



PLANNING COMMISSION

City Hall—Council Chambers, 3989 Central Ave NE

Wednesday, August 07, 2024

6:00 PM

AGENDA

ATTENDANCE INFORMATION FOR THE PUBLIC

Members of the public who wish to attend may do so in-person, or by using Microsoft Teams Meeting at columbiaheightsmn.gov/joinameeting: ID 252 586 988 371, Passcode ugquG3. For questions, please contact Administration at 763-706-3610.

Auxiliary aids or other accommodations for individuals with disabilities are available upon request when the request is made at least 72 hours in advance. Please contact Administration at 763-706-3610 to make arrangements.

CALL TO ORDER/ROLL CALL

APPROVE MINUTES

- 1. Acceptance of May 7, 2024 Planning Commission Meeting Minutes**

PUBLIC HEARINGS

- 2. Zoning Ordinance Amendments to amend Chapter 9 – Land Use:**

9.103 Definitions	9.107 Specific Development
Standards	
9.104 Administration and Enforcement	9.109 Residential Districts
9.105 Nonconformities	9.110 Commercial Districts
9.106 General Development Standards	9.111 Industrial Districts

MOTION: Move to waive the reading of draft Ordinance amendment No. 1700, there being ample copies available to the public.

MOTION: Move to recommend that the Planning Commission give a positive recommendation on draft Ordinance amendment No. 1700 to City Council to approve draft Zoning Ordinance Amendment No. 1700 as presented.

OTHER BUSINESS

ADJOURNMENT

Auxiliary aids or other accommodations for individuals with disabilities are available upon request when the request is made at least 72 hours in advance. Please contact Administration at 763-706-3610 to make arrangements.

**MINUTES
CITY OF COLUMBIA HEIGHTS
PLANNING COMMISSION MEETING
MAY 7, 2024**

Item 1.

The meeting was called to order at 6:06 pm by Chair Sahnnow.

CALL TO ORDER/ROLL CALL

Commissioners present: Eric Sahnnow, Tom Kaiser, Paul Moses, Laurel Deneen, Clara Wolfe, Ahmed Maameri, and John Gianoulis

Also present: Aaron Chirpich, Community Development Director; Andrew Boucher, City Planner; Alicia Howe.

APPROVAL OF MINUTES

1. Approval Of April 2, 2024 Planning Commission Meeting Minutes

Motion by Sahnnow, seconded by Deneen, to approve the minutes from the meeting of April 2, 2024. All ayes. MOTION PASSED.

PUBLIC HEARINGS

2. Interim Use Permit for a Seasonal Fireworks Sales Tent at 4001 Central Avenue

Introduction: Boucher explained that Renaissance Fireworks, Inc. has applied for an interim use permit to allow the operation of a seasonal fireworks sales tent at 4001 Central Avenue NE. This application is identical to an interim use permit request approved by the City in May of last year which made a temporary allowance for the sale of fireworks upon the subject site. The temporary allowance of the activity was however, granted for and applied to the 2023 calendar year. Thus, the processing of a new interim use permit (for 2024) is necessary. The specific development standards for outdoor fireworks sales/display are provided in Section 9.107 (C) (22) of the City Code and are included as recommended conditions of approval for this permit. The configuration and orientation of the fireworks tent upon the subject site is illustrated on the attached property and tent location map.

Boucher reviewed the issues and analysis:

COMPREHENSIVE PLAN

The City's 2040 Comprehensive Plan designates the property for commercial use. The proposal for seasonal fireworks sales, a retail activity, is consistent with the intent of the City's Comprehensive Plan.

ZONING ORDINANCE

The subject property is zoned CBD, Central Business within which "seasonal fireworks sales" are listed as an interim use and therefore subject to interim use permit processing.

Properties located north and west of the site are likewise zoned Central Business. Properties

located to the east are zoned R-4, Multiple Family Residential while the site to the south of the subject property is zoned as a Planned Unit Development, which includes a mixture of multi-family residential, commercial, and institutional uses. in the Central Business Zoning District.

FINDINGS OF FACT

Section 9.104 (I) of the Zoning Ordinance outlines seven findings of fact that must be met in order for the City to grant an interim use permit. The findings are as follows:

- (a) The use is one of the interim uses listed for the zoning district in which the property is located, or is a substantially similar use, as determined by the Zoning Administrator.***

Fireworks tents are specifically listed as an interim use in the Central Business District, and are considered a retail sales activity, which is permitted.

- (b) The use is in harmony with the general purpose and intent of the Comprehensive Plan.***

The Comprehensive Plan designates the property for commercial use, including retail sales. The proposal is consistent with the intent of the City's Comprehensive Plan.

- (c) The use will not impose hazards or disturbing influences on neighboring properties.***

The proposed temporary use should not impose hazardous or disturbing influences on neighboring properties because of its proximity to Central Avenue. The proposed use has been and will be screened from adjacent residential uses by the surrounding commercial buildings.

- (d) The use will not substantially diminish the use of property in the immediate vicinity.***

The fireworks tent is not expected to diminish the use of the adjacent properties.

- (e) The use will be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.***

The Fire Department will conduct an on-site inspection prior to any temporary sales. As a condition of interim use permit approval, all State and City requirements regarding fireworks sales must be met.

- (f) Adequate measures have been or will be taken to minimize traffic congestion on the public streets and to provide for appropriate on-site circulation of traffic.***

The traffic generated by the fireworks tent will not significantly increase the flow of traffic on the public streets. Additionally, the site is large enough to handle additional on-site traffic.

- (g) The use will not cause a negative cumulative effect on other uses in the immediate vicinity.***

The fireworks tent should not have a negative impact on other uses in the immediate vicinity, which are all zoned commercial.

Recommendation: Staff recommends that the Planning Commission approve the Interim Use Permit to allow the operation of a seasonal fireworks sales tent at 4001 Central Avenue, subject to the following conditions:

1. The fireworks sales tent, display area, access aisles, and surrounding area shall be reviewed by the Fire Department prior to operation. The applicant must contact the Fire Department to set up an inspection prior to any sales occurring on the property.
2. The sale of fireworks shall meet all requirements of Chapter 24 of the Fire Code and NFPA Chapter 1124.
3. The fireworks sales tent shall be accessory to a commercial use.
4. Fireworks sales tents located within the public right-of-way are prohibited.
5. All goods shall be displayed on a designated impervious surface area.
6. All goods shall be displayed in an orderly fashion, with access aisles provided as needed.
7. Music or amplified sounds shall not be audible from adjacent residential properties.
8. The fireworks sales tent shall not reduce the amount of off-street parking provided on-site below the level required for the principal use.
9. An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening, or other site improvements consistent with the character of the neighborhood.
10. Signage shall be limited to two (2) professionally made signs, with a combined square footage not exceeding thirty-two (32) square feet. Signs related to the proposed retail activity shall be subject to sign permit processing.
11. Fireworks sales tents may be allowed for a maximum of ninety (90) days per calendar year.
12. Any electrical use associated with the temporary sales will require an electrical permit and is required to be inspected by the State Electrical Inspector.

Questions/Comments from Members:

Deneen asked if the seasonal fireworks sales were open until 10 pm in previous years and if they supplied excess lighting. Boucher replied that they did not include any lighting requirements in their conditional approval because it is a temporary seasonal use.

Wolfe stated that she has not seen any issues with this temporary sales in the past.

Moses asked how long they have been in our City. Boucher replied that they have been here for over 10-15 years.

Maameri asked if there have been any security issues in the past due to how busy the bar gets at night. Chirpich replied that the police and fire department reviews the development review.

Public Hearing Opened.

There were no public comments.

Public Hearing Closed.

Motion by Kaiser, seconded by Maameri, to waive the reading of the draft Resolution 2024-PZ03, there being ample copies available to the public. All ayes. MOTION PASSED.

Motion by Kaiser, seconded by Deneen, to adopt Resolution 2024-PZ03, being a resolution approving an Interim Use Permit for a fireworks sales tent at 4001 Central Avenue NE, from June 17, 2024 until July 10, 2024 within the City of Columbia Heights, Minnesota, subject to certain conditions stated in the resolution. All ayes. MOTION PASSED.

3. Zoning Ordinance Amendment to amend 9.106 General Development Standards (M) Landscaping and Screening to include Tree Preservation and Planting Standards

Introduction: Boucher explained that at the April Work Session, City Council discussed a potential amendment to City Code 9.106 General Development Standards in relation to amending Landscape and Screening Requirements to include Tree Preservation and Planting Standards and directed the City Planner and Urban Forester to prepare a zoning text amendment for the May 7, 2024 Planning Commission meeting. Tree preservation ordinances were examined by peer-reviewing other cities such as Fridley, New Hope, Shakopee, St. Anthony's Village, Maple Grove, and Minneapolis for key components. Fridley, St. Anthony's Village, and Minneapolis do not have tree preservation ordinances. Additionally, staff have consulted with the League of Minnesota Cities and the City Forester for their guidance on what a model ordinance should include.

Boucher reviewed the issues and analysis:

SUMMARY OF CURRENT STATUS:

At the time, staff felt it was necessary to amend the existing ordinances to establish a process to include the City Forester in development review and adopt standards aligned with industry and agency best practices as well as reflecting the securities and letter of credit language that is seen across municipalities. The ordinance currently does not reflect the most up-to-date information, standards, or processes that ensure successfully mature tree canopies or preservation of the existing canopy.

The 6th U.S. Circuit Court of Appeals in F.P. Development, LLC vs. Charter Township of Canton, Michigan found that, Canton's ordinance classification of certain trees as "significant trees", created permitting requirements, restricted tree removal, and required mitigation for removal. A property owner that removed trees was required to either pay into a town fund or replant trees; the town enforced action against a developer that removed 159 trees and argued that, under the ordinance, the developer had to replant trees or pay the town approximately \$50,000. The 6th Circuit found that the ordinance violated the Fifth Amendment's "unconstitutional conditions" doctrine, if a permit is conditioned on the waiver of constitutional rights, then the local government permitting may be found unconstitutional.

Local governments may choose whether and how a permit applicant mitigates developmental impacts, but they must establish an “essential nexus and rough proportionality to those impacts” and “make some sort of individualized determination that the required mitigation is related both in nature and extent to the impact of the proposed development.”

ZONING ORDINANCE AMENDMENT

By using the most recent versions of the ANSI A300 and ISA Best Management Practices for tree management during construction as well as the MN DNR “Pocket Guide to Planting Trees”, the amendment to City Code (9.106 General Development Standards) to include tree preservation language and planting standards in the Landscaping and Screening section reflects industry and agency standards and best practices. In this regard, the following Zoning Ordinance modifications are recommended by Staff with the full draft ordinance attached:

- 1) Amending 9.106 M to read as “*Tree Preservation and Planting Standards for Landscaping and Screening*” and including language recognizing the value and benefits to preserving and increasing tree canopy cover of Columbia Heights by protecting and preserving mature trees during construction and development.
- 2) Adopting ANSI A300 Part 5 – Management of Trees and Shrubs During Site Planning, Site Development, and Construction & ISA Best Management Practices – Managing Trees During Construction and apply these industry and agency standards, definitions, and best practices to all demolition, building permit applications, land alteration permits, public or private, that require a survey. A construction tree inventory plan and tree protection plan shall be reviewed, approved, and inspected by the City Forester and replacement policy calculations shall be subject to a size-based replacement policy.
- 3) Defining criteria for the removal of protected and removable trees; protected trees may be removed within the footprint of the building pad of a new or remodeled building, or within a 10’ radius of the footprint as well as within driveways and parking areas meeting all other City ordinances as well as establishing replacement requirements, exemptions, and the process for removing protected trees that are dead, diseased, or hazardous.
- 4) Establishing protected tree varieties, soil volume requirements, definitions and rules for calculating soil volume in Table 1, Table 2, and Appendix B, respectively.
- 5) Updating the letter of credit or other security language to reflect the estimated cost of landscaping and/or screening and including language stating that the property owner is responsible for continued maintenance of landscaping and screening materials to remain in compliance with the requirements of this section, plant material that shows signs of disease shall be promptly removed and replaced within

the next planting season.

STAFF REVIEW

The Public Works Department, Police Department, and Fire Department have been provided copies of the application materials and had no concerns amending the Landscaping and Screening requirements to include Tree Preservation and Planting Standards. The proposed zoning text amendment is subject to review by the City Attorney for the purposes of determining if the proposed ordinance establishes an essential nexus and rough proportionality between the impact of the development and the standard required by code; the ordinance must also document an individualized determination process after the standards are applied.

FINDINGS OF FACT

Section 9.104 (F) of the Zoning Ordinance outlines certain findings of fact that must be met in order for the City to grant approval for a zoning amendment. The findings are as follows:

(a) The amendment is consistent with the comprehensive plan.

The City's 2040 Comprehensive Plan identifies community resilience, climate adaptation, public health, equity, and sustainability as Emerging Topics. One of the key land use goals identified in the 2040 Comprehensive Plan includes enhancing community gateways, prioritizing landscaping and other forms of buffering between uses, and continuing the City's participation in Tree City USA.

(b) The amendment is in the public interest and is not solely for the benefit of a single property owner.

A healthy, resilient and robust urban forest, tree canopy, and landscaping enhances the aesthetic, environmental, and economic well-being of the City by establishing buffers between non-compatible land uses, screen unsightly views, reduce noise and glare, minimize stormwater runoff as well as offer carbon sequestration, erosion mitigation, and reduction of the urban heat island effect.

(c) Where the amendment is to change the zoning classification of a particular property, the existing use of the property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification.

The amendment is not to change the zoning classification of a particular property and the existing use is compatible with the general area of the property.

(d) Where the amendment is to change the zoning classification of a particular property, there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its current zoning classification.

The amendment is not to change the zoning classification of a particular property.

Recommendation: Staff recommends that the Planning Commission recommend the following to the City Council:

- A. Approval of the Zoning Ordinance Amendment which amends City Code 9.106 General Development Standards and establishes Tree Preservation and Planting Standards for Landscaping and Screening as presented.

Questions/Comments from Members:

Kasier noted that as he reviewed the packet, he was very impressed by how thorough Boucher and the City Forester have been in putting this together. It is one of the most positive things he has seen since joining the Planning Commission.

Gianoulis asked for clarification on the fines that are in place for someone who takes out a tree without respecting the proper process. Boucher stated that no fines have been considered, rather they would defer to the administrative action that is allowed in code. Chirpich also stated that he would not recommend a fine system, because there is still the ability of the violator to work with the City Forester to coordinate a planting with their staff.

Maameri asked if there is any difference for the implantation of this code for current development or new development. Boucher updated that it is for anything that requires a survey, either public or private projects.

Public Hearing Opened.

Dirk Schmitz, 2336 45th Avenue NE, asked if there was a way to educate individual homeowners or new homeowners who are not aware of the benefits of the mature trees.

Chirpich updated that education and providing literature is always something they are interested in. However, they do have to be careful of crossing into areas in regulating removal. He does not think they will pursue an ordinance regulating private activity outside of the development arena, because homeowners have their rights concerning their properties. He also stated that there is also no home for the time of sale ordinance for the same reasons.

Cheryl Lamont, 5007 Washington, stated she has noticed that lots of big trees have been coming down in Columbia Heights. When the new road was put in on 53rd Avenue, lots of big trees came down and she has not noticed anything being done to replace them. She also stated that Sullivan Lake is starting to look bald. She asked if any new trees will be planted.

Deneen noted that this ordinance and the term “developer friendly” will hopefully in the future guide the principle of replacement, that if a tree is taken down it will be replaced. This ordinance is striving to put something in place to hold people to as they invite more development into the City.

Boucher updated that when walking through Sullivan Lake, the City Forester stated that some of the trees are not trees that they want to encourage, such as cottonwoods.

Public Hearing Closed.

Motion by Moses, seconded by Sahnaw, to waive the reading of draft Ordinance Amendment No. 1696, there being ample copies available to the public. All ayes. MOTION PASSED.

Motion by Gianoulis, seconded by Maameri, to recommend that the Planning Commission give a positive recommendation on draft Ordinance Amendment No. 1696 to the City Council to approve draft Zoning Ordinance Amendment No. 1696 as presented. All ayes. MOTION PASSED.

4. Zoning Ordinance Amendment to amend 9.107 Specific Development Standards (16) Day Care Centers

Introduction: Boucher explained that JDA Design Architects, Inc. representing Mohamed Abdulle has requested approval of a Zoning Ordinance Amendment to amend the Specific Development Standards in City Code 9.107 for Day Care Centers. The applicant is specifically proposing to modify (16)(c): a requirement for child day care centers to provide at least 75 sq. ft. of outdoor play area for each child under care to allow for the submission of a written plan to use an adjacent public park to satisfy this requirement subject to approval by the City Manager or their designee. The proposed text amendment would make the City Code less restrictive and bring local requirements into alignment with MN State Statute 9502.0425 (Physical Environment) which allows day cares to use public parks if the on-site play areas are not sufficient.

Staff have worked with the owner of 2201 37th Avenue NE, a block south of Prestemon Park, on a proposed child day care center building permit application through administrative review under the current code requirements providing a 2,700 sq. ft. on-site play area as well as on the proposed zoning text amendment which would allow the applicant to serve a greater number of children. The proposed zoning text amendment changes the child day care outdoor play area language to reflect the standards that allow adult day care facilities to use an adjacent park subject to approval of a written plan reviewed by the City Manager or their designee.

Family Day Cares as defined in City Code 9.103 Definitions as “a facility that provides care, protection, and supervision of children in a private residence for periods of less than 24 hours” or “Home Day Cares” as defined in City Code 9.107 Specific Development Standards are not included in the scope of this zoning text amendment as these have a different set of requirements and pertain to day care operations within residential houses.

Boucher reviewed the issues and analysis:

SUMMARY OF CURRENT STATUS:

Staff has determined that the proposal is identical to a similar zoning text amendment the City processed and approved in 2017 to allow adult day care facilities use of an adjacent public park to satisfy outdoor play area requirements after this development standard was expressed to be a barrier to entry for a perspective day care facility at the time. Staff recommended approval of the amendment so that an alternative approach to providing on-site outdoor space could be considered, which was approved by the City Council.

In review of the zoning text amendment application, staff examined existing day care facilities and their outdoor play areas, zoning districts that allow child and adult day care facilities as uses, and identifying parks that would be within the 1,500-foot distance from any commercially zoned properties to better understand the impact of the proposed zoning text amendment.

There are approximately 11 existing day care centers that this amendment would apply to, but each of these centers appears to provide on-site play areas or are on a site, such as a place of worship or school facility, that has those facilities readily available. Existing day care centers would be able to expand their operations if their occupancy is currently limited by the on-site play area, but this amendment would likely be more applicable to future day care centers.

The proposed zoning text amendment would be applicable to only City parks that have a commercially zoned property within 1,500 feet of them where a future child day care center could propose a written plan for review to use the park. These parks are:

- Edgemoor Park
- Gauvitte Park
- Huset Park
- Labelle Park
- Prestemon Park
- Sullivan Lake Park

The remaining parks are either outside the distance allowed for a day care to use the park or the parks do not have any commercial zones where a child day care center would be allowed. The property owners within 350 feet of each of these six parks were sent a Notice of Public Hearing regarding the zoning text amendment because staff determined it was appropriate, within the scope of the zoning text amendment, to give the public ample notice of the application and provide time for adequate public comment. Staff has received multiple written comments, phone calls, and in-person visits from residents at the writing of this report regarding the proposed zoning text amendment, these have been included as part of the public record. Any additional public comments received after this report is published will be read into the public record at the May 7, 2024 Planning Commission and included in the staff report as additional exhibits.

Staff also examined the city code requirements of Andover, Big Lake, Maple Grove, Minneapolis, Minnetonka, Richfield, Roseville, and Saint Paul to better understand how

cities are regulating day care facilities in relation to MN State Statute 9502.0425. Cities such as Andover, Richfield, and Roseville do not have specific development standards for day care centers and adhere to the State requirements. Big Lake, Maple Grove, and Saint Paul require play areas for day cares to be enclosed with a fence. Minneapolis allows for public parks to be used accessory to a child care center.

ZONING ORDINANCE AMENDMENT

It is the opinion of staff that the proposed zoning text amendment, as presented, is consistent with the 2040 Comprehensive Plan and would bring City Code requirements in alignment with MN State Statute 9502.0425 governing the physical environments of day care facilities. The proposed text amendment is identical to a previous zoning ordinance amendment from 2017 that was approved by City Council and the requirement of an approved written plan will benefit providers as well as the City to ensure that public access of the parks is not compromised.

In this regard, the following Zoning Ordinance modification to City Code 9.107 Specific Development Standards is recommended by Staff and is highlighted in red:

1. The existing specific development standards for *Day Care Centers* shall be amended to include additional language for “child day care facilities” that specifies that if a subject property does not have sufficient outdoor play area on-site, then the property owner must submit a written proposal that demonstrates that recreational activities for adults under the facility’s care will be provided off-site subject to approval or denial by the City Manager or their designee.

(C) *Specific development standards.* The following uses are subject to specific development standards:

(16) Day care center

(c) For child day care facilities, at least 75 square feet of outdoor play area shall be provided for each child under care. If there is not sufficient space for an outdoor play area on-site, then the property owner must submit a written proposal that demonstrates recreational activities for children under the facility’s care will be provided off-site within 1,500 feet of the facility.

Staff Review

The Public Works Department, Police Department, and Fire Department have been provided copies of the application materials and had no concerns regarding the amendment to allow child day care facilities to use a public park in lieu of an on-site play area. The City Attorney does not have any concerns regarding liability as these businesses are required to carry appropriate insurance to cover any potential damages. The City Building Official prepared a memorandum of understanding regarding the importance of accessible playground equipment at daycare facilities highlighting inclusivity, physical development, social interaction, legal compliance, and community engagement as reasons to consider maintaining

the existing code, this memo is included as an attachment.

FINDINGS OF FACT

Section 9.104 (F) of the Zoning Ordinance outlines certain findings of fact that must be met in order for the City to grant approval for a zoning amendment. The findings are as follows:

(a) The amendment is consistent with the comprehensive plan.

The City's 2040 Comprehensive Plan identifies establishing and maintaining a strong sense of community, strengthening the identity and image of the community as a desirable place to live, work, and play, and promoting the safety of residents and ensure a safe environment for pedestrians, bicyclists, and other vulnerable roadway users as some of the land use goals and policies.

(b) The amendment is in the public interest and is not solely for the benefit of a single property owner.

The amendment is in the public interest and not solely for the benefit of a single property owner as the property owner has demonstrated a willingness to comply with the current code requirements and this has been a barrier to entry for numerous perspective day care providers to the extent that a previous zoning text amendment was approved for adult day care facilities. The proposed amendment will allow for more child care capacity and remove a barrier to entry for future day care providers while also providing the City with greater understanding how public parks are being used.

(c) Where the amendment is to change the zoning classification of a particular property, the existing use of the property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification.

The amendment is not to change the zoning classification of a particular property and the existing use is compatible with the general area of the property.

(d) Where the amendment is to change the zoning classification of a particular property, there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its current zoning classification.

The amendment is not to change the zoning classification of a particular property.

Public Notification

Staff received 5 written comments along with approximately a combined dozen phone calls and in-person visits inquiring about the zoning text amendment.

Steve Stromquist, 649 51st Avenue NE, had general questions about the applicant and property owner and more specific questions about taxes/licensing fees, whether the amendment applied citywide to all daycare providers, and if anyone had previously applied for a zoning text amendment.

Donna Conwell, 1001 41st Avenue NE, does not support the zoning text amendment.

Jen Kane, 250 44th Avenue NE, has concerns about the degree of park access the daycare children will have if there will be staff on-hand to prevent children from approaching fence lines or private property hours of use and predictable schedule, and how the applicant will mitigate their impact of the park's regular uses as far as how trash will be managed. Jen Kane also noted that a potential benefit could result in the park maintenance schedule being attended to with more diligence.

Randall P. Schmit, 3983 Arthur Street, does not support the zoning text amendment.

Renee Gowan, 542 Huset Parkway, has concerns about the additional burden placed on staff and budgets for park maintenance and trash removal, noted that she lives directly across from Huset Park where there is regular daily amounts of trash left on-site, and asks if there is money designated to daily clean up. Other concerns included staff supervision of children, maintaining full access to the park, and whether the Association will pay higher taxes for the centers.

Recommendation: Staff recommends that the Planning Commission recommend the following to the City Council:

- A. Approval of the Zoning Ordinance Amendment which amends City Code 9.107 Specific Development Standards for (16) Day Care Centers, allowing for the owner of a child day care center to submit a written plan, in lieu of providing an on-site play area, to use an adjacent public park for recreational activities subject to approval or denial by the City Manager or their designee.

Questions/Comments from Members:

Kaiser noted that he agrees with all of the public comments received. He stated this is one of the most concerning proposals he has seen since joining the Planning Commission. He stated that the City parks are not intended to assist individual businesses. Boucher elaborated that there is a provision in State Statute that this only applies specifically to daycares, not to any other business. Boucher also noted that the applicant is willing to move ahead under the current code requirements but is proposing to amend the current zoning text. For daycares that would forego the on-site play area, their State license would be contingent on them having access to that public park. This would give the City the ability to revoke their permission to use that park and the daycare would have to close unless they were able to provide an on-site play area.

Deneen asked if there is a limit to the number of daycares that can be opened. Boucher stated they would be requiring the written plan so that they can look at things at a case-by-case basis. Chirpich stated that there is not a cap or limit in place. Boucher added that another benefit of the written plan is to ensure that there is a staggering of when each daycare may be using a park to there is no overlap. Deneen asked if there has been any thought about expanding the Parks programming to direct those kids into a specific area for larger activities.

Sahnaw asked if staff has discussed what minimum requirements are necessary for the action plans for the daycares. Boucher stated that the hours of operation would be and the intensity of the children/groups of children that will be at the park. He also added that staff supervision would be required, and the daycare would also be required to leave the Park how they found it, take the trash out, etc.

Sahnaw stated he has a concern about a distance of 1,500 feet for unsupervised kids walking to school, pedestrians crossing streets, traffic, etc. that could create danger for the children. Boucher stated that the 1,500 feet is what the State allows, so this was done in alignment with the State requirements.

Kaiser stated that small businesses from across the country have suffered from ADA lawsuits, and he thinks that having something specific in their City Code that formalizes the arrangement between child daycare centers and public parks creates a liability concern. Chirpich added that the City Attorney responded to this specific question, and stated that there is not enough exposure to hold back from seriously considering this ordinance.

Deneen asked if there is staffing for maintenance who can address trash and other things that arise at the parks. Chirpich stated that they do have the staff to accommodate the anticipated additional use.

Moses asked if there will be more daycare providers present while they are in the park and traveling from the daycare to the park. He also asked if there is a new daycare built, will they be required to not have any outdoor space and only rely on the outdoor park or will there still be a minimum requirement per child, like the 75 square feet per child requirement that exists now. Boucher stated there is not a minimum staffing level that has been considered, but the total number of children and staff will be required to be included in the written plan, along with how they are planning on getting the children to the park. Boucher stated that the daycare sites could either provide an on-site play area per child, or not provide the on-site area if their site does not allow for it. He added that this ordinance could be used to expand a daycare center's capacity by using the public park.

Wolfe asked that if the occupancy for the daycare is larger than the size of the park, is there still a guideline for the daycare on how many kids can be there. Boucher stated that they would still be restricted based on what the State building code requires.

Chirpich added that there is a State licensing requirements for daycare facilities for the pupil to the attendant ratio in the facility that could be mirrored for the on-site supervision at the park.

Public Hearing Opened.

Degha Shabbeleh, 3827 Bakken Boulevard, stated that safety is the number one concern for daycares and she is shocked by the words used by the Commissioners when speaking about the

daycares and children. She asked the Commission to consider the daycare workers when making decisions and accept the draft that is before them.

Renee Gowan, 542 Huset Parkway NE, stated that she is in perfect agreement with Kaiser. She added that the Department of Human Services is looking to ratify new licensing standards in 2025, so she wonders why things are trying to be run through right now under standards from the 1980s and not waiting until the new standards are in place. She stated that public parks should not have private enterprises in them.

Bill Bethel, 542 Huset Parkway NE, stated he disagrees that it is not in the interest of the public but rather in the interest of a single business owner. He added that it will prevent regular users from using the parks. He stated that this vote seems premature and they should wait to see what the State says.

Dorothy Brannon, 1622 West Innsbruck Parkway, stated she had a daycare in Columbia Heights for 24 years, she would take her children to parks occasionally, and she does not have any opposition to that. She stated that she has an opposition for daycares to use the parks for their own business.

David Lu, 5198 Central Avenue, he stated he is not against anyone doing daycare business in Columbia Heights, but they are opposed to changing or aiding the City park for daycare business use. He brought up safety concerns and told a story about one of his employees who got injured at a park on his lunch break by a child who was playing at the park. He stated that these businesses must have the capability to have their own playground, and if they do not have the capability, then they should have a different business.

Jackie McGinn, 600 Sullivan Drive, she stated the parks have a lot of water and lakes and she is concerned that there is not enough supervision for children, the restroom facilities, and the coyotes that are in the area.

Sherry Lamont, 5007 Washington, stated she walks at Sullivan Lake every day and picks up lots of trash from children. She warned to be careful when you open up the park for businesses. She added that there is lots of liability when discussing the possibility of this ordinance.

Kay Mayer, 1115 42nd Avenue NE, stated she discussed lawsuits possibilities related to dogs who may be at parks. She stated that she and her husband had been harassed by children and parents while walking in the park.

Layla Shahai, 4606 Polk Street NE, stated all concerns spoken about today can be mitigated through administrative policies and procedures, and that fear should not inhibit this policy from going through. She added that the top legal expert in Columbia Heights, the City Attorney, has no concerns with this amendment.

Dirk Schmitz, 2336 45th Avenue NE, asked if the 1,500 feet is the walking path to the border of the park or to the playground. Chirpich stated that the distance is measured as the crow flies. Schmitz

also asked about the restroom facilities and if there are any rules on a specific number of occupants at a certain time.

Muhammad Abdul, 2201 37th Avenue NE, an applicant, stated he has listened to all the concerns and will have a plan in place to mitigate all risks associated with this amendment.

David Lu, 5198 Central Avenue, returned to the podium and updated that there are 13 daycare businesses in the area.

Chirpich addressed the recurring themes brought up by the public. The commercial use of these parks takes place on a daily basis and is nothing new to the City's parks system. The City Attorney has checked this amendment, but they plan to explore if the plan and program would include the release of liability. He added that this would benefit any daycare in the community in various locations throughout the city, not just the applicant.

Public Hearing Closed.

Moses stated that the decisions made are to benefit their future generations. He agreed this is for the children and their futures.

Deneen added that most daycares do have outdoor play sites, so they will not be bringing their children to these parks on a daily basis. This amendment will benefit those smaller daycares who do not have those play areas already on-site.

Sahnaw asked if there is a memo where the building official has approved this amendment. He updated that his 5 comments do not suggest this amendment. Boucher stated there would need to be a revision of the proposed zoning amendment.

Motion by Moses, seconded by Deneen, to waive the reading of draft Ordinance Amendment No. 1697, there being ample copies available to the public. All ayes. MOTION PASSED.

Motion by Moses, seconded by Gianoulis, to recommend that the Planning Commission give a positive recommendation on draft Ordinance Amendment No. 1697 to the City Council to approve draft Zoning Ordinance Amendment No. 1697 as presented. Split vote: 4 Ayes, 2 Nays, 1 Recusal. MOTION PASSED. Ayes: (Moses), (Wolfe), (Gianoulis), and (Deneen). Nays: (Kaiser) and (Sahnaw). Recusal: (Maameri).

5. Minor Subdivision for 5085 Central Avenue NE

Introduction: Boucher explained that The Architects Partnership, LTD on behalf of Chase Bank and La Casita has requested approval of a Minor Subdivision proposing to split a portion of the La Casita parking lot into two separate parcels and in preparation of construction of a new 3,365 square foot banking facility with a drive-thru ATM on the proposed parcel located at 5085 Central Avenue NE (between 51st Avenue/CT NE and Central Avenue NE).

The applicant is proposing to subdivide the existing 1.67 acre parcel and remove 52 of the 135 parking spaces on-site to create two separate lots, the La Casita parcel would be 1.18 acres and the Chase Bank parcel (5075 Central Avenue) would be 0.48 acres. The subject site is located at the northern end of the municipal boundary along Central Avenue and the surrounding adjacent properties are all zoned for Commercial use through the General Business District; further to the south, east, and west of those commercial properties are pockets of multi-family, duplexes, and single-family residential zoning adjacent to Central Avenue. The subject site is zoned, General Business District, and the use as a financial institution with a drive-thru ATM is permitted use in the district subject to Specific Development Standards 9.107 (18) for a drive-up facility.

The proposed subdivision would reduce the required parking for the restaurant to 83 parking spaces which is below the minimum requirements of 91 parking spaces for the restaurant, a deficit of 8 spaces. A total of 20 parking spaces are required for the financial institution, one (1) per 300 gross floor area and up to nine (9) employees at any one time; the applicant is proposing 14 parking spaces creating a combined deficit of 14 spaces. A shared parking agreement is a necessary condition of approval subject to approval by the City Attorney and filed with the Anoka County Recorder's Office within 60 days after approval of the shared parking use to ensure that both uses have compliant parking. As conditioned, the proposed minor subdivision meets subdivision regulations in accordance with City Code.

Boucher reviewed the issues and analysis:

COMPREHENSIVE PLAN

The City's 2040 Comprehensive Plan guides the subject site, as well as properties to the north, south, east and west for "commercial land use" with "medium density and low density residential" further to the south and east of the commercial parcels. The Plan describes the "commercial" designation as follows:

The Commercial land use designation is primarily located along major transportation corridors and includes a variety of retail uses, services, and office uses.

The subject site also lies within "Opportunity Area #2B" of the Comprehensive Plan which overlays the segment of the Central Avenue from 37th Avenue NE to the Fridley Border, specifically between Central Avenue NE and 49th Avenue NE. In this regard, the Plan identifies the area as having development potential for future commercial use. Some of the guiding principles for redevelopment include commercial uses with appropriate parking and pedestrian accesses to Central Avenue and emphasizing on businesses that provide goods or services that appeal to the community at large as well as the adjacent neighborhoods. This area is described as having an emphasis on providing sidewalks, four season landscaping, and lighting.

MINOR SUBDIVISION ISSUES AND ANALYSIS

Lot Requirements. According to Section 9.110(C) of the Zoning Ordinance, lots within the GB District must have a minimum lot area of 6,000 sq. ft. and a minimum lot width of 40 feet. Presently, the La Casita parcel (5085 Central Avenue) measures 72,834 sq. ft. with a width of 245 feet. As a result of the proposed minor subdivision, the La Casita would retain 51,834 sq. ft. (1.18 acres) and an additional lot would be created measuring 21,000 sq. ft. (.48 acres) and a width of 210 feet. Both proposed lots meet the minimum lot area and width requirements of the General Business (GB) District.

Setbacks. The proposed minor subdivision will result in changes to the setbacks as La Casita had corner lot setback requirements which are now applicable to the proposed lot. The General Business district parking and structure setbacks were presented.

The proposed minor subdivision configuration with setbacks for La Casita and Chase Bank were presented.

Both parcels will have building and parking lot setbacks that conform with 9.110 Commercial Districts (C) Lot dimension, height, and bulk requirements. The lot area, setback, height and lot coverage proposed satisfy these requirements.

Easements. Easements for drainage and utilities are required to be shown and cover any new drainage way or utility on the subject properties. No easements are being proposed to be vacated. As a condition of approval, the applicant is responsible for filing and recording any proposed easement with Anoka County Recorder's Office. As a condition of approval, a cross access easement for vehicular movement is required to be filed and recorded to provide access perpetually for all current and future owners.

The mutual nonexclusive driveway easement recorded in Doc. No. 664049 guarantees that both properties have access to right-of-way service, the City Attorney confirming that the recorded easement provides both parcels adequate access to the right-of-way.

Recording. As a condition of minor subdivision approval, the applicant will be responsible for the filing the approved subdivision with the Anoka County Recorder's Office. If the minor subdivision is not filed with the Anoka County recorder's Office within one year of the date of City Council approval, it will become invalid.

FINDINGS OF FACT

Section 9.104 (K) of the Zoning Code outlines specific conditions for the City Council to approve a minor subdivision. They are as follows:

1. The proposed subdivision of land will not result in more than three lots.

The proposed subdivision will result in two conforming lots as conditioned.

2. The proposed subdivision of land does not involve the vacation of existing easements.

No vacation of existing easements will occur because of the minor subdivision.

3. All lots to be created by the proposed subdivision conform to lot area and width requirements established for the zoning district in which the property is located.

Both newly created lots will conform to the lot width and lot area requirements of the applicable GB zoning designation.

4. The proposed subdivision does not require the dedication of public rights-of-way for the purpose of gaining access to the property.

The proposed subdivision does not require the dedication of public rights-of-way for the purpose of gaining access to the property.

5. The property has not previously been divided through the minor subdivision provisions of this article.

The subject property has not previously been subdivided via a minor subdivision process.

6. The proposed subdivision does not hinder the conveyance of land.

The proposed subdivision will not hinder the conveyance of land.

7. The proposed subdivision does not hinder the making of assessments or the keeping of records related to assessments.

The proposed subdivision is not expected to hinder the making of assessments or the keeping of records related to assessments.

8. The proposed subdivision meets all the design standards specified in Section 9.116.

As a condition of minor subdivision approval, all applicable design standards of Section 9.116 of the Zoning ordinance must be satisfied.

STAFF REVIEW

The Public Works Department, Police Department, and Fire Department have been provided copies of the application materials and the comments from each respective department are attached, if applicable.

In review of the application materials, Public Works/Engineering provided their department's requirements and comments on the proposed plat in a memo dated April 17, 2024, which is referenced as a condition of approval. General comments and plat requirements include:

1. Scheduling a pre-construction conference prior to any land alteration activities beginning;
2. Showing proposed drainage and utility easements over any new drainage way/utility;
3. All stormwater best management practices (BMPs) shall have designated drainage and utility easements recorded with the Plat or as a separate document at Anoka County.

Public Works and Engineering reviewed the erosion control plan and SWPPP as part of the

submitted plan sets and had additional comments and requirements that are included in the attached memo, dated April 17, 2024 and added as conditions of approval for both the minor subdivision and site plan review.

Recommendation: Staff recommends that the Planning Commission recommend the following to the City Council:

- A. Approval of the Minor Subdivision of property located at 5085 Central Avenue NE (PID: 25-30-24-22- 0065) into two separate parcels subject to the following conditions of approval:
 1. A shared parking agreement between La Casita and Chase Bank shall be proposed and subject to approval by the City Attorney and filed with the Anoka County Recorder's Office within 60 days after approval of the shared parking use to ensure that both uses have compliant parking.
 2. The applicant shall be responsible for filing the approved subdivision with the Anoka County Recorder's Office. The approved minor subdivision shall become invalid if the subdivision is not filed with the Anoka County Recorder's Office within one year of the date of City Council approval.
 3. The applicant shall adhere to the requirements and comments provided by the City Public Works and Engineering Departments in a memo dated April 17, 2024. The applicant is responsible for filing and recording any proposed easements with Anoka County Recorder's Office.
 4. A cross access easement for vehicular movement is required to be filed and recorded with Anoka County Recorder's Office to provide access perpetually for all current and future owners.

Questions/Comments from Members:

Wolfe asked if the parking agreement satisfies the parking requirements for occupancy for the lesser parking spots for La Casita. Boucher explained that because the hours of operation for the bank and restaurant are different, their peak parking hours would not overlap.

