 6. Stormwater BMPs designed according to Subd. 6.
 7. Any other part of the Land except areas dedicated or conveyed to the City, unless the City consents in writing.

- D. **Sizes and Types of Replacement Trees.** Replacement Trees must be no less than the following sizes:
 1. Deciduous trees - no less than three (3) Caliper Inches.
 2. Coniferous trees - no less than seven (7) feet high.

On steep slopes (i.e., greater than 3:1) deciduous trees may be two (2) Caliper Inches and coniferous trees may be six (6) feet in height.

Replacement Trees shall be of a species similar to the trees which are lost and shall be pre-approved in writing by the City.

- E. **Time to Perform.** Replacement trees shall be planted not less than 18 months after the date of issuance of the Permit.

- F. **Missing, Dead or Unhealthy Trees.** Any Replacement Tree which is not alive or healthy one (1) year after the date that the last Replacement Tree has been planted shall be removed and a new healthy tree of the same size and species shall be planted in place of the removed tree. All such plantings shall occur within one year of the date the tree qualifies as dead, unhealthy or missing.

- G. **Sources of Trees.** Replacement trees shall consist of "certified nursery stock" as defined by Minnesota Statutes Section 18.46.

Trees planted in place of missing, dead, or unhealthy Replacement Trees shall consist only of “certified nursery stock” as defined by Minnesota Statutes, Section 18.46.

- H. **Exceptions.** The provisions of Subd. 4 shall not apply to the cutting of trees planted and grown by the owner or owner's predecessor on real estate which on April 17, 1990 was classified as Class 2b property according to Minnesota Statutes 1989 Supplement, Section 273.13, Subd. 23(b) because it was as of such date real estate, rural in character, and used exclusively for growing trees for timber, lumber, wood and wood products as described in clause (1) of said Subd. 23(b).

Subd. 5. General Requirements for Land Alteration.

Land Alteration shall be subject to and conditioned upon the performance by the Permittee or Owner of the following general requirements regardless of whether a Permit is required:

- A. **Concrete Truck Wash Out.** Designation of an area for wash out of concrete trucks and equipment must be provided by the Permittee. Sites that are one acre or more must provide on the Site a station for washing out concrete trucks and equipment. The location of the wash out area or wash out station shall preclude the drainage of concrete and all other wash out wastes from the washing activities to a Stormwater Facility or water resource.
- B. **Corrections.** Breaches of the perimeter of the Site by Erosion shall be immediately corrected, cleaned up and restored. A right-of-entry from the adjoining property owner(s) must be obtained to implement clean up and restoration on adjoining properties that were impacted by the Erosion. Erosion breaches must be corrected within 48 hours of obtaining a right-of-entry.
- C. **Drain inlet protection.** All storm drain inlets shall be protected during Construction Activities and Land Alteration with silt fence or other equivalent barrier meeting accepted design criteria, standards and specifications contained in the MPCA publication "Protecting Water Quality in Urban Areas" or alternative pre-approved in writing by the City until Final Stabilization is completed.
- D. **Driveway construction or replacement.** All driveway construction or replacement that disturbs the underlying soils shall be installed in accordance with City Code Chapter 11 surface requirements. Driveway construction shall be completed within 120 days after the earlier of the following: (i) completion of the structure(s) for which the driveway is constructed; (ii) a driveway replacement project is started; or (iii) a Certificate of Occupancy has been issued; unless otherwise approved by the City.
- E. **Erosion Control Installation.** Erosion Control Systems shall be installed prior to commencement of any Land Alteration activity and maintained during the Land Alteration activities in accordance with the following parameters:
1. Stormwater channeled from adjacent areas passing through the Site shall be diverted around disturbed areas during the Land Alteration, if practical. Diverted Stormwater shall be conveyed in a manner that will not erode the channels.
 2. All activities on the Site shall be conducted in a manner which minimizes the area of bare soil exposed at any one time.
 3. Runoff from the Site shall be controlled by meeting subsection a. below and either subsection b. or c., depending on the size of the Site.
 - a. All disturbed earth shall be stabilized by seeding (if prior to September 15), sodding, mulching, or other equivalent Control Measure pre-approved in writing by the City within

fourteen (14) days of ceasing Construction Activity or Land Alteration, unless required otherwise in a federal, state or local permit.

- b. For sites with more than ten (10) acres disturbed at one time, or if a channel originates in the disturbed area, one (1) or more temporary and/or permanent Detention or Retention Basins (Basin) shall be constructed. Each Basin shall have a surface area of at least 1% of the area draining to the Basin and at least three (3) feet in depth. Each Basin shall be constructed in accordance with design specifications approved by the City. The Permittee or Owner shall ensure that Sediment is removed on a regular basis in order to maintain a depth of three (3) feet in depth. The Basin Discharge rate shall also be sufficiently low as to not cause erosion along the Discharge channel or the receiving water.
- c. For Sites with less than ten (10) acres disturbed at one time, silt fences, or equivalent Control Measures shall be placed along the side and down slopes of the Site. If a channel or area of concentrated runoff passes through the site, silt fences shall be placed along the channel edges to reduce Sediment reaching the channel.

Erosion Control Systems may be adjusted during dry weather to accommodate short term activities, such as those that require the passage of very large vehicles. As soon as the activity is finished and in any event prior to the occurrence of rainfall, the Erosion Control Systems must be returned to the original configuration.

- F. **Erosion Control Maintenance.** All Erosion Control Systems shall be designed to minimize the need for maintenance and to provide access for maintenance purposes. All Erosion Control Systems shall be maintained in a functional condition until Final Stabilization of the Site and until all Land Alteration, including completion of turf and/or structural surfaces used to control soil erosion, is complete. Erosion Control Systems shall be removed within thirty (30) days following Final Stabilization.
- H. **Final Stabilization.** Upon ceasing operations or upon interrupting Land Alterations for a period of six (6) months or more, the Permittee or Owner shall complete Final Stabilization of the site. For a Certificate of Occupancy issued from April 1 to August 31, ground cover shall be established within sixty (60) days of the issuance of the Certificate. For a Certificate of Occupancy issued between September 1 to March 31, ground cover shall be established prior to June 1 of the following year.
- I. **Hours of Operation.** No Land Alterations shall be conducted prior to 7:00 o'clock a.m. nor after 7:00 o'clock p.m. on Monday through Friday, prior to 9:00 o'clock a.m. nor after 7:00 o'clock p.m. on Saturday, nor any time on Sundays or legal holidays. The City may, upon good cause being shown, vary these days and hours in writing.
- J. **Protection of Adjoining Structures.** No Land Alteration shall occur which may endanger the use or support of adjoining lands or structures.
- K. **Slope Stabilization.** Land contours made in conjunction with Land Alteration shall be sloped on all sides at a minimum ratio of three horizontal to one vertical (3H:1V) or greater, unless a steeper slope is approved in writing by the City.
- M. **Temporary Fencing.** Temporary construction fencing must be installed around the Site, if necessary, to protect the public or natural resources against injury or damage. All temporary construction fencing shall be removed within ten (10) days following elimination of potential injury or damage or issuance of a Certificate of Occupancy, whichever occurs first. The fencing shall not be used as a permanent installation.
- N. **Temporary Soil or Dirt Storage.** Soil or dirt storage piles containing more than fifty (50) cubic yards of material shall be stabilized by mulching, vegetative cover, tarps, or other equivalent Control Measures within fourteen (14) days unless required otherwise in a federal, state or local permit.

- O. **Tracking or Spilling.** BMPs shall be employed to minimize Sediment from being tracked or spilled onto public or private roadways. The BMPs may include, but are not limited to, the following: frequent cleaning of streets adjacent to the construction site, rock construction entrances, graveled roads, washing stations, and parking areas of sufficient width and length. Sediment reaching a sidewalk, trail or public or private road shall be removed by street cleaning with power sweepers (not flushing) before the end of each workday or as otherwise ordered by the City in writing. Should eroded soils enter, or entrance appears imminent, into wetland or other water bodies, clean up and repair shall be immediate. The Permittee or Owner shall be responsible for signage and other protection measure during clean up operations.
- P. **Site Dewatering.** Water pumped from the Site shall be treated by temporary Sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, swirl concentrators or other controls as appropriate. Water may not be Discharged in a manner that causes Erosion or flooding that creates an adverse impact to the Site, abutting property, receiving channels or a wetland.
- Q. **Unsafe Conditions.** The Permittee shall repair, change, alter, modify or desist from any Land Alteration deemed by the City Engineer or his/her designee to be the cause of unsanitary, dangerous, or polluted conditions harmful to the general welfare of the City.
- R. **Waste and Material Collection and Disposal.** All waste and unused building materials (including garbage, debris, cleaning wastes, litter, wastewater or sewage, toxic materials or hazardous materials) shall be properly contained while on site, properly disposed of off-site, and not allowed to be carried by water and/or wind off the site or into a receiving channel or storm sewer system. Waste containers and all construction materials shall not be placed or stored such that they obstruct, encroach upon, or interfere wholly or in part with any public right-of-way, including but not limited to, public roadways, trails, sidewalks, parks or other public properties unless a permit is issued under City Code Section 6.06.
- S. **Wetlands and Waterways.** Stormwater shall not be Discharged directly into any natural water bodies such as wetlands, lakes or streams without pre-settlement. Wetlands must not be drained or filled, wholly or partially, unless a permit to replace by restoring or creating wetland areas of at least equal public value has been issued by the local governing unit. The permit and replacement must be in accordance with the Wetlands Conservation Act [MN Statutes 103G.221 et. Seq. (herein referred to as the WCA)] and City Code Section 11.51.

Subd. 6. Development Plan Stormwater Management Standards and Design Criteria.

Development Plans with land disturbance of greater than or equal to one acre, including projects of less than one acre that are part of a larger common plan of development or sale, shall include evaluation of the following provisions. The evaluation must be provided with the Land Development Application. Variances may not be granted by the City for the stormwater requirements set forth in Subdivision 6.G.

- A. **Green Infrastructure Analysis.** The use of Green Infrastructure techniques and practices shall be the preferred BMPs for accomplishing compliance with Subd. 6.B. and Subd. 6. C. The following Green Infrastructure design options or types of features must be considered, consistent with zoning, subdivision and PUD requirements:
 - 1. Preserving natural vegetation.
 - 2. Preserving and utilizing natural upland swales, depressions and upland storage areas in the post-development condition to the degree that they can convey, store, infiltrate, filter or retain Stormwater runoff before Discharge. Preservation requires that no grading or other Construction Activity occurs in these areas.
 - 3. Minimizing impervious surface.

4. Installing permeable pavement to allow stormwater runoff to filter through surface voids into an underlying reservoir for temporary storage and/or Infiltration.
5. Utilizing vegetated areas to filter sheet flow, remove Sediment and other Pollutants and increase time of concentration to slow Discharge or reduce runoff of Stormwater.
6. Disconnecting impervious areas by allowing runoff from small impervious areas to be directed to pervious areas where it can be infiltrated or filtered.
7. Installing a green roof to provide an environment for plant growth for treatment of stormwater through filtering of suspended solids and pollutants and/or for volume and rate control as part of the roof system for the building.
8. Using irrigation ponds or systems, cisterns, rain barrels and related BMPs to reuse Stormwater runoff.
9. Planting of trees for retention and detention of Stormwater runoff as defined in the Minnesota Stormwater Manual or State of Minnesota Minimal Impact Design Standards (MIDS).
10. Utilizing a soil amendment or decompaction process after site disturbance.
11. Minimizing parking facility size.
12. Increasing buffers around streams, steep slopes and wetlands to protect from flood damage and/or provide additional water quality treatment.

Development Plans shall be designed to protect and minimize impacts to natural features such as wetlands, wooded areas, rare and endangered species habitat, preservation areas designated by the Hennepin County Biological Survey, Metro greenways, and parkland to the MEP.

