

**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
<b>152.101</b>	Severability	Added severability clause
<b>152.104</b>	Application	Revised tone – affirmative statement
<b>152.105</b>	Interpretation	Text removed, consistent with City Policy
<b>152.107</b>	Definitions	Definitions updated for consistency with MN Statute, industry standards, and organization.
<b>152.205</b>	Nonconformities	Updated standards consistent with MN Statute.
<b>152.301</b>	Public Hearings	Text removed, consistent with City Policy
<b>152.302</b>	General Procedures	Text removed, redundancy
<b>152.303</b>	Concept Plan	Added process adopted with 610 Moratorium
<b>152.303</b>	Site Plan	Revised tone – affirmative statement
<b>152.305</b>	Conditional Use Permit	Requires filing of CUPs
<b>152.308</b>	Alternative Compliance	Added language
<b>152.311</b>	Relocating Structures	Removed discriminatory statement
<b>152.401</b>	Zoning Districts	Updated Zoning District names for consistency
<b>152.500-152.505</b>		Updated to reflect simplification of residential zoning districts in line with 2040 Comp Plan
<b>152.506</b>	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
<b>152.507</b>	Residential District Land Uses	Updated use tables for principal and accessory/temporary uses.
<b>152.600</b>	B-1 Office Park District	Updated district name
<b>152.605</b>	I General Industrial District	Reworded for clarity
<b>152.606</b>	PI Public Institution District	Technical changes
<b>152.607</b>	OP Open Spaces and Parks District	Changed name, and updated for consistency with 2040 Comp Plan
<b>152.608</b>	Nonresidential Lot Area and Dimensional Requirements	Technical changes for consistency
<b>152.609</b>	Nonresidential District Land Uses	Updated use tables for principal and accessory/temporary uses.
<b>Section 4</b>	Mixed Use Districts	Updates consistent with the 610 Moratorium Zoning Text Amendment, and recently approved Comprehensive Plan Amendment
<b>152.800</b>	Crystal Airport Overlay	Amended as recommended at the February Planning Commission Regular Session
<b>152.802</b>	Highway Overlay	Removed

## C.1.D.A - WS - SUMMARY OF CHANGES - CH 152

<b>152.803</b>	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.

#### §152.10~~32~~3 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.

#### §152.10~~43~~4 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.

#### §152.10~~54~~5 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.

## C.1.D.B - WS - REDLINES - CH 152 ARTICLES 1 AND 2

(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.

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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

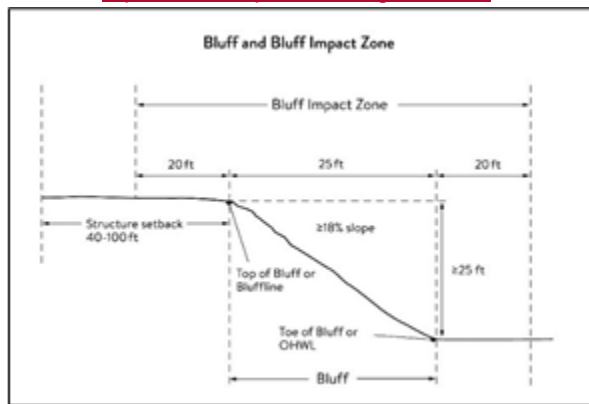


Figure 152.106.1. Bluff and Bluff Impact Zone

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.

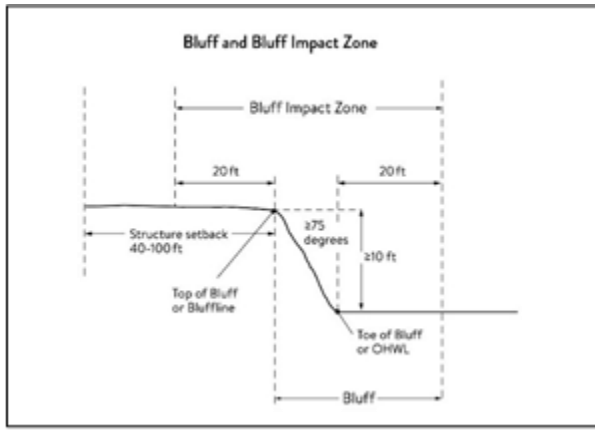


Figure 152.106.2. Natural Escarpment and Bluff Impact Zone

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.