Deneen asked if there are any strategies in place to mitigate construction impacts that arise. Boucher stated they would be working with the Engineering Department to figure out the best way to go about the parking spots.

Moses asked if there have been any comments from neighboring businesses. Boucher updated that he did not receive any public comments.

Public Hearing Opened.

There were no public comments.

Public Hearing Closed.

Motion by Sahnaw, seconded by Deneen, to waive the reading of draft Resolution 2024-036, a Minor Subdivision for 5085 Central Avenue NE, there being ample copies available to the public. All ayes. MOTION PASSED.

Motion by Deneen, seconded by Moses, to recommend the Planning Commission give a positive recommendation to draft Resolution 2024-036, a Minor Subdivision for 5085 Central Avenue NE, and recommend City Council approve draft Resolution 2024-036 as presented and subject to the conditions of approval listed in the draft resolution. All ayes. MOTION PASSED.

6. Site Plan Review for 5085 Central Avenue NE

Introduction: Boucher explained that The Architects Partnership, LTD on behalf of Chase Bank and La Casita has requested approval of a Site Plan Review proposing to establish a new 3,365 square foot banking facility with a drive-thru ATM located at the newly created parcel from a portion of 5085 Central Avenue NE (between 51st Avenue/CT NE and Central Avenue NE). The Site Plan Review will be contingent upon the successful application of a Minor Subdivision as a condition of approval since the subdivision will have to be approved by the City Council apart from the Site Plan Review, which only requires Planning Commission approval.

The applicant is proposing to subdivide the existing 1.67 acre parcel and remove 52 of the 135 parking spaces on-site to create two separate lots, the La Casita parcel would be 1.18 acres and the Chase Bank parcel (5075 Central Avenue) would be 0.48 acres. The subject site is located at the northern end of the municipal boundary along Central Avenue and the surrounding adjacent properties are all zoned for Commercial use through the General Business District; further to the south, east, and west of those commercial properties are pockets of multi-family, duplexes, and single-family residential zoning adjacent to Central Avenue.

The subject site is zoned, General Business District, and the use as a financial institution with a drive-thru ATM is permitted use in the district subject to Specific Development Standards 9.107 (18) for a drive-up facility. The proposed site plan demonstrates compliance with those standards as it is accessory to the financial institution use and served by a major collected or higher functional classification of roadway.

The proposed subdivision and site plan would reduce the required parking for the restaurant to 83 parking spaces which is below the minimum requirements of 91 parking spaces for the restaurant, a deficit of 8 spaces. A total of 20 parking spaces are required for the financial institution, one (1) per 300 gross floor area and up to nine (9) employees at any one time; the applicant is proposing 14 parking spaces creating a combined deficit of 14 spaces. A shared parking agreement is a necessary condition of approval subject to approval by the City Attorney and filed with the Anoka County Recorder's Office within 60 days after approval of the shared parking use to ensure that both uses have compliant parking. As conditioned, the proposed minor subdivision and site plan shall accommodate

vehicle access and stacking, performance standards, and subdivision regulations in accordance with City Code.

Boucher reviewed the issues and analysis:

COMPREHENSIVE PLAN

The City's 2040 Comprehensive Plan guides the subject site, as well as properties to the north, south, east and west for "commercial land use" with "medium density and low density residential" further to the south and east of the commercial parcels. The Plan describes the "commercial" designation as follows:

The Commercial land use designation is primarily located along major transportation corridors and includes a variety of retail uses, services, and office uses.

The subject site also lies within "Opportunity Area #2B" of the Comprehensive Plan which overlays the segment of the Central Avenue from 37th Avenue NE to the Fridley Border, specifically between Central Avenue NE and 49th Avenue NE. In this regard, the Plan identifies the area as having development potential for future commercial use. Some of the guiding principles for redevelopment include commercial uses with appropriate parking and pedestrian accesses to Central Avenue and emphasizing on businesses that provide goods or services that appeal to the community at large as well as the adjacent neighborhoods. This area is described as having an emphasis on providing sidewalks, four season landscaping, and lighting.

SITE PLAN REVIEW

1. Access

Access to the site is proposed from the southeast via 51st Court NE, a 50-foot wide public right of way, and a 27.3 foot existing driveway with directional marking proposed splitting a 24 foot drive aisle between the properties and marking the eastern egress as Do Not Enter for one-way traffic. There is a recorded nonexclusive mutual easement appurtenant, no. 664049.0 for driveway purposes, both vehicular and pedestrian, over the property that will provide access to both parcels from 51st Court NE. As a condition of approval, a cross access easement for vehicular movement is required to be filed and recorded to provide access perpetually for all current and future owners.

As shown on the submitted site plan, a row of 90-degree off-street parking stalls are located in the western corner of the site, along Central Avenue NE. In this regard, access to such row of parking is provided via a 24 foot divided aisle between the La Casita and Chase Bank structures, with the remaining spots located on the eastern side of the property.

2. Off-Street Parking

Supply Requirements. The submitted site plan illustrates a total of 14 off-street parking

stalls. The Zoning Ordinance requires 1 space per 300 sq. ft., gross floor area plus 6 stacking spaces for the one drive-through lane. The Zoning Ordinance also specifies that that employee parking is only required when the parking requirements are based on employee counts, as such, the parking requirements for financial institutions are determined by gross floor area/stacking spaces and not employee counts.

The proposed subdivision and site plan would reduce the amount of required parking for the restaurant to 83 parking spaces which is below the minimum requirements of 91 parking spaces for the restaurant, a deficit of eight (8) spaces. A total of 11 parking spaces are required for the financial institution, one (1) per 300 gross floor area; the applicant is proposing 14 parking spaces, a surplus of three (3) spaces creating a combined deficit of 5 spaces. Appropriately, two off-street parking spaces on the site has been designated as a disability stall (in accordance with the American Disability Act).

A shared parking agreement and transportation management plan are necessary conditions of approval and shall be subject to approval by the City Attorney and filed with the Anoka County Recorder's Office within 60 days after approval of the shared parking use to ensure that both uses have compliant parking. As conditioned, the proposed minor subdivision and site plan shall accommodate vehicle access and stacking, performance standards, and subdivision regulations in accordance with City Code.

Dimensional Requirements. The proposed off-street parking stalls meet the minimum dimensional requirements of the Ordinance (9 feet in width and 20 feet in depth, 18 feet for stalls which abut curbs) and the provided 24 foot-wide drive aisle is the minimum width required by the Ordinance.

Building and Parking Area Setbacks. Within GB zoning districts, the following parking area setbacks as imposed were presented.

The proposed minor subdivision and site plan configuration would result in with the setbacks for La Casita and Chase Bank were presented.

Both parcels will have building and parking lot setbacks that conform with 9.110 Commercial Districts (C) Lot dimension, height, and bulk requirements. The lot area, setback, height and lot coverage proposed satisfy these requirements.

3. Business Hours

It is understood that the financial institution is proposing traditional business hours of operation, Monday through Friday from 9 AM – 6 PM and Saturday from 9AM – 2 PM, with a 24 hour drive-thru ATM. The operating hours are anticipated to have peak demands occurring opposite the peak demands of the restaurant.

4. Trash

A trash enclosure is shown on the site plan on the eastern side of the property alongside a

portion of the parking lot and in the architectural renderings as being 6 feet, 6 inches from the slab and surrounded by at least three sides with screening walls that are similar to the construction material used on the banking facility. The open side of the enclosure shall not face any public street or the front yard of any adjacent property.

5. Signage

The applicant has not submitted drawings for on-site signage. Signs are required to have a building permit and are subject to review for compliance by City Staff. As a condition of approval, all signage shall be reviewed by the City for approval.

6. Fire Access

The fire lane shall be marked with yellow curb paint and signage that states “No Parking – Fire Lane”. As a condition of approval, this will be required to remain.

7. Pedestrian and Bicycle Access

The site has existing pedestrian access along the western side of the property in alignment with Central Avenue, the applicant is proposing sidewalk from the edge of the right-of-way connection as well as crosswalk areas across the parking lot to connect the parking area to the building and the City’s sidewalk system so pedestrians may access the site. It does not appear that the site provides access or parking of bicycles. The 2040 Comprehensive Plan land use goals state that sites should have pedestrian and bicycle access. Pedestrian access is satisfied, but the site should incorporate a bicycle parking area to satisfy this goal. Staff is recommending that a bicycle rack capable of accommodating four bicycles be a condition of approval.

8. Exterior Lighting

The applicant has provided a lighting plan and specifications for the proposed lighting fixtures satisfying the requirements of 9.106 General Development Standards (K) and addresses potential security concerns from Public Safety.

9. Loading Area

The applicant is not proposing any discernable loading areas and the code requirements for off-street loading spaces apply to non-residential uses receiving or distributing materials or merchandise by trucks or similar vehicles and has a gross floor area of 5,000 sq. ft. or more are not applicable to this proposal, the loading area requirements are satisfied per 9.106 General Development Standards (L) (12).

10. Landscaping and Screening

The landscaping and screening requirements described in 9.106 General Development Standards (M) includes submission of a landscaping plan showing location, size, quantity, and species of all existing and proposed plant materials subject to design standards and considerations reviewed by the Urban Forester. The applicant is proposing maintaining the two trees along 51st Court NE and two along Central, adding the required two trees along 51st Court NE, and adding landscaping in a five-foot-wide strip along the street and sidewalk as

well as providing landscaping along the parking lot and frontage containing native bee lawn seed and low maintenance turf seed. The combination of items described above meets the requirements of 9.106 General Development Standards (M). All rooftop or mechanical equipment shall be screened in a manner that minimizes the visual impact on adjacent properties and from public streets as a condition of approval.

11. Building Design

The proposed site is considered part of the Highway District in the City Design Guidelines and is subject to the standards and requirements of that design district. The proposed site plan demonstrates compliance with the design objectives of the Highway District, the building is set back from the street behind a parking lot and along a frontage road. The architectural renderings and site plan, as conditioned, show compliance with building configuration, façade and roof treatments, window and door openings, building equipment, drive-through facilities, landscaping and parking meet the design guidelines. Any proposed signage will be subject to the design standards as a condition of approval.

12. Sustainability

The applicant narrative details several project components that they state will contribute to sustainability practices including tree preservation and using native seed plantings, LED lighting, future use of solar panels, and LEED Silver certification as well as a reduction of overall impervious surface area by approximately 2,000 sq. ft.

13. Neighborhood Notification

As required, neighborhood notification of the minor subdivision and site plan review applications have been provided to property owners within 350 feet of the subject property.

At the time of this report, City Staff has received no comments.

14. Staff Review

The Public Works Department, Police Department, and Fire Department have been provided copies of the application materials. The Police Department was satisfied with the proposed site plan and had no concerns. The Fire Department had a few comments regarding the fire lane, keybox, and other fire related items that are conditions of approval.

In review of the application materials, Public Works/Engineering provided their department's requirements and comments on the proposed plat and site plan in a memo dated April 17, 2024. General comments and plat requirements include:

1. Scheduling a pre-construction conference prior to any land alteration activities beginning;
2. Showing proposed drainage and utility easements over any new drainage way/utility;
3. All stormwater best management practices (BMPs) shall have designated drainage and utility easements recorded with the Plat or as a separate document at Anoka County.

Public Works and Engineering reviewed the erosion control plan and SWPPP as part of the submitted plan sets and had additional comments and requirements that are included in the

attached memo, dated April 17, 2024 and added as conditions of approval for both the minor subdivision and site plan review.

These recommendations have been included in the minor subdivision and site plan approval language as conditions of approval.

FINDINGS OF FACT

Section 9.104 (N) of the Zoning Ordinance outlines certain findings of fact that must be met in order for the City to approve a site plan review. The findings are as follows:

(a) *The site plan conforms to all applicable requirements of this article.*

Upon approval of both the Minor Subdivision and Site Plan Review, as conditioned, the proposed site plan will conform to all applicable requirements of the General Business (GB) District as well as City Code 9.106 General Development Standards.

(b) *The site plan is consistent with the applicable provisions of the City's comprehensive plan.*

The use and site plan is consistent with the applicable provisions of the City's comprehensive plan.

(c) *The site plan is consistent with any applicable area plan.*

With conditions imposed to ensure compatibility, the site plan will be consistent with the applicable Design Guidelines of the Highway District.

(d) *The site plan minimizes any adverse impacts on property in the immediate vicinity and the public right-of-way.*

As conditioned, the site plan minimizes any adverse impacts on property in the immediate vicinity and the public right-of-way.

Recommendation: Staff recommends the following to the Planning Commission:

- A. Approval of the Site Plan Review for property located at 5085 Central Avenue (PID: 25-30-24-22-0065) subject to the following conditions:
1. The Site Plan Review is contingent upon approval of the Minor Subdivision per Resolution No. 2024-036.
 2. The building and site plans adhere to the building and site plans dated April 1, 2024 as conditioned.
 3. The applicant shall adhere to the requirements and comments provided by the City Public Works and Engineering Departments in a memo dated April 17, 2024. The applicant is responsible for filing and recording any proposed easements with Anoka County Recorder's Office.
 4. A cross access easement for vehicular movement is required to be filed and recorded with Anoka County Recorder's Office to provide access perpetually for all current and future owners.

5. A shared parking agreement and transportation management plan are necessary conditions of approval and shall be subject to approval by the City Attorney and filed with the Anoka County Recorder's Office within 60 days after approval of the shared parking use to ensure that both uses have compliant parking.
6. The applicant is required to maintain a 20 foot fire lane and shall be stripped with "No Parking – Fire Lane".
7. All rooftop or mechanical equipment shall be screened in a manner that minimizes the visual impact on adjacent properties and from public streets as a condition of approval.
8. The building and site shall be meet all requirements found in the Fire Code and the Building Code.
9. All new site signage shall require sign permits.
10. The open side of the enclosure shall not face any public street or the front yard of any adjacent property.
11. Provide a bicycle rack capable of accommodating four bicycles.
12. The applicant is required to receive final approval by the Fire Department or Authority Having Jurisdiction for the location of the keybox, fire alarm panel, fire annunciator, and FDC connection.
13. All required State and local codes, permits, licenses, and inspections will be met and in full compliance.

Questions/Comments from Members:

Maameri asked if there has been research done on the average influx of cars to a bank to see if the turn lane will be sufficient or if traffic will be redirected to the stoplight. Boucher turned it over to the applicant to discuss what has been done engineering-wise to address the traffic.

Timothy R. Meseck, The Architects, LTD, stated the bank has a very low turnover and will be operating in the off hours of the restaurant, so there should not be any traffic concerns.

Public Hearing Opened.

There were no public comments.

Public Hearing Closed.

Motion by Moses, seconded by Kaiser, to waive the reading of the draft Resolution 2024-037, a Site Plan Review for 5075 Central Avenue NE, there being ample copies available to the public. All ayes. MOTION PASSED.

Motion by Maameri, seconded by Gianoulis, to recommend the Planning Commission approve draft Resolution 2024-037, a Site Plan Review for 5075 Central Avenue NE, as presented and subject to the conditions of approval listed in the draft resolution. All ayes. MOTION PASSED.

OTHER BUSINESS

No other business to discuss.

ADJOURNMENT

Chair Wolfe adjourned the meeting at 8:44 pm.

Respectfully submitted,

Alicia Howe, Administrative Assistant

AGENDA SECTION	PUBLIC HEARINGS
MEETING DATE	AUGUST 7, 2024

ITEM:	Zoning Ordinance Amendments to amend Chapter 9 – Land Use: <div> <div>9.103 Definitions</div> <div>9.104 Administration and Enforcement</div> <div>9.105 Nonconformities</div> <div>9.106 General Development Standards</div> </div> <div> <div>9.107 Specific Development Standards</div> <div>9.109 Residential Districts</div> <div>9.110 Commercial Districts</div> <div>9.111 Industrial Districts</div> </div>	
DEPARTMENT:	Community Development	BY/DATE: Andrew Boucher, City Planner July 18, 2024

CASE NUMBER: 2024-PZ06

APPLICANT: The City of Columbia Heights

LOCATION: Citywide

REQUEST: Zoning Ordinance Amendment

PREPARED BY: Andrew Boucher, City Planner

INTRODUCTION:

At the July Work Session, staff briefed City Council on discussed potential amendments and updates to City Zoning Code – Chapter 9 Land Use based on observations, feedback, and recommendations from staff and community members to provide more flexibility in the Zoning Code that reflect the needs of the community while encouraging consistency as future development occurs.

Some of these updates include 9.103 Definitions for uses that are presently allowed in residential, commercial, and industrial districts and have specific development standards but are not currently defined in code such as: arcade, billiards hall, consignment/secondhand store, firearms dealer, professional service, professional studio, etc. These definitions will also more accurately reflect housing and family trends as currently there are no definitions for single-family dwelling, two-family dwellings, and rental unit. Other changes will include an amendment to the existing definition of “*Family*” to remove unrelated occupancy maximums, new definitions for “*Dwelling Unit, Accessory*” and “*Family, Shared Living Arrangement*” to reflect current housing trends and a growing need to reduce housing expenses while encouraging social contact, mutual support, and assistance amongst diverse communities.

9.104 Administration and Enforcement includes language to allow minor subdivisions (lot line adjustments) to be approved through administrative review if the proposal does not require additional right-of-way or alters utility easements. Language in 9.105 Nonconformities is proposed to be amended to be consistent with MN Statute 934.36 Nonconformities Subd. 4. Nonconformities; certain classes of property.

9.106 General Development Standards includes language to clarify the square footage requirement for building permits for accessory structures from 120 sq. ft. to 200 sq. ft. as well as introducing standards for accessory dwelling units. Other sections of 9.106 General Development Standards being updated include establishing a process for reviewing artificial turf through the existing code for Land Alteration to demonstrate

that the proposed turf is permeable, the types of materials used, and whether there is a potential for illicit discharge, and Tree Preservation and Planting Standards will address turf as an impervious surface unless a land disturbance permit is issued and approved. Off-street parking and loading clarifies the parking requirements for residential care facilities (6 or fewer) and (7 or more) to reflect the single-family parking requirements for facilities serving (6 or fewer). A maximum paving of 50% of the front yard setback for residential properties is being introduced. Building Design and Sign Regulations are being updated to allow for painted public art and murals.

9.107 Specific Development Standards includes removing any seasonal sales stands that explicitly have development standards and including these uses under “Seasonal Sales Stands”; updating the outdoor play area requirements for “Day Care, Home” to reflect the language for Adult and Child Day Care Centers; and amending the Residential Care Facility standards to exempt facilities serving six or fewer residents from the distance radius and zoning regulations except as otherwise required by law.

9.109 Residential Districts includes streamlining the list of permitted accessory uses in all residential districts as well as allowing accessory dwelling units as a permitted accessory use for single-family properties and for shared family living arrangements. One significant change is to establish an impervious surface coverage maximum for residential lots instead of building coverage maximum; these percentages are the same as was required for building coverage; 35% impervious surface coverage for lots less than 6,500 sq. ft. and 30% for lots greater than 6,500 sq. ft.. Another significant change is to utilize the language used to address minimum lot areas for duplexes in the R-2B district and use that same language to address the minimum lot area and lot width for single family residences in the R-2A, R-2B, R-3, and R-4 districts to remove the legal nonconforming status for properties below that minimum lot area of 6,500 sq. ft. as this significantly restricts these properties. For the R-2A and R-2B, One/Two Family Residential and Built-As-Duplex districts, twinhome and duplexes are proposed to be permitted uses by law.

9.110 Commercial Districts and 9.111 Industrial Districts will include adjustments to uses that were previously conditional uses, but did not have specific development standards or standards that are being addressed through performance standards as well as allowing Seasonal Sales Stands as permitted accessory uses.

Staff Review

Staff has consulted with the Public Works and Engineering, Fire, and Police Departments and received no comments on the proposed zoning text amendments.

ZONING ORDINANCE AMENDMENT

FINDINGS OF FACT

Section 9.104 (F) of the Zoning Ordinance outlines certain findings of fact that must be met in order for the City to grant approval for a zoning amendment. The findings are as follows:

(a) The amendment is consistent with the comprehensive plan.

The City’s 2040 Comprehensive Plan identifies strengthening the identify and image of the community as a desirable place to live, work, and play as well as preserving and enhancing the existing viable commercial and industrial areas within the community. The zoning code amendments proposed will

help achieve more consistency with the 2040 Comprehensive Plan.

(b) *The amendment is in the public interest and is not solely for the benefit of a single property owner.*

The zoning text amendments remove certain barriers that commercial business operators and homeowners have experienced and enables more flexibility in the zoning code by ensuring consistency across zoning districts.

(c) *Where the amendment is to change the zoning classification of a particular property, the existing use of the property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification.*

The amendment is not to change the zoning classification of a particular property.

(d) *Where the amendment is to change the zoning classification of a particular property, there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its current zoning classification.*

The amendment is not to change the zoning classification of a particular property.

RECOMMENDATION

Staff recommends that the Planning Commission recommend the following to the City Council:

- A. Approval of Draft Zoning Ordinance Amendment No. 1700 amending City Code 9.103 Definitions, 9.104 Administration and Enforcement, 9.105 Nonconformities, 9.106 General Development Standards, 9.107 Specific Development Standards, 9.109 Residential Districts, 9.110 Commercial Districts, and 9.111 Industrial Districts as presented.

RECOMMENDED MOTION(S):

MOTION: Move to waive the reading of draft Ordinance amendment No. 1700, there being ample copies available to the public.

MOTION: Move to recommend that the Planning Commission give a positive recommendation on draft Ordinance amendment No. 1700 to City Council to approve draft Zoning Ordinance Amendment No. 1700 as presented.

ATTACHMENT(S):

[Work Session Memo from July 1, 2024](#)

[Draft Ordinance No. 1700](#)

[Public Hearing Notice](#)

CITY COUNCIL WORK SESSION MEETING

AGENDA SECTION	WORK SESSION ITEM
MEETING DATE	JULY 1, 2024

ITEM:	Discussion on Zoning Updates								
DEPARTMENT: Community Development		BY/DATE: Andrew Boucher, City Planner; June 27, 2024							
<p>CORE CITY STRATEGIES: <i>(please indicate areas that apply by adding an "X" in front of the selected text below)</i></p> <table> <tr> <td><input checked="" type="checkbox"/> Healthy and Safe Community</td> <td><input type="checkbox"/> Thriving and Vibrant Destination Community</td> </tr> <tr> <td><input type="checkbox"/> Equitable, Diverse, Inclusive, and Friendly</td> <td><input checked="" type="checkbox"/> Strong Infrastructure and Public Services</td> </tr> <tr> <td><input type="checkbox"/> Trusted and Engaged Leadership</td> <td><input checked="" type="checkbox"/> Sustainable</td> </tr> </table>				<input checked="" type="checkbox"/> Healthy and Safe Community	<input type="checkbox"/> Thriving and Vibrant Destination Community	<input type="checkbox"/> Equitable, Diverse, Inclusive, and Friendly	<input checked="" type="checkbox"/> Strong Infrastructure and Public Services	<input type="checkbox"/> Trusted and Engaged Leadership	<input checked="" type="checkbox"/> Sustainable
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<input type="checkbox"/> Trusted and Engaged Leadership	<input checked="" type="checkbox"/> Sustainable								

BACKGROUND:

Staff has been tracking opportunities to update the City Zoning Code based on observations, feedback, and recommendations from staff and community members to provide more flexibility in the Zoning Code that reflect the needs of the community while encouraging future development.

Some of these updates include providing definitions in code for uses that are presently allowed in residential, commercial, and industrial districts and have specific development standards but are not currently defined in code. Examples of these include *concrete, asphalt, rock crushing operations; consignment/secondhand stores, currency exchange, etc.* These definitions will more accurately reflect housing and family trends as currently there are no definitions for single-family dwelling, two-family dwellings, and rental unit. Other changes will include an amendment to the existing definition of "*Family*" to remove unrelated occupancy maximums, new definitions for "*Dwelling Unit, Accessory*" and "*Family, Shared Living Arrangement*" to reflect current housing trends and a growing need to reduce housing expenses while encouraging social contact, mutual support, and assistance amongst diverse communities.

Other focus areas will include examining the current General and Specific Development Standards with consideration to off-street parking and loading requirements, building design standards to allow for painted murals on existing buildings as well as providing guidance for other forms of public art, and creating a more streamlined sign code.

STAFF RECOMMENDATION:

Staff recommends bringing zoning code updates to the next Planning Commission meeting on August 7, 2024.

CITY OF COLUMBIA HEIGHTS
PLANNING COMMISSION

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Planning Commission of the City of Columbia Heights will conduct a public hearing in the City Council Chambers of City Hall at 3989 Central Avenue NE on Wednesday, August 7, 2024, at 6:00 p.m. The order of business is as follows:

A request for a Zoning Text Amendment from the City of Columbia Heights proposing to amend City Code Chapter 9 – Land Use; specifically, Sections 9.103 Definitions, 9.104 Administration and Enforcement, 9.105 Nonconformities, 9.106 General Development Standards, 9.107 Specific Development Standards, 9.109 Residential Districts, 9.110 Commercial Districts, and 9.111 Industrial Districts. Section 9.104 (F) of the Zoning Ordinance requires the Planning Commission to hold a public hearing on the zoning amendment and make findings before submitting a recommendation to City Council.

Notice is hereby given that all persons having an interest will be given an opportunity to be heard. For questions and a full description of the zoning amendments being proposed, please contact Andrew Boucher, City Planner, at (763) 706-3673.

ORDINANCE NO. 1700

**AN ORDINANCE AMENDING CHAPTER 9 – LAND USE OF THE CITY CODE OF 2005
TO AMEND 9.103 DEFINITIONS, 9.104 ADMINISTRATION AND ENFORCEMENT, 9.105 NONCONFORMITIES,
9.106 GENERAL DEVELOPMENT STANDARDS, 9.107 SPECIFIC DEVELOPMENT STANDARDS, 9.109
RESIDENTIAL DISTRICTS, 9.110 COMMERCIAL DISTRICTS, AND 9.111 INDUSTRIAL DISTRICTS.**

The City of Columbia Heights does ordain:

Section 1

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

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

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

ACCESSORY BUILDING OR STRUCTURE. A building or structure or portion of a structure subordinate to and serving the principal structure on the same lot.

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

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

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

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

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

ADULT USE, PRINCIPAL. The offering of goods and/or services which are classified as adult uses as a primary or sole activity of a business or establishment and include, but are not limited to adult body painting studios,

adult bookstores, adult cabarets, adult companionship establishments, adult conversation parlors, adult health clubs, adult theaters, adult modeling studios, and adult saunas and massage parlors.

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

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

ARCADE. A place or facility where pinball or other similar electronic games are played for amusement only. Shall not be construed so as to include bingo games nor shall it be construed so as to include gambling devices or any other devices prohibited by law.

ASSEMBLY, MANUFACTURING AND/OR PROCESSING. Any manufacturing or industrial production which by the nature of the materials, equipment, and process utilized are not objectionable by reason of odor, radiation, noise, vibration, gas fumes, dust, smoke, refuse matter or water-carried waste.

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

AUDITORIUM/PLACE OF ASSEMBLY. An open, partially enclosed, or fully enclosed facility used or intended to be used primarily for spectator sports, entertainment events, expositions, and other public gatherings. Typical uses include convention and exhibition halls, sports arenas, and amphitheaters.

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

AUTOMOBILE AND MOTORCYCLE SALES/RENTAL NEW. The use of any building, land area, or other premises or portion thereof, for the display, sale, or lease of new automobiles, panel trucks or vans, trailers, or recreational vehicles and including any warranty repair work and other repair service conducted as an accessory use.

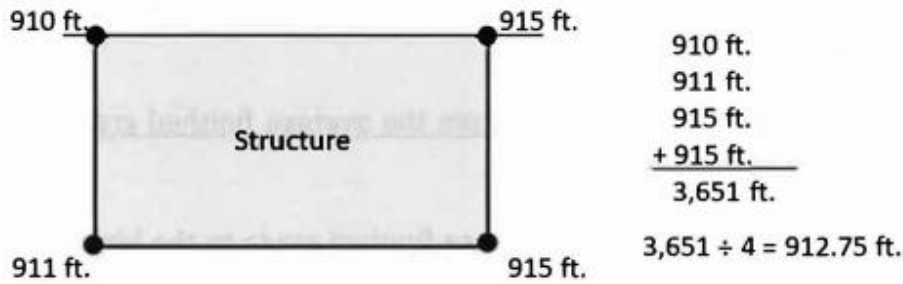
~~AUTO AND TRUCK SALES LOT. Buildings and premises for automobile/truck sales and show rooms with incidental and accessory sales and service facilities also permitted but not required.~~

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

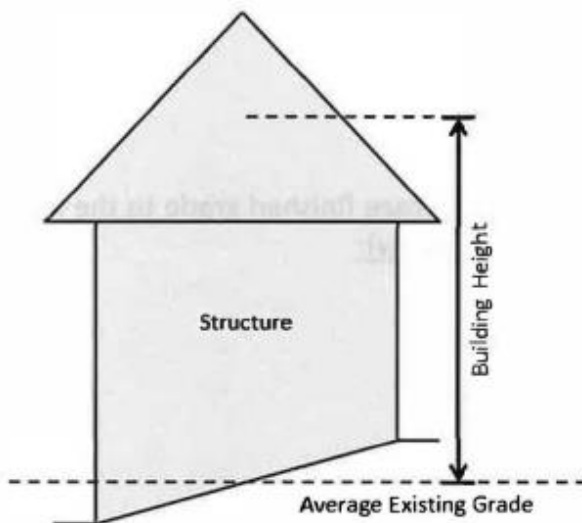
AUTOMOBILE, USED. Any secondhand, previously owned passenger vehicle, car, or truck.

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

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



The structure's average existing grade is 912.75 feet



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

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

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

BAY. Cantilevered portion of a building.

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

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

BILLIARDS HALL. A business establishment containing more than two pool or billiard tables for the use of patrons.

BOARD OF ADJUSTMENTS. The Columbia Heights Planning Commission.

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

BODY PIERCING SHOP. The practice of physical body adornment by establishments and artists using the techniques of body piercing,

BOWLING ALLEY. Indoor facility for the sport of ten-pin or duck-pin bowling, with customary accessory uses such as snack bars.

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

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

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

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

BUILDING. Any roofed structure that may provide shelter or enclosure of persons, animals or chattel.

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

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

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

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

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

CARETAKER'S RESIDENCE. An accessory dwelling on a nonresidential premises, occupied by the person who oversees the nonresidential operation 24 hours a day, and his or her family.

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

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

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

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

CLINIC, VETERINARY. A place used for the diagnosis and treatment of sick or injured animals and those animals in need of medical attention within a completely enclosed building with soundproofing and odor control, does not include outdoor kennels.

CLUB OR LODGE. An organization and its premises catering exclusively to members and their guests for social, intellectual, recreational, or athletic purposes that are conducted for profit; includes lodge.

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

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

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

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

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

CONCRETE, ASPHALT, ROCK CRUSHING OPERATION. A plant for the manufacture, mixing, and crushing of concrete, cement, and concrete and cement and rock products, including any apparatus and uses incident to such manufacturing and mixing.

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

CONSIGNMENT/SECONDHAND STORE. Retail sales of previously used merchandise, such as clothing, household furnishings or appliances, sports/recreational equipment. This classification does not include secondhand motor vehicles, parts, or accessories.

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

COUNCIL. The Columbia Heights City Council.

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

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

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

CURRENCY EXCHANGE. Any person, except a bank, trust company, savings bank, savings and loan association, credit union, or industrial loan and thrift company, engaged in the business of cashing checks, drafts, money orders, or travelers' checks for a fee. Does not include a person who provides these services incidental to the person's primary business if the charge for cashing a check or draft does not exceed one dollar or 1 percent of the value of the check or draft, whichever is greater.

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

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

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

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

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

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

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

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

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

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

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

DROP-IN FACILITY. A facility operated by an organization which provides services such as training, counseling, health, or the distribution of food or clothing. This term includes but is not limited to a facility offering life skills training, substance abuse counseling, housing services, or a neighborhood recovery center. This term does not include an emergency residential shelter.

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

DWELLING UNIT, ACCESSORY. A separate, complete housekeeping unit with a separate entrance, kitchen, sleeping area, and full bathroom facilities, which is an internal, attached or detached extension to an existing single-family structure.

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

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

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

DWELLING, SINGLE-FAMILY. Any building that contains one dwelling unit used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied or occupied for living purposes.

DWELLING, TOWNHOUSE. A single-family dwelling unit constructed in a group of two or more attached units in which each unit extends from the foundation to the roof and having open space on at least two sides of each unit. Each single-family dwelling unit shall be considered to be a separate building. Separate building service utilities shall be provided to each single-family dwelling unit when required by other chapters of the State Building Code. Attached dwelling units, each with a separate entrance to front and rear yards.

DWELLING, TWO-FAMILY. Any building that contains two separate dwelling units with separation either horizontal or vertical on one lot that is used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or occupied for living purposes.

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

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

EQUAL DEGREE OF ENCROACHMENT. A method of determining the location of encroachment lines so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows. This

as determined by considering the effect of encroachment on the hydraulic efficiency of the flood plain along both sides of a stream for a significant reach.

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

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

FAMILY. Any number of persons living together as a single housekeeping unit under a common housekeeping management plan. ~~An individual, or two or more persons each related by blood, marriage or adoption, living together as a single housekeeping unit; or a group of not more than four persons not so related, maintaining a common household and using common cooking and kitchen facilities.~~

FAMILY, SHARED LIVING ARRANGEMENT. The occupancy of a dwelling unit by persons of more than one family in order to reduce housing expenses and to provide social contact, mutual support, and assistance.

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

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

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

FIREARMS DEALER. Any person engaged in the sale, lease, trade, or other transfer of firearms or ammunition at wholesale or retail. Firearms dealer shall not include any person engaged only in the business of repairing firearms.

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

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

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

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

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

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

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

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

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

FREIGHT TERMINAL. A transportation facility in which quantities of goods or container cargo are stored without undergoing any manufacturing processes, transferred to other carriers, or stored outdoors in order to transfer them to other locations

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

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

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

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

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

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

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

GOLF COURSE. A tract of land laid out with a least nine holes for playing a game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse, restrooms, driving range, and shelters as accessory uses.

GOVERNMENT PROTECTIVE SERVICE FACILITY. An establishment for training state and local law enforcement, fire safety, national guard, or transit personnel and accessory facilities including but not limited to: (1) dining and overnight accommodations; (2) classrooms; (3) indoor shooting ranges; (4) auto test tracks; and (5) fire suppression simulations.

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

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

GREENHOUSE, RESIDENTIAL. A seasonal/temporary accessory building or structure constructed chiefly of glass, glasslike or translucent material, cloth, or lath, which is devoted to the protection or cultivation of flowers or other tender plants.

HEALTH/FITNESS CLUBS. An establishment that provides exercise facilities such as running, jogging, aerobics, weight lifting, court sports, and swimming, as well as locker rooms, showers, massage rooms, saunas and related accessory uses.

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

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

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

HOME OCCUPATION. Any gainful occupation or profession engaged in by an occupant of a dwelling unit. Such use must be clearly incidental and secondary to the principal use of the dwelling for residential purposes

and shall not change the residential character of the dwelling or have an adverse effect on adjacent properties nor constitute a nuisance or safety hazard.

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

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

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

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

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

KENNEL, ANIMAL (ANIMAL SHELTER). Any premises where three or more non-caged domestic animals over six months of age are kept, except for an animal hospital, pet shop or veterinary clinic. "Animal kennels" and "animal shelters" include animal daycare uses such as "doggie daycare" and incidental grooming, walking and/or training services.

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

LIQUOR STORE, OFF-SALE. Establishments engaged in the sale of alcoholic beverages for off-premises consumption.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MAINTENANCE FACILITY. An establishment providing routine maintenance of buildings. This term includes but is not limited to an establishment performing window washing, building cleaning, pest extermination or a disinfecting service.

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

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

MEDICAL LABORATORY. A facility offering diagnostic or pathological testing and analysis of blood, blood fluids, pathological specimens, DNA sampling and analysis, and any other diagnostic test generally recognized in the healthcare industry.

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

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

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

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

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

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

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

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

MUSEUM/GALLERY. A room or structure in which original works of art or limited editions of original art are bought, sold, loaned, appraised, or exhibited to the general public.

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

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

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

OBSTRUCTION. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood hazard area which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.

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

OFFICE/SHOWROOM. A structure designed for the display of goods for sale, such as appliances, cars, or furniture with an office as an accessory use.

OFFICE/WAREHOUSE. Facilities characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or nuisances such as dust, noise, and odors, but not involved in manufacturing or production.

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

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

OPAQUE. Impervious to the passage of light.

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

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

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

OUTDOOR SALES/DISPLAY. An outdoor arrangement of objects, items, products, or other materials, typically not in a fixed position and capable of rearrangement, designed and used for the purpose of advertising or identifying a business, product, or service.

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

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

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

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

PARKING RAMP. A structure designed and used for the storage of motor vehicles at, below, or above grade or a combination thereof that does not consist solely of an at grade outdoor parking area.

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

PAWN SHOP. A business establishment operated by a pawnbroker.

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

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

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

PLACE OF WORSHIP. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which buildings and uses are maintained and controlled by a religious body organized to sustain regular public worship. May include a convent, monastery, or other religious residence when accessory to a place of worship or religious facility.

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

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

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

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

PLAYGROUND. An area developed for active play and recreation that may contain courts for such games as basketball or tennis

PRECIOUS METALS. Gold, silver or platinum.

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

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

PRINTING/PUBLISHING. An establishment in which the principal business consists of duplicating and printing services using photocopy, blueprint, or offset printing equipment, including publishing, binding, and engraving.

PROFESSIONAL SERVICE. An establishment or place of business primarily engaged in the provision of frequent or recurrent needed services of a personal nature. Typical uses include, but are not limited to, beauty and barber shops, shoe repair shops, and tailor shops.

PROFESSIONAL STUDIO. Work space for artists or other commercial professional, including individuals practicing one of the fine arts or skilled in an applied art, craft, or trade that requires a working area.

PUBLIC ART. A fountain, sculpture, painting, mural, or similar object that is sited within a planned development as a focal point and is intended for the enjoyment of the general public.

PUBLIC PARK. A natural or landscaped area, buildings, or structures, provided by a unit of government, to meet the active or passive recreational needs of people.

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

RADIO AND TELEVISION, STUDIO. All uses related to the production of motion pictures and television film and tape as well as radio recordings, including motion picture and television stages; exterior sets; laboratories; construction, repair, and storage facilities; caretaker and temporary housing; all vehicles used to transport this equipment and other related commercial vehicles; and accessory fabrication activities.

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

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

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

REGIONAL FLOOD. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term base flood used in the flood insurance study.

RENTAL UNIT. A licensed dwelling designed for use and occupancy by persons other than the owners.

