

February 28, 2024
7:00 p.m.

City of Brooklyn Park – Conference Room A203
5200 85th Avenue North
Brooklyn Park, MN 55443

PLANNING COMMISSION WORK SESSION – AGENDA #4

For reasonable accommodations or alternative formats, please provide a 72-hour notice by calling 763-424-8000 or emailing chris.xiong@brooklynpark.org. Si usted necesita esta información en español, llame al 763-424-8000 y solicite un intérprete. Yog xav tau kev pab, hu 763-493-8059.

Commissioners: Chair Liam Cavin, Vice Chair Kathy Fraser, General Officer John Kiekow, Christopher Udomah, Philip Gaye-Bai, Teshite Wako, Maggie Borer, Shereese Turner.
City Council Liaison: Councilmember Tony McGarvey.
Staff Liaison Paul Mogush, Amber Turnquest, Erin McDermott and Matt Hayes-Regan.

A. CALL TO ORDER

B. GENERAL INFORMATION

C. DISCUSSION ITEMS/GENERAL ACTION ITEMS

C.1 Zoning Code Update

A. 150 Signs

The Sign Code was amended to comply with changes made to the Comprehensive Plan through the new land use designations and the anticipated adoption of new zoning districts. Technical changes for consistency throughout the Land Use title were also made. The City's Attorney is currently reviewing the text against current case law and additional changes may be required.

B. 151 Subdivisions

The Subdivision Code (Chapter 151) was amended for consistency throughout the Land Use title. This Chapter had not been updated since 2000, changes were made to reflect the current process.

C. 153 Stormwater

The Stormwater Management Code (Chapter 153) was amended for consistency throughout the Land Use title as well as changes made to reflect the current process.

D. 152 Articles 1 – Administration and 2 – Zoning Districts

Articles 1 and 2 of Zoning Code (Chapter 152) were amended to comply with the changes made to the Comprehensive Plan through the new land use designations and the adoption of new zoning districts. Technical changes for consistency throughout the Land Use title were also made.

D. VERBAL REPORTS AND ANNOUNCEMENTS

- 1. COUNCILMEMBER LIASON COMMENTS**
- 2. PLANNING COMMISSION COMMENTS**
- 3. STAFF LIASON COMMENTS**

E. ADJOURNMENT

MEMORANDUM

Date: February 21, 2024
To: Planning Commission Members
From: Erin McDermott, Associate Planner
Subject: Comprehensive Plan Land Use Code Update

Sign Code Text Amendment

The Sign Code was amended to comply with changes made to the Comprehensive Plan through the new land use designations and the anticipated adoption of new zoning districts. Technical changes for consistency throughout the Land Use title were also made. The City's Attorney is currently reviewing the text against current case law and additional changes may be required.

Attachment A – Summary of Changes
Attachment B – Redline Text Amendment

C.1.A.A - WS SUMMARY OF CHANGES - CH 150

Section	Title	Summary of Changes
150.01	Short title	Updated for consistency across LU chapters
150.02	Purpose and Intent	Grammar, and the addition of a severability clause
150.03	Definitions	Updated for consistency across LU chapters
150.04	General Provisions Applicable to All Zoning Districts	Grammar, and added Minnesota Building Code requirement. Removed content restrictions per legal recommendation. Added projecting signs as permitted with size requirements.
150.05	Prohibited Signs	Removed prohibition from projecting signs.
150.06	Temporary Signs	Removed content restrictions per legal recommendation. Added clarification to requirements for enforcement purposes at the request of the Environmental Health Division.
150.08	Variances	Updated for consistency across LU chapters, all variances are governed by MN Statute and must be processed consistently.
150.09	Sign Application	Technical changes for consistency
150.10	Bond and License	Technical changes for consistency
150.11	Construction Standards	Removed specific Building Code citation, replacing with a broader citation to reduce the need for future amendments.
150.13	Enforcement	Technical changes for consistency
150.14	Violations	Technical changes for consistency
150.15	Right of Appeal	Technical changes for consistency
150.25	R-1, R-2, R-3 and R4 Residential Districts	Updated name of section and zoning district references to reflect the residential districts that will exist once Chapter 152 is amended.
150.26	Multiple Residential Districts	Updated name of section and zoning district references to reflect the residential districts that will exist once Chapter 152 is amended.
150.29	BP Business Park and I General Industrial Districts	Technical changes for consistency
150.30	PCDD Planned Community Development District and PUD Planned Unit Development District	Struck to reflect the districts that will exist once Chapter 152 is amended.
150.32	Highway Overlay	Struck to reflect the districts that will exist once Chapter 152 is amended.

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ARTICLE 1. ADMINISTRATION

§ 150.01 SHORT TITLE.

This chapter may hereafter be known and cited as the “~~Sign Ordinance.~~”Brooklyn Park Sign Code”.

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('72 Code, § 356:00) (Ord. 1988-602(A), passed 8-22-88)

§ 150.02 PURPOSE AND INTENT.

(A) This chapter is established to protect and promote the health, safety, general welfare and order within the City of Brooklyn Park through the establishment of a comprehensive and impartial series of standards, regulations and procedures governing the type, numbers, size, structure, location, height, lighting, erection, maintenance, use and/or display of devices, signs or symbols serving as a visual communicative media to persons situated within or upon public ~~right-of-ways~~rights-of-way or properties.

(B) The provisions of this chapter are intended to establish an opportunity for effective communication, and a sense of concern for visual amenities on the part of those designing, displaying or otherwise utilizing needed communicative media of the types regulated by this chapter; while at the same time, assuring that the public is not endangered, annoyed or distracted by the unsafe, disorderly, indiscriminate or unnecessary use of such communicative media.

(C) The City's Sign Code is not intended to, and does not restrict speech on the basis of its content, viewpoint or message. Any provision in this Code that permits speech by reason of the type of sign, identity of the sign user or otherwise, shall permit any type of speech or message on the sign. No part of this Code shall be construed to favor commercial speech over non-commercial speech. To the extent that any provision of this Code is ambiguous, the term shall be interpreted to not regulate on the basis of speech content and the interpretation resulting in the least restriction on the content of the sign message shall prevail.

('72 Code, § 356:05) (Ord. 1988-602(A), passed 8-22-88)

§ 150.03 DEFINITIONS.

For the purpose of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning. The singular number includes the plural and the plural includes the singular. The present tense includes the past and future tenses and the future the present. The word "must" is mandatory and the word "may" is permissive. The masculine gender includes the feminine and neuter genders. Whenever a word or term defined hereinafter appears in the text of this chapter, its meaning is construed as set forth in such definition thereof. All measured distances must be expressed in feet and inches.

ADVERTISEMENT. Displayed information that calls public attention to a business, product, service, political or non-profit organization, idea, or event.

ADMINISTRATOR. The officer charged by the City Manager with the administration and enforcement of this chapter.

ALTERATION. This refers to any alteration to a sign excluding routine maintenance, painting, or change of copy of an existing sign.

AREA IDENTIFICATION SIGN. A sign which identifies a development such as a shopping center consisting of three or more separate business concerns, a singular free-standing commercial or institutional building 50,000 square feet or larger, an industrial building in excess

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of 100,000 square feet, an industrial area, an office or institutional complex consisting of three or more buildings or any combination of the above. An area identification sign must not contain advertisement, except on a reader board.

AWNING. A temporary roof like structure or cover which projects from the wall of a building or projects over any entrance and can be retracted, folded or collapsed against the face of a supporting building.

BANNER. Refers to temporary sign such as used to announce open houses, grand openings or special announcements or sales.

BENCH SIGN. A sign which is affixed to or painted on a bench, such as at a public transit terminal or stop.

BILLBOARD SIGN. A sign which is erected and used for the purpose of selling or leasing advertising space or for the purpose of selling goods and/or services other than those offered on the premises.

BUILDING. Any structure having a roof which may provide shelter or enclosure for persons, animals or chattel, and when the structure is divided by party walls without openings, each portion of such building so separated is deemed a separate building.

BUILDING FACADE. That area of any exterior elevation of a building extending from grade to the top of the exterior wall and the entire width of the building elevation, including parapets, awnings, canopies, mansards or other appendages or architectural treatments to the wall. The facade does not include flat roof sections of multi-level buildings nor the shingled faces of hip roofs or gable roofs.

CANOPY/WALKWAY. A permanent roof-like structure or cover which projects from the wall of a building, or projects over any entrance or walkway.

CANOPY/VEHICULAR SERVICE. A permanent roof-like structure, either attached or detached from a permitted building, designed to provide cover for off-street vehicle service areas, (such as gasoline station pump islands, drive-in establishments, truck loading berths, and the like).

CITY CODE. The 1972 Ordinance Code of the City of Brooklyn Park, as amended from time to time. Also referred to as the Code of Ordinances. This sign ordinance is a part of the City Code.

CONSTRUCTION SIGN. A sign placed at a construction site identifying the project or the name of the architect, engineer, contractor, developer, financier or other involved parties.

DIRECTIONAL SIGNS. A sign which bears only directional arrows or information on location plus the address and/or name of a business, institution, or other use activity, provided the primary message and purpose is to provide directional information.

~~**DISTRICT.** Refers to a specific zoning district as defined in the Brooklyn Park Zoning Ordinance, Chapter 152.~~

DWELLING. A building of one or more portions thereof occupied or intended to be occupied for residential purposes; but not including rooms in motels, hotels, nursing ~~homes~~homes, boarding houses, trailers, tents, cabins or trailer coaches.

DWELLING UNIT. A single-family dwelling.

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EVENT. For the purposes of this chapter, an event is defined as an organized function, which occurs on two consecutive weekends or over a period of no more than ten consecutive days, that serves to advertise and/or promote a non-profit agency or organization as defined by the State of Minnesota. Section 150.06(A)(1) regulates those events that use banners or mobile reader boards.

FEATHER FLAG. A free-standing, temporary sign constructed of a singular vertical pole, tube, or post supporting one edge of a single sheet of weather resistant cloth, vinyl, or similar material printed with advertising, graphics, or other messages on each opposing side, incorporating movement only as provided by surrounding winds or other unassisted ambient air movement.

FLASHING SIGN. A sign which contains rotating, flashing, or intermittent lights, animation, or exhibits noticeable changes in color, intensity, texture, shape, pattern or light intensity.

FREE-STANDING SIGN. Any stationary, self-supporting sign not affixed to any other structure and supported by a pole(s). A reader board or electronic message center may be attached to the free-standing sign structure, but the reader board must not exceed 30% of the area containing the sign copy. The reader board must be included in calculating the allowable sign square foot area as required in the individual district.

GOVERNMENTAL SIGN. A sign which, is erected by a governmental unit for the purpose of identification, direction, and/or guiding traffic.

GRADE. The main elevation of curb along public street frontage closest to the sign to which reference is made, or center line of street-if no curb is available.

HOME OCCUPATION SIGN. A sign directing attention to a home occupation as defined in the [city's zoning ordinance Zoning Code](#), Chapter 152.

IDENTIFICATION SIGN (NAME PLATE). Any sign which states the name and/or address of the business or occupant of the lot or building where the sign is placed or may be a directory listing the names, addresses and/or businesses of occupants. IDENTIFICATION SIGNS must contain no advertisement.

ILLUMINATED SIGN. Any sign which is designed to be and/or is lighted by an artificial light source either directed upon it or illuminated from an interior source. All illuminated signs must have light sources shielded to confine direct illumination to the face area of the sign.

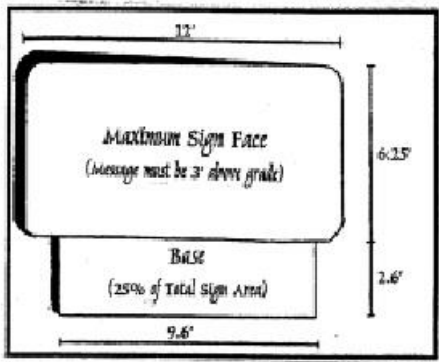
INSTITUTIONAL SIGN. A sign and/or reader board which identifies the name and other characteristics of an institutional use located within any zoning district and allowed by [the Zoning Code](#). Institutional signs must not contain advertisement (examples: churches, schools, sanitariums, hospitals, government buildings, nursing homes).

INTEGRAL SIGN. A sign carrying the name of a building, its date of erection, monumental citations, commemorative tablets and the like when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type of construction and made an integral part of the building walls.

MONUMENT SIGN. A sign which is attached to or supported by a monument structure which bears entirely on the ground, extending horizontally for a minimum of 80% of the entire length of the sign face. The sign base must be constructed of any one or combination of the following materials: brick, stone, decorative masonry, plastic, aluminum, colored metals, or decay resistive wood. The base and supporting material must constitute at least 25% of the total allowable sign square footage. A reader board or electronic message center may be attached to

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the monument sign but must not exceed 30% of the area. The sign copy, reader board or message must have a minimum clearance of three feet above grade. The area containing sign copy, including reader board, and the area of the monument structure itself must be combined for determining the total square footage and height. A sign attached to a retaining wall is considered to be a monument sign provided the message or copy does not exceed the allowable sign area as specified for the applicable zoning district, and all other provisions for a monument sign are met.



An example of a 100 square foot monument sign.

MOTION SIGN. Any sign which revolves, rotates, has any moving parts or gives the illusion of motion, electronically or otherwise.

NON-CONFORMING SIGN. A sign which was lawfully constructed prior to the time of the passage of this chapter or amendment thereto, but which does not conform with the regulations of this chapter.

NON-PROFIT ORGANIZATION. An incorporated organization organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, a congressionally chartered veterans' organization, or religious institution. For the purposes of this chapter, this definition includes the governments of the City of Brooklyn Park, Hennepin County, State of Minnesota, United States of America, and any school district within the city limits.

OFF-SITE DIRECTIONAL SIGN. A sign that is located on the same pole and beneath an existing street name sign for the purpose of providing directional information for a public or institutional use that is located on a local street. The City Engineer may determine whether a sign or signs are warranted to direct traffic in this manner on a case by case basis. No more than one off-site directional sign may be located on a single pole, the sign must have same color, size and font as the accompanying street name sign and must contain only the name of the use and a directional arrow and must be constructed and maintained by the city at the expense of the benefitting property.

PEDESTRIAN SIGN. A temporary sign, which is constructed of durable materials and is designed to be readily moved from one location to another (ex. sandwich board sign or any item containing a message). For purposes of this chapter, any sign mounted to, or conveyed by means of, a vehicle shall not be considered a pedestrian sign.

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PENNANT. Attention getting devices (such as streamers) constructed of paper, cloth, plastic or similar materials, (excluding banners and flags).

PERMANENT SIGN. Any sign which is not a temporary sign.

PORTABLE SIGN. A temporary sign and/or reader board so designed as to be movable from one location to another and which is not permanently attached to the ground, or any permanent structure.

PRODUCT IDENTIFICATION SIGNS. A sign that is not necessary to identify a business and identifies a product or service either sold on or off the premises on which the sign is located.

PROJECTING SIGN. A sign, other than a wall sign, which is affixed to a building and which has sign faces extending perpendicular from the building wall.

READER BOARD (ELECTRONIC MESSAGE CENTER). That portion of the sign used for removable or electronically changeable graphics, letters, and/or numbers to convey messages.

REAL ESTATE SIGN. A business sign placed upon a property advertising that particular property for sale, rent or lease.

RESIDENTIAL DEVELOPMENT SIGN. A sign that identifies the name of a neighborhood, a residential subdivision, or a multiple residential complex.

ROOF SIGN. Any sign which is erected, constructed or attached wholly or in part upon or above the roof of a building.

RUMMAGE OR GARAGE SALE. The infrequent, temporary display and sale of used personal property by a tenant or owner on the tenant's or owner's residential premises.

SEARCHLIGHT. An apparatus containing a source of light and a reflector that projects the light produced in a concentrated, far-reaching beam for the purpose of advertisement.

SETBACK. The minimum horizontal distance from the closest part of a sign to the property line, or public street easement or right-of-way.

SIGN. Any structure, device, advertisement, or visual representation intended to advertise, identify, or communicate information, or attract the attention of the public for any purpose; and without prejudice to the generality of the foregoing includes: any symbols, letters, figures, illustrations, or wall graphics painted or otherwise affixed to a building or structure.

SIGN AREA. That area measured within the perimeter lines of the sign which bears the advertisement; or in the case of messages, figures, or symbols, including those attached directly to any part of a building. That area which is included in the smallest rectangle which can be made to circumscribe the message, figure, or symbol displayed for the purpose of advertisement. The specified maximum sign area for a free-standing or monument sign refers to a single facing and not to the aggregate area of both faces. The sign area for a monument sign includes the sign structure.

SIGN, MAXIMUM HEIGHT OF. The vertical distance measured from grade or other reference elevation as herein specified to the upper limit of such a sign.

SIGN, MINIMUM HEIGHT OF. The vertical distance measured from grade or other reference elevation as herein specified to the lower limit of such sign.

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SIGN STRUCTURE. The base, supports, uprights, bracing and framework for a sign including the sign area.

STREET. Refers to a public highway, road, or thoroughfare which affords the principal means of access to adjacent lots.

STREET FRONTAGE. The linear length in feet of the property line adjacent to public street(s). An interior lot has one street frontage and a corner lot has two street frontages.

TEMPORARY SIGN. Any sign which is erected or displayed with or without a permit for a specified period of time (such as banners, portable signs, searchlights, window signs, and the like).

UNLAWFUL SIGN. A sign which exists prior to or after the passage of this chapter or amendments thereto, which does not conform with the regulations of this chapter and is not an existing legal, or is not a legal nonconforming sign, or is not a sign erected with a sign permit, is an unlawful sign.

WALL. The building facade area that defines the front of the building. The front is the continuous line of a building that connects side wall to side wall and faces one public right-of-way. For a multi-tenant building on a corner lot, the front is the continuous line of a building which faces either a public right-of-way or a private road in a planned unit development.

WALL SIGN. A sign with permanent lettering which is affixed to the exterior wall of a building and has a sign face which is parallel to the building wall. A wall sign must not project more than 12 inches from the surface to which it is attached, nor may it extend beyond the top of the building wall.

WALL GRAPHICS. A graphic design or decorative mural not intended for identification or advertising purposes, which is painted directly on or affixed to an exterior wall surface.

WINDOW SIGN. A temporary sign affixed to the interior of a window in view of the general public. This does not include merchandise that is for sale and on display.

ZONING DISTRICT. Refers to a specific zoning district as defined in the Brooklyn Park Zoning Code, Chapter 152.

('72 Code, §§ 356:10 - 356:15) (Ord. 1988-602(A), passed 8-22-88; Am. Ord. 1992-694, passed 5-11-92; Am. Ord. 1994-766, passed - -94; Am. Ord. 1999-900, passed 5-24-99; Am. Ord. 1999-914, passed - -99; Am. Ord. 2000-935, passed 11-13-00; Am. Ord. 2000-939, passed 11-13-00; Am. Ord. 2003-1002, passed 8-25-03; Am. Ord. 2004-1026, passed 12-13-04; Am. Ord. 2012-1152, passed 10-22-12; Am. Ord. 2014-1165, passed 2-3-14; Am. Ord. 2014-1186, passed 12-15-14)

§ 150.04 GENERAL PROVISIONS APPLICABLE TO ALL ZONING DISTRICTS.

(A) Nothing in this chapter will be interpreted as authorizing the erection or construction of any sign not permissible under the zoning or building ordinances Zoning Code of the city, or Minnesota Building Code.

(B) All electrical signs, temporary or permanent, are subject to the State Electrical Code and approval of the Electrical Inspector.

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(C) No sign other than bench signs at public transit stops and governmental traffic safety or roadway information signs and off-site directional signs as defined in § 150.03 may be permanently or temporarily erected within any street right-of-way or upon any public easement.

(D) Directional signs are permitted in all districts provided the directional signs are located on the property referred to by the sign or within a planned unit development. The area of such signs must not exceed ten square feet per sign face for a single tenant building or 20 square feet per sign face for a multiple tenant building or a multi-building complex. Such signs must not have more than two sign faces. Maximum sign height for free-standing or monument-type directional signs is six feet above grade.

(E) It is unlawful to park any vehicle or trailer on a public right-of-way or public property or on private property so as to be visible from a public right-of-way, which has attached thereto or located thereon any sign or advertising device for the basic purpose of directing people to a business or activity located on the same or nearby property or any other premises.

(F) Businesses that utilize permanent, legal outdoor sales, (such as lumber yards, nurseries, and the like) are allowed generic product identification signs for customer convenience, and to assist in traffic movement. These signs must not exceed 36 square feet in area, nor exceed eight feet in height, and may be illuminated. These signs are allowed for orientation information purposes only and must not be visible from public streets. These product identification signs must be setback 100 feet or more from all public streets.

(G) If a free-standing sign or monument sign is constructed so that the faces are not constructed so as to be back to back, the total area of all sides added together must not exceed the maximum allowable sign area for the district.

(H) Architectural building extensions such as awnings or canopies, other than vehicular service canopies, primarily built as shelter for entrances or for aesthetic purposes, are allowed to display signage. These signs are considered as wall signs for the purpose of determination of the maximum allowable sign area.

(I) Vehicular service canopy signs are ~~limited to a business logo and/or graphic design~~ not to exceed ten percent of each canopy face area or ten square feet on each canopy face, whichever is smaller. Service station canopy signs are restricted to two faces of the canopy and must not be located above or below the canopy area.

(J) Service stations may advertise gasoline prices on reader boards attached to a permitted free-standing sign or attached to canopy supports. If attached to the canopy supports, these signs must be no larger than 15 square feet in area. In no case may a free-standing sign be constructed for the sole purpose of advertising prices. Service stations may have gas pump topper signs ~~advertising products for sale on the premises~~, not to exceed two square feet per gas pump.

(K) No sign except bench signs and billboards, may in its entirety, separately advertise a product, commodity, service, or contain other miscellaneous language that is not directly related to the business name, except as allowed by § 150.06(B)(5)(h).

(L) A product identification sign may be integrated into a permitted free-standing, monument or wall business sign and will be included as part of the maximum allowable sign area. Product identification sign area must not exceed ten percent of the maximum allowable sign area.

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(M) Buildings, premises or lots are not allowed to have pennants, pinwheels, or other attention attracting devices, or temporary signs except in, accordance with § 150.06 of this chapter.

(N) One flagpole may be erected for each 100 feet of street frontage, not to exceed a total of three flagpoles. Height of the poles must not exceed the building height regulations, as specified by the Zoning ordinance Code for the district where the poles are located, and flag length must not exceed 25% of the pole height, and no more than two flags per pole are permitted.

(O) It is unlawful for a sign permitted by this chapter, by reason of its location, color intensity, to create hazard to the safe, efficient movement of vehicular or pedestrian traffic. A private sign must not contain alarming words which might be construed as traffic controls, such as "stop," "caution," "warning," and the like, unless such sign is intended to direct traffic on the premises.

(P) A sign must not contain any indecent or offensive picture or written matter.

(Q) State and federal government agencies and their political subdivisions are exempt from the provisions of the sign ordinance except for setback requirements.

(R) All sign permits for multiple tenant buildings require the signature of the property owner or the property owner's agent.

(S) Projecting signs are permitted in all districts provided the projecting signs are located on the property referred to by the sign or within a planned unit development. The area of such signs must not exceed ten square feet per sign face for a single tenant building or 20 square feet per sign face for a multiple tenant building or a multi-building complex. Such signs must not have more than two sign faces. Minimum sign height for projecting signs is eight feet above grade. The area of the projecting sign faces are to be included in the total area of signs placed on a single façade when the total area of signage on that façade is limited in area.

('72 Code, § 356:20) (Ord. 1988-602(A), passed 8-22-88; Am. Ord. 1992-694, passed 5-11-92; Am. Ord. 2000-939, passed 11-13-00; Am. Ord. 2014-1165, passed 2-3-14) Penalty, see § 10.99

§ 150.05 PROHIBITED SIGNS.

The following signs are specifically prohibited in all districts:

(A) Motion signs - exempted are temporary search lights and permanent electronic message center signs which only display time and/or temperature information or have a message that does not change more frequently than once every sixty seconds.

(B) Flashing signs except electronic motion signs as exempted above.

(C) Roof signs - signs installed above the building facade.

~~(D) Projecting signs.~~

(E) Signs which have more than two sign faces.

(F) Signs which are attached to trees, fences, utility poles or other such permanent supports, not specifically intended as sign structures.

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(G) Signs painted directly on building walls. Exempted are non-commercial non-lettered wall graphics in accordance with § 150.03 of this chapter.

(H) Wall signs are not permitted on any building wall facing an abutting residential property or properties, unless separated by a city street or highway right-of-way.

(I) Signs affixed to the exterior side of windows, except addresses and other minor directional information.

(J) Billboards in the T.H. 610 Corridor as delineated in the T.H. 610 Corridor Plan.

(K) Portable reader board signs unless specifically allowed in other sections of this code.

('72 Code, § 356:25) (Ord. 1988-602(A), passed 8-22-88; Am. Ord. 1992-694, passed 5-11-92; Am. Ord. 1994-766, passed 9-12-94; Am. Ord. 1999-900, passed 5-24-99; Am. Ord. 2010-1121, passed 12-6-10; Am. Ord. 2017-1227, passed 12-4-17) Penalty, see § 10.99

§ 150.06 TEMPORARY SIGNS.

(A) Multi-family apartment, commercial, industrial, organization, and institutional users in all zoning districts. The following sections concern temporary signs in all zoning districts. The signs are regulated according to the requirements set forth below:

(1) Temporary banner ~~advertisement~~ signs. Temporary advertisement banner signs in the form of durable, weather resistant banners, may be erected with a sign permit, provided:

(a) A temporary sign permit is necessary for all signs identified in this section.

(b) Minimum setbacks: All temporary ~~advertisement~~ signs in the form of banners and feather flags must be set back at least 10 feet from all property lines and may in no case be permitted within the 30 foot clear-view triangle at public or private streets or driveway intersections.

(c) The total area of all temporary signs in the form of banners must not exceed 200 square feet.

(d) Banners are allowed to be displayed on existing fences, accessory buildings, and principle building facades providing they meet the setback requirements.

(e) In a multi-tenant structure the banner must not exceed the width of the front of the space to be occupied or 200 square feet, whichever is less.

(f) Businesses possessing a valid and current temporary sign permit may display for that allotted time period (in addition to the permitted banner), up to three feather flags for advertising purposes. Feather flags must be less than or equal to 15 feet in height, displayed on the property where the permit holding business is located, may not impede vehicle or pedestrian traffic, and are not allowed to be displayed in a public right-of-way or other prohibited areas.

(2) Permit required. Each business concern or organization is allowed a maximum of three permits in a calendar year, except temporary non-profit organization events which are allowed an unlimited number of permits. Each permit for a banner will be for 30 consecutive days. Permit fee is set by the City Council. No temporary sign permit will be issued to any business,

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institution, or organization found guilty of violating the provisions of the temporary sign code more than once in a calendar year for the period of one year from the second occurrence.

(a) Exceptions:

(i) - grand opening banner. A business must receive a one-time permit at no cost to place a "grand opening" banner for 60 consecutive days from the opening date. The banner must follow size and setbacks described in the section above. This permit will not count towards the three allotted annual permits.

~~(3)~~ (ii) Window signs. Window sign area must not exceed 25% of the total area of the window(s) located on the wall face in which it is displayed. No permit is required for signs located on the inside of windows or for interior store displays.

~~— (4) Flashing or rotating signs prohibited. Flashing or rotating signs or lights are not permitted on temporary signs. However, search lights may be used on site for four days for the calendar year.~~

~~(5) — (iii) Itinerant produce sales signs. Vendors who have received permits to operate at the Brooklyn Park Farmers' Market, are allowed one sign without a permit. That sign must be no larger than 16 square feet in size and be located no more than five feet of the merchant's stand, table, vehicle, or the like. No permit is required for signs associated with a farmer's market that has been approved in accordance with the Zoning Code. — and Signs — can only be displayed the day and time of the sale. This sign limitation does not include small price signs, less than one-half square foot in size, located on or near the produce. The signs must be removed from the site at the end of each sale day.~~

~~(6)~~ (iv) Pedestrian signs. Each business is allowed one pedestrian sign not to exceed 10 square feet on each of two sides displayed outside only during regular business hours. Pedestrian signs must be located within 20 feet of a customer entrance to the building in which the business is located in, but must not block pedestrian walkways. Pedestrian signs must be located on the same parcel as the business and must not be located within the public right-of-way.

~~(3) Flashing or rotating signs prohibited. Flashing or rotating signs or lights are not permitted on temporary signs. However, search lights may be used on site for four days for the calendar year.~~

(B) All zoning districts. The following sections concern temporary campaign signs, temporary construction signs, temporary real estate signs, temporary non-profit organization event signs, and temporary residential garage and/or rummage sale signs in all zoning districts, and the signs are regulated according to the requirements set forth below:

(1) Temporary campaign signs. Temporary campaign signs posted by a candidate for public office or by a person or group promoting a political issue or a political candidate may be erected subject to the following:

(a) Signs must not exceed sizes authorized by state statute for state general elections.

(b) Pursuant to M.S. § 211B.045, campaign signs may be posted 46 days before the state primary in a state general election year until ten days following the state general election.

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(c) Minimum setbacks: There is no setback requirement; however, these signs must not be erected on the public right-of-way, on public property or in the public street intersection 30 foot clear-view triangle.

(d) Maximum height of signs: No temporary campaign sign may exceed 12 feet above grade.

(2) Temporary construction sign. One temporary identification sign may be installed upon a construction site denoting the names of involved parties provided:

(a) Sign area must not exceed 100 square feet.

(b) Sign must be removed within two years after issuance of first building permit or upon issuance of a certificate of occupancy, whichever is sooner.

(c) Minimum setbacks: These signs must comply with setback requirements of subdivision (B)(1)(c) of this section. Signs must be erected only on the property where work is being done.

(d) Maximum height of signs: No temporary construction sign may exceed 12 feet above grade.

(3) Temporary real estate signs.

(a) Free-standing sign. A temporary free-standing sign for the purpose of selling or leasing individual lots, parcels, homes or buildings may be erected provided:

1. Sign area must not exceed six square feet for residential property and 20 square feet for non-residential property.

2. Sign must be removed within seven days following the closing of a sale or lease of the property.

3. Minimum setbacks: There is no setback requirement; however, these signs must not be erected on the public right-of-way nor in the public street intersection 30 foot clear-view triangle. Sign must be erected only on the property being sold or leased.

4. Maximum height of signs: No temporary freestanding real estate sign may exceed eight feet above grade.

5. Banners, streamers, pennants, balloons, directional signs, and the like, may be erected for two 21-day periods per year to coincide with the spring "Preview of Homes" and the fall "Parade of Homes."

6. Temporary open house and/or directional signs: Temporary open house and/or directional signs may be placed in public view no earlier than 9:00 a.m. on the actual day of the open house and must be removed no later than 9:00 p.m. on the same day. Only one sign per intersection is allowed for each open house. Placement of open house directional signs should not block pedestrian or bicycle pathways or sidewalks. Signs must not be placed within the 30 foot clear view triangle at public street intersections. Open house directional signs may not be attached to federal, state, county or city sign posts. The signs may not be placed on center medians or street islands or within four feet of the roadway surface.

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(b) Area identification sign. A temporary area identification sign for the sale or lease of residential projects of two or more dwelling units or lots, and for non-residential projects, may be erected provided:

1. Sign area must not exceed 100 square feet.
2. Such sign must be removed when the project is 80% sold or leased.
3. Minimum setbacks: All temporary real estate area identification signs must be set back at least 25 feet from all property lines. Sign must be erected only on the property being sold or leased.
4. Maximum height of sign: No temporary real estate area identification sign may exceed eight feet above grade.

(4) Temporary residential garage and/or rummage sale signs.

- (a) Sign area must not exceed four square feet.
- (b) Signs must be erected for no longer than four days and must be removed by the owner immediately following this time. Signs which remain in place for more than four days are deemed litter. The beginning and end date of sale, and address of the sale must be prominently displayed on every sign erected.
- (c) Minimum setbacks: There is no setback requirement; however, these signs must not be erected in the public right-of-way, on public property, or in the public street intersection 30 foot clear-view triangle. Signs may be erected on private properties other than the property where the sale is conducted.

(d) Maximum height of signs: No temporary residential garage and/or rummage sale sign may exceed six feet above grade.

(5) Temporary non-profit organization event signs.

- (a) Signs must not exceed eight square feet per sign face.
- (b) An unlimited number of signs are allowed per event, but must be located as follows:
 1. No more than one sign per event may be located on a single parcel, and
 2. No more than four signs per event may be located in a single street intersection.
- (c) A map or list of addresses designating the specific sites of each sign must be kept by the applicant.
- (d) Signs must not be posted in excess of 15 days prior to the event and must be removed no later than two days following the final date of the event. The promoting organization, location and date(s) of the event must be prominently placed on each sign.
- (e) Minimum setbacks: There is no setback requirement; however, these signs must not be erected on the public right-of-way, on public property, or in the public street intersection 30 foot clear-view triangle.
- (f) Maximum height of signs: A temporary non-profit organizational event sign must not exceed six feet in height above grade.

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(g) A portable reader board must not be used off the premises from which the event is being held nor may this type of advertising precede or exceed the actual dates of the event. A portable reader board must not be used on public property. An on-site reader board must not exceed 32 square feet. These signs must be set back 15 feet from all property lines but not within the 30 foot clear-view triangle of entrances or public street intersections.

(h) A non-profit organization may display messages directly related to their organization on the reader board of any lawful sign with the permission of the sign owner.

(6) Temporary roadside agricultural products advertisement signs. Temporary advertisement signs may be erected with a sign permit, provided:

(a) Signs advertise agricultural products grown on the property in compliance with this chapter of the City Code.

(b) Maximum size: Signs may not exceed 16 square feet in area per sign face. No more than three signs are allowed, per property, and only two of which may be permitted off the site where the agricultural products is grown. For all off-site signs, written permission from the property owner of the proposed sign location shall be submitted with the sign application.

(c) Signs are allowed to be posted for a period of time not to exceed three months. The specific time period requested must be specified in the permit application.

(d) Minimum setbacks: There is no setback requirement; however, these signs may not be erected on the public right-of-way, on public property, or in the clear view triangle as defined in this chapter of the City Code.

(e) Maximum height of signs: No temporary roadside agricultural products advertisement sign may exceed eight feet in height above grade.

('72 Code, § 356.35) (Ord. 1988-602(A), passed 8-22-88; Am. Ord. 1990-657(A), passed 8-27-90; Am. Ord. 1992-694, passed 5-11-92; Am. Ord. 1997-848, passed 6-9-97; Am. Ord. 2000-933, passed 10-9-00; Am. Ord. 2000-935, passed 11-13-00; Am. Ord. 2004-1026, passed 12-13-04; Am. Ord. 2012-1147, passed 8-20-12; Am. Ord. 2012-1152, passed 10-22-12; Am. Ord. 2014-1165, passed 2-3-14) Penalty, see § 10.99

§ 150.07 NON-CONFORMING SIGNS.

(A) Any lawfully constructed non-conforming or any legal sign existing upon the effective date of this chapter may be maintained and continued at the size and in the manner of operation existing upon such date except as hereinafter specified.

(B) Upon adoption of this chapter, a non-conforming sign must not be:

(1) Changed to another non-conforming sign.

(2) Structurally altered or moved except to bring such nonconforming sign into conformance with this chapter.

(3) Expanded or enlarged.

(4) Repaired or otherwise rehabilitated after damage or deterioration of more than 50%, except to bring into conformance with this chapter.

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(C) Notwithstanding the foregoing divisions of this section, all signs which are made non-conforming by this sign ordinance, must be brought into conformance, on a sign-by-sign basis, at the time that a sign face or copy is changed or altered except for routine maintenance as required by this chapter. Billboard signs must be brought into conformance at the time that the main structure is removed and must follow the provisions of § 150.29(F).

(D) Temporary signs as provided in § 150.06 are not entitled to non-conforming status. Such signs must be brought into compliance with § 150.06 as directed by the sign enforcement office, or it may be summarily removed from display by the enforcement officer.

('72 Code, § 356:40) (Ord. 1988-602(A), passed 8-22-88; Am. Ord. 1992-694, passed 5-11-92) Penalty, see § 10.99

§ 150.08 VARIANCES.

(A) Purpose. Pursuant to Minn. Stat. Sec. 462.357, subd. 6, as it may be amended from time to time, the City Council, acting as a Board of Appeals and Adjustments, may issue variances from the provisions of this zoning code. A variance is a modification or variation of the provisions of this zoning code as applied to a specific piece of property.

(B) Review Standards.

(1) Variances shall only be permitted:

(a) When they are in harmony with the general purposes and intent of the ordinance.

(b) When the variances are consistent with the Comprehensive Plan.

(2) Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that:

(a) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.

(b) The plight of the landowner is due to circumstances unique to the property not created by the landowner.

(c) The variance, if granted, will not alter the essential character of the locality.

(d) Economic considerations alone do not constitute practical difficulties.

(C) Conditions. The City Council may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance. No building permit may be issued except in compliance with the conditions of the variance.

~~(A) Any request for a variance to the sign ordinance must follow the same procedure as outlined in the zoning code.~~

~~—(B) (1) In considering all variance requests and in taking subsequent action, the Planning Commission and the City Council must make a finding showing that all of the following conditions exist:~~

~~——(a) There are special conditions or circumstances affecting the property such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of the applicant's land.~~

~~——(b) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.~~

~~— (c) The granting of the variance will not be detrimental to the public welfare or injurious to the other property in the area in which the property is situated and will not have an adverse effect upon traffic or traffic safety.~~

~~— (2) In making an application for a variance, the petitioner must state in writing why the petitioner believes the above conditions exist. Upon granting a variance, the Council may attach those conditions it deems desirable or necessary to protect the public interest.~~

('72 Code, § 356.45) (Ord. 1988-602(A), passed 8-22-88)

§ 150.09 SIGN APPLICATION.

(A) Permits required. Except as specifically provided by this chapter, it is unlawful for any person to erect, alter, or relocate within the city any sign, without first obtaining a permit(s) from the Sign [Ordinance Code](#) Administrator and making payment of the fee required. Application for permits must be made upon application forms provided by the City of Brooklyn Park and must be accompanied by:

(1) A site plan drawn to scale based on and accompanied by a certificate of survey, or on a certificate of survey, showing the relation of the sign to the nearest buildings, private and public streets, right-of-ways and property lines.

(2) Sign plans, specifications and methods of construction.

(3) A copy of structural calculations and details showing the structure is designed for live and dead loads including wind velocity in the amount required by all ordinances of the city. Electrical permits will be required by the State Board of Electricity.

(B) Permit issued if application in order. It is the duty of the Sign [Ordinance Code](#) Administrator, upon the filing of the application for a permit, to examine such plans and specifications and other data, and the premises upon which the sign is proposed to be erected, and if it appears that the proposed structure is in compliance with all other laws and ordinances of Brooklyn Park, the [Sign Code](#) Administrator must then issue the permit. If the work authorized under a permit has not been completed within 90 days after the date of issuance, the permit will become null and void.

(C) Permit fees. Every applicant, before being granted a permit hereunder, must pay to the city the permit fee for each sign regulated by this code in an amount as established by the fee resolution, set forth in the Appendix to this code.

(D) Permit revocable at any time. All rights and privileges acquired by obtaining a permit under the provisions of this chapter or any amendment thereto are mere licenses, revocable for cause at any time by the Council, and all such permits must contain this provision.

('72 Code, § 356.50) (Ord. 1988-602(A), passed 8-22-88)

§ 150.10 BOND AND LICENSE.

(A) It is unlawful to engage in the business of erecting signs, and no person is entitled to a permit to erect a sign under this chapter unless licensed to do so by the City of Brooklyn Park, except as provided in division (B) of this section. Such license may be granted on written

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application accompanied by an annual license fee in the amount set by the Council, to the Sign ~~Ordinance Code~~ Administrator in such form as the Sign ~~Code~~ Administrator prescribes. The license may be terminated by the Council at any time for cause. No license will take effect until the licensee files with the city a bond with corporate surety in a form approved by the City Attorney in the penal sum of \$2,000, conditioned that the licensee will pay all permit fees required under this chapter, pay any fines imposed upon the licensee for violation thereof, will conform to all of the provisions of this chapter, and will indemnify and hold the city, its officers and agents harmless from any damage or claim resulting from or related to the erection or maintenance of any sign in the city by the licenses.

(B) Bonding and licensing requirements are not required of a property owner(s) erecting signs on their own property. All other provisions of this chapter apply.

('72 Code, § 356.55) (Ord. 1988-602(A), passed 8-22-88; Am. Ord. 1992-694, passed 5-11-92) Penalty, see § 10.99

§ 150.11 CONSTRUCTION STANDARDS.

The design and construction standards for signs and sign structures as set forth in ~~Chapter 4 of the 1997 Edition of the Uniform Sign Code~~ the Minnesota Building Code as amended from time to time are adopted by reference, a copy of which is on file and on record with the City Clerk.

('72 Code, § 356.60) (Ord. 1988-602(A), passed 8-22-88) Penalty, see § 10.99

§ 150.12 PERMIT AND FEE EXEMPTIONS.

The exemptions permitted by this section apply only to the requirement of a permit and/or fee, and are not construed as relieving the installer of the sign, or the owner of the property upon which the sign is located, from conforming with the other provisions of this chapter:

(A) Temporary signs erected by non-profit organizations must obtain a permit but are exempted from any fee.

(B) No permit or fee is required for the following:

(1) Temporary signs displayed in accordance with § 150.06(A)(2), (B)(1), (B)(2), (B)(3), (B)(4) and (B)(5).

(2) Integral signs.

(3) Residential identification (name plate) signs.

(4) Directional signs.

(5) Signs which are located completely on the interior of a building and not visible from the outside of the building.

('72 Code, § 356.65) (Ord. 1988-602(A), passed 8-22-88; Am. Ord. 1992-694, passed 5-11-92)

§ 150.13 ENFORCEMENT.

(A) Unsafe, non-maintained and unlawful signs.

(1) If the Sign Ordinance-Code Administrator finds that any permanent sign regulated herein is unsafe, ~~or~~ insecure, or adversely affects the health safety and general welfare of the public, or has been constructed or erected or is being maintained in violation of the provisions of this chapter; the Sign Code A administrator must give written notice by mail to the permittee thereof.

(2) If the permittee fails to remove or alter the structure so as to comply with the standards herein set forth within 14 days after the mailing notice, the sign or other advertising structure may be removed or altered at the expense of the permittee or owner of the property upon which it is located or legal action may be taken to force compliance with this chapter. The Sign ordinance-Code Administrator must refuse to approve and the City of Brooklyn Park must refuse to issue a permit to any permittee or owner who refuses to pay costs so assessed.

(3) The Sign Ordinance-Code Administrator may cause any sign or other advertising structure which is a safety hazard to persons to be removed summarily and without notice. The Sign Ordinance-Code Administrator may cause any temporary sign erected not in conformance with the sign ordinance to be removed summarily and without notice or legal action may be taken to force compliance with this chapter.

(B) Painting required. The owner of any sign as defined and regulated by this chapter is required to have the sign and sign structure properly painted upon order of the Sign Ordinance Code Administrator. It is the intent of this provision that the sign appearance does not create a blighting influence upon the neighborhood where the sign is located.

(C) Wood supports to be decay resistive. All posts, anchors and bracing of wood must be decay resistive or approved wood preventative treated to protect them from physical or aesthetic deterioration.

(D) Premises to be kept free of weeds, and the like. All the premises surrounding signs must be maintained by the owner thereof in a clean, sanitary and inoffensive manner and free and clear of all obnoxious substances, rubbish and weeds.

('72 Code, § 356.70) (Ord. 1988-602(A), passed 8-22-88; Am. Ord. 1992-694, passed 5-11-92; Am. Ord. 1997-848, passed 6-9-97) Penalty, see § 10.99

§ 150.14 VIOLATIONS.

(A) If the Sign Ordinance-Code Administrator finds any permanent sign in violation of the terms of this chapter, a written notice will be issued to the owner, and/or possessor (tenant in possession, operator or manager of the premises on which the sign is located), specifying the violation and allowing the time period specified in § 150.13(A) above in which to correct or remove the violation. After the expiration of the time period specified by written notice, if the violation is not corrected or discontinued, the owner and/or possessor of the property will be guilty of a misdemeanor, and each day of violation after the initial time period as specified by written notice constitutes a separate offense.

(B) It is unlawful to display any temporary sign in violation of the terms of this chapter. The owner, and or possessor (tenant in possession, operator, or manager of the premises on which

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the sign is located) of the property is guilty of a misdemeanor and each day of the violation constitutes a separate offense.

('72 Code, § 356.75) (Ord. 1988-602(A), passed 8-22-88; Am. Ord. 1997-848, passed 6-9-97) Penalty, see § 10.99

§ 150.15 RIGHT OF APPEAL.

When it is alleged by any person to whom a compliance order is directed that such compliance order is based upon erroneous interpretation of this chapter, or upon a misstatement or mistake of fact, the person may appeal the compliance order to a Board of Appeals and Adjustments as established in the Zoning Code portion of the City Code. The Board as an advisory body must forward their recommendation to the City Council. Such appeals must be in writing, must specify the grounds for the appeal, must be accompanied by a filing fee as designated by the City Council in cash or cashier's check, and must be filed with the compliance official within five business days after service of the compliance order. The filing of an appeal stays all proceedings in furtherance of the action appealed unless such a stay would cause imminent peril to life, health or property.

('72 Code, § 356.76) (Ord. 1988-602(A), passed 8-22-88; Am. Ord. 1992-694, passed 5-11-92)

ARTICLE 2. DISTRICT REGULATIONS

~~§ 150.25 R-1, R-2, R-2A, R-2B, R-3, R-3A, R-4 AND R-4A RESIDENTIAL DISTRICTS AND AREAS GUIDED FOR LOW- AND MEDIUM-DENSITY RESIDENTIAL IN THE PLANNED COMMUNITY DEVELOPMENT DISTRICT AND PLANNED UNIT DEVELOPMENT DISTRICT.~~

The following provisions concern signs in the R-1, R-2, ~~R-2A, R-2B~~, R-3, ~~R-3A, R-4~~ and R-4A Residential Districts ~~and area guided for low- and medium-density residential in the Planned Community Development District and Planned Unit Development District~~, and said signs are regulated according to the requirements set forth below:

(A) Identification signs (name plate). One free-standing or wall sign/name plate per dwelling unit, not greater than two square feet in area, indicating the name and/or address of the occupant. A sign must not be constructed so as to have more than two surfaces.

(B) Institutional signs. Institutional uses which do not meet the criteria stated in § 150.03 of this chapter for area identification signs, are allowed only one monument sign per street frontage. Such sign must not exceed 60 square feet in area.

(C) Residential development signs. These signs shall be reviewed and approved as part of a preliminary plat, site plan review, conditional use permit, or development plan application. Sign area shall be determined by the text copy area only and be limited to 60 square feet per structure face.

(D) Home occupation signs. One non-illuminated sign with a maximum square footage of two feet for each dwelling unit wherein a permitted home occupation exists.