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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:

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- (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.

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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:

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- (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.

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**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 that 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 \_\_\_\_\_.

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**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.

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**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.



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**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.

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**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

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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 §     .

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- (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.

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- (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 § 152.302.~~
- ~~(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.~~

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- (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.
- ~~(4) 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.

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- (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 § 152.304 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.

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- (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.

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- (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 §     . 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 §     .
  - (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 §     , except where administrative site plan review may be granted as outlined in §     .
- (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.

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- (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 § [redacted] 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



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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.

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- (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

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- (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 <sup>1</sup>	Lot width in lineal feet as measured at the front setback	Maximum Impervious Area in front yards <sup>2</sup>	Maximum building footprint <sup>3</sup>
UR	20 acres	330 feet	40%	40%
R-1	9,750 square feet	75 feet	40%	40%
R-2	<del>5,000</del> 7,250 square feet	50 feet	40%	40%
R-3	<del>7,200</del> 5,000 square feet – Detached 3,600 square feet – Attached	60 feet (detached) 40 feet (per unit attached)	40%	40%
R-4	22,000 <del>square feet</del> for multiple family dwellings	100 feet	40%	40%
	<del>5,000</del> 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:

<sup>1</sup>Lot area refers to the minimum total area for the project, not lot area per unit.

<sup>2</sup>Measured from the public right-of-way to the front facade of the principal building.

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<sup>3</sup>The 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.

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- (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
Beekeeping (in compliance with Chapter 92)	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		
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					
Garage sales	<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					



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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.

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- (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 <sup>3</sup>
B-1	15,000 SF	100 feet	NA	70%	NA or 35 feet <sup>1</sup>
B-2	25,000 SF	125 feet	NA	75%	NA or 35 feet <sup>1</sup>
B-3	25,000 SF	150 feet	NA	80%	NA or 35 feet <sup>1</sup>
B-4	87,120 SF	150 feet	10%	80%	NA or 35 feet <sup>1</sup>
BP	25,000 SF	100 feet	NA	85%	NA or 35 feet <sup>1</sup>
I	40,000 SF	150 feet	NA	85%	NA or 35 feet <sup>1</sup>
PI	N/A	N/A	N/A	N/A	60 ft <sup>2</sup>
<del>GDOP</del>	N/A	N/A	N/A	N/A	NA

<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> Height limitations do not apply to radio and T.V. antennas, belfries, steeples, cooling towers, and water towers.

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- (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					

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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.								

Use	B-1	B-2	B-3	B-4	BP	I	PI	OP
<u>Sales and Service</u>								
<u>Animal Services</u>								
<u>Outdoor Pet Runs*</u>	A	A	A	A				
<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>	PA							
<u>General Sales</u>	P	P	P	P				
<u>General Services</u>	P	P	P	P				
<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>	A	A	A	A			A	
<u>Automotive</u>								
<u>Auto repair services</u>								NP
<u>Bus or truck storage, service shops</u>								NP

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<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	NP	NP		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>								NP	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	NP	NP	NP	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	P	
<u>Rectory*</u>								P	
<u>Columbarium*</u>								C	
<u>Social Club</u>									
<u>Food Service</u>									
<u>Brewery</u>								NP	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	P	NP	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					NP	NP
<u>Construction Based Business</u>					P	P			NP
<u>Construction buildings</u>									NP
<u>Distribution center</u>	NP	NP	NP	NP				NP	NP
<u>Fabrication</u>					P	P			NP
<u>Manufacturing</u>	NP	NP	NP	NP	P	P			NP
<u>Processing</u>					P	P			NP
<u>Warehouse</u>	A	A	A	A	P	P			NP



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<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**

**§152.70321 MU-2TOD-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.

**§152.70423 MU-3TOD-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 93<sup>rd</sup> Avenue Transit Station on the Comprehensive 2040 Future Land Use Map.