RESIDENTIAL CARE FACILITY. A licensed public or private facility, which, for gain or otherwise, regularly provides one or more dependents with 24-hour-a-day substitute for the care, food, lodging, training, supervision, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the dependent's own home. The term includes facilities that are licensed by the Minnesota Department of Health, foster homes, residential treatment facilities, maternity shelters, group homes, schools for challenged children, and homes for battered children or spouses. Such term shall not include any facility eligible for licensure by the Minnesota Department of Corrections. **Residential care facilities serving six or fewer dependents are considered permitted uses in all residential zoning districts where single family residences are permitted subject to the same regulations.**

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

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

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

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

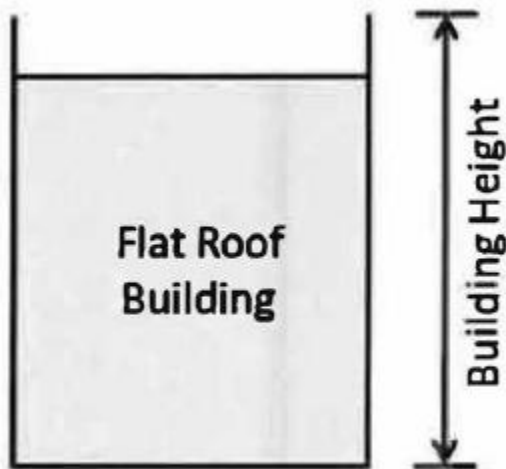
- (1) Less than 50% of the gross floor area is devoted to customer dining.
- (2) A permanent menu board is provided from which to select and order food.
- (3) If a chain or franchised restaurant, standardized floor plans are used over several locations.
- (4) Customers pay for food before consuming it.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

RETAIL SALES, LIMITED (LIMITED RETAIL SALES). Retail sales of products manufactured, process, or delivered in bulk and repackaged for sale on the site, provided that the sales area does not exceed 20% of the gross floor area of the principal building and must adhere to the performance standards set forth in section 9.106.

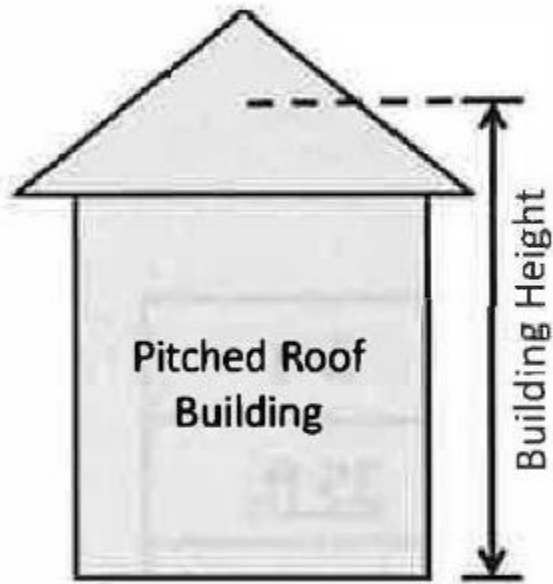
RIGHT-OF-WAY. An area or strip of land, either public or private, upon which a right-of-passage has been recorded for the use of vehicles, including trains, or pedestrians or both.

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

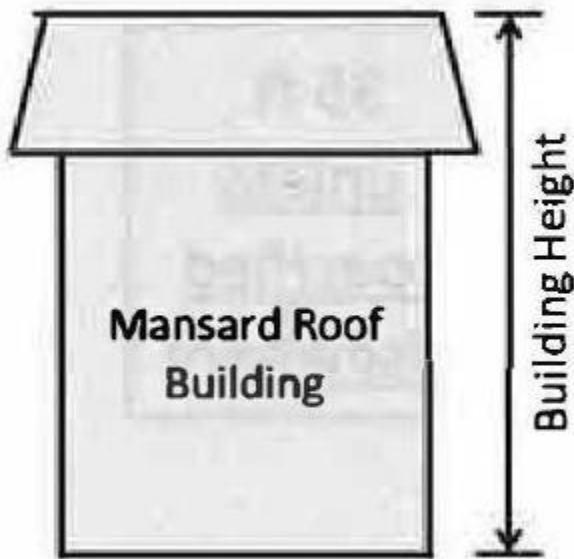
ROOF HEIGHT, FLAT. The height of a flat roof is measured as the average finished grade to the highest point on the roof (see example below):



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



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



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

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

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

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

SALVAGE OPERATION/TRANSFER STATION. Structures or systems designed for the collection, processing, or disposal of solid wastes, including hazardous wastes, and includes transfer stations, processing plants, recycling plants, and disposal systems.

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

SCHOOL, K-12. A public, private, or parochial school offering instruction at the elementary, junior, and/or senior high school levels in the branches of learning and study required to be taught in the public schools of the [state].

SCHOOL, PERFORMING/VISUAL/MARTIAL ARTS. A school where classes in the various arts (e.g. dance, painting, theater, martial) are taught to four or more persons at a time.

SCHOOL, VOCATIONAL/BUSINESS. A specialized instructional establishment that provides on-site training of business, commercial, and/or trade skills.

SEASONAL SALES STANDS. An open-air facility which sells seasonal products directly to customers on site. These products include, but are not limited to, produce, fireworks, greenhouses containing trees and plants or other seasonal goods.

SELF-SERVICE STORAGE FACILITY. A building or group of buildings divided into separate compartments used to meet the temporary storage needs of small businesses, apartment dwellers, and other residential uses; and may include refrigerated facilities

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

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

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

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

SHORE IMPACT ZONE. The land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50% of the required structure setback for the applicable lake or river classification.

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

SHOOTING RANGE. Any building or premises where there are facilities of any sort for the firing of handguns, rifles, or other firearms.

SIGN. A structure, device, advertisement, advertising device or visual representation intended to advertise, identify or communicate information to attract the attention of the public for any purpose and without prejudice to the generality of the foregoing. A sign includes any symbols, letters, figures, graphics, or forms painted or otherwise affixed to a building or structure intended to attract the attention of the public for any purpose. This definition includes a structural or nonstructural device that borders, illuminates, animates or projects the visual representation. Signage displayed through public art displays or murals shall be subject to the sign area requirements identifying a single continuous perimeter enclosing the extreme limits of such sign.

(1) SIGN AREA. The entire area within a single continuous perimeter enclosing the extreme limits of such sign. Such perimeter shall, in no case, pass through or between any adjacent elements of such sign. In the case of a sign designed with more than one exterior surface, the area shall be computed as including only the maximum single display surface, which is visible from any ground position at one time, except when the signage includes a public art display or mural component. The supports, uprights, or structures on which any sign is supported, which do not form an integral part of the display, are not included in the sign area.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SIGN, INSTITUTIONAL. A sign used by an institution.

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

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

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

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

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

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

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

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

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

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

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

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

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

SIGNIFICANT HISTORIC SITE. An archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites or is determined to be an unplatted cemetery that falls under the provisions of the M.S. § 307.08; or successor statutes. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archaeologist or the director of the Minnesota Historical Society.

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

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

SPECIFIED SEXUAL ACTIVITIES. Activities including: (1) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or, (2) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or, (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation; or, (4) Fondling or touching of nude human genitals, pubic region, buttocks or female breast; or, (5) Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such

persons; or, (6) Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or, (7) Human excretion, urination, menstruation, vaginal or anal irrigation.

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

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

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

STRUCTURE. Anything constructed or erected, the use of which requires more or less permanent location on the ground or attachment to something having a permanent location on the ground. When a structure is divided into separate parts by an unpierced wall, each part shall be deemed a separate structure.

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

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

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

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

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

TATTOO SHOP. Any room or space where tattooing is performed for compensation. Tattooing means a placement in human tissue of any indelible design, letter, scroll, figure, symbol, or other mark placed with the aid of needles or other instruments; or any design, letter, scroll, figure, or symbol done by scarring upon or under the skin.

THEATER, LIVE PERFORMANCE/MOVIE. An establishment for the performing arts with open-air seating for audiences. Such establishments may include related services such as food and beverage sales and other concessions.

TRANSITIONAL/EMERGENCY HOUSING. A facility, other than a community living arrangement, managed by a public or nonprofit agency that provides short-term housing and a protective sanctuary for victims of fire, natural disaster, economic hardship, crime, abuse, or neglect, including emergency housing during crisis intervention for victims of rape, child abuse, or physical beatings which contains individual sleeping rooms and may or may not have food preparation facilities and private shower or bath facilities.

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

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

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

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

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

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

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

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

WAREHOUSING AND/OR DISTRIBUTION. A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, excluding bulk storage of materials that are inflammable or explosive or that present hazards or conditions commonly recognized as offensive.

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

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

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

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

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

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

Section 2

The following administrative processes are amended or deleted as provided in Section 9.104 of the City Code of 2005, is hereby established to read as follows:

(A) General provisions.

(1) Purpose. This article sets forth the procedures required for the administration of this article, outlines the powers and duties of the officials and bodies charged with such administration, establishes standards for required approvals, and provides enforcement in a manner which protects the public health, safety and general welfare.

(2) Concurrent review. In order to provide for the efficient administration of this article, all applications for a single project or proposal that require multiple actions shall be processed concurrently.

(3) Substantially similar uses. Whenever an application contains a use not specifically included in this article, the Zoning Administrator shall issue a statement of clarification, finding that the use is either substantially similar in character and impact to a use regulated in this article or that the use is not substantially similar to any other use regulated in this article. If the use is not substantially similar to any other use regulated in this article, the use shall be prohibited.

(B) Authority and duties for administration.

(1) Authority. The following city officials and bodies, without limitation upon such authority as each may possess by law, have responsibility for implementing and administering this article:

- (a) Zoning Administrator;
- (b) Development Review Committee;
- (c) Planning Commission;
- (d) City Council.

(2) Zoning Administrator.

(a) Authority. The Zoning Administrator shall be appointed by the City Manager to administer and enforce the provisions of this article.

(b) Duties. The Zoning Administrator shall have the following responsibilities:

- 1. Conduct inspections of buildings and uses of land to determine compliance with the provisions of this article.
- 2. Maintain permanent and current records of this article, including, but not limited to, all associated maps, amendments, conditional uses, variances, and appeals.
- 3. Receive, file and forward all applications for appeals, variances, conditional use permits, interim use permits, zoning ordinance amendments, vacations, minor subdivisions, preliminary plats, final plats or other matters to the appropriate decision-making body.
- 4. Make a determination of compliance with this article on all applications for building permits and certificates of occupancy.
- 5. Provide zoning information to residents and others upon request.
- 6. Interpret the provisions of this article.

(3) Development Review Committee.

(a) Authority. The membership of the Development Review Committee shall be city staff members as appointed by the City Manager.

(b) Duties. The Development Review Committee shall have the following responsibilities:

- 1. Review plans and plats for conformance with the technical requirements of this article.
- 2. Make recommendation to the Planning Commission and City Council regarding applications for development or land use approvals.

(4) Planning Commission.

(a) Authority. The Planning Commission shall be appointed by the City Council.

(b) Duties. The Planning Commission shall have the following responsibilities:

1. Hear and make recommendations to the City Council regarding all applications for a conditional use permit or an amendment to a conditional use permit.
2. Hear and make the final decisions on all applications for an interim use as defined in this article.
3. Hear and make recommendations to the City Council regarding all applications for an amendment to this article, both text amendments and amendments to the district boundaries on the official zoning map.
4. Hear and make recommendations to the City Council regarding all applications for minor subdivisions, preliminary plats and final plats.
5. Review, hold public hearings, and prepare recommendations on any changes to the City's Comprehensive Plan.
6. Review this article from time to time and make recommendations to the City Council that changes be initiated.
7. Hear and make recommendations on any other matter referred to it by the City Council.

(c) Board of Appeals and Adjustment duties. In accordance with M.S. § 462.354, as it may be amended from time to time, the City Council has designated the Planning Commission as the Board of Appeals and Adjustments. As such, the Planning Commission shall have the following additional responsibilities:

1. Hear and make decisions on all applications for an appeal of any administrative order, requirement, determination or final decision made by the Zoning Administrator or other official in the administration of this article.

2. Hear and make decisions on all applications for a variance from the literal provisions of this article.

(5) City Council.

(a) Authority. The City Council shall have the authority given to it by state statutes.

(b) Duties. The City Council shall hear and make the final decision on all matters identified as requiring City Council action in this article.

(C) General application procedures.

(1) Applications. All applications for land use or development approval shall be made on the appropriate application, as approved by the city and available from the Community Development Department. The application shall be accompanied by detailed written and graphic materials fully explaining the proposed development or land use change, as required by the Zoning Administrator. The application shall also be accompanied by the appropriate fee, proof of legal interest in the property, and two copies of a list of property owners within 350 feet of the subject property or as otherwise defined in state statutes, in the format required by the Zoning Administrator.

(2) Additional information. The Zoning Administrator may require applicants for land use or development approval to submit additional information as may be necessary to evaluate the application. Such additional information may include, but shall not be limited to, traffic studies, engineering studies and environmental studies. The costs of such studies shall be the responsibility of the applicant, with the person or firm preparing the study approved by the Zoning Administrator.

(3) Pre-application conference. A pre-application conference with the Zoning Administrator shall be required prior to the submission of any application for land use or development approval. The purpose of the conference is to review application procedures and ordinance requirements with the applicant, to exchange information regarding the proposed project, and to identify potential opportunities and constraints for development of the site under consideration.

(4) Completeness of application. No application for land use or development approval shall be deemed complete until all items that are required in support of the application, including any additional studies or information required by the Zoning Administrator, have been submitted.

(5) Application fees. Fees for all applications for development or land use approval shall be a flat rate and established by resolution of the City Council. The city retains the right to require an escrow and additional payment for any out-of-pocket expenses for consultants and professional services and/or to obtain an escrow for cases that are extraordinary in size or complexity. Remaining escrowed funds not spent in reviewing the application shall be returned to the applicant. Payment of all fees is a condition of application approval. The Community Development Department will keep a record of current fees for all land use applications.

(6) Required action. Pursuant to M.S. § 15.99, as it may be amended from time to time, all applications for land use or development approval shall be approved or denied as per state statute, unless extended pursuant to statute or unless a time waiver has been granted by the applicant.

(7) Reconsideration of applications. No application for land use or development approval that has been denied by the City Council, in whole or in part, shall be reconsidered for a period of six months from the date of City Council action on the application.

(8) Expiration of approval. If substantial development or construction has not taken place within one year of the date of City Council approval of an application for land use or development approval, the approval shall be considered void unless a petition for time extension has been granted by the City Council. Such extension shall be submitted in writing at least 30 days prior to the expiration of the approval and shall state facts showing a good faith effort to complete the work permitted under the original approval. This provision shall not apply to zoning amendments or vacations of streets, alleys or public rights-of-way.

(D) Public hearings.

(1) Notice of public hearing. For all development or land use applications requiring a public hearing, notice of the public hearing shall be as follows:

(a) Official publication. The Zoning Administrator shall publish notice of the time, place and purpose of the public hearing at least once in the official city newspaper, not less than 10 days nor more than 30 days before the hearing.

(b) Notice to affected property owners. The Zoning Administrator shall mail a written notice of the time, place and purpose of the public hearing to all owners of record of property located in whole or in part within 350 feet of the boundaries of the subject property, or as otherwise defined in state statutes, not less than 10 days nor more than 30 days before the hearing. 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 requirements has been made.

(c) Notice to Department of Natural Resources. When a land use or development application relates to property within the Floodplain Management or Shoreland Management Overlay District, the Zoning Admin

shall mail a written notice of public hearing to the Commissioner of Natural Resources at least 21 days before the hearing.

(2) Hearing procedure. All hearings shall be open to the public. Any person may appear and testify at a hearing in person or by representative. Upon conclusion of the public testimony, the decision-making body shall announce its decision or recommendation, or shall continue the matter to a subsequent meeting.

(E) Appeals.

(1) Right of appeal. At any time within 30 days after a written order, requirement, determination or final decision has been made by the Zoning Administrator or other official in interpreting or applying this article, except for actions taken in connection with prosecutions for violations thereof, the applicant or any other person affected by such action may appeal the decision.

(2) Application for appeal. An appeal must be made by filing a written notice of appeal addressed to the Zoning Administrator and Planning Commission, and stating the action appealed as well as the specific grounds upon which the appeal is made.

(3) Public hearing. The Planning Commission, sitting as the Board of Appeals and Adjustments, shall hold a public hearing on the appeal in accordance with the requirements of this section. After the close of the hearing, the Planning Commission shall render its findings.

(F) Zoning amendments.

(1) Right of application. Amendments to the text of this article or to the district boundaries on the official zoning map may be initiated by the City Council, the Planning Commission, or by application of any person with a legal interest in the affected property.

(2) Application for amendment. An application for an amendment to change the district boundaries on the official zoning map or the text of this article shall be filed with the Zoning Administrator on the approved form and shall be accompanied by a map or plat showing the lands proposed to be changed, a concept development plan and any other information determined by the Zoning Administrator to be necessary.

(3) Public hearing. The Planning Commission shall hold a public hearing on the complete application for a zoning amendment and all amendments initiated by the City Council or Planning Commission in accordance with the requirements of this section. After the close of the hearing, the Planning Commission shall make findings and submit its recommendation to the City Council.

(4) City Council action. The City Council shall make the final decision regarding an application for a zoning amendment. Amendments of this article or the district boundaries on the official zoning map shall require a four-fifths majority vote of the City Council.

(5) Required findings. The City Council shall make each of the following findings before granting approval of a request to amend this article or to change the district boundaries on the official zoning map:

(a) The amendment is consistent with the comprehensive plan.

(b) The amendment is in the public interest and is not solely for the benefit of a single property owner.

(c) Where the amendment is to change the zoning classification of a particular property, the existing use of the property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification.

(d) Where the amendment is to change the zoning classification of a particular property, there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its current zoning classification.

(G) Variances.

(1) Purpose. The purpose of a variance is to provide a means of departure from the literal provisions of this article. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. It is not the intent of this section to allow a variance for a use that is not permitted within a particular zoning district.

(2) Right of application. Any person with a legal interest in the property may file an application for one or more variances.

(3) Application for variance. An application for a variance shall be filed with the Zoning Administrator on the approved form and shall be accompanied by a site plan and any other information determined by the Zoning Administrator to be necessary.

(4) Public hearing. The Planning Commission, sitting as the Board of Appeals and Adjustments, shall hold a public hearing on the complete application for a variance in accordance with the requirements of this section. After the close of the hearing, the Planning Commission shall make findings and submit its recommendation to the City Council.

(5) City Council action. The City Council shall make the final decision regarding an application for a variance from the provisions of this article. Approval of a variance shall require a simple majority vote of the City Council.

(6) Required findings. The City Council shall make each of the following findings before granting a variance from the provisions of this article:

(a) Because of the particular physical surroundings, or the shape, configuration, topography, or other conditions of the specific parcel of land involved, strict adherence to the provisions of this article would cause practical difficulties in conforming to the zoning ordinance. The applicant, however, is proposing to use the property in a reasonable manner not permitted by the zoning ordinance.

(b) The conditions upon which the variance is based are unique to the specific parcel of land involved and are generally not applicable to other properties within the same zoning classification.

(c) The practical difficulties are caused by the provisions of this article and have not been created by any person currently having a legal interest in the property.

(d) The granting of the variance is in harmony with the general purpose and intent of the Comprehensive Plan.

(e) The granting of the variance will not be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development or value of property or improvements in the vicinity.

(7) Conditions of approval. The City Council may establish any reasonable conditions of approval that are deemed necessary to mitigate adverse impacts directly associated with granting of the variance and to protect neighboring properties.

(H) Conditional use permits.

(1) Purpose. The conditional use permit process is intended as a means of reviewing uses which, because of their unique characteristics, cannot be permitted as a right in a specific zoning district, but may be allowed upon demonstration that such use meets identified standards established in this article. A conditional use permit is granted for a specific use of a specific property, and may be transferred to subsequent owners as long as the conditions agreed upon are observed.

(2) Right of application. Any person with a legal interest in the property may file an application for a conditional use permit, provided said conditional use is identified as a conditional use within the zoning district in which the property is located.

(3) Application for conditional use permit. An application for a conditional use shall be filed with the Zoning Administrator on the approved form and shall be accompanied by a site plan, a detailed written description of the proposed use and any other information determined by the Zoning Administrator to be necessary.

(4) Public hearing. The Planning Commission shall hold a public hearing on the complete application for a conditional use permit in accordance with the requirements of this section. After the close of the hearing, the Planning Commission shall make findings and submit its recommendation to the City Council.

(5) City Council action. The City Council shall make the final decision regarding an application for a conditional use permit. Approval of a conditional use permit shall require a simple majority vote of the City Council.

(6) Required findings. The City Council shall make each of the following findings before granting a conditional use permit:

(a) The use is one of the conditional uses listed for the zoning district in which the property is located, or is a substantially similar use as determined by the Zoning Administrator.

(b) The use is in harmony with the general purpose and intent of the comprehensive plan.

(c) The use will not impose hazards or disturbing influences on neighboring properties.

(d) The use will not substantially diminish the use of property in the immediate vicinity.

(e) The use will be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.

(f) The use and property upon which the use is located are adequately served by essential public facilities and services.

(g) Adequate measures have been or will be taken to minimize traffic congestion on the public streets and to provide for appropriate on-site circulation of traffic.

(h) The use will not cause a negative cumulative effect, when considered in conjunction with the cumulative effect of other uses in the immediate vicinity.

- (i) The use complies with all other applicable regulations for the district in which it is located.

(7) Conditions of approval. The City Council may establish any reasonable conditions of approval that are deemed necessary to mitigate adverse impacts associated with the conditional use, to protect neighboring properties, and to achieve the objectives of this article.

(8) Revocation. Failure to comply with any condition set forth as part of a conditional use permit shall be a violation of this article and is subject to the enforcement process identified in this section. Continued noncompliance shall be grounds for revocation of the conditional use permit, as determined by the City Council following a public hearing on the issue.

(9) Discontinuance. When a conditional use has been established and is discontinued for any reason for a period of one year or longer, or where a conditional use has been changed to a permitted use or any other conditional use, the conditional use permitted shall be considered abandoned.

- (l) Interim uses.

(1) Purpose. The interim use process provides for a temporary use of land for a specific period of time, and may be allowed upon demonstration that such use meets identified standards established in this article. It is intended that the interim use of land does not run with the land, and would need to be approved upon each subsequent use.

(2) Right of application. Any person with a legal interest in the property may file an application for an interim use, provided said interim use is identified as an interim use within the zoning district in which the property is located.

(3) Application for interim use. An application for an interim use shall be filed with the Zoning Administrator on the approved form and shall be accompanied by a site plan, a detailed written description of the proposed use and any other information determined by the Zoning Administrator to be necessary.

(4) Public hearing. The Planning Commission shall hold a public hearing on the complete application for an interim use in accordance with the regulations of this section. After the close of the public hearing, the Planning Commission shall make findings and make the final decision regarding the application.

(5) Required findings. The Planning Commission shall make each of the following findings before granting an interim use:

(a) The use is one of the interim uses listed for the zoning district in which the property is located, or is a substantially similar use, as determined by the Zoning Administrator.

(b) The use is in harmony with the general purpose and intent of the Comprehensive Plan.

(c) The use will not impose hazards or disturbing influences on neighboring properties.

(d) The use will not substantially diminish the use of property in the immediate vicinity.

(e) The use will be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.

(f) Adequate measures have been or will be taken to minimize traffic congestion on the public streets and to provide for appropriate on-site circulation of traffic.

(g) The use will not cause a negative cumulative effect, when considered in conjunction with the cumulative effect of other uses in the immediate vicinity.

(6) Conditions of approval. The Planning Commission may establish any reasonable conditions of approval that are deemed necessary to mitigate adverse impacts associated with the interim use, to protect neighboring properties, and to achieve the objectives of this article.

(7) Time duration. An interim use shall be granted for a maximum of 90 days per calendar year, unless otherwise specified in this article.

(8) Discontinuance. An interim use shall be deemed discontinued after the specified time duration has elapsed. Upon discontinuance of an interim use, all subsequent interim uses shall require an interim use permit.

(J) Vacations.

(1) Purpose. The vacation process allows for the vacation of public streets, alleys or other public rights-of-way when it is demonstrated that the public reservation of the land no longer serves a clearly identified public purpose.

(2) Right of application. Any person or persons who own property adjoining both sides of the street, alley or other public right-of-way to be vacated may file an application for vacation. In the event that the person or persons making the request do not own all of the adjoining parcels, the application shall be accompanied by affidavits from all such property owners indicating their consent.

(3) Application for vacation. An application for the vacation of a street, alley or other public right-of-way shall be filed with the Zoning Administrator on the approved form and shall be accompanied by a legal description, a survey depicting the area to be vacated, a list of all property owners with land adjacent to the area to be vacated, and any other information determined by the Zoning Administrator to be necessary.

(4) Public hearing. The Planning Commission shall hold a public hearing on the completed application for the vacation of a street, alley or other public right-of-way in accordance with the requirements of this section. After the close of the hearing, the Planning Commission shall make findings and submit its recommendation to the City Council.

(5) City Council action. The City Council shall make the final decision regarding an application for the vacation of a street, alley or other public right-of-way. Approval of the vacation shall require a four-fifths majority vote of the City Council.

(6) Required findings. The City Council shall make each of the following findings before vacating a street, alley or other public right-of-way:

(a) No private rights will be injured or endangered as a result of the vacation.

(b) The public will not suffer loss or inconvenience as a result of the vacation.

(K) Minor subdivisions (lot splits).

(1) Purpose. The purpose of this process is to provide for approval of subdivisions that meet specific criteria and for the waiver of standard platting requirements specified elsewhere in this article. It is intended to **enable administrative approval of minor subdivisions that** facilitate the further division of previously platted lots, the combination of previously platted lots into fewer lots, or for the adjustment of an existing lot line by relocation of a common boundary.

(2) Right of application. Any person having a legal interest in the property may file an application for a minor subdivision. For an adjustment of an existing lot line, the application shall be accompanied by affidavits from all affected property owners indicating their consent.

(3) Application for minor subdivision. An application for a minor subdivision shall be filed with the Zoning Administrator on the approved form and shall be accompanied by an accurate boundary survey and legal description of the original parcel, a survey and legal description of the resulting parcels, and any other information determined by the Zoning Administrator to be necessary.

~~—(4) Public Hearing. The Planning Commission shall hold a public hearing on the completed applications for a minor subdivision in accordance with the requirements of this section. After the close of the hearing, the Planning Commission shall make findings and submit its recommendation to the City Council.~~

~~—(5) City Council action. The City Council shall make the final decision regarding the application for a minor subdivision. Approval of a minor subdivision shall require a simple majority vote of the City Council.~~

(4) Required findings. The ~~City Council~~ Zoning Administrator shall make each of the following findings before approving a minor subdivision:

(a) The proposed subdivision of land will not result in more than three lots.

(b) The proposed subdivision of land does not involve the vacation of existing easements.

(c) All lots to be created by the proposed subdivision conform to lot area and width requirements established for the zoning district in which the property is located.

(d) The proposed subdivision does not require the dedication of public rights-of-way for the purpose of gaining access to the property **or additional dedication of public right-of-way.**

(e) The proposed subdivision does not include a change in existing streets, alleys, water, sanitary or storm sewer or other public improvements.

(f) The property has not previously been divided through the minor subdivision provisions of this article.

(g) The proposed subdivision does not hinder the conveyance of land.

(h) The proposed subdivision does not hinder the making of assessments or the keeping of records related to assessments.

(i) The proposed subdivision meets all of the design standards specified in the § 9.116.

(5) Conditions of approval. The Zoning Administrator may establish any reasonable conditions of approval that are deemed necessary to protect the public interest and ensure compliance with the provisions of this article, including, but not limited to, the following:

(a) The applicant shall provide required utility and drainage easements for all newly created lots and be responsible for the cost of filing and recording written easements with the Anoka County Recorder's Office.

(b) The applicant shall pay parkland dedication fees for each lot created beyond the original number of lots existing prior to subdivision, except when such fees have been applied to the property as part of a previous subdivision.

(6) Recording of minor subdivision. Upon approval of a minor subdivision, the applicant shall be responsible for filing the subdivision survey with the Anoka County Recorder's Office. Any minor subdivision approved under this section shall become invalid if the minor subdivision is not filed with the Anoka County Recorder within one year of the date of the City Council action.

(L) Preliminary plats.

(1) Purpose. A preliminary plat is a drawing intended to illustrate the proposed subdivision of land within the city. Preliminary plat approval is required for all subdivisions of land not specifically exempted in this article. Approval of a preliminary plat is authorization to proceed with the final plat and does not constitute approval of the subdivision.

(2) Right of application. Any person having a legal interest in the property may file an application for a preliminary plat.

(3) Application for preliminary plat. An application for a preliminary plat shall be filed with the Zoning Administrator on the approved form and shall be accompanied by an accurate boundary survey and legal description of the original parcel, five copies of the preliminary plat, and any other information determined by the Zoning Administrator to be necessary.

(4) Public hearing. The Planning Commission shall hold a public hearing on the completed application for a preliminary plat in accordance with the requirements of this section. After the close of the hearing, the Planning Commission shall make findings and submit its recommendation to the City Council.

(5) City Council action. The City Council shall make the final decision regarding an application for a preliminary plat. Approval of a preliminary plat shall require a simple majority vote of the City Council.

(6) Required findings. The City Council shall make each of the following findings before approving a preliminary plat:

(a) The proposed preliminary plat conforms with the requirements of § 9.116.

(b) The proposed subdivision is consistent with the comprehensive plan.

(c) The proposed subdivision contains parcel and land subdivision layout that is consistent with good planning and site engineering design principles.

(7) Expiration of preliminary plat. An approved preliminary plat shall be valid for a period of one year from the date of City Council approval. In the event that a final plat is not submitted within this time period, the preliminary plat will become void.

(M) Final plats.

(1) Purpose. A final plat is a drawing representing the proposed subdivision of land within the city and serves as the document for recording purposes, as required by the Anoka County Recorder's Office.

(2) Right of application. Any person having a legal interest in the property may file an application for a final plat. A preliminary plat for the property must have been approved within the past year for a final plat application to be accepted by the city.

(3) Application for final plat. An application for a final plat shall be filed with the Zoning Administrator on the approved form and shall be accompanied by five copies of the final plat and any other information determined by the Zoning Administrator to be necessary.

(4) Public hearing. The Planning Commission shall hold a public hearing on the complete application for a final plat in accordance with the requirements of this section. After the close of the hearing, the Planning Commission shall make findings and submit its recommendation to the City Council.

(5) City Council action. The City Council shall make the final decision regarding an application for a final plat. Approval of a final plat shall require a simple majority vote of the City Council.

(6) Required findings. The City Council shall make each of the following findings before approving a final plat:

- (a) The final plat substantially conforms to the approved preliminary plat.
- (b) The final plat conforms with the requirements of § 9.116.

(7) Recording of final plats. Upon approval of a final plat, the applicant shall be responsible for filing and recording the final plat with the Anoka County Recorder's Office within one year of the date of City Council action. In the event that a final plat is not recorded within this time period, the final plat will become void.

(N) Site plan review.

(1) Purpose. The purpose of the site plan review process is to promote the efficient use of land and visual enhancement of the community, ensure that newly developed and redeveloped properties are compatible with adjacent development, and that traffic conflicts, public safety and environmental impacts are minimized to the greatest extent possible.

(2) Site plan review required. All site development plans for new development, or additions to existing structures other than one- and two-family residences, shall be reviewed and approved by the Planning and Zoning Commission and Development Review Committee prior to the issuance of a building permit.

(3) Required information. An application for site plan review shall be filed with the Zoning Administrator on the approved form and shall be accompanied by a vicinity map; an accurately scaled site plan showing the location of proposed and existing buildings, existing and proposed topography, vehicular access and parking areas, landscaping, and other site features; elevation views of all proposed buildings and structures; and any other information determined by the Zoning Administrator to be necessary.

(4) Required findings. The Development Review Committee shall conduct the administrative review of all site plan approval requests. All findings and decisions of the Committee shall be forwarded to the Planning and Zoning Commission for final decision, unless the Zoning Administrator determines that Development Review Committee approval of site plan is sufficient. The Planning and Zoning Commission shall make each of the following findings before approving a site plan:

- (a) The site plan conforms to all applicable requirements of this article.
- (b) The site plan is consistent with the applicable provisions of the city's comprehensive plan.
- (c) The site plan is consistent with any applicable area plan.

(d) The site plan minimizes any adverse impacts on property in the immediate vicinity and the public right-of-way.

(5) Conditions of site plan approval. The Development Review Committee and the Planning and Zoning Commission may impose conditions of approval on any site plan and require guarantees deemed necessary to ensure compliance with the requirements of this section.

(6) Changes to approved site plan. An approved site plan may not be changed or modified without the approval of the City Zoning Administrator. If the proposed change is determined by the Zoning Administrator to be minor in nature, a revised site plan may not be required. In all other cases, a revised site plan shall be submitted for review and approval in accordance with this section.

(7) Expiration of site plan approval. The approval of a site plan by the Planning and Zoning Commission shall be valid for a period of one year.

(O) Other development approvals and permits.

(1) Building permits. Building permits are required in accordance with the adopted building code. No building permit shall be issued unless the proposed construction or use is in conformance with the requirements of this article and all necessary zoning approvals have been granted.

(2) Sign permits. All signs displayed within the city are required to obtain a sign permit from the Zoning Administrator in accordance with § 9.106, unless herein excluded.

(3) Site plan approval. All site development plans for development, other than one- and two-family residences, shall be reviewed and approved by the Development Review Committee prior to the issuance of a building permit.

(P) Enforcement.

(1) Complaints. The Zoning Administrator shall have the authority to investigate any complaint alleging a violation of this article or the conditions of any zoning or plat approval, and take such action as is warranted in accordance with the provisions set forth in this article.

(2) Procedure.

(a) Notice of violation. The Zoning Administrator shall provide a written notice to the property owner or to any person responsible for such violation, identifying the property in question, indicating the nature of the violation, and ordering the action necessary to remedy the violation, including a reasonable time period for action. Additional written notices may be provided at the Zoning Administrator's discretion.

(b) Enforcement without notice. Whenever the Zoning Administrator finds that an emergency exists in relation to the enforcement of the provisions of this article, which requires immediate action to protect the health, safety or welfare of the occupants of any structure, or the public, the Zoning Administrator may seek immediate enforcement without prior written notice.

(3) Violation and penalties. Any person, firm or corporation violation any of the provisions of this article or any amendments thereto is guilty of a misdemeanor. Each day that a violation is permitted to exist shall constitute a separate offense.

Section 3

The following language for Nonconforming Uses is amended and deleted as provided in Section 9.105 of the City Code of 2005, is hereby established to read as follows:

(A) General Provisions.

(1) Purpose.

(a) This section regulates and limits the continued existence of uses, structures, lots and signs that were lawfully established prior to the effective date of this article but do not conform to the regulations set forth in this article.

(b) The zoning districts established in this article are designed to guide the future use of land within the city by encouraging the development and maintenance of desirable residential, commercial, industrial and public uses in specific locations throughout the city. The continued existence of nonconformities is inconsistent with the purposes for which the zoning districts are established and the gradual elimination of nonconformities is generally desirable.

(2) Continuation of nonconformities.

(a) Legal nonconformities shall be allowed to continue as long as they remain otherwise lawful, subject to the provisions of this section. Nonconformities that were not lawfully in existence on the effective date of this article shall be prohibited.

(b) Nothing contained in this section shall be construed to permit a violation of any provision of the Columbia Heights City Code or the continuation of any unsafe or unsanitary condition.

(3) Change of ownership. A change in tenancy, management or ownership of a nonconformity shall be allowed, provided there is no change in the nature or character of the nonconformity, except as otherwise provided by this section.

(B) Nonconforming uses.

(1) Nonconformity established. Any use of land that is not identified as a permitted, provisional or conditional use within the zoning district in which the property is located shall be deemed a nonconforming use of land.

(2) Right to continue. A legal nonconforming use of land may be continued as it existed on the effective date of this article, except as provided for herein.

(3) Expansion prohibited. A nonconforming use of land shall not be enlarged, increased, expanded or changed in any manner or dimension except to comply with the provisions of this article.

(4) Intensification prohibited. A nonconforming use of land shall not be intensified in character or operation, including, but not limited to, increased hours of operation and the expansion of the use to a portion of the property not previously used.

(5) Repair and maintenance. Minor repairs and routine maintenance of a structure containing or related to a nonconforming use of land that are necessary to keep the structure in a sound and safe condition are permitted.

(6) Discontinuation of use. A nonconforming use of land that has been discontinued for a period of six months shall not be re-established.

(7) Change of use. A nonconforming use of land that has been changed to a conforming use shall not thereafter be changed back to any nonconforming use. A change in the use of land from one nonconforming use to another nonconforming use is prohibited.

(8) Reduction of nonconformity. A nonconforming use that is reduced in size, intensity or otherwise becomes more conforming may not again be expanded or become less conforming. Removal of a structure, relocation of the use, and reduction or elimination of any site element (such as outdoor storage) is deemed a reduction in intensity.

(9) Damaged or destroyed. ~~Any nonconforming use destroyed by fire or other peril to the extent that the value is greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged, the use loses its legal nonconforming status. In this case, a municipality may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming structure in the shoreland district with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body. A structure containing or relating to a nonconforming use of land that is damaged or destroyed by fire or natural causes, to the extent that the cost of repair is more than 50% of the assessed value, shall not be restored unless to a conforming use. However, any principal residential structure located in a LB (Limited Business District) which falls within the "Town Square Concept" (adopted August, 2000) of the Columbia Heights Downtown Master Plan, and is damaged or destroyed by fire or natural causes over 50% of the assessed value, the dwelling may be reconstructed in the same footprint as the original structure, but may not be expanded in size.~~

(10) Uses in Floodway District. Nonconforming uses located in the Floodway District shall be eliminated or brought into conformity with the standards contained in this article within a reasonable period of time as determined by the City Council, after a hearing for each such nonconforming use. The Board shall make its determination upon the basis of the normal useful life of any improvement upon the premises. In addition, the monetary value of any competitive advantage derived by the operation of such nonconforming use, by reason of the limitation on establishment of competing businesses as a result of this article, shall be considered as a reduction of losses resulting from the requirement of termination of the use under this article.

(C) Nonconforming structures.

(1) Nonconformity established. Any building or structure that does not conform to the setback, dimensional or density standards of the zoning district in which the property is located shall be deemed a nonconforming structure.

(2) Right to continue. A legal nonconforming structure may be continued as it existed on the effective date of this article, except as provided for herein.

(3) Expansion prohibited. A nonconforming accessory building shall not be enlarged, altered or expanded in any manner or dimension. A nonconforming principal structure shall not be enlarged, altered or expanded in any manner or dimension, unless the alteration or expansion: 1) does not increase the degree of nonconformity; 2) does not further infringe upon established setbacks or building restrictions; 3) does not exceed 50% of the assessed

value of the structure over the life of the structure at the time it became nonconforming; and 4) would substantially reduce potential flood damages for the entire structure.

(4) Repair and maintenance. Minor repairs and routine maintenance necessary to keep a nonconforming structure in a sound and safe condition are permitted.

(5) Damaged or destroyed. A nonconforming structure that is damaged or destroyed by fire or natural causes, to the extent that the cost of repair is more than 50% of the assessed value, shall not be restored unless it is brought into conformance. However, any principal residential structure located in a LB (Limited Business District), which falls within the "Town Square Concept" (adopted August, 2000) of the Columbia Heights Downtown Master Plan, and is damaged or destroyed by fire or natural causes over 50% of the assessed value, the dwelling may be reconstructed in the same footprint as the original structure, but may not be expanded in size.

(6) Increased livability. Alterations may be made to a building containing nonconforming residential units when the alteration will improve the livability thereof, provided it will not increase the number of dwelling units nor the outside dimensions of the building.

(D) Nonconforming lots.

(1) Nonconformity established. A lot of record that does not: conform to the width, depth, lot area or frontage requirements of the zoning district in which the property is located is deemed a nonconforming lot.