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(E) Minimum setbacks. A sign must not be erected in the public right-of-way. For divisions (A) and (B) of this section, signs must be set back at least 15 feet from front property lines, at least ten feet from side and rear property lines and at least 15 feet from the property lines of corner lots. For division (C) signs, no setback is required. For division (D) of this section, signs must be set back at least 20 feet from front property lines. All signs must allow for an unobstructed view of traffic at intersections of streets or driveways.

(F) Maximum height of signs. For signs described in divisions (A) and (D) of this section, no sign may exceed six feet above grade. For signs described in divisions (B) and (C) of this section, no sign may exceed ten feet above grade.

(G) Residential development signs. Signs must be constructed of durable materials. Residential development signs may be placed in median islands, roundabouts, or cul-de-sac islands provided that the island is a separate platted lot privately owned and maintained by a homeowners association, management company, or the like, and approved through the preliminary plat, site plan review, or conditional use permit application.

('72 Code, § 356.30(1)) (Ord. 1988-602(A), passed 8-22-88; Am. Ord. 1992-694, passed 5-11-92; Am. Ord. 2000-935, passed 11-13-00; Am. Ord. 2003-1002, passed 8-25-03) Penalty, see § 10.99

~~§ 150.26 R-5, R-6 AND R-7 MULTIPLE RESIDENTIAL DISTRICTS AND AREAS GUIDED FOR HIGH-DENSITY RESIDENTIAL IN THE PLANNED COMMUNITY DEVELOPMENT DISTRICT AND PLANNED UNIT DEVELOPMENT DISTRICT.~~

The following sections concern signs in the ~~R-5, R-6, and R-7~~ Multiple Residential Districts and areas guided for high-density residential development ~~in the Planned Community Development District and Planned Unit Development District~~, and said signs are regulated according to the requirements set forth below:

(A) Identification signs (name plate). One wall sign/name plate per institution or multiple residential building, not to exceed six square feet in area, or one wall sign/name plate per dwelling unit where separate entrances occur, not to exceed two square feet in area.

(B) Institutional signs. Institutional uses which do not meet the criteria stated in § 150.03 of this chapter for area identification signs, are allowed only one monument sign per street frontage, not to exceed 60 square feet in area.

(C) Residential development signs. These signs shall be reviewed and approved as part of a preliminary plat, site plan review, conditional use permit, or development plan application. Sign area shall be determined by the text copy area only and be limited to 60 square feet per structure face.

(D) Minimum setbacks. For division (B) of this section, monument signs must be set back at least 15 feet from front property lines and at least ten feet from side and rear property lines. On corner lots, all monument signs must be set back at least 15 feet from front and side corner property lines. All signs must be set back a minimum of three feet from driveways to edge of sign, and a 30 foot clear-view triangle must be maintained at public street intersections. All signs must allow for an unobstructed view of traffic at intersections of streets or driveways.

(E) Maximum height of signs. For division (B) of this section, no sign may exceed eight feet above grade. For division (C) of this section, no sign may exceed ten feet above grade.

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(F) Residential development signs. Signs must be constructed of durable materials. Residential development signs may be placed in median islands, roundabouts, or cul-de-sac islands provided that the island is a separate platted lot privately owned and maintained by a homeowners association, management company, or the like, and approved through the preliminary plat, site plan review, or conditional use permit application.

('72 Code, § 356.30(2)) (Ord. 1988-602(A), passed 8-22-88; Am. Ord. 1992-69, passed 5-11-92; Am. Ord. 2003-1002, passed 8-25-03) Penalty, see § 10.99

§ 150.27 B-1 OFFICE PARK DISTRICT.

The following sections concern signs in the B-1 Office Park District, and said signs are regulated according to the requirements set forth below:

(A) In B-1 Districts, a business property may erect only signs described in subdivisions (1) and (3) below, or in subdivisions (1) and (4) below, or in subdivision (2) and (3) below, or in subdivisions (2) and (4) below, or in subdivision (5) unless modified by a planned unit development.

(1) Free-standing or monument sign. One free-standing sign, not to exceed 75 square feet in area, or one monument sign not to exceed 120 square feet.

(2) Area identification sign. One free-standing or monument sign per development, as described by § 150.03 of this chapter not to exceed 100 square feet in area.

(3) Wall signs. One and two story, single or multiple tenant buildings: Signs attached to two walls, immediately adjacent to a public street or the parking lot which serves customers of the site, not to exceed ten percent of the building facade to which the signs are attached.

(4) Wall signs. Multiple story buildings (three or more stories).

(a) Identification signs: One identification sign per building facade identifying the name and/or address of the building, not to exceed ten percent in area of the building facade to which it is attached or 300 square feet, whichever is less. The measured area is that building facade above the second story.

(b) In addition to the identification signs described above in subdivision (a), wall signs may be attached to only one wall not to exceed ten percent of the building facade to which it is attached and must be located on the first story. The measured area is that building facade of the first and second story.

(5) Three wall signs. Wall signs are allowed on up to three walls only when immediately adjacent to a public street or the parking lot that serves customers of the site, subject to City Manager approval. The wall signs on each wall must individually conform to the area limitations defined in subdivisions (3) or (4) of this division.

(B) Institutional signs. Institutional uses which do not meet the criteria stated in § 150.03 of this chapter for area identification signs, are allowed only one monument sign with reader board per street frontage. The sign and reader board must not exceed 60 square feet in area.

(C) Minimum setbacks. Free-standing signs must be set back at least 25 feet from the front property line and at least ten feet from side and rear property lines; monument signs must be set back at least 15 feet from the front property line and at least ten feet from side and rear

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property lines. On corner lots, all monument signs must be set back at least 15 feet from front and side corner property lines, and all free-standing signs must be set back at least 25 feet from all front and side corner property lines. All signs must be set back a minimum of three feet from driveways to edge of sign, and a 30 foot clear-view triangle must be maintained at public street intersections.

(D) Maximum height of signs. Signs described in divisions (A)(1), (A)(2) and (B) of this section may not exceed 15 feet above grade for monument signs and 25 feet above grade for free-standing signs.

(E) Minimum height of signs. Free-standing signs must have a minimum height of seven feet from grade to the bottom of sign.

('72 Code, § 356.30(3)) (Ord. 1988-602(A), passed 8-22-88; Am. Ord. 1992-694, passed 5-11-92; Am. Ord. 2000-935, passed 11-13-00; Am. Ord. 2003-1002, passed 8-25-03; Am. Ord. 2014-1186, passed 12-15-14) Penalty, see § 10.99

§ 150.28 B-2 NEIGHBORHOOD RETAIL BUSINESS DISTRICT, B-3 GENERAL BUSINESS DISTRICT, AND B-4 VEHICLE SALES AND SHOWROOM DISTRICT.

The following sections concern signs in the B-2 Neighborhood Retail Business District and in the B-3 General Business District, and said signs are regulated according to the requirements set forth below:

(A) In B-2 and B-3 Districts, a business property may erect only signs described in subdivisions (1) and (3) below, or in subdivisions (1) and (4) below, or in subdivisions (2) and (3) below, or in subdivisions (2) and (4) below, or (5) below, unless modified by a planned unit development.

(1) Free-standing or monument sign. One free-standing sign not to exceed 100 square feet in area, or one monument sign not to exceed 120 square feet in area.

(2) Area identification sign. One free-standing or monument per development, as described by § 150.03 of this chapter not to exceed 320 square feet in area.

(3) Wall signs. One and two story, single or multiple tenant buildings: Signs attached to two walls immediately adjacent to a public street or the parking lot which serves customers of the site, not to exceed ten percent of the building facade to which the signs are attached.

(4) Wall signs. Multiple story buildings (three or more stories):

(a) Identification signs: One identification sign per building facade identifying the name and/or address of the building, not to exceed ten percent in area of the building facade to which it is attached or 300 square feet, whichever is less. The measured area is that building facade above the second story.

(b) In addition to the identification signs described above in subdivision (a), wall signs must be attached to only one wall, not to exceed ten percent of the building facade to which the signs are attached and must be located on the first story. The measured area is that building facade of the first and second story.

(5) Three wall signs. Wall signs are allowed on up to three walls only when immediately adjacent to a public street or the parking lot that serves customers of the site, subject to City

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Manager approval. The wall signs on each wall must individually conform to the area limitations defined in subdivisions (3) or (4) of this division.

(B) Institutional signs. Institutional uses which do not meet the criteria stated in § 150.03 of this chapter for area identification signs are allowed only one monument sign with reader board per street frontage. The sign and reader board must not exceed 60 square feet in area.

(C) Minimum setbacks. Free-standing signs must be set back at least 25 feet from the front property line and at least ten feet from side and rear property lines; monument signs must be set back at least 15 feet from the front property line and at least ten feet from side and rear property lines. On corner lots, all monument signs must be set back at least 15 feet from front and side corner property lines, and all free-standing signs must be set back at least 25 feet from all front and side corner property lines. All signs must be set back a minimum of three feet from driveways to edge of sign, and a 30 foot clear-view triangle must be maintained at public street intersections.

(D) Maximum height of signs. Signs described in division (A)(1), (A)(2) and (B) of this section may not exceed 15 feet above grade for monument signs and 25 feet above grade for free-standing signs.

(E) Minimum height of signs. Free-standing signs must have a minimum height of seven feet from grade to the bottom of sign.

('72 Code, § 356.30(4)) (Ord. 1988-602(A), passed 8-22-88; Am. Ord. 1992-694, passed 5-11-92; Am. Ord. 2000-935, passed 11-13-00; Am. Ord. 2003-1002, passed 8-25-03; Am. Ord. 2014-1186, passed 12-15-14) Penalty, see § 10.99

§ 150.29 BP BUSINESS PARK AND I GENERAL INDUSTRIAL DISTRICTS.

The following sections concern signs in the BP Business Park District and I General Industrial District, and said signs are regulated according to the requirements set forth below:

(A) In BP and I Districts, a business property may erect only signs described in subdivisions (1) and (3) below, or in subdivisions (1) and (4) below, or in subdivisions (2) and (3) below, or in subdivisions (2) and (4) below, or subdivision (5) below unless modified by a planned unit development.

(1) Free-standing or monument sign. One free-standing sign, not to exceed 100 square feet in area, or one monument sign not to exceed 120 square feet.

(2) Area identification sign. One free-standing or monument sign per development, as described by § 150.03 of this chapter not to exceed 220 square feet in area.

(3) Wall signs. One and two story buildings, single or multiple tenant buildings: Signs attached to two walls, not to exceed ten percent of the building facades to which the signs are attached.

(4) Wall signs. Multiple story buildings (three or more stories).

(a) Identification signs: One identification sign per building facade identifying the name and/or address of the building, not to exceed ten percent in area of the building facade to which it is attached or 300 square feet, whichever is less. The measured area is that building facade above the second story.

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(b) In addition to the identification signs described above in subdivision (a), wall signs must be attached to only one wall not to exceed ten percent of the building facade to which it is attached and must be located on the first story. The measured area is that building facade of the first and second story.

(5) Three wall signs. Wall signs are allowed on only three walls only when immediately adjacent to a public street or the parking lot that serves customers of the site, subject to City Manager approval. The wall signs on each wall must individually conform to the area limitations defined in subdivisions (3) or (4) of this section.

(B) Institutional signs. Institutional uses which do not meet the criteria stated in § 150.03 of this chapter for area identification signs are allowed only one monument sign and/or reader board per street frontage. The sign and reader board must not exceed 60 square feet in area.

(C) Minimum setbacks. For subdivisions (A)(1) and (A)(2) of this section, free-standing signs must be set back 25 feet from the front property line and ten feet from side and rear property lines; monument signs must be set back at least 15 feet from the front property lines and ten feet from side and rear property lines. For division (B) of this section, signs must be set back at least 15 feet from the front property line and at least ten feet from side and rear property lines. On corner lots, all free-standing signs must be set back at least 30 feet from all property lines, and all monument signs must be set back at least 15 feet from all property lines. All signs must be set back a minimum of three feet from driveways to edge of sign, and a 30 foot clear-view triangle must be maintained at public street intersections.

(D) Maximum height of signs. For signs described in subdivisions (A)(1) and (A)(2) of this section, signs may not exceed 15 feet above grade for monument signs and 25 feet above grade for free-standing signs. For signs described in division (B) of this section, no sign may exceed 15 feet above grade.

(E) Minimum height of signs. Free-standing signs must have a minimum height of seven feet from grade to the bottom of sign.

(F) Billboard signs. Billboard signs are allowed in the I District by conditional use permit as provided by the [city Zoning ordinance Code](#). A billboard sign must be the principal use on the lot on which it is located. The lot must meet the minimum lot requirements for the I District in accordance with the [zoning-Zoning Ceode](#). A billboard must not be erected within 300 feet of any Residential District. A billboard must not be located within a 1,320 foot radius of an existing or approved billboard. ~~A billboard must not be located in the T.H. 610 Corridor or Highway Overlay area as delineated in the T.H. 610 Corridor Plan and the zoning code.~~

(1) Sign area. Billboard signs must not exceed one square foot of sign area for each lineal foot of street frontage nor may sign area exceed 300 square feet on any side. On corner lots or lots with more than one street frontage, only one street frontage will be considered in determining the sign area. Signs must have no more than two sides.

(2) Minimum setbacks. Billboard signs must be set back at least 50 feet from front and rear property lines and at least 25 feet from side property lines.

(3) Maximum height of signs. Billboard signs may not exceed 25 feet above grade.

(4) Minimum height of signs. Billboard signs must have a minimum height of 12 feet from grade to the bottom of the sign.

(5) Sign illumination. Billboard sign illumination must meet the requirements of § 150.03 of this chapter.

('72 Code, § 356.30(5)) (Ord. 1988-602(A), passed 8-22-88; Am. Ord. 1992-694, passed 5-11-92; Am. Ord. 1994-766, passed 9-12-94; Am. Ord. 1999-914, passed 11- -99; Am. Ord. 2000-935, passed 11-13-00; Am. Ord. 2010-1117, passed 9-7-10; Am. Ord. 2014-1186, passed 12-15-14) Penalty, see § 10.99

~~§ 150.30 PCDD PLANNED COMMUNITY DEVELOPMENT DISTRICT AND PUD PLANNED UNIT DEVELOPMENT DISTRICT.~~

~~—The following sections concern signs in the PCDD Planned Community Development District, and the PUD Planned Unit Development District, and said signs are regulated according to the requirements set forth below:~~

~~—(A) In the PCDD or PUD Districts, a property used for single-family, two-family, residential townhouse or apartment use may erect only signs as allowed by § 150.25 and § 150.26 of this chapter, as established for Residential Districts.~~

~~—(B) In PCDD and PUD Districts, a property used for other than single-family, two-family, residential townhouse or apartment use may erect only signs described in subdivisions (1) and (3) below, or in subdivisions (1) and (4) below, or in subdivisions (2) and (3) below, or in subdivisions (2) and (4) below, or in subdivision (5) below unless modified by a General Plan of Development or a planned unit development.~~

~~—(1) Monument sign. One monument sign, not to exceed 120 square feet in area.~~

~~—(2) Area identification sign. One free-standing or monument sign per development, as described by § 150.03 of this chapter not to exceed 220 square feet in area.~~

~~—(3) Wall signs. One and two story, single or multiple tenant buildings: Signs attached to two walls immediately adjacent to a public street or the parking lot which serves customers of the site, not to exceed ten percent of the building facade to which the signs are attached.~~

~~—(4) Wall signs. Multiple story buildings (three or more stories):~~

~~—(a) Identification signs: One identification sign per building facade identifying the name and/or address of the building, not to exceed ten percent in area of the building facade to which it is attached or 300 square feet, whichever is less. The measured area is that building facade above the second story.~~

~~—(b) In addition to the identification signs described above in subdivision (a), wall signs may be attached to only one wall not to exceed ten percent of the building facade to which the signs are attached and must be located on the first story. The measured area is that building facade of the first and second story.~~

~~—(5) Three wall signs. Wall signs are allowed on up to three walls only when immediately adjacent to a public street or the parking lot that serves customers of the site, subject to City Manager approval. The wall signs on each wall must individually conform to the area limitations defined in subdivisions (3) or (4) of this division.~~

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~~—(C) Institutional signs. Institutional uses which do not meet the criteria stated in § 150.03 of this chapter for area identification signs are allowed only one monument sign and/or reader board per street frontage. The sign and reader board must not exceed 60 square feet in area.~~

~~—(D) Minimum setbacks.~~

~~—(1) For subdivision (B)(1) of this section, monument signs must be set back at least 15 feet from the front property line and at least ten feet from side and rear property lines. For subdivision (B)(2) of this section, free-standing signs must be set back at least 30 feet from all property lines, and monument signs must be set back at least 15 feet from all property lines. For division (C) of this section, signs must be set back at least 15 feet from front property line and at least ten feet from side and rear property lines.~~

~~—(2) On corner lots, all free-standing signs must be set back at least 30 feet from all property lines, and all monument signs must be set back at least 15 feet from all property lines. All signs must be set back a minimum of three feet from driveways to edge of sign, and a 30 foot clear-view triangle must be maintained at public street intersections.~~

~~—(E) Maximum height of signs. For signs described in subdivision (B)(1) of this section, no sign may exceed 15 feet above grade. For signs described in subdivision (B)(2) of this section, no free-standing sign may exceed 25 feet above grade and no monument sign may exceed 15 feet above grade. For signs described in division (C) of this section, no sign may exceed 15 feet above grade.~~

~~—(F) Minimum height of signs. Free-standing signs must have a minimum height of seven feet from grade to the bottom of sign.~~

~~(‘72 Code, § 356.30(6)) (Ord. 1988-602(A), passed 8-22-88; Am. Ord. 1992-694, passed 5-11-92; Am. Ord. 2000-935, passed 11-13-00; Am. Ord. 2003-1002, passed 8-25-03; Am. Ord. 2014-1186, passed 12-15-14) Penalty, see § 10.99~~

§ 150.31 PI PUBLIC INSTITUTIONAL DISTRICT.

The following sections concern signs in the PI Public Institutional District, and said signs are regulated according to the requirements set forth below:

(A) In PI Districts, a property may erect only signs described in subdivisions (1) and (3) below, or in subdivisions (1) and (4) below, or in subdivisions (2) and (3) below, or in subdivisions (2) and (4) below, or subdivision (5) below unless modified by a conditional use permit.

(1) Free-standing or monument sign. One freestanding sign, not to exceed 50 square feet in area, or one monument sign not to exceed 120 square feet.

(2) Area identification sign. One free-standing sign or monument sign per development, as described by § 150.03 of this chapter not to exceed 320 square feet in area.

(3) Wall signs. One and two story, single or multiple tenant buildings: Signs attached to one wall not to exceed ten percent of the building facade to which the signs are attached.

(4) Wall signs. Multiple story buildings (three or more stories):

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(a) Identification signs: One identification sign per building facade identifying the name and/or address of the building, not to exceed ten percent in area of the building facade to which it is attached or 300 square feet, whichever is less. The measured area is that building facade above the second story.

(b) In addition to the identification signs described above in subdivision (a), wall signs may be attached to only one wall, not to exceed ten percent of the building facade to which the signs are attached and must be located on the first story. The measured area is that building facade of the first and second story.

(5) Two wall signs. Wall signs are allowed on only two walls. The wall signs on each wall must individually conform to the area limitations, defined in subdivisions (3) or (4) of this division.

(B) Minimum setbacks. For subdivisions (A)(1) and (A)(2) of this section, all signs must be set back at least 15 feet from the front property line and at least ten feet from side and rear property lines. On corner lots, all signs must be set back at least 15 feet from all property lines. All signs must be set back a minimum of three feet from driveways to edge of sign, and a 30 foot clear-view triangle must be maintained at public street intersections.

(C) Maximum height of signs. For signs described in subdivision (A)(1) of this section, no sign may exceed 20 feet above grade. For signs described in subdivision (A)(2) of this section, no sign may exceed 25 feet above grade.

(D) Minimum height of signs. Free-standing signs must have a minimum height of seven feet from grade to the bottom of sign.

('72 Code, § 356.30(7)) (Ord. 1988-602(A), passed 8-22-88; Am. Ord. 1992-694, passed 5-11-92; Am. Ord. 2000-935, passed 11-13-00; Am. Ord. 2014-1186, passed 12-15-14) Penalty, see § 10.99

§ 150.32 HIGHWAY OVERLAY.

~~—The following provisions concern signs in the Highway Overlay area, and the signs are regulated according to the requirements set forth below. In the Highway Overlay, properties may erect only signs described in divisions (A), and (C) below, or in divisions (A) and (D) below, or in divisions (B) and (C) below, or in divisions (B) and (D) or in division (E) below unless modified by a Development Plan.~~

~~—(A) Monument sign. One monument sign, not to exceed 100 square feet in area.~~

~~—(1) Minimum setbacks. Monument signs must be setback at least 15 feet from the property lines adjacent to public rights-of-way, at least ten feet from side and rear property lines, at least three feet from driveways to the edge of sign, and must maintain a 30-foot clear-view triangle at public street intersections.~~

~~—(2) Maximum height of signs. No sign may exceed 15 feet above grade.~~

~~—(3) Design and materials. Monument bases must be constructed of the same materials as the principal building.~~

~~—(B) Area identification sign. One monument sign per development, as described by § 150.03, not to exceed 220 square feet in area.~~

~~—(1) Minimum setbacks. Signs must be setback at least 15 feet from the property lines adjacent to public rights-of-way, at least ten feet from side and rear property lines, at least three feet from driveways to the edge of sign, and must maintain a 30-foot clear view triangle at public street intersections.~~

~~—(2) Maximum height of signs. No sign may exceed 15 feet above grade.~~

~~—(3) Design and materials. Monument bases must be constructed of the same materials as the principal building.~~

~~—(C) Wall signs. Signs attached to only one wall, not to exceed 10% of the building facade to which the signs are attached.~~

~~—(D) Wall signs. Multiple story buildings (three or more stories).~~

~~—(1) Identification signs. One identification sign per building facade identifying the name and/or address of the building, not to exceed 10% in area of the building facade to which it is attached or 300 square feet, whichever is less. The measured area is that building facade above the second story.~~

~~—(2) In addition to the identification signs described above, wall signs may be attached to only one wall not to exceed 10% of the building facade to which the signs are attached and must be located on the first story. The measured area is that building facade of the first and second story.~~

~~—(E) Two wall signs. Wall signs are allowed on only two walls. The wall signs on each wall must individually conform to the area limitations defined in division (B) above.~~

~~(Ord. 1999-914, passed 11-99)~~

§ 150.33 TRANSIT ORIENTED DEVELOPMENT (TOD) AND MIXED-USE DISTRICT.

(A) In the TOD or MU Districts, a property used for single-family, two-family, residential townhouse or apartment use may erect only signs as allowed by § 150.25 and § 150.26 of this chapter, as established for Residential Districts.

(B) In TOD and MU Districts, a business property may erect only signs described in subdivisions (1) and (3) below, or in subdivisions (1) and (4) below, or in subdivisions (2) and (3) below, or in subdivisions (2) and (4) below, or (5) below, unless modified through the approval of a sign plan at the time of Site Plan Review as approved by City Council.

(1) *Monument sign.* One monument sign not to exceed 120 square feet in area.

(2) *Area identification sign.* One monument per development, as described by § 150.03 of this chapter not to exceed 320 square feet in area.

(3) *Wall signs.* One and two story, single or multiple tenant buildings: Signs attached to two walls immediately adjacent to a public street or the parking lot which serves customers of the site, not to exceed ten percent of the building facade to which the signs are attached.

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(4) *Wall signs.* Multiple story buildings (three or more stories):

- (a) Identification signs: One identification sign per building facade identifying the name and/or address of the building, not to exceed ten percent in area of the building facade to which it is attached or 300 square feet, whichever is less. The measured area is that building facade above the second story.
- (b) In addition to the identification signs described above in subdivision (a), wall signs must be attached to only one wall, not to exceed ten percent of the building facade to which the signs are attached and must be located on the first story. The measured area is that building facade of the first and second story.

(5) *Three wall signs.* Wall signs are allowed on up to three walls only when immediately adjacent to a public street or the parking lot that serves customers of the site, subject to City Manager approval. The wall signs on each wall must individually conform to the area limitations defined in subdivisions (3) or (4) of this division.

(C) *Institutional signs.* Institutional uses which do not meet the criteria stated in § 150.03 of this chapter for area identification signs are allowed only one monument sign with reader board per street frontage. The sign and reader board must not exceed 60 square feet in area.

(D) *Minimum setbacks.* Monument signs must be set back at least 1 foot from the front property line and at least ten feet from side and rear property lines. On corner lots, all monument signs must be set back at least 15 feet from front and side corner property lines. All signs must be set back a minimum of three feet from driveways to edge of sign, and a 30 foot clear- view triangle must be maintained at public street intersections.

(E) *Maximum height of signs.* Signs described in division (A)(1), (A)(2) and (B) of this section may not exceed 8 feet above grade for monument signs.

MEMORANDUM

Date: February 21, 2024
To: Planning Commission Members
From: Amber Turnquest, Principal Planner
Subject: Comprehensive Plan Land Use Code Update

Subdivision Code Text Amendment

The Subdivision Code (Chapter 151) was amended for consistency throughout the Land Use title. This Chapter had not been updated since 2000, changes were made to reflect the current process.

Attachment A – Summary of Changes
Attachment B – Redline Text Amendment

C.1.B.A - WS SUMMARY OF CHANGES - CH 151

Section	Title	Summary of Changes
151.001	Purpose	Technical changes for consistency
151.011	Structures Abutting Public Streets	Technical changes for consistency
151.026	Supplementary Information Required	Technical changes for consistency
151.040	Final Plat Requirements	Technical changes for consistency
151.060	Lots	Technical changes for consistency

CHAPTER 151: SUBDIVISIONS

Section

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GENERAL PROVISIONS

§ 151.001 PURPOSE.

(A) This chapter may hereafter be known and cited as the "Brooklyn Park Subdivision Code".

~~(A)-(B)-~~ The process of dividing raw land into home sites, or separate parcels for other uses, is one of the most important factors in the growth of any community. Few activities have a more lasting effect upon its appearance and environment. Once the land has been subdivided and the streets, homes and other structures have been constructed, the basic character of this permanent addition to the community has become firmly established. It is then virtually impossible to alter its basic character without substantial expense. In most subdivisions, roads and streets must be maintained and various public services must be provided. The welfare of the entire community is thereby affected in many important respects. It is, therefore, to the interest of the general public, the developer, and the future owners that subdivisions be conceived, designed and developed in accordance with sound rules and proper standards.

~~(B)(C)~~ All subdivisions of land hereafter submitted for approval must fully comply, in all respects, with the regulations set forth herein. It is the purpose of these regulations to:

- (1) Encourage well planned, efficient, and attractive subdivisions by establishing reasonable standards for design and construction;
- (2) Provide for the public health, safety and general welfare of residents by requiring properly designed streets, park land, and adequate sanitary sewer, storm sewer and water service;
- (3) Place the cost of improvements against those benefitting financially from their construction; and
- (4) Secure the rights of the public with respect to public lands and waters.

~~(C)(D)~~ The Council of the City of Brooklyn Park deems these regulations to be necessary for the preservation of the health, safety and general welfare of this community. These regulations have been developed under the authority contained in M.S. § 462.358, and are supplemented by appropriate sections of § 150.01, as indicated.

('72 Code, § 345:00) (Am. Ord. 1984-447(A), passed 4-9-84)

§ 151.002 DEFINITIONS.

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

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ADMINISTRATOR. The City Manager or designee duly appointed and charged with enforcement of this chapter.

ADMINISTRATIVE REVIEW COMMITTEE. A committee made up of representatives from various city departments, as designated by the City Manager.

BLOCK. An area of land within a subdivision that is entirely bounded by a street or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake.

BUTT LOTS. Any lot, or lots, at the end of a block, located between two corner lots.

COMPREHENSIVE PLAN. A compilation of policy statements, goals, text, standards and maps for guiding the physical, social and economic development, both public and private, of the municipality and its environs, as defined in the Minnesota Metropolitan Land Planning Act, M.S. §§ 473.851 to 473.868, and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

EASEMENT. A grant by an owner of land for the specific use of the land for a public or quasi-public purpose.

FINAL PLAT. The final map, drawing, or chart on which the subdivider's plan of a subdivision is presented to the City Council for approval and which, if approved, will be submitted to the County Recorder or Registrar of Titles.

LOT. A parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision or record of survey map, for the purpose of sale or lease or separate use thereof.

OWNER. Any individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity having proprietary interest in the land being subdivided under this chapter.

PLANNING COMMISSION. The Planning Commission of the City of Brooklyn Park.

PEDESTRIAN WAY or WALKWAY. A public right-of-way across or within a block to provide access for pedestrians.

PRELIMINARY PLAT. A tentative map, drawing, or chart of a proposed subdivision meeting requirements herein enumerated.

REVERSE FRONTAGE LOT (DOUBLE FRONTAGE LOT). A lot extending between two streets with vehicular access which may be limited to one street at the time of subdividing.

STREETS AND ALLEYS.

(1) **STREET.** A public way for vehicular traffic whether designated as a street, highway, thoroughfare, collector, collector parkway, minor collector and minor collector parkway, throughway, road, arterial, minor arterial, avenue, lane, place, or however otherwise designated. The width of a street is measured between right of way lines.

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(2) **COLLECTOR STREET.** A street which carries traffic from subdivision streets to arterial streets. It includes the principal access streets to a residential development and streets for circulation within such a development.

(3) **CUL-DE-SAC.** A short, minor street having only one outlet and a vehicular turnabout.

(4) **FRONTAGE ROAD.** A minor street which is somewhat parallel and adjacent to a minor arterial or higher functional classification and which provides access to abutting properties and protection from through traffic.

(5) **SUBDIVISION STREET.** A street of limited continuity used primarily for access to the abutting properties and the local needs of the neighborhood.

(6) **PRIVATE STREET.** A street serving as vehicular access to two or more parcels of land which is not dedicated to the public but is owned by one or more private parties.

(7) **ALLEY.** A minor way of providing secondary vehicular access to the side or rear of two or more properties abutting on a street.

(8) **MINOR ARTERIAL AND COLLECTORS.** Streets designated on the comprehensive plan and used primarily by fast moving traffic at heavy volumes as traffic arteries for intercommunication between and among neighborhoods and other large areas. These streets are so designated for the purposes of applying the subdivision design standards found in § 151.056 of this chapter.

(9) **COMMERCIAL/INDUSTRIAL STREET.** A street designed for the primary purpose of serving industrial, multiple residential, or commercial property.

(10) **MINOR COLLECTOR.** A street which connects neighborhoods within subregions and which carries traffic from subdivision streets to the nearest major streets; however, traffic levels on a minor collector cannot reasonably be expected to exceed 3,000 ADT due to certain roadway design elements intended to reduce speeds and discourage use by through traffic.

SUBDIVIDER. Any person commencing proceedings under this chapter to effect a subdivision of land for that person or for others.

SUBDIVISION. The division of an area, parcel or tract of land into two or more parcels, tracts, lots, or long-term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads, or alleys, for residential, commercial, industrial, or other use or any combination thereof, except those divisions when a new street is being created by a governmental agency which results in a division of a parcel of land. The term includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land subdivided or for adjustments in boundary lines.

('72 Code, § 345:02) (Am. Ord. 1984-447(A), passed 4-9-84; Am. Ord. 1992-705, passed 9-14-92)

§ 151.003 PROCEDURAL REQUIREMENTS.

Before dividing any tract of land into two or more lots or parcels, or adjusting any boundaries not covered by M.S. § 462.352, Subd. 12, the procedures set forth in this chapter must be followed.

('72 Code, § 345:04) Penalty, see § 10.99

§ 151.004 PRE-APPLICATION PROCEDURAL REQUIREMENTS.

(A) Prior to the preparation of a preliminary plat, the subdividers or owners must meet with the Administrator and other appropriate officials in order to be made fully aware of all applicable ordinances, regulations and plans in the area to be subdivided. At this time, or at subsequent informal meetings, the subdivider must submit a general sketch plan of the proposed subdivision and drainage plan. The sketch plan can be presented in simple form but must show any zoning changes which would be required, and must show that consideration has been given to the relationship of the proposed subdivision to existing community facilities that would serve it, to neighboring subdivisions and development, and to the topography of the site. The Administrator may require the subdivider to provide an area-wide concept platting plan for all neighboring properties if deemed necessary for coordinated planning.

(B) The subdivider is urged to avail the subdivider of the advice and assistance of the city staff in order to facilitate the approval of the preliminary plat. However, such advice should not be construed to predict final action by the City Council.

('72 Code, § 345:06)

§ 151.005 PROCEDURE, PRELIMINARY PLAT, FEES AND DEPOSIT.

(A) (1) After the pre-application meeting, the subdivider must file with the Department of Community Development an application completed in compliance with all city regulations and 20 copies of the preliminary plat which has been prepared in accordance with the regulations set forth in this chapter. At the time of submission of the preliminary plat, a non-refundable subdivision filing fee and a minimum subdivision cash escrow as established in the fee resolution, set forth in the Appendix to this code, must be paid in cash to the City Treasurer. The fee will be placed in the general fund and the cash escrow must be held in a special subdivider's cash escrow account credited to the subdivider. Costs of city services, legal expenses and materials provided in reviewing and processing of the preliminary plat will be charged to the subdivider's cash escrow account and must be credited to the City of Brooklyn Park. The fees and costs to be paid by the subdivider are not contingent upon approval or denial of the preliminary plat or final plat.

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(2) The Council must promulgate and adopt a set of rules, regulations and fees for services rendered by city personnel, and the rules, regulations and fee schedules are on file with the City Clerk for inspection. A copy thereof must be furnished upon request to the subdivider. The city must itemize all time, services and materials billed to any subdivider's cash escrow account. The subdivider making the deposit(s) in the subdivider's cash escrow account must upon request, be furnished a copy of the itemized charges.

(3) If, at any time, the balance in the subdivider's cash escrow account is depleted to less than 5% of the originally required cash escrow amount, the subdivider must deposit additional funds in the subdivider's cash escrow account in an amount as determined by the Planning Director and City Engineer, sufficient to cover all costs to be incurred by the city in implementing the platting process. Any balance remaining in the account upon completion of all platting conditions must be returned to the depositor by the Finance Department after all claims and charges thereto have been paid and after approval by City Council.

(4) Park dedication in the form of land or cash will be computed prior to approval of preliminary plat; however any amount of cash in lieu of dedication of land must be collected prior to the time the final plat is released for recording.

(B) The planning staff must refer copies of the preliminary plat to the Engineering Department. An engineering review will be made and a written report attached prior to forwarding to the Planning Commission.

(C) The planning staff must refer copies of the preliminary plat to the Parks and Recreation Department. A park and recreation staff review will be made, as needed, and forwarded to the planning staff prior to forwarding an overall staff report to the Planning Commission.

(D) The planning staff must refer copies of the preliminary plat to the Planning Commission. The planning staff will arrange for a public hearing to be held within 45 days of the filing date. The required legal publication must be made and notices must be sent to all property owners of record within 350 feet of the exterior boundary of the proposed plat.

(E) The subdivider or a duly authorized representative must attend the Planning Commission meetings at which this proposal is scheduled for consideration.

(F) (1) The Planning Commission and City Council must study the practicability of the preliminary plat taking into consideration the requirements of the city. Particular attention must be given, but not limited to, the arrangement, location, and width of streets, their relation to the topography of the land, flood plain regulations, water supply, sewage disposal, drainage, lot sizes and arrangement, the present and future development of adjoining lands, and the requirements of the comprehensive plan, and the zoning ordinance.

(2) The Planning Commission must study and must make recommendations and the City Council must consider the following: whether the proposed subdivision is

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consistent with applicable specific area plans or the comprehensive plan; whether the design is consistent with applicable development plans or policies; whether the physical characteristics of the site, including but not limited to, topography, vegetation, susceptibility to erosion, siltation, flooding and water storage or retention and flood plain regulations, are suitable for the type and/or density of development or use contemplated; the environmental impact of the subdivision design or proposed improvements; whether the design of the subdivision or the type of improvement is consistent with easements of record or easements established by judgment of a court; traffic considerations; and any other aspect affecting the public health, safety or welfare. The Planning Commission may recommend and the City Council may approve reasonable conditions on the plat to negate any problem areas.

(G) At the public hearing all persons interested in the proposed plat must be heard and the Planning Commission must within 30 days of the closing of the hearing, recommend approval, modify, or recommend disapproval of the preliminary plat or waiver of platting and submit to the City Council, the applicant and the City Manager, their findings and recommendations. The City Council must act upon the preliminary plat and send written notification of their action to the applicant. Failure of the governing body to act within 120 days of the filing of an application in complete compliance with the ordinance is deemed approval of the plat. The grounds for any refusal to approve a plat must be set forth by the Council in a resolution and reported to the applicant in writing. Should the subdivider desire to amend the preliminary plat as approved by the Council, the subdivider must submit the amended plat following the original procedure set forth, except for the public hearing and fees unless the Planning Commission considers the scope of the revisions to constitute a new plat, then the hearing and fees are required.

('72 Code, § 345:08) (Am. Ord. 1975-215(A), passed 12-8-75; Am. Ord. 1984-447(A), passed 4-9-84; Am. Ord. 1994-756, passed 5-9- 94)

§ 151.006 PROCEDURE; FINAL PLAT.

(A) The subdivider, within one year, unless extensions are granted by the City Council by resolution, after the approval of the preliminary plat, must file with the Director of Community Development, 15 copies of the final plat prepared by a land surveyor duly registered in the State of Minnesota. Failure of the subdivider to submit the final plat within those times designated by City Council resolutions will cause the preliminary and final plats to become null and void.

(B) The subdivider must also submit to the City Attorney, at the same time, an up-to-date certified abstract of title or registered property abstract and such other evidence as the City Attorney may require showing title or control of the land by the subdivider.

(C) The subdivider must have incorporated all changes or modifications required by the City Council, but in all other respects the final plat must conform to the preliminary plat.

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(D) If the subdivider requests that any special assessments which have been levied against the property described be divided and allocated to the respective lots in the proposed plats, the Department of Public Works must estimate the clerical cost of preparing a revised assessment roll, filing the same with the County Auditor, and making such division and allocation, and upon approval by the City Manager of such estimated cost, the same must be paid by the subdivider to the Finance Department from the subdivider's escrow account.

(E) The required utility layout must be submitted by the subdivider to the City Engineer for the City Engineer's cost estimate. A copy of the City Engineer's report must be submitted to the Director of Community Development for the preparation of the contract required in § 151.089 of this chapter.

(F) The Director of Community Development, upon receipt of the final plat, must retain one copy of the final plat for the Director's records, and must:

(1) Refer 14 copies of the final plat to the Administrative Review Committee, who must review the final plat with respect to its conformance with the approved preliminary plat.

(2) Refer the current abstract of title or registered property abstract to the City Attorney for the Attorney's examination and report. The City Attorney's written report must be submitted to the Director of Community Development within 30 days of its receipt by the Attorney.

(3) Obtain a written report or statement from the Finance Director certifying the payment by the subdivider of all fees due the city pursuant to this chapter.

(G) The City Council must, by resolution, authorize the Mayor and City Manager to sign the final plat.

(H) If a report from the Director of Community Development indicates, in the Director of Community Development's judgment, there is a substantial deviation in the final plat from the approved preliminary plat, the City Council may determine if the submission represents a new plat. If the submission does represent a new plat, the City Council must deny the final plat and direct the subdivider to resubmit the subdivider's proposal following preliminary plat requirements.

(I) The subdivider must, if the final plat is signed by the Mayor and City Manager, record the final plat with the County Recorder or the Registrar of Titles within 180 days of the date of the Council resolutions approving the final plat, or within 180 days after the plat is considered approved by reason of the City Council's failure to act within the 120 day statutory period. Any plat not filed and recorded in accordance with this section becomes null and void.

(J) Changes, erasures, modifications or revisions must not be made in any final plat after approval has been given by the City Council and endorsed in writing on the plat, unless the plat is first resubmitted to the City Council and that body approves any modifications. In the event that any such final plat is recorded without complying with

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this requirement, the same is considered null and void and the City Council must institute proceedings to have the plat stricken from the records of the city.

('72 Code, § 345:10) (Am. Ord. 1977-248(A), passed 8-22-77; Am. Ord. 1984-447(A), passed 4-9-84; Am. Ord. 1992-705, passed 9-14- 92)

§ 151.007 PROCEDURES FOR TIME EXTENSIONS.

(A) (1) If a time extension is to be requested, for a preliminary or final plat as previously approved by the City Council, the one year extension must be requested and must appear on a City Council agenda for approval within one year of the date of the original Council approval of the plat or last Council action to extend that approval. A time extension request which encounters delays in the review process and through no fault of the applicant cannot be scheduled for Council action as anticipated may proceed through the process to final resolution without jeopardy.

(2) The provisions of this division do not apply to original Council approvals or time extensions granted prior to the effective date of this chapter. All original Council approvals or time extensions granted subsequent to the effective date of this chapter are bound by the provisions of this division.

(B) This request must be reviewed by the Planning Commission and a recommendation forwarded to the City Council addressing such items as potential conflicts with the comprehensive plan or specific area plans; potential conflicts with policy changes; changing transportation conditions and sidewalk policies; or applicable changes to any city, state or federal ordinances.

(C) The city staff may recompute park dedication fees and other financial guarantees as required by the city code to reflect current cost estimates. These revised costs must be included in the time extension resolution.

(D) Any negative escrow amounts must be paid and the escrow amount must be brought up to current minimum requirements with the request for time extension.

(E) A current property owners list from Hennepin County must be submitted every two years based upon the original date of Council approval only in instance where such lists are necessary for the notification of owners of property not lying within the Brooklyn Park corporate limits but within the standard notification area.

('72 Code, § 345:11) (Ord. 1992-705, passed 9-14-92; Am. Ord. 1993-746, passed 12-13-93)

§ 151.008 CONDITIONAL USE PERMIT SPECIAL ZONING PROCEDURES.

The City Council upon receiving a report from the Planning Commission may grant a variance in these regulations in case of a subdivision which is part of a conditional use

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permit special procedure approved under the provisions of the zoning ordinance for the City of Brooklyn Park.

('72 Code, § 345:82) (Am. Ord. 1984-447(A), passed 4-9-84)

§ 151.009 REGISTERED LAND SURVEYS.

It is the intention of this chapter that all registered land surveys in the city must be presented to the Planning Commission in the form of a preliminary plat and in accordance with the standards set forth in this chapter for preliminary plats. A registered land survey must be treated as any other subdivision, and the Planning Commission must approve the arrangement, sizes, and relationships of proposed tracts and such registered land surveys and tracts to be used as easements or roads must be dedicated as in any other plat or division. Unless such approvals in accordance with the standards set forth in this chapter have been obtained, building permits will be withheld for building on tracts which have been so subdivided by registered land surveys without compliance with the ordinance and Council approval. The City Council may refuse to take over tracts, streets, roads or to improve, repair or maintain any such tracts or areas unless so approved.

('72 Code, § 345:88)

§ 151.010 CONVEYANCE BY METES AND BOUNDS.

(A) No conveyance of land, in which the land conveyed is described by metes and bounds or by reference to a plat made after the effective date of this chapter which has not been approved as provided herein, and no conveyance which results in the division of a platted lot will be made or recorded unless the parcel described in the conveyance and the residue parcel meet the following standards:

(1) Was a separate parcel of record April 1, 1945, or the date of adoption of subdivision regulations by the city under Minnesota Laws of 1945, Chapter 287, whichever is the later;

(2) Was the subject of a written agreement to convey entered into prior to such time and was recorded in the office of the County Recorder or the Registrar of Titles within one year thereafter; or

(3) Was a separate parcel of not less than two and one-half acres in area and 150 feet in width on January 1, 1966; or

(4) Was a separate parcel of not less than five acres in area and 300 feet in width on July 1, 1980; or

(5) Is a single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the

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division of the parcel into two or more lots or parcels, any of which is less than five acres in area or 300 feet in width; or

(6) Is a single parcel of residential or agricultural land of not less than 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than 20 acres in area or 500 feet in width.

(B) In any case in which compliance with the foregoing restrictions will create an unnecessary hardship and failure to comply does not interfere with the purpose of the subdivision regulations, the City Council may waive such compliance by adoption of a resolution to that effect pursuant to §§ 151.100 et seq., and other provisions of these subdivision regulations. All requests for waivers require a public hearing and must follow the same procedure as required in public hearings for plats.

('72 Code, § 345:91) (Am. Ord. 1973-147(A), passed 6-11-73; Am. Ord. 1974-170(A), passed 7-22-74; Am. Ord. 1984-447(A), passed 4-9-84)

§ 151.011 STRUCTURES ABUTTING PUBLIC STREETS.

(A) With respect to parcels of land not subject to the provisions of M.S. § 462.358, Subd. 4b, and § 151.010 of this chapter, a building or structure must not be constructed or erected on such parcels, nor must any building permit be issued for such construction or erection, unless such parcels ~~abut upon~~have access to a public street which has been dedicated to and accepted by the city. This provision does not apply if the structure is to be used solely for agricultural purposes and the property is served by a private street or private easement.

(B) This requirement may be waived by the City Council if the Council makes the following findings:

(1) That the proposed structure is located on a properly designed ~~and approved~~ private street, as approved by the City Engineer; and

(2) The development is not in conflict with the city's growth management principles.

('72 Code, § 345:92) Penalty, see § 10.99

§ 151.012 RESUBDIVIDING COMBINED PARCELS.

Any parcel of land, either platted or unplatted, that has been combined for tax purposes or for other reasons cannot be re-separated without a waiver of platting or plat approved by the City Council in a manner prescribed in § 151.003.

('72 Code, § 345:93) (Ord. 1986-528(A), passed 5-27-86)

§ 151.013 BUILDING PERMITS.

No building permits will be issued by the city for the construction of any building or structure on any lot in the subdivision as defined herein which has been approved for platting until all requirements of this chapter have been fully complied with. No building permit will be issued for a lot not having the required right-of-way frontage on a public street in the zoning district in which it is located.

('72 Code, § 345:94)

§ 151.014 SUBDIVISION AND ZONING FEES.

Subdivision and zoning fees are established by the fee resolution set forth as an Appendix to this code.

('72 Code, § 520:00(6)) (Am. Ord. 1981-374(A), passed 12-14-81; Am. Ord. 1986-540(A), passed 8-18-86; Am. Ord. 1990-660(A), passed 10-8-90)

PRELIMINARY PLAT

§ 151.025 PRELIMINARY PLAT REQUIREMENTS.

(A) Survey and design information required. The preliminary plat must be clearly and legibly drawn at a scale ranging from 1":10', 1":20', 1":30', 1":40' or 1":50' as accepted by the Department of Community Development or the Planning Commission and must contain the information set forth in the divisions of this section which follow.

(B) Identification and description.

(1) The proposed name of the subdivision, which name must not duplicate or be alike in pronunciation to the name of any plat previously recorded in the county.

(2) The location of the subdivision by section, township, and range or by other legal description.

(3) The name(s) and address(es) and telephone number(s) of the owner(s), and/or petitioner(s), subdivider, surveyor and/or designer.

(4) Graphic scale, north point, date of preparation and revision dates.