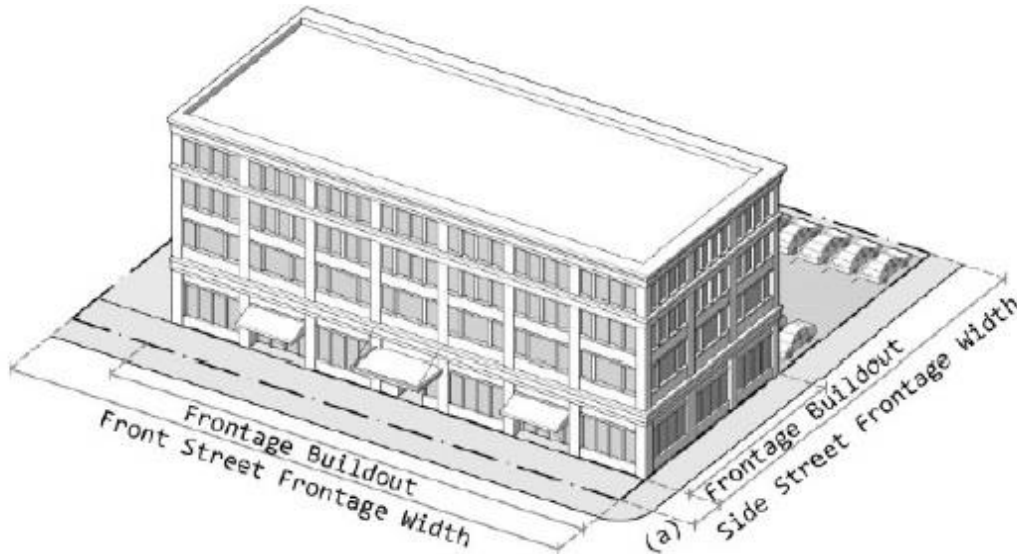
**§152.70543 TOD-G TRANSIT ORIENTED DEVELOPMENT GREENFIELD MU-4 REGIONAL MIXED USE DISTRICT**

- (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.

**§152.70654 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-4NMU</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 <del>(max)</del>	<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 feet None</u>	<u>None</u>	<u>0 None</u>	<u>0 None</u>	<u>0 None</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>			
Maximum Allowable Building Footprint and Impervious Surface						

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	<u>LW</u>	<u>MU-4NMU</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 <del>(if applicable)</del>						
<del>Minimum Dwelling units per acre (minimum)</del>	<u>3</u>	<del>n/a</del> <u>9</u>	<u>12</u>	20	<del>Not Permitted</del> <u>n/a</u>	20
<del>Maximum dwelling units per acre</del>	<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.

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Figure ###: Principal land uses

	LW	MU-1 NMMU	MU	MU-2 TOD-C	MU-3 TOD-E	MU-4 TOD-G
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		P		P	P	P
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

Use	LW	N M U	M U	TO D- C	TO D-E	T O D- G	PI	OP
<u>Sales and Service</u>								
___ Animal Services								
___ Outdoor Pet Runs*	A	A	A	A				
___ Bank								
___ Body Art								
___ Care Center, Convalescent Home or Assisted Living								
___ Currency Exchange								
___ Daycare Facility, licensed*	PA							
___ General Sales	P	P	P	P				
___ General Services	P	P	P	P				
___ Hospital								
___ Hotel or Motel								
___ Indoor recreational facility 2,450sq ft or under								
___ Indoor recreational facility over 2,450sq ft								
___ Medical or dental clinic								
___ Office								
___ Outdoor recreational facility								
___ Pawn Shop								
___ Sexually oriented business*								
___ Theater, excluding drive-ins								
___ Veterinary Clinic								
___ Farmers' Market*	A	A	A	A			A	
<u>Automotive</u>								
___ Auto repair services								NP

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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	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	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 8** SECTION 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 §      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 §      apply unless the floodway boundary is determined, according to the process outlined in §     . Once the floodway boundary is determined, the Flood Fringe District standards in §      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.

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- (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;

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- 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 § [REDACTED], 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



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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

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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).

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- (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 §     .

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- (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 <sup>nd</sup> Addition (southwest interchange of Highways 169 and 610)
#2013-1156	7800 Lakeland Avenue North
#2014-1168	North Business Center
#2014-1176	Gateway 3 <sup>rd</sup> 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 <sup>nd</sup> 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 <sup>rd</sup> Addition (Outlots B and D)
#2018-1236	Villas of Rush Creek Trail 4 <sup>th</sup> Addition
#2020-1252	9501 Louisiana Avenue North (unplatted)
#2020-1257	9489 Winnetka Avenue North
#2021-1264	Six Ten Commerce Center 5 <sup>th</sup> 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 ration 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.