(2) Combination of lots required. If two or more nonconforming lots are contiguous and under common ownership on the effective date of this article, such lots shall be combined for the purposes of development in order to satisfy the requirements of this article.

(3) Lot developable. A nonconforming lot that can be used in conformity with all of the regulations applicable to the intended use, except that the lot is smaller than the minimum required in the applicable zoning district, can be used as proposed just as if it were conforming.

(4) Variance required. Development of a nonconforming lot that will be conforming with all applicable regulations, except for applicable setback requirements, shall require a variance in accordance with the provisions found in § 9.104.

(E) Nonconforming signs.

(1) Nonconformity established. A sign that was installed prior to July 13, 1981, and does not conform to the requirements of § 9.106 is deemed a nonconforming sign.

(2) Right to continue. A legal nonconforming sign may be continued as it existed on the effective date of this article, except as provided for herein.

(3) Expansion prohibited. A nonconforming sign shall not be enlarged, reconstructed or altered in any manner or dimension except to comply with the provisions of this article.

(4) Repair and maintenance. Minor repairs and routine maintenance of a nonconforming sign that are necessary to keep the structure in a sound and safe condition are permitted. If the nonconforming sign requires significant repairs or replacement, the Zoning Administrator may require its removal.

(5) Discontinuation of use. A nonconforming sign that has not been used for a period of six months shall be removed from the property.

(6) Damaged or destroyed. A nonconforming sign that is damaged or destroyed by any cause or means, to the extent that the cost of repair is more than 50%, of the assessed market value, shall not be restored unless to a conforming sign.

Section 4

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

§ 9.106 GENERAL DEVELOPMENT STANDARDS.

(A) General provisions.

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

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

(B) Lot controls.

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

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

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

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

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

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

(7) Required yards. Yard requirements shall be as specified for the zoning district in which the lot is located. No yard or other open space shall be reduced in area or dimension so as to make such yard or other open space less than the minimum required by this article. If the existing yard or other open space is less than the minimum

required, it shall not be further reduced. In addition, no required yard or other open space allocated to a building or dwelling group shall be used to satisfy yard, open space, or minimum lot area requirements for any other structure or lot.

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

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

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

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

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

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

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

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

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

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

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

(h) Private swimming pools, tennis courts, basketball courts or other private recreational facilities constructed and maintained in accordance with the applicable provisions of this article.

(12) Traffic visibility. No planting, structure or other obstruction shall be placed or allowed to grow on corner lots in a manner that will impede vision on the intersecting rights-of-way, in accordance with the following sight triangles:

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

(b) Street and alley intersections. No planting or structure in excess of 30 inches above the abutting curb line shall be permitted within the sight triangle, defined as the area beginning at the point of intersection of the

projected curb line and the alley right-of-way, then 30 feet along the street curb line, diagonally to a point 15 feet from the point of beginning along said alley right-of-way or projection of the alley right-of-way, then back to the point of beginning.

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

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

- (a) Church spires, steeples or belfries.
- (b) Chimneys or flues.
- (c) Cupolas and domes which do not contain usable space.
- (d) Towers, poles or other structures for essential services.
- (e) Flag poles.
- (f) Mechanical or electrical equipment, provided said equipment does not occupy more than 25% of the roof area.
- (g) Television and ham radio antennas.
- (h) Monuments.
- (i) Telecommunication towers constructed in accordance with the provisions of § 9.106(O).

(C) Accessory uses and structures.

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

- (a) Each residentially zoned parcel shall be allowed two detached accessory structures.
- (b) No accessory structure shall be constructed or located within any front yard.
- (c) Accessory structures for one- and two-family dwellings shall be set back a minimum of three feet from the side lot line, and a minimum of three feet from the rear lot line, a minimum of five feet from any other building or structure on the same lot, and behind the principal structure building line in the front yard.
- (d) An accessory structure shall be considered an integral part of the principal structure if it is connected to the principal building by a covered passageway.
- (e) An accessory structure, or any combination of accessory structures, storage sheds and attached garages, shall not exceed 1,000 square feet in area.

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

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

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

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

~~—— (i) The building coverage on each residential lot, including principal and accessory structures, shall not exceed 35% for lots of 6,500 sq. ft. or less or 30% for lots with more than 6,500 sq. ft. in area.~~

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

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

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

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

~~—— (n) All accessory buildings over 120 sq. ft. in area shall require a building permit from the city.~~

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

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

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

(c) All multiple story and accessory structures over ~~200~~ 120 square feet in area shall require a building permit from the city.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Motor vehicle repair, either major or minor.

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

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

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

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

(a) The facility is not operated as a business or private club.

(b) The facility is not located within any required front or side yard.

(c) The facility is set back at least five feet from any property line, including any walks, paved areas or related structures or equipment.

(d) For swimming pools, the pool itself, the rear yard, or the entire property shall be enclosed by a non-climbable wall, fence or combination thereof at least six feet in height, with a self-closing gate capable of being secured with a lock so as to prevent uncontrolled access by children. If the only access is through a principal or accessory structure, such point of access shall be lockable. In the case of above-ground pools, pool sides that are vertical may contribute to the required fencing, provided all points of access are controlled to prevent access by children, including the removal of all ladders or stairs whenever the pool is not in use.

(e) For in-ground pools, the pool is set back at least six feet from the principal structure.

(f) Hot tubs shall not be located within five feet of any side yard or rear lot line, or within any required front yard. Such pools may be equipped with a child-resistant, lockable cover in lieu of a six-foot tall fence. Hot tubs are permitted on attached or detached decks if it can be proven that the deck is engineered to be structurally sound enough to support the bearing load of the hot tub.

(g) Portable pools shall not be located within five feet of any side or rear lot line, or within any required front yard. Such pools may be equipped with a child resistant cover in lieu of a six-foot tall fence. Any ladder or other means of entry into a portable pool shall be detachable and placed so that no child can gain entry into the pool without the owner's consent. Portable pools shall not be in place longer than six months in a calendar year.

(h) Lighting shall be so oriented so as not to cast light on adjacent properties.

(i) The facility shall not be located within any drainage or utility easement.

(j) Any accessory mechanical apparatus shall be located at least 30 feet from any residential structure on an adjacent lot.

(k) All swimming pools containing more than 3,000 gallons or with a depth in excess of 42 inches (3.5 feet) shall require a building permit from the city.

(5) Trash handling equipment. For all uses other than one- and two-family dwellings, trash and/or recycling collection areas shall be enclosed on at least three sides by an opaque screening wall or fence no less than six feet in height. The open side of the enclosure shall not face any public street or the front yard of any adjacent property.

(6) Mechanical equipment. Mechanical equipment, other than that accessory to one- and two-family dwellings, shall be placed and/or screened so as to minimize the visual impact on adjacent properties and from public streets. Screening may be accomplished through the use of walls or other design features that are architecturally compatible with the principal structure, screening vegetation, integrated parapet walls of sufficient height, or other means as approved by the Zoning Administrator.

(D) Dwellings.

(1) General requirements. The following standards shall apply to all dwelling units within the city:

(a) All single-family dwelling units shall be a minimum of 20 feet wide at the narrowest point.

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

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

~~(d) No more than three unrelated adults shall be tenants in any single dwelling unit.~~

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

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

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

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

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

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

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

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

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

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

(3) Accessory Dwelling Units

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

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

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

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

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

(E) Fences.

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

- (a) Fences may be constructed, placed or maintained in any yard or adjacent to a lot line in accordance with the requirements of this section.
- (b) The owner of the property upon which the fence is located shall be responsible for locating all property lines prior to constructing said fence.
- (c) All fence posts and supporting members shall be placed within the property lines of the property on which they are located.
- (d) All fences shall be situated so that they can be maintained from within the property boundaries of the property on which they are located.
- (e) All fences shall be constructed so that the finished side or more attractive side of the fence faces the adjacent property or right-of-way.
- (f) Fences, freestanding walls, and retaining walls shall be constructed in a substantial and workmanlike manner to withstand conditions of soil, weather and use, and of substantial material reasonably suited for the purpose for which the fence, freestanding wall or retaining wall is proposed to be used. No previously used materials may be used in any fence. All fences shall be constructed of the following approved fencing materials:
 - 1. Galvanized or vinyl coated woven fabric - minimum 11 1/2 gauge, with two-inch minimum mesh, with knuckles up and cut edge down.
 - 2. Approved vinyl fencing materials.
 - 3. Treated wood or wood of natural materials resistant to decay.
- (g) Retaining walls or freestanding walls shall be constructed in the following manner:
 - 1. Retaining walls and cribbing shall be used to stabilize steep slopes or prevent erosion.

2. They shall be designed in accordance with sound engineering practice; including, but not limited to, a minimum four-inch concrete footing of appropriate width and drains of appropriate type, size and spacing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(F) Essential services.

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

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

(a) All communication lines.

(b) Underground electrical transmission lines, overhead utility lines and electrical transmission lines intended to serve properties within the city.

(c) Pipelines for distribution to individual properties within the city.

(d) Substations with less than 33 KV.

(e) Radio receivers and transmitters accessory to an essential service, when placed on an existing utility pole, tower or light standard.

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

(a) All overhead and underground transmission lines not required for the local distribution network.

(b) All transmission pipelines.

(c) Substations in excess of 33 KV.

(d) Any pole or tower used exclusively for the placement of radio receivers or transmitters accessory to an essential service.

(e) Any essential service of which 75% of the service provided or produced is not intended to serve properties within the city.

(f) Any essential service requiring a structure that exceeds the maximum height for the zoning district in which it is located.

(g) Any essential service requiring easements other than easements granted to the public.

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

(1) Garage sales. Residential garage sales shall be limited to no more than two garage sales per property per calendar year, with the duration of each garage sale not to exceed three consecutive days at any residential location.

(2) Construction sites. Storage of building materials and equipment or temporary building for construction purposes may be located on the site under construction for the duration of the construction.

(3) Amusement events. Temporary amusement events, including the placement of tents for such events, may be allowed as a temporary use for a maximum of 15 days per calendar year. In residential districts, such temporary amusements shall be located on public or semi-public property only.

(4) Promotional activities. Promotional activities involving the outdoor sale or display of merchandise may be allowed as a temporary use in non-residential districts for a maximum of 30 days per calendar year.

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

(H) Performance standards.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) Storm water management.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Scope and effect.

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

1. A building permit for new multiple-family residential (three or more attached dwelling units), commercial, industrial, or institutional development;

2. A preliminary plat;
 3. Land alteration permit as regulated by § 9.106 (J);
 4. A building permit for a single-family or two-family residential dwelling except that only subdivisions (3) through (7) of this division shall apply; or
 5. Public improvement projects.
6. No building permit, preliminary plat, excavation permit or public improvement project shall be approved until approval of a storm water management plan has been obtained in strict conformance with the provisions of this section.
7. All projects disturbing one acre or greater of land will require the submittal of a storm water management plan.
- (b) Exemptions. The provisions of this section do not apply to:
1. Construction of a single-family or two-family dwelling or any structure or land alteration accessory thereto except that the provisions of subdivisions (3) through (7) of this division shall apply;
 2. Any currently valid building permit, preliminary plat, excavation permit, or public improvement project approved prior to the effective date of this article;
 3. Construction of agricultural structures or land alterations associated with agricultural uses unless an excavation permit is required by § 9.106(J);
 4. Installation of a fence, sign, telephone, and electric poles and other kinds of posts or poles; or
 5. Emergency work to protect life, limb, or property.
- (4) Submission requirements—storm water management plan. A storm water management plan shall be submitted with all permit applications identified in § 9.106(I)(3). Storm water management plan submittal requirements are outlined in the city's SWMDS. No building or land disturbing activity will be approved unless it includes a storm water management plan, detailing how runoff and associated water quality impacts resulting from development will be controlled or managed.
- (5) Plan review procedure.
- (a) Process. Storm water management plans meeting the requirements of § 9.106(I) and the city's SWMDS shall be reviewed by the Engineering Division in accordance with the standards of § 9.106(I)(6) and the city's SWMDS. The Director of Public Works, or designee, shall approve, approve with conditions, or deny the storm water management plan.
- (b) Duration. A storm water plan approved in accordance with this section shall become void if the corresponding building permit, excavation permit, preliminary plat, or public improvement project expires or becomes invalid.
- (c) Conditions. A storm water management plan may be approved, subject to compliance with conditions reasonable and necessary to insure that the requirements contained in this article are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities, storage basins and other facilities, require replacement of vegetation, establish

required monitoring procedures, stage the work over time, require alteration of the site design to insure buffering, and require the conveyance, for storm water management purposes, to the city or other public entity of certain lands or interests therein.

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

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

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

(a) General criteria for storm water management plans.

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

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

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

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

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

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

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

1. The wetland shall not be classified as a Group I or II water within the City Water Resource Management Plan.

2. A protective buffer strip of natural vegetation, at least ten feet in width, shall surround all wetlands.

3. A sediment trapping device or area that is designed to trap sediments 0.5 millimeters in size or greater, with a trap volume size based upon a prescribed maintenance schedule, shall be installed prior to discharge of storm water into the wetlands.

4. The natural outlet control elevation of the wetlands, if it is not a DNR public water, shall not be changed, except when either i) the outlet is intended to restore the wetland to its original elevation, ii) the wetland basin is landlocked and the artificial outlet control is placed no lower than 1.5 feet below the ordinary high water mark, iii) the proposed level control is identified in the City Water Resource Management Plan, or iv) the level change is approved by a technical evaluation panel convened pursuant to the state Wetland Conservation Act of 1991 (WCA).

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

6. The wetland shall not be a protected fen.

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

- a. Avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;
 - b. Minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;
 - c. Rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment;
 - d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity; and
 - e. Compensating for the impact by replacing or providing substitute wetland resources or environments.
8. If the wetland is a DNR public water, all necessary permits from the DNR shall be obtained.

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

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

(7) Storm water management fee.

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

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

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

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

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

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

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

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

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

e. Right of entry. The issuance of a permit constitutes a right of entry for the city or its contractor to enter upon the construction site. The applicant shall allow the city and its authorized representatives, upon presentation of credentials, to:

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

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

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

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

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

(J) Land alterations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) An erosion and sedimentation control plan.

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

(K) Exterior lighting.

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

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

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

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

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

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

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

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

(L) Off-street parking and loading.

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

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

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

(4) Use of facilities.

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

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

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

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

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

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

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

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

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

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

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

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

(e) Calculating space. When calculating the number of off-street parking spaces required results in fraction, each fraction of one-half or more shall require another space.

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

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

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

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

(a) Size of parking spaces. Each parking space shall be not less than 9 feet wide and 20 feet in length, exclusive of an adequately designed system of access drives. In the case where the parking space is abutting a curb at its narrowest dimension, the parking stall length may be reduced to 18 feet. In parking lots with more than 300 spaces, up to 40% of such spaces may be designated and clearly marked as compact car parking spaces with signage that is reasonably visible year round. A compact car parking space shall not be less than 8 feet wide and 18 feet in length, exclusive of the adequately designed system of access drives.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) Off-street parking district.

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

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

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

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

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

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

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

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

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

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

Automobile repair	1 per 300 sf, gross floor area, plus 2 per service bay
Automobile sales/rental	1 per 300 sf, gross floor area, plus 1 per 1,000 sf of outdoor sales/display area
Banquet hall	1 per 3.5 seats, based on design capacity
Billiards hall	30% of building capacity
Bowling alley	5 per lane, plus 30% of capacity for related uses
Car wash	2 spaces per bay, plus 4 stacking spaces per bay
Clinic, medical and dental	1 per 300 sf, gross floor area
Clinic, veterinary	6 per veterinarian
Club or lodge	30% of building capacity
Consignment/thrift store	1 per 300 sf, gross floor area
Currency exchange	1 per 300 sf, gross floor area
Day care center	1 per every employee, plus 1 drop off space for every 5 enrollees
Financial institution	1 per 300 sf, gross floor area, plus 6 stacking spaces for each drive-through lane
Food service, convenience	6 plus 1 per 40 sf of dining/service area, plus 6 stacking spaces for each drive-through lane
Food service, limited	30% of building capacity
Food service, full-service	30% of building capacity
Funeral home	1 per 5 seats, plus 1 per 300 sf of non-eating area
Greenhouse/garden center	1 per 300 sf, gross floor area, plus 1 per 1,000 sf of outside sales/display area
Health/fitness club	Determined by staff-based on parking study
Hospital	Determined by staff-based on parking study
Hotel/motel	1 per unit, plus 30% of capacity for meeting rooms
Laboratory, medical	1 per 300 sf, gross floor area
Liquor store, off-sale	1 per 300 sf, gross floor area
Museum/gallery	30% of building capacity
Office	1 per 300 sf, gross floor area
Pawnshop	1 per 300 sf, gross floor area
Personal services	1 per 300 sf, gross floor area or 2 per station, whichever is greater
Professional services	1 per 300 sf, gross floor area
Recreational facility, indoor	1 per 150 sf of rink, court, pool area, and the like
Recreational facility, outdoor	30% of facility capacity
Recreation vehicle sales	1 per 300 sf, gross floor area, plus 1 per 1,000 sf of outdoor sales/display area
Shopping center	1 per 300 sf, gross floor area
Studio, professional	1 per 300 sf, gross floor area
Studio, radio and television	Determined by staff-based on design capacity
Theater, live performance or movie	1 per 3.5 seat, based on design capacity
<i>Industrial Uses</i>	
Assembly/manufacturing/processing	2 per every 3 employees or 1 per 1,000 sf, gross floor area, whichever is greater
Concrete, asphalt or rock crushing	2 per every 3 employees
Freight terminal	1 per 3,000 sf, gross floor area of storage/warehousing, plus 1 per 300 sf, gross floor area of office area

Maintenance facility	1 per 3,000 sf, gross floor area, plus 1 per 300 sf, gross floor area of office
Office/showroom	1 per 300 sf, gross floor area of office/showroom, plus 1 per 3,000 sf, gross floor area of storage
Office/warehouse	1 per 300 sf, gross floor area of office, plus 1 per 3,000 sf, gross floor area of storage
Outdoor sales/display	1 per 1,000 sf of sales/display area
Outdoor storage	1 per 3,000 sf of storage area
Printing/publishing	2 per every 3 employees or 1 per 1,000 sf, gross floor area, whichever is greater
Salvage operation	2 per 3 employees
Self-service storage facility	1 per 3,000 sf, gross floor area of storage, plus 1 per 300 sf, gross floor area of office
Warehouse/distribution	1 per 3,000 sf, gross floor area of storage/warehousing, plus 1 per 300 sf, gross floor area of office/sales area

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

Use	Minimum Stacking Spaces
Automobile washing facility—self-service	4 spaces per bay at entrance, 1 space per bay at exit
Automobile washing facility—automatic	4 spaces per bay at entrance, 1 space per bay at exit
Food service—fast food drive-through	4 spaces behind menu board, 4 space behind first window
Financial institution	4 spaces per teller window, 2 spaces per ATM kiosk
Other drive-up or drive-through uses	2 spaces per window

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

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

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

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

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

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

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

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

- (1) **Purpose.** The City of Columbia Heights recognizes the great value trees, landscaping, and screening provide to all residents of the City. A healthy, resilient, and robust urban forest enhances the aesthetic, environmental, and economic well-being of the City. Tree preservation and planting standards, landscaping and screening requirements are established to buffer non-compatible land uses, screen unsightly views, reduce noise and glare, minimize storm water runoff, and generally enhance the quality and appearance of development within the community.
 - a. Preserve and increase the tree canopy cover of Columbia Heights by protecting mature trees throughout the City.
 - b. Protect and enhance property values by conserving trees.
 - c. Improve quality of life for all stakeholders, including residents, visitors, and wildlife.
 - d. Preserve and increase the environmental services provided by the urban forest including sequestration of CO₂, erosion and stormwater mitigation, reduction of air pollutants, reduction of the urban heat island effect, and reduction of noise pollution.
 - e. Protect and maintain healthy trees in the development and building permit process. Protect and maintain healthy trees by ensuring best tree protection practices during construction and development.
- (2) **Preservation, protection, and replacement of Protected Trees:**
 - a. This ordinance applies to all demolition, building permit applications, and land alteration permits, public or private, that require a survey.
 - b. Definitions:
 - i. **Protected Tree:** Any tree variety on the List of Protected Tree Varieties as maintained and published by City staff with a diameter of 6" or greater as measured at 4.5' above ground (DBH, Diameter at Breast Height). The List of Protected Tree Varieties may be amended from time to time.
 - ii. **Removable Tree:** Any tree not defined as a Protected Tree.
 - iii. **City-Owned Tree:** Any tree originating within the City right-of-way or originating from a City park or City-owned property.
 - c. Demolition and building permit applications must include a construction tree inventory plan indicating the location, species, and diameter of the trunk at 4.5' above the ground (DBH) for all Protected Trees on the property and City-Owned Trees on or adjacent to the construction site. The plan must also indicate any Protected Trees that are proposed to be removed, as well as their replacement tree(s) location, species, and size. Applications must also include a tree protection plan describing in detail how Protected Trees and City-Owned Trees will be preserved and protected during construction. The tree protection plan shall follow the standards as presented in the most recent version of the following publications:
 - i. ANSI A300 Part 5- Management of Trees and Shrubs During Site Planning, Site Development, and Construction
 - ii. ISA Best Management Practices- Managing Trees During Construction

- d. The construction tree inventory plan and tree protection plan must be reviewed and approved by the City Forester. Approved tree protection measures shall be fully installed and inspected by City staff prior to commencement of any construction activities or vehicular traffic on site.
 - e. During the demolition and building process, the permit holder shall not leave any Protected Tree or adjacent City-owned tree without sufficient guards and protections to prevent injury to the protected tree during construction. Tree protection shall follow the standards as presented in the publications listed above (3.b.). City Forestry Staff monitoring is required for all projects with affected Protected Trees and/or replacement trees. Replacement trees will be monitored for three (3) years to ensure proper establishment.
 - f. Protected Tree varieties that are less than 6" in caliper must be moved to another location on the property if possible. Exceptions must be granted in writing by the City Forester.
 - g. If a Protected Tree is removed, except as allowed for in paragraph 5 below, it is subject to a size-based replacement policy.
 - i. Protected trees with DBH 6"-15" are subject to a 2:1, "two for one" replacement requirement.
 - ii. Protected trees with DBH 15"-20" are subject to a 3:1, "three for one" replacement requirement.
 - iii. Protected trees with DBH 20"-25" are subject to a 4:1, "four for one" replacement requirement.
 - iv. Protected trees with DBH >25" are subject to a 5:1, "five for one" replacement requirement.
 - v. Replacement trees must be varied by species and are subject to approval by the City Forester.
 - vi. Replacement trees are subject to the size and diversity requirements as outlined below.
 - vii. A payment of \$400 for each tree may be made to the City in lieu of planting replacement trees where sufficient space does not exist on the property. Payments will support the planting of replacement trees by City staff on City property.
 - viii. Replacement trees shall be planted according to the standards set forth in the MN Department of Natural Resources publication "A Pocket Guide to Planting Trees". All replacement trees are subject to inspection by City staff for a period of 2 years beginning the day of planting. Any trees determined to be unhealthy or poorly established during this period shall be subject to replacement.
- (3) Removal of Protected and Removable Trees:
- a. Protected Trees may be removed in the following areas:
 - i. Within the footprint of the building pad of a new or remodeled building, or within a 10' radius of the footprint.
 - ii. Within driveways and parking areas meeting all other City ordinance requirements.
 - b. Protected Trees removed in accordance with sections (i.) and (ii.) above are required to be replaced at a rate of 1:1, "one for one." Replacement trees are subject to all requirements listed in paragraph (3.) above.
 - c. Removable Trees may be removed for any development or building permit without replacement.

- d. If Protected Trees are dead, diseased, or hazardous their removal must be approved in writing by the City Forester before removal. Dead, diseased, or hazardous trees are not subject to replacement requirements.
- (4) Exemptions from Tree Preservation Ordinance: Tree removal on property with an existing building or structure that is not being modified is exempt from this ordinance.
- (5) Standards for Newly Planted Trees and Replacement Trees
 - a. *Landscaping and screening.*
 - i. *Landscape plan required.* A landscape plan is required for all new commercial, industrial, institutional, and multi-family development. For development having an anticipated construction value in excess of \$750,000, the landscape plan must be prepared by a landscape architect registered in the State of Minnesota. Said landscape plan shall include the location, size, quantity, and species of all existing and proposed plant materials.
 - ii. *Design considerations.* The following design concepts and requirements should be considered when developing a landscape plan for submittal to the city:
 - 1. To the maximum extent possible, the landscape plan shall incorporate existing vegetative features on the site.
 - 2. The overall composition and location of landscaped areas should complement the scale of the development and its surroundings.
 - 3. The use of native species is preferred in all landscaping choices, and a minimum of 80% of all plants used shall be native to MN.
 - 4. The City of Columbia Heights is committed to enhancing the diversity and resiliency of its urban forest. A variety of trees and shrubs shall be used to provide visual interest year-round and meet diversity requirements. No more than 25% of the required number of trees or shrubs may be comprised of any one species or genus. No less than 50% of the required number of trees shall be over-story deciduous trees and no less than 10% shall be coniferous. New trees and replacement trees shall be planted according to the standards set forth in the MN Department of Natural Resources publication "A Pocket Guide to Planting Trees". All replacement trees are subject to inspection by City staff for a period of 3 years beginning the day of planting. Any trees determined to be unhealthy or poorly established during this period shall be subject to replacement.
 - 5. Final slopes greater than 3:1 will not be permitted without special treatment such as terracing, retaining walls or special ground covers.
 - 6. All plant materials shall meet the minimum size standards listed in Table 1; all planting locations shall meet the soil volume requirements for the plant material listed in Table 2. Soil volume requirements must be met by contiguous, uncompacted soil suitable for the plant type. Soil depth beyond 3 feet shall not be counted towards soil volume requirements. Landscaped areas should be of adequate size to allow proper plant growth, protect plantings from both pedestrian and vehicular traffic, and provide adequate area for plant maintenance. Definitions and rules for calculating soil volume provided in Appendix B. All exceptions to soil volume requirements must be approved by the City Forester in writing.

Table 1: Plant Size Requirements

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

Table 2: Soil Volume

Requirements

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

Appendix A: List of Protected Tree Varieties

Common Name	Botanical Name
Birch	<i>Betula spp.</i>
Buckeye, Ohio	<i>Aesculus glabra</i>
Catalpa, Northern	<i>Catalpa speciosa</i>
Cedar, Eastern Red	<i>Juniperus virginiana</i>
Cedar, Northern White	<i>Thuja occidentalis</i>
Elm (except Siberian/Asian elms)	<i>Ulmus spp. (Except U. pumila)</i>
Fir, White	<i>Abies concolor</i>
Hackberry	<i>Celtis occidentalis</i>
Hemlock, Eastern	<i>Tsuga canadensis</i>
Hickory	<i>Carya spp.</i>
Honey locust	<i>Gleditsia triacanthos</i>
Ironwood	<i>Ostrya virginiana</i>
Kentucky coffee	<i>Gymnocladus dioica</i>
Linden	<i>Tilia spp.</i>
Maple, Black	<i>Acer nigrum</i>

Maple, Red	<i>Acer rubrum</i>
Maple, Sugar	<i>Acer saccharum</i>
Mountain ash	<i>Sorbus spp.</i>
Oak	<i>Quercus spp.</i>
Pine, Red	<i>Pinus resinosa</i>
Pine, White	<i>Pinus strobus</i>
Spruce, Norway	<i>Picea abies</i>
Spruce, White	<i>Picea glauca</i>
Walnut, Black	<i>Juglans nigra</i>

Appendix B: Definitions and Rules for Calculating Soil Volume

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

Open soil. Exclusively refers to either uncompacted native soils (no greater than 80% Proctor), or amended soils meeting the Minnesota Department of Transportation standards for approved topsoil, that are not covered by hardscape or paved surfaces.

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

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

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

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

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

The following standards and exceptions apply to calculating soil volumes:

- 1) The total soil volume provided for a tree shall be calculated in cubic feet by adding the available open soil volume to the available covered soil volume within a 50-foot radius of the tree.
- 2) When total soil volume consists of more than one planter bed or open soil area, those areas must be connected by continuous root paths at least 4 feet wide and 2 feet deep.

- 3) Soil volumes for covered soil shall be calculated by using only the space available to roots and may not include the components providing structure. 90% of the volume of cell-type hardscape suspension systems may be counted towards total soil volume; 25% of the volume of structural soils may be counted towards total soil volume. A maximum depth of 36" may be used when calculating total soil volume; depths beyond 36" may not be counted towards soil volume requirements. Trees in shared soil spaces receive a 30% credit towards total soil volume requirements.

(6) *Landscaping requirements.* Landscaping shall be provided in accordance with the following requirements:

- a. All required setbacks shall be landscaped with turf grass, native grasses, trees, shrubs, vines, perennial flowering plants, or other pervious ground cover. **Artificial turf shall not be considered a pervious ground cover unless a land disturbance permit is issued and approved by the Public Work Director.**
- b. A minimum of one tree shall be planted for every 50 feet of street frontage or fraction thereof. The trees shall be planted within the front yard and may be arranged in a cluster or placed at regular intervals to best complement existing landscape design patterns in the area.
- c. A minimum of four trees shall be planted for every one acre of lot area covered by buildings, parking areas, loading areas, exterior storage areas and other impervious surfaces.
- d. Parking areas shall have a minimum of 100 square feet of landscape area and one over-story tree for each 20 spaces or, fraction thereof. The remainder of the landscape area shall be covered with turf grass, native grasses, trees, shrubs, vines, perennial flowering plants, or other pervious ground cover.

(7) *Screening requirements.* Screening shall be provided in accordance with the following requirements:

- a. All off-street parking areas containing six or more parking spaces and located adjacent to a residential or residentially zoned property, the parking area shall be screened along the boundary with the residential use. Where any commercial or industrial use is located adjacent to or across a public alley from a residential or a residentially zoned property, the commercial or industrial use shall be screened along the boundary with the residential use.
- b. Exterior storage of materials or equipment, except for allowed retail sales and temporary placement of equipment, shall be screened from all adjacent non-industrial uses and from the public right-of-way.
- c. Required screening shall consist of a fence, wall, earthen berming and/or vegetation no less than six feet in height and no less than 80% opaque on a year round basis. Said screening shall be located as close to the property line as practicable and no closer than 15 feet from the edge of a public right-of-way.

(8) *Installation and maintenance.* The following regulations shall govern the installation and maintenance of landscaping and screening materials.

- a. All landscaping materials and screening materials shall be installed in conjunction with site development and prior to issuance of a final certificate of occupancy.
- b. A letter of credit or other security as acceptable to the city shall be deposited with the Zoning Administrator, in an amount equal to 100% of the estimated cost of landscaping and/or screening. The letter of credit or other security as acceptable to the city,

portions thereof, shall be forfeited to maintain and/or replace materials for a period of time to include at least two growing seasons. A portion of the letter of credit or other security as acceptable to the city may be released after one growing season as determined by the Zoning Administrator. The property owner shall be responsible for continued maintenance of landscaping and screening materials to remain in compliance with the requirements of this section. Plant materials that show signs of disease or damage shall be promptly removed and replaced within the next planting season.

- c. The property owner shall be responsible for continued maintenance of landscaping and screening materials to remain in compliance with the requirements of this section. Plant materials that show signs of disease or damage shall be promptly removed and replaced within the next planting season.

(9) *Screening of parking areas from adjacent properties.* All parking and loading areas (including drive-through facilities, pump island service areas and stacking spaces) abutting a public street or sidewalk shall provide:

- a. A landscaped frontage strip at least five feet wide along the public street or sidewalk. If a parking area contains over 100 spaces, the minimum required landscaped frontage strip shall be increased to eight feet in width.
- b. Screening consisting of either a masonry wall, fence, berm or hedge or combination that forms a screen a minimum of three feet in height, a maximum of four and one half feet in height, and not less than 50% opaque on a year-round basis. For reasons of personal safety and security, parking lot screening should allow clear visibility of pedestrians above the three-foot high viewing range.
- c. Trees shall be planted at regular intervals of no greater than 50 feet within the frontage strip.

(N) Building design standards.

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

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

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

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

(b) Building elevations and facades should include a variety of architectural features and building materials to provide visual interest and give each project a distinct character. Building facades shall contain windows at the ground level or first floor in order to increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility. Special care should be given to building elevations that face a public right-of-way or a residential area. Doors, window frames, screening walls, and other architectural features should be finished to complement the color and material of the principal building. At least 20% of the first floor facade that faces a public

street, sidewalk or parking lot shall be windows or doors for residential uses. At least 20% of the first floor facade that faces a public street, sidewalk or parking lot shall be windows or doors of clear or lightly tinted glass that allows views into and out of the building at eye level for non-residential uses. Windows shall be distributed in a more or less even manner. Minimum window area shall be measured between the height of two feet and ten feet above the finished level of the first floor.

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

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

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

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

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

(O) Telecommunication towers/antennae.

(1) Purpose.

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

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

1. Minimize the total number of towers throughout the community through siting standards;
2. Encourage the location of towers in non-residential areas and with compatible uses;

3. Provide for the appropriate location and development of wireless communications towers, antennas and related facilities within the city, to the extent possible, to minimize potential adverse impacts on the community;

4. Minimize adverse visual impacts of wireless communications towers and related facilities through careful design, siting, landscape screening, and innovative camouflaging techniques utilizing current and future technologies;
5. Promote and encourage shared use/co-location of towers and antenna support structures;
6. Maintain and preserve the existing residential character of the City of Columbia Heights and its neighborhoods and to promote the creation of a convenient, attractive and harmonious community;
7. Promote the public safety and avoid the risk of damage to adjacent properties by ensuring that wireless communications towers and related wireless communications facilities are properly designed, constructed, modified, maintained and removed;
8. Ensure that wireless communications towers and related wireless communications facilities are compatible with surrounding land uses;
9. Encourage the use of alternative support structures, co-location of new antennas on existing wireless communications towers, camouflaged towers, and construction of towers with the ability to locate three or more providers;
10. Maintain and ensure that a non-discriminatory, competitive and broad range of wireless communications services and high-quality wireless communications infrastructure consistent with federal law are provided to serve the community; and
11. Ensure that wireless communications facilities comply with radio frequency emissions standards as promulgated by the Federal Communications Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PLANNING COMMISSION. The Columbia Heights Planning and Zoning Commission.

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

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

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

STEALTH or CAMOUFLAGED TOWER, EQUIPMENT CABINET or FACILITY. Any wireless communications tower, equipment cabinet or facility designed to hide, obscure or conceal the presence of the tower, antenna, equipment cabinet or other related facility. The stealth technology used must incorporate the wireless communications tower, equipment cabinet and facility into and be compatible with the existing or proposed uses of the site. Examples of stealth facilities include, but are not limited to: architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and wireless communications towers designed to look like light poles, power poles, trees, flag poles, clocks, steeples or bell towers.

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

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

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

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

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

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

(3) Applicability. The requirements of this division apply to the extent provided herein to all new, existing, replacement, re-located or expanded and/or modified wireless communications towers and wireless communications facilities. The requirements of this division apply throughout the city. It is the express intent of the

city to impose, to the extent permitted by applicable law, all requirements of this division to all land within the city, whether publicly or privately held, including, without limitation, private property, city property, church property, utility property and school property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) Existing towers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) Wireless communications facilities on antenna support structures.

(a) All wireless communications facilities to be located on antenna support structures shall be subject to the following minimum standards:

1. Wireless communications facilities shall only be permitted on buildings which are at least 35 feet tall.

2. Wireless communications facilities shall be permitted on the city's water tower; provided that the city may impose reasonable conditions which ensure that such facilities do not interfere with access to or maintenance of the tower.

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

(b) Antenna dimensions.

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

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

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

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

(d) Wireless communications facilities located on antenna support structures, and their related equipment cabinets, shall be located or screened to minimize the visual impact of such facilities and equipment cabinets upon adjacent properties. Any such screening shall be of a material and color that matches the exterior of the building or

structure upon which it is situated. Wireless communications facilities and related equipment cabinets shall be of a stealth design, and shall have an exterior finish and/or design as approved by the city.

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

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

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

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

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

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

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

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

(11) Utility pole-mounted wireless communications facilities.

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

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

(c) Equipment cabinets associated with utility pole-mounted wireless communications facilities which are located within the public right-of-way shall be of a scale and design that make them no more visually obtrusive than other types of utility equipment boxes normally located within the right-of-way and shall be located in a manner and location approved by the city. To the greatest practical extent, equipment cabinets associated with utility pole-mounted facilities which are located outside of the public right-of-way shall be concealed from public view or shall be architecturally designed using stealth technology or buffered to be compatible with surrounding land uses, except that such shelters located in residential zoning districts must be screened from the view of residents and pedestrians.

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

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

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

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

1. Name, address and telephone number of the applicant;
2. Location of the utility pole-mount, along with the property owner's name and telephone number;
3. Number of applicant's wireless communications facilities to be located on the subject property;
4. A sworn and certified statement in writing by a qualified engineer that the wireless communications facility will conform to any and all requirements and standards set forth in the city code, and federal and state law;

5. An application fee in the amount set by the Council for each wireless communications facility listed on the application;
 6. A copy of all licenses and/or franchises required by federal, state or local law for the construction and/or operation of a wireless communications system in the city;
 7. A scaled site plan clearly indicating the location, type and height of the proposed wireless communications facility, on-site land uses and zoning, elevation and stealth design drawings of the proposed wireless communications facility and utility pole-mount, topography, a current survey, landscape plans, and any other information deemed by the city to be necessary to assess compliance with this division and the land use and development regulations;
 8. An inventory of the applicant's existing towers and wireless communications facilities, if any, that are either within the jurisdiction of the city or within one mile of the city limits, including specific information about the location, height, and design of each wireless communications facility or tower;
 9. A certification that the applicant will comply with all applicable federal, state or local laws including all the provisions of this division and the land use and development regulations; and
 10. A certification that the site described in the application is located on a utility pole- mount and the owner/operator agrees to the location of the wireless communications facility.
- (b) An application for a wireless communications permit to locate or re-locate a wireless communications facility that proposes to co-locate said facility on an already existing utility pole-mount and that satisfies the requirements set forth in this division, shall receive expedited treatment in the review process.
- (c) A petitioner shall submit any additional information requested by the city for purposes of evaluating the permit request.
- (d) In granting or denying a wireless communications permit to locate or re-locate a utility pole-mounted wireless communications facility, the Zoning Administrator shall prepare a written record of decision including findings of fact.
- (13) Construction of new towers.
- (a) Conditions of approval for wireless communications towers.
1. Setback.
 - a. The distance between the base of any proposed wireless communications tower, measured from the center of a tower, and the nearest lot line shall be at least equal to the height of the tower, provided that this distance may be reduced to a specified amount if an applicant provides a certification from the tower manufacturer or a qualified engineer stating that the tower is designed and constructed in such a way as to crumple, bend, collapse or otherwise fall within the specified distance.
 - b. In no event shall the distance between the base of a proposed wireless communications tower, measured from the center of the tower, and the nearest lot line be less than 20% of the tower height.
 2. Structural requirements. All wireless communications tower designs must be certified by a qualified engineer specializing in tower structures and licensed to practice in the State of Minnesota. The certification must state the tower design is structurally sound and, at a minimum, in conformance with the city's building code, the

State Building Code, and any other standards outlined in the land use and development regulations, as amended from time to time.

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

(b) Requirements for separation between towers.