B. Post-Construction Stormwater Management. Development Plans shall include the following conditions to the MEP.

1. New Development projects must have no net increase from pre-project conditions on an annual average basis of:
 - a. Stormwater Discharge Volume
 - b. Stormwater Discharges of Total Suspended Solids (TSS)
 - c. Stormwater Discharges of Total Phosphorus (TP)
2. Redevelopment projects must have a net reduction from pre-project conditions on an annual average basis of:
 - a. Stormwater Discharge volume
 - b. Stormwater Discharges of TSS
 - c. Stormwater Discharges of TP

C. Volume Management. Volume Management Measures for Development Plans shall meet the following standards:

1. Retain a runoff volume equal to one (1.0) inch times the area of the proposed new impervious surfaces onsite.

2. Pretreatment in the form of sump structure, vegetated filter strip, water quality inlet or other Sediment control method to settle particulates approved by the City shall be provided for all Infiltration areas.
3. Calculations, modeling and design for and installation of Infiltration BMPs must be provided.
4. No wetlands or areas below the calculated normal water level of constructed wet ponds shall be accepted as an Infiltration practice.

D. Stormwater Discharge Volume Prohibitions. The use of Infiltration is prohibited on sites where the Infiltration BMP will receive Discharges from, or be constructed in, any of the following areas:

1. Where industrial facilities are not authorized to infiltrate industrial Stormwater under an NPDES/SDS Industrial Stormwater Permit issued by the Minnesota Pollution Control Agency (MPCA).
2. On Land where vehicle fueling and maintenance currently occur.
3. Where there is less than three (3) feet vertical feet of separation from the bottom of the Infiltration BMP to the elevation of seasonally saturated soils or the top of bedrock.
4. Where high levels of contaminants in soil or groundwater will be mobilized by the infiltrating Stormwater. Documentation regarding type and extent of identified contaminants identified, such as a Phase II Environmental Site Assessment, must be provided.

E. Stormwater Discharge Volume Restrictions. The use of Infiltration shall be subject to review and approval by the City Engineer where the use of Infiltration BMPs are restricted due to Construction Activity occurring on any of the following sites:

1. Where predominately Hydrologic Soil Group D (clay) soils exist.
2. Within 1,000 feet up-gradient, or 100 feet down-gradient of active karst features. The city may require the applicant to perform additional appropriate geotechnical investigations in areas of suspected active karst or shallow bedrock.
3. Where the bottom of the Infiltration basin will be less than 3 feet above the normal water level of any adjacent wetland.
4. Within a Drinking Water Supply Management Area (DWSMA) as defined in Minn. Rules 4720.5100, subp. 13.
5. Where soil Infiltration rates exceed 8.3 inches per hour.
6. Within 50 feet of a salt stockpile or storage area.
7. Where vehicle fueling and maintenance previously occurred.
8. Within the Wellhead Management Zone (WMZ) of any City well.

City approval shall be conditioned upon completion of higher engineering review and submittal of the analysis to the City Engineer in these areas that demonstrate to the reasonable satisfaction of the City Engineer that the Infiltration BMPs will perform properly and that groundwater is adequately protected.

F. Stormwater Discharge Volume Exceptions. The use of less Infiltration for volume control on the Site of the Construction Activity or Land Alteration may be allowed subject to review and approval in writing by the City where:

1. The Site is precluded from infiltrating Stormwater through a designed system due to any of the limitations described in Subds. 6.D or 6.E of this Section.
2. The project is a linear project where the right-of-way precludes the installation of volume control practices that meet the conditions for post-construction storm water management Subds. 6.B or 6.C of this Section. A reasonable attempt must be made to obtain right-of-way during the project planning process.

If the City Engineer determines that Infiltration is restricted or prohibited on site, the Permittee or Owner shall incorporate to the MEP Stormwater treatment alternatives such as Filtration, evapotranspiration, reuse, harvesting, conservation design, green roofs, or other similar techniques on the Site to reduce Stormwater Discharge volume. The City may allow, by an approval in writing, the Permittee or Owner to provide payment to the City in lieu of the volume reduction upon written approval by the City. The request and any information and/or calculations required to support the estimated amount of volume reduction and payment amount must be provided in writing to the City Engineer with the Application for the Land Alteration Permit.

G. Stormwater Management Mitigation. In circumstances where the Permittee cannot cost effectively meet the post-construction requirements for Total Suspended Solids (TSS) or Total Phosphorus (TP) treatment established in Subd. 6.B in this Section on the Site, the Permittee must identify locations where mitigation projects will be completed by the Permittee. The TSS and/or TP not addressed on Site must be addressed through mitigation approved in writing by the City and, at a minimum, shall ensure the following:

1. Mitigation project areas are selected in the following order of preference:
 - a. Locations that yield benefits to the same receiving water that Stormwater runoff drains to from the Construction Activity or Land Alteration.
 - b. Locations with the same Department of Natural Resource (DNR) catchment area as the Construction Activity or Land Alteration.
 - c. Locations in the next adjacent DNR catchment area up-stream
 - d. Locations anywhere within the City.
2. Mitigation projects must be approved by the City in writing and may include either: (i) creation of new Stormwater Facilities, (ii) retrofit of existing Stormwater Facilities, or (iii) creation or use of a regional Stormwater Facility. Routine maintenance of Stormwater Facilities already installed cannot be used to meet mitigation requirements.
3. Completed within 24 months after the start of the Construction Activity or Land Alteration.

The Permittee shall determine, document and provide the contact information for the Person who is responsible for long-term maintenance on all mitigation projects. The Person responsible is subject to approval by the City.

The Permittee may be allowed to provide payment to the City in lieu of the Stormwater Management mitigation activity upon written approval by the City Engineer. The payment shall include all costs, including but not limited to the cost of land purchase, analysis, design, construction, monitoring and maintenance of the mitigation site.

- H. Stormwater Facility Design Standards.** All storm sewer system components, including inlets, outlets, catch basins, piping and other structures designed to treat or convey Stormwater, shall be designed for a minimum 10-year frequency event using currently accepted rainfall data with the exception of storm sewer systems near critical topographic features such as steep slopes and bluffs which shall be designed for a 100-year frequency event with a designated overland emergency overflow (EOF). Green Infrastructure required by the City or other regulatory agency may be considered for reductions in storm sewer design requirements if pre-approved in writing by the City Engineer.
- I. NURP Design Criteria.** If Stormwater Facilities are required by the City to meet the requirements of Subd. 6.B and 6.C, the Stormwater Facilities may be required to include a Stormwater pond which shall be based on NURP Design Criteria with a calculated water elevation for a 100-year frequency event. Proposals to provide an alternative to the NURP Design Criteria may be considered but must be approved in writing by the City Engineer. The NURP pond shall be designed by a Professional Engineer licensed in Minnesota (PE). The following NURP Design Criteria must be incorporated into the design submitted for review.
1. A permanent pond surface equal to 2% of the impervious area draining to the pond or 1% of the entire area draining to the pond, whichever amount is greater.
 2. An average permanent pool depth of four (4) to ten (10) feet.
 3. A recommended permanent pool length to width ratio of 3:1 or greater.
 4. A minimum protective shelf extending ten (10) feet into the permanent pool with a slope of 10:1, beyond which slopes shall not exceed 3H:1V.
 5. All Stormwater Facilities shall have a device to keep oil, grease, and other water borne material from moving downstream as a result of normal operations.

Subd. 7. Inspections, Monitoring and Maintenance.

- A. Inspections.** Inspections of the Site and Stormwater Facility to determine compliance with the requirements of this Section are the responsibility of the Permittee and/or Owner. Sites which require a NPDES Permit or are greater than 1.0 acre in size must have inspections completed by a Certified Professional in Erosion & Sediment Control (CPESC) or a Professional Engineer licensed in Minnesota (PE). Inspection results and maintenance activity reports must be completed and submitted in writing to the City for a minimum of two (2) years following completion of construction and final acceptance by the City.
- B. Right of Entry and Access to Materials.** The City shall be entitled to enter and inspect the Site and Stormwater Facilities as often as may be necessary to determine compliance with this Section and shall be entitled to examine and copy records, wherever they may be kept that must be maintained pursuant to the Permit or local, state or federal law.
- C. Obstructions to Access.** Any temporary or permanent obstruction to safe and easy access to a Site or Stormwater Facility subject to inspection shall be promptly removed by the Permittee or Owner at the request of the City and shall not be replaced.
- D. Monitoring and Testing of Stormwater Discharge and Stormwater Facilities.** To assure that the Land Alteration is being conducted in accordance with the conditions stated on the Permit, the City may order, at the expense of the Permittee or Owner, monitoring of the Stormwater Discharge and/or Stormwater Facility, including those field measurements or testing the City deems necessary to assure that the conditions and requirements of the Permit are being followed. If the monitoring is not completed, the City shall have the right

to set up on any Site such devices as are necessary in the opinion of the City to conduct monitoring, testing and/or sampling of the Stormwater and/or Stormwater Facility.

- E. **Inspections and Maintenance during Land Alteration Activities.** During the Land Alteration the Permittee must inspect each Stormwater Facility and Erosion Control System bi-weekly and immediately after each rainfall event of 0.5 inches or more. Any Erosion or breach in an Erosion Control System must be corrected within 48 hours of identifying the Erosion or breach. Correction may include, but is not limited to: rehabilitation of an Infiltration practice; removal of silt, litter and other debris from catch basins, inlets and drainage pipes; removal of noxious or invasive weed species; and/or replacement of landscape vegetation. Inspections shall include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of Erosion Control Systems and other Stormwater Facilities. Documentation for each inspection must be provided to the City in a format approved by the City within 48 hours of the inspection.

- F. **Post Activity Inspections.** All Stormwater Facilities must undergo, at a minimum, one inspection annually for two (2) years after completion and final acceptance of the construction. After two annual inspections are approved by the City in writing, all Stormwater Facilities must undergo, at a minimum, one inspection every five (5) years to document maintenance and repair needs and ensure compliance with the requirements of this Section and all federal, state and local regulations. An inspection report for each inspection shall be filed with the City within 48 hours of the inspection. The inspection frequency may be increased as deemed necessary by the City to ensure proper functioning of the Stormwater Facility. The requirements of this paragraph pertain only to Stormwater Facilities which are not subject to an easement or maintenance agreement in favor of the City, Watershed District or other federal, state or local agency.

- G. **As-Built Surveys.** An as-built survey of every Stormwater Facility must be provided to the City within one year of final completion of Construction Activity or Land Alteration.

- H. **Post Activity Stormwater Facility Maintenance.** Owners of Land which includes a Stormwater Facility must maintain the Stormwater Facility to ensure proper functioning of the Stormwater Facility over time. Maintenance shall include: restoration or replacement of Stormwater Facilities' function; removal of silt, litter and other debris from catch basins, inlets and drainage pipes; removal of noxious or invasive weed species; or replacement of landscape vegetation if needed. All required maintenance shall be addressed in a timely manner, as determined by the City. The maintenance requirement may be increased as deemed necessary by the City to ensure proper functioning of the Stormwater Facility over time. The requirements of this paragraph pertain only to Stormwater Facilities which are not subject to an easement or maintenance agreement in favor of the City or Watershed District or other federal, state or local agency.

The City may perform maintenance on any private Stormwater Facility which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the storm sewer system or surface waters. The Owner of the private system shall be responsible for any costs and charges that are associated with this work.

- I. **Stormwater Facility Easement.** When any new Stormwater Facility is installed on private property where it receives drainage from a public Stormwater system, the property owner shall grant to the City an easement in recordable form granting the City the right, but not the obligation, to maintain, reconstruct, repair and inspect the Stormwater Facility. The easement shall be received by the City prior to completion of the construction of the Stormwater Facility and shall include the right to enter onto the Site to gain access to the Stormwater Facility.

- J. **Failure to Maintain Practices.** If a Permittee fails or refuses to meet any of the requirements of this Section, the City, after notice, may inspect the Stormwater Facility to determine if maintenance is required to ensure

compliance with this Section and/or correct any violations by performing all necessary work to place the Site in compliance with this Section. If the City identifies violations of this Section as a result of the inspection, the City shall notify the Permittee of the violation and a time by which the violations must be corrected. The notice shall further advise that, should the Permittee fail to correct the violation by the stated date, the City will cause the violation to be corrected and the expense thereof shall be charged to the Permittee or Owner. Each violation of this Section are deemed and declared a public health and safety hazard and a public nuisance. Building inspections may be withheld until the violation is abated or corrected. The City may also issue a stop-work order on any activities that violate the terms of this Section.