(C) Existing conditions.

(1) A boundary line drawing of the proposed subdivision, including measured distances and angles, which must be tied into the nearest section or quarter section corner by traverse.

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(2) Existing zoning classifications for land within the subdivision and on abutting property.

(3) Total acreage.

(4) Location, width, and name of every existing or previously platted street or other public way showing present and proposed width, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings and structures, easements, section lines, flood plain limits, and corporate lines within the proposed subdivision and to a distance of 150 feet beyond.

(5) If the proposed subdivision is a rearrangement or replat of any former plat, the lot and block arrangement of the original plat along with its original name indicated by dotted or dash lines. Also, any revised or proposed to be vacated roadways of the original plat must be so indicated.

(6) Location and size of existing sewers, water mains, pipelines, high voltage lines, culverts or other underground facilities within the tract and to a distance of 150 feet beyond the tract, including such data as grades, invert elevations and locations of catch basins, manholes and hydrants.

(7) Boundary lines of adjoining unsubdivided or subdivided lands within 150 feet.

(D) Subdivision design features.

(1) Layout of proposed streets showing right-of-way widths and proposed street names. If the proposed street is an extension of an existing named street that name must be used. In all other cases the name of any street previously used within the county must not be used, unless such use is consistent with the county or community street naming system.

(2) Locations and widths of alleys, pedestrian ways, utilities, easements, and drainage plan.

(3) Layout, numbers and preliminary dimensions of lots and blocks, including the area in square feet of each proposed lot.

(4) Areas intended to be dedicated or reserved for public use including their size in acres or square footage.

(5) Areas intended for uses other than residential or public.

(6) Minimum front and side street building setback lines as required in the zoning district in which the subdivision is located.

(7) A proposed lot must not be divided by a boundary line between registered land and abstract property.

('72 Code, § 345:13)

§ 151.026 SUPPLEMENTARY INFORMATION REQUIRED.

The information set forth in this section must be filed with the preliminary plat:

(A) A complete topographic map at a scale of 1":100', 1":50', 1":40' or 1":20' and with contour intervals not greater than two feet showing water courses, flood plain limits, marshes, rock outcrops and other significant features, at least 150 feet beyond the boundary of the proposed plat, at least one print of the preliminary plat must be superimposed on a copy of the topographic map. U.S. Geodetic Survey datum must be used for all topographic mapping. Fulfillment of this requirement may be requested by the city staff, Planning Commission or City Council.

(B) Soil absorption tests where septic tanks are proposed, and any other subsoil information requested by the city staff, including soil bearings and water table.

(C) Plans for water supply, sewage disposal, proposed grades, drainage and flood control including the proposed locations, size and gradient of proposed sewer lines and water mains and such other supporting data as may be required by the city staff, Planning Commission, or the City Council.

(D) Center line gradients of proposed streets and alleys.

(E) Where the subdivider owns property adjacent to that which is being proposed for the subdivision, the Planning Commission may require that the subdivider submit a sketch plan of the rest of the subdivider's properties so as to show the relationship of the proposed subdivision to the future development of the adjacent property.

(F) Indicate if the land is registered or abstract property.

(G) Indicate other information as requested by the Departments of Community Development, Public Works or Parks and Recreation such as sidewalks, walkways, bikeways, berming or landscaping with a schedule of plantings or anticipated ground level building elevation(s).

(H) All plats within the ~~designated~~ Mississippi River Corridor Critical Area Overlay district as adopted in the Brooklyn Park Zoning Map, and defined by Executive Order No. 79-19 of the Critical Area Act of 1973, M.S. Chapter 116G, must indicate:

(1) Existing and proposed grades at two foot contour intervals.

(2) A landscaping plan as requested by the City Planner-Manager to compensate as transitioning, erosion control or improving the living environment.

(3) Submit an erosion and sedimentation control plan as requested by the City Engineer ~~and the City Planner~~.

(4) Calculate and graphically describe the amounts and location of cut and fill determined in cubic yards. Length of storage and prevention measures for wind and water erosion must also be indicated.

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(I) Drainage ponds. Determination shall be made between drainage ponds designed to hold water on a continuous basis and those designed to hold water on an infrequent basis. Areas designed for intermittent water storage shall be landscaped and maintained in accordance with required landscape provisions. Creation of larger, regional ponds is encouraged.

(J) Erosion and sediment control shall be addressed as follows:

(1) The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.

(2) Erosion and siltation control measures shall be coordinated with the different stages of construction. Appropriate control measures shall be installed prior to development when necessary to control erosion.

(3) Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.

(4) When soil is exposed, the exposure shall be for the shortest feasible period of time, as specified in the development agreement.

(5) Where the topsoil is removed, sufficient topsoil shall be set aside for respreading over the developed area. Topsoil shall be restored or provided to a minimum depth of three inches and shall be of a quality at least equal to the soil quality prior to development.

(6) Natural vegetation shall be protected wherever practical.

(7) Runoff shall be diverted to a sedimentation basin before being allowed to enter the natural drainage system.

(8) Development shall comply with and follow the applicable best management practices for erosion and sedimentation control as described in the Minnesota Pollution Control Agency's (MPCA) Best Management Practices Handbook as may be amended.

(9) All stormwater facilities are subject to inspection for conformance to approved plans prior to acceptance by the city.

(10) Projects initiated or directed by the city shall not be exempt from these rules.

('72 Code, § 345:16) (Am. Ord. 1984-447(A), passed 4-9-84; Am. Ord. 2001-961, passed 11-26-01; Am. Ord. 2002-985, passed 11-25-02)

§ 151.027 QUALIFICATIONS GOVERNING APPROVAL OF A PRELIMINARY PLAT.

(A) The approval of a preliminary plat by the City Council only constitutes acceptance of the design as a basis for the preparation of the final plat by the owners or subdividers. Subsequent approval by appropriate officials having jurisdiction will be

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required of the engineering proposals pertaining to water supplies, storm drainage, sewage disposal, sidewalks, grading, gradients and roadway widths, and the surfacing of streets prior to the approval of the final plat by the city.

(B) No plan will be approved for a subdivision which includes any area subject to periodic flooding or which contains extremely poor drainage facilities which would make adequate drainage of the streets and lots impossible, unless the subdivider agrees to make improvements which will, in the opinion of the City Engineer, make the area completely safe for occupancy and provide adequate street and lot drainage and is not in conflict with the city's flood plain regulations.

('72 Code, § 345:20)

FINAL PLAT

§ 151.040 FINAL PLAT REQUIREMENTS.

The final plat must be prepared in accordance with M.S. § 505.08, Subd. ~~12~~. The plat may consist of more than one sheet, numbered progressively.

('72 Code, § 345:22)

§ 151.041 NAME AND LOCATION.

The plat must contain the name of the subdivision, lettered in large print at the top of the plat, together with the location of the subdivision by section, range, and township and by city and county.

('72 Code, § 345:25)

§ 151.042 SCALE AND POINT.

The plat must contain a graphic scale and north point.

('72 Code, § 345:28)

§ 151.043 MAP.

The plat must contain an accurate map of the proposed subdivision at a scale acceptable to the County Recorder's Office which must show the information set forth in the divisions of this section which follow and meet the requirements of M.S. § 505.02:

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(A) A boundary line survey including the measured distances and angles and the true distance and bearing between a known point on the boundary and the nearest official monument which must be accurately described on the plat. One permanent monument must be placed on one corner of any plat of four or more lots.

(B) The accurate location of all monuments.

(C) Accurate angular and linear dimensions for all lines, angles and curvatures used to describe the boundaries, streets, alleys, easements, areas to be reserved for public use, and other important features within the proposed subdivision. All linear dimensions must be shown in feet and hundredths of feet and all angles and bearings must be shown in degrees, minutes and seconds. The radius, angle of curvature, point of tangent, point of curvature and length of arc must be shown for every curve. No ditto marks will be permitted in indicating dimensions.

(D) All lots and blocks numbered in numerical order.

(E) All municipal, township, county or sections lines within the proposed subdivision.

(F) Identification and accurate boundaries of any areas to be dedicated or reserved for public use or for the exclusive use of property owners within the subdivision.

(G) The names of all streets and alleys.

(H) If the subdivision is a replatting or rearrangement of a legal subdivision, the original platting shown by dotted lines.

(I) Low land and water areas.

(J) A letter, certified by an engineer or surveyor, attesting to lot square footage.

(K) A 1:500 scale and a 1:200 scale mylar of each final plat must be submitted to the Director of Community Development prior to release of the final plat for recording.

('72 Code, § 345:31) (Am. Ord. 1984-447(A), passed 4-9-84; Am. Ord. 1988-596(A), passed 7-11-88)

§ 151.044 SURVEYOR'S CERTIFICATE.

The plat must contain a notarized certification by a registered land surveyor that the plat represents a survey made by that surveyor and that the monuments shown therein exist as located and that all dimensions are correct, as required by M.S. § 505.03, Subd. 1.

('72 Code, § 345:34)

§ 151.045 SIGNATURE OF OWNERS AND DEDICATION.

The plat must contain a notarized certification by owner or owners and by any mortgage holder of record of the adoption of the plat and the dedication of streets and other public areas as required by M.S. § 505.03, Subd. 1.

('72 Code, § 345:37)

§ 151.046 RECORDING FORM.

The plat must contain a form for recording the approval of the City Council as follows:

Approved by the City of Brooklyn Park, Minnesota, this day of ,
20 .

Signed

Mayor

Attest

City Manager

('72 Code, § 345:40)

DESIGN STANDARDS

§ 151.055 GENERAL REQUIREMENTS.

(A) The Planning Commission and the City Council, in their review of the preliminary plat, will take into consideration the requirements of the community and the best use of the land being subdivided.

(B) The subdivision must conform to the adopted zoning ordinance and must be in substantial conformance to the goals and policies set forth in the comprehensive plan.

(C) The arrangement, character, extent, width, and location of all streets must be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographic conditions, to runoff of storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. Wherever possible and necessary, the arrangement of streets in new subdivisions must provide for the continuation of existing streets in adjoining areas. Where adjoining unsubdivided areas may be subdivided, the arrangement of streets in a new subdivision must make provision for the proper projection of streets into adjoining

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areas by carrying the new streets to the boundaries of the new subdivision at appropriate locations.

(D) No street dedications will be accepted which require a crossing of a railroad, collector street, minor arterial, or intermediate arterial unless sufficient land is dedicated to provide for approaches sufficient for grade crossing or safe intersections.

(E) Mailbox design. The subdivider shall submit design details and plans for mailboxes on all new residential plats. Mailboxes shall be similar in design and be architecturally consistent with homes in the subdivision.

('72 Code, § 345:43) (Am. Ord. 2001-961, passed 11-26-01) Penalty, see § 10.99

§ 151.056 STREETS.

(A) Widths. Street right-of-way widths must be as shown on the comprehensive plan and where not shown therein, must be not less than as follows:

- (1) Principal Arterial: variable.
- (2) "A" or "B" Minor Arterial: 100 feet.
- (3) Class I Collector: 80 feet.
- (4) Class II Collector: 70 feet (may be adjusted upwards as necessary at intersection with arterial).
- (5) Local street: 60 feet.
- (6) Commercial and/or industrial street: 80 feet.

(B) Intersections. Insofar as practical streets must intersect at right angles. The angle formed by the intersection of two streets must be not less than 60 degrees. Intersections having more than four corners are prohibited. Intersections must not be closer than 150 feet as measured from centerline to centerline.

(C) Deflections. When connecting street lines deflect from each other at any point by more than ten degrees, they must be connected by a curve with a radius of not less than 100 feet, except in those cases specifically approved by the City Council.

(D) Gradients. All center line gradients must be at least 0.5 percent and must not exceed the following:

- (1) Arterial streets and collector streets: four percent;
 - (2) Subdivision streets and frontage roads: six percent.
- (E) Vertical curves. Different connecting street gradients must be connected with vertical curves. Minimum length in feet of these curves must be 30 times the algebraic difference in the percent of grade of the two adjacent slopes.

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(F) Street jogs. Street jogs with center line offsets of less than 150 feet are prohibited as measured from centerline to centerline.

(G) Subdivision streets. Subdivision streets must be laid out so that their use by through traffic will be discouraged.

(H) Cul-de-sacs. The maximum length of a street terminating in a cul-de-sac must be 600 feet, measured from the center line of the street or origin to the center of the cul-de-sac and must have a radius of 60 feet.

(I) Access to collectors or arterials. In the case where a proposed plat is adjacent to a collector arterial street, the applicant is advised not to direct vehicle or pedestrian access from individual lots to such thoroughfares. Where possible, the subdivider must attempt to provide access to all lots via subdivision streets.

(J) Platting of small tracts. In the platting of small tracts of land fronting on arterials where there is no convenient access to existing entrances and where access from such plat would be closer than one-quarter mile from an existing access point, every effort must be made in such plats for the connection of roads to neighboring land. As the neighboring land is platted and developed, and access becomes possible at a preferred location, direct access will be prohibited.

(K) Half streets. Half streets are prohibited except where it will be practical to require the dedication of the other half when the adjoining property is subdivided, in which case the dedication of a half street may be permitted. The probable length of time elapsing before dedication of the remainder will be considered in this direction.

(L) Private streets. Private streets are not permitted and public improvements will not be approved for any private street unless approved by the City Council as part of a conditional use permit for an overall development plan.

(M) Hardship to owners of adjoining property. The street arrangements must not be such as to cause hardship of adjoining property in platting their own land and providing convenient access to it.

(N) Dedication of streets. Except for private streets as designated in § 151.056, all proposed streets shown on the plat must be offered for dedication as public streets.

(O) Medians. Landscaped medians shall be required for Class I and II collector streets and cul-de-sac islands, as determined by the City Council, and constructed in accordance with standards established by the City Engineer.

('72 Code, § 345:46) (Am. Ord. 1984-447, passed 4-9-84; Am. Ord. 1992-705, passed 9-14-92; Am. Ord. 2001-961, passed 11-26-01) Penalty, see § 10.99

§ 151.057 ALLEYS.

(A) Locational requirements. Except in the case of a shopping center, planned as a unit, with off-street parking and loading space, either a public or private alley must be

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provided in a block where commercially zoned property abuts a major thoroughfare or a major street. Alleys in residential areas other than those zoned for multiple use will not be permitted except by special permission of the City Council.

(B) Widths. Alleys, where permitted by the City Council, must be at least 20 feet in width in residential areas and at least 30 feet wide in commercial areas, with adequate provisions for snow storage. Such snow storage locations must be approved by the City Council.

(C) Grades. All center line gradients in alleys must be at least 0.5 percent and must not exceed eight percent.

('72 Code, § 345:49) Penalty, see § 10.99

§ 151.058 EASEMENTS.

(A) Provided for utilities. Easements to a width as determined by the City Engineer, or at least 15 feet wide centered on rear or other lot lines must be provided for utilities where necessary. They must have continuity of alignment from block to block and at the deflection points easements for a pole line anchor must be provided where necessary.

(B) Drainage. Easements must be provided along each side of the center line of any water course or drainage channel whether or not shown in the comprehensive plan, to a width sufficient to provide proper maintenance and protection and to provide for storm water runoff and installation and maintenance of storm sewers. Where necessary, drainage easements corresponding with lot lines must be provided. Such easements for drainage purposes must not be less than five feet in width, each side of the lot line. Except where an overall drainage and utility development plan for subdivisions have been approved by the City Engineer, all lots must be graded in such a manner to avoid additional drainage encroachment onto adjacent properties. This restriction applies during, as well as after, construction is completed.

(C) Dedication. All easements must be dedicated for the required uses by appropriate language on the plat, as required by M.S. § 505.03, Subd. 1.

('72 Code, § 345:52) Penalty, see § 10.99

§ 151.059 BLOCKS.

(A) Length. The maximum length of a block is 1,500 feet and the minimum length is 400 feet. Blocks over 900 feet long may require pedestrian ways at least ten feet wide at their approximate center. The use of additional pedestrian ways to schools, parks and other destinations may be required.

(B) Arrangements. A block must be so designed as to provide two tiers of lots unless it adjoins a railroad, collector or arterial street system, or other types of barriers in the

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form of schools, parks, major developments, corporate limits or other major uses, where it may have a single tier of lots.

('72 Code, § 345:55)

§ 151.060 LOTS.

- (A) Location. All lots must abut for their full frontage on a publicly dedicated street.
- (B) Size. The lot dimensions must be such as to comply with the minimum lot areas specified in the zoning ordinance. Lot square footages must be designated on the preliminary plat. A letter must accompany the final plat, certified by an engineer or surveyor, stating that all lot sizes meet plat requirements.
- (C) Transition lots. When platting is adjacent to incompatible land uses, except parks, depth of lots must be increased to allow for space, berming or other landscaping techniques to buffer each land use.
- (D) Side lot lines. Side lines of lots must be substantially at right angles to straight street lines or radial to curved street lines.
- (E) Water courses. Lots abutting upon a water course, drainageways, channel, or stream must have sufficient depth and width to provide a minimum area of land not subject to flooding equal to the minimum lot dimensions specified in the zoning ordinance for the district in which the lots are located.
- (F) Drainage. Lots must be graded so as to provide drainage away from building locations. All landscaping features, such as retaining walls, and filling or grading, within drainage and utility easements must be reviewed and approved by the City Engineer and the City ~~Planner~~Manager.
- (G) Natural features. In the subdividing of land, due regard must be shown for all natural features, such as tree growth, water courses, historic spots, or similar conditions, and plans must be adjusted to preserve those which will add attractiveness and stability to the proposed development.
- (H) Lot remnants. All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots rather than allowed to remain as unusable or non-conforming parcels.
- (I) Adequate setbacks. All plats with lots or tracts abutting on collector or arterial streets must have adequate width and depth to provide for the minimum setbacks to build in accordance with all city codes.
- (J) Minimum rear lot line. Where practical, all lots should have a minimum of 30 feet in width at the rear lot line.
- (K) Double frontage lots. Double frontage (lots with frontage on two parallel streets) or reverse frontage lots are not permitted except where lots back against a collector or

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arterial street. Such lots must have additional depth to allow for screening and/or planting along the back lot line in accordance with the Zoning Code, Environmental Quality. Vehicular access may be restricted as a condition of the plat.

(L) Cul-de-sac lots. If the front line of any lot is a curve or partly a curve with a radius of 175 feet, the frontage for purposes of minimum requirements, will be measured at the building line. In addition thereto, the front footage of the front lot line will be 60 feet or as modified under special procedure provisions as established by the zoning ordinance.

('72 Code, § 345:58) (Am. Ord. 1978-266(A), passed 6-12-78; Am. Ord. 1984-447(A), passed 4-9-84; Am. Ord. 1996-801, passed 3-25- 96) Penalty, see § 10.99

§ 151.061 PUBLIC SITES AND OPEN SPACE AND PARK LAND DEDICATION.

(A) Public sites and open spaces. Where a proposed park, playground, or other public site shown on the adopted comprehensive plan or official map is embraced in part or in whole by a boundary of a proposed subdivision, and such public sites are not dedicated to the city, such public ground must be shown as reserved land on the preliminary plat to allow the city the opportunity to consider and take action toward acquisition of such public ground or park by purchase or other means prior to approval of the final plat.

(B) Park land dedication.

(1) In every plat, replat or subdivision of land allowing development for residential, commercial, industrial, or other uses or combination thereof, or where a waiver is granted, a reasonable portion of such land and/or cash must be set aside and dedicated by the tract owner or owners to the general public as open space for park and playground purposes, public open space for park and playground purposes, public open space or public ponds, except where adjustment to lot lines do not create additional lots.

(2) A minimum of ten percent of the buildable land to be used for residential, multiple-family residential, or uses other than commercial business or industrial purposes, is deemed a reasonable portion. BUILDABLE LAND means the gross acreage of all property in the proposed plat or subdivision excluding wetlands designated by federal or state agencies and those classified by the Wetland Conservation Act. The land must be suitable for public use as parks and playgrounds or for one of the aforescribed purposes and the city is not required to accept land which will not be usable for parks and playground or which would require extensive expenditures on the part of the public to make them usable. The city has the option to require cash contribution in lieu of setting aside dedicated land or in requiring a part of the land as a parkland dedication and the balance of the land value in cash. Any such cash contribution will be a set amount determined annually based on a minimum of ten percent of the total fair market land value of the land within such plat, replat, waiver or subdivision, for residential and multiple-family residential uses. The amount is then established by equating the fair market value to a per unit fee based on the net density. In establishing the amount of land to be dedicated or preserved or the amount of the

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cash contribution, the city will give due consideration to the open space, recreational, or common areas and facilities proposed by the applicant to be open to the public.

(3) Any park dedication money so paid to the city must be placed in a special fund. The money shall be used only for:

- (a) The acquisition of land for parks and playgrounds;
- (b) Development of existing park and playground sites or facilities;
- (c) Redevelopment or rehabilitation of existing park and playground sites or facilities; or
- (d) Debt retirement in connection with land previously acquired for parks and playgrounds.

(4) The city must require a minimum cash park dedication for commercial or industrial plats or waivers of 5% of fair market land value. However, where the City Council deems it in the public interest (i.e. comprehensive plan or flood plain ordinance), it may require a minimum land dedication of five percent of the commercial or industrial land to be subdivided in lieu of a cash dedication. The lands must be indicated on the city's comprehensive plan or amendments, or must be designated on specific area plans for flood plain preservation, parks, trails, public open space or any combination thereof.

(5) Any lands which obtain a waiver of the subdivision requirements are subject to these regulations for the land being subdivided.

(6) Park dedication determinations (cash or land) are made by the city at the time of presentation of preliminary plats. If land is the required contribution, the property must be deeded to the city at the time of final plat approval. If cash in lieu of land is required, the amount will be determined upon the amounts set forth in this chapter in place at the time of application for final plat and paid as a part of the approval of the final plat.

(7) For purposes of this section, FAIR MARKET LAND VALUE is defined as the market value of the land within such plat, replat, or subdivision as of the date the preliminary plat, replat, or subdivision is presented to the City Council for approval. The City Assessor must establish values in the same manner as the Assessor determines the market value of the land for tax purposes, excluding, in determining such value, all value added to such land by improvements other than utilities, streets, and other public improvements serving such land, but including in such determination the highest and best use for which the land can be used under the existing zoning districts.

(8) The city must annually review the here and after stated fees and determine that they are consistent with current "fair market land values." The required park dedication fees must be established after review of current values by the City Assessor, who must advise the City Council of current values for the different zoning classifications.

(9) Land areas dedicated as park land must be based on the comprehensive plan, the Mississippi River Critical Area Plan, or subsequent localized planning studies.

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(10) Upon the advice of the City Assessor, the park dedication fees are as established by the fee resolution set forth as an Appendix to this code.

(11) Park land dedication or a cash contribution is not required on an existing residential parcel that is being subdivided if park land dedication on the parcel has previously been satisfied or if a house will remain on the parcel after it has been subdivided. Park land dedication or a cash contribution will be required for any new lots created by the subdivision.

('72 Code, § 345:59) (Ord. 1977-233(A), passed 1-10-77; Am. Ord. 1992-705, passed 9-14-92; Am. Ord. 1996-801, passed 3-25-96; Am. Ord. 1998-887, passed 8-10-98; am. Ord. 1999-905, passed 10-11-99; Am. Ord. 2001-961, passed 11-26-01; Am. Ord. 2005-1040, passed 6-6-05; Am. Ord. 2006-1061, passed 7-24-06) Penalty, see § 10.99

ROAD NAMING AND HOUSE NUMBERING

§ 151.070 ROAD DESIGNATIONS.

(A) The use of avenue, parkway, trail, drive, boulevard, way, court, terrace and circle suffixes must be used in identifying location and direction of roads.

(B) Roads must be designated as follows:

- (1) Roads that run north and south are alphabetical avenues or terraces.
- (2) Roads that run east and west are numerical avenues, trails or ways.
- (3) Roads that both originate and terminate on the same street, avenue or boulevard, are circles.
- (4) Cul-de-sacs (dead ends) are named courts.
- (5) A road must have only one name for its entire length.
- (6) Two roads must not be named alike, that is, have the same name or have similar sounding names.
- (7) The name of a road may change only if the road changes direction 45 degrees or more at the point of deviation.
- (8) All private roads must be labeled lanes and must maintain numerical and alphabetical sequence.
- (9) Meandering roads must be labeled boulevard, drive or parkway.
- (10) If the proposed street is an extension of an existing named street that name must be used. In all other cases the name of any street previously used within the

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county must not be used, unless such use is consistent with the county or community street naming system.

(11) The above named requirements may be modified in cases where the Fire and/or Police Departments recommend modifications to facilitate their providing for the safety of occupants of the subdivided lands. In some areas, changing the name of a street would confuse rather than assist the Fire and Police Departments.

('72 Code, § 345:61(1))

§ 151.071 HOUSE NUMBERING SYSTEM.

The standard method of assigning house numbers to each side of the street is as follows:

(A) On the east and west avenue, the even numbers to be assigned to the north side of the avenue and the odd numbers assigned to the south side of the avenue.

(B) On the north and south avenue, the even numbers to be assigned to the east side of the avenue and the odd numbers assigned to the west side of the avenue.

(C) On avenues with a deviation of more than 45 degrees from the north-south base line, the even numbers to be assigned to the north side of the avenue and the odd numbers assigned to the south side of the avenue.

(D) On avenues with a deviation of 45 degrees or less from the north side base line, the even numbers to be assigned to the east side of the avenue and the odd number to be assigned to the west side of the avenue.

(E) Circle streets are assigned numbers in staggered sequence to the number sequence of the drive, avenue or parkway on which it originates and terminates.

(F) Dead end roads are assigned numbers as if the road continued through, beginning with the smallest number of sequence at the road origin.

(G) Courts are assigned numbers conforming to the numerical sequence of the drive, avenue or parkway on which it originates.

(H) On a street that deviates 45 degrees or more (measured at the point of deviation) the number sequence will change accordingly.

(I) One-family dwellings and duplexes: one number will be assigned to each residential unit determined by the location of the principal entrance.

(J) Multiple-family dwellings: a number will be assigned to the entire structure with individual numbers or letters assigned to each dwelling unit starting with the number "1." Multiple dwelling units consisting of two or more floors must designate each floor starting from the bottom up in a sequential order.

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(K) Hotels and motels: a number will be assigned to the front entrance of the hotel and motel with individual numbers of letters assigned to each unit starting with the number "1."

(L) Business structures: a number will be assigned to each entrance, but only one number per building establishment for each street frontage.

(M) Split lots: a structure located on two or more lots will be assigned a number determined by the location of the fronting entrance measured from the preceding grid line.

(N) Blocks: a structure located on the entire length or width of a grid block will be assigned a number determined by the location of the fronting entrance.

(O) Corner lots: a structure located on a corner lot will be assigned a number determined by the principal entrance. If the structure is so located that it would be considered fronting on either street, then it would be assigned a number determined by the north-south number sequence.

(P) Each principal building or structure must display address numbers. Address numbers must be a minimum of four inches in height. Address numbers must be placed on the structure with an unobstructed view from the street. Numbers must be illuminated, reflectorized or of a contrasting color to the background. Background must maintain a minimum six inch perimeter around numbers.

('72 Code, § 345:61(2)) (Am. Ord. 1974-176(A), passed 12-9-74; Am. Ord. 1977-243(A), passed 4-11-77; Am. Ord. 1979-303(A), passed 11-13-79)

REQUIRED IMPROVEMENTS

§ 151.085 PURPOSE.

M.S. § 462.358, Subd. 2A, authorizes the city to condition approval of the subdivision of property on the construction and installation of certain utilities. The intent of this section is to specifically set out the required improvements which promote and protect the public health, safety and general welfare. The city reserves the right to require additional improvements if deemed necessary by circumstances and conditions unique to these particular lands. No subdivision of land is allowed unless storm sewer, sanitary sewer and a municipal water supply are constructed to serve the area being divided unless some other ordinance or statute specifically authorizes said division.

('72 Code, § 345:64) (Am. Ord. 1984-447(A), passed 4-9-84)

§ 151.086 LISTED AND DESCRIBED.

Prior to the approval of a final plat by the City Council, the subdivider must have agreed in the manner set forth below to install, in conformity with utility construction plans approved by the City Engineer and in conformity with all applicable standards and ordinances of the City of Brooklyn Park, the improvements on the site, as described in this section as follows:

(A) Monuments. Monuments of a permanent character as required by M.S. § 505.02, must be placed at each corner or angle on the outside boundary of the subdivision and pipes or steel rods must be placed at each corner of each lot and each intersection of street center lines.

(B) Streets and alleys. The full width of the right-of-way of each street and alley dedicated in the plat must be graded and improved. All streets and alleys must have an adequate sub-base and must be improved with an all-weather permanent surface in accordance with the design standards specified by the Minnesota Department of Transportation Specifications for Highway Construction on file in the office of the City Engineer. Boulevard areas must be sodded including those areas under state and county jurisdiction.

(C) Curb and gutter. A concrete curb and gutter must be installed on both sides of each street dedicated in the plat.

(D) Water supply.

(1) Water mains must be provided to serve the subdivision by extension of an existing community system. Service connections must be stubbed into the property line and all necessary fire hydrants must also be provided. Extensions of the public water supply system must be designed so as to provide public water in accordance with the standards of the City of Brooklyn Park.

(2) In areas being platted for rural estate development with large lots, as specified in the zoning ordinance, individual wells must be provided on each lot, properly placed in relationship to the individual sewage disposal facilities on the same and adjoining lots. Well location plans must be submitted for approval to the Building Department.

(E) Sewage disposal.

(1) Sanitary sewer mains and service connections must be installed to serve all the lots in the subdivision and must be connected to the public system.

(2) In areas being platted for rural estate development with large lots, as specified in the zoning ordinance, individual on-site sewage disposal facilities must be provided for each lot, properly located with reference to the wells on the same and adjoining lots, and the disposal facilities on adjacent lots. The subdivider must have made and submit the results of tests to ascertain subsurface soil, rock and ground water conditions in such a subdivision. Plans for individual on-site facilities must be submitted for the approval of the City Engineer and the Building Department and must comply with all requirements of the Minnesota Department of Health.

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(F) Drainage. The grade and drainage requirements for each plat must be established by the City Engineer at the expense of the applicant. Every plat presented for final signature must be accompanied by a certificate of the City Engineer that the grade and drainage requirements have been met. In an area not having municipal storm sewer trunk service, the applicant is responsible, before platting, to provide for a storm water disposal plan, without damage to properties outside the platted area, and the storm water disposal plan must be submitted to the City Engineer who must report to the Council on the feasibility of the plan presented. No plat will be approved before an adequate storm water disposal plan is presented to and approved by the City Engineer and City Council. The use of dry wells for the purpose of storm water disposal is prohibited.

(G) Landscaping.

(1) Two trees, balled and burlapped, must be planted or exist within the front yard setback of each newly created single family lot and must be at least two and one-half inch caliper as measured in accordance with the most current edition of American Standard for Nursery Stock. Two trees, balled and burlapped, of one and one-half inch caliper may be substituted for one of the required two and one-half inch trees. Trees must not be planted within public rights-of-way except by specific City Council approval.

(2) The city contains a number of cottonwood trees which are weed trees and which have a tuft of cotton hairs on the seed. These tufts of cotton hairs become airborne and float to other properties, fouling up air conditioning units and other mechanical devices which need to breathe, and are a general nuisance. Cottonwood trees or members of the cottonwood tree family which have these tufts of cotton hairs on their seeds must not be planted in the subdivision or in the city, and the subdivider is encouraged to remove any such trees which are located within the subdivision.

(H) Traffic control and street signs. Traffic control signs pursuant to M.S. § 169.06 and street signs of standard design approved by the City of Brooklyn Park must be installed at each street intersection or at such other locations within the subdivision as designated by the Director of Public Works.

(I) Shorelines. Where a subdivision includes any portion of the shoreline of a meandered stream, or river, no less than 5 percent of the portion of the shoreline lying within a subdivision may be dedicated for use by the public along with sufficient land to allow access to a publicly dedicated street. This land may be a part of, or equal to, the percent of land or cash requirement per acre required for dedication as public land under § 151.071 of this chapter.

(J) Public utilities. All utility lines for franchised utility services must be placed underground and may be placed in the street right-of-way or adjacent easements. However, first consideration for the placement of all franchised utilities will be within easements along rear lot lines. Allowances are made for appurtenances and associated equipment such as surface mounted transformers, pedestal mounted terminal boxes and meter cabinets. All above-ground equipment associated with the provision of franchised utility services within newly created subdivisions must be screened from ground level view when such equipment is adjacent to and/or visible from a public right-

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of- way. Live plant material, which at maturity will provide the necessary screening, must be used for this purpose.

(K) Street lights. Street lights must be installed per city specifications at all intersections and at other locations as required by the City Engineer. The city strongly encourages the use of decorative lighting fixtures.

(L) Sidewalks. All plats with lots or tracts abutting on principal arterials, "A" or "B" minor arterials, Class I and II collectors, or commercial and/or industrial streets must have concrete sidewalks installed on both sides of the dedicated street right-of-way in accordance with city specifications. Sidewalks will be required on one side of the right-of-way of local streets where it is necessary to provide linkages to proposed or existing trail systems or sidewalks, resulting in a continuous pedestrian network within and between subdivisions. However, sidewalks will not be required on residential cul-de-sac streets which do not exceed 600 feet in length.

(M) Driveways. In all subdivisions the subdivider must provide concrete or bituminous driveways in accordance with the following standards:

(1) There must be installed a concrete or bituminous driveway extending from the back of the curb or from the edge of the service street to the garage floor or garage floor apron for each lane or lanes of vehicular access to the street. If a building permit is issued and no garage is to be constructed, the concrete or bituminous driveway must be completed to the depth of the front yard setback as established in the zoning code of the city.

(2) No curb or driveway opening into any public street may be made unless the aforesaid construction of concrete or bituminous apron is installed in accordance with the preceding subdivision.

(3) All concrete or bituminous driveways must be constructed in accordance with the city specifications and reference therein to the Minnesota Department of Transportation Specifications for Highway Construction. The plans and specifications are on file in the office of the City Engineer.

(N) Walkways-pedestrian ways. Walkways must be incorporated into subdivisions for the purpose of enhancing pedestrian travel through and between subdivisions, to provide linkages to residential sidewalk systems and to enhance the quality of life through their value as residential and recreational amenities. Walkway locations must be determined by the City Council in accordance with these guidelines. Installation of a walkway should be completed by the developer prior to the sale of the abutting properties and designated on the approved plat as a walkway easement. Specifications for location and construction are as follows:

(1) Public walkway to a park or school must be provided at a separation distance of no greater than 1,000 feet from another existing or proposed walkway or sidewalk access. Exact distance is at the discretion of the City Council.

(2) Walkways must be constructed of bituminous or concrete material in accordance with city specifications.

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- (3) Fencing or shrubs will be considered at the discretion of the City Council.
- (4) The unsurfaced area within the walkway easement must be sodded.
- (5) The minimum corridor width for all trails and walkways must be at least 30 feet.
- (6) Walkways must be maintained by the city in cooperation with the adjacent property owner unless otherwise agreed to as part of an approved conditional use permit development.
- (O) Sodding of single family lots. All lots for new single family homes must be sodded from the public curb to the rear property line except as follows:
 - (1) In the R-1 District.
 - (2) Existing native plant communities. Existing native plant communities and ecosystems maintained in the natural state do not require sod. Native plant communities may be reestablished as a part of site development.
 - (3) Contiguous, undeveloped areas which have been disturbed during construction and are equal to or larger than one-third of the total size area must be seeded and maintained as a minimum. Disturbed areas less than one-third of the total area must be sodded and maintained. Within these undeveloped areas the following must be sodded: berms, swales, drainage ponds with slopes greater than four to one; and on corner lots all green areas in the yard abutting the public right-of-way from the front street curb to the rear property line and from the side street curb to the existing building setback.
 - (4) All open areas of the site not sodded or used as gardens must be planted with an approved ground cover. Ground cover must be planted in such a manner as to present a finished appearance and reasonably complete coverage within 12 months after planting with proper erosion control during plant establishment. Exceptions include areas designated as wetland, existing wooded areas or undisturbed areas containing natural vegetation, all of which must be maintained free of foreign and noxious materials as defined in Chapter 97 of this code.
 - (5) Landscape rock and mulch may be substituted for sod in shrub and flower planting beds and building maintenance strips.

('72 Code, § 345:64) (Am. Ord. 1984-447(A), passed 4-9-84; Am. Ord. 1986-501(A), passed ; Am. Ord. 1992-705, passed 9-14-92; Am. Ord. 2001-961, passed 11-26-01)

§ 151.087 PAYMENT FOR INSTALLATION.

The required improvements to be furnished and installed by the subdivider, which are listed and described above, are to be furnished and installed at the sole expense of the subdivider and at no expense to the city provided, however, that in the case of an improvement the cost of which would, by general policy of the city, be assessed only in part to the improved property and the remaining cost paid out of general tax levy, the City Council may make provision for payment of a portion of the cost by the city. If any

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improvement installed within the subdivision will be of substantial benefit to lands beyond the boundaries of the subdivision, the City Council may make provision for causing a portion of the cost of the improvement representing the benefit to such lands to be assessed against the same and in such case the subdivider will be required only to pay for such portions of the whole cost of the improvements as will represent the benefit to the property within the subdivision.

('72 Code, § 345:67)

§ 151.088 ENTRYWAY SIGNS; DEDICATION AND MAINTENANCE.

For every plat or subdivision of land in which there is to be placed a permanent entryway identification sign, a homeowners association or similar body shall be established to assume sole responsibility for the construction and maintenance of such sign(s). Estimated costs for sign construction shall be incorporated into the calculation of on-site development bonds.

('72 Code, § 345:68) (Ord. 1992-705, passed 9-14-92; Am. Ord. 2001-961, passed 11-26-01)

§ 151.089 AGREEMENT PROVIDING FOR PROPER INSTALLATION OF IMPROVEMENTS.

(A) Prior to installation of any required improvements, the subdivider must enter into a development contract prepared by the city and must submit the sureties required by § 151.090 of this chapter.

(B) The development contract shall require the subdivider to furnish and construct the improvements at the sole cost of the subdivider and in accordance with the plans and specifications approved by the City Council. The development contract shall provide for sufficient funds to be escrowed to cover the cost of construction. The City Engineer may require the developer to have their contractor or subcontractor coordinate the work to be done under the contract and also coordinate any other work being done or contracted by the city in the vicinity.

(C) In accordance with the terms of the contract, the subdivider must provide sureties to the city as set forth in § 151.090 of this chapter. A reduction to the sureties prior to the recording of the final plat may be granted to the subdivider, at the subdividers request, based on completion of part or all of the off-site improvements which have been accepted and approved by the city. If any work begins prior to final platting, one-third of the required grading estimate must be posted as a cash bond prior to commencement of any improvements. The time for completion of work must be determined by the City Council upon recommendation of the City Engineer after consultation with the subdivider and must be reasonable in relation to the work to be

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done, the season of the year, and proper correlation with construction activity in the subdivision.

(D) No reduction in the cash escrow as required by § 151.090 will be made until all items covered in the subdivider's contract have been accepted by the city.

(E) Once the necessary improvements have been completed and approved by the city, the developer shall provide to the city a one year 100% warranty maintenance bond. Said bond shall run from date of acceptance by the city of all construction items.

('72 Code, § 345:70) (Am. Ord. 1994-756, passed 5-9-94; Am. Ord. 2008-1092, passed 8-25-08)

§ 151.090 FINANCIAL GUARANTEE.

The development contract provided by § 151.089 of this chapter must require the subdivider to provide sureties to the city by a cash deposit, certified check, irrevocable letter of credit, or a performance bond as follows:

(A) Required sureties.

(1) Off-site surety.

(a) A surety must be provided to the city in a sum equal to 150% the total cost of the improvements as estimated by the City Engineer. Of the total amount, 5% or \$2,000, whichever is the greater, must be posted as a cash bond escrow to be held in a non-interest bearing account, and 95% of the total shall be posted as cash, an irrevocable letter of credit, a subdivision bond or a performance bond. This financial security must be automatically renewed and shall not expire until released by the city. These guarantees must be filed with the city prior to release of the final plat for recording.

(b) Items covered by these guarantees must include, but not be limited to, water mains, sanitary sewers, storm sewers, bituminous streets with concrete curb and gutter, street lights, and sidewalks. These financial guarantees are for all of the improvements to be furnished and installed by the subdivider, pursuant to the development contract, and which have not been completed prior to filing of the final plat.

(c) The city is entitled to reimburse itself out of the cash bond escrow for any costs and expense incurred by the city for completion of the work in case of default by the subdivider. Upon completion of the work and termination of any liabilities to the city by the subdivider under the contract, the balance remaining of the cash bond escrow must be refunded to the subdivider.

(2) On-site surety.

(a) A surety to the city must be provided by the subdivider in a sum equal to 100% of the amounts established for on-site bonding by the Department of Community Development. Five percent of the total estimates must be posted as a cash bond

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escrow to be held in a non-interest bearing account, and 95% of the total shall be posted as cash, an irrevocable letter of credit, a subdivision bond or a performance bond. This financial security must be automatically renewed and shall not expire until released by the city. This surety must be filed with the city prior to release of the final plat for recording.

(b) Items covered by this surety must include, but not be limited to, landscaping as required by resolution, mailboxes, utility repair, adjustment and lot grading, as well as costs for any entryway sign. These financial guarantees are for all of the improvements to be furnished and installed by the subdivider, pursuant to the development contract, and which have not been completed prior to filing of the final plat.

(c) The city is entitled to reimburse itself out of the cash bond escrow for any cost and expense incurred by the city for completion of the work in case of default by the subdivider. Upon completion of the work and termination of any liabilities to the city by the subdivider under the contract, the balance remaining of the cash bond escrow must be refunded to the subdivider.

(B) Engineering/administrative escrow.

(1) A special engineering/administrative escrow must be paid in cash to the city, held in a non-interest bearing special subdivider's cash escrow account, and credited to the subdivider. The engineering/administrative escrow must be equal to at least 6½% of the amount of the subdivider's project improvements as estimated by the City Engineer, but not less than \$1,000.

(2) Costs of city services, expenses and materials provided in reviewing and processing of the final plat including but not limited to staff time, legal expenses incurred in plat approval, office and field checking, setting grade and drainage requirements, general supervision, staking, inspection, purchase and installation of street identification and traffic control signs, drafting as-built drawings, and all other city staff services performed in the processing of the improvements and plats, and administrative and legal expenses in examining title to the property being developed must be charged to the engineering/administrative escrow account and must be credited to the City of Brooklyn Park.

(3) The Council must promulgate and adopt a set of rules, regulations and fees for services rendered by city personnel, and the rules, regulations and fee schedules must be on file with the City Clerk for inspection. A copy thereof must be furnished upon request to the subdivider. The city must itemize all time, services and materials billed to any subdivider's cash escrow account. The subdivider making the deposit(s) in the subdivider's cash escrow account must, upon request, be furnished a copy of the itemized charges.

(4) If, at any time, the balance in the engineering/administrative escrow account is depleted to less than 5% of the originally required cash escrow amount, the subdivider must deposit additional funds in the account in an amount as determined by the City Manager, sufficient to cover all costs to be incurred by the city in processing the final plat.

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(5) If all, or a part, of a development has been completed, inspected and accepted, all cash escrow monies, for that portion accepted by the city, may be reduced by the City Council and full or partial payment be returned to the subdivider. Any balance remaining in the account upon completion of all platting conditions must be returned to the depositor by the Finance Department after all claims and charges thereto have been paid and after approval by City Council.

('72 Code, § 345:73) (Am. Ord. 1985-480(A), passed 3-18-85; Am. Ord. 1991-671(A), passed 2-11-91; Am. Ord. 1994-756, passed 5-9-94; Am. Ord. 2001-961, passed 11-26-01; Am. Ord. 2008-1092, passed 8-25-08)

§ 151.091 CONSTRUCTION PLANS.

(A) Construction plans for the required improvements conforming in all respects to the standards of the City Engineer and the ordinances of the City of Brooklyn Park must be prepared at the subdivider's expense by a professional engineer who is registered in the State of Minnesota and said plans must contain the seal of the profession engineer.

(B) Such plans together with the quantity of construction items must be submitted to the City Engineer for the City Engineer's approval and estimate of total cost of the required improvements; upon approval they will become a part of the contract required in § 151.089. Reproducible plans approved by the City Engineer plus two prints must all be furnished to the city to be filed by the City Engineer as a record in the Engineering Department. At the inspection, all required improvements on the site that are to be installed under the provisions of this chapter must be inspected during the course of construction by the City Engineer at the subdivider's expense, and acceptance must be subject to the City Engineer's certificate of compliance with the contract.

('72 Code, § 345:76)

§ 151.092 IMPROVEMENTS COMPLETED PRIOR TO THE APPROVAL OF FINAL PLAT.

Improvements within a subdivision which have been completed prior to application for approval of the final plat or execution of the contract for installation of the required improvements, will be accepted as equivalent improvements in compliance with the requirements of § 151.086 only if the City Engineer certifies that the existing improvements conform to applicable city standards.

('72 Code, § 345:79)

VARIANCES

§ 151.100 VARIANCES GENERALLY.

(A) The City Council may grant a variance from the regulations contained in this chapter following a finding that all of the following conditions exist:

(1) There are unique circumstances or conditions affecting the property, such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of the applicant's land.

(2) The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

(3) The granting of the variance will not be detrimental to the public welfare or injurious to the other property in the territory in which the property is situated and will not have an adverse effect upon traffic or traffic safety.

(B) In making this finding, the City Council must consider the nature of the proposed use of the land and existing use of the land in the vicinity, the number of persons who reside or work in the area, and the probable effect of the proposed variance upon traffic conditions in the vicinity.

(C) In granting variances as herein provided, the Council must prescribe conditions that it deems desirable or necessary to protect the public interest. In making a determination, the Council must find that:

(1) The proposed project will constitute a desirable and stable community development.

(2) The proposed project will be in harmony with adjacent areas.

(D) The application for any variance must be made in writing and addressed to the Planning Commission and the City Council and must be submitted to the Department of Community Development. The application must include the specific variances requested, the location of those variances and how it varies from the provisions of the chapter. The written application must be submitted to the Planning Commission for their advice and recommendation and the Planning Commission must report on the provisions set forth above. The Planning Commission must submit their recommendations to the City Council within 60 days after receiving the written application and required exhibits from the Department of Community Development.

('72 Code, § 345:85) (Am. Ord. 1984-447(A), passed 4-9-84)

§ 151.101 FEES.

Applications for variances, subdivisions, or waivers from the subdivision regulations must be accompanied by a fee as established by the City Council and § 151.014 of this chapter.

('72 Code, § 345:86) (Ord. 1972-123(A), passed 8-28-72)

§ 151.102 VARIANCE FOR CERTAIN HOMESTEADS.

(A) Purpose. The city has been a leader in the development of planning controls in the metropolitan area. The city was developed and has continued to develop with agricultural lands and large parcels of land located north of 85th Avenue North. The city recognizes that certain parcels and lands were divided and developed prior to the adoption of modern subdivision and zoning ordinances and that certain residents are burdened with parcels of land too large for a normal homestead but too small to create a viable or economic agricultural unit. This section regulates parcels of land less than 20 acres. It is determined that parcels of land which meet the following criteria are eligible for a one time variance pursuant to procedures set forth in § 151.100:

(1) Are larger than five acres in size.