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

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

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

MINIMUM TOWER SEPARATION DISTANCE		
Height of Existing Tower	Height of Proposed Tower	Minimum Separation
MINIMUM TOWER SEPARATION DISTANCE		
Height of Existing Tower	Height of Proposed Tower	Minimum Separation
Less than 50 feet	Less than 50 feet	100 feet
	50-100 feet	200 feet
	101-150 feet	400 feet
	151-200 feet	800 feet
50-100 feet	Less than 50 feet	100 feet
	50-100 feet	400 feet
	101-150 feet	600 feet
	151-200 feet	800 feet
101-150 feet	Less than 50 feet	100 feet
	50-100 feet	400 feet
	101-150 feet	600 feet
	151-200 feet	800 feet
151-200 feet	Less than 50 feet	100 feet
	50-100 feet	600 feet
	101-150 feet	800 feet
	151-200 feet	1,000 feet

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

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

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

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

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

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

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

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

(d) Tower design and type.

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

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

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

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

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

(f) Visual impact standards. To assess the compatibility with and impact on adjacent properties of a proposed wireless communications tower site, an applicant seeking to construct, relocate or modify a wireless communications tower may be required to submit a visual impact analysis. The requirements of this subsection shall be required for any application to construct a tower greater than 80 feet in height. The applicant may request a review of a proposed wireless communications tower location, prior to submission of an application, to determine whether or not a visual impact analysis will be required. The applicant shall be advised of the requirement to submit a visual impact analysis by the city within ten working days following the city's receipt of the applicant's application for construction of a new wireless communication tower or the relocation or modification of an existing tower.

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

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

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

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

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

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

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

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

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

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

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

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

(14) Application process for new towers.

(a) The use of existing structures to locate wireless communications facilities shall be preferred to the construction of new wireless communications towers. To be eligible to construct a new wireless communications tower within city limits, an applicant must establish to the satisfaction of the city that the applicant is unable to provide the service sought by the applicant from available sites, including co-locations within the city and in neighboring jurisdictions; and the applicant must demonstrate to the reasonable satisfaction of the city that no other suitable existing tower or antenna support structure is available, including utility poles; and that no reasonable alternative technology exists that can accommodate the applicant's wireless communications facility due to one or more of the following factors:

1. The structure provides insufficient height to allow the applicant's facility to function reasonably in parity with similar facilities;

2. The structure provides insufficient structural strength to support the applicant's wireless communications facility;

3. The structure provides insufficient space to allow the applicant's wireless communications facility to function effectively and reasonably in parity with similar equipment;

4. Use of the existing structure would result in electromagnetic interference that cannot reasonably be corrected;

5. The existing structure is unavailable for lease under a reasonable leasing agreement;

6. Use of the structure would create a greater visual impact on surrounding land uses than the proposed alternative or otherwise would be less in keeping with the goals, objectives, intent, preferences, purposes, criteria or standards of this division, the land use and development regulations and land development regulations; and/or

7. Other limiting factors.

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

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

1. Name, address and telephone number of the applicant;
2. Proposed location of the wireless communications tower, along with all studies, maps and other information required by division (O)(13) and (14) (applicant shall submit information for only one proposed tower per application);
3. Number of applicant's wireless communications facilities to be located on the subject tower and the number of spaces available for co-location;
4. A sworn and certified statement in writing by a qualified engineer that the wireless communications tower will conform to all requirements set forth in the city code, and federal and state law;
5. An application fee in the amount set by the Council;
6. A copy of all licenses and/or franchises required by federal, state or local law for the construction and/or operation of a wireless communications system in the city;
7. A scaled site plan clearly indicating the location, type and height of the proposed wireless communications tower, on-site land uses and zoning, elevation and stealth design drawings of the proposed tower, topography, and any other information deemed by the Zoning Administrator to be necessary to assess compliance with this division and the land use and development regulations;
8. An inventory of the applicant's existing towers and wireless communications facilities, if any, that are either within the jurisdiction of the city or within one mile of the city limits, including specific information about the location, height, and design of each wireless communications facility or tower;
9. The names, addresses and telephone numbers of all owners of existing towers or antenna support structures within an area equal to 100% of the search ring for the wireless communications facility proposed to be located on the proposed new tower;
10. Written documentation in the form of an affidavit that the applicant made diligent, but unsuccessful efforts for permission to install or co-locate the proposed wireless communications facility on all existing towers or antenna support structures located within an area equal to 100% of the search ring for the proposed site of the wireless communications facility;
11. Written, technical evidence from a qualified engineer that the proposed wireless communications facility cannot be installed or co-located on an existing tower or antenna support structure located within the city and must be located at the proposed site in order to meet the coverage requirements of the proposed wireless communications service, together with a composite propagation study which illustrates graphically existing and proposed coverage in industry-accepted median received signal ranges;
12. A written statement from a qualified engineer that the construction and placement of the proposed wireless communications tower will comply with Federal Communications Commission radiation standards for interference and safety and will produce no significant signal interference with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and non-residential properties; and

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

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

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

(15) Annual registration requirement.

(a) Wireless communications facilities.

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

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

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

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

(b) Wireless communications towers.

1. To enable the city to keep accurate, up-to-date records of the location and continued use of wireless communications towers within city limits, on an annual basis, no later than February 1 of each year, or upon change

in ownership of a wireless communications tower, the owner/operator of each tower shall submit documentation to the Zoning Administrator providing:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(n) Security.

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

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

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

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

(o) Advances in technology. All providers shall use and apply any readily available advances in technology that lessen the negative aesthetic effects of wireless communications facilities and wireless communications towers to the residential communities within the city. Every five years, the city may review existing structures and compare the visual impact with available technologies in the industry for the purpose of removal, relocation or alteration of these structures in keeping with the general intent of this division. Such removal, relocation or alteration may be required by the city pursuant to its zoning power and authority.

(17) Review of applications. The city shall process all applications for wireless communications towers and wireless communications facilities in a timely manner and in accordance with established procedures. The reason for the denial of any application filed in accordance with this provision shall be set forth in writing, and shall be supported by substantial evidence in a written record.

(18) Appeals. At any time within 30 days after a written order, requirement, determination or final decision has been made by the Zoning Administrator or other official in interpreting or applying this division, except for actions taken in connection with prosecutions for violations thereof, the applicant or any other person affected by such action may appeal the decision in accordance with the provisions of the land use and development regulations.

(19) Revocation. A material breach of any terms and conditions of a permit issued for a wireless communications tower or wireless communications facility under this division and the land use and development regulations may result in the revocation by the city of the right to operate, utilize or maintain the particular tower or wireless communications facility within the city following written notification of the violation to the owner or operator, and after failure to cure or otherwise correct said violation within 30 days. A violation of this div

be subject to enforcement in accordance with the land use and development regulations. Penalties for a violation of a permit or this division may include fines and removal of the wireless communications tower or wireless communications facility at the owner's expense.

(Ord. 1424, passed 12-11-00)

(P) Sign regulations.

(1) Purpose. The purpose of this division is to allow effective signage appropriate to the character of each zoning district, to promote an attractive environment by minimizing visual clutter and confusion, to minimize adverse impacts on nearby property and protect the public health, safety and general welfare.

(2) Application. The sign regulations set forth in this division shall apply to all structures and all land uses, except as otherwise prohibited by this article. All signs allowed by this division shall be limited to on-premise signs.

(3) Permits.

(a) Permit required. It shall be unlawful for any person to erect, build, construct, attach, hang, place, suspend, affix, structurally alter, or relocate any sign within the city without having first obtained a permit from the city unless herein excluded.

(b) Application for sign permit. An application for a sign permit shall be filed with the Zoning Administrator on the approved form and shall be accompanied by such information as may be required to ensure compliance with the provisions of this division, including but not limited to, the following:

1. A drawing showing the proposed location of the sign for which the permit is being requested and the location of all existing signage on the premises.

2. A drawing indicating the size, color, content and materials of the sign, as well as the method of construction and attachment to the building or to the ground.

3. Engineering data showing the structure is designed to accommodate dead load and wind pressure, in any direction, in the amount required within this division, when specifically requested by the Zoning Administrator.

(c) Application fee. Fees for all sign permits shall be established by resolution of the City Council.

(d) Issuance of permit. Upon the filing of a completed application for a sign permit, the Zoning Administrator shall examine all accompanying drawing and supplemental data to determine compliance with the requirements of this division. Upon approval, the sign permit shall remain valid for a period of one year. If no work has commenced within such time period, a new permit shall be required even if no changes have been made to the original site plan.

(e) Exemptions. The following changes shall not require a sign permit. These exceptions shall not be construed as relieving the owner of the sign from the responsibility for its proper erection and maintenance and its compliance with the provisions of this article or any other law or ordinance regulating the same.

1. The changing of the advertising copy or message of a painted or printed sign. Except for theater marquees and changeable copy signs specifically designed for the use of replaceable copy, electric signs shall not be included in this exception.

2. Painting, repainting or cleaning of an advertising structure or the changing of the advertising copy or message thereon, unless a structural change is made.

(4) General sign standards.

(a) Construction requirements. All signs shall be constructed and maintained in such a manner so as to present a professional appearance and maintained in accordance with the applicable provisions of the Uniform Building and Electrical Codes. The site on which the sign is constructed shall utilize existing finished grade, and shall not be raised, bermed, or otherwise elevated above surrounding grade to achieve a greater height than allowed by this article.

(b) Maintenance. All signs, including temporary signs, together with all of their supports, braces, guys, and anchors, shall be kept in good repair and in proper state of preservation. The display surfaces of all signs shall be kept neatly painted or posted. Every sign and the immediate surrounding premises shall be maintained by the owner or person in charge thereof in a safe, clean, sanitary, and inoffensive condition, and free and clear of all obnoxious substances, rubbish and weeds.

(c) Inspection. All signs for which a permit is required shall be subject to inspection by the Zoning Administrator. The Zoning Administrator, or any other official of the municipality who may be appointed by him is hereby authorized to enter upon any property or premises to ascertain whether the provisions of this division are being obeyed.

(5) Exempt signs. In all districts, the provisions of this section shall not apply to the following signs:

(a) Signs of any governmental unit designed for regulatory and safety purposes;

(b) Memorial plaques, cornerstones and historical tablets;

(c) Political signs regulated per state statute;

(d) Direction signs not more than two in number identifying the location and nature of a building, structure, or use which is not readily visible from the street, serving such building, structure, or use on lands forming part of the site of such buildings, structure, or uses, provided that each such sign is not more than ten square feet in total area;

(e) Signs not exceeding nine square feet in area located upon private property and directed toward the prevention of trespassing;

(f) Window signage that does not exceed 25% of the total area of the window on or in which it is displayed;

(g) Temporary signs pertaining to drives or events of charitable, educational or religious organizations, and governmental signs used for the promotion of citywide functions and/or events, provided that such signs shall not be erected or posted for a period of more than 14 days prior to the date of the event and shall be removed within three days thereafter;

(h) Flags or emblems of political, civic, philanthropic, educational or religious organizations;

(i) In residential districts, one temporary on-site, freestanding real estate sign advertising the sale, lease, or rental of the lot or premises upon which such sign is situated, provided the sign does not exceed six feet in height and 15 square feet in area. On corner lots, a second such sign may be located on the property if said sign abuts a

second street right-of-way. No such temporary on-site sign shall remain seven days past the date of termination of such offering.

(j) In commercial or industrial districts, one temporary on-site, freestanding real estate sign advertising the sale, lease, or rental of the lot or premises upon which such sign is situated, provided the sign does not exceed six feet in height and 32 square feet in area. On corner lots, a second such sign may be located on the property if said sign abuts a second street right-of-way. No such temporary on-site sign shall remain seven days past the date of termination of such offering.

(k) One on-site temporary sign advertising a group of lots for sale within a subdivision or a group of homes for sale within a project along each street frontage which bounds such subdivision or project, provided that the total area of such sign shall not exceed the greater of 64 square feet with no single dimension in excess of 16 feet or eight square feet per lot or house for sale. No such on-site temporary sign shall remain past the date of sale of the last lot within the subdivision or the last house within the housing project.

(l) Temporary on-site signs indicating the name and nature of a construction or demolition project, plus the names of the contractors, subcontractors and professional advisors, provided the combined area of such signs fronting upon each street which bounds such project shall not exceed a ratio of two square feet of sign area for each 1,000 square feet of lot area. In no case shall the combined area of such signs fronting upon each street exceed the greater of 64 square feet with no single dimension in excess of 16 or eight square feet per house or lot on which such construction or demolition is located. The display of such sign shall be limited to a period not to exceed the duration of the said construction or demolition project, at which time such signs shall be removed.

(m) One wall sign per dwelling for permitted home occupations not to exceed two square feet per surface and limited to one surface.

(n) Time and temperature signs not to exceed 20 square feet per sign and one sign per side of building.

(o) In commercial or industrial districts, one temporary on-site banner or pennant advertising the sale of the lot or premises on which such a banner or pennant is situated, or one temporary on-site banner or pennant advertising the lease or rental of a tenant space, provided that the banner or pennant shall not exceed 48 square feet in area when advertising the sale of the lot or premises, and 32 square feet in area when advertising the lease or rental of a tenant space. No such banner or pennant shall remain past the date of the offering.

(p) Public art shall not count towards any signage regulations and only the portion of the artwork displaying the name of the business shall count towards the overall signage area.

(6) Prohibited signs. Signs that are not specifically permitted in this division are hereby prohibited in all districts unless criteria is presented to allow the Planning Commission to deem that the sign design preserves and maintains the community's unique historical and cultural elements. Without restricting or limiting the generality of the provisions of the foregoing, the following signs are specifically prohibited:

(a) A balcony sign and a sign mounted or supported on a balcony.

(b) Any sign that obstructs any part of a doorway or fire escape.

(c) Any sign which, because of its position, movement, shape, illumination or color constitutes a traffic hazard because it obstructs free and clear vision, or interrupts, confuses or misleads traffic.

(d) A private sign containing words or symbols, which might reasonably be construed as traffic controls.

(e) An animated or rotating sign, except barber poles and signs displaying time and temperature information only in the animated or rotating portion thereof.

(f) A flashing sign, including indoor flashing, electrical signs visible from the public right-of-way, other than time and temperature signs limited to such time and temperature information.

~~(g) A sign or graphics painted directly on any exterior surface of a building or structure. However, sign letters and symbols may be attached directly to an exterior surface by adhesive or mechanical means.~~

(g) Any roof sign, unless attached to mansard roof or similar decorative style roof that is vertical in nature.

(h) A projecting sign which either extends more than 18 inches from the building or structure to which it is attached, or which is larger than three feet in vertical height, other than canopy or marquee signs.

(i) Any sign that does not display the name of the manufacturer or maker permanently attached to, or painted or printed on, the exterior or structural supports of the sign.

(j) Any sign that is erected, placed or maintained by any person on a rock, fence, or trees.

(k) Any sign that interferes with any electric light, or power, telephone, telecommunications, or telegraph wires, or the supports thereof.

(l) Any sign containing electrical wiring which does not conform to the Electrical Code or the components thereof do not bear the label of an approved testing agency.

(m) Any window sign or signs which exceed 25% of the total area of the window on or in which it is displayed.

(n) Portable signage, excluding sandwich board signs.

(o) Temporary signage stuck into the ground, excluding political signs regulated per state statute, professional real estate signs, garage sale signs, and any listed in division (P)(5).

(p) Variable electronic message signs.

(7) Temporary signs. The following standards shall apply to temporary signs in all zoning districts:

(a) Each temporary sign, with the exception of sandwich board signs, shall require a sign permit from the City of Columbia Heights.

(b) No more than four temporary sign permits may be issued per business per calendar year.

(c) No more than two temporary signs shall be displayed per business at any given time. When two temporary signs are displayed, each sign shall require a permit and each sign will count toward the allotment of temporary signage permitted per business per calendar year. If the business is located within a shopping center, nor more than four temporary signs may be displayed throughout the shopping center at any given time.

(d) Any sign not considered permanent shall be considered temporary.

(e) Temporary signage may not be used as permanent wall signage for the business.

(f) Temporary signs or pennants shall not exceed 32 square feet in area for businesses located in the CBD, Central Business District, and shall not exceed 48 square feet in area throughout the remainder of the city and shall be directly and fully attached to the wall of the building.

(g) Each temporary sign shall be limited to a 30-day display period per permit.

(h) Grand opening signs.

1. Each new business is permitted one grand opening sign, at the time when the new business is established in the city.

2. Grand opening signs do not require a permit.

3. The signs do not count against the total number of temporary signs allowed per property per calendar year.

4. Grand opening signs are allowed for no more than 60 consecutive days.

5. Grand opening signs must display a message consistent with the promotion of the grand opening on the new business.

6. Grand opening signs shall be no greater than 50 square feet in area.

7. The signs must meet all other applicable regulations for temporary signage in the city pertaining to placement on the property, maintenance, and the like.

(i) No temporary sign shall extend over or into any street, alley, sidewalk or other public thoroughfare, and may not cover more than 25% of window area such that 75% of the total window area is kept clear at all times.

(j) No temporary sign shall be erected so as to prevent free ingress to or egress from any door, window or fire escape, nor shall such sign be attached to any standpipe or fire escape.

(k) Unauthorized use of temporary signage shall be subject to the other sanctions as provided herein.

(l) Sandwich board signs.

1. Permitted in the LB, Limited Business, GB, General Business, and CBD, Central Business District only.

2. One sandwich board sign is permitted per business.

3. Sandwich board signs are limited to eight square feet in area per side.

4. Sandwich board signs are limited to five feet in height.

5. The sign shall be professionally painted and maintained in a neat and readable manner.

6. Signs shall be placed on private property only, and shall be set back at least five feet from all property lines.

7. Signs shall not obstruct vehicular or pedestrian traffic or visibility and shall not create a safety hazard.

8. Signs shall not be lighted and shall not utilize noise amplifiers.

9. In the CBD, Central Business District only, sandwich board signs may be placed on public sidewalks, directly in front of the business being advertised.

(8) Dynamic LED signage.

(a) Regulations. Dynamic LED signage is allowed as a conditional use in those zoning districts specified in this code. All dynamic LED signage is subject to the following conditions:

1. Dynamic LED signs are allowed only on monument signs for conditionally permitted uses in all zoning districts, with the exception of the PO, Public District, in which LED signage may be utilized in existing pylon signs. Motor fuel stations may display dynamic LED signs as part of the pylon sign to promote motor fuel prices only. Such motor fuel price signs do not require a conditional use permit. All dynamic LED signs may occupy no more than 60% of the actual copy and graphic area. The remainder of the sign must not have the capability to have dynamic LED signs, even if not used. Only one, contiguous dynamic display area is allowed on a sign face.
2. A dynamic LED sign may not change or move more often than once every ten seconds for commercial, industrial uses, or public uses, and no more than once every ten minutes for religious and/or educational institution uses, except one for which changes are necessary to correct hour-and-minute, date, or temperature information.
3. A display of time, date or temperature information may change as frequently as once every five seconds, however information displayed not relating to the date, time or temperature must not change or move more often than once every ten seconds for commercial, industrial uses, or public uses, and no more than once every ten minutes for religious and/or educational institution uses.
4. The images and messages displayed must be static, and the transition from one state display to another must be instantaneous without any special effects. Motion, animation and video images are prohibited on dynamic LED sign displays.
5. The images and messages displayed must be complete in themselves, without continuation in content to the next image or message or to any other sign.
6. Dynamic LED signs must be designed and equipped to freeze the device in one position if a malfunction shall occur. The displays must also be equipped with a means to immediately discontinue the display if it malfunctions, and the sign owner must immediately stop the dynamic display when notified by the city that it is not complying with the standards of this section.
7. Dynamic LED signs may not 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. Dynamic LED signs must have an automatic dimmer control to produce a distinct illumination change from a higher illumination level to a lower level for the time period between one-half hour before sunset and one half-hour after sunrise.
8. Dynamic LED signs existing on the effective date of Ordinance 1593, passed April 25, 2011, must comply with the operational standards listed above. An existing dynamic LED sign that does not meet the structural requirements may continue as a non-conforming sign subject to § 9.105(E).

(9) Signs in Residential Districts R-1, R-2A and R-2B.

(a) Permitted signs. In the R-1, Single-Family Residential District, and the R-2, Two-Family Residential District, the following signs shall be permitted:

1. One identification sign per dwelling unit not to exceed two square foot per surface, and limited to one surface attached directly to the structure.

2. One wall or ground sign for each conditional use other than the residential use, not to exceed 16 square feet per surface, and limited to two surfaces.

3. One institutional sign not to exceed 40 square feet per surface, limited to two surfaces, and set back a minimum of ten feet from any property line.

4. In case of multiple structures on one parcel, a second institutional sign may be installed provided there is a minimum distance of 75 feet between the two sign structures.

(b) Restrictions on permitted signs. Permitted signs in the R-1, Single-Family Residential, and R-2A and R-2B, Two-Family Residential Districts are subject to the following restrictions:

1. The maximum height of a sign, including its structures, shall not exceed eight feet above the grade at street level or at the base of the sign, whichever is greater.

2. No animated sign shall be permitted.

3. All illuminated signs shall be shielded in such a way as to protect the rights of adjacent property owners from nuisance.

4. The sign number and area permitted by this division are considered maximums. These maximums, or any portions thereof which are not utilized by the owner, occupant or user of property are non-transferable to any other property owned by such persons, or to any other owner, occupant or user of property in the same or other districts.

(c) Conditional use signs. In the R-1, R-2A and R-2B Districts, the following signs shall require a conditional use permit:

1. A dynamic LED sign used in conjunction with a religious institution.

2. A dynamic LED sign used in conjunction with an educational institution.

(d) Restrictions on conditional use signs. Signs requiring a conditional use permit in the R-1, Single-Family Residential, and R-2A and R-2B, Two-Family Residential Districts are subject to the following restrictions:

1. All signage must be approved through the conditional use permit process as outlined in § 9.104(H) above.

2. All signage must meet the requirements for dynamic LED signs as outlined in division (P)(8) above.

3. A dynamic LED sign may change its message with a frequency of no less than one message for each ten minutes of display time.

(10) Signs in Residential Districts R-3 and R-4.

(a) Permitted signs. In the R-3, Limited Multiple-Family Residential District, and the R-4, Multiple-Family Residential District, the following signs shall be permitted:

1. One identification sign per dwelling unit not to exceed two square feet per surface, limited to one surface, and attached directly to the structure for each single- and two-family residence.

2. One area identification sign per lot line facing a public street not to exceed 16 square feet per surface and limited to two surfaces, for each multiple dwelling.

3. One institutional sign not to exceed 40 square feet per surface, limited to two surfaces, and set back a minimum of ten feet from any property line.

4. In case of multiple structures on one parcel, a second institutional sign may be installed provided there is a minimum distance of 75 feet between the two sign structures.

(b) Restrictions on permitted signs. Permitted signs in the R-3, Limited Multiple-Family Residential, and R-4, Multiple-Family Residential Districts are subject to the following restrictions:

1. The maximum height of a sign, including its structures, shall not exceed eight feet above the grade at street level or at the base of the sign, whichever is greater.

2. No animated signs shall be permitted.

3. All illuminated signs shall be shielded in such a way as to protect the rights of adjacent property owners from nuisance.

4. The sign number and area permitted by this division are considered maximums. These maximums, or any portions thereof which are not utilized by the owner, occupant or user of property are non-transferable to any other property owned, occupied or used by such persons, or to any other persons, or to any other owners, occupant or user of property in the same or other districts.

(c) Conditional use signs. In the R-3 and R-4 Districts, the following signs shall require a conditional use permit:

1. A dynamic LED sign used in conjunction with a religious institution.

2. A dynamic LED sign used in conjunction with an educational institution.

(d) Restrictions on conditional use signs. Signs requiring a conditional use permit in the R-3, Limited Multiple-Family Residential, and R-4, Multiple-Family Residential Districts are subject to the following restrictions:

1. All signage must be approved through the conditional use permit process as outlined in § 9.104(H) above.

2. All signage must meet the requirements for dynamic LED signs as outlined in division (P)(8) above.

3. Dynamic LED signs may change its message with a frequency of no less than one message for each ten minutes of display time.

(11) Signs in LB, Limited Business District.

(a) Permitted signs. In the LB, Limited Business District, the following signs shall be permitted:

1. Any number of wall signs on any side of a building not to exceed 50 square feet of total surface area for all sign surfaces and limited to one surface per sign. Provided, however, that if a parcel of land on which a building is located directly abuts residentially zoned land, no wall sign may be located on the side of the building that faces the abutting residential parcel.

2. One freestanding pylon sign only if the building or structure is located adjacent to a state trunk highway and located 20 feet or more from the front lot line, not to exceed 40 square feet per surface, and limited to two surfaces.

3. If not located adjacent to a state trunk highway and/or where the 20-foot setback cannot be met, one monument sign not to exceed 40 square feet in size, limited to two sides, not to exceed 8 feet in height, and set a minimum of 5 feet from any property line.

4. Any pylon or monument sign must be a minimum of five feet from any building or structure on the same lot.

5. One wall sign on each side of the building which faces a public alley, not to exceed four square feet per surface and limited to one surface per sign.

6. One area identification sign for each shopping center not to exceed 50 square feet per surface, and limited to four surfaces, in addition to one wall sign for each primary use business not to exceed 50 square feet per surface, limited to one surface.

7. One identification sign for each use other than primary use not to exceed two square, feet per surface, and limited to one surface.

8. One wall sign per building with an area of the lesser of 20 square feet or 1/2 square foot for each front foot of a building or structure provided that the said sign is located on the same side of the building as an entrance approved by the City Building Official as a public entrance and provided that the said public entrance and sign faces a parking facility designated by the city as approved public parking.

(b) Restrictions on permitted signs. Permitted signs in the LB, Limited Business District, are subject to the following restrictions:

1. Total sign area shall not exceed two square feet for each front foot of the building or structure. In the case of multiple occupancy, the wall surface for each tenant, user or owner shall include only the surface area on the exterior facade of the premises occupied by such tenant, user or owner.

2. The maximum height of a pylon sign including its structure shall not exceed 20 feet above grade at street level or at the base of the sign, whichever is greater. The maximum height of a monument sign including its structure shall not exceed 8 feet above grade at street level or at the base of the sign, whichever is greater.

3. The sign number and area permitted by this section are considered maximums. These maximums, or any portion thereof, which are not utilized by the owner, occupant or user of property are non-transferable to any other property owned, occupied or used by such persons, or to any other owner, occupant or user of property in the same or other districts.

(c) Conditional use signs. In the LB District, the following signs shall require a conditional use permit:

1. A dynamic LED sign used in conjunction with a commercial business.
2. A dynamic LED sign used in conjunction with a religious institution.
3. A dynamic LED sign used in conjunction with an educational institution.

(d) Restrictions on conditional use signs. Signs requiring a conditional use permit in the LB, Limited Business District, are subject to the following restrictions:

1. All signage must be approved through the conditional use permit process as outlined in § 9.104(H) above.

2. All signage must meet the requirements for dynamic LED signs as outlined in division (P)(8) above.

3. Dynamic LED signs may change its message with a frequency of no less than one message for each 10 seconds of display time for commercial businesses.

4. Dynamic LED signs may change its message with a frequency of no less than one message for each ten minutes of display time for religious or educational institutions.

(12) Signs in CBD, Central Business District.

(a) Permitted signs. In the CBD, Central Business District, the following signs shall be permitted:

1. Any number of wall signs on any side of a building not to exceed 100 square feet of total surface area for all wall sign surfaces and limited to one surface per sign. Provided, however, that if a parcel of land on which a building is located directly abuts residentially zoned land, no wall sign may be located on the side of the building that faces abutting residential parcel.

2. One monument sign not to exceed 50 square feet in size, limited to two sides, not to exceed ten feet in height, and set a minimum of five feet from any property line.

3. Any monument sign must be a minimum of five feet from any building or structure on the same lot.

4. One wall sign on each side of the building that faces a public alley, not to exceed four square feet per surface and limited to one surface per sign.

5. One area identification sign for each shopping center not to exceed 100 square feet per surface, and limited to four surfaces; one wall sign for each primary use business, not to exceed 100 square feet per surface and limited to one surface.

6. One identification sign for each user other than the primary use, not to exceed two square feet per surface, and limited to one surface.

7. One wall sign per building with an area of the lesser of 20 square feet or one-half square foot for each front foot of a building or structure provided that the said sign is located on the same side of the building as an entrance approved by the City Building Official as a public entrance and provided that the said public entrance and sign faces a parking facility designated by the city as approved public parking.

(b) Restrictions on permitted signs. Permitted signs in the CBD, Central Business District, are subject to the following restrictions:

1. Total sign area shall not exceed two square feet for each front foot of building or structure. In the case of multiple occupancy, the wall surface for each tenant, user or owner shall include only the surface area on the exterior facade of the premises occupied by such tenant, user or owner.

2. The maximum height of a monument sign, including its structures, shall not exceed eight feet above grade at street level or at the base of the sign, whichever is greater.

3. The sign number and area permitted by this division are considered maximums. These maximums, or any portion thereof, which are not utilized by the owner, occupant or user of property are non-transferable to any other property owned, occupied or used by such persons or any other owner, occupant or user of property in the same or other districts.

(c) Conditional use signs. In the CBD District, the following signs shall require a conditional use permit: dynamic LED signage.

(d) Restrictions on conditional use signs. Signs requiring a conditional use permit in the CBD, Central Business District, are subject to the following restrictions:

1. All signage must be approved through the conditional use permit process as outlined in § 9.104(H) above.
2. All signage must meet the requirements for dynamic LED signs as outlined in division (P)(8) above.
3. Dynamic LED signs may change its message with a frequency of no less than one message for each ten seconds of display time.

(13) Signs in the GB, General Business District.

(a) Permitted signs. In the GB, General Business District, the following signs shall be permitted:

1. Any number of walls signs on any side of a building not to exceed 200 square feet of total surface area for all wall sign surfaces and limited to one surface per sign. Provided, however, that if a parcel of land on which a building is located directly abuts residentially zoned land, no wall sign may be located on the side of the building that faces the abutting residential parcel.

2. One freestanding pylon sign only if the building or structure is located adjacent to a state trunk highway and located 20 feet or more from the front lot line, not to exceed 75 square feet per surface and limited to two surfaces. Provided, however, that:

a. If the building contains more than 80,000 square feet of gross floor area or the site on which the building is located contains more than 90,000 square feet of surface area;

b. If the street frontage of the site on which the building or structure is located exceeds 150 feet in length; and

c. If the building is located 20 feet or more from the front lot line and is located adjacent to a state trunk highway, a second freestanding sign not to exceed 75 square feet and limited to two surfaces shall be permitted at a location at least 50 feet distant from any other freestanding sign and at least 25 feet distant from the lot line of any adjoining parcel of and other than a street or alley.

3. If not located adjacent to a state trunk highway where the 20-foot building setback cannot be met, one monument sign not to exceed 50 square feet in size, limited to two sides, not to exceed ten feet in height, and setback a minimum of five feet from any property line.

4. Any pylon or monument sign must be a minimum of five feet from any building or structure on the same lot.

5. One wall sign on each side of the building that faces a public alley, not to exceed four square feet per surface and limited to one surface per sign.

6. One area identification sign for each shopping center, not to exceed 100 square feet per surface, limited to four surfaces, in addition to one wall sign for each primary use business, not to exceed 100 square feet per surface, limited to one surface.

7. One identification sign for each use other than primary use, not to exceed two square feet per surface, and limited to one surface.

8. One wall sign per building with an area of the lesser of 20 square feet or 1/2 square foot for each front foot of a building or structure provided that the said sign is located on the same side of the building as an entrance approved by the City Building Official as a public entrance and provided that the said public entrance and sign faces a parking facility designated by the city as approved public parking.

(b) Restrictions on permitted signs. Permitted signs in the GB, General Business District, are subject to the following restrictions:

1. Total signage shall not exceed two square feet for each front foot of building or structure. In the case of multiple occupancy, the wall surface for each tenant, user or owner shall include only the surface area on the exterior facade of the premises occupied by such tenant, user or owner.

2. The maximum height of a sign, including its structures, shall include only the surface area on the exterior façade of the premises occupied by such tenant, user or owner.

3. The maximum height of a pylon sign, including its structures, shall not exceed 25 feet above the grade at street level or at the base of the sign, whichever is greater. The maximum height of a monument sign, including its structures, shall not exceed eight feet above grade at street level or at the base of the sign, whichever is greater, unless the monument sign is located in the Design Overlay Highway District. In this case, the maximum height may be increased to ten feet above grade at street level or at the base of the sign, whichever is greater, if the principal structure is greater than or equal to 22 feet in height.

4. The sign number and area permitted by this section are considered maximum. These maximums, or any portion thereof, which have not been utilized by the owner, occupant or user of property are non-transferable to any other property owned, occupied or used by such persons or to any other owner, occupant or user of property in the same or other districts.

(c) Conditional use permits. In the GB District, the following signs shall require a conditional use permit: dynamic LED signage.

(d) Restrictions on conditional use signs. Signs requiring a conditional use permit in the GB, General Business District, are subject to the following restrictions:

1. All signage must be approved through the conditional use permit process as outlined in § 9.104(H) above.

2. All signage must meet the requirements for dynamic LED signs as outlined in division (P)(8) above.

3. Dynamic LED signs may change its message with a frequency of no less than one message for each ten seconds of display time.

(14) Signs in I-1 and I-2 Industrial Districts.

(a) Permitted signs. In the I-1, Light Industrial District, and the I-2, General Industrial District, the following signs shall be permitted:

1. Any number of wall signs on any side of a building to exceed 100 square feet of total surface area for all wall sign surfaces and limited to one surface per sign. Provided, however, that if a parcel of land on which a building

is located directly abuts residentially zoned land, no wall sign may be located on the side of building that faces abutting residential parcels.

2. One freestanding pylon sign only if the building or structure is located 20 feet or more from the front lot line, not to exceed 100 square feet per surface, and limited to two surfaces. Where the 20-foot setback cannot be met, one monument sign not exceed 50 square feet in size, limited to two sides, not to exceed 10 feet in height, and set a minimum of 5 feet from any building or structure on the same lot.

3. Any pylon or monument sign must be a minimum of five feet from any building or structure on the same lot.

4. One identification sign for each use other than primary use, not to exceed two square feet per surface and limited to one sign.

5. Billboards located adjacent to public streets with speed limits of 45 miles per hour or more, placed at a minimum of 1,500-foot intervals, not to exceed 100 square feet per surface and limited to two surfaces.

(b) Restrictions on permitted signs. Permitted signs in the I-1, Light Industrial District, and the I-2, General Industrial District, are subject to the following restrictions:

1. Total sign area shall not exceed two square feet for each front foot of building or structure. In the case of multiple occupancy, the wall surface for each tenant, user or owner shall include only the surface area on the exterior facade of the premises occupied by such tenant, user or owner.

2. The maximum height of a sign including its structures shall not exceed 25 feet above the grade at street level or at the base of the sign, whichever is greater. The maximum height of a monument sign, including its structures, shall not exceed 10 feet above grade at street level or at the base of the sign, whichever is greater.

3. The sign number and area permitted by this division are considered maximums. These maximums, or any portion thereof, which are not utilized by the owner, occupant or user of property are non-transferable to any other property owned, occupied or used by such person or to any other owner, occupant or user of property located in the same or other districts.

(c) Conditional use signs. In the I-1 and I-2 Industrial Districts, the following signs shall require a conditional use permit: dynamic LED signage.

(d) Restrictions on conditional use signs. Signs requiring a conditional use permit in the I-1, Light Industrial District, and the I-2, General Industrial District, are subject to the following restrictions:

1. All signage must be approved through the conditional use permit process as outlined in § 9.104(H) above.

2. All signage must meet the requirements for dynamic LED signs as outlined in division (P)(8) above.

3. Dynamic LED signs may change its message with a frequency of no less than one message for each ten seconds of display time.

(15) Signs in the PO, Public and Open Space District.

(a) Permitted signs. In the PO, Public and Open Space District, the following signs shall be permitted:

1. Any number of wall signs on any side of a building not to exceed 200 square feet of total surface area for all wall sign surfaces and limited to one surface per sign. Provided, however, that if a parcel of land on which a

building is located directly abuts a residentially zoned land, no wall sign may be located on the side of the building that faces the abutting residential parcel.

2. One monument sign per street frontage for those public facility parcels that include governmental offices. Such signs shall not exceed 50 square feet in area, and shall be located no closer than five feet from any property line.

3. Any number of freestanding identification signage used to promote the name of a public city, regional or state park. Such signs shall be no greater than 40 square feet in area, shall not exceed ten feet in height, and shall be located no closer than five feet from any property line.

(b) Restrictions on permitted signs. Permitted signs in the PO, Public and Open Space District are subject to the following restrictions:

1. Total signage shall not exceed two square feet for each front foot of building or structure.

2. The maximum height of a monument sign shall not exceed ten feet in height.

3. The sign number and area permitted by this section are considered maximum. These maximums, or any portion thereof, which are not utilized by the owner or user of the property are non-transferable to any other property owned, occupied or used by such persons or to any other owner or user of property located in the same or other districts.

(c) Conditional use signs. In the PO District, the followings signs shall require a conditional use permit: a dynamic LED sign used in conjunction with a governmental facility.

(d) Restrictions on conditional use signs. Signs requiring a conditional use permit in the PO, Public and Open Space District, are subject to the following restrictions:

1. All signage must be approved through the conditional use permit process as outlined in § 9.104(H) above.

2. All signage must meet the requirements for dynamic LED signs as outlined in division (P)(8) above.

3. Dynamic LED signs may change its message with a frequency of no less than one message for each ten minutes of display time.

(16) Signs for nonconforming residential uses. Sign number and area for residential uses in commercial, business or industrial zones are limited to the maximum number and area for the actual use of the subject property.

(17) Minimum yard requirements—freestanding signs. The minimum front, side and rear yard requirements for freestanding signs shall be ten feet from any property line or as otherwise stated in this article. When the bottom edge of the freestanding pylon sign is eight feet or more above grade, the leading edge of the sign may extend within one foot of the property line. Provided, however, no freestanding sign shall invade the area required for traffic visibility by this division.

(Q) Erosion and sediment control.

(1) Purpose.

(a) During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches and the dredging of lakes.

(b) As a result, the purpose of this local regulation is to safeguard persons, protect property, and prevent damage to the environment in the city. This division will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the city. This division is to be used in supplement to the City Zoning Code, § 9.106 and to any other regulations as required by state agencies.

(2) Definitions. For the purpose of this division, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AS-BUILT PLANS. Record drawings of approved and as-constructed improvements.

BEST MANAGEMENT PRACTICES (BMPs). Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water, including avoidance of impacts, construction phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies.

CLEARING. Any activity that removes the vegetative surface cover.

CONSERVATION EASEMENT. Legal land preservation agreement between a landowner and a municipality or a qualified land protection organization. The easement confers the transfer of usage rights from one party to another.

CONSTRUCTION ACTIVITY. A disturbance to the land that results in a change in the topography, or the existing soil cover (both vegetative and non-vegetative). Examples of construction activity may include clearing, grading, filling and excavating.

CONTRACTOR. The party who signs the construction contract. Where the construction project involves more than one contractor, the general contractor shall be the contractor that is responsible pursuant to the obligations set forth in this division.

DEVELOPER. The party who signs the development agreement with the city to construct a project.

DEWATERING. The removal of water for construction activity. It can be a discharge of appropriated surface or groundwater to dry and/or solidify a construction site. Minnesota Department of Natural Resources permits are required to be appropriated, and if contaminated, may require other MPCA permits to be discharged.