If payment is not made within thirty (30) days after costs are incurred by the City, payment will be withdrawn from the Permittee's Financial Security required by this Section. If there is an insufficient amount in the Financial Security to cover the costs incurred by the City or if there is no Financial Security, then the City may assess the Land for the cost of repair work and any penalties and the amount assessed shall be a lien on the Land and may be certified to the County Auditor to be placed on the tax statement and collected in the same manner as ordinary taxes by the county.

Subd. 8. Land Alteration Permit Application Requirements.

- A. A person seeking a Land Alteration Permit shall make application to the City on a form provided by the City and must include information that exhibits compliance with City Code Section 11.55 and other federal, state and local permit requirements, including the State of Minnesota issued NPDES/SDS General Permit to Discharge Stormwater Associated with Construction Activity or Land Alteration, as applicable.
- B. **Inspection and Maintenance.** All Stormwater Facilities shall be designed to minimize the need for maintenance, to provide access for maintenance purposes and to be structurally sound. Prior to issuance of the Permit, the Applicant shall obtain necessary easements or other property interests to allow access to the Stormwater Facilities for inspection and maintenance. A copy of the easements and/or property interests must be provided with the Application.
- C. **Land Alteration / Plan Review Permit Fee.** A Land Alteration / Plan Review Fee in an amount set forth in the City Fee Schedule must be paid at the time of submitting an Application to the City. In the event the Land Alteration Permit application is denied, 50% of the Permit Fee shall be returned to the Applicant.
- D. **Site construction and/or site grading plans.** All plans provided shall be at the same scale. The minimum scale shall be one inch equals 50 feet. All plans must be signed by a Professional Engineer licensed in Minnesota (PE) who must verify that the design of all Stormwater Facilities and Erosion Control Systems meet the requirements contained in this Section. The following plans must be included with the application:
 - 1. A topographic map of the Site as it exists prior to the proposed Land Alteration showing ground elevation contours at two-foot intervals. The map shall include a minimum of 250 feet of land abutting the Site on all sides that is sufficient to show on- and off-site drainage.
 - 2. A topographic map of the Site (grading plan) showing the existing and proposed ground elevation contours at two-foot intervals.
 - 3. Locations and dimensions of all proposed Land Alterations and site features before and after Land Alteration.
 - 4. The Emergency Over Flow (EOF) location and elevation for each Stormwater Facility.
 - 5. The location and size of existing and proposed building pads.
 - 6. Locations and dimensions of all temporary or interim soil or dirt stockpiles.

7. Location, dimensions and plans of all temporary, interim and final Stormwater Facilities and Erosion Control Systems necessary to meet the requirements of this Section.
 8. Methods that will be used to stabilize the site during and after construction, including types, time frames and schedules.
 9. A restoration plan for areas disturbed by the Land Alteration, including Final Stabilization measures.
- E. **Stormwater Pollution Prevention Plan (SWPPP).** A SWPPP shall be provided with the application that describes the control and management of the flow of Stormwater and associated water quality impacts resulting from the development. A copy of the completed NPDES/SDS Construction Stormwater General Permit for the Site if required by the Minnesota Pollution Control Agency (MPCA) must be provided with the SWPPP.
- F. **Stormwater Treatment Calculations.** Stormwater treatment calculations used to determine compliance with Subds. 6 or 8 of this Section and any federal, state or local regulatory requirements or permits shall be provided with the application.
- G. **Runoff Management Plan (RMP).** If the proposed project is in the Lower Minnesota River Watershed District (LMRWD) a Runoff Management Plan (RMP) must be developed by the Applicant for management of Stormwater runoff in accordance with LMRWD requirements. A copy of the RMP, if required, must be provided with the application.

Subd. 9. Permit Application Review and Approval.

- A. **Issuance or Denial.** The City Engineer or his/her designee shall review an application for a Land Alteration Permit to determine its conformance with the provisions of this Section. Consistent with Minn. Stat. 15.99, the City Engineer or his/her designee shall in writing either approve or deny issuance of a Permit or recommend that the application be forwarded to the City Council for review and denial or approval. Prior to release of the Land Alteration Permit, the Applicant shall provide written copies of all required federal, state and local permit approvals.
- B. **Conditions.** Approval, denial, or approval subject to conditions of a Land Alteration Permit shall be based upon the following factors:
1. Whether, and the extent to which, the Land Alteration may create or exacerbate a safety risk to surrounding persons, the public or property.
 2. Whether, and the extent to which, the Land Alteration may cause undue harm to the environment including, but not limited to, noise, dust, Erosion, undue destruction of vegetation, and accumulation of waste materials and Pollutants.
 3. Whether the physical characteristics of the Site, including but not limited to topography, vegetation, susceptibility to Erosion or siltation, susceptibility to flooding, water storage or retention, are such that the Site is not suitable for Land Alteration or the use proposed.
 4. Whether adequate plans have been made for restoring and/or stabilizing the Site upon completion of the Land Alteration.
 5. Whether there is a substantial likelihood that the Applicant will be able to comply with the rules and regulations of this Section, other applicable Sections of the City Code, and all applicable state, federal and local regulations.

6. Whether the Site proposed for the Land Alteration is zoned for the proposed use.
7. If the City accepts maintenance of the Stormwater Facility, the City may require conveyance to the City or other public entity certain lands or interests therein.

A Land Alteration Permit may be approved subject to conditions which limit the size; kind or character of the proposed Land Alteration; require the construction of Stormwater Facilities; require replacement of vegetation; establish monitoring procedures; require staging the work over time; and/or require buffering.

- C. **Modifications.** A Permittee may submit to the City a written request for modification of a Permit. The City Engineer or his/her designee shall review the request and in writing either approve or deny the request or recommend that the request be forwarded to the City Council for review and denial or approval. The City may require additional reports and data from the Permittee.
- D. **Expiration.** All Land Alteration Permits shall expire 24 months after issuance unless otherwise provided on the Permit.

Subd. 10. Suspension or Revocation of Permit.

The City may suspend or revoke a Permit as follows:

- A. **Suspension.** If the City determines any of the following: (i) the Permit was issued in error or on the basis of incorrect information; or (ii) the Permit or work are in violation of any provision of this Section or any federal, state or local regulation, the City may suspend the Permit and issue a stop work order and the Permittee shall cease all work on the Site except for work necessary to remedy the cause of the suspension. The Permittee may request reinstatement of a suspended Permit upon correction of the causes for suspension. If the conditions of the Permit have been complied with in full, the City shall reinstate the Permit.
- B. **Revocation.** If the Permittee refuses or fails to cease work after the suspension or refuses or fails to correct the causes for suspension within the time period provided in the stop work order, the City may revoke the Permit.

Subd. 11. Financial Security.

Financial Security is required prior to issuance of a Land Alteration Permit. The Financial Security may take the form of: (i) a performance bond in a form acceptable to the City; (ii) an irrevocable letter of credit issued by a financial institution and in a form acceptable to the City; or (iii) cash in United States currency. The performance bond, letter of credit, or an agreement relating to the deposit of cash with the City shall provide that the City may make a claim against, draw on or withdraw from the financial security as appropriate in order to complete the performance of Applicant's obligations pursuant to the terms of the Permit and this Section, including but not limited to, the Applicant's obligations imposed pursuant to the Permit and this Section and indemnification of the City against any loss, cost or expense, including an amount as and for reasonable attorney's fees incurred in enforcing the obligations of Applicant pursuant to the Permit or this Section.

- A. **Land Alteration Permit Financial Security.** The Financial Surety for a Land Alteration Permit shall be in an amount of 125 percent (125%) of the cost estimate of the work to be done as stated in the application for a Land Alteration Permit and as approved by the City Engineer or his/her designee.
- B. **Tree Replacement Financial Security.** In addition, if trees are required to be replaced pursuant to this Section an additional Financial Security shall be provided in the amount of 150 percent (150%) of the estimated cost to furnish and plant the Replacement Trees as approved by the City Forester or his/her designee. The estimated cost shall be at least as much as the reasonable amount charged by nurseries for the furnishing and planting of the Replacement Trees.

In the event the estimated cost submitted by the Applicant to the City is not approved, the City Engineer or his/her designee shall have the right in his/her sole discretion to determine the estimated cost for purposes of the Financial Surety.

Subd. 12. Action Against Financial Security.

The City may make a claim against, draw on or withdraw from the appropriate Financial Security in the event of a violation of the terms of the Permit, including but not limited to the following:

- A. The Permittee ceases performing the Land Alteration for a period of thirty (30) days or more prior to completion of the Land Alteration.
- B. The Permittee fails to conform to the Land Alteration Permit as approved, and/or has had its Land Alteration Permit revoked.
- C. The techniques outlined in the Land Alteration Permit fail within one year of installation or before Final Stabilization is achieved for the Site or portion of the Site, whichever comes later.
- D. The City determines that action by the City is necessary to prevent excessive Erosion from occurring on the Site, or to prevent Sediment from occurring on adjacent or nearby properties.
- E. The Permittee ceases working on the Tree Replacement Plan for a period of thirty (30) days or more.

The City may make a claim against, draw on or withdraw from the Financial Security in whole or in part, for all direct and indirect costs incurred in doing the remedial work undertaken by the City, its employees, consultants and/or contractors.

Subd. 13. Release of Financial Security.

Any remaining Financial Security shall be released to the Person who deposited the Financial Security upon determination by the City that the requirements of this Chapter and the conditions of the Land Alteration Permit and/or Tree Replacement Plan have been satisfactorily performed. No portion of the Financial Security shall be released while there are unsatisfied obligations of the Permittee, including the obligation to indemnify the City for any expenses incurred in enforcing the terms of the Permit or this Section.

When more than half of the Site's maximum exposed soil area achieves Final Stabilization, the City may reduce the total required amount of the Financial Security, if approved by the City Engineer.

A portion, in an amount determined by the City Engineer taking into consideration the percentage of completion of project and the estimated cost to complete the project, of the Financial Security shall be retained to secure the Permittee's or Owner's obligation to remove and replant Replacement Trees which are dead, unhealthy or missing as provided for in this Section.

Subd. 14. Adopted by Reference.

The Minnesota Pollution Control Agency's (MPCA's) publications entitled: "Protecting Water Quality in Urban Areas" dated 2000, which is currently located at the web site address of www.pca.state.mn.us/index.php/water/water-types-and-programs/stormwater/stormwater-management/stormwater-best-management-practices-manual.html and "Minnesota Stormwater Manual", which is currently located at the web site address of stormwater.pca.state.mn.us/index.php/Main_Page are hereby adopted and incorporated by reference.

(Sections 11.56 through 11.59, inclusive, reserved for future expansion.)

SECTION 11.60. SLOPED GROUND DEVELOPMENT AND REGULATIONS.

Subd. 1. Findings and Purpose. The City finds that development, excavation, or construction on certain slopes within the City may result in the building of unstable structures, increase dangers or erosion and thereby endanger the natural character of the land, and jeopardize the health, safety, and welfare of the citizens of the City.

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

1. "Steep Slopes" - Slopes of over 12% and of elevation difference of 30' or more in a given parcel.
2. "Development" - Any excavation in excess of 50 cubic yards of soil or activity which first requires the procurement of a building or land alteration permit from the City.

Subd. 3. Review by Planning Commission and Council of Development on Steep Slopes.