(2) Have a homestead constructed prior to January 1, 1974.

(3) Can be divided with a residue parcel at least five acres in size. The residue parcel as herein referred to and described must not be the parcel upon which the homestead is located.

(4) The parcel with the homestead structure must meet the zoning requirements of 13,500 square foot lot with 100 feet of street frontage and setback requirements for the district in which it is located.

(5) No more than one non-conforming use may be created.

(6) Homestead as used herein refers to a structure used as a dwelling and not to the tax status of the parcel.

(B) Variances and non-conforming use. Variances granted for the aforescribed purpose will result in the creation of one non-conforming parcel containing a structure built prior to January 1, 1974 which meets the aforementioned requirements. The parcel is not considered as non-conforming in non-urban areas but rather than be required to meet all the requirements of the district in which it is located. No more than one variance will be granted for the purposes set forth in this section.

('72 Code, § 345:87) (Ord. 1977-254(A), passed 12-12-77)

MEMORANDUM

Date: February 21, 2024
To: Planning Commission Members
From: Amber Turnquest, Principal Planner
Subject: Comprehensive Plan Land Use Code Update

Stormwater Management Code Text Amendment

The Stormwater Management Code (Chapter 153) was amended for consistency throughout the Land Use title as well as changes made to reflect the current process.

Attachment A – Summary of Changes
Attachment B – Redline Text Amendment

C.1.C.A - WS - SUMMARY OF CHANGES - CH 153

Section	Title	Summary of Changes
153.06	Definitions	Definitions added to reflect current standards
153.07	Stormwater Management Plan	Updated standards consistent with current engineering standards
153.08	Erosion Control Plan	Technical changes including grammatical changes, updating formal names of applications for consistency, and minor changes to processes to ensure consistency with statutory requirements and engineering standards.

CHAPTER 153: STORMWATER MANAGEMENT

Section

- 153.01 Title
- 153.02 Purpose
- 153.03 Scope
- 153.04 Severability
- 153.05 Incorporation by reference
- 153.06 Definitions
- 153.07 Stormwater management plan
- 153.08 Erosion control plan

- 153.99 Penalty

§ 153.01 TITLE.

Chapter 153 of the Brooklyn Park City Code shall be known and may be referred to as the "Stormwater Management Ordinance" or the "Stormwater Management Chapter." When referred to herein it shall be known as "this chapter."

(Ord. 2017-1217, passed 7-10-17)

§ 153.02 PURPOSE.

This chapter is established to promote, preserve and enhance natural resources within the City of Brooklyn Park and protect them from adverse effects occasioned by poorly sited development or incompatible activities by regulating land disturbing or development activities that would have an adverse and potentially irreversible impact on water quality and unique or fragile environmentally sensitive land. This chapter minimizes conflicts and encourages compatibility between land disturbing and development activities and environmentally sensitive lands. By requiring detailed review standards and procedures for land disturbing or development activities proposed for such areas, this chapter achieves a balance between urban growth and development and the protection of water and natural resources within the city.

(Ord. 2017-1217, passed 7-10-17)

C.1.C.B - WS - REDLINES - CH 153 STORMWATER MANAGEMENT

§ 153.03 SCOPE.

(A) Applicability.

(1) Every applicant for subdivision approval, conditional use permit, or a grading permit to allow land disturbing activities must submit a stormwater management plan to the Engineering Department. The stormwater management plan shall be submitted with the building permit, grading permit application, or as directed by the Engineering Department. No subdivision approval or grading permit will be issued until approval of the stormwater management plan or a waiver has been obtained in conformance with the provisions of this chapter.

(2) Every applicant for subdivision approval or a grading permit that involves wetland disturbing activities or work near wetlands must submit a wetland assessment and delineation report to the Engineering Department. The wetland assessment and delineation report shall be submitted with the grading permit application, or as directed by the Engineering Department. No subdivision approval, or grading permit will be issued until approval of the wetland replacement plan application or a Certificate of Exemption has been obtained in conformance with the provisions of this chapter and the Minnesota Wetland Conservation Act of 1991, M.S. §§ 103G.222 - .2373 ("WCA").

(3) Every applicant for a building permit, subdivision approval, conditional use permit, or a grading permit must submit an application for an erosion control plan to the Engineering Department. The erosion control plan shall be submitted with the building permit application, land use application, grading permit application, or as directed by the Engineering Department. No grading permit or building permit will be issued until approval of the erosion control plan has been obtained in conformance with the erosion control measures, standards and specifications contained in the MPCA's Minnesota Stormwater Manual, or as otherwise approved by the City Engineer.

(B) Exemptions. The provisions of this chapter do not apply to:

(1) Any part of a subdivision if a preliminary plat for the subdivision that has been approved by the City Council on or before the effective date hereof.

(2) Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.

(3) Excavations or land moving activities involving less than 50 cubic yards of soil.

(4) Emergency work to protect life, limb, or property.

(C) Waiver. The Engineering Department, may waive any of the requirements of this chapter upon making a finding that compliance with the requirement will involve an unnecessary hardship and the waiver of such requirement will not adversely affect the water quality and natural resources of the city or adversely impact environmentally sensitive land. The Engineering Department may require as a condition of the waiver that the applicant dedicates easements or construct certain facilities as it deems necessary.

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(Ord. 2017-1217, passed 7-10-17)

§ 153.04 SEVERABILITY.

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

(Ord. 2017-1217, passed 7-10-17)

§ 153.05 INCORPORATION BY REFERENCE.

(A) The following are hereby incorporated into this chapter by reference:

(1) ~~The National Pollutant Discharge Elimination System Permit, MN R100001 (NPDES Construction General Permit) issued by the MPCA, August 1, 2013, as amended. The NPDES Construction General Permit.~~

The Minnesota Pollution Control Agency's NPDES/SDS Construction Stormwater General Permit MNR100001 (CSW Permit) as amended in its entirety as now constituted and from time to time amended. The NPDES Construction Stormwater General Permit.

(2) The city's ~~Surface~~Local Water Management Plan. These standards shall serve as the official guide for principles, methods, and practices for proposed development activities.

(3) The Shingle Creek and West Mississippi Watershed Management Commissions Rules and Standards.

(Ord. 2017-1217, passed 7-10-17)

§ 153.06 DEFINITIONS.

For purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

APPLICANT. The owner, their agent, or representative having interest in land where an application for city review of any permit, use or development is required by this chapter.

BEST MANAGEMENT PRACTICE (BMP). Practices to reduce the volume of runoff, and improve water quality, to prevent pollution of waters of the state. **BEST MANAGEMENT PRACTICES** are designed to reduce stormwater runoff volume, peak flows, and/or nonpoint source pollution through evapotranspiration, infiltration,

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detention, and filtration, and may include activities, prohibitions of practices, treatment requirements, operating procedures, and other management practices.

CHANNEL. A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CONSTRUCTION ACTIVITY. Any disturbance to the land that results in a change in the topography, existing soil cover, or the existing soil topography that may result in accelerated stormwater runoff, including clearing, grading, filling, and excavating.

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

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

FLOOD FRINGE. All the land in a flood plain not lying within a delineated flood way. Land within a floodway fringe is subject to inundation by relatively low velocity flows and shallow water depths. The flood fringe includes at a minimum, the areas designated as zone AE on the Flood Insurance Rate Map outside of the floodway, except as modified on the Zoning Overlay Map.

FLOOD PLAIN, GENERAL. A 100-year flood plain area shown on the Flood Insurance Rate Map where flood way and flood fringe boundaries and/or 100-year flood elevations have not been determined. These areas include areas designated as Zone A on the Flood Insurance Rate Map and zone AE areas where a floodway is not shown.

FLOODWAY. The channel of a natural stream or river and portions of the flood plain adjoining the channel, which are reasonably required to carry and discharge the flood water or flood flow of any natural stream or river. The floodway, at a minimum, includes the floodway areas shown on the Flood Insurance Rate Map and as depicted on the Zoning Overlay Map.

FULLY RECONSTRUCTED IMPERVIOUS. Areas where impervious surfaces have been removed down to the underlying soils. Activities such as structure renovation, mill and overlay projects, full depth reclamation projects, and other pavement rehabilitation projects that do not expose underlying soils beneath the structure, pavement, or activity are not considered fully reconstructed (see figure below). Maintenance activities such as catch basin repair/replacement, utility repair/replacement, pipe repair/replacement, lighting, and pedestrian ramp improvements are not considered fully reconstructed.

FULL DEPTH RECLAMATION. A rehabilitation method in which the full thickness of the asphalt pavement is pulverized and blended with a predetermined portion of underlying materials (base and/or subbase) to provide an upgraded, homogeneous material.

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

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

IMPERVIOUS SURFACE. Any surface that prevents absorption of water into the ground. Examples of impervious surfaces include, but are not limited to, cement, asphalt, and paving brick.

LAND DISTURBING OR DEVELOPMENT ACTIVITIES. Any change of the land surface including removing vegetative cover, excavating, filling, grading, and the construction of any structure.

LINEAR PROJECT. Linear projects are projects with construction of new or fully reconstructed roads, trails, sidewalks, or rail lines that are not part of a common plan of development or sale

MAINTENANCE AGREEMENT. A document recorded against the property which provides for long-term maintenance of stormwater treatment practices.

NEW DEVELOPMENT. Any construction activity that is not defined as redevelopment.

NEW IMPERVIOUS SURFACE. Any newly constructed surface area that changes the infiltration rate from a pervious surface to that of an impervious surface.

PERSON. Any individual, firm, corporation, partnership, franchisee, and association.

PERVIOUS SURFACE. Any surface area that allows infiltration of all or the majority of the precipitation that falls on it. Pervious surfaces include turfgrass, rain gardens, planting beds, and other infiltration BMPs.

PLAN. A stormwater management plan governed by this chapter.

PUBLIC WATERS. Waters of the state as defined in M.S. § 103G.005, Subd. 15, as it may be amended from time to time.

REDEVELOPMENT. Any construction activity where, prior to the start of construction, the areas to be disturbed have 15% or more of impervious surface.

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.

RETENTION FACILITY. A permanent natural or human-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.

STORMWATER MANAGEMENT. The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak discharge rates.

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STORMWATER TREATMENT PRACTICES. Measures, either structural or nonstructural, that are determined to be the most effective and practical means of preventing or reducing point source or nonpoint-source pollution inputs to stormwater runoff and waterbodies.

STRUCTURE. Anything manufactured, constructed, or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.

WATERCOURSE. A permanent or intermittent stream or other body of water, either natural or fabricated, which gathers or carries surface water.

WATERSHED. The total drainage area contributing runoff to a single point.

WETLAND. Poorly drained, environmentally sensitive lands as designated by M.S. § 103G.221 et seq. known as the Wetland Conservation Act, or any other state or federal agency.

(Ord. 2017-1217, passed 7-10-17)

§ 153.07 STORMWATER MANAGEMENT PLAN.

(A) Approval procedures.

(1) **Application.** A written application for stormwater management plan approval, along with a proposed stormwater management plan and maintenance agreement, shall be filed with the Engineering Division of the Operations and Maintenance Department. The application shall include a statement indicating the grounds upon which the approval is being requested, that the proposed use is permitted by right or as an exception in the underlying zoning district, and adequate evidence showing that the proposed use will conform to the standards set forth in this chapter and the City Code.

(2) Required plan submittals.

(a) Two sets of clearly legible blue or black lined copies of drawings, electronic copy of drawings, and required information shall be submitted to the Engineering Division of the Public Works Department along with the process and approval fee. The plans shall be drawn at a minimum scale of one inch equals 100 feet and shall contain the following information:

1. **Existing site map.** A map of existing conditions showing the site and immediately adjacent areas within 200 feet of the site, including:

a. The name and address of the applicant, the section, township and range, north point, date and scale of drawing and number of sheets.

b. The location of the property by showing an insert map at a scale sufficient to clearly identify its location and giving such information as the name and numbers of

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adjoining roads, railroads, utilities, subdivisions, cities, townships and districts or other landmarks.

c. The existing topography with a contour interval appropriate to the topography of the land but in no case having a contour interval greater than two feet.

d. A delineation of all ponds, infiltration features, streams, rivers, public waters and wetlands located on and immediately adjacent to the site, including the depth of the water, the normal water level (NWL), the 100-year high water level (HWL), the ordinary high water level (OHW), a description of all vegetation which may be found in the water, a statement of general water quality and any classification given to the water body or wetland by the Minnesota Department of Natural Resources (MnDNR), the MPCA or the United States Army Corps of Engineers (USACE).

e. The location and dimensions of existing stormwater drainage systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate stormwater is conveyed from the site, identifying the receiving stream, river, public water, or wetland, and setting forth those areas of the unaltered site where stormwater collects.

f. A description of the soils of the site, including a map indicating soil types of areas to be disturbed as well as a soil report containing information on the suitability of the soils for the type of storm water system proposed and describing any remedial steps to be taken by the applicant to render the soils suitable.

g. The location and description of any vegetative cover and a clear delineation of any vegetation proposed for removal.

h. The location of 100-year floodplains, flood fringes and floodways.

i. The locations of any existing overhead or underground utilities.

j. The locations of property lines and easements.

k. A city approved benchmark listing location and elevation.

(3) Site construction plan. A site construction plan including:

(a) Locations and dimensions of all proposed land disturbing activities and any phasing of those activities.

(b) Total site area.

(c) Total area disturbed.

(d) Locations and dimensions of all temporary soil or dirt stockpiles.

(e) Locations and dimensions of all construction site erosion control measures necessary to meet the requirements of this chapter. A schedule of the anticipated start and completion date of each land disturbing activity including the installation of construction site erosion control measures needed to meet the requirements of this chapter.

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(f) Provisions for maintenance of the construction site erosion control measures during construction.

(4) Plan of final site conditions. A plan of final site conditions on the same scale as the existing site map showing the proposed site changes, including:

(a) Finished grading shown at contours at the same interval as provided above or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features.

(b) A landscape plan, drawn to an appropriate scale, including dimensions and distances and the location, type, size and description of all proposed landscape materials which will be added to the site as part of the development.

(c) A drainage plan of the developed site delineating in which direction and at what rate stormwater will be conveyed from the site and setting forth the areas of the site where stormwater will be allowed to collect.

(d) The proposed size, alignment and intended use of any structures to be erected on the site.

(e) A clear delineation and tabulation of all areas which will be paved or surfaced, including a description of the surfacing material to be used.

(f) Any other information pertinent to the particular project which, in the opinion of the applicant or the Engineering Department, is necessary for the review of the project.

(g) Proposed normal water level (NWL), 100-year high water level (HWL), ordinary high water level (OHW) of any ponds, infiltration facilities, streams, rivers, public waters, or wetlands on or downstream from the site.

(h) Building elevations including low floor elevations and low building opening elevations.

(i) Overland emergency overflow routes and their elevations.

(5) Stormwater calculations. Calculations demonstrating the following data shall be provided, according to the method established by the Engineering Department:

(a) Drainage maps that show the site, land that drains onto the site, and land that the site drains onto for existing and proposed conditions. Delineated drainage areas for ponds, wetlands, or other relevant waters should be indicated on these maps.

(b) A stormwater model conforming to Engineering Department standards that includes drainage areas, cover types, pond and wetland sizes, pond and wetland outlets, and natural or piped conveyance systems.

(c) Peak runoff rates from the site before and after development demonstrating that the proposed conditions conform to the policies outlined in the city's ~~Surface~~Local Water Management Plan and this chapter's design criteria.

(d) Volume of runoff from the site before and after development.

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(e) National Urban Runoff Program ("NURP") volume below the normal outlet required and provided in each pond.

(f) Infiltration calculations for proposed conditions.

(g) A narrative summarizing the calculations and demonstrating that proposed drainage alterations do not unreasonably burden upstream or downstream land.

(h) Soil borings, if requested by the Engineering Department.

(6) Maintenance agreement. The applicant shall enter into a maintenance agreement with the city that documents all responsibilities for operation and maintenance of long-term stormwater treatment practices. Such responsibility 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 Hennepin County recorder's office prior to final plan approval. At a minimum, the maintenance agreement shall describe the following inspection and maintenance obligations:

(a) The responsible party who is permanently responsible for maintenance of the structural and nonstructural measures.

(b) Pass responsibilities for such maintenance to successors in title.

(c) Allow the city and its representatives the right-of-entry for the purposes of inspecting all permanent stormwater management systems.

(d) 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 stormwater management system.

(e) Include a maintenance plan that contains, but is not limited to the following:

1. Identification of all structural permanent stormwater management systems.

2. 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.

3. Identification of the responsible party for conducting the inspection, monitoring and maintenance for each practice.

4. Include a schedule and format for reporting compliance with the maintenance agreement to the city.

(f) The issuance of a permit constitutes a right-of-entry for the community or city, its contractors, and agents to enter upon the construction site. The applicant shall allow the community city, its contractors, agents and any their authorized representatives, upon presentation of credentials, to:

1. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations or surveys.

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2. Bring such equipment upon the permitted development as is necessary to conduct such surveys and investigations.
3. 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.
4. Inspect the stormwater pollution control measures.
5. Sample and monitor any items or activities pertaining to stormwater pollution control measures.
6. Correct deficiencies in stormwater and erosion and sediment control measures.

(B) Stormwater management plan review procedure.

(1) Process. Stormwater management plans and maintenance agreements meeting the requirements of this chapter shall be submitted to the Engineering Department for review and approval. The Engineering Division shall recommend approval, approval with conditions, or denial of the stormwater management plan and maintenance agreement to the Planning Commission. Following Planning Commission review, the stormwater management plan and maintenance agreement shall be submitted to the City Council for its review along with the Planning Commission's recommendation.

(2) Duration. Approval of a stormwater management plan and maintenance agreement submitted under the provisions of this chapter shall expire two years after the date of approval by the City Council unless construction has commenced in accordance with the plan. However, if prior to the expiration of the approval, the applicant makes a written request to the Engineering Department for an extension of time to commence construction setting forth the reasons for the requested extension, the City Council may grant one extension of not greater than one single year.

(3) Revisions. A stormwater management plan and maintenance agreement may be revised. All revised plans must contain all information required by this chapter and must be reviewed and approved by the Engineering Department.

(4) Conditions. A stormwater management plan and maintenance agreement may be approved by the City Council subject to compliance with conditions that are necessary to ensure that the requirements contained in this chapter 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; require that the work be staged over time; require alteration of the site's design to ensure buffering; or require the conveyance to the city or other public entity of certain lands or interests therein.

(5) Agreement. Upon approval of the stormwater management plan and maintenance agreement by the City Council, the applicant shall enter into an agreement with the city to ensure that any required improvements are constructed, any required

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easements are granted or dedicated and that there is compliance with any conditions imposed by the City Council. The agreement shall guarantee completion and compliance with the conditions within a specific time, which time may be extended by the City Council. The agreement shall be in a form acceptable to the city.

(6) Financial guarantee. Upon approval of the stormwater management plan and maintenance agreement by the City Council, the applicant shall submit a letter of credit, or cash escrow, to cover 125% of the amount of the established cost of complying with the stormwater management plan. This financial guarantee shall be in a form acceptable to the city and may be incorporated into the financial guarantee provided for grading activities and/or the financial guarantee provided for street and utility activities.

(7) Fees. All applications for stormwater management plan and maintenance agreement approval shall be accompanied by a processing and approval fee as set by the most recent edition of the city's adopted Fee Schedule.

(C) Stormwater management plan approval and implementation standards.

(1) Compliance with standards. No stormwater management plan which fails to meet the standards contained in this section shall be approved by the City Council.

(2) All stormwater management plans must be submitted to the City Engineer prior to the start of construction activity. At a minimum all applicants shall meet the criteria set forth below and observe the standards established in NPDES Construction Stormwater General Permit requirements.

(3) The city adopts the MPCA's Minnesota Stormwater Manual as its stormwater runoff design standards.

(4) All stormwater management plans must address erosion and sediment control requirements of this chapter.

(5) Stormwater management requirements for permanent facilities.

(a) An applicant shall install or construct, on or for the proposed land disturbing or development activity, all stormwater management facilities necessary to meet the criteria of the NPDES Construction Stormwater General Permit. No private stormwater facilities will be approved by the city unless a maintenance agreement and maintenance plan are provided that defines who will conduct the maintenance, the type of maintenance and intervals of the maintenance to be performed. In the alternative, or in partial fulfillment of this requirement and upon approval of the Engineering Department, an applicant may make an in-kind or monetary contribution to the development and maintenance of regional stormwater management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant.

(b) Proposed stormwater management plans shall incorporate volume control, water quality control, and rate control as the basis for stormwater management in the proposed development plan on sites without restrictions. All proposed projects shall be in conformance with the most current requirements of the MPCA's Municipal Separate

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Storm Sewer Systems (MS4) Permit and the Shingle Creek and West Mississippi Watershed Management Commissions, as applicable.

1. Volume control.

a. New development projects less than one acre in size.

i. The applicant shall provide a detailed plan and/or narrative describing the BMPs that will be incorporated in the development to reduce runoff volume and improve water quality.

ii. There shall be no net increase from pre-project conditions (on an annual average basis) of:

1) Stormwater discharge volume, unless precluded by the stormwater management limitations as defined by the MPCA's MS4 Permit.

2) Stormwater discharges of total suspended solids (TSS).

3) Stormwater discharges of total phosphorus (TP).

b. New development. For new, nonlinear developments, stormwater runoff volume abstraction via infiltration will be controlled and the post-construction runoff volume shall be retained on site for ~~1-0~~1.1 inches of runoff from all impervious surfaces on the site that result in a net increase of impervious of one acre or greater. If filtration of the water quality volume is deemed necessary through alternative compliance sequencing, the required stormwater runoff volume shall be multiplied by 1.82 (i.e. 55% filtration credit) and the filtration BMP shall provide this storage volume below the invert of the low overflow outlet of the BMP (perforated drain pipes for filtration will not be considered the low overflow outlet).

c. Redevelopment. For redevelopment projects, stormwater runoff volume abstraction via infiltrations will be controlled and the post-construction runoff volume shall be retained on site for ~~1-0~~1.1 inches of runoff from the new impervious surfaces created by the project. If filtration of the water quality volume is deemed necessary through alternative compliance sequencing, the required stormwater runoff volume shall be multiplied by 1.82 (i.e. 55% filtration credit) and the filtration BMP shall provide this storage volume below the invert of the low overflow outlet of the BMP (perforated drain pipes for filtration will not be considered the low overflow outlet). There shall be a net reduction from pre-project conditions (on an annual average basis) of:

i. Stormwater discharge volume, unless precluded by the stormwater management limitations as defined by the MPCA's MS4 permit.

ii. Stormwater discharges of TSS.

iii. Stormwater discharges of TP.

D. Linear Projects. For linear projects, the water quality volume must be calculated as the larger of one (1) inch times the new impervious surface or one-half

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(0.5) inch times the sum of the new and the fully reconstructed impervious surface. Where the entire water quality volume cannot be treated within the existing right-of-way, a reasonable attempt to obtain additional right-of-way, easement, or other permission to treat the stormwater during the project planning process must be made. Volume reduction practices must be considered first. Volume reduction practices are not required if the practices cannot be provided cost effectively. If additional right-of-way, easements, or other permission cannot be obtained, owners of construction activity must maximize the treatment of the water quality volume prior to discharge from the MS4.

2. Water quality control. The water quality requirement is met if the project meets the volume control requirement outlined in 153.07C5b1.

a. Where infiltration is not advisable or infeasible due to site conditions, biofiltration must be provided for that part of the abstraction volume that is not abstracted by other BMPs. Where biofiltration is infeasible, at a minimum filtration through a medium that incorporates organic material, iron fillings, or other material to reduce soluble phosphorus must be provided.

b. There shall be no net increase in total phosphorus (TP) or total suspended solids (TSS) from pre-development land cover to post-development land cover. Predevelopment land cover is defined as the predominant land cover over the previous 10 years.

a. Full abstraction of 1.1 inches of runoff from all impervious surfaces will satisfy the water quality requirement.

b. If it is not feasible to achieve the full 1.1-inch abstraction requirement, a combination of BMPs may be used to achieve the no-net-increase requirement using a water quality calculation method as outlined in the Minnesota Stormwater Manual.

c. If permanent sedimentation and water quality ponds are used, they shall be designed to the standards set forth in the Minnesota Stormwater Manual.

d. Runoff may be directed to a downstream facility within the same hydrologic subwatershed that has sufficient capacity to provide the required treatment. This means that no treatment may be required for an individual development provided there is a regional facility designed and constructed to accommodate the flow from this property

~~_____ a. New development. Water quality treatment is required to meet NURP guidelines and to result in no net increase from pre-project conditions (on an annual average basis) of stormwater discharges of TSS and TP for projects that result in a net increase of impervious of one acre or greater.~~

~~_____ b. Redevelopment. Water quality treatment is required to meet NURP guidelines and to result in a net reduction in pre-project conditions (on an annual~~

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~~average basis) of stormwater discharges of TSS and TP for projects that have construction activity that is one acre or greater in size.~~

3. Rate control. Rate control measures are required on new development and redevelopment projects to meet this chapter's design criteria, the Minnesota Stormwater Manual and Shingle Creek and West Mississippi River Watershed Management Commissions requirements.

(c) The applicant shall reduce the need for stormwater treatment practices 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.

(d) The following stormwater management practices shall be investigated by the applicant in developing a stormwater management plan in the following descending order of preference, and the results of that investigation shall be provided to the city in written form as a part of the application:

1. Natural infiltration of precipitation on-site.
2. Flow attenuation by use of open vegetated swales and natural depressions.
3. Green infrastructure by use of rain gardens, bioswales, constructed wetlands, and other constructed infiltration practices.
4. Stormwater retention facilities.
5. Stormwater detention facilities.

(e) A combination of stormwater treatment practices may be used to achieve the applicable minimum control requirements specified in the subsection above. Justification shall be provided by the applicant for the method selected.

(f) Pond design standards. Stormwater detention facilities constructed in the city shall be designed according to standards established by the Engineering Division of the Operations and Maintenance Department, and shall contain, at a minimum, the following design factors:

1. A permanent pool ("dead storage") volume below the principal spillway (normal outlet) which shall be greater than or equal to the runoff from a 2.5-inch, 24-hour storm over the entire contributing drainage area assuming full development.
2. A permanent pool average depth (basin volume/basin area) of four to ten feet.
3. An emergency overflow (emergency outlet) adequate to control the 100-year frequency critical duration rainfall event.
4. Basin side slopes below the 100-year high water level should be no steeper than 4:1, and preferably flatter. A basin shelf with a minimum width of ten feet and one

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foot deep below the normal water level is recommended to enhance wildlife habitat, reduce potential safety hazards, and improve access for long-term maintenance.

5. To prevent short-circuiting, the distance between major inlets and the normal outlet shall be maximized.

6. A flood pool ("live storage") volume above the principal outlet spillway shall be adequate so that the peak discharge rate from the 1-, 10- and 100-year frequency critical duration storm is not greater than the peak discharge for a similar storm and predevelopment watershed conditions.

7. Effective energy dissipation devices which reduce outlet velocities to four feet per second or less shall consist of riprap, stilling pools or other such measures to prevent erosion at all storm water outfalls into the basin and at the detention basin outlet.

8. Consideration for aesthetics and wildlife habitat should be included in the design of the pond.

9. A skimming device must be provided to deter floatable pollutants from discharging out of pond.

10. Pond NWL elevations shall be established above the OHW of adjacent MnDNR water bodies, except where topography of the site, floodplain mitigation activities, or other design considerations are determined to be unfavorable for these conditions to occur. This determination shall be performed by an engineer, provided by the applicant, and approved by the Engineering Division of the Operations and Maintenance Department.

11. All constructed ponds shall have a maintenance access bench sufficient to provide access to all inlets and outlets. The maintenance bench shall be located within a designated outlot or within a permanent easement. The maintenance bench shall extend from the outlet elevation to one foot above the outlet elevation and its cross slope shall be no steeper than 10:1. The maintenance bench shall connect to the maintenance access.

12. All constructed ponds shall be provided a maintenance access from an adjacent roadway. The maintenance access shall be provided in the form of an easement no narrower than 20 feet. The maintenance access shall have a longitudinal slope no steeper than 6:1 and minimal cross slope. Maintenance access routes, due to their extra width, also serve well as emergency overflow (EOF) routes.

(g) Infiltration requirements. BMPs will be required to the maximum extent practical as determined by the Engineering Division of the Operations and Maintenance Department or its designee.

1. Maximum extent practical shall be the infiltration of runoff from the 100-year, 24-hour rainfall event within 48 hours. The maximum extent practical may be less than this if the Engineering Division of the Operations and Maintenance Department determines that one or more of the following conditions apply:

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(a) Infiltration characteristics of soils on site are not favorable for infiltration of stormwater.

(b) The site's drainage course is to regional infiltration or detention facilities controlled by the city that reduce runoff volumes.

(c) When the site's impervious areas are not increased due to development.

(d) Other site conditions that make infiltration of stormwater impractical on the site as determined by the Engineering Division of the Operations and Maintenance Department.

(e) If one or more of these conditions apply, the Engineering Division of the Public Works Department shall quantify infiltration that will be deemed as the maximum extent practical for the site.

2. Infiltration will be prohibited where the infiltration BMP will be constructed in any of the following areas:

a. Where documented past, present, or anticipated future land uses have resulted in or may result in contamination coming in contact with stormwater runoff.

b. With less than three feet of separation distance from the bottom of the infiltration system to the elevation of the seasonally saturated soils or the top of bedrock.

c. Where vehicle fueling and maintenance occur.

d. Where industrial facilities are not authorized to infiltrate industrial stormwater under and NPDES/SDS Industrial Stormwater Permit issued by the MPCA.

3. Infiltration will be restricted and subject to additional city review where the infiltration BMP will be constructed in any of the following areas:

a. Within 1,000 feet up-gradient, or 100 feet down-gradient of active karst features.

b. Where drinking water supply management areas are present, as defined by Minn. Rules 4720.51000, subp.13, unless precluded by a local unit of government with an MS4 permit.

c. Soils are predominately Hydrologic Soil Group D (clay) soils.

d. Soil infiltration rates are more than 8.3 inches per hour unless soils are amended to slow the infiltration rate below 8.3 inches per hour.

4. Stormwater runoff shall be treated in a stormwater pond or by other means prior to entering an infiltration facility.

5. The minimum infiltration requirements for any region of the city will be the requirements of the Shingle Creek and West Mississippi River Watershed Management Commissions' policies that govern that region. Shingle Creek and West Mississippi

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River Watershed Management Commissions' standards may be met through the use of regional or downstream systems prior to discharge of runoff to waters of the state.

6. Infiltration systems must not be excavated to final grade until the contributing drainage area has been constructed and fully stabilized. When the infiltration feature is excavated to final grade, rigorous erosion prevention and sediment control BMPs must be implemented to keep sediment and runoff completely away from the infiltration area.

7. To prevent clogging of the infiltration system, a pretreatment device must be used to settle particles before the stormwater discharges into the infiltrations system.

8. Per the stormwater management requirements for permanent facilities section of this chapter, the infiltration system must provide a water quality volume (calculated as an instantaneous volume) of one inch of runoff (or one inch minus the volume of stormwater treated by another system on the site) from the new impervious surfaces created by the project.

9. The applicant must ensure filtration systems with less than three feet of separation from seasonally saturated soils or from bedrock are constructed with an impermeable liner.

10. A minimum maintenance access of 12 feet is required.

(h) Mitigation.

1. Where construction projects cannot meet the TSS and/or TP reduction requirements for new or development projects on the site of original construction, all methods must be exhausted prior to considering alternative locations where TSS and TP treatment standards can be achieved. If the City has determined that all methods have been exhausted, the permittee will be required to identify alternative locations where TSS and TP treatment standards can be achieved. Mitigation projects will be chosen in the following order of preference:

a. Locations that yield benefits to the same receiving water that receives runoff from the original construction activity.

b. Locations within the same MnDNR catchment area as the original construction activity.

c. Locations in the next adjacent MnDNR catchment area up-stream.

d. Locations anywhere within the City of Brooklyn Park.

2. In addition, mitigation projects must also meet the following criteria:

a. Mitigation projects shall involve the establishment new structural stormwater BMPs or the retrofit of existing structural stormwater BMPs, or the use of a properly designed regional structural stormwater BMP.

b. Previously required routine maintenance of structural stormwater BMPs cannot be considered mitigation.

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c. Mitigation projects must be finished within 24 months after the original construction activity begins.

d. A maintenance agreement specifying the responsible party for long-term maintenance shall be identified.

(i) Stormwater and infiltration facilities must be located at least 50 feet away from the top of bluff.

(j) Watershed management plans/groundwater management plans. Stormwater management plans shall be consistent with the Shingle Creek and West Mississippi River Watershed Management Commissions requirements and groundwater management plans prepared in accordance with Minnesota Board of Water and Soil Resources in accordance with state law.

(k) Easement. If the stormwater management plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests to permit the flow of water across the property.

(l) Low floor/building opening elevations.

1. Any new development or redevelopment shall maintain a minimum building opening elevation of at least three feet above the anticipated 100-year high water elevation as a standard practice. However, if the applicant demonstrates that this requirement would be a hardship, the standard may be reduced to two feet if all of the following can be demonstrated:

a. That, within the two-foot freeboard area, stormwater storage is available which is equal to or exceeds 50% of the storm water storage currently available in the basin below the 100-year elevation.

b. That a 25% obstruction of the basin outlet over a 24-hour period would not result in more than one foot of additional bounce in the basin.

c. That an adequate overflow route from the basin is available that will provide one foot of freeboard for the proposed low building opening.

2. Basement floor elevations must be set to an elevation that meets all of the following criteria:

a. The lowest floor elevation must be at least four feet above the currently observed groundwater elevations in the area.

b. The lowest floor elevation must be at least two feet above the elevation of any known historic high groundwater elevations for the area. Information on historic high groundwater elevations can be derived from any reasonable sources including piezometer data, soil boring data, percolation testing logs, etc.

c. The lowest floor elevation must be at least two feet above the 100-year high surface water elevation for the area unless it can be demonstrated that this

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standard creates a hardship. If the two-foot standard is determined by the City Council to constitute a hardship, the standard shall be at least one foot above the highest anticipated groundwater elevation resulting from a 100-year critical duration rainfall event. The impact of high surface water elevations on groundwater elevations in the vicinity of the structure should take into consideration the site's distance from the floodplain area, the soils, the normal water elevation of surface depressions in the area, the static groundwater table and historic water elevations in the area. This information shall be provided by a registered engineer or soil scientist.

(m) Impervious surface coverage of each lot must not exceed the impervious surface coverage allowed under the Zoning Ordinance.

(n) Storm sewers shall be designed to accommodate discharge rates associated with a 10-year, 24-hour rainfall event.

(Ord. 2017-1217, passed 7-10-17)

§ 153.08 EROSION CONTROL PLAN.

(A) Applicability.

(1) Application. An erosion control plan shall be submitted to the Engineering Division of the Operations and Maintenance Department when required by this chapter along with a grading permit application. All applications for a grading permit shall be accompanied by a processing and approval fee as set by the city's Fee Schedule.

(2) Required plan submittals. The erosion control plan shall contain all of the following with respect to conditions existing on site during construction and after final structures and improvements have been completed.

- (a) A description of and specifications for sediment retention and settling devices.
- (b) A description of, specifications for, and detail plates for surface runoff and erosion control devices.
- (c) A description of vegetative measures.
- (d) A detailed timetable for restoring all disturbed areas.
- (e) A graphic representation of the location of all specified erosion and sediment control devices.
- (f) An implementation schedule for installing and subsequently removing devices described above.
- (g) A maintenance schedule for all sediment and erosion control devices specified.
- (h) An estimate of the costs to implement all final and temporary erosion and sediment control measures.

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(i) An Information sheet on the parties responsible for constructing and maintaining the erosion control measures as shown on the erosion control plan. The information sheet should contain the phone numbers and addresses of at least two persons and indicate how they can be contacted at all times (days, nights, weekends, etc.) regarding repairing and maintaining the erosion control measures.

(j) The erosion control plan must contain details to specify which erosion and sediment control facilities are permanent and which are temporary.

(k) If required, a NPDES Construction Stormwater General Permit must be obtained from the MPCA prior to commencing construction activities. The associated stormwater pollution prevention plan (SWPPP) should be included in the erosion control plan and approved by the Engineering Division of the Operations and Maintenance Department prior to construction. A copy of the NPDES Construction Stormwater General Permit must be provided to the city prior to construction.

(3) Application review and inspection fees.

(a) The City of Brooklyn Park shall charge an application review fee for the review of the building permit application and the erosion control plan. As part of this review, the city will review the permittee's as-built survey submitted after the completion of grading activities to ensure that it conforms to the overall erosion control plan for the area. The application fee shall be set by the city's Fee Schedule.

(b) An inspection fee will be charged for any inspections of the site by the city that are needed to review corrective erosion control work or to follow up on previously incomplete work. This inspection fee will be deducted from the financial security. The amount will be set by the city's Fee Schedule. If this fee is not paid within 45 days, the fee may be taken from the financial security provided by the applicant.

(B) Implementation of erosion control plan. Prior to the start of any earthwork activities, the permittee must have in place and functional erosion and sediment controls as outlined on the approved erosion control plan and/or SWPPP. Additional erosion control measures may be required as directed by the Engineering Division of the Operations and Maintenance Department or its designee.

(1) No earthmoving activities shall commence until the erosion controls have been field inspected and approved by the Engineering Division of the Operations and Maintenance Department.

(2) At a minimum, the permittee shall meet the specifications set forth below and observe the standards established in the NPDES Construction Stormwater General Permit requirements:

(a) Soil stabilization. Soil stabilization shall be completed in a time period as specified by the NPDES Construction Stormwater General Permit and the city's general specifications and standards. The City of Brooklyn Park may require the site to be reseeded or a nonvegetative option employed.

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(b) Seeding. Seeding shall be in accordance with seeding specifications. All seeded areas shall be fertilized, mulched, and disc anchored as necessary for seed retention.

(c) Soil stockpiles. Soil stockpiles which shall be inactive for a period of 14 or more days must be stabilized or covered at the end of each workday. Stockpiles shall include perimeter sediment controls and must not be placed in natural buffers or surface waters, including stormwater conveyance systems.

(d) 90% coverage. The entire site must be stabilized at a 90% coverage, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.

(e) Site development sediment controls. Site development sediment controls practices shall include those identified in the city's general specifications including, but not limited to:

1. Settling basins, sediment traps, or tanks.
2. Protection for adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls.
3. Perimeter control including machine sliced silt fence or other city approved BMP, which shall be in place before, during and after grading of the site. Fencing shall be removed only after ~~70%~~final stabilization.
4. Designated as a temporary construction staging area.

(f) Temporary sediment basins. For sites that have more than ten acres of disturbed soil that drains to a common location (or, five or more acres for special or impaired waters), one or more temporary sediment basins shall be constructed. Use of temporary basins is encouraged when construction projects will impact steep slopes or when highly erodible soils are present. The basin shall provide treatment to the runoff before it leaves the construction site or enters surface waters. The temporary sediment basins must be designed and constructed as follows:

1. Provide live storage for a calculated volume of runoff from a two-year, 24-hour storm from each acre drained to the basin. All basins shall provide at least 1,800 cubic feet of live storage from each acre drained or more.
2. For basins where the calculation in § 153.08(B)(2)(f)1 has not been performed, a temporary sediment basin providing 3,600 cubic feet of live storage from each acre drained to the basin shall be provided for the entire drainage area of the temporary basin.
3. The outlet structure must be designed to withdraw water from the surface in order to minimize the discharge of pollutants.
4. The basin outlet shall be designed to prevent short-circuiting and the discharge of floating debris.

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5. Ensure the basin can be completely drawn down to conduct maintenance activities.

6. Include energy dissipation on the outlet of the basin and a stabilized emergency overflow to prevent failure of pond integrity.

7. Be located outside of surface waters or any buffer zone, and be designed to avoid draining water from wetlands unless appropriate approval from the USACE and the MnDNR is obtained.

8. If installation of a temporary sediment basin is infeasible equivalent sediment controls such as smaller sediment basins, and/or sediment traps, silt fences, vegetative buffer strips, or any appropriate combination of measures are required for all down-slope boundaries of the construction area and for side-slope boundaries where appropriate. Determination of infeasibility shall be documented in the erosion and sediment control plan.

(g) Individual construction site sediment controls. Individual construction site sediment controls shall include:

1. Rock construction entrance (driveway).
2. Perimeter controls including silt fence in-place before, during and after grading of the site. Fencing shall be removed only after proper turf establishment.

(h) Waterway and watercourse protection. Waterway and watercourse protection requirements shall include stabilization of the watercourse channel before, during and after any in-channel work consistent with the city's general specifications.

1. A temporary stream crossing must be installed and approved by the local government unit and regulating agency if a wet watercourse will be crossed regularly during construction.

2. The watercourse channel shall be stabilized before, during, and within 24 hours after any in-channel work.

3. No in-water work shall be allowed in public waters during the MnDNR's work exclusion dates.

4. Prior to placement of any equipment into any waters, all equipment must be free of aquatic invasive species.

5. All on-site stormwater conveyance channels designed according to the criteria outlined in this document. Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels is required.

(i) Site dewatering. Site dewatering shall be conducted pursuant to the NPDES Construction Stormwater General Permit. Water pumped from the site shall be treated by temporary sediment basins, grit chambers, sand filters, or other controls as appropriate to ensure adequate treatment is obtained and that nuisance conditions will not result from the discharge. Discharges from the site shall not be released in a

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manner that causes erosion, scour, sedimentation or flooding of the site to receiving channels or wetlands.

(j) Waste and material disposal. All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials or hazardous materials) shall be properly disposed of off-site and not allowed to be carried by runoff into a receiving channel or storm sewer system.

1. Solid waste. All unused building materials and waste (including, but not limited to: collected sediment, asphalt and concrete millings, floating debris, paper, plastic, fabric, etc.) must be disposed of accordingly and shall comply with disposal requirements set forth by the MPCA.

2. Hazardous/toxic waste. Paint, gasoline, oil and any hazardous materials must be properly stored, including secondary containment, to prevent spills, leaks or other discharges. Access to the storage areas must be restricted to prevent vandalism. Storage and disposal of hazardous or toxic substance must be in compliance with the requirements set forth by the MPCA.

3. Liquid waste. All other non-stormwater discharges (including, but not limited to, concrete truck washout, vehicle washing or maintenance spills) produced during the construction activity shall not be discharged to any surface waters.

4. External washing of equipment and vehicles. All external washing activities shall be limited to a designated area of the site. All runoff must be contained and wastes from external washing activities must be disposed of properly. No engine degreasing shall be allowed on the site.

5. Wastes generated by concrete and other washout operations. All liquid and solid wastes generated by any concrete or other washout operations must be contained in a leak proof facility or impermeable liner. Concrete waste must not come into contact with the ground. Concrete waste must be disposed of properly and in compliance with applicable MPCA regulations.

(k) Drain inlet protection. All storm drain inlets shall be protected during construction until all sources with potential for discharging to the inlet have been stabilized. Inlet protection measures must meet the city's standards and specifications.

(l) Energy dissipation. Pipe outlets must have temporary or permanent energy dissipation within 24 hours of connection to a surface water.

(m) Tracking. Vehicle tracking BMPs (including, but not limited to: rock pads, mud mats, slash mulch, concrete or steel wash racks, or similar systems) must be installed to minimize track out of sediment from the construction site. If vehicle tracking BMPs are not actively preventing sediment from being tracked into the street, the applicant must utilize street sweeping to contain sediment.

(n) Final stabilization. Final stabilization is not complete until the following criteria are met:

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1. All land disturbing activities must be finished and all soils shall be stabilized by a uniform perennial vegetative cover with a density of 70% or greater of its expected final growth density over the entire pervious surface area, or other equivalent means necessary to prevent soil failure under erosive conditions.

2. The permanent stormwater management system is constructed, meets all of the required design parameters and is operating as designed.

3. All temporary synthetic and structural erosion prevention and sediment control BMPs (such as silt fence) have been removed. BMPs designed to decompose on site may be left in place.

4. For residential construction only, individual lots are considered finally stabilized if the structure(s) are finished and temporary erosion protection and down gradient perimeter control has been completed and the residence has been sold to the homeowner.

5. For construction projects on agricultural land the disturbed land has been returned to its preconstruction agricultural use.

(3) The permittee must maintain the erosion and sediment control measures on the site to the satisfaction of the City Engineer throughout the entire construction process. If erosion and sediment control is not being maintained to the City Engineer's satisfaction, the city may perform remedial work on the site as outlined in this section.

(4) All erosion control systems must be maintained by the permittee in an acceptable condition until turf is established or structural surfaces are constructed to protect the soil from erosion.

(C) Inspection of erosion control plan. The city will make periodic inspections of the site to ensure compliance with the erosion control plan. The permittee or his/her agent shall ensure that a trained person will regularly inspect the construction site at least once every seven days until final stabilization and within 24 hours of a rainfall event of one-half inch or greater in a 24-hour period. All inspection and maintenance activities conducted on the site during construction must be recorded in writing and retained within the erosion control plan. Records of each inspection and maintenance activity shall include the following:

(1) Date and time of inspection.

(2) Name of person(s) conducting the inspection.

(3) Findings of inspections, including recommendations for corrective actions.

(4) Corrective actions taken, including the dates, times and the name of the party completing the corrective action.

(5) Date and the amount of rainfall events that are greater than one-half inch in a 24- hour period.

(6) Documentation of any changes made to the erosion and sediment control plan.

(D) Site and BMP maintenance. Prior to any construction, the developer shall provide the City Engineer with a schedule for erosion and sediment control inspection and maintenance, including schedules for street cleaning, and street sweeping. All site and BMP maintenance activities must comply with the requirements of the NPDES ~~Construction Stormwater~~ General Permit. The applicant shall investigate and comply with the following BMP maintenance requirements:

(1) Perimeter control. All perimeter controls must be repaired, replaced or supplemented when they become nonfunctional or the sediment reaches one-half of the height of the fence. Repairs shall be made by the end of the next business day after discovery or as soon as field conditions allow access.

(2) Temporary sediment basins. Temporary sedimentation basins must be drained and the sediment must be removed when the depth of the sediment collected in the basin reaches one half the storage volume. Drainage and removal must be completed within 72 hours of discovery or as soon as field conditions allow access.

(3) Surface waters and conveyance systems. Surface water, including drainage ditches and conveyance systems, must be inspected for visible signs of sediment being deposited by erosion. The applicant must remove all sediment deposited in surface waters, including drainage ways, catch basins, and other drainage systems and must restabilize the areas of exposed soil as a result of sediment removal. The removal and stabilization must take place within seven days of discovery unless legal, regulatory or physical access constraints prevent remediation. In the event of an access constraint, the applicant shall use all reasonable efforts to obtain access. If access is precluded, removal and stabilization must take place within seven calendar days of obtaining access. The applicant is responsible for contacting all local, regional, state and federal authorities and obtaining any required permits prior to conducting any work.