EROSION. The wearing away of the ground surface as a result of movement of wind, water, ice and/or land disturbance activities.

EROSION CONTROL. A measure that prevents erosion, including, but not limited to: soil stabilization practices, limited grading, mulch, temporary or permanent cover, and construction phasing.

EROSION CONTROL INSPECTOR. A designated agent given authority by the city to inspect and maintain erosion and sediment control practices.

FINAL GRADE. Excavation or fill of material to final plan elevation. Final grade completed as part of individual site development.

FINAL STABILIZATION. All soil disturbing activities at the site have been completed and a uniform (evenly distributed, without large bare areas) perennial vegetative cover, with a density of 70% of approved vegetative cover, for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures have been employed.

GRADING. Excavation or fill of material, including the resulting conditions thereof.

GRADING, DRAINAGE AND EROSION CONTROL PERMIT. A permit issued by the municipality for the construction or alteration of the ground and for the improvements and structures for the control of erosion, runoff, and grading. Hereinafter referred to as GRADING PERMIT.

GRADING, DRAINAGE AND EROSION CONTROL PLANS. A set of plans prepared by or under the direction of a licensed professional engineer. Plans are required to indicate the specific measures and sequencing to be used to control grading, sediment and erosion on a development site during and after construction as detailed in the "Zoning Ordinance" and City SWPPP.

IMPERVIOUS SURFACE. A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

LAND DISTURBING ACTIVITY. Any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within the city's jurisdiction, including, but not limited to, clearing, grubbing, grading, excavating, transporting and filling.

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

PERIMETER SEDIMENT CONTROL. A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

PERMANENT COVER. Final site stabilization. Examples include turf, gravel, asphalt, and concrete.

PHASING. Clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

PUBLIC WATERWAY. Any body of water, including, but not limited to, lakes, ponds, rivers, streams, and bodies of water delineated by the city or other state or federal agency.

PUBLIC WORKS DIRECTOR. A registered professional engineer with the State of Minnesota who has received training and is given authority by the city to review, authorize, approve, inspect, and maintain erosion and sediment control plans and practices.

ROUGH GRADE. Excavation or fill of material to a condition suitable for general maintenance.

SEDIMENT. The product of an erosion process; solid material, both mineral and organic, that is in suspension, is being transported, or has been moved by water, air, or ice, and has come to rest on the earth's surface, either above or below water level.

SEDIMENT CONTROL. Measures and methods employed to prevent sediment from leaving the site. Sediment control practices may include, but are not limited to, silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

SITE. A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

STABILIZED. The exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, wood fiber blanket, or other material that prevents erosion from occurring. Grass seeding is not stabilization.

STANDARD PLATES. General drawings having or showing similar characteristics or qualities that are representative of a construction practice or activity.

START OF CONSTRUCTION. The first land-disturbing activity associated with a development, including land preparation such as clearing, grading, excavation and filling.

STORM WATER. Defined under Minn. Rules, part 7077.0105, subp. 41(b), and includes precipitation runoff, storm water runoff, snow melt runoff, and any other surface runoff and drainage.

STORM WATER POLLUTION PREVENTION PROGRAM (SWPPP). A program for managing and reducing storm water discharge that includes erosion prevention measures and sediment controls that, when implemented, will decrease soil erosion on a parcel of land and decrease off-site nonpoint pollution.

SURFACE WATER or WATERS. All streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems, whether natural or artificial, public or private.

TEMPORARY EROSION CONTROL. Methods employed to prevent erosion. Examples of temporary cover include: straw, wood fiber blanket, wood chips, and erosion netting.

WATERWAY. A channel that directs surface runoff to a watercourse or to the public storm drain.

WATER CONVEYANCE SYSTEM. Any channel that conveys surface runoff throughout the site.

WETLAND or WETLANDS. Defined in Minn. Rules, part 7050.0130, subp. F, and includes those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Constructed wetlands designed for wastewater treatment are not waters of the state.

ZONING ORDINANCE. City code detailing city specifications for all plan requirements.

(3) Permits.

(a) Approval. No person shall be granted a grading permit for land-disturbing activity that would require the uncovering or distributing of material in excess of any of the following measurements without the approval of a Grading, Erosion and Sediment Control, and Storm Water Management Plan by the city.

1. Ten thousand square feet.
2. Five hundred cubic yards undeveloped land, or 50 cubic yards developed land.
3. Within 1,000 feet of a waterway.

(b) Exception. No grading permit is required for land disturbances under the amounts specified above, or for the following activities:

1. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
2. General establishment of new construction lawns, or the addition of four or fewer inches of topsoil.
3. Existing nursery and agricultural operations conducted as a permitted main or accessory use.

(c) Application requirements.

1. Each application shall bear the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm.
2. A filing fee and security as outlined by the city's Zoning Ordinance and subdivision (d) below.
3. A Grading, Erosion and Sediment Control, and Storm Water Management Plan meeting the requirements of this division. Each application shall include the required number of plans and other required materials as specified on the application form.
4. The application form shall include a statement by the applicant that any land clearing, construction, or development involving the movement of earth shall be in accordance with the approved Grading, Erosion and Sediment Control, and Storm Water Management Plan.

(d) Security.

1. The permittee will be required to file with the city an irrevocable, automatically renewing letter of credit, or other improvement security in the amount specified by the current city SWMDS for fee schedule.

a. The security shall cover all costs of engineering and inspection, site improvements, street sweeping, repairs to erosion control measures, and maintenance of improvements for such period as specified by the city. Such deposit shall be provided prior to the release of the grading permit.

b. Deposit shall be released after final stabilization is complete, erosion control measures have been removed, and their removal area inspected.

2. Individual lot developers shall be required to provide a bond with a building permit application.

a. The security shall cover city costs for street sweeping, installation, maintenance and repairs to erosion control measures. The bond will be in an amount as specified by the current city SWMDS for fee schedule.

b. The security shall be released after turf is established as specified in the City Zoning Ordinance.

(e) Procedure. The city will review each application for grading permit to determine its conformance with the provisions of this regulation and other applicable requirements. The city requires complete application no less than 15 working days in advance of the desired grading permit date. Upon complete application, the city shall, in writing:

1. Approve the permit application;
 2. Approve the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or
 3. Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission;
 4. Appeals of denial of permit shall be processed in accordance with appeal to the City Zoning Ordinance.
- (4) Grading, Erosion and Sediment Control, and Storm Water Management Plan requirements.

(a) Plan requirements. Grading, erosion control practices, sediment control practices, storm water management practices, and waterway crossings shall meet the design criteria set forth in the Grading, Erosion and Sediment Control, and Storm Water Management Plan, and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the city. No land shall be disturbed until the plan is approved by the Public Works Director, and conforms to the standards set forth herein.

(b) The Grading, Erosion and Sediment Control, and Storm Water Management Plan shall comply with all of the NPDES general construction storm water permit requirements and the city's SWMDS for temporary erosion and sediment control, waste control, final stabilization and permanent water quality.

(5) Construction requirements. Construction specifications, waterway and watercourse protections requirements, and pollution prevention management measures shall comply, at a minimum, with all of the NPDES general construction storm water permit requirements, in addition to the city's SWMDS.

(6) Inspection. Notification, procedures, material requirements, permittee inspection, authorization, and record keeping shall comply, at a minimum, with all of the NPDES general construction storm water permit requirements, in addition to the city's SWMDS.

(7) Site maintenance. Responsibilities, maintenance requirements, and lapses regarding site maintenance shall comply, at a minimum, with all of the NPDES general construction storm water permit requirements, in addition to the city's SWMDS.

(8) Final stabilization requirements. Final stabilization is not complete until the criteria laid out in the NPDES general construction storm water permit and the city's SWMDS are met.

(9) Post-construction storm water management. All post-construction storm water management plans must be submitted to the Public Works Director prior to the start of construction activity. Standards for post-construction storm water management shall be as follows:

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

(b) Design criteria. Permanent storm water management systems shall meet the design criteria as provided in the city's SWMDS.

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

1. The responsible party who is permanently responsible for inspection and maintenance of the structural and nonstructural measures.
2. Pass responsibilities for such maintenance to successors in title.
3. Allow the city and its representatives the right of entry for the purposes of inspecting all permanent storm water management systems.
4. Allow the city the right to repair and maintain the facility, if necessary maintenance is not performed, after proper and reasonable notice to the responsible party of the permanent storm water management system.
5. Include a maintenance plan that contains, but is not limited to, the following:
 - a. Identification of all structural permanent storm water management systems.
 - b. A schedule for regular inspections, monitoring, and maintenance for each practice. Monitoring shall verify whether the practice is functioning as designed and may include, but is not limited to, quality, temperature, and quantity of runoff.
 - c. Identification of the responsible party for conducting the inspection, monitoring, and maintenance for each practice.
 - d. Include a schedule and format for reporting to the city compliance with the maintenance agreement.
6. The issuance of a permit constitutes a right of entry for the city or its contractor to enter upon the construction site. The applicant shall allow the city and its authorized representatives, upon presentation of credentials, to:
 - a. Enter upon the permitted site for the purpose of obtaining information, examining records, conducting investigations or surveys.
 - b. Bring such equipment upon the permitted development as is necessary to conduct such surveys and investigations.
 - c. Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of the permit.
 - d. Inspect the storm water pollution control measures.
 - e. Sample and monitor any items or activities pertaining to storm water pollution control measures.
 - f. Correct deficiencies in storm water and erosion and sediment control measures.

(10) Certification.

(a) Approved Grading, Erosion and Sediment Control, and Storm Water Management Plan. Plans for grading, stripping, excavating, and filling work, bearing the approval of the Public Works Director, shall be maintained at the site during the progress of the work.

(b) Procedure. The city will withhold issuance of building permits until the approved certified Grading Plan and Site Development Plan are on file with the city, all securities as required by this division are received, conservation posts are installed, and all erosion control measures are in place as determined by the Public Works Director.

(c) As-built Grading Plan and Development Plan. Within 60 days after completion of site development, as per the approved Grading, Erosion and Sediment, and Storm Water Management Plan, the developer shall provide the city with an As-built Grading Plan and Development Plan as defined in the City Zoning Ordinance.

(d) Removal of erosion control measures. The above-specified requirements will be authorized for removal upon the sodding of the rear yards, completion of punch list items involving ponds and slopes, final stabilization, completion of proper turf establishment, and placement of the proper conservation easement posts and signs as specified. Inspection is required after the removal of erosion control measures to verify proper restoration. Please refer to City Zoning Ordinance for specifications.

(11) Enforcement.

(a) Notice of violation.

1. In the event that any work on the site does not conform to the approved erosion and sediment control plan, or any of the requirements listed in the provisions of this article, the Public Works Director, or his or her designee, shall issue a written notice of violation to the applicant, detailing the corrective actions necessary for compliance.

2. The applicant shall conduct the corrective actions within the time period determined by the city and stated in the notice.

3. If an imminent hazard exists, the city may require that the corrective work begin immediately.

(b) Stop work order/revocation of site development permit.

1. In the event that any person holding a site development permit pursuant to this article violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, environment, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the city may suspend or revoke the site development permit through the issuance of a stop work order, or the revocation of the site development or building permit.

2. The city may draw down on the grading permit security, with 30 days written notice to developer, for any violation of the terms of this contract related to landscaping, if the violation is not cured within such 30-day period, or if the security is allowed to lapse prior to the end of the required term. If the security is drawn down, the proceeds shall be used to cure the default.

3. No development, utility or street construction will be allowed and no building permits will be issued unless the development is in full compliance with the requirements of this subdivision.

(c) Violation and penalties.

1. No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this division. Any person violating any of the provisions of this division shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this division is committed, continued, or permitted, shall constitute a separate offense.

2. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine as specified by the city ordinance for fee schedule for each offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this division shall be required to bear the expense of such restoration.

(R) Small wireless facilities.

(1) Purpose.

(a) The purpose of this division is to establish specific requirements for obtaining a small wireless facility permit for the installation, mounting, modification, operation, and replacement of small wireless facilities and installation or replacement of wireless support structures by commercial wireless providers on public and private property, including in the public right-of-way.

(b) This division does not apply to any wireline facilities, including wireline backhaul facilities. A wireless provider must obtain a small cell pole attachment permit pursuant to or other applicable authorization for use of the public right-of-way to construct, install, replace, or modify any wireline backhaul facility, such as fiber optic cable. The granting of a small wireless facility permit pursuant to this division is not a grant of such authorization.

(2) Definitions. In this division, the following terms shall have the meaning ascribed to them below:

APPLICABLE LAW. All applicable federal, state, and local laws, codes, rules, regulations, orders, and ordinances, as the same be amended or adopted from time to time.

APPLICANT. Any person submitting a small wireless facility permit application under this division.

CITY. The City of Columbia Heights, Minnesota.

COLLOCATE or COLLOCATION. To install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within, or adjacent to an existing wireless support structure that is owned privately or by the city.

DAYS. Counted in calendar days unless otherwise specified. When the day, or the last day, for taking any action or paying any fee falls on Saturday, Sunday, or a federal holiday, the action may be taken, or the fee paid, on the next succeeding secular or business day.

DECORATIVE POLE. A utility pole owned, managed, or operated by or on behalf of the city or any other governmental entity that:

1. Is specifically designed and placed for an aesthetic purpose; and
2. a. On which a nondiscriminatory rule or code prohibits an appurtenance or attachment, other than:
 - i. A small wireless facility;
 - ii. A specialty designed informational or directional sign; or

- iii. A temporary holiday or special event attachment; or
- b. On which no appurtenance or attachment has been placed, other than:
 - i. A small wireless facility;
 - ii. A specialty designed informational or directional sign; or
 - iii. A temporary holiday or special event attachment.

DEPARTMENT. The Department of Public Works of the city.

DESIGN DISTRICT. Any district within the city within which architectural design elements are required.

DIRECTOR. The Director of the department.

EXCAVATE. To dig into or in any way remove, physically disturb, or penetrate a part of a public right-of-way.

FCC and COMMISSION. The Federal Communications Commission.

HISTORIC DISTRICT. A geographically definable area, urban or rural, that possesses a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically during the period of significance but linked by association or function.

MICRO WIRELESS FACILITY. A small wireless facility that is no larger than 24 inches long, 15 inches wide, and 12 inches high, and whose exterior antenna, if any, is no longer than 11 inches.

OBSTRUCT. To place a tangible object in a public right-of-way so as to hinder free and open passage over that or any part of the public right-of-way.

PERMITTEE. A person that has been granted a small wireless facility permit by the department.

PERSON. Any individual, group, company, partnership, association, joint stock company, trust, corporation, society, syndicate, club, business, or governmental entity. PERSON shall not include the city.

PUBLIC RIGHT-OF-WAY. The area on, below, or above a public roadway, highway, street, cartway, bicycle lane, and public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easement of the city.

SMALL WIRELESS FACILITY.

1. A wireless facility that meets both of the following qualifications:
 - a. Each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all its exposed elements could fit within an enclosure of no more than six cubic feet; and
 - b. All other wireless equipment associated with the small wireless facility, excluding electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment, is in aggregate no more than 28 cubic feet in volume; or

2. A micro wireless facility.

SMALL WIRELESS FACILITY PERMIT. A permit issued by the department authorizing the installation, mounting, maintenance, modification, operation, or replacement of a small wireless facility or installation or replacement of a wireless support structure in addition to collocation of a small wireless facility on the wireless support structure.

UTILITY POLE. A pole that is used in whole or in part to facilitate telecommunications or electric service. It does not include a traffic signal pole.

WIRELINE BACKHAUL FACILITY. A facility used to transport communications data by wire from a wireless facility to a communications network.

WIRELESS FACILITY.

1. Equipment at a fixed location that enables the provision of wireless service between user equipment and a wireless service network, including:

- a. Equipment associated with wireless service;
- b. A radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration; and
- c. A small wireless facility.

2. WIRELESS FACILITY does not include:

- a. Wireless support structures;
- b. Wireline backhaul facilities; or
- c. Coaxial or fiber-optic cables between utility poles or wireless support structures, or that are not otherwise immediately adjacent to or directly associated with a specific antenna.

WIRELESS PROVIDER. A provider of wireless service, including, but not limited to, radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves and which permits a user generally to receive a call that originates and/or terminates on the public switched network or its functional equivalent, regardless of the radio frequencies used.

WIRELESS SERVICE. Any service using licensed or unlicensed wireless spectrum, including the use of wi-fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. WIRELESS SERVICE does not include services regulated under Title VI of the Communications Act of 1934, as amended, including a cable service under United States Code, Title 47, Section 522, Clause (6).

WIRELESS SUPPORT STRUCTURE. A new or existing structure in a public right-of-way designed to support or capable of supporting small wireless facilities, including, but not limited to, a utility pole or a building, as reasonably determined by the department.

(3) Small wireless facility permit applications.

(a) Application form. The Director shall develop and make publicly available a form application. To the extent possible, the Director shall allow for applications to be consolidated pursuant to this division. A complete application must be submitted for each small wireless facility permit desired.

(b) Consolidated applications. A wireless provider may apply for up to 15 small wireless facility permits in a consolidated application, provided all small wireless facilities in the consolidated application are located within a two-mile radius, consist of substantially similar equipment, and are to be collocated on similar types of wireless support structures. The department shall review a consolidated application as allowed by this division. If necessary, the applied-for small wireless facility permits in a consolidated application may be approved or denied individually, but the department may not use the denial of one or more permits as a basis to deny all small wireless facility permits in a consolidated application. Any small wireless facility permits denied in a consolidated application shall be subject to a single appeal.

(c) Information not required. The department shall not require an applicant to provide any information that:

1. Has previously been provided to the department by the applicant in a small wireless facility permit application, if the applicant provides specific reference to the previous application containing the information sought by the department and the previous information remains unchanged; and

2. Is not reasonably necessary to review a small wireless facility permit application for compliance with generally applicable and reasonable health, safety, and welfare regulations, and to demonstrate compliance with applicable Federal Communications Commission regulations governing audio frequency exposure, or other information required by this division.

(4) Establishment of general standards.

(a) General standards. The Director shall establish and maintain a set of standards for the installation, mounting, maintenance, modification, operation, or replacement of small wireless facilities and placing new or replacement wireless support structures in the public right-of-way applicable to all permittees under this division. The general standards shall include, but not be limited to, information to be required in a small wireless facility permit application, design standards, construction standards, aesthetic standards, a form application, permitting conditions, insurance and security requirements, and rates and fees.

(b) Design standards. Any design standards established by the Director shall be:

1. Reasonable and nondiscriminatory; and

2. Include additional installation and construction details that do not conflict with this division, including, but not limited to, a requirement that:

- a. An industry standard pole load analysis be completed and submitted to the city, indicating that the wireless support structure to which the small wireless facility is to be attached will safely support the load; and

- b. Small wireless facility equipment on new and existing wireless support structures be placed higher than 15 feet above ground level.

3. The Director shall additionally include the following in any design standards established under this division.

- a. Any wireless support structure installed in the public right-of-way after May 31, 2017, may not exceed 50 feet above ground level, unless the city agrees to a greater height, subject to local zoning regulations, and may be subject to separation requirements in relation to other wireless support structures;

b. Any wireless support structure replacing an existing wireless support structure that is more than 50 feet above ground level may be placed at the height of the existing wireless support structure, unless the city agrees to a greater height, subject to zoning regulations;

c. Wireless facilities constructed in the public right-of-way after May 31, 2017, may not extend more than ten feet above an existing wireless support structure in place as of May 31, 2017;

d. If necessary to collocate a small wireless facility, a wireless provider may replace a decorative pole if the replacement pole reasonably conforms to the design and aesthetic qualities of the displaced decorative pole, subject to the approval of the Director of Public Works;

e. A wireless provider shall comply with the city's requirements to install facilities underground, including, without limitation, in compliance with § 6.301 of the City Code; and

f. All small wireless facilities collocated or wireless support structures installed in a Design District or Historic District shall comply with any design or concealment or other measures required by the city.

(c) Construction standards. Any construction standards established by the Director shall include at least the following terms and conditions:

1. Compliance with applicable law. To the extent this requirement is not preempted or otherwise legally unenforceable, a permittee shall comply with all applicable law and applicable industry standards.

2. Prevent interference. A permittee shall collocate, install, and continuously operate any authorized small wireless facilities and wireless support structures in a manner that prevents interference with other wireless facilities and other facilities in the right-of-way and the operation thereof. With appropriate permissions from the department, a permittee shall, as is necessary for the safe and reliable operation, use, and maintenance of an authorized small wireless facility or wireless support structure, maintain trees as prescribed by standards promulgated by the department.

3. Other rights not affected. A permittee shall not construe a contract, permit, correspondence, or other communication from the city as affecting a right, privilege, or duty previously conferred or imposed by the department to or on another person.

4. Restoration. A permittee, after any excavation of a public right-of-way, shall provide for restoration of the affected public right-of-way and surrounding areas, including the pavement and its foundation, to the same condition that existed before the excavation. If a permittee fails to adequately restore the public right-of-way within a specified date, the department may:

a. Itself restore the public right-of-way and recover from the permittee the reasonable costs of the surface restoration; or

b. Recover from the permittee a reasonable degradation fee associated with a decrease in the useful life of the public right-of-way caused by the excavation.

5. A permittee that disturbs uncultivated sod in the excavation or obstruction of the public right-of-way shall plant grasses that are native to Minnesota and, wherever practicable, that are of the local eco-type, as part of the restoration required under this division, unless the owner of the real property over which the public right-of-way traverses objects. In restoring the public right-of-way, the permittee shall consult with the Department of Wildlife Conservation regarding the species of native grasses that conform to the requirements of this division.

6. Permittee's liability. A permittee is solely responsible for the risk and expense of the collocation of the permittee's small wireless facility and installing or replacing the permittee's wireless support structure. The city neither warrants nor represents that any area within the public right-of-way is suitable for such collocation or installation or replacement. A permittee shall accept the public right-of-way as is and where is and assumes all risks related to any use. The city is not liable for damage to small wireless facilities due to an event of damage to a wireless support structure in the public right-of-way.

(5) Small wireless facility application review process.

(a) Eligibility for review. An application shall be eligible for review if the application conforms to the general standards adopted by the Director.

(b) Authorization. A small wireless facility permit issued pursuant to any application processed hereunder shall authorize:

1. The installation, mounting, modification, operation, and replacement of a small wireless facility in the public right-of-way or city-owned property; or
2. Construction of a new, or replacement of an existing, wireless support structure, and collocation of a small wireless facility on the wireless support structure.

(c) Review process. An application submitted pursuant to this section shall be reviewed as follows:

1. Submission of application. Applicant shall submit a complete application accompanied by the appropriate application fee as set forth in § 9.106(R)(15) to the department. Prior to submitting a small wireless facility permit application, an applicant shall inspect any wireless support structure on which it proposes to collocate a small wireless facility and determine, based on a structural engineering analysis by a Minnesota registered professional engineer, the suitability of the wireless support structure for the proposed collocation. The structural engineering analysis shall be submitted to the department with the application, and shall certify that the wireless support structure is capable of safely supporting the proposed small wireless facility considering conditions at the proposed location, including the condition of the public right-of-way, hazards from traffic, exposure to wind, snow and/or ice, and other conditions affecting the proposed small wireless facility that may be reasonably anticipated.

2. Application review period. The department shall, within 60 days after the date a complete application for the collocation is submitted to the department, issue or deny a small wireless facility permit pursuant to the application. The department shall, within 90 days after the date a complete application for a new or replacement wireless support structure in addition to the collocation of a small wireless facility is submitted to the department, issue or deny a small wireless facility permit pursuant to the application. If the department receives applications within a single seven-day period from one or more applicants seeking approval of small wireless facility permits for more than 30 small wireless facilities or ten wireless support structures, the department may extend the 90-day review period of this division by an additional 30 days. If the department elects to invoke this extension, it must inform in writing any applicant to whom the extension will be applied.

3. Completeness determination. The department shall review a small wireless facility permit application for completeness following submittal. The department shall provide a written notice of incompleteness to the applicant within ten days of receipt of the application, clearly and specifically delineating all missing documents or information. Information delineated in the notice is limited to documents or information publicly required as of the date of application and reasonably related to the department's determination of whether the proposed equipment falls within the definition of a small wireless facility and whether the proposed deployment satisfies all health,

safety, and welfare regulations applicable to the small wireless facility permit request and complies with this division and applicable standards promulgated by the department. If an applicant fails to respond to the department's notice of incompleteness within 90 days, the application shall be deemed expired and no small wireless facility permit shall be issued. Upon an applicant's submittal of additional documents or information in response to a notice of incompleteness, the department shall within ten days of submission notify the applicant in writing of any information requested in the initial notice of incompleteness that is still missing. Second or subsequent notices of incompleteness may not specify documents or information that were not delineated in the original notice of incompleteness.

4. Reset and tolling of review period. In the event that a small wireless facility permit application is incomplete, and the department has provided a timely and complete written notice of incompleteness, then the applicable review period shall be reset, pending the time between when a notice is mailed and the submittal of information in compliance with the notice. Subsequent notices shall toll the applicable review period. An applicant and the department can mutually agree in writing to toll the applicable review period at any time.

5. Moratorium prohibited. Notwithstanding any applicable law to the contrary, including, but not limited to, M.S. §§ 394.34 and 462.355, the department shall not establish any moratorium with respect to the filing, receiving, or processing of applications for small wireless facility permits, or issuing or approving small wireless facility permits.

6. Nondiscriminatory processing of applications. The department shall ensure that any application processed under this division is performed on a nondiscriminatory basis.

7. Permit not required. A permittee shall provide 30 days advance written notice to the department, but shall not be required to obtain a small wireless facility permit, or pay an additional small wireless facility permit fee for:

- a. Routine maintenance;
- b. The replacement of a small wireless facility with a small wireless facility that is substantially similar to or smaller in size; or
- c. The installation, placement, maintenance, operation, or replacement of a micro wireless facility that is strung on a cable between existing utility poles, in compliance with the National Electrical Safety Code.

(6) Small wireless facility permit conditions.

(a) General conditions of approval. In processing and approving a small wireless facility permit, the department shall condition its approval on compliance with:

1. Generally applicable and reasonable health, safety, and welfare regulations consistent with the city's public right-of-way management;
2. Reasonable accommodations for a decorative pole;
3. Any reasonable restocking, replacement, or relocation requirements when a new wireless support structure is placed in the public right-of-way;
4. Construction of the proposed small wireless facility within six months from the date the small wireless facility permit is issued;

5. Obtaining additional authorization for use of the public right-of-way for the construction of wireline backhaul facilities or any other wired facilities;

6. Compliance with the city's general standards; and

7. Compliance with all applicable law.

(b) Generally applicable and reasonable health, safety, and welfare regulations. Generally applicable and reasonable health, safety, and welfare regulations for the purposes of this division include, without limitation, the following:

1. A structural engineering analysis by a Minnesota registered professional engineer certifying that a wireless support structure can reasonably support a proposed small wireless facility considering the conditions of the street, the anticipated hazards from traffic to be encountered at the proposed location, and any wind, snow, ice, or other conditions that may be reasonably anticipated at the proposed location;

2. A determination by the department that, based upon reasonable engineering judgment, a proposed small wireless facility is of excessive size or weight or would otherwise subject a wireless support structure to an unacceptable level of stress;

3. A determination by the department that, based upon reasonable engineering judgment, a proposed small wireless facility would cause undue harm to the reliability or integrity of the city's electrical infrastructure or would likely violate generally applicable electrical or engineering principles;

4. A determination by the department that a proposed small wireless facility presents an unreasonable safety hazard as specifically and reasonably identified by the department;

5. A determination by the department that a proposed small wireless facility impairs the city's ability to operate or maintain the public right-of-way;

6. A determination by the department that a proposed small wireless facility cannot be placed due to insufficient capacity and the infrastructure cannot be modified or enlarged consistent with the requirements of this division and the department's general standards; or

7. A determination by the department that a proposed small wireless facility is in violation of the National Electric Safety Code or applicable law.

(c) Authorized use. An approval of a small wireless facility permit under this division authorizes the collocation of a small wireless facility on an existing wireless support structure to provide wireless services, or the installation or replacement of a wireless support structure and collocation of a small wireless facility, and shall not be construed to confer authorization to:

1. Provide any service other than wireless service;

2. Construct, install, maintain, or operate any small wireless facility or wireless support structure in a right-of-way other than the approved small wireless facility or wireless support structure; or

3. Install, place, maintain, or operate a wireline backhaul facility in the right-of-way.

(d) Other permits required. Any person desiring to obstruct or perform excavation in a public right-of-way within the city for purposes of collocating a small wireless facility or installing or replacing a wireless support

structure shall, consistent with § 6.301 of City Code, obtain the necessary permit from the city prior to conducting any such activities.

(e) Exclusive arrangements prohibited. The city shall not enter into an exclusive arrangement with any person for use of a public right-of-way for the collocation of a small wireless facility or for the installation or operation of a wireless support structure.

(f) Unauthorized small wireless facility. No person shall install, mount, modify, operate, or replace a small wireless facility in the public right-of-way or on city-owned property, or install or replace a wireless support structure without first obtaining a small wireless facility permit from the city.

1. If an unauthorized small wireless facility or wireless support structure is discovered, the department shall provide written notice to the owner of the unauthorized small wireless facility within five days of discovery of the unauthorized small wireless facility. If an owner of an unauthorized small wireless facility or wireless support structure cannot be reasonably identified, the department need not provide any written notice.

2. If the owner of an unauthorized small wireless facility or wireless support structure can be reasonably identified, the department may remove the unauthorized small wireless facility or wireless support structure without incurring liability to the owner of the small wireless facility or wireless support structure and at the owner's sole expense no sooner than five days after providing notice of the department's discovery of the unauthorized small wireless facility or wireless support structure to the owner.

3. If the owner of an unauthorized small wireless facility or wireless support structure cannot be reasonably identified, the department may remove the unauthorized small wireless facility or wireless support structure without incurring liability to the owner of the small wireless facility or wireless support structure and at the owner's sole expense.

(g) Relocation. The department may require a permittee to relocate or modify a small wireless facility or wireless support structure in a public right-of-way or on city-owned property in a timely manner and at the permittee's cost if the department determines that such relocation or modification is required to protect public health, safety and welfare, or to prevent interference with other facilities authorized pursuant to this division, or to prevent interference with public works projects of the department.

(h) Security required. Each permittee shall submit and maintain with the department a bond, cash deposit, or other security acceptable to the department, in a form and amount determined by the department in accordance with the general standards, securing the faithful performance of the obligations of the permittee and its agents under any and all small wireless facility permits issued to the permittee under this division. If, in accordance with this division, the department deducts any amounts from such security, the permittee must restore the full amount of the security prior to the department's issuance of any subsequent small wireless facility permit. The department shall return or cancel the security should the permittee cease to operate any small wireless facilities in the right-of-way.

(i) Payment of fees required. A small wireless facility permit shall not be issued prior to the complete payment of all applicable fees.

(j) Notice of assignment required. A permittee upon or within ten calendar days after transfer, assignment, conveyance, or sublet of an attachment that changes the permit and/or billing entity or ownership responsibilities shall provide written notification to the department.

(7) Small wireless facility permit term. A small wireless facility permit for a small wireless facility in the public right-of-way shall have a term equal to the length of time that the small wireless facility is in use, unless the small wireless facility permit is revoked under this division or is otherwise allowed to be limited by applicable law. The term for all other small wireless facility permits shall be for a period of up to ten years.

(8) Denial or revocation of a small wireless facility permit.

(a) Permit denial. The department may deny any small wireless facility permit if the applicant does not comply with all provisions of this division, or if the department determines that the denial is necessary to protect public health, safety, and welfare, or when necessary to protect the public right-of-way and its current use.

(b) Permit revocation. The department may revoke a small wireless facility permit, with or without refund, in the event of a substantial breach of the terms and conditions of any statute, ordinance, rule, or regulation, or any material condition of the small wireless facility permit. A substantial breach includes, but is not limited to, the following:

1. A material violation by act or omission of a provision of a small wireless facility permit;
2. An evasion or attempt to evade any material provision of a small wireless facility permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
3. A material misrepresentation of fact in a small wireless facility permit application;
4. A failure to correct, in a timely manner, collocation of a small wireless facility or installation or replacement of a wireless support structure that does not conform to applicable standards, conditions, or codes, upon inspection and notification by the department of the faulty condition;
5. A permittee fails to make timely payments of any fees due, and does not correct such failure within 20 days after receipt of written notice by the city of such failure;
6. A permittee becomes insolvent, unable or unwilling to pay its debts, is adjudged bankrupt, or all or part of its small wireless facilities or wireless support structures are sold under an instrument to secure a debt and is not redeemed by the permittee within 60 days; or
7. A failure to complete collocation of a small wireless facility or installation, modification, or replacement of a wireless support structure within 270 days of the date a small wireless facility permit authorizing such activity is granted, unless the department and the permittee agree to extend the 270 day period or there is a lack of commercial power or communications transport infrastructure to the installation site.

(c) Written notice required. Any denial or revocation of a small wireless facility permit shall be made in writing and shall document the basis for the denial or revocation. The department shall notify the applicant or permittee in writing within three days of a decision to deny or revoke a small wireless facility permit. If a small wireless facility permit application is denied, the applicant may cure the deficiencies identified by the department and submit its application. If the applicant resubmits the application within 30 days of receiving written notice of the denial, it may not be charged an additional filing or processing fee. The department must approve or deny the revised application within 30 days after the revised application is submitted. If small wireless facility permit or wireless support structure permit is revoked, the small wireless facility or wireless support structure shall be subject to removal in accordance with § 9.106(R)(11).

(9) City inspection of a small wireless facility or wireless support structure.

(a) Inspection permitted. The department may inspect, at any time, a permittee's collocation of a small wireless facility or installation or replacement of a wireless support structure. The department shall determine during an inspection whether the permittee's small wireless facility or wireless support structure is in accordance with the requirements of the permittee's applicable small wireless facility permit and other applicable law.

(b) Suspension of activities. During an inspection, if the department determines that a permittee has violated any material term of the permittee's small wireless facility permit or this division, the department may suspend the permittee's small wireless facility permit. The department shall provide prompt written notice of any suspension to a permittee, including the violations giving rise to the suspension. A suspension under this division is effective until a permittee corrects the alleged violation(s), at the permittee's sole expense. If the violation(s) are not corrected within 30 days after the date of such notice, the small wireless facility or wireless support structure shall be subject to removal in accordance with § 9.106(R)(11). A permittee may appeal any suspension issued under this division to the department as provided in § 9.106(R)(12).

(10) Abandoned small wireless facilities and wireless support structures. Where a small wireless facility or wireless support structure is not properly maintained or has not been used for the primary purpose of providing wireless services for 12 consecutive months, the department may designate the small wireless facility or wireless support structure as abandoned. The department shall provide written notice to a permittee within ten days of the permittee's small wireless facility or wireless support structure being designated as abandoned.

(11) Removal of a small wireless facility or wireless support structure.

(a) Removal permitted. The department may remove, at permittee's expense, or require a permittee to remove, any small wireless facility or wireless support structure if:

1. The small wireless facility permit or wireless support structure permit is revoked under this division or expires without renewal; or

2. The small wireless facility or wireless support structure is designated by the department as abandoned under § 9.106(R)(10).

(b) Notice to permittee; time to remove. The department shall provide written notice to the permittee that it must remove a small wireless facility or wireless support structure under this division, including the reasons therefor. If the permittee does not remove the small wireless facility or wireless support structure within 30 days after the date of such notice, the department may remove it at the permittee's expense without further notice to the permittee.

(12) Appeals. An applicant or permittee may have the denial or revocation of a small wireless facility permit, or fees and costs required by this division reviewed, upon written request, by the City Council or its designee. The City Council or its designee shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council or its designee affirming a denial, revocation, or fee shall be in writing and supported by written findings establishing the reasonableness of the decision.

(13) Insurance.

(a) Minimum coverage. The department shall require that each permittee maintain in full force and effect, throughout the term of a small wireless facility permit, an insurance policy or policies issued by an insurance company or companies satisfactory to the city's Risk Manager. Such policy or policies shall, at a minimum, afford

insurance covering all of the permittee's operations, vehicles, employees, agents, subcontractors, successors, and assigns as follows:

1. Workers' compensation, in statutory amounts, with employers' liability limits not less than \$1,000,000 each accident, injury, or illness;
2. Commercial general liability insurance with limits not less than \$2,000,000 each occurrence combined single limit for bodily injury and property damage, including contractual liability, personal injury, products and completed operations;
3. Commercial automobile liability insurance with limits not less than \$2,000,000 each occurrence combined single limit for bodily injury and property damage, including owned, non-owned and hired auto coverage, as applicable; and

(b) Insurance requirements. Each permittee's insurance policy or policies are subject to the following:

1. Said policy or policies shall include the city and its officers and employees jointly and severally as additional insureds, shall apply as primary insurance, shall stipulate that no other insurance effected by the city will be called on to contribute to a loss covered thereunder, and shall provide for severability of interests.
2. Said policy or policies shall provide that an act or omission of one insured, which would void or otherwise reduce coverage, shall not reduce or void the coverage as to any other insured. Said policy or policies shall afford full coverage for any claims based on acts, omissions, injury, or damage which occurred or arose, or the onset of which occurred or arose, in whole or in part, during the policy period.
3. Said policy or policies shall be endorsed to provide 30 calendar days advance written notice of cancellation or any material change to the department.
4. Should any of the required insurance be provided under a claims-made form, a permittee shall maintain such coverage continuously throughout the term of a small wireless facility permit, and, without lapse, for a period of three years beyond the expiration or termination of the small wireless facility permit, to the effect that, should occurrences during the term of the small wireless facility permit give rise to claims made after expiration or termination of the small wireless facility permit, such claims shall be covered by such claims-made policies.
5. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general aggregate limit shall be double the occurrence or claims limits specified herein.

(c) Indemnity obligation. Such insurance shall in no way relieve or decrease a permittee's or its agent's obligation to indemnify the city pursuant to this division.

(d) Proof of insurance. Before the department will issue a small wireless facility permit, an applicant shall furnish to the department certificates of insurance and additional insured policy endorsements with insurers that are authorized to do business in the State of Minnesota and that are satisfactory to the department evidencing all coverages set forth herein.

(14) Indemnification and defense of city.

(a) Indemnification of city. As a condition of issuance of a small wireless facility permit, each permittee agrees on its behalf and on behalf of its agents, successors, or assigns to indemnify, defend, protect, and hold harmless the city from and against any and all claims of any kind arising against the city as a result of the issuance of the

wireless facility permit including, but not limited to, a claim allegedly arising directly or indirectly from the following:

1. Any act, omission, or negligence of a permittee or its any agents, successors, or assigns while engaged in the permitting or collocation of any small wireless facility or installation or replacement of any wireless support structure, or while in or about the public right-of-way that are subject to the small wireless facility permit for any reason connected in any way whatsoever with the performance of the work authorized by the small wireless facility permit, or allegedly resulting directly or indirectly from the permitting or collocation of any small wireless facility or installation or replacement of any wireless support structure authorized under the small wireless facility permit;

2. Any accident, damage, death, or injury to any of a permittee's contractors or subcontractors, or any officers, agents, or employees of either of them, while engaged in the performance of collocation of any small wireless facility or installation or replacement of any wireless support structure authorized by a small wireless facility permit, or while in or about the public right-of-way that are subject to the small wireless facility permit, for any reason connected with the performance of the work authorized by the small wireless facility permit, including from exposure to radio frequency emissions;

3. Any accident, damage, death, or injury to any person or accident, damage, or injury to any real or personal property in, upon, or in any way allegedly connected with the collocation of any small wireless facility or installation or replacement of any wireless support structure authorized by a small wireless facility permit, or while in or about the public right-of-way that are subject to the small wireless facility permit, from any causes or claims arising at any time, including any causes or claims arising from exposure to radio frequency emissions; and

4. Any release or discharge, or threatened release or discharge, of any hazardous material caused or allowed by a permittee or its agents about, in, on, or under the public right-of-way.