A. Development on Steep Slopes. No development shall be conducted on a steep slope without first receiving a permit therefore from the Council. Approval or rejection of the proposed development shall be obtained in the following manner:

1. Application. Prior to any development on a steep slope, an application for a permit shall be made to the City which shall contain a detailed plan for the development which sets forth:
 - (a) The time period during which the proposed development is to take place.
 - (b) The soil types which are found on the site of the development.
 - (c) A map showing the topography of the area to be developed.
 - (d) A map showing any alteration in the topography that would result from the proposed development.
 - (e) A description of the soil quality in the area to be developed including permeability of the soil, susceptibility of the soil to erosion, drainage of the soil, distance of the soil from underlying bedrock, susceptibility of the soil to changes in physical volume when moistened and/or during periods of frost.
 - (f) Information relative to whether the proposed development will cause and/or be affected by any erosion problems.
 - (g) A description of any disturbance to vegetation and other natural features that will result from the development plus the manner in which the applicant proposes to protect vegetation and other natural features that will not be disturbed.
 - (h) A copy of all specifications, blueprints and other detailed plans for the development.
 - (i) Information relative to the adequacy for the slope conditions and soil type of the foundation and underlying material of any structure, including roads.
 - (j) Information relative to the adequacy of controls and protection existing uphill from the proposed development which are designed to guard structures or roads from being affected by mud, uprooted trees or other materials.

- (k) Information relative to the adequacy of construction of any retaining walls in excess of 30 feet.
1. Such other information as the Planning Commission shall request from the applicant either prior or subsequent to the initial review of the proposed development by the Planning Commission.
 2. The Planning Commission shall review and make a recommendation to the Council as to whether the permit should be issued or denied.
 3. The Council may then authorize or deny issuance of the permit.
 4. The review by the Planning Commission and the final decision by the Council shall be based on consideration of the following factors:
 - (a) Whether the application is complete, accurate and in all respects conforms with Item 1 of this Subparagraph A.
 - (b) Whether, and the degree to which, the proposed development will cause and/or be affected by erosion problems.
 - (c) Whether any structures erected as part of the development will have adequate foundations and underlying material.
 - (d) Whether, and the degree to which, the development will alter vegetation, topography, or other natural features of the land.
 - (e) Any other factors relating to whether the proposed development will cause any risk or harm to any persons, property or animals.
 5. If the Council decides to authorize issuance of a permit, it may do so subject to compliance with reasonable conditions which shall be specifically set forth in the permit. Such conditions may, among other matters, limit the size, kind or character of the proposed work, require the construction of other structures, require replacement of vegetation or other natural features, establish required monitoring procedures and maintenance activity, stage the work over time, require the alteration of the site design to ensure buffering, or require a performance bond.
 6. An applicant shall begin the work authorized within 60 days from the date of authorization of the issuance of the permit unless a different date for the commencement of the work is designed by the Council. The applicant shall complete the work authorized within the time limit specified herein, the permit shall become void; provided, however, that if prior to the date established for commencement of the work, the applicant makes written request to the Council for an extension of time to commence the work setting forth the reasons for the required extension, the Council may grant such extension.
 7. Notice of Completion. An applicant shall notify the Council in writing when he has finished the work. No work shall be deemed to have been completed until approved in writing by the City Engineer following such written notification.

B. General Provisions.

1. Responsibility. Neither the issuance of a permit nor compliance with the conditions thereof, nor with the provisions of this Section shall relieve any person from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of any permit hereunder serve to impose liability on the City or its officers or employees for injury or damage to persons or property. An

approval of an application issued pursuant to this Section shall not relieve the applicant of the responsibility of complying with any other requirement established by law, regulation or City Code provision.

(Sections 11.61 through 11.64, inclusive, reserved for future expansion.)

SECTION 11.65. HOME OCCUPATION.

Subd. 1. Purpose And Intent For Home Based Business. To establish standards by which home based businesses are allowed in residential neighborhoods and preserve the residential characteristics of the R, R1 and RM Districts. Home based businesses shall have no adverse impact to building aesthetics, traffic volume, noise, odor, or any other activity that adversely affects the health, safety and general welfare or is detrimental to the residential nature of the surrounding neighborhood.

Source: Ordinance No. 1-2009
Effective Date: 02-26-2009

Subd. 2. Required Conditions. It is unlawful to conduct a home based businesses except in the R, R-1 and RM Districts, and it is also unlawful to conduct a home occupation except in compliance with the following regulations:

- A. A home based business shall be conducted in a dwelling. No more than 25% of the dwelling may be devoted to home based business use. Home based businesses are not permitted within a detached accessory building or garage.
- B. A home based business shall not be conducted in an accessory structure, and there shall be no storage of equipment or supplies in an accessory structure or outside the dwelling.

Source: City Code
Effective Date: 9-17-82

- C. An entrance to the space devoted to such home based business shall be within the dwelling. There shall be no internal or external alterations, or construction features not typically found in a dwelling.
- D. This home based business shall be carried on or conducted only by members of a family residing in the dwelling and no more than one non-resident of the dwelling.

Source: Ordinance No. 9-87
Effective Date: 5-7-87

- E. No non-vehicular motor utilized in connection with the operation of a home based business shall exceed 1 horse power. Non-vehicular motors shall not be operated or tested at the premises of a home based business.
- F. A home based business shall not create any radio or television interference or create noise audible beyond the boundaries of the site.
- G. No smoke, odor, liquid, or solid waste shall be emitted.
- H. Not more than one vehicle of not more than ¾ ton capacity, nor any trailers, utilized in connection with a home based business shall be permitted at the site of the home based business. Any vehicles utilized in connection with the home based business having ladders, pipes, glass, tools, buckets, tanks, snow plow, winch, or any other appendages and vehicles licensed as a cab or limousine shall be parked in an attached garage when at the site of the home based business. Vehicles utilized in connection with a home business shall not be permitted to be parked on the public or private streets for more than 4 hours in a 24 hour period.

- I. A home based business shall not create business related pedestrian, automobile, or truck traffic in excess of 10 trips per dwelling per day. One trip shall be measured as any business related activity requiring pedestrian, automobile or truck to enter or leave on which the dwelling is located.
- J. No retail or wholesale sales activity shall be conducted on the premises other than by telephone, mail, Internet or other electronic medium.
- K. Parking is limited to 4 spaces for an employee, visitors and invitees of the home based business. No vehicles utilized in connection with the home based business and no employee or customer vehicles may be parked on public or private streets.
- L. Deliveries for a home based business shall be limited to straight axle vehicles and shall be limited to two delivery or pick-up trips per day and during the hours of 7:00 a.m. to 7:00 p.m.
- M. Hours of operation for customers of a home business shall be limited to the hours between 7:00 a.m. and 7:00 p.m.
- N. A home based business may display one exterior sign not to exceed one square feet for the dwelling and two signs for each vehicle associated with the home based business, each sign not to exceed one square feet.

Source: Ordinance No. 1-2009
 Effective Date: 02-26-2009

SECTION 11.66. Repealed

Source: Ordinance No. 14-2000
 Effective Date: 4-27-2000

(Sections 11.67 through 11.69, inclusive, reserved for future expansion.)

SECTION 11.70. SIGN PERMITS.

Subd. 1. Purpose and Intent. The purpose of this Section is to protect and promote the general welfare, health, safety, and order within the City through the establishment of a comprehensive and impartial series of standards, regulations and procedures governing the erection, use and/or display of devices, signs or symbols serving as visual communicative media to persons situated within or upon public right-of-way or private properties. The provisions of this Section are intended to encourage creativity, a reasonable degree of freedom of choice, an opportunity for effective communication, and a sense of concern for the visual amenities on the part of those designing, displaying or otherwise utilizing needed communicative media of the types regulated by this Section; while at the same time assuring that the public is not endangered, annoyed or distracted by the unsafe, disorderly, indiscriminate or unnecessary use of such communicative facilities.

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

- 1. "Accessory Sign" - An identification sign relating in its subject matter to or which directs attention to, a business or profession, or to the commodity, service or entertainment sold or offered upon the premises where such sign is located, or to which it is attached.
- 2. "Address Sign" - Postal identification numbers and/or name, whether written or in numeric form.
- 3. "Area Identification Sign – Residential" - A free-standing sign located at an entranceway to a residential development identifying such development having a common identity when said sign is located upon the premises which it identifies.

4. "Area Identification Sign – Commercial" – A free-standing sign located at an entranceway to a commercial development identifying such development having a common identity when said sign is located upon the premises which it identifies. The sign may also identify the names of each individual business within the development.

Source: Ordinance No. 15-2011
Effective Date: 12-15-11
5. "Banners and "Pennants" - Attention-getting devices which resemble flags.

Source: City Code
Effective Date: 9-17-82
6. "Canopy and Marquee" - A rooflike structure projecting over the entrance to a building.

Source: Ordinance No. 18-91
Effective Date: 8-23-91
7. "Directional Sign" - A sign which is erected on private property by the owner of such property for the purpose of guiding vehicular and pedestrian traffic. Such signs bear no advertising information.

Source: City Code
Effective Date: 9-17-82
8. "Directional Signs for Places of Worship, Schools, or Publicly Owned Land or Buildings" - A sign which bears the address and/or name of a Place of Worship, school, or publicly owned land or building and a directional arrow pointing to said location.

Source: Ordinance No. 37-83
Effective Date: 9-30-83
9. "Dynamic Display" – A sign or characteristics of a sign that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure itself, or any other component of the sign. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components. This also includes any rotating, revolving, moving, flashing, blinking, or animated display and any display that incorporates rotating panels, LED lights manipulated through digital input, "digital ink" or any other method or technology that allows the sign face to present a series of images or displays.

Source: Ordinance No. 10-2008
Effective Date: 4-24-2008
10. "Free-standing Sign" - A pylon or monument sign which is placed in the ground and not affixed to any part of any structure.

Source: Ordinance No. 18-91
Effective Date: 8-23-91
11. "Garage Sale Sign" - A sign which identifies a sale of household items.

Source: Ordinance No. 31-94
Effective Date: 9-16-94
12. "Height" - The distance between the uppermost portion of the sign and the average natural grade of the ground immediately below the sign.
13. "Illuminated Sign" - Any sign which is illuminated by an artificial light source.

14. "Institutional Sign" - Any accessory sign which identifies the name and other characteristics of a public or private institution, such as convalescent, nursing, rest, boarding care home or day care center.
- Source: City Code
Effective Date: 9-17-82
15. "Menu Board Sign" - Any sign which has a message related to the site's food service and the copy is manually changed.
16. "Multi-tenant" - Structures containing two or more businesses, uses or occupants.
17. "Nameplace or Identification Sign" - An accessory sign which bears only a name and/or address.
18. "Neighborhood/Sector Sign" - A free standing sign which identifies by name, the section of the City designated on the official sector map.
19. "Newspaper Receptacle" - A box or container intended for the temporary storage of newspapers or magazines prior to delivery.
20. "Newspaper Vending Machines" - A coin-operated machine from which newspapers are sold to the general public.
21. "Non-Accessory Sign" or "Advertising Sign" - A sign relating in its subject matter to, or which directs attention to, a business or profession, or to the commodity, service or entertainment not sold or offered upon the premises where such sign is located, or to which it is attached.
22. "Non-conforming Sign" - A sign which lawfully existed immediately prior to the adoption of this Section, but does not conform to the newly enacted requirements of this Section.
- Source: City Code
Effective Date: 9-17-82
23. "Off-Site Direction Sign" - a sign erected for the purpose of directing traffic to a residential area.
24. "Open House Sign" - A sign which identifies a dwelling which is available for viewing by the public.
- Source: Ordinance No. 31-94
Effective Date: 9-16-94
25. "Parapet Wall" - An architecturally, structurally and aesthetically integral wall extending above the roof level, continuously around the perimeter of the building which has the primary purpose of screening mechanical equipment.
26. "Permanent Sign" - Any sign which is not a temporary sign.
- Source: City Code
Effective Date: 9-17-82
27. "Planned Unit Development Area Identification Sign - Commercial" – A free-standing sign located at an entranceway way to a commercial Planned Unit Development identifying such development having a common identity when said sign is located within the PUD area upon which it identifies. The sign may also identify the names of each individual business within the development.
- Source: Ordinance No. 15-2011
Effective Date: 12/15/11