(4) Streets and impervious surfaces. Where vehicle traffic leaves any part of the site, the exit locations must be inspected for visible signs of off-site sediment tracking onto impervious surfaces. Tracked sediment must be removed from all off-site impervious surfaces as soon as possible or within 24 hours of discovery.

(5) General maintenance. The applicant shall be responsible for the operation and maintenance of temporary and permanent water quality management BMPs, as well as erosion prevention and sediment control BMPs for the duration of the construction work on the site. The applicant remains responsible until another party has assumed control over all areas of the site that have not established final stabilization and a notice of termination (NOT) has been submitted to the MPCA.

(6) Infiltration areas. All infiltration areas must be inspected to ensure that no sediment from ongoing construction activities is reaching the infiltration area and these areas are protected from compaction caused by construction equipment driving across the infiltration area.

(E) Notification of failure of erosion control plan. The city shall notify the permittee of the failure of the erosion control measures that have been constructed. The notification will be by phone or written correspondence to the parties listed on the information sheet

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required by this section. The city, at its discretion, may begin remedial work within 48 hours after notification has been provided.

(F) Erosion off-site. If erosion breaches the perimeter of the site, the permittee shall immediately develop a cleanup and restoration plan, obtain a right-of-entry from the adjoining property owner, and implement the cleanup and restoration plan within 48 hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the Engineering Division of the Operations and Maintenance Department, may more than seven calendar days pass without any corrective action being taken. If at the discretion of the city, the permittee does not repair the damage caused by the erosion, the city may perform the remedial work required, after notice is provided to the permittee.

(G) Erosion into streets, wetlands, or other surface waters. If eroded soils enter, or entrance appears imminent into streets, wetlands, or other surface waters, cleanup and repair shall be immediate. The permittee shall provide all traffic control and flagging required to protect the public during the cleanup operations. If at the discretion of the city, the permittee does not repair the erosion and sedimentation, the city may perform the remedial work required, after notice is provided to the permittee.

(H) Failure to complete corrective work. When a permittee fails to conform to any provision of this section within the time stipulated, the city may take the following actions:

(1) Issue a notice of violation. When the city determines that an activity is not being carried out in accordance with the requirements of this chapter, it shall issue a written notice of violation to the owner of the property. The notice of violation shall contain:

- (a) The name and address of the owner or applicant.
- (b) The address when available or a description of the land upon which the violation is occurring.
- (c) A statement specifying the nature of the violation.
- (d) A description of the remedial measures necessary to bring the development activity into compliance with this chapter and a time schedule for the completion of such remedial action.
- (e) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.
- (f) A statement that the determination of violation may be appealed to the city by filing a written notice of appeal within 15 days of services of the notice of violation. Service may be accomplished by mail or by personal delivery of the notice.

(2) Withhold the scheduling of inspections.

(3) Withhold the issuance of a certificate of occupancy.

(4) Issue a stop work order.

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(5) Direct the correction of the deficiency by city forces or separate contract. The issuance of an erosion control permit constitutes a right-of-entry for the city or its contractor to enter upon the construction site for the purpose of correcting deficiencies with respect to erosion and sediment control. All costs incurred by the city in correcting erosion and sediment control deficiencies, including administrative expenses, shall be reimbursed by the permittee. If payment is not made within 30 days after an invoice is issued, the city may draw from the financial security. If the financial security is of an insufficient amount, the city may assess the remaining amount against the property. As a condition of the permit, the owner shall waive notice of any assessment hearing to be conducted by the city, concur that the benefit to the property exceeds the amount of the proposed assessment, and waive all rights by virtue of M.S. § 429.081 to challenge the amount or validity of assessment.

(Ord. 2017-1217, passed 7-10-17)

§ 153.99 PENALTY.

A person violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction shall be subject to the penalties imposed by Minnesota Statutes for misdemeanor offenses.

(Ord. 2017-1217, passed 7-10-17)

MEMORANDUM

Date: February 21, 2024
To: Planning Commission Members
From: Amber Turnquest, Principal Planner
Subject: Comprehensive Plan Land Use Code Update

Zoning Code Text Amendment – Articles 1 and 2

Articles 1 and 2 of Zoning Code (Chapter 152) were amended to comply with the changes made to the Comprehensive Plan through the new land use designations and the adoption of new zoning districts. Technical changes for consistency throughout the Land Use title were also made.

Attachment A – Summary of Changes
Attachment B – Redline Text Amendment

C.1.D.A - WS - SUMMARY OF CHANGES - CH 152

Section	Title	Summary of Changes
152.101	Severability	Added severability clause
152.104	Application	Revised tone – affirmative statement
152.105	Interpretation	Text removed, consistent with City Policy
152.107	Definitions	Definitions updated for consistency with MN Statute, industry standards, and organization.
152.205	Nonconformities	Updated standards consistent with MN Statute.
152.301	Public Hearings	Text removed, consistent with City Policy
152.302	General Procedures	Text removed, redundancy
152.303	Concept Plan	Added process adopted with 610 Moratorium
152.303	Site Plan	Revised tone – affirmative statement
152.305	Conditional Use Permit	Requires filing of CUPs
152.308	Alternative Compliance	Added language
152.311	Relocating Structures	Removed discriminatory statement
152.401	Zoning Districts	Updated Zoning District names for consistency
152.500-152.505		Updated to reflect simplification of residential zoning districts in line with 2040 Comp Plan
152.506	Residential District Lot Area and Dimensional Requirements	Removed statement of ownership, amended lot size requirements, made changes for clarity of intent, added height table for clarity
152.507	Residential District Land Uses	Updated use tables for principal and accessory/temporary uses.
152.600	B-1 Office Park District	Updated district name
152.605	I General Industrial District	Reworded for clarity
152.606	PI Public Institution District	Technical changes
152.607	OP Open Spaces and Parks District	Changed name, and updated for consistency with 2040 Comp Plan
152.608	Nonresidential Lot Area and Dimensional Requirements	Technical changes for consistency
152.609	Nonresidential District Land Uses	Updated use tables for principal and accessory/temporary uses.
Section 4	Mixed Use Districts	Updates consistent with the 610 Moratorium Zoning Text Amendment, and recently approved Comprehensive Plan Amendment
152.800	Crystal Airport Overlay	Amended as recommended at the February Planning Commission Regular Session
152.802	Highway Overlay	Removed

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152.803	MRCCA	Amended as recommended at the February Planning Commission Regular Session
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ARTICLE 1. ADMINISTRATION

SECTION 1. INTENT AND PURPOSE

§152.100 TITLE.

Chapter 152 may be known, cited, and referred to as the “Brooklyn Park Zoning Code” except as referred to herein, where it may be known as “this chapter.”

§152.101 SEVERABILITY.

~~§152.xxx SEVERABILITY.~~

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

§152.101-102 AUTHORITY.

This chapter is enacted pursuant to the authority granted by the Municipal Planning Act, M.S. §§ 462.351 to 462.364, as amended from time to time.

§152.1032 PURPOSE.

The intent of this chapter is to protect the public health, safety, and general welfare of Brooklyn Park and its people through the establishment of minimum regulations governing the development and use of property within the city. Such regulations are established to:

- (A) Implement the Comprehensive Plan. The City Council recognizes the Comprehensive Plan as the official policy for land use and development in Brooklyn Park.
- (B) Promote orderly development and redevelopment.
- (C) Provide adequate light, air, and convenience of access to property.
- (D) Prevent congestion in the public right-of-way.
- (E) Prevent overcrowding of land and undue concentration of structures and population by regulating land, building, setbacks, and density of development.
- (F) Provide for the compatibility of different land uses and protect from incompatible uses.
- (G) Provide for the administration of this chapter and any amendments.
- (H) Prescribe penalties for violation of such regulations.
- (I) Define powers and duties of the City Staff, the Planning Commission, and the City Council in relation to this chapter.

§152.1043 APPLICATION.

- (A) All buildings, structures, and land uses must be erected, used, relocated, or altered in conformance with this chapter. No All buildings, structures or and land may must be erected, used, relocated, or altered except in conformance with this chapter.
- (B) The provisions of this chapter are the minimum requirements. Where the requirements imposed by any other section of City Code are more restrictive than this chapter, the more restrictive regulation shall prevail.

§152.1054 INTERPRETATION.

- (A) Construction of language:
 - (1) The present tense includes the past and future tenses and the future the present.
 - (2) The singular number includes the plural and the plural the singular.
 - (3) The word “must” is mandatory and the word “may” is permissive.
 - (4) If a word or term defined in this chapter appears in the text, its meaning may be construed as set forth in the definition of the word or term.
 - (5) All measured distances expressed in feet must be to the nearest tenth of a foot.

(B) Except as otherwise specifically provided for in this chapter, the following may apply to a use not provided for within a zoning district.

(1) If in any zoning district a use is neither specifically permitted nor allowed, the use may be considered prohibited.

~~(2) The City Council or the Planning Commission may utilize City staff to conduct a study to determine if a particular use complies with the Comprehensive Plan, what zoning district would be most appropriate, and what standards and conditions may apply to its use.~~

§152.1065 EFFECTIVE DATE.

This chapter shall become effective upon passage and posting according to law, following the date of repeal and re-enactment of the official zoning map. All plans approved under previous zoning regulations shall be valid and may be used to obtain permits for a period of not more than one year after the effective date of this chapter, except where subject to developer agreement provisions.

§152.1076 DEFINITIONS.

For the purposes of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning. If a word or term defined in this chapter appears in the text of this chapter, its meaning may be construed as set forth below.

ABUTTING. See ADJACENT.

ACCESSORY ALTERNATIVE ENERGY SYSTEM. A secondary energy system wherein the power generated is used primarily for on-site consumption.

ACCESSORY FEATURE. A landscape design feature, not enclosed, subordinate to, incidental to, and/or serving the principal structure on the same lot. Examples include decorative fences, gazebos, fire pits, etc.

~~ACCESSORY STRUCTURE. An enclosed structure subordinate to, incidental to, and/or serving the principal structure on the same lot. Examples include garages (attached or detached), greenhouses, ice-fishing shacks, storage sheds, etc.~~

~~ACCESSORY USE. A use subordinate to, incidental to, and/or serving the principal use on the same lot.~~

ADJACENT. When referring to adjacent lots or land, adjacent means a lot that shares all or part of a common lot line with another lot. For the purposes of this definition, adjacent also includes lots or land separated only by a railroad; utility right-of-way; public street classified as a low-density minor arterial, collector, or local street; or a trail corridor less than 50 feet wide.

ADULT DAY CARE. A facility that is licensed by the State of Minnesota in which a care is provided to adults with disabilities or persons who receive supportive person to person assistance.

ALTERNATIVE ENERGY SYSTEM. A wind energy conversion system or a solar energy system.

ANIMAL UNIT. The following animals constitute one animal unit equivalency: one cow, horse, donkey, llama, or burro, or three sheep or emus. Any animal not listed except domestic animals may be considered one animal unit equivalency. Animals are further defined and regulated in other sections of the City Code.

ANIMAL, DOMESTIC. A domestic animal is a common house pet which can be contained within a principal structure throughout the entire year, provided that containment can be accomplished without special modification to the structure requiring a building permit from the city.

ANIMAL, FARM. Animals not typically sheltered within the principal structure throughout the entire year. This includes, but is not limited to, cattle, pigs, sheep, goats, horses, and other animals commonly accepted as farm animals in the State of Minnesota.

ANIMAL SERVICES. Any place where domestic animals are kept for the primary purpose of commercial pet sitting or "doggie daycare."

ANTENNA. Any structure or device used for the purpose of collecting or transmitting communication signals. This includes, but is not limited to, directional antennas, such as panels and microwave and satellite dishes, and omni-directional antennas, such as whip antennas.

APPLICANT. The owner, their agent, or representative having interest in land where an application for city review of any permit, use or development is required by this chapter.

APPLICATION. The form and accompanying documentation required by this chapter or by city policy for city review purposes.

~~ARTERIAL. A type of road that is characterized by limited access and a design capacity to move relatively large volumes of traffic in an expedient manner. Arterials are divided into principal arterials and minor arterials based on their access, the traffic volume they carry and the areas they serve. The roadway classification system is further defined and illustrated in the City's Comprehensive Plan.~~

ASSEMBLY, BANQUET, CONVENTION HALLS, or CONFERENCE CENTER. A facility available for private rental for private events such as weddings, conferences, or meetings. This definition does not include rental for uses that are open to the public such as night clubs or general parties.

ASSISTED LIVING HOUSING. Housing designed for persons who need assistance with their daily living needs including special support services such as meal preparation, housekeeping, limited medical care, and transportation.

AUCTION LICENSED AUTO DEALER. May sell used motor vehicles belonging to others.

~~BASEMENT. That portion of a building having a minimum of half its floor to ceiling height below the front grade at the front of the dwelling for at least 50% of the foundation footprint. Each room or area in a basement must be at least 7 ½ from floor to ceiling.~~

BASEMENT (as applied to flood hazard overlay only). Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

BB or bb. An abbreviation meaning balled and burlapped and used to describe the root treatment of certain plant materials.

BEEKEEPING. The breeding of honeybees in colonies, commonly in hives, to produce honey and other products to pollinate plants or to produce bees for sale to other beekeepers.

BERM. A landscaped mound of earth used to separate incompatible uses, screen offsite views of development, mitigate noise impacts, and create aesthetic interest.

BIORETENTION SYSTEMS. Shallow, landscaped depressions commonly located in parking lot islands or within areas that receive stormwater runoff.

BLACK DIRT (as used for top soil). Organic soils added on top of existing soil that are darker in color and richer in organic materials compared to the existing.

~~BLUFF. Slopes 12% or greater leading from the river's edge up to an area where the slope is less than 12% and the elevation coincides with that of the larger surrounding area. The top of the bluff must be measured from this final leveling off point. Narrow bands of level area that are in the middle of an otherwise continuous slope greater than 12% do not qualify as the top of the bluff. A natural topographic feature having:~~

- A. A slope that rises at least 25 feet and the grade of the slope averages 18 percent or greater, measured over a horizontal distance of 25 feet, from the toe of the slope to the top of the slope. Where the slope begins below the ordinary high water level, the ordinary high water level is the top of the slope. See Figure 1; or

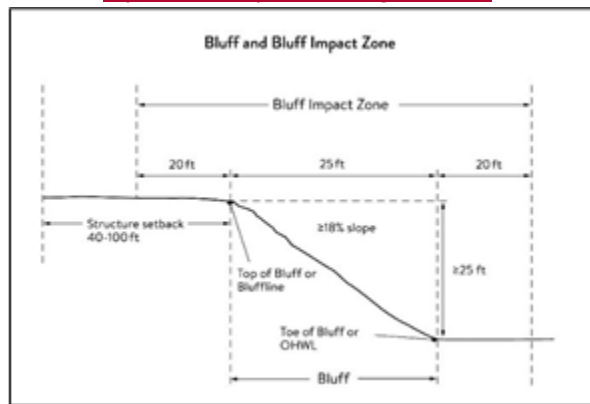


Figure 152.106.1. Bluff and Bluff Impact Zone

B. A natural escarpment or cliff with a slope that rises at least ten feet above the ordinary high water level or toe of the slope, whichever is applicable, to the top of the slope, with a slope of 75 degrees or greater. See Figure 2.

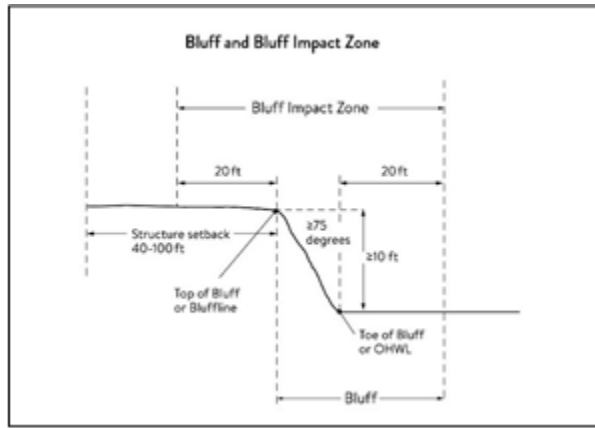


Figure 152.106.2. Natural Escarpment and Bluff Impact Zone

BLUFF IMPACT ZONE. A bluff and land located within 20 feet of the bluff. See Figures 152.106.1 and 152.106.2

~~BOARDING OR ROOMING HOUSE. A dwelling unit, or portion of a dwelling unit, in which for compensation, lodging and meals are provided to no more than six persons who do not function as a single housekeeping unit.~~

BODY ART. Physical body adornment using, but not limited to, the following techniques: body piercing, tattooing, branding, body modification and cosmetic tattooing, as regulated by M.S. Chapter 146B and Chapter 123 of this code. This definition does not include practices that are considered part of a medical procedure performed by a state board certified medical or dental personnel, such as, but not limited to, implants under the skin. Such medical procedures may not be performed in a body art establishment. This definition does not include piercing of the outer perimeter of lobe of the ear using pre-sterilized single use stud and clasp ear piercing system.

BREWERY. A facility that manufactures or produces malt liquor as defined in M.S. § 340A.101, Subd. 16.

BROKER LICENSED AUTO DEALER. May arrange for the sale or lease of new or used motor vehicles.

BUFFER. The use of land, topography, water bodies and vegetation to separate and mitigate the impacts of land uses upon another property.

BUILDABLE AREA. The area upon which structures may be placed on a lot or parcel of land and excludes areas needed to meet requirements for setbacks, rights-of-way, bluff impact zones, historic properties, wetlands, designated floodways, land below the ordinary high water level, and other unbuildable areas.

BUILDING. Any structure having a roof supported by columns, walls, or other means of support for the shelter or enclosure of persons or property, and when said structure is divided by party walls without openings, each portion of such building so separated may be deemed a separate building. In sections of this ordinance where minimum sized buildings are required, areas which are part of basements, open porches, canopies, awnings, breeze-ways, covered patios, and other similar features are not included in calculating the required building size.

~~BUILDING AREA. The space remaining on a lot or parcel after the required setbacks and other requirements of this chapter have been applied.~~

BUILDING HEIGHT. The distance measured from -the average proposed ground elevation adjoining the building at the front building line to the top of the cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch-type roof, or to the average distance of the highest gable on a pitched or hip roof.

CARE CENTER/CONVALESCENT HOME. Housing for dependent persons including personal nursing care, meal preparation in a common dining hall, hygiene services, laundry, etc.

CALIPER. The diameter of a tree trunk measured six inches above the ground for trees less than four inches in diameter and 12 inches above the ground for trees more than four inches in diameter.

CERTIFICATE OF COMPLIANCE. A document written after a compliance inspection, certifying that the development complies with applicable requirements at the time of inspection.

CITY CODE. The 1972 Ordinance Code of the City of Brooklyn Park, as amended from time to time. Also referred to as the Code of Ordinances. This zoning ordinance is a part of the City Code.

CLEAR VIEW TRIANGLE. An area around the convergence of two streets or a street and an access driveway where visibility is not impeded. At the intersection of two streets. The clear view triangle is an area that begins at the intersection of the projected curb lines of two intersecting streets and is measured back along both streets the distance specified in § and marked with a point. Those points are then connected with a straight line. At the intersection of an access driveway and a street. The clear view triangle is an area that begins at the intersection of the projected curb line of the access driveway and the private street or public right-of-way and is measured back along both the street and the access driveway the distance specified in § and marked with a point. Those points are then connected with a straight line.

CLOSED LOOP GROUND SOURCE HEAT PUMP SYSTEM. A system that circulated a heat transfer fluid, typically food-grade antifreeze, through pipes or coils buried beneath the land surface or anchored to the bottom of a body of water.

CLUB.

- (1) An incorporated organization organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans' organization, which:
 - (a) Has more than 30 members;
 - (b) Has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members;
Is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose.
- (2) No member, officer, agent, or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body.

CLUB, SOCIAL. An establishment not included in the definition of CLUB that is open to the public or by private membership where the purpose of the establishment is to provide a place for social interaction between patrons.

COCKTAIL ROOM. A facility on or adjacent to the premises of a micro-distillery where the on-sale consumption of distilled spirits produced by the distiller is permitted pursuant to M.S. § 340A.22.

~~COLLECTOR STREETS. A type of road that functions to provide connections between neighborhoods and from neighborhoods to areas with concentrations of businesses. They typically have lower traffic volumes and speeds than arterials, but higher volumes and speeds than local roads. Collectors are divided into those roads that are designed to distribute traffic from major generators or from minor collectors to arterial roads (major collectors) and those roads that are designed to distribute traffic from major collectors or arterials to local streets (minor collectors). Examples of major collectors include Candlewood Drive, Regent Avenue, and West River Road. Examples of minor collectors are Pearson Parkway, Lad Parkway, and Northland Drive. The roadway classification system is further defined and illustrated in the City's Transportation Plan.~~

COMMERCIAL INDOOR RECREATIONAL FACILITIES. Private recreational facilities operated for profit and open to members and/or the general public including health centers, tennis and racquetball clubs, indoor swimming pools, video arcades (amusement centers), indoor batting cages, pool halls, and the like.

COMMERCIAL OUTDOOR RECREATIONAL FACILITIES. Private recreational facilities operated for profit and open to members and/or the general public including golf courses and driving ranges, miniature golf, riding stables, skating rinks, outdoor swimming pools, archery or trapshooting ranges, batting cages, softball, baseball, volleyball, soccer, or football facilities, and the like.

COMMERCIAL VEHICLES. A vehicle that meets one or more of the following:

- (1) A dump truck, step van, construction vehicle or equipment (bobcats, backhoes and the like), semi-tractor, semitrailer, or trailer, tank truck, tow truck, tractor, bus, cargo truck, or any vehicle that has a registered gross weight of more than 12,000 pounds, except the following:

- (a) A vehicle that is used for private, personal, or recreational use; is not defined as a commercial vehicle in division (1) above; and is not altered with commercial equipment, such as a 1-ton pickup truck.
- (b) A properly licensed recreational vehicle or recreational equipment with sole and consistent use for private recreational purposes.
- (2) A vehicle that has commercial equipment added to the vehicle such as a snowplow or other externally attached equipment, except recreational vehicles or recreational equipment used only for private, recreational, and residential use.
- (3) A limousine or taxi.
- (4) A trailer loaded with a commercial vehicle(s) or commercial equipment.

COMPREHENSIVE PLAN. ~~The long range plan to guide the future growth and development as a formal document, and associated maps, as adopted by the City Council as amended from time to time. The most recent edition of the document entitled, "The Brooklyn Park Comprehensive Plan" and associated maps adopted by the City Council and as amended from time to time.~~

COMMUNITY GARDEN. An area of land that is managed and maintained by a group of individuals to grow and harvest food crops and/or non-food ornamental crops such as flowers for personal or group use, consumption, or donation.

CONCRETE PRECAST PANELS. A material composed of concrete sheets, also commonly referred to as tip-up-tilt-up or poured-in-place panels, etc. For purposes of this chapter, concrete precast panels are divided into the following:

- (1) Architecturally textured panels. Smooth concrete precast panels, steel form panels, exposed imprint panels (with exposed aggregate), ribbed, grooved, random relief, or the like, with additional colors, removed patterns, and/or graphics like bands, patterns, and geometric designs that are used to add distinctiveness to building I.
- (2) Industrial grade panels. Panels with the following textures or those deemed similar: raked, corduroy, broomed, or panels exposed aggregate (except exposed imprint panels).

~~CONDITIONAL USE PERMIT. A permit issued by the City Council to the applicant according to the procedures of this chapter that includes the representations made by the applicant regarding the characteristics and operation of the conditional use and conditions imposed by the City Council.~~

CRITICAL FACILITIES. Facilities necessary to a community's public health and safety, those that store or produce highly volatile, toxic, or water-reactive materials, and those that house occupants who may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correction facilities, schools, daycare facilities, nursing homes, fire and police stations, wastewater treatment facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage facilities.

CURRENCY EXCHANGE. Any business, except a bank, trust company, savings bank, savings 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. CURRENCY EXCHANGE does not include a business that provides these services incidental to the person's primary business if the charge for cashing a check or draft does not exceed \$1 or one percent of the value of the check or draft, whichever is greater.

DAY CARE FACILITIES. A facility that is licensed by the State of Minnesota in which care is provided for children or adults.

DENSITY. The number of dwelling units per acre as regulated by this chapter and the Comprehensive Plan. Density is calculated by dividing the gross acreage of a property excluding wetlands designated by federal and state agencies and those classified by the Wetland Conservation Act, by the number of dwelling units existing or proposed for the property.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations of storage or equipment or materials.

DEVELOPMENT CONTRACT. A legal instrument that defines the representations and obligations of an applicant and the city for the development of property.

DEVELOPMENT PLAN. A document or set of drawings required by the city that depicts elements that contribute to a cohesive planned area or neighborhood.

DISTILLERY. A facility that manufactures or produces distilled spirits as defined in M.S. § 340A.101, Subd. 9.

DISTRIBUTION CENTER. An establishment engaged in the receipt, storage, and distribution of goods, products, cargo, and materials, including transshipment by boat, rail, air, or motor vehicle.

DWELLING UNIT. One or more rooms designed or intended for occupancy within a building by one family or housekeeping unit with sanitary, culinary, and sleeping facilities separate from those of other units and intended for the exclusive use of a single- family or housekeeping unit.

DWELLING, ATTACHED TWO-FAMILY. A building designed for occupancy by two families or housekeeping units with a physical separation between the two dwelling units.

DWELLING, DETACHED SINGLE-FAMILY. A building surrounded by open space containing one dwelling unit that is not attached to any other dwelling by any means.

DWELLING, MULTIPLE FAMILY. A building designed or intended for occupancy by three or more families or housekeeping units, with separate dwelling units either designed one over another and connected by interior or exterior hallways and/or common entries or as townhouse dwellings.

DWELLING, SENIOR INDEPENDENT LIVING. A residential complex or development that is age restricted to people 55 and older without any on-site or staffed nursing or other types of assistance.

DWELLING, TOWNHOUSE. A single structure consisting of not more than 16 dwelling units each, with no other dwelling or portion of other dwelling directly above or below, with each dwelling unit connected to the other dwelling by a common separation with no opening, except for one unit townhouse structures.

EASEMENT. A grant of one or more of the property rights by the owner, to or for the use by the public, another person, or entity.

ENTERTAINMENT, LIVE. Disc jockeys, live music, comedy performances, theatrical performances, and the like. This definition does not include mixed martial arts or boxing.

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

ESSENTIAL SERVICES. The utilization, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electricity, steam, fuel, water supply or distribution system(s); sanitary sewage disposal system; including accessory facilities necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety, or welfare.

EVAPOTRANSPIRATION. Water lost to the atmosphere from the ground surface, evaporation from the capillary fringe of the groundwater table, and the transpiration of groundwater by plants whose roots tap the capillary fringe of the groundwater table.

FAMILY. An individual or two or more persons each related by blood, marriage, or adoptions, including foster children, living together as a single housekeeping unit; or no more than four unrelated persons maintaining a common household and using and maintaining common cooking and kitchen facilities as distinguished from a group occupying a boarding or rooming house, or licensed residential facility.

FARM. A parcel of land having five acres or more which is under cultivation or a parcel ten acres or more which is fenced and used as pasture, or a parcel ten acres or more of any combination. No farm may exceed one animal unit per acre in aggregate.

FARMER'S MARKET. Outdoor sales of fruits, vegetables, meats, honey, flowers, plants, homemade bakery goods, cheeses, soaps, and other similar products.

FARMING AND CULTIVATION OF AGRICULTURAL PRODUCTS. Agricultural and horticultural uses that are not enclosed or covered by a structure.

FINISHED SQUARE FOOTAGE (MINIMUM). The above grade areas of a house that are planned to be completed under the original building permit, excluding garages or other attached accessory buildings, open porches, breezeways, three season rooms, covered patios and the like. All unfinished areas of residential dwellings must be so noted on residential building plans submitted for permit. "Finished" interior areas of residential buildings must comply with the UBC requirements for finished habitable space and have one or more of the listed materials used on each of the following:

- (1) Floors – wood; carpet; tile; rock; brick; linoleum; and similar decorative materials.
- (2) Ceilings – sheet rock with paint, texturing, or a similar decorative trim; suspended ceiling systems; tile; heavy timber construction; wood paneling; and similar decorative materials
- (3) Walls – sheet rock with paint, wallpaper, or a similar decorative trim; wood or rock paneling; mirrors; heavy timber construction, brick; and similar decorative materials.

FLOOD. A temporary increase in the flow or stage of a stream, lake, or wetland that results in the inundation of normally dry areas.

FLOOD FREQUENCY. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

FLOOD FRINGE (OR FLOODWAY FRINGE). All the land in a flood plain not lying within a delineated flood way. Land within a floodway fringe is subject to inundation by relatively low velocity flows and shallow water depths. The flood fringe includes at a minimum, the areas designated as zone AE on the Flood Insurance Rate Map outside of the floodway, except as modified on the Zoning Overlay Map.

FLOOD HAZARD AREA. The flood plain consisting of the flood way, the flood fringe, and/or the general floodplain area.

FLOOD INSURANCE RATE MAP ("FIRM"). An official map on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

FLOODPLAIN. The areas adjoining a watercourse which has been or hereafter may be covered by a regional flood, as defined in Minnesota Rules Chapter 6120, and as shown on the Flood Insurance Rate Map where floodway and flood fringe boundaries and/or 100-year flood elevations have not been determined. These areas include areas designated as Zone A on the Flood Insurance Rate Map, and Zone AE where a floodway is not shown.

FLOOD PLAIN, GENERAL. A 100-year flood plain area shown on the Flood Insurance Rate Map where flood way and flood fringe boundaries and/or 100-year flood elevations have not been determined. These areas include areas designated as Zone A on the Flood Insurance Rate Map and zone AE areas where a floodway is not shown.

FLOOD PRONE AREA. Any land susceptible to being inundated by water from any source (see FLOOD).

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

FLOODWAY. The channel of a natural stream or river and portions of the flood plain adjoining the channel, which are reasonably required to carry and discharge the flood water or flood flow of any natural stream or river. The floodway, at a minimum, includes the floodway areas shown on the Flood Insurance Rate Map and as depicted on the Zoning Overlay Map.

FLOOR AREA, GROSS. The sum of all the floor(s) of a building or structure excluding any space where the floor-to-ceiling height is less than six feet.

FLOOR AREA RATIO (FAR). The gross floor area of all buildings or structures on a lot divided by the area of that lot.

FLUSH-MOUNTED SOLAR ENERGY SYSTEM. A roof-mounted system mounted directly abutting the roof. The pitch of the solar collector may exceed the pitch of the roof up to 5% but shall not be higher than ten inches above the roof.

FOUNDATION FOOTPRINT. The area of the largest level of a dwelling unit at or near grade as determined by the outside dimensions of a building, excluding attached garages or other attached accessory buildings, decks, patios, three-season porches, etc.

GARAGE. An accessory structure that is primarily used for the parking and storage of vehicles, and storage of goods and equipment owned by the same property owner or resident or the principal structure.

GARAGE SALE. The sale of used personal goods from a private residence or religious institution.

GAS/FUEL TANKS (ABOVE GROUND). A tank used to store fuel used for energy purposes in buildings and structures. This definition does not include portable propane cylinders used with barbeque grills, or the like.

GLARE. The effect produced by the intensity and direction of any artificial illumination sufficient to cause annoyance, discomfort, or temporary loss or impairment of vision.

GREYWATER. Wastewater, containing no fecal matter (human feces), that is generated from domestic activities such as laundry, dishwashing, and bathing and which can be recycled on-site for uses such as landscape irrigation and constructed wetlands.

GREEN ROOFTOPS. Veneers of living vegetation installed atop of buildings that act to manage stormwater by mimicking a variety of hydrologic processes normally associated with open space.

GROUND COVER. Perennial plants that are not classified as noxious weeds as defined elsewhere in the City Code, other than turf grass, normally reaching an average maximum height of not more than 24 inches at maturity.

GROUND SOURCE HEAT PUMP SYSTEM. A system that uses the relatively constant temperature of the earth or a body of water to provide heating in the winter and cooling in the summer. System components include open or closed loops of pipe, coils, or plates; fluid that absorbs and transfers heat; and a heat pump unit the processes heat for use or disperses heat for cooling; and an air distribution system.

HARDSURFACE COVERAGE. The amount of a lot covered by building, pavement, concrete, or other impervious material.

HEAT ISLAND REDUCTION. Use of vegetative cover to minimize heat islands on hard cover areas and to reduce impact on microclimate and human and wildlife habitat.

HOME OCCUPATION. Any occupation carried out by the occupant of a residential dwelling unit that occurs within the principal or accessory building on the property and does not change the nature of the primary use of the property.

HORIZONTAL AXIS WIND TURBINE. A wind turbine design in which the rotor shaft is parallel to the ground and the blades are perpendicular to the ground.

IMPERVIOUS SURFACE. ~~Any surface that prevents absorption of water into the ground. Examples of impervious surfaces include, but are not limited to, cement, asphalt, and paving brick. The area of a lot, above the ordinary high water level, covered with buildings including all appurtenances, driveways and sidewalks, and similar impervious materials. For the purpose of this chapter, driveways that have a gravel base shall be considered impervious. Decks that allow drainage through the decking and that do not have plastic weed barrier or some other material that would impede drainage into the ground and swimming pool water surface area shall not be considered impervious.~~

INDOOR SALES OF AUTOMOBILES. All sales and display take place within a building.

~~INTERIM USE. A use of property that is consistent with the city's comprehensive plan and zoning ordinance, which may exist temporarily until a particular date or until an occurrence of a particular event deemed by the City Council.~~

~~INTERIM USE PERMIT. A permit issued in accordance with procedures specified in this section, as a flexible device to enable the City Council to assign time limits and conditions to a proposed use after consideration of current or future adjacent uses and their functions.~~

INTERSECTION (OF TWO STREETS). The point of intersection is the location where the extended curb lines of two streets meet.

IRRIGATION SYSTEM. A permanent, underground watering system designed to transport and distribute water to landscaped areas of property.

LANDSCAPING. Any combination of living plants, (such as grass, perennials, shrubs, vines, hedges, or trees) and non-living material, (such as rocks, pebbles, mulch, decorative walls, fences, or decorative paving materials) used to enhance the appearance and use of the natural and built environment.

LANDSCAPING, ARID. That combination of living plants, (such as grass, perennials, shrubs, vines, hedges, or trees) and non-living material, (such as rocks, pebbles, mulch, decorative walls, fences, or decorative paving materials) used to enhance the appearance and use of the natural and built environment that is designed for needing no additional irrigation above natural rainfall.

LICENSED RESIDENTIAL FACILITY. A facility where one or more persons reside on a twenty-four-hour per day basis under the care and supervision of a program licensed by the Minnesota Department of Human Services (DHS). ~~Community residential facilities shall not include facilities that are also eligible for licensure by the Minnesota Department of Corrections (DOC).~~

LIGHT FOOD PROCESSING. A facility that involves the preparation or processing of food products. Examples include coffee roasters, bakeries, rice roasters _____.

LIVE/WORK UNITS. A habitable structure that allows for a professional office or commercial retail or service use to be operated in the same structure, with the business owner's residence located behind the business use on the ground floor or on the upper floor.

LOADING DOCK. A platform adjacent to a building at which trucks load or unload cargo.

~~**LOCAL STREETS.** A type of road that functions to provide access to adjacent properties and from properties to collectors and/or arterials. Speeds and traffic volumes are typically lower than collectors or arterials. The roadway classification system is further defined and illustrated in the City's Transportation Plan.~~

LOT or PARCEL. A portion of land occupied or used, or intended for occupancy or use, for a purpose permitted or conditionally permitted in this chapter and of sufficient size to provide the yards and area required by this chapter.

LOT AREA. The total area within the lot lines of a lot or parcel, excluding any street rights-of-way given by fee dedication.

LOT CORNER. A lot situated at the junction of, and adjacent to two or more intersecting streets.

LOT DEPTH. The average distance between the front lot line and the rear lot line of a lot or parcel.

LOT, DOUBLE FRONTAGE. A lot which is adjacent to two substantially parallel streets and is not a corner lot.

LOT, FRONT. A lot line abutting the right of way of a public street or property or easement line of a private street. On a corner lot, the shortest of the sides abutting the public street shall be the front. If the dimensions of a corner lot are within 10% of being equal, the front lot line shall be that street designated by the owner. Once it has been established, with the address assigned and the principal entrance determined, the front shall not be reversed.

LOT LINE. A line of record bounding a lot that divides one lot from another lot, a public right-of-way, or private street.

LOT, REAR. The 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, connecting the side lot lines and parallel to the front lot line.

LOT WIDTH. The distance between the side lot lines as measured along the required front-yard setback.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built ~~so as~~ to render the structure in violation of the applicable non-elevation design requirements of 44 Code of Federal Regulations, Part 60.3.

LUMINAIRE. A complete lighting unit extending from a support structure consisting of a light source and all necessary mechanical, electrical and decorative parts. The light source, shield and other components do not extend below the cutoff angle for the luminaire. A luminaire does not include a pole or other support.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. MANUFACTURED HOME does not include the term RECREATIONAL VEHICLE.

MICRODISTILLERY. A distillery that manufactures or produces distilled spirits not exceeding 40,000 proof gallons in a calendar year.

MISSISSIPPI RIVER CRITICAL AREA. The Mississippi River and adjacent lands in the Twin Cities region were designated a Critical Area by the State of Minnesota under the Critical Areas Act. Executive Order No. 79-19 established the Mississippi River Critical Area.

MIXED USE DEVELOPMENT. The development of a designated area of land with two or more different land uses.

MOBILE FOOD UNIT. A self-contained food service operation, located in a readily movable motorized wheeled or towed vehicle, used to store, prepare, display, or serve food intended for individual portion service that is readily movable without disassembling, or as defined in M.S. § 157.15, Subd 9.

MODEL HOME. A home which is like others in a new residential development and is temporarily open to regular public inspections for the purpose of selling other homes in the development.

MODIFIED SPLIT ENTRY. A dwelling unit with a front entrance that is midway between the lower level and the upper level. This type of home has a lower level separated by more than three risers or 24 inches of height difference below the front entry elevation and will not be counted towards the minimum square footage requirements of the home.

MODIFIED TWO STORY. A dwelling unit which has some part of the building that is a minimum of a full two stories in height at, or above the front entry elevation. Not all parts of the home will be a full two stories (or more) in height. There may be a lower level separated by no more than three risers or 24 inches of height difference above or below the front entry elevation that may be counted towards the minimum square footage of the home.

MONOPOLE TOWER. A tower constructed of tapered tubes that fit together symmetrically and are stacked one section on top of another and bolted to a concrete foundation without support cables.

MOTOR HOME. A vehicle that provides temporary living quarters and is self-propelled or capable of being towed on public roads. Temporary living quarters within this definition mean:

- (1) The vehicle is not used as a residence on private property in this city.
- (2) The vehicle is used for temporary living quarters by the owner or occupant while engaged in recreational or vacation activities away from the property.
- (3) The vehicle is not a junk vehicle defined elsewhere in the City Code.

NATIVE SPECIES. Plants that are indigenous to a particular region. Plants are considered native if they were present at the time of the public land survey (1847-1907) that was conducted before and during the early stages of European settlement.

NATURAL AREA. A designated area within a Neighborhood Development Plan where limited human activity is planned and uses are of an undeveloped nature. Examples of natural areas include but are not limited to parks, gardens, recreational uses, trails, nature areas, and open space.

NEIGHBORHOOD COMMERCIAL. Limited commercial areas that provide compact centers for retail sales and services to adjacent neighborhoods.

NEW CONSTRUCTION. Structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of §§ 152.510 through 152.522.

NON-CONFORMITIES. Any land use, site, structure, building, lot of record, or sign legally established prior to the effective date of this chapter or subsequent amendment to it which would not be permitted by or is not in full compliance with the regulations of this chapter.

NON-PASSENGER VEHICLE OR EQUIPMENT. A recreational vehicle or equipment that is not self-propelled or cannot receive a vehicle license. This definition does not include junk vehicles as defined elsewhere in the City Code.

NURSING HOME. A state licensed facility used to provide care for aged or infirm persons who require nursing and personal care and related services in accordance with state regulations. A nursing home may be a residential healthcare facility, an intermediate care facility, or a long-term care facility.

OBSTRUCTION. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory flood plain that may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

OFFICE. Services that are predominantly administrative, professional and/or clerical in nature and conducted within a building or part of a building.

ONE HUNDRED YEAR FLOOD PLAIN. Lands that are inundated by a regional flood.

OPEN SPACE. An area of land that does not contain any buildings except those constructed for recreational or gardening purposes, and is intended for environmental, scenic, or recreational purposes.

ORDINARY HIGH WATER LEVEL. The boundary of water basins, watercourses, public waters, and public waters wetlands, and:

- (1) The OHWL is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial;
- (2) For watercourses, the OHWL is the elevation of the top of the bank of the channel; and,

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(3) For reservoirs and flowages, the OHWL is the operating elevation of the normal summer pool.

ORNAMENTAL TREE. A self-supporting woody plant or species normally growing to a mature height of at least ten feet but no more than 20 feet.

OUTDOOR SALES AND DISPLAY. An outdoor area designated for sales and display of product carried by the primary business.

OUTDOOR STORAGE. Storage of any property not fully enclosed in a building.

OUTLOT. An unbuildable lot that must be replatted into a lot of record before a building permit can be issued to the property.

OVERLAY DISTRICT. A zoning district applied over one or more previously established zoning districts, establishing additional or stricter standards and criteria for covered properties in addition to those of the underlying zoning district.

OVERSTORY TREE. A self-supporting woody plant or species normally growing to a mature height of at least 20 feet.

PARK, ACTIVE. A park with structures or designated areas for formal recreation activities. Examples of active park areas include but are not limited to golf courses, ballfields, and playgrounds.

PARK, PASSIVE. A park or designated area where limited human activity is planned and uses are of an undeveloped nature. Examples of passive park areas include but are not limited to largely undeveloped parks, gardens, trails, nature areas, and open space.

PARK, PRIVATE. A recreation area, either passive or active, owned and operated by a private group, most commonly a homeowner's association or multiple dwelling tenants.

PARK, PUBLIC. A recreation area, either passive or active, owned or operated by the City of Brooklyn Park, county, state, or another governmental unit.

PARK AND RIDE FACILITY. A parking area used for passenger vehicle storage by persons who travel by mass transit facilities or share rides to other locations.

PARKING AREA. A designated portion of a lot used for the temporary storage of motor vehicles on a surface improved by pavement. This definition does not include private residential driveways.

PARKING SPACE. A storage area for a vehicle that has means of access to a public or private street and has an impermeable surface.

PARKING IN RESERVE. Proof on an approved site plan that additional land for parking has been set aside for which construction may be required should conditions warrant as determined by the City Manager.

PAWNSHOP. A business that lends money on deposit or pledge of personal property, or other valuable thing on condition of selling the same back again at a stipulated price, or that lends money secured by chattel mortgage on personal property, taking possession of the property or any part so mortgaged.

PERVIOUS PAVEMENT. A paving system that allows water to infiltrate through the pavement to accurately reflect the predevelopment hydrologic cycle and includes, but is not limited to, porous concrete, porous asphalt, porous pavers, open jointed paving blocks, and open cell paving blocks.

PHOTOVOLTAIC SYSTEM. A solar energy system that converts solar energy directly into electricity.

PLACE OF WORSHIP. A building or campus in which worship, ceremonies, rituals, and education pertaining to a particular system of beliefs are held.

PLANNED UNIT DEVELOPMENT. A method of land development that merges zoning and subdivision controls, allowing developers to plan and develop a large area as a single entity, characterized by a unified site design, a mix of structure types and land uses, and an organized phasing of development over an amount of time agreed upon by the developer and the City.

PUBLIC & UTILITY FACILITIES. Government and utility facilities and structures, i.e., maintenance buildings, water towers, pumping and lift stations, electrical substations, government buildings, mass transit facilities, and minor cable TV facilities.

PUBLIC UTILITY. Persons, corporations, or governments supplying gas, electric, transportation, water, sewer, or land line telephone service to the public. For this chapter, commercial wireless telecommunication service facilities may not be considered public utility uses and are defined separately.

RAIN GARDENS/BIORETENTION SYSTEMS. Shallow landscaped depressions commonly located in parking lot islands or adjacent to land cover areas that receive stormwater and filter the runoff or allow it to infiltrate in the soil bed.

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

RECREATIONAL EQUIPMENT. Recreational equipment which does not meet the definition for a vehicle in the City Code, including, but not limited to, boats, pull-behind trailers or campers, ice fishing structures, personal watercraft, and other similar uses that do not necessarily remain on the property during the entire calendar year. This term does not include semi-tractor trailers or other trailers over 15 feet, junk vehicles as defined elsewhere in the City Code, detached snow plowing equipment, or swing sets, trampolines, and other private outdoor recreational equipment.

RECREATIONAL EQUIPMENT, PRIVATE OUTDOOR. Private swimming pools, hot tubs, tennis courts, trampolines, swing sets, other large play equipment, and other similar equipment if it is designed for outdoor use and used solely for the private enjoyment of the resident.

RECREATIONAL VEHICLE. Non-commercial vehicles used for private recreational purposes, including motor homes, campers, dirt bikes, motor-cross cycles, snowmobiles, go-carts, vehicles that are not registered for operation on public rights-of-way, and similar vehicles. This may not include junk vehicles as defined elsewhere in the City Code.

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.

REGULATORY FLOOD PROTECTION ELEVATION. An elevation no lower than two feet above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

~~RELIGIOUS INSTITUTION. A building or campus in which worship, ceremonies, rituals, and education pertaining to a particular system of beliefs are held. Convents, rectories, and the like, may be considered as part of a religious institution campus if located on the same parcel.~~

REPETITIVE LOSS. Flood related damages sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.

RESTAURANT, BREWPUB. An establishment that serves food and hold an intoxicating liquor license and produces in whole or in part beer and/or malt liquor on the premise.

RESTAURANT, CLASS I. An establishment that serves food and is eligible for a 3,2 non- intoxicating beer and wine license without a cover charge.

RESTAURANT, CLASS II. An establishment that serves food and is eligible for an intoxicating liquor license without a cover charge.

RESTAURANT, FAST FOOD. An establishment whose principal business is the sale of food and/or beverages in a ready to consume state for consumption:

- (1) Within the restaurant building; or
- (2) Within a motor vehicle parked on the premises; or
- (3) Off the premises as carryout orders, and whose principal method of operation includes the following characteristics: food and/or beverages are usually served in paper, plastic or other disposable containers.

RESTAURANT, TAPROOM. An establishment that serves beer or malt liquor in accordance with M.S. § 340A.301, Subd. 6b, as amended from time to time.

RESIDENTIAL WIND TURBINE. A wind turbine of ten-kilowatt (kW) nameplate generating capacity or less.

RETAIL BUSINESS. An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

RETAINING WALL. A vertical or nearly vertical structure constructed of mortar and rubble masonry, rock or stone regardless of size, vertical timber pilings horizontal timber planks with piling supports, sheet pilings, poured concrete, concrete blocks, or other durable materials.