(b) Defense of city. Each permittee agrees that, upon the request of the department, the permittee, at no cost or expense to the city, shall indemnify, defend, and hold harmless the city against any claims as set forth in this division, regardless of the alleged negligence of the city or any other party, except only for claims resulting directly from the sole negligence or willful misconduct of the city. Each permittee acknowledges and agrees that it has an immediate and independent obligation to defend the city from any claims that actually or potentially fall within the indemnity provision, even if the allegations are or may be groundless, false, or fraudulent, which obligation arises at the time such claim is tendered to the permittee or its agent by the city and continues at all times thereafter. Each permittee further agrees that the city shall have a cause of action for indemnity against the permittee for any costs the city may be required to pay as a result of defending or satisfying any claims that arise from or in connection with a small wireless facility permit, except only for claims resulting directly from the sole negligence or willful misconduct of the city. Each permittee further agrees that the indemnification obligations assumed under a small wireless facility permit shall survive its expiration or completion of collocation of any small wireless facility authorized by the small wireless facility permit.

(c) Additional requirements. The department may specify in a small wireless facility permit such additional indemnification requirements as are necessary to protect the city from risks of liability associated with the permittee's collocation of any small wireless facility or installation or replacement of any wireless support structure.

(15) Fees and costs.

(a) Application fees. The department shall charge a fee for reviewing and processing a small wireless facility permit application. The purpose of this fee is to enable the department to recover its costs directly associated with reviewing a small wireless facility permit application.

1. The department shall charge a fee of \$500 for a small wireless facility permit application seeking to collocate up to five small wireless facilities. This fee shall increase by \$100 for each additional small wireless facility that an applicant seeks to collocate.

2. The department shall charge a fee of \$850 for a small wireless facility permit application seeking to install or replace a wireless support structure in addition to collocating of a small wireless facility on the wireless support structure.

(b) Annual small wireless facility permit fee. The department shall charge an annual small wireless permit fee for each small wireless facility permit issued to a permittee. The annual small wireless permit fee shall be determined by the Director and listed in the city's fee schedule. The annual small wireless permit fee shall be based upon the recovery of the city's rights-of-way management costs.

(c) City-owned wireless support structure fees. The department shall charge the following fees to the owner of any small wireless facility collocated on a wireless support structure owned by the city or its assigns located in the public right-of-way:

1. \$150 per year for rent to occupy space on the wireless support structure;
2. \$25 per year for maintenance associated with the space occupied on the wireless support structure; and
3. A monthly fee for electricity used to operate the small wireless facility, if not purchased directly from a utility, at the rate of:
 - a. \$73 per radio node less than or equal to 100 max watts;
 - b. \$182 per radio node over 100 max watts; or
 - c. The actual costs of electricity, if the actual costs exceed the above.

(d) City-owned property fees. The department shall charge an annual fee for collocating small wireless facilities on city-owned property not located in the public right-of-way. The department shall determine a reasonable and nondiscriminatory annual fee on a per location and per request basis.

(e) Discretion to require additional fees. In instances where the review of a small wireless facility permit application is or will be unusually costly to the department, the Director, in his or her discretion, may, after consulting with other applicable city departments, agencies, boards, or commissions, require an applicant to pay a sum in excess of the other fee amounts charged pursuant to this division. This additional sum shall be sufficient to recover the actual, reasonable costs incurred by the department and/or other city departments, agencies, boards, or commissions, in connection with a small wireless facility permit application and shall be charged on a time and materials basis. Whenever additional fees are charged, the Director, upon request, shall provide in writing the basis for the additional fees and an estimate of the additional fees. The department may not require a fee imposed under this division through the provision of in-kind services by an applicant as a condition of consent to use to city's public right-of-ways or to obtain a small wireless facility permit.

(f) Reimbursement of city costs. The department may determine that it requires the services of an expert in order to evaluate a small wireless facility permit application. In such cases, the department shall not issue

wireless facility permit pursuant to the application unless the applicant agrees to reimburse the department for the actual, reasonable costs incurred for the services of a technical expert.

Section 5

The following language for Specific Development Standards is added, amended and deleted as provided in Section 9.107 of the City Code of 2005, is hereby established to read as follows:

(A) Purpose. The purpose of this section is to establish specific development standards that provide supplemental regulations to address the unique characteristics of certain land use.

(B) Applicability. The regulations set forth in this section shall apply to the specific use listed, whether it is identified as permitted, conditional or accessory within the applicable zoning district. These regulations shall be in addition to all other applicable regulations.

(C) Specific development standards. The following uses are subject to specific development standards:

(1) Adult entertainment use.

(a) Activities classified as obscene as defined by M.S. § 617.241 or successor statute, are prohibited.

(b) The use shall be located at least 1,000 feet from any other adult entertainment use.

(c) The use shall be located at least 1,000 feet from any facility with an on- or off-sale liquor, wine or beer license.

(d) The use shall be located at least 500 feet from any of the following protected uses: residentially-zoned property or residential use; licensed day care facility; public or private educational facility classified as an elementary, middle or junior high or senior high school; public library; public park; or religious institution or place of worship.

(e) An adult entertainment use lawfully operating as a conforming use is not rendered nonconforming by the subsequent location of any use listed above within 500 feet. If the adult entertainment use is abandoned for a period of 90 days or more, it shall be deemed discontinued and subsequent use of the premises for adult entertainment will be required to meet the separation requirement.

(f) No more than one adult entertainment use shall be located on the property.

(g) The use shall not be located on any property that has a liquor license.

(h) Sign messages shall be generic in nature and shall only identify the type of business which is being conducted; signs shall not contain material classified as advertising.

(2) Animal kennel or shelter.

(a) Any activity conducted outdoors, including but not limited to play areas, outdoor runs, etc. shall be approved by the City Council through a Conditional Use Permit on a case-by-case basis.

(b) Outdoor kennels shall be prohibited.

(c) Outdoor activity spaces shall meet the following requirements:

1. The space shall be completely screened from abutting neighboring residential zoning districts or uses by a six-foot tall privacy fence that is at least 80 percent opaque.
 2. The space shall be cleaned regularly so as not to create a nuisance as defined by the City Code.
 3. Animal waste produced within the space shall not be allowed to directly enter the City's storm sewer system.
- (d) All indoor activity shall include soundproofing and odor control.
- (e) The kennel or shelter shall provide a minimum floor area of 48 square feet per dog and 20 square feet per cat or any other animal boarded at any one time, exclusive of office or storage area.
- (f) Air temperature within the kennel or shelter shall be maintained between 60 degrees and 80 degrees Fahrenheit.
- (g) Within the kennel area, wall finish material below 48 inches in height shall be impervious, washable materials such as sealed masonry, ceramic tile, glass board, or fiberglass reinforced plastic (FRP) panels.
- (h) Floor finishes shall be sealed concrete, or another impervious surface approved by the City.
- (i) Animal waste shall be immediately cleaned up with solid wastes being enclosed in a container of sufficient construction to eliminate odors and organisms. All animal waste shall be disposed of on a daily basis.
- (j) The kennel or shelter shall provide sufficient, uniformly distributed lighting to the kennel area.
- (3) Automobile convenience facility.
- (a) The use shall be served by a major collector or higher functional classification of roadway.
- (b) All buildings, canopies and pump islands shall meet the setback requirements for a principal structure in the zoning district in which the use is located.
- (c) The storage of inoperable vehicles on the site is prohibited.
- (d) The sale or repair of vehicles shall be prohibited.
- (e) A landscape buffer with a minimum depth of ten feet shall be installed and maintained along all abutting public rights-of-way.
- (f) Canopy light fixtures shall be completely recessed within the canopy so that the lenses do not extend below the bottom surface of the canopy.
- (g) Wherever fuel pumps are installed, pump islands shall be installed.
- (h) A transportation management plan shall be submitted to address off-street parking, bus loading and unloading, traffic control, and the impact of the facility on surrounding roadways.
- (i) An environmental management plan, including a storm water management and drainage plan, shall be submitted to address the impact of the facility on the environment.

(j) The use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vapor-tight fittings to eliminate the escape of gas vapors.

(k) There shall be no exterior display of merchandise for sale exceeding 50 square feet in area.

(l) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing any litter found thereon.

(m) A minimum of two access points for vehicular traffic shall be provided. Curb cuts shall be located no less than 50 feet from the intersecting right-of-way line on collector roadways and no less than 80 feet from the intersecting right-of-way line on arterial roadways.

(n) All new automobile convenience facilities must be located on a minimum of one acre of land.

(4) Automobile and motorcycle repair, major.

(a) All vehicles waiting for repair or pick-up shall be stored within an enclosed building or in designated off-street parking spaces.

(b) All work shall be performed within a completely enclosed building.

(c) All vehicles parked or stored on site shall display a current license plate with a current license tab. Outside storage of automobile and motorcycle parts or storage of inoperable or salvage vehicles shall be prohibited.

(d) The sale of vehicles shall be prohibited, unless permitted by this article or allowed by conditional use.

(e) The use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten feet above grade and shall be directed away from, residential uses. All storage tanks shall be equipped with vapor-tight fittings to eliminate the escape of gas vapors.

(f) An environmental management plan, including a storm water management and drainage plan, shall be submitted to address the impact of the facility on the environment.

(g) Any fuel sales or automobile convenience activities shall be subject to the applicable standards for automobile convenience facilities.

(h) All new major automobile and motorcycle repair facilities must be located on a minimum of one acre of land.

(5) Automobile and motorcycle repair, minor.

(a) All vehicles waiting for repair or pick-up shall be stored within an enclosed building or in designated off-street parking spaces.

(b) All work shall be performed within a completely enclosed building.

(c) All vehicles parked or stored on site shall display a current license plate with a current license tab. Outside storage of automobile and motorcycle parts or storage of inoperable or salvage vehicles shall be prohibited.

(d) The sale of vehicles shall be prohibited, unless permitted by this article or allowed by conditional use.

(e) The use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vapor-tight fittings to eliminate the escape of gas vapors.

(f) An environmental management plan, including a storm water management and drainage plan, shall be submitted to address the impact of the facility on the environment.

(g) Any fuel sales or automobile convenience activities shall be subject to the applicable standards for automobile convenience facilities.

(h) All new minor automobile and motorcycle repair facilities must be located on a minimum of one acre of land.

(6) Automobile and motorcycle sales/rental, new.

(a) The use shall be served by a major collector or higher classification of roadway.

(b) Outdoor vehicle display for used cars and motorcycles shall be limited to 30% of the total outdoor display area for a new car or motorcycle dealership. The display area shall be defined as the total number of parking spaces devoted to the sale of vehicles only, not including the required off-street parking spaces needed for the public and employees.

(c) Outdoor vehicle display areas shall meet the setback requirements for a principal structure in the zoning district in which the use is located.

(d) Outdoor vehicle display areas within the public right-of-way are prohibited.

(e) A landscape buffer with a minimum depth of ten feet shall be installed and maintained along all abutting public rights-of-way.

(f) Outdoor vehicle display shall be within a designated area that is hard-surfaced.

(g) Outdoor vehicle display shall be in an orderly fashion, with access aisles provided as needed. The storage of inoperable, junk vehicles with expired tabs is prohibited.

(h) Music or amplified sounds shall not be audible from adjacent residential properties.

(i) Outdoor vehicle display shall not reduce the amount of off-street parking provided on site below the level required for the principal use.

(j) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(k) Fuel pumps for the purpose of retail sale and dispensing of fuel to the general public shall be prohibited. If the use includes dispensing of fuel for the automobiles maintained on site, the use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vapor-tight fittings to eliminate the escape of gas vapors.

(l) All new automobile and motorcycle sales/rental, (new) facilities must be located on a minimum of one acre of land.

(7) Automobile and motorcycle sales/rental, used.

- (a) The use shall be served by a major collector or higher classification or roadway.
- (b) An open-aired used auto, motorcycle and truck sales or rental lot as a stand-alone business is prohibited.
- (c) Used automobiles and motorcycles may be sold or rented as a stand-alone business if the business if the used automobiles, motorcycles and associated business are contained within a building.
- (d) Used automobiles and motorcycles may not be sold accessory to businesses other than new car and motorcycle dealerships.
- (e) Outdoor vehicle display areas within the public right-of-way are prohibited.
- (f) A landscape buffer with a minimum depth of ten feet shall be installed and maintained along all abutting public rights-of-way.
- (g) The outdoor storage of inoperable, junk vehicles and vehicles with expired tabs is prohibited.
- (h) Music or amplified sounds shall not be audible from adjacent residential properties.
- (i) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.
- (j) Fuel pumps for the purpose of retail sale and dispensing of fuel to the general public shall be prohibited. If the use included dispensing of fuel for the automobiles maintained on site, the use shall employ best management practices regarding the venting of odors, gas, and fumes. Such vents shall be located a minimum of ten feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vapor-tight fittings to eliminate the escape of gas vapors.
- (k) All new automobile and motorcycle sales/rental, (used) facilities must be located on a minimum of one acre of land.

(8) Barbed wire fences.

- (a) Barbed wire fences may only utilize a projecting arm to support the barbed wire, commencing at a point no less than six feet above the ground.
- (b) At no point shall the projecting arm encroach into the city right-of-way or neighboring properties.

(9) Bed and breakfast home.

- (a) The bed and breakfast home shall be part of an owner occupied residential structure and be operated by the property owner.
- (b) No more than one non-resident shall be employed in the operation of the facility.
- (c) The exterior appearance of the structure shall not be altered from its single-family residential character.
- (d) The total number of guestrooms shall not exceed four in the R-3 and R-4 Zoning Districts and six in the LB Zoning District. All guest rooms shall be located within the principal structure.

(e) Separate kitchen facilities shall not be available for guests. Meals shall be prepared and served by the operator and shall be available to registered guests only.

(f) Guest stays shall be limited to no more than 14 consecutive days.

(g) Parking shall be accommodated on the property. Parking requirements for guests are in addition to those required for the principal residential use.

(h) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(i) The facility shall meet all applicable housing, building and fire codes and be licensed as required by the State of Minnesota.

(10) Car wash.

(a) Water from the car wash shall not drain across any sidewalk or into any public right-of-way.

(b) Vacuum facilities shall be located in an enclosed structure or located at least 50 feet from any residential property line to avoid noise impacts.

(c) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing litter found thereon.

(12) Concrete, asphalt, rock crushing operation.

(a) The use shall be located a minimum of 1,000 feet from any residentially-zoned property or any residential use.

(b) An air quality plan shall be submitted describing stationary and mobile source air emissions, their quantities and compositions, and indicating conformance with all applicable regulation.

(c) A dust management plan shall be submitted describing dust emissions sources, their quantities and compositions, how dust will be collected, managed and disposed of and indicating conformance with all applicable regulations.

(d) A sound attenuation plan shall be submitted describing sources of sound and indicating conformance with all applicable regulations.

(e) A vibration-dampening plan shall be submitted describing sources of vibration and indicating conformance with all applicable regulations.

(f) A transportation management plan shall be submitted to address off-street parking, bus loading and unloading, traffic control, and the impact of the facility on surrounding roadways.

(g) An environmental management plan, including a storm water management and drainage plan, shall be submitted to address the impact of the facility on the environment.

(13) Community center.

(a) The use shall be served by a minor collector or higher functional classification of roadway.

(b) The parcel upon which the use is located shall have a lot area no less than four times the area of the building footprint.

(c) To the extent practical, new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

(d) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening and other site improvements consistent with the character of the community.

(e) All accessory residential, school or day care uses shall be subject to the provisions of this article.

(14) Consignment/secondhand store.

(a) Consignment/secondhand stores shall be identified as stores whose primary existence is derived from more than 50% used, consigned, or secondhand merchandise. The use shall be located at least 3,000 feet from all existing consignment/secondhand stores, currency exchanges, pawnshops and precious metal dealerships.

(b) The window and door area of any existing first floor facade along a public street or sidewalk shall not be reduced, nor shall changes be made to such windows and doors that block views into and out of the building at eye level.

(c) For new construction, at least 30% of the first floor facade along a public street or sidewalk shall be windows or doors of clear or lightly tinted glass that allows views into and out of the building at eye level.

(d) The use of bars, chains or similar security devices that are visible from a public street or sidewalk shall be prohibited.

(e) Consignors shall not be paid for merchandise until the merchandise has been sold to a third party.

(f) An appointment or set hours shall be required for the acceptance of consignment or donated merchandise.

(g) All receipt, sorting and processing of goods shall occur within a completely enclosed building.

(h) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing litter found thereon.

(15) Currency exchange.

(a) The use shall be located at least 3,000 feet from all existing currency exchanges, consignment/secondhand stores, pawnshops and precious metal dealerships.

(b) The window and door area of any existing first floor facade along a public street or sidewalk shall not be reduced, nor shall changes be made to such windows and doors that block views into and out of the building at eye level.

(c) For new construction, at least 30% of the first floor facade along a public street or sidewalk shall be windows or doors of clear or lightly tinted glass that allows views into and out of the building at eye level.

(d) The use of bars, chains or similar security devices that are visible from a public street or sidewalk shall be prohibited.

(e) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing litter found thereon.

(16) Day care center.

(a) The building and any exterior fenced areas shall meet the setback requirements for a principal structure in the zoning district in which the use is located.

(b) The play area shall be located away from the main entrance to day care, and shall be contained with a fence constructed of masonry, painted or treated wood or metal, at least five feet in height.

(c) For child day care facilities, at least 75 square feet of outside play area shall be provided for each child under care. If there is not sufficient space for an outdoor play area on-site, then the property owner must submit a written proposal that demonstrates recreational activities for children under the facility's care will be provided off-site within 1,500 feet of the facility. The City Manager, or his or her designee, is authorized to approve or deny this proposal.

(d) For adult day care facilities, at least 150 square feet of outdoor area for seating or exercise shall be provided. If 150 square feet of outdoor is not available on the site, the property owner must submit a written proposal that demonstrates that recreational activities for adults under the facility's care will be provided off-site. The City Manager, or his or her designee, is authorized to approve or deny this proposal.

(e) The use shall provide a designated area for the short-term parking of vehicles engaged in loading and unloading of children or adults under care. The designated area shall be located as close as practical to the principal entrance of the building and shall be connected to the building by a sidewalk.

(f) To the extent practical, new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

(g) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(h) The facility shall meet all applicable housing, building and fire codes and be licensed as required by the State of Minnesota.

(i) Day care centers located in a school or religious institution building originally constructed for use as a school or religious institution shall be considered a permitted accessory use, provided the standards contained herein are met.

(j) Day care centers located within an existing commercial or industrial facility and used only by employees of the operation conducted on the site shall be considered a permitted accessory use, provided the standards contained herein are met.

(17) Day care, home.

(a) The building and any exterior fenced areas shall meet the setback requirements for a principal structure in the zoning district in which the use is located.

(b) The designated play area shall be contained with a fence constructed of masonry, painted or treated wood or metal, at least five feet in height.

(c) The exterior appearance of the structure shall not be altered from its single-family residential character.

(d) For child day care facilities, at least 50 square feet of outside play area shall be provided for each child under care.

(e) For adult day care facilities, at least 150 square feet of outdoor area for seating or exercise shall be provided for each adult under care.

(f) . If there is not sufficient space for an outdoor play area on-site, then the property owner must submit a written proposal that demonstrates recreational activities for children under the facility's care will be provided off-site within 1,500 feet of the facility.

(g) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(h) The facility shall meet all applicable housing, building and fire codes and be licensed as required by the State of Minnesota.

(18) Drive-up facility.

(a) The drive-up function shall be accessory to a conforming use.

(b) The use shall be served by a major collector or higher functional classification of roadway.

(c) The site shall accommodate vehicle stacking in accordance with the provisions of this article.

(d) Any speaker system shall not be audible from any residentially zoned property or any residential use.

(19) Drop-in facility.

(a) The use shall be located at least 3,000 feet from all existing drop-in facilities, consignment/secondhand stores, currency exchanges and pawnshops.

(b) The use shall conspicuously post legible signs at the public entrance advising patrons of the hours of operation of the facility and its meal service, if applicable.

(c) A waiting area for clients shall be provided which shall be available to clients one hour prior to the posted opening of the use and shall include toilet facilities.

(d) Trash receptacles shall be located at the public entrances.

(e) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing litter found thereon.

(20) Employment agencies—temporary (day labor). The use shall be located at least 3,000 feet from all existing temporary employment agencies, consignment/secondhand stores, currency exchanges and pawnshops.

(21) Firearms dealer/shooting range.

(a) The use shall be located at least 300 feet from any residentially zoned property or any residential use.

(b) The use shall be located at least 500 feet from the following protected uses: licensed daycare facility; public or private educational facility classified as an elementary, middle or junior high or senior high school; public library; public park; or religious institution or place of worship.

(c) No firearms or ammunition shall be displayed in window areas or any area where they can be viewed from any public street or sidewalk.

~~(22) Fireworks tents.~~

~~(a) The fireworks tent, display area, access aisles, and surrounding area shall be reviewed by the Community Development Department and the Fire Department.~~

~~(b) The sale of fireworks shall meet all requirements of Chapter 24 of the Fire Code and NFPA Chapter 1124.~~

~~(c) The fireworks tent shall be accessory to a commercial use.~~

~~(d) Fireworks tents located within the public right of way are prohibited.~~

~~(e) All goods shall be displayed on a designated impervious surface area.~~

~~(f) All goods shall be displayed in an orderly fashion, with access aisles provided as needed.~~

~~(g) Music or amplified sounds shall not be audible from adjacent residential properties.~~

~~(h) The fireworks tent shall not reduce the amount of off-street parking provided on-site below the level required for the principal use.~~

~~(i) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.~~

~~(j) Signage shall be limited to two professionally made signs, with a combined square footage not exceeding 32 square feet.~~

~~(k) Fireworks tents may be allowed for a maximum of 90 days per calendar year.~~

(22) Food service, convenience (fast food).

(a) The use shall be served by a major collector or higher functional classification of roadway.

(b) A landscape buffer with a minimum depth of ten feet shall be installed and maintained along all abutting public rights-of-way.

(c) A transportation management plan shall be submitted to address off-street parking, bus loading and unloading, traffic control, and the impact of the facility on surrounding roadways.

(d) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing any litter found thereon.

(e) Curb cuts shall be located no less than 50 feet from the intersecting right-of-way line on collector roadways and no less than 80 feet from the intersecting right-of-way line on arterial roadways.

(f) A drive-up facility shall also be subject to the standards for a drive-up facility.

~~(24) Food service, limited (coffee shop/deli/bakery/and the like).~~

~~(a) Music or amplified sounds shall not be audible from adjacent residential uses.~~

~~(b) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing litter found thereon.~~

~~(25) Food service, full service (restaurant/nightclub).~~

~~(a) Where alcoholic beverages are served, not less than 60% of the total gross sales revenue shall be from the sale of food and non-alcoholic beverages.~~

~~(b) Music or amplified sounds shall not be audible from adjacent residential uses.~~

~~(c) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing litter found thereon.~~

(23) Freight terminal.

(a) Loading and unloading activities shall be located no less than 200 feet from any residential zoning district or residential use.

(b) Overnight facilities for drivers shall provide on-site management 24 hours a day. The name and telephone number of the on-site manager shall be filed with the city.

(24) Funeral home.

(a) The use shall be served by a minor collector or higher functional classification of roadway.

(b) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(25) Greenhouses (residential).

(a) A residential greenhouse shall only be allowed for one- and two-family dwellings.

~~(b) A residential greenhouse shall meet all setbacks requirements of an accessory structure in the zoning district it is located.~~

(b) A residential greenhouse structure shall not count against the total number of detached accessory structures allowed on a residential property.

(c) A residential greenhouse structure shall not count against the total allowable combined square footage of accessory structures allowed on a residential property.

(d) A residential greenhouse shall be allowed during the normal growing season only.

(e) When not in use, a residential greenhouse shall be dismantled.

(26) Hospital.

- (a) The use shall be served by a minor collector or higher functional classification of roadway.
- (b) Emergency vehicle access shall not be adjacent to or located across the street from any residential use.
- (c) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(27) Multi-family in CBD.

- (a) The residential use is secondary to and located above the ground floor commercial use.
- (b) The maximum number of units allowed shall be limited to the area of the parcel divided by 2,000, times the number of floors above the ground floor commercial use.
- (c) A minimum of one parking space shall be provided per residential unit within 400 feet of the most commonly used entrance.

(28) Nursing home.

- (a) The use shall be served by a minor collector or higher functional classification of roadway.
- (b) On-site services shall be for residents of the facility only.
- (c) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

~~(32) Outdoor agricultural/produce sales.~~

- ~~— (a) The outdoor agricultural/produce sales lot shall be accessory to a commercial use.~~
- ~~— (b) Outdoor agricultural/produce sales located within the public right-of-way are prohibited.~~
- ~~— (c) All goods shall be displayed in a designated area that is hard surfaced.~~
- ~~— (d) All goods shall be displayed in an orderly fashion, with access aisles provided as needed.~~
- ~~— (e) Music or amplified sounds shall not be audible from adjacent residential properties.~~
- ~~— (f) The outdoor agricultural/produce sales lot shall not reduce the amount of off-street parking provided on-site below the level required for the principal use.~~
- ~~— (g) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.~~
- ~~— (h) Signage shall be limited to two professionally made signs per structure, not exceeding 32 square feet per sign.~~
- ~~— (i) Outdoor agricultural/produce sales facilities may be allowed for a maximum of 90 days per calendar year.~~

~~(33) Outdoor Christmas tree sales.~~

- ~~— (a) Outdoor Christmas tree sales lots shall be accessory to a commercial use.~~
- ~~— (b) Outdoor Christmas tree sales located within the public right-of-way are prohibited.~~

- ~~—— (c) All goods shall be displayed in a designated area that is hard surfaced.~~
- ~~—— (d) All goods shall be displayed in an orderly fashion, with access aisles provided as needed.~~
- ~~—— (e) Music or amplified sounds shall not be audible from adjacent residential properties.~~
- ~~—— (f) Outdoor Christmas tree sales lots shall not reduce the amount of off-street parking provided one site below the level required for the principal use.~~
- ~~—— (g) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.~~
- ~~—— (h) Signage shall be limited to two professionally made signs, with a combined square footage not exceeding 48 square feet.~~
- ~~—— (i) Outdoor Christmas tree sales lots may be allowed for a maximum of 90 days per calendar year.~~

(29) Outdoor sales/display.

- (a) The outdoor sales/display use shall be accessory to a commercial use.
- (b) All outdoor sales/display areas shall meet the setback requirements for a principal structure in the zoning district in which it is located.
- (c) Outdoor sales/display areas within the public right-of-way are prohibited.
- (d) A landscape buffer with a minimum depth of ten feet shall be installed and maintained along all abutting public rights-of-way.
- (e) All goods shall be displayed in a designated area that is hard-surfaced.
- (f) All goods shall be displayed in an orderly fashion, with access aisles provided as needed.
- (g) Music or amplified sounds shall not be audible from adjacent residential properties.
- (h) The outdoor sales/display area shall not reduce the amount of off-street parking provided on-site below the level required for the principal use.
- (i) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(30) Outdoor storage.

- (a) The outdoor storage area shall be accessory to a commercial or industrial use.
- (b) Outdoor storage within the public right-of-way is prohibited.
- (c) All outdoor storage areas shall meet the setback requirements for a principal structure in the zoning district in which the use is located.
- (d) Outdoor storage areas shall be located in rear yards or in the side yard behind the front building line of the principal structure.

(e) The storage area shall be fenced and screened from adjacent uses and the public right-of-way. Required screening shall consist of a fence, wall, earth berming and/or vegetation no less than six feet in height and no less than 80% opaque on a year round basis.

(f) All goods, materials and equipment shall be stored on an impervious surface.

(g) All goods, materials and equipment shall be stored in an orderly fashion, with access aisles of sufficient width to accommodate emergency vehicles as needed.

(h) The height of materials stored, excluding operable vehicles and equipment, shall not exceed the height of the screening provided.

~~(36) Parking ramp.~~

~~(a) Parking ramp structures shall meet the setback requirements for a principal structure in the zoning district in which the use is located.~~

~~(b) Exterior facade materials shall be compatible with surrounding buildings.~~

(31) Pawnshop.

(a) The use shall be located at least 3,000 feet from all existing pawnshops, currency exchanges, consignment/secondhand stores and precious metal dealerships.

(b) The window and door area of any existing first floor facade along a public street or sidewalk shall not be reduced, nor shall changes be made to such windows and doors that block views into and out of the building at eye level.

(c) For new construction, at least 30% of the first floor facade along a public street or sidewalk shall be windows or doors of clear or lightly-tinted glass that allows views into and out of the building at eye level.

(d) The use of bars, chains or similar security devices that are visible from a public street or sidewalk shall be prohibited.

(e) All receipt, sorting and processing of goods shall occur within a completely enclosed building.

(f) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing litter found thereon.

(32) Precious metal dealership.

(a) The use shall be located at least 3,000 feet from all existing precious metal dealerships, pawnshops, currency exchanges and consignment/secondhand stores.

(b) The window and door area of any existing first floor facade along a public street or sidewalk shall not be reduced, nor shall changes be made to such windows and doors that block views into and out of the building at eye level.

(c) For new construction, at least 30% of the first floor facade along a public street or sidewalk shall be windows or doors of clear or lightly-tinted glass that allows views into and out of the building at eye level.

(d) The use of bars, chains or similar security devices that are visible from a public street or sidewalk is prohibited.

(e) All receipt, sorting and processing of goods shall occur within a completely enclosed building.

(33) Recreational vehicle sales.

(a) The use shall be served by a major collector or higher classification of roadway.

(b) Outdoor vehicle display areas shall meet the setback requirements for a principal structure in the zoning district in which the use is located.

(c) Outdoor vehicle display areas within the public right-of-way are prohibited.

(d) A landscape buffer with a minimum depth of ten feet shall be installed and maintained along all abutting public rights-of-way.

(e) Outdoor vehicle display shall be within a designated area that is hard-surfaced.

(f) Outdoor vehicle display shall be in an orderly fashion, with access aisles provided as needed.

(g) Music or amplified sounds shall not be audible from adjacent residential properties.

(h) Outdoor vehicle display shall not reduce the amount of off-street parking provided on site below the level required for the principal use.

(i) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(j) Fuel pumps for the purpose of retail sale and dispensing of fuel to the general public shall be prohibited. If the use includes dispensing of fuel for the automobiles maintained on site, the use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vapor-tight fittings to eliminate the escape of gas vapors.

(34) Recreational facility, indoor.

(a) The use shall be served by a minor collector or higher classification of roadway.

(b) The parcel upon which the use is located shall have a lot area no less than four times the area of the building footprint.

(c) To the extent practical, new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

(d) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(35) Recreational facility, outdoor.

(a) The use shall be served by a minor collector or higher classification of roadway.

(b) The site shall be no less than five acres in size.

(c) The principal use of the site shall be the outdoor recreation facility, except for athletic fields that are accessory to an educational or community facility.

(d) The use shall be situated in such a way as to minimize the effects of lighting and noise on surrounding properties.

(e) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(f) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing litter found thereon.

(36) Religious institution/place of worship.

(a) The facility shall be served by a minor collector or higher functional classification of roadway.

(b) The parcel upon which the use is located shall have a lot area no less than four times the area of the building footprint.

(c) To the extent practical, new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

(d) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(e) All accessory residential, school or day care uses shall be subject to the provisions of this article.

(37) Residential care facility.

(a) **If serving more than six residents**, the use shall be located at least 1/4 mile (1,320 feet) from all existing residential care facilities or correctional residential care facilities, regardless of the licensing status of such facilities. **Residential care facilities serving six or fewer residents shall be exempted from the distance radius and zoning regulations except as otherwise required by law.**

(b) The use shall not be located in a two-family or multiple-family dwelling unless it occupies the entire structure.

(c) The facility shall be located on a parcel meeting the minimum lot size for a single-family dwelling plus an area of 300 square feet for each resident over six. The maximum number of residents may be specified as a condition of the conditional use permit in order to meet this requirement.

(d) On-site services shall be for residents of the facility only.

(e) The building and any exterior fenced areas shall meet the setback requirements of the zoning district in which the use is located.

(f) To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of the surroundings, and exterior building materials shall be compatible with other buildings in the neighborhood.

(g) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening and other site improvements consistent with the character of the neighborhood.

(h) The primary purpose of the facility cannot be to treat juveniles who have violated criminal statutes relating to sex offenses or who have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses.

(i) The facility shall not provide accommodations to treat persons whose tenancy would constitute a direct threat to the health and safety of other individuals.

(j) The facility shall not accept court ordered referrals for treatment in lieu of incarceration without adequate security.

(k) The facility shall meet all applicable housing, building and fire codes and be licensed as required by the State of Minnesota.

(l) If the size, location, licensing or purpose of the facility changes, a new or amended conditional use permit may be required.

(38) Residential care facility, correctional.

(a) The use shall be located at least 1/4 mile (1,320 feet) from all existing residential care facilities and correctional residential care facilities, regardless of the licensing status of such facilities measured from property line to property line.

(b) The use shall only be located in the I-1, Light Industrial District and the I-2, General Industrial District parcels throughout the city.

(c) The use shall not be located in a two-family or multiple-family dwelling unless it occupies the entire structure.

(d) The facility shall be located on a parcel meeting the minimum lot size for single-family dwelling plus an area of 300 square feet for each resident over two. The maximum number of residents shall not exceed four.

(e) On-site services shall be for residents of the facility only.

(f) The building and any exterior fenced areas shall meet the setback requirements of the zoning district in which the use is located.

(g) To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of the surroundings, and exterior building materials shall be compatible with other buildings in the neighborhood.

(h) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening and other site improvements consistent with the character of the neighborhood.

(i) The facility shall meet all applicable housing, building and fire codes and be licensed as required by the State of Minnesota.

(j) If the size, location, licensing or purpose of the facility changes, a new or amended conditional use permit may be required.

(39) Salvage operation/transfer station.

- (a) The use shall be located at least 500 feet from any residentially zoned property or any residential use.
- (b) The use must comply with the minimum standards for operation, safety, storage and all waste management as identified in the most current version of MPCA Motor Vehicle Salvage Facility Environmental Compliance Manual or successor manual.
- (c) The use must be served by a minor collector or higher functional classification of roadway.
- (d) Buildings, parking areas, loading areas and any exterior storage shall meet the setback requirements for a principal structure in the zoning district in which the use is located.
- (e) No vehicles or vehicle parts may be placed within the public right-of-way or on public property.
- (f) Exterior storage shall be limited to a maximum height of 12 feet and shall be fully screened so that items stored do not exceed the height of the screening provided.
- (g) An environmental management plan, including a storm water management and drainage plan, shall be submitted to address the impact of the facility on the environment.
- (h) The salvage facility operator shall maintain a written record of all vehicles received, including the date received, date when fluids were removed and date removed from the facility. The record shall also include the vehicle identification number, make and model and shall be initiated on the date the vehicle is received at the facility.
- (i) All fluids, including but not limited to motor oil, transmission and/or transfer case lubricants, differential lubricants, fuel, antifreeze, refrigerants and window washing fluids shall be removed from the vehicle within three days of receipt.
- (j) All lead acid batteries, mercury containing devices and other hazardous materials shall be removed from the vehicle within three days of receipt.
- (k) On-site burning of trash, refuse, garbage or other waste materials is prohibited.
- (l) Salvage of materials by fire, burning, explosives or chemical decomposition is prohibited.

(40) School, K-12.

- (a) The use shall include a regular course of study accredited by the State of Minnesota.
- (b) The site shall be served by a major collector or higher classification of roadway.
- (c) The parcel upon which the use is located shall have a lot area no less than four times the area of the building footprint.
- (d) A transportation management plan shall be submitted to address off-street parking, bus loading and unloading, traffic control, and the impact of the facility on surrounding roadways.
- (e) To the extent practical, all new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

(f) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(41) School, vocational/business.

(a) The site shall be served by a minor arterial or higher classification of roadway.

(b) The parcel upon which the use is located shall have a lot area no less than four times the area of the building footprint.

(c) A master plan shall be submitted that describes proposed physical development for the next five years and for the following five years. Said plan shall include a description of proposed development phases and plans, development priorities, the probable sequence of proposed development, estimated dates of construction and the anticipated interim use of property waiting to be developed.

(d) A transportation management plan shall be submitted to address off-street parking, bus loading and unloading, traffic control, and the impact of the facility on surrounding roadways.

(e) New construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

(f) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(42) School, performing/visual/martial arts.

(a) The site shall be served by a minor collector or higher classification of roadway.

(b) A transportation management plan shall be submitted to address off-street parking, bus loading and unloading, traffic control, and the impact of the facility on surrounding roadways.

(c) To the extent practical, all new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

(d) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(43) Shopping center.

(a) Only uses that are allowed within the zoning district in which the shopping center is located, shall be allowed in the shopping center.

(b) Uses that require a conditional use permit, site plan review or other land use approval shall comply with all review and approval requirements of this article.

(c) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet shall be inspected regularly for purposes of removing any litter found thereon.

(44) Smoke shops.

(a) The smoke shop must have an entrance door opening directly to the outdoors.

(b) Greater than 90% of the business's gross revenue must be from the sale of tobacco, tobacco products or smoking related accessories.

(c) A tobacco department or section of any individual business establishment with any type of liquor, food or restaurant license shall not be considered a smoke shop.

(d) The total number of city-issued smoke shop licenses shall at no time exceed five.

(e) Any existing smoke shops at the time of the passage of Ord. 1570 shall comply fully with the ordinance by December 31, 2010.

(45) Transitional/emergency housing.

(a) Transitional/emergency housing shall be located at least 1/4 mile from all existing transitional/emergency housing.

(b) The maximum number of persons served shall not exceed 32.

(c) On-site services shall be for residents of the facility only, except where part of a regimen of scheduled post-residential treatment/service.

(d) To the extent practical, all new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

(e) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(46) Two-family and twinhome dwellings.

(a) Street-facing garage doors must be recessed behind either the front facade of the living area portion of the dwelling or a covered porch, measuring at least six feet by eight feet, by at least five feet.

(b) If located on a corner lot, each unit of the duplex or twinhome shall have its address and entrance oriented to a separate street frontage.

(c) Vehicle access to a lot must be from an alley if the lot abuts an alley.

(47) Brewer taprooms and brew pubs.

(a) All malt liquor production shall be within a completely enclosed structure.

(b) Mechanical equipment shall be placed and/or screened so as to minimize the visual impact on adjacent properties and from public streets.

(c) In zoning districts where off-street parking is required, a transportation management plan shall be submitted to address off-street parking, bus and freight loading, and traffic control.

(d) Loading areas shall not be oriented toward a public street, nor shall loading docks be located on the side of any building facing an adjacent lot that is zoned residential. Where these districts or streets abut all sides of the

property, the loading areas shall be screened by a solid wall or opaque fence with a minimum height of six feet, in addition to any required landscape buffer.

(e) Trash and/or recycling collection areas shall be enclosed on at least three sides by an opaque screening wall or fence no less than six feet in height. The open side of the enclosure shall not face any public street or the front yard of any adjacent property.