28. "Planned Unit Development Area Identification Sign - Residential" – A free-standing sign located at an entrance way to a Planned Unit Development identifying a Planned Unit Development land development having a common identity when said sign is located within the PUD area which it identifies. A PUD area identification sign may not identify a tenant or tenants.
- Source: Ordinance No. 15-2011
Effective Date: 12/15/11
Source: Ordinance No. 18-91
Effective Date: 8-23-91
Source: Ordinance No. 261
Effective Date: 10-25-74
29. "Portable Sign" - A sign so designed as to be movable from one location to another which is not permanently attached to the ground or any structure.
30. "Projecting Sign" - Any sign attached to a building, all or part of which extends more than 12 inches over public property, easements, or private pedestrian space, or which extends more than 12 inches beyond the surface of the portion of the building to which it is attached or beyond the building line.
- Source: City Code
Effective Date: 9-17-82
31. "Readerboard Sign" - Any sign having a message not permanently affixed to the sign face, and the copy is manually changed.
- Source: Ordinance No. 18-91
Effective Date: 8-23-91
32. "Religious Symbols" - Pictures, designs, sculptures, or similar objects that stand for or suggest religious faith, ideas, or qualities.
- Source: Ordinance No. 37-83
Effective Date: 9-30-83
33. "Roof Sign" - Any sign erected upon or projecting above the roof of a structure to which it is affixed except signs erected below the top (the cap) of a parapet wall.
- Source: Ordinance No. 114-84
Effective Date: 11-1-84
34. "Shielded Light Source" - Means that all light elements will be diffused or directed to eliminate glare and housed to prevent damage or danger. Direct illuminated signs must be shielded with a translucent material of sufficient opacity to prevent the visibility of the light source. Indirect light sources must be equipped with a housing and directional vanes. The lights must not be permitted to interfere with traffic signalization.
35. "Sign" - Any letter, word or symbol, device, poster, picture, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures which is displayed for informational or communicative purposes.
- Source: Ordinance No. 20-2013
Effective Date: 12-12-2013
36. "Sign Area" - That area which is included in the smallest rectangle which can be made to circumscribe the sign. The stipulated maximum sign area for a free-standing sign refers to a single facing and does not include vertical structural members below the sign face.
- Source: City Code
Effective Date: 9-17-82

37. "Sign Base" - The sign base of a sign shall be any supportive structure below or surrounding the sign area which has location on the ground. The sign base shall not exceed one half the maximum sign size permitted in the zoning district.
- Source: Ordinance No. 9-87
Effective Date: 5-7-87
38. "Signage Program" - Any application for approval of construction or display of one or more signs under this Section.
39. "Sitting Facility Sign" - A sign which is affixed to a seating facility or enclosure at a transit facility stop.
- Source: City Code
Effective Date: 9-17-82
40. "Street Frontage" - The abutting of a parcel of land to one or more streets, An interior lot has one street frontage, and a corner lot has two such frontages. Each allowed sign must relate to the street frontage generating the allowance.
- Source: Ordinance No. 18-91
Effective Date: 8-23-91
41. "Temporary Sign" - A sign which is erected or displayed for a limited period of time.
42. "Traffic Sign" - A sign which is erected by a governmental unit for the purpose of regulating, directing or guiding traffic.
- Source: City Code
Effective Date: 9-17-82
43. "Wall Area" - Is computed by multiplying the distance from the floor to the roof times the visible continuous width including windows and doors of the space occupied by the sign owner.
- Source: Ordinance No. 114-84
Effective Date: 11-1-84
44. "Wall Sign" - Any sign which is affixed to a wall of any building.
45. "Commercial Speech" - Speech or graphics advertising a business, profession, commodity, service or entertainment.
- Source: Ordinance No. 17-2005
Effective Date: 9-15-2005
- Source: Ordinance No. 11-2004
Effective Date: 4-1-04
46. "Non-Commercial Speech" - Dissemination of messages not classified as Commercial Speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.
- Source: Ordinance No. 11-2004
Effective Date: 4-1-04
47. "City Entry Monument Sign" - A monument sign, including associated decorative elements, erected by the city to denote entrances into the city."
- Source: Ordinance No. 11-2015
Effective Date: 9-24-2015

Definition section amended
and renumbered:

Source: Ordinance No. 31-94
Effective Date: 9-16-94

Subd. 3. General Provisions Applicable to All Districts.

Source: City Code
Effective Date: 9-17-82

A. Prohibitions.

1. Non-accessory signs are prohibited in all districts, except as otherwise expressly permitted in this Section 11.70.

Source: Ordinance No. 2-95
Effective Date: 2-17-95

Prev. Ordinance No. 105-84
Effective Date: 9-20-84

2. Accessory signs are prohibited in all districts, except as authorized by this Section.

- B. All signs shall be constructed in such a manner and of such material that they shall be safe and substantial, provided that nothing in this Section shall be interpreted as authorizing the erection or construction of any sign not now permissible under the zoning or building provisions of the City Code. All signs must be maintained in a safe non-deteriorating manner. Cracked, broken or bent, glass, plastic, wood or metal and burnt-out light bulbs and peeling, faded, or cracked paint must be repaired, replaced, or removed.

Source: City Code
Effective Date: 9-17-82

- C. Dynamic Displays are prohibited in all districts, except as otherwise expressly permitted in this Section 11.70.

Source: Ordinance No.10-2008
Effective Date: 4-24-2008

Prev. Source: Ordinance No.17-2005
Effective Date: 9-15-2005

Prev. Source: Ordinance No. 1-90
Effective Date: 2-1-90

- D. No sign other than those directing vehicle or pedestrian movements, those pertaining to traffic control or safety, or City Entry Monument signs shall be erected or temporarily placed within any street right-of-way or upon any public easement.

Source: Ordinance No. 11-2015
Effective Date: 9-24-2015

Source: Ordinance No.17-2005
Effective Date: 9-15-2005

- E. A permit for a sign to be located within 50 feet of any street or highway regulatory or warning sign, or of any traffic sign or signal, or of any crossroad or crosswalk, will be issued only if:

1. The sign will not interfere with the ability of drivers and pedestrians to see any street or highway sign, or any traffic sign or signal, or any crossroad or crosswalk, and,

2. The sign will not distract drivers, nor offer any confusion to any street or highway sign, or any traffic sign or signal, and,
 3. The sign will not obstruct the clear visibility for sign of traffic and/or pedestrian movement.
- F. Roof signs are prohibited in all districts. Source: City Code
Effective Date: 9-17-82
- G. Air inflated devices, banners, pennants and whirling devices, or any such sign resembling the same, are prohibited from use within the City. Source: Ordinance No.17-2005
Effective Date: 9-15-2005
- H. Notwithstanding any other provisions of this Section, all signs of any size containing Non-Commercial Speech may be posted 46 days before the state primary in a state general election year until ten (10) days following the state general election in any general election year and thirteen (13) weeks prior to any special election until ten (10) days following the special election. Source: Ordinance No. 7-2010
Effective Date: 5-13-2010

Prev. Ordinance No. 11-2004
Effective Date: 4-1-2004

Prev. Ordinance No. 18-91
Effective Date: 8-23-91
- I. One temporary identification sign may be installed upon any construction site in any district denoting the name of the project, architect, engineer, contractor, subcontractor and suppliers, provided such sign does not exceed 32 square feet in area and ten feet in height. Such signs shall be removed upon completion of construction, or the occupancy of the building, whichever occurs first. Source: City Code
Effective Date: 9-17-82
- J. Temporary project signs.
1. For the purposes of this item J. "project" is defined as land
 - (a) encompassed within a plat or a Registered Land Survey approved by the Council within which two (2) or more dwellings are permitted in accordance with City Code, or
 - (b) for which approval has been given by the Council of a Site Plan and Architectural Design pursuant to City Code Section 11.03, Subd. 6 within which two (2) or more dwellings are permitted in accordance with such approval.

For purposes of this subparagraph J. no further or subsequent subdivision, platting, replatting, Registered Land Survey, or Site Plan and Architectural Design approval or filing relating to land encompassed within a project shall operate to create an additional project or projects within that land or any part thereof.
 2. Temporary signs may be erected within a project for the purpose of selling or leasing the dwellings contained therein provided:
 - (a) A sign shall not exceed 32 square feet in area.
 - (b) Not more than one (1) sign for a project may be erected.

(c) All signs shall be removed upon the earlier of eighty percent (80%) completion of construction, sale or lease of the dwellings within the project, or two (2) years from issuance of the first permit for the construction of a dwelling or dwellings within the project.

3. Temporary off-site directional signs may be erected for the purpose of selling or leasing the dwellings in a project in accordance with the following limitations:

(a) Not more than the following number of signs may be erected for projects containing the following number of acres or dwelling units, whichever is greater:

Number of Acres or Dwellings in a Project <u>(whichever is greater)</u>	Number of <u>Signs</u>
2 - 10	6
11 or more	12

(b) Signs may be erected only from 10:00 p.m. Friday to 6:00 a.m. Monday.

(c) Signs shall not exceed six (6) square feet in size nor extend higher than four (4) feet above the ground.

(d) Signs may be placed on land only with the land owner's permission. Signs may not be placed within or on a public right-of-way, sidewalk or trail, and shall not interfere with traffic visibility.

(e) Only one (1) sign per project shall be installed upon a lot, registered land tract, or parcel (described by metes and bounds) of land.

(f) Each sign shall include the name and telephone number of the owner of the sign.

(g) Signs may not be placed more than (2) miles from the project.

(h) Signs for annual metro-wide events, such as the Parade of Homes, may be used for the duration of the event."

K. Temporary Single Property Signs.

1. For purposes of this subparagraph K. a "single property" is defined as a single lot. Registered Land Survey tract or parcel (described by metes and bounds) of land with or without one or more buildings erected thereon or (b) an individual condominium. A lot, Registered Land Survey tract or parcel (described by metes and bounds) within a project as defined in subparagraph J. shall not constitute a single property with respect to the first sale of each building or condominium situated on the lot, Registered Land Survey tract or parcel, but shall be deemed a single property with respect to sales, after the first sale of each such building or condominium thereon.

2. Temporary signs may be erected on a single property for the purpose of selling or leasing the single property on which it is situated, in accordance with the following limitations:

(a) A sign shall not exceed (i) six (6) square feet for a single property (A) on which is situated a dwelling or (B) which is vacant and located within the One-Family Residential District or the Rural District, (C) on which a structure or structures situated thereon are 90% or more, but less than 100%, occupied (as measured by floor area), or (ii) 32 square feet for a single

property (other than that described in (i) hereof) (A) on which a structure or structures situated thereon are less than 90% occupied (as measured by floor area) or (B) is vacant.

- (b) Not more than one sign for a single property may be erected.
- (c) A sign shall be removed within seven (7) days following the lease or sale of the single property.

3. Temporary off-site directional signs may be erected for the purpose of selling or leasing a single property in accordance with the following limitations:

- (a) No more than two (2) off-site directional signs may be erected for the sale or lease of a single property.
- (b) Signs may be erected only from 10:00 p.m. Friday to 6:00 a.m. Monday and 9:00 a.m. to 3:00 p.m. on Tuesday.

Source: Ordinance No. 12-2008
Effective Date: 4-24-2008

- (c) Signs shall not exceed six (6) square feet in size and shall not be higher than four (4) feet above the ground.
- (d) Signs may be placed on land only with the owners permission. Signs may not be placed within a public right-of-way, sidewalk or trail, and shall not interfere with traffic visibility.
- (e) Only one sign for a single property may be installed upon a lot, Registered Land Survey tract, or parcel (as measured by metes and bounds) of land.
- (f) Each sign shall include the name and telephone number of the owner of the sign.
- (g) Signs may not be placed more than two (2) miles from the project.

Source: Ordinance No. 31-94
Effective Date: 9-16-94

L. Up to three flags containing Non-Commercial Speech only may be displayed upon a lot. Each flag may not exceed one hundred (100) square feet in size. Flag pole height must comply with height regulations contained in Section 11.03, Subd. 3. F. of the City Code.

Source: Ordinance No. 17-2005
Effective Date: 9-15-2005

Source: Ordinance No. 18-91
Effective Date: 8-23-91

M. The total sign area of any multi-faced free-standing sign shall not exceed twice the permitted area of a single faced sign.