RIGHT-OF-WAY. A strip of land occupied or intended to be occupied by a street, sidewalk, trail corridor of at least 50 feet, snow storage, highway, railroad, transmission cable, pipeline, landscaping, and utility structures.

SCHOOL. A public or private elementary, middle, secondary, post-secondary, or vocation school having a course of instruction approved by the Minnesota Board of Education.

SCREENING. A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

SEAMLESS METAL PANELS. Smooth, prefinished, architectural metal panels without seams or joints that protrude from the surface. This term excludes textured metal, standing seam, pole or "Butler building" metals, any kind of corrugated panel, or metal siding that is residential in appearance or quality.

SEASONAL (TEMPORARY) GARDEN CENTER. A retail use for the sale of primarily plants and other related garden materials such as flowerpots, seeds, garden tools, and landscape rock and mulch.

SEASONAL (TEMPORARY) GREENHOUSE. A temporary structure, commonly with glass or durable plastic walls and roof, designed for the cultivation or exhibition of plants under controlled conditions during the spring and summer seasons.

SENIOR MULTIPLE FAMILY DWELLINGS. Those multiple family dwellings marketed to and predominately occupied by persons 70 years of age or older.

SERVICE BUSINESS. An establishment primarily engaged in providing assistance, as opposed to products, to individuals, business, industry, government, and other enterprises, including hotels and other lodging places; personal, business, repair, and amusement services; health, legal engineering, and other professional services; educational services; membership organizations; and other miscellaneous services and sales of such goods incidental to the service.

SETBACK. The required minimum space between property lines and buildings, structures, accessory uses, or other features as specifically set forth in this chapter.

- (1) Front. The area extending the full width of the lot between the public right-of-way from which the dwelling is addressed, and a distance specified by the applicable district. Front setbacks are measured in feet from the property line.
- (2) Rear. The area between the rear lot line and the rear setback line. Rear setbacks are measured in feet from the property line.
- (3) Side. The area between the side lot line and the side setback line, bounded by the front yard and rear yard. Side setbacks are measured in feet from the property line.

SEXUALLY ORIENTED BUSINESS. Any one of a number of establishments which offers goods and/or services for sale or rent of a sexual or titillating nature as its primary business and which excludes minors by virtue of age. This may include, but is not limited to bookstores, car washes, entertainment centers, modeling studios, motion picture theaters, cabaret/nightclubs, video rental, etc.

SHORELINE. An area 40 feet wide as measured above the ordinary high water level on both sides of the Mississippi River.

SIGN. All structures, either stationary or movable, containing writing, announcement, declaration, demonstration, display, illustration, insignia, or illumination used to advertise or promote the interest of any person when the same is displayed outside. Signs are further defined and regulated in Chapter 150 of the City Code.

SITE PLAN. A document or group of documents containing text, drawings to scale, maps, photographs, and other materials intended to present existing and proposed conditions of property development, including topography, vegetation, wetlands, ingress/egress, parking, grading, drainage, utilities, landscaping, buildings, signs, lighting, and other information as may be reasonably required.

SLOPE. The change in elevation on the land. For the purposes of the Critical Area Overlay District, land with a slope of 12% or greater is regulated. A 12% slope means that for every eight feet of horizontal distance, the elevation changes by at least one foot.

SMALL WIND TURBINE. A wind turbine of 100 kW nameplate generating capacity or less.

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

SPECIAL FLOOD HAZARD AREA. A term used for flood insurance purposes synonymous with ONE HUNDRED YEAR FLOOD PLAIN.

SPLIT LEVEL. A single-family dwelling unit that is almost entirely a full one-and-a-half stories in height at or above the front entry elevation.

STAGING AREA. An unobstructed paved surface area provided and maintained for the temporary parking, unloading, and maneuvering of commercial vehicles incidental and related to the principal permitted use of the property.

START OF CONSTRUCTION. Includes substantial improvement, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement that occurred before the permit's expiration date. The actual start is either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STEALTH DESIGN. State-of-the-art design techniques used to blend the object into the surrounding environment and to minimize the visual impact as much as reasonably possible. Examples of stealth design techniques include, but are not limited to architecturally screening roof-mounted antennas and accessory equipment; integrating telecommunications facilities into architectural elements; nestling telecommunications facilities into the surrounding landscape so that the topography or vegetation reduces their view; using the location that would result in the least amount of visibility to the public, ~~m24inimizeing~~ minimizing the size and appearance of the telecommunications facilities; and designing telecommunications towers to appear other than as towers, such as light poles, power poles, flag poles, and trees.

STORAGE. For the purpose of this chapter storage shall have the meaning of storing, locating, or parking. Storage does not include current property maintenance activities occurring on the property.

~~STORAGE~~ Storage does not include temporary parking or vehicles in a staging area.

STORY. That portion of a building included between the upper surface of any floor and the upper surface of the next floor above, except that the topmost story must be that portion of the building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, as defined in this chapter, is more than six feet above grade for more than 50% of the total perimeter or is more than 12 feet above grade at any point, and then the basement counts as a story.

STREET. A thoroughfare, either owned publicly or privately, and accompanying boulevard located between right-of-way or property lines used or intended to be used for passage or travel by vehicles, pedestrians, bicyclists, and related maintenance activities. Streets may be local, collector, or arterials as defined by the Comprehensive Plan.

STREETS, ARTERIAL. A type of road that is characterized by limited access and a design capacity to move relatively large volumes of traffic in an expedient manner. Arterials are divided into principal arterials and minor arterials based on their access, the traffic volume they carry and the areas they serve. The roadway classification system is further defined and illustrated in the City's Comprehensive Plan.

STREETS, COLLECTOR. A type of road that functions to provide connections between neighborhoods and from neighborhoods to areas with concentrations of businesses. They typically have lower traffic volumes and speeds than arterials, but higher volumes and speeds than local roads. Collectors are divided into those roads that are designed to distribute traffic from major generators or from minor collectors to arterial roads (major collectors) and those roads that are designed to distribute traffic from

major collectors or arterials to local streets (minor collectors). Examples of major collectors include Candlewood Drive, Regent Avenue, and West River Road. Examples of minor collectors are Pearson Parkway, Lad Parkway, and Northland Drive. The roadway classification system is further defined and illustrated in the City's Transportation Plan

STREETS, LOCAL. A type of road that functions to provide access to adjacent properties and from properties to collectors and/or arterials. Speeds and traffic volumes are typically lower than collectors or arterials. The roadway classification system is further defined and illustrated in the City's Transportation Plan.

STREET TREES. Trees planted or growing on public easements (public right-of-way and public use), parks and public buildings grounds.

STRUCTURE. A material or combination of materials that form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.

STRUCTURE, ACCESSORY. A structure subordinate to, incidental to, and/or serving the principal structure on the same lot. Examples include garages (attached or detached), greenhouses, ice-fishing shacks, storage sheds, etc.

STRUCTURE, PRINCIPLE. The main structure on a parcel of land designed to house the principle use.

SUBORDINATE.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures, which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- (2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure. For the purpose of this chapter, historic structure shall be as defined in Code of Federal Regulations, Part 59.1.

TAPROOM. A facility on or adjacent to the premises of a brewery where the on-sale consumption of malt liquor produced by the brewer is permitted pursuant to M.S. § 340A.301, Subd. 6b.

TELECOMMUNICATIONS FACILITIES. Includes antennas, accessory equipment, and telecommunications towers.

TELECOMMUNICATIONS TOWER OR COMMERCIAL TOWER. A free-standing, self-supporting lattice, guyed, or monopole structure constructed from grade intended to support antennas, except towers used for amateur radio operations.

TEMPORARY PORTABLE STORAGE CONTAINERS. An enclosed portable storage container placed on a residential property for temporary use.

THREE SEASON PORCH. A roofed and enclosed porch, deck, or similar space with windows that is not heated.

~~TOWER. A vertical structure that supports a wind turbine.~~

TOWER. Any ground or roof mounted pole, spire, structure, or combination taller than 15 feet, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, wind turbine, or similar apparatus above grade.

TOWNHOUSE. A single-family dwelling in a row of similar units. Such dwellings are constructed as slab-on-grade with no basement and may be detached or attached, each with its own front and rear entrance. Each dwelling extends from the foundation to the roof with units not stacked.

TRAILER. A vehicle that is an open-bed style trailer, enclosed trailer, or trailer as defined in M.S. § 169.01, as amended from time to time, or any machine or equipment designed to travel along the ground by use of wheels, treads, runners or slides, and transport persons or property or pull machinery. A trailer

by this definition does not include a semi-tractor trailer, commercial vehicle as defined in this chapter, or a trailer with a registered gross weight over 12,000 pounds.

TRANSIENT MERCHANT. A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling, or attempting to sell, and delivering, goods, wares, products, merchandise or other personal property and who does not remain or intend to remain in any one location for more than 14 consecutive days. The term ~~TRANSIENT MERCHANT~~transient merchant does not apply to ~~MOBILE FOOD UNIT~~mobile food unit, as defined in §§ 114.03 and 152.008.

TRANSIENT SALES. The informal or temporary sale of items, such as rugs, Christmas trees, flowers and plants, pumpkins, and fruit and beverages, by persons other than the owner or occupant of the premises.

TRANSPORTATION PLAN. A chapter or element of the Comprehensive Plan, as amended from time to time, that describes the existing and planned transportation related facilities and policies of the city.

TRUCK OR MOTOR FREIGHT TERMINAL. A loading dock facility allowing truck freight operators to redistribute loads of their truck fleets at an intermediate transfer point. These facilities are primarily used for staging loads and possess very little, if any, indoor storage area.

TWO STORY. A single-family dwelling unit which is almost entirely a full two stories in height at or above the front entry elevation.

USE. The purpose or activity for which a property or structure is designed, arranged, or intended or for which it is or may be occupied or maintained.

USE, ACCESSORY. A use subordinate to and serving the principal use or structure on the same lot and incidental to such principal use.

USE, CONDITIONAL. A use that may be allowed in a particular zoning district only upon demonstration that the use and its operation will be compatible with the surrounding area and will comply with all standards of this chapter. The city may impose additional conditions above those specified in this chapter in specific instances to protect the public health, safety or welfare and to ensure compatibility with the surrounding area.

USE, INTERIM. A use of property that is consistent with the city's comprehensive plan and zoning ordinance, which may exist temporarily until a particular date or until an occurrence of a particular event deemed by the City Council.

USE, PERMITTED. Any use that is allowed by this chapter and subject to the restrictions of the zoning district and this chapter.

USE, PRINCIPLE. The main use of land or buildings as distinguished from accessory uses.

UTILITY WIND TURBINE. A wind turbine of more than 100 kW nameplate generating capacity.

VEHICLE. Any vehicle, motor vehicle, semitrailer, or trailer as those terms are defined in M.S. § 169.01, as it may also be amended from time to time, including pioneer, classic collector, and street rod vehicles. It also includes, without limitation, automobile, truck, trailer, motorcycle, and tractor.

VERTICAL AXIS WIND TURBINE. A type of wind turbine where the main rotor shaft runs vertically.

~~WETLAND. Poorly drained, environmentally sensitive lands as designated by M.S. § 103G.221 et seq. known as the Wetland Conservation Act, or any other state or federal agency. Land 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, as defined in Minnesota Statute, Section 103G.005~~

WHOLESALE LICENSE AUTO DEALER. May sell vehicles to licensed dealers only with no outdoor display or any storage on site.

WIND ENERGY CONVERSION SYSTEM (WECS). An electrical generating facility that consists of a wind turbine, feeder line(s), associated controls and may include a tower.

WIND TURBINE. Any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy using airfoils or similar devices to capture the wind.

WIRELESS COMMUNICATION SERVICE PROVIDER. Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

XERISCAPING. A landscaping method that uses plants that have low water requirements, making them able to withstand extended periods of drought without irrigation. Xeriscaping landscapes are a conscious attempt to develop plantings which are compatible with the environment and make a conscious effort to minimize use of water.

YARD. An open space unobstructed from the ground upward except for landscape materials and minor fixtures of a non-structural nature commonly found in a yard. The front yard, side yard and rear yard shall have the following meanings:

- (1) **Yard, Front.** The area between the front lot line and a line drawn along the front face or faces of the principal structure on the property and extended to the side property lines. Where a lawful existing garage is located closer to the front lot line than the principal structure, the front yard is the area between the front lot line and a line drawn along the front face or faces of the principal structure to the perpendicular line following the accessory structure to the front face of the accessory structure and extended to the side property line. For properties where the front yard definition is not applicable, the city will determine the front yard area.
- (2) **Yard, Rear.** The area between the rear lot line and the closest portion of the principal structure and abutting the side and front yard.
- (3) **Yard, Side.** The area extending from the front yard to the rear yard along a side lot line measured perpendicularly from the side lot line to the closest point of a structure.

ZERO LOT LINE. A setback where one or more of building's sides rests directly on a lot line and shares a common wall with one or more buildings.

ZONING DISTRICT, UNDERLYING. The official district supporting and further regulated by a zoning overlay district.

ZONING MAP. The official map that is part of this chapter and delineates the geographic boundaries of zoning districts.

ZONING ORDINANCE AMENDMENT. A text change to this chapter or a map change to the official zoning or zoning overlay map that the City Council has authorized.

ZONING OVERLAY MAP. The official map that is part of this chapter and delineates the geographic boundaries of zoning overlay districts.

ARTICLE SECTION 2. ADMINISTRATION AND ENFORCEMENT

§152.200 PURPOSE.

This article establishes the administration and enforcement powers of this chapter.

§152.201 CITY MANAGER.

The City Manager may designate such additional persons as necessary to administer and enforce this chapter. In addition to the duties defined elsewhere in City Code, the duties of the City Manager include:

- (A) Oversee the creation and maintenance of permanent and current records of this chapter, including, but not limited to, all maps, amendments, conditional uses, variances, appeals, applications, permits, and other records required by law.
- (B) Oversee the receiving and forwarding of all applications, including but not limited to, zoning amendments, conditional uses, variances, and appeals.
- (C) Interpret the application and provisions of this chapter, which may be appealed to the Planning Commission pursuant to the procedures in § .
- (D) Serves as a liaison to the Planning Commission and is responsible for the preparation of application for zoning related matters, the preparation and submission of public hearing notices to the official newspaper, the preparation of reports and other information for Planning Commission and City Council meetings and enforces all zoning regulations, provisions and conditions pertaining to the approval of applications by the Planning Commission and City Council.

§152.203 ENFORCEMENT AND PENALTIES.

- (A) Enforcement: The City Manager may in the name of the City of Brooklyn Park take any appropriate actions or proceedings to enforce this chapter. These actions may include, but are not limited to:
- (1) Conduct periodic inspections of buildings, structures, and use of land to determine compliance with terms of this chapter.
 - (2) Notify, in writing, any person responsible for violating a provision of this chapter, indicating the nature of the violation and ordering the action necessary to correct it and a time frame for compliance.
 - (3) Order discontinuance of illegal use of land, buildings, or structures; order removal of illegal buildings, structures, additions or alteration; order discontinuance of illegal work being done; or take any other legal action as may be necessary to ensure compliance with or to prevent violation of its provisions, including cooperation with the City Attorney in the prosecution of complaints.
 - (4) The City Manager ~~may also have~~has the authority to issue stop work orders of any and all site improvement activities when and where a violation of the provisions of this chapter has been documented.
- (B) Penalties. The City Manager may institute in the name of the City of Brooklyn Park any appropriate legal actions or proceedings against a violator of this chapter. Any person who violates, fails to comply with or assists, directs or permits the violation of any provision of this chapter or who knowingly makes or submits any false statement or document in connection with any application or procedure required by this chapter is guilty of a misdemeanor. Any person who violates, fails to comply with or assists, directs or permits the violation of any performance standard of this chapter must reimburse the city or its agent for the actual cost of the tests, measurements or other procedures necessary to demonstrate such violation.

§152.204 EASEMENTS

- (A) No private buildings, structures, or uses may be in or on any easements, except fences or retaining walls and public or quasi-public facilities regulated by City Franchise, or other provisions of the City Code.
- (B) The City Council may grant an encroachment agreement if it is determined to be appropriate for the structure and if it is not detrimental to the operation of the easement.

§152.205 NONCONFORMITIES

- (A) Authority. This section is pursuant to Minnesota Statutes §462.357.
- (1) Nonconforming Uses. Except as otherwise provided by law, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:
- (a) The nonconformity or occupancy is discontinued for a period of more than one year; or
 - (b) Any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged. In this case, reasonable condition may be imposed upon a zoning or building permit to mitigate any newly created impact on adjacent property or water body.
 - (c) Any established use legally existing prior to adoption of this ordinance and which is herein classified by this Chapter as requiring a Conditional Use Permit may be continued in like fashion and activity. Any change to such a use shall require a new Conditional Use Permit be processed according to § .
 - (d) Any established use legally existing prior to adoption of this ordinance and which is herein classified by this Chapter as requiring an Interim Use Permit may be continued in like fashion and activity. Any change to such a use or building shall require a new IUP be processed according to § .

- (B) Nonconforming structures. Expansion of an existing nonconforming structure, reconstruction of a partially destroyed nonconforming structure, or other intensification of a site may be subject to § 394.36, Minn. Stats..
- (1) Nonconforming principal structures may not be enlarged or altered in a way that increases their nonconformity unless in compliance with the following:
 - (a) Expansion or alteration of buildings found to be nonconforming only by reason of height, setback or lot area may be permitted, provided the structural nonconformity is not increased and the expansion complies with the performance standards of this chapter.
 - (b) Legal nonconforming single-family and two-family dwellings may be expanded or altered to improve the livability provided the nonconformity of the structure is not increased.
 - (c) The expansion or alteration must follow the requirements of § .
 - (2) A nonconforming structure which has deteriorated or is damaged to the extent of 50% or more of its market value (excluding land value) as determined by the City Manager may be replaced or reconstructed only in compliance with this chapter.
 - (3) Any non-conforming structure which is damaged to an extent of less than 50% of its value, excluding land, as determined by the City Manager may be restored to its former foundation footprint, structure height, and gross floor area if ~~reconstruction begins~~building permit is issued within six months of the date of documented damage.
- (C) Nonconforming lot of record.
- (1) Any lot which was legally created but became nonconforming due to changes in area or dimensional requirements because of the adoption of this chapter may be subject to the following:
 - (a) May be combined for tax purposes with a contiguous parcel or parcels but may not be re-subdivided into a nonconforming lot even if the division is consistent with the original lot configurations.
 - (b) If an owner has an interest in more than one lot of record contiguous to other lots of record, all such lots must be combined to meet the requirements of this section or the provisions of the zoning district in which the property is located, whichever is more restrictive. If sufficient contiguous property is held in one ownership to comply with the provision of the zoning district where the property is located, the zoning district provisions will apply. In no circumstances will there be approval of any proposal for multiple lot developments based upon lots of record, and not conforming with the provisions of the existing zoning district.
 - (c) A vacant lot may be used for a single-family detached dwelling (if permitted by the district regulations), if the lot area or width measurements meet at least 75% of the requirements for both the lot area and width requirements.
 - (d) Additions to principal or accessory buildings or structures located on nonconforming lots may be permitted provided that any such addition will meet all minimum setback requirements of the zoning district in which it is located.
 - (e) If the lot is nonconforming due to public action after the lot was created or has no buildable area outside the floodplain or critical area overlay setbacks, then no variance may be required for the reconstruction of a single-family dwelling on a non-conforming lot that is damaged to the extent of 50% or more of its market value (excluding land value), so long as the replacement dwelling has a footprint, building height and gross floor area size equal to that of the destroyed dwelling.
- (D) Nonconforming site improvements.
- (1) If nonconforming uses, structures, or buildings suffer damage to at least 50% of the value of the structure excluding land, as determined by the City Assessor, or the property owner applies for a building addition or an accessory structure amounting to 25% of the value of the principal structure, the site must be brought into conformance with the requirements of this chapter. At no time will a building or grading permit be issued if the proposed construction will increase any nonconformity on the site.
 - (2) Upon any change in occupancy, nonconforming paved parking areas may continue to be used without improvement if the number of parking spaces supplied remains adequate according to the regulations in this chapter, and the paved surface has not, in the city's judgment, deteriorated so

as to be beyond repair. If the parking lot cannot be repaired for the new occupancy, then the parking lot surface must be replaced or otherwise brought into compliance with this chapter.

- (3) A building permit may be issued for a portion of a multiple occupancy building without bringing the existing site improvements for the entire property into compliance with this chapter so long as no non-conformity is increased. If a multiple occupancy building becomes completely vacant, its site improvements must be brought into compliance with this chapter prior to any future occupancy.
 - (4) When expansion of existing sites occurs, the newly constructed portion of the site improvements must fully comply with all of the requirements of this chapter, unless the expansion portion of the property contains physical limitations that make full compliance unfeasible, then site plan review shall be required to determine the level of compliance required as approved by the Planning Commission and City Council.
- (E) Nonconformities in the Flood Hazard Overlay.
- (1) Structures in the designated floodway may be considered nonconforming uses.
 - (2) All reconstruction in the Flood Hazard Overlay must comply with Minnesota Rules parts 6120.5000 – 6120.6200. The only acceptable method of elevating the lowest floor, including the basement (as defined for the Flood Hazard Overlay), is with the placement of earthen materials (fill). Other methods require a variance.
 - (3) Reconstruction commences within one year of the date of the destruction of the original building and reasonable progress must be made in completing the project for this division to be applicable. A building permit must be obtained prior to construction of the new dwelling and the new structure must be constructed in compliance with all other City Codes regulations.

§152.206 NUISANCES

- (A) No use may use or create noise, dust, vibration, odor, glare, electrical interference, fire hazards, garbage, hazardous chemicals that exceed standards published in the City Code, or by the PCA or Department of Health standards.
- (B) No use may create traffic or parking congestion to a degree that cannot be proportionally accommodated by adjacent street or private driveways and garages,
- ~~(C)~~ No use may create any other public health, safety or general welfare hazard or nuisance to any greater or more frequent extent than that usually experienced in an average dwelling unit or private garage, sewer, or water services under normal circumstances wherein no vocation or avocation exists in the zoning district where the vocation or avocation exists, except as superseded by state or county ordinance, statute, or law.

~~(D)~~

ARTICLE SECTION 3. APPLICATIONS AND PROCEURES

§152.300 PURPOSE.

The purpose of this article is to establish procedural requirements for processes enabled or required by this chapter, including amendments to the regulations of this chapter, zoning map amendments, site plans, conditional use permits, interim use permits, administrative permits, alternative compliance, variances, interpretations, appeals, and violations and penalties. This chapter also addresses development contracts, financial guarantees, and cash escrows related to development projects and applications.

§152.301 PUBLIC HEARINGS

- (A) The following applications require a public hearing:
 - (1) Conditional use permits, amendments, and revocations.
 - (2) Interim use permits.
 - (3) Site plans, except those eligible for administrative review per § .
 - (4) Variances.
 - (5) Zoning map or text amendments.

- (B) Notification. All applications requiring a public hearing must be advertised in the following manner:
- (1) Notice of the time, place, and purpose hearing must be published in the newspaper in general circulation in the municipality at least 10 days before the day of the hearing.
 - (2) A similar notice must be mailed at least 10 days before the day of the hearing to each owner of affected property and property situated completely or partly within 350 feet of the subject property.

~~(C) Neighborhood Outreach. Neighborhood outreach shall be provided per the adopted Multifamily Housing Community Outreach Policy.~~

§152.302 GENERAL PROCEDURES.

~~(A) Applications. The City Manager determines if the required information is complete. If the information is determined to be incomplete, such that a thorough review of the application is not possible, the item may not be placed on the Planning Commission or City Council agenda for consideration until the required information is submitted. The applicant will be notified within ten days following the receipt of the application describing the information that is missing. Applicability. The following procedures require an application submitted to the City Manager.~~

- ~~(1) Conditional use permits, amendments, and revocations.~~
- ~~(2) Interim use permits.~~
- ~~(3) Site plans, except those eligible for administrative review per § .~~
- ~~(4) Variances.~~
- ~~(5) Zoning map and text amendments.~~

~~(B)(A) Application requirements.~~

- ~~(1) Applications shall be filed by the property owner or designated agent on an application form provided for the purpose and filed with the City Manager.~~
- ~~(2) The City has the authority to request additional information from the applicant or to retain experts with the consent and at the expense of the applicant.~~
- ~~(3) Said application shall be accompanied by a fee in accordance with the City fee schedule.~~
- ~~(4) The City Manager determines if the required information is complete. If the information is determined to be incomplete such that a thorough review of the application is not possible, the item may not be placed on the Planning Commission or City Council agenda for consideration until the required information is submitted. The applicant will be notified within 10 days following the receipt of the application describing the information that is missing.~~

~~(C) Notification. All applications for development proposals requiring a public hearing must be advertised to allow informed participation by all interested parties and conform with the applicable state statute. The City Manager may maintain copies of the city policy concerning notification. Review and approval.~~

~~(B)~~

- ~~(1) Applications shall be subject to Minnesota's 60-day rule. Failure to approve or deny a request within the statutory time period is considered an approval per Minn. Stat. § 15.99.~~
- ~~(2) The Planning Commission shall review the application and may recommend to the City Council such actions or conditions relating to the application as it deems necessary to carry out the intent and purpose of this chapter and the Comprehensive Plan.~~
- ~~(3) The City Council shall review the application and may adopt, modify, or reject any recommendation of the Planning Commission.~~

~~(D) Withdrawal or continuation. At any time before final action is taken on an application, the applicant may request a continuance of action by the Planning Commission and City Council or withdraw the application by submitting a written statement to the City Manager stating the applicant's desire to do so. Application fees and any portion of escrow spent in the processing of the application may be retained by the City. The City Manager may establish a time limit on any continuation.~~

~~(C) Applications requiring public hearings. The following applications for development proposals require public hearings:~~

- ~~(1) Approval of Site Plan.~~

- (2) Variance.
- (3) Conditional Use Permits and amendments.
- (4) Conditional Use Permit revocation.
- (5) Zoning Text and Map Amendments (Rezoning).
- (6) Preliminary Development Plan for the Planned Unit Development District.
- (7) Concept or Regulating Plans for the Special Zoning Overlays.
- (8) Development Plan for Planned Community Development District, the Planned Unit Development District, or Special Zoning Overlays Districts.
- ~~(1) Planning Commission and City Council action. Appeals.~~
- ~~(2) Applicants aggrieved by a decision of the City Manager may appeal the decision to the City Council.~~
- ~~(3) Any unresolved dispute as to an administrative interpretation of City Code, ordinance, or policy may be appealed to the Planning Commission in its role as the Board of Adjustments and Appeals subject to §§ 31.15 through 31.19 of the City Code. The appeal must be submitted in writing to the City Manager on or before the next application filing deadline for a Planning Commission meeting.~~
- ~~(E) Re-submitting denied applications. No application which has been denied wholly or in part may be resubmitted for at least 365 days from the date of its denial unless substantial changes have been made which warrant reconsideration, as determined by the City Manager.~~
- ~~(F)(D) Expiration of action (except for conditional use permits, which may remain in effect as long as the conditions are observed).~~
 - ~~(1) The Planning Commission may recommend such actions or conditions relating to the application as it deems necessary to carry out the intent and purpose of this chapter and the Comprehensive Plan. Unless otherwise specified by the City Council, an approved application becomes null and void after 365 days following the date of its approval unless the property owner or applicant has begun construction of any building, structure, addition, or alteration, or use as evidenced by the issuance of a building permit or grading permit in compliance with the approved plan. The property owner or applicant has the right to request a time extension in accordance with this chapter.~~
 - ~~(2) The City Council may adopt, modify or reject any recommendation of the Planning Commission.~~
 - ~~(1)(3) At any time before final action is taken on an application, the applicant may request a continuance of action by the Planning Commission and City Council, or withdraw the application by submitting a letter to the City Manager stating the applicant's desire to do so. Any portion of fees spent in the processing of the application may be retained by the city. The City Manager may establish a time limit on any continuation.~~
- ~~(E) Appeals. This division is established to allow those aggrieved by the decision of the City Manager to attempt to remedy the grievance by appealing the decision to the City Council. Any unresolved dispute as to an administrative interpretation of City Code, ordinance, or policy requirements may be appealed to the Planning Commission in its role as the Board of Adjustments and Appeals subject to §§ 31.15 through 31.19 of the City Code. The appeal must be submitted in writing to the City Manager on or before the next application filing deadline for a Planning Commission meeting. Request for time extensions.~~
- ~~(F) Re-submitting denied applications. No application which has been denied wholly or in part may be resubmitted for at least one year from the date of its denial, unless substantial changes have been made which warrant reconsideration, as determined by the City Manager.~~
- ~~(G) Expiration of action. Unless otherwise specified in this Chapter, or as approved by the City Council, the approved applications for projects become null and void by December 31 of the year following the date of its approval, unless the property owner or applicant has begun construction of any building, structure, addition or alteration, or use as evidenced by the issuance of a building permit or grading permit in compliance with the approved plan. The property owner or applicant has the right to submit an application for a time extension in accordance with this chapter.~~
- ~~(G)(H) Request for time extensions.~~

- (1) ~~A request for a time extension may be considered by the City Manager. Time extensions must be submitted to the City Manager prior to the expiration of a final action by the City Council. If an action has officially expired, no time extension may be granted. If the time extension request is delayed in the review process and, through no fault of the applicant, cannot be reviewed by the City Manager as anticipated, the request may proceed through the process to final resolution without jeopardy. The applicant may request a maximum of one time extension. Time extensions are valid for a maximum of one year from the original expiration date. A request for a time extension may be considered by the City Manager. Time extensions must be submitted to the City Manager prior to the expiration of a final action by the City Council. If an action has officially expired, no time extension may be granted. If the time extension request is delayed in the review process and, through no fault of the applicant, cannot be reviewed by the City Manager as anticipated, the request may proceed through the process to final resolution without jeopardy. The applicant may request up to two extensions. Time extensions are valid for a maximum of two years from the original expiration date.~~
- (2) The request may be reviewed with consideration of the following:
 - (a) The Comprehensive Plan or any other city plan.
 - (b) City policy changes.
 - (c) Transportation conditions.
 - (d) Applicable changes to any city, county, state or federal statutes, rules, requirements, or ordinances.
 - (e) Park dedication fees and other financial guarantees may be redetermined as required by City Code to the date of approval of the extension.
 - (f) Any negative escrow accounts from previous reviews must be paid and the escrow account must be updated to current minimum requirements prior to the City Manager's consideration of the extension.

§152.303 SITE PLAN.

- (A) Purpose. This section establishes site plan review procedures and provides regulations pertaining to the enforcement of site design standards consistent with the requirements of this chapter. These procedures are established to promote high quality development and enhance the built and natural environment within the city as new development and redevelopment activities occur.
- (B) Applicability. ~~Without first obtaining site plan approval it is unlawful to do any of the following~~ Site plan approval is required for the following development:
 - (1) Construct a structure.
 - (2) Relocate a structure from one property to another in the city.
 - (3) Expand or change the use of a building or parcel of land or modify a building, accessory structure or site or land feature in any manner that results in a different intensity of use, including the requirement for additional parking.
 - (4) Grade or take any action to prepare a site for development, except in conformance with the requirements for a grading permit, an approved neighborhood development plan or an approved conditional use permit.
 - (5) Remove earth, soils, gravel, or other natural material from or place the same on a site, except in conformance with the requirements for a building or grading permit or an approved neighborhood development plan or an approved conditional use permit.
- (C) Exemptions. The following are exempt from the site plan review process:
 - (1) Agricultural structures in the UR Urban Reserve district provided they comply with all other code provisions.
 - (2) Accessory structures in residential zones under 200 square feet and 18 feet in height or the height of the principal structure, whichever is less, provided they comply with all other code provisions.
- (D) Review authority. Except in cases of administrative site plan review per subsection , the Planning Commission and City Council shall have the review and approval authority to approve a site plan.

- (E) Conditions. The City Council may impose conditions that affect the intent of this chapter to the approval of a site plan review.
- (F) Modification to approved site plan. A modification to plans previously approved through the site plan review process that do not qualify for an administrative Site Plan Review under § must follow the City Council approved site plan review procedure.
- (G) Administrative site plan review. Sites plans ~~may shall~~ be ~~approved-reviewed~~ by the City Manager in lieu of City Council approval if they meet the following criteria, except as otherwise expressly provided in this chapter:
 - (1) Residential properties with one dwelling unit per parcel that comply with the approved plan.
 - (2) Modifications or expansions of parking lots or driveways.
 - (3) Sites, buildings and uses that are permitted in the zoning district and do not require variances from this chapter or any other city code, except for the following:
 - (a) Nonresidential uses in or adjacent to a residential district.
 - (b) Uses with drive-through service.
 - (c) Uses in the Public Institution District (PI).
 - (d) Religious institutions, either free-standing or within a multi-tenant building.
 - (e) Projects that received a conditional use permit or are in a special zoning overlay.
 - (f) Public and private elementary and secondary schools, including charter schools.
 - (4) Procedure.
 - (a) Administrative site plan review may be combined with the established building permit process when applicable. The City Manager may impose conditions on the approval to implement the intent of this chapter.
 - (b) Administrative approval, including all applicable conditions and requirements, may be made either in writing separately or attached to the submitted plans. The applicant must fulfill all applicable conditions of the approval prior to the issuance of any permits.
- (H) Term of approval.
 - (1) If application has not been made for final site plan review for all or part of the property within the development plan 365 days following the date of its approval, the development plan approval will lapse unless the applicant requests an extension of that approval. An extension may be valid for one year and may be approved by the City Council.
 - (2) If no construction has occurred on the property included within the development plan within 365 days following the date of final site plan approval, approval for the development plan will lapse unless an extension has been approved by the City Council. An extension may be valid for one year and may be approved by the City Council.
- (I) Conformance to the approved site plan. All developments must remain in continual conformance with the approved site plan review until or unless amended in compliance with this chapter.

§152.304 ADMINISTRATIVE PERMIT

- (A) Purpose. Provide regulations which govern the procedure and requirements for the review and approval, or denial, of proposed events or activities.
- (B) Review authority. The City Manager shall have the review and approval authority to grant administrative permits.
- (C) Review standards. The City Manager may consider possible adverse effects of the proposed events or activities based on the following factors:
 - (1) Compliance with and effect upon the Comprehensive Plan.
 - (2) The establishment, maintenance, or operation of the event or activity will not be detrimental to or endanger the public health, safety, morals, or comfort.
 - (3) The event or activity will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
 - (4) The establishment of the event or activity will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.

- (5) Adequate public facilities and services are available or can be reasonably provided to accommodate the event or activity which is proposed.
- (6) The event or activity may, in all other respects, conform to the applicable regulations of the district in which it is located as outlined in the applicable sections of this chapter.
- (7) The event or activity and site conform to the performance standards as outlined in the applicable provisions of this chapter.
- (D) Permit issuance.
 - (1) The City Manager shall approve or deny the administrative permit within 30 days from the date of submission of a complete application.
 - (2) A written permit may be issued when a determination of compliance has been made. Specific conditions to assure compliance with applicable evaluation criteria, codes, ordinances, and the standards of this chapter must be attached to the permit.
 - (3) Determination of the applications noncompliance with applicable codes, ordinances, and the standards in this division shall be communicated to the applicant in writing and the application for the permit may be considered denied, unless, within 10 days of the date of such notice, the applicant submits revised plans and/or information with which the City Manager is able to determine compliance.
- (E) Revocation. An administrative permit may be revoked by the City Manager or by an officer of the Brooklyn Park Police Department if it is determined that the applicant has violated any conditions of the administrative permit, any applicable provisions of the City Code, or any applicable provisions of state or federal law.

§152.305 CONDITIONAL USE PERMIT

- (A) Purpose. Pursuant to Minn. Stats. § 462.3595, the purpose of this section is to provide regulations which govern the procedure and requirements for the review and approval, or denial, of proposed conditional uses.
- (B) Applicability. Only the specific uses classified as “conditional” in the zoning district where the property is located may qualify for a conditional use permit.
- (C) Review authority. The Planning Commission shall review and make recommendation to City Council. The City Council shall have the review and approval authority to grant conditional use permits.
- (D) Review standards. The Planning Commission and City Council shall consider the following factors when making its determination on a conditional use permit application.
 - (1) Consistency with the Comprehensive Plan.
 - (2) Traffic generation, volume, and safety associated with the use and driveway location on adjacent roads, sidewalks, and trail connections.
 - (3) The characteristics of the parking area of the use, including the number and design of parking spaces, landscaping, traffic circulation, drainage, and lighting.
 - (4) The provision of adequate public infrastructure to the site where the use is proposed.
 - (5) The ability to screen and buffer incompatible off-site impacts of the proposed use on adjacent property and the surrounding neighborhood.
 - (6) The degree that the site or building associated with the proposed use meets or exceed the architectural design standards for the district in which it is located.
 - (7) Compliance with any other applicable section of this chapter or the city code.
- (E) Conditions. The Planning Commission may recommend, and the City Council may impose, reasonable conditions relating to this chapter. Such conditions must be related to the purpose of the ordinance and be based on factual evidence. The City may, however, impose conditions that are additional to or above those standards contained in this Chapter.
- (F) Permit issuance. Conditional use permits shall be issued by resolution of the City Council and shall include the legal description of the property included.
- (G) Recordation. A certified copy of ~~any~~all conditional use permits shall be recorded with the Hennepin County recorder prior to issuance of a building permit.

- (H) Construction. No building or grading permit can be issued except in compliance with the conditions of the conditional use permit.
- (I) Duration. The conditional use permit remains with the property as long as the property and use comply with the conditions attached to the permit by the City Council.
- (J) Certification. Upon request by the City Manager, the holder of a conditional use permit certifies that the use, building, and site are in conformance with the conditional use permit and city codes, in conjunction with § [REDACTED]. The City Manager may maintain copies of the city policy concerning certification.
- (K) Revocation.
 - (1) The City may revoke a conditional use permit if there is not substantial compliance with conditions. The revocation must be based upon factual evidence, after appropriate notice and public hearing per § [REDACTED].
 - (2) If the city finds that exigent circumstances exist requiring immediate permit revocation, the city may revoke the permit and provides a post revocation hearing before the City Council not more than 15 days after holder's receipt of written notice of the hearing. Following such hearing, the City Council may sustain or rescind the revocation, or may impose such other and further discipline as it deems appropriate.
 - (3) Any decision to impose a penalty or other discipline must be in writing and supported by substantial evidence contained in a written record.
- (L) Amendment. Holders of a conditional use permit may propose amendments to the approved permit at any time, subject to the procedures of § [REDACTED], except where administrative site plan review may be granted as outlined in § [REDACTED].
- (M) Changes in zoning classification. In the event a property is rezoned to a district where the use becomes permitted, or a text amendment makes the use permitted in the zoning district, the conditional use permit is voided.

§152.306 INTERIM USE PERMIT

- (A) Purpose. The purpose of interim use permits is:
 - (1) To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction.
 - (2) To allow a use that is presently judged acceptable by the City Council, but that with anticipated development or redevelopment will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district.
 - (3) To allow a use that complies with the Comprehensive Plan, provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.
- (B) Applicability. An interim use permit applies to those uses that fit the criteria of subsection (A), above.
- (C) Review standards. The Planning Commission and City Council shall consider the following factors when making its determination on an interim use permit application.
 - (1) The use conforms to the zoning regulations.
 - (2) The date or event that will terminate the use can be identified with certainty.
 - (3) Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future.
 - (4) The user agrees to any conditions that the governing body deems appropriate for permission of the use.
- (D) Conditions. The Planning Commission may recommend, and the City Council may impose, reasonable conditions relating to this chapter. Such conditions must be related to the purpose of the ordinance and be based on factual evidence. The City may, however, impose conditions that are additional to or above those standards contained in this Chapter.
- (E) Duration. An interim use permit shall terminate on the happening of any of the following events, whichever occurs first:
 - (1) The date stated in the interim use permit.

- (2) Upon violation of conditions under which the permit was issued.
- (3) Upon change in the city's zoning regulations, which render the use nonconforming.
- (4) The redevelopment of the use and property.
- (F) Changes in zoning classification. In the event a property is rezoned to a district where the use becomes permitted, or a text amendment makes the use permitted in the zoning district, the interim use permit is voided.

§152.307 VARIANCE

- (A) Purpose. Pursuant to Minn. Stat. Sec. 462.357, subd. 6, as it may be amended from time to time, the City Council, acting as a Board of Appeals and Adjustments, may issue variances from the provisions of this zoning code. A variance is a modification or variation of the provisions of this zoning code as applied to a specific piece of property.
- (B) Review Standards.
 - (1) Variances shall only be permitted:
 - (a) When they are in harmony with the general purposes and intent of the ordinance.
 - (b) When the variances are consistent with the Comprehensive Plan.
 - (2) Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that:
 - (a) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.
 - (b) The plight of the landowner is due to circumstances unique to the property not created by the landowner.
 - (c) The variance, if granted, will not alter the essential character of the locality.
 - (d) Economic considerations alone do not constitute practical difficulties.
 - (e) Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.
- (C) Conditions. The City Council may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance. No building permit may be issued except in compliance with the conditions of the variance.
- (D) Variances for Communication Towers.
 - (1) Initial criteria. The City Council may grant a variance to the setback, separation or buffer requirements, and/or maximum height provision of this subdivision based on the criteria set forth elsewhere in this chapter.
 - (2) Additional criteria. In addition to taking the criteria set forth in § into consideration, the City Council may also grant a variance if the applicant demonstrates with written or other satisfactory evidence that:
 - (a) The location, shape, appearance or nature of the use of the proposed tower will not substantially detract from the aesthetics of the area nor change the character of the neighborhood in which the tower is proposed to be located.
 - (b) The variance will not create a threat to the public health, safety, or welfare.
 - (c) If the request is for a modification to the setbacks, the size of the parcel upon which the tower is proposed to be located makes compliance impossible, and the only alternative for the applicant is to locate the tower at another site that poses a greater threat to the public health, safety or welfare or is closer in proximity to residentially zoned land.
 - (d) If the request is for a modification of separation requirements, the applicant must provide technical evidence from an engineer that the proposed tower and antennas must be located at the proposed site in order to meet the coverage needs of the applicant's wireless communications system. The applicant must also submit a landscape plan showing buffers to screen the tower base from being visible from a residential area.
 - (e) If the request is for modification of the maximum height limit, the applicant must provide evidence documented by a qualified professional engineer licensed by the State of

Minnesota, showing the modification is necessary to facilitate collocation of telecommunication antennas and ground equipment to avoid the construction of a new tower, or to meet the coverage requirements of the applicant's wireless communications system.

§152.308 ALTERNATIVE COMPLIANCE

- (A) (A) The city planning commission or zoning administrator may approve alternatives to any site plan review requirement upon finding any of the following:
- (1) The alternative meets the intent of this chapter, and the site plan includes amenities or improvements that address any adverse effects of the alternative. Site amenities may include but are not limited to additional open space, additional landscaping and screening, green roof, decorative pavers, ornamental metal fencing, architectural enhancements, transit facilities, bicycle facilities, preservation of natural features, restoration of previously damaged natural environment, rehabilitation of existing structures that have been locally designated or have been determined to be eligible to be locally designated as historic structures, and design which is similar in form, scale and materials to existing structures on the site and to surrounding development.
 - (2) Strict adherence to the requirements is impractical because of site location or conditions and the proposed alternative meets the intent of this chapter.
 - (3) The proposed alternative is consistent with applicable development plans or development objectives adopted by the city council and meets the intent of this chapter.

§152.309 ZONING TEXT AND MAP AMENDMENTS

- (B) Purpose. This section specifies the procedures for text amendments to this chapter or the amendments to the official zoning map.
- (C) Initiation. Amendments may be initiated by a simple majority of the City Council or Planning Commission. Any person owning property within the city, or their designated agent, may initiate an application to amend the district boundaries or designation on the official zoning map for property in which they have a real estate interest.
- (D) Procedures. The procedures for application and public hearing of zoning amendment applications are described in § .
- (E) Effective date. Any amendment to this chapter adopted by the City Council may be effective 30 calendar days after its publication or at such later date as may be specified in the amendment.

§152.310 DEVELOPMENT CONTRACTS, FINANCIAL GUARANTEES, AND CASH ESCROWS

- (A) Purpose. The purpose of a development contract is to guarantee satisfactory completion of public and private improvements and otherwise document the terms of subject development projects. The contract provides the city and the developer with assurances, thereby providing more certainty in the land development process.
- (B) Development Contract.
- (1) A development contract, incorporating any conditions or requirements imposed on the applicant must be executed by and between the City Council and the applicant before a building or grading permit can be issued for any development project that includes public off-site and private on-site improvements, including, but not limited to earthwork, erosion control, site utilities, curb, gutter, walks, paving, striping, landscaping, irrigation, sign monuments and site lighting.
 - (2) The development contract shall be prepared by the city and may be reviewed by the City Attorney. The agreement shall define the required work, reflect the terms, and guarantee the performance of the work by the applicant.
- (C) Escrow.
- (1) An engineering/administrative escrow must be paid and held in a non-interest-bearing city escrow account to be used to cover costs of city services, expenses, and materials provided in reviewing and processing an application. This includes, but is not limited to staff time, legal expenses incurred in the application approval, office and field checking, and similar expenses.

- (2) For projects that include public off-site improvements, the engineering/administrative escrow must be 6.5% of the estimated costs of the project, but not less than \$1,000. For projects with only on-site private improvements, the cash escrow account shall be 3% of the estimated project cost but not less than \$1,000.
 - (3) If at any time the balance of the engineering/administrative escrow account is depleted to less than 5% of the originally required cash escrow amount, the applicant must deposit additional funds in the account sufficient to cover all costs to be incurred by the city.
- (D) Financial Guarantee.
- (1) Any financial guarantee required by the development contract guarantees conformance and compliance with the conditions of the application approval and the ordinances of the city. If the conditions are not met, the financial guarantees may be forfeited to the city to cure the default or reimburse the city the cost of enforcement measures.
 - (2) The amount of the financial guarantee must be established by the city, based upon an itemized estimate of the cost of all required work as documented by the applicant.
 - (a) An irrevocable letter of credit or similar financial security as approved by the City Attorney must be posted with the city in the amount of 95% of the approved estimated cost. This financial security must be automatically renewed and shall not expire until released by the city.
 - (b) The remaining 5% of the approved estimated costs must be posted with the city in cash to be held in a non-interest-bearing city account.
 - (3) Upon completion and city acceptance of the project, any remaining financial securities must be returned to the depositor by the Finance Department after all claims and charges have been paid and following approval by City Council.
 - (a) If part of a project has been completed, inspected, and accepted by the city, the financial securities posted may be reduced by the city and partial payment be returned to the applicant.
 - (b) Landscaping improvements may not be deemed complete until the city has verified survivability of all required plantings through two winter seasons, which is defined for the purpose of this chapter as October 31 through May 31.
 - (4) The city may hold the financial guarantee until the project is completed and approved by the city.
 - (a) The financial guarantee can only be released by the City Council.
 - (b) Periodically, the amount of the financial guarantee may be reduced by the City Council based on the projects progress, as determined by the city.
 - (c) Reduction and release actions will only be initiated after proper request from the applicant.
 - (5) Failure to comply with the conditions of the application approval, the development contract, or a city ordinance may result in forfeiture of the financial guarantee to the extent necessary to achieve the project's total compliance with the approved site plan.