(f) By-products and waste from the production of malt liquor shall be properly disposed of off the property.

(g) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing litter found thereon.

(h) The facility shall meet all applicable building and fire codes, and shall be licensed as required by the state or county.

(48) Banquet halls.

(a) To the extent practical, new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings, and exterior materials shall be compatible with those used in the immediate neighborhood.

(b) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening and other site improvements consistent with the character of the community.

(c) The facility shall meet all applicable building and fire codes, and shall be licensed as required by the state or county.

(d) A transportation management plan shall be submitted to address off-street parking, bus loading and unloading, traffic control, and the impact of the facility on surrounding roadways.

(e) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing any litter found thereon.

(f) Music or amplified sounds shall not be audible from adjacent residential uses and must meet the requirements of city ordinances, to ensure consistent enforcement by the Police Department.

(49) Health/fitness clubs in LB, Limited Business districts.

(a) The health/fitness club shall not exceed 4,000 gross square feet in area.

(b) The use shall be served by a minor collector or higher classification roadway.

(c) To the extent practical, new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

(d) An appropriate transition area shall be provided between the use and adjacent property by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(e) The parking supply requirements of § 9.105(L)(10) shall be satisfied via off-street parking or a combination of off-street parking and off-site parking. Off-site parking shall be located no more than 400 feet from the main entrance of the use being served.

(f) The City Council may establish limited business hours as a means of ensuring compatibility with surrounding uses.

(56) Seasonal Sales Stands

(a) The fireworks tent, display area, access aisles, and surrounding area shall be reviewed by the Community Development Department and the Fire Department and sale of fireworks shall meet all requirements of Chapter 24 of the Fire Code and NFPA Chapter 1124.

(c) Seasonal sales stands shall be accessory to a commercial use.

(d) Seasonal sales stands located within the public right-of-way are prohibited.

(e) All goods shall be displayed on a designated impervious surface area.

(f) All goods shall be displayed in an orderly fashion, with access aisles provided as needed.

(g) Music or amplified sounds shall not be audible from adjacent residential properties.

(h) The seasonal sales stand shall not reduce the amount of off-street parking provided one-site below the level required for the principal use.

(i) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening or other site improvements consistent with the character of the neighborhood.

(j) Signage shall be limited to two professionally made signs, with a combined square footage not exceeding 48 square feet.

(k) Seasonal sales stands may be allowed for a maximum of 90 days per calendar year.

Section 6

The following language for Residential Districts is added, amended and deleted as provided in Section 9.109 of the City Code of 2005, is hereby established to read as follows:

(A) Purpose. The residential zoning districts are established to preserve and enhance the quality of living in residential neighborhoods; provide a range of housing types and densities consistent with the comprehensive plan; regulate structures and uses which may affect the character or desirability of these residential areas; and provide directly related complementary uses that support the residential areas while safeguarding the residential character of these areas.

(B) General provisions.

(1) Compliance with applicable regulations. Any use established in a residential district after the effective date of this article shall comply with all applicable local, state and federal standards for such uses.

(2) Administration. The administration and enforcement of this section shall be in accordance with the provisions of § 9.104, Administration and Enforcement.

(3) Nonconformities. Nonconforming uses, structures, lots and signs within a residential district shall be subject to the provisions of § 9.105, Nonconformities.

(4) Compliance with general development standards. Any use established, expanded or modified in a residential district after the effective date of this article shall comply with the applicable provisions of § 9.106, General Provisions.

(5) Compliance with specific development standards. Any use established, expanded or modified in a residential district after the effective date of this article that is identified in § 9.107, Specific Development Standards, shall comply with the applicable provisions of that section.

(6) State licensed residential facility. State licensed residential facilities are allowed in all residential districts pursuant to M.S. § 462.357, as it may be amended from time to time.

(7) Prohibited uses. Any use not listed as either permitted, conditional or accessory in a particular district or any use not determined by the Zoning Administrator to be substantially similar to a use listed as permitted, conditional or accessory shall be prohibited in that district.

(8) **Permitted accessory uses. Except as specifically limited herein, the following accessory uses shall be in all Residential Districts, R-1, R-2A and R-2B, R-3, R-4:**

(a) Private garages, carports and parking spaces.

(b) Accessory buildings.

(c) Home occupations.

(d) Boarding or renting of rooms to not more than two persons.

(e) Private swimming pools, tennis courts and other recreational facilities operated for the sole use and convenience of the residents of the principal use and their guests.

(f) Decorative landscaping, gardening and other horticultural uses.

(g) Temporary construction buildings.

(h) Signs as regulated by § 9.106.

(i) Accessory dwelling units

(j) Shared family living arrangements

(C) *Lot dimension, height, and bulk requirements.* Lot area, setback, height and lot coverage requirements for uses in the residential districts shall be as specified in the following table:

	<i>R-1</i>	<i>R-2A</i>	<i>R-2B</i>	<i>R-3</i>	<i>R-4</i>
Minimum Lot Area					
Single-family dwelling	8,400 sq. ft.	Existing on January 1, 2005 – 5,100 sq. ft. Established after January 1, 2005 - 6,500 sq. ft.	Existing on January 1, 2005 – 5,100 sq. ft. Established after January 1, 2005 - 6,500 sq. ft.	Existing on January 1, 2005 – 5,100 sq. ft. Established after January 1, 2005 - 6,500 sq. ft.	Existing on January 1, 2005 – 5,100 sq. ft. Established after January 1, 2005 - 6,500 sq. ft.

Two-family and twinhome dwellings		12,000 sq. ft.	Existing on January 1, 2005 - 5,100 sq. ft. Established after January 1, 2005 - 12,000 sq. ft.	8,400 sq. ft.	8,400 sq. ft.
Multiple-family dwelling				10,000 sq. ft.	10,000 sq. ft.
Non-residential structure	8,400 sq. ft.	6,500 sq. ft.	6,500 sq. ft.	10,000 sq. ft.	10,000 sq. ft.
Lot Area Per Dwelling Unit					
Multiple-family dwelling					
Agency				1,200 sq. ft.	800 sq. ft.
Bedroom				1,800 sq. ft.	1,000 sq. ft.
Bedroom				2,000 sq. ft.	1,200 sq. ft.
Bedroom				2,500 sq. ft.	1,500 sq. ft.
Additional bedroom				400 sq. ft.	200 sq. ft.
Regulate living units				400 sq. ft.	400 sq. ft.
Minimum Lot Width	70 ft.	Existing on January 1, 2005 – 40 ft. Established after January 1, 2005 - 60 ft.	Existing on January 1, 2005 – 40 ft. Established after January 1, 2005 - 60 ft.	Existing on January 1, 2005 – 40 ft. Established after January 1, 2005 - 70 ft.	Existing on January 1, 2005 – 40 ft. Established after January 1, 2005 - 70 ft.

	<i>R-1</i>	<i>R-2A</i>	<i>R-2B</i>	<i>R-3</i>	<i>R-4</i>
Minimum Lot Depth					
Residential Building Setbacks					
Front yard	25 ft.	25 ft.	25 ft.	1 & 2 Family - 25 ft. Multi- Family - 30 ft.	15 ft.
Side yard	7 ft.*	5 ft.*	5 ft.*	1 & 2 Family - 5 ft. Multi- Family - 20 ft.	10 ft.
Rear side yard	12 ft.	10 ft.	10 ft.	1 & 2 Family - 10 ft. Multi- Family - 30 ft.	15 ft.
Back yard	20% of lot depth	20% of lot depth	20% of lot depth	1 & 2 Family - 25 ft. Multi- Family - 30 ft.	15 ft.
Non-Residential Building Setbacks					
Front yard	25 ft.	25 ft.	25 ft.	30 ft.	15 ft.
Side yard	40 ft.	30 ft.	30 ft.	25 ft.	10 ft.
Rear side yard	12 ft.	10 ft.	10 ft.	30 ft.	15 ft.
Back yard	40 ft.	30 ft.	30 ft.	25 ft.	10 ft.
Single- and Two-Family Parking Setbacks					
Front yard (excluding drives/pads)	25 ft.	25 ft.	25 ft.	30 ft.	30 ft.
Side yard	3 ft.	3 ft.	3 ft.	3 ft.	3 ft.
Rear side yard	3 ft.	3 ft.	3 ft.	3 ft.	3 ft.
Back yard	3 ft.	3 ft.	3 ft.	3 ft.	

Multiple-Family Parking Setbacks					
yard				30 ft.	30 ft.
yard				10 ft.	10 ft.
r side yard				30 ft.	30 ft.
yard				10 ft.	10 ft.

	<i>R-1</i>	<i>R-2A</i>	<i>R-2B</i>	<i>R-3</i>	<i>R-4</i>
Non-Residential Parking Setbacks					
Front yard	25 ft.	25 ft.	25 ft.	30 ft.	30 ft.
yard	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.
r side yard	25 ft.	25 ft.	25 ft.	30 ft.	30 ft.
yard	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.
Maximum Height					
Residential buildings	30 ft.	30 ft.	30 ft.	35 ft.	35 ft.
Non-residential buildings	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.
Residential structures	30 ft. unless specified elsewhere	30 ft. unless specified elsewhere	30 ft. unless specified elsewhere	35 ft. unless specified elsewhere	35 ft. unless specified elsewhere
Non-residential structures	35 ft. unless specified elsewhere	35 ft. unless specified elsewhere	35 ft. unless specified elsewhere	35 ft. unless specified elsewhere	35 ft. unless specified elsewhere
Non-Residential Floor Area Ratio					2.2
Impervious surface coverage maximum for residential lots	35% for lots less than 6,500 sq. ft.	35% for lots less than 6,500 sq. ft.	35% for lots less than 6,500 sq. ft.	35% for lots less than 6,500 sq. ft.	35% for lots less than 6,500 sq. ft.
	30% for lots greater than 6,500 sq. ft.	30% for lots greater than 6,500 sq. ft.	30% for lots greater than 6,500 sq. ft.	30% for lots greater than 6,500 sq. ft.	30% for lots greater than 6,500 sq. ft.
* The side yard setback for structures in excess of two stories shall be increased to 10 feet.					

(D) Zero lot line setback provisions. In the R-2, R-3 and R-4 districts, the yard for a single-family attached dwelling may be reduced to zero feet, provided that the following conditions are satisfactorily met:

- (1) The wall of the dwelling unit shall be placed upon said property line in a manner that does not encroach upon another property.
- (2) The applicant records all required agreements, easements and deed restrictions against all properties that abut the zero lot line.
- (3) The minimum front, side and rear building setbacks shall be applied to the structure as a whole, rather than to individual units.
- (4) The minimum lot area requirement shall be applied by dividing the sum of the area of all parcels occupied by the structure by the total number of dwelling units.

(E) R-1, Single-Family Residential District.

(1) Purpose. The purpose of the R-1, Single-Family Residential District is to provide appropriately located areas for detached single-family dwellings and directly related complementary uses.

(2) Permitted uses. Except as specifically limited herein, the following uses are permitted within the R-1, Single-Family Residential District:

- (a) Single-family dwelling, detached.
- (b) State licensed residential care facility serving six or fewer persons.
- (c) Licensed day care facility serving 12 or fewer persons.
- (d) Licensed group family day care facility serving 14 or fewer children.
- (e) Public parks and playgrounds.

(3) Conditional uses. Except as specifically limited herein, the following uses may be allowed in the R-1, Single-Family Residential District, subject to the regulations set forth for conditional uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards:

- (a) Religious facility/place of worship.
- (b) Convent or monastery, when accessory to a religious facility.
- (c) School, public or private, K-12.
- (d) Government office.
- (e) Government protective service facility.
- (f) Golf course.
- (g) Joint driveway use between adjoining property owners.
- (h) Fences greater than six feet in height.

(4) Interim uses. Except as specifically limited herein, the following uses may be allowed in the R-1, Single-Family Residential District, subject to the regulations set forth for interim uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards: Greenhouse.

~~(5) Permitted accessory uses. Except as specifically limited herein, the following accessory uses shall be in the R-1, Single-Family Residential District:~~

- ~~— (a) Private garages, carports and parking spaces.~~
- ~~— (b) Accessory buildings.~~
- ~~— (c) Home occupations.~~
- ~~— (d) Boarding or renting of rooms to not more than two persons.~~
- ~~— (e) Private swimming pools, tennis courts and other recreational facilities operated for the sole use and convenience of the residents of the principal use and their guests.~~

~~— (f) Decorative landscaping, gardening and other horticultural uses.~~

~~— (g) Temporary construction buildings.~~

~~Signs as regulated by § 9.106.~~

(F) R-2A and R-2B, Two-Family Residential District.

(1) Purpose. The purpose of the R-2A and R-2B Two-Family Residence District is to provide appropriately located areas for single-family dwellings, two-family dwellings (duplexes) and directly related complementary uses.

(2) Permitted uses. Except as specifically limited herein, the following uses are permitted within the R-2A and R-2B, Two-Family Residential District:

- (a) Single-family dwelling, detached.
- (b) State-licensed residential care facility serving six or fewer persons.
- (c) Licensed day care facility serving 12 or fewer persons.
- (d) Licensed group family day care facility serving 14 or fewer children.
- (e) Public parks and playgrounds.

(f) Two-family dwelling.

(g) Twinhome dwelling.

(3) Conditional uses. Except as specifically limited herein, the following uses may be allowed in the R-2A and R-2B, Two-Family Residential District, subject to the regulations set forth for conditional uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards:

~~— (a) Two family dwelling.~~

~~— (b) Twinhome dwelling.~~

- (a) Religious facility/place of worship.
- (b) Convent or monastery, when accessory to a religious facility.
- (c) School, public or private, K-12.
- (d) Government office.
- (e) Government protective service facility.
- (f) Golf course.

(g) Off-street parking for an adjacent conforming commercial or industrial use, provided the lots are under common ownership, is not separated by a public right-of-way and front on the same public right-of-way.

(h) Joint driveway use between adjoining property owners.

- (i) Fences greater than six feet in height.

(4) Interim uses. Except as specifically limited herein, the following uses may be allowed in the R-2-A and R-2B, Two-Family Residential District, subject to the regulations set forth for interim uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards: Greenhouse.

~~(5) Permitted accessory uses. Except as specifically limited herein, the following accessory uses shall be in the R-2A and R-2B, Two-Family Residential District:~~

- ~~—— (a) Private garages, carports and parking spaces.~~
- ~~—— (b) Accessory buildings.~~
- ~~—— (c) Home occupations.~~
- ~~—— (d) Boarding or renting of rooms to not more than two persons.~~
- ~~—— (e) Private swimming pools, tennis courts and other recreational facilities operated for the sole use and convenience of the residents of the principal use and their guests.~~
- ~~—— (f) Decorative landscaping, gardening and other horticultural uses.~~
- ~~—— (g) Temporary construction buildings.~~

~~Signs as regulated by § 9.106.~~

- (G) R-3, Limited Multiple-Family Residential District.

(1) Purpose. The purpose of the R-3, Limited Multiple-Family Residential District is to provide appropriately located areas for small lot single-family dwellings, multiple-family dwellings with up to eight units per structure (town homes, condominiums and apartments), congregate living arrangements and directly related complementary uses.

(2) Permitted uses. Except as specifically limited herein, the following uses are permitted within the R-3, Limited Multiple-Family Residential District:

- (a) Single-family dwelling, detached.
- (b) Two-family dwelling.
- (c) Twinhome dwelling.
- (d) Town home dwelling with up to eight units per structure.
- (e) Multiple-family dwelling with up to eight units per structure.
- (f) State licensed residential care facility serving six or fewer persons.
- (g) Licensed day care facility serving 12 or fewer persons.
- (h) Licensed group family day care facility serving 14 or fewer children.
- (i) Public park and/or playground.

(3) Conditional uses. Except as specifically limited herein, the following uses may be allowed in the R-3, Limited Multiple-Family Residential District, subject to the regulations set forth for conditional uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards:

- (a) Religious facility/place of worship.
- (b) Convent or monastery, when accessory to a religious facility.
- (c) School, public or private, K-12.
- (d) Government office.
- (e) Government protective service facility.
- (f) Off-street parking for an adjacent conforming commercial or industrial use, provided the lots are under common ownership, is not separated by a public right-of-way and front on the same public right-of-way.
- (g) State licensed residential care facility serving 7 to 16 persons.
- (h) Licensed day care facility serving more than 12 persons.
- (i) Congregate living facilities, including rooming houses, group living quarters, nursing homes, senior housing, assisted living facilities, transitional housing and emergency housing.
- (j) Bed and breakfast home, when accessory to a single-family dwelling.
- (k) Community center.
- (l) Recreational facility, indoor.
- (m) Recreational facility, outdoor.
- (n) Day care center, adult or child.
- (o) Joint driveway use between adjoining property owners.
- (p) Fences greater than six feet in height.

(4) Interim uses. Except as specifically limited herein, the following uses may be allowed in the R-3, Limited Multiple-Family Residential District, subject to the regulations set forth for interim uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards: Greenhouse.

~~(5) Permitted accessory uses. Except as specifically limited herein, the following accessory uses shall be in the R-3, Limited Multiple Family Residential District:~~

- ~~— (a) Private garages, carports and parking spaces.~~
- ~~— (b) Accessory buildings.~~
- ~~— (c) Home occupations.~~
- ~~— (d) Boarding or renting of rooms to not more than two persons.~~

~~— (e) Private swimming pools, tennis courts and other recreational facilities operated for the sole use and convenience of the residents of the principal use and their guests.~~

~~— (f) Decorative landscaping, gardening and other horticultural uses.~~

~~— (g) Temporary construction buildings.~~

~~Signs as regulated by § 9.106.~~

(H) R-4, Multiple-Family Residential District.

(1) Purpose. The purpose of the R-4, Multiple-Family Residential District is to provide for appropriately located areas for high density multiple-family dwellings, congregate living arrangements and directly related complementary uses.

(2) Permitted uses. Except as specifically limited herein, the following uses are permitted within the R-4, Multiple-Family Residential District:

- (a) Single-family dwelling, detached.
- (b) Two-family dwelling.
- (c) Twinhome dwelling.
- (d) Town home dwelling with up to eight units per structure.
- (e) Multiple-family dwelling.
- (f) State licensed residential care facility serving six or fewer persons.
- (g) Licensed day care facility serving 12 or fewer persons.
- (h) Licensed group family day care facility serving 14 or fewer children.
- (i) Public park and/or playground.

(3) Conditional uses. Except as specifically limited herein, the following uses may be allowed in the R-4, Multiple-Family Residential District, subject to the regulations set forth for conditional uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards:

- (a) Religious facility/place of worship.
- (b) Convent or monastery, when accessory to a religious facility.
- (c) School, public or private, K-12.
- (d) School, vocational or business.
- (e) Licensed day care facility serving more than 12 persons.
- (f) Government office.

- (g) Government protective service facility.
- (h) Off-street parking for an adjacent conforming commercial or industrial use, provided the lots are under common ownership, is not separated by a public right-of-way and front on the same public right-of-way.
- (i) State licensed residential care facility serving more than six persons.
- (j) Congregate living facilities, including rooming houses, group living quarters, nursing homes, senior housing, assisted living facilities, transitional housing and emergency housing.
- (k) Bed and breakfast home, when accessory to a single-family dwelling.
- (l) Community center.
- (m) Recreational facility, indoor.
- (n) Recreational facility, outdoor.
- (o) Day care center, adult or child.
- (p) Manufactured home park.
- (q) Joint driveway use between adjoining property owners.
- (r) Fences greater than six feet in height.

(4) Interim uses. Except as specifically limited herein, the following uses may be allowed in the R-4, Multiple-Family Residential District, subject to the regulations set forth for interim uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards: Greenhouse.

~~(5) Permitted accessory uses. Except as specifically limited herein, the following accessory uses shall be in the R-4, Multiple-Family Residential District:~~

- ~~— (a) Private garages, carports and parking spaces.~~
- ~~— (b) Accessory buildings.~~
- ~~— (c) Home occupations.~~
- ~~— (d) Boarding or renting of rooms to not more than two persons.~~
- ~~— (e) Private swimming pools, tennis courts and other recreational facilities operated for the sole use and convenience of the residents of the principal use and their guests.~~
- ~~— (f) Decorative landscaping, gardening and other horticultural uses.~~
- ~~— (g) Temporary construction buildings.~~

~~Signs as regulated by § 9.106.~~

Section 7

The following language for Commercial Districts is added, amended and deleted as provided in Section 9.110 of the City Code of 2005, is hereby established to read as follows:

(A) Purpose. The commercial districts are established to provide for a wide range of goods and services in locations throughout the community; provide employment opportunities; and enhance the livability of the community by providing convenient access to goods and services.

(B) General provisions.

(1) Compliance with applicable regulations. Any use established in a commercial district after the effective date of this article shall comply with all applicable local, state and federal standards for such uses.

(2) Administration. The administration and enforcement of this section shall be in accordance with the provisions of § 9.104, Administration and Enforcement.

(3) Nonconformities. Nonconforming uses, structures, lots and signs within a commercial district shall be subject to the provisions of § 9.105, Nonconformities.

(4) Compliance with general development standards. Any use established, expanded or modified in a commercial district after the effective date of this article shall comply with the applicable provisions of § 9.106, General Development Standards.

(5) Compliance with specific development standards. Any use established, expanded or modified in a commercial district after the effective date of this article shall comply with the applicable provisions of § 9.107, Specific Development Standards.

(6) Prohibited uses. Any use not listed as either permitted, conditional or accessory in a particular district or any use not determined by the Zoning Administrator to be substantially similar to a use listed as permitted, conditional or accessory shall be prohibited in that district.

(C) *Lot dimension, height, and bulk requirements.* Lot area, setback, height and lot coverage requirements for uses in the commercial districts shall be as specified in the following table.

	<i>LB</i>	<i>GB</i>	<i>CBD</i>
Minimum Lot Area	6,000 sq. ft.	6,000 sq. ft.	
Minimum Lot Width	50 ft.	40 ft.	20 ft.

	<i>LB</i>	<i>GB</i>	<i>CBD</i>
	<i>LB</i>	<i>GB</i>	<i>CBD</i>
Minimum Lot Depth			
Lot area per dwelling unit			
Single-family dwelling	6,500 sq. ft.		
Multiple-family dwelling			
Efficiency	1,200 sq. ft.		1,200 sq. ft.
One bedroom	1,800 sq. ft.		1,800 sq. ft.
Two bedroom	2,000 sq. ft.		2,000 sq. ft.
Three bedroom	2,500 sq. ft.		2,500 sq. ft.

Additional bedroom	400 sq. ft.		400 sq. ft.
Congregate living units	400 sq. ft.		400 sq. ft.
Hotel or motel	400 sq. ft.		
Hospital	600 sq. ft.		
Building Setback Requirements			
Nonresidential/mixed-use front yard	none		
Residential front yard	5 ft.		
Front yard		15 ft.	none
Side yard	15 ft.	none	none
Corner side yard	10 ft.	15 ft.	1 ft.
Rear yard	20 ft.	20 ft.	10 ft.
Parking Setback Requirements			
Front yard	12 ft.	15 ft.	1 ft.
Side yard	5 ft.	5 ft.	none
Corner side yard	12 ft.	15 ft.	1 ft.
Rear yard	5 ft.	5 ft.	5 ft.
Maximum Building Height	35 ft.	35 ft.	none
Maximum Structure Height	35 ft. unless specified elsewhere	35 ft. unless specified elsewhere	none, unless specified elsewhere
Maximum Lot Coverage			
Floor area ratio		1.0	6.0

(D) LB, Limited Business District.

(1) Purpose. The purpose of the LB, Limited Business District is to provide appropriate locations for limited retail sales and services for the convenience of adjacent residential neighborhoods. These areas are located along collector or arterial roadways in close proximity to residential neighborhoods, arranged and designed to be a functional and harmonious part of the neighborhood, and accessible by public sidewalks or trails as well as by roadways.

(2) Permitted uses. Except as specifically limited herein, the following uses are permitted within the LB, Limited Business District:

- (a) Multiple-family dwelling.
- (b) Government office.
- (c) Government protective service facility.
- (d) Public park and/or playground.
- (e) Clinic, medical or dental.

- (f) Clinic, veterinary.
- (g) Funeral home.
- (h) Office, ~~not exceeding 4,000 square feet in area~~
- (i) Studio, professional
- (j) Service, professional.
- (k) Retail sales
- (l) Food service, limited (coffee shop/deli)
- (m) Museum/gallery

(3) Conditional uses. Except as specifically limited herein, the following uses may be allowed in the LB, Limited Business District, subject to the regulations set forth for conditional uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards:

- (a) School, vocational or business.
- (b) School, performing/visual/martial arts.
- (c) Licensed day care facility, child or adult.
- (d) Government maintenance facility.
- (e) State licensed residential care facility.
- (f) Congregate living facility, including rooming houses, group living quarters, nursing homes, senior housing, assisted living facility, traditional housing and emergency housing.
- (g) Bed and breakfast home, when accessory to a single-family dwelling.
- (h) Community center.
- (i) Recreational facility, indoor.
- (j) Recreational facility, outdoor.
- (k) Single-family dwelling, when accessory to a commercial use.
- ~~(l) Food service, limited (coffee shop/deli)~~
- ~~(n) Museum/gallery~~
- ~~(o) Retail sales, not exceeding 2,500 square feet in area~~
- (l) Hospital.
- (m) Hotel or motel.
- (n) Fences greater than six feet in height.

(o) Brewer taproom, not exceeding 2,000 barrels of malt liquor a year.

(p) Brew pub, not exceeding 2,000 barrels of malt liquor a year.

(q) Health/fitness clubs, not exceeding 4,000 gross square feet in area.

(4) Permitted accessory uses. Except as specifically limited herein, the following accessory uses shall be permitted in the LB, Limited Business District:

(a) Private garages, parking spaces and loading areas.

(b) Accessory buildings.

(c) Private swimming pools, tennis courts and other recreational facilities operated for the sole use and convenience of the residents of the principal use and their guests.

(d) Landscaping and other horticultural uses.

(e) Temporary construction buildings.

(f) Signs as regulated by § 9.106.

(E) GB, General Business District.

(1) Purpose. The purpose of the GB General Business District is to provide appropriate locations for general retail sales, services and other commercial developments that benefit from their proximity to other commercial uses. These areas are located away from residential neighborhoods, along arterial roadways and are accessible primarily by automobile.

(2) Permitted uses. Except as specifically limited herein, the following uses are permitted within the GB, General Business District:

(a) Government office.

(b) Government protective service facility.

(c) Public park and/or playground.

(d) School, vocational or business.

(e) School, performing/visual/martial arts.

(f) Auditorium/place of assembly.

(g) Automobile convenience facility.

(h) Automobile and motorcycle repair, minor.

(i) Billiards hall.

(j) Bowling alley.

(k) Car wash.

- (l) Clinic, medical or dental.
- (m) Clinic, veterinary.
- (n) Day care facility, adult or child.
- (o) Financial institution.
- (p) Food service, convenience (fast food).
- (q) Food service, limited (coffee shop/deli).
- (r) Food service, full service (restaurant/nightclub).
- (s) Funeral home.
- (t) Greenhouse/garden center.
- (u) Health or fitness club.
- (v) Hotel/motel.
- (w) Laboratory, medical.
- (x) Liquor store, off-sale.
- (y) Museum or gallery.
- (z) Office.
- (aa) Retail sales.
- (bb) Service, professional.
- (cc) Shopping center.
- (dd) Studio, professional.
- (ee) Studio, radio and television.
- (ff) Theater, live performance.
- (gg) Theater, movie.
- (hh) Motor vehicle parts store.
- (ii) Brewer taproom.
- (jj) Brew pub.
- (kk) Arcade.
- (ll) Firearms dealer
- (mm) Parking ramp

(nn) Printing/Publishing

(oo) Club or lodge

(3) Conditional uses. Except as specifically limited herein, the following uses may be allowed in the GB, General Business District, subject to the regulations set forth for conditional uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards:

- (a) Community center.
- (b) Recreational facility (indoor and outdoor).
- (c) Banquet hall.
- (d) Government maintenance facility.

~~(e) Arcade~~

- (e) Automobile and motorcycle sales/rental, new.
- (f) Automobile and motorcycle sales, used (in building).
- (g) Recreational vehicle sales, new.
- (h) Recreational vehicle sales, used (in building).
- (i) ~~Firearms Dealer~~/Shooting range.
- (j) Hospital.
- (k) Outdoor sales or display.
- (l) Outdoor storage
- (m) Assembly, manufacturing and/or processing.

~~(n) Parking Ramp~~

- (n) Consignment/secondhand store.

~~(r) Club or lodge~~

- (o) Currency exchange.
- (p) Pawnshop.
- (q) Drop-in facility.
- (r) Fences greater than six feet in height.
- (s) Animal kennel and/or shelter.
- (t) Precious metal dealerships.

~~(4) Interim uses. Except as specifically limited herein, the following uses may be allowed in the GB, General Business District, subject to the regulations set forth for interim uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards:~~

- ~~—— (a) Fireworks tents.~~
- ~~—— (b) Outdoor agricultural/produce sales.~~
- ~~—— (c) Outdoor Christmas tree sales.~~

(4) Permitted accessory uses. Except as specifically limited herein, the following accessory uses shall be permitted in the GB, General Business District:

- (a) Private garages, parking spaces and loading areas.
- (b) Accessory buildings.
- (c) Landscaping and other horticultural uses.

(d) Incidental repair or processing necessary to conduct the permitted principal use, provided the accessory use does not exceed 30% of the floor area.

- (e) Temporary construction buildings.
- (f) Signs as regulated by § 9.106.

(g) Seasonal sales stands

(F) CBD, Central Business District.

(1) Purpose. The purpose of the CBD, Central Business District is to provide for the development and redevelopment of the established downtown core, including a mix of retail, financial, office, service and entertainment uses. Residential units are allowed within this district when located above a first floor commercial use.

(2) Permitted uses. Except as specifically limited herein, the following uses are permitted within the CBD, Central Business District:

- (a) Multiple-family residential, when located above a first floor commercial use.
- (b) Government offices.
- (c) Government protective services facility.
- (d) Public parks and/or playgrounds.
- (e) School, vocational or business.
- (f) School, performing/visual/martial arts.
- (g) Auditorium/place of assembly.
- (h) Billiards hall.

- (i) Bowling alley.
- (j) Clinic, medical or dental.
- (k) Clinic, veterinary.
- (l) Licensed day care facility, adult or child.
- (m) Financial institution.
- (n) Food service, convenience (fast food).
- (o) Food service, limited (coffee shop/deli).
- (p) Food service, full service (restaurant/nightclub).
- (q) Health or fitness center.
- (r) Hotel or motel.
- (s) Laboratory, medical.
- (t) Liquor store, off-sale.
- (u) Museum or gallery.
- (v) Office.
- (w) Retail sales.
- (x) Service, professional.
- (y) Studio, professional.
- (z) Studio, radio or televisions.
- (aa) Theater, live performance.
- (bb) Theater, movie.

(cc) Arcade

(dd) Parking ramp

(ee) Club or lodge

(ff) Printing/publishing

(3) Conditional uses. Except as specifically limited herein, the following uses may be allowed in the CBD, Central Business District, subject to the regulations set forth for conditional uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards

—(a) Arcade

- (a) Outdoor sales and/or display.

(b) Outdoor storage.

~~— (c) Parking ramp~~

~~— (d) Club or Lodge~~

(c) Fences greater than six feet in height.

(d) Community center.

(e) Recreational facility (indoor/outdoor).

(f) Banquet hall.

(g) Brewer taproom.

(h) Brew pub.

~~(4) Interim uses. Except as specifically limited herein, the following uses may be allowed in the GB, General Business District, subject to the regulations set forth for interim uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards:~~

~~— (a) Fireworks tents.~~

~~— (b) Outdoor agricultural/produce sales.~~

~~— (c) Outdoor Christmas tree sales.~~

(5) Permitted accessory uses. Except as specifically limited herein, the following accessory uses shall be permitted in the CBD, Central Business District:

(a) Private garages, parking spaces and loading areas.

(b) Landscaping and other horticultural uses.

(c) Incidental repair or processing necessary to conduct the permitted principal use, provided the accessory use does not exceed 30% of the floor area.

(d) Temporary construction buildings.

(e) Signs as regulated by § 9.106.

(f) Seasonal sales stand

(6) Off-street parking. The CBD, Central Business District, shall be considered an off-street parking district in which off-street parking is not required for nonresidential land uses. Residential uses, including those in mixed-use buildings, shall meet the parking requirements of § 9.106.

Section 8

The following language for Industrial Districts is added, amended and deleted as provided in Section 9.111 of the City Code of 2005, is hereby established to read as follows:

(A) Purpose. The industrial districts are established to enhance the community's tax base; provide employment opportunities; and accommodate industrial development while maintaining compatibility with surrounding areas.

(B) General provisions.

(1) Compliance with applicable regulations. Any use established in an industrial district after the effective date of this chapter shall comply with all applicable local, state and federal standards for such uses.

(2) Administration. The administration and enforcement of this section shall be in accordance with the provisions of § 9.104, Administration and Enforcement.

(3) Nonconformities. Nonconforming uses, structures, lots and signs within an Industrial District shall be subject to the provisions of § 9.105, Nonconformities.

(4) Compliance with general development standards. Any use established, expanded or modified in an industrial district after the effective date of this article shall comply with the applicable provisions of § 9.106, General Development Standards.

(5) Compliance with specific development standards. Any use established, expanded or modified in an industrial district after the effective date of this chapter that is identified in § 9.107, Specific Development Standards, shall comply with the applicable provisions of that section.

(6) Prohibited uses. Any use not listed as either permitted, conditional or accessory in a particular district or any use not determined by the Zoning Administrator to be substantially similar to a use listed as permitted, conditional or accessory shall be prohibited in that district.

(C) Lot dimension, height, and bulk requirements. Lot area, setback, height and lot coverage requirements for uses in the industrial districts shall be as specified in the following table:

	<i>I-1</i>	<i>I-2</i>
	<i>I-1</i>	<i>I-2</i>
Minimum Lot Area	10,000 sq. ft.	10,000 sq. ft.
Minimum Lot Width	80 ft.	80 ft.
Minimum Lot Depth		
Building Setback Requirements		
Front yard	20 ft.	20 ft.
Side yard	12 ft.	12 ft.

Corner side yard	15 ft.	15 ft.
Rear yard	24 ft.	24 ft.
Parking Setback Requirements		
Front yard	20 ft.	20 ft.
Side yard	5 ft.	5 ft.
Corner side yard	20 ft.	20 ft.
Rear yard	5 ft.	5 ft.
Maximum Height		
Maximum Lot Coverage		
Floor Area Ratio	1.0	1.0

(D) I-1, Light Industrial District.

(1) Purpose. The purpose of the I-1, Light Industrial District is to provide appropriate locations for industrial enterprises engaged in activities such as assembly, storage, warehousing and light manufacturing and further processing of materials first handled by general industry. These areas are located with easy access to arterial roadways and should be separated from residential uses by natural or manmade barriers.

(2) Permitted uses. Except as specifically limited herein, the following uses are permitted within the I-1, Light Industrial District:

- (a) Community center.
- (b) Government office.
- (c) Government maintenance facility.
- (d) Government protective service facility.
- (e) Public park and/or playground.

- (f) Recreational facility, indoor.
- (g) Recreational facility, outdoor.
- (h) Automobile and motorcycle repair, major.
- (i) Automobile and motorcycle repair, minor.
- (j) Laboratory, medical.
- (k) Office.
- (l) Studio, radio or television.
- (m) Assembly, manufacturing and/or processing.
- (n) Freight terminal.
- (o) Maintenance facility.
- (p) Office/showroom.
- (q) Office/warehouse.
- (r) Printing and/or publishing.
- (s) Self-service storage facility.
- (t) Warehousing and/or distribution.
- (u) Pawnshops.
- (v) Tattoo shops.
- (w) Body piercing shops.
- (x) Motor vehicle parts store.
- (y) Brewer taproom.

(z) Retail Sales

(aa) Parking ramp

(3) Conditional uses. Except as specifically limited herein, the following uses may be allowed in the I-1, Light Industrial District, subject to the regulations set forth for conditional uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards:

~~—(a) Caretaker's residence~~

- (a) Outdoor sales and/or display.
- (b) Outdoor storage.

~~—(d) Parking ramp~~

- (c) Concrete, asphalt or rock crushing operation.
- (d) Salvage operation/transfer station.
- (e) Adult entertainment use.
- (f) State licensed residential care facility, correctional.
- (g) Fences greater than seven feet in height.
- (h) Barbed wire fences.
- (i) Animal kennel and/or shelter.

(4) Permitted accessory uses. Except as specifically limited herein, the following accessory uses shall be permitted in the I-2, Light Industrial District:

- (a) Off-street parking and loading areas.
- (b) Landscaping and other horticultural uses.
- (c) Temporary construction buildings.
- (d) Signs as regulated by § 9.106.

(e) Caretaker's residence

(E) I-2, General Industrial District.

(1) Purpose. The purpose of the I-2, General Industrial District is to provide appropriate locations for industrial enterprises engaged in activities such as manufacturing, processing, assembly, storage and warehousing, which, because of their size and/or nature, require isolation from non-industrial uses. These areas are located with easy access to arterial roadways or railroads and should be separated from non-industrial uses by natural or manmade barriers.

(2) Permitted uses. Except as specifically limited herein, the following uses are permitted within the I-2, General Industrial District:

- (a) Community center.
- (b) Government office.
- (c) Government maintenance facility.
- (d) Government protective service facility.
- (e) Public park and/or playground.
- (f) Recreational facility, indoor.
- (g) Recreational facility, outdoor.
- (h) Automobile and motorcycle repair, major.

- (i) Automobile and motorcycle repair, minor.
- (j) Laboratory, medical.
- (k) Office.
- (l) Studio, radio or television.
- (m) Assembly, manufacturing and/or processing.
- (n) Freight terminal.
- (o) Maintenance facility.
- (p) Office/showroom.
- (q) Office/warehouse.
- (r) Printing and/or publishing.
- (s) Self-service storage facility.
- (t) Warehousing and/or distribution.
- (u) Pawnshops.
- (v) Tattoo shops.
- (w) Body piercing shops.
- (x) Motor vehicle parts store.
- (y) Brewer taproom.

(z) Retail sales.

(aa) Parking ramp

(3) Conditional uses. Except as specifically limited herein, the following uses may be allowed in the I-2, General Industrial District, subject to the regulations set forth for conditional uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards:

~~—(a) Caretaker's residence~~

- (a) Outdoor sales and/or display.
- (b) Outdoor storage.

~~—(d) Parking ramp~~

- (c) Concrete, asphalt or rock crushing operation.
- (d) Salvage operation/transfer station.
- (e) Adult entertainment use.

(f) State licensed residential care facility, correctional.

(g) Fences greater than seven feet in height.

(h) Barbed wire fences.

(4) Permitted accessory uses. Except as specifically limited herein, the following accessory uses shall be permitted in the I-2, Light Industrial District:

(a) Off-street parking and loading areas.

(b) Landscaping and other horticultural uses.

(c) Temporary construction buildings.

(d) Signs as regulated by § 9.106.

(e) Caretaker's residence

Section 9

This Ordinance shall be in full force and effect from and after 30 days after its passage.

Offered by:

Seconded by:

Roll Call:

Second Reading:

Offered by:

Seconded by:

Roll Call:

Date of Passage:

Amáda Márquez Simula, Mayor

Attest:

Sara Ion, City Clerk/Council Secretary