Source: City Code
Effective Date: 9-17-82

N. A directional sign shall not exceed 6 square feet in area.

Source: Ordinance No. 11-2015
Effective Date: 9-24-2015

Source: Ordinance No. 18-91
Effective Date: 8-23-91

- O. Repealed. Source: 10-2008
Effective Date: 4-24-2008
- P. No portable signs shall be permitted. Source: Ordinance No. 18-91
Effective Date: 8-23-91
- Q. Projecting signs are prohibited in all districts. Source: City Code
Effective Date: 9-17-82
- R. Address signs shall not exceed six square feet for residential and forty square feet for non-residential. One sign shall be required per building. One additional sign is allowed per street frontage in excess of one street frontage. Source: Ordinance No. 18-91
Effective Date: 8-23-91
- S. Sitting facility signs noting the transit operator or service shall be permitted only at transit stops. Source: Ordinance No. 18-91
Effective Date: 8-23-91
(Prev. Ordinance No. 18-82
Effective Date: 9-17-82)
- T. Directional signs for Places of Worship, schools, or publicly owned land or buildings shall be allowed as permitted by Subdivision 4 hereof. Source: Ordinance No. 37-83
Effective Date: 9-30-83
- U. Canopies, marquees and parapet walls shall be considered to be an integral part of the structure to which they are accessory. Signs, if accessory, may be attached to a canopy, marquee or parapet wall, but such structures shall not be considered as part of the wall area, and thus shall not warrant additional sign area.
- V. Signs which are located on the interior of a building and are not visible from outside of said building shall be exempt from the provisions of this Section, and shall not require permits or payment of fees.
- W. No sign shall be attached to any tree or vegetation or utility pole. Source: City Code
Effective Date: 9-17-82
- X. Freestanding signs that are double faced signs shall be placed back to back with not more than 30" between facings. Source: Ordinance No. 11-2015
Effective Date: 9-24-2015
Source: Ordinance No. 1-90
Effective Date: 2-1-90
- Y. Two (2) temporary directional garage sale signs, not to exceed six (6) square feet shall be allowed in a residential district one (1) day prior to the sale, and shall be removed one (1) day after the sale, but in any event shall not exceed five (5) days. One (1) garage sale sign not to exceed six (6) square feet shall be allowed on the garage sale site. Source: Ordinance No. 31-94
Effective Date: 9-16-94

- Z. Sign Removal. When any sign or the message portion of any sign was or shall be caused to be removed by the City Manager or a designee, sign owner or property owner, all structural and electrical elements, members, including all brackets, braces, supports, wires, etc., shall also be removed. The permittee, or owner of premises, or possessor of premises, or the owner of the sign shall be jointly and severally responsible for sign removal.
- Source: Ordinance No. 18-91
Effective Date: 8-23-91
- AA. Sign permits will not be issued for signs containing Commercial Speech which bear misleading or false information or any sign which includes information inconsistent with zoning and/or land use.
- Source: Ordinance No. 11-2004
Effective Date: 4-1-2004
- BB. Newspaper receptacles shall not display advertising legends or be obtrusive in color.
- Source: City Code
Effective Date: 9-17-82
- CC. A Residential or Commercial Planned Unit Development must contain at least two (2) contiguous lots to support an Area Identification Sign – Residential or an Area Identification Sign – Commercial, respectively.
- Source: Ordinance No. 15-2011
Effective Date: 12-15-2011
Source: Ordinance No. 14-2000
Effective Date: 4-27-2000
- DD. The sign base shall not exceed one half the maximum sign size permitted in the zoning district.
- Source: Ordinance No. 9-87
Effective Date: 5-7-87
- EE. Temporary Help Wanted Sign. One temporary help wanted sign per lot for the purpose of hiring persons to work on the property shall be permitted on the property provided such signs do not exceed 32 square feet and is removed within 14 days.
- Source: Ordinance No. 1-90
Effective Date: 2-1-90
- FF. Readerboard Sign. Such signs may be used within a District's permitted sign area.
- GG. Menu Board Sign. One menu board sign per restaurant use with a drive-thru facility. Such sign shall not exceed 32 square feet in size nor greater than eight feet in height. Such sign is in addition to the free-standing or wall sign in the District.
- Source: Ordinance No. 18-91
Effective Date: 8-23-91
- HH. Temporary Outdoor Display Area Sign. Where temporary outdoor display areas are permitted one (1) sign not to exceed thirty-two (32) square feet in area and six (6) feet in height may be located on the same site as the outdoor display area and is limited in time to less than sixty (60) days. The sign may not appear before the commencement of the outdoor display area and must be removed concurrently with the outdoor display area.
- Source: Ordinance No. 50-94
Effective Date: 1-6-95

II. Notwithstanding anything to the contrary in this Section, signs containing Non-Commercial Speech are permitted in all Districts and are subject to only the following Subsections of Section 11.70, Subd. 3: B, C, D, E, F, G, H, L, M, O, Q, V, W, X, Z and AA. Non-commercial signs are also subject to individual District setback and height regulations. The owner of any sign which is otherwise allowed by this Code may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary.

Source: Ordinance No. 17-2005
Effective Date: 9-15-2005

Prev. Ordinance No. 33-2004
Effective Date: 12-30-2004

Prev. Ordinance No. 11-2004
Effective Date: 4-1-2004

Subd. 4. District Regulations. In addition to those signs permitted in all districts, the following signs are permitted in each specific district, and shall be regulated as to size, location and character according to the requirements herein set forth.

Source: City Code
Effective Date: 9-17-82

A. Residential Districts R, R-1, RM:

Source: Ordinance No. 18-91
Effective Date: 8-23-91

Prev. Ordinance No. 72-84
Effective Date: 4-05-84

1. Identification Signs. One identification sign or symbol per building not greater than six square feet in area, provided such sign is attached flat against a wall of a building.

Source: City Code
Effective Date: 9-17-82

2. Area Identification Signs. One area identification sign per development, per street entrance, providing such sign does not exceed 32 square feet in area.

3. Sign Setback. Signs shall be placed no closer than ten feet to any street right-of-way line.

Source: Ordinance No. 18-91
Effective Date: 8-23-91

4. Maximum Height of Free-Standing Signs: Six feet.

5. Sign Base. (Refer to Subdivision 3, Subparagraph DD).

6. Institutional Signs. One sign per street frontage identifying an institution or an institutional complex shall be permitted within a multiple residential district. Such sign shall not exceed 24 square feet in area.

Source: City Code
Effective Date: 9-17-82

7. Temporary Signs. Shall be permitted only as permitted in Subdivision 3.

8. Directional Signs: (Refer to Subdivision 3).

9. Repealed.

Source: Ordinance No. 33-2004
Effective Date: 12-30-2004

B. Commercial Districts: N-Com, C-Com, C-Hwy, C-Reg-Ser, C-Reg.

Source: Ordinance No. 72-84
Effective Date: 4-5-84

1. Free-standing Signs:

a. A building site having one street frontage may have one free-standing sign not to exceed 80 square feet.

b. Where a building site has two or more frontages, one free-standing 80 square foot sign shall be permitted along one frontage. Additional frontages may each be permitted a free-standing sign not to exceed 36 square feet. Furthermore, in no case shall any free-standing sign be closer than 300 feet to any other free-standing sign upon a building site. The distance between signs is to be measured from the edge of a sign face via a straight line. Menuboards and directional signs are exempt from this requirement.

c. A Planned Unit Development Area Identification Sign shall be permitted according to Subdivision 3, Paragraph CC. One sign per street frontage is allowed provided the total area of such sign shall not exceed 80 square feet. In no case shall a frontage have more than one sign, either a free-standing sign or PUD identification sign.

d. Readerboard Signs: Readerboard signs may occupy the sign area permitted for free-standing signs.

e. Setback: No sign shall be placed closer than 20 feet to any street right-of-way. Where parking occurs within the required front yard setback, no sign shall be placed closer than 15 feet to any street right-of-way.

f. Height: Maximum height of free-standing signs shall not exceed 20 feet.

g. Sign Base: (Refer to Subdivision 3, Subparagraph DD).

2. Wall Signs:

a. The total area of a wall sign on any wall of a single tenant building shall not exceed 15% of the wall area of that wall when said wall area does not exceed 500 square feet. When said surface area exceeds 500 square feet, then the total area of such wall sign shall not exceed 75 square feet plus 5% of the wall area in excess of 500 square feet, provided that the maximum sign area for any wall sign shall be 300 square feet.

b. Wall area shall be computed individually for each tenant in a multi-tenant building based on the exterior wall area of the space that tenant occupies. The total area of a tenant wall sign on its wall of a multi-tenant building shall not exceed 15% of the wall area of that wall when said wall area does not exceed 500 square feet. When said surface area exceeds 500 square feet, then the total area of such wall sign shall not exceed 75 square feet plus 5% of the wall

area in excess of 500 square feet. Provided that the maximum sign area for any individual wall sign in a multi-tenant building shall not exceed 300 square feet.

Source: Ordinance No. 11-2015
Effective Date: 9-24-2015

- c. Readerboard Signs: Readerboard signs may occupy the sign area permitted for wall signs.
3. Sign Design: Signs for a multi-tenant building shall be located on the building in an uniform manner or within an architectural sign band area.
4. Deleted.

Source: Ordinance No.17-2005
Effective Date: 9-15-2005
5. Pump Signs: Lettering or symbols which are an integral part of the design of a gasoline pump and not mounted above the pump body shall be permitted.
6. Restroom Signs: Signs indicating the location of restrooms and containing no advertising information shall be permitted. Sign shall not exceed three square feet.
7. Except as otherwise provided in Subd. 3, other temporary signs may occupy the remainder of the area allowed but not utilized for a permanent sign, provided that the total area for any temporary sign shall never exceed fifty square feet.

Source: Ordinance No.17-2005
Effective Date: 9-15-2005
8. Directional Signs: (Refer to Subdivision 3, Subparagraph N).
9. Menu Board: (Refer to Subdivision 3, Subparagraph GG).
10. Repealed.

Source: Ordinance No. 33-2004
Effective Date: 12-30-2004

C. Office District

1. Free-standing Signs:
 - a. A building site having one street frontage may have one free-standing sign not to exceed 50 square feet.
 - b. Where a building site has two or more frontages, one free-standing 50 square foot sign shall be permitted, and the additional frontages may each be permitted a free-standing sign not to exceed 36 square feet.
 - c. A Planned Unit Development Area Identification Sign shall be permitted according to Subdivision 3, Paragraph CC. One sign per street frontage is allowed provided the total area of such sign shall not exceed 50 square feet. In no case shall a frontage have more than one sign, either a free-standing sign or PUD identification sign.
 - d. Readerboard Signs: Readerboard signs may occupy the sign area permitted for free-standing signs.
 - e. Setback: No sign shall be placed closer than 10 feet to any street right-of-way.

f. Height: Maximum height of free-standing signs shall not exceed 8 feet.

g. Sign Base: (Refer to Subdivision 3, Subparagraph DD).

Source: Ordinance No. 18-91

Effective Date: 8-23-91

Prev. Ordinance No. 9-87

Effective Date: 5-7-87

2. Wall Signs:

(a) One building identification sign per wall per street frontage not to exceed 50 square feet is permitted.

(b) One identification wall sign per leasable space attached to the exterior wall of the building at the ground floor not to exceed 30 square feet is permitted.

Source: Ordinance No. 11-2015

Effective Date: 9-24-2015

(c) Readerboard Signs: Readerboard signs may occupy the sign area permitted for wall signs.

3. Temporary Signs: (Refer to Subdivision 3).

4. Directional Signs: (Refer to Subdivision 3, Subparagraph N).

Source: City Code

Effective Date: 9-17-82

5. Repealed.

Source: Ordinance No. 33-2004

Effective Date: 12-30-2004

D. Industrial District: I-2, I-5, I-GEN:

1. Free-standing Signs:

(a) A building site having one street frontage may have one free-standing sign not to exceed 80 square feet.

(b) Where a building site has two or more frontages, one free-standing 80 square foot sign shall be permitted, and the additional frontages may each be permitted a free-standing sign not to exceed 50 square feet.

(c) A Planned Unit Development Area Identification Sign shall be permitted according to Subdivision 3, Paragraph CC. One sign per street frontage is allowed provided the total area of such sign shall not exceed 80 square feet. In no case shall a frontage have more than one sign, either a free-standing sign or PUD identification sign.