§152.311 RELOCATING STRUCTURES

All relocated structures must meet the requirements of the district in which they will be located. In addition, the applicant provides the following:

- (A) A report from the Building Official which specifies, at a minimum:
 - (1) The improvements to the house that may be required for the structure to meet all applicable, current codes, based on an inspection.
 - (2) If the applicant's submitted plans will successfully meet the required improvements.
 - (3) If the sewer and water connections have been plugged or discontinued at the curb line or at the main and that all other hazards have been eliminated.
- (B) Evidence that all taxes and sewer and water charges have been paid against the property the structure is being relocated.
- ~~(C) The applicant must submit evidence that upon completion, the relocated structure will have a fair market value equal to at least 80% of the assessed value of similar buildings within a 500-foot radius.~~

~~(D)~~(C) A signed development contract stating that the applicant has agreed to complete the necessary changes specified by the City Manager within a period of one year, and a performance bond or cash deposit in compliance with § .

~~(E)~~(D) Evidence that the applicant has secured the necessary permits or permission for the displacement of any overhead electrical or other wires from the person, association, or corporation that owns, operates, or controls the wires.

~~(F)~~(E) Evidence that the applicant or their designated person, firm or corporation engaged in moving structures has a license, in compliance with Section 445, before moving any structure over streets controlled by the City of Brooklyn Park.

ARTICLE 2. ZONING DISTRICTS

ARTICLE 4SECTION 1. ESTABLISHMENT OF ZONING DISTRICTS

§152.400 PURPOSE.

The area located within the jurisdiction of this chapter is hereby divided into zoning districts of such number as is necessary to achieve compatibility of land uses within each district, to implement the Comprehensive Plan, and to achieve the other purposes of this chapter.

§152.401 ZONING DISTRICTS.

For the purpose of this chapter, all areas within the jurisdiction of this chapter are hereby divided into the following zoning districts:

- (A) Residential Districts. The residential districts are intended to balance housing type, choice, affordability, connectivity, style, and promote neighborhood stability and livability. The following residential zoning districts are hereby established within the City of Brooklyn Park.
 - (1) UR Urban Reserve District.
 - (2) R-1 Detached Single-Family District.
 - (3) R-2 Detached Single-Family District.
 - (4) R-3 Detached Single-Family and Two-Family District.
 - (5) R-4 Multiple Family Residential District.
 - (6) R-5 Multiple Family Residential District.
- (B) Nonresidential Districts. The business districts as a whole are designed to balance the community need for employment opportunities, goods, services, and tax base diversification with their impact on neighboring uses. The following business zoning classifications are hereby established within the City of Brooklyn Park.
 - (1) B-1 ~~Limited Business~~Office Park District.
 - (2) B-2 Neighborhood Business District.
 - (3) B-3 General Business District.
 - (4) B-4 Vehicle Sales and Showroom District.
 - (5) BP Business Park District.
 - (6) I General Industrial District
 - (7) Public Institution District
 - (8) Conservancy Districts
- (C) Mixed Use Districts.
 - (1) MU-1 Neighborhood Mixed Use District
 - (2) MU-2 Community Mixed Use District
 - (3) MU-3 Employment Mixed Use District
 - (4) MU-4 Regional Mixed Use District
- (D) Overlay Districts.
 - (1) APZ Airport Protection Zoning

- (2) FHO Flood Hazard Overlay
- (3) HO Highway Overland District
- (4) ~~MCOMRCCA~~ Mississippi River Corridor Critical Area Overlay
- (5) PD Planned Development Overlay

§152.402 ZONING MAP.

- (A) This chapter divides the city into use districts and establishes regulations in regard to location, erection, construction, re-construction, alteration, and use of structures and land. The location and boundaries of the districts established by this text are set forth on the Zoning Map or the Zoning Overlay Map entitled "City of Brooklyn Park Zoning Map" and the "City of Brooklyn Park Zoning Overlay Map," and referred to as the "Zoning Map" and the "Zoning Overlay Map." Both maps are on file with the City Manager. The Zoning Map and the Zoning Overlay Map and all the notations, references and other information shown on them have the same force and effect as if fully set forth in this chapter and made a part of this chapter by reference.
- (B) The district boundary lines on the Zoning Map are intended to follow street right-of-way lines, the center line of streets, or lot lines unless a boundary line is otherwise indicated on the map. In the case of unsubdivided property or in any case where street or lot lines are not used as boundaries, the district boundary lines may be determined by use of dimensions or the scale appearing on the map.
- (C) All Flood Hazard Overlay boundary decisions will be based on elevations on the regional (100-year) flood profile and other available technical data. Persons contesting the location of the district boundaries may be given a reasonable opportunity to present their case to the Board of Appeals and Adjustments and to submit technical evidence as defined in §__.

~~ARTICLE 5~~SECTION 2. RESIDENTIAL DISTRICTS

§152.500 UR URBAN RESERVE DISTRICT

- (A) The "UR" Urban Reserve District is intended to provide the following:
 - (1) The orderly phasing and development of land until city services, including sanitary sewer, storm sewer, and water, are extended into the area in compliance with the Comprehensive Plan.
 - (2) A district for uses that typically require significant amounts of open land area such as athletic and cultural facilities, country clubs, government buildings, educational uses, and land reclamation.
 - (3) Short-term agriculture uses, very low-density residential uses, and those accessory uses customarily incidental to them.
- (B) The district may be applied only to those areas guided as an urban reserve area in the Comprehensive Land Use Plan.

§152.501 R-1 DETACHED SINGLE-FAMILY ~~ESTATE~~ DISTRICT

- (A) The "R-1" Detached Single-Family Estate District is intended to provide a district which allows for larger lot detached single-family dwellings and for uses customarily incidental to them.
- (B) This district may be applied only to those areas guided for low density residential development on the Comprehensive Plan Future Land Use Map.

§152.502 R-2 DETACHED SINGLE-FAMILY DISTRICT

- (A) The "R-2" Detached Single-Family ~~Residential~~ District is intended to provide a district which allows for smaller lot detached single-family dwellings and for uses customarily incidental to them.
- (B) This district may be applied only to those areas guided for low density residential development on the Comprehensive Plan Future Land Use Map.

§152.503 R-3 DETACHED SINGLE-FAMILY AND TWO-FAMILY DISTRICT

- (A) The "R-3" Detached Single and Attached Two-Family ~~Residential~~ District is intended to provide a district which allows for detached single and attached two-family dwellings and for uses customarily incidental to them.

- (B) This district may be applied only to those areas guided for medium density residential development on the Comprehensive Plan Future Land Use Map.

§152.504 R-4 MULTIPLE FAMILY ~~RESIDENTIAL~~ DISTRICT

- (A) The “R-4” Multiple Family ~~Residential~~ District is intended to provide a district which allows for three story multiple family structures or attached townhomes and for uses customarily incidental to them.
- (B) This district may be applied only to those areas guided for medium or medium-high density residential development on the Comprehensive Plan Future Land Use Map.

§152.505 R-5 MULTIPLE FAMILY DISTRICT

- (A) The “R-5” Multiple Family ~~Residential~~ District is intended to provide a district which allows for multiple family dwellings three stories or taller and for uses customarily incidental to them.
- (B) This district may only be applied to those areas guided for high density residential development on the Comprehensive Plan Future Land Use Map.

§152.506 RESIDENTIAL DISTRICT LOT AREA AND DIMENSIONAL REQUIREMENTS

- (A) Purpose. The purpose of this section is to establish minimum area and dimensional requirements for residential properties to allow conformance with the residential densities and policies of the Comprehensive Plan, promote open space around structures, provide green area and space for enjoyment by residents, and protect public easements.
- (B) General Requirements. The following standards are established for all lots in the residential zoning districts.
- (1) Lot area, width, and coverage.
 - (a) No required lot area, yard, or open space allocated to a structure or lot in compliance with this chapter may be used to satisfy the minimum lot area, yard, or open space requirement for any other structure or lot, unless modified by this chapter.
 - (b) ~~To promote individual ownership of two family dwellings,~~ the minimum lot areas and lot widths contained in this section do not apply to lot splits along the common wall where an existing two-family dwelling is being converted into two separate attached single-family dwellings.

Figure ## Required Minimum Lot Area, Width, and Coverage in Residential Districts

District	Minimum lot area ¹	Lot width in lineal feet as measured at the front setback	Maximum Impervious Area in front yards ²	Maximum building footprint ³
UR	20 acres	330 feet	40%	40%
R-1	9,750 square feet	75 feet	40%	40%
R-2	~~5,000~~ 7,250 square feet	50 feet	40%	40%
R-3	~~7,200~~ 5,000 square feet – Detached 3,600 square feet – Attached	60 feet (detached) 40 feet (per unit attached)	40%	40%
R-4	22,000 ~~square feet~~ for multiple family dwellings	100 feet	40%	40%
	~~5,000~~ 3,600 square feet lot equivalent or average per unit for townhomes	N/A	40%	40%
R-5	22,000	120 feet	40%	40%
Notes:				
¹ Lot area refers to the minimum total area for the project, not lot area per unit.				
² Measured from the public right-of-way to the front facade of the principal building.				

³The maximum total building footprint, including principal and accessory buildings.

(2) Setbacks. Setbacks for each residential zone are defined in the Figure ##.

- (a) All residential units must be constructed at the required setback or no more than 10 feet greater than the setback line as established in the respective zoning district. For infill development in residential neighborhoods that do not conform to these setbacks, the minimum setback line is the average depth of the adjacent properties.
- (b) If an attached garage has a dwelling unit living space constructed above it, the side setback must not be less than five feet on the garage side of the lot.

Figure ## Required Setbacks in Residential Districts

District	Front Setback	Front Setback	Side Setback	Side Setback	Side Setback	Rear Setback	Rear Setback	Rear Setback
	Principal and "A" or "B" Minor Arterials	All other public streets	Interior Lots	Corner Lots - Along Principal and "A" or "B" Minor Arterials	Corner Lots - All other public streets when the adjacent lot does not front the side street	Principal, "A" and "B" Minor Arterial and Class I Collectors	All Other Public Streets and Interior Property Lines	Double Frontage Lots
UR	50 ft	25 ft	10 ft	50 ft	20 ft	50	30	Same as the front setback of any adjacent residential zoned properties
R-1	50 ft	25 ft	7.5 ft	Front setback of the adjacent property	20 ft	50 ft	25 ft	
R-2	50 ft	25 ft	10 ft		20 ft	50 ft	25 ft	
R-3	50 ft	25 ft	10 ft		20 ft	50 ft	25 ft	
R-4	50 ft	20 ft	10 ft		20 ft	50 ft	25 ft	
R-5	50 ft	10 ft	15 ft	25 ft	10 ft	10 ft	10 ft	10 ft
Note: Refer to § for accessory structure setbacks.								

(3) Setback Encroachments.

- (a) The following features may extend 3 feet into the minimum front, back, or rear setback, provided there is no encroachment into existing easements:
 - (1) Chimneys, flues, belt courses, sills, pilasters, lintels.
 - (2) Ornamental features like cornices, eaves, bays, gutters, and other similar projections.
- (b) Accessible building entrance components may encroach into the setback to meet the running slopes required by the Minnesota Accessibility Code.
- (c) The following are considered a permitted encroachments into the front setback provided they extend no more than 6 feet beyond the setback line:
 - (1) Balconies and porches, steps, stoops, and the like provided they do not have a floor higher than the entrance floor to the building and are not enclosed with windows, screens, or the like, although they may have a roof.
- (d) Sidewalks, driveways, and parking areas are not considered encroachments when in compliance with §.
- (e) Handicap access ramps may encroach into the front setback to meet the running slopes required by the Minnesota Accessibility Code.

- (f) The following may not be closer than 5 feet from interior lot lines and 20 feet from public rights-of-way unless further restricted elsewhere in this chapter:
- (1) Accessory features, excluding retaining walls.
 - (2) Accessory structures.
 - (3) Driveways and vehicle parking areas.
 - (4) Solar collectors.
 - (5) Balconies, breezeways, gazebos, decks, patios.
 - (6) Screened porches, and three season porches.
 - (7) Private outdoor recreational equipment.

(C) Height.

- ~~(1) Single, two-family, and townhome dwellings. The height of these buildings may not exceed three stories or 40 feet.~~
- ~~(2) Multiple family dwellings. Height of these buildings may not exceed six stories or 75 feet.~~
- ~~(3) Non-residential buildings in a residential district.~~
- ~~(a) Height of buildings for non-residential uses in residential districts are limited to three stories or 40 feet.~~
- ~~(b) Non-residential buildings may exceed this height by 150%, at the City Council's discretion, through the site plan review or conditional use permit process upon satisfactory demonstration that the proposal includes mitigation of any off-site impacts.~~
- ~~(4) The following structures may exceed the three stories or 40-foot height limitations by 125% with a conditional use permit:~~
- ~~(a) Personal radio and television antennas (including ham radio towers and antennas):~~
- ~~(b) Spires, bell towers, carillons, and steeples; and,~~
- ~~(a) Flag poles.~~
- Figure ## Height Restrictions in Residential Districts

<u>Use</u>	<u>Maximum Height</u>
<u>Single, Two-Family, and Townhome Dwellings</u>	<u>3 stories or 40 feet</u>
<u>Multiple Family Dwellings</u>	<u>6 stories or 75 feet</u>
<u>Non-Residential in a Residential District*</u>	<u>3 stories, or 40 feet</u>
<u>Exemptions**</u>	<u>Personal radio and television antennas, spires, bell towers, carillons, steeples, and flag poles</u>
<u>* May exceed height restriction by 150% as approved by City Council at time of approval of site plan review or conditional use permit upon satisfactory demonstration that the proposal includes mitigation of any off-site impacts.</u>	
<u>** May exceed the three stories or 40 foot height limitations by 125% with a conditional use permit.</u>	

§152.507 RESIDENTIAL DISTRICT LAND USES

- (A) Purpose. Establish a listing of the permitted, conditional, accessory, and temporary uses for the residential zoning districts. The uses have been allocated to the individual districts to allow reasonable use of properties in a manner that is compatible with the purpose of each residential zoning district and the overall purpose of this zoning code and the code of ordinances.
- (B) Principal permitted and conditional land uses for each residential zone listed in Figure ##. See Section ## for additional performance standards for residential uses.

Figure ## Principal Uses in Residential Districts

Principal Use	UR	R-1	R-2	R-3	R-4	R-5
Single family (detached)	P	P	P	P		
Two-family (attached)				P	P	
Townhouse (attached or detached)				P	P	P

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Multifamily					P	P
Manufactured home park					C	
Care centers, convalescent homes, assisted living					C	C
Bed and breakfast establishment	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		
Essential services, government	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Day care facility (13-16 persons)					P	P
Farming and cultivation of agricultural products	P					
Office related to leasing, renting and maintenance of multiple family dwellings and townhouses	P	P	P	P	P	P
Public and utility facilities	P	P	P	P	P	P
Religious assembly	P	P	P	P	P	P
Residential facility, licensed (6 or fewer persons)	P	P	P	P		
Residential facility, licensed (7-15 persons)					C	C
Soil processing and mining	C					

Figure ### Accessory and Temporary Uses in Residential Districts

Accessory Use	UR	R-1	R-2	R-3	R-4	R-5
Antennas and satellite dishes	P	P	P	P	C	C
	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		
Beekeeping (in compliance with Chapter 92)	P	P	P	P	P	P
Commercial recreational facility (privately owned)	P	P	P	P	P	P
Community garden	P	P	P	P	P	P
Construction debris dumpster (oversize)	P	P	P	P	P	P
Day care facility (12 or fewer persons)	P	P	P	P	P	
Day care facility in schools and religious institutions	P	P	P	P	P	P
Domesticated and farm animals	P					
	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Garage sales	P	P	P	P	P	P
	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Gas/fuel tanks (above ground)	P	P	P	P	P	P
Ground source heat pump systems	P	P	P	P	P	P
Home vocations and avocations	P	P	P	P	P	P
Live/work uses within a dwelling unit		P	P	P	P	P
Outside storage of agricultural equipment	P					
Outside storage of recreational vehicles	P	P	P	P	P	P
Parking ramp					C	C
Parks and playgrounds, open spaces, natural areas	P	P	P	P	P	P
Private residential recreational equipment	P	P	P	P	P	P
Schools located within religious institutions	C	C	C	C	C	C
Sale of agricultural products grown on the property	P	P	P	P	P	P
Sale of residential motor vehicles and recreational vehicles	P	P	P	P	P	P
Satellite dish	P	P	P	P	P	P
Seasonal greenhouse and garden center	C					

Detached Accessory Structure	P	P	P	P	P	P
Solar energy system	P	P	P	P	P	P
Telecommunication tower	C	C	C	C	C	C
Temporary portable storage containers	P	P	P	P	P	P
Residential wind turbine (vertical axis only)	P	P	P	P	P	P

ARTICLE 6 SECTION 3. NONRESIDENTIAL DISTRICTS

§152.600 B-1 OFFICE PARK DISTRICT.

- (A) Purpose. The "B-1" ~~Limited Business Office Park~~ District is intended to provide a district primarily for office uses, with other accessory retail and service uses offered on site to serve the primary use or their employees.
- (B) This district may be applied only to those properties designated for office, commercial, or mixed-use development on the Comprehensive Land Use Map.

§152.601 B-2 NEIGHBORHOOD RETAIL BUSINESS DISTRICT.

- (A) Purpose. The "B-2" Neighborhood Retail Business District is intended to provide a district which encourages compact centers for retail sales and services that serve the adjacent neighborhoods and to preserve and protect the general character of the adjacent areas. The city has determined that certain uses may present a greater impact on adjacent land uses than others due to characteristics unique to the function and design of the particular use.
- (B) This district may be applied only to those properties designated for commercial or mixed-use development on the Comprehensive Land Use Map.

§152.602 B-3 GENERAL BUSINESS DISTRICT.

- (A) Purpose. The "B-3" General Business District is intended to provide centralized areas for businesses that have a community or regional customer base in that they generally draw customers from farther away than the adjacent neighborhoods.
- (B) This district may be applied only to those properties designated for commercial or mixed-use development on the Comprehensive Land Use Map.

§152.603 B-4 VEHICLE SALES AND SHOWROOM DISTRICT.

- (A) Purpose. The "B-4" Vehicle Sales and Showroom District is intended to provide areas for vehicle sales businesses that draw from a regional customer base and has outdoor storage, display and/or sales of vehicles and/or recreational equipment.
- (B) This district may be applied only to those properties designated for commercial development on the Comprehensive Land Use Map.

§152.604 BP BUSINESS PARK DISTRICT.

- (A) Purpose. The "BP" Business Park District is designed to provide areas in which to locate businesses that enhance the city's tax base, have few customers coming to the site, but may have a large employee base, involve manufacturing, warehousing, office uses, and other accessory retail and service uses offered on site to service the primary use or their employees. The properties and buildings in this district must be designed to promote a campus-like setting that exhibits a landscape theme and high-quality exterior building materials.
- (B) This district may be applied only to those properties designated for office, commercial, industrial, or mixed-use development on the Comprehensive Land Use Map.

§152.605 I GENERAL INDUSTRIAL DISTRICT

- (A) Purpose. The "I" General Industrial District is designed to provide a district for warehousing and industrial uses that may present negative off-site impacts to adjacent properties and are potentially

environmentally sensitive due to the characteristics of the use of the property, and ~~or may have an extensive amount of~~ outdoor storage requirements.

- (B) This district may be applied only to those areas designated for industrial development on the Comprehensive Land Use Map.

§152.606 PI PUBLIC INSTITUTION DISTRICT

- (A) The **"PI"** Public Institution District ~~(PI)~~ is intended to provide for a district for public buildings, uses and needs that otherwise may not fit into other zoning districts because of their specialized land use needs and public purpose.
- (B) This district may be applied only to those properties designated for ~~public~~ institutional uses on the Comprehensive Plan Land Use Map.

§152.607 ~~CD CONSERVANCY DISTRICT OF OPEN SPACES AND PARKS DISTRICT~~

- (A) The ~~Conservancy Open Space and Parks~~ District is intended to provide for a district for areas that contain valuable environmental qualities which are to be preserved as park or open space amenities and to prevent the over-crowding of land, to avoid undue concentration of population, a specific public purpose, and/or alleviate the burden of development from environmentally sensitive lands. ~~These areas may also have been found to be unsuitable for residential, commercial, or industrial development due to flooding or bad drainage, slope, adverse soil conditions, rock formations, and/or unique natural features.~~
- (B) Interpretation of district boundaries. When uncertainty exists with respect to the Conservancy District boundaries, the following rules apply:
 - (1) District boundaries along a stream are intended to represent the high water time of a regional flood, provided, however, that along a stream such line must not be less than 50 feet from the center of such stream.
 - (2) District boundaries in a wetland area are intended to represent the edge of a swamp, marsh, or other wetland area. The edge is defined as the mark delineating the highest water level which has been maintained for a sufficient period to leave evidence upon the landscape. The edge is commonly that point where the natural vegetation changes from predominately aquatic to predominately terrestrial.
 - (3) District boundaries in a public park, common open space areas, or public lands are intended to represent the property lines of such area.
- (C) Conditional uses.
 - (1) No permit may be issued for construction for a building, structure or land use considered conditional unless a conditional use permit has been granted by the City Council in accordance with ~~###~~.
 - (2) In addition to § ~~###~~, all conditional uses in this district must be reviewed to determine if, through good site and engineering designs, a development can be created which is compatible and harmonious with the natural amenities of the Conservancy District area and with surrounding land uses.
 - (3) Applications must be accompanied by an overall plan of the entire site showing roads, parking areas, lot lines, easements, the location of tree cover including the designation of individual trees of 15 inches in diameter or more, the location of other natural and biological features such as wetlands and areas of valuable wildlife habitat, and the location of proposed structures in addition to any other information typically required for a conditional use permit.
 - (4) The approval of an application requires a finding that:
 - (a) The development will not detrimentally affect or destroy natural features such as ponds, streams, wetlands, and forested areas, but will preserve and incorporate such features into the developments site design.
 - (b) The location of natural features and the site's topography have been considered in the designing and siting of all physical improvements.

- (c) Adequate assurances have been received that clearing of the site of topsoil, trees and other natural features before the commencement of building operations will not occur. Only those areas approved for the placement of physical improvements may be cleared.
- (d) The development will not substantially reduce the natural retention storage capacity of any watercourse, thereby increasing the magnitude and volume of flood at other locations.
- (e) The soil and subsoil conditions are suitable for excavation and site preparation and the drainage is designed to prevent erosion and environmentally deleterious surface runoff.
- (f) The development will be free from offensive noise, vibration, smoke, dust, and other particulate matter, odorous matter, fumes, water pollution and other objectionable influences.
- (g) The applicant will be substantially damaged by being required to place the intended development outside the Conservancy District.

§152.608 NONRESIDENTIAL LOT AREA AND DIMENSIONAL REQUIREMENTS

- (A) The purpose of this subchapter is to establish minimum area and dimensional requirements for nonresidential zoning districts to allow conformance with the policies of the Comprehensive Plan, promote open space around structures, provide green area and space for the enjoyment of all, and protect public easements.
- (B) General Requirements. The following standards are established for the following districts: B-1, B-2, B-3, B-4, BP, I, PI, and ~~GDOP~~:
- (1) Unless otherwise approved through a site plan approval all non-residential uses on parcels adjacent to single or two-story residential uses in residential districts must be constructed at a height no greater than 40 feet or the height of any residential use, whichever is greater. Consideration to approve greater height may include, but not limited to, existing conditions, increased setbacks, and buffering.
 - (2) Height limitations do not apply to radio and T.V. antennas, belfries, steeples, cooling towers, and water towers.
 - (3) The minimum height for a principal building on any property must be no less than 15 feet in height as measured from the highest adjacent grade to the top of the roof.

Figure ###. Minimum Allowable Building Footprint and Maximum Impervious Surface

Zoning District	Minimum Lot Area	Lot Width	Minimum Building Footprint (as a percent of lot area)	Maximum Impervious Surface (as a percent of lot area)	Maximum Height ³
B-1	15,000 SF	100 feet	NA	70%	NA or 35 feet ¹
B-2	25,000 SF	125 feet	NA	75%	NA or 35 feet ¹
B-3	25,000 SF	150 feet	NA	80%	NA or 35 feet ¹
B-4	87,120 SF	150 feet	10%	80%	NA or 35 feet ¹
BP	25,000 SF	100 feet	NA	85%	NA or 35 feet ¹
I	40,000 SF	150 feet	NA	85%	NA or 35 feet ¹
PI	N/A	N/A	N/A	N/A	60 ft ²
~~GDOP~~	N/A	N/A	N/A	N/A	NA

¹ Unless otherwise approved through a site plan approval all nonresidential uses on parcels adjacent to residential uses in residential districts must be constructed at a height no greater than 35 feet or the height of any residential use, whichever is greater. Consideration to approve greater height may include, but not limited to, existing conditions, increased setbacks, and buffering.

² For each one foot greater than 60 feet of building height, as measured from the highest adjacent grade to the top of the roof, the required front, side, and rear setbacks must be increased one foot.

³ Height limitations do not apply to radio and T.V. antennas, belfries, steeples, cooling towers, and water towers.

- (4) Principal buildings and accessory structures must comply with the setback restrictions from property lines within the nonresidential districts. See Figure ###.
- (5) The setback to an interior side or rear property line(s) may be reduced to zero feet where a property has a railroad trackage abutting the interior side of the lot.
- (6) The following features may extend into the required setback from a public right-of-way:
 - (a) 3 feet - Pilasters, lintels, stoops, ornamental features, cornices, eaves, bays, gutters, and similar projections
 - (b) Canopies, awnings, and other similar features as regulated by the International Building Code. These elements may extend into the right-of-way upon approval of an encroachment agreement by the City Council.
- (7) Accessible building entrance components may encroach into the setback to meet the running slopes required by the Minnesota Accessibility Code.

Figure ###. Minimum Required Setbacks (In Feet)

	B-1	B-2	B-3	B-4	BP	I	PI	~~CDOP~~
Front (abutting public right-of-way)	0	0	0	50	10	50	10	NA
Side (interior)	0	0	0	15	15	15	10	NA
Rear (interior)	30	30	30	30	30	30	10	NA
Side or rear if abutting a residential district property line	50	75	75	75	110	110	50	NA

§152.609 NONRESIDENTIAL DISTRICT LAND USE USES

- (A) Purpose. The following section establishes a listing of the permitted, conditional, and temporary uses for the B-1, B-2, B-3, B-4, BP, I, PI, and CD zoning districts. The uses have been assigned to the appropriate business districts to allow reasonable use of properties in a manner that is compatible with the purpose of each business zoning district and the overall purpose of this zoning code and the code of ordinances.
- (B) Permitted and conditional uses for each business district are defined in the following listed in Figure ###. See Section ### for additional performance standards for nonresidential uses.

Figure ### Principal Uses in Nonresidential Districts

Principal Use	B-1	B-2	B-3	B-4	BP	I	PI	CD
~~Agricultural uses~~								~~P~~
~~Airports and aeronautical uses~~							~~P~~	
~~Animal services~~		~~P~~	~~P~~	~~P~~	~~P~~	~~P~~		
~~Assembly, banquet, convention halls, or conference centers~~		~~C~~	~~C~~	~~C~~				
~~Automobile rental containing more than 6 cars on site~~		~~C~~	~~C~~	~~C~~				
~~Auto repair services~~			~~C~~	~~C~~	~~C~~	~~C~~		
~~Bank~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~		
~~Body Art~~		~~P~~	~~P~~					
~~Brewery with or without taproom, distilleries with or without cocktail rooms~~		~~P~~	~~P~~	~~P~~	~~P~~	~~P~~		
~~Bus or truck storage or service shops, including fuel stations~~						~~C~~		
~~Business, trade, or non-academic colleges operated for profit~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~		~~P~~	
~~Care center, convalescent home, and assisted living~~	~~C~~	~~C~~	~~C~~	~~C~~				
~~Car Wash~~			~~P~~	~~P~~	~~P~~	~~P~~		
~~Cemetery~~							~~C~~	~~C~~
~~Clubs~~		~~C~~	~~C~~	~~C~~				

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Commercial indoor recreational facility ~~2,450 SF or under~~		P	P	P	P	P		
Commercial indoor recreational facility ~~over 2,450 SF~~		G	G	G	G	G		
Commercial outdoor recreational facilities		G	G	G				
Concrete or asphalt mixing plants, concrete block fabrication, builder or contractor yards, brick yards						G		
Conservation uses including drainage control, forestry, wildlife sanctuaries and facilities for making same available and useful to public								P
Crematories/crematoriums	P	P	P	P	P	P		
Currency exchange	P							
Day care facility, licensed	P	P	P	P	P	P	P	P
Distribution center					P	P		
Fabrication or assembly of heavy equipment or vehicles						G		
Funeral home and mortuaries	P	P	P	P	-		P	
Gasoline sales		G	G	G	G	G		
Government buildings							P	
Heavy equipment, machinery and farm vehicle sales, contractor's yards, bulk firewood sales, and gravel and rock sales						P		
Hospital		G	G				PG	
Hotel or motel		P	P	P	P			
Indoor sales of automobiles, trucks and recreational vehicles and the like				G	G	G		
Light food processing								
Manufacturing, assembly, processing, fabricating, brewing, distilling, and accessory sale of the product produced on site, except those uses further restricted in this ordinance					P	P		
Medical or dental clinic	P	P	P	P	P	P		
Nature study and arboretums								P
Nonprofit community agencies, recreation centers or youth centers	P	P	P				P	
Office	P	P	P	P	P	P		
Outdoor recreational uses operated by a governmental agency or conservation group								P
Parking ramp	P	P	P	P	P		P	
Parks								P
Pawnshop	P							
Public utility	P	P	P	P	P	P	P	P
Religious assembly	P	P	P	P	P	P	P	
Restaurant		P	P	P	P	P		
Sales and service	P	P	P	P	P			
Schools, elementary, secondary, or post-secondary	G						P	
Sexually oriented business			P					

Social clubs			G					
Theater, excluding drive-ins		P	P	P				
Transient produce sales by merchants who have applied for and received permits in compliance with all other sections of the City Code								P
Transient sales			G					
Vehicle impoundment yard						G		
Self-service storage facility			G	G		G		
Telecommunication towers							G	G
Truck or motor freight terminal						G		
Veterinary clinic	P	P	P	P	P	P		
Warehousing					P	P		
Wholesale, broker and auction dealer of automobiles, trucks and recreational vehicles and the like	P	P	P	P	P	P		

Figure ### Accessory Uses in Nonresidential Districts

Accessory Use	B-1	B-2	B-3	B-4	BP	I	PI*	GD
Antennas, satellite dishes	P	P	P	P	P	P		
Assembly halls (other than for religious worship)							P*	
Beekeeping (in compliance with Chapter 92)	P	P	P	P	P	P		
Car wash (automatic) when accessory to a fuel station		G	G	G	G	G		
Community garden	P	P	P	P	P	P	P	P
Construction buildings	P	P	P	P	P	P		
Crematories/crematoriums	P							
Day care							P*	
Drive-through windows	G	G	G	G	G	G		
Farmers' market	G	G	G	G	G	G		
Gas tanks (above ground) for propane, liquid nitrogen, etc. (excludes motor vehicle fuel)		P	P	P	P	P		
Ground-source heat pump system	P	P	P	P	P	P	P	P
Live entertainment in conjunction with a Class I, II, or brewpub restaurant		P	P	P	P	P		
Live entertainment in conjunction with a taproom or cocktail room					P	P		
Live entertainment in conjunction with a Class I, II, or brewpub restaurant where a cover charge is required			G	G	G	G		
Live entertainment in conjunction with a taproom or cocktail room where a cover charge is required					G	G		
Loading docks	P	P	P	P	P	P		
Mobile food units	P	P	P	P	P	P	P	P
Outdoor pet runs in conjunction with a commercial kennel					G	G		
Outdoor sales and display			G	G	G	G		
Outdoor storage in compliance			G	G	G	G	P	
Overnight recreational vehicle/recreational equipment parking or camping								
Rectories for religious institutions							G*	

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~~Repair of vehicles when accessory to a vehicle sales business~~				~~G~~				
~~Restaurants~~	~~P~~						~~P*~~	~~P~~
~~Retail and service businesses~~	~~P~~				~~P~~	~~P~~	~~P*~~	~~P~~
~~Satellite dish~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~
~~Solar energy system~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~
~~Staging area~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~		
~~Storage shed~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~
~~Structures designed to house environmental monitoring equipment~~	~~G~~	~~G~~	~~G~~	~~G~~	~~G~~	~~G~~		
~~Telecommunication towers~~		~~G~~	~~G~~		~~G~~	~~G~~		
~~Transient sales,~~			~~G~~					
~~Exterior, food, and beverage vending machines, ice machines, and propane tank exchanges~~		~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~
~~Warehousing, incidental repair, or processing~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~		
~~Waste and recycling storage as regulated in §§ 98.01 through 98.16 of the City Code §~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~
~~Utility wind turbine~~					~~P~~	~~P~~		
~~Small wind turbines~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~	~~P~~
~~*Such accessory uses are limited to 10% (each) of the total building area if they are located within a religious institution or non-profit community agency.~~								

<u>Use</u>	<u>B-1</u>	<u>B-2</u>	<u>B-3</u>	<u>B-4</u>	<u>BP</u>	<u>I</u>	<u>PI</u>	<u>OP</u>
<u>Sales and Service</u>								
<u>Animal Services</u>								
<u>Outdoor Pet Runs*</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>				
<u>Bank</u>								
<u>Body Art</u>								
<u>Care Center, Convalescent Home or Assisted Living</u>								
<u>Currency Exchange</u>								
<u>Daycare Facility, licensed*</u>	<u>PA</u>							
<u>General Sales</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>				
<u>General Services</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>				
<u>Hospital</u>								
<u>Hotel or Motel</u>								
<u>Indoor recreational facility 2,450sq ft or under</u>								
<u>Indoor recreational facility over 2,450sq ft</u>								
<u>Medical or dental clinic</u>								
<u>Office</u>								
<u>Outdoor recreational facility</u>								
<u>Pawn Shop</u>								
<u>Sexually oriented business*</u>								
<u>Theater, excluding drive-ins</u>								
<u>Veterinary Clinic</u>								
<u>Farmers' Market*</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>			<u>A</u>	
<u>Automotive</u>								
<u>Auto repair services</u>								<u>NP</u>
<u>Bus or truck storage, service shops</u>								<u>NP</u>

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<u>Car wash</u>								<u>NP</u>
<u>Fabrication/assembly of heavy equipment or vehicles</u>								<u>NP</u>
<u>Fuel stations and gas sales*</u>	<u>PA</u>							<u>NP</u>
<u>Propane exchanges*</u>								<u>NP</u>
<u>Indoor sales of motorvehicles</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>C</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Motorvehicle rental</u>								<u>NP</u>
<u>Parking Ramp</u>	<u>NP</u>							<u>NP</u>
<u>Vehicle impound yard</u>								<u>NP</u>
<u>Truck or motor freight terminal</u>								<u>NP</u>
<u>Wholesale broker, auction dealer of motorvehicles</u>								<u>NP</u>
<u>Overnight recreational vehicle parking or camping*</u>								
<u>Repair of vehicles* (accessory to a vehicle sale business)</u>							<u>NP</u>	<u>NP</u>
<u>Assembly</u>								
<u>Banquet, convention hall or conference center</u>								
<u>Business, trade or non-academic colleges</u>								<u>NP</u>
<u>Night Club</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Funeral Home and mortuary</u>								
<u>Crematory/ crematorium*</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>			<u>C</u>	
<u>Religious Institution</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	
<u>Rectory*</u>							<u>P</u>	
<u>Columbarium*</u>							<u>C</u>	
<u>Social Club</u>								
<u>Food Service</u>								
<u>Brewery</u>							<u>NP</u>	<u>NP</u>
<u>Brewery with a Taproom</u>								<u>NP</u>
<u>Cocktail Room</u>								<u>NP</u>
<u>Distillery</u>								<u>NP</u>
<u>Distillery with a Cocktail Room</u>								<u>NP</u>
<u>Restaurant</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>NP</u>
<u>Live entertainment in conjunction with a restaurant, brewery or distillery</u>								<u>NP</u>
<u>Live entertainment in conjunction with a taproom or cocktail room</u>								<u>NP</u>
<u>Live entertainment in conjunction with a restaurant, brewery or distillery where a cover charge is required</u>								<u>NP</u>
<u>Live entertainment in conjunction with a taproom or cocktail room where a cover charge is required</u>								<u>NP</u>
<u>Mobile food unit</u>								
<u>Exterior food and beverage vending machines, ice machines</u>								
<u>Manufacturing, processing, fabricating, brewing, distilling</u>								
<u>Small batch manufacturing</u>	<u>P</u>	<u>P</u>	<u>P</u>				<u>NP</u>	<u>NP</u>
<u>Construction Based Business</u>					<u>P</u>	<u>P</u>		<u>NP</u>
<u>Construction buildings</u>								<u>NP</u>
<u>Distribution center</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>			<u>NP</u>	<u>NP</u>
<u>Fabrication</u>					<u>P</u>	<u>P</u>		<u>NP</u>
<u>Manufacturing</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>P</u>	<u>P</u>		<u>NP</u>
<u>Processing</u>					<u>P</u>	<u>P</u>		<u>NP</u>
<u>Warehouse</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>P</u>	<u>P</u>		<u>NP</u>

<u>Outdoor storage*</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>
<u>Public Facilities</u>								
<u>Airports and aeronautical uses</u>								
<u>Cemetery*</u>								
<u>Communication towers and antennas</u>								
<u>Schools</u>								
<u>Parks</u>								<u>P</u>
<u>Public and Quasi-Public facilities</u>								<u>P</u>
<u>Essential services (electric, utilities, etc)</u>								
<u>Conservation</u>								<u>P</u>
<u>Accessory Uses Applicable to All Non-Residential Uses</u>								
<u>Gas tanks(above ground) for propane, liquid nitrogen, etc. (Excludes motor vehicle fuel)</u>								
<u>Ground source heat pump system</u>								
<u>Loading docks*</u>								
<u>Outdoor sales and display</u>								
<u>Staging area*</u>								
<u>Storage shed*</u>								
<u>Waste and recycling storage as regulated in §98.01 through 98.16 of the City Code</u>								
<u>Electric Fences</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Salvage</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>

P – Permitted

A – Accessory

C – Conditional

NP – Not Permitted

PA – Permitted or Accessory

* Additional standards required by ordinance

ARTICLE 7SECTION 4. MIXED USE DISTRICTS.

§152.700 LW LIVE WORK DISTRICT

§152.7010 ~~MU-1~~NMU NEIGHBORHOOD MIXED USE DISTRICT

- (A) Purpose. The “~~MU-1~~NMU” Neighborhood Mixed Use District is intended to provide for compact, pedestrian-oriented mixed-use areas of limited size.
- (B) Applicability. This district may be applied to those areas guided for Neighborhood Mixed Use, Neighborhood Service Center, and areas within the LRT Overlay on the Comprehensive 2040 Future Land Use Map.

- (C) Use Mix. The mix of uses should include residential at densities between 9 and 50 units per acre as well as retail, office and personal service establishments that are oriented to residents of the immediate neighborhood areas that anticipate high pedestrian traffic.
- (D) Design. Development in these areas shall follow a traditional neighborhood design where buildings are within a close proximity to the street and pedestrian connections are abundant. Both horizontal and vertical mixed use are encouraged in this district.

§152.702 MU MIXED USE DISTRICT

§152.703~~21~~ MU-2~~TOD-C~~ COMMUNITY MIXED USE~~TRANSIT ORIENTED DEVELOPMENT CENTER~~ DISTRICT

- (A) Purpose. The “MU-2” Community Mixed Use district is intended to provide both horizontal and vertical mixed uses in areas near light rail transit stations or areas with regular frequent transit service.
- (B) Applicability. This district may be applied to those areas and land uses within the LRT Overlay on the Comprehensive 2040 Future Land Use Map and other areas with frequent transit service.
- (C) Use Mix. The mix of uses may be in a common site, development area, or building. Individual developments may consist of a mix of two or more complementary uses that are compatible and connected to the surrounding area.

§152.704~~23~~ MU-3~~TOD-E~~ TRANSIT ORIENTED DEVELOPMENT EMPLOYMENT MIXED USE DISTRICT

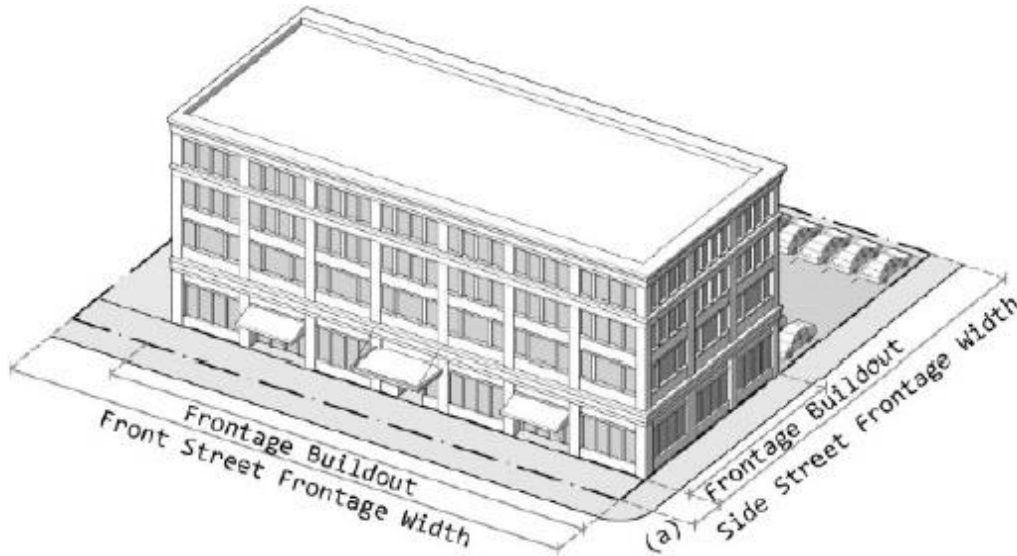
- (A) Purpose. The “MU-3” Employment Mixed Use is intended to provide walkable urbanism with complementary uses in industrial, warehousing, and office park areas.
- (B) This district may be applied to those areas and land uses within the LRT Overlay centered on the 93rd Avenue Transit Station on the Comprehensive 2040 Future Land Use Map.

§152.705~~43~~ TOD-G TRANSIT ORIENTED DEVELOPMENT GREENFIELD MU-4 REGIONAL MIXED USE DISTRICT

- (A) Purpose. The “MU-4” Regional Mixed Use is intended to provide standards for new walkable, mixed-use communities.
- (B) This district may be applied to those areas and land uses within the LRT Overlay centered on the Oak Grove Transit Station on the Comprehensive 2040 Future Land Use Map.

§152.706~~54~~ MIXED USE DISTRICT LOT AREA AND DIMENSIONAL REQUIREMENTS

- (A) The purpose of this subchapter is to establish minimum area and dimensional requirements for mixed use zoning districts to allow conformance with the policies of the Comprehensive Plan.
- (B) Minimum frontage buildout indicates that lots must contain buildings along the prescribed length of property line.
 - (1) At front streets the minimum frontage buildout is a percentage of the length of the abutting property line.
 - (2) At side streets the minimum frontage buildout is a specified distance along the property line from the corner.
 - (3) Facades must be within the minimum and maximum setback.
 - (4) At corner lots the width of the property, for frontage buildout calculation, may be reduced by the setback of the perpendicular lot line as indicated by (a) in the illustration below.
- (C) For buildings subject to a maximum front setback, the area between the building and the right-of-way will be maintained as city easement for right-of-way maintenance.
- (D) Building width is measured at the front setback. The maximum building width does not apply to buildings with a forecourt frontage type where the forecourt is wider than 40 feet.

Figure X. Minimum Frontage Buildout Illustration

(A)(E)

(B)(F) The following standards are established for the following districts: MU-1, MU-2, MU-3, and MU-4LW, NMU, MU, TOD-E, AND TOD-G:-

	<u>LW</u>	<u>MU-1NMU</u>	<u>MU</u>	<u>MU-2TOD-C</u>	<u>TOD-EMU-3</u>	<u>MU-4TOD-G</u>
<u>Maximum Building Setbacks</u>						
From public right-of-way ~~(max)~~	<u>None</u>	<u>No greater than 12 feet</u>	<u>None</u>	<u>No greater than 12 feet</u>	<u>No greater than 50 12 feet</u>	<u>No greater than 12 feet</u>
<u>Minimum Building Setbacks</u>						
<u>Front (abutting public right-of-way)</u>	<u>None</u>		<u>None</u>			
<u>Side property line (interior) (min)</u>	<u>None</u>	<u>0 feetNone</u>	<u>None</u>	<u>0None</u>	<u>0None</u>	<u>0None</u>
<u>Rear property line (interior) (min)</u>	<u>30 feet</u>	5 feet	<u>30 feet</u>	5 feet	20 feet	0
<u>Side or rear if abutting a residential district property line</u>	<u>50 feet</u>		<u>75 feet</u>			
<u>Maximum Allowable Building Footprint and Impervious Surface</u>						

C.1.D.B - WS - REDLINES - CH 152 ARTICLES 1 AND 2

	<u>LW</u>	<u>MU-1NMU</u>	<u>MU</u>	<u>MU-2TOD-C</u>	<u>TOD-EMU-3</u>	<u>MU-4TOD-G</u>
Maximum Impervious Surface	<u>70%</u>	90%		100%	100%	100%
Building Coverage and Building Width						
Minimum Frontage Buildout	<u>None</u>	80%		100%	70%	100%
Maximum building width	<u>None</u>	350 FT		350 feet	600 feet	350 feet
Building Height						
Principal structure maximum stories	<u>3 stories</u>	4 stories or 50 feet		6 stories or 75 feet	No maximum	No maximum
Residential Density ~~(if applicable)~~						
~~Minimum Dwelling~~ units per acre ~~(minimum)~~	<u>3</u>	~~n/a~~ <u>9</u>	<u>12</u>	20	~~Not Permitted~~ <u>n/a</u>	20
~~Maximum dwelling~~ units per acre	<u>12</u>	<u>50</u>	<u>50</u>	<u>None</u>	<u>n/a</u>	<u>None</u>
Glazing/Window Coverage						
Front street (minimum)		60%		60%	20%	60%
Side street (minimum)		30%		50%	20%	50%
Upper floors (minimum)		15%		10%	10%	10%

§152.70675 MIXED USE DISTRICT LAND USES

- (A) Purpose. Establish a listing of the permitted, conditional, and temporary uses for the MU-1, MU-2, MU-3, and MU-4 zoning districts. The uses have been allocated to the individual districts to allow reasonable use of properties in a manner that is compatible with the purpose of each zoning district and the overall purpose of this zoning code and the code of ordinances.
- (B) Land Uses.
- (1) Principal permitted and conditional land uses for each mixed-use zone listed in Figure ##. See Section ## and ## for additional performance standards for residential and nonresidential uses.
 - (2) A vertical mix of land uses is encouraged, such as residential and commercial, with a strong pedestrian orientation.