(d) Readerboard Signs: Readerboard signs may occupy the sign area permitted for free-standing signs.

(e) Setback: No sign shall be placed closer than 10 feet to any street right-of-way.

(f) Height: Maximum height of free-standing signs shall not exceed 8 feet.

(g) Sign Base: (Refer to Subdivision 3, Subparagraph DD).

2. Wall Signs:

(a) One building identification sign per wall per street frontage not to exceed 80 square feet is permitted.

(b) One identification wall sign per leasable space attached to the exterior wall of the building at the ground floor not to exceed 10% of the wall area that tenant occupies of the wall to which it is affixed, or a maximum of 50 square feet.

Source: Ordinance No. 11-2015

Effective Date: 9-24-2015

(c) Readerboard Signs: Readerboard signs may occupy the sign area permitted for wall signs.

3. Temporary Signs: (Refer to Subdivision 3).

4. Directional Signs: (Refer to Subdivision 3, Subparagraph N).

5. Sign Design: All signs shall be uniform in design and color and placement.

6. Address: Address signs may be placed on rear door with three-inch high numerals.

Source: Ordinance No. 18-91

Effective Date: 8-23-91

7. Repealed.

Source: Ordinance No. 33-2004

Effective Date: 12-30-2004

E. Planned Unit Development (PUD) With Multiple Uses.

Source: Ordinance No. 3-2000

Effective Date: 1-27-00

1. That the developer submit after approval of the P.U.D., a schematic plan for informational, directional and advertising signage, explaining and illustrating:

(a) Purpose of signage program and each sign.

(b) Location - rezoning for plan.

(c) Size - research data must be provided to prove to the City the need for signs larger than those normally allowed within this Section.

(d) Design.

(e) Material - color, texture, durability, type.

(f) Information Needed - during sales programs.

(g) Final use or removal of signs.

- (h) Maintenance responsibilities and legal commitments.
- (i) Site and landscape plans which depict the design of the area surrounding the structure.

2. The signage program may include, but shall not be limited to:

- (a) Sector identification signs if approved by the Council.
- (b) Neighborhood markers which appear at the entrance to established neighborhood developments.
- (c) Area/project identification signs marking housing, commercial, institutional and public mini-neighborhoods or clusters.
- (d) Individualized building name or number signs shall be allowed in accord with this Section, or as an approved element of architectural design.

Source: City Code
Effective Date: 12-21-99

F. Public District.

1. Free-standing Signs:

- (a) A building site having one street frontage may have one free-standing sign not to exceed 80 square feet.

Source: City Code
Effective Date: 9-17-82

Source: Ordinance 8-2008
Effective Date: 3-27-2008

- (b) Where a building site has two or more frontages, one free-standing 80 square foot sign shall be permitted, and the additional frontages may each be permitted a free-standing sign not to exceed 36 square feet.

Source: Ordinance 8-2008
Effective Date: 3-27-2008

- (c) A Planned Unit Development Area Identification Sign shall be permitted according to Subdivision 3, Paragraph CC. One sign per street frontage is allowed provided the total area of such sign shall not exceed 80 square feet. In no case shall a frontage have more than one sign, either a free-standing sign or an area identification sign.

- (d) Readerboard Signs: Readerboard signs may occupy the sign area permitted for free-standing signs.

- (e) Setback: No sign shall be placed closer than 10 feet to any street right-of-way.

- (f) Height: Maximum height of free-standing signs shall not exceed 8 feet.

- (g) Sign Base: (Refer to Subdivision 3, Subparagraph DD).

2. Wall Signs:

- (a) One building identification sign per wall per street frontage not to exceed 50 square feet is permitted.
- (b) One identification wall sign per accessory use attached to the exterior wall of the building at the ground floor not to exceed 30 square feet is permitted.
- (c) Readerboard Signs: Readerboard signs may occupy the sign area permitted for wall signs.
- (d) Signs shall be uniform in design.

Source: Ordinance 8-2008
Effective Date: 3-27-2008

3. Off-site Directional Signs: Two additional Place of Worship, school, or publicly owned land or building directional signs shall be permitted in locations other than the lot, parcel, or tract of land which it applies. Said signs shall be erected on non-public land, or if the sign is one owned by a public body, such directional sign may be erected upon publicly owned property provided:

- (a) The maximum size of the sign shall not exceed 3 square feet.
- (b) The owner's permission must be obtained.
- (c) The sign shall be a minimum height of 4 feet, maximum height of 6 feet.
- (d) Signs shall be uniform in design.

4. Religious Symbols: Religious symbols shall not be considered part of the free-standing sign or wall sign area.

Source: Ordinance 8-2008
Effective Date: 3-27-2008

5. Sign Program: The signage program will be reviewed by the City Planner.

6. Temporary Signs: Temporary signs shall be permitted for a period not to exceed ten days. Such signs shall be not higher than 8 feet and not larger than 32 square feet.

Source: Ordinance No.17-2005
Effective Date: 9-15-2005

7. Directional Signs: Directional signs to Places of Worship, schools, or publicly owned land or buildings in existence on the effective date of this Section or amendments thereto, which do not conform to these regulations, shall be allowed to continue in use as provided in Section 11.75.

Source: Ordinance No. 18-91
Effective Date: 8-23-91

Prev. Ordinance No. 37-83
Effective Date: 9-30-83

8. Sign Base: (Refer to Subdivision 3, Subparagraph DD).

Source: Ordinance No. 18-91
Effective Date: 8-23-91

Prev. Ordinance No. 9-87
Effective Date: 5-7-87

G. Golf Course District

Source: Ordinance No. 2-2007
Effective Date: 1-23-07

1. Free-standing Signs:
 - (a) One sign per street frontage is allowed provided the total area of such sign shall not exceed 50 square feet.
 - (b) Setback: No sign shall be placed closer than 10 feet to any street right-of-way.
 - (c) Height: Maximum height of free-standing signs shall not exceed 8 feet.
 - (d) Sign Base: (Refer to Sub. 3, paragraph DD).
2. Wall Signs: One sign per building not to exceed 24 square feet in area. Where a building is located on a corner lot, one sign may be located on each wall facing a street provided one does not exceed 24 square feet and the other does not exceed 18 square feet. All walls signs shall be uniform in design.
3. Temporary Signs: Temporary signs shall be permitted for a period not to exceed ten days. Such signs shall be not higher than 8 feet and not larger than 32 square feet.

H. Airport.

1. Wall signs are only permitted on buildings operated by persons, organizations, or businesses that are commercially licensed by the Metropolitan Airport Commission.
 - (a) Walls not facing runway: The total area of all wall signs on any wall of a building shall not exceed 15% of the wall area when the wall area does not exceed 500 square feet. When the wall areas exceeds 500 square feet, the total area of a wall sign shall not exceed 75 square feet, plus 5% of the wall area in excess of 500 square feet, provided that the maximum sign area for any wall sign shall be 300 square feet. Wall area shall be computed individually for each tenant in a multi-tenant building based on the exterior wall area of the space the tenant occupies.
 - (b) Walls facing runway: The total area of all wall signs shall not exceed 30% of the wall area. The maximum total sign area shall be 400 square feet. Wall area shall be computed individually for each tenant in a multi-tenant building based on the exterior wall area of the space the tenant occupies.
2. Free-standing Signs: Are permitted only on sites of buildings operated by persons, organizations, or businesses that are commercially licensed by the Metropolitan Airport Commission. Two free-standing accessory signs shall be permitted for each building site, provided one of the signs is on the side of the building facing the runway. The total area of each sign shall not exceed 80 square feet. The maximum height of free-standing signs shall not exceed 20 feet.
3. Area Identification Signs: Only the Metropolitan Airport Commission may erect such signs. One sign per street frontage is allowed. Area Identification signs shall not exceed 80 square feet and shall not exceed a maximum height of 20 feet.
4. Gate Identification Signs: Only the Metropolitan Airport Commission may erect such signs. One sign at each gate is allowed. Gate identification signs shall not exceed 32 square feet and shall not exceed a height of 10 feet.

5. Building Identification Signs: Only the Metropolitan Airport Commission may erect such signs. One such sign per building is allowed. Building identification signs shall not exceed 6 square feet and must be attached flat against the wall of the building.

6. No other sign is permitted.

Source: Ordinance No. 114-84

Effective Date: 11-1-84

Subd. 5. Administration and Enforcement.

A. Permits. Except as provided in Subparagraph D below, the owner or occupant of the premises on which a sign is to be displayed, or the owner or installer of such sign, shall file application with the City for permission to display such sign. Permits must be acquired for all existing, new, relocated, modified or redesigned signs except those specifically excepted below. The applicant shall submit with the application, a complete description of the sign and a sketch showing its size, location, manner of construction and such other information as shall be necessary to inform the Building Official of the kind, size, material, construction and location of the sign. The applicant shall also submit at the time of application, the application fee required under Subparagraph B below. The City Manager or the City Manager's designee shall approve or deny the sign permit no more than 30 days from the receipt of the complete application, including applicable fee. If a sign authorized by permit has not been installed within three months after the date of issuance of said permit, the permit shall become null and void.

Source: Ordinance No. 17-2005

Effective Date: 9-15-2005

B. Fees. An application or request for an amendment of this Section or for a permit, variance or other approval relating to this Section shall be set by the Council by ordinance.

Source: Ordinance No. 17-2005

Effective Date: 9-15-2005

C. Sign Identification Tag. For any sign for which a permit is required under the provisions of this Section, the permittee shall acquire from the City a tag which shall be conspicuously attached to the lower left front surface of the sign. Such tag shall indicate the number of the sign permit and the date of issuance. Permits and tags must be acquired, and application fees paid for all non-exempt signs existing at the time of adoption of this Section.

D. Exemptions: The exemptions permitted by this Subdivision shall apply only to the requirement of a permit, and shall not be construed as excusing the installer of the sign, or the owner of the property upon which the sign is located, from conforming with the other provisions of this Section. No permit is required under this Subdivision for the following signs:

1. A window sign placed within a building and not exceeding 10% of the window area.

2. Signs erected by a governmental unit or public school district.

Source: Ordinance No. 17-2005

Effective Date: 9-15-2005

3. Temporary signs as listed in Subdivision 3, Subparagraph H, I, J, K and Y.

Source: Ordinance No. 17-2005

Effective Date: 9-15-2005

4. Memorial signs or tablets containing the name of the building, its use and date of erection when cut or built into the walls of the building and constructed of bronze, stone, or marble.

5. Signs which are completely within a building and are not visible from the outside of the building.

Source: Ordinance No. 11-2004
Effective Date: 4-1-2004

6. Portable Signs containing Non-Commercial Speech.

Source: City Code
Effective Date: 9-17-82

7. Signs six (6) square feet or less in size.

Source: Ordinance No. 17-2005
Effective Date: 9-15-2005

E. Violations and Fines. If the Chief Building Official or a deputy shall find any sign regulated by this Section is prohibited as to size, location, content, type, number, height or method of construction, or is unsafe, insecure, or a menace to the public, or if any sign (for which a permit is required) has been constructed or erected without a permit (having) first (been) granted to the installer of said sign, or to the owner of the property upon which said sign has been erected, or is improperly maintained, or is in violation of any other provisions of this Section, he shall give written notice of such violation to the owner (of such property) or (the) permittee. If the permittee or owner (of such property) fails to remove or alter the sign so as to comply with the provisions set forth in this Section within (3) days following receipt of said notice:

Source: Ordinance No. 33-2004
Effective Date: 12-30-2004

Prev. Ordinance No. 105-84
Effective Date: 9-19-84

1. Such sign shall be deemed to be a nuisance, and may be abated by the City by proceedings taken under Minnesota Statutes, Chapter 429, and the cost of abatement, including administration expenses, may be levied as a special assessment against the property upon which the sign is located; and,

Source: City Code
Effective Date: 9-17-82

2. It is unlawful for any permittee or owner to violate the provisions of this Section. Each period of (3) days within which the sign is not removed or altered shall be deemed to constitute another violation of this Section. No additional licenses shall be granted to anyone in violation of the terms of this Section, or to anyone responsible for the continuance of the violation, until such violation is either corrected or satisfactory arrangements, in the opinion of the Chief Building Inspector, have been made towards the correction of said violation. The Inspector may also withhold building permits for any construction related to a sign maintained in violation of this Section. Pursuant to Minnesota Statutes Annotated 160.27, the Chief Building Official, or his deputy, shall have the power to remove and destroy signs placed on street right-of-way with no such notice of violation required.