Figure ###: Principal land uses

	<u>LW</u>	<u>MU-1NMU</u>	<u>MU</u>	<u>MU-2TOD-G</u>	<u>MU-3TOD-E</u>	<u>MU-4TOD-G</u>
Assembly, banquet, convention halls, or conference centers		G		G	NP	G
Bank		P		P	P	P
Body Art		P		P	P	P
Business, trade, or non-academic colleges operated for profit		P		P	P	P
Brewery with or without taproom, distilleries with or without cocktail rooms		P		P	P	P
Care center, convalescent home, assisted living		P		P	NP	P
Clubs		G		G	NP	G
Commercial indoor recreational facility 2,450 SF or under		P		P	P	P
Commercial indoor recreational facility over 2,450 SF		G		G	G	G
Commercial outdoor recreational facilities		2		2	2	2
Day care facility, licensed (12 or fewer)		P		P	P	P
Day care facility, licensed (13-16 persons)		P		P	P	P
Government buildings		P		P	P	P
Hotel or motel		P		P	P	P
Hospital				G	NP	G
Light food processing						
Medical or dental clinic		P		P	P	P
Multifamily dwelling		P		P	NP	P
Nonprofit community agencies, recreation centers or youth centers		G		G	G	G
Office		P		P	P	P
Parking (structured) as a principal use		G		G	G	G
Public and utility facilities		P		P	P	P
Religious assembly		P		P	NP	P
Residential facility, licensed (6 or fewer persons)		P		P	NP	P
Residential facility, licensed (7-15 persons)		G		G	NP	G
Restaurant, Class I		P		P	P	P
Restaurant, Class II		P		P	P	P
Restaurant, brewpub		P		P	P	P
Sales and service		P		P	P	P
Schools, elementary, secondary, or post-secondary		G		G	NP	G
Senior housing (independent living)		P		P	NP	P
Social clubs		G		G	NP	G
Theater, excluding drive-ins		G		G	NP	G
Veterinary clinic		P		P	P	P

Figure ###: Accessory land uses

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	MU-1	MU-2	MU-3	MU-4
~~Antennas and satellite dishes~~	~~P~~	~~P~~	~~P~~	~~P~~
~~Assembly halls (other than for religious worship)~~	~~G~~	~~G~~	~~NP~~	~~P~~
~~Community garden~~	~~P~~	~~P~~	~~P~~	~~P~~
~~Construction debris dumpster (oversize)~~	~~P~~	~~P~~	~~P~~	~~P~~
~~Day care facility, licensed (12 or fewer children)~~	~~P~~	~~P~~	~~P~~	~~P~~
~~Day care facility, licensed in schools and religious institutions~~	~~P~~	~~P~~	~~NP~~	~~P~~
~~Drive-through windows~~	~~G~~	~~G~~	~~G~~	~~NP~~
~~Live entertainment in conjunction with a Class I, II, or brewpub restaurant~~	~~P~~	~~P~~	~~P~~	~~P~~
~~Live entertainment in conjunction with a taproom or cocktail room~~	~~P~~	~~P~~	~~P~~	~~P~~
~~Live entertainment in conjunction with a Class I, II, or brewpub restaurant where a cover charge is required~~	~~G~~	~~G~~	~~NP~~	~~G~~
~~Live entertainment in conjunction with a taproom or cocktail room where a cover charge is required~~	~~G~~	~~G~~	~~G~~	~~G~~
~~Parks and playgrounds, open spaces, patios, natural areas (private)~~	~~P~~	~~P~~	~~P~~	~~P~~
~~Outdoor sales and display~~	~~P~~	~~P~~	~~G~~	~~P~~
~~Rectories for religious institutions~~	~~P~~	~~P~~	~~NP~~	~~P~~
~~Satellite dish~~	~~P~~	~~P~~	~~P~~	~~P~~
~~Solar energy system~~	~~P~~	~~P~~	~~P~~	~~P~~
~~Structures designed to house environmental monitoring equipment~~	~~P~~	~~P~~	~~P~~	~~P~~
~~Telecommunication towers~~	~~P~~	~~P~~	~~P~~	~~P~~

<u>Use</u>	<u>LW</u>	<u>N M U</u>	<u>M U</u>	<u>TO D- C</u>	<u>TO D-E</u>	<u>T O D- G</u>	<u>PI</u>	<u>OP</u>
<u>Sales and Service</u>								
<u>Animal Services</u>								
<u>Outdoor Pet Runs*</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>				
<u>Bank</u>								
<u>Body Art</u>								
<u>Care Center, Convalescent Home or Assisted Living</u>								
<u>Currency Exchange</u>								
<u>Daycare Facility, licensed*</u>	<u>PA</u>							
<u>General Sales</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>				
<u>General Services</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>				
<u>Hospital</u>								
<u>Hotel or Motel</u>								
<u>Indoor recreational facility 2,450sq ft or under</u>								
<u>Indoor recreational facility over 2,450sq ft</u>								
<u>Medical or dental clinic</u>								
<u>Office</u>								
<u>Outdoor recreational facility</u>								
<u>Pawn Shop</u>								
<u>Sexually oriented business*</u>								
<u>Theater, excluding drive-ins</u>								
<u>Veterinary Clinic</u>								
<u>Farmers' Market*</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>			<u>A</u>	
<u>Automotive</u>								
<u>Auto repair services</u>								<u>NP</u>

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<u>Bus or truck storage, service shops</u>								NP
<u>Car wash</u>								NP
<u>Fabrication/assembly of heavy equipment or vehicles</u>								NP
<u>Fuel stations and gas sales*</u>	PA							NP
<u>Propane exchanges*</u>								NP
<u>Indoor sales of motorvehicles</u>	NP	NP	NP	C	NP	N P	N P	NP
<u>Motorvehicle rental</u>								NP
<u>Parking Ramp</u>	NP							NP
<u>Vehicle impound yard</u>								NP
<u>Truck or motor freight terminal</u>								NP
<u>Wholesale broker, auction dealer of motorvehicles</u>								NP
<u>Overnight recreational vehicle parking or camping*</u>								
<u>Repair of vehicles* (accessory to a vehicle sale business)</u>							N P	NP
<u>Assembly</u>								
<u>Banquet, convention hall or conference center</u>								
<u>Business, trade or non-academic colleges</u>								NP
<u>Night Club</u>	NP	NP	NP	NP	NP	N P	N P	NP
<u>Funeral Home and mortuary</u>								
<u>Crematory/ crematorium*</u>	A	A	A	A			C	
<u>Religious Institution</u>	P	P	P	P	P	P	P	
<u>Rectory*</u>							P	
<u>Columbarium*</u>							C	
<u>Social Club</u>								
<u>Food Service</u>								
<u>Brewery</u>							N P	NP
<u>Brewery with a Taproom</u>								NP
<u>Cocktail Room</u>								NP
<u>Distillery</u>								NP
<u>Distillery with a Cocktail Room</u>								NP
<u>Restaurant</u>	P	P	P	P	P	P	N P	NP
<u>Live entertainment in conjunction with a restaurant, brewery or distillery</u>								NP
<u>Live entertainment in conjunction with a taproom or cocktail room</u>								NP
<u>Live entertainment in conjunction with a restaurant, brewery or distillery where a cover charge is required</u>								NP
<u>Live entertainment in conjunction with a taproom or cocktail room where a cover charge is required</u>								NP
<u>Mobile food unit</u>								
<u>Exterior food and beverage vending machines, ice machines</u>								
<u>Manufacturing, processing, fabricating, brewing, distilling</u>								
<u>Small batch manufacturing</u>	P	P	P				N P	NP
<u>Construction Based Business</u>					P	P		NP
<u>Construction buildings</u>								NP

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<u>Distribution center</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>			<u>N</u> <u>P</u>	<u>NP</u>
<u>Fabrication</u>					<u>P</u>	<u>P</u>		<u>NP</u>
<u>Manufacturing</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>P</u>	<u>P</u>		<u>NP</u>
<u>Processing</u>					<u>P</u>	<u>P</u>		<u>NP</u>
<u>Warehouse</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>P</u>	<u>P</u>		<u>NP</u>
<u>Outdoor storage*</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>
<u>Public Facilities</u>								
<u>Airports and aeronautical uses</u>								
<u>Cemetery*</u>								
<u>Communication towers and antennas</u>								
<u>Schools</u>								
<u>Parks</u>								<u>P</u>
<u>Public and Quasi-Public facilities</u>								<u>P</u>
<u>Essential services</u>								
<u>Conservation</u>								<u>P</u>
<u>Residential</u>								
<u>Single family (detached)</u>								
<u>Two-family (attached)</u>								
<u>Townhouse (attached or detached)</u>								
<u>Multifamily</u>								
<u>Manufactured home park</u>								
<u>Care centers, convalescent homes, assisted living</u>								
<u>Bed and breakfast establishment</u>								
<u>Essential services, government</u>								
<u>Day care facility (13-16 persons)</u>								
<u>Farming and cultivation of agricultural products</u>								
<u>Accessory Uses Applicable to All Non-Residential Uses</u>								
<u>Gas tanks(above ground) for propane, liquid nitrogen, etc. (Excludes motor vehicle fuel)</u>								
<u>Ground source heat pump system</u>								
<u>Loading docks*</u>								
<u>Outdoor sales and display</u>								
<u>Staging area*</u>								
<u>Storage shed*</u>								
<u>Waste and recycling storage as regulated in §98.01 through 98.16 of the City Code</u>								
<u>Electric Fences</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>N</u> <u>P</u>	<u>N</u> <u>P</u>	<u>NP</u>
<u>Salvage</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>N</u> <u>P</u>	<u>N</u> <u>P</u>	<u>NP</u>

P – Permitted

A – Accessory

C – Conditional

NP – Not Permitted

PA – Permitted or Accessory

* Additional standards required by ordinance

ARTICLE 8SECTION 5. OVERLAY DISTRICTS

§152.800 AIRPORT PROTECTION ZONING

TBC.

§152.801 FLOOD HAZARD OVERLAY

The legislature of the State of Minnesota has, in M.S. Ch. 103F and 462 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. The intent of the designation on a property is to protect and preserve areas and investments on properties that are subject to periodic inundation by flood waters. This designation includes Floodway (FW), Flood Fringe (FF) and General Flood Plain (FP). The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be part of this chapter. The attached material includes the Flood Insurance Study for Hennepin County, Minnesota, and Incorporated Areas, dated November 4, 2016, and the Flood Insurance Rate Map panels enumerated as follows: 27053C0069F, 27053C0088F, 27053C0089F, 27053C0093F, 27053C0182F, 27053C0184F, 27053C0201F, 27053C0202F, 27053C0203F, 27053C0204F, 27053C0206F, 27053C0207F, 27053C0208F, 27053C0209F, dated November 4, 2016, all prepared by the Federal Emergency Management Agency. These materials are on file in the office of the City Clerk.

(A) Purpose. The purpose of these overlays includes:

- (1) To protect areas with environmental sensitivity.
- (2) To promote the public health, safety, and general welfare of the city.
- (3) To minimize losses of life, property, health and safety hazards, disruption of commerce and governmental services, public expenditures for flood protection and relief, and impairment of the tax base due to periodic inundation.
- (4) To comply with the rules and regulations of the National Flood Insurance Program codified as 44 CFR Parts 59-78, as amended, to maintain the community's eligibility in the National Flood Insurance Program.
- (5) To preserve the natural characteristics and functions of watercourses and flood plains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

(B) General provisions.

- (1) This subchapter adopts the flood plain maps applicable to the city and includes three flood plain districts: Floodway, Flood Fringe, and General Flood Plain.
 - (a) Where Floodway and Flood Fringe districts are delineated on the flood plain maps, the standards in § 152.801 will apply, depending on the location of a property.
 - (b) Locations where Floodway and Flood Fringe districts are not delineated on the flood plain maps are considered to fall within the General Flood Plain District. Within the General Flood Plain District, the Floodway District standards in § 152.801 apply unless the floodway boundary is determined, according to the process outlined in § 152.801. Once the floodway boundary is determined, the Flood Fringe District standards in § 152.801 may apply outside the floodway.
- (2) Lands to which subchapter applies. This subchapter applies to all lands within the jurisdiction of the city shown on the official zoning map or the attachments to the map as being located within the boundaries of the Floodway, Flood Fringe, or General Flood Plain Districts.
 - (a) The Floodway, Flood Fringe and General Flood Plain Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this subchapter. In case of a conflict, the more restrictive standards will apply.

- (3) Interpretation. The boundaries of the zoning districts are determined by scaling distances on the Flood Insurance Rate Map.
 - (a) Where a conflict exists between the flood plain limits illustrated on the official zoning map and actual field conditions, the flood elevations shall be the governing factor. The Zoning Administrator must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory flood plain, and other available technical data.
 - (b) Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Planning Commission and to submit technical evidence.
- (4) Abrogation and greater restrictions. It is not intended by this subchapter to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this subchapter imposes greater restrictions, the provisions of this subchapter prevail. All other ordinances inconsistent with this subchapter are hereby repealed to the extent of the inconsistency only.
- (5) This subchapter does not imply that areas outside a flood hazard area will be free from flooding or flood damages. This subchapter does not create liability on the part of the city or any officer or employee for any flood damages that result from reliance on this section, or any administrative decision lawfully made based on regulations in this section.
- (6) Severability. If any section, clause, provision, or portion of this subchapter is adjudged unconstitutional or invalid by a court of law, the remainder of this subchapter shall not be affected and shall remain in full force.
- (7) Annexations. The Flood Insurance Rate Map panels adopted by reference into § above may include flood plain areas that lie outside of the corporate boundaries of the city at the time of adoption of this subchapter. If any of these flood plain land areas are annexed into the city after the date of adoption of this subchapter, the newly annexed flood plain lands will be subject to the provisions of this subchapter immediately upon the date of annexation.
- (8) Detachments. The Flood Insurance Rate Map panels adopted by reference into § will include flood plain areas that lie inside the city at the time of adoption of this subchapter. If any of these flood plain land areas are detached from the city and come under the jurisdiction of another city after the date of adoption of this subchapter, the newly detached flood plain lands will no longer be subject to the provisions of this subchapter as of the date of detachment.
- (C) Amendments and administration. All amendments to this subchapter must follow the procedures as defined in § .
 - (1) Designations shown on the Zoning Overlay Map may not be removed unless an applicant provides evidence that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the flood hazard area. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources determined that, through other measures, lands are adequately protected for the intended use.
 - (2) All amendments, either to the text of this section or the Zoning Overlay Map must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the boundaries for flood hazard area must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given ten days written notice of all hearings to consider an amendment to this section and said notice must include a draft of the amendment or technical study under consideration.
 - (3) Zoning Administrator: A Zoning Administrator or other official designated by the city shall administer and enforce this chapter. If the Zoning Administrator finds a violation of the provisions of this chapter the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in § 152.522.
 - (4) Permit requirements:
 - (a) Permit required. For that portion of the property or structures in the floodplain, a permit issued by the Zoning Administrator in conformity with the provisions of this subchapter shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair over \$500), or alteration of any building, structure, or portion thereof;

- prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source, and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain; relocation or alteration of a watercourse (including new or replacement culverts and bridges), unless a public waters work permit has been applied for; any other type of development as defined in this subchapter. Exceptions to this requirement include dog houses, non-habitable structures such as storage units less than 36 square feet in size, normal household storage, such as lawn furniture or equipment storage, such as a canoe, all of which may easily be moved if necessary and normal landscaping and maintenance, provided no fill is placed within the Flood Hazard Overlay.
- (b) Notifications for watercourse alterations. The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to M.S. Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
 - (c) Notification to FEMA when physical changes increase or decrease the 100-year flood elevation. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.
- (5) The flood plain district regulations adopted by this subchapter will be amended to incorporate any revisions by the Federal Emergency Management Agency to the flood plain maps adopted by § 152.491.
- (D) Floodway, flood fringe, and general floodplain performance standards and uses.
- (1) Districts.
 - (a) Floodway District. The Floodway District includes those areas within Zones AE that have a floodway delineated as shown on the Flood Insurance Rate Map adopted in § 152.491. For lakes, wetlands and other basins within Zones AE that do not have a floodway delineated, the Floodway District also includes those areas that are at or below the ordinary high water level as defined in M.S. § 103G.005, Subd. 14.
 - (b) Flood Fringe District. The Flood Fringe District includes areas within Zones AE that have a floodway delineated on the Flood Insurance Rate Map adopted in § 152.491, but are located outside of the floodway. For lakes, wetlands and other basins within Zones AE that do not have a floodway delineated, the Flood Fringe District also includes those areas below the 1% annual chance (100-year) flood elevation but above the ordinary high water level as defined in M.S. § 103G.005, Subd. 14.
 - (c) General Flood Plain District. The General Flood Plain District includes those areas within Zones A, AE, or AH that do not have a delineated floodway as shown on the Flood Insurance Rate Map adopted in § 152.491.
 - (2) Applicability. Within the Flood Plain Districts established in this subchapter, the use, size, type and location of development must comply with the terms of this subchapter and other applicable regulations. In no cases shall flood plain development adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributaries to the main stream, drainage ditches, or any other drainage facilities or systems. All uses not listed as permitted uses or conditional uses in divisions (C), (D) and (E) below are prohibited. In addition, critical facilities, as defined in § 152.491, are prohibited in all Flood Plain Districts.
 - (3) Floodway District (FW).
 - (a) Permitted uses. The following uses, subject to the standards set forth in division (C)(2) below and § 152.514, are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:
 - (1) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
 - (2) Industrial-commercial loading areas, parking areas, and airport landing strips.

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- (3) Open space uses, including but not limited to private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails.
- (4) Residential lawns, gardens, parking areas, and play areas.
- (5) Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources Area Hydrologist is notified at least ten days prior to issuance of any permit.
- (b) Standards for Floodway permitted uses.
 - (1) The use must have a low flood damage potential.
 - (2) The use must not obstruct flood flows or cause any increase in flood elevations and must not involve structures, obstructions, or storage of materials or equipment.
 - (3) Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.
 - (4) No on-site sewage treatment, holding tanks or water supply systems are permitted in the floodway.
- (c) Conditional uses. The following uses may be allowed as conditional uses following the standards and procedures set forth in § 152.519 and further subject to the standards set forth in division (C)(4) below, if otherwise allowed in the underlying zoning district or any applicable overlay district.
 - (1) Structures accessory to the uses listed in divisions (C)(1)(a) through (c) and the uses listed in divisions (C)(3)(b) and (c).
 - (2) Extraction and storage of sand, gravel, and other materials.
 - (3) Marinas, boat rentals, docks, piers, wharves, and water control structures.
 - (4) Storage yards for equipment, machinery, or materials.
 - (5) Placement of fill or construction of fences that obstruct flood flows. Farm fencing, as defined in M.S. § 344.02, Subd. 1(a)-(d), is permitted as it relates to this section.
 - (6) Travel-ready recreational vehicles meeting the exception standards in § 152.514(F)(2).
 - (7) Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the ten-year frequency flood event.
- (d) Standards for Floodway conditional uses.
 - (1) All uses. A conditional use must not cause any increase in the stage of the 1% chance or regional flood or cause an increase in flood damages in the reach or reaches affected.
 - (2) Fill; storage of materials and equipment:
 - (a) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
 - (b) Fill, dredge spoil, and other similar materials deposited or stored in the flood plain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.
 - (c) Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% chance or regional flood may only be allowed if the City Council has approved a plan that ensures removal of the materials from the floodway based upon the flood warning time available.
 - (3) Accessory structures. Accessory structures, as identified in division (C)(3)(a) above, may be permitted, provided that:
 - (a) Structures are not intended for human habitation;
 - (b) Structures will have a low flood damage potential;
 - (c) Structures will be constructed and placed so as to offer a minimal obstruction to the flow of flood waters;
 - (d) Service utilities, such as electrical and heating equipment, within these structures must be elevated to or above the regulatory flood protection elevation or properly floodproofed;

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- (e) Structures must be elevated on fill or structurally dry floodproofed in accordance with the FP1 or FP2 floodproofing classifications in the State Building Code. All floodproofed structures must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls.
 - (f) As an alternative, an accessory structure may be internally wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment and does not exceed 576 square feet in size. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria: to allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and there must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
- (4) Accessory structures in the Flood Hazard Area Overlay.
- (a) Accessory structures shall not be designed for human habitation.
 - (b) Accessory structures shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:
 - (i) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and
 - (ii) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
 - (c) Accessory structures shall be elevated on fill or structurally dry flood proofed to the regulatory flood protection elevation in accordance with the State Building Code. As an alternative, an accessory structure may be wet flood proofed to the flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment and does not exceed 500 square feet in size. All flood proofed accessory structures must meet the following additional standards:
 - (i) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;
 - (ii) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed; and
 - (iii) To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a door prior to flooding will not satisfy this requirement for automatic openings.
- (5) Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of M.S. § 103G.245.
- (6) A levee, dike or floodwall constructed in the floodway must not cause an increase to the 1% chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.
- (7) Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system.
- (4) Flood Fringe District (FF).
- (a) Permitted uses. Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in division (D)(2) below. If no pre-existing, underlying zoning districts exist, then any residential or nonresidential structure or use of a structure or land is a permitted use provided it does not constitute a public nuisance.
 - (b) Standards for Flood Fringe permitted uses.

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- (1) Except for the structures mentioned in § 152.514(D), only non-habitable accessory structures constructed with less than 120 square feet, fences, or docks for the personal use of the resident(s) of the principal structure that are constructed with flood resistant material to the regulatory flood protection elevation in accordance with the flood proofing classification of the State Building Code may be permitted in the flood fringe, if permitted in the underlying district. No accessory structure may be constructed on the property that will increase flood elevations. All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure.
- (2) Accessory structures. As an alternative to the fill requirements of division (D)(2)(a) above, structures accessory to the uses identified in division (D)(1) above may be permitted to be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided that:
 - (a) The accessory structure constitutes a minimal investment, does not exceed 576 square feet in size, and is only used for parking and storage.
 - (b) All portions of floodproofed accessory structures below the regulatory flood protection elevation must be:
 - (i) Adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls;
 - (ii) Be constructed with materials resistant to flood damage; and
 - (iii) Must have all service utilities be water-tight or elevated to above the regulatory flood protection elevation.
 - (c) Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria: to allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and there must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
- (3) The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with division (D)(2)(a) above, or if allowed as a conditional use under division (D)(3)(c) below.
- (4) The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.
- (5) All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.
- (6) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- (7) All fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.
- (8) All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning or emergency evacuation plan acceptable to the City Council.
- (9) Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.
- (10) Interference with normal manufacturing/industrial plant operations must be minimized, especially along streams having protracted flood durations. In considering permit

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applications, due consideration must be given to the needs of industries with operations that require a flood plain location.

- (11) Manufactured homes must meet the standards of § 152.514 (E) and recreational vehicles must meet the standards of § 152.514(F).
- (c) Conditional uses. The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning district(s) or any applicable overlay district, following the procedures in § 152.519.
 - (1) Any structure that is not elevated on fill or floodproofed in accordance with division (D)(2)(a) and (b) above.
 - (2) Storage of any material or equipment below the regulatory flood protection elevation.
 - (3) The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with division (D)(2)(a) above.
- (d) Standards for Flood Fringe conditional uses.
 - (1) The standards listed in divisions (D)(2)(c) through (j) apply to all conditional uses.
 - (2) Basements, as defined by § 152.008, are subject to the following:
 - (a) Residential basement construction is not allowed below the regulatory flood protection elevation.
 - (b) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with division (D)(4)(c) below.
 - (3) All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code. Structurally dry floodproofing must meet the FP1 or FP2 floodproofing classification in the State Building Code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
 - (4) The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.
 - (a) The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.
 - (b) The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City Council.
 - (c) The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.
 - (5) Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.
- (5) General Flood Plain District (GF).
 - (a) Permitted uses.
 - (1) The uses listed in division (C)(1) above, Floodway District permitted uses, are permitted uses.
 - (2) All other uses are subject to the floodway/flood fringe evaluation criteria specified in division (E)(2) below. Division (C) above applies if the proposed use is determined to be in the Floodway District. Division (D) above applies if the proposed use is determined to be in the Flood Fringe District.
 - (b) Procedures for Floodway and Flood Fringe determinations.
 - (1) Upon receipt of an application for a permit or other approval within the General Flood Plain District, the Zoning Administrator must obtain, review and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.
 - (2) If regional flood elevation and floodway data are not readily available, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within the Floodway or Flood Fringe

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District. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in division (E)(2)(c) below.

- (3) The determination of floodway and flood fringe must include the following components, as applicable:
 - (a) Estimate the peak discharge of the regional (1% chance) flood.
 - (b) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
 - (c) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half (0.5) foot. A lesser stage increase than 0.5 foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.
 - (4) The Zoning Administrator will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Zoning Administrator may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the Zoning Administrator may approve or deny the application.
 - (5) After the Floodway and Flood Fringe District boundaries have been determined, the Zoning Administrator must process the permit application consistent with the applicable provisions of divisions (C) and (D) above.
- (E) Standards for all flood plain districts.
- (1) Public utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain must be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.
 - (2) Public transportation facilities. Railroad tracks, roads, and bridges to be located within the flood plain must comply with § 152.513(C) and (D). These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety. None of these uses shall increase flood elevations.
 - (3) Non-habitable park shelters and other community assembly structures when accessory to park uses shall be permitted, but shall be constructed using flood proofing measures to the regulatory flood protection elevation, in accordance with the State Building Code, and shall not increase flood elevations. Buildings over 500 square feet must be dry flood proofed to the flood proofing standards in the State Building Code.
 - (4) On-site water supply and sewage treatment systems. Where public utilities are not provided:
 - (a) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and are subject to the provisions in Minnesota Rules Chapter 4725.4350, as amended; and
 - (b) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minnesota Rules Chapter 7080.2270, as amended.
 - (5) Manufactured homes. New manufactured home parks and expansions to existing manufactured home parks are prohibited in any Flood Plain District. For existing manufactured home parks or lots of record, the following requirements apply:
 - (a) Placement or replacement of manufactured home units is prohibited in the Floodway District.
 - (b) If allowed in the Flood Fringe District, placement or replacement of manufactured home units is subject to the requirements of § 152.513(D) and the following standards:
 - (1) New and replacement manufactured homes must be elevated in compliance with § 152.513(D) and must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This

requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

- (2) New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in § 152.517(B).
- (6) Recreational vehicles. New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any Flood Plain District. Storage of recreational vehicles and equipment shall be in conformance with the regulations of the city, less than 400 square feet in size and equipment may be temporarily stored (for a maximum period of 180 days) if permitted in the underlying district and in compliance with all other sections of the City Code. Placement of recreational vehicles in existing recreational vehicle parks or campgrounds or as storage in the flood plain must meet the exemption criteria below or be treated as new structures meeting the requirements of this subchapter.
 - (a) Recreational vehicles are exempt from the provisions of this subchapter if they are placed in any of the following areas and meet the criteria listed in division (F)(2) below:
 - (1) Individual lots or parcels of record.
 - (2) Existing commercial recreational vehicle parks or campgrounds.
 - (3) Existing condominium-type associations.
 - (b) Criteria for exempt recreational vehicles:
 - (1) The vehicle must have a current license required for highway use.
 - (2) The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.
 - (3) No permanent structural type additions may be attached to the vehicle.
 - (4) The vehicle and associated use must be permissible in any pre-existing, underlying zoning district.
 - (5) Accessory structures are not permitted within the Floodway District. Any accessory structure in the Flood Fringe District must be constructed of flood-resistant materials and be securely anchored, meeting the requirements applicable to manufactured homes in division (E)(2) above.
 - (6) An accessory structure must constitute only a minimal investment.
 - (c) Recreational vehicles that are exempt in (F)(2) above lose this exemption when development occurs on the site that exceeds a minimal investment for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as new structures subject to the elevation and floodproofing requirements of § 152.513(D). No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle should flooding occur.
- (7) Building sites. If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:
 - (a) Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - (b) Constructed with materials and utility equipment resistant to flood damage;
 - (c) Constructed by methods and practices that minimize flood damage; and
 - (d) Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (F) Procedures for submission of technical data for boundary.
 - (1) Upon receipt of an application for a development for a use within a Flood Hazard Overlay, the applicant is required to furnish as is applicable to the application as determined by the City Manager for the determination of the regulatory flood protection elevation and whether the proposed use is within the flood way or flood fringe. If the proposed use is located within the flood way, § 152.513 of this chapter applies. If the proposed use is located in the flood fringe, § 152.514 of this chapter applies.
 - (a) A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.

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- (b) Plan (surface view) showing the following:
 - (1) Elevations or contours of the ground.
 - (2) Pertinent structure, fill, or storage elevations.
 - (3) The size, location, and spatial arrangement of all proposed and existing structures on the site.
 - (4) Location and spatial arrangement of all proposed and existing structures on the site.
 - (5) The location and elevations of streets.
 - (6) Photographs showing existing land uses and vegetation upstream and downstream.
 - (7) The soil type(s).
- (c) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.
- (2) The applicant must be responsible to submit a copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the flood way or flood fringe and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Rules parts 6120.5000 - 6120.6200 must be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert must:
 - (a) Estimate the peak discharge of the regional flood.
 - (b) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
 - (c) Compute the floodway necessary to convey or store the regional flood without increasing flood stages and providing compensation storage volumes on a 1:1 basis below the 100-year flood elevation. An equal degree of encroachment on both sides of a stream within the reach must be assumed in computing floodway boundaries.
- (G) The City Manager must present the technical evaluation and findings of the designated engineer or expert to the Board of Adjustment and Appeals. The board may formally accept the technical evaluation and the recommended floodway and flood fringe delineations for the Flood Hazard Overlay Area or deny the permit. The Board, prior to official action, must submit the application and all supporting data and analyses to the Federal Emergency Management Agency and Department of Natural Resources for review and comment. Once the flood way and flood fringe boundaries have been determined, the Board will refer the matter back to the City Manager who will process the permit application consistent with the applicable provisions of §§ 152.030 through 152.039 of this chapter.
- (H) Procedures for submission of technical data for all development within a flood hazard overlay. In addition to the requirements of §§ 152.030 through 152.039, the following additional requirements apply to an application for development within all Flood Hazard Overlays.
 - (1) Upon receipt of an application for a development for a use within a Flood Hazard Overlay, the applicant is required to furnish the following as is applicable to the application as determined by the City Manager for the determination of the flood hazard area boundary and the adequacy of the proposed use for the particular site:
 - (a) Plans drawn to scale showing the following information:
 - (1) The nature, location, dimensions, and elevation of the lot.
 - (2) The existing or proposed structures, fill, or storage of materials.
 - (3) Flood-proofing measures, and the relationship of the above to the location of the stream channel.
 - (4) The relationship of the above to the location of the stream channel.
 - (b) Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
 - (c) The applicant is required to submit certification by a registered engineer or surveyor licensed by the State of Minnesota that the floodproofing, finished fill and building elevations were accomplished in compliance with the provisions of this section.
 - (2) One copy of the plans and specifications defined above must be given to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters. Based upon the

technical evaluation of the designated engineer or expert, the City Manager shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

- (3) Review standards. In addition to the review standards listed in §§ 152.030 through 152.039. The City Council must also consider the following in its review of any application in the Flood Hazard Overlay. These standards include:
 - (a) The danger to life and property due to increased flood heights or velocities caused by encroachment.
 - (b) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
 - (c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 - (d) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (e) The importance of the services provided by the proposed facility to the community.
 - (f) The requirements of the facility for a waterfront location.
 - (g) The availability of alternative locations not subject to flooding for the proposed use.
 - (h) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - (i) The relationship of the proposed use to the comprehensive plan and flood plain management programs for the area.
 - (j) The safety of access to the property in times of flood for ordinance and emergency vehicles.
 - (k) The expected heights, velocity, duration rate of rise, and sediment transport of the flood waters expected at the site.
 - (l) Such other factors which are relevant to the purposes of this chapter.
 - (4) Reasonable conditions. The City Council shall attach any reasonable conditions as it deems necessary to fulfill the purposes of this chapter. Such conditions may include, but are not limited to, the following:
 - (a) Modification of waste treatment and water supply facilities.
 - (b) Limitations on period of use, occupancy or operation.
 - (c) Imposition of operational controls, sureties, and deed restrictions.
 - (d) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
 - (e) Flood proofing measures, in accordance with the State Building Code and this chapter. The applicant must submit a plan or documentation certified by a registered professional engineer or architect that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.
 - (5) State and federal permits. Prior to granting approval for any application for development, the City Manager shall determine that the applicant has obtained all necessary state and federal permits.
- (I) Subdivision review criteria.
- (1) In general. Recognizing that flood prone areas may exist outside of the designated Flood Plain Districts, the requirements of this section apply to all land within the city.
 - (2) No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions for purposes of this subchapter. All lots within Flood Plain Districts shall be able to contain a building site outside of the Flood Plain Districts. All subdivisions must have water and sewage treatment facilities that comply with the provisions of this chapter and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. For all subdivisions in the Flood Plain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required elevations of all access roads and must be clearly labeled on all required subdivision drawings and platting documents.
 - (3) In the General Flood Plain Overlay, applicants must provide the information required in § 152.515 of this chapter to determine the 100-year flood elevation, the floodway and flood fringe district boundaries and the regulatory flood protection elevation for the subdivision site.

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- (4) Removal of special flood hazard area designation. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
- (5) If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal must be reviewed to assure that:
 - (a) All such proposals are consistent with the need to minimize flood damage within the flood prone area,
 - (b) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
 - (c) Adequate drainage is provided to reduce exposure of flood hazard.
- (J) Conditions for a variance to the flood hazard overlay performance standards.
 - (1) Applications for variance will be reviewed in accordance with the procedures in §§ 152.030 through 152.039.
 - (2) Any projects granted a variance to high water mark must submit an Erosion and Sedimentation Control Plan prepared by a Registered Engineer licensed by the State of Minnesota in accordance with the guidelines of the West Mississippi Watershed District. This plan must be approved by the city prior to issuance of a permit.
 - (3) Proposals for variance must be the minimum necessary to allow for the reasonable use of the property.
 - (4) Proposals must meet the requirements defined in § 152.516 for development in the Flood Hazard Overlay.
 - (5) All habitable structures applying for a variance and proposed in the Flood Hazard Overlay must be constructed in accordance with the flood plain management standards for the State of Minnesota as found in Minnesota Rules parts 6120.5000 - 6120.6200 and the Code of Federal Regulations, 44 CFR 60.3(a)-(d).
 - (6) No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area or permit standards lower than those required by state law.
 - (7) The City Manager must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least 10 days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
 - (8) Required notification. The City Manager must notify the applicant for a variance of the impacts of the action and must maintain a record of such notification. The city must maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program. The impacts necessitating notification include:
 - (a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance.
 - (b) Such construction below the 100-year or regional flood level increases risks to life and property.
 - (9) Submittal of final decisions to the DNR. A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
 - (10) The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
 - (a) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - (b) Variances shall only be issued by a community upon:
 - (1) A showing of good and sufficient cause,
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant, and

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- (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (11) All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.
- (12) Record-keeping. The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.
- (K) Approval of site plan review, conditional use permits, and/or grading permits.
 - (1) The City Council may attach conditions to the approval of Site Plan Review or any permits on flood hazard overlay properties including, but not limited to, the modification of the waste disposal and water supply facilities; limiting the period of use, occupancy, and/or operation; imposing operational controls, sureties, and deed restriction requirements; aesthetic considerations to protect wetlands, open space or those amenities, and requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures; floodproofing measures, in accordance with the State Building Code and this subchapter. The applicant must submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.
 - (2) In passing upon conditional use applications governed by this subchapter, the City Council must consider all relevant factors specified in other sections of this subchapter, and those factors identified in § 152.516(C).
 - (3) The Zoning Administrator must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten days notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
 - (4) Submittal of final decisions to the DNR. A copy of all decisions granting conditional uses must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.
- (L) Nonconformities. A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter but which is not in conformity with the provisions of this chapter may be continued subject to §§ 152.050 through 152.055 and the following:
 - (1) A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows except as otherwise provided in division (B) below. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.
 - (2) Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the regulatory flood protection elevation in accordance with flood plain management standards for the State of Minnesota as found in Minnesota Rules parts 6120.5000 - 5120.6200 and the Code of Federal Regulations, 44 CFR 60.3(a)-(d).
 - (3) The cost of any structural alterations or additions to any non-conforming structure over the life of the structure must not exceed 50% of the market value of the structure unless the conditions of this section are satisfied. The cost of all structural alternations and additions constructed since the adoption of the city's initial flood plain controls shall be calculated into today's current cost which will include all costs such as construction material and a reasonable cost placed on all manpower or labor. If the current cost of all previous and proposed alterations and additions exceeds 50% of the current market value of the structure, then the structure must be located outside the floodway and meet the floodplain management standards for the State of Minnesota as found in Minnesota Rules parts 6120.5000 - 5120.6200 and the Code of Federal Regulations, 44 CFR 60.3(a)-(d).

- (4) If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this subchapter. The Assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses that have been discontinued for a period of 12 months.
- (5) If any nonconforming use or structure is substantially damaged, as defined in § 152.008, it shall not be reconstructed except in conformity with the flood plain management standards for the State of Minnesota as found in Minnesota Rules parts 6120.5000 - 5120.6200 and the Code of Federal Regulations, 44 CFR 60.3(a)-(d).
- (6) If a substantial improvement occurs, as defined in § 152.008, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition (as required by division (B) above) and the existing nonconforming building must meet the flood plain management standards for the State of Minnesota as found in Minnesota Rules parts 6120.5000 - 5120.6200 and the Code of Federal Regulations, 44 CFR 60.3(a)-(d).
- (7) If any nonconforming use or structure experiences a repetitive loss, it must not be reconstructed except in conformity with the provisions of this subchapter
- (M) Record of first floor elevation. The City Manager must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the Flood Hazard Overlay. The City Manager must also maintain a record of the elevation to which structures or alterations and additions to structures are flood-proofed.
- (N) Enforcement of penalties. In addition to the enforcement and penalties defined in §§ 152.020 through 152.023, other action may be taken by the city to ensure compliance with this section, including a request to the National Flood Insurance Program to deny flood insurance availability to the subject property. If the structure and/or use suspected to be in violation of this section is in the process of construction, the City Manager must immediately order the construction or development halted until the proper permit or approval is granted. The City Manager will also notify the landowner to restore the land to the condition which existed prior to the violation. Each day a violation exists shall be treated as a separate offense.

~~§152.802 HIGHWAY OVERLAY~~

~~The permitted and conditional uses allowed in the Highway Overlay shall be the same as the underlying zoning district, with the exception that distribution centers/warehousing uses are not permitted.~~

§152.803 MISSISSIPPI RIVER CRITICAL AREA OVERLAY

- (A) The intent of this designation is to protect and preserve the Mississippi River corridor as a unique and valuable natural resource for the city, region, state, and nation.
- (B) The boundaries of this overlay were determined by the State of Minnesota in Executive Order No. 79-19 and are not under the jurisdiction of the City of Brooklyn Park to alter.
- (C) Areas with Critical Area designation must be maintained largely for low-density residential, and park uses. Where development or redevelopment occurs, site alteration and building construction may not disturb the natural state of shoreline, slopes, and bluff and must not be readily visible from the river.
- (D) Setbacks. Front, side, and rear setbacks are determined by the underlying zoning district of the subject property, with the following requirements for bluff, slopes over 12% and ordinary high water level setbacks:
 - (1) Undeveloped Properties.
 - (a) All buildings shall be placed at least 100 feet from the ordinary high water level of the Mississippi River.
 - (b) All buildings, decks or other appurtenances shall be set back 40 feet from the edge of a bluff with slopes 12% or greater.
 - (2) Properties upon which a principal structure was constructed prior to March 26, 2001.
 - (a) The foundation footprint of an existing principal structure, or of a new principal structure constructed to replace a principal structure that has been damaged, destroyed or removed from the property, may be expanded and/or reconstructed in any direction that does not encroach further toward bluffs or the river and complies with § .

- (b) Existing attached garages, detached accessory structures, decks, patios, three-season porches and other residential structures may be rebuilt or expanded or reconstructed provided that they do not encroach further toward bluffs or the river and comply with § [REDACTED].
- (c) Attached garages, detached accessory structures, decks, patios, three-season porches and other residential structures that are damaged, destroyed or removed from the property may be reconstructed in the same location as previously existed and may be expanded in any direction that do not encroach further toward bluffs and/or the river and comply with § [REDACTED].

§152.804 PLANNED DEVELOPMENT OVERLAY

- (A) Purpose. The purpose of the Planned Development Overlay is to promote creative and efficient use of land by providing design flexibility in the application of the provisions of a primary zoning district by providing an overlay district on top of any of the primary zoning districts. It is the applicant's responsibility to demonstrate that the proposed Planned Development is not simply for enhanced gain and accomplishes one or more of the following:
 - (1) Introduce flexibility of site design and architecture for the conservation of land, natural features and open space through clustering of structures, facilities, amenities and activities for public benefit.
 - (2) Improve the efficiency of public streets and utilities through a more efficient and effective use of land, open space and public facilities through assembly and development of land in larger parcels.
 - (3) Internal organization and adequacy of various uses or densities, circulation and parking facilities, urban services, recreation areas, open spaces, screening and landscaping, and the ability to demonstrate that a viable development will be created.
 - (4) Provide mixed land use and land use transitions in keeping with the character of adjacent land uses and the underlying zoning districts; and,
 - (5) Provide for the clustering of land parcels for development as an integrated, coordinated unit as opposed to a parcel by parcel, piecemeal approach and to maintain these parcels by central management including integrated and joint use of parking, maintenance of open space and similar features, and harmonious selection and efficient distribution of uses.
- (B) Intent. The intent of this designation is to encourage development that is superior in quality and design than could be achieved through traditional zoning. The boundaries of this overlay are amended for each application as approved through on the Development Plan through the rezoning process outlined elsewhere in this chapter.
- (C) Flexibilities. The City Council may grant certain flexibility to zoning requirements if the applicant demonstrates to the Council's satisfaction that the purpose and intent have been satisfied. Such flexibilities may include:
 - (1) Land Use. Flexibility in land use may be provided by a PDO, however, the uses in the underlying zoning district may be further restricted.
 - (2) Density. Flexibility in density may be granted if consistent with the land use designation in the comprehensive plan.
 - (3) Site Design. Specific lot area, lot width, setbacks, height, yard, floor area ratio, landscaping, and open space requirements may be established for the PDO.
 - (4) Parking and Loading. Flexibility in the design and location of off-street parking facilities and loading areas is permitted with the approval of such facilities by the city engineer; however, in no case shall gravel parking areas be permitted.
 - (5) Signage. Flexibility in the design and location of signage is permitted; however, in no case shall pylon signs be permitted.
 - (6) Stormwater. Stormwater facilities may be shared between parcels if part of an approved PDO.
- (D) Procedures. Planned Development projects shall adhere to the rezoning procedure listed in § [REDACTED] and site plan review listed in § [REDACTED].
- (E) Maintenance requirements. If common open space or service facilities are provided within the PDO, the PDO shall contain provisions to assure the continued operation and maintenance of such open space and service facilities to a predetermined reasonable standard. Open space and facilities may be placed under the ownership of one of the following, as approved by the City Council:
 - (1) Dedicated to the public, where a community-wide use is anticipated, and the City Council agrees to accept the dedication.

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- (2) Landlord control, where only use by tenants is anticipated.
- (3) Property owners' association, provided all the following conditions are met:
 - (a) Prior to the use, occupancy, sale, or the execution of contract for sale of individual buildings, units, lots, parcels, tracts or common areas, a recorded declaration of covenants, conditions and restrictions, or an equivalent document as specified by state statute, must be filed with the city.
 - (b) Such document shall be filed with and reviewed and approved by the City Attorney prior to recordation with the county.
- (F) Phasing of public and common open space. When a PDO provides for common private or public open space, and is planned for a phased development over a period of time, the total area of common or public open space or land escrow security in any phase of development may, at a minimum, bear the same relationship to the total open space to be provided in the entire PDO as the phases or units completed or under development bear to the entire PDO.
- (G) Modifications or amendments. Minor modifications, as determined by the City Manager, are subject to the site plan review process established in § . Major modifications or amendments, including changes in land use, density, maintenance of open space or common areas, or extensive changes to road, utility, or open space must follow the same procedures for submittal, notification, and public hearing as the original PDO.
- (H) List of approved active Planned Development Overlays and ordinance numbers:

#2003-998	Unnamed
#2005-1050	Unnamed
#2006-1056	West Broadway and Candlewood Drive
#2009-1109	Gateway 2 nd Addition (southwest interchange of Highways 169 and 610)
#2013-1156	7800 Lakeland Avenue North
#2014-1168	North Business Center
#2014-1176	Gateway 3 rd Addition (Outlot C)
#2014-1178	NorthCross Business Park
#2014-1179	Six Ten Commerce Center Third Addition
#2014-1181	Mississippi Gardens
#2015-1188	Capstone Quadrangle 2 nd Addition
#2015-1193	NorthPark Business Center
#2015-1194	Six Ten Zane
#2015-1199	Villas of Rush Creek Trail
#2016-1210	Midas Station
#2017-1220	Six Ten Zane Second Addition
#2017-1226	Gateway 3 rd Addition (Outlots B and D)
#2018-1236	Villas of Rush Creek Trail 4 th Addition
#2020-1252	9501 Louisiana Avenue North (unplatted)
#2020-1257	9489 Winnetka Avenue North
#2021-1264	Six Ten Commerce Center 5 th Addition

§152.805 PEDESTRIAN PRIORITY OVERLY DISTRICT (PPOD)

- (A) TBC Purpose. The Pedestrian Priority Overlay District (PPOD) is established to provide pedestrian-oriented development on streets designated as Pedestrian Priority Streets in the Comprehensive Plan. This district is applied at a 150-foot depth from the front lot line of parcels fronting a Pedestrian Priority Street.
- (B) District Standards.
 - (1) Minimum Floor Area Ratio. Notwithstanding the regulations of the underlying zoning district, the minimum floor area ratio for new development in the PPOD is 0.5, subject to all requirements of 152.604(H).
 - (2) Required commercial uses. The first floor of all new developments in the PPOD shall provide commercial uses, subject to the requirements of this section.

- (3) Size of required commercial use space. In a multi-story building the commercial use or uses shall occupy at least sixty (60) percent of the building's ground-floor street frontage and a minimum depth of twenty (20) feet. In a single-story building the commercial use or uses shall occupy one hundred (100) percent of the building's street frontage and a minimum interior depth of twenty (20) feet.
- (4) Use of required commercial space. Required commercial use areas shall be occupied by one or more of the following uses. Building amenities intended for use solely by building occupants and not open to the general public shall not qualify as a required commercial use.
 - (a) Retail and service.
 - (b) Restaurant and brewpubs.
 - (c) Medical clinics.
 - (d) Child care.
 - (e) Adult day care.
 - (f) Breweries and micro-distilleries.
 - (g) Taprooms and cocktail rooms.