Source: Ordinance No. 105-84
Effective Date: 9-19-84

3. Appeals and Variances. A permit applicant or permit holder may appeal any order or determination made by the Chief Building Official or a deputy pursuant to this Section by filing a written appeal with the City Clerk within ten (10) days of the mailing of notice of the order or determination to the

applicant or holder. A notice of appeal shall be in writing and must be personally served upon the City Clerk or deputy within the time provided. A permit applicant or permit holder may also request a hearing for a variance from the literal terms of this Section before the Board of Appeals and Adjustments by filing a form provided by the City and paying the prescribed fees to the City Clerk. Request for variances from the literal provisions of this Section shall only be granted in accordance with City Code Section 2.26.

Source: Ordinance No. 17-2005
Effective Date: 9-15-2005

Prev. Ordinance No. 78-13
Effective Date: 5-26-78

4. With respect to signs distributed or posted by a person, committee, or organization except pursuant to a lease or license with the property owner, the written notice of violation required by Subd. 5.E. herein may be given to the person, committee or organization who prepares, disseminates, issues, posts, installs or owns the sign, or the persons, committee or organization who causes the preparation, dissemination, issuance, posting, or installation of the sign, or the owner or occupant of the premises on which such sign is displayed. If such person, committee, organization, owner or occupant fails to remove or alter the sign so as to comply with the provision set forth in this Section within 3 days following receipt of said notice, then such failure is deemed unlawful and such persons, committee, organization, owner, or occupant shall be subject to the same liabilities and penalties as are permittees and owners under Subd. 5.E. 1. and 2.

Source: Ordinance No. 17-2005
Effective Date: 9-15-2005

Prev. Ordinance No. 105-84
Effective Date: 9-20-84

Subd. 6. Repealed.

Source: Ordinance No. 17-2005
Effective Date: 9-15-2005

Subd. 7. Dynamic Displays.

- A. Findings. Studies show that there is a correlation between Dynamic Displays on signs and the distraction of highway drivers. Distraction can lead to traffic accidents. Drivers can be distracted not only by a changing message, but also by knowing that the sign has a changing message. Drivers may watch a sign waiting for the next change to occur. Additionally, drivers are more distracted by special effects used to change the message, such as fade-ins and fade-outs. Time and temperature signs appear to be an exception to these concerns because the messages are short, easily absorbed, and become inaccurate without frequent changes.

Despite these public safety concerns, there is merit to allowing new technologies to easily update messages. Except as prohibited by state or federal law, sign owners should have the opportunity to use these technologies with certain restrictions. The restrictions are intended to minimize potential driver distraction and to minimize proliferation in residential districts where signs can adversely impact residential character.

The City finds that dynamic displays should be allowed on signs but with significant controls to minimize their proliferation and their potential threats to public safety.

- B. Permitted Sign Type and Locations. Dynamic Displays are permitted solely as Free-standing Signs and only in the Commercial Regional (C-Reg), Commercial Regional Service (C-Reg-Ser), Community Commercial (C-Com), Neighborhood Commercial (N-Com) Office (OFC), Town Center (TC-C), Public (Pu), and Industrial (I, I-2, I-5 & I-Gen) zoning districts.

- C. Duration of Image. A Dynamic Display's image, or any portion thereof, may not change more often than once every 20 minutes, except one for which changes are necessary to correct hour-and-minute, date, or temperature information. A display of time, date, or temperature must remain for at least 20 minutes before changing to a different display, but the time, date, or temperature information itself may change no more often than once every three seconds.
- D. Transition. If a Dynamic Display's image or any portion thereof changes, the change sequence must instantaneous without any special effects.
- E. Prohibition on Video Display. No portion of a Dynamic Display may change any part of its sign face by a method of display characterized by motion or pictorial imagery, or depict action or a special effect to imitate movement, or display pictorials or graphics in a progression of frames that gives the illusion of motion of any kind.
- F. Prohibition on Fluctuating or Flashing Illumination. No portion of a Dynamic Display image may fluctuate in light intensity or use intermittent, strobe or moving light, or light that changes in intensity in sudden transitory bursts, streams, zooms, twinkles, sparkles or in any other manner that creates the illusion of movement.
- G. Audio. Dynamic Displays shall not be equipped with audio speakers.
- H. Malfunctions. Dynamic Displays must be designed and equipped to freeze the sign face in one position if a malfunction occurs. Dynamic Displays must also be equipped with a means to immediately discontinue the display if it malfunctions, and the sign owner or operator must immediately turn off the display when notified by the City that it is not complying with the standards of this ordinance.
- I. Brightness. All Dynamic Displays shall meet the following brightness standards:
 - 1. No Dynamic Display may exceed a maximum illumination of 5,000 nits (candelas per square meter) during daylight hours and a maximum illumination of 500 nits (candelas per square meter) between dusk to dawn as measured from the sign's face at maximum brightness.
 - 2. All Dynamic Displays having illumination by means other than natural light must be equipped with a dimmer control or other mechanism that automatically controls the sign's brightness to comply with the requirements of this Section.
 - 3. No Dynamic Display may be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device or signal.
 - 4. The owner or controller of the Dynamic Display must adjust the sign to meet these brightness standards in accordance with the City's instructions. The adjustment must be made immediately upon notice of non-compliance from the City.
 - 5. A written certification from the sign manufacturer that light intensity has been preset to conform to the brightness levels established by code and that the preset level is protected from end user manipulation by password protected software or other method. This would offer the advantage of ensuring that electronic signs at a minimum cannot exceed the standards.
- J. Dynamic displays are allowed only on free standing signs in the permitted districts. Dynamic displays may occupy no more than 35% percent of the actual copy and graphic area. The remainder of the sign must not have the capability to have dynamic displays even if not used. Only one, contiguous dynamic display area is allowed on a sign face.

Source: Ordinance No.10-2008
 Effective Date: 4-24-2008

SECTION 11.71. Repealed.

Source: Ordinance No. 2-95
Effective Date: 2-17-95

(Sections 11.72 through 11.74, inclusive, reserved for future expansion.)

SECTION 11.75. NON-CONFORMING USES.

Subd. 1. Non-conforming uses may be continued, including through repair, replacement, restoration, maintenance or improvement, but not including expansion, unless:

- A. A non-conforming use is discontinued for a period of more than one year; or
- B. The non-conforming use is destroyed by fire or other peril to the extent that greater than fifty percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged. In the event a building permit has been applied for within the 180 days, the City may impose reasonable conditions upon the building permit in order to mitigate any newly created impact on adjacent property.

Source: Ordinance No. 17-2005
Effective Date: 9-15-2005

Prev. Source: Ordinance No. 82-18
Effective Date: 9-17-82

SECTION 11.76. VARIANCES.

Subd. 1. Purposes and Authorization. Except as otherwise provided in this Chapter, variances from the requirements of this Chapter may be granted when the applicant for the variance establishes that there are practical difficulties in complying with this Chapter. Variances shall only be permitted when they are in harmony with the general purposes and intent of this Chapter and are consistent with the City's comprehensive plan. "Practical difficulties" as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by this Chapter; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined by statute when in harmony with this Chapter. The Board of Adjustments and Appeals or Council as the case may be may not permit as a variance any use that is not allowed by this Chapter in the zoning district in which the subject property is located. The Board of Adjustments and Appeals or Council as the case may be may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The Board of Adjustments and Appeal or Council as the case may be may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

Source: Ordinance No. 14-2011
Effective Date: 10-27-2011

Source: Ordinance No. 72-84
Effective Date: 4-5-84

Subd. 2. Application and Fee. Application fees shall be set by Council pursuant to ordinance. Applications shall be made on forms and pursuant to the procedures designated by the Community Development Department.

Source: Ordinance No. 14-2011
Effective Date: 10-27-2011

Source: City Code
Effective Date: 9-17-82

Subd. 3. Time Limitation. Variances granted from the provisions of this Chapter shall be used within one year and if not, the variance will be of no further force and effect.

Source: Ordinance No. 72-84
Effective Date: 4-5-84

SECTION 11.77. ZONING CERTIFICATE AND CERTIFICATE OF OCCUPANCY.

Subd. 1. Purposes and Requirements. To ensure that each new or expanded use of a structure or site and each new structure or alteration of an existing structure complies with all applicable provisions of this Section, and in order that the City may have a record of each new or expanded use of a structure or site, a zoning certificate is required before any building permit may be issued or any structure or site used; and a certificate of occupancy required by the Building Code shall be issued only for a structure that conforms with the zoning certificate.

Subd. 2. Building Permit. A building permit shall be issued only upon execution of an approved zoning certificate.

Subd. 3. Occupancy Certificate.

- A. A certificate authorizing occupancy shall not be issued until all requirements of this Section and conditions attached to any variance have been fully met.
- B. A temporary certificate may be issued when certain conditions or requirements cannot be met due to weather or other conditions beyond the control of the owner but only when occupancy will not be detrimental to the health, safety or general welfare of the occupants or neighbors.

SECTION 11.78. AMENDMENTS.

Subd. 1. Purposes. This Chapter may be amended and the boundaries of any district may be changed in accord with the procedure described in this Section.

Subd. 2. Initiation. An amendment may be initiated by the Council, the Planning Commission, or by petition of affected property owners. An amendment not initiated by the Planning Commission shall be referred to the Planning Commission for study and report and may not be acted upon by the Council until it has received the recommendation of the Planning Commission or until 60 days have elapsed from the date of reference of the amendment without a report by the Planning Commission.

Subd. 3. Application and Fee. Application for any changes must be made on forms provided by the City and shall include all information and data requested. Application fee shall be established by the Council by resolution.

Subd. 4. Public Hearing. No amendment shall be adopted until a public hearing has been held thereon by the Council. A notice of the time, place, and purpose of the hearing shall be published in the official newspaper of the City at least ten days prior to the day of the hearing. When an amendment involves changes in district boundaries a notice shall be mailed at least ten days before the day of the hearing to each owner of affected property and property situated wholly or partly within 350 feet of the property to which the amendment relates. For the purpose of giving mailed notice, the responsible person may use any appropriate records to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this Subdivision has been made.

Subd. 5. Reapplication. No application for the same or substantially the same change shall be made within one (1) year from the date of denial.

Subd. 6. Adoption. Amendments to this Chapter may be adopted by a two-thirds vote of all of the members of the Council.

SECTION 11.79. ADMINISTRATION.

Subd. 1. The City Manager shall be responsible for the enforcement of this Chapter and all orders of the Board of Appeals and Council.

Subd. 2. All applications for zoning or variances shall be directed to the City Manager for administration review and reference to the Planning Commission or Board of Appeals.

Source: City Code
Effective Date: 9-17-82

Subd. 3. Fees. The Council is hereby authorized to establish, by resolution, all fees payable to the City for any action or proceeding under this Chapter. A copy of such resolution shall be kept in the office of the City Manager and uniformly enforced.

(Prev. Ordinance No. 72-84
Effective Date: 4-5-84)

SECTION 11.80 OFFICIAL MAP.

There is adopted pursuant to Minnesota Statutes, #462.359 (1986), the Official Map entitled, "Minnesota Department of Transportation S. P. 2762 (T.H. 212) Official Map West Hennepin County Line to Junction of T.H. 5 and T.H. 494" on file and open to public inspection in the office of the City Manager, which Official Map contains a description of the future layout of State Highway 212 through the City and the lands which will be affected by reason thereof.

Source: Ordinance No. 63-88
Effective Date: 1-19-89

(Sections 11.81 through 11.98, inclusive, reserved for future expansion.)

SECTION 11.99. VIOLATION A MISDEMEANOR.

Every person violates a section, subdivision, paragraph, or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

Source: City Code
Effective Date: 9-17-82